



WARNING

15 June, 2018

Ms. Sylvie St-Jean
Environmental Manager
New Gold Inc.
5967 Highway 11/71, P.O. Box 5
Emo, Ontario
P0W 1E0

BY E-MAIL, FOLLOWED BY A HARD COPY SENT BY REGISTERED MAIL OR MESSENGER

RE: Rainy River Project

Ms. St-Jean:

I am a person designated under section 89 of the *Canadian Environmental Assessment Act, 2012* (hereafter referred to as CEAA 2012) for the purpose of the administration and enforcement of CEAA 2012.

Between 5 June, 2018 and June 6, 2018, I conducted an inspection at the location of your designated project, the Rainy River Project – CEAR # 80007 (the Project) located within the Township of Chapple, District of Rainy River in Northwestern Ontario, approximately 65 kilometers northwest of Fort Frances.

During this inspection, I observed and noted that there was no perimeter ditching around the south face of the East Mine Rock Stockpile. Water is currently pooling south of the East Mine Rock Stockpile and there was no evidence of structures or measures in place to collect site contact water from the East Mine Rock Stockpile and divert this water into the one of the Project's water management facilities.

Also during this inspection, I observed and noted that the fence currently installed around cell 2 of the Tailings Management Area had gaps and the type of fence used was not suitable for excluding wildlife from accessing cell 2 of the Tailings Management Area. Furthermore, I observed several deer tracks within the fenced off area which indicates that wildlife is currently capable of entering cell 2 of the Tailings Management Area.

Therefore, I have reasonable and probable grounds to believe that New Gold Inc. is not in compliance with CEAA 2012. In particular, New Gold Inc. is not in compliance with the following conditions of the Minister's decision statement related to this designated project:



- Condition 3.2.3 – collect site contact water and seepage in ditches and divert to either the tailings management area or water management facilities for release via final discharge points;
- Condition 3.3.3 – design and construct perimeter ditching around the east mine rock stockpile and low grade ore stockpile to accommodate a 100-year flood event; and,
- Condition 8.5.1 – maintain a fence around the tailings management area to prevent access by wildlife.

In so doing, New Gold Inc. has allegedly contravened subsection 6(b) of CEAA 2012 therefore allegedly committing an offence contrary to subsection 99(1) of CEAA 2012, punishable on summary conviction and liable, for a first offence to a fine of not more than \$200,000 and for any subsequent offence, to a fine of not more than \$400,000. Subsection 99(4) further states if an offence under subsection 99(1) is committed or continued on more than one day, it constitutes a separate offence for each day on which it is committed or continued.

This written warning is neither a legal proceeding nor a judgment. It points out non-compliance with CEAA 2012. If, on the occasion of a future inspection, I or another enforcement officer identifies the same non-compliance or additional non-compliance, I or the officer carrying out the inspection may take further enforcement action. I am bringing this alleged contravention to your attention in order for you to take corrective action.

If you have comments regarding this warning, you may submit comments to the undersigned by no later than June 29, 2018. I will examine your comments and determine whether to maintain this warning, amend it or withdraw it. I will communicate my decision to you. If I amend the warning, I will send you a revised text. If the warning is maintained or withdrawn, I will send you written notice of this. You will receive future communication by e-mail, followed by a hard copy sent by registered mail or by messenger.

Your comments and the action that I take after considering your comments will be retained and placed in the compliance file of New Gold Inc. Should you require additional information of this matter, please contact me by e-mail at compliance.conformite@ceaa-acee.gc.ca.

Please note that in accordance with the Compliance and Enforcement Policy for the *Canadian Environmental Assessment Act, 2012* and the Canadian Environmental Assessment Agency's policy on transparency, this warning will be posted on the Agency's Compliance Promotion and Enforcement website.

<Original signed by>

Carl Johansson
Senior Compliance and Enforcement Analyst

Cc: Michel K. Vitou, Chief, Compliance Promotion and Enforcement Unit, CEAA