

YUKON WATER BOARD
REASONS FOR DECISION
Water Use Application PM07-578, André Fournier
and Mining Land Use Approval AP07578

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM07-578 for a type B licence for a placer mining undertaking and mining land use approval AP07578.

The purpose of the application is to obtain a water use licence to obtain and store water, divert water, modify the bed or bank of a watercourse, cross a watercourse and to deposit a waste; and also 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:

Government of Yukon, Energy, Mines and Resources, Mineral Resources (“GY-MR”); and Fisheries and Oceans Canada (“DFO”).

No party requested a public hearing. The applicant did provide a letter of response to the GY-MR intervention.

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, response of the applicant, the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document, the board's standard licence requirements, Mining Map 1150/15, Chapter 14 of the Umbrella Final Agreement (“UFA”) and board policies.

Environmental Assessment

This application required an environmental assessment under the 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 PM07-578 is not contrary to the terms and conditions included in the YESAA Decision Document.

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.

Unless otherwise noted below, the Board is satisfied that the conditions of approval are consistent with the conditions of the Decision Document. The conditions of the Decision Document are highlighted in bold font and followed by the Board’s decision.

“Road access shall not be restricted at any time by the proponent and current road standards shall be maintained.”

The Board noted that the Licensee clearly described as part of the application that road access would be maintained and clearly indicated that the road would be left in place for the use by other miners. This commitment was re-iterated in the Licensee’s response to the GY-MR intervention. The licence only authorizes the works as described in the Application and subject to the conditions of the licence. The Board is satisfied that the intent of the above noted condition of the Decision Document has been satisfied by the inclusion of condition 2 in the Water Use Licence.

“The proponent shall maintain a cooperative approach to shared resource management of the land.”

“Trapline and traps in the area are not to be damaged from work related to this project.”

The Board is satisfied that the typical condition which is included in condition 44 of the Water Use Licence, which stipulates that no condition of the licence limits the application of any legislation, will satisfy the conditions of the Decision Document noted above.

GY-MR

GY-MR advised the Board that by the applicant eliminating the lower claims, the project has changed; however, GY is not requiring another YESAA assessment at this time. GY-MR also noted that mitigation regarding road maintenance and access which is included in the Decision Document must be met despite the changes to the project. The Board’s decision pertaining to the road access is included in the section above regarding the Environmental Assessment.

DFO

DFO advised the Board that Hunker Creek is classified as a Freshwater Production Zone stream with an Extensive Development designation pursuant to the Klondike River Watershed Authorization. The Board is satisfied that the covering page of the Water Use Licence reflects the classification of the creek.

DFO advised the Board that any activities within the natural boundaries of fish bearing waters for development, construction or use of access routes not proposed in the application are not approved or authorized by DFO. The Board determined that Part D of the Water Use Licence will provide adequate mitigation for fording the creek.

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.

Expiry Date

The Schedule 4 Application included a proposed expiry date of April 30, 2017. As part of the application, the Licensee also proposed a 10 year mining plan and reconfirmed the request that the licence be approved for a term of 10 years.

The Board determined that the term of the licence would be based on the date of the Board's meeting to review this application. The licence and approval include an expiry date of July 9, 2018.

Non-Contiguous Grants

The Board noted that the original proposal submitted by the Licensee included non-contiguous grants. As per the policy of the Board, all applications must include contiguous grants. The Licensee was advised of the details of the policy by the Licensing Officer, by way of letters which are included in Exhibits 4.1 and 4.2 of the public register, which resulted in the Licensee's request for removal of grants P44757 and P44758 from the water use portion of the application. The Licensee further requested the Board consider including the 2 grants in the approval.

The Board determined that the Water Use Licence will not include grants P44757 and P44758; however, these two grants will be included in the Placer Land Use Approval.


Chapter 14 of the UFA

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 1150/15 is included in the Tr'ondëk Hwëch'in Final Agreement. The map was reviewed by the Board to determine if Settlement Land is present. The Board determined that the map does not indicate the presence of any Settlement Land downstream of the proposed operation on Hunker Creek. Therefore, the Board determined that 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.

Conclusion

The Board has approved the issuance of Water Use Licence PM07-578 and AP07578 for Placer Land Use Approval for a Class 4 Operating Plan.



Chairperson
Yukon Water Board

July 15 2008

Date