

## YUKON WATER BOARD REASONS FOR DECISION

### Water Use Application PM11-038 Joel White Amendment of licence PM10-023

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM11-038, for an amendment to remove 50 claims and reduce the water use amount in type B licence PM10-023 on Black Hills Creek, Kernine Creek, and Mills 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:

- Government of Yukon (“GY”), Energy, Mines and Resources, Client Services and Inspections (CS&I); 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*, application PM11-038, 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 Claims Map 1150/07, Chapter 14 of the Umbrella Final Agreement (“UFA”), the original application for PM10-023, licence PM10-023, applications PM11-020 and AP11020 (James Stuart), applications PM11-021 and AP11021 (Simon Hambrook), and Board policies.

#### Environmental Assessment

This application did not require an environmental assessment under the YESAA, as the original application was assessed under the YESAA, and no new assessable activities were proposed.

#### GY, CS&I

GY, CS&I confirmed for the Board in their intervention that the project is located within the Stewart River Watershed and provided the applicable watercourse suitability standard and effluent compliance standard under Department of Fisheries and Oceans Canada Stewart River Watershed Authorization, which is 1.5 ml/L. GY, CS&I also recommended that the point of compliance should be at the point of entry to the stream. There was no change in classification or discharge standard from the original licence, so the Board did not include any changes in the amendment.

GY, CS&I also informed the Board that there remains some non-compliance issues with this operator (under the name "Coulee Resources") on the previous (expired) water licence for this Creek, on some of the claims covered by this amendment. CS&I recommended that all of the claims in the existing licence be left in the licence until reclamation works are completed. The Board determined that GY, CS&I can still require the previous issues of non-compliance to be completed after the licence and approval have expired, and that removing the claims applied for in this amendment would not hinder GY, CS&I from pursuing legal requirements for reclamation under the previous licence and approval.

The Board agreed to remove the claims as requested. The Board expects the Licensee to complete the reclamation outstanding on these claims from the expired licence issued to Coulee Resources as directed by GY, CS&I.

GY, CS&I had no concerns with reducing the water use rate in the amendment.

#### GY Mining Land Use

GY Mining Lands asked the Board to consider requiring security under the *Placer Mining Act* on the Mining Land Use Approval. The Board determined that the proposal is beyond the scope of the application and will not be considered.

The Board reviewed the security section of PM10-023, and determined that condition 36, which states, "The Licensee shall provide security in the amount of \$65,000.00 prior to the commencement of any water use and/or mining activities" will prevent the Licensee from commencing any "mining activities" without providing the required security. Adding a security requirement to the Approval would be redundant, as this licence condition prohibits any activities related to mining without security being posted under the *Waters Act*.

#### Relation to PM11-020 (James Stuart) and PM11-021 (Simon Hambrook)

The request to remove the claims and reduce the water use quantity are being requested to allow for two other water use applications to proceed, PM11-020 and PM11-021, which are also before the Board for consideration. The applicants are known to the Licensee, and the Licensee has provided written support for their applications. To proceed with the applications without requiring a new YESAA assessment, the proposed activities in the new applications had to be the same or of a lesser scope than the original screening for PM10-023. GY, Development Assessment Branch reviewed the new applications and the original screening and confirmed to the Board that new assessments would not be required under the YESAA.

In the original application for PM10-023, it was noted that stripping, processing, and mining would occur on the ground covered by the two new applications in years one to four, and that work would not commence on the remainder of the ground until year 5. This is reflected in the quantities for stripping in application AP10023, and for processing in application PM10-023. This means that if the two new licences are issued, any new work performed before 2014 under the amended licence PM10-023 would not have been assessed or approved.

To ensure that this is clear to the Licensee, the Board amended the effective date of licence PM10-023 to July 16, 2014. The Board expects that if the Licensee intends to perform any mining activities before this date, then he will apply for an amendment of his licence and Mining Land Use Approval, and have the amendment assessed under the YESAA.

The Board understands that this does not fetter GY, CS&I's ability to have the outstanding reclamation under the expired licence from being completed, but the Board intends that, until another amendment application is assessed and approved, the only work that can be performed by the Licensee on the claims formerly and currently licensed under PM10-023 before July 16, 2014 is outstanding reclamation, at the direction of GY, CS&I.

#### Chapter 14 of the UFA

The Board reviewed the Chapter 14 conclusion made for PM10-023. The conclusion for PM10-023 is as follows:

“Map 1150/07 is included in the Tr'ondëk Hwëch'in Final Agreement Tr'ondëk Hwëch'in did not intervene to the Board regarding this project.

Mining Claims Map 1150/07 was reviewed for settlement land. Map 1150/07 indicates settlement land parcel THR-18A immediately downstream of the project location.

Black Hills Creek has a flow of 293,760 m<sup>3</sup>/day during the mining season, according to the applicant. The applicant proposes to use 24,264 m<sup>3</sup>/day from three sources, Black Hills Creek being the furthest downstream. This represents 8.2% of the flow of the Creek. However, most of the water withdrawn from the Creek will be returned to the Creek after use, and the proponent will be recycling water when possible, so the effects of the operation on downstream flow will be much less than 8.2% for most of the mining season.

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


In review of the locations of settlement land in comparison to the purpose of the project and the methodology to be used to carry out the placer mining operation, and in the absence of any intervention from TH, it could be 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.”

Amendment 1 of licence PM10-023 proposed to reduce the water use amount from 24,264 m<sup>3</sup>/day to 5,000 m<sup>3</sup>/day. Since this is a reduction in use, the Board determined that this amendment will not substantially alter the quantity, quality or rate of flow of water flowing on, through or adjacent to settlement land.

Regarding the quality of water, the Boards previous conclusion remains unchanged.

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 amendment PM11-038 of Water Use Licence PM10-023.

  
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Chairperson  
Yukon Water Board

  
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Date

July 15, 2011