



Sahtu Land and Water Board

Staff Report

Applicant: Husky Oil Operations Limited	
Location: Exploration Licence (EL) 494 - 40 km SSE of the Town of Norman Wells adjacent to the western edge of the Mackenzie River	File Number: S20X-006
Date Prepared: February 19, 2021	Date of Board Meeting: February 23, 2021
Subject: Administrative Update - Husky Slater River Reclamation and Interim Care and Maintenance Project – Land Use Permit Security Condition 38	

1. Purpose/Report Summary

The purpose of this Report is to present to the Sahtu Land and Water Board for consideration:

- a) an administrative update to Permit S20X-006, Condition 38 regarding the total amount of security required for the Project, and
- b) a revised Decision Letter for S20X-006 and S20L1-004.

2. Background

On January 14, 2021, the Board approved Husky Oil Operations Ltd. (Husky) new Land Use Permit (LUP or Permit) Application S20X-006 and the new Water Licence (WL or Licence) Application S20L1-004. New RECLAIM security estimates were completed and accepted for both Permit (Total \$1,166,670.75) and Licence (Total \$388,890.25).

Implementation of the Conditions for security have been ongoing with some discussions held between Board staff, GNWT-ENR and Husky. Recent discussions and e-mail correspondence dated February 11, 2021 with David Jessiman, GNWT-ENR Water Resources Division who is coordinating the security deposit approval process identified some concerns with how the security was handled by the Board and it was agreed that this could be resolved through a Board initiated Administrative Update (ATTACHMENT 1).

As this update will reflect a decision that has already been made by the Board, it does not require a public review, and may be signed off by the Chair without being presented to the Board. However, the nature of this error with respect to security would be of benefit for all Board members and staff to understand.

2.1 Form of Security

In writing the recommendations for the security, Board staff assumed that the securities held by the expired authorizations (S13L1-006 and S13X-003) would be transferred to the new authorizations. The January 15, 2021 Decision Letter from the Board directed the following actions regarding security (emphasis added):

Security Deposits

- 1) In accordance with Part C, condition 1 of the Licence, a security deposit of **\$388,890.25** is required prior to commencement of Project activities. The current security LOC of **\$300,000** held for **S13L1-006** will be transferred to this new Licence and the security deposit balance of **\$88,890.25** is payable to the **Government of the Northwest Territories (GNWT)** and submitted to the following individual, to whom questions regarding security should also be directed:

Government of the Northwest Territories, Box 1320, Yellowknife, NT, X1A 2L9,
Attention: Director, Water Resources.

- 2) In accordance with Permit condition 26(1)(l) 38 a security deposit of **\$1,166,670.75** is required prior to commencement of Project activities. The current security LOC of **\$952,813.13** held for S13X-003 will be transferred to this new Permit and the security deposit balance of **\$213,857** is **payable to the Government of the Northwest Territories (GNWT)** and submitted to the following individual, to whom questions regarding security should also be directed:

GNWT - Department of Lands – Beaufort Delta Region – Bag Service #1, Inuvik, NT, X0E 0T0
Attention: Land Use Advisor.

In the February 11, 2021 e-mail to Board staff, Mr. Jessiman clarified the responsibilities around security, noting that the use of the word “transfer” in the Board Decision Letter could potentially be contrary to Husky’s financial provider and security deposit options with the GNWT and a non-compliance issue.

Board staff understand this error. The Board sets the security deposit amount, and GNWT-ENR as the beneficiary addresses the security deposit form with their clients and approves the form of security.

Board staff recommend the following revised wording for the Security portion of the Decision Letter:

Security Deposits

- 1) In accordance with Part C, condition 1 and Schedule 2, Condition 1 of the Licence, a security deposit of **\$388,890.25** is required prior to commencement of Project activities and is payable to the Government of the Northwest Territories (GNWT), submitted to the following individual, to whom questions regarding security should also be directed:

a. Government of the Northwest Territories, Box 1320, Yellowknife, NT, X1A 2L9,
Attention: Director, Water Resources.(David Jessiman)

The current security LOC of **\$300,000** held for expired Licence S13L1-006 may be amended or otherwise be considered by the GNWT-ENR in their security deposit approval process which would make a shortfall of \$88,890.25.

2) In accordance with Permit condition 26(1)(l) 38 a security deposit of **\$1,166,670.75** is required prior to commencement of Project activities and is payable to the Government of the Northwest Territories (GNWT) and submitted to the following individual, to whom questions regarding security should also be directed:

GNWT - Department of Lands – Beaufort Delta Region – Bag Service #1, Inuvik, NT, X0E 0T0
Attention: Land Use Advisor. (Dan Carmichael)

The current security LOC of **\$952,813.13** held for expired Permit S13X-003 may be amended or otherwise be considered by the GNWT-Lands in their security deposit approval process which would make a shortfall of \$213,857.

2.2 Security Conditions

a) Licence

In the Licence, Part C, Condition 1 requires a security deposit in accordance with Schedule 2, Condition 1. GNWT-ENR agree that the Water Licence security deposit is acceptable, since the increased security deposit amount is included in the Water Licence, under Part C, Condition 1, and Schedule 2, Condition 1.

b) Permit

The Land Use Permit S20X-006, Condition 38 requires a \$213, 857.00 security deposit:

26(1)(l) Security Deposit

38. Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of \$213,857.00.

Mr. Jessiman understands that the intent of the Decision Letter was to increase the security deposit amount from \$952,813.13 to \$1,166,670.75. However, he reminded Board staff that GNWT Departments and designated Inspectors are required to address compliance under authorizations for the conditions which are reflected in the respective, Acts, Regulations, and Land Use Permit and Water Licence conditions. The cover letter cannot set out issues of compliance.

GNWT-ENR recommended that the LUP condition 38 should be revised to:

“38. Prior to the commencement of the land-use operation, the Permittee shall deposit with the Minister a security deposit in the amount of \$1,166,670.75”.

GNWT-ENR noted that the cover (decision) letter may wish to address the new amount and request the client to address the LUP security deposit shortfall (\$213,857.62). Board staff note that the revised wording in the decision letter has addressed this shortfall.

Board staff understand the error made in the permit condition for the total security amount and explained that they had mistakenly believed that Permit Condition 57 covered the transfer of the existing security held for the expired Permit S13X-003 that was being consolidated with this new Permit as follows:

26(1)(o) Restoration of the Lands

57. All outstanding liabilities and obligations of the Permittee in relation to work performed or required to be performed under Land Use Permit S13X-003 are fully incorporated into and subsumed under this Permit, and the Permittee must therefore complete the restoration and other obligations set out in or incurred under Permit S13X-003 as well as such further obligations as may be set out in or incurred under this Permit.

Board staff recommend adopting ENR's revised wording for Permit Condition 38.

3. Conclusion

David Jessiman has spoken with Board staff and Mr. Henderson from Husky Oil with e-mail exchanges on the Water Licence, security deposit requirements, and corporate changes (Husky was recently bought by CENOVUS ENERGY). The Department of Water Recourses and Lands (Dan Carmichael) will try to coordinate their security deposit approvals.

A draft Permit with revised Condition 38 is attached (ATTACHMENT 2).

A draft revised Decision Letter is attached (ATTACHMENT 3).

4. Recommendation

Board staff recommend the Board make the following Administrative Updates:

- 1) **Make a motion to approve the revised Condition 38 for Permit S20X-006 that requires a total security of \$1,166,670.75.**
- 2) **Make a motion to approve the revised Decision Letter for Husky's Licence S20L1-004 and Permit S20X-006.**

5. Reference Material Attached

- 5.1. E-mail Correspondence from GNWT-ENR February 11, 2021
- 5.2. Draft Land Use Permit with revised Condition 38.
- 5.3. Draft revised Decision Letter from the Board

Respectfully submitted,



Bonnie Bergsma
Regulatory Specialist