

YUKON WATER BOARD
REASONS FOR DECISION

Water Use Application PM09-634, Ella Baker and Mike Warde
and Mining Land Use Approval AP09634

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM09-634 for a type B placer mining undertaking and mining land use approval AP09634.

The purpose of the application is to obtain a water use licence to obtain and store water, divert an unnamed creek which is a tributary to Big Creek, to modify the bed or bank of the unnamed creek, to deposit a waste into the unnamed creek and to obtain an approved placer mining land use operating plan.

Notice of the application was provided in accordance with the requirements of the *Waters Act* and the *Placer Mining Land Use Regulation*. In response, the Board received interventions from the following:

Yukon government (“YG”), Energy, Mines and Resources, Client Services and Inspections. The intervention received was submitted to the Board after the deadline date. Due to the content of the intervention, the Board decided that the intervention would be accepted and included in the register.

No party requested a public hearing. The applicant did not respond to the intervention.

In making licensing decisions pertaining to this application, the Board took into account the *Waters Act*, *Waters Regulation*, the application, recommendations from the intervener, the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document, the Board's standard licence requirements, Mining Map 115I/06, 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 (“Decision Document”), project # 2009-0075, which is included in the water use register. As per section 86 of YESAA, the Board is satisfied that the issuance of licence PM09-634 is not contrary to the terms and conditions included in the Decision Document.

Neither the applicant nor the YESAA Decision Document proposed any alternative approaches to the operating conditions in the *Placer Mining Land Use Regulation*. These operating conditions have been incorporated into the Placer Land Use Approval For a Class 4 Operating Plan.

YG:

YG advised the Board that the unnamed creek is subject to the Big Creek Watershed Authorization. Fisheries and Oceans Canada has classified the creek as a moderate-low and a freshwater fisheries production zone habitat suitability under the Fish Habitat Management System.

The effluent discharge standard for the unnamed creek is 1.5 ml/L. The effluent discharge standard is reflected in clause 5 of the licence. All authorized sediment discharge levels are measured in excess of natural background taken at a point above the uppermost mine operation. The point of compliance will be measured at a point in the effluent flow immediately before it enters the natural stream flow.

The Board noted that the diversion in its final resting place cannot be perched in relation to the bottom of the valley because inevitably, over time, nature will create the channel in the lowest location of the valley.

YG also recommended that the spill contingency plan should have 867-456-3882 as the Mining Inspections phone number. Although the Board did not include a specific requirement for the spill contingency plan to be updated, the Board advises the Licensee to ensure that the spill contingency plan is kept current throughout the term of the licence.

Chapter 14 of the UFA

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:

Map 115I/06 is included in the Little Salmon/Carmacks First Nation and the Selkirk First Nation Final Agreements. Little Salmon/Carmacks First Nation and Selkirk First Nation did not intervene to the Board regarding this project.

Mining Claims Map 115I/06 was reviewed for Settlement Land. Mining Map 115I/06 shows Settlement Land parcel LSC R-9A located approximately 1 kilometre from the project area.

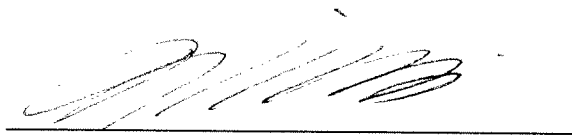
In regard to the quantity of water, the water flowing in the unnamed creek, during the mining season, is approximately 28,512m³/d. The applicant proposed to use a maximum of 2,618m³/d which is equivalent to 10% of the available flow. However, to conserve water, the applicant proposed to recycle water and advised the Board that only 500 m³/d of make-up water would be required, when necessary. The quantity required for make-up water is equivalent to 2% of the available flow. The Board determined that the amount of water to be used for make-up water is not a significant alteration the flow of the unnamed creek.

The unnamed creek flows into Big Creek. The Board noted that it is the flow of Big Creek that is adjacent to Settlement parcel LSC R-9A. The Board determined that the remaining flow in the unnamed creek will drain into Big Creek and the combined flows available will not result in a substantial alteration to the quantity or rate of flow of water flowing on, through or adjacent to Settlement Land, including seasonal rate of flow.

In regard to the quality of water, the Fisheries and Oceans Canada Authorization for the Big Creek Watershed includes effluent quality standards. These standards have been included in the licence. With the inclusion of the effluent quality standards in the licence the Board concluded that the proposed operation will not substantially alter the quality of water that is flowing on, through or adjacent to Settlement Land.

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 PM09-634 and AP09634 for Placer Land Use Approval for a Class 4 Operating Plan.



Chairperson
Yukon Water Board

January 20 2010
Date