

YUKON WATER BOARD
REASONS FOR DECISION

Water Use Application PM06-518 (amend. to PM04-457), Clair Sawyer

The Yukon Water Board (“the board”) has made licensing decisions with respect to water use application PM06-518 for a type B licence for a placer mining undertaking.

The purpose of the application is to amend water use licence PM04-457 for the purpose of adding grants.

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”); and
Government of Yukon (“GY”), Energy, Mines and Resources, Client Services and Inspections Branch.

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 the YESAA, the board is satisfied that the licence 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 115B/16, the Umbrella Final Agreement 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, have been incorporated in the licence.

In their intervention, DFO identified a portion of the stream as a fish stream. However, the definitions for the stream has not been included in the licence. The board determined that for clarity purposes the grant number should be used where a clause specific for the fish stream portion appears in the licence.

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 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. However, the board did include a provision for spring freshet to be routed through the instream reservoirs.

DFO has provided recommendations for the use of fish screens on water intakes on and downstream grant P12882 when withdrawing water. The board has included fish screens in the licence when withdrawing water from a fish stream.

DFO provided specific recommendations for stream restoration. As these measures are typically provided for stream restoration where diversions are constructed and the applicant does not propose to construct diversions, the board did not include these recommendations in the licence. Instream dugout reservoirs is currently authorized in the licence. The licence and the approval include adequate restoration measures for these instream works.

DFO provided specific recommendations for culvert installation. The applicant does not propose the installation of culverts. The board did not include these recommendations in the licence.

DFO has provided specific recommendations for fording of Kimberley Creek. The board has included DFO's recommendations pertaining to the crossing of machinery, timing and angles of crossings and stability of the banks. However, the recommendation to use only existing fords has not been included in the licence. The applicant did not indicate that there are existing fords on the grants that are currently licenced nor did he propose to construct fords on the grants that are added to the licence. The applicant indicated the crossing would be located on grant P23181 which the applicant holds mineral rights to. The board included this grant in the licence for fording purposes only.

GY

GY recommended that the point of compliance should be at the point of entry to the stream. The board included the standard clause for the effluent and point of compliance to satisfy this concern. The point of compliance will be at the point of discharge from the final settling facility. The licence also requires all works to be maintained in good order and be of adequate capacity.

YESAA

The board reviewed the Decision Document for conditions that would be applicable to water related activities. The Decision Document included a requirement for the construction and restoration of channels, dugouts and settling ponds to be consistent with the *Guidelines for the Design and Construction of Stream Channels for Yukon Placer Mined Streams*. The board did not include this recommendation in the licence, as the guide book does not apply to the construction and restoration of dugouts and settling ponds and diversions were not proposed by the applicant.

Chapter 14 of the Umbrella Final Agreement

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 115B/16, as referenced in the Champagne and Aishihik First Nations Final Agreement, was reviewed for settlement land. Map 115B/16 indicates Kimberley Creek runs through settlement land parcel R-47A. The applicant indicates that there is approximately 172,800 m³/d available during the mining season and is proposing to use 320 m³/d, which represents approximately 0.18% of the available flow from Kimberley Creek. The board determined that 0.18% of the available flow would not substantially alter the quantity and rate of flow of water flowing on, through or adjacent to settlement land, including seasonal rate of flow.

The effluent standard recommended by DFO and stipulated in the YPA of 1,850 mg/L of suspended solids, will ensure that the quality of water flowing on, through or adjacent to settlement land including seasonal rate of flow is not substantially altered.



Chairperson
Yukon Water Board

October 12 2007
Date