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April 7, 2022

File: W2022X0002

Mark Cliffe-Phillips
Mackenzie Valley Review Board
200 Scotia Centre
Box 938, 5102-50th Avenue
Yellowknife NT X1A 2N7

Sent by email

Dear Mark Cliffe-Phillips,

Re: Tłı̄chǫ Government – Notice of Preliminary Screening Determination – Application for Land Use Permit – Miscellaneous – Whatì, NT

The Wek'èezhì Land and Water Board (Board) met on April 7, 2022 and considered the Application from Tłı̄chǫ Government (TG) for Land Use Permit (Permit) W2022X0002 for the Whatì Falls Improvement Project at Whatì, NT (Project) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board conducted a preliminary screening based on the public record for the proceeding. Based on the evidence provided, the Board is satisfied the screening has been completed according to section 125 of the MVRMA and has decided **not to refer** the Project to environmental assessment. The Board's Preliminary Screening Determination and Reasons for Decision, as required by section 121 of the MVRMA, is attached.

If the Board does not receive notice of referral to environmental assessment, it can proceed with issuance of Permit W2022X0002 on **Monday, April 18, 2022**.

The Board and staff look forward to continued communications throughout the pause period. Please contact Ryan Fequet at (867) 765-4589 with any questions or concerns regarding this letter.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mason Mantla', written in a cursive style.

Mason Mantla
Chair, Wek'èezhii Land and Water Board

BCC'd to: Wek'èezhii Distribution List
Mark Poskitt, TG

Attached: Preliminary Screening Determination and Reasons for Decision



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Preliminary Screening Determination and Reasons for Decision

Land Use Permit Application	
File Number	W2022X0002
Company	Tłı̨chq̨ Government
Project	Whatì Falls Improvement Project
Location	Whatì, NT
Activity	Miscellaneous
Date of Decision	April 7, 2022

1.0 Decision

In accordance with subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Wek'èezhì Land and Water Board (WLWB or Board) met on April 7, 2022 to make a preliminary screening determination on the Application from Tłı̨chq̨ Government (TG)(Applicant) for Land Use Permit W2022X0002 (Permit)¹ for the Whatì Falls Improvement Project at Whatì, NT (Project).²

The Board has decided not to refer the proposed Project to the Mackenzie Valley Environmental Impact Review Board (Review Board) for Environmental Assessment because, based on the evidence, it is the Board's opinion that the proposed Project is not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.

The Board's determination, including reasons for its decision, are detailed in sections [3.0](#) and [4.0](#).

¹See WLWB Online Registry www.wlwb.ca for [Whatì Falls Project - LUP Application - Mar 17 22](#).

² The Project is the Whatì Falls Improvement Project, which is the proposed development, where "development" is defined in Part 5 of the MVRMA as:

"any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act* or the establishment of a park under a territorial law."

2.0 List of Defined Terms and Acronyms

Applicant	Tłıchq Government
Application	The complete application package submitted by the Applicant for Land Use Permit W2022X0002.
Board	Wek'èezhii Land and Water Board
CRP	Closure and Reclamation Plan
EA	Environmental Assessment
GNWT	Government of the Northwest Territories
GNWT-ENR	Government of the Northwest Territories – Environment and Natural Resources
GNWT-Lands	Government of the Northwest Territories – Lands
MVLWB	Mackenzie Valley Land and Water Board
MVRMA	<i>Mackenzie Valley Resource Management Act</i>
Minister	Minister of the Government of the Northwest Territories – Lands (GNWT-Lands)
ORS	Online Review System (www.new.onlinereviewsystem.ca)
Party	As per the MVLWB Rules of Procedures , an applicant, a person, or an organization participating in the regulatory proceeding for the Application.
Project	Whatì Falls Improvement Project, which is the proposed development (as defined in Part 5 of the MVRMA). ³
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Permit Conditions	MVLWB Standard Land Use Permit Conditions Template
TG	Tłıchq Government
TK	Traditional Knowledge
WMP	Waste Management Plan
WMMP	Wildlife Monitoring and Management Plan

3.0 Background and Scope of Screening

The WLWB received a Type A Land Use Permit Application from the TG on March 17, 2022. The Application is to develop infrastructure and improve road access to Nàìlì (Whatì Falls). Surveying, ground-truthing, and geotechnical investigation work aspects of the Project are set to take place spring of 2022 to determine what re-alignments need to be made as well as gaining a better understanding of the soil conditions and drainage in the area. Construction of the new access road as well as the day use area development (including installation of various small-scale amenities, such as picnic tables and fire-pits) is planned for mid-late summer. The Project is anticipated to commence as soon as the Permit is issued and continue for a period of five years.

³ “development” is defined in Part 5 of the MVRMA as:

“any undertaking, or any part or extension of an undertaking, that is carried out on land or water and includes an acquisition of lands pursuant to the *Historic Sites and Monuments Act* and measures carried out by a department or agency of government leading to the establishment of a park subject to the *Canada National Parks Act* or the establishment of a park under a territorial law.”

In accordance with paragraph 125(1)(a) of the MVRMA, the Board must conduct a preliminary screening of the proposed Project to determine and report to the Review Board whether, in its opinion, the proposed Project is likely to have a significant adverse impact on air, water, and/or renewable resources, or might be a cause of public concern. The details of the Board's analysis are set out in section [4.0](#) below.

3.1 Scope of Screening:

The proposed activities for the Project include:

- Construction, maintenance, and operations of an all-season road to access Whatì Waterfalls;
- Construction, maintenance, and operation of tourism and recreational facilities near the Whatì Waterfalls;
- Use of stationary, power-driven machinery;
- Use of power-driven, earth drilling machinery;
- Use of vehicles and equipment for quarrying, crushing, and stockpiling of granular material;
- Use of equipment;
- Establishment of a petroleum fuel storage facility; and
- Use of a temporary campsite.

These proposed activities for the Project/footprint will be located near the community boundary of Whatì, NT. The approximate footprint for the Project will be 15 to 20 hectares. A temporary camp will be set up at a previously disturbed area off the Whatì Access Road (63.15962°N, 117.21405°W). The nearest waterbody is at least one kilometre away from the campsite. If any water is to be used, it is anticipated that less than 100 m³ per day of water will be used to support the Project. Locations of water withdrawal (if necessary) can and will be sent to the Board.

3.2 Public Record and Regulatory Proceeding

The Applicant requested the Project be expedited to start its geotechnical investigations process. The WLWB agreed to a shorter review period than normal because: the Project proposed would take place on Tłıchq private Land and the Tłıchq Government is the Applicant; the only other potentially affected Party is North Slave Métis Alliance (NSMA), which provided a letter of support for the Project; no timelines from Interim Measures Agreements apply to the proposed Project. The Reviewers were given a one-week review period and responses from the Proponent due by the end of the next day.

To assist the Board in its preliminary screening determination for the Project, the Board distributed the Application and a draft Permit for public review on March 18, 2022, inviting reviewers to provide comments and recommendations on the Applications and the preliminary screening (e.g., on impacts and mitigation measures) using the Online Review System (ORS). Comments were due March 28, 2022, with responses from the Applicant due March 29, 2022. The Board received comments and recommendations from the Government of the Northwest Territories Department of Lands (GNWT-Lands) Inspector; the Government of the Northwest Territories Department of Education, Culture and Employment Prince of Wales Northern Heritage Centre (GNWT-ECE PWNHC) submitted comments and recommendations. The Government of the Northwest Territories Environment and Natural Resources Environmental Assessment

and Monitoring Section and the Wek'èezhìi Renewable Resources Board stated they had no comments and/or recommendations at this time.⁴ Board staff also submitted questions.

Fisheries and Oceans Canada (DFO) submitted a general comment after the review period. The late comment was submitted on March 30, 2022. DFO commented that the proposal was reviewed and stated that, provided the “plans are implemented in the manner described, the Fish and Fish Habitat Protection Program is of the view that the proposal will not require an authorization under the *Fisheries Act* or the *Species at Risk Act*.” DFO indicated that the proponent is responsible to notify DFO if the Project causes or is about to cause the death of fish by means other than fishing and the harmful alteration, disruption or destruction of fish habitat, which are prohibited under the *Fisheries Act*.

Since there were no requests to extend the reviewer comment deadline, the Board is satisfied that a reasonable period of notice was given to affected communities and First Nations, as required by subsection 63(2) of the MVRMA.

The Board is also satisfied that notice of the Application was provided to the Tłıchq Government (TG) and that a reasonable period of time was provided for the TG to make representations to the Board in accordance with section 63 of the MVRMA.

4.0 Potential Impacts and Proposed Mitigations

During the public review, reviewers were encouraged to provide comments and recommendations on impacts and mitigation measures to assist with the Board’s preliminary screening determination. An Impact-Mitigation Table was included as part of the Application (i.e., Section 17 of the Application).

The Board has completed a preliminary screening as required by the MVRMA using the information provided in the Application and during the regulatory proceeding. Table 1 below summarizes:

- the potential impacts of the proposed Project;
- the concerns that were identified during the regulatory proceeding and how the Applicant addressed those concerns;
- the proposed and potential mitigations for the potential impacts; and
- the Board’s analysis of the potential impacts and proposed mitigations.

⁴ See WLWB Online Review System for [Whati Falls Campground - Permit Application](#).

Table 1: Potential Impacts and Proposed Mitigations for the Proposed Project

Potential Impact	Activity	Proposed Mitigations <i>Description of measures to reduce potential impacts, including consideration of cumulative impacts and climate change.</i>	Board Analysis and Determination
Soil Contamination, Soil compaction	Clearing of timber, brush, or vegetation mat, stripping of overburden, use of motorized and heavy equipment	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ Overburden will remain onsite and earth disturbances will be returned to natural elevation and drainage profile. Applicant proposed that overburden will be moved away from road corridor to other areas of the site. • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Brush Disposal/Time ○ Minimize Area Cleared ○ Clearing Sensitive Area 	Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.
Soil contamination	On-site storage or disposal of wastes (domestic garbage, sewage)	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ Waste receptacles will be collected at the end of each day and temporary portable toilets, once full, will be transported off-site for disposal to the Community of Whati’s Solid Waste Facility. The Applicant has included a letter from the Community Government of Whati that it will consider allowing the use of solid waste facility and sewage lagoon in support of this Project. • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Waste Management ○ Garbage Container ○ Sewage Disposal-Plan 	Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.
Soil Compaction, Destabilization	Use of motorized and heavy equipment	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ TG stated that a detailed construction plan will be developed to ensure that heavy equipment is not operated or parked in areas that will result in unnecessary soil compaction. 	Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a

		<ul style="list-style-type: none"> ○ Access to site will be controlled to ensure only project related personnel will have access to the site. ○ Some stabilization work may occur in the proposed lookout area to better stabilize the bank and make it safer for walking/viewing. <ul style="list-style-type: none"> • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Progressive Erosion Control ○ Repair Erosion ○ Prevention of Rutting ○ Suspend Overland Travel ○ Stream Banks ○ Minimize Approach ○ Excavation and Embankments ○ Equipment: Watercourse Buffer ○ Excavation Setback 	cause of public concern.
Harm to living things, Direct loss or removal of habitat, dens, or nests, Direct injury or mortality, Human-wildlife conflicts	Mobilization and operation of equipment for construction and operational activities, increased road traffic	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ A Wildlife Management and Monitoring Plan was included as part of the package and TG has stated it will follow the Plan to minimize any potential for harm to living things. • The Board has a standard condition which is typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Habitat Damage 	Based on the described mitigations, it is the Board's opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.
Direct loss of vegetation, Introduction of non-native (invasive) species, Effects on plant health (dust, metals,	Clearing of timber, brush, or vegetation mat, stripping of overburden, construction (development or alteration: widening, straightening,	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The Project team will aim to minimize tree and brush cutting by utilizing existing cleared area. ○ Equipments will be cleaned prior to use on site. ○ Construction vehicle travel on the access road may increase dust and impact on plant health near the road. The Applicant proposed the following mitigation: a speed limit will be in place to slow vehicles and reduce dust. During very dry 	Based on the described mitigations, it is the Board's opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.

<p>toxins), Compaction of vegetation</p>	<p>detours), maintenance, and operation of lines, trail, or right-of-way, use of motorized heavy equipment, burning of fossil fuels, increased road traffic, transfer, storage, and use of petroleum products and/or chemicals, excavation or stockpiling of earth and/or gravel</p>	<p>periods and during road construction, dust suppression with water trucks will be employed.</p> <ul style="list-style-type: none"> ○ Vegetation may be compacted by construction activities in the area. The Applicant proposed that a construction site foreman will ensure that compaction of vegetation is minimized and limited to what is necessary for construction. <ul style="list-style-type: none"> • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Parallel Watercourse Setback ○ Width Right-of-Way ○ Dogleg Approaches ○ Natural Vegetation 	
<p>Change to or loss of cultural integrity, other</p>	<p>Noise (use of heavy equipment, crushing, drilling), construction (development or alteration: widening, straightening, detours), maintenance and operation of lines, trails, or right-of- way, increased human presence</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The Applicant proposed that it will ensure development occurs in a culturally sensitive manner. TG also stated that it is currently in the process of working with the Prince of Wales Northern Heritage Centre to ensure that an Archaeological Overview is conducted prior to start of work. TG proposed that if any high potential archaeological sites arise from the Archaeological Overview then the areas will be left alone. TG also stated that known potential sites will be avoided and protected. • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Archaeological Buffer ○ Site Disturbance ○ Site Discovery and Notification ○ Archaeological Overview ○ AIA - High Potential 	<p>Based on the described mitigations, it is the Board's opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.</p>

<p>Economic opportunities or losses (employment, training), Changes to the use of the area by other non-Indigenous people (e.g., trappers, outfitters, residents, hunters, forest harvesters, other authorized projects)</p>	<p>Construction (development or alteration: widening, straightening, detours), maintenance and operation of lines, trails, or rights-of-ways, increased human access road presence</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The Project will provide job and training opportunities for Tłıchǰ citizens in both the construction phase of the project and the operations phase of the project. The Applicant proposed that local labour will be the first option to fill roles related to construction. • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Brush Disposal/Time ○ Minimize Area Cleared ○ Clearing Sensitive Area ○ Disposal of Overburden ○ Trails Restoration 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.</p>
<p>Soil contamination, Change in soil structure, Water table alteration, Changes in water quality</p>	<p>Transfer, storage and use of petroleum products and/or chemicals, use of motorized and heavy equipment</p>	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations: <ul style="list-style-type: none"> ○ The Applicant stated that no contaminants will be stored on site and fuel transfer will not be expected on site but if required will be transferred via a fuel truck. Fuel transfer will occur by trained personnel. Drip trays will be used during fuel transfer. Where drips of fuel or spills occur they will be cleaned up immediately. • The Board has standard conditions which are typically used to help mitigate potential impacts: <ul style="list-style-type: none"> ○ Chemicals ○ Drilling Near Water or on Ice ○ Drilling Waste ○ Drilling Waste Disposal ○ Drilling Waste Containment ○ Waste Chemical Disposal 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on the environment, and will not be a cause of public concern.</p>

		<ul style="list-style-type: none"> ○ Waste Petroleum Disposal ○ Notification of Soil Waste Disposal ○ Repair Leaks ○ Fuel Storage Setback ○ Fuel Cache Secondary Containment ○ Secondary Containment - Refueling ○ Fuel Containment ○ Mark Containers and Tanks ○ Mark Fuel Locations ○ Maximum Fuel on Site ○ Report Fuel Locations ○ Seal Outlet ○ Spill Contingency Plan ○ Spill Reponse ○ Drip Trays ○ Clean Up Spills ○ Report Spills 	
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4.1 Consideration of Potential Impacts

Based on the potential impacts and proposed mitigations identified above in Table 1, the Board considered whether the Project is likely to have a significant adverse impact on the environment. In general, impacts of the Project on the environment can be mitigated through the use of standard permit conditions and/or project-specific conditions established by the Board as per the MVLWB [Standard Process for Creating New Conditions](#). These conditions may include requirements for management and monitoring plans that provide detailed information regarding the implementation of mitigation measures and the evaluation of their effectiveness.

A draft Permit was circulated for review during the regulatory proceeding, and all Parties were given the opportunity to provide comments and recommendations on the draft conditions. In finalizing the conditions, the Board will consider all of the evidence provided through the regulatory proceeding.

4.2 Consideration of Public Concern

In addition to considering the potential impacts of the Project, the Board considered whether the Project might be a cause of public concern. Based on the evidence provided during the regulatory proceeding, the Board did not identify any comments or issues that indicated that the Project is a cause of public concern.

5.0 Conclusion

The Board has reviewed all the evidence received during the regulatory process with respect to the Preliminary Screening of the proposed Project. Based on the evidence, it is the Board's opinion that the proposed Project is not likely to have a significant adverse impact on the environment, and will not be a cause of public concern, as set out in paragraph 125(1)(a) of the MVRMA. The Board has therefore decided not to refer the proposed Project to Environmental Assessment. If the Board does not receive a notice of referral to Environmental Assessment by April 17, 2022, the Board can issue the Permit on April 18, 2022.

SIGNATURE

April 7, 2022



Mason Mantla, Chair
Wek'èezhìi Land and Water Board

Date