



7th Floor - 4922 48th Street
PO Box 2130, Yellowknife NT X1A 2P6

Tel: 867-669-0506 Fax: 867-873-6610
www.mvlwb.com

June 9, 2023

File: MV2023Q0007

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: JD Contracting – Notice of Preliminary Screening Determination – Application for Land Use Permit – Quarrying – NWT Highway 5, Km 41.5, NT

The Mackenzie Valley Land and Water Board (Board) met on June 8, 2023 and considered the Application Package from JD Contracting for Land Use Permit (Permit) MV2023Q0007 for the quarry operation at Km 41.5 of NWT Highway 5 (Project) in accordance with the *Mackenzie Valley Resource Management Act* (MVRMA).

The Board conducted a preliminary screening based on the public record for the proceeding. Based on the evidence provided, the Board is satisfied the screening has been completed according to section 125 of the MVRMA and has decided **not to refer** the Project to environmental assessment. The Board's Preliminary Screening Determination and Reasons for Decision, as required by section 121 of the MVRMA, is attached.

If the Board does not receive notice of referral to environmental assessment, it can proceed with issuance of Permit MV2023Q0007 on Tuesday June 20, 2023.

The Board and staff look forward to continued communications throughout the pause period. Please contact [Kathy Racher](#) in writing or at (867) 766-7457 with any questions or concerns regarding this letter.

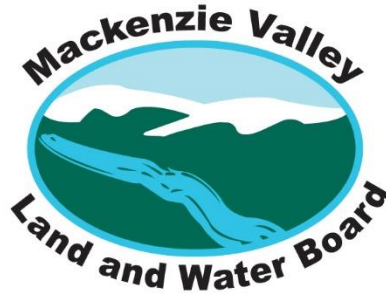
Yours sincerely,

A handwritten signature in blue ink that reads "Tanya MacIntosh". The signature is written in a cursive style with a long horizontal stroke at the beginning.

Tanya MacIntosh
Chair, Mackenzie Valley Land and Water Board

BCC'd to: Akaitcho Distribution List
Jerrod Dumas, JD Contracting

Attached: Preliminary Screening Determination and Reasons for Decision



7th Floor - 4922 48th Street
PO Box 2130, Yellowknife NT X1A 2P6

Tel: 867-669-0506 Fax: 867-873-6610
www.mvlwb.com

Preliminary Screening Determination and Reasons for Decision

Land Use Permit Application	
File Number	MV2023Q0007
Company	JD Contracting
Project	Quarry at HWY 5, Km 41.5
Location	NWT HWY 5 at Km 41.5, NT
Activity	Quarrying
Date of Decision	June 8, 2023

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 June 8, 2023 to make a preliminary screening determination on the Application from JD Contracting (Applicant) for Land Use Permit MV2023Q0007 (Permit)¹ for the quarry at NWT HWY 5, Km 41.5 (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.

¹See MVLWB Online Registry www.mvlwb.com for [JD Contracting – Permit Application – Updated – Mar21 23](#).

² The Project, 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 Background and Scope of Screening

On February 21, 2023 the Applicant submitted the Application for a small-scale quarry operation, which was deemed incomplete on February 24, 2023. The Application is for the removal of granular material and the use of machines, equipment, and motorized vehicles.

The proposed project does not involve the establishment of a camp due to its proximity to Hay River, NT. No garbage or sewage is expected to be generated. No fuel will be stored on site except when vehicles and equipment are present. Refueling will take place off site, if possible, using a pump attached to a tidy tank in a truck. Some tree and brush clearing will take place as needed.

On April 26, 2023, additional information was received, and the Application was subsequently deemed complete and circulated to the Distribution List for Public Review on the Online Review System (ORS) on May 1, 2023.³

As part of the public review, Board staff requested comments and recommendations to assist with the Board's preliminary screening determination. To assist the Board in making its decision on the Permit, Board staff also circulated a draft Permit for review with the Application to allow all Parties the opportunity to comment on the specific wording of the draft conditions.

By May 18, 2023, the Board received comments and Recommendations regarding the Application and the draft Permit from the following Parties: GNWT-Lands, GNWT- Environment and Natural Resources (ENR), and Environment and Climate Change Canada (ECCC). On May 25, 2023, the Applicant responded to the Parties' comments and recommendations.⁴

Engagement commenced March 23, 2023 and concluded April 14, 2023. In accordance with the Policy and Guidelines, the Applicant's engagement efforts and proposed procedures are detailed in the Engagement Record and Plan⁵ submitted with the Application.

The proposed Project is to take place on a previously disturbed site. The quarry in this application was most recently permitted under West End Enterprises Permit MV2017Q0025⁶ which expired in August 2022.

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

³ See MVLWB Online Review System for [JD Contracting – May1 23](#).

⁴ See MVLWB Online Registry for [JD Contracting – Review Summary Table](#).

⁵ See MVLWB Online Registry for [JD Contracting – Engagement Plan and Log](#).

⁶ See MVLWB Online Registry for [West End Enterprises – MV2017Q0025](#).

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.

2.1 Scope of Screening:

The Applicant obtained a Quarry Permit⁷ from the GNWT Department of Lands to remove granular material from the existing granular deposit at Km 41.5 of NWT Highway No.5, Block 1. The proposed quarry area is 7.30 hectares.

The Site was developed in the early 1990's by Arctic Ice Builders. The pits were cleared of all timber and the overburden stockpiled. West End Enterprises operated in both the north and south pits. This Application includes use of both the north and the south pits.

The access to the site is an existing all-season, gravel-based road. No camp is required for this project.

2.2 Public Record and Regulatory Proceeding

To assist the Board in its preliminary screening determination for the Project, the Board distributed the Permit Application for public review on May 1, 2023, inviting reviewers to provide comments and recommendations on the Applications and the preliminary screening (e.g., on impacts and mitigation measures) using the Online Review System (ORS). Comments were due May 18, 2023, with responses from the Applicant due May 25, 2023. The Board received comments and recommendations from GNWT - Lands, GNWT – ENR, and ECCC (attached).⁸

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 the Northwest Territory Métis Nation (NWTMN) Interim Measures Agreement, the Board determined that written notice was given to the NWTMN and that a reasonable period of time was allowed for NWTMN to make representations with respect to the Application.

Pursuant to subsection 1.6, paragraphs (a) and (b) of the Akaitcho Territory Dene First Nations (ATDFN) Interim Measures Agreement, the Board determined that written notice was given to the ATDFN and that a reasonable period of time was allowed for ATDFN to make representations with respect to the Application.

⁷ See MVLWB Online Registry for [JD Contracting - Eligibility - Letter - QP Issuance - Apr4 23](#).

⁸ See MVLWB Online Registry for [JD Contracting – Review Summary Table](#).

3.0 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.

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
Soil contamination	Use of motorized equipment	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ Potential fuel or oil leaks from equipment will be mitigated using drip trays and carrying sill kits. There is no fuel stored on site. • Board has a standard permit that is typically used to mitigate the identified potential impacts. These standard conditions include:⁹ <ul style="list-style-type: none"> ○ REPAIR LEAKS ○ SECONDARY CONTAMINANT – REFUELING ○ FUEL CONTAINMENT ○ SPILL CONTINGENCY PLAN ○ SPILL RESPONSE ○ DRIP TRAYS ○ CLEAN UP SPILLS 	<p>Based on the described mitigations, it is the Board’s opinion that the proposed activities will not have a significant adverse impact on the environment and will not be a cause of public concern.</p> <p>The proposed project involves a small footprint at limited locations on already disturbed lands for a short period of time. The Project does not require any long-term infrastructure, no new technology, no hazardous chemicals or effluents, and no changes to use/access.</p>

⁹ See the MVLWB Policies and Resources webpage to access the LWB [Standard Land Use Permit Conditions Template](#).

Potential Impact	Activity	Proposed Mitigations <i>Description of measures to reduce potential impacts, including consideration of cumulative impacts and climate change.</i>	Board Analysis and Determination
Disturbances to key lifecycle stages: breeding, feeding, nesting, staging	Removal of granular materials	<ul style="list-style-type: none"> • The Applicant proposed the following mitigations in the Application: <ul style="list-style-type: none"> ○ New Clearing to be conducted outside of nesting period. The Board has standard permit conditions that are typically used to mitigate the described impact. These standard conditions include: • Board has a standard permit that is typically used to mitigate the identified potential impacts. These standard conditions include: <ul style="list-style-type: none"> ○ HABITAT DAMAGE ○ MIGRATORY BIRD NEST DISTURBANCE • During the public review period Environment and Climate Change Canada (ECCC) recommended the Applicant review ECCC’s Guidelines to Reduce Risk to Migratory Birds and provided links to more information to mitigate the risks to Habitat Disturbance. The Applicant agreed to the recommendation to avoid clearing during nesting season (May to August). 	<p>Based on the described risk, it is the Board’s opinion that the proposed activities are not likely to have a significant adverse impact on air, water, or renewable resources, and/or will not be a cause of public concern.</p> <p>The proposed project involves a small footprint at a limited location on already disturbed lands.</p>

3.1 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 permit 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 Permit was circulated for review during the regulatory proceeding, and all Parties were given the opportunity to provide comments and recommendations on the draft conditions. In finalizing the conditions, the Board will consider all of the evidence provided through the regulatory proceeding.

During the Public Review period, ECCC commented that the Application does not indicate any effects to vegetation or wildlife from dust, or any corresponding mitigation. ECCC recommended that the Applicant comment on dust generation and management practices, and whether there are potential effects to wildlife or vegetation, and any mitigation methods that will be used. (ECCC – Comment 2)

Considering the proposed project activities and site location, the Board does not believe dust generation to be a concern to vegetation and wildlife habitat due to the small-scale and intermittent timeline of the Project, thus does not need to be included in the scope of the Permit.

3.2 Consideration of Public Concern

In addition to considering the potential impacts of the Project, the Board considered whether the Project might be a cause of public concern.

Based on the evidence provided during the regulatory proceeding, the Board did not identify any comments or issues that indicate that the Project is a cause of public concern.

4.0 Conclusion

The Board has reviewed all the evidence received during the regulatory process with respect to the Preliminary Screening of the proposed Project. Based on the evidence, it is the Board’s opinion that the proposed Project will not have a significant adverse impact on the environment or be a cause of public concern, as set out in paragraph 125(1)(a) of the MVRMA. The Board has therefore decided not to refer the proposed Project to Environmental Assessment.

If the Board does not receive a notice of referral to environmental assessment by Monday, June 19, 2023 the Board can issue the Permit on June 20, 2023.

SIGNATURE



June 9, 2023

Tanya MacIntosh, Chair
Mackenzie Valley Land and Water Board

Date