

YUKON WATER BOARD  
REASONS FOR DECISION  
Water Use Application PM08-612, Wayne Mitchell  
and Mining Land Use Approval AP08612

The Yukon Water Board (“the Board”) has made licensing decisions with respect to water use application PM08-612 for a type B licence for a placer mining undertaking and mining land use approval AP08612. The Board has made its decisions based on the representations, warranties and undertakings provided by the applicant in the material found in the application.

The purpose of the application is to obtain a water use licence to obtain water at a quantity of 4,546m<sup>3</sup>/day and store water in out of stream settling ponds, instream reservoirs and a cross-valley dam, 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 Government of Yukon (“GY”), Client Services and Inspections as follows:

They provided the habitat suitability of Judy Creek which is a Water Quality Zone with a compliance level of 2.5ml/L and this has been reflected in the Licence. There were no further recommendations in the intervention and the Water Board has added no new clauses to the Licence as a result.

No party requested a public hearing. The applicant did not respond to the interventions.

In making licensing decisions pertaining to this application, the Board also took into account the *Waters Act*, *Waters Regulation*, the application, comments from the intervener, the *Yukon Environmental and Socio-economic Assessment Act* (“YESAA”) Decision Document, the Board's standard licence requirements, Mining Map/Territorial Resources Base Map #115G/12, 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 satisfied that the issuance of licence PM08-612 is not contrary to the terms and conditions included in the 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.

#### GY

GY recommended that the point of compliance should be at the point of entry to the stream and at a level of 2.5ml/L. The Board included the standard clause for the effluent and point of compliance to satisfy this concern. 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.

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:

Mining Map 115G/12, is referenced in the Kluane First Nation Final Agreement. Mining Map 115G/12 was reviewed to assist the board members in their understanding of the location of the undertaking and Settlement Land. The nearest Settlement Land is a site specific parcel, KFN sw-26B, approximately 7 kilometres down stream of the project area.

In regards to the quality of water, the Fisheries and Oceans Canada Authorization for the White River Watershed includes effluent quality standards. These standards have been included in the licence. With the inclusion of the effluent quality standards in the licence, the Board concluded that the proposed operation will not substantially alter the quality of water that is flowing on, through or adjacent to Settlement Land.

The applicant proposed to use approximately 75% of the flow during the mining season and be using 100% of the flow during low water periods if the creek dries up. He proposed that in low flow times he will have to recycle 100% of his water for the operation as Judy Creek tends to dry up in the summer. Judy Creek is a small tributary, that does dry up in the summer months, with many more tributaries feeding into Judy Creek downstream of the application area which will return flow to Judy Creek. Therefore the Board concluded that the quantity and rate of flow of water that is flowing on, through or adjacent to Settlement Land, KFN S-26B, would not be altered including seasonal rate of flow.

Conclusion

The Board has approved the issuance of Water Use Licence PM08-612 and AP008612 for Placer Land Use Approval for a Class 4 Operating Plan.



Bruce Willis  
Yukon Water Board  
Chairperson



MAY 15, 2009.

Date