

REASONS FOR DECISION

WATER USE APPLICATION MS10-050
GOVERNMENT OF YUKON
GRAVEL EXTRACTION FROM GRAVEL BAR
KNOWN AS LAST BAR, PORCUPINE RIVER

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to Water Use Licence Application MS10-050 for a Type B Licence for a miscellaneous undertaking.

The purpose of the application is to extract a maximum quantity of 100,000 cubic metres of granular resources from a gravel bar, known as Last Bar, which is located in the Porcupine River approximately 3 Km from the community of Old Crow, YT.

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

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 Lands Viewer Map 116O/12, 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 the YESAA.

Prior to making licensing decisions, the Board reviewed the Decision Document that is included in the water use register. As per section 86 of YESAA, the Board is satisfied that the issuance of licence MS10-050 is not contrary to the terms and conditions included in the YESAA Decision Document. In deliberation of the application and the conditions of the Decision Document which are quoted below, the Board made the following determinations:

1. “At the end of the extraction process, the proponent shall scarify the surface of the excavation area and the access road on higher elevation sections.”

Decision: The Board determined that clause 28 of the licence will satisfy the above condition.

2. “The proponent shall provide a pre and post construction monitoring study of channel morphology with complete topographic surveys of the project site which will include at a minimum two project lengths both upstream and downstream.”

Decision: The Board noted that the applicant made numerous commitments within the application. The water use licence authorizes the gravel extraction to be undertaken as described in the application and that includes carrying out all commitments made within the application.

Furthermore, the Board determined that clauses 14 and 16 of the licence will satisfy the above condition of the Decision Document.

3. “The proponent shall attempt to complete all gravel extraction in one winter season in order to minimize disturbance.”

Decision: Item 3 does not require the gravel extraction to be completed within one winter season, it states that the “proponent shall attempt to”. The Board determined that the licence will allow the maximum gravel extraction, as described in the application. The Board accepts Licensee’s proposal to conduct the gravel extraction during two separate events; however, the Board does encourage the Licensee to complete the extraction during one winter season as recommended in the Decision Document.

4. “Before commencement of any project activities, the proponent shall provide a Spill Prevention and Remedial Action Plan.”

Decision: The Board noted that the Licensee provided a preliminary spill plan as part of the application. The Board included a requirement in clause 5 of the licence that requires the Licensee to submit a Final Spill Contingency Plan. This will ensure that the most current plan is available during the extraction events. The Board determined that clause 5 will also satisfy the requirement of the Decision Document.

Licence Expiry Date

The Schedule 4 Application proposed a 25 year licence that would expire in the year 2035 to accommodate the second extraction event, whenever it should occur. The Board approved the proposed term and the licence includes the expiry date of November 9, 2035. The date was set based on the date of the Board meeting at which this application was reviewed.

Project Impact Assessment Report

The application did not propose a timeframe for when the updated Project Impact Assessment Report could be prepared by; however, the studies listed should have occurred at the latest during the 2010 summer season to facilitate the proposed extraction in November 2010. Therefore the proposed requirement to provide the updated report prior to excavation should not be onerous on the Licensee.

UFA-Chapter 14

Map 1160/12 is included in the Vuntut Gwitchin First Nation Final Agreement. The First Nation did not intervene to the Board regarding this undertaking. The map was reviewed for Settlement Land. The map indicates that the undertaking is located adjacent to Settlement Land parcels identified as VGFN R-1A and VGFN R-11A.

Regarding use of water, the Licensee proposed in the application to obtain water from the Porcupine River to facilitate the construction of an ice bridge across that same river. During spring melt the frozen water will return directly to the river. The only potential loss of water will be via evaporation, which during the winter months the evaporation is expected to be minimal. Therefore, the quantity and rate of flow of water, including seasonal rate of flow will not be substantially altered.

The water use application identified sediment, gravels and cobbles as the Waste that may be deposited to the Porcupine River. The application also included actions that will be taken to minimize the deposition of these Wastes into the river. The conditions of the licence will minimize sediment inputs to the river and will not substantially alter the quality of water.

In review of the methodology to be used to carry out extraction of gravel from the Last Bar gravel bar, the Board concluded that this undertaking 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 MS10-050.



Chairperson
Yukon Water Board

November 19, 2010
Date