

YUKON WATER BOARD
REASONS FOR DECISION
Water Use Application PM06-541, William McIntyre
and Mining Land Use Approval AP06541

The Yukon Water Board (the board) has made licensing decisions with respect to water use application PM06-541 for a type B licence for a placer mining undertaking and mining land use approval AP06541.

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, Client Services and Inspections Branch; 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 terms and conditions restricted the board's jurisdiction under the *Waters Act*. As per section 86 of the 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 Maps 1150/14 and 1150/15 as well as Mining Map 116B/3, the Umbrella Final Agreement (UFA) 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). 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.

DFO provided specific recommendations for instream settling in areas where the valley width are too narrow to allow for the construction of out of stream settling area. The board has included a condition in the licence that allows instream settling. However, since the applicant is not requesting to instream settle outside of areas that are too narrow to allow the construction of out of stream settling facilities, the board did not include the restriction for narrow valley width areas.

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 that spring freshet may be routed through work areas and where diversion channels around working areas are built or excavated they should be open in preparation for spring freshet. The typical condition allowing spring freshet to be routed through work areas has been included in the licence.

DFO provided specific recommendations for diversions channels. The board has included DFO's recommendations in the licence pertaining to diversion channel width, depth, grade, cross valley dams and stability of the banks.

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, including any works that are between the compliance point and the stream.

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, practices allowed by the *Regulation* 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.

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 all new channels 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 condition in the licence. The board did, however, include in the licence the stream channel restoration criteria that have been provided by DFO and that are specific for this project.

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 Maps 1150/14 and 1150/15 and Mining Map 116B/3 are referenced in the Tr'ondëk Hwëch'in Final Agreement. There is no settlement land located downstream in the Last Chance Creek/Hunker Creek watershed. The proposed 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.

Original signed by Chair

Chairperson
Yukon Water Board

Date