

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM10-062, Gunter Staeglich and Mining Land Use Approval AP10062

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM10-062, for a type B licence and Class 4 mining land use approval AP10062 on an un-named left limit tributary of the Klondike River 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:

- Government of Yukon (“GY”), Energy, Mines and Resources, Client Services and Inspections; and
- Rod Dewell.

No party requested a public hearing. The Applicant responded to the Dewell 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 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, 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 PM10-062 is not contrary to the terms and conditions included in the Decision Document.

Condition two of the Decision Document requires monitoring and addressing fuel storage issues; the condition is reflected in paragraph 30 of the licence.

Conditions three and five of the Decision Document regarding fuel storage and spill kits are reflected in paragraphs 34 and 36 of the approval as well as Operating Condition number 20 of the *Placer Mining Land Use Regulation*.

Condition six of the Decision Document requiring progressive reclamation is an operational practice not readily translated to an enforceable term, and has not been included in the licence or approval.

Conditions eight and twelve regarding sediment and erosion control measures are encompassed by the *Waters Act* and licence provisions which prohibit the deposit of waste except as permitted by this licence.

The Board determined that condition thirteen of the Decision Document, which requires nesting surveys during certain time periods, is not suitable for inclusion in either the licence or the approval; however they flow from laws of general application which the Licensee must abide by.

The Board has included in the Licence the enforceable portions of Decision Document conditions fifteen and sixteen regarding bear attractants and deterrents.

The Board has determined not to include bear fence requirements of condition seventeen in this licence due to lack of clarity regarding current practice.

The Board has included condition eighteen of the Decision Document as paragraph 9 of the approval, and has determined that the concerns condition nineteen address are covered in paragraph 36 of the approval.

The commitment of the Licensee in his application that the undertaking will not affect the historic road is binding and therefore condition twenty three of the Decision Document is not required in the licence or approval.

The flagging provisions of Decision Document condition one are included in approval paragraph 46. Approval paragraph 45 provides secondary containment standards.

The Board has determined that the sediment and erosion control measures contained in the Licence are adequate to address condition seven, eight and nine of the Decision Document. The Licence paragraph 22 requires the Licensee to comply with the applicable Riparian Zone requirements.

Decision Document condition eleven regarding disturbed areas being left in a state conducive to re-vegetation, is addressed in Licence paragraph 22, and approval paragraphs 14, 15 and 16.

Condition twenty of the Decision Document regarding hours of operation for heavy machinery is incorporated as paragraph 30 of the approval. Condition twenty six regarding access to open pits is addressed by paragraph 24 of the approval.

The operating conditions in the *Placer Mining Land Use Regulation* 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 Klondike River Watershed and provided the applicable compliance standard under Department of Fisheries and Oceans Canada 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.

GY also confirmed that the un-named left limit tributary discharged into the water table of the Klondike River with no direct discharge into the Klondike River.

Rod Dewell

Mr. Dewell stated that save for unusually wet summers the creek only flows during spring freshet.

Response to Intervention

The Licensee responded that the undertaking and the previous undertaking licensed at that location were environmentally sound.

The Board concluded that the creek flow may vary from season to season and the Licensee will be limited in his water use by the flow in the creek as well as the maximum use of 3,924 cubic metres per day.

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.

Map 116B/3 is 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 Map 116B/3 was reviewed for settlement land. Map 116B/3 indicates settlement land parcel C-14B is approximately 2km in a generally downstream direction from the undertaking, however the flow of the unnamed tributary goes to ground shortly after leaving the undertaking.


NTS mapping as described above shows flow from the un-named left limit tributary flowing into Hunker Creek and past TH S-153B1. Accepted information from the applicant that the flow from the project goes to ground a short distance after leaving the applicant's fraction claim.

The effluent discharge conditions of the licence will minimize sediment inputs to the water and ensure the project will not substantially alter the quality of water.

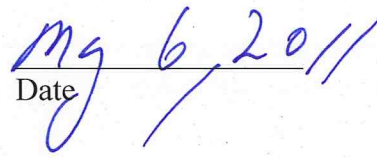
In review of the location of settlement land in comparison to the project, the absence of connecting surface flow from the undertaking to settlement land and the effluent discharge standards which would be required by a licence, the Board concluded that this project will not substantially alter the quantity, 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 PM10-062 and AP10062 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board



Date