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March 3, 2023

File: MV2022W0015

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: Berthiaume Arboriculture Ltd. – Notice of Preliminary Screening Determination – Application for Land Use Permit– Woods Operation – Fort Smith Area, NT

The Mackenzie Valley Land and Water Board (Board) met on March 2, 2023 and considered the Application Package from Berthiaume Arboriculture Ltd. (Berthiaume) for Land Use Permit (Permit) NV2022W0015 for the Woods Operation near Fort Smith, NT 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 MV2022W0015 on **Tuesday, March 14, 2022**.

The Board and staff look forward to continued communications throughout the pause period. Please contact [Shelagh Montgomery](#) in writing or at (867) 766-7457 with any questions or concerns regarding this letter

Yours sincerely,

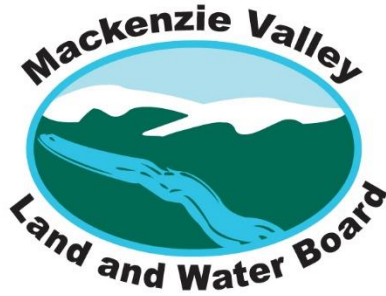


Mavis Cli-Michaud

Chair, Mackenzie Valley Land and Water Board

BCC'd to: Akaitcho Distribution List
Marc-Antoine Berthiaume, Berthiaume Arboriculture Ltd.

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	MV2022W0015
Company	Berthiaume Arboriculture Ltd.
Project	Timber Operation
Location	Fort Smith, NT
Activity	Woods Operation
Date of Decision	March 2, 2023

1.0 Decision

In accordance with subsection 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Mackenzie Valley Land and Water Board (MLWB or Board) met on March 2, 2023 to make a preliminary screening determination on the Application from Berthiaume Arboriculture Ltd. (Applicant) for Land Use Permit MV2022W0015 (Permit)¹ for the Timber Harvesting Operation (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 air, water, and/or renewable resources, and will not be a cause of public concern.

¹See MLWB Online Registry www.mvlwb.com for Berthiaume – [Permit Application – Jan18 23](#)

² The Project is the Woods Operation, 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.”

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

2.0 **List of Defined Terms and Acronyms**

Applicant/Permittee	Berthiaume Arboriculture Ltd.
Application	The complete application package submitted by the Applicant for Land Use Permit MV2022W0015
Distribution List	The list of individuals and organizations to whom materials from this regulatory proceeding were circulated. ³
EA	Environmental Assessment
GNWT	Government of the Northwest Territories
GNWT-ENR	Government of the Northwest Territories – Environment and Natural Resources
Inspector	An Inspector designated under subsection 84(1) of the Mackenzie Valley Resource Management Act
LWBs	Land and Water Boards of the Mackenzie Valley
MVEIRB	Mackenzie Valley Environmental Impact Review Board
MVLUR	Mackenzie Valley Land Use Regulations
MVLWB or Board	Mackenzie Valley Land and Water Board
MVRMA	Mackenzie Valley Resource Management Act
Minister	Minister of the Government of the Northwest Territories (GNWT) – Lands
ORS	Online Review System (https://new.onlinereviewssystem.ca/reviews)
Party	As per the LWBs’ Rules of Procedures , an applicant, a person, or an organization participating in this regulatory process.
Permit	Land Use Permit MV2022W015
Project	Timber Operation the undertaking as described in Part A of the Permit.
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Permit Conditions	LWBs’ Standard Land Use Permit Conditions Template
WMP	Waste Management Plan

3.0 **Background and Scope of Screening**

On September 28, 2022, the Applicant submitted an application for a new Permit MV2022W0015 (the Application).⁴ The Application is to conduct a small-scale timber operation. This operation is located just outside of Fort Smith, the timber lot is a lot which was burnt. The topsoil will be pushed aside and light leveling for an access road and a landing area will be established. The topsoil will be spread back at the end of the operation. Additional skidding trails will be limited to avoid unnecessary disturbance. Soil

³ To access the Distribution List, see the LWBs’ Online Review System for Berthiaume – [Fort Smith – Wood Operation Timber Harvesting – Jan20 23](#).

⁴ See MLWB Online Registry for Berthiaume – [Permit Application – Jan18 23](#).

compaction will be limited as the site is rocky and sandy. These activities are located within the Akaitcho Region.

On September 28, 2022, the Applicant submitted the Application, which was deemed incomplete on September 29, 2022.⁵ On January 28, 2023, additional information was received,⁶ and the Application was subsequently deemed complete and circulated to the Distribution List for public review on the Online Review System (ORS).⁷

An Engagement Record and Engagement Plan were included in the Application. BAL noted they engaged with the following Parties:

- Smith Landing First Nation
- Salt River First Nation
- Fort Smith Métis Council
- Denninu Kue First Nation
- Fort Resolution Métis Council
- Hay River Métis Council
- Kát'odeeche First Nation
- Northwest Territory Métis Nation

As part of the public review, Board staff requested comments and recommendations to assist with the Board's preliminary screening determination. To assist the Board in making its decision on the Permit, Board staff also circulated a draft Permit for review with the Application to allow all Parties the opportunity to comment on the specific wording of the draft conditions.

By February 13, 2023, the Board received comments and recommendations regarding the Application and the draft Permit from the following Parties: GNWT – Lands (Inspector) and GNWT – ENR. On February 17, 2023, the Applicant was to respond to the Parties' comments and recommendations no responses were received.⁸

In accordance with paragraph 125(2)(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:

This operation is located just outside of Fort Smith, the timber lot has previously been burnt. The topsoil will be pushed aside and light leveling for an access road and a landing area will be established. The topsoil will be spread back at the end of the operation. Additional skidding trails will be limited to avoid

⁵ See MLWB Online Registry for Berthiaume – [Application Incomplete – Sept29 22](#).

⁶ See MLWB Online Registry for Berthiaume – [Additional Documents – Jan28 23](#).

⁷ See MLWB Online Review System for Forth Smith – [Wood Operation – Timber Harvesting – Jan20 23](#).

⁸ See MLWB Online Registry for Berthiaume – [Review Comment Summary Table – March2 23](#)

unnecessary disturbance. Soil compaction will be limited as the site is rocky and sandy. No fuel will be stored on site and no camp will be established.

3.2 Public Record and Regulatory Proceeding

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 January 20, 2023, 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 February 13, 2023, with responses from the Applicant due February 17, 2023. The Board received comments and recommendations from GNWT – Lands (Inspector) and GNWT – Environment and Natural Resources (attached).⁹

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.

Pursuant to Schedule 4.1 of the Northwest Territory Métis Nation (NWTMN) Interim Measures Agreement, the Board determined that written notice was given to the NWTMN and that a reasonable period of time was allowed for NWTMN to make representations with respect to the Application.

Pursuant to subsection 1.6, paragraphs (a) and (b) of the Akaitcho Territory Dene First Nations (ATDFN) Interim Measures Agreement, the Board determined that written notice was given to the ATDFN and that a reasonable period of time was allowed for ATDFN to make representations with respect to the Application.

4.0 Potential Impacts and Proposed Mitigations

All Parties have had an opportunity to provide recommendations to the Board regarding draft conditions. In finalizing the conditions, the Board will consider these recommendations and all of the evidence provided through 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.

⁹ See MLWB Online Registry for Berthiaume – [Review Comment Summary Table – Feb17 23](#)

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	Mobile equipment	<ul style="list-style-type: none"> • In the event of a spill, protocols identified in the Spill Contingency Plan will be followed. • Secondary containment for standing equipment. • The Board has standard permit conditions that are typically used to mitigate the described impact. These standard conditions include:¹⁰ <ul style="list-style-type: none"> ○ FUEL CONTAINMENT ○ SPILL CONTINGENCY PLAN ○ SPILL RESPONSE ○ CLEAN UP SPILLS 	<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 air, water, or renewable resources, and/or will not be a cause of public concern.</p> <p>The proposed project involves a small footprint at limited locations on already disturbed lands for a short period of time. The Project does not require any long-term infrastructure, no new technology, no hazardous chemicals or effluents, and no changes to use/access.</p>

¹⁰ See the MVLWB Policies and Resources webpage to access the MVLWB [Standard Land Use Permit Conditions Template](#).

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 Compaction	Use of heavy equipment	<ul style="list-style-type: none"> • Soil compaction is unlikely to occur as the geotechnical investigation will be completed on existing roadways and parking areas. • The Board has standard permit conditions that are typically used to mitigate the described impact. These standard conditions include: <ul style="list-style-type: none"> ○ REPAIR EROSION ○ PREVENTION OF RUTTING ○ SUSPEND OVERLAND TRAVEL 	<p>Based on the described risk, it is the Board's opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and/or will not be a cause of public concern.</p> <p>The proposed project involves a small footprint at limited locations on already disturbed lands for a short period of time. The Project does not require any long-term infrastructure, no new technology, no hazardous chemicals or effluents, and no changes to use/access.</p>

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
Air Quality, GHG	Mobile equipment	<ul style="list-style-type: none"> • Temporary, localized air emissions from the drill rig equipment and pickup truck. No equipment will be left to idle during the investigation. Minimal dust may be generated during the investigation and will be watered down as needed. Greenhouse gases released during operation of the drill rig equipment and support trucks will lead to a minimal increase in greenhouse gases. 	<p>Based on the described risk, it is the Board's opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and/or will not be a cause of public concern.</p> <p>The proposed project involves a small footprint at limited locations on already disturbed lands for a short period of time. The Project does not require any long-term infrastructure, no new technology, no hazardous chemicals or effluents, and no changes to use/access.</p>

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
Habitat	Mobile equipment and removal of habitat	<ul style="list-style-type: none"> • Temporary and • The Board has standard permit conditions that are typically used to mitigate the described impact. These standard conditions include: <ul style="list-style-type: none"> ○ HABITAT PROTECTION ○ MIGRATORY BIRD NEST DISTURBANCE 	<p>Based on the described risk, it is the Board's opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and/or will not be a cause of public concern.</p> <p>The proposed project involves a small footprint at limited locations on already disturbed lands for a short period of time. The Project does not require any long-term infrastructure, no new technology, no hazardous chemicals or effluents, and no changes to use/access.</p>

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 air, water, and/or renewable resources. In general, impacts of the Project on the renewable resources 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.

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 considered 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 indicate 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 air, water, and/or renewable resources, and will not be a cause of public concern, as set out in paragraph 125(2)(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 March 13, 2023, the Board can issue the Permit on Tuesday March 14, 2023.

SIGNATURE



Mavis Cui-Michaud, Chair
Mackenzie Valley Land and Water Board

March 3, 2023

Date