

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM09-645 Peter Bodin and Mining Land Use Approval AP09645

The Yukon Water Board ("the Board") has made licensing decisions with respect to water use application PM09-645, for a type B licence and Class 4 mining land use approval AP09645 on Kentucky 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 an intervention from Government of Yukon ("GY"), Energy, Mines and Resources, Client Services and Inspections.

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 intervener, 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 Maps 1150/10, O/15 and 1150/16, 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 PM09-645 is not contrary to the terms and conditions included in the Decision Document.

The Board determined that conditions in bullets one and two of the Decision Document are not suitable for inclusion in either the licence or the approval however the Licensee must abide by the laws of general application, including the Migratory Bird Regulation, on which the conditions are based.

The condition in bullet three of the Decision Document requiring the Licensee to refer to a best practices guidelines book on industrial activity in bear country is not enforceable and has not been included in the licence or approval.

The condition in bullet four of the Decision Document is met by the restoration practices required by the approval.

The concerns addressed in bullet five of the Decision Document, requiring daily checking of equipment, are met by paragraph 51 of the approval.

The condition in bullet six of the decision document requiring progressive reclamation, which is an operational practice not readily translated to an enforceable term, and which has not been included in the approval.

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.

GY, Client Services and Inspections

GY confirmed for the Board that the project is located within the Indian River Watershed and provided the applicable compliance standard under Department of Fisheries and Oceans Canada Indian River Watershed Authorization (“authorization”), which is 2.5 ml/L. GY also recommended that the point of compliance should be at a point in the effluent flow immediately before it enters the natural stream flow. The Board included the standard clause for effluent discharge to satisfy the authorization and permit incidental discharge that may occur in the course of the undertaking.

The Licensee did not apply for discharge of surface water from a settling pond this is not authorized by 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.

Maps 1150/10, 1150/15 and 1150/16 are included in the Tr’ondëk Hwëch’in Final Agreement and not the First Nation of Nacho Nyak Dun Final Agreement. Neither First Nation intervened to the Board regarding this project.

Mining Claims Map 1150/10, 1150/15 and 1150/16 and the Mining Lands Viewer were reviewed for settlement land. No parcels of Nacho Nyak Dun settlement land were identified. Map 1150/10 indicates settlement land parcel TH S-93B which is approximately 18 km downstream from the project area on Dominion Creek and below its confluence with several tributary creeks. TH S-93B is the nearest downstream parcel of settlement land.

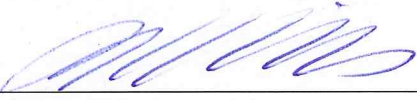
The applicant proposes to use a maximum or 3,500 m³/day or about 5% of the estimated 86,000 m³/day flow of Kentucky Creek.

The effluent discharge conditions of the licence will minimize sediment inputs to the water and ensure that the undertaking will not substantially alter the quality of water.

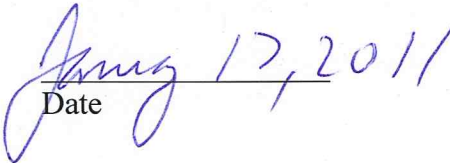
In review of the location of settlement land compared to the project and the effluent discharge standards the licence would require, the Board concluded that Licence PM09-0945 would not substantially alter the quantity, quality or rate of flow of water flowing on, through or adjacent to settlement land.

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 PM09-645 and AP09645 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board



Date