



Mackenzie Valley Land and Water Board
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Staff Report

Applicant: Carter Industries Ltd.	
Location: Highway #5, Km 5.4	Application: MV2010Q0023
Date Prepared: June 29, 2010	Meeting Date: July 8, 2010
Subject: New Type A Land Use Permit Application	

1. Purpose/Report Summary

To present to the Mackenzie Valley Land and Water Board (MVLWB or the Board) a land use permit (LUP) application submitted by Carter Industries Ltd. for a quarry located at Highway #5, km 5.4, Northwest Territories. This permit will replace MV2002Q0052.

2. Background

- April 30, 2010 – application received;
- May 4, 2010 – application deemed incomplete;
- June 10, 2010 – application deemed complete and sent for review;
- June 28, 2010 – application comment due date;
- July 8, 2010 – presented to the Board; and
- July 21, 2010 – 42 day timeline.

3. Discussion

This permit application is for a quarry located at Highway #5, Km 5.4. Overburden will be stored and re-used. The requested period of time for this permit is five years. Carter Industries has previously held a permit for this area and for these activities (MV2002Q0052) and has been removing sand from this location for over ten years.

To be exempt from a preliminary screening, a renewal application must meet the requirements outlined in paragraph 2 of Part 1, Schedule 1 of the Exemption List Regulations annexed to subsection 143(1) of the *Mackenzie Valley Resource Management Act* (MVRMA) which states:

A development, or part thereof, for which renewal of a permit, licence or authorization is requested that:

- a) has not been modified; and
- b) has fulfilled the requirements of the environmental assessment process established by the *Mackenzie Valley Resource Management Act*, the *Canadian Environmental Assessment Act* or the Environmental Assessment Review Process Guidelines Order.

This development meets the above criteria as it has not been modified since the last permit issuance. It has also fulfilled the requirements of the environmental assessment process as it has undergone a preliminary screening (see attached).

Concerns regarding the number of quarries in the area and their impacts to traditional rights and activities were raised in the review comments from the Deninu Kue First Nation.

4. Comments

Not applicable.

5. Review Comments

See attached Reviewer Comment Summary Table.

Note that the Inspector observed that the site was satisfactory and that no environmental concerns were found at an inspection in October of 2009.

6. Security

Staff has estimated security to be approximately \$4,000.

The Inspector has not recommended security for this operation.

Upon consideration of security, it was determined that security is not required for this permit.

7. Conclusion

The development is a renewal of a previous permit. The development has not been modified and has previously undergone a preliminary screening. The application should be exempt from preliminary screening.

All environmental concerns associated with this operation can be mitigated via LUP conditions.

8. Recommendation

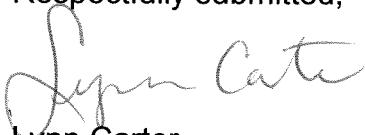
Staff recommends that this application be exempt from preliminary screening.

Staff also recommends that the Board issue Carter Industries Ltd. permit MV2010Q0023 as attached for a period of 5 years with no security.

9. Attachments

- Reviewer Comment Summary Table
- Application
- Preliminary Screening for MV2002Q0052
- MVLWB Security estimate
- Draft Land Use Permit Cover Page
- Draft Land Use Permit Terms and Conditions
- Draft Issuance Letter

Respectfully submitted,



Lynn Carter
Regulatory Officer

**Reviewer Comments Summary Table – Carter Industries Ltd.
New Type A LUP - MV2010Q0023**

Reviewer	Comment	Mitigation
<p>Government of the Northwest Territories, Patrick Clancy, Environmental Regulatory Analyst</p>	<p>Comments taken from letter to MVLWB dated June 28, 2010: The Department of Environment and Natural Resources has reviewed the above application based on its mandated responsibilities under the <i>Environmental Protection Act</i>, the <i>Forest Management Act</i>, the <i>Forest Protection Act</i> and the <i>Wildlife Act</i> and has no comments or recommendations at this time.</p>	<p>Not applicable</p>
<p>Environment Canada, Ron Bujold, Aquatic Environmental Assessment Technician</p>	<p>Comments taken from letter to MVLWB dated June 28, 2010: 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.</p> <p><u>Comments and Recommendations</u></p> <ul style="list-style-type: none"> • 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 <i>Fisheries Act</i> 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. 	<p>All comments forwarded to the Proponent</p> <p>Section 26(1)(m)</p> <p>Section 26(1)(a)</p> <p>Section 26(1)(g)</p>

**Reviewer Comments Summary Table – Carter Industries Ltd.
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	<p>The Canadian Wildlife Services offers the following comments and recommendations:</p> <ol style="list-style-type: none"> Section 6 (a) of the <i>Migratory Birds Regulations</i> 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). 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). 	<p>Comments forwarded to Proponent and Section 26(1)(h)</p>

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	<p>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.</p> <p>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.</p> <p>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.</p>	<p>Comments forwarded to Proponent and Section 26(1)(h)</p>

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	<p>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.</p> <table border="1" data-bbox="508 697 1053 1432"> <thead> <tr> <th>Terrestrial Species at Risk¹</th> <th>COSEWIC Designation</th> <th>Schedule of SARA</th> <th>Government Organization with Lead Management Responsibility²</th> </tr> </thead> <tbody> <tr> <td>Whooping Crane</td> <td>Endangered</td> <td>Schedule 1</td> <td>EC</td> </tr> <tr> <td>Wood Bison</td> <td>Threatened</td> <td>Schedule 1</td> <td>GNWT</td> </tr> <tr> <td>Woodland Caribou (Boreal population)</td> <td>Threatened</td> <td>Schedule 1</td> <td>GNWT</td> </tr> <tr> <td>Yellow Rail</td> <td>Special Concern</td> <td>Schedule 1</td> <td>EC</td> </tr> <tr> <td>Rusky Blackbird</td> <td>Special Concern</td> <td>Schedule 1</td> <td>GNWT</td> </tr> <tr> <td>Northern Leopard Frog</td> <td>Special Concern</td> <td>Schedule 1</td> <td>GNWT</td> </tr> <tr> <td>Peregrine Falcon (<i>anatum</i> subspecies)</td> <td>Special Concern</td> <td>Schedule 1 (<i>anatum</i>) Schedule 3 (<i>mandrill</i>)</td> <td>GNWT</td> </tr> <tr> <td>Short-eared Owl</td> <td>Special Concern</td> <td>Schedule 3</td> <td>GNWT</td> </tr> <tr> <td>Common Nighthawk</td> <td>Threatened</td> <td>Schedule 1</td> <td>EC</td> </tr> <tr> <td>Olive-sided Flycatcher</td> <td>Threatened</td> <td>Schedule 1</td> <td>EC</td> </tr> <tr> <td>Horned Grebe (Western population)</td> <td>Special Concern</td> <td>Pending</td> <td>EC</td> </tr> <tr> <td>Wolverine (Western population)</td> <td>Special Concern</td> <td>Pending</td> <td>GNWT</td> </tr> </tbody> </table> <p>¹The Department of Fisheries and Oceans has responsibility for aquatic species.</p> <p>Impacts could be disturbance, attraction to operations, and destruction of habitat.</p>	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	Rusky 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>mandrill</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	<p>Comments forwarded to Proponent and Section 26(1)(h)</p>
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	<p>Environment Canada recommends:</p> <ul style="list-style-type: none"> 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. 	<p>Comments forwarded to Proponent and Section 26(1)(h)</p>

