

006572

To: C.K Benner  
From: G.A. Jilson

22 July, 1993

Re: Distinction between claims, mineral leases and surface leases

Mineral tenure in Yukon is granted by the Yukon Quartz Mining Act. Anyone over the age of eighteen can locate a mineral claim on vacant Crown land. The location of a claim carries the rights outlined in section 76 of the Act (see attached). This removes the need for any further permits or approvals unless there is the need to use water or deposit waste in the mining process (in reality for an appreciable sized mine there almost always is) in which case a water license may be required under the Yukon Waters Act.

A claim held by right of location can be taken to lease if mineral has been discovered on the claim and more than \$700 of work has been completed on the claim. The process of conversion of a claim to a lease requires that a legal survey be completed and approved by the Surveyor General and that the intention to complete the conversion is posted on the claim and advertised in a newspaper in the Yukon for 60 consecutive days. There is a period during which any dispute of the claim can be filed, after that period passes without dispute the title to the claim is solid. Leases are for 21 years and can be renewed without change in terms and conditions provided there is compliance with the YQMA (i.e. pay any royalties etc.) at the time of renewal.

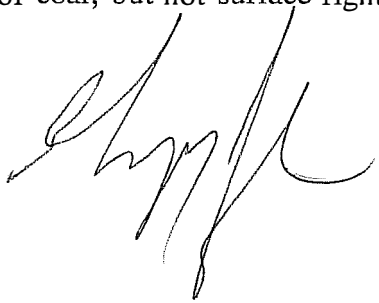
The advantage of a mineral lease is the uncontestable title to the minerals under the claim; there is no requirement to convert to a lease before mining (as there is in B.C., for example) since section 76 gives the right to mine. Note that there are moves afoot to restrict this sweeping right as the environmentalists of Yukon find it offensive. The Territorial Lands Act which might be expected to govern the use of the surface of a claim is stopped by section 3 of that Act which states that nothing in the TLA will interfere with the working of the Yukon Quartz Mining Act. This provision eliminates the need to obtain a lease of the rights to the surface of the claim (as opposed to the lease of the mineral rights) since section 76 of YQMA gives that right in a restricted and non-exclusive sense. If one wants exclusive rights to the surface of a minesite (to deny trespass for example) then a lease under the TLA is needed.

Interestingly the judge in the recent judgement against our appeal of the Vangorda stated case implied in passing that a surface lease under TLA should be in hand before mining however he may not have taken the YQMA into account. This matter has never been challenged directly in court as far as I am aware. Notwithstanding the above, we have surface leases at Faro and have had an application outstanding since 1989 on the Vangorda/Grum minesite and haul road as well as the mining area at Sa Dena Hes (since 1990). After recent prodding, DIAND officials say they are moving on these surface lease applications again and claim to have documents close to final draft and to be working on getting an Order in Council (required since we already have over 640 acres under lease in Yukon).

Most of our major Yukon mineral deposits are under mineral lease or have been surveyed and an application is in preparation. The mineral lease coverage is detailed in report WH9103A which is current to the end of May 1993. Only Burnick, Gribbler and Attila at Sa Dena Hes and Swim at Faro Division are not at least in part covered by mineral leases. The Grum and

Vangorda pit reserves are completely covered by mineral leases.

Transfer of claims and leases is covered by sections 93 to 99 of the YQMA (attached), there are no particular approvals required but the transfer must be recorded with the Mining Recorder in Whitehorse. Ministerial approval is required to transfer a surface lease or a coal lease (a lease of coal, but not surface rights, issued under the Territorial Coal Regulations of the TLA).

A handwritten signature in black ink, appearing to be 'E. Smith', written in a cursive style.