

YUKON TERRITORY WATER BOARD

REASONS FOR DECISION WATER USE LICENCE MN99-027 VILLAGE OF HAINES JUNCTION

The Yukon Territory Water Board ("the Board") has concluded deliberations pertaining to application MN99-027 which is an application for a Type A licence for a municipal undertaking submitted by the Village of Haines Junction ("the Village"). The Village was previously licenced under licence MN89-001 which expired prior to the submission of this application.

Notice of public hearing was provided in accordance with the requirements of the Yukon Waters Act. In response, the Board received interventions from Indian Affairs and Northern Development Canada ("DIAND"), Parks Canada ("Parks"), and Environment Canada ("EP").

None of the interveners requested a public hearing; however, the Board determined that it wished to hear from all parties, as well as from Government of Yukon, Environmental Health Services ("EH"), before concluding its deliberations on the matter. Therefore, a public hearing was convened on June 13, 2001. In order to assist the parties in focussing on the issues of interest to the Board, the Board developed a preliminary draft licence for discussion at the hearing. The Board also circulated a letter to all of the parties, indicating its desire to review issues relating to effluent quality standards, drinking water monitoring and water supply sources, all of which had been raised in the interventions.

Prior to the Board making the licencing decisions, a review of the application pursuant to the requirements of the Canadian Environmental Assessment Act ("CEAA") was undertaken by DIAND Water Resources Division. The determination was as specified in Section 20 (1) (a) of the Act; that is, that taking into account the implementation of any mitigation measures that the responsible authority considers appropriate, the project is not likely to cause significant adverse environmental effects and may proceed. All of the recommendations contained in the CEAA screening report are reflected in the licence, except for sections 7.5.3 (drinking water supply quality) and 7.6.2 (water supply wells). These items are discussed further below.

These reasons address only those areas where the licence differs from the application, the recommendations of the interveners and/or the recommendations contained in the CEAA screening report.

Effluent Quality Standards/Term of Licence

DIAND, Parks, and the CEAA screening report recommended that the licence should require effluent quality standards matching those of the *Guidelines for Effluent Quality and Wastewater Treatment at Federal Establishments* (Environment Canada, 1976), with the exception of pH. It was argued that the standards are required to ensure that effluent discharged from the lagoons meets the requirements prior to entering Kluane National Park. No party objected to the standards, although the Village of Haines Junction registered concern in correspondence

preceding the public hearing, as well as at the hearing, that the facility might not be able to meet the standards at full capacity.

At the hearing, the Village submitted a Memorandum of Understanding between it and Parks relating to future upgrading of the facility should it become necessary. The Board determined that the Memorandum of Understanding was not helpful, since it pertained to funding for a future, but as yet undefined project. Nevertheless, the Board had a concern about the ability of the facility to meet the proposed effluent quality standards throughout the requested 25-year term of the licence. The same concern was also raised in the CEAA screening report. At the hearing, the Board questioned the applicant and the interveners on this matter. The Board concluded that there was general discomfort about the ability of the facility to meet the standards later in the proposed 25-year term; however, there was uncertainty about when it might fail to do so.

The Board determined that it would not be appropriate to issue a licence containing standards that might not be achievable, and accordingly, the licence is issued for only a 10-year term. In doing so, the Board encourages the Village to operate the facility in such a manner that it is able to develop a database that identifies the capability of the facility to meet the standards on a regular and ongoing basis. This implies that the Village should establish and follow a regular lagoon discharge schedule. The Board also suggests that the Village should consider carrying out additional effluent quality testing in the discharge channel downstream of the lagoons and upstream of its entry point into Kluane National Park, to determine the level of effluent renovation occurring in the channel.

Effluent Quality Monitoring

The CEAA screening report concluded that no effluent should be discharged to the Dezadeash River wetland if the water surface elevation in the wetland was such that there was a direct surface water connection between it and the river. DIAND and Parks concurred. At the hearing, the applicant expressed its opinion that if the effluent quality compliance point was at the outlet of the treatment lagoon, then a requirement for no discharge when there was a surface water connection between the wetland and the river would be redundant. The Board concluded that, notwithstanding the location of the compliance point at the lagoon, additional effluent renovation does occur in the wetland and that avoiding times when there is a surface water connection maximizes the additional treatment.

The Board also reviewed the requirements in the previous licence for downstream water quality monitoring in the Dezadeash River. The Board concluded that the previous requirement for sampling 1000 metres and 1450 metres downstream of the discharge was excessive and that a single monitoring point located 1000 metres downstream would be sufficient.

The applicant requested the elimination of the bioassay that was included in the monitoring program contained in the previous licence. DIAND, EP, Parks and the CEAA screening report

recommended that a requirement for the test be retained. The Board determined that the test should be included in the new licence, but changed the requirement from an LC₅₀ to the less costly LT₅₀ recommended by EP.

Drinking Water Monitoring

In its intervention, DIAND recommended that the licence should contain the same requirements for monitoring of water supply quality as were contained in the previous licence. Additionally, DIAND recommended that the licensee should be required to notify EH and DIAND in the event that any water quality parameter was found to exceed the *Guidelines for Canadian Drinking Water Quality*. The CEAA screening report contained mitigation measures reflecting similar recommendations. Parks indicated its concurrence with DIAND and the CEAA screening.

The drinking water issue was addressed at the public hearing in presentations by the applicant, EH and DIAND, and in questioning by the Board. The Board concluded that the Yukon *Public Health and Safety Act* and related regulations are the appropriate regulatory framework for drinking water and that EH is the appropriate responsible agency.

However, information was presented at the hearing that EH is currently reviewing the regulations relating to drinking water and that future changes are likely. In addition, the Board heard that the results of drinking water monitoring, as well as correspondence containing orders from the Yukon Medical Health Officer to municipalities, may not always be transmitted and shared efficiently. To ensure that drinking water quality test results are adequately reported, a requirement has been included in the licence for the licensee to deliver the results of all drinking water sampling and analysis to the Medical Health Officer. The Licensee will be required to deliver to the Board copies of all orders, directions and correspondence relating to drinking water sampling or analysis from the Medical Health Officer or Health Officer. The Board recognizes that it would be more effective and efficient for EH to deliver copies of these orders directly to DIAND, and encourages EH to do this voluntarily.

DIAND argued that it does not have the authority to enforce the Public Health and Safety Act of the Yukon. However, it could be argued that, if it is a condition of a licence that the Licensee shall comply with all federal, territorial, First Nation or municipal legislation and, in particular, the Yukon legislation respecting public health and safety, then the failure of a Licensee to do so would constitute a contravention of a condition of the licence. That, in turn, would trigger the enforcement options under the Yukon Waters Act. In the event of non-compliance, it would not be the Yukon Legislation that would be enforced, but rather the Yukon Waters Act.

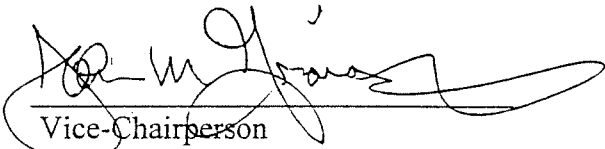
Although the Board has concluded that EH is the body responsible for drinking water quality in the Yukon, it appears that EH may not currently have the resources or the regulatory regime to effectively enforce the Public Health and Safety Act. With appropriate wording in the water licence, the Board is satisfied that DIAND is able to enforce the licence requirements relating to

drinking water based on violations of the *Yukon Waters Act*. The Board considers the drinking water requirements to be interim measures while EH develops its regulatory regime and ensures adequate resources.

Water Supply Sources

At the time that the Village submitted its application, water was being obtained from Well #4. Subsequently, Well #4 failed and the Village reverted to using Well #3. Due to ongoing problems with its existing wells, the Village had already been considering the development of a new well, known as Well #5, at a location to be specifically established, but generally southwest of Quill Crescent. The CEAA screening recommended that Well #5 be authorized in the licence. DIAND and Parks agreed. At the hearing, the applicant requested approval for the development and use of Well #5. The Board determined that it could not include Well #5 in the licence because the well had not been included in the application. The Board notes that the Village may request an amendment once specific information about the new well is available.

At the hearing, the Village also requested that existing Wells #1 and #2 be included in the licence although they were not listed in the Schedule IV Application. The Board determined that there was sufficient information contained in the application to identify Well #1 as a potential backup, although it is not currently being used due to hardness and siltation problems. Accordingly, the Board has authorized the use of Well #1 with the understanding that its use will be for emergency situations. The Board was unable to justify the inclusion of Well #2 in the licence because information contained in the application and presented at the hearing clearly indicated that it could not be used as a water supply source due to severe siltation problems.


Vice-Chairperson

YUKON TERRITORY WATER BOARD

September 24, 2001