

YUKON WATER BOARD  
REASONS FOR DECISION

Water Use Application PM04-361, Dave Brickner  
and Mining Land Use Approval AP04361

The Yukon Water Board (the Board) has made licensing decisions with respect to water use application PM04-361 for a type B licence for a placer mining undertaking and mining land use approval AP04361.

The purpose of the application is to obtain a water use licence to obtain and store water, deposit a waste and to obtain an approved placer mining land use operating plan.

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, Mineral Resources;  
Tr'ondëk Hwëch'in; and  
Hans Algotsson.

No party requested a public hearing. The applicant did respond to the intervention from Mr. Algotsson.

Prior to making licensing decisions, the Board undertook an environmental screening of the project pursuant to EAA. In regard to the EAA screening, the Board is satisfied that any known adverse effects that may be caused by the project are insignificant or can be mitigated with known technology or reasonable work practices.

The applicant did not propose 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.

In making licensing decisions pertaining to this application, the Board took into account the *Waters Act*, *Waters Regulation*, the application, the EAA screening report, recommendations from the interveners, the Board's standard licence requirements, Claims Map 116B/03, Chapter 14 of the Umbrella Final Agreement (UFA) and Board policies.

**DFO**

The effluent standard recommended by DFO is the same standard as referenced in the Yukon Placer Authorization (YPA). The YPA is an authorization under the *Fisheries Act* for the harmful alteration, disruption or destruction of fish and fish habitat in certain streams, or portions of streams, in the Yukon for placer mining works and undertakings, subject to compliance with the standards of allowable sediment discharge. The Board has adopted the YPA as policy for the minimum allowable discharge standard. The effluent discharge standards and operating standards, which are stipulated in the YPA and the Fish Habitat Restoration Plan, have been incorporated in the licence.

DFO provided standard recommendations for fuel, lubricants, cleansers, solvents and similar chemicals or substances to be transported, stored and disposed of in such a way as to ensure that they are not deposited in, or allowed to be deposited in, waters. The typical condition to transport, store and dispose of fuels, lubricants, cleansers, solvents and similar chemicals or substances in such a way as to ensure that they are not deposited in, or allowed to be deposited in, waters has been included in the licence.

DFO has provided standard recommendations that all diversions, ditches, drains, dams, or any structure built or otherwise effected is able to withstand seasonal floods. The typical condition that requires all diversions, ditches, drains, dams or any structure built or otherwise effected to withstand seasonal floods has been included in the licence.

DFO has provided standard recommendations to ensure that spring freshet is not routed through work areas. The typical conditions not to allow spring freshet to be routed through work areas has been included in the licence.

DFO has provided recommendations for the use of fish screens on all water intakes when withdrawing water. The Board has included criteria for the use of fish screens in all licences when withdrawing water from a fish stream.

DFO provided specific recommendations for diversion channels, instream settling and the use of the creek as a conduit. The Board did not include DFO's recommendations in the licence pertaining to diversion channels, instream settling or use of the creek as a conduit. The applicant did not request the ability to construct diversions, use instream settling facilities or use the creek as a conduit and the licence only authorizes those undertakings described in the application.

### **Tr'ondëk Hwëch'in**

Tr'ondëk Hwëch'in recommended that they should be notified if any evidence of archaeological sites or burial grounds are discovered. The Placer Mining Land Use Approval requires the Licensee to contact the Chief of Placer Land Use if any evidence is found of an archaeological site or burial ground. Protection of the site from further disturbance is required until authorization is given by the Chief of Placer Land Use. The Board has previously been advised that the Chief of Placer Land Use is required to contact the affected First Nation. The Board also encourages the Licensee to contact the affected First Nation.

Tr'ondëk Hwëch'in recommended that environmentally sound mining practices should be adhered to. The Board expects all applicants to conduct their mining operations using the practices indicated within their application and practices which are environmentally sound. In review of the water use application and the Placer Mining Land Use application, the Board examines the approach proposed and either approves it or imposes conditions that may differ from the approach proposed by the Licensee. For water use, the conditions in the licence are based on environmentally sound practices and the Board expects the Licensee to comply with the conditions of the licence and approval.

**Hans Algotsson**

Mr. Algotsson has not given permission for anyone to write and agreement to allow for anyone, but Mr. Coles to work on his claims. Tim Coles has an agreement with Mr. Algotsson to work on grant P07871, he thought that he could give an agreement to the applicant, allowing the use of this grant to run a pipeline for water use to his bench claims and an effluent drain from his bench claims. Mr. Algotsson had a concern regarding the use of an effluent ditch across his grant.

The applicant responded to the intervention from Mr. Algotsson and indicated that there is a pre-existing road that crosses grant P07871 and this is where he would lay the pipeline for make-up water. He will not need to use an effluent drain, but indicated if he needs to drain his settling facilities that this would be done using the pipeline. He also understood that Mr. Coles is unable to transfer mineral rights to another person without written consent by Mr. Algotsson.

As the road is pre-existing, the Board has included grant P07871 in the licence to allow the pipeline to be placed and used on the existing road.

**Expiry Date**

This application was received May 12, 2004, with a requested expiry date of December 31, 2014 and it has taken the applicant until April 2006 to respond to the request for additional information. The applicant has paid for a 10 year mining land use operating plan approval, the Board decided that the expiry date of licence PM04-361 will be April 30, 2016.

**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, or rate of flow of water flowing on, through or adjacent to Settlement Land, including seasonal rate of flow, as follows:

This operation is approximately 2 km upstream of Tr'ondëk Hwëch'in Settlement Land. The use of approximately 1.7% of the total water available during the mining season in Bonanza Creek and with other tributaries flowing into Bonanza Creek downstream of this operation, there will be no substantial alteration to the quantity or rate of flow of water, including seasonal rate of flow, flowing on, through or adjacent to Settlement Land.

The authorized effluent standard for this operation will not substantially alter the quality of water within Bonanza Creek, therefore the quality of water flowing on, through or adjacent to Settlement Land will not be substantially altered.

The Board notes that no condition of the water licence limits the application of any federal, territorial, first nation or municipal legislation.

The Board's decisions are also explained in Part Seven of the EAA report.

**Original signed by Bruce Willis**

Chairperson  
Yukon Water Board

**July 10, 2006**

Date