



Environmental Protection Operations  
5204 - 50<sup>th</sup> Avenue, Suite 301  
Yellowknife, NT X1A 1E2

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Our File 4703 001 078

Phyllis Beaulieu  
Manager of Licensing  
Nunavut Water Board  
P.O. Box 119  
Gjoa Haven, NU X0B 1J0

licensing@nunavutwaterboard.org

**Re: NWB 2BE-FRK: New Application Type “B” – Fork Project – Tree River Area – Barry Hanslit.**

Environment Canada’s (EC’s) contribution to your request for specialist advice is based on the mandated responsibilities for the enforcement of **Section 36(3)** of the *Fisheries Act*, the *Canadian Environmental Protection Act* (CEPA), the *Migratory Birds Convention Act* (MBCA) *Regulations* and the *Species at Risk Act* (SARA).

The proponent states that the Fork Project is grass roots, low-keyed diamond exploration program. A small group of three to four persons will perform the activities during the summer months. The main portion of the project will focus on prospecting and ground geophysics.

EC has reviewed the above noted application to carry out exploration activities in the Tree River area and would like to add the following comments and recommendations.

#### **Comments and Recommendations**

- The proponent shall ensure that any chemicals, fuel or wastes associated with the proposed land use permit application do not enter waters frequented by fish. It is a requirement of **Section 36(3)** of the *Fisheries Act* that all effluent discharged into water frequented by fish, be non-deleterious.
- Operational practices for the handling of fuels and hazardous fluids should be posted and made available to all personnel required to work on site.
- Drip pans should be used when refuelling any equipment on site. An appropriate spill kit with absorbent material should be located at all fuel transfer sites.
- All fuel containers must be properly sealed and stacked in an upright position to prevent the possibility of spills and leaks. When storing barrelled fuel at a location, EC encourages the use of a secondary containment rather than relying on “natural depressions”. Self supporting insta-berms are available from various suppliers within Canada.
- All sumps, including those for camp sewage and grey water, shall be located above the high-water mark of any water body and in such a manner as to prevent the contents from entering any water frequented by fish. All sumps shall be backfilled at the end of each field season, and contoured to match the existing landscape.

The Canadian Wildlife Service (CWS) of Environment Canada has reviewed the above-mentioned submission and makes the following comments and recommendations pursuant to the *Migratory Birds Convention Act* (the *Act*) and *Migratory Birds Regulations* (the *Regulations*), and the *Species at Risk Act* (SARA).

#### **Migratory Birds Convention Act (MBCA) and Regulations**

- Section 6 (a) of the *Migratory Birds Regulations* states that no one shall disturb or destroy the nests or eggs of migratory birds. Therefore, CWS recommends that all activities be conducted outside the migratory bird breeding season, which extends from approximately May 15 to July 31. These dates are approximate, and if active nests (i.e.

nests containing eggs or young) are encountered outside of these dates the proponent should avoid the area until nesting is complete (i.e. the young have left the vicinity of the nest).

- If activities are permitted to occur during the breeding season, CWS recommends that the proponent confirm there are no active nests (i.e. nests containing eggs or young) in the vicinity of their operations before activities commence. If active nests of migratory birds are discovered, the proponent should halt all activities until nesting is completed (i.e. the young have left the vicinity of the nest).
- In order to reduce disturbance to nesting birds, CWS recommends that aircraft used in conducting project activities maintain a flight altitude of at least 610 m during horizontal (point to point) flight.
- In order to reduce disturbance to resting, feeding, or moulting birds, CWS recommends that aircraft used in conducting project activities maintain a vertical distance of 1000 m and minimum horizontal distance of 1500 m from any observed concentrations (flocks / groups) of birds.
- CWS recommends that camp waste be made inaccessible to wildlife at all times. Camp waste can attract predators of migratory birds (e.g., foxes and ravens) to an area if not disposed of properly. Incineration of camp waste is a recommended option.
- Section 35 of the *Migratory Birds Regulations* states that no person shall deposit or permit to be deposited, oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds.
- All mitigation measures identified by the proponent, and the additional measures suggested herein, should be strictly adhered to in conducting project activities. This will require awareness on the part of the proponents' representatives (including contractors) conducting operations in the field. Environment Canada recommends that all field operations staff be made aware of the proponents' commitments to these mitigation measures and provided with appropriate advice / training on how to implement these measures.
- Implementation of these measures may help to reduce or eliminate some effects of the project on migratory birds, but will not necessarily ensure that the proponent remains in compliance with the *Migratory Birds Convention Act* (the *Act*) and *Migratory Birds Regulations* (the *Regulations*). The proponent must ensure they remain in compliance with the *Act* and *Regulations* during all phases and in all undertakings related to the project.

#### **Species at Risk Act (SARA)**

- The following comments are pursuant to the Species at Risk Act (SARA), which came into full effect on June 1, 2004. Section 79 (2) of SARA, states that during an assessment of effects of a project, the adverse effects of the project on listed wildlife species and its critical habitat must be identified, that measures are taken to avoid or lessen those effects, and that the effects need to be monitored. This section applies to all species listed on Schedule 1 of SARA. However, as a matter of best practice, EC asks that species listed on other Schedules of SARA and under consideration for listing also be included in this type of assessment.

Species at Risk that may be encountered	Category of Concern	Schedule of SARA	Government Organization with Expertise on Species
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
Peregrine Falcon (subspecies tundrius)	Special Concern	Schedule 3	Government of Nunavut
Grizzly Bear	Special Concern	Pending	Government of Nunavut
Wolverine (Western Population)	Special Concern	Pending	Government of Nunavut

- Impacts could be disturbance and attraction to operations.

Environment Canada recommends:

- The proponent should identify potential Species at Risk that could be encountered. Refer to the Species at Risk registry at [www.sararegistry.gc.ca](http://www.sararegistry.gc.ca) for information on specific species.

- If Species at Risk are encountered, the primary mitigation measure should be avoidance. The proponent should avoid contact with or disturbance to each species.
- The proponent should consult with the Government of the Nunavut and appropriate status reports, recovery strategies, action plans, and management plans to identify other appropriate mitigation measures to minimize effects to these species from the project.
- The proponent should record the locations and frequency of any observations of Species at Risk and note any actions taken to avoid contact or disturbance to the species.

EC should be notified of any changes in the proposed or permitted activities associated with this application. Please do not hesitate to contact me at (867) 669-4744 or ron.bujold@ec.gc.ca with any questions or comments.

Yours truly,

Ron Bujold  
Environmental Assessment Technician

cc: Carey Ogilvie (Head, Assessment & Monitoring, EPO)  
Mike Fournier (Northern Environmental Assessment Coordinator, A&M, EPO)