



Environmental Protection Operations
5204 - 50th Avenue
Suite 301
Yellowknife, NT X1A 1E2
Fax: 867-873-8185

7 June 2006

Our File 4703 003 016

Richard Dwyer
Licensing Trainee
Nunavut Water Board
P.O. Box 119
Gjoa Haven, NU X0B 1J0

Fax: (867) 360-6369

Re: NWB 2BE CHW – Renewal Application – Churchill West Project – Shear Minerals Ltd.

EPO's contribution to your request for specialist advice is based 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) *Regulations* and the *Species at Risk Act* (SARA). On the basis of the information provided, EC believes that the above noted project has the potential to affect fish pursuant to the *Fisheries Act*, migratory birds pursuant to the *Migratory Birds Convention Act* and wildlife pursuant to the *Species at Risk Act*.

Environment Canada supports the mitigation measures proposed by Shear Minerals Ltd. and would like to add the following comments and recommendations.

Comments made by Colette (Meloche) Spagnuolo, Environmental Assessment Specialist with EC regarding the Churchill West Project, as well as, comments made by myself for the original water licence application would still be applicable.

The Canadian Wildlife Service (CWS) of Environment Canada has reviewed the above-mentioned submission and makes the following comments and recommendations pursuant to the *Migratory Birds Convention Act* (the *Act*) and *Migratory Birds Regulations* (the *Regulations*), and the *Species at Risk Act* (SARA).

1. Section 6 (a) of the *Migratory Birds Regulations* states that no one shall disturb or destroy the nests or eggs of migratory birds. Therefore, CWS recommends that all activities be conducted outside the migratory bird breeding season, which extends from approximately May 15 to July 31. These dates are approximate, and if active nests (i.e. nests containing eggs or young) are encountered outside of these dates the proponent should avoid the area until nesting is complete (i.e. the young have left the vicinity of the nest).
2. If activities are permitted to occur during the breeding season, CWS recommends that the proponent confirm there are no active nests (i.e. nests containing eggs or young) in the vicinity of their operations before activities commence. If active nests of migratory birds are discovered, the proponent should halt all activities until nesting is completed (i.e. the young have left the vicinity of the nest).
3. In order to reduce disturbance to nesting birds, CWS recommends that aircraft used in conducting project activities maintain a flight altitude of at least 610 m during horizontal (point to point) flight.
4. In order to reduce disturbance to resting, feeding, or moulting birds, CWS recommends that aircraft used in conducting project activities maintain a vertical distance of 1000 m and minimum horizontal distance of 1500 m from any observed concentrations (flocks / groups) of birds.
5. Section 35 of the *Migratory Birds Regulations* states that no person shall deposit or permit to be deposited, oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds.

6. All mitigation measures identified by the proponent, and the additional measures suggested herein, should be strictly adhered to in conducting project activities. This will require awareness on the part of the proponents' representatives (including contractors) conducting operations in the field. Environment Canada recommends that all field operations staff be made aware of the proponents' commitments to these mitigation measures and provided with appropriate advice / training on how to implement these measures.
7. Implementation of these measures may help to reduce or eliminate some effects of the project on migratory birds, but will not necessarily ensure that the proponent remains in compliance with the *Migratory Birds Convention Act* (the *Act*) and *Migratory Birds Regulations* (the *Regulations*). The proponent must ensure they remain in compliance with the *Act* and *Regulations* during all phases and in all undertakings related to the project.
8. The following comments are pursuant to the Species at Risk Act (SARA), which came into full effect on June 1, 2004. Section 79 (2) of SARA, states that during an assessment of effects of a project, the adverse effects of the project on listed wildlife species and its critical habitat must be identified, that measures are taken to avoid or lessen those effects, and that the effects need to be monitored. This section applies to all species listed on Schedule 1 of SARA. However, as a matter of best practice, EC asks that species listed on other Schedules of SARA and under consideration for listing also be included in this type of assessment.

Species at Risk that may be encountered	Category of Concern	Schedule of SARA	Government Organization with Expertise on Species
Peregrine Falcon (subspecies tundrius)	Special Concern	Schedule 3	Government of Nunavut
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
Grizzly Bear	Special Concern	Pending	Government of Nunavut
Wolverine (Western Population)	Special Concern	Pending	Government of Nunavut

Impacts could be disturbance and attraction to operations.

Environment Canada recommends:

- The proponent should identify potential Species at Risk that could be encountered. Consult with the Government of Nunavut and refer to the Species at Risk registry at www.sararegistry.gc.ca for information on specific species.
- If Species at Risk are encountered, the primary mitigation measure should be avoidance. The proponent should avoid contact with or disturbance to each species.
- The proponent should consult with the Government of the Nunavut and appropriate status reports, recovery strategies, action plans, and management plans to identify other appropriate mitigation measures to minimize effects to these species from the project.
- The proponent should record the locations and frequency of any observations of Species at Risk and note any actions taken to avoid contact or disturbance to the species.

EPO should be notified of changes in the proposed or permitted activities associated with this application.

Please do not hesitate to contact me at (867) 669-4744 or ron.bujold@ec.gc.ca with any questions or comments.

Yours truly,

Ron Bujold
Environmental Assessment Technician

cc: Steve Harbicht (Head, Assessment & Monitoring, EPO)
Mike Fournier (Northern Environmental Assessment Coordinator, A&M, EPO)