

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM10-30, Frank Hawker and Mining Land Use Approval AP10030

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM10-030, for a type B licence and Class 4 mining land use approval AP10030 on Lindow and Bear Creeks 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:

- GY, Energy, Mines and Resources, Mining Land Use;
- Government of Yukon (“GY”), Energy, Mines and Resources, Client Services and Inspections; and
- Fisheries and Oceans Canada (“DFO”).

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 116B/3, 116O/14, Chapter 14 of the Umbrella Final Agreement (“UFA”) and Board policies.

The Board noted that the Licence covers non-contiguous claims with Parks Canada owning intervening land between claims. Parks Canada provided written consent to the applicant to use their land for accessing the non-contiguous claims. Parks Canada was not specifically notified on this application because the organization is not part of the standard notification list, and consented to use of its land.

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 PM10-030 is not contrary to the terms and conditions included in the Decision Document.

The Board has incorporated conditions 3 and 5 of the Decision Document, regarding burning kitchen waste and reporting heritage resources, as paragraphs 42 and 32 of the approval.

The Board determined that the added condition of the Decision Document, regarding responsibility under the *Species at Risk Act* and the *Migratory Bird Regulations* is not suitable for inclusion in either the licence or the approval; however the conditions flow from laws of general application which the Licensee must abide by.

The Board has determined that condition 4 of the Decision Document is reflected in paragraph 34 of the approval.

The Board determined that condition 6 of the decision document was not suitable for inclusion in the Licence or the approval. The Board accepted information from the Licensee that Bear Creek goes to ground in his lower claims. The Board is also satisfied that Bear Creek goes to ground north and west of Parks Canada's Bear Creek compound.

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 Land Use

GY Mining Land Use provided a copy of its correspondence with Licensee regarding location of the Bear Creek where it goes to ground, and also indicated it had no concerns with the Licence.

GY, Client Services and Inspections

GY Client Services and Inspections confirmed for the Board that the project is located within the Klondike River Watershed and provided the applicable compliance standard under DFO Klondike 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 the effluent discharge and point of compliance to satisfy the authorization.

DFO

DFO confirmed that in Water Quality Zones the maximum combined length of diversions at any one time in a watercourse is 5,000m. DFO advised that use of dredge ponds for settling requires a fish and fish habitat assessment and DFO must be advised of the result. The Licensing Officer also confirmed to the Board advice from DFO that where a flow from an undertaking went to ground within a claim discharge would be measured where it was evident in such downstream waterbody as existed.

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 116B/3 and 115O/14 are included in the Tr'ondëk Hwëch'in Final Agreement. The Tr'ondëk Hwëch'in did not intervene to the Board regarding this project.

Mining Claims Maps 116B/3 and 115O/14 and the Mining Lands Viewer were reviewed online for settlement land. Map 116B/3 indicates TH C-14B is on the Klondike River about 500 metres in a downstream direction from the closest point on the applicant's claims. It must be noted however that the flow of Bear Creek goes to ground within the applicant's claims.

In view of the fact that there is no flow from Bear Creek into the Klondike River and the conditions of the licence will minimize sediment inputs to ground water and the undertaking will return flow, the Board concluded that this project will 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 PM10-030 and AP10030 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board



Date

19 8 2011