

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM10-020, Myles Paddock and Mining Land Use Approval AP10020

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM10-020, for a type B licence and Class 4 mining land use approval AP10020 on Gold Run Creek, 71 Pup, Loretta Creek, and Lucas 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:

- Fisheries and Oceans Canada (“DFO”) –late intervention;
- 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 Maps 115 O/10h and 115 O/15b, 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 PM10-020 is not contrary to the terms and conditions included in 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.

DFO and the Cross-Valley Dam

The Board accepted DFO’s late intervention. The DFO confirmed for the Board that the existing cross-valley dam is not compliant with the new Fish Habitat Management System given that the

valley width is sufficient to accommodate out-of-stream facilities. As it exists, the dam outfall is perched and acts as a barrier to fish passage.

The Board acknowledged that they allowed the retention of the cross-valley in a previous licence to a different Licensee. It is now considered to be a legacy cross-valley dam. The current application will not be using the dam as part of the operation or for settling purposes.

A GY Mining Inspector verbally confirmed that it is not the intention under the DFO Habitat Management System to touch/alter/decommission legacy structures. The Board noted that this conflicts with the DFO intervention. Since the Board has committed to issuing licences that are consistent with the DFO Habitat Management System, the Board determined that the legacy cross-valley dam will not be referenced in the licence to avoid any inconsistency with the System.

The Board recommends that the Licensee contact DFO and their Mining Inspector for any questions that arise regarding the legacy cross-valley dam.

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 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 AP10020, which reflects the requirements of Schedule 1 of the *Placer Mining Land Use Regulations*, will satisfy the Mining Lands recommendation for compliance.

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 1150/10*
 - The closest parcel of Settlement Land is TH S-93B. Settlement Land TH S-93B is located approximately 15 km down-gradient of the proposed operations.
 - Settlement Land Parcel TH S-93B is referenced in the Tr’ondëk Hwëch’in Final Agreement.

- Water Flow estimates and Water Use
 - According to the estimates provided in the application, the requested quantity of water to be used for the mining operations represents approximately 34% of Gold Run Creek's total flow during mining season. Between Gold Run Creek and the Settlement Land located adjacent to Dominion Creek, there are several tributaries. Although a flow for Dominion Creek was not provided for in this Application, the flows of Dominion Creek indicated in licence PM07-563 is 65,664 m³/day just upstream of the Settlement Land.
 - This water use represents approximately 7% of the creek flow, however it should be noted the water will be returned to the watercourse from the settling ponds
- Water Quality
 - The Department of Fisheries and Oceans has issued an Authorization for the Indian River Watershed. The Authorization includes sediment discharge standards for placer mine effluent.
 - The effluent standard value for freshwater production zones has been included in the licence.

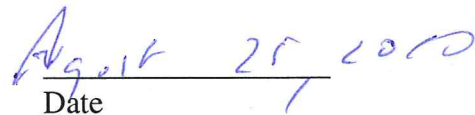
Given the above considerations of geography, flow rate estimates, and water quality, the Board concluded that the proposed operation will not substantially alter the quantity, quality, or rate of flow of water flowing on, through, or adjacent to Settlement Land, including seasonal rate of flow.

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 PM10-020 and AP10020 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board



Date

