

YUKON WATER BOARD REASONS FOR DECISION

Application for Water Licence PM17-021 and Class 4 Placer Mining Land Use Operating Plan Approval AP17021 H3 Mining Company

Introduction

The Yukon Water Board (“Board”) has made decisions with respect to application PM17-021 for a placer mining undertaking on Carmack Fork, Discovery 3 Pup, Discovery 4 Pup, Discovery B Pup, Discovery W Pup, and Flannery Pup. The application was submitted by H3 Mining Company (“Licensee”) for a type B water licence and class 4 placer mining land use operating plan approval. The Board deliberated this application on September 6, 2017.

Notice of Application

In accordance with the requirements of the *Waters Act*, the *Placer Mining Land Use Regulation*, and the Umbrella Final Agreement (“UFA”), notice of the application was provided via the Yukon News, Whitehorse Star, and Waterline on August 3, 2017, with a deadline for comments of August 28, 2017. A review of the communication log of Waterline demonstrates that Tr’ondëk Hwëch’in received notification.

Environmental and Socio-economic Assessment

This application required an environmental and socio-economic assessment under the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”).

Board Deliberations

In making licensing decisions pertaining to this application, the Board considered the:

- Application PM17-021
- YESAA Evaluation Report and Decision Document 2017-0023 (“Decision Document”)
- Recommendations from the interveners
- *Waters Act*
- *Waters Regulation*
- *Placer Mining Act*
- *Placer Mining Land Use Regulation*
- Chapter 14 of the *Umbrella Final Agreement* (“UFA”)
- Board policies and standard licence requirements

- The applicable Fisheries and Oceans Canada Authorization for Works or Undertakings Affecting Fish Habitat
- The applicable Yukon Placer Mining Fish Habitat Suitability Map
- Government of Yukon geographical information systems (GIS) area imagery

Decision Document and Evaluation Report

Prior to making licensing decisions, the Board reviewed the Decision Document issued by Government of Yukon, included in register PM17-021 as exhibit 9.2. As per section 86 of the YESAA, the Board is satisfied that the issuance of Water Licence PM17-021 (“Licence”) and Class 4 Mining Land Use Operating Approval AP17021 (“Approval”) is not contrary to the terms and conditions included in the Decision Document.

The Board included Decision Document terms 1, 4 and 6 in Part M of the Approval. Term 2 of the Decision Document has been incorporated into Approval clause 7, and Decision Document term 5 is captured by the standard Approval clauses in Part F.

Interventions

The Board received interventions from the following parties:

- Government of Yukon, Energy, Mines and Resources, Compliance Monitoring & Inspections; and
- Government of Yukon, Energy, Mines and Resources, Mineral Resources Branch.

In response to the intervention from Mineral Resources Branch, the Licensee provided an updated permission/agreement letter (exhibit 6.1) to state that all fifty-five grants in Cory Howden’s name are to be included in the Licence and Approval.

Public Hearing

No party requested a public hearing.

Exhibit 5.1 - Government of Yukon, Compliance Monitoring & Inspections, August 3, 2017

Compliance Monitoring & Inspections (“CMI”) confirmed for the Board that the project is located within the Klondike River watershed and provided the applicable effluent discharge standards for the watershed authorization. CMI also recommended that the point of compliance should be at the point of entry to the stream. The Board included clause 5 for the effluent and point of compliance to satisfy the authorization.

Exhibit 5.2 - Government of Yukon, Mineral Resources Branch, August 24, 2017

The Mineral Resources Branch (“Mining Lands”) noted that the permission/agreement letter included in the register in exhibit 1.1 is only for thirty-nine of the grants belonging to Cory Howden. As addressed above, the Licensee provided an updated Agreement (exhibit 6.1) granting permission for all fifty-five grants in Cory Howden’s name to be included in the Licence and Approval.

Mineral Resources Branch identified an overlap between the Licensee's project claims/grants and two crown grants. Mineral Resources noted that the mineral rights associated with these crown grants have expired. As such, there is no potential conflict with this Licence and Approval.

Mining Lands noted for the Licensee that fuel storage tank T-809 is still registered in the name of the original Licensee, David Trainer. Prior to use of this tank, as proposed in the water licence application (exhibit 2.1), H3 Mining Company is required to register the tank with the Dawson Mining Lands Office in its company name.

Provided the Licensee follows the approved operating plan and complies with all applicable legislation and terms in the approval, Mining Lands had no further concerns.

Term of Licence and Approval

The Board approved the proposed 10 year term. The Board determined the expiry date of the water licence and approval to be September 6, which is based on the date of the Board's meeting upon which licensing decisions were made on this application.

Deposit of Waste

The Licence authorizes a deposit of Waste in the form of sediment only. The Licensee is prohibited from directly depositing anything toxic to fish, floating solids, visible oil or grease, and mercury into a receiving Watercourse, and from placing such substances in an area which could result in a deposit of Waste to a Watercourse.

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:

This project is within the Traditional Territory of the Tr'ondëk Hwëch'in. The First Nation was not a Decision Body for the YESAA assessment. The First Nation did not intervene to the Board regarding this project. The online mapping tools were reviewed for Settlement Land. the nearest parcel being TH R-20A, 11 km downstream of this operation on the banks of Bonanza Creek.

The application included a proposal to obtain and use 8,186 m³/d of water. The Licensee estimated that the available water in each watercourse during the mining season is approximately 120,000 m³/d. The proposed use is equivalent to 7% of the available flow in each of those watercourses. The Licensee has proposed to recycle 80% of the water and will discharge effluent back to the watercourses. There are also other tributaries that drain into Bonanza Creek between the operation and Settlement Land. The Board concluded that the quantity and rate of flow of water flowing on, through or adjacent to Settlement Land will not be substantially altered.

With the inclusion of an effluent quality discharge standard and typical conditions in the Licence and Approval, that will minimize sediment inputs to the water, the Board determined that the quality of water flowing on, through or adjacent to Settlement Land will not be substantially altered.

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 Licence PM17-021 and Class 4 Mining Land Use Operating Plan Approval AP17021.



(Digitally signed by Greg Komaromi)

Vice-Chairperson
Yukon Water Board

2018-09-15

Date