



Sahtu Land and Water Board

Staff Report

Division Land Program / Water Program	Report No. 02
Date Prepared: March 17, 2003	File No. S02A-004 / S02L1-003
Meeting Date: March 20, 2003	
Subject Type A Land Use Permit Application and Type B Water Licence Application by Northrock Resources Ltd.	

1. Purpose/Report Summary

To re-consider a type A Land Use Permit and a type B Water Licence application by Northrock Resources Ltd. for exploratory oil and gas drilling at Summit Creek in the Tulita district.

2. Background

Project overview

A description of the project was given in the first Staff Report for this project, dated October 31, 2002 and reviewed by the Board during its meeting on November 12, 2002.

Process Requirements

The Board decided not to issue a Land Use Permit or a Water Licence and ordered further investigations of the project. These investigations have now progressed sufficiently for the Board to re-consider the applications.

The following table shows the organizations, issues raised, and course of action agreed to by the Board.

DFO - water withdrawal	Wait for DFO's response to letter from Northern EnviroSearch.
Tulita RRC - trapper compensation	<ol style="list-style-type: none">1) Contact Northrock<ul style="list-style-type: none">• results from September 18 meeting?2) Contact Tulita District Land Corporation<ul style="list-style-type: none">• results from September 18 meeting?• are conditions of Access Agreement met?3) Contact Tulita RRC<ul style="list-style-type: none">• results from September 18 meeting?
DIAND - lease construction,	<ol style="list-style-type: none">1) Contact Northrock (provide letter or quote relevant passages)



sewage, drilling sump	<ul style="list-style-type: none"> • rational/alternatives for sewage sump? • rational/alternatives for clearing well pad? (EOG constructed an ice pad) • detailed plans for post closure sump monitoring
Environment Canada – sump	<p>2) Bring question of security deposit before Board</p> <p>1) Contact Environment Canada</p> <ul style="list-style-type: none"> • clarify question of alternatives to sump in light of water regulations requirement of type A Licence for alternatives to drilling sump. <p>2) Contact Northrock (quote relevant passages of letter, as they already are in possession of it)</p> <ul style="list-style-type: none"> • alternative to sump if material is toxic? • how ensured sump in permafrost (how is depth of active layer measured)? • detailed plans for post closure sump monitoring
Prince of Wales N.H.C.	<p>1) Forward letter to Northrock.</p>

3. Comments

3.1 Permission of Land Owner/Community Consultation/TEK

The concerns around trappers' compensation and the wish of community members to use a different access route resulted in consultations between the SLWB office, the land owner, Tulita RRC, SRRB, SSI, and the applicant.

The Tulita District Land Corporation initially did not comment. In a letter of December 19, 2002 Tulita DLC stated that their Board decided to have each member land corporation (i.e. Tulita LC, Ernie McDonald LC, and Fort Norman Metis LC) submit separate comments. In a fax letter dated February 25, 2003 however, Tulita DLC did put forth its comments saying Northrock Resources Ltd. should use the existing staging site at the Little Bear River and use the existing access route. It will not support the new staging site at Keele River and the access route as proposed by Northrock Resources Ltd.

The Ernie McDonald LC commented during the original referral process that it had no concerns. Fort Norman Metis Land Corporation submitted comments on January 7, 2003. Fort Norman Metis LC disagrees with the proposed access route, voiced concerns over disturbance of areas of cultural significance, and insisted that the issue of trapper compensation be dealt with.

The applicant was informed of the concerns and need for further investigation on November 19, 2002. In its fax letter of December 19, 2002 Northrock addressed trappers' compensation. Northrock investigated the public record of harvesting in the Tulita District for the 2000-2001 and 2001-2002 seasons. In both years the total pelts harvested in the Tulita District numbered 305 and 248 respectively. The collective worth was slightly over \$12,000 in each year. In an earlier submission Northrock expressed skepticism about the claim that 10 trappers would use the project area and asked the affected trappers for permission to access their individual files to determine eligibility.

The publicly available record appears to support Northrock's view that it is highly unlikely up to 10 trappers are using the project area on a regular basis.

In its December 19th submission to the RRC Northrock again asked for permission to access individual files. Northrock committed itself to compensate trappers that could show that they have indeed used the project area in the recent past.

Tulita RRC was contacted via letter on December 5, 2002 explaining the Board's decision to investigate the project further and requesting that the RRC notify the Board of any communication with the applicant. The RRC responded in a fax on December 17, 2002 stating that no communication between Northrock and the RRC has taken place since September 2002. In a fax letter dated January 13, 2003 Tulita RRC explained to Northrock Resources Ltd. that it did not have all the necessary information to identify the 10 trappers and how their activities would be affected by a new route. It said it would like to meet with Northrock to further discuss trappers' compensation, ice crossing, land erosion, hunting, fishing, and gathering areas.

The Land Claim does not limit compensation to trappers, but includes all harvesters. Further, the Land Claim does not specify any organization to set compensation but leaves it up to the individual participant and the developer. If there is no agreement between participant and developer, either party may refer the matter to arbitration. An arbitrator can only award compensation if a claim is proven. The Tulita RRC has consistently used "trappers" in its communication, not "harvesters". The SRRB was asked for advice in the matter in a fax letter dated January 10, 2003. SRRB replied in a letter dated January 17, 2003 that the issue of trapper compensation does not impinge on wildlife management in the Sahtu region, and further that SRRB has no jurisdiction over harvesting compensation, as determined by Chapter 18 of the *Sahtu Dene and Metis Comprehensive Land Claim Agreement*. SRRB advised that compensation issues are a matter to be worked out between the developer and the individual harvester (or his/her community organization) through Access and Benefits agreements.

A meeting between Northrock Resources Ltd. and Tulita District Land Corp. was held in Calgary on March 5, 2003. Although no agreement was reached, Northrock did promise to supply some costing data in respect of the Little Bear route. There was no discussion regarding trappers' compensation. Northrock believes that under its Access Agreement with Tulita District Land Corp. they have technically approved the company to proceed on the Keele River route.

The issue of trappers' compensation has not been resolved. Neither the Land Claim nor the MVRMA gives the Land and Water Board any mandate to deal with this issue. The District Land Corporation remains the land owner and an Access Agreement between it and the applicant does exist. The Tulita District Land Corp. however believes it has not given approval to use the Keele River route in its Access Agreement.

3.2 Potential Environmental Impacts and Mitigation Measures

Environmental Impacts

At the time of the previous Board Meeting no advice from the Department of Fisheries and Oceans was available. The DFO had requested additional information from the applicant. The absence of such advice raised concerns about water use and its potential effect on surface water levels and fish populations. These concerns have now been addressed. See Other Agency Comments for details on DFO's advice.

DIAND Water Resources and Environment Canada raised concerns about the chosen methods for drill pad construction, sump construction, and post-project sump monitoring. In a letter of December 3, 2002 the applicant provided a rationale for the proposed construction methods and committed to some post-project monitoring of the sump.

The access route proposed by the applicant is preferable to the one requested by several community members. It requires significantly less water to construct and will result in less fuel consumption and associated air pollution, as well as less wildlife disturbance. The longer access has repeatedly been used for seismic and drilling operations over the past several years. Repeated heavy vehicle traffic increases the potential for irreparable damage. The main rationale brought forward for the longer access route was opening up access to existing cabins.

Subsequent to the meeting in Calgary on March 5th between Northrock and Tulita DLC some new costing data in respect of the Little Bear route was provided. It was explained that the number of loads and related equipment is significantly greater for this type of operation (i.e. well being drilled to 3,000 metres) than the wells drilled in the recent past in the Tulita District. Any opportunity to shorten access distances would reduce the environmental impact, the time required to commence drilling, and the cost of the operation. The cost in extra equipment, fuel, camp costs and construction related to the 80 + kilometres of additional access would exceed \$1.9 million. Standby charges for the full complement of equipment, fuel, the rig, and trucks to be staged at Little Bear River is expected to be \$1.5 million. The time required to build the extra 80 + km. of access using the Little Bear River route would result in the drilling operation being completed after the expected closure of the Winter Road. Consequently, it is anticipated that the rig would have to be staged at the Little Bear staging area again and barged out after break-up. Cost of standby charges for the equipment until barging season started would be \$0.5 million. A round trip, including load and off-load times from Little Bear staging area to the drill site is expected to take 2½ days. Additional costs associated with trucking the rig to the wellsite and back to the Little Bear staging area using a limited number of rig moving trucks would be in excess of \$2 million. (Total extra costs estimated \$5.9 million) Construction of the additional 80 + km. of access on the Little Bear route would consume an extra 2 to 3 weeks, increasing the risk that Northrock would require 2 seasons to complete the drilling of this well. A two season well would add many millions of dollars to the cost of the operation.

Heritage Resources Impacts

The Prince of Wales Northern Heritage Centre expressed concerns about impacts on archeological sites during the referral process. The Heritage Centre concluded that sites near the Mackenzie River would not be affected but remained concerned about sites near Stewart Lake. A review of information submitted by Northrock in support of Land Use Application S00B-003 for seismic in the same area revealed the following:

- There are 4 archeological sites near Stewart Lake the access road may encroach on.
- The locations of the sites differ between the project map in the application for S00B-003 and the Final Plan for S00B-003. The coordinates in the site descriptions indicate that the Final Plan is more accurate.
- Two of the sites are located on a sand spit near the outflow of Stewart Lake, according to the site descriptions. The access road drawing in application S02A-004 indicates that the road does not interfere with the sand spit.
- One site is located on a terrace near the first creek on the east side of the outflow of Stewart Lake. The access road appears to be well away from the site.

- According to the site description the third site is located “on east side of Stewart Lake, above north east tip of sand spit”. It is unclear if this site may be impacted. Its name “seismic” indicates that it was probably discovered on or near a seismic line. This portion of the access road was used for a seismic program two winters ago. Any damage has likely already occurred.

The Northern Heritage Centre in its letter of January 8, 2003 recommended to request an archeological follow up study to assess if archeological resources have been impacted. Given the uncertainty around the exact location of sites and the possibility that previous activity in the area may already have caused some damage, this appears to be a reasonable demand. To protect the sites on the sand spit the Permit and Licence should require the applicant to draw water from the outflow of Stewart Lake – as was requested by the community – and prohibit drawing water from Stewart Lake – as was requested by DFO.

The Fort Norman Metis Land Corporation raised a concern about disturbance to a culturally significant area. In a fax letter of January 10, 2003 to the Sahtu Secretariat Inc. it was asked to provide information and/or comments to the SLWB on the matter of heritage resources on the lands included in the application. In a fax letter reply of February 19, 2003 Sahtu Secretariat Inc. said that with the establishment of Registered Designated Sahtu Organizations it had assigned its authority under Chapter 26 of the Land Claim Agreement to the District Land Corporations.

3.3 Preliminary Environmental Screening

Based on the information provided in the application and by referral agencies (see below) a Preliminary Environmental Screening was performed in accordance with MVRMA section 124. An up-dated Preliminary Environmental Screening Report is attached. The report concludes that the environmental impact of the proposed project can be mitigated with known technologies. It also concludes that **significant public concerns have been raised**. The Preliminary Environmental Screening Report will be forwarded to the MVEIRB once it has received approval from the Board.

3.4 Conformity with Land Use Plan

The Sahtu Land Use Planning Board confirmed in a letter that there is no applicable Land Use Plan for the area affected by the proposed development, and that the SLWB has met the referral obligations of the Mackenzie Valley Resource Management Act.

The Sahtu Land Use Planning Board pointed out two areas of concern, an area encompassing Stewart Lake, Tate Lake, and the Little Bear River, as well as a heritage trail from Tulita to Drum Lake, known as Mountain Dene Trail. The Preliminary Draft Land Use Plan classifies the Stewart Lake area as a “Special Management Area” - because of its intensive traditional use - and the Mountain Dene Trail as “Conservation Area”.

The Stewart Lake “Special Management Area” would allow industrial development provided that the community and affected users are consulted and their concerns addressed, and appropriate measures are taken to prevent damage to fish, wildlife, archeological sites, burial sites; and other heritage resources. The Mountain Dene Trail “Conservation Area” would prohibit oil and a gas exploration and development. The SLUPB also stated that the full extent of the trail has not yet been mapped.

3.5 Draft Permit / Licence

Draft Permit and Licence are to be determined.

3.6 Terms and Conditions

Draft Terms and Conditions for the Permit and the Licence are to be determined.

4. Other Agency Comments

The applications were forwarded to 26 organizations and a total of 19 organizations responded in writing during the regular referral process. During further investigations ordered by the Board, Tulita RRC and DFO have submitted comments.

Tulita Renewable Resources Council

The RRC stated that no communication has taken place between Northrock and the RRC between September 13, 2002 and December 17, 2002. In a fax letter dated January 13, 2003 Tulita RRC explained to Northrock Resources Ltd. that it did not have all the necessary information to identify the 10 trappers and how their activities would be affected by a new route. It said it would like to meet with Northrock to further discuss trappers' compensation, ice crossing, land erosion, hunting, fishing, and gathering areas.

Prince of Wales Northern Heritage Centre

The Prince of Wales Northern Heritage Centre requested that the applicant be required to conduct an archeological follow up study to determine to what extent the development has impacted on archeological resources.

Tulita District Land Corporation

Tulita District Land Corporation notified our office that it would not comment on the application. Instead the individual member land corporations would submit separate comments. In a fax letter dated February 25, 2003 however, Tulita DLC did put forth its comments saying Northrock Resources Ltd. should use the existing staging site at the Little Bear River and use the existing access route. It will not support the new staging site at Keele River and the access route as proposed by Northrock Resources Ltd.

Fort Norman Metis Land Corporation

Fort Norman Metis Land Corporation submitted comments on January 7, 2003. Fort Norman Metis LC disagrees with the proposed access route, voiced concerns over disturbance of areas of cultural significance, and insisted that the issue of trapper compensation be dealt with.

Department of Fisheries and Oceans

DFO issued a Letter of Advice on November 12, 2002. In addition to the standard mitigation measures for stream crossings and water withdrawal, DFO requested the following measures:

- Measure water depth on site prior to withdrawal. Withdrawal is only to be permitted if a water depth of at least 50 cm exists.
- No more than 5% of the water volume (excluding ice) of any lake may be withdrawn in one season.

- Instead of the outflow of Stewart Lake, the lake itself should be used [Note: This is in contrast to the wishes of the community which expressed during consultation of this and a previous project, that water from Stewart Lake may not be used, only from its outflow.]
- Dissolved oxygen/temperature profiles are to be measured prior to withdrawal and at the end of the season.
- All water withdrawal is to be recorded per day.

Sahtu Renewable Resources Board

The SRRB was asked for advice on trappers compensation. The SRRB stated that the issue of trappers compensation does not impinge on wildlife and that the SSRB has no jurisdiction over compensation.

In a telecon on January 23, 2003 Jody Snortland, Executive Director of SRRB explained that the Land Claim calls for compensation for "harvest", not just trapping. Harvest includes fishing and hunting.

5. Conclusion

During the additional investigations all concerns about environmental impacts have been addressed. Trappers' or harvesters' compensation is outside the Board's jurisdiction. Concerns about archeological sites have been addressed and concerns over disturbance to culturally significant areas have not been substantiated. The Preliminary Environmental Screening Report did not identify any Significant Adverse Environmental Impacts. All potential environmental impacts identified during public consultation and by referral agencies can be mitigated with known technology and have been addressed in the Terms and Conditions.

Significant Public Concern does remain from the Tulita District Land Corp., the Fort Norman Metis Land Corp., and Tulita Renewable Resources Council. These concerns have been stated in letters written to the Board and summarized in this Staff Report.

The Board has several options for dealing with these significant public concerns. They are summarized below;

- a) decide that there is no significant public concern and recommend to issue the Land Use Permit and Water Licence,
- b) hold a Public Hearing to gather more information about the public concern,
- c) recommend an Environmental Assessment to the MVEIRB.

The Preliminary Environmental Screening Report has been submitted to the Board for approval. Should the Board grant approval the Permit and the Licence could be issued after Part 5 of the MVRMA has been complied with by the MVEIRB.

6. Recommendation

In view of significant public concern remaining with Tulita District Land Corp., Fort Norman Metis Land Corp., and Tulita Renewable Resources Council, it is recommended that SLWB pursuant to MVRMA Section 125 recommend an Environmental Assessment of the proposed project be carried out by the Mackenzie Valley Environmental Impact Review Board.

7. Reference Material Attached

- 7.1 Map of Permit Area.
- 7.2 Fax Letter from Tulita District Land Corp. dated February 25, 2003
- 7.3 Fax Letter from Fort Norman Metis Land Corp. dated January 7, 2003
- 7.4 Fax Letter from Tulita Renewable Resources Council dated January 13, 2003
- 7.5 Fax Letter from Northrock Resources Ltd. dated March 13, 2003
- 7.6 Draft Preliminary Environmental Screening Report dated March 17, 2003

Respectfully submitted,

Land/Resource Geographer

Executive Director Comments:

G.T. Govier
Executive Director