



Environment Environnement
Canada Canada

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28th June 2010

Our File: 4708 001 114

Regulatory Officer
Mackenzie Valley Land and Water Board
7th Floor, 4910 - 50th Avenue
P.O. Box 2130
Yellowknife, NT X1A 2P6

Attention: Lynn Carter

permits@mvlwb.com

Re: MV2009X0028 - Land Use Permit Application – Road Access and Camp – Mathews Lake – Bathurst Inlet Developments Ltd.

Environment Canada has reviewed the information submitted with the above noted application. The following advice is provided pursuant to **Section 22** of the *Mackenzie Valley Resource Management Act*.

Environment Canada's contribution to your request for specialist advice is based on the mandated responsibilities under **Section 36(3)** of the *Fisheries Act*, the *Canadian Environmental Protection Act* (CEPA), the *Migratory Birds Convention Act* (MBCA), and the *Species at Risk Act* (SARA).

Bathurst Inlet Developments Ltd. is applying for a Land Use Permit for road access and camp facilities at their Treeline Lodge Camp which is located at Mathews Lake, NT. The camp's primary use is to support tourism and provide remote accommodations, office and staging functions for the exploration business. The camp also maintains a fuel storage area. The proponent has had permits in the area since 1993 to support their existing tourism and mining facility.

Comments and Recommendations

Spill Contingency Planning

With the large volumes of fuel stored on site, the proponent should develop a Spill Contingency Plan that outlines a clear path of response and should be submitted to EC for review. The proponent should refer to the following document when developing their Spill Contingency Plan: "Guidelines for Spill Contingency Planning, prepared by Water Resources Division Indian and Northern Affairs Canada." The plan should include, but not limited to the following:

- * Operational practices for the handling of fuels and hazardous fluids;
- * contact list of persons to be contacted in the event of a spill;
- * copy of the NWT/NU 24 Hour Spill Report Form;
- * 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 24-hour Spill Line (867) 920-8130;
- * an appropriate spill kit with absorbent material should be located at the fuel storage area;
- * all fuel caches should be, inspected and documented on a regular basis;
- * all fuel containers must be properly sealed and stacked in an upright position to prevent the possibility of spills and leaks;
- * spill contingency plans should also include the locations of disposal sites which are approved to accept wastes and the proponent should have a means of proper storage prior to disposal.

When storing barrelled fuel at a location, EC encourages the use of self supporting insta-berms which are available from various suppliers within Canada.

Fuel containers, including barrels, should be marked with the responsible party's name, product type, and year purchased or filled.

The decanting of snow or water from any berm area should proceed only if the appropriate chemical analysis has determined that the contents meet the requirements of **Section 36 (3)** of the *Fisheries Act*.

Incineration

The proponent also mentions that contaminated fuel is collected and burnt and that garbage is burned in a screened barrel. The proponent should ensure that combustible waste is burned in a device that promotes efficient combustion and reduction of emissions and is capable of meeting the emissions limits established under the Canada-wide Standards (CWS) for Dioxins and Furans and the CWS for Mercury Emissions. EC has developed a *Technical Document for Batch Waste Incineration*, which is available at the following web link:

<http://www.ec.gc.ca/gdd-mw/default.asp?lang=En&n=5F6E5596-1>

The technical document provides information on appropriate incineration technologies, best management and operational practices, monitoring and reporting. This information should be incorporated into an incineration management plan for the proponent's camp facilities. EC would like the opportunity to review this plan prior to implementation.

Deleterious Substances

It has come to the attention of EC that a Fish Habitat Restoration Project, which has been ongoing at the Mathews Lake and surrounding area, is being jeopardized by fording of the stream crossing located near the Salmita airstrip, between Pond B and Sandy Lake. The proponent should be aware that under **Section 36 (3)** of the *Fisheries Act*, which stipulates that the deposition of a deleterious substance of any type into waters frequented by fish is prohibited. The legal definition of a deleterious substance provided in **Section 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.

The proponent should be aware that stream fording can introduce deleterious substances into waters frequented by fish. An Authorization to Ford a Stream must be obtained through the Department of Fisheries and Oceans prior to fording a stream.

Canadian Wildlife Services

The Canadian Wildlife Services offers the following comments and recommendations.

1. Section 6 (a) of the *Migratory Birds Regulations* states that no one shall disturb or destroy the nests or eggs of migratory birds. The best mitigation measure to ensure compliance is to conduct activities with a risk of disturbing or destroying nests or eggs outside of the migratory bird nesting season. High risk activities include disturbance of large amounts of habitat during the nesting season such as vegetation clearing or conducting activities in areas with large concentrations of nesting birds. In the boreal region of the Northwest Territories, the incubation period for migratory bird's ranges from May 7 until July 21, and young birds can be present in the nest until August 10. If 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. For activities permitted to occur during the breeding season, such as vegetation clearing and mowing along highway right of ways and construction of access roads to granular sources and future sand/salt storage facilities, Environment Canada 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 in the nesting area until nesting is completed (i.e., the young have left the vicinity of the nest).
3. Environment Canada recommends that food, domestic wastes, and petroleum-based chemicals (e.g., greases, gasoline, and glycol-based antifreeze) be made inaccessible to wildlife at all times. Such items can attract

predators of migratory birds such as foxes, ravens, gulls, and bears. Although these animals may initially be attracted to the novel food sources, they often will also eat eggs and young birds in the area. These predators can have significant negative effects on the local bird populations.

4. Section 5.1 of the *Migratory Birds Convention Act* prohibits persons from depositing substances harmful to migratory birds in waters or areas frequented by migratory birds or in a place from which the substance may enter such waters or such an area.
5. 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, Environment Canada suggests that species on other Schedules of SARA and under consideration for listing on SARA, including those designated as at risk by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), be considered during an environmental assessment in a similar manner.

Terrestrial Species at Risk ¹	COSEWIC Designation	Schedule of SARA	Government Organization with Lead Management Responsibility ²
Woodland Caribou (Boreal population)	Threatened	Schedule 1	GNWT
Rusty Blackbird	Special Concern	Schedule 1	GNWT
Peregrine Falcon (<i>anatum</i> subspecies)	Special Concern	Schedule 1 (<i>anatum</i>) Schedule 3 (<i>tundrius</i>)	GNWT
Short-eared Owl	Special Concern	Schedule 3	GNWT
Horned Grebe (Western population)	Special Concern	Pending	EC
Grizzly Bear	Special Concern	Pending	GNWT
Wolverine (Western population)	Special Concern	Pending	GNWT

¹The Department of Fisheries and Oceans has responsibility for aquatic species.

² Environment Canada (EC) has a national role to play in the conservation and recovery of Species at Risk in Canada, as well as responsibility for management of birds described in the *Migratory Birds Convention Act* (MBCA). Day-to-day management of terrestrial species not covered in the MBCA is the responsibility of the Territorial Government. Populations that exist in National Parks are also managed under the authority of the Parks Canada Agency.

³The *anatum* subspecies of Peregrine Falcon is listed on Schedule 1 of SARA as threatened. The *anatum* and *tundrius* subspecies of Peregrine Falcon were reassessed by COSEWIC in 2007 and combined into one subpopulation complex. This subpopulation complex was listed by COSEWIC as Special Concern.

Impacts could be disturbance, attraction to operations, and destruction of habitat.

Environment Canada recommends:

Species at Risk that could be encountered or affected by the project should be identified and any potential adverse effects of the project to the species, its habitat, and/or its residence noted. All direct, indirect, and cumulative effects should be considered. Refer to species status reports and other information on the Species at Risk registry at www.sararegistry.gc.ca for information on specific species as well as the booklet "Species at Risk in the Northwest Territories" (2010 Edition) available at the following web site:

http://www.enr.gov.nt.ca/live/pages/wpPages/Species_at_Risk.aspx

If Species at Risk are encountered or affected, the primary mitigation measure should be avoidance. The proponent should avoid contact with or disturbance to each species, its habitat and/or its residence.

- Monitoring should be undertaken by the proponent to determine the effectiveness of mitigation and/or identify where further mitigation is required. As a minimum, this monitoring should include recording the locations and dates of any observations of Species at Risk, behaviour or actions taken by the animals when project activities were encountered, and any actions taken by the proponent to avoid contact or disturbance

to the species, its habitat, and/or its residence. This information should be submitted to the appropriate regulators and organizations with management responsibility for that species, as requested.

- For species primarily managed by the Territorial Government, the Territorial Government should be consulted to identify other appropriate mitigation and/or monitoring measures to minimize effects to these species from the project.
 - Mitigation and monitoring measures must be taken in a way that is consistent with applicable recovery strategies and action/management plans.
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 and Species at Risk, but will not necessarily ensure that the proponent remains in compliance with the *Migratory Birds Convention Act*, *Migratory Birds Regulations*, and the *Species at Risk Act*. The proponent must ensure they remain in compliance during all phases and in all undertakings related to the project.

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

If you have any further questions or comments, please do not hesitate to contact me at (867) 669-4744 or ron.bujold@ec.gc.ca.

Yours truly,



Ron Bujold
Aquatic Environmental Assessment Technician

cc: Carey Ogilvie (Head, EA-North, EPO)
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