

Arctic Region | Région de l'Arctique  
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July 26, 2024

*Your file* *Votre référence*

2AM- MRY1325

*Our file* *Notre référence*

24-HCAA-01655

Nunavut Water Board (NWB)  
P.O. Box 119  
Gjoa Haven, NU  
X0B 1J0

**Subject: Fisheries and Oceans Canada's Initial Review of the Licence Renewal for Baffinland Iron Mine Corporation's Mary River Mine Project Type A Water Licence No. 2AM-MRY1325**

Dear Richard,

Thank you for the June 27, 2024, invitation to review the referenced licence renewal application, submitted by Baffinland Iron Mines Corporation (BIMC), for the Type A Water Licence No. 2AM-MRY1325.

As directed by the Nunavut Water Board (NWB) in the email dated June 27, 2024, the Fish and Fish Habitat Protection Program of Fisheries and Oceans Canada (DFO-FFHPP) has conducted an initial review of the Type "A" Water Licence renewal application (the Application) and supplemental information submitted by BIMC (the proponent) for completeness and to conduct an initial technical assessment for BIMC's Sustaining Operations Proposal 2 (SOP2 or the project).

Fisheries and Oceans Canada (DFO) is a federal department responsible for protecting Canada's three oceans and waterways ensuring they remain healthy for future generations and providing economic opportunities to Canadians and coastal communities. DFO's Fish and Fish Habitat Protection Program (DFO-FFHPP) administers and ensures compliance for development projects taking place in and around fish habitat under the fish and fish habitat protection provisions of the *Fisheries Act* and relevant provisions of the *Species at Risk Act (SARA)*.

The fish and fish habitat protection provisions of the *Fisheries Act* include: a prohibition against causing the death of fish, by means other than fishing (section 34.4); a prohibition against causing the harmful alteration, disruption or destruction of fish habitat (section 35); a framework of considerations to guide the Minister's decision-making functions (section 34.1); and ministerial powers to ensure the free passage of fish or the protection of fish or fish habitat with respect to existing obstructions (section 34.3).

Under the initial assessment of the Type A Water Licence 2AM-MEL1325 application and the concurrent review under the *Fisheries Act* (2012), the scope of the application was primarily restricted Serious Harm to a Commercial, Recreational, or Aboriginal Fishery from works at the Mary River Mine Site, along the Tote Road, and Milne Port. Review of the current Application for *Fisheries Act* Authorizations of the

route south to the Steensby Port is considering all fish and their habitat as under the *Fisheries Act (2019)*. As such, all new work, undertakings, or activities at the mine that have the potential to impact fish or fish habitat will be assessed under the current *Fisheries Act (2019)* for Harmful Alteration, Disruption, or Destruction of Fish Habitat and the Death of Fish.

DFO-FFHPP understands that the NWB would like parties to comment on the following:

- 1) completeness of the Application based on their initial technical assessment;
- 2) Information Requests (IRs) related to the Application that must be provided to enable the parties to complete their full technical review; and
- 3) Type of TM/PHC to be held.

DFO-FFHPP has reviewed the application and supporting documents related to the Project, as it relates to DFO's departmental mandate under the *Fisheries Act* for completeness of the application.

- 1) "completeness of the Application based on their initial technical assessment"

DFO views the application complete based on the information provided, with the understanding that the Nunavut Impact Review Board reconsideration process is ongoing. Furthermore, the project is still subject to potential modifications while it goes through the Reconsideration process that may affect the Application for renewal.

- 2) "Information Requests (IRs) related to the Application that must be provided to enable the parties to complete their full technical review";

DFO reiterates that a full review of the project is not possible at this time as more information is yet to be provided and that the project might be modified going through NIRB's reconsideration process. At this time and based on the information provided to date, DFO's initial review has identified the following Information Requests:

- a. DFO-FFHPP requests that Management Plans, including Surface Water, Aquatic Ecosystem Management Plan and a Road Management Plans be updated to include clear provisions for fish movement through watercourse crossing structures. Specifically it should include measures to protect fish and fish habitat to preserve fish passage and to protect downstream fish habitat from impacts. At a minimum, supporting information should include:

- locations where road infrastructure interacts with waterbodies and watercourses including seasonally wet drainages;
- type of crossing proposed (bridges and culverts);
- fish species present, and life stage; and
- whether there are fish bearing waterbodies downstream and/or upstream of the crossing and known important habitat. The seasonal channels between fish bearing waterbodies should be considered fish habitat.

- 3) "Type of TM/PHC to be held"

DFO-FFHPP recommends that the NWB Technical Meeting and Pre-Hearing Conference be held in-person with an option to attend virtually. Hybrid In-person and virtual meetings are recommended because it would allow intervening parties, the proponent, and NWB staff to address efficiently issues related to the SOP2 and provide support for intervenors online.

If you have any questions, please contact Paul Harper at (867) 444-0983, or by email [paul.harper@dfompo.gc.ca](mailto:paul.harper@dfompo.gc.ca). Please refer to the file number referenced above.

Sincerely,



José Audet-Lecouffe  
Fish and Fish Habitat Protection Program  
Fisheries and Oceans Canada  
Arctic Region

cc. Paul Harper – DFO