

YUKON WATER BOARD
REASONS FOR DECISION

Water Use Application PM06-544, Dale Brewster
and Mining Land Use Approval AP06544

The Yukon Water Board (“the board”) has made licensing decisions with respect to water use application PM06-544 for a type B licence for a placer mining undertaking and mining land use approval AP06544.

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
Government of Yukon (“GY”), Energy, Mines and Resources, Client Services & 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 that is included in the water use register. As per section 86 of YESAA, the board is also satisfied that the issuance of licence PM06-544 is not contrary to the terms and conditions included in the Decision Document; however, the board noted that the Decision Document included conditions that restricted the board’s ability to make licensing decisions under the *Waters Act*.

Neither the applicant or the YESAA 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 also took into account the *Waters Act*, *Waters Regulation*, the application, recommendations from the interveners, the Decision Document, the board's standard licence requirements, Mining Map 115H/04, 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 recommended that the proposed diversion be permitted. The board approved the construction of a diversion and included typical conditions in the licence for the construction of the diversion.

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 area has been included in the licence.

DFO provided specific recommendations for the use of the creek as a conduit or to construct instream settling facilities; however, the applicant does not propose to use the creek as a conduit 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 specific recommendations for diversions channels. The board has included DFO's recommendations in the licence pertaining to diversion channel width, depth, grade, habitat structures and stability of the banks.

DFO recommended that the licence include the requirement for an undisturbed leave strip to be maintained a minimum of 10 metres from the natural boundary of Ruby Creek, except for the use of existing access routes and the works associated with the diversion. The board included conditions in Part E of the licence that pertain to leave strips including a condition that allows for machinery and vehicles associated with the construction of the diversion and use of existing access routes to operate within the leave strip. The licence also allows the Licensee to hand cut a corridor for the placement of the pipeline and pump through the leave strip in order to obtain water as proposed in the application.

DFO provided specific recommendations pertaining to the use of existing fords. The board included typical conditions in Part D of the licence that pertain to fording. The board also accepted DFO's recommendation that fording be restricted between April 15 to July 1 of any year for the protection of Arctic Grayling. This restriction 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 fish screens in all licences when withdrawing water from a fish stream.

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. Therefore, if erosion occurs between the compliance point and the stream, enforcement tools exist to deal with remediation of it.

GY commented in its intervention that the diversion may flow through old settling ponds which may result in re-suspension of old tailings. The board noted that the Decision Document requires that diversion to be routed around, and not through, old settling facilities. The board included condition 34 in the licence to reflect the recommendation and has determined that this condition is not contrary to the Decision Document.

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:

Map 115H/04 is included in the Champagne and Aishihik First Nations Final Agreement. Champagne and Aishihik First Nations did not intervene on this application. Mining Map 115H/04 was reviewed by the board for settlement land. The map indicates the presence of settlement land approximately 2 km downstream of the operation.

The average flow of water available in Ruby Creek during the mining season is 198,720 cubic metres per day. The use of 2,619 cubic metres of water per day constitutes the use of approximately 1.3% of the available flow on a daily basis. Therefore, the board concluded that this project 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 includes the effluent standard of 2.0 ml/L as per the YPA. The board has concluded that with the inclusion of the effluent standard in the licence, the quality of water flowing on, through or adjacent to settlement land downstream of the operation will remain substantially unaltered.

Original signed by chairperson

Chairperson
Yukon Water Board

June 19, 2007

Date