

Environmental Protection Branch
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April 17, 2008

Our file: 4703 003 018

Phyllis Beaulieu
Manager of Licencing
Nunavut Water Board
P.O. Box 119
Gjoa Haven, NU
X0B 1J0

Attention: Ms. Beaulieu

Re: Type B Water License #2BB-MRY0710 - Request for modification to waste disposal facilities.

On behalf of Environment Canada (EC), I have reviewed the information submitted with the above request, received April 10, 2008. EC's review is based primarily on the mandated responsibilities for the enforcement of Section 36(3) of the *Fisheries Act*, the *Canadian Environmental Protection Act* (CEPA) the *Migratory Birds Convention Act* (MBCA), and the *Species at Risk Act* (SARA).

It is EC's understanding that Baffinland Iron Mines Corporation (BIMC) is requesting a modification to the waste disposal facilities for their Mary River project. The proposed modifications include: increased temporary pond capacity through the provision of an additional two-cell pond at the Mary River camp and as well as a single cell pond at the Milne Inlet camp. EC is in agreement with the BIMC that measures should be taken to prevent the release of untreated sewage to the environment and therefore EC has no objection to the construction of the proposed ponds. However EC has the following comments regarding the proposed modifications:

Comments and Recommendations

1. Releases of inadequately treated sewage should be avoided. Meeting the requirements of the *Fisheries Act* is mandatory, irrespective of any other regulatory or permitting system. Section 36(3) of the *Fisheries Act* specifies that unless authorized by federal regulation, no person shall deposit or permit the deposit of deleterious substances of any type in water frequented by fish, or in any place under any conditions where the deleterious substance, or any other deleterious substance that results from the deposit of the deleterious substance, may enter any such water. The legal definition of deleterious substance provided in subsection 34(1) of the *Fisheries Act*, in conjunction with court rulings, provides a very broad interpretation of deleterious and includes any substance with a potentially harmful chemical, physical or biological effect on fish or fish habitat.

2. According to the available information the proposed ponds will provide sufficient capacity to avoid releases of inadequately treated sewage during the ramp-up of the sewage treatment facility and during any future treatment upsets. Though it is logical for a reader to assume that once the treatment facilities are operational BIMC intends to pump out the contingency ponds and then to release the treated waste, the text does not explicitly state so. Environment Canada recommends that, as much as is practical, the ponds be maintained in an empty state so that the holding capacity is available in the event of need.
3. The diagrams provided make it difficult to assess the location of the proposed ponds relative to surrounding water bodies. EC recommends that the ponds be located and constructed in such a manner as to prevent the untreated contents from entering any water body or watercourse frequented by fish.

Please do not hesitate to contact me at (204) 983 4815 or via email at mark.dahl@ec.gc.ca if you have any questions or concerns regarding these comments.

Sincerely,

Mark Dahl
Environmental Protection Branch

cc: Carey Ogilvie (Head, EA North, EPOD)
Mike Fournier (Northern Assessment Coordinator, EPOD)