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October 9, 2008

Ms. Leslie Payette
Manager of Environmental Administration
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, Nunavut
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Via E-mail to :
lpayette@nirb.nunavut.ca

Dear Ms. Payette:

Subject: DFO Comments on the Draft NIRB Scoping document for the Hackett River Project

Fisheries and Oceans Canada (DFO) received the Nunavut Impact Review Board's (NIRB) letter dated September 18th, 2008 regarding the commencement of the Part 5 review of the Sabina Silver Corporation's Hackett River Development Proposal. In this letter, NIRB requested that parties review the Draft Scope for the NIRB's Environmental Assessment (appendix B) and provide comment based on the mandate and area of expertise of our department as it pertains to this proposal.

DFO is responsible for developing and implementing policies and programs in support of Canada's scientific, ecological, social and economic interests in relation to sea, coastal and inland fisheries, and oceans in general. DFO's primary focus in reviewing proposed developments in and around fishery water is to ensure that the works and undertakings are conducted in such a way that the proponents are in compliance with the applicable provisions of the *Fisheries Act*. DFO also has expertise in areas including but not necessarily limited to oceans science, fish and marine mammal biology, aquatic ecology, as well as fisheries and habitat management.

DFO has reviewed the "Hackett River Project Proposal" submitted by Sabina Silver Corporation in January 2008. As a result of this review, DFO has identified the following components or activities of the mine development that will likely require advice or authorizations under the *Fisheries Act* as well as potential advice to Government in Council (GIC) for the amendment to the Metal Mining Effluent Regulations (MMER).

- Construction, operation, modification and decommissioning of water crossings along the all-weather spur road connecting the Hackett Mine site to the Bathurst

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Inlet Port and Road (BIPR) all-weather road. This would include any waterways, diversion structures, stream diversions, water course alterations, culverts and bridges;

- Dewatering of Camp Lake and portions of Banana Lake for the development of the Main Zone Deposit;
- Construction, operation, modification and decommissioning of a retaining structure in Banana Lake;
- Water withdrawal from D'Arcy Lake including impacts on the outflow of the lake and downstream reaches;
- Water withdrawal from the Hackett River including impacts on downstream reaches;
- Deposit of waste rock in three small lakes/ponds in Boot Basin;
- Construction, operation, maintenance and decommissioning of dams at the inflow and outflow streams of the Tailings Impoundment Area (TIA) at Joe Lake; and
- Deposit of deleterious substance (e.g. Tailings) into Joe Lake.

Sabina Silver Corporation is proposing to utilize significant components of the BIPR Project currently being reviewed by the NIRB. The proponent for the BIPR Project has indicated a delay with their feasibility assessment and has indicated their preference to delay the BIPR environmental assessment. Sabina has indicated in its project description that in the absence of the BIPR Project, it would construct its own all-weather road from the mine site to Bathurst Inlet as well as a deep-water port. DFO expects that the following elements would be included in the scope of the project in the absence of BIPR:

- Construction, operation, modification and decommissioning of marine shipping terminal including wharf and berth; and
- Construction, operation, modification and decommissioning of water crossings along an all-weather road between the mine site spur road and the port site at Bathurst Inlet. This would include any waterways, diversion structures, stream diversions, water course alterations, culverts and bridges.

DFO has determined that Sabina Silver Corporation's development proposal may likely require the issuance of the following authorizations and/or approvals:

- The issuance of potential authorizations pursuant to subsection 35(2) of the *Fisheries Act* for the harmful alteration, disruption or destruction of fish habitat for works in and around Joe Lake, Camp Lake, Banana Lake, D'Arcy Lake, Bat Lake, Hackett River and other smaller waterbodies/watercourses.
- The issuance of potential authorizations pursuant to section 32 of the *Fisheries Act* for the destruction of fish by other means than fishing for the dewatering of Camp Lake and part of Banana Lake or for the detonation of explosives in or near fish bearing waters.
- The potential listing of a natural water body as a TIA on Schedule 2 of the *Metal Mining Effluent Regulations* (MMER) pursuant to paragraphs 36(5)(a) to (e) of the *Fisheries Act* for Joe Lake.

It should be noted that if a natural water body is to be proposed as a TIA, additional technical and/or site specific information will be required in the regulatory phase for the amendment to Schedule 2 of the MMER. Some of the information required in the regulatory phase may be submitted and reviewed concurrently with the EA. This information includes a thorough alternatives analysis of all scientifically and economically justifiable options (including combinations of alternatives) as well as detailed engineering design, public consultation, fish habitat compensation plan and related financial securities specific to the TIA.

In section 2 of the Draft Scope for the NIRB's Environmental Assessment of the Hackett River Project (appendix B), DFO has the following suggestions/observations:

- **Part c) Mobilization and Shipping**
DFO recommends that the spatial scale for shipping activities should only extend to the immediate vicinity of the dock site.
- **Part d) Winter Road from Port at Bathurst Inlet to Spur Road connecting with the Hackett River Mine site**
According to pages 1-8 of the Hackett River project proposal, the proponent clearly states that the project will not include a winter road. The proposed BIPR Project also clearly indicates the construction of a 211 km all-season road from Bathurst Inlet to Contwoyto Lake.
- **Part e) All-weather access road from Hackett River mine site to winter road connecting with the Port at Bathurst Inlet**
As stated above, neither the Hackett River proposal nor the BIPR proposal indicates the use of a winter road.

DFO would also like to ask the NIRB to include aquatic species at risk within the scope of environmental factors to consider, as this is an area of jurisdictional responsibility of the department.

Finally, it should be noted that all comments are based on our current understanding of the proposal, as submitted in the January 2008 project description by Sabina Silver Corporation, and that should subsequent submissions or re-design of the project be submitted, we anticipate that changes to the scope would be required.

In closing, DFO would like to thank the NIRB for the opportunity to provide comments and we look forward to continued discussions related to this development proposal. If there are any questions or clarification needed on any of these matters, please contact Sarah Olivier at (867) 669-4919.

Regards,



Beverley Ross
Regional Manager, Environmental Assessment for Major Projects
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