



Central & Arctic Region
Fish and Fish Habitat
Protection Program
501 University Crescent
Winnipeg, MB R3T 2N6

Région du Centre et de l'Arctique
Programme de la protection
du poisson et de son habitat
501 University Crescent
Winnipeg, MB R3T 2N6

August 15, 2019

Your file Votre référence

Our file Notre référence
19-HCAA-00969

Sherri Rowe
A/Chief Administrative Officer
Building 901, City of Iqaluit
Box 460

Subject: Apex River and Unnamed Lake Supplementation Project for the City of Iqaluit – Implementation of Measures to Avoid and Mitigate Serious Harm to Fish, Prohibited Effects on Listed Aquatic Species at Risk, and Introduction of non-Indigenous Species

Dear Ms. Rowe:

The Fish and Fish Habitat Protection Program (the Program) of Fisheries and Oceans Canada (DFO) received your proposal on August 1, 2019. We understand that you propose to:

- Withdraw up to 700,000 m³ of water from “Unnamed Lake” into the Apex River at a rate up to 200 L/s between August 1 and October 15, 2019; and
- Withdraw the same amount of water, less 10% to account for losses, from the Apex River to supplement the Lake Geraldine reservoir.

You may be aware of recent changes to the *Fisheries Act* as a result of the passage of Bill C-68, *An Act to amend the Fisheries Act and other Acts in consequence*, on June 21, 2019. While these changes have not affected our review of your proposal, further modifications to the *Fisheries Act* expected to come into force in the near future could affect the current assessment of your proposal. These anticipated changes include, among other things:

- protection for all fish and fish habitats;
- the repeal of the current prohibition against causing serious harm to fish that are part of, or support a commercial, recreational or Aboriginal fishery, and;
- the restoration of the previous prohibitions against the harmful alteration, disruption or destruction of fish habitat, and against causing the death of fish by means other than fishing.

Therefore, the advice provided in this correspondence may not adequately protect fish and fish habitat in accordance with the anticipated changes to the *Fisheries Act*, if your project is conducted on or after the date on which the future legislative modifications enter into force. You are encouraged to consult our website (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>) for further information on changes to the *Fisheries Act* and for guidance to help you to determine whether additional assistance should be sought from the Program to remain compliant with the Act.

Our review considered the following information:

- request for Review form, PDF, August 1, 2019; and
- 3AM-IQA1626 Application for Amendment – “2019 Apex and Unnamed Lake Supplementation Project” Supporting Submission, PDF, August 1, 2019;
- meeting with Erica Bonhomme, Doug Chipertzak (on the phone), Neil Fisher and Richard Di Rocco in Iqaluit, NU on August 9, 2019; and
- site visit to the Lake Geraldine Reservoir and Apex River withdrawal location with the Nunavut Water Board, City of Iqaluit, Nunami Stantec, and Crown-Indigenous Relations and Northern Affairs Canada on August 10, 2019.

Your proposal has been reviewed to determine whether it is likely to result in:

- serious harm to fish that are part of or support a commercial, recreational, or Aboriginal fishery, which is prohibited under subsection 35(1) of the *Fisheries Act* (unless authorized);
- effects to listed aquatic species at risk, any part of their critical habitat or the residences of their individuals in a manner which is prohibited under sections 32, 33 and subsection 58(1) of the *Species at Risk Act* (unless authorized), and;
- the introduction of aquatic species into regions or bodies of water frequented by fish where they are not indigenous, which is prohibited under section 10 of the *Aquatic Invasive Species Regulations* (unless authorized).

To avoid and mitigate the potential for serious harm to fish, we recommend the implementation of the measures listed below:

- implement the proposed mitigation measures in the Supporting Submission document;
- complete the monitoring plan included in the Supporting Submission document; and
- if the Lake Geraldine reservoir requires supplemental water at any time after October 2019, we suggest submitting a Request for Review well in advance of the proposed pumping date and providing relevant data collected during the 2019 monitoring to aid our assessment.

Provided that you incorporate these measures into your plans, the Program is of the view that your proposal is unlikely to result in serious harm to fish, prohibited effects on listed aquatic species at risk, or the introduction of non-indigenous species. As such, an authorization under the *Fisheries Act* or a permit under the *Species at Risk Act* is not required.

Should your plans change, if you have omitted some information in your proposal, or if you have not completed implementation of your plans as of the day on which *An Act to amend the Fisheries Act and other Acts in consequence* comes fully into force, further review by the Program may be required. Consult our website (<http://www.dfo-mpo.gc.ca/pnw-ppe/index-eng.html>) or consult with a qualified environmental consultant to determine if further review may be necessary. It remains your responsibility to avoid causing serious harm to fish in compliance with the *Fisheries Act*, avoid prohibited effects on listed aquatic species at risk, any part of their critical habitat or the residences of their individuals, and prevent the introduction of non-indigenous species.

It is also your *Duty to Notify* DFO if you have caused, or are about to cause, serious harm to fish that are part of or support a commercial, recreational or Aboriginal fishery. Such notifications should be directed to <http://www.dfo-mpo.gc.ca/pnw-ppe/CONTACT-eng.html>.

A copy of this letter should be kept on site while the work is in progress. It remains your responsibility to meet all other federal, territorial, provincial and municipal requirements that apply to your proposal.

If you have any questions with the content of this letter, please contact Richard Di Rocco at our Winnipeg, MB office at (204) 984-1372 or by email at Richard.DiRocco@dfo-mpo.gc.ca. Please refer to the file number referenced above when corresponding with the Program.

Yours sincerely,



Richard Gervais
Senior Biologist

Cc: Richard Di Rocco
Neil Fisher
Jennifer Thomas
Richard Rudolph
Erica Bonhomme
Doug Chipertzak