

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM09-658, Marcel Dulac and Mining Land Use Approval AP09658

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM09-658, for a type B licence for a placer mining undertaking and mining land use approval AP09658 (“the approval”).

The purpose of the application is to obtain a water use licence to obtain and store water, cross a watercourse, modify the bed or bank of a watercourse, deposit a waste and to obtain an approved class 4 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 parties:

- Government of Yukon (“GY”), Energy, Mines and Resources, Mineral Resources (no comments), and
- GY, Energy, Mines and Resources, Client Services and Inspections Branch.

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, Map 115G/05, 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 PM09-658 is not contrary to the terms and conditions included in the Decision Document.

The Board determined that conditions 1 through 7 of the Decision Document pertain to wildlife protection and that the standard conditions in the approval and other federal and Yukon legislation exists for the protection of wildlife and avian species in Yukon.

Condition 8 of the Decision Document requires posting, “at least one visible warning sign on the main access road indicating the date and approximate time schedule of blasting.” The Board reviewed item 34 of the *Placer Mining Land Use Regulations* which pertains to explosives and determined that it is too broadly written to ensure the condition of the Decision Document is met by the Licensee. The Board included condition 5 in the approval that requires the Licensee to post a sign prior to blasting, to satisfy the condition of 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.

GY, Client Services and Inspections

GY confirmed for the Board that the project is located within the White River Watershed and provided the applicable compliance standard under Department of Fisheries and Oceans Canada White River Watershed Authorization (“authorization”), which is 2.5ml/L. 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.

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:

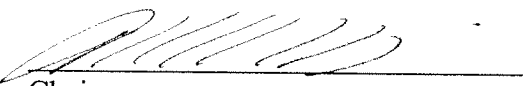
The project located is within the Traditional Territories of White River First Nation and Kluane First Nation. Kluane First Nation has a Final Agreement. As part of the application, the Licensee provided a letter of support from Kluane First Nation for the proposed mining operation. Neither First Nation intervened to the Board on this application.

The Licensee also indicated in the application that Settlement Land does exist in the area, approximately 10 km to the east of the proposed mining operation.

Map 115G/05 is included in the Kluane First Nation Final Agreement. The map was reviewed for Settlement Land. The map does show Settlement Land parcels near the proposed mining operation; however, the parcels are located in different drainages. Therefore, the Board concluded that the 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 PM09-658 and AP09658 for a Class 4 Placer Mining Land Use Operating Plan.


Chairperson
Yukon Water Board

May 18, 2010
Date