

PART A - DEFINITIONS

“Act” means *Waters Act* and any amendments thereto.

“Application” means Water Use Application AG07-034, including any additional submissions and/or revisions submitted to the Yukon Water Board by the Licensee, up to the date of the Board’s decision.

“Board” means the Yukon Water Board.

"Inspector" means any person designated as an Inspector under the Act.

"Natural Boundary" means the visible high water mark of any lake, river, stream or other body of water where the presence and action of water is so common and usual and so long continued as to mark upon the soil of the bed of the lake, river, stream or other body of water a character distinct from that of the banks thereof, both in respect to vegetation and in respect to the nature of the soil itself. In addition, the best estimates of the edge of dormant or old side channels and marsh areas are considered to be Natural Boundaries.

“Regulation” means the *Waters Regulation* made under the Act.

“Spill Contingency Plan” means the methodology detailed as part of the Application and included in Water Use Register AG07-034 as part of exhibit 1.2, and any subsequent revisions.

“Waste” means any substance as defined in the Act.

“Watercourse” means any stream, lake, pond, river, creek, spring, ravine or swamp whether ordinarily containing water or not.

“Wetted Perimeter” means the horizontal extent of the present water level while the work is taking place.

PART B - GENERAL CONDITIONS

Representations, Warranties and Undertakings

1. In this licence, the Board has relied on the representations, warranties and undertakings provided by the applicant in the material filed in the Application.
2. Where there is a discrepancy between the Application and this licence, the conditions of this licence shall prevail.

Other Laws

3. No condition of this licence limits the application of any other federal, territorial, first nation or municipal legislation.
4. All construction or installation of works authorized by this licence shall occur on property that the Licensee has the right to enter upon and use for that purpose.

Correspondence

5. Where any direction, notice, order or report under this licence is required to be in writing, it shall be given:
 - a) To the Licensee, if delivered or mailed by registered mail to the following address:

Jerry and Kathy Kruse
Mile 142 Klondike Highway
McCabe Creek, YT Y1A 4N1

and shall be deemed to have been given to the Licensee on the day it was delivered or 7 days after the day it was mailed, as the case may be.

- b) To the Board, if delivered, faxed or mailed by registered mail to the following address:

Yukon Water Board
Suite 106, 419 Range Road
Whitehorse, YT Y1A 3V1
Fax: (867) 456-3890

and shall be deemed to have been given to the Board on the day it was delivered or faxed, or 7 days after the day it was mailed, as the case may be.

- c) The Board or the Licensee may, by notice in writing, change its address for delivery.

Non-Compliance

6. In the event that the Licensee fails to comply with any provision or condition of this licence, the Board may, subject to the Act, cancel the licence.

Other Uses

7. If, subsequent to the issuing of this licence, the Licensee uses water and/or deposits Waste in one or more ways not authorized in this licence, and the combined effect of those uses and/or deposits of Wastes, as determined by an Inspector:
 - a) has no potential for significant adverse environmental effects; and
 - b) does not interfere with existing rights of other water users or Waste depositors; and
 - c) satisfies the criteria set out in column 2 of Schedule 10 of the Regulation,

no amendment to this licence will be required for that use of water and/or deposit of Waste.

Spills and Unauthorized Discharges

8. The Licensee shall immediately contact the 24-hour Yukon Spill Report number, 867 667 7244, and implement the Spill Contingency Plan should a spill or an unauthorized discharge occur. A detailed written report on any such event including, but not limited to, dates, quantities, parameters, causes and other relevant details and explanations, shall be submitted to the Board not later than 10 days after the occurrence.
9. All personnel shall be trained in procedures to be followed and the equipment to be used in the containment of a spill.
10. Ten days prior to construction, the Licensee shall submit material safety data sheets to the Board for all petroleum products and/or hazardous materials that are to be present during this undertaking.
11. The Spill Contingency Plan shall be posted on site, at the pumping location, for the duration of the operating season.

Fuel Storage and Transfer

12. Fuel, lubricants, hydraulic fluids, coolants and similar substances shall be stored and/or transferred a minimum of 30 metres from the Natural Boundary of any Watercourse, in such a way that said substances are not deposited in or allowed to be deposited in waters.

Annual Reports

13. On or before the anniversary of the date of issuance of this licence, and for each year during which this licence is in effect, the Licensee shall submit an annual report to the Board. The report shall include the information required by the Regulation including, but not necessarily limited to:
 - a) a description of the water use operations carried out during the year reported; and
 - b) the quantity of water used each day; and

- c) the hours of pumping for each day; and
- d) the recorded information regarding fertilizer use; including:
 - i) the date, location and the extent of use;
 - ii) the type of fertilizer;
 - iii) the rate of application.

Reports

- 14. Unless otherwise specified in this licence, all reports shall be submitted to the Board in an unbound form that is reproducible by standard photocopier and shall be accompanied by 5 copies.
- 15. All reports shall be submitted in digital form on computer diskette using an IBM compatible format that is readable using commonly available software.

Term of Licence

- 16. The term of this licence is for the period from the effective date to July 4, 2018.

PART C - OPERATING CONDITIONS

Description of Water Use

- 17. The Licensee is hereby authorized to:
 - a) obtain 1,700 cubic metres of water per day from McCabe Creek, at a rate not exceeding 0.05 cubic metres per second; and
 - b) convey water via pipeline; and
 - c) use the water to irrigate land which is used for agricultural purposes,as described in the Application, and subject to the conditions of this licence.
- 18. Water withdrawal may occur only during a 28 day period between May 1 and August 31 of each year.
- 19. Water shall be withdrawn from McCabe Creek only when flows are greater than or equal to 0.33 cubic metres per second.

Water Use Structures

- 20. All works associated with the undertaking shall be maintained and in good repair.
- 21. All water use and construction or installation of associated works authorized by this licence shall occur on property which the Licensee has the right to enter upon and use for that purpose.

General Operating Conditions

22. At least 10 days prior to the commencement of any construction or maintenance works to the irrigation system, the Licensee shall provide the Board with notice and a description of the planned works.
23. All equipment shall be mechanically sound and free of leaks.
24. No heavy equipment shall be operated within the Wetted Perimeter of McCabe Creek.
25. All disturbed ground surfaces shall be stabilized in such a manner so as to prevent erosion and surface runoff from carrying sediment into any Watercourse.
26. Waste substances shall be used, transported, stored or disposed of in such a manner that they are not deposited, or allowed to be deposited, into any Watercourse or on any surrounding land.

Water Pumps

27. The Licensee shall provide barriers consisting of fish guards, screens, coverings or nets on all water intakes as follows:
 - a) Screens or nets shall have a minimum of 3.5 openings per centimetre and openings no greater than 3.2 millimetres along any given side.
 - b) If a punch plate or similar material is used, openings shall be no greater than 3.2 millimetres in length or width.
 - c) There shall be no less than 929 square centimetres of open screen for every 205 litres per minute being withdrawn.
 - d) The barriers shall be monitored and maintained to ensure that they function effectively at all times when water is being withdrawn.
 - e) The barriers shall be designed and installed in such a manner that the screen is submerged and a uniform flow distribution is maintained through the total screen area.
 - f) Water shall not be withdrawn when the barrier is removed for renewal, repair or inspection.
 - g) The Licensee shall cease pumping or decanting and take remedial action if there is alteration to the bed or bank of the water channel.

Fertilizer

28. All fertilizer use shall be recorded, including the:
 - a) date, location, method of application and extent of use,
 - b) product used, and
 - c) rate of application.
29. At a minimum, a 30 metre wide leave strip shall be maintained between the area being fertilized and the Natural Boundary of McCabe Creek.

Pump Access

30. The pump access shall be at right angles to the trend in the creek at that location.
31. All vegetation which must be cleared for the access shall be done using hand tools only.
32. No vegetation shall be deposited into McCabe Creek.
33. The pump access shall be a the minimum width required to safely operate the pump.
34. All embankment material used for the construction of the pump access shall have a minimal potential for erosion.

PART D – MONITORING

35. A flow measurement device shall be installed in McCabe Creek prior to the commencement of any pumping.
36. Water flows in McCabe Creek shall be monitored and recorded daily when pumping.
37. On June 10, July 10, August 10 and September 10 of each year, the Licensee shall submit to the Board, a report that details the preceding month's values for daily recorded water flows in McCabe Creek.
38. The report required in this part of this licence, shall clearly indicate that a copy of the report, in the form that has been delivered to the Board, has been provided to the Selkirk First Nation.

PART E - SITE DECOMMISSIONING AND RESTORATION

39. All disturbed ground surfaces shall be regraded in a manner which is consistent with the topography of the site and which prevents erosion and surface runoff from carrying sediment into any Watercourse. Where soil conditions permit, disturbed areas shall be re-vegetated with appropriate reclamation seeds and/or plant species that are native in Yukon.

40. Upon site decommissioning, the Licensee shall:

- a) remove all equipment, pipes, appurtenances, scrap metal, machinery, parts, barrels and containers from the site; and
 - b) remove water control structures and restore the channel to a stable condition; and
 - c) notify the Board, in writing, 30 days prior to final decommissioning.
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