

YUKON WATER BOARD  
REASONS FOR DECISION  
Water Use Application PM06-535, Simon Hambrook  
and Mining Land Use Approval AP06535

The Yukon Water Board (“the board”) has made licensing decisions with respect to water use application PM06-535 for a type B licence for a placer mining undertaking and mining land use approval AP06535.

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 an intervention from Fisheries and Oceans Canada (“DFO”).

DFO did not request public hearing. The applicant did not respond to the intervention.

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 Decision Document that is included in the water use register. The Decision Document included several terms and conditions pertaining to water use 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 intervener, the board's standard licence requirements, Territorial Resources Base Maps 1150/13 and 1150/14, 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 ditches, drains, dams, or any structure built or otherwise effected is able to withstand seasonal floods. The licensee did not propose any instream works, therefore, the board did not include this recommendation in the licence.

DFO has provided standard recommendations to ensure that spring freshet is not routed through work areas. The typical condition 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 recommended that the river bank and riparian zones should be restored in an ongoing fashion and be able to withstand seasonal floods. The Board included a condition in the licence that requires the restoration of the river bank and riparian zones be constructed in an ongoing fashion and be able to withstand seasonal floods. The Board also included a condition that at seasonal closure all mining and restoration activities pertaining to the disturbed areas should be completed.

DFO recommended that a berm of earth be maintained along the rivers edge to act as a barrier between the river and the mine cut. The Board included this recommendation in the licence.

DFO provided recommendations for fording of the Indian River and the Board determined that those recommendations would be reflected in the licence.

DFO recommended that because some sections of the Indian River are sensitive for fish and fish habitat, leave strips should be retained between the river and the mining area, except where the Licensee has obtained an Authorization for DFO to work within the leave strip. The Board determined that leave strips would be required in the licence, except in those locations where the Licensee is allowed within the leave strip and limited to only one side of the Indian River.

DFO recommended that where the banks of the Indian River have been disturbed they should be restored to ensure that erosion is controlled and any fish habitat that has been displaced during mining of the leave strip is replaced. The board included a condition in the licence to ensure that the licensee restores the disturbed banks of the Indian River and to ensure that erosion is controlled.

The board determined that leave strips will be addressed in the licence as follows:

Part C requires the Licensee to retain a 20 metre leave strip from the Natural Boundary of the Indian River and also includes other conditions that the board typically includes for leave strips. The 20 metre leave strip applies to all grants that are included in Appendix A of this license, except on those grants where the Licensee has authorization under section 35(2) of the *Fisheries Act* to mine within the 20 metre leave strip.

The board, also recognized that the Licensee will require access through the 20 metre leave strip for the placement of the pump and pipeline and has included a condition allowing for a hand cut corridor to be constructed in clause 15.

The board determined that mining within the leave strips will be addressed in the licence as follows:

Part D of the licence pertains to mining activities within the leave strip and only applies on grants P40907 to P40914 inclusive. The licence allows the Licensee to conduct mining activities on these grants, within the 20 metre leave strip, as described in the application, but limits the mining to only one side of the Indian River.

The Licensee indicated within the application that the Indian River would be widened by 3 metres where mining occurs on grants P40907 to P40914 within the 20 metre leave strip, to enhance fish habitat. There was no clear rationale for widening the river by 3 metres and as DFO and the Decision Document required a strip of the river bank to remain undisturbed on grants P40907 to P40914 inclusive, to ensure bank stability and to form the basis of the reconstructed river bank.

The board did not authorize the widening of the Indian River by 3 metres, but did include clauses 17 and 27, that requires a 1.5 metre wide strip of river bank to remain untouched, including the riparian vegetation and this strip of river bank will form the base of the reconstructed river bank.

Clause 18 has been included in the licence to ensure that a stable earth berm is constructed and maintained along the river bank where mining occurs on grants P40907 to P40914, within the 20 metre leave strip for the purpose of maintaining a physical barrier between the river and the mining activities.

Clauses 19 has been included in the licence to ensure that where mining occurs on grants P40907 and P40914, within the 20 metre leave strip that restoration of this area is ongoing.

#### **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:

Maps 1150/13 and 1150/14 indicate the presence of settlement land. The proposed operation overlaps settlement land R60B and R42A and is adjacent to settlement land R47A. The water flowing in the Indian River is approximately 11,232,000 cubic metres per day and the applicant is requesting approximately 0.10% of the total flow from the Indian River. The use of this amount of water will not substantially alter the quantity or rate of flow of water flowing on, through or adjacent to settlement land, including seasonal rate of flow. The licence requirements pertaining to effluent standards and the provision of adequate settling facilities provides assurance that the quality of water flowing on, through or adjacent to settlement land will remain substantially unaltered.

**YESAA Decision Document:**

The board reviewed the Decision Document for conditions that would be applicable to water related activities and noted that a licence cannot be issued that is contrary to a Decision Document. The Decision Document included the following requirements:

- "The permittee shall equip each camp with bear deterrent devices and maintain such devices in good working order throughout the duration of camp occupancy. The District Conservation Officer can be contacted for any necessary information regarding bear deterrent devices." The board determined that this requirement is not pertinent to either the water use or mining land use and no condition will be included in either the licence or approval.

  
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Chairperson  
Yukon Water Board

July 06/07  
Date