



INSPECTOR'S DIRECTION
Pursuant to Section 87(1) of the *Nunavut Waters*
and Nunavut Surface Rights Tribunal Act

June 9 2017

ISSUED TO: Baffinland Iron Mines Corporation via
Chief Operating Officer, Sylvain Proulx
sylvain.proulx@baffinland.com

RE: *Nunavut Waters and Nunavut Surface Rights Tribunal Act*
INSPECTOR'S DIRECTION

This is an inspector's direction to Baffinland Iron Mines Corporation (BIMC) under section 87(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, referred to in this direction as the Act.

BELIEF ON REASONABLE GROUNDS

I, Justin Hack, an Inspector designated by the Minister under section 85(1) of the Act, have reasonable grounds to believe that:

*waters have been and may be used in contravention of a condition of a licence;
and that the adverse effects of that use of water are causing, or may cause, a
danger to property and the environment.*

RELEVANT FACTS

1. On May 31, 2017, while conducting a routine water licence inspection of Baffinland Iron Mines Corporation project in the Qikiqtani Region of Nunavut, I observed that a site lay-down pad was being constructed at approximately N71° 52.529, W080° 54.379.
2. During an inspection of the perimeter, I observed that the lay-down pad was built over top a stream, and I observed that rock fill had been placed in the stream. The stream was approximately 1m in width. The stream now flows through the substrate (rock fill) used to construct the base of the site lay-down pad from the east. I observed that the stream exits the facility to the west.
3. Given that the construction of the site lay-down pad was over a stream, and that rock fill had been placed in the stream (constituting a use of waters under paragraphs (b), (c) and (d) of the definition of "use" in the Act), I asked the site's Environmental Superintendent whether BIMC had obtained the necessary Nunavut Water Board authorization.
4. In response to my question, the Site's Environmental Superintendent indicated that approval for the site lay-down pad can be found in their Amended Workplan,



which was submitted to the Nunavut Water Board on May 26, 2017 (five days before my inspection).

5. This document indicated that this site lay-down pad would be used for a “Port Construction Camp” that would accommodate a 380-person temporary camp inclusive of potable water treatment, sewage treatment, incinerator, kitchen, dining, locker, recreational and washroom facilities.
6. On review of the BIMC Water Licence 2AM-MRY1325 Amendment No. 1, this BIMC workplan does not constitute an approval, nor does it meet the requirements of the BIMC Water Licence 2AM-MRY1325 Amendment No. 1, which contains the following provision:
 - a. *Part D, Item 2: The Licensee shall submit to the Board for review and acceptance, at least sixty (60) days prior to construction or in a timeframe otherwise approved by the Board in writing, final design and for-construction drawings, stamped and signed by a Professional Engineer, for all infrastructure and/or facilities designed to contain, withhold, divert or retain Water and/or Waste, as authorized under the License.*
7. This provision of the licence is applicable because the rock fill in the stream will on its own, or in combination with accumulation of sedimentation or other debris, withhold, divert or retain water.
8. I also note that the licence is intended to be protective of watercourses and drainage paths within the project footprint:
 - a. *Part D, Item 20: The Licensee shall not erect camps or store material on the surface of frozen streams or lakes including the immediate banks except what is for immediate use. Camps shall be located such that impacts on surface drainage is minimized.*
 - b. *Part D, Item 21: The Licensee shall undertake necessary corrective measures to mitigate impact on surface drainage resulting from the Licensee’s activities.*
 - c. *Part D, Item 25: The Licensee shall prevent the deposition of debris or sediment from entering into or onto any Water body, with respect to the construction of access roads, site laydown pads and areas or other earthworks. These materials shall be disposed of at a distance of at least thirty-one (31) metres from the ordinary High Water Mark in such a manner that they do not enter the water.*
9. During my inspection, and despite being asked whether BIMC had a Water Board authorization to construct a lay-down pad over the stream (and place rock fill in the stream), on-site officials did not demonstrate to me that BIMC had any such authorization, and specifically did not demonstrate that the conditions of Part D, Item 2 had been met. The Amended Workplan did not include “final design and for-construction drawings, stamped and signed by a Professional Engineer”, and was submitted only five days before my inspection, while Part D, Item 2 requires submission to the Board 60 days before construction (or at a time otherwise approve by the Board in writing).
10. As of today, even if the Amended Workplan contained the required drawings, it is unlikely that the Nunavut Water Board has reviewed and accepted the required drawings according to its usual practice of posting for comment; and not enough



time has passed since submission for the Board to be deemed to have accepted the required drawings according to the terms of Part D, Item 2.

11. If the Board does not accept the proposed design, reconfiguration of the pad or other remedial steps might be required.
12. On the basis of my onsite observations and interactions and my review of the 2AM-MRY1325 water licence, I believe that there has been a use of waters in contravention of the conditions of that licence and that:
 - a. the placement of fill within a stream will cause sedimentation downstream and this may cause adverse effects to the environment,
 - b. the placement of fill within a stream, without proper diversion of the stream, may cause erosion and instability of the pad,
 - c. the stream may pool or flood if the site lay-down pad acts as a dam-like structure during freshet, resulting in potential damage to surrounding lands and infrastructure,
 - d. commissioning a camp on this structure within 31m of the watercourse may increase the risk of any spills that originate on the pad to enter water and cause adverse effects to the environment and,
 - e. that additional construction of the site lay-down pad, or building the camp on top of it, would make any re-configuration of the pad or other remedial steps to address the environmental issues created by the placement of rock fill in the stream more technically challenging or otherwise onerous.
13. For those reasons, I gave an oral direction to BIMC through Sylvain Proulx on June 1, 2017 to stop work on the new site lay-down pad at Milne Port until Part D, Item 2 of the licence has been complied with.

MEASURES TO BE TAKEN

Based upon the above grounds, I hereby direct **Baffinland Iron Mines Corporation**:

1. To stop all work on the site lay-down pad at Milne Port at approximately N71° 52.529, W080° 54.379 until Part D, Item 2 of the licence has been complied with; and
2. If the Nunavut Water Board has not accepted the plans within the time indicated in Part D, Item 2 of the licence, -- to inform me of this fact, at which time I will consider the need and options for additional direction under section 87(1).
3. To post this direction prominently in appropriate locations at the site, to otherwise inform appropriate persons of this direction, and take any other appropriate steps to ensure it is complied with.



This inspector's direction does not exempt any person from compliance with other relevant legislation.

Under section 90(1) of the Act, any person that fails to comply with a direction given by an inspector under section 87(1) is guilty of an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding one year, or to both.

New Information or Correction of Information

This direction is based on the information available to me at the time of making it. If you wish to bring additional information to my attention or correct any facts that might be in error, please do so in writing.

Review

Under section 87(3) of the Act, the Minister may, and if BIMC requests it the Minister must, review this direction. After review the Minister may leave the direction unchanged, alter or revoke it.

Signed this 9 day of June, 2017 at Iqaluit, Nunavut.

Justin Hack
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cc: Erik Allain, Sarah Forte, *Indigenous and Northern Affairs Canada*
Stephanie Autut, Sean Joseph, *Nunavut Water Board*
Laura Taylor, Bill Bowden, Wayne McPhee, Todd Burlingame – *BIMC*
Stephen Bathory - *QIA*