

YUKON WATER BOARD REASONS FOR DECISION

Water Use Application PM10-071, Art Christiansen and Mining Land Use Approval AP10071

The Yukon Water Board (the Board) has issued a licence for water use application PM10-071, for a type B licence and Class 4 mining land use approval AP10071 on two unnamed left limit tributaries of Maisy May Creek locally known as Art and Eldria Pups for a placer mining undertaking.

The purpose of the application was to obtain a water use licence to obtain water at a maximum of 3,591 cubic metres per day, store water, deposit a waste to Art and Eldria Pups, to cross a watercourse, modify the bed or bank of a watercourse, to divert water 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 interventions from the following parties:

- 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 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 1150/06 and 1150/07, 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), project #2010-0211, that is included in the water use register. As per section 86 of YESAA, the Board was satisfied that the issuance of licence PM10-071 is not contrary to the terms and conditions listed in the Decision Document.

The Board determined that all conditions of the Decision Document are met by the clauses of the approval with the exception of the following conditions:

1. Decision Document condition 2 - **“Clearing activities shall not occur prior to July 15th, to avoid violating the provision of the Migration Bird Regulation. If clearing cannot be avoided, the proponent shall undertake a pre-clearing nest survey. The Canadian Wildlife Service (CWS) may be contacted for advice on this matter.”**

The Board determined that the above referenced condition from the Decision Document, regarding responsibility under the Migratory Bird Regulations was not suitable for inclusion in either the licence or the approval. Clause 44 of the water use licence and clause 7 of the approval, which refer to the application of other laws, will satisfy the intent of the Decision Document condition noted above.

2. Decision Document condition 3 - **“The proponent shall equip each camp with bear deterrent devices and maintain such devices in good working order throughout the duration of camp occupation as per the “Guidelines for Industrial Activity in Bear Country” booklet for best practice to reduce impact on bears”.**

The Board determined that the above referenced condition from the Decision Document be omitted from the water licence and mining land use approval as it falls under the realm of Best Practices.

Government of Yukon

Energy Mines and Resources, Client Services and Inspections (CSI)

CSI confirmed for the Board the applicable compliance standard under Department of Fisheries and Oceans Canada Stewart River Watershed Authorization (“authorization”), which is 1.5 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 advised the Board that the project area is for an area which has not been mined and further noted to the Board that the Applicant has been mining another area under a similar mining plan and no concerns were noted with that particular mining plan.

Energy Mines and Resources, Mining Land Use

Mining Lands advised the Board of the requirement to register all fuel tanks exceeding 4,000 litres. Since the application indicates that a fuel storage tank of approximately 2,000 gallons is proposed, the Board has included, in the mining land use approval, the typical condition which requires fuel tanks exceeding 4,000 litres be registered.

Further, Mining Lands wanted to ensure the Applicant was directed to remove structures prior to the end of the water licence. The Board determined that the typical condition in the approval

satisfies Mining Lands and the recommendation to have the Applicant remove structures prior to the expiry of the water licence.

The Board determined that the issuance of approval AP10071, which reflects the requirements of Schedule 1 of the *Placer Mining Land Use Regulations*, will satisfy the Mining Lands recommendation for compliance.

Applicant Response to Interventions

The Applicant's agent responded to say that a fuel tank exceeding the 4,000 litres has yet to be purchased for the proposed project and that if one was to be purchased, it would be registered.

Regarding the removal of camp structures, the agent further stated that all camp structures when build would be removed at the end of the project. Currently, no camp exists on these grants.

Water Use Licence Clauses

Instream Settling

A question was raised during Board deliberations on water use application PM10-071 as to why Instream settling, on a certain section of the grants where the valley width is 120 metres, had been proposed. It was determined by the Board that the licence would include wording to require the Licensee to have out-of-stream settling where sufficient room exists. The Board was satisfied that the inclusion of Clause 10 under Part C – Mining Activities of the water use licence should allow for this.

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:


- Na-cho Nyak Dun and Tr'ondëk Hwëch'in Final Agreements and Maps 1150/06 and 1150/07
 - The maps were reviewed for Settlement Land. The map indicates that the nearest Settlement Land parcel TH R-82A is approximately 17 kilometres downstream on Maisy May Creek.
- Water Estimates Flows and Water Use
 - The application included a proposal to obtain and use a combined maximum quantity of 3,591 m³/d of water. The proponent estimated that the available water in each of the two unnamed left limit tributaries (Aka Art and Eldria Pups) of Maisy May Creek during the mining season is approximately 10,500 m³/d (combined flow of 21,000 m³/d). The proposed use is equivalent to 17% of the combined available flow; however, the applicant has proposed to recycle water. Further, Maisy May Creek has a larger flow and there are several other tributaries which drain into Maisy May Creek between the operation and Settlement Land parcel TH R-82A.

- Water Quality
 - The applicant proposed a deposit of waste to both of the left limit tributaries. With the inclusion of an effluent quality discharge standard and typical conditions in the licence and approval, sediment inputs to the water will be minimized.

Given the above considerations of geography, water flow estimates, and water quality, 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 PM10-071 and AP10071 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board



Date