

NIRB Directive 2, Subsection Wildlife Habitat, Bullet 9

Implement a management plan to mitigate all potential impacts on migratory birds that conforms to the Migratory Birds Convention Act and Migratory Bird Regulations

NIRB has interpreted Environment Canada's issue with respect to migratory birds as follows:

Moreover, in order to be in compliance with the Migratory Birds Convention Act and Migratory Bird Regulations, the Proponent should implement a number of specific measures, including the prevention of nesting of migratory birds on site, as they could be harmed, and the implementation of a buffer zone around any nests that do occur.

Environment Canada specifically made the following recommendations (Environment Canada response, pp. 2-3):

- *Plan to clear migratory bird habitat in the winter (outside the breeding season) as much as possible to avoid destroying birds, nests and eggs.*
- *Prevent migratory birds from nesting on site. Songbirds in particular have been known to use man-made structures for nesting.*
- *If migratory birds nest on site, include in your Wildlife Management Plan a protocol to avoid disturbing or destroying the nests.*
- *Known nesting sites near the mine site should be avoided as much as possible to prevent unnecessary disturbance to birds (e.g. known loon nests, or jaeger nests should be avoided).*
- *Report any migratory bird incidents (oiling of birds, collisions with vehicles or aircraft, etc.) to a Wildlife Officer and include this information in annual Wildlife Monitoring Reports.*
- *Ensure that hydrocarbon contaminated water is not accessible to migratory birds.*
- *Migratory birds should be given the right of way along with other wildlife for aircraft or vehicular traffic.*

AMEC Response

General

Section 6(a) of the *Migratory Birds Regulations* is usually interpreted to cover clearing activities such that such activities should not take place in areas where migratory birds are nesting during the nesting season (see response to Bullet 1 below).

With respect to birds interfering with aircraft traffic at airports, the *Migratory Birds Regulations* specifically allow for permits to be issued to airport operators to remove birds under those circumstances (Section 28). Environment Canada's interpretation (Bullet 9) would appear to be at variance with the Regulation.

The Jericho Environmental Management Plan submitted with the final EIS indicates that wildlife will be given the right-of-way on roads and that known raptor nests will not be overflowed at low altitudes; there are no known water bird nests on probable low altitude flight paths for the airstrip at Jericho. Passerines were not considered in the Environmental Management Plan as they have not interfered with aircraft traffic during seven years of exploration activities at the site and appear to co-habit with aircraft activities at the airstrip satisfactorily. Interference with aircraft

flights by birds is not expected to be problematic, based on exploration experience and Lupin's experience. Collisions between birds and aircraft are a safety concern and obviously aircraft will avoid concentrations of birds. Tahera's environmental management plan cannot and should not dictate to aircraft operators practices to be followed during landing and take off at the Jericho strip. Safety of personnel is a paramount consideration and clearly the responsibility of aircraft operators.

Bullet 1: As explained in the Final EIS Project Description (Appendix A.1.1) minesite construction clearing will occur in the winter (February-March). No migratory birds will be nesting on the site during those months as the site is completely snow-covered and temperatures are well below freezing.

Bullet 2: It is unreasonable and unnecessary to eliminate all nests of, e.g., passerines on the mine site. There will be areas within the footprint that will not be affected by mine operations and other areas that will remain undisturbed for long periods of time. A reasonable interpretation of the *Act* and Environment Canada's submission would be to leave such areas undisturbed, i.e., to NOT interfere with nesting of passerines in such areas. Environment Canada used as an illustration to discourage nesting of migratory birds on **man-made structures**. Further, the mine footprint does not conflict with any known water bird nesting sites as explained in the Final Environmental Impact Statement, impact assessment.

Tahera will undertake to prevent migratory birds from nesting on man-made structures at the Jericho site to the extent possible. Implementation of this practice will be practical for buildings, but may not be entirely practical for stockpile areas that are not disturbed for long periods of time (more than one year), particularly the low grade ore stockpile and the overburden stockpile. Prior to post-stockpiling disturbance of such areas a survey will be conducted to determine whether migratory birds are nesting on these sites and nests will be avoided if possible.

Further, there is nothing in the *Migratory Birds Convention Act* or *Regulations* that requires this suggested measure.

Bullet 3: See Bullet 2 response.

Bullet 4: See Bullet 2 response.

Bullet 5: The Final EIS Environmental Management Plan indicates that any deaths of wildlife caused by mine operations will be reported.

Bullet 6: Spills of hydrocarbons to waterbodies are not expected as fuel handling procedures and facilities will generally prevent such occurrences. Should an accident occur that results in spills of fuel to waterbodies, every effort will be made to ensure birds do not become oiled.

Bullet 7: See General response.