

Nahᓂᓴ Dehé Dene Band

GENERAL DELIVERY, NAHANNI BUTTE, NT, X0E 0N0

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Sent by Email

Tuesday, October 27, 2015

Mackenzie Valley Land and Water Board,
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Attention: Mr. Julian Morse, Regulatory Officer

Nahᓂᓴ Dehé Dene Band appreciates the time that Land and Water Board, North American Tungsten and intervener staff have dedicated to the discussions surrounding the water license renewal for the Cantung Mine. Below, please find our closing statements to those issues for which consensus has not been reached.

Term of water license

During the second round of information requests, the Board requested feedback on the term of the water license, noting that NATCL had requested a water license of 10 years.

NDDB initial comment: NATCL has previously had a water license of five years. No justification has been given for a longer water license period. Maintaining the previous length of license helps to ensure that the license will remain consistent with updates in legislation, policy and best practice. If, at renewal, few changes have been made to best practice and if the terms of the water license are ensuring that environmental effects from the mine are minimal and/or mitigated, a renewal process will likely be short and efficient. Longer license terms tend to result in increasing requirements for new submissions and review, increasing the onus on both the proponent and the company once renewal occurs.

NDDB initial recommendation: NDDB recommends that a license term of five years be retained.

NDDB closing statements: NDDB would like to reiterate its strong preference for a five-year water license term, which would remain in-line with past licenses that have been issued. Periodic renewal will ensure that the license remains adaptive to best management practices and able to incorporate lessons learned in the construction and monitoring of the dry stack tailings facility.

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Engagement Plan

Within (time) following issuance of this Licence, the Licensee shall submit to the Board, for approval, an Engagement Plan. (pg.10)

NDDB initial comment - The Board has requested reviewer comments on the deadline for submission of an engagement plan. NATCL has long standing relationships with NDDB and other stakeholders and as such, compiling, reviewing, updating and formalizing an engagement plan should not be a particular challenge. However, given that the company's structure is going to soon be changing and with it, a change in leadership and possible staff changes, it will be important to ensure that relationships are renewed and clarified as soon as possible to ensure continued effective collaborations and oversight. NDDB therefore encourages the Board to consider an engagement plan a priority.

NDDB initial recommendation - Recommend that an engagement plan be submitted to the Board no later than (30) days following issuance of this License.

NATCL response - NATCL requests a time of 90 days following the issuance of this Licence. This will allow for initial engagement under new ownership with the Deh Cho region and to appropriately complete the document. We also believe it will be important to ensure the relationships are renewed; however, this may take some time.

NDDB closing statements: NDDB would like to ensure that a robust and meaningful engagement plan is put into place and that relationships are renewed following a restructuring of the company. NDDB agrees with NATCL that such processes require time and that a longer duration will allow for a quality process to take place that does not unduly burden the community nor set unrealistic timelines for the proponent that may risk the quality of the work. However, in order to ensure that sufficient time is allocated for the process, NDDB would like to request that a draft work plan for the process of developing an engagement plan be shared within thirty days of the water license issuance. In such a case, NDDB would agree with NATCL's recommendation of a 90-day timeline for submission of the final engagement plan, as this would allow two months for an iterative process to unfold. NDDB would appreciate if the development of the engagement plan involved a collaborative and step-wise process in which work plans are shared and modified according to feedback. After in-person meetings in affected communities, at minimum two-draft engagement plans should be reviewed by all parties through subsequent meetings.

As such, NDDB recommends that NATCL's proposed 90 day timeline for submission of an engagement plan following issuance of the water license be accepted with the qualification that a work plan for development of the engagement plan be drafted in collaboration with NDDB and other affected communities within 30 days of license issuance.

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Water testing requirements prior to discharge from WTF to Stinky Pond

NATCL has identified that the license requirements to redirect wastewater treatment facility effluent that does not meet the criteria specified in Part G, item 38 back to the Tailings Containment Area is not feasible.

NDDB closing statements: This issue has not been raised earlier in the license renewal process and therefore opportunities have been missed to raise questions that might have been included during one of the rounds of information requests. NDDB feels that NATCL has not produced sufficient evidence that TSS levels strongly correlate with metals and other substance of concern in wastewater. How frequently does NATCL encounter exceedances in metals or organic parameters when in-line parameters are not also in exceedance?

NDDB asks the Board to identify a process that ensures reasonable response to exceedances and prevents continued discharge of inadequately treated wastewater to the stinky pond. While NATCL's suggestion that they tie the response to the management plan framework so it can be specific to the parameter and the potential impact makes sense, there is insufficient confidence as written that the inspector has the authority to respond swiftly to possible malfunctions. If accepted as proposed, the facility could be discharging deleterious substance for several weeks prior to the discharge being redirected, which would create an unacceptable risk to fish and fish habitat in the Flat River.

Thank you for considering NDDB perspectives. Please do not hesitate to contact me if any of these closing statements require further clarification.

Respectfully,

Christine Wenman
NDDB Regulatory Advisor