



Environment Environnement
Canada Canada

Environmental Assessment North (NT & NU)
Environmental Protection Operations (EPO)
Prairie and Northern Region
5019 52nd Street, 4th Floor
P.O. Box 2310
Yellowknife, NT X1A 2P7

28th June 2010

Our File: 4708 001 072

Regulatory Officer
Mackenzie Valley Land and Water Board
7th Floor, 4910 - 50th Avenue
P.O. Box 2130
Yellowknife, NT X1A 2P6

Attention: Lynn Carter

permits@mvlwb.com

Re: MV2010Q0023 - Land Use Permit Application – Quarry – GNWT Highway No. 5, km 5.4 – Carter Industries Ltd.

Environment Canada has reviewed the information submitted with the above noted application. The following advice is provided pursuant to **Section 22** of the *Mackenzie Valley Resource Management Act*.

Environment Canada's contribution to your request for specialist advice is based on the mandated responsibilities under **Section 36(3)** of the *Fisheries Act*, the *Canadian Environmental Protection Act* (CEPA), the *Migratory Birds Convention Act* (MBCA), and the *Species at Risk Act* (SARA).

EC has no major issues at this time, but would like to add the following comments and recommendations which should apply throughout all phases of activities at the quarry site.

Comments and Recommendations

- The proponent shall ensure that any chemicals, fuel or wastes associated with the proposed activities do not enter waters frequented by fish. It is a requirement of **Section 36(3)** of the *Fisheries Act* that all effluent discharged into water frequented by fish, be non-deleterious.
- Excavation and/or removal of granular material from quarries should only take place to within one metre of the high water mark of the ground water table.
- The proponent should have a copy of the 24 Hour NWT/NU Spill Report Form attached with their Spill Management Plan.

The Canadian Wildlife Services offers the following comments and recommendations:

1. Section 6 (a) of the *Migratory Birds Regulations* states that no one shall disturb or destroy the nests or eggs of migratory birds. The best mitigation measure to ensure compliance is to conduct activities with a risk of disturbing or destroying nests or eggs outside of the migratory bird nesting season. High risk activities include disturbance of large amounts of habitat during the nesting season such as vegetation clearing or conducting activities in areas with large concentrations of nesting birds. In the boreal region of the Northwest Territories, the incubation period for migratory bird's ranges from May 7 until July 21, and young birds can be present in the nest until August 10. If nests containing eggs or young are encountered outside of these dates the proponent should avoid the area until nesting is complete (i.e., the young have left the vicinity of the nest).
2. For activities permitted to occur during the breeding season, such as vegetation clearing and mowing along highway right of ways and construction of access roads to granular sources and future sand/salt storage

facilities, Environment Canada recommends that the proponent confirm there are no active nests (i.e., nests containing eggs or young) in the vicinity of their operations before activities commence. If active nests of migratory birds are discovered, the proponent should halt all activities in the nesting area until nesting is completed (i.e., the young have left the vicinity of the nest).

3. Environment Canada recommends that food, domestic wastes, and petroleum-based chemicals (e.g., greases, gasoline, and glycol-based antifreeze) be made inaccessible to wildlife at all times. Such items can attract predators of migratory birds such as foxes, ravens, gulls, and bears. Although these animals may initially be attracted to the novel food sources, they often will also eat eggs and young birds in the area. These predators can have significant negative effects on the local bird populations.
4. Section 5.1 of the *Migratory Birds Convention Act* prohibits persons from depositing substances harmful to migratory birds in waters or areas frequented by migratory birds or in a place from which the substance may enter such waters or such an area.
5. The following comments are pursuant to the *Species at Risk Act* (SARA), which came into full effect on June 1, 2004. Section 79 (2) of SARA, states that during an assessment of effects of a project, the adverse effects of the project on listed wildlife species and its critical habitat must be identified, that measures are taken to avoid or lessen those effects, and that the effects need to be monitored. This section applies to all species listed on Schedule 1 of SARA. However, as a matter of best practice, Environment Canada suggests that species on other Schedules of SARA and under consideration for listing on SARA, including those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), be considered during an environmental assessment in a similar manner.

The proponents have identified that some of the following species at risk could potentially occur within the project area. Horned Grebe should also be included in this list as it is a COSEWIC species of Special Concern.

Terrestrial Species at Risk ¹	COSEWIC Designation	Schedule of SARA	Government Organization with Lead Management Responsibility ²
Whooping Crane	Endangered	Schedule 1	EC
Wood Bison	Threatened	Schedule 1	GNWT
Woodland Caribou (Boreal population)	Threatened	Schedule 1	GNWT
Yellow Rail	Special Concern	Schedule 1	EC
Rusty Blackbird	Special Concern	Schedule 1	GNWT
Northern Leopard Frog	Special Concern	Schedule 1	GNWT
Peregrine Falcon (<i>anatum</i> subspecies)	Special Concern	Schedule 1 (<i>anatum</i>) Schedule 3 (<i>tundrius</i>)	GNWT
Short-eared Owl	Special Concern	Schedule 3	GNWT
Common Nighthawk	Threatened	Schedule 1	EC
Olive-sided Flycatcher	Threatened	Schedule 1	EC
Horned Grebe (Western population)	Special Concern	Pending	EC
Wolverine (Western population)	Special Concern	Pending	GNWT

¹ The Department of Fisheries and Oceans has responsibility for aquatic species.

² Environment Canada (EC) has a national role to play in the conservation and recovery of *Species at Risk* in Canada, as well as responsibility for management of birds described in the *Migratory Birds Convention Act* (MBCA). Day-to-day management of terrestrial species not covered in the MBCA is the responsibility of the Territorial Government. Populations that exist in National Parks are also managed under the authority of the Parks Canada Agency.

³ The *anatum* subspecies of Peregrine Falcon is listed on Schedule 1 of SARA as threatened. The *anatum* and *tundrius* subspecies of Peregrine Falcon were reassessed by COSEWIC in 2007 and combined into one subpopulation complex. This subpopulation complex was listed by COSEWIC as Special Concern.

Impacts could be disturbance, attraction to operations, and destruction of habitat.

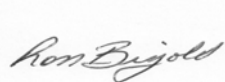
Environment Canada recommends:

- Species at Risk that could be encountered or affected by the project should be identified and any potential adverse effects of the project to the species, its habitat, and/or its residence noted. All direct, indirect, and cumulative effects should be considered. Refer to species status reports and other information on the Species at Risk registry at www.sararegistry.gc.ca for information on specific species as well as the booklet “Species at Risk in the Northwest Territories” (2010 Edition) available at http://www.enr.gov.nt.ca/live/pages/wpPages/Species_at_Risk.aspx
 - If Species at Risk are encountered or affected, the primary mitigation measure should be avoidance. The proponent should avoid contact with or disturbance to each species, its habitat and/or its residence.
 - Monitoring should be undertaken by the proponent to determine the effectiveness of mitigation and/or identify where further mitigation is required. As a minimum, this monitoring should include recording the locations and dates of any observations of Species at Risk, behaviour or actions taken by the animals when project activities were encountered, and any actions taken by the proponent to avoid contact or disturbance to the species, its habitat, and/or its residence. This information should be submitted to the appropriate regulators and organizations with management responsibility for that species, as requested.
 - For species primarily managed by the Territorial Government, the Territorial Government should be consulted to identify other appropriate mitigation and/or monitoring measures to minimize effects to these species from the project.
 - Mitigation and monitoring measures must be taken in a way that is consistent with applicable recovery strategies and action/management plans.
6. Critical Habitat has been identified for Whooping Crane within the Wood Buffalo National Park. The boundaries of the critical habitat start at approximately 160 m on either side of the highway corridor. The Department of Transport should continue to work with Parks Canada to ensure that their activities are not affecting Critical Habitat for Whooping Crane.
 7. All mitigation measures identified by the proponent, and the additional measures suggested herein, should be strictly adhered to in conducting project activities. This will require awareness on the part of the proponents’ representatives (including contractors) conducting operations in the field. Environment Canada recommends that all field operations staff be made aware of the proponents’ commitments to these mitigation measures and provided with appropriate advice / training on how to implement these measures.
 8. Implementation of these measures may help to reduce or eliminate some effects of the project on migratory birds and Species at Risk, but will not necessarily ensure that the proponent remains in compliance with the *Migratory Birds Convention Act*, *Migratory Birds Regulations*, and the *Species at Risk Act*. The proponent must ensure they remain in compliance during all phases and in all undertakings related to the project.

EPO should be notified of changes in the proposed or permitted activities associated with this application.

If you have any further questions or comments, please do not hesitate to contact me at (867) 669-4744 or ron.bujold@ec.gc.ca.

Yours truly,



Ron Bujold
Aquatic Environmental Assessment Technician

cc: Carey Ogilvie (Head, EA-North, EPO)
Anne Wilson (Water Pollution Specialist, EA-North, EPO)
Myra Robertson (EA Coordinator, Canadian Wildlife Service, EPO, Yellowknife, NT)
James Hodson (EA Technician, Canadian Wildlife Service, EPO, Yellowknife, NT)