

August 17, 2011

Bobby,

The May 18, 2011 submission of an application for an approval for Changes In and About a Stream under Section 9 of the Water Act by Otter Creek Resources has lead to considerable discussion among the various parties involved in the application review process. These discussions have identified and highlighted numerous challenges associated with BC Water Act Authorizations and the current management of placer mining activities in the Atlin area. The majority of the identified challenges are broad in scope and have implications which extend well beyond the application in question.

The following summary outlines the associated concerns and provides a concise overview of the current state of Otter Creek Resources' application.

- Otter Creek Resources' previous Section 9 application (file #A6001043) was rejected in a letter to John Zogas dated March 24, 2011. The letter provided clear and detailed direction on the type of application required for a permanent diversion and information required to adequately assess an application of this type.
- Otter Creek Resources submitted an identical Section 9 application (file #A6001049) as was rejected in the aforementioned letter with no additional supporting information on May 18, 2011.
- Water management staff from the Smithers and Prince George offices participated in a conference call on June 21, 2011. Otter Creek's application was discussed and numerous concerns were raised.
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- Subsequent discussions with Bobby Love and Doug Flynn outlined a 'phased' approach to the project which was not identified or discussed in the application.
- An email from Sean Staplin dated July 5, 2011 suggests that this application should not be approved, as it does not address the technical concerns identified in the letter associated with the previous application. Sean's email also suggests that to approve this application now would jeopardize future discussions on the MoU and the development of best practices for placer mining in the Atlin area.
- On July 5, 2011 it was discovered that the Ecosystems Section of the Resource Management Branch had been overlooked during the referral process associated with the application.

- Karen Diemert was provided with an update and an opportunity to comment on the application in an email dated July 5, 2011.
- A request for further information was made to the proponent's engineer (Randy Clarkson – New Era Engineering) in an email dated July 6, 2011. This email included questions surrounding the permanence of the proposed diversion channels, the development of a detailed Environmental Management Plan and reinforced the information requirements and direction presented in the March 24 letter.
- Karen Diemert provided comment via an email dated July 12, 2011. Karen's response suggests that the current application not be approved based on two separate issues:
 1. The 1997 MOU needs to be replaced by a more up to date Placer Mining Regulation and guidelines, and
 2. The supporting documentation for the environmental habitat alteration as outlined in the application requires clear procedures.
- Randy Clarkson responded to the information request made on July 6 with a report dated July 18, 2011. The report is neither signed nor stamped by Mr. Clarkson, does not provide the level of technical detail requested, and makes no mention of future discussions concerning placer mining in the Atlin area. This report was forwarded to Bobby Love and Karen Diemert for comment on July 19, 2011.
- Sean and Jeremy met with Bobby Love on July 19, 2011. Bobby was quite adamant that the application be approved and suggested that it would be the tool to get the various stakeholders to come to the table for future discussions. Sean and Jeremy both disagreed and suggested that approving the current application would likely only complicate future discussions. Bobby also suggested that to overcome the uncertainty associated with the specifics of the application, an approval should be issued and the detail that was missing should be overcome through the conditions of the approval, using a "prescriptive" approach. Both Sean and Jeremy noted that Government is no longer in the business of project design or being prescriptive for these types of projects.
- Sean and Jeremy met with Karen Diemert on July 20, 2011. Karen had just returned from the signing ceremony of the Atlin Taku Land Use Plan, and re-confirmed her view that the current application should not be approved, and that doing so would likely hinder future discussions on managing placer mining in the Atlin area. Karen suggested that she would discuss the matter further with Eamon O'Donoghue, as Bobby Love is currently on vacation.
- Jeremy had a conversation via telephone with Randy Miller on July 26, 2011. Mr. Miller was provided with an extensive summary of the concerns associated with the current application and was provided with the opportunity to discuss his concerns. Mr. Miller's concerns were primarily associated with the various interpretations of the 1997 MoU and government's lack of consistent direction to the placer mining industry. Mr. Miller acknowledged that broader discussions are required, but was concerned that industry would not be fairly represented, that the discussions would be biased towards conservation, and that government would not approach the discussions in an objective manner. Jeremy noted his concerns, but suggested that all of the parties involved in the

proposed discussions are genuinely interested in arriving at a practical and effective management solution. Jeremy acknowledged that any solution arrived at would require compromise, and that developing best management practices was going to require significant levels of commitment from all involved parties. Jeremy highlighted the concern that issuing an approval for Otter Creek Resources' current application would only add complexity to an already complex situation and that such an approval would likely impact stakeholders' ability to approach any further discussions of placer mining in the Atlin area in an objective manner.

- Karen Diemert met with Bobby Love on August 12, 2011. Karen outlined her concerns with Randy Clarkson's report and reiterated that the level of technical detail it provides is inadequate to support an endorsement of the application.
- Karen Diemert provided Jeremy with comments on Randy Clarkson's report on August 12, 2011 (on file).

This summary provides a general overview of a complex application, and should be considered supplemental to a thorough review and understanding of the files associated with the application in question, the Placer MoU of 1997, the Creber report of 2002, the recently-signed Atlin Taku LUP and historic decisions made on similar applications.

Given the complexity and current level of uncertainty associated with placer mining activities in the Atlin area, it is abundantly clear that broader discussions of the matter are required. The Provincial Government, Taku River Tlinget First Nations as well as the placer mining industry recognize this and have agreed to participate in a preliminary round of discussions in Atlin during September of 2011. The opportunity for all involved parties to provide input towards the development of a set of best management practices is significant and has the potential to benefit all involved.

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Regardless of the broader context, the application and supporting documentation continue to lack the detail (identified in Bulmer letter and Roscoe email of July 6) required to make a favourable technical recommendation for any portion of the proposed diversion.

It is understood that as the Statutory Decision Maker, you must base your decision on the careful consideration of a broad array of factors. It is therefore understood that the technical aspects of this application only constitute a portion of the information influencing your decision, and that you likely have other information in your possession that is influencing you

toward the issuance of a Section 9 Approval for a portion of the 2080 m diversion outlined in the application. This is understandable, but based on the information currently available; we cannot prescriptively create an Approval document to adequately satisfy our technical concerns that fits within the context of the broader discussion.

Sincerely,



Jeremy Roscoe

Water Stewardship Officer



Sean Staplin, P.Ag.

Water Stewardship Officer

Land and Water Regional Authorizations
Ministry of Forests, Lands and Natural Resource Operations
Smithers, BC