

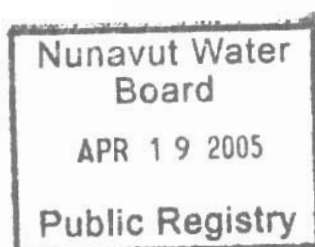


Environment Canada
Environnement Canada

Environmental Protection Branch
Suite 301, 5204 - 50th Avenue
Yellowknife, NT, X1A 1E2

April 18, 2005

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



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Our file:

Via facsimile

Re: NWB2HEN – Henik Lake Project, Water License Application
Proponent – Newmont Canada Ltd.

On behalf of Environment Canada (EC), I have reviewed the information submitted with the above-mentioned Water License Amendment request. The following comments are provided pursuant to Environment Canada's mandated responsibilities for the enforcement of the *Canadian Environmental Protection Act*, Section 36(3) of the *Fisheries Act*, the *Migratory Birds Convention Act*, and the *Species at Risk Act*.

Newmont Canada Ltd. has submitted an application for a new Water License for activities associated with the Henik Lake Project, a gold exploration project located in the Kitikmeot Region of Nunavut. This is a multi-year project scheduled to begin in March 2005 and continue through until November 2008. This project will involve a seasonally occupied camp for up to 40 people-the location of which has not yet been determined-and activities will include prospecting, geological mapping, geophysical surveys and land based diamond drilling.

1. 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. Environment Canada recommends the use of secondary containment with an impervious liner, such as self-supporting insta-berms, for storage of all barreled fuel rather than relying on natural depressions to contain spills.
3. Except for immediate use, the permittee shall not erect camps or store materials on the surface ice of any water body.
4. The proponent shall have a Spill Contingency Plan in place prior to establishing any fuel caches.
5. Fuel caches shall also be inspected on a regular basis.
6. A supply of spill kits, shovels, barrels, sorbents, pumps, etc. shall be consistently maintained and readily available onsite.
7. Environment Canada recommends the use of drip pans, or other similar preventative measures, when refueling equipment on site.

8. The proponent shall ensure that any fuel or hazardous wastes associated with the proposed project are properly handled, transported and disposed of.
9. Please note that fuels or hazardous materials cached for this study must be removed at the end of the project.
10. Please note that any spill of fuel or hazardous materials adjacent to, or into a water body, regardless of quantity, shall be reported immediately to the NWT 24-hour Spill Line, (867) 920-8130.
11. Environment Canada's contact number is (867) 920-5131, a 24-hour emergency pager monitored by Emergency and Enforcement Officers.

With respect to waste disposal at this site, Environment Canada has the following recommendations:

12. All equipment and material brought to site for this project should be packed out on project completion.
13. For disposal of combustible material that cannot be shipped out, Environment Canada recommends the use of an approved incinerator.
14. All non-combustible solid wastes (e.g., potable water bottles) shall be disposed of at an appropriate facility, e.g., Yellowknife, NT or Iqaluit, NU. The proponent is encouraged to make use of recycling facilities for all recyclable materials.
15. Environment Canada recommends that camp waste be made inaccessible to wildlife at all times. Camp waste can attract predators of migratory birds (e.g., foxes and ravens) to an area if not disposed of properly.
16. The proponent has stated that all blackwater will be shipped off site and has provided an example of estimated volume for a 5 person camp. Is the proponent prepared to bag and ship out volumes produced by a much larger camp (40 people) and is there a contingency plan in place should that option not always be possible?

With respect to exploration and drilling activities, Environment Canada recommends that the following conditions be applied through all stages of the project:

17. If artesian flow is encountered, drill holes shall be plugged and permanently sealed upon project termination.
18. Drilling waste from land-based drilling should be disposed of in such that they do not enter any body of water.

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).

19. 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 1 to Aug 1. 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).
20. 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).

21. 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.
22. 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.
23. Also, please note that 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. If harmful substances do come into contact with bodies of water that are frequented by migratory birds during the open water season, then these must be completely cleaned up following the procedures identified by the proponent and subject to final approval by an Inspector.
24. 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.
25. 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.
26. The *Species at Risk Act* (SARA) came into full effect on June 1, 2004. Species at risk that may be encountered in this area include, but are not limited to: Peregrine falcon (subspecies *tundrius*), Grizzly Bear, Wolverine, and Short-eared Owl, all of which are listed as species of Special Concern on Schedule 3 of SARA. While conducting their operations, the proponent should be aware of the special status, and minimize disturbance to, or contact with, these species.

If there are any changes in the proposed project, EC should be notified, as further review may be necessary. Please do not hesitate to contact me with any questions or comments with regards to the foregoing at (867) 669-4708 or by email at ivy.stone@ec.gc.ca.

Sincerely,



Ivy Stone
Environmental Assessment

cc: Steve Harbicht (Head, Assessment & Monitoring, EPB, Environment Canada, Yellowknife, NT)
Mike Fournier (Northern Environmental Assessment Coordinator, EPB, Environment Canada, Yellowknife, NT)