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April 15, 2013

*Your file*      *Votre référence*

00MN059

*Our file*      *Notre référence*

NU-00-0068

Tara Arko  
Technical Advisor  
Nunavut Impact Review Board  
P.O. Box 1360  
Cambridge Bay, NU  
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Dear Ms. Arko:

**Subject:** DFO Monitoring Requirements, Jericho Diamond Mine Project

Fisheries and Oceans Canada (DFO) received NIRB's April 12, 2013 letter of reminder for the submission of compliance monitoring reports as they pertain to the Jericho Diamond Mine Project. NIRB requested any compliance monitoring reports that outline:

- a) How each authorizing agency has incorporated the terms and conditions from the Project Certificate into their authorizations;
- b) whether any inspections have been conducted, and the results of those inspections; and,
- c) whether Tahera (Shear) is in compliance with any authorizations that have been issued.

In response, DFO provides the following:

- a) DFO has incorporated terms and conditions from the Project Certificate that pertain to fish and fish habitat into the *Fisheries Act* Authorization NU-00-0068 (issued April 15, 2005) as follows:

NIRB Project Certificate:

- Monitoring Condition #4 – long term monitoring regarding the health of fisheries in the Carat Lake systems
- Fish and Aquatics Conditions #19-24

Incorporated in DFO *Fisheries Act* Authorization NU-00-0068:

- Conditions 7.1 – 8.4 pertain to monitoring impacts to fish and fish habitat on an annual basis
- Condition 6 - requirements for fish habitat compensation.

b) DFO conducted site visits of the Jericho Mine site, most recently on July 20, 2011. The results of the site visits are best outlined under response to part c) non-compliance with *Fisheries Act* Authorization NU-00-0068, below:

c) With respect to the *Fisheries Act* Authorization NU-00-0068 and subsequent Amendment Letter (November 28, 2007), Shear Diamond's is in non-compliance with conditions of their Authorization that pertain to habitat compensation, monitoring and reporting.

All fish habitat compensatory works were to be completed by August 15, 2008 by a former proponent of the project, Tahera. Transfer of ownership of the mine to Shear Diamonds, included the transfer of liabilities and obligations contained within various permits and authorizations, including those in the Authorization issued by DFO.

On October 6, 2011, DFO received a revised Fish Habitat Compensation Plan from Shear Diamonds addressing the outstanding fish habitat compensation measures that had yet to be constructed when the project went into 'care and maintenance' status.

According to the October 6, 2011 submission by Shear, approximately 40% of the fish habitat compensation works were constructed.

On December 13, 2011, DFO responded to Shear with questions of clarification on the revised fish habitat compensation plan, requests for monitoring reports as outlined in the *Fisheries Act* Authorization, and a request for an updated cost estimate to complete the construction of fish habitat compensation works.

To date, DFO has not received any further correspondence from Shear following provision of the December 13, 2011 letter.

DFO is committed to working with NIRB, and other Federal and Territorial Agencies during the regulatory review of this project.

Should you have any questions or comments, please contact me directly by telephone at (867) 979-8019, or by e-mail at Elizabeth.Patreau@dfo-mpo.gc.ca.

Yours sincerely,

Elizabeth Patreau  
Senior Fish Habitat Biologist

c.c.: Julie Dahl – Manager, Fisheries Protection Program

Attachments:

- December 13, 2011 DFO letter to Shear – Comments on Review of Phase I Compensation Plan
- April 15, 2005 *Fisheries Act* Authorization
- November 28, 2007 *Fisheries Act* Authorization Amendment Letter