

REASONS FOR DECISION

WATER USE APPLICATION MS09-287

Government of Yukon

Km 12.7 Atlin Road

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to Water Use Licence Application MS09-287 for a Type B Licence for a miscellaneous undertaking.

The purpose of the application is to:

- install a temporary, single lane, detour bridge at Haunka Creek;
- remove the existing Haunka Creek bridge;
- construct a permanent bridge at Haunka Creek;
- conduct long term maintenance of the Haunka Creek bridge; and
- infill of a wet area (approx. 800m³ of material) between km 16.5 to 16.8 to increase the width of the road to meet current standards (from 8m in width to 10m).

Notice of this application was provided in accordance with the requirements of the *Waters Act*. In response, the Board received interventions from:

- Government of Yukon -Environment, and
- The Carcross/ Tagish First Nation –late intervention.

The Board did not receive a request for a public hearing. The applicant did respond to the 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, 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 MS09-287 is not contrary to the terms and conditions included in the YESAA Decision Document.

Government of Yukon –Environment

The road alignment project undertaken by the Licensee has several different aspects that do not trigger a water licence. The intervention submitted by the Department of Environment pertained to culvert installations, which were not proposed by the Licensee for inclusion in this licence. It should, however, be noted that the Licensee did respond to the intervention and agreed to undertake the mitigations proposed.

Carcross/ Tagish First Nation ("CTFN")

The Board accepted the late intervention filed by the CTFN. In their intervention, the CTFN stated that Whitefish spawn in Haunka in early October. Concerns were expressed that the timing of the bridge construction may interfere with spawning habitat.

The Applicant responded to the intervention, indicating that the clear span nature of the bridge will not "entail water activities" and that the plan is to have all work completed prior to the fall spawning.

The Board included the DFO timing window for instream works in clause 22 of the water use licence. This requires all instream work to be completed from April 1 to September 1 of any given year.

UFA-Chapter 14

Maps 105C/04 is included in the in the Carcross/Tagish First Nation Final Agreement. Carcross/Tagish First Nation intervened to the Board regarding this project.

Map 105C/04 was reviewed for settlement land.

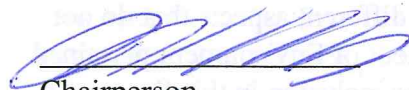
- CTFN S-15B1 is adjacent to the highway right-of-way from km 13.0 to 13.5; and
- CTFN R-28B is adjacent to the highway right-of-way from km 14 to 18.

The Licensee did not propose to use water, therefore the quantity and rate of water will not be substantially altered. The conditions of the licence will minimize sediment inputs to the water and will not substantially alter the quality of water in Haunka Creek. The Licensee stated that the wet area to be filled is standing water with no clear drainage. The infilling of the wet area will be limited to the highway right-of-way.

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 construction of the bridge and infilling of the wet area, 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 relied on the representations, warranties and undertakings provided by the Licensee in the material filed in the application. The Board has approved the issuance of Water Use Licence MS09-287.



Chairperson
Yukon Water Board

August 25, 2010

Date