

APPENDIX C3 – DFO ISSUES TRACKING TABLE (Dale Desrochers)

Brule Mine Project - Application Review Stage					
Issues Tracking Document – Government Agencies – DFO, Dale Desrochers					
Category (fisheries)					
# ID	Submitted by	Issues Raised	Proponent Response	Review Status	Permit Agency
Fisheries and Oceans Canada					
Dale Desrochers					
1	Dale Desrochers Habitat Biologist, Major Project Review Unit, Fisheries and Oceans Canada	The Department has reviewed the application for an Environmental Assessment (EA) Certificate for the Brule Coal Mine Project, received November 2005 and associated Amendments January 2006. Based on this information and discussions held during the Final Project Working Group Meeting held December 13, 2006 in Chetwynd, B.C, the Department is of the opinion that the above mentioned works will not result in a harmful alteration, disruption or destruction of fish habitat providing the commitments stated within Section 20 of the EA application, during the December 13 th , 2006 meeting and the following points are incorporated into the final EA Certificate documents.	Comments noted. No response required.	n/a. No response required.	DFO
2		For your information, the Department considers the Summary of Commitments made by the proponent within the EA application, and the following points, critical information components of its <i>Fisheries Act</i> review and subsequent determination of effects on fish and fish habitat.	Comments noted. No response required.	n/a. No response required.	DFO
3		<u>Points for Inclusion into Summary of Commitments</u> <u>Hydrology and Groundwater</u> Model predictions of flows for Blind Creek and Mink Creek will be verified. A continuous flow monitoring program during Project operations will be detailed within the final Water Management Plan.	<i>Response by Jaime Cathcart, Knight Piesold, on behalf of WCCC:</i> As discussed and agreed with DFO on April 11, 2006, continuous flow monitoring below BC-01 is not feasible during the winter low flow period of concern (January through March) due to icing conditions in Blind Creek.	Response satisfactory. Issue addressed.	DFO

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			<p>Continuous flow monitoring will be continued during the ice-free period at BC-01. WCCC will also conduct periodic spot flow measurements during the winter low flow period on both Blind Creek and a (to be identified) analogous reference creek. (Appendix F, #47,48). The flow measurements on the reference creek, which is to be outside of the potential impact area of the mine, will enable comparison of 'natural' conditions with 'mine affected' conditions. Two forms of flow measurement would be used; likely the salt-dilution method and the standard velocity-area method. Measurement sites on both creeks would be selected during summer/fall conditions, and site selection criteria will include that flow should be deeper on one side of the channel, to facilitate low flow measurement.</p> <p>WCCC commits to consulting with DFO on the proposed flow measurement program prior to its implementation. Ongoing continuous flow monitoring (during the ice-free seasons) at site BC-01 is planned during mine life. (Appendix F, #49, 47.</p> <p>It was noted during the April 11 teleconference and acknowledged by DFO that It will not be possible to</p>		

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			measure small impacts to “verify the model” with a high level of accuracy. Limitations related to the natural variability of year to year flows, and the fact that the period of key interest is winter low flow, mean that WCCC would only be able to demonstrate relatively gross changes in relation to the predicted 4%-9 % changes. See commitments #47 to 50 inclusive, Appendix F.		
4		Development of an annual report of flow monitoring data, assessment of flow model prediction accuracy and the net impact to fish habitat within Blind and Mink Creeks. Copy of report to be provided to DFO.	<p><i>Response by Jaime Cathcart, Knight Piesold, on behalf of WCCC:</i></p> <p>Refer to the responses to Issue #3, above, and #6, below.</p> <p>Agrees to provide DFO with an annual report of the winter low flow monitoring data, and an assessment of flow model prediction accuracy and net impact to fish habitat within Blind Creek (based on the flow information). (Appendix F, #50)</p> <p>As discussed during the April 11 teleconference with DFO, WCCC does not propose to continue flow monitoring on North Brule Creek (tributary to Mink Creek), or to complete a similar assessment of mine flow effects on Mink Creek. Brule Mine encroachment into the Mink Creek catchment will be extremely small relative to the Blind</p>	Response satisfactory. Issue addressed.	DFO

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			Creek catchment, and most of this is not projected to occur until Year 8 of mine development or later. Potential flow effects on the Mink Creek mainstem are not predicted to be measurable, and any effects on North Brule Creek are expected to be low and not likely detectable within the natural range of flow variation. A map and table summarizing the encroachment into the Mink Creek catchment were provided to DFO and are included in Appendix D5.2.		
5		<u>Fisheries</u> - Referral of final Water Management Plan to DFO for review and comment.	WCCC added this to the final List of Commitments.(Appendix F, #35).	Response satisfactory. Issue addressed.	DFO
6		- Development of fish habitat enhancement proposals specifically associated with potential over-wintering habitats of lower Blind Creek. - In consultation with DFO and MOE, implementation of enhancement proposals to offset reported low flow impacts to Blind Creek.	As agreed during the April 11, 2006 teleconference with DFO, a requirement for enhancement would be invoked only if – contrary to the current predictions - ongoing assessment of Blind Creek resulted in a determination by DFO of HADD for fish habitat, as a result of mine development. WCCC and its consultants have identified a range of habitat enhancement options to be evaluated in detail in the event that future effects on over-wintering habitats of lower Blind Creek are identified. These options include a range of potential	Response satisfactory. Issue addressed. Commitment to provide enhancement proposals, if required.	DFO

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			<p>enhancement options in Blind Creek, as well as other enhancement options in the Sukunka watershed. If enhancement were required, WCCC and DFO would enter into negotiations as to what enhancement should be implemented.</p> <p>The identified enhancement options include:</p> <ol style="list-style-type: none"> 1.enhancement of over-wintering potential for bulltrout (as well as rainbow trout) in reach 2 of Lower Blind Creek through structural changes to the stream channel to create deep pool features designed not to de-water during periods of reduced late-winter discharge; 2.enhancement of over-wintering potential for bulltrout (as well as rainbow trout) in reach 2 through flow augmentation at BC-01, likely by establishment of deep groundwater wells; 3.improvement of spawning habitat in Reach 1 through structural changes to the stream channel to increase rainbow trout fry survival rates resulting from delayed late summer de-watering; 4.enhancement of over-wintering potential for bulltrout (as well as rainbow trout) in other parts of the Sukunka watershed with better 		

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			<p>enhancement potential where enhancement investments would have a greater effect; or</p> <p>5.collection of baseline information to improve the basis for informed management of bull trout in the Sukunka watershed. Critical data gaps currently include information on the extent and relative importance of the upper Burnt and North Burnt spawning zones, spawning run size, population trends, identification of adult over-wintering habitat and the effects of documented high rates of non-compliance with current angling regulations aimed at protecting adult bull trout during the migration and spawning periods.</p> <p><i>Additional Discussion by Brad Culling, Diversified Environmental, on behalf of WCCC:</i> Options for enhancement of over-wintering potential in reach 2 through structural changes to the stream are limited, but potentially include modification of the stream channel to create deep pool features designed not to de-water during periods of reduced late-winter discharge. This option would require the construction of temporary machine access to multiple points along the reach and considerable disturbance to the riparian zone. The reach is confined within a</p>		

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			<p>steep narrow valley where slope stability issues are evident. The potential benefits of this option would likely be negligible due to high natural constraints to overall suitability and the low density of over-wintering fish involved. Marginal gains in sport-fish production resulting from enhancement of this type may be offset by the riparian disturbance associated with site access. The inability to confirm that projected late winter base flow reductions will actually decrease the over-wintering capacity of existing habitat features, adds to the risk that such measures will be ineffective.</p> <p>Due to limited linear extent and high natural habitat constraints, the contribution of Blind Creek to the lower Sukunka migratory bull trout population is very low. Notwithstanding the potentially cumulative effect of minor impacts, enhancement efforts in Blind Creek directed at bull trout would be a relatively inefficient use of enhancement effort and resources. More important issues currently effecting the management and protection of lower Sukunka River bull trout include lack of baseline information on the extent and relative importance of the upper Burnt and North Burnt spawning zones, spawning</p>		

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			<p>run size, population trend, identification of adult over-wintering habitat and the effects of documented high rates of non-compliance with current angling regulations aimed at protecting adult bull trout during the migration and spawning periods. From a regional perspective, the enhancement of over-wintering habitat, even if possible, in Blind Creek is a low priority relative to baseline research needs.</p> <p>The enhancement of rainbow trout production in Blind Creek could be much more effectively directed toward improvement of spawning habitat than enhancement of over-wintering habitat, and would take advantage of predicted increased fry survival rates resulting from delaying late summer de-watering. In contemplating enhancement of production of an introduced species however, potential effects of increased competition with native salmonids must be considered (e.g. potential impacts on the declining Sukunka/Burnt Arctic grayling population).</p> <p>Diversified concurs with WCCC's contention that, based on current water balance modeling, enhancement of over-wintering habitat in Blind Creek to offset predicted reductions in late winter base flow at BC-01 will provide</p>		

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			negligible benefit to lower Sukunka River bull trout and rainbow trout populations. It is Diversified's opinion that enhancement of over-wintering habitat in Blind Creek may provide significantly less benefit to lower Sukunka fish populations than comparable effort directed to the protection or enhancement of critical habitats outside the Blind Creek drainage (e.g. bull trout spawning habitat).		
7		<u>Construction</u> - Referral of the following final site designs to DFO; i) Falling Creek Loadout;	WCCC added this to the final List of Commitments. (Appendix F, #35).	Response satisfactory. Issue addressed.	DFO
8		ii) Clear Span Replacement Structures; - Talisman High Grade Road - Talisman Mink-Highhat Road - Whiskey Road - Falling Creek Road - Whiskey North Road	As agreed with DFO during the April 11, 2006 teleconference, designs for these structures will be referred to DFO only if they do not meet the criteria stated in the "Pacific Region Operational Statement for Small Clear-Span Bridges". If the criteria are met, no referral is required.(Appendix F, #37). According to the operational statement, "a clear-span bridge project may proceed without a DFO review when the following conditions are met: ▪ The bridge is no greater than two lanes in width and does not encroach on the natural channel width by the placement	Response satisfactory. Issue addressed.	DFO

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			<p>of abutments, footings or rip-rap below the high water mark, and</p> <ul style="list-style-type: none"> ▪ You incorporate the Measures to Protect Fish and Fish Habitat when constructing Small Clear-Span Bridges listed below in this Operational Statement.” <p>In addition, all of the referenced structures are for stream crossings that are not fish-bearing at the point of crossing.</p>		
9		<p>iii) Duke Kwoen Powerline - Sukunka River and Tributary Crossing; - Pole and Access Road Design</p>	<p>As agreed with DFO during the April 11, 2006 teleconference, designs for these structures will be referred to DFO only if they do not meet the criteria stated in the “Pacific Region Operational Statement for Construction of Overhead Powerlines”. If the criteria are met, no referral is required. (Appendix F, #38).</p> <p>Based on the construction practices and timing which has been outlined in the EA submission, and the initial planning parameters which were incorporated into the location and design of the powerlines, the conditions outlined below have been met, or are anticipated to be incorporated into the powerline construction. With respect to the construction of access roads for the powerline, WCCC has utilised pre-existing corridors with pre-existing access roads to the greatest extent possible. The areas of powerline</p>	Response satisfactory. Issue addressed.	DFO

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			<p>construction which do require new access construction will be completed under the operational statements as identified by DFO.</p> <p>Conditions as outlined in the Operational Statement (believed to be met with the proposed design and construction methods):</p> <ul style="list-style-type: none"> • Powerline crossing does not require the construction or placement of any temporary or permanent structures (e.g. islands, poles, crib works, etc.) below the high water mark, and • incorporate the Measures to Protect Fish and Fish Habitat when constructing overhead lines listed below in this Operational Statement. <p>MEASURES TO PROTECT FISH AND FISH HABITAT.</p> <ol style="list-style-type: none"> 1. Minimize the riparian area disturbed by access activities along the adjacent upland property, and preserve trees, shrubs, and grasses near the shoreline. Use existing trails, roads or cut lines wherever possible, as access routes to avoid disturbance to the riparian area. 2. Locate the alignment to avoid or minimize the number of watercourse crossings required. If the alignment is located adjacent to a watercourse, minimize disturbance to the riparian 		

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			<p>vegetation by selecting areas that have been previously disturbed, reduce right-of-way widths and/or avoid running the alignment parallel to the watercourse for extended lengths. If a watercourse crossing is required, plan to cross the stream at a perpendicular angle.</p> <p>3. Avoid building any structures on meander bends, braided streams, alluvial fans, active floodplains or any other area that is inherently unstable and may result in erosion and scouring of any structures.</p> <p>3.1. Where possible, locate all temporary or permanent structures, such as poles, sufficiently beyond the top of bank to prevent erosion.</p> <p>4. Installing overhead lines under frozen conditions is preferable in all situations. On wet terrains (e.g. bogs), lines should be installed under frozen conditions, where possible, or using aerial methods (e.g. helicopter).</p> <p>5. Machinery crossing the watercourse (over and back) to bring equipment required for construction to the opposite side of the watercourse is limited to a one-time event. If multiple crossings are required, or if significant erosion and degradation is likely to occur as a result of equipment crossings, then a temporary crossing (e.g. bailey bridge) or other practices should be used to</p>		

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			<p>protect these areas. The crossing must also adhere to fisheries timing windows specific to your area.</p> <p>6. Install effective sediment and erosion control measures before starting work to prevent entry of sediment into the watercourse. Inspect them regularly during the course of construction and make all necessary repairs if any damage occurs.</p> <p>6.1. Avoid work during wet and rainy periods.</p> <p>7. Operate machinery on land and in a manner that minimizes disturbance to the banks of the watercourse.</p> <p>7.1. Machinery is to arrive on site in a clean, washed condition and is to be maintained free of fluid leaks.</p> <p>7.2. Wash, refuel and service machinery and store fuel and other materials for the machinery away from the water to prevent any deleterious substance from entering the water.</p> <p>7.3. Keep an emergency spill kit on site in case of fluid leaks or spills from machinery.</p> <p>7.4. Restore banks to original condition if any disturbance occurs.</p> <p>8. Stabilize any waste materials removed from the work site to prevent them from entering the watercourse.</p>		

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			<p>This could include covering stockpiles with biodegradable mats or tarps or planting stockpiles with grass or shrubs. All storage of waste materials should be kept outside of the riparian area.</p> <p>9. While this Operational Statement does not cover the clearing of riparian vegetation, the removal of select plants may be necessary to accommodate the overhead line. This removal should be kept to a minimum and should not be wider than the right-of-way.</p> <p>10. Vegetate all disturbed soils, banks and riparian areas by seeding and/or planting trees and shrubs in accordance with the DFO guidance on Riparian Revegetation. Cover seeded and vegetated areas with appropriate measures to prevent soil erosion and to help seeds germinate. If there is insufficient time in the growing season remaining for the seeds to germinate, the site should be stabilized (e.g., cover exposed areas with erosion control blankets to keep the soil in place and prevent erosion) and vegetated the following spring.</p> <p>10.1. Proper plant selection, taking into consideration desired vegetation height and location can minimize future maintenance requirements</p>		

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10		iv) Duke Kwoen Powerline to Highway 29 - Four Stream Crossings; - Pole and Access Road Design	WCCC: Refer to the response to Issue #10.	Response satisfactory. Issue addressed.	DFO
11		v) Falling Creek Flats Loadout Powerline - Pine River Crossing; - Pole and Access Road Design	WCCC: Refer to the response to Issue #10.	Response satisfactory. Issue addressed.	DFO
12		- Refer of the final site specific Sediment Erosion Prevention and Sediment Control Plan to DFO.	WCCC: WCCC added this to the List of Commitments (Appendix F, #12). We assume that this referral is for information only, and approval is not required.	Response satisfactory. Issue addressed.	DFO
13		- Establishment of Riparian Vegetation Management Areas (RVMA) for non-fish bearing streams.	<i>Response by Brad Culling, Diversified Environmental, on behalf of WCCC:</i> Mitigative measures in riparian zones are proposed to minimize potential downstream impacts of disturbance on fish habitat at all 16 alluvial stream crossings along the proposed WCCC Brule Mine and Falling Creek Flats Loadout powerline routes, regardless of fish-bearing status. Two levels of mitigation were defined for this project, related to two considerations – the intention to mitigate impacts in all riparian areas, with a higher level of management proposed at all fish bearing crossings, and the need for temporary crossings during construction at some non-fish bearing	Response satisfactory. Issue addressed.	DFO

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			<p>crossings,</p> <p>At non fish-bearing crossings, riparian zone measures include the proper installation and removal of temporary culverts where temporary access is required during the construction or operations/maintenance phase, 5 m riparian machine-free zones, riparian root zone and shrub layer retention, and additional site-specific sediment control measures as recommended through environmental monitoring during the construction phase (Section 8.5.1.2).</p> <p>A total of 5 streams were assessed to be fish-bearing in the vicinity of their respective crossings: the Pine River, the Sukunka River, Martin Creek, an unnamed tributary to the Sukunka River and an off-channel FSZ adjacent to the Sukunka River crossing. The presence of occupied fish habitat at these crossing is reflected in a higher level of proposed protection. This includes the establishment of riparian vegetation management areas (RVMA) where the following guidelines will apply: 15 m machine-free zone, no temporary crossing construction, no streambank disturbance and retention of vegetation less than 2 m in height.</p>		

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			The proposed RVMA guidelines cannot be strictly applied to non fish-bearing crossings due to the requirement for machine entry associated with temporary crossings. Implementation of standard mitigative measures, as described, at non fish-bearing crossings is expected to adequately minimize potential downstream effects on fish and fish habitat.		
14		- Retain felled mature trees within RVMA. Stub mature stems at 3-5 meter height within RVMA where practical.	<p><i>Response by Don Watt, AllNorth Consulting, on behalf of WCCC:</i> The retention of vegetation along the stream banks is practical and achievable. WCCC plans to retain all shrubs and herbaceous plants within the RVMA and all stumps from the clearing of timber. In addition, WCCC will retain all existing fallen trees within the RVMA.</p> <p>The retention of stub trees along the stream bank is possible but may not be practical when evaluated against the potential safety concerns of developing overhead hazards. The retention of “stub” trees along a water course has not been a standard requirement in the experience of AllNorth, although during the April 11, 2006 teleconference, DFO described recent limited use of this practice in the Prince George area. It is practical to retain all tree stumps at a</p>	Response satisfactory. Issue addressed.	DFO

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			<p>minimum height of 30cm for bank integrity, and to retain non-merchantable stubs at a height which is achievable for hand clearing crews within the RVMA. In addition to this, retaining felled mature trees within the RVMA can be done if it is not determined to be a fire or safety hazard.</p> <p>With the fact that all the work completed within the RVMA is to be done by hand without the assistance of the usual clearing equipment (Feller Bunchers), it is All North's view that working around stub trees now and in the future will present a significant overhead safety hazard to the workers. The use of this practice has been observed by AllNorth in cutblocks to provide cavity nesting sites for birds and small animals, but not on stream banks. There may be some potential for retention of stub trees along the edges of the cleared areas (i.e. taper the heights from the undisturbed adjacent areas down to near ground level at the center of the ROW). WCCC and AllNorth will examine opportunities for this type of retention at the time of construction.</p>		
15		As you're aware, the Proponent is required to continue dialogue with our Department to ensure	Comments noted. WCCC will communicate with Jayson Kurtz on the	Response satisfactory.	DFO

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		the above noted points of commitment are addressed. This dialogue will result in the execution of a Letter of Advice to the Proponent prior to construction of the relevant proposed works potentially affecting fish habitat. It is recognized that the most efficient method of future communication regarding Project site specifics is at the Area Office level. In this regard, we request all future communication with DFO post EA Certificate completion to occur with the Jayson Kurtz, Habitat Biologist, BC Interior Office, Prince George, BC, 250-561-5905 or kurtzj@pac.dfo-mpo.gc.ca .	final commitment items, as requested.	Issue addressed.	
16		In addition to the above, the Ministry of Environment, Omineca Peace Region, is conducting a review the Project to ensure the construction; operations and decommissioning of the various components of the Project do not affect water quality for the various aquatic systems contained within the Project scope. Please be advised, that water quality concerns raised by the Ministry of Environment which pose a risk to fish and fish habitat, may require further consultations with Environment Canada and our Department to ensure appropriate legislative compliance.	Comments noted. No response required.	n/a. No response required.	DFO