



Fisheries and Oceans
Canada

Pêches et Océans
Canada

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August 1, 2018

Your file *Votre référence*
2AM-MRY1325

Our file *Notre référence*
07-HCAA-CA7-00050

Nunavut Water Board (NWB)
Attn: Karén Kharatyan
A/Manager of Licensing
P.O. Box 119
Gjoa Haven, NU
X0B 1J0

Dear Nunavut Water Board,

Subject: 2AM-MRY1325 Distribution Review & Comment Request Response to Comments on Modification No. 7 Qikiqtani Region-OLAE

The Fisheries Protection Program of Fisheries and Oceans Canada (DFO-FPP) would like to thank the Nunavut Water Board (NWB) for the opportunity to provide comments on Baffinland Iron Mine Corporation's (Baffinland) Water Licence Modification No. 7 (2AM-MRY1325) for the Mary River Project.

As outlined in your request dated July 11, 2018, reviewers are invited to submit comments to the NWB by August 1, 2018.

DFO-FPP has reviewed the application and supporting documents in accordance with its mandate to maintain the sustainability and ongoing productivity of commercial, recreational and Aboriginal fisheries. DFO-FPP is providing the following comments:

DFO-FPP Comment 1 - Reference: 180308 2AM-MRY1325 Project Modification Request No7 Part 1of 6-IAAE.pdf, Baffinland letter to the Nunavut Water Board RE: Mary River Project - Modification Request No. 7 –2018 Upgrades at the Mine Site and Milne Port (Water Licence 2AM-MRY1325 - Amendment No. 1) (March 8, 2018); Table 2, (p. 5), Section 3.1.3 (pg. 9) & Section 3.4.3 (pg. 14)

DFO-FPP notes in Table 2 of 2AM-MRY1325 Project Modification Request No7 Part 1of 6, under Freshwater Aquatic Environment on page 5, it states: *"None of the proposed modifications are situated within or immediately upstream of fish habitat."* DFO-FPP further notes in section 3.1.3: Identification of any Potential Impacts to Receiving Environment on page 9, it states: *"Ponded water will be displaced and*

drainages will be rerouted; none of the ponds or drainages are fish-bearing but eventually report to Phillips Creek which is fish-bearing” and section 3.4.3: Identification of any Potential Impacts to Receiving Environment (page 14) further states “...drainages will be rerouted consistent with the Milne Port Water Management works detailed in Section 3.5; none of the ponds or drainages are fish-bearing but eventually report to Phillips Creek which is fish-bearing during open water.”

The Milne Port laydown area modifications have the potential to cause negative impacts to fish and fish habitat for several of the ponds that are proposed to be modified under Modification No. 7. DFO-FPP notes that Baffinland has stated that *“none of the ponds or drainages are fish-bearing”*, however DFO-FPP also notes that limited baseline information has been provided to support this conclusion. DFO-FPP is unclear what information, baseline data/ studies were used to inform the non-fish bearing status of the ponds and drainages. In the absence of adequate baseline surveys conducted for each of the ponds and drainages affected by the modification proposal, DFO-FPP is unable to adequately assess Baffinland’s conclusions of impacts. However, should the noted ponds be determined to be fish bearing, DFO-FPP would require Baffinland to submit a ‘Request for Review’ prior to construction of the laydown areas.

Therefore, DFO-FPP recommends Baffinland provide baseline data and associated rationale to support Baffinland’s conclusion that the impacted ponds are non-fish bearing.

Furthermore, it remains the Proponent’s responsibility to ensure it avoids causing serious harm to fish in compliance with the *Fisheries Act*, and that it meets the requirements under the *Species at Risk Act* as it may apply to your project. If the Proponent’s plans have changed or changes in the future, the Proponent should consult our website (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>).

If you have any questions, please contact Laura Watkinson at (867) 669-4920, or by email at Laura.Watkinson@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Sincerely,



Mark D’Aguiar
Senior Fisheries Protection Biologist
Fisheries Protection Program

cc. Laura Watkinson - FPP Biologist DFO