



Fisheries and Oceans
Canada

Pêches et Océans
Canada

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June 25, 2004

Your file *Votre référence*
NIRB # 04EN050

Our file *Notre référence*
NU-04-0058

Ms. Gladys Joudrey
Environmental Assessment Officer
Nunavut Impact Review Board
P.O. Box 2379
Cambridge Bay, NU X0E 0C0

Via electronic mail to:
gjoudrey@nirb.nunavut.ca

Dear Ms. Joudrey:

Subject: Proposed works or undertakings will not likely result in negative effects to fish habitat if additional protection measures are implemented.

Fisheries and Oceans Canada (DFO) received your proposal on May 11, 2004, concerning Mineral Exploration at Walker Lake. To expedite future correspondence or inquiries, please refer to your referral title and file numbers when you contact us.

Referral File No.:	04-HCAA-CA7-000-000058
Habitat File No.:	NU-04-0058
Referral Title:	EXPLORATION, BAY RESOURCES LTD, KITIKMEOT REGION

It is our understanding that your proposal consists of:

- *Exploration will occur between June 1, 2004 to September 30, 2005, between the months of June and September.*
- *A temporary camp will be established on an island in Walker Lake between June 1 and September 20 and will accommodate 14-20 people.*
- *Drill cuttings and water will be pumped to a natural depression or temporary dyke.*
- *Water for the camp will be provided from Walker Lake, while water for drilling will be provided from lakes in the drill area.*
- *The water intake will be land based and will include a mesh screen to prevent entrainment of fish, as per the DFO End-of-Pipe fish screen guidelines.*

as outlined in the following plans:

- *Nunavut Water Board Water Licence Application Form*
- *Nunavut Water Board Exploration/Remote Camp Supplementary Questionnaire*

We have reviewed your proposal under the habitat protection provisions of the *Fisheries Act*. The measures described in your plans are not adequate to protect fish and fish habitat. Therefore, please ensure that the following additional measures are incorporated into your plans.

Operations in or near water may result in the harmful alteration, disruption or destruction of fish habitat, which is prohibited under Section 35 of the *Fisheries Act*. The following mitigation

measures, along with mitigation measures indicated in the project proposal, are intended to prevent any potentially harmful impacts to fish and fish habitat.

- All disturbed areas should be stabilized and re-vegetated as required, upon completion of work, and restored to a pre-disturbed state.
- No material should be left on the ice when there is potential for that material to enter the water (i.e. spring break-up).

Extraction of water via intake from any water body is prohibited under Section 30 of the *Fisheries Act* unless the entrance of the intake is properly screened to prevent the entrainment of fish. Refer to the *Freshwater Intake End-of-Pipe Fish Screen Guideline* (DFO 1995), which is available upon request. No harm should come to fish during water removal as long as the following mitigation measures are implemented:

- Ensure that the holes in the screen are small enough that no fish of any size can pass through the screen and into the intake.
- The rate of water withdrawal should be such that fish do not become impinged on the screen.
- Make certain that the fish guard or screen is properly maintained, in a good state of repair, and is not removable except for renewal or repair.
- During the time in which a renewal or repair is being conducted, the entrance of the water intake should be closed in order to prevent the passage of fish into the intake.

Depositing deleterious substances into fish bearing waters is prohibited as stated under Subsection 36(3) of the *Fisheries Act*. The following are additional measures to mitigate habitat disturbance or loss as well as the deposition of deleterious substances.

- Sediment and erosion control measures should be implemented prior to commencement of, and maintained during, the work to prevent sediment entry into the water.
- Sediments from water used in the drilling process should be filtered out before the water is discharged onto the surrounding landscape.
- All wastes, sewage containments and fuel caches should be located well away from the normal high water mark of any water body. Impermeable spill mats or plastic sheets as well as efficient containment berms should be incorporated into these caches to ensure that contaminants do not enter water bodies.
- All activities, including maintenance procedures and vehicular refuelling, should be controlled to prevent the entry of petroleum products, sediment, debris, rubble, or other deleterious substances into the water. Impermeable spill mats, drip pans or other measures to prevent ground or ice contamination should also be used when refuelling equipment on site. Ensure that refuelling activities are conducted well away from the normal high water mark of any water body.
- Extra fuel storage containers equal to or bigger than the size of the largest fuel container should be available on site. These containers should be used to replace any existing containers showing signs of leakage. Containers should be checked for leaks on a daily basis and any visible leaks should be repaired immediately. Spill kits should be readily available at all times.

- All spills of oil, fuel, or other deleterious material should be reported immediately to the 24-Hour Spill Line at (867) 920-8130.

By implementing these additional measures, it is our opinion that the proposed works and undertakings will not likely result in the harmful alteration, disruption or destruction (HADD) of fish habitat, which is prohibited unless authorized by DFO. These are recommendations to ensure that the proposed works will likely not result in a HADD of fish habitat. Therefore a subsection 35(2) authorization is not necessary.

You could contravene subsection 35(1) of the *Fisheries Act* if a HADD of fish habitat results from any change in your proposed plan or from failure to properly implement these additional measures. Subsection 35(1) states, *"no person shall carry on any work or undertaking that results in the harmful alteration, disruption or destruction of fish habitat."*

This letter of advice does not permit the deposit of a deleterious substance into waters frequented by fish nor does it release you from the responsibility to obtain any other federal (for example, the *Navigable Waters Protection Act*), provincial or municipal approvals.

If these plans have changed since the time of submission, the advice in this letter may no longer apply and you should consult with us to determine if further review is required.

We request that you notify us at least 10 working days before starting the work and that a copy of this letter be kept on site while work is in progress. If you have any questions concerning the above, or if my understanding of the proposal is either incorrect, incomplete, or if there are changes to the proposed works or undertakings, please contact me directly by telephone at (867) 979-8011 or by fax at (867) 979-8039.

Yours sincerely,

Original Signed by:

Derrick Moggy
Habitat Management Biologist
Fisheries and Oceans Canada – Eastern Arctic Area

Copy: Phyllis Beaulieu – Nunavut Water Board (licensing@nwb.nunavut.ca)
Craig Alford – Bay Resources (calford@spots.ca)
Keith Pelley – Fisheries and Oceans Canada – Conservation and Protection