

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM09-664, La Tierra Resources Ltd. and Mining Land Use Approval AP09664

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM09-664, for a type B licence for a placer mining undertaking and mining land use approval AP09664.

The purpose of the application is to obtain a water use licence to obtain and store water, divert water, modify the bed or bank of a watercourse, to cross a watercourse, to 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, Mining Lands, and
- 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 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 1150/10h, 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 PM09-664 and approval AP09664 is not contrary to the terms and conditions included in the Decision Document.

The Board determined that all conditions of the Decision Document are met by the typical conditions with the approval with the exception of the following condition:

“The proponent and planners shall exhibit due diligence with regard to their responsibility under the Species at Risk Act, specifically Sections 33, 36 and 73, and the Migratory Bird Regulations, specifically section 6, which contains general prohibitions against the disturbance and destruction of habitat and residences of birds and other wildlife.”

The Board determined that the above referenced condition from the Decision Document is not suitable for inclusion in either the licence or the approval; however, these are laws of general application which the Licensee must abide by.

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 Mining Lands

Mining Lands advised of the requirement to register all fuel tanks that exceed 4,000 L. Since the application indicates that a fuel storage tank of 20,000 L is proposed, the Board advises the Licensee to ensure that the tank and any other tank that exceeds 4,000 L be registered.

Mining Lands advised that a spill plan must be in place and a copy posted on site. The Board is satisfied that the spill plan that is included in the application satisfies Mining Lands concern and advises the Licensee post it onsite.

The Board determined that the issuance of approval AP09664, which reflects the requirements of Schedule 1 of the *Placer Mining Land Use Regulations*, will satisfy the Mining Lands recommendation for compliance.

GY Client Services and Inspections

Client Services and Inspections 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 2.5ml/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 proposed operation is included in the Traditional Territory of Tr’ondëk Hwëch’in. Tr’ondëk Hwëch’in has a Final Agreement. Mining Map 1150/10h was reviewed for Settlement Land. The map does not indicate the presence of Settlement Land; therefore, 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 PM09-664 and AP09664 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board

May 18, 2010
Date