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March 19, 2024

File: MV2024L8-0003

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 – Placement of Fill – Miscellaneous – NWT Highway 4

The Mackenzie Valley Land and Water Board (Board) met on March 14, 2024, and considered the Application Package from Government of the Northwest Territories – Department of Infrastructure (GNWT-INF) for Water Licence (Licence) MV2024L8-0003 for the Placement of Fill – NWT Highway 4 (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 MV2024L8-0003 on **Tuesday, April 2, 2024**.

The Board and staff look forward to continued communications throughout the pause period. Please contact Kathy Racher via [email](#) or at (867) 766-7454 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
Muhammad Abu Bakar – 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	MV2024L8-0003
Company	Government of the Northwest Territories – Department of Infrastructure
Project	Placement of Fill
Location	NWT Highway 4, NT
Activity	Miscellaneous
Date of Decision	March 14, 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 March 14, 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 (Licence) MV2024L8-0003¹ for the Placement of Fill off NWT Highway 4 (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

¹ See MVLWB Online Registry GNWT – INF – [Licence Application – Jan26 24](#).

² 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 opinion that the proposed Project will not have a significant adverse impact on the environment or be a cause of public concern.

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 MV2024L8-0003.
Distribution List	The list of individuals and organizations to whom materials from the regulatory proceeding were circulated. ³
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 MV2024L8-0003
LWBs	Land and Water Boards of the Mackenzie Valley
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
Standard Licence Conditions	LWB Standard Water Licence Conditions Template

3.0 Background and Scope of Screening

On January 26, 2024, GNWT-INF submitted an application for the placement of fill along NWT Highway 4 from km 7.94 to km 10.18. The fill is required to build the grade of the road up to normal after settling. On February 1, 2024, the application was deemed complete and the review commenced with comments and recommendations due February 22, 2024.

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 To access the Distribution List, see the LWBs’ Online Review System for GNWT-INF – [Placement of Fill – Feb1_24](#).

3.1 Scope of Screening:

The application is for the deposit of fill along NWT Highway 4 km from 7.94 to km 10.18 and the progressive reclamation and closure associated with the activities.

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 February 1, 2024, 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 22, 2024, with responses from the Applicant due February 27, 2024. The Board received comments and recommendations from the Department of Fisheries and Oceans.⁴

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](#),⁵ 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](#),⁶ 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.

The Board is also satisfied that notice of the Application was provided to the Ghotelnene K'odtjneh Dene (formerly Manitoba Denesuline) and that a reasonable period of time was provided for the Ghotelnene K'odtjneh Dene to make representations to the Board in accordance with section 63 of the [MVRMA](#).

The Board is also satisfied that notice of the Application was provided to the Saskatchewan Denesuline and that a reasonable period of time was provided for the Saskatchewan Denesuline to make representations to the Board in accordance with section 63 of the [MVRMA](#).

4.0 Potential Impacts and Proposed Mitigations

Although the Board has determined that the Project is exempt from preliminary screening, the Board will consider the potential impacts and proposed mitigations in establishing the Licence conditions. For

⁴ See MVLWB Online Registry for [GNWT - INF – Review Summary Table – Mar 14 24](#).

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

⁶ See MVLWB Land Claims, IMAs, and Land Use Plans webpage to access the [Akaitcho Territory Dene First Nations Interim Measures Agreement](#).

licences potential impacts can be mitigated through existing, standard, and/or project-specific licence and/or permit 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.

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.

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. • Mitigation – The spill contingency plan outlines the proposed mitigation measures and actions if a spill should occur. • The Applicant proposed the following mitigations in the Application. • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. These standard conditions included in the following section:⁷ <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 and will not be a cause of public concern.
Abiotic Components – Land – Destabilization/ Erosion	Project	<ul style="list-style-type: none"> • Potential Impact – erosion • Mitigation – implement measure outlined in the sediment and erosion control plan. • The Board has a standard licence conditions that are typically used to mitigate the identified potential impacts. These standard conditions included in the following section: <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 and will not be a cause of public concern.

⁷ 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
Abiotic Components – Surface Water - Other	Project	<ul style="list-style-type: none"> • Potential Impact – erosion • Mitigation – implement measure outlined in the sediment and erosion control plan. • The Board has a standard licence condition that are typically used to mitigate the identified potential impacts. These standard conditions included in the following section: <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 and will not be a cause of public concern.
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. • Mitigation – The spill contingency plan outlines the proposed mitigation measures and actions if a spill should occur. • The Applicant proposed the following mitigations in the Application. • The Board has a standard licence condition that are typically used to mitigate the identified potential impacts. These standard conditions included in the following section: <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 and will not be a cause of public concern.

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, 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 Monday April 1, 2024, the Board can issue the Licence on Tuesday April 2, 2024.

SIGNATURE



Tanya MacIntosh, Chair
Mackenzie Valley Land and Water Board

March 19, 2024

Date