



Fisheries and Oceans
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July 14, 2006

Your file *Votre référence*

3BW-DIA

Our file *Notre référence*

NU-04-0080

Phyllis Beaulieu
Manager of Licensing
Nunavut Water Board
P.O. Box 119
Gjoa Haven NU X0B 1J0.
Sent by email to:
licensing@nwb.nunavut.ca

Dear Ms Beaulieu:

Fisheries and Oceans Canada (DFO) received a proposal from you, for the construction of an ATV trail from the Hamlet of Rankin Inlet to the Diana River Access Point. In any future correspondence or inquiries, please refer to the following referral title and file number when you contact us.

Habitat File No.: **NU-04-0080**
Referral Title: **ATV Trail, Rankin Inlet, Kivalliq**

I understand that the trail will have 14 culvert crossings of streams that flow across flat tundra. The largest crossing has a bankfull width of 1.3 m. This proposal is described in a Jacques Whitford report titled: *Dianne River Access Trail* dated November 30, 2005, Project 1000465.

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

I have concluded that the proposed works and undertakings are adequate to protect fish and fish habitat including aquatic species at risk, provided that the work is carried out as described in the plans and the following additional measures are implemented:

- Culvert diameters are the same or larger than the bank width at the crossing
- Culverts are placed flush with the bottom of the channel, or are countersunk below the channel bottom
- Culverts have the same slope as the channel bottom
- Culverts extend beyond the toe of the fill material used to construct the trail
- Crossings are constructed at 90 degrees to the watercourse where feasible

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

Depositing deleterious substances into fish bearing waters is prohibited as stated under Subsection 36(3) of the *Fisheries Act*. The following measures should prevent the deposit of deleterious substances.

- Ensure that refuelling activities are conducted at least thirty (30) metres away from the normal high water mark of any water body.
- 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 the above measures and those already outlined in the plans, 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.

However, failure to properly implement the measures outlined in the plans may result in contravention of subsection 35(1) of the *Fisheries Act*, which 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 allow the deposit of deleterious substance (section 36 of the *Fisheries Act*) into waters frequented by fish nor does it release the proponent from the responsibility to obtain any federal, provincial, territorial or municipal approvals that may be needed.

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 myself directly by telephone at 867-979-8011, by fax at 867-979-8039 or by e-mail at gibsondw@dfo-mpo.gc.ca.

Yours sincerely,

Original Signed By:

Dave Gibson
Habitat Management Biologist

Copy: John Hodgson, Hamlet of Rankin Inlet, munri@arctic.ca