



GWICH'IN LAND AND WATER BOARD

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Application G18Q004 – GNWT INF, KM 147 Quarrying

Meeting minutes: November 14, 2018 9:00 am – 10:50 am

Attendees:

Environment and Climate Change Canada: Russell Wykes and Brad Summerfield (via teleconference)

Gwichya Gwich'in Renewable Resource Council: Grace Blake: (via teleconference)

GNWT Department of Lands: Bradley Voudrach, Herbert Allen

GNWT Department of Infrastructure: Arvind Vashishtha, Mohammed Hossain

GNWT Department of Environment and Natural Resources: Alicia McRae

Gwich'in Renewable Resources Board: Janet Boxwell

Prince of Wales Northern Heritage: Naomi Smethurst (via teleconference)

Gwich'in Land and Water Board: AlecSandra Macdonald, Leonard DeBastien

Gwich'in Tribal Council Department of Lands and Resources: Stephen Charlie

GLWB: Introduction and agenda overview

- The purpose of the meeting is to discuss the application G18Q004 quarrying at km 147
- Board direction issued on October 30, 2018 – under paragraph 22.2.b of the Mackenzie Valley Land Use Regulations (MVLUR) that additional study need to be completed. Staff was directed to bring together interested parties to discuss the application and the concerns that were brought forward in the public review.
- In particular the proximity to the two watercourses in the project area (Lake to the South and Creek to the North), as the proposed quarry operations appear to take place within 100m of the ordinary high water mark of both these waterbodies
- Per MVLUR Section 6, no excavations are to take place within 100 m of the ordinary high water mark of a water course, unless authorized by a permit or in writing by an inspector.
- Standard Land Use permit condition used for quarry operations “no quarrying within 100 m of the ordinary highwater mark of a water course, unless authorized in writing by an inspector.”
- Board does have authority to allow work within the setback, but indicated they would require additional information and evidence prior to being able to make this determination
- This meeting was to provide a forum for INF to father explain their project and for those with concerns to discuss them, to review options to resolve issues, and to provide evidence that the

Board can use to make its final determination on the application in consideration of spill contingency erosion and sediment control, wildlife and fish habitat, cultural and heritage resources

INF: Project Description

- INF is proposing quarry activities at km 147, to obtain granular material for use in highway widening project, for Dempster Highway reconstruction to take place in Summer 2019.
- LUP application was submitted to GLWB, Landowner GTC has already granted quarry authorization
- Activities to include extracting, stockpiling and crushing material. Some material removed from Frog Creek (km 126 quarry) will also be stockpiled here
- Plan to borrow from disturbed area first. Perform clearing in advance of extracting in undisturbed area. Allow 1 year to stabilize cleared area, advance the next year
- Stockpiles, to prevent problems with water, erosion or sedimentation into the creek or the lake, silt fences will be installed at the site
- 100 meter setback is to be maintained from creek and lake, 100 m stakes will be placed

Group Discussion:

- GRRB: Are the setbacks sketched on the map accurate?
 - INF: look closer to 70 meters, but will be ground truthed and workers aware not to go into the flagged off areas
- GLWB: Some discrepancies between quarry operations plan and Google earth imagery GLWB staff mapped what 100m setback would look like on google earth and determined that there would be significant limitations to the available workspace if the 100 m setback was maintained. There is a potential for the Board to authorize work within these areas, but GLWB would require additional evidence of mitigation measures prior to authorizing
- GRRB: provided comments if 100 m setback is maintained that risks from sedimentation and spills would be reduced. If Board reduced buffer, what mitigations would be in place?
 - INF: Silt fences, sedimentation screens, tanks as needed.
 - GLWB: The Board has required that a sediment and Erosion control plan be submitted
- INF: Requested clarification, would 100 m setback apply to only excavation, not for stockpiling activities
 - GLWB: MVLUR section 6 applies to excavation, Standard Land Use Permit condition is more specific applies to quarrying. GLWB takes definition of quarrying from GNWT Quarry Permits to include blasting, ripping, excavation, crushing and stockpiling.
- GLWB: The caveat to both of these conditions is that they are prohibited unless otherwise authorized in writing by an inspector. Hoping that the inspectors could provide some comments with respect to this condition. GLWB did not want to leave the condition in and place all the pressure on the Lands Department to make that call.

- Lands: Went to site before snowfall, to check out site prior to issuance of the permit. The inspectors noticed that there was significant sloping toward the lake and a large drainage area indicating a significant amount of water of the lake. The feature to the north looks like a drainage that occurs only during spring run off, so may not apply to the area. Could take another look at that, as it could eliminate some of that buffer zone. Main concern is the slope towards lake. Recommend that the drainage be banked up so that materials are not flushed into lake. As it is right now all the water in the pit there would end up in the lake if there was a lot of rain.
- GLWB: Lands provided concerns about spill contingency plan. Reviewer is not here to speak to this, but there have been ongoing concerns regarding site specific plans, providing pertinent information regarding the topography of the work areas, the proximity to watercourses and location of spill kits etc. Other reviewers provided comments with respect to the spill contingency plan as well. Appropriate response measures, appropriate reporting and updated contact information. Generic plan provided to the Board is out of date and could be improved.
- GLWB: the Board has noticed that in recent environmental inspection reports for similar GNWT INF quarry operations along the Dempster there have been ongoing concerns with respect to equipment leaks.
 - Lands: one concern that we have had is rock crushers, this equipment has been leaking a lot. This is a concern for crushing materials near waterbodies taking place near a waterbody.
- GGRRC: Unclear about the application, thought km 147, thought was just a stockpile location?
 - GLWB: In recent years it has used as stockpile and camp location. Quarrying last took place in 1991, from looking at historic records. For this application INF is looking to stockpile material and also to re-open the quarry, for active quarrying. Because it predates the Land Claim, and the MVRMA, the Board is treating this as a new application, subject to preliminary screening, because the project has not been screened before.
- GGRRC: Does active quarrying include dynamite or blasting? What is in the permit application?
 - INF: not at this quarry, because of the rock type does not require it. The pit run material removed from Frog creek will be crushed at this location.
 - GLWB: The application indicates: Removal and stockpiling of overburden for restoration. Extraction of shale, rock, sand and gravel. Stockpiling of shale rock, sand and gravel. Crushing and stockpiling of pit run materials. All materials to be used for the construction and maintenance of the Dempster Highway.
 - GGRRC: important to use exact wording about what is happening in the application.
- GGRRC: Is there going to be an updated contingency plan submitted?
 - GLWB: The Board has required that an updated operations and maintenance plan, and updated spill contingency plan and a sediment and erosion control be submitted, for review, prior to the final decision on the application. Site specific plan, indicating drainage, and detailed mitigation measures will be required. Suggest working together with ENR to ensure the comments are addressed, and also the INAC 2007 Guidelines are a good resource as well. Important for the contractors who will be working on site to have this information in place. A number of the plans received indicate that the contractor will be responsible for providing the kits and training to their workers. Want

to make sure there is no discrepancy between what is in the plan and what is taking place in the field.

- GRRRC: Please send a copy of the permit application, may have been missed in the emails
 - GLWB: Will forward again. To clarify the permit application was sent out early October, it has been through the public review period, and has been to the Board for decision, the Board has indicated that they would like additional documents presented for review. The Spill plan, ops plan, and Sediment and Erosion control plan will be subject to a short round of public review. There will be an opportunity to provide additional comments at this time.

- GRRB: Comments with respect to bank swallows are sent out with every quarry application. As this is a new stockpile location, there is an opportunity to take a look at the measure to reduce the attractiveness of the stockpile to bank swallows. They are a species at risk under the SARA, and protected under the migratory birds convention act. Brochures sent out on how to create and protect habitat, how to prevent them from getting into the stockpile location in the first place (e.g they prefer steep slopes, aim for rounded piles instead). Once they are there you have to work around them and this can be a challenge to operators. How do the different operators know that? Do they understand this? Is there training?
 - ECCC: An FYI- the GNWT INF is in discussion with Canadian Wildlife Service regarding bank swallow management. It's at Headquarters level right now but some information should be coming down shortly.

- GRRRC: What time of the year is this activity going to take place?
 - INF: stockpiling from frog creek – during winter months to avoid unnecessary impacts to ferry services. Borrow excavation activities in the summer. Crushing to take place in end of winter, spring and maybe summer. Stockpiles will be used in the summer months when the road construction takes place.
 - GRRRC: brushing on the highway is not allowed during the spring because of the potential for disturbances to nesting birds. Will these activities be treated the same?
 - INF: brush removal in the borrow area will not take place between May 15 and August 17, per the Environment Canada restrictions.
 - GTC: What species does this pertain to?
 - INF: Migratory birds, nesting season
 - ECCC: Appendix attached to the comments provided by ECCC has all species at risk in the area, will give an idea of the vulnerable species at project site

- GRRRC: any difference between an application that is a continuous application vs a new application (even though it is an old site)
 - GLWB: Yes, differences with respect to the requirements for preliminary screening under the MVRMA and preliminary screening regulations. If an ongoing project, eg in the case of a renewal, has been screened once, and maintains its existing footprint then it wouldn't require another preliminary screening. If the footprint of the project changes, or the activities change, then the new aspects would require screening as well.

Preliminary screening process are the first stage of the Environmental Impact assessment process and at this time the Board considers not only land and water impacts and proposed mitigation, but also potential for impacts to socioeconomic and cultural and heritage resources, to determine if there might be a significant environmental impact or public concern that would warrant additional impact assessment through the Mackenzie Valley Environmental Impact Review Board. Ongoing projects may be waived from formal engagement if the engagement has already been conducted for those same activities at the same location. For this project although the area is disturbed, the disturbance predates the MVRMA, and has not been screened under the preliminary screening requirements, so the Board has indicated to treat it as a we would a new disturbance. This includes a preliminary screening and formal engagement

- GRRB: Site boundaries – With respect to site boundaries, it appears that there plans to open up new area. Will this be included in the preliminary screening processes?
 - GLWB: The preliminary screening takes into consideration all of the proposed activities. INF has proposed to open up the new area to south east, this would be screened as part of the entire project footprint.
 - GRRB: Do the results of the screening go into a updated quarry management plan?
 - GLWB: The preliminary screening process identifies potential impacts to land and water, air, wildlife and fish and habitat as well as socioeconomic and cultural impacts. If the Board determines that the development might have public concern, or have significant environmental effects, then the project is referred to additional assessment through the MVEIRB. But all the considerations for the preliminary screening don't necessarily go into a Land Use Permit, for example the Board does not have authority to impose conditions related to socio-economic impacts. All the impacts identified, and mitigation measures proposed during the screening can be used to develop operations plans and other management plans. Quarry owners are responsible for developing Quarry management plans.

- GGRC: Is the meeting here to determine if a preliminary screening is necessary?
 - GLWB: A screening has been determined to be necessary, because although the site is previously disturbed a screening has not previously taken place. Even if one had been undertaken for past activities, additional screening on the areas not yet opened up would be required. The purpose of this meeting is for the Board to gather additional information in order to complete that preliminary screening and evidence to support the issuance of a land use permit, as presented in the land use permit application. Because of the concerns identified during the public review period, and because of the standard land use permit condition for no quarrying within 100m of the OHWM of a watercourse, and section 6 of the MVLUR which indicates no excavating within 100m of the OHWM the Board indicated they would require additional evidence to make a decision on the application. It appeared that the setbacks could not be maintained based on the operations plan as presented.

- GRRB: Do we know if there are Raptor nest in the area? With respect to protecting the birds and the requirements of the special transportation management zone, per the Land Use Plan. Have initial surveys been done? There are some nests nearby in cliffs along the Mackenzie River, unsure about the topography at the quarry site
 - GTC: Is this considered in the mid May to mid August timelines?
 - Looking at conformity with the land use plan – evidence that there will be no impacts to Nesting Raptors Mid March – Mid August. They tend to nest a little earlier than some birds

- GRRRC: When we had the engagement meeting to talk about the project, most of the talk was about the business side of things and the contracting and we never really got to talk about these different aspects of the project, and the RRC needs to be assured that the effects to the land and the animals are going to be protected, and glad that this meeting is taking place to talk about that

- GRRB: Main comments are surrounding fish and fish habitat, and how that pertains to spill contingency planning and sediment and erosion control, and I think those details will be provided in the updated plans.

- GTC: One concern, with respect to wildlife is boreal caribou
 - GGRC: They are frequently sighted on that stretch of highway
 - GLWB: The draft LUP includes a condition with respect to caribou. “the permitted shall suspend activities temporarily if one or more caribou are spotted within 500 m of the worksite.” This is a standard condition used for the majority of the granular extraction projects along the highway. Does this provide adequate mitigation, or are additional measures recommended? (*general consensus that this is adequate mitigation*)

- GRRB: how are the operators informed to stop for caribou? Do they understand that they need to stop?
 - INF: Wildlife Management Plan is included I the contract, and the contract is written such that all new employees and operators are made aware of the plan and the Permit conditions and they must adhere to both. The site supervisor explains what to do if wildlife is sighted. This is part of the contract and conditions.

- GRRRC: Important to note that when we look at applications, say for GTC or Land use permits for a contractor, it doesn’t say anything about effects on wildlife. Just spill contingency etc. I am thankful for this discussion. If INF has that in its permit – how do they ensure the contractor is going to abide by it
 - INF: It is written into the contract that the contractor will abide by the wildlife plan, the spill contingency plan and the permit. The INF representative onsite will ensure the contractor is abiding by the conditions, if there are violations this is reported
 - GRRRC: Will there be environmental monitors onsite?
 - INF: the project monitoring will be done by the onsite staff at INF, to ensure the contractor is abiding by the plans

- GLWB: Comments were received from GTC Department of Cultural Heritage (DCH) with respect to traditional use and areas of cultural significance. The lake to the south was identified as an important fishing lake, and as a drinking water source for nearby residents. The creek that Lands described today as ephemeral drainage feature, where it meets the Mackenzie is an important fishing eddy, used for generations. Concerns were brought up by DCH with respect to slumps and landslides and climate change. Lots of traditional use in the area, and that site is used for parking to access the land. Keep activity and dust to a minimum when these activities are taking place. DCH recommends consultation with the community of Tsiigehtchic to ensure traditional use will not be impacted by these operations. Opening of the pit – in the application It wasn't especially clear if the activities would be limited to the existing disturbance, or if new undisturbed locations would be opened up. INF was asked to provide an updated schematic to indicate where they were planning on carrying out the activities, and it was confirmed that new areas would be opened up. DCH had commented that if any new areas were to be opened up that an archeological assessment may be required, at the discretion of the PWNHC.
 - PHWHC: Asked for clarity where any new expansion would be happening so that we could make that determination. With the map that was provided we were able to make the determination that because the area to be opened up is relatively small in area, that an archaeological impact assessment or study would not be recommended at this point. In terms of new cut disturbance, it is fairly minimal.
 - GGRRC: the lake to the south has fish and also muskrats

- GLWB: any additional comments with respect to the topics mentioned, or any other areas of concern?
- ENR: For ENR, and updated spill contingency plan is important. Updated contacts, as many of the contacts are out of date
- GTC: In regard to the map that with 100m buffer that was circulated. It is what's on the books to consider for development setback. But this spot has been impacted previously, so a map that delineates where potential no-go area should have incorporated previously impacted area to be fair. Recognize that impacts were pre-land claim, and the process involved now, but in the future, maps should consider all aspects.
- GRRC: In the initial discussions, only certain components are looked at, more of the business and contract end rather than the intimate details of the actual area affected and the wildlife concerns that the local people would be having. It's important to include all the information at the onset of the permit application so we are clear on what is going to be done and how it is going to be done.
- GLWB: The next steps are to compile the notes from this meeting, receive updated operations, spill contingency plan, erosion and sediment control plan. Plans will be circulated for a round of public review, to ensure contact information is correct, site description is correct, and that mitigation measures are appropriate. Board will make a decision on the application at that time.

- GLWB Timing depends on how long it takes INF to develop those documents, and when Board meeting are scheduled. Next meeting is tentatively scheduled for December 18, 2018, followed by another meeting end of January.
- INF: Already working on updated plans.

Meeting Adjourned