



Fisheries and Oceans
Canada

Pêches et Océans
Canada

Fish Habitat Management
Suite 301, 5204-50th Avenue
Yellowknife, Northwest Territories
X1A 1E2

Gestion de l'Habitat du Poisson
Suite 301 5204, 50^e Avenue
Yellowknife (Territoires du Nord-Ouest)
X1A 1E2

Your file *Votre référence*
EA1213-001

Our file *Notre référence*
12-HCAA-CA6-00059

November 3rd, 2012

Shannon Hayden
Environmental Assessment Officer
Mackenzie Valley Environmental Impact Review Board
#200 Scotia Centre, 5102-50th Avenue
Yellowknife, NT X1A 2N7
X0E 0H0

Dear Shannon,

Subject: **Acknowledgement of Receipt of a Notification Pursuant to ss. 79(1) of the
*Species at Risk Act***

On October 31st, 2012, Fisheries and Oceans Canada (DFO) received a letter of notification pursuant to ss. 79(1) of the *Species at Risk Act* (SARA) related to potential impacts to shortjaw cisco as a result of MGM Energy Corp's (MGM) "East Mackay 2 Drilling Project." As referenced by Environment Canada in their letter dated October 31st, 2012, DFO is the lead jurisdiction under SARA for this species.

DFO has reviewed the Water Licence and Land Use Permit applications provided by the Sahtu Land and Water Board (SLWB) and provided formal advice to the SLWB on September 6th, 2012 (attached). It is our understanding that no in-water works are required and that water will be sourced from the Mackenzie and Little Bear Rivers. Based on the information provided, including mitigation measures outlined by MGM, DFO has determined:

"provided that the mitigation measures (outlined in the advice) are incorporated into the plans, DFO has concluded that the proposal is not likely to result in impacts to fish and fish habitat, and formal approval from DFO will not be required in order to proceed with the proposal."

DFO's conclusions provided to the SLWB on September 6th, 2012 apply to the potential impacts to shortjaw cisco as well. Furthermore, it is DFO's understanding that shortjaw cisco is a deep-water species usually found in lakes ranging in depth from 20m to 180m and most often found in the deeper waters of large lakes. More information on the shortjaw cisco can be found at:

http://www.sararegistry.gc.ca/species/speciesDetails_e.cfm?sid=82

If you have any questions, please contact me at (867) 669-4926, by fax at (867)669-4940, or by email at rick.walbourne@dfo-mpo.gc.ca.

Sincerely,

A handwritten signature in black ink that reads "Rick Walbourne". The signature is written in a cursive, flowing style.

Rick Walbourne
Habitat Biologist
Fish Habitat Management
Department of Fisheries and Oceans - Western Arctic Area

Attach: DFO letter to Sahtu Land and Water Board dated September 6th, 2012

c.c: Kelly Burke, DFO
Sarah Olivier, DFO
Loretta Ransom, EC



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Your file *Votre référence*
S12A-003/S12L1-003

Our file *Notre référence*
12-HCAA-CA6-00059

September 6th, 2012

Tony Morris
Regulatory Specialist
Sahtu Land & Water Board
P.O. Box 1
Fort Good Hope, NT
X0E 0H0

Dear Mr. Morris,

Subject: Proposal not likely to result in impacts to fish and fish habitat provided that additional mitigation measures are applied.

Fisheries and Oceans Canada - Fish Habitat Management Program (DFO) received the proposal on August 29th, 2012. Please refer to the file number and title below:

DFO File No.: **12-HCAA-CA6-00059**
Title: **MGM Energy Corp (MGM)– East Mackay 2 Drilling Project
Land Use Permit Application S12A-003
Water Licence Application S12L1-003
Tulita District, Sahtu Settlement Area**

Dear Mr. Morris:

Of note, **this advice supercedes a Letter of Advice provided on September 4th, 2012, and also includes advice related to water withdrawal from the Little Bear River.**

You may be aware of recent changes to the *Fisheries Act*; however these have not affected the review of this project at this time.

Under Sections 124 and 125 of the *Mackenzie Valley Resource Management Act* (MVRMA), DFO is participating in a preliminary screening by providing specialist information and/or advice. The proposal has been reviewed to determine whether it is likely to result in impacts which are prohibited by the fisheries protection provisions of the *Fisheries Act*, or by those prohibitions of the *Species at Risk Act* that apply to aquatic species.*

Our review consisted of:

- Land Use Permit application S12A-003, Water Licence application S12L1-003 and supporting documents distributed by the Sahtu Land and Water Board (SLWB).
- E-mail correspondence between Rick Walbourne (DFO) and Tony Morris (SLWB) August 29 – September 4, 2012
- E-mail and telephone correspondence between Rick Walbourne (DFO) and Shirley Maskannt (MGM) – September 5th, 2012

* Those sections most relevant to the review of development proposals include 20, 22, 32 and 35 of the *Fisheries Act* and sections 32, 33 and 58 of the *Species at Risk Act*. For more information please visit www.dfo-mpo.gc.ca.

Of note, it is DFO's understanding that several components of this application overlap with a previous application submitted by MGM for which DFO provided advice on in May 2012. Based on discussions with the SLWB, it is understood that if MGM receives approval for this current application prior to the previous one, they will not proceed with the vertical well but instead with this horizontal well. The overlap areas of these applications may only be utilized once, however at the request of the SLWB, DFO is providing advice on the entire project as currently proposed, including those that were addressed in May.

It is our understanding that your proposal consists of:

- Drilling, completion and testing of one to two (1-2) sweet oil horizontal wells located in the Tulita District of the Sahtu Settlement area;
- Use of an existing barge landing/staging area with no in-stream works or upgrades anticipated;
- One of two proposed access routes from the GNWT Winter Road to the staging area and construction campsite;
- Snow fills and ice bridges will be required at any watercourse crossings. These crossings will be constructed as specified in the Northwest Territories Ice Bridges and Snow Fills Operational Statement;
- An ice bridge will be required to cross the Mackenzie River at one of two potential locations;
- Usage of 117,100 m³ of water per year to support construction and maintenance of access, lease, and campsite, drilling activities and domestic water use. The Mackenzie River has been identified as the primary source with additional water potentially being sourced from water wells. Domestic water may also be purchased from Tulita or Norman Wells. Additionally, there is reference to the investigation of "alternate sources" that may serve as water source lakes;
- Maximum potential use of 5,100 m³/year of potable water from the Little Bear River. This would be limited to a withdrawal rate of approximately 30 m³/day and pumped at a maximum withdrawal rate of approximately 1 m³/minute.
- MGM will adhere to the recently finalized Fish Screen Design Criteria for Flood and Water Truck Pumps as a supplement to the Freshwater Intake End-of-Pipe Fish Screen Guideline (DFO, 2005). This provides fish screen design criteria for water intakes that are mobile, temporary, and extract water through ice;
- The project will occur from September 2012 to March 2013 or similar dates in subsequent years;
- MGM will not construct a cuttings sump for this Project and instead will transport drilling mud and cuttings to licenced disposal facilities in Alberta or British Columbia.

In addition to the measures set out in the project proposal, the following mitigation measures, if incorporated into the project, are intended to prevent any potentially harmful impacts to fish and fish habitat and may be used to assist the Sahtu Land and Water Board with their responsibilities under the *MVRMA*:

1. There are several references throughout the application to the investigation of "alternate sources" for suitable quantity and quality of water supply and specific mention of 2-3 large lakes near the project area that may serve as water source lakes. MGM also mentions that these lakes would be compared to requirements under *DFO's Winter Water Withdrawal Protocol for the NWT and Nunavut* (2010) and that bathymetry gathered on these lakes will be provided to DFO and the SLWB in the form of a Water Licence amendment. DFO supports the process outlined by MGM regarding the addition of potential water sources in the future, especially as several lakes in the area have been identified as important or sensitive in the December 2011 Traditional Knowledge Study. Of note, DFO is available to review and discuss these water sources prior to MGM's formal submission of an amendment request to the SLWB.

2. MGM has identified the potential usage of the Little Bear River as a water source. Watercourses can be extremely susceptible to excessive water withdrawals as a reduction in stream flow can change the natural drainage pattern, affecting seasonal cues for fish within the watercourse affected. Additionally, winter habitat can be reduced and compounded by ice formation. Further, ice formation can be accelerated as stream flow is reduced. DFO recommends that a condition of the Water Licence limits the withdrawal of water from any watercourse to 10% of instantaneous flow. However, if instantaneous flow rates are unavailable, DFO recommends that flow measurements be taken at least twice including prior to withdrawal and again mid-way through operations and that a more conservative 5% of this flow measurement be withdrawn.

Provided that the mitigation measures described above are incorporated into the plans, DFO has concluded that the proposal is not likely to result in impacts to fish and fish habitat, and formal approval from DFO will not be required in order to proceed with the proposal. It remains the proponent's responsibility, however, to meet the requirements of any other federal, territorial and municipal agencies.

Please be advised that failure to implement this proposal as described or incorporate the additional mitigation measures included in this letter may result in a contravention of the *Fisheries Act*. In addition, under the new *Fisheries Act*, there is a requirement to notify DFO of any harmful alteration or disruption, or any destruction of fish habitat that has not been authorized. Such notifications should be directed to the DFO Yellowknife Office at 867-669- 4900.

If you have any questions, please contact me at (867) 669-4926, by fax at (867)669-4940, or by email at rick.walbourne@dfo-mpo.gc.ca .

Sincerely,



Rick Walbourne
Habitat Biologist
Fish Habitat Management
Department of Fisheries and Oceans - Western Arctic Area

c.c: Shirley Maskaant - MGM
Steve Deschene – Aboriginal Affairs and Northern Development Canada
Bruce Hanna - DFO