

**YUKON WATER BOARD
AMENDMENT OF LICENCE**

LICENSEE: BRADLEY GEMMER

LICENCE: PM10-004

AMENDMENT NUMBER: 1

APPLICATION NUMBER: PM11-044

Pursuant to the *Waters Act*, Water Use Licence PM10-004, is hereby amended as follows:

1. Clause 24 (a) of this licence is hereby withdrawn and replaced by:

24. The Licensee shall adhere to the following conditions when fording:

- a) Crossings should only occur according to the Yukon Timing Windows for stream crossings between May 15 and June 15 annually as per the requirements for the protection of Chinook and Sockeye Salmon. Stream crossings over an ice bridge is permitted if the requirements of the DFO Operational Statement for Ice Bridges and Snow Fills can be met. If crossings are required outside of this time period the Licensee shall contact DFO for guidance.

Dated this 26th day of

September, 2011.

Witness Kelly Dary

Approved by:

[Signature]
Chairperson
YUKON WATER BOARD

REASONS FOR DECISION

WATER USE APPLICATION PM11-044

(AMEND. TO PM10-004)

Bradley Gemmer

Dollis Creek

The Yukon Water Board (“the Board”) has concluded deliberations pertaining to Water Use Application PM11-044 to amend Type B Licence PM10-004 for a placer mining undertaking.

Purpose of Application

The purpose of the application is to amend the licence by removing clauses 23 and 24 which pertain to fording the Tatshenshini River and Tatshenshini Creek because the timing windows are too restrictive. If the Board determined the clauses would not be removed, the Licensee proposed an alternative option to amend the licence to allow the Licensee to seek guidance from Fisheries and Oceans Canada (“DFO”). No change was proposed to the Class 4 mining land use operating plan approval.

Public Notice

Notice of this application was provided in accordance with the requirements of the *Waters Act*. In response, the Board received interventions from the following parties:

DFO,
Klondike Placer Miners’ Association,
Al Falle and Tom McCaw, and
Government of Yukon – Client Services & Inspections.

The Board did receive a request for a public hearing if the restrictive fording clauses could not be removed from the licence. The Licensee and the Licensee’s agent provided responses to interventions.

Information Considered by the Board

In making licensing decisions pertaining to this application, the Board took into account the *Waters Act*, *Waters Regulation*, the application for amendment, recommendations from the interveners, the Board’s standard licence requirements, the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document file no. 2009-0234, Chapter 14 of the Umbrella Final Agreement (“UFA”) and Board policies.

Environmental Assessment

The fording was previously assessed and Decision Document file no. 2009-0234 was issued for the original licence application. This application did not require further environmental assessment under the YESAA.

Prior to making licensing decisions, the Board reviewed the YESAA Decision Document that is

included in the water use register. As per section 86 of YESAA, the Board is satisfied that the issuance of amendment 1 to licence PM10-004 is not contrary to the terms and conditions included in the YESAA Decision Document; however, the Board noted that although DFO and the Licensee provided rationale for timing windows that would allow for protection of aquatic species, as well as, safe passage for the Licensee to ford, the Board was restricted by condition 7 of the Decision Document.

Request for Public Hearing

The Board was satisfied with the level of detail provided by both the Licensee and DFO and determined that a public hearing would not be required to make licensing decisions on this application.

Amendment of Licence

Condition 7 of the Decision Document restricted the Board's ability to make licensing decisions pertaining to the fording of Tatshenshini Creek and Tatshenshini River and the Board therefore determined that the dates included in the licence would not be amended. The Board did however, determine that clause 24 (a) of the licence will be amended to reflect the wording of condition 7 of the Decision Document. The Licensee will be able to contact DFO for guidance regarding the ford crossing, if crossings are required outside of the dates included in the licence.

UFA-Chapter 14

The Board's previous determination regarding its Chapter 14 responsibilities remain unchanged by this application, as follows:

“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:

- The closest parcels of Settlement Land to the project area are CAFN R-8A & CAFN R-49B which are located approximately 8.5 km upstream from the mining operation. There is no Yukon Settlement Land located downstream of the project.
- The existing ford for the access road is located approximately 0.5 km upstream of Settlement Land CAFN R-8A.
- DFO proposed mitigative measures were incorporated into the water use licence.

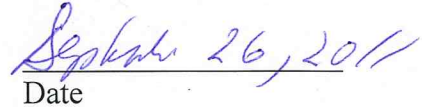
Given the above considerations of geography the Board concluded that the proposed mining operation will not substantially alter the quantity, quality, or rate of flow of water flowing on, through, or adjacent to Settlement Land, including seasonal rate of flow.”

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 Amendment 1 to Water Use Licence PM10-004.



Chairperson
Yukon Water Board



Date