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Staff Report

Applicant: Rowe's Construction	
Location: Highway #5 kilometre 44.5	File Number(s): MV2021Q0021
Date Prepared: November 30, 2021	Date of Board Meeting: December 17, 2021
Subject: Renewal of Type A Land Use Permit	

1. Purpose

The purpose of this Report is to present to the Mackenzie Valley Land and Water Board (MVLWB/the Board):

- a) A new Land Use Permit (Permit) Application submitted by Rowe's Construction;
- b) Seek confirmation on preliminary screening exemption;
- c) Consider the Spill Contingency Plan; and
- d) Consider the Engagement Plan.

2. Background

- January 8, 2015 – Issuance of Permit MV2014Q0025;
- November 2, 2021 – Application (MV2021Q0021) submitted;
- November 5, 2021 – Application deemed complete and review commenced;
- November 25, 2021– Comments and recommendations due and received;
- November 30, 2021 – Responses due and received;
- **December 17, 2021 – Application presented to the Board for decision, end of 42-day timeline; and**
- January 7, 2022 – Expiry of MV2014Q0025.

3. Discussion

Project

On November 2, 2021, Rowes Construction (Rowes) submitted an Application for a quarry operation located off Highway 5 at km 44.5. There will be a maximum 6 people on site, there will be no camp set up in relation to the proposed project. Overburden from the site will be stripped and stockpiled for

reclamation, larger trees will be salvaged and existing road will be utilized. There will be up to five pieces of equipment on site which will be re-fueled by tidy tanks. No fuel will be stored on site. The gravel extracted from the site will be used for local construction/road building and concrete production.

Management Plans

The Spill Contingency Plan was included with the Application. Board staff suggest that this Plan met applicable guidelines and sufficiently reflect the scope of the proposed activities. There is no waste being generated, therefore no waste management plan is necessary.

Engagement

An Engagement Record and Engagement Plan were included in the Application. Rowe's Construction noted they engaged with the following Parties:

- Deninu Kue First Nation
- Hamlet of Fort Resolution
- Ka'a Gee Tu First Nation
- Katl'odeeche First Nation
- NWT Metis Nation
- Town of Hay River
- West Point First Nation

Engagement commenced September 28, 2021 and continued until October 13, 2021.

Eligibility

As per section 18 of the Mackenzie Valley Land Use Regulations (MVLUR), eligibility must be determined before the Board can issue a permit. Rows Construction holds a Quarry Permit issued by the GNWT – Department of Lands. Rows Construction is eligible for a permit as subsection 18(a)(i) of the MVLUR has been satisfied:

18) A person is eligible for a permit who

(a) Where the proposed land-use operation is in the exercise of a right to search for, win or exploit minerals or natural resources,

(i) holds the right

Type of Area

This Project is in a non-federal area.

Fees

The required Application Fee of \$150.00 was included with the Application (attached).

Term

Rowe's Construction has applied for a term of 5 years. Board staff note that permits can be granted for a period of five years, plus a two-year extension (for a total of seven years).

4. Comments

Not applicable.

Triggers

The activities as described trigger a Type A permit as per with paragraph 4(a) of the Mackenzie Valley Land Use Regulations:

- (4) No person shall, without a Type A permit, carry on any activity that involves*
 - (a) on land outside the boundaries of a local government,*
 - (ii) the use of a vehicle or machine of a weight equal to or exceeding 10 t, other than on a road or on a community landfill, quarry site or airport,*
 - (iv) the use of a self-propelled motorized machine for moving earth or clearing land.*

No water licence is triggered because there is no direct water use or deposit of waste.

5. Public Review

By November 25, 2021, comments and recommendations on the Application were received from 3 Parties:

- GNWT – Lands (North Slave Region);
- GNWT – ENR (Environmental Assessment and Monitoring); and
- GNWT – Lands (Inspector)

Rowe's Construction responded by November 30, 2021.

The Review Summary and Attachments (attached) presents the concerns identified through this review.

No significant concerns were raised during this review, and Board staff suggest Rowe's responded appropriately and completely to all comments.

Preliminary Screening

On September 23, 2014, the Board issued Permit MV2014Q0025 to Rowes Construction for the same activities which are currently being applied for.

Board staff recommend that the Board confirm that an application is exempt from screening prior to issuance in accordance with the [Preliminary Screening Requirement Regulations](#) and the [Exemption List Regulations](#).

Section 2.1 of the Exemption List Regulations apply to new applications. New applications may be exempt from preliminary screening if the proposed development was part of a development that has previously undergone a preliminary screening process and that has not been modified since the completion of the process. A preliminary screening was completed for Permit MV2014Q0025 (attached).

Board staff have reviewed the current application along with the application submitted in 2014 and find that the activities are the same.

Board staff suggest that the Application before the Board has met the requirements of the *Mackenzie Valley Resources Management Act* specifically Part 5.

Draft Permit

The draft Permit (attached) contains recommended defined terms and conditions based the Board's Standard Permit Conditions and reflects concerns and recommendations raised during the public review.

6. Security

Legislative Requirements

The Board may require security as per section 32 of the Mackenzie Valley Land Use Regulations, which state:

- 32(1) The Board may require security to be posted in an amount not exceeding the aggregate of the costs of*
- (a) Abandonment of the land-use operation;*
 - (b) Restoration of the site of the land-use operation; and*
 - (c) Any measures that may be necessary after the abandonment of the land-use operation.*
- 32(2) In setting the amount of security pursuant to subsection (1), the Board may consider*
- (a) The ability of the applicant or prospective assignee to pay the costs referred to in that subsection;*
 - (b) The past performance of the applicant or prospective assignee in respect of any other permit;*
 - (c) The prior posting of security by the applicant pursuant to other federal legislation in relation to the land-use operation; and*
 - (d) The probability of environmental damage or significance of any environmental damage.*

Closure Cost Estimate – Board's Excel Worksheet

Rowes Construction completed the Board's closure cost estimate worksheet and determined a total reclamation cost of \$23,268.75. The GNWT-Inspector used the Boards closure cost estimate worksheet and calculated a cost of \$5,737.50. Board staff estimate aligned with the Inspector(attached). The previous Permit MV2014Q0025 did not require security to be posted. The table below summarizes this information/the differences between these estimates.

Table 1: Comparison of security estimates:

Line Item	Rowe's estimate	GNWT – Lands (Inspector) estimate	Board Staff estimate	Notes
Camp	\$0	\$0	\$0	-
Regulated Hazardous Materials	\$2,500.00	\$3,000	\$3,000	The difference is to account for the additional piece of equipment
Hydrocarbon Storage and Transfer	\$3,750.00	\$0	\$0	Clarification in the response to comments indicate that no fuel will be stored on site
Land Disturbance	\$25,000.00	\$0	\$0	There is a difference between what has been proposed by Rows and what has been calculated by the Board staff. The title under Land Disturbance – developed surface areas that may require restoration through the use of scarification, reseeding, fertilizing or other similar techniques. The site is a quarry and the material is extracted and not replaced. There is no seeding, scarification or fertilization done on quarried areas.
Equipment	\$5,250.00	\$6,000	\$6,000	The difference is to account for the additional piece of equipment
Total	\$23,268.75	\$5,737.50	\$5,737.50	

*The total does not add up correctly as the multipliers have been applied. Please see the security worksheet for further clarification.

7. Conclusion

Based on the information provided in the application and the public review, the proposed development is not likely to have a significant adverse impact on the environment or be a cause of public concern.

The draft Permit is based upon the Board's Standard Condition List, public review, and Board staff recommendations. Board staff conclude that the scope, defined terms, and conditions contained within this draft Permit should mitigate the potential environmental impacts this development may have on the land and water.

Board staff conclude there are no outstanding issues or concerns with this Application.

8. Recommendation

Board staff recommend the Board:

- a) **Confirm the Application for Land Use Permit MV2021Q0021 from Rowes Construction is exempt from preliminary screening as per the Exemption List Regulations.**
- b) **Make a motion to approve the Type A Land Use Permit MV2021Q0021 for a term of 5 years and associated Reasons for Decision.**
- c) **Make a motion to approve the Spill Contingency Plan** as required by Land Use Permit MV2021Q0021.
- d) **Make a motion to approve the Engagement Plan** as required by Land Use Permit MV2021Q0021.

A draft decision letter is attached.

9. Attachments

- [MV2021Q0021](#)
- [Application](#)
 - [Spill Contingency Plan](#)
 - [Engagement Plan](#)
 - [Fee Receipt](#)
- Review Summary and Attachments
- Security Estimate
- Draft Land Use Permit Cover Page
- Draft Land Use Permit Conditions
- Draft Reasons for Decision
- Draft Decision Letter from the Board

Respectfully submitted,



Andrea Cleland
Regulatory Specialist



Tyree Mullaney
Regulatory Specialist

Reviewer Comments and Proponent Responses

Project: Rowes Construction - Quarry Operation
Board: Mackenzie Valley Land and Water Board
Organization: Rowe's Construction

No	Topic	Reviewer Comment	Reviewer Recommendation	Proponent Response	Board Decision
GNWT-Lands - North Slave Region - Mrs. Cheryl Larocque					
1		ROWES CONSTRUCTION - MV2021Q0021 - LUP COMMENTS - LETTER	See attached letter	Reviewed, thank you.	Noted
No	Topic	Reviewer Comment	Reviewer Recommendation	Proponent Response	Board Decision
GNWT-ENR - EAM (Environmental Assessment and Monitoring) - GNWT ENR					
1	ENR	No comment		Reviewed, thank you.	Noted
No	Topic	Reviewer Comment	Reviewer Recommendation	Proponent Response	Board Decision
GNWT-Lands - Hay River Region - Jayda Robillard					
1	Equipment List	Based on past inspections of the site, the Inspector included 6 pieces of equipment in the security estimate. 2 Loaders, 1 Excavator, 1 Dozer, 1 Crusher, 1 Screener.	Can the applicant confirm that the 6 pieces of equipment will be used at the site?	The number of pieces of equipment is a best estimate. We know there will be at least 1 loader required, however operational requirements may necessitate more. We are will not dispute an estimate of 6 pieces if that is preferred.	Acceptable
2	Fuel storage	The application lists 15,000L of fuel however also mentions that only tidy tanks will be used to refuel equipment and no fuel will be stored on site.	Can the applicant provide some clarity to the 15,000L of diesel fuel listed in the application?	The 15,000L capacity is an error. Capacity of the tidy tank should read 500L. There will not be any fuel storage on site.	Acceptable
3	Security Deposit	Inspector calculated Security Deposit using the security template taking into account 6 pieces of equipment. This may need to be adjusted based on the applicants response to the number of pieces required for the operation.		We will not dispute the estimate of 6 pieces of equipment.	Acceptable
4	Issuance of Land Use Permit	The Inspector has reviewed the land use permit application submitted by Rowe's	The Inspector recommends the permit be issued as applied for with the attached changes to	Acknowledged, thank you.	Acceptable

	MV2021Q0021	Construction.	<p>the Land Use Permit Draft Conditions. Comments are in red.</p> <p>ADD - Mark Area ADD - Corner Posts REMOVE - Suspend Overland Travel REMOVE - Vehicle Movement Freeze-Up MODIFIED - Archaeological Buffer</p>		
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November 25 2021

Tyree Mullaney
Regulatory Officer
Mackenzie Valley Land and Water Board
7th FLOOR – 4922 48th STREET
P.O. Box 2130
YELLOWKNIFE, NT X1A 2P6

Dear Tyree Mullaney,

Request for Comment: Rowes Construction-Quarry Operation New Land Use Permit-Highway #5, km 44.5, MV2021Q0021

The Department of Environment and Natural Resources, Government of the Northwest Territories has reviewed the report at reference based on its mandated responsibilities under the *Waters Act, the Species at Risk (NWT) Act and the Wildlife Act* and has no comments or recommendations for the consideration of the Board at this time.

Should you have any questions or concerns, please do not hesitate to contact Erin Goose, Environmental Regulatory Analyst at (867) 767-9233 Ext: 53099 or email gnwt_ea@gov.nt.ca.

Sincerely,

Erin Goose
Environmental Regulatory Analyst
Environmental Assessment and Monitoring Section
Environmental Stewardship and Climate Change Division
Department of Environment and Natural Resources
Government of the Northwest Territories



November 25 2021

Tyree Mullaney
Regulatory Officer
Mackenzie Valley Land and Water Board
7th FLOOR – 4922 48th STREET
P.O. Box 2130
YELLOWKNIFE, NT X1A 2P6

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Sincerely,

Erin Goose
Environmental Regulatory Analyst
Environmental Assessment and Monitoring Section
Environmental Stewardship and Climate Change Division
Department of Environment and Natural Resources
Government of the Northwest Territories



November 15, 2021

Ms. Tyree Mullaney
Mackenzie Valley Land and Water Board (MVLWB)
7th Floor, 4922-48th Street
YELLOWKNIFE, NT X1A 2P6

Dear Ms. Mullaney:

Land Use Permit Application: MV2021Q0021 – Rowe's Construction

Type of Operation: Quarrying

Location: KM 44.5, NWT Hwy No. 5

The Department of Lands, North Slave Regional Office reviewed Land Use Permit Application MV2021Q0021 and support the issuance of the permit.

Our Inspectors, Norman McCowan and Jayda Robillard, will provide their comments and recommendations for your consideration, via the LWB Online Review System.

Comments received from Territorial Lands Administration and the Mining Recorder's Office indicate no concerns.

Thank you for the opportunity to comment on this application. Should you have any questions or concerns regarding our comments, please contact our Inspector, Norman McCowan or Jayda Robillard, at (867) 874-6995.

Sincerely,

Scott Stewart
Regional Superintendent
North Slave Region

- c. South Slave Region (Hay River), Department of Lands, GNWT
Land Administration (Yellowknife), Department of Lands, GNWT
Mining Recorder's Office (Yellowknife), Department of Industry, Tourism & Investment, GNWT

Land Use Permit Security Worksheet

Application Number: MV2021Q0021 Rowe's Construction Hwy 5, Km 44.5

Input
Amount Multiplier

Camp (C1)			
Temporary Structures		DRAFT	
Input number of tent frames or weatherhaven (3.5m x 4.2m)	0	\$200.00	\$0.00
Input number of trailers (3.5m x 15.2m)	0	\$300.00	\$0.00
Input total square metres of other temporary structures (i.e. core shacks)	0	\$2.50	\$0.00
Fixed Structures			
Input total square metres of fixed structures	0	\$25.00	\$0.00
Solid Waste		COPY	
For non-burnable material, input # of person days per season	0	\$1.00	\$0.00
For burnable material, input # of person days per season	0	\$0.50	\$0.00
Total C1			\$0.00

Regulated / Hazardous Materials (R1)			
Based upon on site volume			
Explosives; up to 500 kg (~pallet) dry explosives input 1, if none, input 0	0	\$500.00	\$0.00
Additional Explosives; input total kg >500	0	\$0.50	\$0.00
Drilling Muds (oil based); enter number of 63 m ³ (or equivalent) containers	0	\$1,000.00	\$0.00
Used Oil, Lubes and Antifreeze: enter number of pieces of heavy equipment	6	\$500.00	\$3,000.00
Other;			
Total R1			\$3,000.00

Hydrocarbon Storage and Transfer (H1)			
Based upon on site volume			
Gasoline and Diesel			
Enter total volume of gasoline&diesel <25,000 L	0	\$0.50	\$0.00
Enter total volume of gasoline&fuel > 25,000 L	0	\$0.25	\$0.00
Total Gasoline and Diesel			\$0.00
When fuel is within bermed site or has other safety feature, enter 1, otherwise enter 0	0	25%	\$0.00
Aviation Fuel			
Enter total volume of aviation fuel < 25,000 L	0	\$0.50	\$0.00
Enter total volume of aviation fuel > 25,000 L	0	\$0.25	\$0.00
Total Aviation Fuel			\$0.00
When fuel is within bermed site or has other safety feature, enter 1, otherwise enter 0	0	25%	\$0.00
Total H1			\$0.00

Land Disturbance (L1)			
Disturbed Surface Area			
<i>(Developed surface area that may require restoration through the use of scarification, reseeding, fertilizing or other similar techniques)</i>			
Enter number of hectares disturbed	0	\$1,000.00	\$0.00
Other Land Disturbances			
Creek Crossings; enter number of creek crossings	0	\$500.00	\$0.00
Off-Road Activities; if any activities are likely, enter 1	0	\$500.00	\$0.00
Sump Factor; enter total area occupied by sumps in m ²	0	\$10.00	\$0.00
Well Factor; enter number of wells.	0	\$25,000.00	\$0.00
Total L1			\$0.00

Land Use Permit Security Worksheet (continued)

Application Number:	Input Amount	Multiplier	
Equipment (E1)			
Based upon type of equipment			
Enter number of pieces of heavy equipment (i.e. dozer, forklift, large gensets)	6	\$1,000.00	\$6,000.00
Enter number of drills	0	\$1,000.00	\$0.00
Enter number of light vehicles (trucks, atvs, snowmobiles, boats)	0	\$250.00	\$0.00
Enter number of small generators or pumps	0	\$100.00	\$0.00
Enter number of empty fuel storage tanks	0	\$500.00	\$0.00
Total E1			\$6,000.00

Security Calculation			
Preliminary Calculation			
Enter amount from C1			\$0.00
Enter amount from R1			\$3,000.00
Enter amount from H1			\$0.00
Enter amount from L1			\$0.00
Enter amount from E1			\$6,000.00
Preliminary Calculation, total of above	A		\$9,000.00
Multipliers			
Site Access Multiplier. If the project has all weather road access enter 1, if ice road access enter 1.5, if air access enter 2	B	1	
Performance Multiplier. If applicant has successfully completed the terms of a LUP enter 0.85, otherwise enter 1	C	0.85	
Environmental Risk Factor. If location has high environmental value or unusual environmental risk enter 2. If location is previously disturbed enter 0.75. Otherwise enter 1.	D	0.75	
Calculated Security			
Multiply preliminary calculation (A) by performance multipliers (B, C and D)	E		\$5,737.50
Existing Securities			
List existing associated permits and amount of overlapping security			
Permit: _____			
Permit: _____			
Permit: _____			
Permit: _____			
Overlapping Securities, total of above	F		\$0.00
Final Security Determination			
Subtract overlapping securities (F) from calculated security (E)			\$5,737.50

Comments
PLEASE PUT YOUR ASSUMPTIONS IN HERE SO THAT EVERYONE CAN SEE YOUR CALCULATIONS.
No security recommended for surface disturbance as fertilizing, reseeding, scarification is not required.