



Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

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File #: CE-10468

NOTICE OF NON-COMPLIANCE Section 126 of the Impact Assessment Act

Date: 24 May, 2023

Pretium Resources Inc.
Brucejack Gold Mine Project
c/o Sean Masse
General Manager
2965 Tatlow Rd.
Smithers, BC
V0J 2N5

BY E-MAIL, FOLLOWED BY A HARD COPY SENT BY REGISTERED MAIL WITH ACKNOWLEDGEMENT OF RECEIPT

**RE: Alleged Non-Compliance by Pretium Resources Inc. with the Decision Statement
issued for the Brucejack Gold Mine Project**

Sean Masse:

I, Steven Fraser, am designated as an enforcement officer under the *Impact Assessment Act* (the IAA). I am issuing this Notice of Non-compliance to inform you that I have reasonable grounds to believe that Pretium Resources Inc. has contravened the IAA and condition 3.2 of the Decision Statement for the Brucejack Gold Mine Project.

The Minister of Environment and Climate Change issued a decision statement (the Decision Statement) for the Brucejack Gold Mine Project (the Project) under section 54 of the *Canadian Environmental Assessment Act, 2012*, on July 30, 2015. The proponent of the project is Pretium Resources Inc. As per section 184 of the IAA, the Decision Statement for the Project is now considered to be a decision statement issued under the IAA and is subject to the provisions within it.

ALLEGED FACTS

On June 21, 2022, the undersigned and EO Julie Buron attended the Brucejack Mine site to verify compliance with the IAA and the Decision Statement.

While on site, EO Buron observed exploratory drilling taking place on the other side of Brucejack Creek from where the enforcement officers were standing, Gossan Hill. There appeared to be a discolouration down the adjacent embankment.



The enforcement officers proceeded to the drilling activity, where they observed sediment laden-discharge, which had compromised a containment berm, making its way towards Brucejack Creek downstream of Brucejack Lake outlet.

The undersigned observed sediment-laden discharge (determined to be drill slurry) produced from exploratory drilling activity.

The undersigned requested that immediate action be taken to address the issue and prevent any further potential issues in relation to this matter. Torence Sandhals, Principal Environment for Brucejack, had a crew dispatched immediately to address the issue and surrounding area.

On June 22, 2022, the undersigned and EO Buron returned to the site of the drilling activity to inspect. Sludge was still present on the ground with a potential of migrating toward Brucejack Creek.

The undersigned requested that further action be taken by a representative of the proponent, Torence Sandhals, Principal Environment, to prevent continued migration of material and ensure that all of the material or potentially contaminated material was cleaned up and disposed of appropriately.

On June 29, 2022, the undersigned requested from Torence Sandhals, Principal Environment, reports required under condition 9.3 and associated sub-conditions 9.3.3.1, 9.3.3.2, 9.3.3.3, 9.3.3.4, as required in the Decision Statement.

On July 20, 2022, in accordance with condition 9.3.3 of the Decision Statement, which relates to accident or malfunction 30 day reports, IAAC received an email from Torence Sandhals, Principal Environment, containing two attachments depicting what took place, and actions taken on site to address and remediate any areas of concern.

The above email and reports met the requirements of condition 9.3 and associated sub-conditions 9.3.3.1, 9.3.3.2, 9.3.3.3, 9.3.3.4, as formally requested by the undersigned.

As per condition 9.3.4 of the Decision Statement, which relates to accident or malfunction 90 Day Reports, IAAC received an email dated September 16, 2023, from Robin McCall, Manager, Environment and Regulatory Affairs, containing an attachment with the 90-day follow-up report. The report includes a description of corrective and mitigation measures employed and protocol changes implemented to avoid subsequent occurrences. The above report included the following in relation to the drill slurry:

Drill cuttings collected from the sump were analyzed at SGS Laboratories (see attached reports). The characterization results (acid base accounting and metals) indicate that the lithology encountered during drilling is geochemically consistent to waste rock material that is actively deposited into the WRTSF.

The above email and report met the requirements under condition 9.4, as requested by the undersigned.

RELEVANT PROVISIONS OF THE ACT, REGULATIONS, AND CONDITIONS OF THE DECISION STATEMENT

The relevant condition of the Decision Statement and provision of the IAA are set out below:

Decision Statement for the Brucejack Gold Mine Project

3.2 The Proponent shall protect fish and fish habitat during all phases of the Designated Project, which shall include the implementation of mitigation measures to avoid causing harm to fish and fish habitat when using explosives or conducting activities in or around water frequented by fish, as well as on the Knipple Glacier.

Impact Assessment Act, SC 2019, c 28, s 1

7 (3) The proponent of a designated project may do an act or thing in connection with the carrying out of the designated project, in whole or in part, that may cause any of the effects described in subsection (1) if

(...)

(b) the proponent complies with the conditions included in the decision statement that is issued to the proponent under [section 65](#) with respect to that designated project and is not expired or revoked; or

(...)

The full text of Decision Statement for Brucejack Gold Mine Project can be found online at <https://iaac-aeic.gc.ca/050/evaluations/document/102018?culture=en-CA>.

The full text of the IAA can be found online at <https://laws.justice.gc.ca/eng/acts/i-2.75/index.html>.

CONCLUSION

Based on the above information, I have reasonable grounds to believe that, on June 1, 2022, Pretium Resources Inc. was not in compliance with condition 3.2 of the Decision Statement related to this project. This condition requires you to protect fish and fish habitat during all phases of the Designated Project, which shall include the implementation of mitigation measures to avoid causing harm to fish and fish habitat when conducting activities in or around water frequented by fish. Thus, I hereby issue to Pretium Resources Inc. this notice of non-compliance pursuant to section 126(1) of the IAA.

In so doing, Pretium Resources Inc. has allegedly contravened section 7(3)(b) of the IAA, therefore allegedly committing an offence contrary to sections 144(1) (a) and (b) of the IAA, punishable on summary conviction and liable, for a first offence to a fine of not more than \$4,000,000 and for any subsequent offence, to a fine of not more than \$8,000,000. Section 146(1) further states if an offence of contravening section 7 or subsection 144(1)(b) is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued. Section 147 of the IAA provides that where a corporation or entity commits an offence, any senior officer of the corporation or entity who directed, authorized, assented to, acquiesced in or participated in the commission of the offence is a party to and guilty of the offence, and is liable on conviction to the penalty provided for by this

Act for an individual whether or not the corporation or entity has been prosecuted. The IAA further provides at section 148 that every senior officer must take all reasonable care to ensure that the corporation or entity complies with this Act and any order issued by an enforcement officer or review officer.

This Notice of Non-compliance is not a finding of guilt or civil liability, and is not an administrative action. It alleges non-compliance with the IAA. If, during the future, the same non-compliance or additional non-compliance is identified, I or the enforcement officer carrying out the inspection may take further enforcement action.

If you have comments regarding this Notice of Non-compliance, you may submit them to the undersigned by no later than June 05, 2023. The Agency will consider your comments and determine whether to maintain this Notice of Non-compliance, amend it, or withdraw it. Once a decision is made, I will communicate the decision to you. If this Notice of Non-compliance is amended, I will send you a revised text. If the Agency chooses to maintain or withdraw the notice of non-compliance, I will send you written notice of this.

The Agency will retain your comments, and the action that I take after considering your comments, in the compliance file for the Project. Should you require additional information on this matter, please contact me by e-mail at enforcement-applicationdelaloi@iaac-aeic.gc.ca

Please note that as required by subsection 152 of the IAA, the Agency will publish this Notice of Non-compliance on the Agency's Compliance Promotion and Enforcement website at www.canada.ca/en/impact-assessment-agency/corporate/compliance-promotion-enforcement.html

<Original signed by>

Steven J. Fraser
Senior Enforcement Officer
Enforcement Operations
Impact Assessment Agency of Canada

cc: enforcement-applicationdelaloi@iaac-aeic.gc.ca