



Regional Board Report

TO: Regional Board

FROM: Todd Cashin
Director of Community Services

DATE: June 10, 2021

SUBJECT: Ministry of Energy, Mines and Low Carbon Innovation Referral Application
Mines Act Permit Referral Number: 572735 (Our File: GREX-21-01)
Joe Rich Properties Ltd. (owner) c/o R. Adams (agent)
Adjacent to Highway 33 in the community of Joe Rich
Central Okanagan East Electoral Area

Voting Entitlement: *All Directors – Unweighted Corporate Vote – Simple Majority – LGA 208.1*

Purpose: To consider a Ministry of Energy, Mines, and Low Carbon Innovation referral application to permit a new construction aggregate quarry operation.

Executive Summary:

The applicant is proposing to operate a new sand and gravel, construction aggregate quarry on the subject property. The quarry will be accessed via Highway 33 and Daves Road. The operation is proposed to commence in the lower, south centre of the property and will gradually expand over the proposed 40-year lifespan of the quarry.

A number of concerns have been raised regarding the proposal with respect to traffic impacts, implications to on-site and off-site groundwater, as well as potential impacts to adjacent community water infrastructure owned by Black Mountain Irrigation District. While input of local government is requested by the Ministry of Energy, Mines and Low Carbon Innovation, the decision whether to grant a permit and the terms and conditions of the permit rests with the province.

RECOMMENDATION:

THAT the Regional Board conditionally support Ministry of Energy, Mines and Low Carbon Innovation referral application for the Joe Rich Properties Ltd. sand and gravel quarry operation located at Lot 1, Sections 10, 11, 14 & 15, Township 27, ODYD, Plan 38841 subject to:

- A Qualified Professional completing the following:
 - Infrastructure and Traffic Impact Assessment;
 - Environmental Impact Assessment;
 - Geotechnical / Hazard Assessment;

- Groundwater Assessment;
- Submission of a more detailed, progressive, and phased reclamation plan including reporting methods and adequate performance bond to cover reclamation;
- Visual Impact Mitigation Plan;
- Greenhouse Gas Assessment and Reduction Strategy; and,
- A Dust and Noise Control Management Plan.

AND THAT the following be addressed prior to issuance of, or applied as, conditions of approval of the Mines Act Permit:

- That any processing activities such as crushing or screening not be permitted under the Mines Act Permit unless the lands are re-designated under the Joe Rich Rural Land Use Bylaw No. 1195 to allow for this use;
- The applicant must submit a Provincial Public Highway Permit Application to the Ministry of Transportation & Infrastructure for review and approval for an Industrial Access Permit;
- Compliance with conditions/recommendations of other affected agencies, including Westbank First Nation and Black Mountain Irrigation District;
- A public information meeting hosted by the applicant and the Ministry of Energy, Mines and Low Carbon Innovation to consider impacts and recommendations of affected property owners be required; and
- Approval is granted on an incremental basis for a maximum of five years initially. Extension to this time frame not be considered unless the applicant demonstrates that the above conditions are being adhered to.

AND FURTHER THAT the staff report dated June 10, 2021 be forwarded to the Ministry of Energy, Mines and Low Carbon Innovation for their information.

Respectfully Submitted:



Todd Cashin, Director of Community Services

Prepared by: Brittany Lange, Environmental Planner

Approved for Board Consideration



Brian Reardon, CAO

Implications of Recommendation:

Strategic Plan:	Conditionally supporting the referral application achieves the Regional Board Strategic Priorities 2019-2022 with respect to “Environment” and “Economic Development”.
Policy:	Conditionally supporting the referral application complies with: <ul style="list-style-type: none">• Regional Growth Strategy Bylaw No. 1336• Joe Rich Rural Land Use Bylaw No. 1195
Legal/Statutory Authority:	The Provincial government has the jurisdiction to grant gravel extraction permits and set the terms and conditions for those permits. However, where permanent buildings or processing activities are being proposed in addition to the extraction, the Regional District may require a land use amendment application be completed. A land use amendment application does not preclude issuance of a <i>Mines Act</i> Permit.

Background:

The subject property is located in the community of Joe Rich and is surrounded by rural residential land uses. The property is bounded by Highway 33 and lands within the Agricultural Land Reserve on the southern boundary. Black Mountain Irrigation District (BMID) infrastructure (including intakes, settling ponds, and gas chlorinator) is located in the Mission Creek valley downslope and downstream of this property.

The parcel is currently undeveloped and designated as RA Rural Acreage under Joe Rich Rural Land Use Bylaw No. 1195. This rural land use designation is intended primarily for rural residential uses and does not allow for gravel processing activities such as crushing and screening.

Proposal:

The applicant is proposing to operate a new sand and gravel, construction aggregate quarry at the subject property over the next 40 years. The quarry will be accessed via Highway 33 and Daves Road. Daves Road is an existing gravel road under the jurisdiction of the Ministry of Transportation and Infrastructure servicing rural residential parcels.

The proposed works on site will include quarrying consolidated rock, processing, and grading. Proposed buildings include a mobile scale shack and weigh scale. Equipment operations will include a bulldozer, tractor, crusher, drill, excavator, loader, screening plant, and trucks. Mine operating activities are proposed to occur from 7am to 6pm Monday to Friday, and also on Saturdays to serve local demand. Excavation, loading, and hauling activities will operate year-round. Drilling, blasting, crushing, and screening will operate year-round but intermittently.

The 5-year mining plan operation is proposed to commence in the lower, south centre of the property (approx. 8.4 acres) and the gravel pit benches will be pushed back and gradually extend over the 48.4 acres for the next 40-years. The estimated annual extraction is 245,000 tonnes and the estimated minable reserves over the 40-year lifespan is 11,432,8126 tonnes.

Settling ponds are identified as a contingency plan in the event that surface runoff interception is required. A seeded 100m long berm is planned to mitigate noise impacts on neighbours upslope of the property. Seeded topsoil and overburden berms are planned for portions of the property along the Highway 33 corridor.

The proposed 5-year mine plan currently does not recommend a reclamation plan as it will continue to be disturbed as mining progresses. However, the applicant is proposing to complete staged reclamation by applying overburden and topsoil over the mine plan. Reclamation of the lands to allow for residential and agricultural uses is proposed for the future use of the land.

Technical Reports:

Associated Environmental (AE) Ltd. completed an Environmental Overview Assessment for the property. The subject property is mainly comprised of mature Douglas Fir and Ponderosa Pine forest and grasslands, and a portion of the site was burned by the Huckleberry wildfire in 2015. The site is also located within a high value Ungulate winter range and Elk migration is known to occur in this area. While mapping indicates a stream traversing the property, AE also confirmed there is no watercourses or streams present. The report identified potential snake and bat habitat in the rock bluffs and cliffs in the northern portion of the property as well as potential habitat for species at risk and sensitive ecosystems. Given this, the steep bluffs at the north end of the property have been removed from the mine plan.

History of Aggregate Tenure:

Prior to the Regional Aggregate Supply and Demand Update & Analysis completed in 2013, there was a lack of guidance and consistency for local government reviewing *Mines Act* referrals. Consequently, there was concern and frustration with the sand and gravel extraction approval process throughout the region and often led to frustration from community members residing near these sites. As part of this report, a Site Suitability Assessment (SSA) template was prepared to inform the review of future aggregate referral applications.

Policy Considerations:

Regional Board Strategic Priorities 2019-2022

RDCO's strategic priorities, developed by the Regional Board, speak to important goals, services and needs on which the Board wishes to focus the organization's attention and resources. Environment and Economic Development have been identified as priorities. The proposal would be required to follow best practices for protecting the environment and public health, including mitigation of items such as noise and dust. The proposed quarry would provide local communities within the Central Okanagan with quality aggregate that is currently in high demand.

Regional Growth Strategy (RGS) Bylaw No. 1336

Although the proposal does not support the protection of the rural areas that offer a rural lifestyle choice, it aligns with various policies of Our Land and Our Economy.

Our Land goal is to manage the land base effectively to protect natural resources and limit urban sprawl. Policies Include:

- Support the continued exchange of information with provincial agencies on future land use decisions that impact the interface of the boundaries of crown land adjacent to municipalities and regional districts and best management practices for resource extraction to minimize negative impacts in the Region (e.g., truck traffic, environmental considerations, land use conflicts, nuisances) (Policy No. 3.2.1.6); and,

- Encourage the examination of future land use designations that consider the Region's aggregate resource based on the site suitability checklist prepared in the Aggregate Supply and Demand Update (Policy No. 3.2.1.10).

Our Economy goal is to develop and enhance a positive business environment in the region to achieve a dynamic, resilient and sustainable economy. Policies include:

- Support efforts in building a strong regional economy (Policy No. 3.2.2.3).

Furthermore, Central Okanagan regional partners have agreed to:

- Consider water resources in land use planning decisions (Policy No. 3.2.3.1);
- Encourage land use and transportation infrastructure that improves the ability to withstand climate change impacts and natural hazard risks (Policy No. 3.2.7.8); and,
- Manage growth to minimize disturbance to habitat, watershed and natural drainage areas and systems (Policy No. 3.2.8.3).

Joe Rich Rural Land Use Bylaw (RLUB) No. 1195

Various objectives and policies of the RLUB address a core principle for this unique area which is to retain, protect, and enhance the current rural character. An objective of rural lands for residential use within the RLUB is to protect the character of existing residential areas.

Furthermore, a policy of rural resource lands within the RLUB is to protect the viability of aggregate, mineral, energy, and timber resources for future development by maintaining routes of access and supporting activity that is conducted in accord with best management practices.

There are other provincial and federal government agencies that make decisions and have jurisdiction in some areas. The RLUB is limited in how it can affect decisions in these matters, including gravel extraction permits.

Aggregate Supply and Demand Update and Analysis 2013

In order to achieve consistency with the referral process that takes into consideration potential impacts to the local community and environment, the proposal was evaluated using the Aggregate Supply and Demand Update and Analysis 2013 - Site Suitability Assessment (SSA).

There can be neighbourhood and environmental concerns with aggregate pits and quarries. Issues of dust, noise, visual impacts, and safety have been putting pressure on pits close to market. However, when operations are pushed further from market, the result is increased costs, road impacts and greenhouse gases.

There are limited provisions to mitigate environmental, atmospheric, and aquatic impacts in the operational site plan submitted by Westridge Quarries for the Joe Rich Quarry. Details are not provided regarding mitigation, habitat compensation, and reclamation plans. Further, potential road and traffic impacts from the operation of the mine have not currently been addressed. As such, there are several potential impacts that have not been considered within the application. As per the SSA, the following potential impacts are to be considered and addressed for the proposed aggregate operation:

- Road and Traffic – infrastructure and traffic assessment;
- Environmental Sensitivity / Hazardous Areas – environmental impact assessment;
- Groundwater – assessment of potential impacts to on-site and adjacent groundwater and mitigation plan;
- Adjacency - dust control plan using current provincial Best Management Practices;

- Greenhouse Gases - greenhouse gas assessment and reduction strategy (using assessment tool for aggregate production online); and
- Mitigation and Reclamation - mitigation and reclamation plans.

Additional Information:

Owner/Applicant:	Joe Rich Properties Ltd. (owner) c/o R. Adams (agent)
Legal Description:	Lot 1, Sections 10, 11, 14 & 15, Township 27, ODYD, Plan 38841 (PID: 008-801-266)
Lot Size:	+/- 75 acres (30 ha)
Land Use Designation:	RA – Rural Acreage
Proposed Sewage Disposal:	Septic
Proposed Water Supply:	Well
Existing Use:	Vacant
Surrounding Uses:	North: Rural Residential South: Highway 33 / Residential / ALR East: Highway 33 / Residential / ALR West: Rural Residential
Fire Protection:	Joe Rich Fire Protection Area

RDCO Technical Comments:

Fire Services staff in consultation with the Joe Rich Fire Hall chiefs noted concerns over road safety and maintenance, drainage, and slope stability in the area.

Inspection Services staff advise that a Building Permit application is required for the proposed mobile scale shack and any permanent structures.

Environmental Advisory Commission (EAC) members conducted a site visit on May 19, 2021. The EAC will review the application at their next scheduled meeting on June 3, 2021. A recommendation and any anecdotal comments of the Commission will be forwarded to the Regional Board prior to consideration of the proposal.

Agency Referral Comments:

Ministry of Transportation and Infrastructure has significant concerns with regard to the ability of Daves Road and the Daves Road/Hwy 33 intersection to handle heavy traffic introduced by this proposal. A traffic study will likely be required to assess the intersections ability to handle industrial traffic and Daves Road will need to be upgraded to the Ministry's satisfaction. Ongoing mitigation measures such as dust control will need to be undertaken to protect the highway and the traveling public from the effects of the mining activity. The Ministry will address concerns through the Industrial Access Permit application process.

Black Mountain Irrigation District staff advise that BMID is strongly opposed to the development of this site due to the location and proximity to their community water supply system. This stretch of lands on the north edge of Mission Creek is prone to landslides. Changes to drainage patterns can impact this and increase the risks. The proposed works are directly above the BMID intake and clarification ponds. The downstream impacts of a failed water supply would include the agricultural businesses relying on irrigation and City of Kelowna residents on BMID drinking water. A letter summarizing BMID's concerns has been sent to the Ministry of Mines.

Unaffected Agencies include City of Kelowna, City of West Kelowna, District of Lake Country, District of Peachland, Fortis B.C., B.C. Hydro, Ministry of Environment, Ministry of Forests, Lands, Natural Resource Operations and Rural Development, and Interior Health Authority.

Unaffected RDCO Departments include Engineering Services, Parks Services, and the Economic Development Commission.

External Implications:

Jurisdiction for approving the application lies with the Province of BC. There is no formal RDCO public notification process required for aggregate referral applications.

Alternative Recommendation:

THAT the Regional Board does not support Ministry of Energy, Mines and Low Carbon Innovation referral application for the Joe Rich Properties Ltd. proposed sand and gravel quarry operation located at Lot 1, Sections 10, 11, 14 & 15, Township 27, ODYD, Plan 38841.

Considerations not applicable to this report:

- *Financial*
- *Organizational*

Attachment(s):

- Subject Property Maps
- Site Context Map
- 5 Year and 40 Year Mining Site Plan
- Joe Rich Quarry Information Package
- Environmental Overview Assessment
- Notice of Work Application