

**YUKON WATER BOARD
REASONS FOR DECISION**

**Water Use Application PM09-657, Daniel Klippert
Mining Land Use Approval AP09657**

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM09-657, for a type B licence and Class 4 mining land use approval AP09657 on Sulphur Creek and Meadow Gulch 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:

- Fisheries and Oceans Canada (“DFO”);
- Government of Yukon (“GY ”), Energy, Mines and Resources, Client Services and Inspections (“CSI”); and
- GY, Energy, Mines and Resources, Mining Land Use (“MLU”).

No party requested a public hearing. The Applicant did not respond to the intervention of DFO.

In making licensing decisions pertaining to this application, the Board also took into account the *Waters Act*, *Waters Regulation*, the application, 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 Map 1150/10 and 1150/15, Chapter 14 of the Umbrella Final Agreement (“UFA”) and Board policies.

The Licensee’s application listed and included 21 claims only. For greater certainty, the Licensee provided the Board with a supplementary mining plan that demonstrated claim 42033 is not included in this application and therefore this grant number is not reflected in the water licence.

Environmental Assessment

This application required an environmental assessment under the YESAA.

Prior to making licensing decisions, the Board reviewed the YESAA Decision Document (“Decision Document”) that is included in the water use register. As per section 86 of YESAA, the Board is satisfied that the issuance of licence is not contrary to the terms and conditions included in the Decision Document.

Neither the Applicant nor the Decision Document proposed any alternative approaches to the operating conditions in the *Placer Mining Land Use Regulation*. These operating conditions have been incorporated into the Placer Land Use Approval for a Class 4 Operating Plan.

DFO

DFO advised the Board that Sulphur Creek is classified as being under current development in a Freshwater Production Zone pursuant to the Indian River Watershed (Category B) Authorization. The Board is satisfied that the covering page of the Water Use Licence reflects the classification of the creek.

DFO advised the Board that the Licensee's claims begin just upstream of where Sulphur Creek diverges into two streams, and that the claims end just above confluence of the two streams. While the valley is 300 metres wide at this point, DFO states "historical tailings piles have operationally created two small narrow valley's [sic] within the [Licensee's] claims". Given constriction from the historical tailings piles, the situation should be considered unique, and it is DFO's opinion that the proposed instream settling and use of the stream as a conduit should be allowed.

The Board recognizes that in normal circumstances a 300 metre wide valley provides sufficient room for out of stream settling facilities and typically it will not approve instream settling facilities. However the Board accepted DFO's recommendation and interpretation of the Indian River Watershed Authorization.

DFO additionally recommended: a control structure at the Sulphur Creek divergence point to allow directing water to either channel; a bypass channel to control Meadow Gulch flow, and ceasing hydraulic stripping during high water flow events; clean-out, capping or bypassing of in-stream settling ponds at the end of each mining season; and breaching of dams at the end of season.

The Board has included a licence requirement for a control structure at the divergence point of Sulphur Creek. The Board has not created further requirement for a by-pass channel downstream from Meadow Gulch because a by-pass channel exists downstream from Meadow Gulch. Additionally, information from GY,CSI indicates Meadow Gulch is a low flow stream.

The Board has included a licence requirement for clean-out or bypassing in-stream settling ponds at the end of each season. Capping was not included as an option for seasonal closure as it is a new concept which has not been examined by the Board. It is not clear to the Board how capping would prevent re-suspension of solids in the water column. Seasonal breaching of in-stream reservoirs is required by the licence.

GY, CSI

GY,CSI confirmed for the Board that the project is located within the Indian River Watershed and provided the applicable compliance standard under Department of Fisheries and Oceans

Canada Indian River Watershed Authorization ("authorization"), which is 2.5ml/L. GY,CSI also recommended the point of compliance be measured at a point in the effluent flow immediately before it enters the natural steam flow. The Board included the standard clause for the effluent and point of compliance to satisfy the authorization.

GY, MLU

GY, MLU confirmed that the Licensee has registered one fuel tank above 4,000 litres capacity. The Board considered this intervention as information only.

Chapter 14 of the UFA

The Board examined the proposed use of water as it relates to Chapter 14 of the UFA, as to quantity, quality, and rate of flow of water flowing on, through and adjacent to Settlement Land, including seasonal rate of flow and concluded as follows.

Territorial Resources Base Maps 1150/10 and 1150/15 were reviewed for Settlement Land. Map 1150/10 indicates Settlement Land parcel TH S-93B is on the Indian River downstream from the confluence of Sulphur Creek, and approximately 20 kilometres km downstream from the undertaking.

The flow of Sulphur Creek is estimated at 520,000 m³ per day; the applicant proposes to use a maximum of 13,140 m³ of water per day, or approximately 2.5% of the maximum flow.

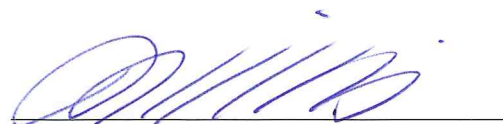
The flow of Sulphur Creek varies greatly in mining season; at times there is a very low flow. The Licensee is restricted to only the use of the available flow in Sulphur Creek and Meadow Gulch. Additionally, the Licensee is committed to return the flow to Sulphur Creek. Although the full flow is being used, the Licensee will discharge back to the watercourse and full flow use is available depending on climatic conditions during mining season.

The proposed waste discharge will meet effluent discharge standards required by the Indian River Watershed Authorization.

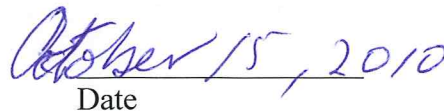
Given the effluent discharge standards required and the distance of the project from S-93B, and the fact that the Licensee will return the flow to Sulphur Creek the Board concluded that the project will not substantially alter the quantity, quality, or rate of flow of water flowing on, through, or adjacent 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 Water Use Licence PM09-657 and AP09657 for a Class 4 Placer Mining Land Use Operating Plan.



Chairperson
Yukon Water Board



Date