



Transport Canada Transports
Canada Canada

Programs – Prairie and Northern Region
344 Edmonton Street
Winnipeg, Manitoba
R3C 0P6

Your file Votre référence
EA1011-001

Our file Notre référence
8200-2011-600186

November 19, 2012

Mackenzie Valley Environmental Review Board
200 Scotia Centre
Box 938, 5102-50th Ave
Yellowknife, NT X1A 2N7

Attention: Paul Mercredi

**RE: Avalon Rare Metals Inc.'s Thor Lake Rare Earth Element Project
Environmental Assessment under the Mackenzie Valley Environmental Impact
Review Board and the section 23 Governor in Council Proclamation of the
*Navigable Waters Protection Act***

This letter is to notify the Mackenzie Valley Environmental Impact Review Board (MVEIRB) that Avalon Rare Metals Inc. requires a *Navigable Waters Protection Act* (NWP) section 23 Governor in Council (GIC) Proclamation of exemption. The section 23 is required as a result of the section 22 NWP prohibition towards the deposition or throwing of any material that is liable to sink to the bottom in any water, any part of which is navigable or that flows into any navigable water, where there are not at least 20 fathoms (approximately 36.6 meters) of water depth at all times. This is applicable to the Thor Lake Rare Earth Element Project in the Northwest Territories.

Transport Canada (TC) notified Avalon Rare Metals Inc. in a letter dated October 9, 2012 (attached) that they would have to obtain a Proclamation of exemption by the GIC under section 23 of the NWP. Avalon Rare Metals Inc. recently submitted notification and a section 23 application to TC for review in a letter dated November 13, 2012. The regulatory process for section 23 will be formally initiated following the completion of the 'Decision Phase' of the Environmental Assessment.

Should you have any questions, please do not hesitate to contact Chris Aguirre, Environmental Assessment Officer at Christopher.aguirre@tc.gc.ca or (204) 984-2615.

Sincerely,

Meighan Andrews
Superintendent, EA North
Transport Canada

Canada

cc: TC: NWPP, AbC, AHEB
Avalon Rare Metals Inc.

Attachment



Navigable Waters Protection Program
1100 9700 Jasper Avenue
Edmonton Alberta T5J 4E6

Your file Votre référence

Our file Notre référence
8200-2011-600186

October 9, 2012

Avalon Rare Metals Inc.
130 Adelaide St. W, Suite 1901
Toronto, ON M5H 3P5

Attention: David Swisher

RE: Governor in Council Proclamation of exemption process pursuant to Section 23 of the *Navigable Waters Protection Act*, Northwest Territories

We understand that Avalon Rare Metals Inc. is proposing to deposit tailings into the below listed waterways as part of its Thor Lake Rare Earth Element Project. Transport Canada (TC) has determined that the listed waterways are navigable and considers the depositing of tailings in the waterways to be subject to section 22 of the *Navigable Waters Protection Act* (NWP). As you are likely aware, section 22 prohibits a person from throwing or depositing any material or rubbish (e.g. stone, gravel, earth, cinders, ashes) that is liable to sink to the bottom in any water, any part of which is navigable or that flows into any navigable water, where there are not at least 20 fathoms (approximately 36.6 meters) of water depth at all times.

| Waterway | NWPA File Number |
|-----------|----------------------|
| Ball Lake | 8200-2011-600186-002 |
| Ring Lake | 8200-2011-600186-003 |
| Buck Lake | 8200-2011-600186-004 |

Section 23 of the NWP provides that the Governor in Council, when it is shown to its satisfaction that the public interest would not be injuriously affected, may, by proclamation, declare any rivers, streams or waters in respect of which section 22 of the NWP apply, or any parts thereof, exempt in whole or in part from the operation of section 22. Therefore, in order to deposit tailings into the listed waterways or to proceed with any undertaking that would allow the depositing of tailings such as dewatering the waterways, it is necessary for Avalon Rare Metals Inc. to first obtain a Proclamation of exemption by the Governor in Council under section 23 of the NWP.

As with other NWP approvals, an application needs to be submitted to TC if Avalon Rare Metals Inc. wishes to seek a Proclamation of exemption under section 23 of the NWP. To this end, Avalon Rare Metals Inc. must inform TC in writing that it wishes to apply for a Proclamation of exemption.

Avalon Rare Metals Inc. must also submit an application to TC with all the necessary information in support of a Proclamation of exemption. The information requirements are described in the attached document "Proclamation of exemption process pursuant to section 23 of the *Navigable Waters Protection Act*" for the Thor Lake Rare Earth Element Project.



We do not anticipate this application process being too onerous as much of the information is already contained in the work you are completing for the Environmental Impact Statement.

Canada, as you know, must be satisfied that its legal duty to consult Aboriginal groups in relation to the project is met before a Proclamation of exemption can be granted by the Governor in Council.

Should you have any questions, please do not hesitate to contact our office in Edmonton by phone at (780) 495-8215, by fax at (780) 495-8607 or by e-mail at NWP-PEN.PN@tc.gc.ca.

Respectfully,



Matt Klaverkamp
Regional Manager
Navigable Waters Protection Program
Marine Safety
Transport Canada
Prairies and Northern Region

cc: TC – Environmental Affairs

Attachment