

REASONS FOR DECISION

WATER USE APPLICATION MS06-527
Government of Yukon
Jeff Creek

The Yukon Water Board (“the board”) has concluded deliberations pertaining to Water Use Licence Application MS06-257 for a Type B Licence for a miscellaneous undertaking.

The purpose of the application is to replace the existing bridge crossing Jeff Creek at Km 421.5 on the North Canal Road with a steel and timber bailey bridge.

Notice of this application was provided in accordance with the requirements of the *Waters Act*. The board did not receive any interventions or a request for a public hearing.

In making licensing decisions pertaining to this application, the board also took into account the *Waters Act*, *Waters Regulation*, the application, the Decision Document, the board's standard licence requirements, Territorial Resources Base Map 1050/1, Chapter 14 of the Umbrella Final Agreement (UFA) and board policies.

YESAA

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 (Decision Document) that is included in the water use register. The board determined that the following terms and conditions from the Decision Document will not be reflected in the licence:

“Any rocks or debris in the vicinity of the proposed project, resulting from the proposed works, are to be removed to provide a clear approach for navigation passing through the navigational span of the bridge.” This condition is applicable to navigable waters, which is within the federal jurisdiction of Transport Canada and not necessary for inclusion in the water use licence.

“The rip rap material shall be placed in a manner that prevents the material from being transported downstream.” The application contains a design drawing sealed by a Prof. Eng which includes the use of Class 1 rip rap. The board determined that the condition that requires the bridge crossing to be constructed in accordance with the design should satisfy this requirement.

“Work shall be timed to minimize equipment travel through the creek.” The board is satisfied with the licensee’s commitment to organize the work so as not to cross equipment through the watercourse. The proponent indicated that it may be necessary to ford equipment through the creek 1 to 2 times. Therefore, the board included the typical conditions for fording in the licence.

“Yukon Government, Water Inspections must be contacted at least ten days prior to project commencement.” The board is satisfied that the typical condition included in the licence which requires the licensee to provide written notification to the board 10 days prior to the start of the project will meet this requirement as the Water Board office distributes these notices to enforcement agencies including Water Inspections.

“Road closures shall be posted at the ferry at Ross River.” The board included the typical condition for the posting of load limits for the bridge crossing in the licence. The board felt the licence should not include a condition that limits the location/method of notification of road closures, as the applicant could choose alternate media to advise the public.

“A spill contingency plan and emergency spill kit must be kept on site in case of fluid leaks or spills from the storage and handling of fuel, and from machinery.” The emergency plan provided by the applicant included a list of equipment that would be available and used in a spill event. The requirement in clause 8 of the licence for the spill plan to be on site should satisfy this requirement.

“Any minor or emergency repairs must be done over drip pans in the service area, a minimum of 30 m from water.” The board included the typical condition in the licence which requires the storing and transferring of fuel 20 m from the watercourse to satisfy this requirement.

As per section 86 of YESAA, the board is satisfied that the licence is not contrary to the terms and conditions included in the Decision Document. The terms and conditions of the Decision Document were prescriptive and restricted the board’s authority under the *Waters Act* to make licensing decisions for this project.

Chapter 14 of the UFA

The board examined the proposed use of water as it relates to Chapter 14 of the UFA, as to the quantity, quality, or rate of flow of water flowing on, through or adjacent to settlement land, including seasonal rate of flow, as follows:

TRB Map 1050/1 is included in the First Nation of Nacho Nyak Dun Final Agreement. The map was reviewed for settlement land. The map indicates that there is no settlement land parcels downstream of the proposed project in the Jeff Creek watershed. The proposed 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.

Original signed by Bruce Willis

July 5, 2007

Chairperson
Yukon Water Board

Date