



Sahtu Land and Water Board

Staff Report

Division:	Land and Water Program	Report No.: 05
Date Prepared:	November 12, 2009	File No.: S04A-006 / S04L1-006
Meeting Date:	November 20, 2009	

Subject: Request for Extension of a Type A Land Use Permit and Renewal of a Type B Water Licence from Husky Oil Operations Limited for exploratory oil and gas drilling in the Summit Creek area on Sahtu Lands and Exploration Licence 397 in the Tulita District.

1. Purpose/Report Summary

To inform the Board about a request from Husky Oil Operations Limited for a two year extension of a Type A Land Use Permit and a two year renewal of a Type B Water Licence for exploratory oil and gas drilling in the Summit Creek area on Sahtu Lands and Exploration Licence 397 in the Tulita District.

2. Background

2.1 Project overview

On September 3, 2009 our office received a letter from Husky Oil Operations requesting a two year extension to Land Use Permit S04A-006 and a two year renewal to Water Licence S04L1-006.

Initially Northrock Resources Ltd. was issued a Type A Land Use Permit and Type B Water Licence, both of which commenced on September 12, 2004 and expired on September 11, 2009. The Licence and the Permit were assigned from Northrock Resources Ltd. to Husky Oil Operations Ltd. on August 22, 2005. An amendment was made to the Water Licence approving the use of Amodrill 1500 drilling fluid.

The applications are for four proposed well sites; D-72, L-71, G-71 and N-70. To-date well site L-71 has been drilled. Well sites are located on Sahtu Private Lands - Sub-surface Parcel M-37, and on EL 397.

Access to the proposed drilling sites is under Land Use Permit S02A-004 and Water Licence S02L1-003. This Land Use Permit was extended and the Water Licence renewed on February 3, 2009 with an expiry date of October 12, 2010. Approximately 10km of access has been constructed to reach L-71 well site from the existing S02A-004 access route.

The Keele River staging area, Land Use Permit S05T-006, will be used to transport fuel to the well site.

2.2 Process Requirements

Land Use Permit S04A-006 expired on September 11, 2009. The *Mackenzie Valley Land Use Regulations* say that on receipt of a written request from a Permittee, prior to the expiration of the Permit, for an extension, the Board may extend the term of the Permit for an additional period not exceeding two years. No fees are required for an extension. If the extension is granted the permit will be extended to September 11, 2011.

Water Licence S04L1-006 also expired on September 11, 2009. The *NWT Waters Act* states that a Schedule III Water Licence application must be submitted to the Board accompanied by a \$30.00 application fee, which was received on September 8, 2009. If the renewal is granted the licence will be renewed to September 11, 2011.

2.3 Attachments

- Map - Husky Oil Operations Ltd.: S04A-006-Extension / S04L1-006-Renewal.

3. Comments

3.1 Permission of Land Owner

Husky Oil Operations has a Freehold Lease and Grant with the Tulita District Land Corporation dated April 29, 1998 for Sub-Surface Land Parcel M-37, Sahtu Lands. As indicated in the lease, as long as the leased substances are produced from the lands, or operations for the drilling of a further well have been commenced or if all wells on the lands are not producing during any year, the Lessee pays the 'delay rental' to the Lessor; the Lease is still in effect. A Benefits Plan is incorporated as part of this agreement.

3.2 Community Consultation

Previous Community consultation information presented in Staff Report No. 2 has not changed.

3.3 Traditional Environmental Knowledge

Traditional Environmental Knowledge presented in Staff Report No. 2 has not changed.

3.4 Potential Environmental and Mitigation Measures

No changes have been made to potential environmental impact and mitigation measures by the request for an extension of the Land Use Permit and renewal of the Water Licence.

3.5 Preliminary Environmental Screening

The Preliminary Environmental Screening Report has not changed.

This Land Use Permit Extension and Water Licence Renewal does not require a Preliminary Screening under the terms of MVRMA, Section 143(1)(c), and the Exemption List Regulations, Schedule 1, Part 1, Section 2, due to the following points:

- this is an extension, not a new Permit, and
- the development has not been modified, and
- the development has already fulfilled the requirements of the Preliminary Screening process under the MVRMA.

3.6 Conformity with Land Use Plan

The Sahtu Land Use Planning Board stated in a letter dated September 24, 2009 that there is no approved land use plan and therefore cannot determine conformity of the applications against the land use plan. Any rights or authorizations granted prior to the approval of the land use plan will be considered existing uses and allowed to continue following plan approval, including uses that do not conform to the approved zoning and the terms of the plan.

An extension of a Land Use Permit and renewal of a Water Licence, without a change in the type of development or Terms and Conditions will not affect conformity with Draft 2 of the Sahtu Land Use Plan. The program is located within a General Use Zone and near Stewart Lake and Tate Lake Conservation Zone.

The SLWB has met the referral obligations set out in section 47 of the *Mackenzie Valley Resource Management Act*.

3.7 Letter of Concern - David Etchinelle, Resident of Tulita

In a fax letter dated October 16, 2009 concerns were raised regarding water that has previously been taken from Stewart Lake for road construction by Husky Oil Operations Ltd. It was noted that the water level at Stewart Lake had gone down considerably and there are concerns about the impact to fish and wildlife in and around the Stewart Lake area. It was recommended that any company using this area for exploration, seismic or production works, do not take any water from Stewart Lake or Tate Lake, in the future.

Another concern that was raised is that Husky Oil Operations Ltd. had in the past built ice roads along the shores of Stewart Lake. In some places the road is about six to ten feet from the water line. It was also noted that there were some barrels along the road. It was recommended that companies doing any type of works in the area build their roads at least fifty to one hundred meters away from the shore lines.

3.8 Draft Permit and Licence

A Draft Permit and Licence have been prepared with the extended expiry date.

Terms and Conditions for Land Use Permit S04A-006 and Water Licence S04L1-006 will remain the same.

3.9 Attachments

- Fax letter from David Etchinelle dated October 16, 2009.

4. Other Agency Comments

The request for a Water Licence Renewal and a Land Use Permit Extension was circulated to 28 organizations requesting a reply by October 16, 2009. To-date 7 written responses have been received. The following organizations offered comments on the application:

GNWT - Municipal & Community Affairs - Office of the Fire Marshal

In a fax letter dated September 30, 2009 the Office of the Fire Marshal indicated that the documents are reviewed for general compliance with the *Fire Prevention Act* and *Fire Prevention Regulations* of the Northwest Territories. The work shall comply with requirements of the 2005 National Building Code, Part 9 for fire protection in camps section 9.10.21, and the B-139 and B-149 standards and the 2005 National Fire Code for the fuel facilities and related standards. Please see the attached letter for a list of detailed comments.

National Energy Board

In a fax letter dated October 6, 2009 the NEB stated they have no comment at this time.

Fisheries and Oceans Canada

In an email dated October 8, 2009 Fisheries and Oceans Canada advised that their original advice from August 20, 2004 is still valid. A copy of the DFO Protocol for Winter Water Withdrawal in the NWT, published on 2005, and a copy of Changes to DFO Water Withdrawal Protocol for the Northwest Territories (2008) were provided in an attachment.

Environment Canada

In an emailed letter dated October 14, 2009 Environment Canada (EC) indicated that conditions and recommendations originally submitted on August 20, 2004 would remain applicable to proposed future works and undertakings. A copy of this letter was provided. Environment Canada also provided some further advice on fuel storage, as well as air quality issues:

1. New CEPA *Storage Tank System for Petroleum Products and Allied Petroleum Products Regulations* came into force on June 12, 2008. These regulations apply to both outside, aboveground and underground storage tank systems under federal jurisdiction containing petroleum and allied petroleum products that have a capacity greater than 230 litres. This includes tanks located on federal or Aboriginal lands. Exceptions are pressurized tanks, mobile tanks, tanks regulated by the National Energy Board, and outdoor, aboveground storage tank systems that have a total combined capacity of 2500 litres or less and are connected to a heating appliance or emergency generator. All storage tank system owners must identify their tank systems to EC and installations of new systems must comply with the regulation's design requirements.
2. Pursuant to incineration, EC has developed a *Technical Document for Batch Waste Incineration*. The technical document provides information on appropriate incineration technologies, best management and operational practices, monitoring and reporting. If not completed already, the proponent should develop an incineration management plan in consultation with EC and GNWT Environment and Natural Resources, which is consistent with the technical document. The management plan should include an annual report to provide details on, but not limited to , the following:
 - Incineration technology selected;
 - Waste audit - amount and types of waste incinerated;
 - Operational and maintenance records;
 - Operator training; and
 - Incineration ash disposal.

3. If well test flaring is planned, the proponent should ensure established flaring practices and technical management approaches are followed, such as those found in the Alberta Energy Resources Conservation Board Directive 60. Environment Canada recommends that measures are taken to ensure that the need to flare and quantity of gas to be flared is reduced, as well as any resulting environmental impacts.

GNWT - Environment and Natural Resources

In an email dated October 15, 2009 the Department of Environment and Natural Resources indicated that they have reviewed the application based on their mandated responsibilities and has no comments or recommendations at this time.

Tulita District Land Corporation

In a fax dated October 19, 2009 the Tulita District Land Corporation indicated that they are presently reviewing the application and would like to request an extension to October 23, 2009 to provide a reply.

In a fax letter received October 23, 2009, the Tulita District Land Corporation agreed to the extension and renewal with the following comments for consideration.

1. We have a concern with proposed development of sumps in permafrost ground conditions. With climate change, we would prefer sumps being constructed with pure clay where the integrity of the ground could be better assured. The industry practice of 'mix, bury, cover' does not provide the same assurance with an unknown composition of ice in the soil.
2. The Tulita District Land Corporation asks the Sahtu Land & Water Board to consider individual applications in future for each well site, road, campsite, sump, fuel cache, etc. Also, amendments, extensions and assignments should also be applied for under separate administrative fee rates. It is not reasonable to expect several reviews of applications under fees collected in 2004.
3. The assessment of a 'nil' security deposit is also a concern. We appreciate that the next condition states the company is responsible for all outstanding work, but if the company is in bankruptcy, then the entire cost will fall to the taxpayer. We believe the current SLWB practice should be reconsidered.

4.1 Attachments

1. Fax letter from the Sahtu Land Use Planning Board dated September 24, 2009
2. Fax letter from GNWT-MACA, Office of the Fire Marshal dated September 30, 2009
3. Fax letter from the National Energy Board dated October 6, 2009
4. Email letter from Fisheries and Oceans Canada dated October 8, 2009
5. Email letter from Environment Canada dated October 14, 2009
6. Email letter from GNWT - Environment & Natural Resources dated October 15, 2009
7. Fax letter from Tulita District Land Corporation dated October 19, 2009
8. Fax letter from Tulita District Land Corporation dated October 23, 2009

5. Conclusion

The Preliminary Environmental Screening Report has not changed. All potential environmental impacts identified during public consultation and by review agencies can be mitigated with known technology and have been addressed in the Terms and Conditions of the Land Use Permit and the Water Licence.

The request for a Land Use Permit Extension and a Water Licence Renewal, with Reasons for Decisions has been submitted to the Board for approval. Should the Board grant approval; the Extension and Renewal could be issued upon the Board's decision.

6. Recommendation

It is recommended that the SLWB proceed with the extension of Land Use Permit S04A-006 and the renewal of Water Licence S04L1-006 for Husky Oil Operations on virtue of its authority under the Mackenzie Valley Land Use Regulations, Section 26(6) and the NWT Waters Act, Section 18(1)(a).

7. Reference Material Attached

- 7.1 Map of Project Area
- 7.2 Fax letter from David Etchinelle dated October 16, 2009
- 7.3 Fax letter from the Sahtu Land Use Planning Board dated September 24, 2009
- 7.4 Fax letter from GNWT-MACA, Office of the Fire Marshal dated September 30, 2009
- 7.5 Fax letter from the National Energy Board dated October 6, 2009
- 7.6 Email letter from Fisheries and Oceans Canada dated October 8, 2009
- 7.7 Email letter from Environment Canada dated October 14, 2009
- 7.8 Email letter from GNWT - Environment & Natural Resources dated October 15, 2009
- 7.9 Fax letter from Tulita District Land Corporation dated October 19, 2009
- 7.10 Fax letter from Tulita District Land Corporation dated October 23, 2009

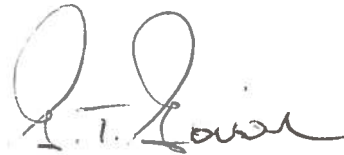
Respectfully submitted,



Rhianna Leighton
Land Technician

Executive Director Comments:

Agree with Conclusion & Recommendation.



G.T. Govier
Executive Director