

YUKON WATER BOARD  
REASONS FOR DECISION  
Water Use Application PM06-533, Clive Nicholson  
and Mining Land Use Approval AP06533

The Yukon Water Board (the board) has made licensing decisions with respect to water use application PM06-533 for a type B licence for a placer mining undertaking and mining land use approval AP06533.

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) and  
Tr'ondëk Hwëch'in

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. The Decision Document included several water use licence terms and conditions which restricted the board's authority under the *Waters Act* to make licensing decisions for this project. The board is satisfied that the licence and approval are not contrary to the Decision Document, as per section 86 of YESAA.

Neither the applicant or 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.

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 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 applicant is not proposing any discharge to any watercourse, therefore the board did not include an effluent standard in the licence, but did include a condition that there shall be no surface discharge to 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 or build diversions. 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.

### **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.

Tr'ondëk Hwëch'in recommended that the burial of scrap metal should not be allowed. The board included the typical conditions in the approval for the removal of all waste materials, including but not limited to, scrap metal, machinery and parts, barrels and containers, from the site, excluding silt and other natural materials, this would satisfy this concern. The board expects the Licensee to comply with the conditions of the licence and approval.

Tr'ondek Hwech'in noted that the grants overlapped with Settlement Land R-20A and that the applicant indicated in the application that no work would occur on Settlement Land R-20A. Tr'ondek Hwech'in noted that if any work occurred on Settlement Land R-20A, that they want to meet with the Licensee to discuss reclamation. As the Licensee stated within the application that no work would occur on the portion of grants that overlap with Settlement Land R-20A, the board included a clause in the licence to not allow mining on the left limit of Bonanza Creek where part of the grants overlap with Settlement Land R-20A.

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:

A portion of some grants in this applicant overlap Settlement Land R-20A. Settlement Land R-20A is described as having the most westerly boundary of either the official baseline of Bonanza Creek or the westerly boundary of a 60 metre right-of way of the Bonanza Creek road. The applicant has indicated within the application that there would be no mining on the Left Limit of Bonanza Creek where the grants overlap Settlement Land.

The applicant will not be taking any water or depositing a waste into Bonanza Creek, but will be taking water from Lovett Gulch which goes to ground prior to reaching Bonanza Creek. Therefore, the operation 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.

Territorial Resources Base Map 116B/03, as referenced in the Tr'ondëk Hwëch'in Final Agreement, has been reviewed, to assist the board members in their understanding of the location of the undertaking and Settlement Land.

**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 proponent to regularly inspect proposed floating pumping device for signs of deterioration and to remove rainwater. The board determined that, although this exact wording is not used in the licence, the licence condition to ensure that all work associated with the undertaking, including, but not limited to, all dams, weirs, spillways, stream crossings, ditches, gates, water intakes, culverts and settling facilities shall be maintained in good repair would cover this recommendation.

The Decision Document includes a requirement that all channels are to be constructed and restored consistent with the Guidelines for the design and construction of stream channels for Yukon Placer Mined streams. The Guidelines for the design and construction of stream channels for Yukon Placer Mined streams, applies to applications that include diversions. The proponent did not complete the White Book information portion of the application because diversions were not proposed and the proposed ditches are not considered to be diversions. Therefore, the White Book would not apply to this undertaking and should not be included in the licence.

The terms and conditions of the Decision Document were prescriptive and restricted that boards' authority under the *Waters Act* to make licensing decisions for this project. As per section 86 of YESAA, the board is satisfied that the licence and approval is not contrary to the Decision Document.

---

Chairperson  
Yukon Water Board

---

Date