

REASONS FOR DECISION

WATER USE APPLICATION MS09-282
Government of Yukon
Ten Mile Creek, Km 342.9 of the Klondike Highway

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to Water Use Licence Application MS09-282 for a Type B Licence for a miscellaneous, undertaking.

The purpose of the application is to replace the existing culvert at Ten Mile Creek and to do regular channel maintenance on Ten Mile Creek as required.

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

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, recommendations from the interveners, the Board’s standard licence requirements, Territorial Resources Base Map 115H/16, 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 MS09-282 is not contrary to the terms and conditions included in the YESAA Decision Document.

UFA-Chapter 14

Maps 115H/16 is included in the Little Salmon Carmacks First Nation Final Agreement. Little Salmon Carmacks First Nation did not intervene to the Board regarding this project.

Territorial Resources Base Map 115H/16 and was reviewed for settlement land. The settlement land parcels S-169B1 and LSC R-2B, is in the area near the project location. The First Nation was contacted by the applicant prior to submission to the Water Board.

The project activities include adding rip-rap and granular material into Ten Mile Creek, and the replacement of the culvert at Ten Mile Creek including the regular channel maintenance of Ten Mile Creek. The applicant has proposed to use only 299 m³/day of water. The percent of water used from

the current flow of Ten Mile Creek is approximately 0.4% of the daily flow therefore the quantity and rate of water will not be substantially altered during the brief amount of time that water use is proposed.

The applicant has stated that all fuels and oils on site will be managed under the HPW-TEB Oil and Fuel Best Management Practices to prevent unplanned releases to the water and surrounding area and erosion control measures will be in place to prevent sediment release to the stream. These practices should mitigate the quality of flow for Ten Mile Creek.

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 culvert replacement and regular channel maintenance, it was 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.

Changes to the Licence

For the description of water use section under clause 15 the Board recognized that this is a unique Licence as it is for ongoing site maintenance and added the words “as required” to the authority for culvert replacement recognizing that the culvert may have to be replaced more than once throughout the 25 year term of this Licence.

Clause 17 of the Licence was changed to:

17. Notification, including the name and phone number of the field supervisor, shall be provided to the Board and an Inspector, in writing, prior to the start of any construction and/or maintenance.

This was changed in recognition that construction was not the only authorized activity on this site and that maintenance would be an ongoing activity that would require notification to the Board and an inspector for each time works were being done.

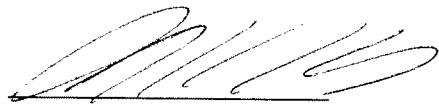
Term 20 was changed to:

20. Where site conditions require minor modifications to the designs submitted to the Board, the Licensee shall notify the Board and an Inspector, prior to any modification, of the details of the modifications or variations from final detailed design, specifications and quality assurance/quality control procedures previously submitted to the Board, provide a detailed construction schedule and the name and contact number(s) of the construction superintendent. The notice shall be in writing and must include an explanation of the reasons for the change and an assessment of the potential impact on the performance of the works. The notice shall be sealed by a Professional Engineer licensed to practice in Yukon.

This reflected the need to possibly do modifications on the site in a manner that would not delay the modification from the previously required 10 day advanced notice. In this situation modifications may have to be made for detours or channel maintenance without the prolonged closure of the Klondike Highway. However it was noted by the Board that notice, would be required, in order for all regulators and enforcement authorities to be aware of any modifications being done to the Licenced designs in the case that it may require an amendment to the Licence.

Conclusion

The Board has approved the issuance of Water Use Licence MS09-282.



Chairperson
Yukon Water Board

August 18, 2005

Date