

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PMPM09-640, Frank Hawker and Mining Land Use Approval AP09640

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM09-640, for a type B licence and Class 4 mining land use approval AP09640 on Hunker Creek for a placer mining undertaking.

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 parties:

- Government of Yukon (“GY”), Energy, Mines and Resources, Client Services and Inspections; and
- GY, Energy, Mines and Resources, Mining Land Use.

No party requested a public hearing. The Applicant did not respond to the interventions.

In making licensing decisions pertaining to this application, the Board also took into account the *Waters Act*, *Waters Regulation*, the application, recommendations from the interveners, the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document, the Board's standard licence requirements, Yukon Placer Mining Fish Habitat Suitability Map, Mining Map 115 O/15, 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”) that is included in the water use register. As per section 86 of YESAA, the Board is satisfied that the issuance of licence PM09-640 is not contrary to the terms and conditions included in the Decision Document.

The YESAA Decision Document included a condition that the seeding activities in the previously disturbed areas should be avoided to prevent the introduction of non-native species. The typical wording in the mining land use approval states “*If adequate seed stock or root stock is not naturally available, re-seeding or transplanting of vegetation is required. Only non-invasive species may be used for re-seeding or transplanting.*” This typical clause was omitted from the approval so as to not conflict with the Decision Document.

GY, Client Services and Inspections

GY confirmed for the Board that the project is located within the Klondike River Watershed and provided the applicable compliance standard under Department of Fisheries and Oceans Canada Klondike River Watershed Authorization (“authorization”), which is 2.5 ml/L. The project area is classified as having moderate-low habitat suitability with an “extensive development” designation. GY also recommended that the point of compliance should be at the point of entry to the stream. The Board included the standard clause for the effluent and point of compliance to satisfy the authorization.

GY Mining Land Use

The Board determined that the issuance of approval AP09640, which reflects the requirements of Schedule 1 of the *Placer Mining Land Use Regulations*, will satisfy the Mining Lands recommendation for compliance.

Cross-Valley Dams

As per clause 1 d) of the water use licence, the Licensee may construct cross-valley dams across Hunker Creek. As per clause 29 d), all dams and dikes must be removed upon final decommissioning. This is consistent with the DFO requirements to ensure that the channel approximates its pre-licence condition.

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:

- *Tr’ondëk Hwëch’in Final Agreement and Mining Claim Map 1150/15i*
 - There is no Settlement Land within 15 km downstream of the operation.

Given the above considerations of geography, the Board concluded that the proposed operation 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.

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 PM09-640 and AP09640 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board

August 25, 2010

Date