

## REASONS FOR DECISION

### WATER USE APPLICATION MS09-283 Government of Yukon Deadman Creek, Km 1273 of the Alaska Highway

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to Water Use Licence Application MS09-283 for a Type B Licence for a miscellaneous, undertaking.

The purpose of the application is to install a temporary bridge on Deadman Creek and to do remedial maintenance works on the existing bridge on Deadman Creek..

Notice of this application was provided in accordance with the requirements of the *Waters Act*. In response, the Board received no interventions.

The Board did not receive a request for a public hearing.

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, Territorial Resources Base Map 115H/16, the YESAA Decision Document, Chapter 14 of the Umbrella Final Agreement (“UFA”) and Board policies.

#### **Environmental Assessment**

This application required an environmental assessment under the *Yukon Environmental and Socio-economic Assessment Act* (“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 is also satisfied that the issuance of licence MS09-283 is not contrary to the terms and conditions included in the YESAA Decision Document.

#### **UFA-Chapter 14**

Maps 105C/06 is included in the Teslin Tlingit First Nation Final Agreement. Teslin Tlingit First Nation did not intervene to the Board regarding this project.

Territorial Resources Base Map 105C/06 was reviewed for settlement land. The settlement land parcels TTC R-6A and R-7A are in the area near the project location. However both parcels are upstream of the project and there the quantity and quality and rate of flow would not be affected.

The project activities include placing a temporary bridge over Deadman Creek, and to make repairs to the surface and abutments on the existing bridge over Deadman Creek.

The applicant has stated that all fuels and oils on site will be managed under the HPW-TEB Oil and Fuel Best Management Practices to prevent unplanned releases to the water and surrounding area and erosion control measures will be in place to prevent sediment release to the stream. These practices should mitigate the quality of flow for Deadman Creek.

In review of the locations of settlement land in comparison to the purpose of the project and the methodology to be used to carry out temporary bridge placement and bridge repairs, it was 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.

### **Changes to the Licence**

Clause 20 of the Licence was added as follows:

20. The Licensee shall not alter the stream bed or banks, and no infilling of the channel shall occur.

This clause was added in order to maintain consistency with the YESAA Decision Document. It was recognized through the environmental assessment that Deadman Creek is Salmon Bearing and therefore the Board concluded that incorporating this term from the Decision Document will maintain the integrity and habitat suitability of the watercourse.

The YESAA Decision Document included the term, "*Creek bank excavation activities, if any, shall not occur in the wet (e.g. during rain or other precipitation events) to prevent erosion and sedimentation*", the Board concluded that this term was not required in the Water Use Licence as clause 20 does not allow any excavation activities to take place on the creek banks.

Term 30 of the Licence was added as follows:

30. The Licensee shall restore any trails used or crossed, by slashing any and all trees that may fall across these paths or trails in the course of operations, and by removing any other obstructions such as snow piles or debris that may be pushed across the trails.

This reflected the need to protect the public access to Tagish Lake and the surrounding wilderness on existing trails in the area.

Term 31 of the Licence was added as follows:

31. All concrete works shall be completely isolated from any water within, or entering into, any watercourse or stormwater system.

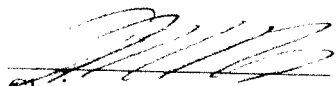
This term was incorporated into the Water Use Licence from the YESAA Decision Document. As the project entails working with concrete, both dry concrete and the mixing of concrete, on site, the

Board concluded that protection of the watercourse from the infiltration of concrete works was required.

There were terms reflected in the YESAA Decision Document that directly involved the protection of the trapline concession for this area, however the Board concluded that it did not have jurisdiction over trapline concessions or the trappers and decided not to include these terms in the Water Use Licence.

Conclusion

The Board has approved the issuance of Water Use Licence MS09-283.

  
Chairperson  
Yukon Water Board

December 4 2009  
Date /