

TABLE OF CONTENTS PAGE

2. REGULATORY PROCESS	2.1
2.1 Impact Assessment Process	2.1
2.1.1 Mackenzie Valley Resource Management Act	2.1
2.1.2 Taltson Expansion Project and Impact Assessment Process.....	2.3
2.2 Permits and Licences.....	2.4
2.2.1 Anticipated Permits and Licences	2.4
2.2.2 Key Construction and Operations Permits and Licences.....	2.6
2.2.2.1 LAND TENURE.....	2.6
2.2.2.2 MVLWB WATER USE LICENCE.....	2.7
2.2.2.3 DFO FISHERIES ACT AUTHORIZATION.....	2.7
2.2.2.4 TRANSPORT CANADA NAVIGABLE WATERS APPROVAL.....	2.7

TABLE OF FIGURES

Figure 2.1 — Environmental Impact Assessment Process (MVEIRB Brochure, 2004)	2.2
Figure 2.2 — DAR Simplified Process (MVEIRB, 2008)	2.4

TABLE OF TABLES

Table 2.1 — Potential Project Permits, Licences and Authorizations	2.5
--	-----

2. REGULATORY PROCESS

2.1 IMPACT ASSESSMENT PROCESS

2.1.1 Mackenzie Valley Resource Management Act

The Expansion Project is located entirely within the Mackenzie Valley regulatory regime as defined by the Mackenzie Valley Resource Management Act (MVRMA). The MVRMA implements provisions of land claim agreements and establishes co-management boards as institutions of public government. Regional land and water boards regulate the use of settlement and Crown land and water use in their respective settlement areas.

Within the unsettled claim areas of the Northwest Territories, and for developments that may affect more than one settlement area or whose effects may extend beyond the Mackenzie Valley, the Mackenzie Valley Land and Water Board (MVLWB) regulates the use of land and water. If a proposed development has potential to cause a significant adverse effect on the environment, or if it is likely to cause public concern, the development is referred to the Mackenzie Valley Environmental Impact Review Board (MVEIRB).

The MVEIRB is established under the authority of the MVRMA to review the potential environmental effects of developments proposed within the Mackenzie Valley area of the Northwest Territories. The Canadian Environmental Assessment Act (CEAA) applies only in Wood Buffalo National Park and the Inuvialuit Settlement Area, both outside the Project boundaries.

There are three stages in the environmental impact assessment process in the Mackenzie Valley. The MVEIRB provides the following description of the stages:

1. Preliminary Screening

All proposed developments that require a licence, permit, or other authorization must apply and go through a preliminary screening. A land and water board or other regulating authority runs this process. Preliminary screening is a quick review of a proposed development's application to decide if the development might have significant adverse impacts on the environment, or might cause public concern. If so, the application is referred to the second stage - environmental assessment. If not, then the application can be sent to the regulator for permitting and licensing.

2. Environmental Assessment

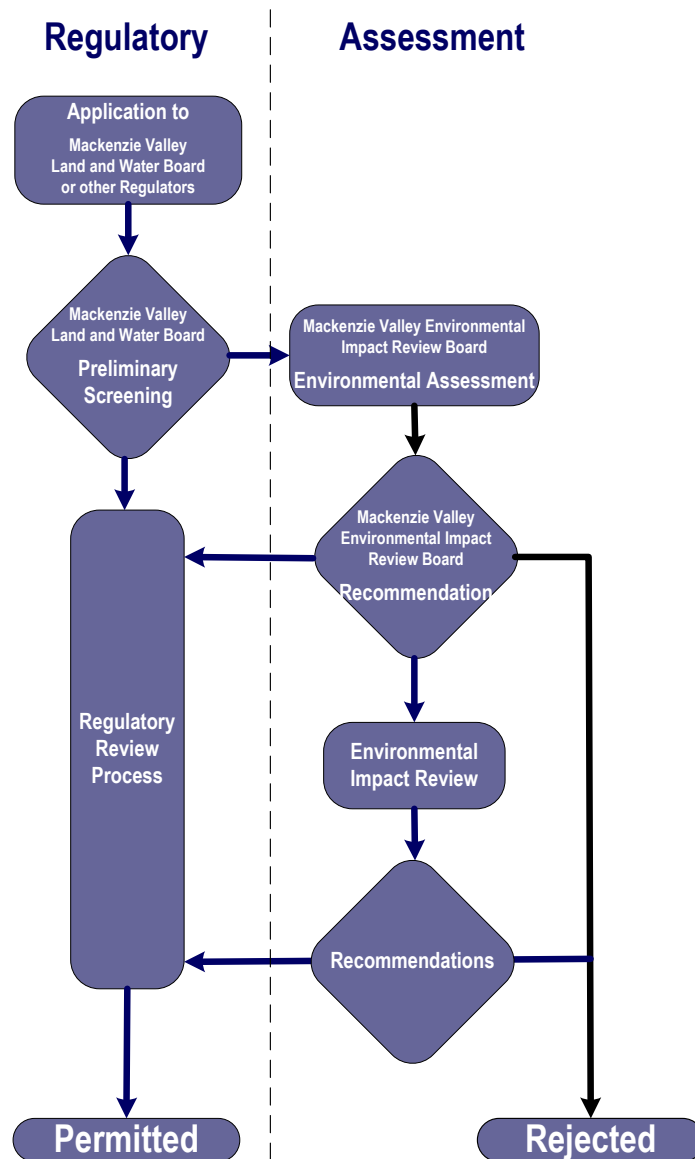
Only a small number of proposed developments must go through an environmental assessment. The Mackenzie Valley Environmental Impact Review Board conducts environmental assessments. This stage is a more thorough study of a proposed development's application to decide if the development is likely to have significant adverse impacts on the environment, or likely to cause public concern. If so, the Review Board may recommend to the federal Minister a) the project can proceed to regulatory permitting and licensing as is, b) the project can proceed to regulatory permitting and licensing provided some measures are in place, or c) the project should be rejected. Alternatively, the Review Board may order an environmental impact review for a more detailed review by an independent panel.

3. Environmental Impact Review

An environmental impact review follows an environmental assessment when the Review Board deems a more comprehensive examination of a proposed development is needed. The review is conducted by an independent panel, which may consist of both Review Board members and non-Review Board members. All members of the panel are appointed by the Review Board. The environmental impact review provides a more focused study of the issues raised during the environmental assessment (MVEIRB 2008. URL: <http://www.mveirb.nt.ca/about/> Accessed Dec 16, 2008).

Figure 2.1 provides a graphical representation of the assessment process.

Figure 2.1 — Environmental Impact Assessment Process (MVEIRB Brochure, 2004)



2.1.2 Taltson Expansion Project and Impact Assessment Process

On June 5, 2007, Dézé submitted a Land Use Permit application (MV2007I0033) to the Mackenzie Valley Land and Water Board (MVLWB) for a Type A Land Use permit. This was followed by a Type A Water Licence application (MV2007L4-0029) submitted to the MVLWB on August 10, 2007. A review period for each of these applications was held, during which time comments were provided by interested parties, including territorial government departments, federal departments, Aboriginal groups, and affected public.

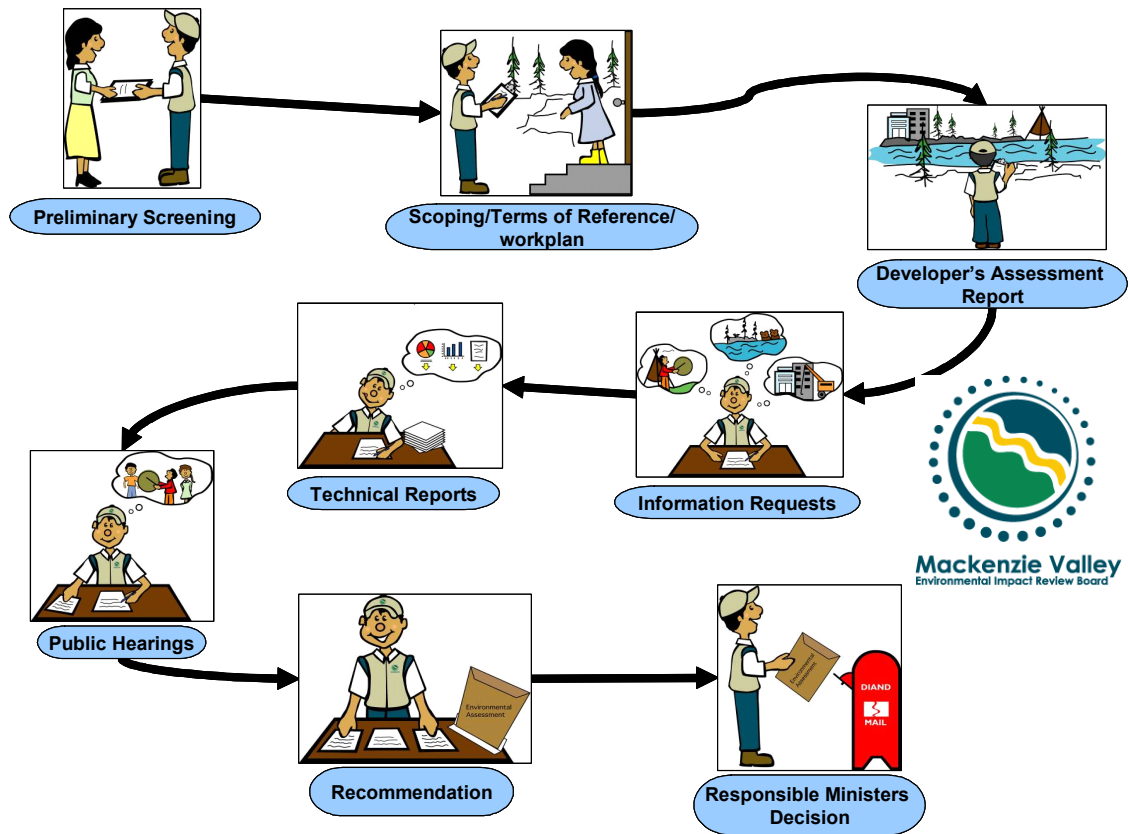
The MVLWB conducted the Preliminary Screening and on October 5, 2007, the applications were referred to the MVEIRB for an Environmental Assessment (EA) pursuant to Section 5 of the MVRMA. On October 17, 2007, the MVEIRB notified Dézé Energy Corporation Ltd. that an environmental assessment had been initiated. Community scoping sessions were held in Fort Smith (November 28, 2007), Fort Resolution (November 29, 2007), and a technical scoping session was also held in Yellowknife on December 7, 2007. A community scoping session in Łutsel K'e was held on March 7, 2008. As a result of the information exchange and public interest demonstrated at the scoping sessions, the MVEIRB (2008) developed Terms of Reference:

“...to provide instructions to Dézé Energy Corporation Ltd. (the “developer”) for preparing a Developer’s Assessment Report (DAR) of its Expansion Project. The Terms of Reference establishes both the scope of the development, as well as that of the assessment. It provides the developer with instructions on the assessment methods to be used, the type of information that is required, and how the information should be presented.

The developer is required to produce a DAR based on reasonable interpretation of these instructions.”

The completion of this Developer’s Assessment Report completes the third step of the environmental assessment as shown in the simplified graphic in Figure 2.2.

Figure 2.2 — DAR Simplified Process (MVEIRB, 2008)



2.2 PERMITS AND LICENCES

2.2.1 Anticipated Permits and Licences

The Taltson Hydroelectric Expansion Project involves a number of distinct undertakings and activities requiring key licences, permits, authorizations, or approvals (“licences and permits”) from a variety of federal, territorial, and co-management agencies. Table 2.1 provides a preliminary list of potential licences and permits that may be required.

Table 2.1 — Potential Project Permits, Licences and Authorizations

Permit Approval	Legislation	Activity	Agency
Design and Construction Phase			
Scientific Research Permit	NWT Research Act NWT Wildlife Act	Conduct research and wildlife studies in support of environmental assessment	Aurora Research Institute; GNWT Environment and Natural Resources
Archaeological Research Permit	Heritage Canada NWT Archaeological Resources Act	Archaeological research and investigations	Heritage Canada Prince of Wales Northern Heritage Centre, GNWT
Licence to Fish for Scientific Purposes	Fisheries Act	Study fish in support of environmental assessments; Salvage and release fish in support of in-stream works mitigation	Fisheries and Oceans Canada
Land Use Permit	MVRMA	Land-based construction activities (winter roads; barge landings; staging areas; transmission line; camps; North Gorge and associated infrastructure; Nonacho Lake and associated infrastructure	Mackenzie Valley Land and Water Board
Water Licence	NWT Waters Act MVRMA	Camp and construction water use and discharges, construction of in-stream structures greater than 5 m in length	Mackenzie Valley Land and Water Board
Electrical Permit	Electrical Protection Act	Electrical works and services	GNWT Public Works and Services
Timber Permit	NWT Forest Management Act MVRMA	Cutting of timber	GNWT Environment and Natural Resources; Mackenzie Valley Land and Water Board
Registration of fuel storage tanks	Canadian Environmental Protection Act, 1999 (CEPA)	On-site fuel storage tanks	Environment Canada with cooperation from INAC
Authorization or Letter of Advice for Works or Undertakings Affecting Fish Habitat	Fisheries Act	Works potentially affecting fish habitat (in water structure construction water storage and flow regulation)	Fisheries and Oceans Canada
Approval for construction within navigable waters	Navigable Waters Protection Act	Construction of structures across or over navigable water bodies (new works: transmission line)	Transport Canada
As required	Transportation of Dangerous Goods Act	Transportation of dangerous goods by highway, barge and/or air subject to the TDG Regulations	Transport Canada
Explosives Magazine Permit Blasting Permit	Explosives Act	Temporary storage and use of explosives at laydown and work areas	Natural Resources Canada
Operations Phase			
Water Licence	NWT Waters Act MVRMA	Water storage and flow regulation	Mackenzie Valley Land and Water Board

Permit Approval	Legislation	Activity	Agency
Land Use Permit(s)	MVRMA	Maintenance activities not covered under lease or title	Mackenzie Valley Land and Water Board
Lease or Title	Territorial Lands Act	Land tenure for constructed facility	INAC

2.2.2 Key Construction and Operations Permits and Licences

Although all permits and licences are critical to advancement of the Project through the various phases, four key regulatory vehicles are discussed below, as these are likely of the greatest stakeholder interest.

2.2.2.1 LAND TENURE

2.2.2.1.1 Land Lease and Licence of Occupation

The mandate of the Indian and Northern Affairs Canada (INAC) Land Administration Division is to manage land in the Northwest Territories by virtue of the Territorial Lands Act; in particular the Territorial Land Regulations, the Federal Real Property, and Federal Immovables Act and subsequent regulations. As the Expansion Project would be located entirely on Crown lands, tenure pursuant to the above-noted legislation would be required.

A Licence of Occupation is typically of short duration and does not allow assignment (transfer) of the licence or exclusivity of activities on the land. A licence is also revocable, thus it cannot be used to secure financing. A lease is an interest in land, is exclusive, is assignable under certain circumstances, and is normally acceptable for security by chartered banks.

The Expansion Project activities and infrastructure are anticipated to be administered by both licence and lease. Portions of the Project such as the temporary winter roads may be administered under a Licence of Occupation, whereas the longer-term infrastructure, such as the North Gorge and Nonacho Lake control structure would be administered under a lease.

2.2.2.1.2 MVLWB Land Use Permit

The Land Use Permit would be required to govern land-based activities upon tenured lands. The type of activities is the sole criteria used to determine which type of permit is issued. Threshold limits for Type A (larger developments) and Type B (smaller developments) Land Use Permits are laid out in the Mackenzie Valley Land Use Regulations: Appendix A - Land Use Permit Process Paper. The types of land use activities used to assess permit type include: use of explosives, use of heavy machinery or vehicles, use of hydraulic prospecting equipment, drilling, campsites, construction, storage of fuel, and preparation of lines, trails, or rights-of-way.

The Expansion Project would be considered a larger development based on these land use activities; therefore, a Type “A” Land Use Permit would be required.

2.2.2.2 MVLWB WATER USE LICENCE

The Expansion Project would require Water Use Licence(s) for construction and operations. Construction activities under licence may include water use and discharge for concrete and other construction activities.

Operations would require a Type A Water Use Licence for water diversion of up to 168 m³/s for the 56 MW of new power generation. The water licence would exist in parallel to the current NTPC Water Licence issued initially by the Northwest Territories Water Board and now residing with the MVLWB. The Type A Water Licence may contain terms and conditions that govern the operation, minimum flow requirements, water levels, and/or monitoring programs.

2.2.2.3 DFO FISHERIES ACT AUTHORIZATION

Section 35(2) of the Fisheries Act prohibits any person from carrying out a work or undertaking that results in the harmful alteration, disruption or destruction (HADD) of fish habitat unless the work is authorized by the Minister or under regulations made by the Governor-in-Council under the Act. A Section 35(2) Authorization is the most common type of authorization issued by DFO with respect to land use and development impacts on fish and fish habitat.

Development activities that may require authorization under the Fisheries Act include the following:

- construction of a new in-stream control structure and maintenance of existing structure at Nonacho Lake; and
- a reduced flow in Trudel Creek.

2.2.2.4 TRANSPORT CANADA NAVIGABLE WATERS APPROVAL

Section 5 of the Navigable Waters Protection Act requires for any works that are built or placed "... in, on, over, under, through or across any navigable water..." to be approved under the Act. The development utilizes existing infrastructure that is subject to regulation under Section 5 of the NWPA and owned and managed by NTPC. New infrastructure associated with the Expansion Project, for which Dézé would potentially require approval, includes the transmission line crossings of navigable waters, such as the Snowdrift River, Lockhart River, and other such water bodies.