



P.O. Box 599, Dawson City, Yukon Y0B 1G0

## FACSIMILE TRANSMITTAL SHEET

TOTAL NUMBER OF PAGES INCLUDING COVER: 11 DATE: Nov 19, 02

TO: Stephen Mills

FROM: Steve Coram

DEPARTMENT: S.R.B.

DEPARTMENT: Lands

FAX # 867-688-5892

FAX # (867) 993-6846

PHONE #

PHONE # (867) 993-6937

## NOTES/COMMENTS:

Please find the attached official appeal application regarding security on M. Vincent Placer Claims located on Trondëk Hwëch'in Settlement land CUBO. Original follows by mail. The application and accompanying cover letters were sent to both Michel Vincent and the Dawson District Mining Recorder.

Sincerely,

\*\*\*\*\*IMPORTANT - CONFIDENTIAL INFORMATION\*\*\*\*\*

**THIS MESSAGE IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL OR ENTITY TO WHICH IT IS ADDRESSED, AND MAY CONTAIN INFORMATION THAT IS PRIVILEGED, CONFIDENTIAL AND EXEMPT FROM DISCLOSURE UNDER APPLICABLE LAW.** Any other distribution, copying or disclosure is strictly prohibited. If you have received this message in error, please notify us immediately by telephone and return the original transmission to us by mail without making a copy.

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## Application to the Yukon Surface Rights Board

(Type or print legibly, complete all pages, attach pages as required)

Applicant's Name Triondék Hwechin Company \_\_\_\_\_

Co-applicant(s) (if any) \_\_\_\_\_

Street Address/ Post Box Number Box 599 Y08 160 City/Town Dawson City

Telephone 867-993-6937 Facsimile 993-6846 Email \_\_\_\_\_

Designated Contact Person Ed Kormendy Company Triondék Hwechin

Street Address/ Post Box Number Box 599 Y08 160 City/Town Dawson City

Telephone 993-6937 Facsimile 993-6846 Email ed.kormendy@gov-trondek.com

Other Party(s) Involved Mining Recorder / Michel Vincent, Raven Exploration and Construction  
P.O. Box 599, Dawson City, Y.T. Y08 160

Street Address/ Post Box Number Box 249 Y08 160 City/Town Dawson City

Telephone 993-5343 Facsimile 993-6747 Email perryk@nac.gc.ca

Dispute is on: Settlement Land Category "A" \_\_\_ Category "B"  Non-settlement Land \_\_\_

Briefly explain the issue(s) in this dispute:

Notice of appeal of the decision of the Mining Recorder (Dawson District) section 18(1)  
of the Yukon Placer Mining Act ("Act") with regards to the security required to be  
given by Michel Vincent prior to entry on the following placer claims which are  
located on settlement land (4B/D: Ben P24076, Al P22209, Bell P36401, Bit  
P36402, Sid P22208, Ben P21500, Tracie P21501, Protection P00410. This  
appeal is made under the authority of section 18(2) of the Act. The decision appealed  
from is contained in the attached letter from the Mining Recorder to Chief Dawson Taylor on  
Sept. 25, 2002. Our grounds for appeal include our belief that the \$2000.00 per  
claim of security determined by the Mining Recorder is not "adequate" to prevent any  
"loss or damage" and further grounds that we may bring forward during the appeal process.

Describe your preferred solution to the dispute (What do you want in the Board order?):

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### Required Attachments

1. A copy of the written notice and proof of service of this application to the "Other Party(s)" listed on page one of this application.
2. Any other information or material which may assist with this application, such as: maps, sketches, photos, letters of correspondence, copies of mining claims, proof of land tenure, etc.

Signed this 18 day of November 2002 at 199

  
Signature of applicant

Ed Kormandy  
print applicant's name

This application must be filed at the head office of the Board by personal delivery, by registered mail, by facsimile, or as otherwise directed by the Board.

Address to: Yukon Surface Rights Board  
Box 31201  
Whitehorse, Yukon Y1A 5P7

Deliver to: Yukon Surface Rights Board  
206-100 Main Street  
Whitehorse, Yukon

Fax (867) 668-5892 Tel: (867) 667-7695 Email: surfacerightsboard@hypertech.yk.ca

*NOTE: The Yukon Surface Rights Board will not file incomplete applications nor will they consider accepting any application without significant documented negotiation attempts. Orders of the Board are based on the best available information. It is the applicant's responsibility to supply the supporting documentation for their application, hence it is in the applicant's best interest to supply the most relevant information possible.*

This application is based on the Yukon Surface Rights Board Act and the Rules of Practice and Procedure for the Board. Any information not supplied with your application kit is available from the Board office at the above address.

**Record of Negotiation Attempts page**

*(Meeting minutes, summaries of conversations, copies of letters may be submitted)*

Date July 10/02 Time \_\_\_\_\_ Contact Initiated By Darren Taylor Duration of meeting \_\_\_\_\_

Method of Contact (check one): In Person  Location \_\_\_\_\_ Phone  Fax  Mail

Persons present at meeting/ telephone call \_\_\_\_\_

Brief summary of discussion Attached letter from Darren Taylor to Kathryn Perry regarding the "Security to perform work on placer claims situated on TR land C-4"

Date Sept 25/02 Time \_\_\_\_\_ Contact Initiated By Kathryn Perry Duration of meeting \_\_\_\_\_

Method of Contact (check one): In Person  Location \_\_\_\_\_ Phone  Fax  Mail

Persons present at meeting/ telephone call \_\_\_\_\_

Brief summary of discussion Attached letter from Kathryn Perry to Darren Taylor regarding the "Security requests on Trondok Hwech lands"

Date \_\_\_\_\_ Time \_\_\_\_\_ Contact Initiated By \_\_\_\_\_ Duration of meeting \_\_\_\_\_

Method of Contact (check one): In Person  Location \_\_\_\_\_ Phone  Fax  Mail

Persons present at meeting/ telephone call \_\_\_\_\_

Brief summary of discussion \_\_\_\_\_

*Please include any other information related to the efforts of the parties to negotiate a settlement to the outstanding matters.*

July 10, 2002

Ms. Kathryn Perry  
Mining Recorder  
Department of Indian Affairs & Northern Development  
PO Box 334  
Dawson City, Y.T.  
Y0B 1G0

Dear Ms. Perry,

Re: **Security to perform work on placer claims situate on TH land C-4**

This morning I was updated on the matter of M. Vincent posting security to perform placer like work on TH land C-4. As you know full well TH is in the process of development in that area. My understanding from the discussion this morning is, Mr. Vincent if he wishes can post security in the amount of \$2,000.00 per placer claim (there are eight claims). If he posts the security he will have the ability to essentially shut down a 2 million dollar subdivision development.

In unilaterally deciding that \$2,000.00 is adequate security you have in TH's opinion been negligent in the following areas:

- You have not consulted with TH on how the mining recorder's office came up with the 2K amount. TH had no involvement other than a short discussion where the notion of 10K per mining claim was informally discussed and you were provided with a map showing where the TH development was taking place in relation to the placer mining claims. You have not provided any rationale as to how you came up with the 2K amount.

Before you ask Mr. Vincent for security, TH strongly recommends that you provide the complete rationale for how that number was arrived at.

- If Mr. Vincent has provided the mining recorder's office with a plan and that plan was considered when security was determined then it is TH's position that there be a copy of that plan and all related information provided to TH. How would it be possible for TH to consider the security posted if there is no access to the mining/exploration plan?

TH is of the opinion also that no access to the mining claims should occur until the First Nation and the mining recorder's office agree on security and in the absence of agreement, the decision of the Surface Rights Board.

Rest assured TH will not tolerate or accept actions by the mining recorder's office that turn a blind eye to the fact that TH is spending millions of dollars on this development. TH is employing many citizens of TH, local community members including miners on this project. This is not a simple case of a legitimate placer miner accessing placer claims for miner like purposes. The land in question is immediately outside of Dawson within the municipal boundaries and has been mined extensively and thoroughly by the very efficient dredges in the early 1900s. This individual wants to stop the sub-division development in order to sell the placer claims to TH for his asking price.

All DIAND officials involved in enabling Mr. Vincent to essentially extort money from TH will eventually be held accountable in the event that Mr. Vincent holds up the C-4 development.

Please feel free to call me or Ed Kormendy, Director TH Lands if you have questions or concerns regarding this correspondence.

Yours truly,

Darren Taylor  
Chief, Tr'ondek Hwech'in

cc. Mr. Ed Schultz Grand Chief CYFN  
Mr. Larry Bagnol MP Yukon  
Ms. Pat Duncan, Premier Yukon  
Mr. Glenn Everitt Mayor City of Dawson  
Mr. Rod Snow Davis & Company  
Mr. John Brown RDG DIAND  
Mr. Bob Holmes Director Mineral Resources DIAND  
Mr. Dave Wiebe Regional Manager & Chief Mining Lands DIAND



*Dawson Mining District*  
*PO Box 249*  
*Dawson City, Yukon*  
*Y0B 1G0*  
*Phone: (867) 993-5343*  
*Fax: (867) 993-6747*

25 September 2002

7720-18

Darren Taylor, Chief  
Tr'ondek Hwech'in First Nation  
PO Box 599  
Dawson City, Yukon  
Y0B 1G0

**CONFIDENTIAL**

Dear Chief Taylor:

**Re: Security Requests on Tr'ondek Hwech'in Lands**

Thank you for your letter dated July 10, 2002. In the letter you expressed concern as to the process in which security is applied. I hope I can provide a satisfactory explanation.

Section 18.(1) of the Yukon Placer Mining Act states: "**No person shall enter on for mining purposes or shall mine on lands owned or lawfully occupied by another person until adequate security is given, to the satisfaction of a mining recorder, for any loss or damage that may be thereby caused.**"

Your letter also requests information as to how a Mining Recorder determines the amount to be requested for security. The process of transforming the factors in a particular situation into an amount involves the following steps:

1. Identify the factors and issues which need to be established in order to reach a decision. This is done by soliciting information and clarifying the legislative requirements involved.
2. Sort the factors and issues for relevance to the situation.
3. Weigh the relevant factors for possible impact and establish their priority.
4. Make the determination based on the well-reasoned consideration of the factors in conjunction with the rights of the parties involved.

As stated in the above noted section of the YPMA, the application of security is the responsibility of the Mining Recorder and as such, must be applied by the Mining Recorder.

A Mining Recorder strives to make well-reasoned decisions based on all the factors, in a fair and equitable manner. The factors of course, are specific to each situation and are not always consistent.

Mr. Michel Vincent, who currently owns approximately 80% interest in the claims on C4, was directed to provide clarification regarding his proposed work program, in addition to sufficient information to make a determination as to whether the work program could be completed without resulting in significant damage or intrusion to the progress of the development. Mr. Vincent provided the information as requested and by reviewing all the facts presented, it was determined that only a small possibility existed that any work would be done in the immediate future that may negatively impact the surface development site.

Mr. Ed Kormendy was also given the opportunity to present his concerns regarding the claim holder and the possible impact that may occur as a result of mining on the claims in the area of the surface development. During our numerous conversations, Mr. Kormendy provided me with an outline of the surface development and a map of the area. Aside from advancing his assumptions regarding the motives of the claim holder, he did not provide any additional information which could be factored into the process to determine the security requirement.

In this situation, the factors that were taken into consideration included the proposed surface development in its entirety, any impediment a mining operation may present to the development, the location of the claims in relation to the proposed surface development, the number of claims involved, the type of work proposed, the equipment to be used, the work history of the claim holder, and the possible overall impact of the work program on the surface development.

In making this decision, I reviewed all the factors involved and concluded that a minimal impact work program could be carried out with little or no disruption to the surface development and therefore a request for security in the amount of \$2,000.00 per claim was justified and appropriate. I also concluded that the surface holder could continue the surface development with a minimal amount of interference and disruption to the site. If the claim holder were to increase the level of activity in the area or change his program, the amount of security would be re-evaluated and the Tr'ondek Hwech'in Lands Department would again be consulted.

Although the surface holder maintains the right to occupy the surface, in the case of an existing mineral disposition, both rights must be considered equitably. It is acknowledged that it may be more difficult for the surface rights holder to develop the surface while contending with a mining operation. However, with respect and compromise, it is possible. A negotiated agreement is always encouraged between two conflicting right holders whereby both can exercise their respective rights without conflict. When conflict is inevitable, a Mining Recorder must assess the comparative weight of the conflicting interests, and the relative value

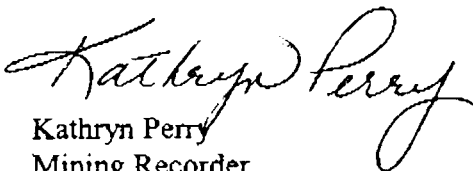


of the factors involved. As in every decision making process, the rights of both parties must be evaluated in relation to one another.

A security deposit is required where a possibility exists that there may be loss or damage resulting from the mining operation. The security is not intended to be applied in such an amount whereby it essentially denies or restricts the claim holder's ability to carry out the requirements of the Yukon Placer Mining Act. It is also not intended to be punitive, but instead, meant to impress upon the claim holder the necessity to work in such a manner so as to disturb the surface holder as little as possible, and still complete the work required to maintain the claim. A security deposit is not intended to cover the cost of all potential damage, but in the event that actual damages were to exceed the amount of security collected, the provisions of section 18.1 of the Yukon Placer Mining Act with regard to full compensation, would apply. Therefore, if damages were to exceed the amount of security paid by Mr. Vincent, he would be obligated to pay full compensation to the Tr'ondek Hwech'in First Nation.

I trust this provides the information you seek. If you prefer to discuss this matter in more depth, please feel free to contact me at (867) 993-5343.

Yours truly,



Kathryn Perry  
Mining Recorder  
Dawson Mining District

cc. John Brown, Regional Director General,  
Bob Holmes, Director, Mineral Resources  
David Wiebe, Regional Manager, Mineral Rights



## **Lands Department**

Box 599, Dawson City, Yukon, Y0B 1G0

Phone (867) 993-6937  
Fax (867) 993-6846

November 19, 2002

Michel Vincent  
Raven Exploration and Construction  
P.O. Box 548  
Dawson City, YT  
Y0B 1G0

**Re: Dispute respecting security on M. Vincent Placer Claims located on Tr'ondëk Hwëch'in Settlement Land Parcel C-4B/D**

As per the Yukon Surface Rights Board Act and corresponding Rules of Practice, this letter constitutes a notice of our appeal of the decision of the Dawson Mining Recorder section 18(1) of the Yukon Placer Mining Act with regards to the security required to be given by you prior to entry on the following placer claims which are located on Settlement Land:

Bern	P24076	Sit	P22208
Al	P22209	Ben	P21500
Bell	P36401	Jacinthe	P21501
Bit	P36402	Protection	P00410

Sincerely,

Steve Caram  
Lands & Resource Officer



November 19, 2002

Dawson District Mining Recorder  
 Box 249  
 Dawson City, YT  
 Y0B 1G0

## Lands Department

Box 599, Dawson City, Yukon, Y0B 1G0

Phone (867) 993-6937

Fax (867) 993-6846

### Re: Dispute respecting security on M. Vincent Placer Claims located on Tr'ondëk Hwëch'in Settlement Land Parcel C-4B/D

As per the Yukon Surface Rights Board Act and corresponding Rules of Practice, this letter constitutes a notice of our appeal of the decision of the Dawson Mining Recorder section 18(1) of the Yukon Placer Mining Act with regards to the security required to be given by Michel Vincent prior to entry on the following placer claims which are located on Settlement Land:

Bern	P24076	Sit	P22208
Al	P22209	Ben	P21500
Bell	P36401	Jacinte	P21501
Bit	P36402	Protection	P00410

Sincerely,

Steve Caram  
 Lands & Resource Officer