

**YUKON WATER BOARD
REASONS FOR DECISION**

**Water Use Application MS11-019, CRS Copper Resources Corporation
Canadian Creek, Km 7.69 Britannia Creek Road**

The Yukon Water Board (“the Board”) has issued a licence for water use application MS11-019 for a type B licence for a miscellaneous undertaking.

The purpose of the application is for the installation of a clear span bridge across Canadian Creek, fording of the creek to facilitate the construction of the bridge, the construction of the associated out of stream abutments and rip-rap, as well as for the on going maintenance of the bridge crossing.

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

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, the Board's standard licence requirements, Map 115J/15, 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 MS11-019 is not contrary to the terms and conditions listed in the YESAA Decision Document.

Two separate Decision Documents were issued by two decision bodies, Yukon Government - Energy, Minerals and Resources, Mineral Resources Branch and Transport Canada. The YESAB assessment scoped the entire Britannia Creek Road re-alignment project. The Board felt that the format of the Decision Document did not make it clear which conditions applied specifically to the construction and maintenance of the Canadian Creek bridge, and which conditions applied to other aspects of the road re-alignment project.

Where the Board did not include a condition of a Decision Document in the licence, the condition has been identified below, in bold font, and followed by the Board's rationale. Where a condition of the Decision Documents has been reflected in the water use licence, it has also been identified below in bold font and followed by the Board's rationale.

1. **“The proponent shall conduct an inventory or assessment for presence of heritage and archaeological sites on the road realignments prior to the start of construction”.**
2. **“The proponent shall follow the standard mitigative measures found in DFO's *Guidelines for the Use of Explosives In or Near Canadian Fisheries Waters...*”.**
3. **“Any heritage resources located by the proponent should be reported to the Chief of Mining Land Use as per the Mining Land Use Regulation”.**

The Board determined that the above three conditions of the Decision Documents will not be included in the licence. Clause 1 of the water use licence which refers to the application of other laws will satisfy the intent of the Decision Documents conditions noted above.

4. **The proponent and other permitted resource users (trappers, big game outfitters and wilderness tourism outfitters, quartz/placer miners and subsistence harvesters) shall communicate plans and timing of activities to each other to reduce land use conflicts and any potential negative impacts on each other's interests.**

The Board determined that the above condition of the Decision Documents will not be included in the licence as it is not an enforceable condition and represents advice to the proponent

5. **“The proponent shall time the work to occur on the second alignment adjacent to Britannia Creek sometime between June 10 and July 1, in order to avoid disturbance of Chinook salmon spawning season”.**

The Board included a timing window for the instream works in clause 29 which will satisfy the recommendation of the two issued Decision Documents.

6. **“The proponent shall install appropriate and effective sediment and erosion control structures (i.e. silt fences, sediment curtains, etc.) and ensure they are inspected regularly during the course of work and all necessary repairs made if damages are discovered (i.e. a visible silt layer or sediment entering the water outside of the work area)”.**

The Board is satisfied that clause 28 of the water use licence is consistent with the condition of the Decision Documents.

7. **“The proponent shall remove control measures in a way that prevents the escape or resuspension of sediments”.**
8. **“The proponent shall ensure disturbed areas are stabilized and/or re-vegetated with deep rooted native plants upon completion of work and restored to a pre-disturbed state or better”.**

The Board is satisfied that clause 44 of the water use licence is consistent with the conditions of the Decision Documents.

9. **“The proponent shall operate machinery in a manner that minimizes disturbance to the banks or bed of the waterbody”.**

The Board determined that clause 27 of the water use licence is consistent with the intent of the Decision Document condition.

Licensing Decisions

Deposit of Waste

The Applicant did not specify a deposit of waste. The Board included Clause 37 in the water use licence which does not allow for deposit of any waste.

The Board, however, determined that water use licence would include the typical licence clauses which deal with the prevention of sediment from entering a watercourse.

Modification of the Bed or Banks of a Watercourse

The Applicant proposed that the bridge across Canadian Creek will be constructed in accordance with Department of Fisheries and Ocean's Pacific Region Operational Statements on *Clear Span Bridges* and on *Bridge Maintenance*.

Both operational statements are included in Exhibit 1.9 of water use application MS11-019. Clause 19 of the water use licence authorizes the activities the Licensee is allowed to undertake and further includes the statement “as described in the Application and subject to the conditions of this licence”. The Board is satisfied that Clause 19 will ensure the Licensee follows the above mentioned operational statements for both the construction and maintenance of the clear span bridge across Canadian Creek.

UFA-Chapter 14

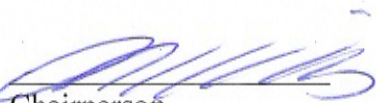
The Board examined the proposed use of water as it relates to Chapter 14 of the Umbrella Final Agreement, as to quantity, quality, or rate of flow of water flowing on, through or adjacent to Settlement Land, including seasonal rate of flow, as follows:

- Selkirk First Nation Final Agreement and Map 115J/15
 - Map 115J/15 indicates Settlement Land parcels TH S-84B1, TH S-83A1 and SFN S-15B1 to be located downstream of the project, adjacent to the Yukon River. The closest parcel TH S-84B1 is located approximately 14.3 km away from the bridge crossing location.
- Water Flow Estimates and Water Use
 - The project activities include the construction of a steel beam, timber deck bridge over Canadian Creek with the timber crib abutments placed above the high watermark of Canadian Creek. The applicant has not proposed to use water; therefore the quantity and rate of flow of water will not be substantially altered.
- Water Quality
 - The applicant has proposed that there will not be a deposit of waste. The Board was satisfied that the conditions of the licence will minimize sediment inputs to the water and will not substantially alter the quality of water.

In review of geography of the proposed project relative to Settlement Land, and the methodology to be used to carry out construction of the bridge crossing, 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 MS11-019.



Chairperson
Yukon Water Board

January 9, 2012
Date