

REASONS FOR DECISION

WATER USE APPLICATION QZ01-051

Expatriate Resources Ltd.
Wolverine Exploration Project

The Yukon Water Board (the Board) has concluded deliberations regarding water use application QZ01-051, which is an application for a type B licence for Quartz Mining Undertaking submitted by Expatriate Resources Ltd. (Expatriate).

In the application, Expatriate applied for a licence to obtain water and deposit a waste for the advanced exploration of the Wolverine Deposit located in the Finlayson Lake District of the Yukon, approximately 200 km due north of Watson Lake. The community of Ross River is approximately 135 km north of the project area.

Notice of this application was provided in accordance with the requirements of the *Waters Act*. In response, the Board received interventions from the following parties:

Ross River Dena Council,
Government of Yukon-Tourism and Culture,
Environment Canada,
Government of Yukon-Environment, and
Liard First Nation-Lands and Resources.

The Board did not receive a request for a public hearing. The applicant did not respond to the interventions.

Prior to making licensing decisions, the Board undertook an integrated environmental assessment of this project with Government of Yukon-Energy, Mines and Resources-Minerals Management, pursuant to the *Environmental Assessment Act* (EAA). The EAA determination was 16(1)(a): “..taking into account the implementation of any mitigation measures that the responsible authorities consider appropriate, the project is not likely to cause significant adverse environmental effects..”

In making licensing decisions pertaining to this application, the Board took into account the application itself, the EAA screening report, the recommendations of interveners, the Board's standard licence requirements, Territorial Resources Base Map 105G/8 and Board policies.

The Board accepted the recommendations of the EAA screening report and incorporated the recommended mitigation within the licence. Some modifications were made to the recommended mitigation measures and they are addressed below. The Board's decisions are also explained in the EAA screening report. The Board is satisfied that any known adverse effects that may be caused by the project are insignificant or can be mitigated with known technology or reasonable work practices. Territorial Resources Base Map 105G/8 is not included in any of the

final agreements that have been signed to date. The map was reviewed by the Board for site specific settlement land. The map does not indicate the presence of any settlement land. Therefore, it can be concluded that this project will not substantially alter the quantity, quality or rate of flow of water flowing on, through or adjacent to settlement land.

Effluent Quality Standards

In regard to the discharge of a waste, Expatriate proposed that the standards in the Metal Mining Effluent Regulations (MMER) should apply to the water being discharged from the exploration project. Environment Canada, which is the agency responsible for administering the MMER, intervened to inform the Board that the MMER apply to operating mines, not exploration projects. Environment Canada recommended effluent quality standards to the Board and indicated that these standards have been applied to Yukon mine sites for the past 20 years or more. These standards have been demonstrated to be readily achievable while still achieving the Canadian Council of Ministers of Environment, Canadian Water Quality Guidelines for the Protection of Aquatic Life. Government of Yukon intervened to support the effluent quality discharge standards and rationale provided Environment Canada.

As no applicable regulations have been made under Section 31 of the *Waters Act* and because the MMER do not apply, based on the rationale provided by Environment Canada, the Board determined that the effluent quality standards recommended will be included in the licence.

Revised Water Quality Model

Environment Canada recommended that a revised water quality model be submitted to the Board within 60 days of the effective date of the licence, as part of the temporary closure plan. Government of Yukon recommended that an updated water quality model be submitted to the Board within 8 months after commencement of underground operations as part of the Final Closure Plan.

The Board determined that the licence will require Expatriate to submit a revised water quality model within 60 days of the effective date of the licence. Expatriate will, within 8 months of the commencement of portal development, update the revised water quality model as part of the Permanent Closure Plan. A third update to the water quality model is required as part of the updated Permanent Closure Plan that the Board requires Expatriate to submit within 3 years of the effective date of the licence. It is not a requirement of the licence that the revised water quality model be included as part of the temporary closure plan as recommended by the parties.

Water Management Plan

Environment Canada recommended that the Board require an interim plan to be submitted within 30 days of the issuance of the licence and that the interim plan should include a water management plan. Government of Yukon recommended a water management plan be submitted to the Board within 60 days of the issuance of the licence. The Board accepted the timeframe proposed by Government of Yukon in order to provide Expatriate with adequate time to prepare

the plan.

Temporary Closure vs. Permanent Closure

The Board accepted recommendations from both Environment Canada and Government of Yukon for inclusion of licence conditions for the submission of temporary and permanent closure plans. The Board also accepted the recommendation from both parties that the submission of the temporary closure plan should be provided to the Board within 60 days of the effective date of the licence and the permanent closure plan within 8 months of commencement of the portal development.

Environment Canada noted a concern that it was unclear when or how the exact date for reclamation of the advanced exploration project would be determined. In the application, Expatriate provided several factors for the determination of temporary and permanent closure. For the purpose of clarity, the Board included a licence condition within Part H of the licence to specify that a continuous temporary closure of 5 years shall be deemed to be permanent closure at which time the Board has required Expatriate to implement the permanent closure plan.

It is the intent of the Board that, from the date underground exploration ceases, the project will be deemed to be in temporary closure unless underground exploration is resumed within the 5 year period of time prior to permanent closure and the implementation of the permanent closure plan.

Expiry Date

GY recommended that the term of the licence be 10 years. The Board accepted this recommendation and the licence will expire on January 11, 2015.

Security

GY recommended that security be required to cover the total cost of reclamation and based on the information provided in the application, GY provided a recommendation that the Board require the Licensee to provide security in the amount of \$64,000.00 for site reclamation. This figure was based on the initial capital costs and the cost of water treatment for the first year. GY indicated that the plans for closure or care and maintenance may require a reassessment of security. The Board accepted this recommendation and included the requirement to provide security in the amount of \$64,000.00 within 30 days from the effective date of the licence in accordance with the *Waters Regulation*. The Board concluded that the one year time period will provide ample time for Environment Canada and GY to revisit the issue of security.

Correction to Licence

Water Use Application QZ01-051 was reviewed by the Board for licensing on March 9, 2005. A licence was subsequently signed by the Chairperson on April 4, 2005. The licence contains a typographical error in condition 44, which requires correction. The following information identifies the error and the rationale for the correction.

The following documents were reviewed:

- Board package for the March 9, 2005 Board Meeting,
- Memo to the Chairperson from the Licensing Officer dated April 1, 2005, which indicates that the licence was edited from the draft version presented to the Board at the March 9, 2005 meeting and that the revisions did not make any substantial changes to the licence that require further Board deliberation. The changes were to omit duplication of requirements and to maintain consistency in the terminology and licence language used.
- Handwritten notes of the Licensing Officer, which indicate that the content contained within Appendix B, as shown in the draft licence included in the March 9, 2005 Board package, be integrated as part of Appendix A without any deletion of content. This was merely a change to the format to the licence.

Licence condition 44 requires the Licensee to comply with the Surveillance Network Program attached as Appendix A and Appendix B to the licence. The licence that was signed by the Chairperson included an Appendix A, but not an Appendix B. Handwritten notes of the Licensing Officer clearly indicate that the intention in revising the licence was to incorporate the content of Appendix B into Appendix A. Therefore, condition 44 should only reference Appendix A and the reference to Appendix B in condition 44 is a typographical error.

The Yukon Water Board has the power and jurisdiction to amend water use licenses in two strictly limited cases, specifically:

- where there is a slip or clerical error in drawing up the licence; or
- where the licence does not express the decision actually made.

In this case, it is reasonable to conclude that staff, when preparing the final licence for the Chairperson's signature, did not take notice of this discrepancy within the licence. Under the circumstances sufficient rationale exists to conclude that a clerical error occurred in the drawing of licence QZ01-051 and that the error should be corrected via the attachment of a Correction to Licence QZ01-051.

Bruce Chambers
Vice Chairperson
Yukon Water Board

May 9, 2005.
Date