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March 6, 2024

File: MV2023L8-0012

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: Government of the Northwest Territories – Department of Infrastructure – Notice of Preliminary Screening Determination – Application for Water Licence – Miscellaneous (Culverts) – Birch Lake, NT

The Mackenzie Valley Land and Water Board (Board) met on February 29, 2024 and considered the Application Package from Government of the Northwest Territories – Department of Infrastructure (GNWT – INF) for Water Licence (Licence) MV2023L8-0012 for the culvert replacement and installation (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 Licence MV2023L8-0012 on **March 18, 2024**.

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

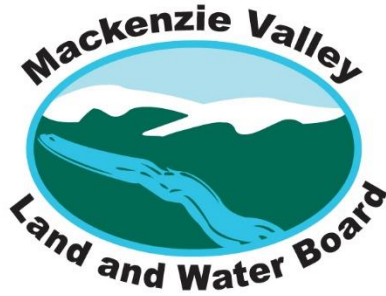
Yours sincerely,

A handwritten signature in blue ink that reads "Tanya MacIntosh". The signature is written in a cursive, flowing style.

Tanya MacIntosh
Chair, Mackenzie Valley Land and Water Board

BCC'd to: Akaitcho Distribution List
Wekeezhii Distribution List
Alexis Campbell – GNWT - INF

Attached: Preliminary Screening Determination and Reasons for Decision



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Preliminary Screening Determination and Reasons for Decision

Water Licence Application	
File Number	MV2023L8-0012
Company	Government of the Northwest Territories – Department of Infrastructure
Project	Birch Lake Culverts and Fill
Location	NWT Highway 3, NT
Activity	Miscellaneous
Date of Decision	February 29, 2024

1.0 Decision

In accordance with subsection 124(1) of the [Mackenzie Valley Resource Management Act](#) (MVRMA), the Mackenzie Valley Land and Water Board (MVLWB or Board) met on February 29, 2024 to make a preliminary screening determination on the Application from Government of the Northwest Territories – Department of Infrastructure (GNWT – INF) (Applicant) for Water Licence MV2023L8-0012 (Licence)¹ for the Birch Lake Culvert and Fill project (Project).²

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

¹ See MVLWB Online Registry GNWT – INF – [Licence Application – Oct25 23](#)

² The Project is miscellaneous, 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/Licensee/	Government of the Northwest Territories – Department of Infrastructure
Application	The complete application package submitted by the Applicant for Water Licence MV2023L8-0012
CRP	Closure and Reclamation Plan
DFO	Fisheries and Oceans Canada
Distribution List	The list of individuals and organizations to whom materials from the regulatory proceeding were circulated. ³
EA/EIR	Environmental Assessment/Environmental Impact Review
GNWT	Government of the Northwest Territories
GNWT-ECC	Government of the Northwest Territories – Environment and Climate Change
Inspector	An Inspector designated under subsection 65(1) of the Waters Act
Licence	Water Licence MV2023L8-0012
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 – Environment and Climate Change
ORS	Online Review System (https://new.onlinereviewssystem.ca/reviews)
Party	As per the LWB Rules of Procedure , an applicant, a person, or an organization participating in this regulatory process.
Project	the undertaking as described in Part A of the Licence.
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Licence Conditions	LWB Standard Water Licence Conditions Template
TG	Tłıchq Government
WMP	Waste Management Plan

³ To access the Distribution List, see the LWBs’ Online Review System for GNWT – INF – [GNWT – INF – Dec5 23](#)

3.0 Background and Scope of Screening

On October 25, 2023, the Applicant submitted application for a new Licence MV2023L8-0012 (the Application).⁴ The Application is to replace two culverts which have reached their life span and the installation of a new culvert to improve flow and drainage as well as the placement of fill to bring to bring the grade of the road up.

The Application was deemed incomplete on October 31, 2023.⁵ On November 29, 2023, additional information was received⁶ and the Application was subsequently deemed complete and circulated to the Distribution List for public review on the Online Review System (ORS) on December 5, 2023.⁷

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 might have a significant adverse impact on the environment or might be a cause of public concern. The details of the Board's analysis are set out in section [4.0](#) below.

By January 25, 2024, the Board received comments and recommendations regarding the Application from the following Parties: Government of the Northwest Territories – Department of Environment and Climate Change (Inspector) and the Department of Fisheries and Oceans (DFO). On February 1, 2024, the Applicant responded to the Parties' comments and recommendations.⁸

3.1 Scope of Screening:

New Areas and Activities:

GNWT – INF is planning to replace two existing culverts at km 139.8 and km 140.3, install a new culvert at km 140.7 and place fill into the water between km 136.4 -141 to bring road grade to design height. The land use activities fall under the Highway 3 Land Use Permit MV2017X0008.

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 Licence for public review on December 5, 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 January 25, 2024, with responses from the Applicant due February 1, 2024. The Board received comments and recommendations from Government of the Northwest Territories – Environment and Climate Change (Inspector) and Department of Fisheries and Oceans (DFO) (attached).⁹

⁴ See MVLWB Online Registry (www.mvlwb.com) for GNWT – INF – [Licence Application – Oct25 23](#)

⁵ See MVLWB Online Registry for GNWT – INF – [Licence Application Incomplete – Oct31 23](#)

⁶ See MVLWB Online Registry for GNWT – INF – [Additional Information – Nov 29, 23](#)

⁷ See MVLWB Online Review System for GNWT – INF – [Culvert Replacement/ Install and Road Grade Increase – Dec5 23](#)

⁸ See MVLWB Online Registry for GNWT – INF – [Review Summary Table – Mar 6 24.](#)

⁹ See MVLWB Online Registry for GNWT – INF – [Review Summary Table – Mar 6 24.](#)

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 [Northwest Territory Métis Nation \(NWTMN\) Interim Measures Agreement](#),¹⁰ 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 section 27, paragraphs (a) and (b) of the [Dehcho First Nations \(DCFN\) Interim Measures Agreement](#),¹¹ the Board has determined that written notice was given to the DCFN, and that a reasonable period of time was allowed for DCFN to make representations with respect to the Application.

The Board is also satisfied that notice of the Application was provided to the Tłı̨chǫ 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

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.

¹⁰ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Northwest Territory Métis Nation Interim Measures Agreement](#).

¹¹ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Dehcho First Nations Interim Measures Agreement](#).

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
Abiotic Components – Land – Soil Contamination	Project	<ul style="list-style-type: none"> • Potential Impact – Soil contamination could occur if a piece of equipment leaks while working in the area. • Proposed Mitigation – The spill contingency plan outlines the proposed mitigation measure and actions if a spill should occur. • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. These standard conditions are found in:¹² <ul style="list-style-type: none"> ○ Part H 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment or be likely to have a significant adverse impact on air, water, or renewable resources, and will not be a cause of public concern.
Abiotic Components – Surface Water – Other	Project	<ul style="list-style-type: none"> • Potential Impact – Impacts to surface water are not anticipated but could occur with the culvert installation and placing granular material below the high water mark. • Proposed Mitigation – During these works erosion and sediment control measures will be in place and the departments’ erosion and sediment control manual will be followed. • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. These standard conditions are found in:¹³ <ul style="list-style-type: none"> ○ Part F 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment or be likely to have a significant adverse impact on air, water, or renewable resources, and will not be a cause of public concern.

¹² See the MVLWB Policies and Resources webpage to access the LWB [Standard Water Licence Conditions Template](#).

¹³ See the MVLWB Policies and Resources webpage to access the LWB [Standard Water Licence 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
Biotic Components – Vegetation – Direct loss of vegetation	Project	<ul style="list-style-type: none"> • Potential Impacts – Some vegetation may need to be removed to install the culverts but will be replaced with suitable granular material to prevent erosion. The area will be left to naturally revegetate. • Proposed Mitigation - During these works erosion and sediment control measures will be in place and the departments’ erosion and sediment control manual will be followed. • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. These standard conditions are found in:¹⁴ <ul style="list-style-type: none"> ○ Part F 	
Biotic Components – Aquatic Habitat – Effects on health (toxins, metals, sediment, etc.)	Project	<ul style="list-style-type: none"> • Potential Impact – Soil contamination could occur if a piece of equipment leaks while working in the area. • Proposed Mitigation – The spill contingency plan outlines the proposed mitigation measure and actions if a spill should occur. • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. These standard conditions are found in:¹⁵ <ul style="list-style-type: none"> ○ Part H 	Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment or be likely to have a significant adverse impact on air, water, or renewable resources, and will not be a cause of public concern.

¹⁴ See the MVLWB Policies and Resources webpage to access the LWB [Standard Water Licence Conditions Template](#).

¹⁵ See the MVLWB Policies and Resources webpage to access the LWB [Standard Water Licence Conditions Template](#).

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 might have a significant adverse impact on the environment. More detailed consideration of specific potential impacts and associated mitigations related to culvert replacement and placement of fill in water are discussed below. In general, impacts of the Project on the environment can be mitigated through the use of standard licence conditions and/or project-specific conditions established by the Board as per the LWB [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 Licence 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 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 will not have a significant adverse impact on the environment or 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 **March 16, 2024**, the Board can issue the Licence on **March 18, 2024**.

SIGNATURE



March 6, 2024

Tanya MacIntosh, Chair
Mackenzie Valley Land and Water Board

Date