

YUKON WATER BOARD
REASONS FOR DECISION
Water Use Application PM06-517, W. Joris Brinkerhoff
and Mining Land Use Approval AP06517

The Yukon Water Board (the board) has made licensing decisions with respect to water use application PM06-517 for a type B licence for a placer mining undertaking and mining land use approval AP06517.

The purpose of the application is to obtain a water use licence to obtain and store water 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 - Energy, Mines and Resources, Client Services and Inspections Branch (GY - Energy, Mines and Resources);
Mary Beattie;

No party requested a public hearing. The applicant did not respond to the interventions.

This application required an environmental assessment under the *Yukon Environmental and Socio-economic Assessment Act* (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 licence and approval is not contrary to the Decision Document.

In making licensing decisions pertaining to this application, the board took into account the *Waters Act*, *Waters Regulation*, the application, the Decision Document, recommendations from the interveners, the board's standard licence requirements, Territorial Resources Base Map 105M/14, the Umbrella Final Agreement and board policies.

Neither the applicant nor the Decision Document proposed 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

The effluent standard recommended by DFO is the same standard as referenced in the Yukon Placer Authorization (YPA). DFO recommended zero discharge for this operation. The applicant has indicated that he will not discharge into any watercourse and the licence does not permit discharge into any watercourse.

DFO provided specific recommendations for the use of the creek as a conduit, diversions and instream settling; however, the applicant does not propose to use the creek as a conduit, build diversions or to instream settle. The licence only authorizes those undertakings described in the application, therefore, the licence does not permit either of these activities.

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 channels, ditches, drains, dams, or any structure built or otherwise effected is able to withstand seasonal floods; however, the applicant is not requesting to build any structures. Therefore, this recommendation has not been included in the licence.

DFO has provided standard recommendations that spring freshet may be routed through the existing reservoir and where diversion channels around working areas are built or excavated they should be open in preparation for spring freshet. The board has included a condition in the licence that allows spring freshet to be routed through the reservoir. However, the applicant has not requested diversions, therefore the recommendation to open diversion channels has not been included in the licence.

DFO has provided recommendations for the use of fish screens on all water intakes when withdrawing water. The applicant is proposing to take water from a tee in the existing penstock from the reservoir that is in place for the hydro project (water use licence HY90-001). The applicant is not proposing to take water directly from the creek channel, therefore the board has not included a condition for fish screens in the licence.

DFO has provided recommendations for leave strips along Mayo Lake and Dirksen Creek. The board has included DFO's recommendations in the licence pertaining to leave strip widths, operation of heavy equipment, construction of works, clearing of vegetation and placement of materials. DFO also provided recommendations that the applicant consult with DFO prior to upgrading existing roads or trails within the leave strips. The board did not include this in the licence since the applicant is not proposing to upgrade roads or trails.

GY

GY stated that resolution of the outstanding lease is needed prior to the expiry of the licence otherwise a full decommissioning of the site will be required including removal of the reservoir, pipeline and residence. The decommissioning of the reservoir and pipeline are covered under water use licence HY90-001, therefore the board did not include this in the licence. The residence was in existence before the mining land use regulations were in effect and has been grandfathered and therefore would not be required to be removed.

GY was concerned that the use of the shoreline and foreshore is not authorized. The applicant has not indicated that he is using or is intending to use either the shoreline or foreshore, therefore this has not been addressed in the licence.

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:

Territorial Resources Base Map 105M/14, as referenced in the First Nation of Nacho Nyak Dun Final Agreement, has been reviewed for site specific settlement land. This map indicates that there are no settlement land parcels located downstream in the Dirksen Creek watershed, therefore the quantity, quality and rate of flow of water flowing on, through or adjacent to settlement land, including seasonal rate of flow will not be substantially altered.

Original signed by Bruce Willis

December 15, 2006

Chairperson
Yukon Water Board

Date