

August 26, 2009

Icy Waters Ltd.  
Box 21351 Stn. Main  
Whitehorse, YT Y1A 6R7

Attention: Jonathan Lucas, General Manager

**RE: Water Use Application MS08-275 (amend. to licence MS02-203)**

I have completed my review of the above referenced application and am providing you with information pertaining to the processing of this application. In order to continue processing this application, the following information and/or clarification is required:

Amendments and Renewals to a Licence

The current licence expires on April 30, 2012. You have requested amendments to the conditions of the licence including a request to renew the term of the licence and proposed an expiry date of April 30, 2034.

I would like to take this opportunity to clarify the different processes involved with renewal applications and applications to amend the licence. Please note that clause 24 of licence MS02-203 indicates that the Board expected to receive an “..application for amendment of the maximum allowable concentration of total phosphorus..”.

*Renewals:*

The Board will consider applications for renewal to existing licences. If the Board approves the application, the renewed licence will not take effect until the day following the expiry of the current licence. To apply for a renewal of a licence, the Board requires a complete submission that includes at a minimum, but not limited to:

- a) Schedule 4 Application, and
- b) Water Board Information Sheet, and
- c) site maps and plans, detailing site location, all structures, watercourses, etc., and
- d) location of existing or proposed monitoring stations, including written descriptions, and
- e) updated Officers of the Company/Corp form and proof of business registration/copy of annual return, and
- f) requests for changes to the existing licence and rationale to support those changes, and
- g) details of any consultation you have had with interested parties.

*Amendments:*

The Board will consider applications to amend an existing licence. The proposed amendments can be for any condition of the licence, with the exception of the term of licence. The Board requests Applicants submit:

- a) Schedule 4 Application, and
  - b) a letter stating the conditions the Licensee proposes the Board amend, proposed wording for the amended clause and rationale to support why the condition should be amended, and
  - c) site plans/maps/photographs to assist the Board in understanding the operation.
1. Please confirm whether Icy Waters Ltd. is requesting a renewal or an amendment to the licence, based on the descriptions provided above.
    - a) If Icy Waters Ltd. is requesting a renewal, please ensure that the information listed above, at a minimum, is submitted as part of the application.
    - b) If Icy Waters Ltd. is requesting an amendment to the licence, please update the application by revising the appropriate documents to remove all references to the extension to the expiry date.
  2. Please include proposed wording for each licence clause that you are requesting the Board to amend.
  3. If Icy Waters Ltd. is requesting the deletion of any clauses of the licence, please provide the clause number and rationale for the deletion of the clause (i.e. see item 4(b) below).
  4. In review of the requested amendments that are detailed in section B of the application, the proposed amendments appear to only apply to clause 23 of the licence. Please confirm if Icy Waters Ltd. is requesting the Board consider:
    - a) changing clause 23 so that it remains effective for the duration of the licence, and
    - b) changing the maximum allowable concentration for Total Phosphorus from 0.18 mg/L to 0.12 mg/L above background (measured at stations PS-1 and PS-3).
    - c) deleting clause 24 of the licence.
  5. Provide a site plan(s) that depict all existing and proposed monitoring stations.
  6. In your application, the proposed monitoring station PS-8 is described as "Pump House Pond Wall". Please describe in more detail the location of the "wall".

7. Provide Longitude and Latitude coordinates for all existing monitoring stations included in licence MS02-203.
8. Please refer to the rationale provided in Section E of the application. This section proposes to monitor PS-8 for Total Phosphorus, Suspended Solids, Temperature, Oxygen, Nitrate and Ammonia. This section also proposes to collect photographic records.

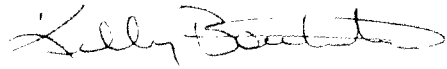
Schedule B of the Licence includes additional parameters that have not been incorporated in the list of parameters that have been proposed for PS-8.

- a) Aside from the parameter Total Dissolved Phosphorus and flow, which you have requested be removed from Schedule B, please explain why pH, Total Nitrate and benthic invertebrate sampling has not been included in the list of proposed parameters.
  - b) Confirm the schedule of sampling for this site as the legend for Schedule B includes 3 different schedules. If you are proposing the Board consider an additional schedule for station PS-8, please refer to the schedule as "D" for addition to the Legend.
9. In your email to the Water Board office, dated July 9, 2009, you have requested an additional amendment related to the sample location PS-3, specifically, that you would like to have it removed from the sampling schedule and replaced with another sample location, either the YECL tailrace or Head Pond 1. As part of the recommended updates to your application, please detail this request with your list of amendments and include rationale for the removal of this sample location given that location PS-3 has been used by both the Licensee and various reviewers during the YESAA process as a surrogate for background/reference conditions.
  10. Please refer to the YESAA Decision Document (file # 2009-0046).
    - a) Please review the Decision Document and where the conditions of the Decision Document change the proposal that is included in your application or require additional activities other than what you have proposed, please identify the condition number and how it has been incorporated into the water use application. Specifically, I would request that you address conditions 2,3,4 and 5 in your response to this letter.
    - b) Once you have reviewed the Decision Document and responded to the information requirements in this letter, please complete the Yukon Water Board's Project Confirmation Form that was previously sent to you. If you require an additional copy of the form you can print a copy from the Board's website at:

[http://www.yukonwaterboard.ca/forms/yesaa\\_project\\_confirmation.pdf](http://www.yukonwaterboard.ca/forms/yesaa_project_confirmation.pdf)

I would like to arrange for a site tour of your facility and the monitoring stations included in licence MS02-203 and proposed in your current application. Please advise when it would be convenient for you to conduct the site tour. If you have any questions, please contact me at 456-3983.

Sincerely,



Kelly Boutilier  
Licensing Officer

c: Register MS08-275, Exhibit 4.1