



Mackenzie Valley Land and Water Board
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Staff Report

Applicant: Alex Debogorski	
Location: Smitski #1 claim, Drybones Bay, NT	Application: MV2011C0002
Date Prepared: March 30, 2011	Meeting Date: April 14, 2011
Subject: New Land Use Permit Application	

1. Purpose/Report Summary

The purpose of this report is to present to the Mackenzie Valley Land and Water Board (the Board) the land use permit (LUP) application submitted by Mr. Alex Debogorski and associated comments for diamond drilling and exploration on the Smitski #1 claim in Drybones Bay, NT.

2. Background

- February 9, 2011 – LUP Application submitted;
- February 11, 2011 – LUP Application deemed incomplete;
- February 25, 2011 – supporting documentation submitted to the Board;
- March 3, 2011 – LUP Application deemed complete and sent for review; and
- April 14, 2011 – LUP Application presented to the Board and 42-day timeline.

3. Discussion

This LUP Application consists of drilling activities on the Smitski #1 claim in the vicinity of the Snowfield Camp in Drybones Bay. Mr. Debogorski plans to drill up to 10 holes over a period of 5 years and use the existing Snowfield camp. Proof of permission has been provided with the LUP Application.

4. Comments

Mr. Debogorski holds the rights to explore the Smitski #1 claims in the Drybones Bay area, however, all recent applications for exploration in this area have been sent for Environmental Assessment (EA) for reasons of public, specifically social and cultural, concern.

The proposed LUP is located in the "Shoreline Zone" as described in the "Report of Environmental Assessment and Reasons for Decision on the Consolidated Goldwin Ventures [CGV] Preliminary Diamond Exploration in Drybones Bay" (Feb, 2004) and other EA reports. On page 58 of the Approved 2004 CGV report, the Mackenzie Valley Environmental Impact Review Board (MVEIRB) recommends that no new permits be issued in the Shoreline Zone "until a plan has been developed to identify the vision, objectives, and management goals based on the resource and cultural values of the area."

In 2004, the MVEIRB recommended that the New Shoshoni Ventures (NSV) application for diamond exploration in Drybones Bay, consisting of a 10 hole drilling program in the immediate vicinity of Drybones Bay, an 8-person camp, an extension of the existing ice road to Wool Bay, and storage of fuel, be rejected because of the potential for adverse impacts on the environment so significant that it cannot be justified.

At the same time, the MVEIRB recommended that the proposed CGV development, consisting of 3-6 drill holes, use of the existing winter road, and fuel storage, be approved, subject to specific recommendations, suggestions and commitments, since it was "predominantly lake-based and distant from the most sensitive area of Drybones Bay [and has therefore] avoided most potential impacts to the environment..." This project has since been approved.

Additionally, the MVEIRB recommended approval, subject to specific recommendations, suggestions and commitments, for the North American General Resources Corp. (NAGRC) project, consisting of 2-3 drill holes and extension of the existing ice road to Wool Bay, and the Snowfield Development Corp. (SDC) project, consisting of approximately 100 drill holes, a 20-person camp, geophysical surveys, and fuel storage. No specific rationale was provided for approval of the SDC Project but the MVEIRB felt that the NAGRC project lay outside the most sensitive area of Wool Bay and included design features which would avoid most potential significant adverse impacts to the environment. These projects have since been approved.

As a result of the 2004 EAs, the MVEIRB suggested that:

INAC consider establishing a prospecting permit approach pursuant to section 29 of the *Canada Mining Regulations* for this area in order to give Aboriginal communities concerned about the

Wool Bay and Drybones Bay areas the opportunity to provide input into staking areas and to avoid conflict over land use.

And that:

No new land use permits should be issued for proposed developments within the Shoreline Zone, and within Drybones Bay and Wool Bay proper, for which applications for land use permits have not already been received by the release date of this Report [Feb, 2004] of Environmental Assessment, until a plan has been developed to identify the vision, objectives, and management goals based on the resources and cultural values for the area...

Unfortunately, a responsible party for initiating this project was not identified by the MVEIRB and, as far as staff is aware, no work has been done in this respect.

The "Report of Environmental Assessment and Reasons for Decision Consolidated Goldwin Ventures Inc. (CGV) Mineral Exploration Program" (Nov, 2007) repeated the suggestions above as mitigation measures. This report built on the 2004 suggestions directing the federal and territorial governments to work with the YKDFN and other Aboriginal land users to develop a local Plan of Action for the Shoreline Zone. This report was to be produced within one year of the date of Ministerial acceptance of the EA report. This report has not yet been approved by the Minister. In response to this recommended measure, the Minister writes:

[A] long-term monitoring program are considered excessive for a proposed small-scale exploration project. The Responsible Ministers intend to proceed with a planning exercise for the Drybones Bay area which will consider the processes used to develop other plans in the Northwest Territories, such as the Great Bear Lake Management Plan and the Inuvialuit Community Conservation Plans. This planning initiative will be conducted in a collaborative fashion with key parties, outside the specific context of the environmental assessment for the Consolidated Goldwin Ventures Inc. project. It is more appropriate for this work to be carried out under Indian and Northern Affairs Canada's co-ordination given the Department's involvement in land and self-government negotiations. Furthermore, Canada has the recognized authority over this area until a land claim is settled and the acceptance of Measure 3 would indicate otherwise. While the Responsible Ministers appreciate the Review Board's desire for certainty of a short time line, we cannot at this time commit to the time lines proposed by the Review Board. Such a collaborative stakeholder-driven planning process needs sufficient flexibility in order to be most effective. Finally, the

Responsible Ministers consider the statement included in Measure 3, directing the Minister of Indian Affairs and Northern Development to provide a policy directive to the Mackenzie Valley Land and Water Board, to be inappropriate as a mitigation measure.

The “Report of Environmental Assessment and Reasons for Decision on the New Shoshoni Ventures (NSV) Preliminary Diamond Exploration in Drybones Bay” (Feb, 2004) concluded that “any activity conducted in the vicinity of burial grounds could have significant adverse impacts on the social and cultural environment.” This conclusion is repeated in the “Report of Environmental Assessment and Reasons for Decision on Sidon International Resources Corp. (SIRC) Exploratory Drilling at Defeat Lake” (Feb, 2008) which further states that “the spiritual aspect of this disturbance would result in a cultural impact of the highest significance.” In this report, the MVEIRB further recognized that the Drybones Bay landscape “is being cumulatively affected by many different human activities, the impacts of which will be added to by the proposed development [Sidon International]” and indicated that “these cumulative cultural impacts are at a critical threshold.” Nevertheless, the MVEIRB approved the Sidon project, subject to 3 mitigation measures, consisting of 1-3 drill holes, a 6-person camp, and fuel storage. Construction of a winter road from Great Slave Lake to old Fort Providence was rejected

This Sidon EA Report does not repeat the recommendations referenced above from the 2004 or 2007 EAs. It too is awaiting approval from the Federal Minister.

5. Review Comments

Please see the attached Reviewer comment summary table.

6. Security

Staff have estimated a security of \$44,080.00 for this operation. The INAC Inspector recommends the Board’s determination.

7. Conclusion

This proposed project is within the lands identified by the YKDFN and other Aboriginal groups as being significantly important for reasons of cultural and spiritual value. In 2008, the MVEIRB indicated that “cumulative cultural impacts are at a critical threshold” in the Drybones and Wool Bay areas. On the other hand, Mr. Debogorski, holding the mineral claims, issued by INAC, has the right to do work on that land. The lack of up-front consultation in the free entry mineral claim process puts the Board in a difficult position.

8. Recommendation

Staff recommends that the Board refer LUP Application MV2011C0002 to Environmental Assessment based on:

- a) The contentious history of other applications in the Drybones Bay area from existing EA evidence on the public registry;
- b) MVEIRB's previous recommendations that no new land use permits be issued for proposed developments within the Shoreline Zone, and within Drybones Bay and Wool Bay proper, for which... until a plan has been developed;
- c) MVEIRB's previous and most recent statement that the "cumulative cultural impacts [in the Drybones and Wool Bay areas] are at a critical threshold"; and
- d) Significant public concern regarding the integrity of the cultural and spiritual values associated with the Drybones Bay area with continued development identified through reviewer comments.

9. Attachments

- Reviewer Comment Summary Table
- Application
- Map
- Draft Preliminary Screening
- Draft Security Estimate
- Draft LUP Cover Page & Terms and Conditions
- Draft EA Referral Letter to Proponent
- Draft EA Referral Letter to MVEIRB
- Draft Approval Letter

Respectfully submitted,



Shannon Hayden
Regulatory Officer

Comment Summery Table - New LUP
Alex Debogorski - MV2011C0002

REVIEWER	TOPIC	COMMENT	RECOMMENDATION
Rick Walbourne, DFO	Mineral Exploration Activities	Impacts to fish and fish habitat can occur during mineral exploration activities through loss of riparian habitat during site clearing, erosion and sedimentation, release of drilling fluids and cuttings into aquatic environments, disturbance to fish and fish habitat during sensitive life stages, and water withdrawals, particularly during low water periods, associated with drilling, surface stripping and camp operations.	Adhere to the DFO protocol on Mineral Exploration Activities, available at: http://www.dfompo.gc.ca/regions/central/habitat/os-eo/provincesterritories-territoires/nt/os-eo24-eng.htm
Clint Ambrose and Scott Stewart, INAC	Restoration - Rutting of the ground surface	As the rutting of the ground surface with equipment is prohibited on all land use operations, the Inspector wants the applicant to be aware of operating conditions that must be employed to prevent this concern from arising.	The attached list of Inspector recommended operating conditions (#11 and #20-#23) should mitigate the potential for environmental concerns to arise throughout this land use operation.
	Land Administration	[No] concerns	N/A
	Mining Records	[C]lain No. K03016 SMITSKI #1 is active and owned by Alex Debogorski	N/A
Chief Tedd Tsetta, YKDFN	Environmental Assessment(s)	<p>The land in this area is of such value to the First Nation that it cannot afford to have further development... When a land is this important, no level of risk is acceptable.</p> <p>The YKDFN steadfastly maintains its opposition to permits in Drybones Bay. This application should simply be refused, but as that is not possible the only option is to continue this through review to an EA, thereby burdening everyone involved in a process that YKDFN will request [sic] nothing less that the permit refusal through every means available.</p> <p>This area has been subject to EAs for six previous applications, and this application should be seen in the same light. The applicant proposes to drill five holes on the North border of his claim block, immediately adjacent to the area which New Shoshoni proposed to explore. This EA (EA03-004) rejected the development ...[because the] "<i>development [was] likely in the Review Board's opinion [to] cause an adverse impact on the environment so significant it cannot be justified</i>" ... [T]here is no reason to suspect that the impacts would be any different with this project.</p> <p>YKDFN note that there are a large proportion of outstanding issues from previous EAs yet to be implemented... [i.e. land use and management plans. EA 03-003 suggestion #5] "<i>No new land use permits should be issued for new developments within the Shoreline Zone, and within Drybones Bay and Wool Bay proper, until a plan has been developed to identify the vision, objectives, and management goals based on the resource and cultural values for the area.</i>"</p>	<p>Immediately refer to Environmental Assessment.</p> <p>Place the registry entries for all of the Environmental Assessments and corresponding MVLWB files as part of the this file (EA02-002, EA03-003, EA03-004, EA0506-005, EA0506-006 and MVLWB files MV2003C0003, MV2003C0008, MV2003C0016, MV2003C0023, MV2004C0038, MV2004C0039). The vast amount of relevant evidence already before the Boards cannot and should not be reproduced yet again. The evidence presented to the Board in those cases... is directly applicable to this file and convinced the Board that "<i>Drybones Bay is a vitally important cultural and heritage site for YKDFN...</i>" (EA03-002).</p>
	Existing Impacts	<p>It is the Mackenzie Valley Land and Water Board which permitted the Snowfield operations in Drybones Bay that lead to a large forest fire which burned more than a thousand acres... The traditional use of this area has been altered already - further development and risk is unwelcome as the land is just starting to heal.</p> <p>The continued issuance of permits in this area invalidates the mitigations of the previous EA reports. The continued issuance of permits has lead to cumulative impacts that have had serious and irreplaceable impacts to the YKDFN and this permit will only add to the impacts.</p>	[Do not issue permit.]
Patrick Clancy, ENR	N/A	[N]o comments or recommendations at this time	N/A
Ron Bujold, EC	Water Quality	It is a requirement of Section 36(3) of the Fisheries Act that all effluent discharged into water frequented by fish, be non-deleterious.	The proponent shall ensure that any chemicals, fuel or wastes associated with the proposed activities do not enter waters frequented by fish.

REVIEWER	TOPIC	COMMENT	RECOMMENDATION
	Toxic Substances	The proponent should be aware that the Canadian Environmental Protection Act lists CaCl as a toxic substance.	The proponent shall ensure that if CaCl is used as a drill additive, all sumps containing CaCl are properly constructed and located in such a manner as to ensure that the contents will not enter any water body.
	Artesion Flow		If artesian flow is encountered, the drill hole shall be plugged and permanently sealed upon completion.
	SARA	The following species at risk as assessed by COSEWIC and/or listed on Schedule 1 of the Federal Species at Risk Act (SARA) may be encountered in the project area: Horned Grebe, Yellow Rail, Short-eared Owl, Common Nighthawk, Rusty Blackbird and Wolverine.	Refer to species status reports and other information on the Species at Risk registry at www.sararegistry.gc.ca for information on specific species as well as the booklet "Species at Risk in the Northwest Territories" (2010 Edition) available at: http://www.enr.gov.nt.ca/_live/pages/wpPages/Species_at_Risk.aspx If Species at Risk are encountered or affected, the primary mitigation measure should be avoidance. The proponent should avoid contact with or disturbance to each species, its habitat and/or its residence.
	Monitoring	Monitoring should be undertaken by the proponent to determine the effectiveness of mitigation and/or identify where further mitigation is required.	As a minimum, this monitoring should include recording the locations and dates of any observations of Species at Risk, behaviour or actions taken by the animals when project activities were encountered, and any actions taken by the proponent to avoid contact or disturbance to the species, its habitat, and/or its residence. This information should be submitted to the appropriate regulators and organizations with management responsibility for that species, as requested. For species primarily managed by the Territorial Government (Peregrine Falcon, Rusty Blackbird, Boreal Woodland Caribou and Wolverine), the Territorial Government should be consulted to identify other appropriate mitigation and/or monitoring measures to minimize effects to these species from the project.
	Migratory Birds	Section 6 (a) of the Migratory Birds Regulations states that no one shall disturb or destroy the nests or eggs of migratory birds. In the boreal region of the Northwest Territories (Figure 1), migratory birds may be found incubating eggs from May 7 until July 21, and young birds can be present in the nest until August 10.	If active nests are encountered during project activities, the nesting area should be avoided until nesting is complete (i.e., the young have left the vicinity of the nest). If vegetation clearing or tree removal is necessary to upgrade the access road to the quarry or to access borrow material these activities should be conducted outside of the migratory bird breeding season.
	Notification	EPO should be notified of changes in the proposed or permitted activities associated with this Water Licence.	
Tsatsiye Catholique, LDFN	Historic Value	[T]he Wildlife, Lands and Environmental Department of Lutsel K'e, NT will support the Yellowknives Dene in their decision to not support this project on the grounds that it's too close to the Great Slave Lake and its historic value towards the local Aboriginal populations.	