

ENTERED

Form 49
[Rule 13.19]

COURT FILE NUMBER 2001 05482
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
IN THE MATTER OF THE COMPANIES'
CREDITORS ARRANGEMENT ACT, RSC
1985, c C-36, as amended
AND IN THE MATTER OF THE COMPROMISE
OR ARRANGEMENT OF JMB CRUSHING
SYSTEMS INC. and 2161889 ALBERTA LTD.
APPLICANT / CLAIMANT SHAMROCK VALLEY ENTERPRISES LTD.
DOCUMENT **AFFIDAVIT**



JS Nov 27 2020
J. Eidsvik
1103666

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT MORROW TCHIR LLP
Mailing: PO Box 336
Courier: 5226 50 Avenue
St. Paul, AB T0A 3A0
Attention: Christina L. Tchir
Phone: 780-645-2981
Fax: 780-645-3801

AFFIDAVIT OF MURRY NIELSEN

Sworn (or Affirmed) on November 6th, 2020

I, **Murry Nielsen**, of Elk Point, Alberta, SWEAR/AFFIRM AND SAY THAT:

1. I am a Director and President of the Applicant/Claimant, Shamrock Valley Enterprises Ltd. ("**Shamrock**"), and as such I have personal knowledge of the facts and matters hereinafter deposed to, except where stated otherwise, in which case I believe the same to be true.

THE PRIME CONTRACT

2. I understand from review of the records in the within proceedings, and I do believe, that:
 - a. On or about November 1st, 2013, JMB Crushing Systems Inc. ("**JMB**") and the Municipal District of Bonnyville No. 87 (the "**MD**") entered into an agreement (the "**Prime Contract**") wherein the MD retained JMB to supply gravel/aggregate to the MD and transport gravel/aggregate for stockpiling at the lands legally described as NE 19-61-5-W4 (the "**MD Stockpile Lands**").
 - b. The Prime Contract includes the following express terms:

From the amounts paid to JMB by the MD, JMB is deemed to hold that part of them in trust which are required or needed to pay for any salaries, wages, compensation, overtime pay, statutory holiday pay, vacation pay, entitlements, employee and employer Canada Pension Plan contributions, employee and

employer Employment Insurance contributions, Workers' Compensation premiums and assessments, income taxes, withholdings, GST and all costs directly or indirectly related to the Product and Services. JMB shall pay the foregoing from such trust funds.

c. The Prime Contract defines "Services" as:

... the hauling and stockpiling of crushed aggregate by JMB as set out in this Agreement and anything else which is required to be done to give effect to this Agreement.

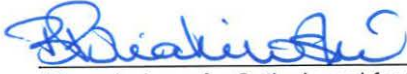
3. On or about December 2019, JMB retained Shamrock to haul gravel/aggregate to the MD Stockpile Lands. A copy of title to the MD Stockpile Lands is attached to this Affidavit as **Exhibit A**.
4. Between approximately December 2019 to March 2020, in accordance with the terms agreed between Shamrock and JMB, Shamrock did transport gravel/aggregate to and stockpile gravel/aggregate at the MD's Stockpile Lands (referred to as the "**Shamrock Services**"). The last day Shamrock supplied the Shamrock Services to JMB was March 21st, 2020.
5. The gravel/aggregate transported and stockpiled by Shamrock to/at the MD Stockpile Lands was, to the best of my knowledge, used or intended to be used by the MD in the maintenance and construction of roads within the Municipal District of Bonnyville, including but not limited to surfacing work on Highway 660 and Range Road 55.
6. Shamrock issued two invoices to JMB for the Shamrock Services, for the total amount of \$18,969.56, broken down as follows:

Invoice No. IN054325	\$ 1,012.32
Invoice No. IN054741	\$ 17,053.92
Subtotal:	\$ 18,066.24
GST @ 5%	\$ 903.31
	\$ 18,969.55

7. A copy of Shamrock's Invoice No. IN054325 is attached to this Affidavit as **Exhibit B**. A copy of Shamrock's Invoice No. IN054741 is attached to this Affidavit as **Exhibit C**.
8. On or about April 24th, 2020, Shamrock (through its legal counsel) served upon JMB and the MD, written notice of Shamrock's demand for payment of the amounts owing from JMB to Shamrock for the Shamrock Services, as well as written notice of Shamrock's claim pursuant to section 14 of the *Public Works Act*, RSA 2000 c. P-46 [Public Works Act]. A copy of the letter dated April 24th, 2020 from my lawyer to the MD and JMB is attached to this Affidavit as **Exhibit D**. As of the date of this Affidavit, Shamrock has not received any response from the MD regarding Shamrock's notice of its claim pursuant to the *Public Works Act*.
9. On or about May 26th, 2020, Shamrock (through its legal counsel) served upon FTI Consulting Canada Inc. being the Monitor in the within court action (through the Monitor's legal counsel) Shamrock's Lien Notice. A copy of Shamrock's Lien Notice is attached to this Affidavit as **Exhibit E**.
10. On or about July 27th, 2020, the Monitor served its Lien Determination Notice on Shamrock, wherein the Monitor determined that Shamrock's Lien Claim is not a valid Lien or Lien Claim. A copy of the Monitor's Lien Determination Notice is attached to this Affidavit as **Exhibit F**.
11. As of the date of this Affidavit, despite repeated demands, JMB has failed and refused to pay the amount owing by JMB to Shamrock for the Shamrock Services. The amount of \$18,969.55 remains outstanding.

12. I understand from review of the records in the within proceedings, and I do believe, that the MD paid JMB (as prime contractor in respect of the Prime Contract) for the Shamrock Services performed by Shamrock.

SWORN (OR AFFIRMED) BEFORE ME at Elk Point, Alberta, this 6th day of November, 2020.


(Commissioner for Oaths in and for the Province of Alberta)

Brandy Poniakowski
PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS Exp. Aug 29, 2021


(Signature)

MURRY NIELSEN

This is **Exhibit A** referred to in the affidavit of Murry Nielsen sworn before me on November 6th, 2020.



A Commissioner of Oaths for
the Province of Alberta



PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS

Exp. Aug 29, 2021



LAND TITLE CERTIFICATE

S
LINC SHORT LEGAL TITLE NUMBER
0034 014 175 4;5;61;19;NE 122 412 899

LEGAL DESCRIPTION

MERIDIAN 4 RANGE 5 TOWNSHIP 61
SECTION 19
QUARTER NORTH EAST

CONTAINING 64.7 HECTARES (160 ACRES) MORE OR LESS

EXCEPTING THEREOUT:		HECTARES	(ACRES)	MORE OR LESS
A) PLAN 8622670	ROAD	0.416	1.03	
B) PLAN 0023231	DESCRIPTIVE	2.02	4.99	
C) PLAN 0928625	SUBDIVISION	20.22	49.96	

EXCEPTING THEREOUT ALL MINES AND MINERALS

ESTATE: FEE SIMPLE

MUNICIPALITY: MUNICIPAL DISTRICT OF BONNYVILLE NO. 87

REFERENCE NUMBER: 092 310 481 +1

REGISTRATION	DATE (DMY)	REGISTERED OWNER(S) DOCUMENT TYPE	VALUE	CONSIDERATION
122 412 899	14/12/2012	TRANSFER OF LAND	\$1,100,000	\$1,100,000

OWNERS

THE MUNICIPAL DISTRICT OF BONNYVILLE NO. 87.
OF 4905-50 AVE, BAG 1010
BONNYVILLE
ALBERTA T9N 2J7

ENCUMBRANCES, LIENS & INTERESTS

REGISTRATION NUMBER	DATE (D/M/Y)	PARTICULARS
912 156 474	24/06/1991	UTILITY RIGHT OF WAY GRANTEE - ALTAGAS UTILITIES INC. 5509-45TH ST LEDUC

ENCUMBRANCES, LIENS & INTERESTS

PAGE 2

122 412 899

REGISTRATION

NUMBER DATE (D/M/Y) PARTICULARS

ALBERTA T9E6T6

(DATA UPDATED BY: CHANGE OF NAME 202199056)

912 340 529 11/12/1991 DISCHARGE OF UTILITY RIGHT OF WAY 912156474
PARTIAL
EXCEPT PLAN/PORTION: 9121747

972 184 590 25/06/1997 CAVEAT
RE : UTILITY RIGHT OF WAY
CAVEATOR - ALTAGAS UTILITIES INC.
5509-45TH ST
LEDUC
ALBERTA T9E6T6
AGENT - MYRNA KING
(DATA UPDATED BY: CHANGE OF NAME 202199057)

982 036 883 05/02/1998 DISCHARGE OF CAVEAT 972184590
PARTIAL
EXCEPT PLAN/PORTION: 9722851

002 241 364 21/08/2000 CAVEAT
RE : ROAD WIDENING
CAVEATOR - THE MUNICIPAL DISTRICT OF BONNYVILLE NO.
87.
BAG 1010
BONNYVILLE
ALBERTA T9N2J7
AGENT - ROBERT A DOONANCO

092 310 470 01/09/2009 CAVEAT
RE : ROADWAY
CAVEATOR - HER MAJESTY THE QUEEN IN RIGHT OF
ALBERTA
AS REPRESENTED BY MINISTER OF TRANSPORTATION
2ND FLOOR, TWIN ATRIA BUILDING
4999 - 98 AVENUE NW
EDMONTON
ALBERTA T6B2X3

TOTAL INSTRUMENTS: 006

(CONTINUED)

THE REGISTRAR OF TITLES CERTIFIES THIS TO BE AN
ACCURATE REPRODUCTION OF THE CERTIFICATE OF
TITLE REPRESENTED HEREIN THIS 6 DAY OF
NOVEMBER, 2020 AT 02:54 P.M.

ORDER NUMBER: 40470666

CUSTOMER FILE NUMBER: Shamrock JMB



END OF CERTIFICATE

THIS ELECTRONICALLY TRANSMITTED LAND TITLES PRODUCT IS INTENDED
FOR THE SOLE USE OF THE ORIGINAL PURCHASER, AND NONE OTHER,
SUBJECT TO WHAT IS SET OUT IN THE PARAGRAPH BELOW.

THE ABOVE PROVISIONS DO NOT PROHIBIT THE ORIGINAL PURCHASER FROM
INCLUDING THIS UNMODIFIED PRODUCT IN ANY REPORT, OPINION,
APPRAISAL OR OTHER ADVICE PREPARED BY THE ORIGINAL PURCHASER AS
PART OF THE ORIGINAL PURCHASER APPLYING PROFESSIONAL, CONSULTING
OR TECHNICAL EXPERTISE FOR THE BENEFIT OF CLIENT(S).

This is **Exhibit B** referred to in the affidavit of Murry Nielsen sworn before me on November 6th, 2020.



A Commissioner of Oaths for
the Province of Alberta



PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS



P.O. Box 505
 Elk Point, Alberta T0A 1A0
 Tel: (780)724-3177
 Fax: (780)724-2280

"Family owned and Operated since 1985"

Sold To: JMB CRUSHING SYSTEMS ULC
 ar@jmbcrush.com (Trucking Invoices)
 ap@jmbcrush.com (All Others)
 BOX 6977
 BONNYVILLE, AB T9N 2H4

Invoice Number: **IN054325**

P.O. #

Date: 2019-12-31

Cust# JMB100

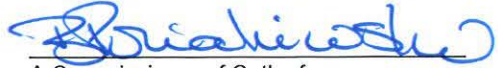
Item No.	Description/Comments	Quantity	UOM	Unit Price	Amount
FIELD800	DECEMBER 2019 TRUCKING ELLIS DON INDUSTRIAL INC.	1.00	EA	61,001.87	61,001.87
FIELD	MD OF BONNYVILLE	1.00	EACH	1,012.32	1,012.32

Comments:


Subtotal	62,014.19
GST @ 5% GST #104816277	3,100.70
TOTAL	65,114.89

"If you spend your whole life waiting for the storm, you'll never enjoy the sunshine!"

This is Exhibit C referred to in the affidavit of Murry Nielsen sworn before me on November 6th, 2020.



A Commissioner of Oaths for
the Province of Alberta



PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS

Exp. Aug 29, 2021



P.O. Box 505
 Elk Point, Alberta T0A 1A0
 Tel: (780)724-3177
 Fax: (780)724-2280

"Family owned and Operated since 1985"

Sold To: JMB CRUSHING SYSTEMS ULC
 ar@jmbcrush.com (Trucking Invoices)
 ap@jmbcrush.com (All Others)
 BOX 6977
 BONNYVILLE, AB T9N 2H4

Invoice Number: **IN054741**

P.O. #

Date: 2020-03-31

Cust# JMB100

Item No.	Description/Comments	Quantity	UOM	Unit Price	Amount
FIELD	March 2020 Hauls MD of Bonnyville Hauls	1.00	EACH	17,053.92	17,053.92
FIELD800	Ellis Don Industrial (Nowchuk)	1.00	EA	17,282.36	17,282.36
FIELD800	Ellis Don Industrial (Other)	1.00	EA	2,904.33	2,904.33

Comments:

Subtotal	37,240.61
GST @ 5%	1,862.03
GST #104816277	
TOTAL	39,102.64

"If you spend your whole life waiting for the storm, you'll never enjoy the sunshine!"

This is Exhibit D referred to in the affidavit of Murry Nielsen sworn before me on November 6th, 2020.

R. P. P. P. P.

A Commissioner of Oaths for
the Province of Alberta

Randy P. P. P. P.

PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS

Exp. Aug 29, 2021

MORROW TCHIR LLP
BARRISTERS, SOLICITORS &
NOTARIES PUBLIC

ORVILLE T.G. MORROW, BA LLB (1946-2016)
CHRISTINA L. TCHIR, BA LLB* (cltchir@morrowtchir.ca)
JAMES E. MORROW, BA LLB* (jemorrow@morrowtchir.ca)
SIMONE R. MULKAY, BA JD** (srmulkay@morrowtchir.ca)
CAELEIGH V. SHIER, BComm LLB** (cvshier@morrowtchir.ca)

P.O. BOX 336, 5226 - 50 AVENUE
ST. PAUL, ALBERTA T0A 3A0
TELEPHONE: (780)645-2981
FAX: (780) 645-3801
www.morrowtchir.ca

*denotes Professional Corporation and Member of Limited Liability Partnership
**denotes Associate

Our File: 19978/20 CT
Your File:

April 24, 2020

Municipal District of Bonnyville No. 87
4905 - 50 Avenue
Bag 1010
Bonnyville, AB T9N 2J7

Via Registered Mail

Alberta Infrastructure
Procurement Section
Tender Administrator
2nd Floor, 6950 113 Street
Edmonton, AB T6H 5V7

Via Registered Mail

Dear Sir/Madam:

RE: Claimant: Shamrock Valley Enterprises Ltd. ("Shamrock")
Debtor: JMB Crushing Systems Inc. ("JMB")
Public Works Act Claim - Hwy 660 and Range Road 55 within M.D. of Bonnyville
Amount of Claim: \$18,969.59

We represent Shamrock Valley Enterprises Ltd. ("**Shamrock**"). Shamrock is owed the sum of \$18,969.59 from JMB Crushing Systems Inc. ("**JMB**") for gravel transported to and stockpiled on land owned by the M.D. of Bonnyville No. 87 (the "**M.D. of Bonnyville**"), which gravel will be used by the M.D. of Bonnyville for road work on highways and municipal roads within the M.D. of Bonnyville. This letter with all enclosures is to serve as notice of the claim by Shamrock pursuant to section 14 of the *Public Works Act*, RSA 2000 c. P-46 [*Public Works Act*].

Pursuant to section 14 of the *Public Works Act*, when a person provides labour, equipment, material or services used or reasonably required for use in the performance of a contract with the Crown for the construction, alteration, demolition, repair, or maintenance of a public work, and the person is not paid by the party who is legally obligated to pay that person, the person may send notice of that person's claim to the Minister, or the agent of the Crown that is responsible for the public work.

Shamrock has provided labour, equipment, materials and services used or reasonably required for use in the performance of a contract with the M.D. of Bonnyville. In this context, the M.D. of Bonnyville is acting as an agent of the Crown, being Her Majesty the Queen in right of Alberta (ie: the Province of Alberta). The labour, equipment, materials and services provided by Shamrock were used by the M.D. of Bonnyville for road work on highways and roads within the M.D. of Bonnyville. All provincial highways and municipal roads within the Municipal District of Bonnyville are "public works" within the meaning of the *Public Works Act*, and are also "highways and roads" within the meaning of section 1 of Schedule 14 of the *Government Organization Act*, RSA 2000, c. G-10. As such, Shamrock's claim falls under section 14 of the *Public Works Act*.

Shamrock hereby provides notice of its claim to the M.D. of Bonnyville, being the agent of the Crown responsible for the applicable roads and highways. Out of an abundance of caution, Shamrock is also providing a copy of this letter to Alberta Infrastructure.

The particulars of the Shamrock's claim are as follows:

1. The M.D. of Bonnyville contracted with JMB for JMB to supply gravel for use by the M.D. of Bonnyville in highway and road improvements.
2. JMB subcontracted with Shamrock for Shamrock to transport gravel to and stockpile gravel at the M.D. of Bonnyville's stockpile location, being NE 19-61-5 W4.
3. In accordance with the agreed terms, Shamrock did transport gravel to and stockpile gravel at the M.D. of Bonnyville's stockpile location, the last day such labour, equipment, materials and services were provided by Shamrock being March 21, 2020.
4. The gravel transported and stockpiled by Shamrock was used by the M.D. of Bonnyville in the maintenance and construction of roads within the M.D. of Bonnyville, including but not limited to surfacing work on Highway 660 and Range Road 55.
5. JMB has failed or refused to pay Shamrock for these labour, equipment, materials and services.
6. The amount owing from JMB to Shamrock in respect of the gravel transported to and stockpiled at the M.D. of Bonnyville's stockpile location is \$18,969.56, calculated as follows:

Invoice No. IN054325	\$ 1,012.32
Invoice No. IN054741	\$ 17,053.92
<u>GST @ 5%</u>	<u>\$ 903.31</u>
Total Outstanding	\$ 18,969.55.

We enclose the following in support of Shamrock's claim:

- The completed Public Works Act Claim Form; and
- Copies of Shamrock's unpaid Invoice No. IN054325 and unpaid Invoice No. IN054741.

Pursuant to section 15 of the *Public Works Act*, the M.D. of Bonnyville may pay Shamrock the full outstanding amount of its claim and deduct the amount so paid from any money due and payable to JMB on any account, or from the money or security, if any, deposited by JMB with the M.D. of Bonnyville. In paying Shamrock's claim, the M.D. of Bonnyville may act on any evidence that it considers sufficient and may compromise any disputed liability, and as against the M.D. of Bonnyville payment is not open to dispute or question by JMB, but is final and binding on JMB. Alternatively, the M.D. of Bonnyville may pay the money into court on the

terms and conditions determined by the court, following which the court will determine the persons who are entitled to payment of the money and direct payment accordingly.

Shamrock requests that the M.D. of Bonnyville forthwith pay Shamrock the amount owing by JMB to Shamrock, being the sum of \$18,969.56, and such amount be deducted from any amount owing by the M.D. of Bonnyville to JMB, as is permitted by section 15 of the *Public Works Act*. Shamrock demands that no further sum be paid by the M.D. of Bonnyville to JMB until such time as Shamrock's outstanding claim is resolved.

The M.D. of Bonnyville has benefited from the gravel transported and stockpiled by Shamrock. It is unjust that Shamrock should go unpaid any longer, in particular during these uncertain and economically challenging times. Your quick response in this matter is greatly appreciated. Please do not hesitate to contact me to discuss this matter.

Yours truly,

MORROW TCHIR LLP

Per:



CHRISTINA L. TCHIR
Barrister, Solicitor and Notary Public
CVS/clt

Cc: JMB Crushing Systems Inc.
c/o Ogilvie LLP
1400 – 103030 Jasper Avenue NW
Edmonton, AB T5N 3Y4
Via registered mail

Cc: Client
Via email

Submit completed claim form by "Registered Mail" to:

Tender Administrator
Procurement Section,
Alberta Infrastructure,
2nd Floor, 6950-113 Street, Edmonton, Alberta T6H 5V7
Telephone: (780) 427-3962 Fax: (780) 422-9686

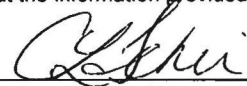
Claimant

Name Shamrock Valley Enterprises Ltd.				
Address c/o Morrow Tchir LLP PO Box 336, 5226 50 Avenue				City or Town St. Paul
Province Alberta	Postal Code T0A 3A0	Telephone 7806452981	Fax 7806453801	E-mail Address cltchir@morrowtchir.ca

Project

<p>This claim is made in respect of the following project: (location & description)</p> <p>Road maintenance and construction throughout highways and municipal roads within the M.D. of Bonnyville No. 87</p> <p>Project ID / Plan No: (either or both, if known)</p>	<p>Legal Description of the Land:</p> <p>Stockpile Location: NE 19-61-5 W4 (Highway 660 and Range Road 55) Roadwork completed on various highways and municipal roads within the M.D. of Bonnyville No. 87</p>
---	--

Details of Claim

1	Our contract is with (name of contracting party): JMB Crushing Systems Inc.	(and General Contractor, if known)
2	This claim is made in respect of the following work (provide short description of labour, equipment, materials or services provided): Transport and stockpiling of gravel for use in roadwork in M.D. of Bonnyville.	
3	Time:	(Last day on which labour, equipment, materials or services were provided)
<input checked="" type="checkbox"/>	The work related to this claim was fully performed on:	March 21 2020 Month (name of) Day Year
<input type="checkbox"/>	The work related to this claim is not yet fully performed but payment for work performed to (Today's Date) has not been received as of	Month (name of) Day Year
4	Amount The amount of this claim is \$ 18,969.56 , which includes \$ 0.00 in holdback monies.	
5	Declaration: I, the undersigned, am or represent the claimant named above and declare that the information provided is true and correct; Christina L. Tchir Lawyer for Claimant Printed name of declarant	
		 Signature of declarant

For Alberta Infrastructure Use Only

Contract ID.:	Plan No. or Building No.	Confirmed Project ID.:	Date Sent:	Date Received:	Date Acknowledged:
Comments:					

SHAMROCK VALLEY ENT. LTD.

P.O. Box 505
Elk Point, Alberta T0A 1A0
Tel: (780)724-3177
Fax: (780)724-2280

"Family owned and Operated since 1985"

Sold To: JMB CRUSHING SYSTEMS ULC
ar@jmbcrush.com (Trucking Invoices)
ap@jmbcrush.com (All Others)
BOX 6977
BONNYVILLE, AB T9N 2H4

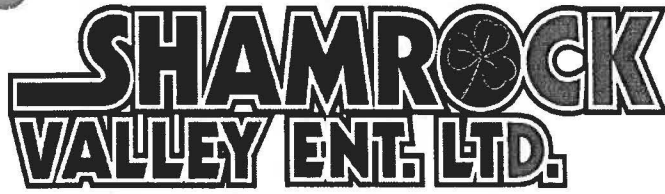
Invoice Number: IN054325
P.O. #
Date: 2019-12-31
Cust# JMB100

Item No.	Description/Comments	Quantity	UOM	Unit Price	Amount
FIELD800	DECEMBER 2019 TRUCKING ELLIS DON INDUSTRIAL INC.	1.00	EA	61,001.87	61,001.87
FIELD	MD OF BONNYVILLE	1.00	EACH	1,012.32	1,012.32

Comments:

Subtotal	62,014.19
GST @ 5%	3,100.70
GST #104816277	
TOTAL	65,114.89

"If you spend your whole life waiting for the storm, you'll never enjoy the sunshine!"



P.O. Box 505
 Elk Point, Alberta T0A 1A0
 Tel: (780)724-3177
 Fax: (780)724-2280

"Family owned and Operated since 1985"

Sold To: JMB CRUSHING SYSTEMS ULC
 ar@jmbcrush.com (Trucking Invoices)
 ap@jmbcrush.com (All Others)
 BOX 6977
 BONNYVILLE, AB T9N 2H4

Invoice Number: IN054741
 P.O. #
 Date: 2020-03-31
 Cust# JMB100

Item No.	Description/Comments	Quantity	UOM	Unit Price	Amount
FIELD	March 2020 Hauls MD of Bonnyville Hauls	1.00	EACH	17,053.92	17,053.92
FIELD800	Ellis Don Industrial (Nowchuk)	1.00	EA	17,282.36	17,282.36
FIELD800	Ellis Don Industrial (Other)	1.00	EA	2,904.33	2,904.33

Comments:	Subtotal	37,240.61
	GST @ 5% GST #104816277	1,862.03
	TOTAL	39,102.64

"If you spend your whole life waiting for the storm, you'll never enjoy the sunshine!"

This is Exhibit E referred to in the affidavit of Murry Nielsen sworn before me on November 6th, 2020.



A Commissioner of Oaths for
the Province of Alberta



PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS

Exp. Aug 29, 2021.

Schedule "A"
Lien Notice

Claimant: Shamrock Valley Enterprises Ltd.

Address for Notices: c/o Morrow Tchir LLP, 5226 50 Ave, PO Box 336, St. Paul, AB T0A 3A0

Telephone: 780-645-2981

Fax: 780-645-3801

Email: cltchir@morrowtchir.ca

I, Murry Nielsen residing in the Town of Elk Point
(name) (city, town, etc.)
in the Province of Alberta
(name of city, town, etc.) (name of province)

do hereby certify that:

1. I am the Claimant

OR I am the Director of the Claimant
(title/position)

2. I have knowledge of all the circumstances connected with the claim referred to in this Lien Notice form.

3. The Claimant has a valid

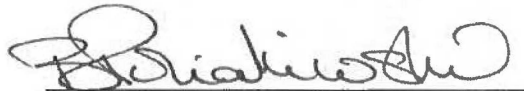
(a) Builders' Lien Claim in the amount of \$ 18,969.59 arising pursuant to work done or materials furnished on behalf of JMB Crushing Systems Inc.

(b) Subrogated Claim in the amount of \$ _____ arising pursuant to work done or materials furnished on behalf of JMB Crushing Systems Inc.

4. Attached hereto as Schedule "A" is an affidavit setting out the full particulars of the Claimant's builders' lien claim or subrogated claim, including all applicable contracts,

sub-contracts, the nature of the work completed or materials furnished, the last day on which any work was completed or materials were furnished, any payments received by the Claimant, all invoices issued by the Claimant, and all written notices of a lien served by the Claimant.

DATED at Elk Point, this 25th day of May, 2020.
(location)



Witness

Name: Brandy Poliakowski



Name: Murry Nielsen
Director of Shamrock Valley Enterprises Ltd.

Must be signed and witnessed

AFFIDAVIT OF Murry Nielsen
as corporate representative of Shamrock Valley Enterprises Ltd.

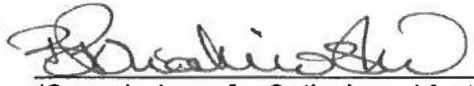
Sworn (or Affirmed) on the 25th day of May, 2020.

I, Murry Nielsen, in my capacity as corporate representative of Shamrock Valley Enterprises Ltd., of Elk Point, Alberta, SWEAR/AFFIRM AND SAY THAT:

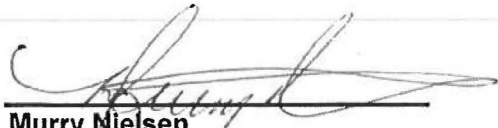
1. I verily believe that the M.D. of Bonnyville contracted with JMB Crushing Systems Inc. ("JMB") for JMB to supply gravel for use by the M.D. of Bonnyville in highway and road improvements.
2. JMB subcontracted with Shamrock Valley Enterprises Ltd. ("Shamrock") for Shamrock to transport gravel to and stockpile gravel at the M.D. of Bonnyville's stockpile location, being NE 19-61-5 W4.
3. In accordance with the agreed terms, Shamrock did transport gravel to and stockpile gravel at the M.D. of Bonnyville's stockpile location, the last day such labour, equipment, materials and services were provided by Shamrock being March 21, 2020.
4. The gravel transported and stockpiled by Shamrock was, to the best of my knowledge, used or intended to be used by the M.D. of Bonnyville in the maintenance and construction of roads within the M.D. of Bonnyville, including but not limited to surfacing work on Highway 660 and Range Road 55.
5. JMB has failed or refused to pay Shamrock for the labour, equipment, materials and services provided by Shamrock.
6. The amount owing from JMB to Shamrock in respect of the gravel transported to and stockpiled at the M.D. of Bonnyville's stockpile location is \$18,969.56, calculated as follows:

Invoice No. IN054325	\$ 1,012.32
Invoice No. IN054741	\$ 17,053.92
<u>GST @ 5%</u>	<u>\$ 903.31</u>
Total Outstanding	\$ 18,969.55.
7. On or about April 24, 2020, Shamrock served notice of its claim to the outstanding amount of \$18,969.56 on JMB, the M.D. of Bonnyville and on Alberta Infrastructure, as follows:
 - a. Letter to JMB, the M.D. of Bonnyville and Alberta Infrastructure setting out particulars of Shamrock's claim – copy attached to this Affidavit as Exhibit "A"
 - b. Statement of Public Works Act Claim – copy attached to this Affidavit as Exhibit "B".
8. A copy of Shamrock's Invoice No. IN054325 is attached to this Affidavit as Exhibit "C".
9. A copy of Shamrock's Invoice No IN054741 is attached to this Affidavit as Exhibit "D".

SWORN (OR AFFIRMED) BEFORE ME at)
the town/city of Elk Point Alberta,)
this 25th day of May, 2020.)




(Commissioner for Oaths in and for the)
Province of Alberta))
Brandy Poliakiwski)
Expiry Date: August 29, 2021)



Murry Nielsen)
Director of Shamrock Valley)
Enterprises Ltd.)
(Signature))

This is Exhibit "A" to the Affidavit of
Murry Nielsen sworn/affirmed on
the 25th day of May, 2020.


Commissioner for Oaths
for the Province of Alberta

MORROW TCHIR LLP
BARRISTERS, SOLICITORS &
NOTARIES PUBLIC

Brandy Poliakiwski ORVILLE T.G. MORROW, BA LLB (1946-2016)
Expiry Date: CHRISTINA L. TCHIR, BA LLB* (ctchir@morrowtchir.ca)
Aug 29, 2021 JAMES E. MORROW, BA LLB* (jemorrow@morrowtchir.ca)
SIMONE R. MULKAY, BA JD** (srmulkay@morrowtchir.ca)
CAELEIGH V. SHIER, BComm LLB** (cvshier@morrowtchir.ca)

P.O. BOX 336, 5226 - 50 AVENUE
ST. PAUL, ALBERTA T0A 3A0
TELEPHONE: (780)645-2981
FAX: (780) 645-3801
www.morrowtchir.ca

*denotes Professional Corporation and Member of Limited Liability Partnership
**denotes Associate

Our File: 19978/20 CT
Your File:

April 24, 2020

Municipal District of Bonnyville No. 87
4905 - 50 Avenue
Bag 1010
Bonnyville, AB T9N 2J7

Via Registered Mail

Alberta Infrastructure
Procurement Section
Tender Administrator
2nd Floor, 6950 113 Street
Edmonton, AB T6H 5V7

Via Registered Mail

Dear Sir/Madam:

RE: Claimant: Shamrock Valley Enterprises Ltd. ("Shamrock")
Debtor: JMB Crushing Systems Inc. ("JMB")
Public Works Act Claim - Hwy 660 and Range Road 55 within M.D. of Bonnyville
Amount of Claim: \$18,969.59

We represent Shamrock Valley Enterprises Ltd. ("Shamrock"). Shamrock is owed the sum of \$18,969.59 from JMB Crushing Systems Inc. ("JMB") for gravel transported to and stockpiled on land owned by the M.D. of Bonnyville No. 87 (the "M.D. of Bonnyville"), which gravel will be used by the M.D. of Bonnyville for road work on highways and municipal roads within the M.D. of Bonnyville. This letter with all enclosures is to serve as notice of the claim by Shamrock pursuant to section 14 of the *Public Works Act*, RSA 2000 c. P-46 [*Public Works Act*].

Pursuant to section 14 of the *Public Works Act*, when a person provides labour, equipment, material or services used or reasonably required for use in the performance of a contract with the Crown for the construction, alteration, demolition, repair, or maintenance of a public work, and the person is not paid by the party who is legally obligated to pay that person, the person may send notice of that person's claim to the Minister, or the agent of the Crown that is responsible for the public work.

Shamrock has provided labour, equipment, materials and services used or reasonably required for use in the performance of a contract with the M.D. of Bonnyville. In this context, the M.D. of Bonnyville is acting as an agent of the Crown, being Her Majesty the Queen in right of Alberta (ie: the Province of Alberta). The labour, equipment, materials and services provided by Shamrock were used by the M.D. of Bonnyville for road work on highways and roads within the M.D. of Bonnyville. All provincial highways and municipal roads within the Municipal District of Bonnyville are "public works" within the meaning of the *Public Works Act*, and are also "highways and roads" within the meaning of section 1 of Schedule 14 of the *Government Organization Act*, RSA 2000, c. G-10. As such, Shamrock's claim falls under section 14 of the *Public Works Act*.

Shamrock hereby provides notice of its claim to the M.D. of Bonnyville, being the agent of the Crown responsible for the applicable roads and highways. Out of an abundance of caution, Shamrock is also providing a copy of this letter to Alberta Infrastructure.

The particulars of the Shamrock's claim are as follows:

1. The M.D. of Bonnyville contracted with JMB for JMB to supply gravel for use by the M.D. of Bonnyville in highway and road improvements.
2. JMB subcontracted with Shamrock for Shamrock to transport gravel to and stockpile gravel at the M.D. of Bonnyville's stockpile location, being NE 19-61-5 W4.
3. In accordance with the agreed terms, Shamrock did transport gravel to and stockpile gravel at the M.D. of Bonnyville's stockpile location, the last day such labour, equipment, materials and services were provided by Shamrock being March 21, 2020.
4. The gravel transported and stockpiled by Shamrock was used by the M.D. of Bonnyville in the maintenance and construction of roads within the M.D. of Bonnyville, including but not limited to surfacing work on Highway 660 and Range Road 55.
5. JMB has failed or refused to pay Shamrock for these labour, equipment, materials and services.
6. The amount owing from JMB to Shamrock in respect of the gravel transported to and stockpiled at the M.D. of Bonnyville's stockpile location is \$18,969.56, calculated as follows:

Invoice No. IN054325	\$ 1,012.32
Invoice No. IN054741	\$ 17,053.92
<u>GST @ 5%</u>	<u>\$ 903.31</u>
Total Outstanding	\$ 18,969.55.

We enclose the following in support of Shamrock's claim:

- The completed Public Works Act Claim Form; and
- Copies of Shamrock's unpaid Invoice No. IN054325 and unpaid Invoice No. IN054741.

Pursuant to section 15 of the *Public Works Act*, the M.D. of Bonnyville may pay Shamrock the full outstanding amount of its claim and deduct the amount so paid from any money due and payable to JMB on any account, or from the money or security, if any, deposited by JMB with the M.D. of Bonnyville. In paying Shamrock's claim, the M.D. of Bonnyville may act on any evidence that it considers sufficient and may compromise any disputed liability, and as against the M.D. of Bonnyville payment is not open to dispute or question by JMB, but is final and binding on JMB. Alternatively, the M.D. of Bonnyville may pay the money into court on the

terms and conditions determined by the court, following which the court will determine the persons who are entitled to payment of the money and direct payment accordingly.

Shamrock requests that the M.D. of Bonnyville forthwith pay Shamrock the amount owing by JMB to Shamrock, being the sum of \$18,969.56, and such amount be deducted from any amount owing by the M.D. of Bonnyville to JMB, as is permitted by section 15 of the *Public Works Act*. Shamrock demands that no further sum be paid by the M.D. of Bonnyville to JMB until such time as Shamrock's outstanding claim is resolved.

The M.D. of Bonnyville has benefited from the gravel transported and stockpiled by Shamrock. It is unjust that Shamrock should go unpaid any longer, in particular during these uncertain and economically challenging times. Your quick response in this matter is greatly appreciated. Please do not hesitate to contact me to discuss this matter.

Yours truly,

MORROW TCHIR LLP

Per:



CHRISTINA L. TCHIR

Barrister, Solicitor and Notary Public

CVS/clt

Cc: JMB Crushing Systems Inc.
c/o Ogilvie LLP
1400 - 103030 Jasper Avenue NW
Edmonton, AB T5N 3Y4
Via registered mail

Cc: Client
Via email



This is Exhibit "B" to the Affidavit of Murry Nielsen sworn/affirmed on the 26 day of May, 2020

Brandy Poliakiwski
Expiry Date: August 29, 2021

Brandy Poliakiwski
Commissioner for Oaths
for the Province of Alberta

Statement of Public Works Act Claim

Submit completed claim form by "Registered Mail" to:

Tender Administrator
Procurement Section,
Alberta Infrastructure,
2nd Floor, 6950-113 Street, Edmonton, Alberta T6H 5V7
Telephone: (780) 427-3962 Fax: (780) 422-9686

Claimant

Name Shamrock Valley Enterprises Ltd.				
Address c/o Morrow Tchir LLP PO Box 336, 5226 50 Avenue				City or Town St. Paul
Province Alberta	Postal Code T0A 3A0	Telephone 7806452981	Fax 7806453801	E-mail Address cltchir@morrowtchir.ca

Project

<p>This claim is made in respect of the following project: (location & description)</p> <p>Road maintenance and construction throughout highways and municipal roads within the M.D. of Bonnyville No. 87</p> <p>Project ID / Plan No: (either or both, if known)</p>	<p>Legal Description of the Land:</p> <p>Stockpile Location: NE 19-61-5 W4 (Highway 660 and Range Road 55) Roadwork completed on various highways and municipal roads within the M.D. of Bonnyville No. 87</p>
---	--

Details of Claim

1	Our contract is with (name of contracting party): JMB Crushing Systems Inc.	(and General Contractor, if known)
2	This claim is made in respect of the following work (provide short description of labour, equipment, materials or services provided): Transport and stockpiling of gravel for use in roadwork in M.D. of Bonnyville.	
3	Time:	(Last day on which labour, equipment, materials or services were provided)
<input checked="" type="checkbox"/>	The work related to this claim was fully performed on:	<u>March</u> <u>21</u> <u>2020</u> Month (name of) Day Year
<input type="checkbox"/>	The work related to this claim is not yet fully performed but payment for work performed to (Today's Date)	Month (name of) Day Year
	has not been received as of	Month (name of) Day Year
4	Amount	
	The amount of this claim is <u>\$ 18,969.56</u> , which includes <u>\$ 0.00</u> in holdback monies.	
5	Declaration: I, the undersigned, am or represent the claimant named above and declare that the information provided is true and correct;	
	<u>Christina L. Tchir Lawyer for Claimant</u> Printed name of declarant	<u></u> Signature of declarant

For Alberta Infrastructure Use Only

Contract ID.:	Plan No. or Building No.	Confirmed Project ID.:	Date Sent:	Date Received:	Date Acknowledged:
Comments:					

This is Exhibit "C" to the Affidavit
of Murry Nielsen sworn on
the 20 day of May, 2020.

Brandy Poliakowski
Commissioner for Oaths Brandy Poliakowski
For the Province of Alberta Expiry Date: August 29, 2021



P.O. Box 505
Elk Point, Alberta T0A 1A0
Tel: (780)724-3177
Fax: (780)724-2280

"Family owned and Operated since 1985"

Sold To: JMB CRUSHING SYSTEMS ULC
ar@jmbcrush.com (Trucking Invoices)
ap@jmbcrush.com (All Others)
BOX 6977
BONNYVILLE, AB T9N 2H4

Invoice Number: IN054325
P.O. #
Date: 2019-12-31
Cust# JMB100

Item No.	Description/Comments	Quantity	UOM	Unit Price	Amount
FIELD800	DECEMBER 2019 TRUCKING ELLIS DON INDUSTRIAL INC.	1.00	EA	61,001.87	61,001.87
FIELD	MD OF BONNYVILLE	1.00	EACH	1,012.32	1,012.32

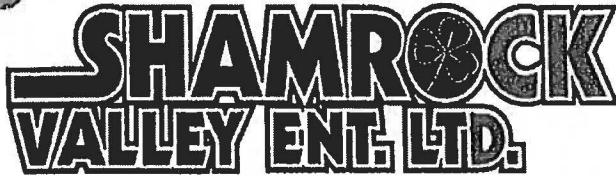
Comments:

Subtotal	62,014.19
GST @ 5%	3,100.70
GST #104816277	
TOTAL	65,114.89

"If you spend your whole life waiting for the storm, you'll never enjoy the sunshine!"

This is Exhibit "D" to the Affidavit
of Murry Nielsen sworn on
the 25 day of May, 2020

Brandy Poliakowski
Commissioner for Oaths Brandy Poliakowski
for the Province of Alberta Expiry Date: August 29, 2021
P.O. Box 505
Elk Point, Alberta T0A 1A0
Tel: (780)724-3177
Fax: (780)724-2280



"Family owned and Operated since 1985"

Sold To: JMB CRUSHING SYSTEMS ULC
ar@jmbcrush.com (Trucking Invoices)
ap@jmbcrush.com (All Others)
BOX 6977
BONNYVILLE, AB T9N 2H4

Invoice Number: IN054741
P.O. #
Date: 2020-03-31
Cust# JMB100

Item No.	Description/Comments	Quantity	UOM	Unit Price	Amount
FIELD	March 2020 Hauls MD of Bonnyville Hauls	1.00	EACH	17,053.92	17,053.92
FIELD800	Ellis Don Industrial (Nowchuk)	1.00	EA	17,282.36	17,282.36
FIELD800	Ellis Don Industrial (Other)	1.00	EA	2,904.33	2,904.33

Comments:

Subtotal	37,240.61
GST @ 5%	1,862.03
GST # 104816277	
TOTAL	39,102.64

"If you spend your whole life waiting for the storm, you'll never enjoy the sunshine!"

This is Exhibit F referred to in the affidavit of Murry Nielsen sworn before me on November 6th, 2020.



A Commissioner of Oaths for
the Province of Alberta



PRINT NAME AND EXPIRY OF COMMISSIONER OF OATHS

Exp. Aug 29, 2021.

**DETERMINATION NOTICE FOR LIEN CLAIMS AGAINST JMB CRUSHING SYSTEMS INC.
and 2161889 ALBERTA LTD. (COLLECTIVELY, "JMB")**

DETERMINATION NOTICE

TO: Shamrock Valley Enterprises Ltd. (the "Lien Claimant")
c/o Morrow Tchir LLP
5226 50 Avenue, PO Box 336
St. Paul, AB T0A 3A0
Attention: Christina Tchir

DATE: July 27, 2020

LIEN CLAIM:

Date of Lien Notice / Registration:	<u>May 25, 2020</u>
Quantum Originally Claimed:	<u>\$18,969.59</u>
Affected Lands:	<u>NE 19-61-5 W4</u> <u> </u> <u> </u>

Take notice that FTI Consulting Canada Inc., in its capacity as the Court-appointed monitor (the "**Monitor**") of JMB, pursuant to the CCAA Initial Order granted on May 1, 2020, as subsequently amended and restated on May 11, 2020 (the "**Amended and Restated CCAA Initial Order**"), has reviewed the Lien Claim you submitted, as part of its Lien Determination pursuant to the Order – Lien Claims – MD of Bonnyville issued by the Court of Queen's Bench of Alberta on May 20, 2020 (the "**Bonnyville Lien Process Order**"). All capitalized terms used herein and not otherwise defined shall have the meaning ascribed to them in the Bonnyville Lien Process Order.

The Monitor has made the following Lien Determination concerning your Lien Claim:

Quantum:	<u>\$18,969.55</u>
Lien Determination:	<u>The above referenced Lien Claim is not a valid Lien or Lien Claim, for the following reasons: (i) it was not registered or, alternatively, no Lien Notice was provided within the 45 days prescribed by the <i>BLA</i>; and, (ii) it does not relate to work done or materials supplied on or in respect of an improvement.</u> <u> </u>

IF YOU WISH TO DISPUTE THE LIEN DETERMINATION, AS SET FORTH HEREIN, YOU MUST TAKE THE STEPS OUTLINED BELOW.

The Bonnyville Lien Process Order provides that if you do not accept with the Monitor's Lien Determination, as set out in this Determination Notice, you must, within fifteen days of receipt of this Determination Notice from the Monitor, file an application before the Court of Queen's Bench

of Alberta for the determination of your Lien and Lien Claim. If you fail to file an application before the Court of Queen's Bench of Alberta, in the timeframe specified herein, the Lien Determination of the Monitor shall be final and neither you nor JMB shall have any further recourse to any remedies set out in the BLA with respect to the Liens or Lien Claims referenced herein or as and against any of the Funds or the Holdback Amount, except as otherwise may be ordered by the Court.

If you have any questions regarding the claims process or the attached materials, please contact the Monitor's counsel, Pantelis Kyriakakis of McCarthy Tétrault LLP, at pkiriakakis@mccarthy.ca and the Monitor, Mike Clark of FTI Consulting Canada Inc., at mike.clark@fticonsulting.com.

Dated the 27th day of July, 2020 in Calgary, Alberta.

**FTI CONSULTING CANADA INC., in its
capacity as Monitor of JMB CRUSHING
SYSTEMS INC. and 2161889 ALBERTA LTD.**

Per: 

Mike Clark, Director