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March 6, 2024

File: MV2023L8-0014

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 – Placement of Fill – NWT Highway #4**

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) MV2023L8-0014 for the Placement of Fill (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 MV2023L8-0014 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 style with a long horizontal stroke at the beginning.

Tanya MacIntosh  
Chair, Mackenzie Valley Land and Water Board

BCC'd to: Akaitcho Distribution List  
Mahammad Abu Bakar – GNWT - INF  
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	
<b>File Number</b>	MV2023L8-0014
<b>Company</b>	Government of the Northwest Territories – Department of Infrastructure
<b>Project</b>	Km 59.2 to km 60.9 on Highway 4 (Ingraham Trail).
<b>Location</b>	Highway 4, NT
<b>Activity</b>	Miscellaneous
<b>Date of Decision</b>	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 MV2023L8-0014 (Licence)<sup>1</sup> for the Km 59.2 to km 60.9 on Highway 4 (Project).<sup>2</sup>

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.

<sup>1</sup> See MVLWB Online Registry GNWT – INF – [Licence Application – Dec7 23](#)

<sup>2</sup> The Project is the 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	Government of the Northwest Territories – Department of Infrastructure
Application	The complete application package submitted by the Applicant for Water Licence MV2023L8-0014
Board	Mackenzie Valley Land and Water Board
CRP	Closure and Reclamation Plan
EA/EIR	Environmental Assessment/Environmental Impact Review
GNWT	Government of the Northwest Territories
GNWT-ECC	Government of the Northwest Territories – Environment and Climate Change
MVLWB	Mackenzie Valley Land and Water Board
MVRMA	<a href="#">Mackenzie Valley Resource Management Act</a>
Minister	Minister of the Government of the Northwest Territories – Environment and Climate Change
ORS	Online Review System ( <a href="http://www.new.onlinereviewssystem.ca">www.new.onlinereviewssystem.ca</a> )
Party	As per the LWB <a href="#">Rules of Procedure</a> , an applicant, a person, or an organization participating in the regulatory proceeding for the Application.
Project	Miscellaneous, which is the proposed development (as defined in Part 5 of the MVRMA). <sup>3</sup>
Review Board	Mackenzie Valley Environmental Impact Review Board
SCP	Spill Contingency Plan
Standard Licence Conditions	LWB <a href="#">Standard Water Licence Conditions Template</a>
WMP	Waste Management Plan

## 3.0 Background and Scope of Screening

On December 7, 2023, the GNWT - INF submitted an application for placing approximately 2525m3 of fill within the highwater mark between km 59.2 to km 60.9 on Highway 4 (Ingraham Trail). The fill will be sourced from the quarry at km 55.3. This material has been tested for Metal Leaching and Acid Rock Drainage and the results have confirmed that there are no environmental concerns with the material.

The Application is for a Water Licence only as the work that would require a Land Use Permit is covered under Permit MV2017X0008 which covers the general operation and maintenance of the Highway and other associated activities. During the process for the Permit, it was communicated to GNWT that there would be the need for individual Licences to be applied for to cover those activities.

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<sup>3</sup> “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 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.

### **3.1 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 18, 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 Environment and Climate Change Canada and Department of Fisheries and Oceans (attached).<sup>4</sup>

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](#),<sup>5</sup> 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](#),<sup>6</sup> 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**

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.

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<sup>4</sup> See MVLWB Online Registry for GNWT – INF – [Review Summary Table – Mar 5 24](#).

<sup>5</sup> See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Northwest Territory Métis Nation Interim Measures Agreement](#).

<sup>6</sup> See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Akaitcho Territory Dene 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"> <li>• Potential Impact – Soil contamination could occur if a piece of equipment leaks while working in the area.</li> <li>• Mitigation – The Spill Contingency Plan outlines the proposed mitigation measures and actions if a spill should occur.</li> <li>• The Board has standard licence condition that are typically used to mitigate the identified potential impacts. These standard conditions include:<sup>7</sup> <ul style="list-style-type: none"> <li>○ Part H</li> </ul> </li> </ul>	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 a cause of public concern.
Abiotic Components – Water – Surface Water	Project	<ul style="list-style-type: none"> <li>• Potential Impact – Impacts to surface water are not anticipated by could occur with the placement of fill below the high water mark.</li> <li>• Mitigation – During these works erosion and sediment control measures will be in place and the departments erosion and sediment control manual will be followed.</li> <li>• The Board has standard licence condition that are typically used to mitigate the identified potential impacts. These standard conditions include:<sup>8</sup> <ul style="list-style-type: none"> <li>○ Part F</li> </ul> </li> </ul>	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 a cause of public concern.

<sup>7</sup> See the MVLWB Policies and Resources webpage to access the LWB [Standard Water Licence Conditions Template](#)

<sup>8</sup> See the MVLWB Policies and Resources webpage to access the LWB [Standard Water Licence Conditions Template](#)

<b>Potential Impact</b>	<b>Activity</b>	<b>Proposed Mitigations</b> <i>Description of measures to reduce potential impacts, including consideration of cumulative impacts and climate change.</i>	<b>Board Analysis and Determination</b>
Biotic Components – Aquatic Habitat	Project	<ul style="list-style-type: none"> <li>• Potential Impact – There is potential for equipment to leak during the work, there is potential for sediment to enter the water bodies.</li> <li>• Mitigation – The spill contingency plan will be followed and includes mitigation, erosion and sediment control measure will be in place and the departments erosion and sediment control manual will be followed.</li> <li>• The Board has standard licence condition that are typically used to mitigate the identified potential impacts. These standard conditions include:<sup>9</sup> <ul style="list-style-type: none"> <li>○ Part F</li> <li>○ Part H</li> </ul> </li> </ul>	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 a cause of public concern.

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<sup>9</sup> 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. 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 thus far, 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



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**Tanya MacIntosh, Chair**  
**Mackenzie Valley and Water Board**

March 6, 2024

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**Date**