



BROKENHEAD
Ojibway Nation
BAASKAANDIBEWIZIIBING

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August 24, 2020

Via Email

Environmental Approvals Branch Manitoba Conservation and Climate
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Jennifer.Winsor@gov.mb.ca

Attention: Jennifer Winsor

**RE: Brokenhead Ojibway Nation – section 35 rights and the duty to consult –
CanWhite Sands Corporation Environment Act Proposal File No. 6057.00**

The elected Government of the Brokenhead Ojibway Nation ("BON") has recently been made aware of **CanWhite Sands Corporation's** submitted **Environment Act Proposal** ("EAP") (public registry File Number 6057.00) to obtain Manitoba environmental approval to construct a silica sand processing facility to be located near Vivian, in southeastern Manitoba. We are requesting that your Government immediately suspend its approval process until: (a) such time that the appropriate federal authorities have the required information from CanWhite Sands Corporation to determine the extent of the adverse impacts the proposed project will have with respect to federal jurisdiction; and (b) such time as the Crown engages BON in full, proper and meaningful consultation under section 35 of the *Constitution Act*.

To be clear, BON is requesting a joint federal – provincial panel review process with respect to the proposed project.

An immediate concern that the current EAP raises is the splitting up on the Silica project into two separate EAP's for environmental approval. Once the proposed silica processing facility receives Manitoba environmental approval, CanWhite intends to submit a second

and separate EAP for environmental approval, under the Manitoba Environment Act, for its proposed silica sand mine and the mining method to extract the silica sand.

We want to convey at the outset, that this splitting of a single proposed development project into two separate projects makes approval, under the Manitoba Environment Act, of the silica sand mine and the mining methods to extract the silica sand, a foregone conclusion and also fails to provide BON members and other citizens, with the full scope of information of the entire project. This is unacceptable, it is our position that this project must proceed under one single EAP for environmental approval.

In our brief review of the EAP, we have determined that EAP is fundamentally deficient with respect to addressing BON's treaty and aboriginal rights protected under section 35 of the *Constitution Act*. The EAP even goes so far as to expressly state that the project is not expected to adversely impact the exercise of Indigenous and Treaty Rights. This is an inherently flawed and untrue statement given the concerns we will outline in our more detailed response. This understanding bears no relation to the BON reality of its members or the potential for the project to impact BON's rights and interests and the rights and interests of the BON members. The EAP is missing critical information about BON's concerns and information on BON's rights, claims, interests and impacts on the same. The EAP contains generic statements and assumptions that are not grounded on information or evidence.

We also want to bring to your Government's attention that the Brokenhead River is a fish bearing river and this river flows right through our Reserve lands. Despite the potential for the project to have adverse impacts on the Brokenhead River which runs through our Reserve lands and which community members use for harvesting, fish and other traditional and customary purposes, BON has not been consulted by the Crown, prior to CanWhite's EAP submission.

The Brokenhead River begins in the wetlands of Sandilands Provincial Forest, located in Southeastern Manitoba. It ultimately drains 200 kilometres later into Lake Winnipeg. Most of the river is navigable by canoe or kayak. Bon is of the view that this meandering river is now under threat and that the Brokenhead River may become a toxic dumping ground for CanWhite Sands Corporation as clarified below.

CanWhite Corporation indicated in its EAP that 15 percent of what it will extract (from 200 feet below the surface in the Winnipeg Formation aquifer), will be sand and shale. What the EAP quite coincidentally fails to mention is that 85 percent, will be water. In order to produce its intended target of 1.36 million tonnes of sand per year, CanWhite Sands Corporation will potentially extract 7.7 million cubic meters of water as well.

This extraction will surely pose a serious problem for the people of Southeastern Manitoba who rely on this aquifer for their drinking water. This much water coming out of the aquifer annually will certainly inhibit the ability of this aquifer to recharge itself.

The sand and water will be sucked up to the surface through hundreds of boreholes a year. Only a fraction of it will be needed to process the sand in the wet plant. The bulk of it, will likely be discharged into the Brokenhead River. This discharged water will likely contain high levels of heavy metals, chromium, arsenic, neurotoxins. It will also be acidic, as pyrite in the shale will cause acids to drain into the Brokenhead River – again this natural occurrence has coincidentally, not been mentioned in the EAP.

The release of deleterious substances into the Brokenhead River would be a clear violation of the Federal *Fisheries Act* and threaten aquatic life there - life such as the rare Chestnut Lamprey eel. The Chestnut Lamprey eel is a species at risk, still surviving in the Brokenhead River.

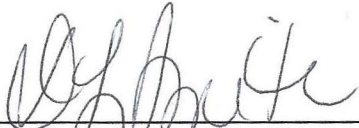
BON Chief and Council are hereby requesting that Manitoba immediately:

1. suspend its approval process until such time that the appropriate federal authorities have the required information from CanWhite Sands Corporation to determine the extent of the adverse impacts that the proposed project will have with respect to federal jurisdiction.
2. take the necessary steps to require that the CanWhite Sands Corporation submit information not only for its proposed silica sand processing facility but also submit information for its silica sand mine and mining method, and that the EAP be reviewed as one project via a joint federal – provincial panel review process, to determine the extent of the adverse impacts with respect to federal jurisdiction.
3. undertake a section 35 consultation process with Brokenhead Ojibway Nation to determine what, if any, adverse impacts of this proposed project may have with respect to Brokenhead Ojibway Nation's section 35 aboriginal and treaty rights prior to any environmental approval of the proposed project, occurs.

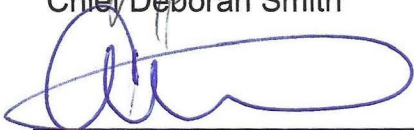
We look forward to hearing your timely response and to working collaboratively with your department to ensure full, proper and meaningful consultation is undertaken with respect to this proposed project.

Sincerely,

BROKENHEAD OJIBWAY NATION




Chief Deborah Smith



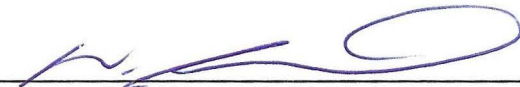
Councillor Allan Hocaluk



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