

YUKON WATER BOARD
REASONS FOR DECISION
Water Use Application PM07-579, Fortymile Placers
and Mining Land Use Approval AP07579

The Yukon Water Board (“the board”) has made licensing decisions with respect to water use application PM07-579 for a type B licence for a placer mining undertaking and mining land use approval AP07579.

This application was submitted as a renewal of licence PM97-071 and PM97-072. Licence PM97-071 expired on June 1, 2008 and Licence PM97-072 expired on June 30, 2008, before the board considered the application. There is no significant change proposed in the application from what was proposed and approved in licences PM97-071 and PM97-072.

In summary, the project is a dredging operation on gravel bars on the Fortymile River and bench mining. In 1995, prior to issuance of Licence PM94-081, the Licensee and DFO developed operating guidelines for dredge mining on this river, and licence PM94-081 and PM97-071 incorporated all of the DFO recommendations.

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 Government of Yukon, Energy, Mines and Resources, Client Services and Inspections Branch (“GY”).

They did not requested a 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 YESAA Decision Document that is included in the water use register. The board is satisfied that the licence and approval are not contrary to the YESAA Decision Document, as per section 86 of YESAA.

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 took into account the *Waters Act*, *Waters Regulation*, the application, the YESAA Decision Document, recommendations from the intervener, the board's standard licence requirements, Territorial Resources Base Map 116C/7, Chapter 14 of the Umbrella Final Agreement (“UFA”) and board policies.

GY

GY recommended that the Licensee have an evacuation plan in place to ensure machinery and equipment can be moved above the high water mark in the event of a flood. The board included conditions in the licence to ensure that the process plant is removed to a location where flooding is not anticipated and that equipment is on site for the removal of on site equipment and levelling of mined ground at all times.

GY recommended that the fuel spill kit should contain items designed for dealing with spills on water. The board notes that the applicant should have the appropriate materials on site to clean up any spill on water.

GY recommended that dredge ponds should be de-watered prior to backfilling. The licence includes a condition to ensure that the dredge ponds are de-watered, back filled and restored at seasonal closure.

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:

Settlement Land is approximately 14 km's downstream from this operation, at the confluence of the Fortymile River and the Yukon River. The board determine with a distance of 14 km's and other sources that flow into the Fortymile River, there would be not substantial alteration to the quantity, quality, or rate of flow of water flowing on, through or adjacent to Settlement Land, including seasonal rate of flow.

YESAA Decision Document:

The board reviewed the YESAA 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 YESAA Decision Document. The YESAA Decision Document included the following requirements, which were not included in the licence as they are covered by other laws or do not pertain to either the water use licence or the mining land use approval:

- "The proponent shall work with DFO to develop habitat compensation and monitoring plans to ensure there will be no net loss of productive fish habitat".
- "The proponent must submit an Application for Works or Undertaking Affecting Fish Habitat Site Specific Alteration to Fisheries and Oceans Canada to conduct the proposed Placer Mining Activities in the Fortymile River".

The board determined that the above recommendations would not be included in the water use licence, as Fisheries and Oceans would be issuing a Sites Specific Authorization for this project.


- 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”.

Expiry Date:

The board determined that the expiry date should be August 6, 2018, to allow for a full 10-year water use licence and mining land use approval.

Conclusion:

The Board has approved the issuance of Water Use Licence PM07-579 and the Placer Mining Land Use Approval AP07579.



Chairperson
Yukon Water Board

August 26, 2008

Date