



**Environment Environnement
Canada Canada**

Environmental Protection Branch
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May 17, 2005

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Nunavut Water Board

MAY 17 2005

Public Registry

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Via facsimile : (867) 360-6369

Re: NWB2PEL BHP Billiton – Mineral Exploration and Camp, Pelly Bay area – Water Licence Application

On behalf of Environment Canada (EC), I have reviewed the information submitted with the above-mentioned application. 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* (SARA).

Environment Canada recommends that the following conditions be applied throughout all stages of the project:

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. All sumps, pits, spill basins and fuel caches shall be located above the high water mark of any waterbody and in such a manner as to prevent the contents from entering any waterbody frequented by fish.
3. All sumps shall be backfilled upon completion of the project and recontoured to match the surrounding landscape.
4. 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.
5. The proponent shall have a Spill Contingency Plan in place prior to establishing any fuel caches.
6. Fuel caches shall be inspected on a regular basis.
7. A spill kit including shovels, barrels, sorbents, pumps, etc. shall be consistently maintained and readily available onsite.
8. Environment Canada recommends the use of drip pans, or other similar preventative measures, when refueling equipment on site.
9. The proponent shall ensure that all hazardous wastes, including waste oil, receive proper treatment and disposal at an approved facility.
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.

12. Drilling wastes from land-based drilling should be disposed of in a sump such that they do not enter any body of water.
13. Where drilling additives (CaCl) are used in substantial quantities, return water should be contained and not returned to source.
14. If artesian flow is encountered, drill holes shall be plugged and permanently sealed upon project termination.
15. For lake-based winter drilling, the Interim Guidelines for On-Ice drilling will apply. Return water released to the lake must be non-toxic. Return water release must not result in an increase in total suspended solids in the waters of the lake that exceeds Canadian Council of Ministers of the Environment (CCME) Guidelines for the Protection of Freshwater Aquatic Life (i.e. 10 mg/L for lakes with background levels under 100 mg/L, or 10% for those above 100 mg/L).
16. Drilling additives or mud shall not be used in connection with holes drilled through lake ice unless they are re-circulated, contained such that they do not enter the water, or are demonstrated to be non-toxic.
17. The permittee shall not erect camps or store materials on the surface ice of any water body, other than for immediate use.
18. For disposal of small amounts of combustible material that cannot be shipped out, Environment Canada recommends the use of an approved incinerator.
19. All non-combustible solid wastes shall be disposed of at an appropriate facility.
20. The Canadian Wildlife Service (CWS) has reviewed this land use permit application and provides the following comments pursuant to the *Migratory Birds Convention Act and Regulations* and the *Species at Risk Act*.
21. The proponent plans to conduct activities during the migratory bird breeding season. Paragraph 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 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).
22. Species at risk that may be encountered in this area include: Peregrine Falcon (Tundrius) and Short-eared Owl, listed as Special Concern under Schedule 3 of the *Species at Risk Act*; and Grizzly Bear and Wolverine (Western Population) listed as Special Concern by COSEWIC. While conducting their operations, the proponent should be aware of the special status, and minimize disturbance to or contact with these species.
23. CWS recommends that camp waste be made inaccessible to wildlife at all times.
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.

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) 669-4743 or by email at mike.fournier@ec.gc.ca.

Sincerely,



Mike Fournier
Environmental Assessment Coordinator
Environmental Protection Branch

cc: Steve Harbicht (Head, Assessment & Monitoring, EPB, Environment Canada, Yellowknife, NT)