

REASONS FOR DECISION

WATER USE APPLICATION MN06-070 MCNEVIN MANAGEMENT LTD. EAGLE PLAINS COMPLEX

The Yukon Water Board (“the board”) has concluded deliberations pertaining to Water Use Licence Application MN06-070 for a Type B Licence for a municipal undertaking. The purpose of the application is to obtain water from a groundwater infiltration well for drinking water and to deposit a waste to an existing sewage lagoon at the Eagle Plains Complex, Dempster Highway.

Notice of this application was provided in accordance with the requirements of the *Waters Act*. In response, the board received interventions from the following parties:

Vuntut Gwitchin First Nation, and
Government of Yukon-Environment (“GY”).

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 Maps 116I/02 and 116I/07, *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document, Chapter 14 of the Umbrella Final Agreement (“UFA”) and board policies.

Request for Public Hearing

The board received a request for a public hearing from Vuntut Gwitchin First Nation. During initial deliberations of this application the board determined that notice would be given for a public hearing to hear from parties regarding the continued use of the existing sewage lagoon and potential effects to the downstream water quality. After the notice was published, the Licensee responded to the interventions providing the board with an argument that a public hearing would be unnecessary and proposed the licence term be shortened to 16 months to design and construct a new sewage lagoon. The board determined that a public hearing would be cancelled in light of the fact the existing sewage lagoon would be decommissioned in the near future and a new facility will be proposed for wastewater and sewage treatment resulting from the Eagle Plains Complex.

Term of Licence

Various proposals were made in regards to the term of the licence. Originally, the Licensee proposed that the licence expire in the year 2031 which would have provided a term of approximately 24 years. Vuntut Gwitchin First Nation recommended that the licence term be a maximum of 2 years which should include a licence requirement for an engineered sewage facility. GY recommended that the term be 2 to 3 years to allow studies to be conducted to determine downstream effects. The Licensee responded to the interventions requesting the board issue a licence for a term of 16 months which would allow the Licensee time to design and construct a new treatment facility. The board further noted that the Licensee proposed that the

board consider issuing a licence from August 13, 2007 to December 13, 2008. August 13, 2007 was the expiry date of licence MN01-040 and the Board determined that the licence term would not predate the board's deliberation of application MN06-070.

The board set the expiry date of the licence as March 31, 2009 to provide the Licensee with a 16 month term in which to design a new wastewater treatment facility for the Eagle Plains Complex.

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 is also satisfied that the issuance of licence MN06-070 is not contrary to the terms and conditions included in the Decision Document.

Compliance with Licence Conditions

Vuntut Gwitchin First Nation indicated concern that conditions of the licence were not being complied with by the Licensee and that the board should implement mechanisms to ensure compliance with the licence. It is the board's responsibility as a regulator to include any conditions in a water licence that the board deems necessary for any particular undertaking. The board diligently strives to ensure that conditions of a licence are written so as to be understood by any party reading the licence, as well as, being enforceable. It is not the responsibility of the board to monitor a Licensee or the undertaking to ensure compliance with conditions of a licence, that role is the responsibility of Government of Yukon.

New Wastewater Treatment System

The board advises all parties that Water Use Licence MN06-070 does not authorize the construction of, or use of, a new wastewater treatment system. The board expects the Licensee to apply for a new water use licence that includes a proposal to construct and use a new wastewater treatment facility for the Eagle Plains Complex, along with the typical information requirements for type B municipal undertakings that include sewage disposal, which includes the requirement for design drawings sealed by a Professional Engineer licenced to practice in Yukon. The new application may require environmental assessment as well as the requirement for a water use licence and the Licensee is advised to consider submitting applications for these processes well in advance of the expiry date of licence MN06-070.

Due to the short term of this licence, the board has included a requirement in the licence for the Licensee to submit monthly reports to the board. The monthly reports are to include an update on the progress of designs and schedule for the construction of the new wastewater treatment facility. The monthly reports will be distributed to various government departments.

Effluent Standards

GY proposed that the licence include effluent discharge standards should there be an emergency release of effluent from the existing sewage lagoon. The board determined that the licence will not include effluent standards for a surface discharge as the only authorized discharge of effluent from this facility shall be via exfiltration to ground.

Studies to Determine Environmental Effects

GY recommended that further studies should be required with respect to aquatic life, soils and streamside vegetation including delineation of the flow path from the lagoon and that the results of the studies should be provided within a two year period. The board determined that the recommended studies will not be included in this licence due to the short term of this licence along with the board's expectation that the existing sewage lagoon would be decommissioned in the near future. The board advises the Licensee that a proposal for the studies referenced above, are to be included as part of the application for the new wastewater treatment facility.

Monitoring Program

GY recommended that the licence include a fourth control monitoring station as part of the monitoring program and that the station be located in an adjacent tributary. GY also proposed the board add a sampling station within the lagoon itself and another sampling station to be at a seep, when present, that is down slope of the sewage lagoon. The Licensee responded and agreed with the recommendation but requested that these recommendations be included in the studies to determine environmental effects.

The board determined that the recommendation of GY regarding the additional control and sampling stations would not be included in the licence. The Licensee is to include these details as part of the proposal for studies to be conducted, which the board expects to see as part of the application for the new wastewater treatment facility.

The licence does include the monitoring stations that were previously included in licence MN01-040 and will be satisfactory for the term of this licence. The board however, strongly advises the Licensee of the responsibility to ensure that the requirements of the monitoring program in the licence are carried out completely. GY indicated that the remoteness of the site, logistical issues and poor planning on behalf of the Licensee resulted in a failure to meet the sampling and reporting requirements of the licence. Licence MN06-070 requires the monitoring to occur in the month of June and August and will leave the timing during those months to be determined by the Licensee. Due to the short duration of this licence, the monitoring will only occur in the year 2008. The Licensee has at least six months from the issuance of licence MN06-070 to plan for the monitoring and sampling events to ensure compliance with the licence.

GY also provided a list of parameters that should be included in the licence that are consistent with the requirements of expired licence MN01-040, with the addition of temperature and flow. The board determined that the licence will include the list of parameters proposed by GY including the addition of temperature and flow.

GY recommended that the lab results from the analysis of the samples taken as part of the monitoring program be submitted to the board and to the regulator within 30 days of receipt of lab results. The Licensee agreed to the recommendations made by GY in relation to the monitoring program but requested the board consider submission of the lab results within 60 days. The board determined that, due to the short term of this licence, the licence will include the requirement for the lab results to be submitted in 30 days.

Physical Monitoring Program

GY recommended that the licence include a requirement for monthly inspections and an annual inspection by a Professional Engineer with a report of the inspections to be submitted as part of the annual report.

In regards to monthly inspections, the board determined that the licence will only require repairs to be conducted since the existing sewage lagoon will be decommissioned in the near future. The licence does not authorize upgrades to the existing sewage lagoon. The board determined that the licence will require monthly submissions of inspections results due the short term of licence.

The board determined that the licence will require the Licensee to submit a stability assessment of the existing sewage lagoon, sealed by a Professional Engineer licenced to practice in Yukon within one year of the effective date of the licence.

UFA-Chapter 14

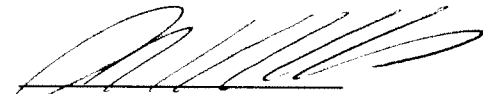
Maps 116I/02 and 116I/07 are included in the Vuntut Gwitchin First Nation Final Agreement. The board reviewed Mining Maps 116I/02 and 116I/07 for the location of settlement land in relation to the Eagle Plains Complex. The Board determined that the Eagle Plains Complex is adjacent to Vuntut Gwitchin First Nation settlement land parcel R-6A.

The Licensee proposed in the application to obtain a maximum quantity of 42 cubic metres of water per day from an existing groundwater infiltration well, which is located with the bridgehead reserve and adjacent to the Eagle River. The purpose of the use of water is for drinking water at the Eagle Plains Complex.

The board determined that the use of water from the well would not substantially alter the quantity or rate of water flowing on, through or adjacent to settlement land, including seasonal rate of flow in the Eagle River.

In review of the quality of water, parties expressed concerns related to the potential impact that the subsurface discharge of effluent from the sewage lagoon might flow to surface waters and might negatively impact down gradient vegetation.

In review of the information provided by the parties, including the responses provided by the Licensee, the board determined that sufficient evidence has not been provided to conclude that there is a substantial alteration to the quality of water. Therefore, the board determined that the quality of water flowing on, through or adjacent to settlement land will not be substantially altered.



Chairperson
Yukon Water Board

November 21, 2007

Date