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August 7, 2024

File: MV2024L8-0006

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: Fort Liard Ferry Landing Maintenance – Notice of Preliminary Screening Determination – Application for Water Licence – Miscellaneous – Fort Liard Ferry Landing

The Mackenzie Valley Land and Water Board (Board) met on August 1, 2024, and considered the Application from Government of the Northwest Territories – Department of Infrastructure (GNWT-INF) for Water Licence (Licence) MV2024L8-0006 for the Fort Liard Ferry Landing Maintenance (Project) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board conducted a preliminary screening based on the public record for the proceedings. 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 MV2024L8-0006 on **August 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: Dehcho Distribution List
Jacqueline Demers – 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	MV2024L8-0006
Company	Government of the Northwest Territories – Department of Infrastructure
Project	Liard Ferry Maintenance
Location	Fort Liard Ferry Crossing, NT
Activity	Miscellaneous
Date of Decision	August 1, 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 August 1, 2024 to make a preliminary screening determination on the Application from the Government of the Northwest Territories – Department of Infrastructure (GNWT-INF (Applicant) for Water Licence MV2024L8-0006 (Licence)¹ for the Liard Ferry Maintenance (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 – May28_24](#)

² The Project is the Liard Ferry Maintenance, 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 MV2024L8-0006
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	Mackenzie Valley Resource Management Act
Minister	Minister of the Government of the Northwest Territories – Environment and Climate Change
ORS	Online Review System (www.new.onlinereviewssystem.ca)
Party	As per the LWB Rules of Procedure , an applicant, a person, or an organization participating in the regulatory proceeding for the Applications.
Project	Fort Liard Ferry Maintenance, 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 Licence Conditions	LWB Standard Water Licence Conditions Template
WMP	Waste Management Plan

3.0 Background and Scope of Screening

GNWT-INF submitted a Type B Water Licence Application (Licence) MV2024L8-0006 for the removal of instream boulders, cobbles, and other sediment from the navigational path of the Liard River Ferry, located at km 457 on Highway 1 near the Village of Fort Simpson, NT.

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 “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.”

3.1 Scope of Screening:

On May 28, 2024, the GNWT-INF submitted a Type B Water Licence (Licence) MV2024L8-0006 for the removal of instream boulders, cobbles, and other sediment from the navigational path of the Liard River Ferry, located at km 457 on Highway 1 near the Village of Fort Simpson, NT.

Due to the predicted low water levels for this coming summer, GNWT-INF wants to undertake work to remove in-stream granular material from the ferry's navigation path as a way to prevent the ferry from running ashore during its operation.

The Liard River has a high sediment load during ice-free seasons from natural erosion and sedimentation processes further upstream. The substrate on the south bank of the Liard River has a higher boulder, cobble areas, the north side has more silt. The primary area of concern for ferry navigation is the south bank, where boulders and cobbles damage the ferry's haul when it docks.

Work is projected to include the removal of 4,000 cubic metres of material from both landing sites along the shores of the Liard River, for a combined total of 8,000 cubic metres of material to be removed. The GNWT-INF intends to remove the material by using a long reach excavator from the ferry landing pads. GNWT-INF may conduct instream equipment operations to enable the excavator to clear more materials from the navigational path of the ferry. Materials removed from the Liard River will be stockpiled on site for reuse at the ferry landing or will be hauled to existing INF quarries. Dredged materials will initially be placed by the excavator onsite, and then hauled further onto the ferry landing site for further management 100m away from the Liard River.

The works are to take place between August 15, 2024 and September 18, 2024. GNWT-INF intends to complete this work during low water levels to enable the excavator to reach more materials while limiting the need to place the excavator in the water as much as possible. The work is expected to take approximately 20 days.

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 May 29, 2024 and June 7, 2024, inviting reviewers to provide comments and recommendations on the Application and the preliminary screening (e.g., on impacts and mitigation measures) using the Online Review System (ORS). Comments were due June 20, 2024, with responses from the Applicant due June 26, 2024. The Board received comments and recommendations from Environment and Climate Change Canada, Transport Canada, and Łíídlıı Kúé First Nation (attached).⁴

⁴ See MVLWB Online Registry for [GNWT – INF – Review Summary Table – Jun26_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](#),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 section 27, paragraphs (a) and (b) of the [Dehcho First Nations \(DCFN\) Interim Measures Agreement](#),⁶ 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.

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.

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 [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"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ Soil contamination may occur if equipment or machinery leaks. The attached Spill Contingency Plan includes mitigations to prevent spills and responses if a spill occurs. ○ Inspection of fuel and oil lines on all equipment. ○ Completing on-site fuel transfer over spill pads/trays. ○ Completing on-site fuel transfer 100m from the ordinary high-water mark. ○ Drip trays will be used for stationary equipment 24/7. ○ Any vehicles or machinery parked for longer than 2 hours will require a drip tray. ○ Machinery will be maintained and regularly inspected for fuel, oil, or other fluid leaks. ○ Machinery working in water will be inspected prior to placement on the ferry landing pads for leaks as well as contaminants present on the machinery. ○ Machinery working in water will be clean and free of contaminants. ○ Where possible, vegetable-based biodegradable hydraulic fluids will be used by the excavator as a precautionary measure in the event of a hydraulic fluid leak. ○ Each vehicle and excavator will carry the required emergency spill kit to prevent fuel or hydraulic fluid from entering waterbodies. ○ Monitoring of tank volume during fuel transfer. ○ Cleaning up drips and minor spills immediately. ○ Ensuring the quick repair of any identified deficiencies on heavy 	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/or will not be a cause of public concern.

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
		equipment or other vehicles. <ul style="list-style-type: none"> ○ Work will not initiate until MVLWB has provided approval of the Spill Contingency Plan ○ Part H of the Water Licence will contain conditions to guide prevention, management and reporting of spills <ul style="list-style-type: none"> • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. 	
Abiotic Components – Land – Destabilization/ Erosion	Project	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ Anticipated that the Licence will include the standard condition Erosion Control Controls will be inspected daily Erosion and Sediment Control Plan has been prepared Erosion controls will be installed and maintained to the satisfaction of the Inspector. • The Board has standard licence conditions that are typically used to mitigate the identified potential impacts. 	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/or will not be a cause of public concern.
Abiotic Components – Surface Water – Changes in water quality	Project	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ Water quality changes may occur during in-water work. The below mitigations will be used and are detailed in the Erosion and Sediment Control Plan: <ul style="list-style-type: none"> • Avoid removal of riparian vegetation. • Avoid removal of materials from the shore and banks. • Machinery must be inspected each morning prior to the start of work for fluid leaks prior to placement on the ferry landing pads. • Excavator buckets will move in a slow and controlled 	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/or will not be a cause of public concern.

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
		<p>manner when removing sediment from the Liard River.</p> <ul style="list-style-type: none"> • Machinery entering the water must move in a slow and controlled manner. • Limit the number of times machinery is driven into and out of the water as much as possible. • Machinery will endeavor to work outside of the water as much as possible. Install sediment and erosion control measures prior to work, inspect them regularly, and repair immediately if damaged. • Turbidity will be monitored during in-water work as detailed in the ESCP. • Silt fencing will be placed on the perimeter of the sediment stockpile areas. • Keep the riparian area free of waste material and debris. • Conduct site walk-around prior to identify areas that need sediment and erosion control measures. • Install sediment and erosion control measures prior to work, inspect them regularly, and repair immediately if damaged. • Work will not initiate until MVLWB has provided approval of the Spill Contingency Plan • Part H of the Water Licence will contain conditions to guide prevention, management and reporting of spills <p>• The Board has standard licence conditions that are typically used to mitigate the identified potential impacts.</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
Abiotic Components – Surface Water – Changes to aquatic habitat	Project	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ By removing boulders/cobbles and other sediment, the aquatic habitat will be altered. Please review Erosion and Sediment Control Plan for further info. INF has submitted a Request for Review to the Department of Fisheries and Oceans Canada for this work. ○ The below mitigations will be used: <ul style="list-style-type: none"> • Avoid removal of riparian vegetation. • Avoid removal of materials from the shore and banks. • Machinery must be inspected each morning prior to the start of work for fluid leaks prior to placement on the ferry landing pads. • Excavator buckets will move in a slow and controlled manner when removing sediment from the Liard River. • Machinery entering the water must move in a slow and controlled manner. • Limit the number of times machinery is driven into and out of the water as much as possible. • Machinery will endeavor to work outside of the water as much as possible. • Install sediment and erosion control measures prior to work, inspect them regularly, and repair immediately if damaged. • Turbidity will be monitored during in water work as detailed in the ESCP. • Silt fencing will be placed on the perimeter of the sediment stockpile areas. • Keep the riparian area free of waste material and debris. • Conduct site walk-around prior to identify areas that need 	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/or will not be a cause of public concern.

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
		sediment and erosion control measures. <ul style="list-style-type: none"> • Install sediment and erosion control measures prior to work, inspect them regularly, and repair immediately if damaged. 	
Biotic Components – Aquatic Habitat – Effects on health (toxins, metals, sediment, etc.)	Project	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ There is the potential for machinery to leak near water. The below mitigations will be used and are detailed in the attached Spill Contingency Plan: <ul style="list-style-type: none"> • Inspection of fuel and oil lines on all equipment. • Completing on-site fuel transfer over spill pads/trays. • Completing on-site fuel transfer 100m from the ordinary high-water mark. • Drip trays will be used for stationary equipment 24/7. • Any vehicles or machinery parked for longer than 2 hours will require a drip tray. • Machinery will be maintained and regularly inspected for fuel, oil, or other fluid leaks. • Machinery working in water will be inspected prior to placement on the ferry landing pads for leaks as well as contaminants present on the machinery. • Machinery working in water will be clean and free of contaminants. • Where possible, vegetable-based biodegradable hydraulic fluids will be used by the excavator as a precautionary measure in the event of a hydraulic fluid leak. • Each vehicle and excavator will carry the required emergency spill kit to prevent fuel or hydraulic fluid from entering waterbodies. 	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/or will not be a cause of public concern.

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
		<ul style="list-style-type: none"> • Monitoring of tank volume during fuel transfer. • Cleaning up drips and minor spills immediately. • Ensuring the quick repair of any identified deficiencies on heavy equipment or other vehicles. • Work will not initiate until MVLWB has provided approval of the Spill Contingency Plan • Part H of the Water Licence will contain conditions to guide prevention, management and reporting spills. 	
Cultural Components – Social and Economic Well-being – Economic opportunities or losses (employment, training)	Project	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ Project is required to maintain access to Fort Simpson and Wrigley. Economic impacts will occur if road access is lost. 	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/or will not be a cause of public concern.
Cultural Components – Social and Economic Well-being – Change to the use of the area by other non-indigenous people (e.g.	Project	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ Road access is required for residents and tourists. 	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/or will not be a cause of public concern.

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
trappers, outfitters, residents, hunters, forest harvesters, other authorized project)			

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 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.

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

- Dehcho First Nations
- Deh Gáh Got'ie First Nation
- Fort Providence Métis Council
- Fort Simpson Métis Local #52
- Łíídlı́ Kúé First Nation
- Ka'a'gee Tu First Nation
- West Point First Nation
- Jean Marie River First Nation
- Sambaa K'e First Nation
- Pehdzéh Kǰ First Nation
- Acho Dene Koe First Nation
- Nahanni Butte Dene First Nation
- Village of Fort Simpson

Engagement took place on March 28, 2024, April 20, 2024, May 9, 2024, and May 16, 2024. The GNWT – INF reached out to all noted parties identified above by phone and letter. From the Engagement Log, responses were noted from the following:

- Fort Providence Métis Local – Advised that the project is not near or close to them, and they likely don't have concerns. They will continue to participate through the process if concerns arise. No response from the GNWT.
- Village of Fort Simpson – supportive of the project. Expressed concerns about how low the water level is and the ability of the ferry to operate. The GNWT responded that INF is monitoring the situation and is applying for a licence to remove boulders from the ferry's landing site.
- Łíídlı́ Kúé First Nation (LKFN) – requested that a condition of the Licence and Permit for the project require GNWT-INF to procure contacting opportunities from Indigenous-owned business in the Dehcho Region. Also requested clarification on how LKFN will be notified about construction

tender opportunities and the amount of advance notice for LKFN to bid. LKFN also requested that the GNWT-INF include dredging of an S-curve downstream from the site if ice-jams. LKFN's stated that they expect that GNWT-INF specify in the contract bid document that the hiring of First Nation Guardians is a contract requirement for the Applicant. GNWT-INF did not provide a response in the Engagement Log.

On May 29, 2024, the Application was circulated for public review on the Online Review System (ORS). By June 20, 2024, comments and recommendations were received from the following:

- Environment and Climate Change Canada;
- Transport Canada; and
- Łíídlı́ Kúé First Nation.

Environment and Climate Change Canada Summary of Comments:

- Requested additional clarification about the Waste Management Plan;
- Requested additional clarification about the Spill Contingency Plan;
- Requested additional information relating to the Monitoring Plan for the Liard Ferry Landing Maintenance;
- Provided information regarding migratory birds; and
- Requested update to the Engagement Plan.

Transport Canada Summary of Comments

- Regulatory requirements; and
- Impacts on marine life.

Łíídlı́ Kúé First Nation Summary of Comments

- LKFN provided comments on the Liard Ferry Landing Maintenance during engagement but was dissatisfied with the responses provided by the GNWT-INF. Requested further engagement on this file and more meaningful responses to comments provided.
- Requested that the Board include a condition in the Licence requiring the GNWT-INF to procure all contracting opportunities from Indigenous-owned businesses in the Dehcho Region and/or to include mandatory Indigenous Participation Plans. Recommended that this must be a contract requirement for all tenders issued for the Project and if targets are not adhered to, the Licence should impose a significant financial penalty on the Licensee.
- Requested that the GNWT clarify how LKFN will be notified about the tender opportunities and the amount of advance notice that will be provided to the LKFN to bid on the work. Also requested that the GNWT confirm the list of LKFN staff who will receive notifications for bidding on the Project.
- Requested that the GNWT commit to hiring LKFN guardians for the entirety of the Project activities, and that this be specified as a requirement in contract bid documents.

In response to the comments received from LKFN, GNWT-INF stated that they would “endeavour to involve Guardians in project monitoring” and that they would be “happy to engage with the LKFN regarding these procurement concerns outside of MVLWB’s process.”

While the Board understands LKFN’s frustration about procurement opportunities, the implementation of the GNWT’s processes for tendering, procurement, and contracts rests solely with the GNWT. These issues can only be addressed through continued engagement between LKFN and GNWT-INF.

The Board notes that the GNWT Principles for Government Procurement, as specified in the [Report on the Review of GNWT Procurement Policies and Practices, July 2023](#), describe the principles the GNWT has accepted to inform its future procedures. Principles 3 and 4 state that the GNWT will "enhance opportunities for all NWT Indigenous businesses, including ensuring equitable access to government procurement opportunities by all NWT Indigenous businesses through fair and transparent practices;" and "generate opportunities and maximize employment and capacity development to provide immediate and long-term benefits for NWT residents and NWT businesses." The GNWT-INF should make every effort to follow its own stated principles of procurement for this Project.

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 **August 17, 2024**, the Board can issue the Licence on **August 18, 2024**.

SIGNATURE



Tanya MacIntosh, Chair
Mackenzie Valley Land and Water Board

August 7, 2024

Date