

Trout Pond Action Group

94 Gower St
St. John's, NL
A1C 1N7

5 June 2008

Regarding: Submission to Metal Mining Effluent Regulations Schedule 2 Consultations - Carol and Scully Mines

To: **Chris Doiron, Chief of Mining and Minerals Division**

Environment Canada
351 Saint-Joseph Boulevard
Gatineau, Quebec
K1A 0H3

Below, please find the Trout Pond Action Group's (TPAG) office response to the national consultation/information session hosted by Environment Canada (EC) on 14 May 2008 regarding the Carol Mine and Scully Mine in Newfoundland and Labrador.

We would like for this submission to serve as a deeply significant wake-up call to Environment Canada, as well as other relevant government decision-makers. We maintain the employment of Schedule 2 under the Metal Mining Effluent Regulations (MMER) was meant for grandfathering existing mines into compliance when the aforementioned regulations were last updated through a wide, multi-stakeholder process in 2002.

While these mines in question seem fitting of that function in part, numerous other considerations, intentions, and actions related to the ongoing role of of Schedule 2 for new projects must be called into question, and much more importantly, accounted for by the jurisdictionally-relevant departments. These questions are detailed below and are fully deserving of comprehensive answers; we expect nothing less and also expect our contribution(s) to be accounted for in any summary reports issued from here on in.

Chad Griffiths.
Organizer
Trout Pond Action Group

Corruption

Corruption. Merriam-Webster's Dictionary chiefly defines corruption through four forms:

- a:** impairment of integrity, virtue, or moral principle : depravity
- b:** decay, decomposition
- c:** inducement to wrong by improper or unlawful means (as bribery)
- d:** a departure from the original or from what is pure or correct

It is TPAGs position that EC finds suit in all of the above notions of corruption and is in severe need of realignment in accordance with its basic, core principals with which it purports its authority. The MMER process has served to enunciate this reality.

Most significant and unequivocal is definition (**d**). EC's stated mandate is as follows:

Environment Canada's mandate is to preserve and enhance the quality of the natural environment; conserve Canada's renewable resources; conserve and protect Canada's water resources; forecast weather and environmental change; enforce rules relating to boundary waters; and coordinate environmental policies and programs for the federal government.

Nothing of ECs facilitation and promotion of the reassignment of natural, fish-bearing water bodies into mining dumps is compatible with preservation and enhancement of the quality of the natural environment. Nor does it conserve Canadian renewable resources, especially water resources. Any coordination of federal government "policies and programs" which are being conducted in this instance violates preceding objectives found above. To be sure, Environment Canada has departed from that which is "correct" – those being stipulated in the most important statement of any organization – its mandate. The weakening of EC's will to sincerely protect Canadian water bodies is also befitting of definition (**b**), a decaying trajectory of efficacy at the expense of Canadian water bodies.

TPAG, along with the rest of the Canadian public, appreciates the severity of definition (**c**), especially when it comes to the workings of the federal government. While we do not levy any claims to personal corruption within your department, it, as a total political actor, is currently acting irrespective of Canadian law on a number of fronts. Namely, your department's refusal to recognize the unlawfulness of a prior Schedule 2 Federal government screening-level assessment, Doris North Gold Mine, as violating Section 21 of the Canadian Environmental Assessment Act. **Question 1a: How does your department intend, if at all, to rectify this legally recognized inadequacy? 1b: Has this decision effected how EC has or will process with the current mines in question and any future mines requiring MMER amendments? If so, please provide evidence of your attempt to attain lawfulness as per the court's ruling.**

To conclude the detailing of ECs corruption, we would like to point to (a) “an impairment of integrity, virtue, or moral principle”. I appreciate that morality does not find much solace in the detached machinations of Canada’s complicated federal bureaucracy. It is, however, an underwritten obligation of all peoples, and must be a consideration at both the organizational and personal level. The problem often arises however, when the latter perceives this an obligation solely of the former. It needn’t be stated that the world is currently experiencing a scarcity crisis. Food, water, land, suitable climates: all are being squeezed through population growth and economic development; we feel little need to press this point and will assume you share in the world’s concern for this emerging crisis. While you may attempt to mold morality into your concept of right, likely balancing the economic benefit of local populations against the cost to the environment, you are aware that Canadian water bodies are the shared **national** natural capital, not only of all Canadians, but of all future Canadians. With that, you, as a senior government decision-maker, mandated chiefly as a protector of the Canadian environment, having accepted the task of re-regulating life (live water bodies), into non-life, or death (destruction of life therein), must accept the moral responsibility to change this course of perverse corruption.

This charge of corruption can, too, be levied upon the Department of Fisheries and Oceans, as they act in violation of their mandate of protection and conservation of Fish and related habitat.

Question 2a: How does Environment Canada explain the apparent incompatibility of its promotion of destroying fish-bearing water bodies (a renewable resource) with respect to being explicitly mandated to protect such environs? 2b: Does Environment Canada expect to update its mandate to remove any responsibilities for conservation or protection to make its current actions compatible with this current course?

Accountability

“Meaningful consultation” is a term and concept peppered lavishly throughout the aims of this current government – perhaps none-so more than within Environment Canada. Its objective meaning is inherently elusive. Still, is important that EC demonstrate its commitment to this democratic cornerstone in all of its consultative procedures.

TPAG finds the manifestation of EC’s commitment to meaningful consultation in to question, bordering on tokenistic, based on the following inadequacies, which demonstrate either a lack of foreclosure, or dubious procedural decisions regarding consultation with environment non-governmental organizations:

1. The minutes released in relation to the 20 February 2008 MMER “information session” did not adequately account for attention CEN representatives paid to the aforementioned legal finding, or at all to the moral objectives raised by participants. Minutes were not circulated for approval, nor corroborated through any other means.

2. Documentation arrived related to the Carol and Scully mines without due time for representatives to meaningfully appraise them. Given the long-range notice your department had regarding these sessions, it would seem timelier availability of these documents, dispatched to CEN's caucus coordinator, with whom your department shares frequent communication, would provide for deeper accountability in meaningful consultation.

Question 3a: How does EC intend to demonstrate that CEN delegates' contributions to this process are being carefully, meaningfully, considered? 3b: Does EC share the concern of detailed about (point 2)? If so, please detail your plan to alleviate it.

3. Governments of nations across the world are now carefully accounting "natural capital assets" in audits of their state-resources. Canada is no exception. Statistics Canada has files studies on "Environmental and Natural Capital Economic Values". It seems of gross omission that such calculations appear absent from the federal governments environment branch when it comes to compromising such assets.

Question 4a: What are the natural capital costs of this proposed Schedule 2 amendment, and any future projects seeking to leverage it for new developments?

4b: How does EC intend to account for natural capital depreciation in this and any further projects where the MMER hold jurisdiction?

4. TPAG recognizes significant numerical discrepancies in the proposed habitat compensation, in keeping with DFO no "net-loss" policy. For example, the utilization of Beaver Bay for habitat compensation is confusing, as it already contains a functioning ecosystem, and its proposed expansion is in no way correlative with the continued and expanded destruction of the proposed TIAs. Similarly, Loon Pond's excavation of a mere 21 hectares seems to have to relation to the vastly larger destruction associated with the proposed expansion.

Question 5a: How does EC explain these discrepancies?

5b: Would EC be open to subjecting this plan to a third party, peer review process to validate its efficacy? If not, please explain why.

5. *Community Analysis:* It is convenient for regulatory bodies to expound the local approval of a given project as evidence of community consultation. This, however, does not go far enough. Local approval is biased by, among other things, a resignation to a "boom-and-bust" economic cycle, a

lack of being presented viable alternatives, and a collective action predicament which favours the exploitation for local residents, but not for future generations, nor other non-local Canadians who, too, have a claim to the water's protection.

This goes beyond issues of "ownership" or "rights", and has the potential to seriously affect the health and long-term sustainability of adjacent communities. For example, TPAG is not satisfied in EC's accounting of the following dynamics as it relates to the proposed expansion: population growth, clean water supply, addition industrial pressures on land and water.

Question 6: Does EC intent to provide a holistic, community analysis, including quantifiable, risk-based, systems analysis, as it relates to the proposed expansion? If yes, when and how. If no, why not and are you of the opinion an equivalent process has already been conducted?

6. The bond of \$750K, at the most cursory of examinations, seems a severe undershot.

Question 7: How has this bond been costed-out? Does it allow for future projections including inflation, rising cost of petroleum and labour, and so on? If yes, please provide the related details as evidence of the adequacy of this bond, so that Canadian tax payers are not left the burden of cleaning up the ruins of IOCs very profitable venture.

TPAG thanks you in advance for your consideration of the aforementioned points and your answers to the above questions. We hope our chosen tone and format does not offend, but rather, encourages Environment Canada to view itself throughout this process not as a neutral party or dispassionate facilitator, but as an agent within this process worthy of self-reflection. Yours is an organization which is to serve a vital role in the protection of Canadian natural heritage. Our concerns regarding procedure and accountability are real, and we expect genuinely probing, considerate responses to them, without the evasive puck-handling which can permeate these proceedings.

Thank You,

Chad Griffiths
Organizer

On behalf of, Trout Pond Action Group