

BONNECHERE RIVER WATER MANAGEMENT PLAN
STANDING ADVISORY COMMITTEE (SAC)
FINAL Minutes of Meeting #10 – February 28, 2007
Bonnechere Valley Township Office, Eganville

Attendees:

SAC: Don Pouliot, Murray Bimm, Murray Borer, Steve Munger, Lucy King, Aurel Boucher, Ross Campbell, Niall McArdle

Algonquins of Pikwàkanagàn:

MNR: Michael Radford, Joanna Samson, Tom Giesler

Waterpower Producers: Peter Boldt (RPG), Janusz Rydel (Multistream Power Corp.), Frank Scheer (Eganville Generation Corporation), Andreas Vornweg (Vornweg Waterpower)

Regrets:

Kevin O'Connor, Jan Leroux

1. Housekeeping Items

1.1 Review of Agenda

Michael went through the agenda and noted that the Amendment #5, dealing with the Lake Trout Box and Round Lake, would be for discussion at the next SAC meeting. This proposed amendment was being deferred due to the need for Darwin Rosien to present his findings of the Lake Trout work he has been doing on Round Lake.

2. Review & Approval of Minutes of Meeting #9 – Jan 17, 2007,

Discussion concerning Amendment proposal #3 took place. Don Pouliot had chosen not to make a recommendation regarding this amendment at the previous meeting until he spoke with the RLPOA. Don reported that the consensus of the RLPOA was concern regarding erosion. If this amendment to extend the hat back on Round Lake were to be approved, RPG could hold the lake higher for a much longer period of time. Therefore the RLPOA does not want the hat extended.

Don referenced historical records going back to 1986 and indicated that that on only one occasion has the water levels exceeded both the lower limit (bottom of the Trout Box) and the upper limit of the shoulder of the top hat. This was in 1997. However there has been 6 other occasions where the upper limits of the shoulder were not exceeded by virtue of the fact that by going below the trout box limit of 170.1 m there was more capacity for the lake to absorb the freshet and the upper limits were thus not exceeded.

Don was also interested in knowing what would happen with this dissenting opinion and wondered if he should be submitting something in writing from the RLPOA to reflect this. Joanna explained that he could submit something at this point if he wished to accompany the recommendation from the SAC to the Regional Director. However he should keep in mind that if the Regional Director were to approve the proposed amendment (depending on

the type) that it would still need to go through public consultation which is more widespread than the SAC. The RLPOA would have an opportunity to comment at that time as well.

ACTION: Don will submit something to Joanna in writing to reflect this position.

3. Operations Update – Power Producers

Andreas Vornweg

- The water is going down a little, however still trying to get lower to have room for the spring freshet.
- Not anticipating a large freshet

Janusz Rydel

- Things are not OK
- Water fluctuations continue, however, not as frequently as before.
- One situation in particular, the water level went up over ½ m in 3-4 hours.
- Still doesn't know why this is happening.
- One occasion the operation was outside of the operating bands for a few hours
- There seems to be a peak of water between 3-5pm everyday.

Frank Scheer

- Down to 2 units, water is going down now
- Not seeing the same thing as Janusz is at Douglas

Peter Boldt – RPG

- 2 logs were pulled last week
- on Friday, Tom, Darwin, myself and others will be going to drill on Round Lake
- You really need to see Darwin's work on the Lake Trout to have a good discussion which is why it is being moved to the agenda for the next meeting. The work Darwin has done and the information he has collected is very good and he is to be commended. Based on the information, I have modified my proposal, but you'll need to see the data first.
- Renfrew – will likely be down a foot at freshet
- Too much water this year.

4. RPG Amendment Package

Peter went through a power point presentation to highlight amendments #2, #7 & #8

Amendment #2: Definition of Flood

Peter Boldt:

- In the WMP it states that a municipality has to declare a flood
- In 2005- Golden Lake had high water. By pulling logs at Round Lake, it would be detrimental to Golden Lake.
- The property owner's on Round Lake want all the logs out of the dam, however, this is not possible because of the effect it will have on the properties on Golden.

- This amendment is asking that when in a high water condition, the plan has a qualifier so that I don't have to go to a municipality to declare a flood.
- There is nothing in the WMP that accounts for this at present
- The wording would need to reflect that when Golden Lake achieves a non-compliance situation (outside of the approved operating limit), RPG ceases pulling logs at Round Lake. This would allow for the non-compliance. It wouldn't actually be a non-compliance as it would be out of my control. More logs could be pulled at Round Lake; however the consequences would be very severe for Golden Lake and Tramore.
- The wording in the plan would need to recognize the process. As soon as the water goes over the high water mark in Golden Lake and there are no more logs left in the dam, there are no more log pulls at Round Lake until the water recedes.

Steve: Is there a definition of flood for a municipality?

Michael: Yes. It refers to damage to life or property.

Murray Bimm: But what about Round Lake? If there are no more pulls then Round Lake may be badly affected. There should be a balance.

Peter: Yes. There needs to be a balance, but what is the marker. The Park? Someone's house? How do we evaluate the devastation?

Mike Radford:

- Peter did a good job in 2005 to minimize the effect of the high water on both lakes.
- This is a year by year thing
- What causes the MNR concern is that in the wording RPG has put forward, the plan wouldn't be in effect.
- The big issue for us is Peter's report of non-compliance and if it was preventable VS non-preventable.
- As the plan was being developed, it was ahead of the final version of Appendix J (Water Management Planning Guidelines). This final version provides guidance to enforcement and compliance that our WMP doesn't have.
- One of the main points is that an exceedance of the water level outside of the approved operating bands is considered an "incident" and gets reported as an "incident". Only some of these incidences may be an actual non-compliance if it is deemed to be preventable. Any "incident" that is considered to be non-preventable would remain as an incident and would not be considered a non-compliance with the plan. The plan is still in affect and the operator is still responsible for bringing the level back within the approved upper and lower limits as soon as possible.

Peter: When would be that "non-preventable" line? Once it's out on Golden Lake, can we let that go more i.e. another 6 inches before we stop pulling at Round Lake? In other words, what is the amount of water that we will allow Golden Lake to take before we stop pulling logs at Round Lake?

Mike:

- Appendix J outlines high & low water indicators. The WMP is not suspended i.e. the plan is still in effect, but if the indicators are met in a given situation, it's considered non-preventable and the incident would technically still be in compliance.
- Our Plan doesn't conform to this currently. Appendix J does identify criteria for low & high water indicators, giving the principle for accepted operations outside of the approved limits.
- An amendment would need to look at wording for high/low water conditions and have provisions for operating when outside of the approved range. Also, the plan will need to have wording around what an "incident" is.
- Although Appendix J has good direction, it is poorly written.

Peter: We need to define the process in the plan to make it easier for the operator. The plan will need to spell out specific parameters for low and high water conditions.

Mike: The parameters are in Appendix J that can be brought into our plan.

Joanna: If Peter wants to come up with specific parameters for Golden Lake for high water conditions then yes we will definitely consider that in this amendment.

RECOMMENDATIONS:

Murray Borer: Support changing the plan to conform to Appendix J in terms of high/low water.

Steve: Yes, I agree. However, I would like to point out that the SAC has not had the opportunity to read Appendix J.

Don: Yes, but is Peter happy with this? Peter: No but I'm OK with it as long as there are defined parameters in the plan.

Lucy: Yes

Murray Bimm: Yes

Aurel: Yes

Ross: Yes

Amendment #7: Golden Lake lower limit

Peter:

- This proposed amendment is a starting point for discussion.
- Golden Lake is very hard to drain. We get down as low as possible to alleviate some room for spring freshet.
- We use the sill height – could never drain below the sill, a defined level, but MNR has their own comments.
- From September on we get ready for freshet.
- We now have an imposed bottom that we never had before.
- The main Golden Lake Issue here is that we need it lower in the fall and spring, as bone dry as possible, to get as much water as possible – therefore to the sill.
- The natural barrier is higher than the sill.

Joanna: If you can't get lower than it, why wouldn't you use the natural barrier as your number?

Peter: Because we don't know what it is yet. There are 4 impediments and we don't know which one does the most damage, so we need to look at all of them. There is a Masters student that is going to study this summer.

Mike Radford: This is an information need.

Peter: If I'm allowed to use the sill of the dam, I'll never go below it. The principle being that in order to pull Round Lake down enough to prevent ice push on shorelines, I can't pull Golden Lake down enough to accommodate.

Mike:

- In the WMP we had to establish a lower limit based on historical information. RPG has never gone below the line in 27 years.
- We aren't sure how Whitefish will be affected, therefore using this lower limit and going lower would be an information need
- We don't disagree with Peter's principle. It doesn't take much for a change in slope on Round Lake before Golden Lake stops going down. We can see maybe going lower in the fall, but as we don't know the height of the spawning area, we aren't comfortable with using the sill as the lower limit until the other info needs are considered.

Steve: Sounds like we need more information prior to making a decision.

Mike: For the interim, until more information is available, if the fall line were brought down to the spring line (168.7), Peter would have more flexibility. This would allow for more room in Golden Lake in the fall, or more capacity for handling Round Lake's problem. Both Darwin Rosien and Kirby Punt didn't believe that this additional drawdown in the fall would have an impact on the whitefish because this elevation is already achieved in the spring.

Steve: Modelling/flow study would be helpful

Peter: The limit needs to be dropped before a flow study could happen. Golden Lake continuously goes down – once I get going, I don't want it to flat out.

RECCOMENDATION FROM SAC:

Murray Borer: I agree that we should re-visit the bottom, but using the sill is ridiculous. I would be in favour of having the fall line brought down to the spring line (i.e. fall down to 168.7), but not brought down to the sill limit.

Aurel: More testing should be done, leave it another year.

Niall: OK with Murray Borer's recommendation to lower it in the fall, but other information needs should be met first before doing anything further.

Lucy: Agree with Murray's recommendation. Further studies are important.

Ross: Agree with drawdown in the fall, more information is required for anything else.

Murray Bimm: Agree with group (drawdown further in the fall)

Don: Ok with drawdown in the fall.

Steve: If drawdown in the fall is to define the flow the constriction creates, then flow constriction is based on the natural constriction. Peter: This is not the purpose of the

amendment at this time. I'm looking for more room in Golden Lake for freshet. Steve: OK with lowering in the fall.

Mike: **Recommendation from the SAC is that the proposed amendment for the lower limit on Golden Lake be amended to reflect the fall period drawdown to 168.7, which is the same as the spring, to give RPG more room.** This is a compromise until the information needs concerning Whitefish are sorted out.

Amendment #8: Compliance & Enforcement

Peter: Currently investigation of non-compliance and the decisions to apply consequences are to be conducted solely by MNR. This amendment would change this such that this would be conducted by representatives from the power producers, MNR, SAC, and a third party arbitrator.

- charges against RPG and myself were dropped
- there was a communication breakdown
- would like a consistent process
- if there is a difference of opinion between MNR and power producers, would like to see a mediation process
- I would like to have SAC involvement, as the plan was created through a public process
- The group would get together and there should be an agreement between all parties before enforcement action takes place.

Mike: This proposed amendment speaks to a group that would decide remedy or charges if an operator were to be outside the approved operating regime. This goes against the principle of government deciding.

- **Mike read from Appendix J: Enforcement & Compliance Guidelines, Introduction Section:** *Each instance of non-compliance will be reviewed. The primary investigation or review focus will be on instances where the action of dam owners and/or operators result in water levels and flows outside the approved operating ranges and the action is determined to be deliberate, negligent or repetitive.*
- The decision to turn over to enforcement, i.e. Conservation Officer involvement, is an MNR only decision. However, prior to this decision, there is an opportunity for discussion during the initial review of the incident. Once the review/investigation is turned over to an officer, enforcement action is up to the discretion of the Officer.
- Therefore this amendment where a decision on a remedy which may include enforcement action would be decided by consensus of a group is a non-starter from MNR's perspective.
- However, the SAC can favourably recommend this amendment be put forward.

Steve: More focus should on preventing incidences. The procedure should be documented.

Niall: Who would you propose as a mediator?

Peter: We would hire one.

Aurel: Sounds like this is a non-issue. Action/enforcement is an MNR issue through legislation. We can recommend third party mediation, but is there really any point? However, someone could come in as a part of the investigation prior.

Lucy: What about the decision to apply consequences?

Mike: Yes. This proposed amendment would have the group decide if enforcement action is warranted. This is not how the government does business.

RECCOMENDATIONS:

Steve: Agree with the amendment

Don: I would like to see checks & balances. I think the government should look at something like this. Agree with recommending the amendment. **Note: in conversation with Mike after the meeting, Don indicated that his checks & balances comment referred to the review/investigation of an incident, and not enforcement action. Therefore, he does not agree with the amendment in terms of having a group decide if enforcement action is warranted.*

Lucy: Dis-agree with the proposed amendment. **Note: in an email dated Friday March 2nd, Lucy changed her recommendation from agree to dis-agree for this proposed amendment.*

Murray Bimm: Agree

Ross: Agree

Aurel: Agree

Niall: Agree

Murray Borer: No. Disagree with the amendment.

Andreas: MNR makes the rules, so yes it may be a non-starter, however, an extra step before enforcement actions should be taken in which the public, MNR, and the power producers can be involved.

Mike: An investigation or review doesn't automatically go to a Conservation Officer. There are different stages. A review will take into account a number of factors including weather, the intent of the offender, failure of equipment and unforeseen events. This is not meant to be a public process.

Mike read from Appendix J: "MNR will review all cases of non-compliance. These reviews may include a range of actions from reviewing the report and discussing the issue with the owner/operator up to and including an onsite investigation. Before enforcement action is taken, MNR will have completed their investigation and considered the nature, severity and the reasons for the non-compliance."

5. Agenda & Date of Next Meeting

Agenda: Darwin's Lake Trout presentation and discussion of amendment proposal #5

Date of Next Meeting: April 18, 2007 – @ 6pm at the Township Office in Eganville

ACTION: Frank to Book Township Office

6. Adjournment

The meeting was adjourned at 8:50 pm.