

SIERRA LEGAL DEFENCE FUND

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April 12, 2007

Hon. John Baird, Minister of the Environment
Environment Canada
Minister's Office
10 Rue Wellington
Gatineau, Quebec
K1A 0H3

Via Fax To: (819) 953-0279

Dear Minister Baird:

Re: Reporting of Pollutant Releases to Mine Tailing Impoundment Areas and Waste Rock Dumps under the National Pollutant Release Inventory for 2006

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We write on behalf of Bedford Mining Alert, Canadian Environmental Law Association, Conservation Council of New Brunswick, Ecology Action Centre, Falls Brook Centre, Friends of the Earth, Great Lakes United, Interchurch Uranium Committee Educational Cooperative, MiningWatch Canada, Pollution Probe, Sierra Club of Canada, STORM Coalition, Trout Pond Action Group, and Department of Fisheries and Oceans Scientist Emeritus and adjunct professor at Memorial University R. John Gibson in relation to the reporting of pollutant releases to mine tailing impoundment areas and waste rock dumps under the National Pollutant Release Inventory (NPRI) for 2006.

Since 1992, pollutant releases to mine tailings facilities – which are a product of the milling process – should have been reported annually through the NPRI. The determination of which facilities shall report is a legal requirement which is renewed each year when NPRI reporting requirements are issued by Environment Canada under the *Canadian Environmental Protection Act (CEPA)*. There has never been an exemption for releases from the milling process, only for activities prior to milling processes.

Mining prior to milling processes enjoyed an exemption from the inception of the NPRI. However, “the mining exemption” was removed starting with the 2006 reporting year. With the removal of the former mining exemption, disposal both to tailings impoundments and waste rock dumps should be reported for 2006. There now exists no legal basis to fail to report pollutant releases to both mine tailing impoundment areas and waste rock dumps by the mining sector.

It is the position of our clients that the public has the right to know about the threats to their health and the environment posed by disposal of NPRI substances to tailing impoundment

areas and waste rock dumps, and that the NPRI is the instrument for ensuring that this right is satisfied.

However, despite correspondence between our office and your predecessor Minister about this matter, it seems Environment Canada does not intend to enforce these reporting requirements.

We now write as recent events point to a growing consensus amongst industry, government representatives, aboriginal peoples and civil society on the reporting needs from these two major pollutant sources. Generally it has been agreed that there is a need for a transparent, accurate and detailed information sharing mechanism about pollutants disposed to tailings impoundments and waste rock dumps.

The current NPRI system provides the best mechanism to meet the following criteria of a reporting system:

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- Easily available to the public;
- National in scope, providing consistent information across jurisdictions;
- Mandatory;
- Annual;
- Facility specific and geo-spatial (being able to find the site on a map for instance);
- Searchable;
- Releases to all media (air, land, water) are reported;
- Quantified reporting;
- Includes all *CEPA* pollutants;
- Comparable with other jurisdictions (The US Toxics Release Inventory (TRI) currently requires the reporting of releases to waste rock dumps and tailings impoundment areas as do Australian and EU regulations); and
- Comparable with reporting by other industry sectors (promotes sectoral fairness).

Given the above, further work to determine the proper mechanism for reporting pollutant releases by the mining sector to tailings impoundment areas and waste rock dumps is unnecessary. The consensus exists that reporting is necessary, the mechanism exists through the NPRI and any possible legal hurdles to reporting have been removed.

Catering to select industry driven dithering on this matter will fail to ensure industry compliance with NPRI requirements for 2006 that Environment Canada is responsible for.

We look forward to your prompt reply on this important matter of environmental protection and transparency and ask that you please respond by May 1, 2007, a month previous to the date by which industry must report their releases to the NPRI.

Yours truly,

SIERRA LEGAL



per: Justin Duncan
Coordinating Lawyer, Ontario Program