

**YUKON WATER BOARD
REASONS FOR DECISION**

**Water Use Application PM10-004, Bradley Gemmer
and Mining Land Use Approval AP10004**

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM10-004, for a type B licence and Class 4 mining land use approval AP10004 on Dollis 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 Fisheries and Oceans Canada (“DFO”).

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

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 Map 115 A/03, 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 PM10-004 is not contrary to the terms and conditions included in the Decision Document.

Conditions 3 & 4 of the YESAA Decision Document are not within the Board’s jurisdiction and were therefore not included in the water use licence nor the mining land use approval.

The wording of condition 7 of the YESAA Decision Document was problematic given that it did not specify specifically if it applied to both Dollis Creek and the Tatshenshini River. Confirmation from Decision Body was received that the timing window only applied to the Tatshenshini River. The Board determined that the timing windows for the Tatshenshini River will be included in the licence, as reflected in clause 24 of the licence.

Condition 9 of the YESAA Decision Document prohibits machinery from becoming stuck. The Board determined that this is not predictable or preventable and therefore the condition will not be reflected in either the water use licence or the mining land use approval.

Condition 8 of the YESAA Decision Document prohibits any modification to the bed or bank. Typically, the Board authorizes a Licensee to maintain ford crossings, which could result in some

modification to the bed or bank. In clause 21 of the licence, the Board authorized the modification of the bed or banks of Dollis Creek for the purposes of fording. To avoid any conflicts with condition 8 of the YESAA Decision Document, the Board remained silent in the licence with respect to modification of the bed or bank of the Tatshenshini River.

Fording of the Tatshenshini River

The Application includes a proposal to ford both Dollis Creek and the Tatshenshini River. It was noted that the ford crossing on the Tatshenshini River is not located on a Licensee's grant number. The Board determined that this is a water use and therefore it has jurisdiction to authorize the ford crossing in the water use licence even though the crossing is not on a grant.

DFO

The recommendations listed in the DFO intervention are consistent with the conditions listed in the YESAA Decision Document. The explanation of how the Board incorporated the mitigative measures or reasons why the Board chose not to incorporate are listed earlier in these Reasons for Decision under the heading of 'Environmental Assessment'.

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 closest parcels of Settlement Land to the project area are CAFN R-8A & CAFN R-49B which are located approximately 8.5 km upstream from the mining operation. There is no Yukon Settlement Land located downstream of the project.
- The existing ford for the access road is located approximately 0.5 km upstream of Settlement Land CAFN R-8A.
- DFO proposed mitigative measures were incorporated into the water use licence.

Given the above considerations of geography the Board concluded that the proposed mining 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 PM10-004 and AP10004 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board

August 25, 2010

Date