

## YUKON WATER BOARD REASONS FOR DECISION

### Water Use Application PM10-063, Kohlman Explorations Ltd. and Mining Land Use Approval AP10063

The Yukon Water Board (the Board) has concluded deliberations pertaining to water use application PM10-063, for a type B licence and Class 4 mining land use approval AP10063 on Bonanza Creek for a placer mining undertaking.

The purpose of the application was to obtain a water use licence to obtain water at a maximum of 5,674 cubic metres per day, divert water, store and alter the flow of water, deposit a waste to Bonanza Creek, to cross a watercourse, modify the bed or bank of a watercourse, and to obtain an approved 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 an intervention from the Government of Yukon (GY), Energy, Mines and Resources, Client Services and Inspections.

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 1150/14, 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 YESAA Decision Document (Decision Document), project #2010-0101 that is included in the water use register. As per section 86 of YESAA, the Board was satisfied that the issuance of licence PM10-063 is not contrary to the terms and conditions listed in the Decision Document.

The Board determined that conditions 3, 4, 5, 7, 9 and (combined 1 and 2) of the Decision Document are met by the typical conditions of the approval with the exception of the following conditions:

1. Decision Document condition 8 – **“The proponent shall make best efforts to avoid the disruption of areas in a state of reclamation from previous mining operations”**.
2. Decision Document condition 10 – **“The proponent shall communicate plans and timing of activities to other resource users (trappers, outfitters, wilderness tourism**

**operators, quartz/placer miners and known subsistence harvesters) that may be affected by the proposed project as soon as practicable, prior to the actual commencement of activities to reduce land use conflicts and any potential negative impacts on others interests”.**

The above two noted Decision Document conditions are not within the Board’s jurisdiction and were therefore not included in the licence or the approval. Furthermore, the Board was of the opinion that the Decision Document conditions noted above are not enforceable, but rather are recommended advice to the Licensee.

#### GY, Energy, Mines and Resources - Client Services and Inspections (CSI)

CSI 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 the point in the effluent flow immediately before it enters the natural stream flow. The Board included the standard clause for the effluent and point of compliance to satisfy the authorization.

CSI recommended that the Applicant meet with an Inspector prior to commencing mining activities to determine what areas of the operation are historic mining areas from those areas the Applicant will be responsible to reclaim.

#### Permanent Diversion Channel

During deliberations, the Board questioned the necessity of the proposed construction of a permanent diversion in which a total relocation of Bonanza Creek was proposed because the Applicant indicated all the mining would happen above the diversion location. Further, the Board questioned whether there was a plan to move the Bonanza Creek access road since the permanent channel would be moved in closer proximity to it.

Clarification was obtained from the Agent who indicated there was no plan to move the road and the permanent diversion was necessary to provide more room for the work area as the natural creek flow was continuing to encroach upon the work area. The Board was satisfied with this explanation and concluded that this contingency approach may be subject to further discussions between the Licensee and the Inspector.

#### 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:

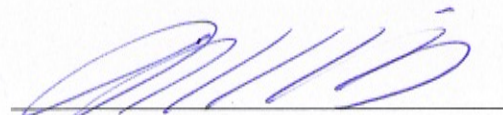
- Tr’ondëk Hwëch’in Final Agreement and Map 1150/14
  - Map 1150/14 was reviewed for Settlement Land. The map indicated that Settlement Land parcel TH R-20A is adjacent to the grant numbers included in the application, as well as partially overlapping with some of the active grant numbers.

- Water Estimate Flows and Water Use
  - The applicant estimated the flow during the mining season to be 380,160 m<sup>3</sup>/d. The proposed use of 5,674 m<sup>3</sup>/d of water during the mining season is equivalent to approximately 1.5% of the available flow in Bonanza Creek.
- Water Quality
  - The applicant proposed a deposit of waste to Bonanza Creek. The water use licence and approval include standard licence conditions for erosion and sediment control, including discharge standards that are consistent with the Fish Habitat Management System.

With respect to geography and based on the review of water use and deposit of waste, the Board concluded that the proposed operation will not substantially alter the quantity, quality or rate of flow of water that is 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 PM10-063 and AP10063 for a Class 4 Placer Mining Land Use Operating Plan.

  
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Chairperson  
Yukon Water Board

December 9 2011  
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Date