



Sahtu Land and Water Board

Staff Report

Type of Application: New Type B Permit	File No.: S22H-003
Activity: Fuel Storage	Location: ENR Cabin Mile 222 Check Wildlife Station, Tulit'a District
Date Prepared: November 9-10, 2022	Meeting Date: November 17, 2022
Project: Mackenzie Mountains Research and Monitoring Operations	

1. Purpose/Report Summary

The purpose of this Report is to present to the Sahtu Land and Water Board for consideration, the complete Application submitted by GNWT-Environment and Natural Resources (ENR) for a type B Land Use Permit¹ and to make decisions on the following items:

- a) conformity with the Sahtu Land Use Plan,
- b) the request for Exemption from Preliminary Screening,
- c) the Engagement Plan and Record,
- d) the Spill Contingency Plan,
- e) the Waste Management Plan, and
- f) the draft terms and conditions for Permit **S22H-003**.

2. Background

GNWT-ENR (the Applicant) submitted a new application for land use permit (Permit) to authorize a Project with associated fuel storage locations and activities that was first issued by the Board in 2017.

- **June 26, 2017** – SLWB approved S17H-002 for a term of 5 years.
- **May 13, 2022** – SLWB requested to submit a final plan or apply for an extension.
- **June 22, 2022** – expiry of S17H-002.
- **October 13, 2022** – SLWB received the Land Use Permit Application and began the 10-day completeness check.
- **October 20, 2022** - the application was deemed complete and review packages were sent out electronically to members of the Tulit'a District Distribution List using the Online Review System (ORS) with a request for reviewer comments by November 3, 2022.
- **November 3, 2022** – Reviewer comments received.
- **November 9, 2022** – Proponent response deadline **not received**.
- **November 17, 2022** – Board meeting to consider Land Use Permit Application S22H-003 for a term of 5 years.

¹ See SLWB Registry for S22H-003 – [Permit Application Form – Mile 222 – Oct 19 22](#)

3. Discussion

3.1 Project Overview and Scope

The purpose of Project is to authorize the continued storage of 144 standard drums (208 L) of aviation jet fuel at three previously approved locations in the Mackenzie Mountains:

- i) ENR Cabin Mile 222 Check Wildlife Station, primary site, with contingent storages at
- ii) Northwest Territories/Yukon border, and
- iii) Godlin Lake. (**Attachment 1 – Location Map**)

The fuel stored is used to refuel aircraft being used for wildlife research, monitoring and enforcement activities. The fuel storage site was established in 2017 with the intention that it would provide support for the Mackenzie Mountain Grizzly Bear DNA Survey that was expected to be a year only operation. It has since been used to support additional operations such as the 2020 and 2021 Palmer Lake sheep surveys and ongoing enforcement operations and other initiatives requiring the occasional storage of large quantities of fuel over a short duration, but more frequently for small scale storage that will be stocked and cleared within the year.

This will be the second permit to authorize the same Project activities and quantities of fuel stored at this location. The scope of the Project remains the same as originally applied for. For this reason, the Applicant has requested an exemption from preliminary screening because the development has not been modified since it was previously permitted.

The scope of the proposed activities include:

- Mobilization of fuel to the NWT/Yukon border by truck.
- Staging of fuel equipment by helicopter.
- Fuel storage at ENR Mile 222 (maximum on-site 120 drums) – see photo 1.
- Contingent storage of fuel Godlin Lake (maximum on-site 10 drums).
- Contingent storage of fuel NWT/YT Border (maximum on-site 14 drums).
- Helicopter refueling.
- Removing empty fuel drums as used and following project completion.

Photo 1 location of fuel storage at Mile 222



Photo 2 secondary containment for drums and removal of drums from site as fuel is used



from Inspection Report dated August 8, 2018

3.2 Regulatory Requirements and Program Components

Regulatory Requirements		
Type of Area	Federal Lands Sahtu Settlement Lands	ENR Cabin Mile 222, Godlin Lake Mile 170 NWT/Yukon border Mile 230
Eligibility	Mackenzie Valley Land Use Regulations (MVLUR) section 18, part (b)	<i>in any other case, has a right to occupy the land and either contracts to have the land-use operation carried out or is the person who is to carry out the operation.</i> - federal lease is operated and maintained by ENR with permission form CIRNAC - SSA lands access granted by Tulita District Land Corporation
Application Fee	MVLUR section 20	exempt
Term requested by Applicant	Five years	June 26, 2022 – June 26, 2027
Triggers	MVLUR section 5(a)(iii))	<i>the establishment of a petroleum fuel storage facility with a capacity that equals or exceeds 4 000 L but is less than 80 000 L</i>

Program Components		
Camp	N/A	
Access	N/A	Fuel transport by road to Yukon border and Mile 222 Cabin NWT. Other cache locations access by helicopter.
Equipment	N/A	Helicopters land for refueling
Closure and Reclamation Plan	N/A	This permit is not for the exploit of minerals or natural resources that requires reclamation work.
Fuel Storage and Use	Yes	The fuel has been and will be stored specifically in cleared areas away from water bodies (> 100 m) or hazards (e.g. gravel pits, bone yards, old air strips, etc.) with full secondary containment (see photo below). As of September 16, 2022 there are 19 Drums of Jet A aviation fuel being maintained at Mile 222.
Fuel Transfer	Yes	Fuel will be transported overland by truck to Yukon border and then to Mile 222 ENR cabin. IF If deemed necessary, will be flown to strategic fuel caches including Godlin Lake.

3.3 Land Use Plan Conformity

As the Project scope and location has remained unchanged from the 2017 authorization, and in consideration of the proposed Land Use Permit S22H-003 terms and conditions, Board staff believe that the proposed project continues to meet the conformity requirements of the Sahtu Land Use Plan as documented in the Staff Report for S17H-002².

² SLWB Registry for S17H-002 – [GNWT-ENR - Staff Report – June 20 17](#)

3.4 Preliminary Screening - Impacts and Mitigation

Exemption request

Under the Preliminary Screening Requirements of section 124(1) of the *Mackenzie Valley Resource Management Act* (MVRMA), the Board must conduct a preliminary screening of any proposed development prior to the issuance of a Licence, Permit, or Authorization, unless it is exempt from Part 5 of the MVRMA.

The Applicant requested an exemption from preliminary screening in accordance with the Preliminary Screening Regulations and the exemption list regulations, having confirmed that the Project has not been modified and the renewal application covers all the activities currently included in the expired permit S17H-002.

Board staff believes that this application meets the requirements outlined in Part 1, Section 2.1 of Schedule 1 of the Exemption List Regulations annexed to subsection 143(1) of the *Mackenzie Valley Resource Management Act* (MVRMA) for reason that the *development* for which a permit is requested a) was part of a development that fulfilled the requirements of the environmental assessment process established by the Mackenzie Valley Resources Management Act; and b) has not been modified since.

Potential Impacts and Mitigation

The Applicant described that the proposed land-use operation has minimal potential for environmental and resource impacts arising from the storage, use, and transfer of Jet B fuel. Any potential impacts would arise from spills of fuel³ to the land that could result in contamination to:

- Soil
- Groundwater
- Surface water
- Wildlife Health

Mitigation measures to avoid and/or minimize any effects in the event of a spill include:

- 1) All fuel will be stored in portable containment berms.
Spill kits will be provided at all storage caches.
- 2) All fuel drums will be properly labeled with the contents and the responsible party contact Information.
- 3) All fuel caches will be located at least 30m from the Ordinary High Water Mark.

The Board should note that for mitigation measure number 5), the standard setback from a watercourse is 100 m. The previous Permit used the 100 m standard setback. Board staff recommend retaining the 100 m standard. [Final Permit Condition 19]

³ Jet B fuel may be harmful to wildlife and aquatic life. It is not readily biodegradable and has the potential for bioaccumulation in the environment. Jet B fuel volatilizes relatively quickly. Runoff into water bodies must be avoided

3.5 Management Plans

Applicant submitted the following required Management Plans with the Application:

- **Engagement Plan and Record**⁴;
- **Waste Management Plan**⁵;
- **Spill Contingency Plan**⁶.

The Waste Management Plan and Spill Contingency Plan have received minor updates from the same plans approved by the Board for the 2017 permit.

The Engagement Plan and Log includes the previous engagement related to the initial permit with one update in the log requesting that additional consultation not be required. See further discussion in section 4.

3.6 Traditional Knowledge

No new Traditional Knowledge was collected for this application. The Applicant is relying on interviews and discussions conducted for the original permit.

4. Public Review

Of the 22 organizations to which the application was distributed, sixteen (16) of which are represented within the Sahtu Settlement Area, review comments were received from three organizations. **Attachment 2** includes the Review Comment Table with comments only, as responses were not received by the due date.

4.1 General Comments

GNWT – Lands – Sahtu Region (**GNWT-Lands**) stated no issues with the application, clarifying that the Applicant holds a reserve for fuel storage at Godlin Lake Airstrip.

Crown Indigenous Relations and Northern Affairs Canada– Yellowknife (**CIRNAC-YK**) submitted nine comments and recommendations on the following topics:

- i) Engagement Plan (No. 1),
- ii) Waste Management Plan (No.2),
- iii) Spill Contingency Plan (No. 3, 4),
- iv) Draft Permit Conditions (No. 5 – 9).

CIRNAC – Inspectors (**CIRNAC-Inspector**) submitted four comments and recommendations on the following topics:

- v) Engagement/Notification (No. 1),
- vi) Draft Permit Conditions (No. 2 - 4).

⁴ SLWB Registry for S22H-003 – [Engagement Plan and Log Mile 222 – Oct 19 22](#)

⁵ SLWB Registry for S22H-003 – [Waste Management Plan – Oct 19 22](#)

⁶ SLWB Registry for S21C-005 – [Spill Contingency Plan – Oct 19 22](#)

4.2 Discussion Topics

1. Engagement Plan – CIRNAC raised a concern about the lack of any new or renewed engagement efforts with all stakeholders, specific to the fuel storage aspect of the research project, and noting that no engagement activities specific to this new fuel storage permit have been provided since 2017, other than a reference to tentatively planned future conversations with the Sahtu Renewable Resources Board about funding and logistics for work to be done in 2023 that will require the use of the fuel cache, followed by conversations with the Tuli'ta and Norman Wells Renewable Resource Councils.

The Applicant attached the previous consultation from 2017 and requested that additional consultation not be required. This request was not discussed prior to the submission of the Application to the SLWB.

CIRNAC-YK was concerned that the provided list of stakeholders/interested parties appears to exclude other land use permit holders within the Mackenzie Mountains (e.g., outfitters, lodges, camps). No indication has been given if the engagement list was reviewed/revised in advance of the 2022 permit application.

According to the 2017 Engagement Plan and Record that was approved by the Board, the following “interest groups” were engaged regarding the fuel storage aspect of the project:

- Sahtu Secretariat Incorporated (SSI)
- Tuli'ta District Land Corporation
- Norman Wells Land Corporation
- Sahtu Renewable Resource Board
- Fort Norman Metis Land Corporation

The Engagement Record includes the Government of the Northwest Territories – Environment and Natural Resources previous engagement for the Grizzly Bear DNA Survey Wildlife Research Permit that included other stakeholders and elders. However, as CIRNAC-YK points out, this listed engagement appears to be focused on the wildlife research rather than the fuel storage.

CIRNAC-YK recommends that additional engagement be considered with all stakeholders and interested parties related to planned fuel storage prior to activities starting in 2023 and that a future revision of the engagement plan outline these current activities.

This recommendation is supported by the comment submitted by **CIRNAC-Inspector** that the Permittee has discussed this plan with Canol Outfitters before storing fuel at Godlin Lake area to ensure that both land users will work together to avoid any conflicts on land use.

Engagement Plan – Board Decision - The Board must decide to support either:

- A. the Applicants’ request for no additional engagement and approval of the Engagement Plan and Record; [Final Permit Condition 39] or,
- B. CIRNACs recommendation that additional engagement be conducted with all stakeholders and interested parties, specific to the planned fuel storage, prior to activities starting in 2023, and that a future revision of the engagement plan outlines these current activities. [Final Permit Condition 38].

2. Spill Contingency Plan – **CIRNAC-YK** noted that Section 4.0 of the Plan references inspections; however, a schedule or frequency for the inspections is not provided. They recommended that the frequency of visual inspections be clearly stated in the spill contingency plan given that the site is remote and without continuous site presence.
3. Spill Contingency Plan and Waste Management Plans - **CIRNAC-YK** requested that any revisions made to these plans should replace “Indigenous and Northern Affairs Canada” with “Crown-Indigenous Relations and Northern Affairs Canada” where applicable.
4. Draft Permit Conditions – **CIRNAC-YK** and **CIRNAC-Inspector** requested the following changes/clarifications be made to the expired permit conditions and that new permit Conditions be updated to reflect the new LWB Standard Land Use Permit Conditions Template (SPCT). [The Final Permit Condition is noted at the end of each bullet]:
 - i) Revise Conditions 4, 5, and 6 related to notification of commencement and shutdown of activities to reflect the seasonal nature of the planned activities, as per conditions 15 through 20 from the SPCT. [Final Permit Conditions 3 and 5]
 - ii) Add condition 69 related to the Notification of Solid Waste Disposal from the SPCT. [Final Permit Condition 11]
 - iii) Revise Condition 23(a) – Inspect Fuel - to reflect periodic site presence. [Final Permit Condition 18 a)]
 - iv) Revise Condition 30 to reflect the maximum fuel on site – 29,520 L. [Final Permit Condition 25]
 - v) Add transfer of liabilities Condition 105 from the SPCT to permit S22H-003. [Final Permit Condition 33]
 - vi) Remove the phone number (867) 669-2468 from Condition 4 of the draft permit. [Final Permit Conditions 2 and 3]
 - vii) Add the wording “while the land use operation is active” to condition #23 part ‘a’, as it is not feasible for the Permittee to inspect the fuel containers when they are not onsite. [Final Permit Condition 18 a)]
 - viii) Remove Condition #35 as this proposed operation is only for fuel storage and no equipment is being used. [Agreed]

4.3 Draft Permit

The conditions of the previous Permit were re-posted by Board staff, to allow reviewers and the Applicant to comment on, or propose changes or additions. Based on review comments received on the previous permit conditions, as noted above, and the MVLWB’s current Standard Land Use Permit Conditions Template, a final draft Permit and Permit cover page has been developed for Board’s consideration - **Attachment 3**.

5. Conclusion

- Board staff have reviewed the documents submitted for the Application and found that most have been prepared in accordance with the Board’s policies and guidelines.
- Additional consultation and engagement are recommended to be conducted and documented in an updated and revised Engagement Plan to be submitted for Board approval prior to Project commencement in June 2023.

- Corrections are required on the Application Form, the Waste Management Plan and the Spill Contingency Plan, and additional information included in the Spill Contingency Plan with resubmission to the Board. These minor revisions do not need Board approval.
- The Project continues to be in conformity with the Sahtu Land Use Plan.
- The Project has been confirmed to be exempt from preliminary screening as there have been no modifications to the scope or activities.
- There were many comments and recommendations regarding the draft conditions through the public review process. Board Staff are of the opinion that the terms and conditions in the Permit for **S22H-003** will mitigate any potential impacts and there were no significant public concerns raised for this Project.

6. Recommendation

Board staff recommend that the Board proceed with the regulatory process for Permit Application S22H-003 by:

- 1) Confirming the conformity with the **Sahtu Land Use Plan**.
- 2) Making a motion to approve the **Preliminary Screening Exemption**.
- 3) Making a motion to not approve the **Engagement Plan** and require resubmission and Board approval prior to Project commencement.
- 4) Making a motion to approve the **Spill Contingency Plan** with minor revisions required:
 - Clearly state the frequency of visual inspections given that the site is remote and without continuous site presence.
 - Replace “Indigenous and Northern Affairs Canada” with “Crown-Indigenous Relations and Northern Affairs Canada.”
- 5) Making a motion to approve the **Waste Management Plan** with minor revisions required:
 - Replace “Indigenous and Northern Affairs Canada” with “Crown-Indigenous Relations and Northern Affairs Canada”.
- 6) Making a motion to approve the issuance of **Land Use Permit S22H-003** with terms and conditions for a period of five years commencing November 18, 2022 and expiring on November 17, 2027.
- 7) Making a motion to approve the draft **Decision Letter** with **Reasons for Decision (Attachment 4)** prepared for the Board.

7. Reference Material Attachments

1. Location Map
2. Review Comment Table
3. Draft Permit conditions and Cover Page
4. Draft Issuance and Reasons for Decision Letter

Respectfully submitted,

Prepared by:	Reviewed by:	Executive Director Comments:
		
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