



Mackenzie Valley Land and Water Board
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P.O. Box 2130
YELLOWKNIFE NT X1A 2P6
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May 16, 2019

File: MV2019X0008

Ms. Kris Johnson
GNWT – Industry, Tourism and Investment
Box 1320
Yellowknife NT X1A 2L9

Email: K_Johnson@gov.nt.ca

Dear Ms. Johnson:

Issuance of Type A Land Use Permit
Miscellaneous – Prosperous Lake Territorial Park

Attached is Type A Land Use Permit MV2019X0008 granted by the Mackenzie Valley Land and Water Board (MVLWB or the Board) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA). This Permit has been approved for a period of five years effective May 16, 2019 and expiring May 15, 2024.

Permit Conditions

Please read all conditions carefully. For the purpose of submitting plans in accordance with this Permit, the date of this letter, May 16, 2019, is the date of commencement.

Management Plans - Approved

The Board hereby approves the following Plans as summarized in Table 1:

Table 1: Plans

Condition Number	Title of Plan/Program/Report	Date Received
22	Waste Management Plan	April 8, 2019
29	Spill Contingency Plan	April 8, 2019
40	Engagement Plan	April 8, 2019

Discontinuance

Should you wish to discontinue your land-use operation at any time prior to the expiry date set out in the Permit, a written notice of discontinuance is required as per section 37 of the MVLUR, in addition to the submission of a final plan.

Public Registry

A copy of this Permit and all related correspondence and documents has been filed on the [Public Registry](#) at the MVLWB office. Please be advised that this letter, inspection reports, and related correspondence is part of the Public Registry and is intended to keep all interested parties informed of the manner in which the Permit requirements are being met. All Public Registry material will be considered if an amendment to the Permit is requested.

The full cooperation of GNWT Industry, Tourism and Investment - is anticipated and appreciated. If you have any questions or concerns, please contact Tyree Mullaney at (867) 766-7464 or email tyree@mvlwb.com.

Yours sincerely,

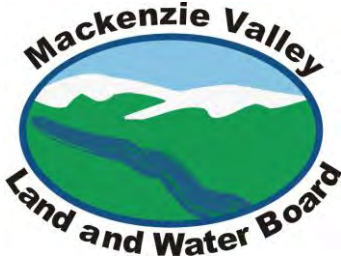


Mavis Cli-Michaud

MVLWB, Chair

Copied to: Distribution List
Charlene Coe, GNWT, Land Use Advisor

Attached: Land Use Permit MV2019X0008
Reasons for Decision



Land Use Permit

Permit Class	Permit No	Amendment No
A	MV2019X0008	

Subject to the Mackenzie Valley Land Use Regulations and the terms and conditions in this Permit, authority is hereby granted to:

GNWT – Industry, Tourism and Investment

Permittee

to proceed with the land use operation described in the Application of:

Signature Ms. Kris Johnson	Date April 8, 2019
Type of Land Use Operation Miscellaneous	
Location Prosperous Lake Territorial Park	

This Permit may be assigned, extended, discontinued, suspended, or cancelled pursuant to the Mackenzie Valley Land Use Regulations.

Dated at Yellowknife this 16 day of May, 2019

Signature Chair

Mavis Cli-Michaud

Signature Witness

Amanda Gauthier

Effective Date:
May 16, 2019

Expiry Date:
May 15, 2024

ATTENTION

It is a condition of this Permit that the Permittee comply with the provisions of the *Mackenzie Valley Resource Management Act* and Regulations and the terms and conditions set out herein. A failure to comply may result in suspension or cancellation of this Permit.

Conditions Annexed to and Forming Part of Land Use Permit MV2019X0008

Part A: Scope of Permit

1. This Permit entitles the Permittee to conduct the following land-use operation:
 - a) Use of vehicles and machines;
 - b) Use of self-propelled motorized machines; and
 - c) Use of motorized earth drilling machinery.
2. This Permit is issued subject to the conditions contained herein with respect to the use of land for the activities and area identified in Part A, item 1 of this Permit.
3. Compliance with the terms and conditions of this Permit does not excuse the Permittee from its obligation to comply with the requirements of any applicable Federal, Territorial, Tłıchǫ, or Municipal laws.

Part B: Definitions (defined terms are capitalized throughout the Permit)

Act - the Mackenzie Valley Resource Management Act.

Board - the Mackenzie Valley Land and Water Board established under Part 4 of the Act, or the Mackenzie Valley Land and Water Board established under Part 3 of the Act, as the case may be.

Drilling Fluids - any liquid mixture of water, sediment, drilling muds, chemical additives or other wastes that are pumped down hole while drilling and are specifically related to drilling activity.

Drilling Waste - all materials or chemicals, solid or liquid, associated with drilling, including drill cuttings and Drilling Fluids.

Engagement Plan - a document, developed in accordance with the Board's Engagement and Consultation Policy and the Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits, that clearly describes how, when, and which engagement activities will occur with an affected party during the life of the project.

Fuel Storage Tank - a closed container for the storage of petroleum or allied petroleum products with a capacity of more than 230 litres.

Habitat - the area or type of site where a species or an individual of a species of wildlife naturally occurs or on which it depends, directly or indirectly, to carry out its life processes.

Inspector - an Inspector designated by the Minister under the Act.

Minister - the Minister of Indian Affairs and Northern Development Canada or the Minister of the Government of the Northwest Territories – Department of Lands, as the case may be.

Ordinary High Water Mark - the usual or average level to which a body of water rises at its highest point and remains for sufficient time so as to change the characteristics of the land. In flowing waters (rivers, streams) this refers to the "active channel/bank-full level" which is often the 1:2 year flood flow return level. In inland lakes, wetlands, or marine environments, it refers to those parts of the Watercourse bed and banks that are frequently flooded by water so as to leave a mark on the land and where the natural vegetation changes from predominately aquatic vegetation to terrestrial vegetation (excepting water tolerant species). For reservoirs, this refers to normal high operating levels (full supply level).

Permittee - the holder of this permit.

Secondary Containment - containment that prevents liquids that leak from Fuel Storage Tanks or containers from reaching outside the containment area and includes double-walled Tanks, piping, liners, and impermeable barriers.

Spill Contingency Plan - a document, developed in accordance with Aboriginal Affairs and Northern Development Canada's Guidelines for Spill Contingency Planning (April 2007), that describes the set of procedures to be implemented to minimize the effects of a spill.

Sump - a man-made pit or natural depression in the earth's surface used for the purpose of depositing Waste that does not contain Toxic Material, such as non-toxic Drilling Waste or Sewage, therein.

Toxic Material - any substance that enters or may enter the environment in a quantity or concentration or under conditions such that it:

- a) Has or may have an immediate or long-term harmful effect on the environment or its biological diversity;
- b) Constitutes or may constitute a danger to the environment on which life depends; or
- c) Constitutes or may constitute a danger in Canada to human life or health.

Waste - any garbage, debris, chemical, or Toxic Material to be used, stored, disposed of, or handled on land, and also as defined in section 51 of the Act.

Waste Management Plan - a document, developed in accordance with the Board's Guidelines for Developing a Waste Management Plan, that describes the methods of Waste management from Waste generation to final disposal.

Watercourse - a natural body of flowing or standing water or an area occupied by water during part of the year, and includes streams, springs, swamps and gulches but does not include groundwater.

Part C: Conditions Applying to All Activities (headings correspond to subsection 26(1) of the Mackenzie Valley Land Use Regulations)

26(1)(a) Location and Area

- | | | |
|----|--|-------------------------------|
| 1. | Prior to the commencement of drilling, the Permittee shall submit the drill target locations on a 1:50,000-scale map with coordinates and map datum to the Board and an Inspector. | DRILL LOCATIONS |
| 2. | The Permittee shall not conduct this land-use operation on any lands not designated in the complete application. | LOCATION OF ACTIVITIES |
| 3. | Prior to the commencement of the land-use operation, the Permittee shall accompany an Inspector during an inspection of the proposed land use area. | INSPECT LOCATIONS |

26(1)(b) Time

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| 4. | At least 48 hours prior to the commencement of the land-use operation, the Permittee's Field Supervisor shall contact an Inspector at (867) 767-9188. | CONTACT INSPECTOR |
| 5. | At least 48 hours prior to commencement of the land-use operation, the Permittee shall provide the following information, in writing, to the Board and an Inspector: <ul style="list-style-type: none"> a) the name(s) of the person(s) in charge of the field operation; b) alternates; and c) all methods for contacting the above person(s). | IDENTIFY AGENT |
| 6. | At least ten days prior to the completion of the land-use operation, the Permittee shall advise an Inspector of: <ul style="list-style-type: none"> a) the plan for removal or storage of equipment and materials; and b) when final cleanup and reclamation of the land used will be completed. | REPORTS BEFORE REMOVAL |

26(1)(c) Type and Size of Equipment

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| 7. | The Permittee shall not use any equipment except of a similar type, size, and number to that listed in the complete application. | ONLY APPROVED EQUIPMENT |
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26(1)(d) Methods and Techniques

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| 8. | The Permittee shall not erect camps or store material, other than that required for immediate use, on the ice surface of a Watercourse. | STORAGE ON ICE |
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26(1)(e) Type, Location, Capacity, and Operation of All Facilities

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| 9. | The Permittee shall ensure that the land use area is kept clean at all times. | CLEAN WORK AREA |
|----|---|------------------------|

26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

- | | | |
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| 10. | The land-use operation shall not cause obstruction to any natural drainage. | NATURAL DRAINAGE |
| 11. | The Permittee shall minimize erosion by installing erosion control structures as the land-use operation progresses. | PROGRESSIVE EROSION CONTROL |
| 12. | The Permittee shall not use any material other than clean water and snow in the construction of ice bridges. | ICE BRIDGE MATERIALS |
| 13. | The Permittee shall not cut any stream bank, unless otherwise authorized in writing by an Inspector. | STREAM BANKS |

26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material

- | | | |
|-----|--|--------------------------------------|
| 14. | At least seven days prior to the use of any chemicals that were not identified in the complete application, the MSDS sheets must be provided to the Board and an Inspector. | CHEMICALS |
| 15. | When drilling within 100 metres of the Ordinary High Water Mark of any Watercourse, and when drilling on ice, the Permittee shall contain all drill water and Drilling Waste in a closed circuit system for reuse, off-site disposal, or deposit into a land-based Sump or natural depression. | DRILLING NEAR WATER OR ON ICE |
| 16. | The Permittee may deposit Drilling Waste that does not contain Toxic Material in a Sump or natural depression. Any Sumps or natural depressions used to deposit Drilling Waste must be located at least 100 metres from the Ordinary High Water Mark of any Watercourse, unless otherwise authorized in writing by an Inspector. | DRILLING WASTE |
| 17. | The Permittee shall not allow any Drilling Waste to spread to the surrounding lands or Watercourses. | DRILLING WASTE CONTAINMENT |
| 18. | The Permittee shall maintain a record of all spills. For all reportable spills, in accordance with the GNWT <i>Spill Contingency Planning and Reporting Regulations</i> , the Permittee shall: <ul style="list-style-type: none"> a) immediately report each spill to the 24-hour Spill Report Line (867) 920-8130; b) report each spill to an Inspector within 24 hours; and c) submit, to the Board and an Inspector, a detailed report on each spill within 30 days. | REPORT SPILLS |
| 19. | The Permittee shall dispose of all Toxic Material as described in the approved Waste Management Plan. | WASTE CHEMICAL DISPOSAL |

20.	The Permittee shall dispose of all combustible Waste petroleum products by removal to an approved disposal facility.	WASTE PETROLEUM DISPOSAL
26(1)(h) Wildlife and Fish Habitat		
21.	The Permittee shall take all reasonable measures to prevent damage to wildlife and fish Habitat during this land-use operation.	HABITAT DAMAGE
26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage		
22.	The Permittee shall adhere to the Waste Management Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.	WASTE MANAGEMENT
23.	The Permittee shall keep all garbage and debris in a secure container until disposal.	GARBAGE CONTAINER
26(1)(j) Protection of Historical, Archaeological, and Burial Sites		
24.	The Permittee shall not knowingly remove, disturb, or displace any archaeological specimen or site.	SITE DISTURBANCE
25.	The Permittee shall, where a suspected archaeological or historical site, or burial ground is discovered: <ul style="list-style-type: none"> a) immediately suspend operations on the site; and b) notify the Board at (867) 669-0506 or an Inspector at (867) 767-9188, and the Prince of Wales Northern Heritage Centre at 767-9347 ext. 71250 or ext. 71251. 	SITE DISCOVERY AND NOTIFICATION
26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value		
<i>Intentionally left blank</i>		
26(1)(l) Security Deposit		
26.	All costs to remediate the area under this Permit are the responsibility of the Permittee.	RESPONSIBILITY FOR REMEDICATION COSTS
26(1)(m) Fuel Storage		
27.	The Permittee shall set up all refueling points with Secondary Containment.	SECONDARY CONTAINMENT – REFUELING
28.	The Permittee shall not allow petroleum products to spread to surrounding lands or Watercourses.	FUEL CONTAINMENT

29.	The Permittee shall adhere to the Spill Contingency Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations, technology, chemicals, or fuels, or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval.	SPILL CONTINGENCY PLAN
30.	Prior to commencement of the land-use operation the Permittee shall ensure that spill-response equipment is in place to respond to any potential spills.	SPILL RESPONSE
31.	All equipment that may be parked for two hours or more, shall have a haz-mat/drip tray under it or be sufficiently diapered. Leaky equipment shall be repaired immediately.	DRIP TRAYS
32.	The Permittee shall clean up all leaks, spills, and contaminated material.	CLEAN UP SPILLS
	26(1)(n) Methods and Techniques for Debris and Brush Disposal	
33.	The Permittee shall not clear areas larger than identified in the complete application.	MINIMIZE AREA CLEARED
	26(1)(o) Restoration of the Lands	
34.	The Permit shall dispose of all overburden as instructed by an Inspector.	DISPOSAL OF OVERBURDEN
35.	All areas affected by construction or removal activities shall be stabilized and landscaped to their pre-construction profiles, unless otherwise authorized in writing by an Inspector.	PRE- CONSTRUCTION PROFILES
36.	Prior to the expiry date of this Permit, the Permittee shall complete all cleanup and restoration of the lands used.	FINAL CLEANUP AND RESTORATION
37.	The Permittee shall carry out progressive reclamation of disturbed areas as soon as it is practical to do so.	PROGRESSIVE RECLAMATION
	26(1)(p) Display of Permits and Permit Numbers	
38.	The Permittee shall keep a copy of this Permit on hand at all times during this land-use operation.	COPY OF PERMIT
	26(1)(q) Biological and Physical Protection of the Land	
39.	If any plan is not approved by the Board, the Permittee shall revise the plan according to the Board's direction and re-submit it to the Board for approval.	RESUBMIT PLAN

- | | | |
|-----|---|-------------------------------|
| 40. | The Permittee shall adhere to the Engagement Plan , once approved, and shall annually review the plan and make any necessary revisions to reflect changes in operations or as directed by the Board. Revisions to the plan shall be submitted to the Board for approval. | ENGAGEMENT
PLAN |
| 41. | All revised plans submitted to the Board shall include a brief summary of the changes made to the plan. | SUMMARY OF
CHANGES |



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7th Floor - 4922 48th Street
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Reasons for Decision

Issued pursuant to
Sections 72.25 and 121 of the *Mackenzie Valley Resource Management Act* (MVRMA) and
sections 36 and 54 of the *Waters Act*

Water Licence and Land Use Permit Applications	
Preliminary Screener	MVLWB
File Number	MV2019L8-0005 & MV2019X0008
Company	Government of the Northwest Territories – Industry, Tourism and Investment
Project	Miscellaneous – Prosperous Lake NT
Date of Decision	May 16, 2019

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These Reasons for Decision set out the Mackenzie Valley Land and Water Board’s (the MVLWB/Board) regulatory process and decisions on Applications made by the Government of the Northwest Territories – Industry, Tourism and Investment (GNWT-ITI) to the Board on April 8, 2019 for Water Licence (Licence) MV2019L8-0005 and Land Use Permit (Permit) MV2019X0008 for the Prosperous Lake Boat Launch Improvement Project.

A summary of the Applications is provided in Section 2 below, followed by the regulatory process in Section 3. Section 4 describes the legislative requirements applicable to this regulatory process, leading to the Board’s decisions with supporting rationale in Sections 5 and 6.

1.0 List of Abbreviations

Anniversary Date	Effective date of Licence as seen on the Licence cover page
Applicant	Government of the Northwest Territories – Industry, Tourism and Investment (GNWT-ITI)
Applications	Government of the Northwest Territories – Industry, Tourism and Investment’s submissions in support of Water Licence MV2019L8-0005 and Land Use Permit MV2019X0008
EA/EIR	Environmental Assessment/Environmental Impact Review
ECCC	Environment and Climate Change Canada
GNWT	Government of the Northwest Territories
GNWT-ENR	Government of the Northwest Territories – Environment and Natural Resources
Inspector	Government of the Northwest Territories – Environment and Natural Resources – Water Resource Officer (Inspector) Government of the Northwest Territories – Lands – Resource Management Officer (Inspector)
Licence	Water Licence MV2019L8-0005
MVLWB or Board	Mackenzie Valley Land and Water Board
MVRMA	<i>Mackenzie Valley Resource Management Act</i>
Minister	Minister of Environment and Natural Resources for the Government of the Northwest Territories Minister of Lands for the Government of the Northwest Territories
Permit	Land Use Permit MV2019X0008
Project	Prosperous Lake Project.
Reviewer	As per the Board’s <i>Rules of Procedures</i>
Standard Template	Board’s <i>Standard Land Use Permit Conditions Template</i>
YKDFN	Yellowknives Dene First Nation

2.0 Summary of Application(s)

On April 8, 2019, GNWT - ITI submitted Applications for a new Licence MV2019L8-0005 and new Permit MV2019X0008.¹² These Applications are to complete improvements in the Prosperous Lake

¹ See Water Licence MV2019L8-0005 Application ([hyperlink](#)), submitted to the MVLWB on April 8, 2019.

² See Land Use Permit MV2019X0005 Application ([hyperlink](#)), submitted to the MVLWB on April 8, 2019.

Territorial Park including parking lot, boat launch, dock and ramping. These activities are located within a Non-Federal area

2.1 Distribution List

This document refers uses the term “distribution list” for the list of parties with whom materials from this regulatory process were circulated. As this Project is in the Akaitcho unsettled area, the appropriate core organizational reviewers, governments, First Nations, and aboriginal organizations were included in the list. The list was periodically updated, and (when requested) individuals with specific interests in the Project were also added to the distribution list.

3.0 Regulatory Process

3.1 Details of the Regulatory Process

On April 8, 2019, GNWT-ITI submitted Applications for a new Licence MV2019L8-0005 and new Permit MV2019X0008. On April 11, 2019, the Applications were deemed complete and the review commenced. Distribution of the review through the Online Review System advised the parties that the Applications were in the form and contained the information required by paragraph 19 of the MVLUR, section 72.1 of the MVRMA, and section 34 of the *Waters Act*; that the regulatory process would proceed; and that the legislated timelines defined in 48(1) of the *Waters Act* had commenced. The review of the Applications commenced following the distribution of the review.

On April 11, 2019, Board staff circulated draft Licence and Permit conditions to parties for review and comment. The following parties responded by April 26, 2019, Environment and Climate Change Canada, GNWT – Environment and Natural Resources, GNWT -Lands (Inspector), GNWT – Lands, and Yellowknives Dene First Nation. GNWT-ITI responded to all the parties’ comments and provided comments of their own on May 1, 2019.

On May 16, 2019, the Board met to make decisions regarding the Applications.

4.0 Legislative Requirements

In conducting the review process for the Applications as described in Sections 2 and 3 above, the Board has ensured that all applicable legal and procedural requirements have been satisfied, as required by section 62 of the MVRMA and as outlined below.

4.1 General

The use of land, water, and the deposit of waste proposed is of a nature contemplated by the MVRMA and the *Waters Act*.

As this Project is located on a Non-Federal Area, the MVRMA and *Waters Act* applies.

4.2 MVRMA Part 3: Duty to Consult (Aboriginal Matters)

In exercising its authority under the MVRMA, generally, the Board must ensure that the concerns of Aboriginal people have been taken into account as per paragraph 114(c) of the MVRMA. It must also consider the importance of conservation to the well-being and way of life of Aboriginal peoples of Canada, as per paragraph 60.1(a) of the MVRMA, specifically those to whom section 35 of the *Constitution Act*, 1982 applies and who use an area of the Mackenzie Valley. Accordingly, the Board works with applicants, affected parties (including Aboriginal organizations/governments), and other

parties (such as other boards and regulators) to ensure that potential impacts of proposed projects are understood and carefully considered before decisions are made with respect to the issuance of Permits and Licences.

In order to address the question of Aboriginal consultation it is first helpful to understand the general process through which the Board considers an application.^{3,4} Following the initiation of engagement and the submission of an application, a proposed project goes through several stages in the Board’s approval process. The application is reviewed to ensure that all necessary information is included and to confirm that the right types of Permit and Licence have been applied for. This check for completeness is completed within ten days of receipt.

The application and supporting documents are uploaded to the Board’s webpage and then an application package is distributed to stakeholders, including appropriate federal and territorial government departments and agencies; land owners; affected communities and Aboriginal organizations; Renewable Resource Boards; heritage regulators; and other interested parties. For the distribution list that the Board used, see Table 1 below:

Table 1: Organizations on the Distribution List for Applications for Licence MV2019L8-0005 and Permit MV2019X0008

Akaitcho IMA Implementation Office
Bathurst Inlet Development Ltd.
Bathurst Inlet Lodge
BNT Gold Resources Ltd.
CanNor NWT Region
City of Yellowknife
City of Yellowknife
Dene Nation
Deninu K’ue First Nation
Det'on Cho Corporation
Environment and Climate Change Canada
Fisheries and Oceans Canada
Fort Resolution Metis Council
Forward Mining
GNWT - ECE
GNWT - ENR
GNWT - ENR - North Slave Region
GNWT - ENR - South Slave Region - Fort Smith
GNWT - Health
GNWT - INF
GNWT - ITI
GNWT - Lands

³ See www.mvlwb.com → Resources → Policies and Guidelines: [MVLWB Guide to the Land Use Permitting Process](#) (2013).

⁴ See www.mvlwb.com → Resources → Policies and Guidelines: [Guide to Completing Water Licence Applications to the Mackenzie Valley Land and Water Board](#) (2003).

GNWT - Lands - Hay River Region
GNWT - Lands - North Slave Region
GNWT - Lands - South Slave Region - Fort Smith
GNWT - MACA
Golder Associates
Hamlet of Fort Resolution
INAC - CARD
INAC - NWT Inspectors
Katlocheeche First Nation
Lutsel K'e Dene First Nation - Chief or Wildlife, Lands and Environment
Mackenzie Valley Environmental Impact Review Board
Manitoba Denesuline
North Slave Metis Alliance
Northwest Territory Metis Nation
NWT & Nunavut Chamber of Mines
NWT- OROGO
Salt River First Nation
Smith's Landing First Nation
Snap Lake Environmental Monitoring Agency - SLEMA
Tlicho Government
Tlicho Lands Protection Department
Town of Fort Smith
Wek' eezhii Renewable Resources Board
West Point First Nation
WLWB
Wood
Workers' Safety and Compensation Commission
Yellowknives Dene First Nation

The Board requested that reviewers provide comments with respect to the Applications and associated management plans. For a Type A Permit, as was the case in this Application, within 42 days of receipt of a complete application, unless additional information is required, the Board will either: (a) issue a Permit with conditions; (b) conduct a hearing under section 24 of the MVRMA or require that further studies or investigations be made; (c) refer it to the MVEIRB for environmental assessment; or (d) refuse to issue the Permit if a requirement set out in section 61 or 62 of the MVRMA has not been met or for any other reason as provided for in legislation. For a Type B Licence, as was the case in this Application, within nine months the Board shall make a decision. When the review is completed, comments are forwarded to the applicant for a response.

The Applications are then assessed to determine if they are exempt from Part 5 of the MVRMA: if not, they go to preliminary screening.

4.2.1 *The Board Role in Consultation*

The Board's requirements for engagement are set out in its *Engagement and Consultation Policy* (the Policy).⁵ The Policy was developed to ensure that the Board's obligations for achieving meaningful consultation (as set out by the land claims and applicable legislation) with all affected parties, including Aboriginal groups in the Mackenzie Valley, are met and consultation results clearly articulated. The Policy has three broad objectives, namely to guide applicants in proactive engagement related to land and water applications; to assist the Board to meet its own statutory requirements by providing a forum for consultation on concerns and proposed mitigations; and to assist in ensuring the adequacy of Crown consultation.

The core of the Policy is as follows:

- 1) To require proponents to initiate dialogue and engagement planning with affected parties, particularly affected Aboriginal organizations/governments, in advance of an application with the goals of:
 - explaining the project;
 - identifying concerns and potential environmental impacts (including any potential for impacts to Aboriginal and treaty rights);
 - addressing concerns raised; and
 - ensuring appropriate levels and types of engagement are carried out over the life of an authorization or project.
- 2) To apply consultative approaches throughout a proceeding, which assist affected parties to meaningfully contribute to the assessment of impacts on the environment and the establishment of appropriate mitigations in order for the Boards to meet statutory responsibilities pursuant to the MVRMA and the Waters Act and their regulations.
- 3) To assist in ensuring, and if necessary rule on, the adequacy of Crown consultation before making a final decision or recommendation, taking into account information gathered during proponent engagement and through its consultative processes.⁹²

4.2.2 *Notifications and Initial Engagement*

The following is a high-level summary of notification and early engagement activities undertaken by GNWT IT in relation to the Prosperous Lake Project. For more detail on the timing of engagement activities, see material filed by GNWT – ITI in support of their Application⁶.

In accordance with the Engagement Policy and associated guidelines, the Board requires proponents to engage with potential affected parties prior to and during the operation of a project.⁷

GNWT-ITI included a record of engagement as part of the Applications which highlighted the engagement activities that took place prior to submitting the Applications and a summary of the

⁵ See www.mvlwb.com → Resources → Policies and Guidelines: [MVLWB Engagement and Consultation Policy](#) (June 1, 2013).

⁶ See GNWT – ITI – Engagement Log ([hyperlink](#)) April 8, 2019

⁷ See www.mvlwb.com → Resources → Policies and Guidelines: [MVLWB Engagement and Consultation Policy](#) (June 1, 2013).

discussion topics. Where contact was made, the engagement record indicates that no concerns were raised⁸

4.2.3 The Boards Hearing Process and Participating of Aboriginal Groups

Aboriginal communities and organizations were engaged throughout the review phase of the Board's process. It should be noted that the Aboriginal parties, and all Interveners, had the opportunity to review all public products of the Board's process.

4.2.4 Views of the Board

As noted above, in Section 4.2.1 (The Board's Role in Consultation), the Board's Engagement Policy has three broad objectives: proactive engagement; facilitating the effective contribution of all reviewers, and Crown consultation.

Regarding the objective of proactive engagement, the Board has determined that the level of engagement by GNWT-ITI was adequate. In accordance with the Engagement Policy and the MVLWB Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits (Engagement Guidelines).

Regarding the objective of facilitating the effective contribution of all reviewers in the regulatory process, the Board has determined its process was sufficient and robust. The Board's process provided opportunities for the review of the Application and review of the draft licence and permit.

Regarding the objective of Crown consultation, the Board has determined that the duty to consult in relation to matters within its jurisdiction has been satisfied. Administrative tribunals such as the Land and Water Boards under the MVRMA can rule on questions of law. The Board, therefore, has the authority, if necessary, to assess the adequacy of Crown consultation before making a final decision or making a recommendation to the responsible Minister and may use remedies available to it in addressing Aboriginal consultation issues.

In summation, the Board finds that parties were engaged throughout the Board's process. The Board's role in regard to the Crown's duty to consult was Discharged in several ways, as identified above and as directed by its own Engagement Policy. The Board finds that Crown consultation has been adequate on the Application related to the Prosperous Lake Project.

4.3 MVRMA Part 3 and 4 and Waters Act: Land and Water Regulation and MVLWB

The Board has jurisdiction to issue this Licence and Permit as per: subsection 60(1.1) of the MVRMA

4.3.1 General

The Board has considered the people and users of the Mackenzie Valley, and any traditional knowledge and scientific information that was made available to it during this regulatory proceeding, as per section 60.1 of the MVRMA.

⁸ See GNWT – ITI – Engagement Log ([hyperlink](#)) April 8, 2019

4.3.2 Public Notice

Notice and copies of the Applications was given to fulfill sections 63 and 64 of the MVRMA. The Board is satisfied that a reasonable amount of time was given to communities, First Nations, and the public to participate in this regulatory process by making submissions to the Board.

4.3.3 Water Use Fees

GNWT – ITI is exempt from paying fees for the right to use water and deposit waste due to the exemption in section 3 of the Waters Regulations as they are a branch of the Territorial Government and there for not required to pay water use fees.

4.3.4 Existing Licences

With respect to 26(5)(a) of the *Waters Act*, no other Licensees contacted the Board during the statutory period, and there are no applicants with precedence in the watershed as per subsection 72.26(1) of the MVRMA/59(1) of the *Waters Act*. The Board is satisfied that the granting of this Licence will not adversely affect, in a significant way, any existing Licensee if compliance with the Licence occurs.

4.3.5 Compensation to Existing Water Uses

Paragraph 26(5)(b) of the *Waters Act* prohibits the issuance of the Licence unless the Board is satisfied that appropriate compensation has been or will be paid by the applicant to persons who would be adversely affected by the use of waters, or deposit of waste proposed by the applicant, at the time when the applicant filed its application with the Board.

The Board received no claims for compensation either during the prescribed period or afterwards. Provided compliance with the Licence conditions takes place, the Board finds that there are no water users or persons listed in paragraph 26(5)(b) of the *Waters Act* who will be adversely affected by the use of waters or the deposit of waste proposed.

4.3.6 Water Quality Standards

With regards to 26(5)(c)(i) of the *Waters Act*, the Board is satisfied that compliance with the Licence conditions will ensure that waste will be collected and disposed of in a manner which will maintain water quality consistent with applicable standards and the Board's *Water and Effluent Quality Management Policy*.

4.3.7 Effluent Quality Standards

The Board has considered its *Water and Effluent Quality Management Policy* to be protective of the receiving waters and environment. The Board is satisfied that compliance with the Licence conditions will protect the receiving waters and environment.

4.3.8 Financial Responsibility

Security is not applicable to this Project as per section 94 of the *Mackenzie Valley Resource Management Act* (MVRMA) because the territorial government is not required to post security pursuant to section 71 of the MVRMA.

4.3.9 *Minimization of Adverse Effects*

With regards to subsection 27(2) of the *Waters Act*, it is the opinion of the Board that compliance with the Licence will ensure that any potential adverse effects on other water users, which might arise because of the issuance of the Licence, will be minimized.

4.3.10 *Time Limit*

The Board is satisfied it has adhered to 48(1) of the *Waters Act*, which requires it to make a decision within a period of nine months after the day on which an application is made or a notice advertised as per subsections 43(1) and 43(2) of the *Waters Act*.

4.4 MVRMA Part 5: Environmental Review

4.4.1 *Preliminary Screening*

On May 16, 2019, the Board met and conducted a preliminary screening of the activities associated with the Applications, to fulfill subsection 124(1) of the MVRMA. As per paragraph 125(1)(a) of the MVRMA, the Board determined that the activities associated with the Applications would not have a significant adverse impact on the environment, and would not be a cause of public concern. The Board's Preliminary Screening Report includes its reasons for that decision, and is available on the Board's public registry. The Board is satisfied the proposed development has been screened pursuant to the MVRMA.

5.0 Decision – Water Licence MV2019L8-0005

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The comments and recommendations made during the regulatory processes;
- 2) The evidence and submissions from GNWT-ITI received by the Board;
- 3) The written comments and submissions from parties received by the Board; and
- 4) The Staff Report prepared for the Board.

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA and the *Waters Act*, the Board has determined that Licence MV2019L8-0005 should be issued, subject to the scope, definitions, conditions, and term contained therein. The Board's determinations and reasons for this decision are set out below.

The scope, definitions, conditions, and term set forth in the Licence have been developed to address the Board's statutory responsibilities and the concerns that arose during the regulatory process. The Reasons for Decision set out below focus on the major concerns and issues raised by parties, including those that were the subject of substantive argument submitted by one or more parties.

5.1 Term of Licence

GNWT-ITI has applied for a term of 7 years for the Licence. As the maximum allowable time that a Permit can be issued for is 7 years (5 years plus 2 year extension).

Subsection 26(2) of the *Waters Act* allows for a Licence term of not more than 25 years or the duration of the undertaking. As the Licence and Permit are closely linked, the Board decided to continue the

practice of setting the Licence term to coincide with that of the Permit, and therefore set the term of the Licence for 7 years from the date of issuance which takes into account the five-year term of the Permit, plus the possibility of a two-year extension of the Permit's term.

5.2 Part A: Scope and Definitions

Part A of the Licence contains the scope and definitions for terms used throughout.

Scope

The scope of the Licence ensures the Licensee is entitled to conduct activities which have been applied for and screened by the Board. In setting out the scope of the Licence, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without be unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Licence.

Part A is consistent with previous Licences issued by the Board. These conditions ensure that the scope of the authorization includes all water uses and deposits of waste associated with the Project, reflect and comply with all applicable legislation for the life of the authorization, and consider and incorporate scientific and Traditional Knowledge where available in the Licensee's effort to protect the environment.

Definitions

The Board defined items in the Licence to ensure a common understanding of conditions, to avoid future differences in interpretation, and to use wording similar to that found in previously issued Licences.

5.3 Part B: General Conditions

Part B of the Licence contain general administrative conditions regarding compliance and conformity with the *MVRMA* and *Waters Act*, and is consistent with standard conditions found in previous Licences issued by the Board.

Part B, condition 5, clarifies that all references to policies, guidelines, codes of practice, statutes, regulations or other authorities shall be read as a reference to the most recent versions, unless otherwise denoted. This standard practice allows for flexibility in Licence conditions when documents are updated during the life of the Licence.

This section addresses conformity and compliance with submissions to the Board. Review and submission of major updates or changes to management plans are required by Part B, condition 8, for Board approval. Such revisions must be approved by the Board prior to the implementation of activities not identified in existing, approved plans. This condition ensures that all applicable plans are regularly reviewed and updated so they reflect changes in technology and/or changes and phases of the project throughout the life of the authorization.

Part B, condition 13: Engagement

The Board assesses engagement adequacy of applications through the Board's *Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits*, and the Board's *Engagement and Consultation Policy*. The Board notes that GNWT-ITI's pre-engagement for the Applications was determined to be in accordance with the Guidelines and Policy. GNWT-ITI included an Engagement Plan and Log in the Applications on April 8, 2011.

The Board has approved the Engagement Plan because it meets the Board's Guideline and Policy, and sufficiently reflects the scope of the proposed activities.

5.4 Part C: Conditions Applying to Water Use

Part C of the Licence contains conditions related to water use for Prosperous Lake Project. These are consistent with standard conditions found in previous Licences issued by the Board.

The maximum quantity of water that can be withdrawn from Prosperous Lake is 100m³/day.

5.5 Part D: Conditions Applying to Construction

Part D of the Licence contains conditions applying to construction activities for the Prosperous Lake Project and is consistent with standard conditions found in previous Licences issued by the Board. These conditions ensure that engineered structures are built to appropriate standards and require the submission of design and engineering reports. The Board can ensure that monitoring requirements are in place prior to, during, and post-construction.

Part D, condition 5, outlines a monitoring program that GNWT-ITI will be required to follow as a portion of the project involved working within Prosperous Lake. The issue identified during the initial application review was that relating to Total Suspended Solids. The implementation of the monitoring will assist in ensuring that the sediment that is disturbed is localized and the effects on areas outside of those that are directly being worked in.

5.6 Part E: Conditions Applying to Waste Management

Part E of the Licence contains conditions applying to waste and water management activities for the Prosperous Lake Project and is consistent with standard conditions included in previous Licences issued by the Board. Site-specific conditions were developed where necessary.

Part E, condition 1 sets out the objectives for the management of water and waste for the Prosperous Lake Project. This condition is consistent with the principles of objective-based regulation: it essentially defines the objectives of any required management actions, plans or reports. This condition is standard for Licences issued by the Board and reminds the Licensee of the need to manage water and waste with the goal of minimizing impacts on the receiving environment.

Submittal and compliance with a Waste Management Plan is standard for Licences issued by the Board. GNWT-ITI included a Waste Management Plan in the Application.

The Board has approved the Waste Management Plan because it meets the Board's Guidelines, and sufficiently reflects the scope of the proposed activities.

5.7 Part F: Conditions Applying to Contingency Planning

Part F of the Licence contain conditions related to spill contingency planning and reporting, reclamation of spills and unauthorized discharges, and emergency response for the Prosperous Lake Project. The purpose of this part is to ensure that GNWT-ITI is fully prepared to respond to spills and unauthorized discharges. The planning and reporting requirements in this part ensure that [Company] has identified the lines of authority and responsibility, has an action plan(s) for responses to spills and

unauthorized discharges, and has established reliable reporting and communication procedures. This will ensure that any spills or unauthorized discharges are effectively controlled and cleaned up, with the goal of preventing or limiting damage to the receiving environment. The conditions in Part F are consistent with standard conditions found in previous Licences issued by the Board.

Part F, condition 2: Spill Contingency Plan

Spill Contingency Plan is a defined term in the Licence, referencing the Indian and Northern Affairs Canada's *Guidelines for Spill Contingency Planning*.⁹ GNWT-ITI included a Spill Contingency Plan in the Applications.

The Board has approved the Spill Contingency Plan because it sufficiently meets the guidelines and reflects the scope of the proposed activities.

5.8 Annex B: Table of Submissions

Annex B of the Licence contains a table that summarizes the information GNWT - ITI is required to submit as required by the Licence conditions.

5.9 Annex C: Table of Revision History

Annex C of the Licence contains a table which identifies updates and tracks changes made to the Licence. This table is currently blank because this is a new Licence, but it will be updated throughout the life of the Licence.

6.0 Decision – Land Use Permit MV2019X0008

In making its decision and preparing these Reasons for Decision, the Board has reviewed and considered:

- 1) The comments and recommendations made during the regulatory processes;
- 2) The evidence and submissions from GNWT – ITI received by the Board;
- 3) The written comments and submissions from parties received by the Board; and
- 4) The Staff Report prepared for the Board.

Having due regard to the facts, circumstances, and the merits of the submissions made to it, and to the purpose, scope, and intent of the MVRMA, the Board has determined that Permit MV2019X0008 should be issued subject to the scope, definitions, conditions, and term contained therein. The Board's determinations and reasons for this decision are set out below.

The scope, definitions, conditions, and term set forth in the Permit have been developed to address the Board's statutory responsibilities and the concerns that arose during the regulatory processes. The Reasons for Decision set out below focus on the major concerns and issues raised by parties, including those that were the subject of substantive argument submitted by one or more parties.

6.1 Term of Permit

GNWT-ITI has applied for a term of five years for the Permit, with a desire for an extension. Subsections 26(5) of the MVLUR allows for a Permit term of not more than five years. After reviewing the submissions made during this regulatory process, the Board has determined an appropriate term for this undertaking is five years.

⁹ See www.mvlwb.com → Resources → Policies and Guidelines: [INAC Guidelines for Spill Contingency Planning](#).

6.2 Part A: Scope of Permit

The scope of the Permit ensures the Permittee is entitled to conduct activities which have been applied for and screened by the Board. In setting out the scope of the Licence, the Board endeavoured to provide enough detail to identify and describe the authorized activities, without be unduly restrictive or prescriptive, and to allow for project flexibility throughout the life of the Permit.

6.3 Part B: Definitions

The Board defined items in the Permit to ensure a common understanding of conditions, to avoid future differences in interpretation, and to use wording similar to that found in previously issued Permits. For the most part, the definitions used wording from the Board's *Standard Land Use Permit Conditions Template* (Standard Template).

6.4 Part C: Conditions Applying to All Activities

The subheadings below correspond to the headings in the conditions section of the Permit, as outlined in section 26(1) of the MVLUR. Most conditions in the Permit are from the Board's Standard Template, and are not discussed in detail in these Reasons for Decision unless notable due to recommendations or concerns raised during the public review. Where applicable, the Board's reasons for including non-standard conditions are discussed.

26(1)(a) Location and Area

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(b) Time

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(c) Type and Size of Equipment

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(d) Methods and Techniques

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(e) Type, Location, Operation of All Facilities

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(f) Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

The conditions included in this section are all consistent with the Board's Standard Template.

Control or Prevention of Ponding of Water, Flooding, Erosion, Slides, and Subsidence of Land

26(1)(g) Use, Storage, Handling, and Ultimate Disposal of Any Chemical or Toxic Material

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(h) Wildlife and Fish Habitat

The Board included condition 21 in the Permit, which requires GNWT-ITI to prevent damage to wildlife and fish Habitat. This is a condition from the Board's Standard Template, and is intended to ensure GNWT-ITI conducts their land-use operation in such a way as to minimize disturbance to wildlife habitat.

26(1)(i) Storage, Handling, and Disposal of Refuse or Sewage;

A Waste Management Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure that all waste management activities are carried out in a way that is consistent with best practices and applicable guidelines to minimize waste released from the Project. This Plan is also required under Part E of the Licence and the Board's reasons for including this Plan are described above in Section 5.6. The Board mirrored these conditions to the extent possible with the Licence requirements to ensure one submission will satisfy conditions of both the Licence and Permit.

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(j) Protection of Historical, Archaeological, and Burial Sites;

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(k) Objects and Places of Recreational, Scenic, and Ecological Value

The Board did not require conditions in this section to satisfy its mandate and did not receive any comments during the review of the draft Permit.

26(1)(l) Security Deposit

The conditions included in this section are all consistent with the Board's Standard Template also according to the Mackenzie Valley Resources Management Act the Government of the Northwest Territories is not required to post security.

26(1)(m) Fuel Storage

A Spill Contingency Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure that an action plan(s) for responses to spills and Unauthorized Discharges, and has established to effectively control and clean up spills and Unauthorized Discharges, with the goal of preventing or limiting damage to the receiving environment. This Plan is also required under Part F of the Licence and the Board's reasons for including this Plan, and requiring revisions and re-submittals, are described above in Section 5.7. The Board mirrored these conditions to the extent possible with the Licence requirements to ensure one submission will satisfy conditions of both the Licence and Permit.

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(n) Methods and Techniques for Debris and Brush Disposal

The conditions included in this section are all consistent with the Board's Standard Template.

26(1)(o) Restoration of the Lands

The conditions included in this section are all consistent with the Board’s Standard Template.

26(1)(p) Display of Permits and Permit Numbers

The conditions included in this section are all consistent with the Board’s Standard Template.

26(1)(q) Biological and Physical Protection of the Land

An Engagement Plan is a standard requirement for land use permits issued by the Board. This Plan is intended to ensure adequate and effective engagement with potentially affected parties has occurred prior to the submission of the Applications (in the form of the Engagement Log) and is planned for throughout the life of the Project. This Plan is also required under Part B of the Licence and the Board’s reasons for including this Plan, and requiring revisions and re-submittals, are described above in Section 5.3. The Board mirrored these conditions to the extent possible with the Licence requirements to ensure one submission will satisfy conditions of both the Licence and Permit.

The conditions included in this section are all consistent with the Board’s Standard Template.

7.0 Conclusion

Subject to the scopes, definitions, conditions, and terms set out in the Licence and Permit, and for the reasons expressed herein, the MVLWB is of the opinion that the land-use activities, water use, and waste disposal associated with the Prosperous Lake Project can be completed by Government of the Northwest Territories – Industry, Tourism and Investment while providing for the conservation, development, and utilization of waters in a manner that will provide the optimum benefit for all Canadians and in particular for the residents of the Mackenzie Valley.

Water Licence MV2019L8-0005 and Land Use Permit MV2019X0008 contain provisions that the Board deems necessary to ensure and monitor compliance with the MVRMA, *Waters Act*, and the Regulations made thereunder, and to provide appropriate safeguards in respect of GNWT-ITI’s use of the land and water affected by the Licence.

SIGNATURE

Mackenzie Valley Land and Water Board

Mavis Cli-Michaud, Chair

May 16, 2019

Date