



Fisheries and Oceans
Canada

Eastern Arctic Area
P.O. Box 358
Iqaluit, NU
X0A 0H0

Pêches et Océans
Canada

Secteur de l'Arctique de l'est
Boîte postale 358
Iqaluit, NU
X0A 0H0

Our file Notre référence
NU-00-0068

April 15, 2005

Greg Missal,
Vice-President - Nunavut Affairs
Benachee Resources Inc.,
803-121 Richmond Street West,
Toronto, Ontario M5H 2K1

Dear Mr. Missal:

SUBJECT: Authorization for the harmful alteration, disruption or destruction of fish habitat pursuant to subsection 35(2) of the *Fisheries Act*

The harmful alteration, disruption or destruction of fish habitat arising from the Jericho Diamond Project mine is hereby authorized pursuant to subsection 35(2) of the *Fisheries Act*. This Authorization shall be conditional upon implementation of mitigation and compensation measures specified on the attached document.

The environmental impacts of this undertaking have been reviewed by Fisheries and Oceans Canada in accordance with the *Canadian Environmental Assessment Act*. This review concluded that the project is not likely to cause significant adverse environmental effects if the mitigation and compensation measures specified are implemented.

Failure to comply with any of the conditions specified on the attached Authorization may result in a contravention of section 35 of the *Fisheries Act*.

NOTE: None of the foregoing should be taken to imply Authorization of this undertaking in accordance with any section of the *Fisheries Act* other than section 35. Also note that Authorization under the *Fisheries Act* does not release the proponent from the requirements of any other federal, provincial or municipal legislation.

Please contact Derrick Moggy at (867) 979-8011 should you have any questions or require additional information.

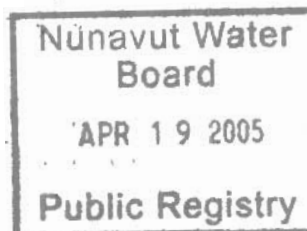
Sincerely,

Michelle Wheatley
Area Director
Fisheries and Oceans Canada - Eastern Arctic Area

Attachment(s): *Fisheries Act* Authorization

c.c.: Stephanie Briscoe - Nunavut Impact Review Board
Philippe Di Pizzo - Nunavut Water Board
Glen Stephens - Indian and Northern Affairs Canada
Rob Johnstone - Natural Resources Canada

Canada



INTERNAL	
PC	42
MA	
FO	
LA	
BS	
ST	
TA1	
TA2	
RD	
ED	
CH	
BRD	
EXT	



Fisheries and Oceans
Pêches et Océans

**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

Authorization Issued to:

Greg Missal
Vice-President, Nunavut Affairs

Benachee Resources Inc., a wholly owned subsidiary of Tahera
Diamond Corporation (BRI)
803-121 Richmond Street West,
Toronto, Ontario M5H 2K1

(416) 777-1998

Autorisation délivrée à :

Greg Missal
Vice-President, Nunavut Affairs

Benachee Resources Inc., a wholly-owned subsidiary of Tahera
Diamond Corporation (BRI)
803-121 Richmond Street West,
Toronto, Ontario M5H 2K1

(416) 777-1998

Location of Project/Emplacement du projet

This Authorization is in relation to the harmful alteration, disruption or destruction (HADD) of fish habitat resulting from the works or undertakings at the Jericho Diamond Project, within the Carat Lake watershed in Nunavut near the northwest corner of Contwoyto Lake (65° 59' 50" Latitude, 111° 8' 30" Longitude), located 420 km northeast of Yellowknife, NT.

Valid Authorization Period / Période de validité

From / Du
April 15, 2005

To / À
December 31, 2007

The valid Authorization periods for the other conditions of this Authorization are set out below.

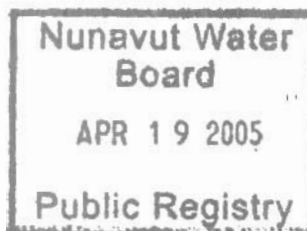
**Description of Works or Undertakings (Type of work, schedule, etc.)
Description des ouvrages ou entreprises (Genre de travail, calendrier, etc.)**

Benachee Resources Inc. (BRI) proposes to conduct open pit and underground mining of kimberlite pipes at their Jericho Diamond Project mine site (Project). As a result of the project, a causeway will be constructed and operated from the shoreline of Carat Lake to support a water intake facility to provide process water for mine operations. The storage of fine fraction from the processing operation will occur in the Long Lake System (made up of Long Lake, an unnamed pond north of Long Lake and an unnamed pond west of Long Lake), which will be dammed and converted to a Processed Kimberlite Containment Area. As a result, flows from the Long Lake System to Lake C3 via Stream C3, will be disrupted during operation. To facilitate access to the open pit, a section of Stream C1 will be realigned away from the pit using a diversion channel. Furthermore, management of site water around and within the open pit, will result in the reduction of flows in Stream C1 during operation.

The following works or undertakings are subject to this Authorization:

1. The construction, operation, maintenance and abandonment of a 100 metre long causeway to support a water intake facility in Carat Lake, will affect 1800 m² of foraging, nursery/rearing and wintering habitat for Arctic char, Arctic grayling, Burbot, Lake Trout, Round whitefish, and all habitat types for Slimy sculpin.
2. The construction, operation and abandonment of a Processed Kimberlite Containment Area (PKCA) using the Long Lake system, including:
 - Long Lake, which will affect 100 300 m² of all habitat types for Burbot and Slimy sculpin;
 - An unnamed pond, north of Long Lake, which will affect 7 100 m² of all habitat types for Slimy sculpin;
 - An unnamed pond, west of Long Lake, which will affect 9 600 m² of all habitat types for Burbot and Slimy sculpin; and,
 - Stream C3, which will affect 839 m² of nursery/rearing and production habitat for Arctic char, Burbot, Lake trout, and Round whitefish, all habitat types for Slimy sculpin, and nursery/rearing, spawning and production habitat for Arctic grayling.

EXT.	BRD	CH	ED	NO	TAD	IAI	ST	DS	LA	FO	MA	PC	INTERNAL



**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

3. The construction, operation, maintenance and abandonment of a diversion channel, adjacent to Stream C1, which will affect 2 153 m² of production habitat for Arctic char, Arctic Grayling, Burbot, Lake trout, Round whitefish, and Slimy sculpin.
4. The management of site water during mine operation within the Stream C1 watershed, adjacent to the open pit, which will affect 313 m² of production and nursery/rearing habitat for Arctic char, Burbot, Lake trout and Round whitefish, all habitat types for Slimy sculpin and nursery/rearing, spawning and production habitat for Arctic grayling.

Conditions of Authorization/Conditions de l'autorisation

Conditions that relate to the Proponent Plan ("Plan"):

1. The conditions of this Authorization notwithstanding, should the above works or undertaking, due to weather conditions, different soils or other natural conditions, or for any other reason, appear, in the opinion of the Department of Fisheries and Oceans ("DFO") likely to cause greater impacts than the parties previously contemplated, then DFO may direct the Proponent, and its agents, and contractors, to suspend or alter works and activities associated with the project, to avoid or mitigate adverse impacts to fisheries resources. DFO may also direct the Proponent and its agents, and contractors, to carry out at the Proponent's expense any works or activities deemed necessary by DFO to avoid or mitigate further adverse impacts to fisheries resources. In circumstances where DFO is of the view that greater impacts may occur than were contemplated by the parties, DFO may also modify or rescind this authorization. If the authorization is to be changed the Proponent will be given an opportunity to discuss any proposed modifications or rescission.
2. BRI confirms that all plans and specifications for all works and undertakings proposed relating to this Authorization have been duly prepared and reviewed by appropriate professionals working on behalf of BRI. BRI acknowledges that it is solely responsible for all design, safety and workmanship aspects of all works associated with this Authorization.
3. The construction must comply with those criteria as identified within this Authorization. Harmful alteration, disruption or destruction of fish habitat other than that specifically identified within this Authorization is not permitted. Only the HADD of fish habitat resulting from the following shall be authorized during the time period specified under the heading "Valid authorization period", and as set out under the heading **Description of Works or Undertakings**, above:
 - 3.1. The construction of a 100 m long causeway resulting in the destruction of 1800 m² of fish habitat in Carat Lake.
 - 3.2. The construction and operation of the Processed Kimberlite Containment Area (PKCA) resulting in the destruction of 100 300 m² of fish habitat in Long Lake, 7 100 m² of fish habitat in an unnamed pond north of Long Lake, 9 600 m² of fish habitat in an unnamed pond west of Long Lake and the disruption of 839 m² of fish habitat in Stream C3.
 - 3.3. The construction, operation and abandonment of a 470 metre diversion channel resulting in the destruction of 2 153 m² metres of fish habitat in Stream C1.
 - 3.4. The management of site water around the open pit resulting in the harmful alteration of 313 m² metres of fish habitat in the lower section of Stream C1.
4. Works will be conducted following the practices outlined in the following reports:
 - 4.1. Application for Authorization for Works or Undertakings Affecting Fish Habitat, dated 17 November 2000.
 - 4.2. Jericho Diamond Project Final Environmental Impact Statement, dated January 2003, Tahera Corporation.
 - 4.3. Water Permit Submission for the Jericho Diamond Mine Nunavut, submitted to the Nunavut Water Board, by Tahera Diamond Corporation, dated August 2004.
 - 4.4. Addendum to the Submission to the Nunavut Water Board Jericho Diamond Project, dated October 8, 2004. Tahera Diamond Corporation.
 - 4.5. Mainstream Aquatics Ltd. 2004. Revised fish habitat no net loss plan for the Jericho Diamond Project. Prepared for Tahera Diamond Corporation. Report No. 040068F: 62p. + Appendices.

**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

- 4.6. Memorandum entitled "Response to DFO Concerns - Blasting Analysis", from Rick Pattenden (Mainstream Aquatics Ltd) to Derrick Moggy, Fisheries and Oceans Canada, dated November 22, 2004.
- 4.7. The above drawing(s) and/or document(s) are hereafter referred to as the **Plan**. Where contradictions exist, the most recent version shall apply.

Conditions that relate to the mitigation of potential harmful alteration, disruption or destruction of fish habitat:

5. BRI shall carry out the works or undertakings, set out under the heading **Description of Works or Undertakings** and described in the **Plan** above, and **Conditions of Authorization** with due diligence to avoid any HADD of fish habitat beyond that for which this Authorization has been issued, and in particular, but without restricting the generality of the foregoing:
- 5.1. A qualified biologist or environmental inspector shall be on site during all in-water construction and restoration works to ensure implementation of the designs as intended in the **Plan** and conditions of this Authorization.
- 5.2. No in-water work shall occur during critical spawning and rearing periods for any fish species in the affected waterbody. The timing of any works proposed for the open water season shall be determined by BRI and approved by DFO prior to the start of any in-water work.
- 5.3. All materials and equipment used for the purpose of site preparation and project completion shall be operated, maintained and stored in a manner that prevents any deleterious substance from entering the water.
- 5.3.1. Any stockpiled materials shall be stored such that they will not, under any conditions, erode into the watercourse.
- 5.3.2. Vehicle and equipment re-fuelling and/or maintenance shall be conducted away from the water.
- 5.3.3. Any part of a vehicle and/or equipment entering the water shall be free of fluid leaks and externally cleaned/degreased to prevent any deleterious substance from entering the water.
- 5.3.4. Only clean material free of fine particulate matter and any deleterious substance shall be placed in the water.
- 5.4. Sediment and erosion control measures shall be in place prior to commencement of the work and are left in place until such time that any previously exposed soils are stabilized and are no longer subject to erosion and will not result in the deposit of sediment into the water.
- 5.4.1. During construction, all sediment and erosion control measures shall be inspected daily to ensure that they are functioning properly and are maintained and/or upgraded as required to prevent entry of sediment into the water.
- 5.4.2. After construction, all sediment and erosion control measures shall be inspected weekly, or daily during any rainfall or thaw events, to ensure that they are functioning properly and are maintained and/or upgraded as required to prevent entry of sediment into the water.
- 5.4.3. Extra sediment and erosion control measures shall be immediately available on site for upgrades or repairs.
- 5.4.4. All disturbed areas of the work site shall be stabilized (to prevent any erosion) immediately and re-vegetated as soon as conditions allow.
- 5.4.5. Total suspended solids in surface runoff from the mine site shall be controlled so as to prevent impact to fish habitat.
- 5.5. The construction of the Stream C1 diversion channel shall be completed in the dry and allowed to stabilize for a minimum of one year prior to implementation.
- 5.5.1. Fish shall be removed from the existing channel prior to de-watering and released alive immediately downstream.
- 5.5.2. Silt or debris that has accumulated around the temporary cofferdams shall be removed prior to their withdrawal.

**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

- 5.5.3. To prevent erosion and sediment release, flow dissipaters and/or filter bags (or equivalent) shall be placed at water discharge points, and located a minimum of 15 m from the watercourse, to allow sediment laden water to settle and/or filter before re-entering the watercourse downstream of the construction area.
- 5.6. BRI shall implement the **Fish Salvage Program**, during the de-watering of Long Lake, in the manner outlined in the DFO Fish-Out Protocol.
- 5.7. If the fish habitat mitigation measures are not functioning as intended, BRI shall design and implement a **Contingency Plan** that adequately addresses any limitations. This plan shall be submitted for review and approval by DFO prior to implementation.

Conditions that relate to the compensation for the loss of 122 000 m² of fish habitat:

6. The following areas of fish habitat shall be created as compensatory fish habitat:
- 6.1. 607 m² of fish habitat in Carat Lake shall be enhanced during the construction and operation of the causeway by incorporating larger-sized rock material (up to 0.5 metre diameter) into the margins:
- 6.1.1. The enhancement will benefit foraging, nursery/rearing and wintering habitat for Arctic char and Arctic grayling, and all habitat types for Burbot, Lake trout, Round whitefish and Slimy sculpin.
- 6.2. 1207 m² of fish habitat of Carat Lake shall be enhanced through the development of underwater rock shoal by excavating to at least 2 metre below normal summer water levels during abandonment of the causeway.
- 6.2.1. The enhancement shall benefit foraging, nursery/rearing and wintering habitat for Arctic char and Arctic grayling, and all habitat types for Burbot, Lake trout, Round whitefish and Slimy sculpin.
- 6.2.2. Final detailed design drawings for the reclamation of the causeway shall be submitted to DFO for review and approval prior to November 30th, 2005.
- 6.3. 940 m² of fish habitat in the 470 m long diversion channel shall be enhanced by incorporating natural channel features into design.
- 6.3.1. The enhancement shall benefit production habitat for Arctic char, Arctic grayling, Burbot, Lake trout, Round whitefish and Slimy sculpin.
- 6.3.2. Final detailed design drawings for the diversion channel shall be submitted to DFO for review and approval at least sixty (60) days prior to construction and shall incorporate the following features into the lower 150 metre portion of the channel:
- 6.3.2.1. A sinuous configuration, which includes at least 10 meanders with a 6 metre radius, shall be incorporated into the channel to mimic natural channel form and maximize channel length;
- 6.3.2.2. Ten riffles shall be incorporated into the channel design;
- 6.3.2.3. A low flow channel shall be incorporated into the design to maintain a wetted width of 0.5 m and water depths up to 0.5 m;
- 6.3.2.4. A channel gradient shall be designed to ensure fish passage;
- 6.3.2.5. Boulders shall be placed in the channel to provide physical in-stream cover; and
- 6.3.2.6. A long, narrow pool shall be incorporated into the design at the lowermost and uppermost portion of the channel.
- 6.4. 21 000 m² of fish habitat shall be enhanced through the construction of twenty-one (21) underwater rock shoals;

**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

- 6.4.1. The enhancement shall result in the creation of foraging, nursery/rearing and wintering habitat for Arctic char and Arctic grayling, and all habitat types for Burbot, Lake trout, Round whitefish and Slimy sculpin;
- 6.4.2. Final design plans for the construction of the twenty-one (21) rock shoals shall be submitted to DFO for review and approval prior to November 30th, 2005 and shall incorporate the following features:
- 6.4.2.1. Each rock shoal shall be at least 10 metres wide by 100 metres long by 1 metre thick and placed in water with a depth of at least 2 metres below the normal summer water levels;
- 6.4.2.2. Each rock shoal shall be constructed with rock material demonstrated to have no potential to release deleterious contaminants to fish; and,
- 6.4.2.3. Distinct rock shoals shall be constructed in the quantity and location as follows: Six (6) rock shoals along the northeast shore of Carat Lake; Five (5) rock shoals along the southeast shore of Interbasin Lake; Two (2) rock shoals along the southeast shore of Lake O1; Two (2) rock shoals along the north/south east/west shore of Lake O2; Two (2) rock shoals along the northeast shore of Lake O3; and, Four (4) rock shoals along the south shore of Lake O4.
- 6.4.3. A final Detailed Compensation Monitoring Plan for construction of the twenty-one (21) rock shoals shall be submitted to DFO for review and approval prior to November 30th, 2005.
- 6.4.4. Implementation of the Approved drawings for the construction of the rock shoals shall be completed prior to November 30th, 2007.
- 6.5. 182 m² of fish habitat shall be enhanced in a connecting channel (Stream O21) to improve fish passage between Lake O2 and Lake O3.
- 6.5.1. The enhancement shall benefit foraging and nursery/rearing for Arctic char, Arctic grayling, Burbot, Lake trout, Round whitefish; and foraging, nursery/rearing and spawning habitat for Slimy sculpin; and,
- 6.5.2. Final detailed design drawings for Stream O21 shall be submitted to DFO for review and approval prior to November 30th, 2005 and shall incorporate the following features:
- 6.5.2.1. The connecting channel shall be constructed with rock material demonstrated to have no potential to release deleterious contaminants to fish.
- 6.5.3. A final Detailed Compensation Monitoring Plan for the connecting channel (Stream O21) shall be submitted to DFO for review and approval prior to November 30th, 2005.
- 6.5.4. Implementation of the Approved drawings for connecting channel (Stream O21) shall be completed prior to November 30th, 2007.
- 6.6. All fish habitat compensatory works shall be completed prior to November 30th, 2007.
- 6.7. If at any time the Proponent becomes aware that the compensatory habitat is not completed and/or functioning as described in the habitat compensation plan, the Proponent shall carry out any works which are necessary to ensure the compensatory habitat is completed and/or functioning as described in the habitat compensation plan.
- 6.8. The Proponent confirms that they shall leave the compensatory habitat undisturbed. After the compensatory habitat has been created the Proponent shall not carry on any work or undertaking that will adversely disturb or impact the compensatory habitat.
- 6.9. If the fish habitat compensation measures are not functioning as intended, BRI shall design and implement a **Contingency Plan** that adequately addresses any limitations. This plan shall be submitted for review and approval by DFO prior to implementation.

**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

Conditions that relate to the monitoring of the Proponent Plan, the Mitigation and the Compensation ("Monitoring Program")

7. The proponent shall undertake a Mitigation Monitoring Program and will report to DFO, on or by November 30th of every year, whether works were conducted within the schedule of the proponent plan and whether the mitigation measures outlined in the proponent plan and this authorization were followed, by:
- 7.1. Providing a photographic record taken of the pre construction, during construction and post construction periods, showing all sediment control works and details of how they functioned to prevent sediment entry into the watercourse according to the approved Plan and conditions of the Authorization.
 - 7.1.1. The photographic record shall include, but not be limited to, a record of existing conditions, the work phase including sediment and erosion control measures, and completed works including compensation measures, site stabilization and restoration.
 - 7.1.2. The photographs for each pre construction, during construction and post construction time period shall be taken from the same vantage point(s), direction and angle of view for easy comparison.
 - 7.1.3. All photographs shall be clearly labelled with the date, location and viewing direction. The photographic locations and viewing directions shall be indicated on a plan view drawing of the work site and clearly indexed to the photographs.
 - 7.2. Providing details of the effectiveness of the mitigation measures in achieving their objectives, as outlined in the Fish Habitat No Net Loss Plan – Jericho Project (Mainstream, 2004).
 - 7.3. Providing details of any contingency measures that were followed in the event that mitigation measures did not function as described in the proponent plans.
 - 7.4. Preparing and submitting "As constructed" drawings, stipulating that structures and/or works were constructed according to the approved plans, to DFO on or before November 30th of the year following the completion of that structure and/or work.
 - 7.5. Preparing a report on the **Fish Salvage Program** following the dewatering of Long Lake, in the manner outlined in the DFO Fish-Out Protocol before November 30th, 2006.
8. The proponent shall undertake a Compensation Monitoring Program and report on an annual basis by November 30th, whether the compensation works were conducted according to the habitat compensation plan by:
- 8.1. A photographic record shall be taken of the pre construction, during construction and post construction periods, showing all compensation works completed according to the approved Plan and conditions of the Authorization.
 - 8.1.1. The photographic record shall include, but not be limited to, a record of existing conditions, the work phase including sediment and erosion control measures, and completed works including compensation measures, site stabilization and restoration.
 - 8.1.2. The photographs for each pre construction, during construction and post construction time period shall be taken from the same vantage point(s), direction and angle of view for easy comparison.
 - 8.1.3. All photographs shall be clearly labelled with the date, location and viewing direction. The photographic locations and viewing directions shall be indicated on a plan view drawing of the work site and clearly indexed to the photographs.
 - 8.2. Providing details of the effectiveness of the compensation measures in achieving their objectives as fish habitat, as outlined in the Fish Habitat No Net Loss Plan – Jericho Project (Mainstream, 2004), and the Detailed Compensation Monitoring Plan for the rock shoals and the connecting channel (Stream 021). The report shall include but not be limited to, the stability of all habitat features contained therein, habitat characteristics, fish use, abundance, distribution and population characteristics:
 - 8.2.1. Monitoring of the Causeway shall be reported at the end of Year 2, 3, 4, 6, 8 and one (1) years following causeway reclamation, and shall report on the sediment deposition adjacent to the structure.

**AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT
AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON**

NU-00-0068

Authorization No./N° de l'autorisation

- 8.2.2. Monitoring of the Stream C1 Diversion Channel shall be reported at the end of Year 3, 4, 6, 8, 10 and 12, and shall include stream discharge and temperature (correlated with ambient air temperature).
- 8.2.3. Monitoring of the rock shoals shall be reported at the end of Year 4, 5, 6, 8 and 10, as outlined in the Detailed Compensation Monitoring Plan for rock shoals.
- 8.2.4. Monitoring of the connecting channel (Stream O21) shall be reported at the end of Year 4, 5, 6, 8 and 10, as outlined in the Detailed Compensation Monitoring Plan for the connecting channel (Stream O21).
- 8.3. Preparing and submitting "As constructed" drawings to DFO by November 30th of the year following construction, stipulating that structures and/or works were constructed according to the approved plans.
- 8.4. Providing a description of the contingency measures that were followed if, during the Monitoring Program, it was determined that the compensatory habitat was not functioning as described in the proponent plans.

Financial Security:

9. To guarantee the performance of all of BRI's obligations under this Authorization, including the performance of any additional work determined by DFO to be necessary to achieve the objective of No Net Loss of Fish Habitat, BRI shall provide DFO with a security deposit in the form of an Irrevocable letter of credit (Letter of Credit) on the following terms and conditions:
- 9.1. BRI shall deliver the Letter of Credit to DFO (Iqaluit, NU Office), payable to the Receiver General of Canada, within 30 days from the issuance of this authorization in the amount of Canadian \$280,000.00, and valid until December 31st, 2016. Issued in a form and by an Issuer that is approved by Fisheries and Oceans Canada - Eastern Arctic Area.
- 9.2. The Letter of Credit will be for a one-year term and will be renewed by BRI on an annual basis until all of its obligations under this Authorization are completed to the satisfaction of DFO.
- 9.3. DFO may draw down on the Letter of Credit at any time upon written notice to the Issuer any amount that DFO deems to be necessary to satisfy any of BRI's obligations under this Authorization, including any work which may be required due to a failure of the compensation and mitigation measures to function as anticipated as determined by DFO.
- 9.4. BRI covenants and undertakes to and with DFO that, in the event that any drawings are made by DFO on the Letter of Credit, BRI will cause the Letter of Credit to be confirmed or re-issued (as the case may be). The Irrevocable Letter of Credit to be confirmed or re-issued (as the case may be) at the first of the next following calendar year.
- 9.5. At any time during the term of this Authorization, based upon review of the effectiveness of the compensation, mitigation and monitoring requirements set out in this Authorization, if DFO, in its absolute discretion considers those measures to be functioning as designed, DFO may authorize BRI to reduce the amount of the Letter of Credit, and shall provide to the Issuer the appropriate notice.
- 9.6. Once BRI has fulfilled all of its obligations and met all requirements and conditions set out in this Authorization to the satisfaction of DFO, DFO shall provide instructions to the Issuer to cancel the Letter of Credit and shall provide to BRI a statement of account detailing any withdrawals made by DFO pursuant to section 9.3 above.
10. Notification of the commencement of in-water works or undertaking shall be provided to DFO via fax (867-979-8039) within ten days prior to the initiation of the works or undertaking.
- 10.1. The notification shall be forwarded to the attention of Derrick Moggy, Habitat Management Biologist and include the Authorization number (NU-00-0068) and the date when in-water works or undertakings are scheduled to take place.
11. Any deviation from the approved plan, work schedule or compensation, mitigation and monitoring measures stated above, shall be discussed with and approved in writing by DFO, prior to implementation.
12. BRI shall carry out all works or undertakings related to the **Description of Works or Undertakings** at the Jericho Project and implement mitigation and compensation measures to the satisfaction of DFO.

AUTHORIZATION FOR WORKS OR UNDERTAKINGS AFFECTING FISH HABITAT AUTORISATION POUR DES OUVRAGES OU ENTREPRISES MODIFIANT L'HABITAT DU POISSON

NU-00-0068

Authorization No./N° de l'autorisation

13. A copy of this Authorization shall be prominently posted at the work site during all work periods. BRI shall ensure that all work crews are made familiar with the conditions of this Authorization prior to implementation of the works or undertakings.

The holder of this authorization is hereby authorized under the authority of section 35(2) of the Fisheries Act, R.S.C., 1985, c.F. 14, to carry out the work or undertaking described herein.

This authorization is valid only with respect to fish habitat and for no other purposes. It does not purport to release the applicant from any obligation to obtain permission from or to comply with the requirements of any other regulatory agencies.

Failure to comply with any condition of this authorization may result in charges being laid under the Fisheries Act.

This authorization form should be held on site and work crews should be made familiar with the conditions attached.

Le détenteur de la présente est autorisé en vertu du paragraphe 35(2) de la Loi sur les pêches L.R.C. 1985, ch. F. 14, à exploiter les ouvrages ou entreprises décrits aux présentes.

L'autorisation n'est valide qu'en ce qui concerne l'habitat du poisson et pour aucune autre fin. Elle ne dispense pas le requérant de l'obligation d'obtenir la permission d'autres organismes réglementaires concernés ou de se conformer à leurs exigences.

En vertu de la Loi sur les pêches, des accusations pourront être portées contre ceux qui ne respectent pas les conditions prévues dans la présente autorisation.

Cette autorisation doit être conservée sur les lieux des travaux, et les équipes de travail devraient en connaître les conditions.

Date of Issuance: April 15, 2005

Approved by:

Title:

John Cooley
A/Regional Director General
Central and Arctic Region
Fisheries and Oceans Canada

Date de délivrance : le 15 Avril 2005

Approuvé par :

Titre :

John Cooley
A/ Directeur Général Régional
Région du Centre et de l'Arctique
Pêches et Océans Canada