

## **YUKON WATER BOARD REASONS FOR DECISION**

WATER USE APPLICATION QZ09-093  
Amendment #2 to Water Use Licence QZ99-045  
Sa Dena Hes Operating Corp.  
False Canyon

On October 20, 2009 the Yukon Water Board (“the Board”) received an application for amendment #2 to type A water use licence QZ99-045.

In making licensing decisions pertaining to this application, the Board took into account the *Waters Act*, *Waters Regulation*, the application, recommendations from the interveners, the Licensee’s response to interventions, the Boards standard licence requirements and the Boards Guidelines.

### Background

Water Use Licence QZ99-045 authorizes Sa Dena Hes Operating Corp. (“the Licensee”) to maintain the mine site in a temporary closure status or to go into production of copper and zinc.

In licence QZ99-045 the Licensee is required to submit a Detailed Decommissioning and Reclamation Plan on January 28, 2010. The Licensee is also required to start Final Decommissioning and Reclamation of the site on January 28, 2010.

As part of application QZ09-093, the Licensee proposed to amend the conditions pertaining to temporary closure by extending the date for temporary closure to be the same time as the expiry of the current Licence, December 31, 2015.

Currently, and as required by licence QZ99-045, over 5 million dollars, in security, is being held by the Government of Yukon. The Licensee proposed to have this section of the licence removed and for the security to be held and maintained under the Quartz Mining Licence.

### Requirement for a Public Hearing

The *Waters Act* sets out a requirement to hold a public hearing on all type A applications. In response to the public notice, the Board received interventions from the following parties:

Yukon Conservation Society;  
Government of Yukon- Energy, Mines and Resources, Mineral Resources Branch; and  
Liard First Nation.

All parties indicated that a public hearing was not requested. The Licensee responded to the Government of Yukon intervention and also provided written permission for the Board to proceed with deliberations on the application without holding a public hearing.

The Board determined that the public hearing will not be required for this application.

### Licence changes

Amendment #2 of Water Use Licence QZ99-045 includes an administrative update of the entire licence in order to bring the licence conditions up to current licensing requirements.

### Extension to Temporary Closure Status

The Licensee proposed to extend temporary closure because they believe it may become profitable to operate within the next few years. By maintaining temporary closure, the site will be in a condition that will allow start-up. If the Board did not agree with extending the temporary closure and decommissioning commenced, the Licensee has argued in the application that to re-open the mine site from a reclaimed condition would not be economically feasible and the mine site might never be opened again.

Government of Yukon, Mineral Resources Branch recommended to the Board that an extension to the temporary closure should not exceed January 28, 2013. The rationale provided by Government of Yukon indicated that if the temporary closure status was extended to the expiry of the licence, Government of Yukon would have limited ability to ensure that the site was decommissioned and reclaimed for the purposes of permanent closure as set out in the Detailed Decommissioning and Reclamation Plan (“DDRP”). Government of Yukon further supported the recommendation stating that an extension for three years would allow sufficient time to either seek a new licence in support of production and development or proceed to an orderly permanent closure.

Government of Yukon also recommended that an updated DDRP should be supplied every two years for an update to the temporary closure status.

The Licensee responded to the intervention in agreement with the recommendation from Government of Yukon.

The Board agreed that an extension of the temporary closure status would be acceptable and would allow sufficient time for the Licensee to either begin permanent closure or to apply for a renewal Licence allowing production of the site.

Clause 78 was removed and replaced by:

78. If all of the requirements described in this licence in the section entitled “Maintenance Activities During Temporary Closure” are carried out, then Permanent Closure shall be deemed to commence January 29, 2013. If the mine resumes mining and discharge of waste

prior to January 28, 2013, then Permanent Closure shall commence four years from the date of cessation of mining and/or discharge of waste from milling operations. If any of the requirements described in this licence in the section entitled "Maintenance Activities During Temporary Closure" are not carried out, the undertaking shall be deemed to be in Permanent Closure.

and

Clause 83 a) was removed and replaced by:

83. a) The Licensee shall submit an update to the Decommissioning Plan to the Board by January 28, 2010 and every two years thereafter, on or before January 28 of that year, unless mine operations resume.

#### Security Requirements

As part of the Licensee's proposed amendments to Water Use Licence QZ99-045, the Licensee requested that the security requirement be removed in order that security be held under the Quartz Mining Licence.

In the Application, the Licensee stated that the Quartz Mining Licence gives Minerals Branch the ability to reassess the condition of the mine periodically and to adjust the security amount required. The security amount may be raised or lowered in order to accommodate the actual cost of reclamation for the current or future time periods, and also to periodically assess the state of the site. It may also be adjusted according to whether the site has undergone some reclamation, or the site has done work that would require additional reclamation expenses; the amount of security could be adjusted up or down to reflect the current requirements at that time.

The signed Quartz Mining Licence was supplied by the Licensee for the Board's consideration. The Board reviewed the following security requirements:

#### Paragraph 19 of the Quartz Mining Licence (QML-004)

- 19.1. The Licensee must furnish and maintain security with the Minister in the amount of \$7,691,770 no later than February 26<sup>th</sup>, 2010.
- 19.2. The Licensee agrees that the amount of security set out in paragraph 19.1 of this License will be reviewed by the Minister each time the Licensee submits an updated Detailed Decommissioning and Reclamation Plan as set out in paragraph 15 of this License.

- 19.3. The Licensee acknowledges that as provided for in s.4 of the *Security Regulation*, the Minister may periodically review the amount of security furnished and maintained by the Licensee, and may amend the amount of security to a greater or lesser amount than that identified in paragraph 19.1 of this License, based upon each Detailed Decommissioning and Reclamation Plan submitted by the Licensee as set out in paragraph 15 of this License and the criteria set out in s.3 of the *Security Regulation*.
- 19.4. When the Minister determines that additional security must be provided as set out in paragraph 19.3 of this License, the Licensee must furnish and maintain with the Minister the additional amount of security required within 60 days of receiving written notice from the Minister of the increase, provided that the Minister has, prior to issuing the notice, given the Licensee an opportunity to be heard respecting the need for the amount of security.
- 19.5. The Licensee acknowledges that the written notice of the Minister referred to in paragraph 19.4 of this License will, upon issuance, amend paragraph 19.1 of this License with respect to the amount of security and the requirement to furnish and maintain security in accordance with the payment schedule included in the notice will be considered a requirement of this License as of the date of the notice.

In addition to the QML-004 security requirements, Government of Yukon, Mineral Resources Branch submitted a detailed report on the cost estimate for reclamation reported in the Detailed Decommissioning and Reclamation Plan prepared by SteveJan Consultants Inc. This report listed issues with the cost estimate and proposed an increased security amount of \$7,691,770. The Licensee responded to the SteveJan Consultants report by commenting on all the stated, outstanding, issues outlined in the report. The Licensee accepted the changes in the cost analysis proposed in the SteveJan Consultants report.

The Board agreed with the security amount required under QML-004 and that further security requirements would not be required at this time. The Board removed the section of the Water Use Licence that pertained to security.

In making this decision, the Board concluded that it had acted with due diligence and considered both the detailed security analysis, as presented by Government of Yukon, as well as the Licensee's response, to incorporate all water related aspects of the mine site.

However, in order to remain informed of any future changes or information pertaining to security for this mine site, the Board decided that the Licensee will supply the Board with any costing

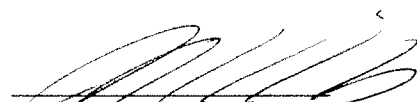
analysis reports, along with any third party reports that deal either with releasing portions of the security or with any increase to the amount of security required by Government of Yukon. To ensure that this is met, the following clause has been added to the Water Use Licence:

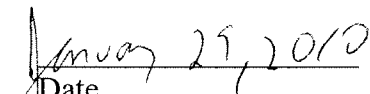
Clause 83

- c) The updated plan shall be consistent with the site decommissioning and reclamation goals described in the Decommissioning Plan, and shall also address the following:
- i. relevant advances in technology;
  - ii. changes to the Canadian Environmental Quality Guidelines (CCME);
  - iii. any relevant additional information that has been acquired through site monitoring; and
  - iv. a review of the estimated costs of decommissioning.
- d) The Licensee shall submit to the Board any reports prepared by third party consultants and any additional correspondence or reports received by the Licensee from the Yukon government, pertaining to the Decommissioning Plan and any material contained within that plan.

Conclusion:

The Board approved the issuance of amendment #2 to water use licence QZ99-045, subject to the Minister's approval, to remove the security requirements from the licence and to extend the temporary closure status until January 28, 2013.

  
Bruce Willis, Chairperson  
YUKON WATER BOARD

  
Date