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Staff Report

Applicant: Nogha Enterprises Limited	
Location: Fort Simpson, NT	File Number: MV2020Q0005
Date Prepared: August 12, 2020	Date of Board Meeting: August 27, 2020
Subject: New Type A Land Use Permit Application	

1. Purpose

The purpose of this report is to present the following to the Mackenzie Valley Land and Water Board (MVLWB or Board) for consideration and decision:

- a) New Land Use Permit (Permit) Application submitted by Nogha Enterprises Limited (Applicant);
- b) Consider the Preliminary Screening;
- c) Consider the Spill Contingency Plan;
- d) Consider the Quarry Operational and Pit Development Plan; and
- e) Consider the Engagement Plan.

2. Background

- May 11, 2020 – Application submitted;
- May 14, 2020 – Incomplete letter issued to Applicant;
- June 23 – July 22, 2020 – Applicant submitted additional information;
- July 22, 2020 – Application distributed for public review;
- August 7, 2020 – Due date for public comments;
- August 14, 2020 – Due date for Applicant’ response(s) to public comments; and
- **August 27, 2020 – Application presented to the Board for decision.**

3. Discussion

Description of Application

Between May 11, 2020 and July 22, 2020 the Applicant submitted, for the Board’s consideration, an application and supporting information (Application) for a five-year Land Use Permit (Permit) to conduct quarrying activities at an existing and previously developed sand quarry source located at KM486, approximately 14 kilometres north of Fort Simpson. Activities associated with this Project include:

- a) Use of an existing access road to operate a quarry at KM486;
- b) Use of relevant equipment; and

- c) Site preparation activities including clearing, grubbing, stripping, and stockpiling of materials including sand, soil/overburden, and vegetation/bush.

The Application's scope states that no camp facility is required or will be constructed for the Project as Project personnel will seek accommodation within the Village of Fort Simpson, where they will commute to and from the Project site via. pickup trucks.

The small quantities of non-hazardous waste generated by the Project will be backhauled to the Village of Fort Simpson for disposal. Refueling of Project equipment will be carried out using tidy/slip tanks mounted on to pickup trucks. The maximum quantity of fuel expected on site at a given time is 250 litres of diesel and 250 litres of gasoline.

The estimated area of aggregate source is 11,550 m² while the area of the existing quarry is 10,000 m². The maximum, cumulative volume of sand allowed for extraction under the existing Quarry Permit is 3,500 m³. To date, approximately 420 m³ of sand have been extracted under the existing Quarry Permit 2018QP0017 and now expired Land Use Permit MV2012Q0023 (Issued February 14, 2013 and Expired February 13, 2018).

Given that the Project site was previously cleared, significant additional disturbances are not anticipated. Following completion of quarrying activities, all site equipment will be removed. The slopes of impacted areas will be graded to a maximum ratio of 2:1 to enhance stability. Because there is no evidence of permafrost within the Project's area, significant quantities of runoff water are not anticipated. Following completion of quarrying activities, stockpiled topsoil will be spread over disturbed areas to help promote natural re-vegetation.

Management Plans

A Spill Contingency Plan (SCP) was included as part of the Application. Board staff reviewed the SCP and recommend approval of SCP as it met relevant requirements. A Quarry Operational/Pit Development Plan was also included in the application but is not required as a standard condition. Although it contains useful information about the Project conditions, the draft permit addresses measure included in this plan. The Quarry Operational/Pit Development Plan is a requirement for a GNWT Quarry Lease.

Engagement Plan

An Engagement Plan and log were included as part of the Application. Details included in the engagement log indicate that the Applicant engaged the following parties, most of which expressed support for the proposed Project:

- Village of Fort Simpson;
- Łı́dł ı̀Kúę́ First Nation;
- Dehcho First Nation;
- Fort Simpson Metis Local;
- Dene Nation;
- NWT Metis Nation; and
- GNWT - Lands.

Board staff suggest the level of engagement conducted for the application, and engagement activities proposed and going forward, adequately address the Engagement Policy and Guidelines.

Eligibility

In accordance with section 18 of the Mackenzie Valley Land Use Regulations (MVLUR), eligibility must be confirmed before the Board can issue a permit. The Applicant provided a copy of its Quarry Permit, 2018QP0017, confirming that the relevant eligibility requirements have been met under subsection 18(a)(i) of the Mackenzie Valley Land Use Regulations, which states:

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 on non-federal land (Commissioners Land).

Fees

Application fee in amount of \$150.00 was paid for processing the Application. (attached).

Term

The Applicant requested a five-year term for the prospective Permit. The Regulations allow for a permit to be granted for a period of five (5) years plus an extension(s) to a combined maximum of two (2) years, for an overall total of seven (7) years.

4. Comments

Triggers

The activities as described trigger a Type A Land Use Permit based on 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,

(i) the use of a quantity of explosives equal to or exceeding 150 kg in any 30-day period,

(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,

(iii) the use of a single container for the storage of petroleum fuel that has a capacity equal to or exceeding 4000L,

(iv) the use of a self-propelled motorized machine for moving earth or clearing land,

(v) the leveling, grading, clearing, cutting or snow ploughing of a line, trail or right-of-way, other than a road or existing trail to a building, that exceeds 1.5 m in width or 4 ha in area, for the purpose other than the grooming of recreational trails,

As the project does not involve any direct water use and/or waste deposit activities, it does not trigger the requirements for a water licence.

5. Public Review

Prior to the due date for public comments, submissions were received from the following parties:

- The Government of the Northwest Territories – Department of Environment and Natural Resources (GNWT-ENR), (Environmental Assessment and Monitoring);
- The Government of the Northwest Territories (GNWT) – Lands (North Salve Region); and
- The Mackenzie Valley Land and Water Board (MVLWB) – Staff.

Main Issues Identified During the Review

- Measures to protect birds and birds' habitat while carrying out the Project;

- Best practices related to the Federal *Species at Risk Act*;
- Wildlife monitoring and mitigation measures; and
- Site history confirming if Project area was exposed to spills, and characterization of stockpiled material/topsoil.

On August 10, 2020, the Applicant responded to the comments and/or recommendations provided by parties. The Applicant stated in its response that it is committed to addressing all the recommendations provided by commenting parties.

Preliminary Screening

Attached is a draft Preliminary Screening for the Application containing information from the Application and public review process regarding environmental and socio-economic concerns, in addition to mitigation measures.

Draft Permit

The draft Permit, also attached, contains recommended conditions based on the MVLWB's Standard Permit Conditions List. As noted in the Draft Permit, condition 1 (c) has been modified to better address the scope of work being undertaken.

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.*

Security Estimate Calculations

The Applicant's estimate, compiled using the Board's Reclamation Security Worksheet, assessed potential reclamation costs at **\$3,187.50**. During the public review period, no comments were provided for this estimate.

Board Staff also completed the Reclamation Security Worksheet, which assessed reclamation security at **\$4,781.25**.

As the Applicant's and Staff's estimates were both conducted using the Security Calculation Template/Worksheet, the estimates are directly comparable. **Table 1** summarizes this information including the similarities and/or differences between these estimates.

Table 1: Summary of Estimates Including Similarities and Differences			
Line Item	Nogha Enterprises Ltd. Estimate	Staff Estimate	Notes
Camp (C1)	\$0	0	No camp required; project personnel will be accommodated at facilities located in the Village of Fort Simpson;
Regulated/Hazardous Materials (R1)	\$0	\$2,000	Staff's estimate assumed 4 pieces of heavy equipment based on the Applicant' equipment list; Applicant estimate assumed 0 pieces of heavy equipment for this line item;
Hydrocarbon Storage and Transfer (H1)	\$0	\$500	Staff' estimate assumed a maximum of 250 L of diesel and 250 L of gasoline storage/transfer on site, combined; Applicant's estimate assumed 0 L of fuel storage/transfer on site;
Land Disturbance (L1)	\$1,000	\$1,000	Both estimates assumed that a 1-acre area may be disturbed;
Equipment (E1)	\$3,250	\$4,000	Staff' estimate assumed 4 pieces of heavy equipment based on proponent' list; Applicant assumed 3 pieces of heavy equipment;
Multiplier	0.75	.75 and .85	Staff's estimate included a multiplier of 0.75 as the area was previously disturbed and a multiplier of 0.85 as the Applicant successfully completed a previous Permit; Applicant' estimate included a multiplier of 0.75 only as the site was previously disturbed;
Existing Security	0	0	No security was posted under the expired Land use permit;
Total	\$3,187.50	\$4,781.25	

*The numbers in these columns do not directly add up because of multipliers (for site access, performance, and environmental risks) in the Board's security template

7. Conclusion

Information provided in the Application and during the public review period suggests that the proposed Project is unlikely to have significant adverse impact on the receiving environment or cause public concern.

The draft Permit conditions are based upon the standard condition list, public review, and Board staff recommendations. Board staff conclude that the conditions contained within this draft Permit should mitigate the potential environmental impacts this development may have on the land and/or water.

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

8. Recommendation

Board Staff recommend that the Board:

- a) Make a motion to approve **the Preliminary Screening for the Land Use Permit Application MV2020Q0005 from Nogha Enterprises Limited;**
- b) Make a motion to approve **the Type A Land Use Permit MV2020Q0005 for a term of five years, and associated Reasons for Decision;**
- c) Make a motion to approve **the Spill Contingency Plan, required under Land Use Permit MV2020Q0005;** and
- d) Make a motion to approve **the Engagement Plan, required under Land Use Permit MV2020Q0005.**

A draft decision letter is attached.

9. Attachments

- [Application](#)
- [Draft Land Use Permit](#)
- [June 23, 2020 Response to Deficiency Letter](#)
- [June 24, 2020 Response to Deficiency Letter](#)
- [June 23, 2020 - Response to Deficiency Letter \(V1\)](#)
- [Security Estimate](#)
- [Revised Security Calculations](#)
- [Impacts and Mitigation Measures](#)
- [Engagement Log and Related Information](#)
- [Engagement Plan](#)
- [Operational and Pit Development Plan](#)
- [Engagement Log](#)
- [Dehcho Letter of Support](#)
- [Preliminary Screening Form](#)
- [Incomplete Letter](#)
- [Eligibility - Quarry Permit](#)
- [Spill Contingency Plan](#)
- [Sketch of Project Area](#)
- [Site Map](#)
- [Application Fee - Receipt](#)
- Draft Preliminary Screening Report Form
 - Draft Letter to Impact Review Board Regarding 10-day pause period
- Review Comment Table
- Nogha Enterprises Limited Security Estimate
- Board Staff 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,



Sean Joseph
Regulatory Specialist

Review Comment Table

Board:	MVLWB
Review Item:	Nogha Enterprises Ltd. - New LUP Application (MV2020Q0005)
File(s):	MV2020Q0005
Proponent:	Nogha Enterprises Ltd.
Document(s):	<p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Security Calculations - July 10 20.xls (75 BK)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Dehcho Ltr of Support, July 10 20.pdf (157.19)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Updated Engagement Log - July 3 20.docx (26.68 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Operational and Pit Development Plan (V2) -June 24 20.pdf (387.59 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Spill Contingency Plan (V2) -June 24 20.pdf (391.68 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Engagement Plan- June 24 20.pdf (449.7 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Engagement Log and Related Information - June 24 20.pdf (728 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Impacts and Mitigation - June 24 20.pdf (512.63 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Security Estimate - June 24 20.pdf (215.48 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Sketch of Project Area - June 24 20.pdf (34.73 KB)</p> <p>MV2020Q0005 -Nogha Enterprises Ltd. - LUP Application - Response to Deficiency Letter - June 24 20.pdf (512.63)</p> <p>MV2020Q0005-Nogha Enterprises Ltd. - LUP Application - Response to Deficiency Letter - June 23 20.pdf (2.01 MB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Sand Quarry - May 11 20.pdf (4.31 KM)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - Draft LUP - July 21 20.docx (57.83 KB)</p> <p>MV2020Q0005 - Noga Enterprises Ltd. - New LUP Application - Quarry Permit - July 21 20.pdf (271.15 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Additional Info. in Response to Incomplete Letter - June 23 20.pdf (302.63)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - LUP Application - Sand Quarry - Incomplete Application - May 14 20.pdf (197.34 KB)</p> <p>MV2020Q0005 - Noga Enterprises Ltd. - LUP Application - Preliminary Screening Report.doc (242.5 KB)</p> <p>MV2020Q0005 - Noga Enterprises Ltd. - New LUP Application - Site Map - July 22 20.pdf (285.6 KB) (285.6 KB)</p> <p>MV2020Q0005 - Nogha Enterprises Ltd. - Receipt - Application Fee (39 KB)</p>
Item For Review Distributed On:	July 22 at 10:56 Distribution List

Reviewer Comments Due By:	Aug 7, 2020
Proponent Responses Due By:	Aug 14, 2020
Item Description:	<p>Nogha Enterprises Ltd. (the Applicant) has submitted a complete application for a type A land use permit (permit). The purpose of this Application is to stockpile, and haul sand, using quarry equipment, from a quarry source located at the KM 486, approximately 14 km North of Fort Simpson.</p> <p>Using the Online Review System (ORS), reviewers are invited to submit comments and recommendations on the documents linked below by the review comment deadline specified. Reviewers may also wish to consider providing an overarching recommendation regarding whether the Board should approve the submission, to provide context for the comments and recommendations and assist the Board with its decision. If reviewers seek clarification on the submission, they are encouraged to correspond directly with the Applicant prior to submitting comments and recommendations.</p> <p>Under the Preliminary Screening Requirement Regulations, the Board must conduct a preliminary screening for a proposed development, unless it is exempt from preliminary screening in accordance with the Exemption List Regulations. Reviewers are encouraged to provide comments and recommendations (e.g., on impacts and mitigation measures) to assist with the Board's preliminary screening determination.</p>
Contact Information:	Jen Potten 867-766-7468 Sean Joseph

Comment Summary

GNWT - ENR - EAM (Environmental Assessment and Monitoring): Central Email GNWT				
ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Analysis
4	General File	<p>Comment: (doc) ENR Letter with Comments and Recommendations</p> <p>Recommendation</p>		<p>Staff concur with the recommendation;</p> <p>Condition 38 in the Draft Permit addresses aspects of this topic.</p>
1	Topic: Nesting Birds	<p>Comment: The proponent proposes to remove timber and clear vegetation at unspecified dates. Protection of nests is essential to ensuring reproductive success and survival of both adult birds and their young. Critical breeding periods for NWT raptors can start as early as the 1st week of April and last up until 3rd week of September, depending on the species and location. Conducting activities involving vegetation clearing and ground disturbance. During the nesting season increases the risk of the disturbance or destruction of any type of occupied bird nest. This would be contravening paragraph 51(1)(a) and(b) of the Wildlife Act. Activities involving vegetation clearing, ground disturbance may also disturb the birds themselves or a nest that is not occupied. Prescribed birds for the purpose of paragraph 51(1)(c) and 52 of the Wildlife Act are birds of prey (raptors) as set out in Schedule B of the Wildlife General Regulations. However, while a raptor nest may not be intentionally destroyed, even if unoccupied, typically on a case-by-case basis the destruction or removal of nests may be authorized where required by General Wildlife Permit. While compliance to the Wildlife Act and its regulations are required, the Canadian Wildlife Service of Environment and Climate Change Canada is the primary responsible</p>		<p>Noted.</p>

		<p>management authority for migratory birds protected under the Migratory Birds Convention Act, 1994 at the following website: https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html). GNWT is responsible for the management of non-migratory birds including upland game birds like ptarmigan and grouse, and raptors as indicated in the schedules of the Wildlife General Regulations.</p> <p>Recommendation 1) ENR recommends conducting vegetation clearing and any new ground disturbance outside of the nesting season for birds in the project area.</p>		
2	None	<p>Comment None</p> <p>Recommendation 2) If disturbance or destruction of an occupied nest or eggs of a non-migratory bird species (including raptors), or an unoccupied raptor nest, cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest/eggs can be obtained.</p>	<p>Aug 10: This project exists on a previously disturbed site. No additional vegetation will be cleared during the life of the project; Sand will be hauled from May to October only. The timing of the nesting season will be considered and incorporated into all decision making when on site. The ENR Regional Office will be notified in the event a permit to disturb or destroy the nest/eggs might be required.</p>	<p>Staff concur. However, if the Permittee were to clear any additional area, Condition 38 of the Draft Permit addresses aspects of this topic.</p>
3	Topic: Species at Risk	<p>Comment Sections 76 and 77 of the Species at Risk (NWT) Act requires the Minister of Environment and Natural Resources to make a submission to the body responsible for assessing the potential impacts of a proposed development, or for considering a Land</p>	<p>Aug 10: Nogha Enterprises Ltd. will consider potential impacts, mitigation measures and monitoring requirements as</p>	<p>Condition 38 in the Draft Permit addresses aspects of this topic</p>

	<p>Use Permit or Water Licence application, respecting the potential impacts of the proposed development, Permit or Licence application on a NWT-listed or pre-listed species or its habitat. NWT-listed species are those that are on the NWT List of Species at Risk. Pre-listed species are those that have been assessed by the NWT Species at Risk Committee (SARC) but have not yet been added to the NWT List of Species at Risk. The Proponent should be aware that NWT-listed or pre-listed species at risk and their habitat may also be subject to protection under existing sections of the NWT Wildlife Act. As a best practice, ENR encourages the Proponent to consider potential impacts, mitigation measures and monitoring requirements for species at risk listed under the federal Species at Risk Act, as well as those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that may occur in the project area, and the prohibitions that may apply to these species under federal legislation. The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species: Boreal Caribou - Threatened in the NWT. Little Brown Myotis (bat) - Special Concern in the NWT. Northern Myotis (bat) - Special Concern in the NWT Information on the above species is available at: https://www.nwt-species-at-risk.ca/SpeciesAtRisk This project exists within a pre-existing disturbance area with limited future disturbance planned. Therefore risks towards the aforementioned species are considered minimal.</p> <p>Recommendation 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the nature, scale, location and timing of the proposed project are such that the likelihood of impacts to</p>	<p>recommended by ENR</p>	
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		NWT-listed or pre-listed species listed above can be avoided or minimized if ENR's wildlife recommendations in this letter are implemented as necessary, as well as the application of any wildlife mitigation and monitoring measures outlined in the Proponent's Land Use Permit application and supporting documents.		
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GNWT - Lands - North Slave Region: Charlene Coe

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Analysis
1	Comments letter	Comment (doc) No concerns Recommendation Support issuance of permit		Noted

MVLWB: Sean Joseph

ID	Topic	Reviewer Comment/Recommendation	Proponent Response	Board Staff Analysis
1	Stockpiled Overburden and Willow Lake Spill Materials	Comment The application appears to indicate this might be the quarry where materials were stored from the Willow Lake spill. Further, the application suggests that stockpiled overburden may be used for reclamation. Recommendation: Provide confirmation regarding; previous use of the project site. Provide additional information regarding confirmatory sampling of the stockpiled materials to confirm that they meet criteria for particular re-use contemplated.	Aug 10: There was no storage of spilled material from the Willow Lake Spill at this site, only backfill material was removed. This concern was discussed with the Dehcho GNWT Lands Office and it was confirmed that this site is not contaminated from the Willow Lake Spill. Nogha Enterprises Ltd. will seek advice from GNWT Lands regarding the requirement for confirmatory sampling.	Noted



August 7, 2020

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

Dear Ms. Potten,

**Re: Nogha Enterprises Ltd.
Land Use Permit Application – MV2020Q0005
Quarry and Associated Activities
Request for Comment**

The Department of Environment and Natural Resources (ENR), Government of the Northwest Territories has reviewed the application at reference based on its mandated responsibilities under the *Environmental Protection Act*, the *Forest Management Act*, the *Forest Protection Act*, the *Species at Risk (NWT) Act*, the *Waters Act* and the *Wildlife Act* and provides the following comments and recommendations for the consideration of the Board.

Topic 1: Nesting Birds

Comment(s):

- The proponent proposes to remove timber and clear vegetation at unspecified dates.
- Protection of nests is essential to ensuring reproductive success and survival of both adult birds and their young.
- Critical breeding periods for NWT raptors can start as early as the 1st week of April and last up until 3rd week of September, depending on the species and location.
- Conducting activities involving vegetation clearing and ground disturbance

- During the nesting season increases the risk of the disturbance or destruction of any type of occupied bird nest. This would be contravening paragraph 51(1)(a) and(b) of the *Wildlife Act*.
- Activities involving vegetation clearing, ground disturbance may also disturb the birds themselves or a nest that is not occupied. Prescribed birds for the purpose of paragraph 51(1)(c) and 52 of the *Wildlife Act* are birds of prey (raptors) as set out in Schedule B of the *Wildlife General Regulations*. However, while a raptor nest may not be intentionally destroyed, even if unoccupied, typically on a case-by-case basis the destruction or removal of nests may be authorized where required by General Wildlife Permit.
- While compliance to the *Wildlife Act* and its regulations are required, the Canadian Wildlife Service of Environment and Climate Change Canada is the primary responsible management authority for migratory birds protected under the Migratory Birds Convention Act, 1994 at the following website:

<https://www.canada.ca/en/environment-climate-change/services/migratory-birds-legal-protection/convention-act.html>.
- GNWT is responsible for the management of non-migratory birds including upland game birds like ptarmigan and grouse, and raptors as indicated in the schedules of the Wildlife General Regulations.

Recommendation(s):

- 1) ENR recommends conducting vegetation clearing and any new ground disturbance outside of the nesting season for birds in the project area.
- 2) If disturbance or destruction of an occupied nest or eggs of a non-migratory bird species (including raptors), or an unoccupied raptor nest, cannot be avoided and all other all mitigation options have been ruled out, Proponents should contact the regional ENR office to determine whether a permit to disturb or destroy the nest/eggs can be obtained.

Topic 2: Species at Risk

Comment(s):

Sections 76 and 77 of the *Species at Risk (NWT) Act* requires the Minister of Environment and Natural Resources to make a submission to the body responsible for assessing the potential impacts of a proposed development, or for considering a Land Use Permit or Water Licence application, respecting the potential impacts of the proposed development, Permit or Licence application on a NWT-listed or pre-listed species or its habitat. NWT-listed species are those that are on the NWT List

of Species at Risk. Pre-listed species are those that have been assessed by the NWT Species at Risk Committee (SARC) but have not yet been added to the NWT List of Species at Risk.

The Proponent should be aware that NWT-listed or pre-listed species at risk and their habitat may also be subject to protection under existing sections of the NWT *Wildlife Act*.

As a best practice, ENR encourages the Proponent to consider potential impacts, mitigation measures and monitoring requirements for species at risk listed under the federal *Species at Risk Act*, as well as those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC) that may occur in the project area, and the prohibitions that may apply to these species under federal legislation.

The project area overlaps with the ranges of the following NWT-listed and/or pre-listed species:

- [Boreal Caribou](#) – Threatened in the NWT
- [Little Brown Myotis \(bat\)](#) – Special Concern in the NWT
- [Northern Myotis \(bat\)](#) – Special Concern in the NWT

Information on the above species is available at:

<https://www.nwtspeciesatrisk.ca/SpeciesAtRisk>

This project exists within a pre-existing disturbance area with limited future disturbance planned. Therefore risks towards the aforementioned species are considered minimal.

Recommendation(s):

- 1) Although the project overlaps with the range(s) of the species listed above, ENR is of the opinion that the nature, scale, location and timing of the proposed project are such that the likelihood of impacts to NWT-listed or pre-listed species listed above can be avoided or minimized if ENR's wildlife recommendations in this letter are implemented as necessary, as well as the application of any wildlife mitigation and monitoring measures outlined in the Proponent's Land Use Permit application and supporting documents.

Comments and recommendations were provided by ENR technical experts in the Wildlife and Fish Management Division and the Dehcho Region and were coordinated and collated by the Environmental Assessment and Monitoring Section (EAM), Environmental Stewardship and Climate Change Division.

Should you have any questions or concerns, please do not hesitate to contact Patrick Clancy, Environmental Regulatory Analyst at email: patrick.clancy@gov.nt.ca.

Sincerely,

A handwritten signature in black ink, appearing to read 'P. Clancy', written in a cursive style.

Patrick Clancy
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