

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application MS11-015, Government of Yukon Shoreline remediation of the Blackstone River at kms 104.6, 107.6 and 108.9, Dempster Highway

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to water use licence application MS11-015 for a type B licence for a miscellaneous undertaking.

The purpose of the application is to replace the previously eroded bank material with rip rap along the stream bank of the Blackstone River at kilometres 104.6, 107.6 and 108.9 of the Dempster Highway in order to prevent continued erosion of the highway embankment. The project will further help prevent sedimentation of the Blackstone River. A combined water use amount of 300m³/day was proposed for camp use, dust suppression and rinsing of rip rap and filter media.

Notice of this application was provided in accordance with the requirements of the *Waters Act*. In response, the Board received no interventions, nor did the Board receive any requests for a public hearing.

In making licensing decisions pertaining to this application, the Board took into account the *Waters Act*, *Waters Regulation*, the application, the Board's standard licence requirements, Maps 116B/16 and 116B/09, 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 YESAA Decision Document that is included in the water use register. As per section 86 of YESAA, the Board was satisfied that the issuance of licence MS11-015 is not contrary to the terms and conditions listed in the YESAA Decision Document.

For **conditions 2 and 3**, having to do with ethnographic moveable heritage resources which are directly related to the culture and history of First Nations people, the Board determined that clause 1 of the water use licence which refers to the licence conditions not limiting the applicability of any statutory authority will satisfy the intent of the Decision Document conditions noted above.

UFA-Chapter 14

The Board examined the proposed use of water as it relates to Chapter 14 of the Umbrella Final Agreement, as to quantity, quality, or rate of flow of water flowing on, through or adjacent to Settlement Land, including seasonal rate of flow, as follows:

- *Tr'ondëk Hwëch'in and Na-cho Nyak, Dun First Nation Final Agreements and Maps 116B/16 and 116B/09*
 - Maps 116B/16 and 116GB/09 were reviewed for Settlement Land. Map 116B/16 indicated that there are three Settlement Land parcels, TH 145B-1 (kilometre 112.5 of the Dempster Highway), TH S202B-1 (km 130) and TH S124B-1 (km 132), which either have the Blackstone River flowing through them, or have the river forming their boundary. The closet parcel TH 145B-1 is located 4.5 kilometres downstream of the portion of the project to be undertaken at kilometre 108.9 of the Dempster Highway.

There are other Settlement Land parcels in the area as well, but do not have the River flowing through or adjacent to them. Settlement Land parcel TH R-19B, for example, has the Dempster Highway forming its Eastern boundary. TH R-34B is also in the vicinity of the three project sites.
- *Water Flow Estimates and Water Use*
 - Regarding the use of water, the applicant proposed to obtain water from the Blackstone River for camp use and dust suppression and possibly the washing of the filter media. Washing of the material would take place 350 metres from the main channel of the Blackstone River and approximately 100 metres away from a side channel of the Blackstone River. It was the Board's determination that the combined use of water at a rate of 300 cubic metres per day was not significant in comparison to the total flows of the Blackstone River included in exhibit 1.2 of the register for the years 2006 - 2009.
- *Water Quality*
 - The water use application identified the potential for sediment and deleterious substances being deposited to the Blackstone River during the addition of the rip-rap, common material and filter material along the stream bank of the Blackstone River. The Board was satisfied that the mitigation measures outlined in the application and the conditions of the proposed licence would minimize sediment inputs to the water.

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 the placement of the rip rap, the Board concluded that the 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.

Licence Conditions

Construction Timing Window


The Applicant proposed that the construction for this project would occur from June 15 to August 30, 2011. If the shoreline remediation could not be completed during this timeframe, the Applicant indicated that the construction would be completed in 2012. Under the project scope of the YESAA Decision Document; however, the proposed activities are restricted to a timing window from June 15, 2011 to September 30, 2011. The Board determined that the timing window for the shoreline remediation, as stipulated in the YESAA Decision Document, would be included in clause 27 of the water use licence.

Spill Contingency Plan

The Board noted that the Licensee provided a generic Government of Yukon spill contingency plan as part of the application. The Board included a requirement in clause 6 of the licence that requires the Licensee to submit a final spill contingency plan. This would ensure that the most current plan is available on site during the shoreline remediation.

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 MS11-015.



Chairperson
Yukon Water Board

December 9, 2011

Date