

REASONS FOR DECISION

WATER USE APPLICATION MS09-280
TINTINA MINES LTD.
AMOCO ROUTE, KM 48 OF THE SOUTH CANOL ROAD

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to Water Use Licence Application MS09-280 for a Type B Licence for a miscellaneous undertaking.

The purpose of the application is to construct four, single span, single lane bridges at Iron Creek, Sidney Creek, Twin Creek and unnamed creek along the Amoco Route. As information for the Board regarding the overall project, the applicant provided in exhibit 1.8, information pertaining to the remaining watercourse crossings along the route which are small tributary streams that do not trigger a water licence.

Notice of this application was provided in accordance with the requirements of the *Waters Act*; the Board did not receive any interventions.

In making licensing decisions pertaining to this application, the Board took into account the *Waters Act*, *Waters Regulation*, the application, recommendations from the interveners, the Board's standard licence requirements, Mining Maps 105C/13&14, the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document, Chapter 14 of the Umbrella Final Agreement (“UFA”) and Board policies.

Environmental Assessment

This application required an environmental assessment under YESAA.

Prior to making licensing decisions, the Board reviewed the YESAA Decision Document that is included in the water use register. As per section 86 of YESAA, the Board agreed that the issuance of licence MS09-280 is not contrary to the terms and conditions included in the YESAA Decision Document.

The Board noted the detailed and prescriptive nature of the Decision Document. The assessment conducted under YESAA was for the entire project, whereas the application before the Board was for the construction of the four single bridges. While the Board recognizes community's concerns, many of the items listed in the Decision Document were outside of the Water Board's jurisdiction, as such, they were not included in the conditions of the licence. It was also determined by the Board that some of the water-related conditions were not applicable to the construction of the bridges, but rather applicable to the placement of the culverts, which were not part of the water use application. The Board advises the Licensee that it will need to meet all other regulatory requirements prior to the commencement of the construction of the bridges.

The following references specific conditions from the YESAA Decision Document, followed by the Board's decision whether to reflect the condition in the water use licence or not.

Condition 6: “Complete all work in such a manner that prevents the direct or indirect release of sediment-laden water into any watercourse.”

The Board determined that clause 29 of the water use licence is consistent with the condition of the Decision Document noted above.

Condition 7: “Install effective sediment and erosion control measures before starting work to prevent the entry of sediment into the watercourse. Inspect them regularly during the course of construction and make all necessary repairs if any damage occurs. Sediment and erosion control measures shall remain in place, post construction until all distributed areas on the work area have been stabilized.”

Although the Licensee stated that all work would be done in the dry, above the high water mark, the Board included this condition in clause 24 of the water use licence as a contingency and to be consistent with the Department of Fisheries and Oceans operational statement regarding clear span bridges.

Condition 9 (replaced): “All machinery used onsite must be clean and in good working condition to ensure no deleterious substances are deposited into any waterbody.”

The Board determined that clauses 20 and 21 of the water use licence are consistent with the condition of the Decision Document noted above.

Condition 10: “Operate heavy machinery in a manner that minimizes disturbance to the bed or banks of any waterbody.”

The Board determined that clause 34 of the water use licence is consistent with the condition of the Decision Document noted above.

Condition 16: “Arrange for an experienced biologist or environmental monitor to oversee the implementation of the mitigation measures and ensure that every effort is made to minimize potential impacts of the works on fish and fish habitat.”

The Board determined that this condition would not be included in the licence as no guidance was given as to the definition of an experienced biologist or environmental monitor. Furthermore, the Board concluded that regulating the implementation of mitigation measures should be left to the on site government inspectors.

Condition 18 (replaced): “Proponent shall conduct water quality monitoring downstream of project activities to ensure that water quality meets the turbidity guidelines set out in the CCME Canadian Water Quality Guidelines for the Protection of Aquatic Life.”

The Board did not include this as a condition of the water use licence. The Board determined that clause 24 of the water use licence would mitigate the effects of sediment released to the watercourse.

Condition 26: “A decommissioning plan shall be developed and implemented which ensures that the road is returned to its natural state and shall include the following measures:

a) a security bond to cover the reclamation and closure costs that is established prior to construction activities;”

Security was not included in the application, nor were any interventions received asking the Board to consider security. The Board determined not to include security as part of the licence.

Condition 49: “The proponent shall have discussions with the Teslin Tlingit Council to determine the location of areas used for culturally significant activities such as culture camps that overlap with the project area prior to construction activities.”

Condition 61 (replaced): “The proponent shall place bridges in accordance with the approved water licence.”

The Board made its decision to approve the licence based on the information presented in the application. Furthermore, no interventions were received stating opposition to the proposed locations of the bridges. If in complying with the conditions of the Decision Document, or in discussions with placer miners, the Licensee decides to construct the bridge(s) in alternate locations, the Licensee should seek an amendment to their licence which may also require further YESAA assessment.

Added Condition: “All means by which water is withdrawn from watercourses within the project area must be screened or otherwise guarded to prevent the passage of fish from these waters. Standards for screening can be found in DFO’s Freshwater Intake End of Pipe Fish Screen Guidelines, which can be viewed at <http://www.dfo-mpo.gc.ca/library/223669.pdf>”

The Board determined that clause 35 of the water use licence is consistent with the condition of the Decision Document noted above.

Signage

The Board included clause 37 in the water use licence which requires signs to be on or near the bridge structure to reflect the load limit and single lane of the bridge. This is a typical condition which the Board includes in licences for any bridge crossing to ensure that motorists are aware of the load limit for the bridge structure in remote areas not frequented by heavy traffic.

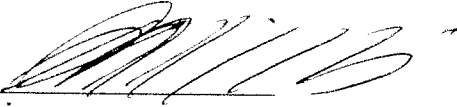
UFA-Chapter 14

The project location is included within the traditional territory of the Teslin Tlingit Council. There are two parcels of Settlement Land within the vicinity of the project, TTC R-19B and TTC R-10A. The bridges at Iron Creek, Sidney Creek and Twin Creek are located approximately 15 km upstream of TTC R-19B. The proposed Unnamed creek crossing is located approximately 8 km from TTC R10A.

Given the location of the bridges in relation to the Settlement Land parcels, the proposed open span nature of the bridges which will not restrict the quantity or rate of flow, and the proposed method of construction from the banks with no planned waste discharge, the Board concluded that this project will not substantially alter the quantity, quality, or rate of flow of water flowing on, through or adjacent to Settlement Land, including seasonal rate of flow.

Conclusion

The Board has approved the issuance of Water Use Licence MS09-280.



Chairperson
Yukon Water Board

August 18 2009
Date /