

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26

NUNAVUT WATER BOARD HEARING

MATTER: DRAFT NUNAVUT WATER REGULATIONS
CITY OF IQALUIT

HEARING HELD AT THE NAVIGATOR INN
IQALUIT, NUNAVUT
SEPTEMBER 13, 2011

1 APPEARANCES:

2

3 NUNAVUT WATER BOARD PANEL:

4

5 Mr. T. Kabloona Chair

6 Mr. L. Toomassie Member

7 Mr. R. Mrazek Member

8

9 NUNAVUT WATER BOARD STAFF:

10

11 Ms. D. Filiatrault Executive Director

12 Ms. P. Beaulieu Manager of Licencing

13 Mr. B. Kogvik Board Secretary/

14 Interpreter/ Translator

15 Ms. C. Emrick Legal Counsel

16

17 APPLICANT

18

19 ABORIGINAL AFFAIRS AND NORTHERN DEVELOPMENT

20 CANADA

21

22 Mr. G. Binda Senior Advisor

23 Mr. P.L. Lavoie Legal Counsel

24 Ms. T. Milojevic Land and Water Management

25 Director

26

1 INTERVENERS

2 NORTHWEST TERRITORIES AND NUNAVUT CHAMBER OF
3 MINES

4 Ms. E. Kingston General Manager

5

6 INTERPRETERS/TRANSLATORS

7 Mr. S. Peters Inuktitut Language

8 Mr. E. Denis French Language

9

10 Mr. R. Dempster Sound Technician

11 Ms. T. Rizzoli, (CSR)A Official Court Reporter

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

1	INDEX	
2		
3	Appearances	2
4	Opening Remarks by Nunavut Water Board Chair	5
5	Roll Call	13
6	PIERRE-LUC LAVOIE, GILLES BINDA, AND	16
7	TATJANA MILOJEVIC, affirmed	
8	Presentation By Aboriginal Affairs	16
9	and Northern Development Canada	
10	Chamber of Mines Questions	34
11	Aboriginal Affairs and Northern Development	
12	Canada	
13	Nunavut Water Board Staff Questions	36
14	Aboriginal Affairs	
15	and Northern Development Canada	
16	Members of the Public Question	40
17	Aboriginal Affairs and Northern Development	
18	Canada	
19	ELIZABETH KINGSTON, sworn	42
20	Presentation By Northwest Territories	42
21	and Nunavut Chamber of Mines	
22	Aboriginal Affairs Questions	50
23	Chamber of Mines	
24	Nunavut Water Board Staff Questions	54
25	Chamber of Mines	
26	Certificate of Transcript	57

1

2 (PROCEEDINGS COMMENCED AT 9:08 AM)

3 **Opening Remarks by Nunavut Water Board Chair**

4 THE CHAIR: Good morning, everyone.

5 Can you hear me okay? Should I get closer?

6 Thank you and good morning. My name is

7 Thomas Kabloona. I am the Chairman of the

8 Nunavut Water Board. On behalf of the Water

9 Board, I welcome everyone here today. To give

10 you some background on this hearing, the Nunavut

11 Water Board is an institution of public

12 government created under Article 13 of the

13 *Nunavut Land Claims Agreement* and is responsible

14 for the use, management, and regulation of fresh

15 water in the Nunavut settlement area. Pursuant

16 to Section 13.3.6 of the *Nunavut Land Claims*17 *Agreement* and Section 29 of the *Nunavut Waters*18 *and Nunavut Surface Rights Tribunal Act*, the

19 Board has delegated its power to dispose of all

20 matters related to the Board's role in the

21 development of the Nunavut Water Regulations,

22 including the conduct of this public hearing to a

23 panel of the Board.

24 I am chairing this panel, the other two

25 members of the Board panel are Ross Mzarek, with

26 me here today. Lootie Toomassie, has been

1 delayed as a result of weather and will joining
2 us at 2:00 PM today. Accordingly, we are going
3 to proceed through these opening comments and
4 then adjourn until 2 PM for the presentations.

5 Several staff members of the Nunavut Water
6 Board are assisting us today: Dionne
7 Filiatrault, executive director; Phyllis
8 Beaulieu, manager of licencing; Ben Kogvik, board
9 secretary and interpreter/translator; and
10 Catherine Emrick, legal counsel with Miller
11 Thomson. We have several interpreters available
12 for simultaneous translation: Ben Kogvik, from
13 the Water Board; Saali Peter; and Etienne Denis.
14 And for audio support, we have Ryan Dempster with
15 us. If you experience any difficulties with your
16 headsets, Ryan should be able to provide
17 assistance, and on the translation equipment,
18 it's channel 1 for English; 2 -- channel 2,
19 Inuktitut; and channel 3, French. To reinsure an
20 accurate recording of this proceeding, we have
21 with us a court stenographer, Toni Rizzoli. To
22 assist Toni, I ask that all parties please state
23 their name before speaking.

24 On March 4, 2011, the Board received a
25 letter dated February 22, 2011, from then Indian
26 and Northern Affairs Canada, now Aboriginal

1 Affairs and Northern Development Canada,
2 referring draft water -- Nunavut waters
3 regulations to the Board for review by the Board,
4 pursuant to subsections 82(1) and 82(2) of the
5 *Nunavut Waters and Nunavut Surface Rights*
6 *Tribunal Acts*, which I will refer to in these
7 proceedings as "the Act". The Board also
8 acknowledges receipt of the Nunavut waters
9 descriptions pursuant to Section 17 of the draft
10 regulations. The draft regulations and watershed
11 descriptions have been filed in the Board's
12 public registry. In addition, copies of all the
13 submissions I will discuss below are available on
14 the NWB's public registry and our licencing
15 administrator has made available for public
16 viewing a copy of these materials at the back
17 table.

18 To put the public hearing process in
19 context, I would like to review with you the
20 Board's role in making regulations and its
21 legislative authority. Article 10 of the *Nunavut*
22 *Land Claims Agreement*, NLCA, provides for
23 implementations through statute and regulations.
24 Section 82 and 174 of the *Nunavut Waters and*
25 *Nunavut Surface Rights Tribunal Act*, NWNSRTA,
26 gives the governor in council, on the

1 recommendation of the Minister, authority to make
2 regulations on a range of matters. Section 8 of
3 the *Nunavut Land Claims Agreement* also provides
4 authority to make regulations necessary
5 to implement the *NLCA*.

6 The Board's role in making recommendations:
7 Section 82.2 requires the recommendations of the
8 Minister be subject to the concurrence of the
9 Board for regulations, establishing water
10 management areas, authorization of waters without
11 a licence, authorization of the deposit of waste
12 without a licence. Section 82.3 requires the
13 recommendations of the Minister be made after
14 consultation with the Board for regulations
15 defining waste, including nature and quantities,
16 concentrations of substances, and treatments of
17 or changes to water.

18 Applications to exempt from public hearing,
19 Section 82(1)(f) states: (as read)

20 On the advice of the Board or after
21 consultation with the Board, exempting any
22 class or applications in relation to
23 licences from the -- from the requirement of
24 a public hearing.

25 Section 174 is a transitional provision setting
26 out the applications that currently do not

1 require public hearings type 'B', including the
2 following paragraph: (as read)

3 174(2), within one year after the day on
4 which this Act is assented to, the Minister
5 shall, unless regulations have been made
6 under paragraph 82(1) before that time to
7 replace the regulations referred to in
8 subsection (1), consult the Board on the
9 application of subsection (1).

10 Subsection 51(2) of the Act permits the Board,
11 where satisfied that it would be in the public
12 interest to do so, to hold a public hearing in
13 connection with any matter relating to its
14 objects. The objects of the Board are set out in
15 Section 35 of the Act. Section 35 of the Act
16 states: (as read)

17 The objects of the Board are to provide for
18 a conservation and utilization of waters in
19 Nunavut, except in a national park, in a
20 manner that will provide the optimum benefit
21 from those waters for the residents of
22 Nunavut in particular and Canadians in
23 general.

24 The Board is satisfied that it is in the interest
25 of the public to hold a public hearing to
26 determine if the draft regulations provide for

1 the conservation and utilization of waters in
2 Nunavut in a manner that will provide the optimum
3 benefit from those waters for the residents of
4 Nunavut in particular and Canadians in general.

5 The decision to hold a public hearing is
6 also consistent with giving due regard and weight
7 to Inuit culture, customs, and knowledge pursuant
8 to Section 33 of the *Act*. Pursuant to Section
9 55(2) of the *Act*, formal notice of the public
10 hearing was given on June 29th, 2011, and
11 provided for the Board's distribution list and
12 published in News North, Nunatsiaq News, and
13 Kivalliq News. As set out in the notice, this
14 hearing is being conducted in three locations:
15 Iqaluit on September 13th, Rankin Inlet on
16 September 15th, and Cambridge Bay on September
17 16th. Following the public hearing, the Board
18 will issue its consultation recommendations and
19 concurrence decision to the Minister.

20 History of the file: I will now provide a
21 brief history of the file. Following the
22 Board's receipt of the draft regulations on March
23 4, 2011, a technical meeting and prehearing
24 conference was held on May 31st, 2011, in Iqaluit
25 and on June 2, 2011, in Yellowknife. In
26 preparation for the technical meeting, written

1 comments were filed by Kitikmeot Inuit
2 Association, Kivalliq Inuit Association,
3 Northwest Territories and Nunavut Chamber of
4 Mines, Agnico Eagle Mines Limited, Nunavut
5 Planning Commission, Newmont (Hope Bay Mining
6 Limited), Periguine Diamond Limited, Sabina Gold
7 and Silver, Nassituq Corporation, Environment
8 Canada, Transport Canada, Department of National
9 Defence. Correspondence was also received from
10 Nunavut Tunngavik Incorporated.

11 The current panel members did not attend or
12 participate in the technical meetings and
13 prehearing sessions, but we were briefed by the
14 technical staff on their outcome and
15 recommendations resulting from these sessions.
16 This information was relied on by the Water Board
17 in the preparation of the prehearing conference
18 decision. The Board issued its prehearing
19 conference decision on June 29th, 2011.

20 Issues to be addressed: The Board directed
21 in the prehearing conference decision that the
22 parties address issues in their written
23 submissions and presentations to the Board in the
24 following order: One, issues related to sections
25 of the draft regulations requiring the
26 concurrence of the Board pursuant to Section 82.2

1 of the Act, (a) authorization of the use of
2 waters and deposits of wastes without a licence,
3 and (b) establishing water management areas.
4 Two, issues relating to sections of the draft
5 regulations requiring advice of and/or
6 consultation with the Board pursuant to Section
7 82(3) and 174(2) of the Act, (a) exempting
8 classes of application from the requirement for a
9 public hearing, and (b) regulations to inform the
10 definition of waste in Section 4 of the Act.
11 Three, other issues arising from the technical
12 meetings, (a) reclamation security, (b) licencing
13 fees, (c) reporting and maintenance records
14 issues, and (d) coming into force. Four, other
15 issues identified by the parties.

16 In accordance with the prehearing conference
17 decision on March -- excuse me, June 20th, 2011,
18 Aboriginal Affairs and Northern Development
19 Canada filed, with the Board, a written response
20 to issues raised in the written submissions and
21 the technical meeting. Written submissions for
22 this hearing were also received from Kitikmeot
23 Inuit Association, Kivalliq Inuit Association,
24 Nunavut Tunngavik Incorporated, Northwest
25 Territories and Nunavut Chamber of Mines, Newmont
26 (Hope Bay Mining Limited), Nunavut Planning

1 Commission, Government of Nunavut Department of
2 Community and Government Services, Department of
3 National Defence.

4 Media: Before proceeding further, I wish to
5 make a comment regarding media. In the past,
6 parties in other proceedings have approached the
7 media prior to the release of the Board's
8 decision suggesting comments about what the Board
9 is going to do, either procedurally, or in terms
10 of a final result. Since the Board cannot
11 comment on pending matters, either by confirming
12 or denying the accuracy of others' statements to
13 the media, the Board would appreciate it if all
14 parties would refrain from any such comments that
15 may imply a certain action or decision by the
16 Board. Board members will not discuss the
17 hearing or the matters before the Board with any
18 of the parties or the media. If you have any
19 questions about the Board and its practice or
20 procedure, please speak to Dionne Filiatrault,
21 and she will assist you.

22 **Roll Call**

23 If there are no concerns, I would like to
24 move forward to the identification and
25 introduction of the parties by way of a roll
26 call. I will begin the roll call with Aboriginal

1 Affairs and Northern Development.

2 MR. BINDA: Gilles Binda from
3 Aboriginal Affairs.

4 MR. DEMPSTER: One at a time.

5 MR. LAVOIE: Pierre-Luc Lavoie from the
6 Department of Indian Affairs and Northern
7 Development legal services.

8 MS. MILOJEVIC: Tatjana Milojevic from
9 Aboriginal and Northern Affairs.

10 THE CHAIR: Thank you. Northwest
11 Territories and Nunavut Chamber of Mines. Go to
12 the microphone, please, thank you.

13 MS. KINGSTON: I'm Elizabeth Kingston.
14 I'm the general manager for the Nunavut office
15 for the Northwest Territories and Nunavut Chamber
16 of Mines.

17 THE CHAIR: Thank you. If any other
18 interveners would like to speak, please identify
19 yourself.

20 It is our tradition to give respect to our
21 elders; therefore, at any time, an elder may
22 speak to an application on file.

23 Is there a representative for the community
24 of Iqaluit present that wishes to be recognized?

25 Are there any members of the general public
26 who would like to identify themselves?

1 Are there any -- are there any
2 representatives from agencies, associations who
3 have not submitted interventions but would like
4 to speak?

5 Before proceeding, I would like to request
6 all parties register with Phyllis at the side
7 table. That brings us to the identification of
8 any motions or any objections to the matter that
9 is before the Board. According to the
10 information I have, there are no motions for
11 objections before the Board.

12 I am adjourning this hearing until 2:00 PM
13 today, at which time, we will reconvene and
14 proceed with item 'H' of the agenda and the
15 presentation by Aboriginal Affairs and Northern
16 Development.

17 (ADJOURNMENT)

18 THE CHAIR: Good afternoon, for those
19 of you who have been patiently waiting for 2:00
20 to come around, it's now ten minutes after, and I
21 regret to inform you that we have another delay,
22 and we will try to reconvene at 3:30.

23 Unfortunately, the plane was not scheduled to
24 arrive here until 2:40. That's the latest update
25 that we do have, and I apologize for any
26 inconvenience that this is causing for everyone

1 concerned. So we'll see you back here at 3:30.

2 Thank you.

3 (ADJOURNMENT)

4 THE CHAIR: Good afternoon. We will
5 get this hearing back in session. I would like
6 to introduce Lootie Toomassie, Board and panel
7 member to my right.

8 We will now proceed with item 'H' of the
9 agenda and the presentation by Aboriginal Affairs
10 and Northern Development Canada.

11 Catherine, please swear or affirm the
12 witnesses.

13 **PIERRE-LUC LAVOIE, GILLES BINDA, AND TATJANA**
14 **MILOJEVIC, affirmed**

15 THE CHAIR: Thank you, Catherine.

16 I would like to remind participants to state
17 their name prior to speaking to assist the
18 stenographer in keeping an accurate record.
19 Thank you.

20 And, Mr. Binda, please go ahead with your
21 presentation.

22 **Presentation By Aboriginal Affairs and Northern**
23 **Development Canada**

24 MR. BINDA: Thank you. Aboriginal
25 Affairs and Northern Development is pleased to be
26 able to appear today to this hearing to discuss

1 the draft Nunavut Water Regulations. As I
2 pointed out earlier, my name is Gilles Binda.
3 I'm a senior advisor with the natural resources
4 and environment branch of the northern affairs
5 organization. With me again today, I'll just
6 point out again, Pierre-Luc Lavoie, who's the
7 legal counsel. He's with the Department of
8 Justice, and Tatjana Milojevic, who's with our
9 land and water management director.

10 Just to talk about what -- as part of our
11 outline, we'll be talking about the legal
12 framework under which the regulations will
13 operate. We'll talk about how the regulations
14 were developed. We'll go -- do an overview of
15 the application of the regulations in Nunavut.
16 We'll do an explanation of the structure of the
17 regulations. We'll talk a bit about some of the
18 issues that were raised by certain stakeholders
19 that -- at the technical meetings and that we've
20 heard since, and we'll also give a short
21 description of what we believe will be the next
22 steps in the development process.

23 The legal framework: While the regulations
24 are intended to work within the framework
25 established by the *Nunavut Land Claims Agreement*
26 and also the *Nunavut Waters and Nunavut Surface*

1 *Rights Tribunal Act*, the *NLCA* provides for the
2 creation and operation of the Water Board, and
3 the *Agreement* and the *Act* together, they also
4 provide for the legal framework for the
5 regulation of inland waters in Nunavut.

6 The development of regulations started in
7 2006 when we created or established a working
8 group with INAC, at the time, now AANDC Canada,
9 and the Water Board as co-leads of the working
10 group with the Government of Nunavut, and we had
11 also Justice Canada at the table with us, and
12 Nunavut Tunngavik Incorporated has also
13 participated as observers.

14 As a starting point, the working group
15 reviewed the Northwest Territories' waters
16 regulations and also the provisions of Section 82
17 of the *Nunavut Waters and Nunavut Surface Rights*
18 *Tribunal Act*. That's the section that allows
19 the Minister to make recommendations to the
20 governor in council to make regulations for water
21 use in Nunavut. The working group then hired a
22 consultant to review the provisions of Section
23 82, to provide option papers on all of them, so
24 we had that look at the situation in Nunavut and
25 in the other territories and in the provinces and
26 looked at what could be the best option for these

1 regulations, so once that was done, the working
2 group took all of the options, and then we worked
3 out to get the best option that we thought was
4 viable for these regulations. The decisions were
5 taken, myself and Pierre-Luc brought those to --
6 and converted the policy and all of those issues
7 together into drafting instructions that we
8 provided to Justice Canada, the regulatory
9 drafting section, which then transformed all of
10 those into regulatory language. As we found out
11 and -- some of us knew, but others -- regulatory
12 language and ordinary policy language doesn't
13 always work together, so we have to work within
14 constraints of what the legal drafters can do
15 with language, and then when that -- when that
16 drafting was done, we brought it back to the
17 working group and then worked out, and it was
18 back and forth after that between us and the
19 working group and the drafters to get the product
20 in which you now have in front of you.

21 During that time, we've also been consulting
22 closely with NTI to review and to refine the
23 draft regulations also from their point of view,
24 and during that time -- during -- over the years,
25 we also made presentations at various mining
26 shows, such as PDAC and Cordillera Roundup in

1 order to keep stakeholders informed of the
2 progress being made on the draft regulations.

3 Once approved and registered through the
4 system, these draft regulations will replace the
5 Northwest Territories' Water Regulations that are
6 currently enforced in Nunavut. The regulations
7 will apply to any person that uses water or
8 deposits waste into water in Nunavut. The
9 authority of the Board in relation to the use
10 regulation and management of water is granted
11 under the *NLCA* and the *Nunavut Waters and Surface*
12 *Right Tribunal Act* remain the same under the new
13 regulations. The Board is not affected by their
14 general powers. We're looking at the structure
15 of the regulations, and we've -- I've simplified
16 it on this slide because really when you look at
17 these regulations, there are two big sections.
18 The approvals for use without a licence and the
19 licence use. We got a few sections in -- at the
20 front that talk about interpretation and a few
21 sections at the back about administrative
22 matters, so really the main body of the
23 regulations are the approvals without a licence
24 and the licence uses. So Section 1 and Section 2
25 provide for definitions, and one of the big
26 definitions was definition of undertaking and the

1 Nunavut Waters and Surface Rights Tribunal, there
2 was one term that was defined was an appurtenant
3 undertaking, which meant a licenced undertaking,
4 so in the regulation, since we're now talking
5 about licence use and uses without a licence,
6 we -- the drafters came up with a definition just
7 for an undertaking, which includes both now, so
8 when you read the regulations, it means either a
9 licence use or a use approved by the Board.
10 Section 2 is a greater certainty clause, which
11 was put in to reassure everybody that a
12 licence -- a licence use and a use that was
13 approved without a licence constitute an approval
14 under the *NLCA*. The *NLCA* under 13.7.1 of that --
15 of the agreement says all water uses have to be
16 approved by the Board, except if it's domestic or
17 emergency use. So we wanted to put a -- for
18 greater certainty that the licence use is an
19 approval, of course, you've approved it through a
20 licence, but also the approval of a use without a
21 licence is also -- falls within an approval under
22 the *NLCA* so that all of -- all of what's under
23 these regulations falls under the *NLCA* so there's
24 no uses that are not approved by the Board, and
25 it also clarifies that an approved -- an
26 unlicenced use of water or deposited waste into

1 water that's described in Section 4 and Section 5
2 are not authorized unless they've been approved
3 by the -- by the Board. Just because you qualify
4 under that, doesn't mean you can go out and do
5 something on the land and use water and deposit
6 waste. It has to be approved by the Board.

7 Now, the approvals without a licence, people
8 ask us what did you -- why did you do this? We
9 already had a licence system. Well, it can -- we
10 did it to address an operational water management
11 issue in Nunavut. As I pointed out, 13.7.1 of
12 the Land Claim said, You can't use water unless
13 it's approved by the Board, which meant that all
14 water uses in Nunavut had to be approved by the
15 Board, and this is where we got into a
16 discussion. You mean a university professor goes
17 out on the land and says, I'm going on the land
18 with three students; I'm going to take a few
19 water samples; I'm doing a little bit, still
20 required a 'B' licence because there was no de
21 minimis use in the land category in the land --
22 in the rights that were applicable in Nunavut, so
23 we've created this use -- this approval
24 without -- for a use without a licence. People
25 say, Well, you got something in NWT that works,
26 but the NWT doesn't work under the Nunavut Land

1 Claims, which called for everything to be
2 approved by the Water Board. So we've developed
3 this process of a use or a deposit without a
4 licence for all the small uses of water or
5 deposit of waste. So in -- in that section, we
6 see there's -- the nature of information that's
7 required. We're looking at things like the name
8 of the applicant, the type of undertaking he will
9 be -- he will be doing, the equipment to be used,
10 the location of the undertaking, all this
11 information will be required in a form that the
12 Water Board will develop as a form that an
13 applicant will have to fill in, send to the
14 Board, which they will then approve. There will
15 be terms and conditions for both water use and
16 unlicensed use of water and also the unlicensed
17 deposit of waste that must be complied with, and
18 -- so terms and conditions will be required -- or
19 in the regulations. It clarifies all the sites
20 should be restored again at the end of the
21 undertaking, and it sets the period of time for
22 which an approval -- the approval may be issued,
23 and it also outlines the type of information that
24 needs to be kept, how it needs to be submitted,
25 and how long it needs to be kept for. The
26 licence use, this is -- this actually hasn't

1 really changed very much. There is still a type
2 'A' and type 'B' licence and approach that's set
3 out in the schedules. The thing that has changed
4 is the threshold for a 'B' water licence, and
5 that has changed from -- and it's been brought
6 down from a -- for a 'B' licence from 100 cubic
7 metres per day to 50 cubic metres per day, and
8 that was done as part of some research, and that
9 we -- that was done through a technical working
10 group of the working group, and it -- it was
11 pointed out that by -- at 50 cubic metres,
12 they're taking an average year of water licences.
13 35 percent of the water licences would now fall
14 in that category for an approval, so that would
15 remove that much paper burden and regulatory
16 burden from the Board that it would be just an
17 approval of a much shorter form, and the
18 reporting requirements are much less than under a
19 licence use. The section establishes the
20 parameters under which a public hearing is not
21 required in respect of an application for a
22 licence, and it also clarifies that no public
23 hearing is required in respect on that location
24 for a unlicensed use, so there will not be any
25 public hearings for these very small uses. The
26 section on security has not been changed from the

1 NWT water surface regulations. It establishes
2 the criteria that the Board will consider when
3 establishing the amount of security. The fee
4 section hasn't been changed either. There is no
5 application fee for an approval -- for an
6 application for a use without a licence. The
7 whole section sets out the fee structure for the
8 licence use, which includes the calculation of
9 the fees and also the -- and how -- when and how
10 they should -- they are to be paid. There is
11 also a clarification that no licence fees are
12 payable by a designated Inuit organization or
13 Inuit for the right to use waters on, in, or
14 flowing through Inuit-owned lands.

15 The section also I outlined the requirement
16 for keeping books and records, like the type of
17 info -- information that's required, where it
18 should be kept, when it needs to be submitted,
19 and how long they need to be kept for, and
20 there's also a section on the annual report, and
21 it outlines the information that must be
22 reported.

23 When we get to the administrative matters,
24 first -- the first area, I think, that's in there
25 is a public registry, and that mostly applies to
26 the Board and prescribes a form of the register

1 and the information it must contain, so we work
2 closely with the Board on this to ensure that
3 what was being required was something that was
4 workable and contained all of the information
5 that was -- that should be on the -- on the
6 register so that people can get a good picture of
7 everything. There is a section that outlines the
8 spill reporting and requirements that -- so the
9 unauthorized deposits of waste. Now, something
10 that's a bit different in these regulations, we
11 have identified 65 water management areas, and
12 these are done at the sub basin -- sub-drainage
13 basin level. This is as opposed to what exists
14 right now in the NWT Water Regulations, which
15 only has four in the Nunavut area, four basins
16 only that are identified, and talking with the
17 Board and other people, these are very large
18 areas to work with, waters going into Hudson Bay,
19 waters going into the Arctic Ocean, waters of
20 Baffin Island. These are very big areas and not
21 very workable from a -- from a Water Board
22 stand -- point of view. These are -- we had to
23 bring it down, and we looked at what was
24 available as information and the Atlas of Canada
25 already had done some work on the drainage basins
26 of Canada, developed a map and everything, so we

1 went from there and hired a consultant who had
2 worked with the Atlas and with the Water Survey
3 of Canada to come out with -- okay, with a
4 description of all these watershed --
5 sub-drainage basins, so it identified each one of
6 those completely. So hopefully the objective of
7 this was to provide the Board with -- with
8 information and water management areas that, in
9 the future, it can look and determine and do
10 specific regulations or require specific --
11 specific requirements to put on to any
12 development in a specific watershed, so instead
13 of -- of having a regulation and that -- a
14 watershed area that was very big, now you've got
15 it pinpointed, and you can say anything in this
16 area will now -- these are the specific special
17 requirements for that watershed based on whatever
18 the Board comes out with. So it gives the Water
19 Board a little bit more to work with. It should
20 be a good tool for them. The watershed -- the
21 water management area descriptions are not part
22 of the regulations. First of all, they are about
23 200 pages, and to print them out and to have them
24 registered and everything, it would be very
25 expensive and what we'll do is that the Water
26 Board will have the shape files for each one of

1 these and will be able to work from that. I
2 think the Water Board has actually put the
3 descriptions in the binders at the back, so if
4 you want to look at what these look like -- and
5 it follows the whole contour of each watershed to
6 describe exactly where the borders are.

7 Now, we've -- we've heard quite a few issues
8 that have been raised since the rights went out.
9 Water use and deposit of waste: We've had a few
10 that people have come up and said, Why did you
11 bring it down to 50? 100 seems good. We said,
12 Okay, we'll look at that. We've got 50 right
13 now. We point out that we looked at a typical
14 year and came out with that 35 percent the
15 applications would qualify at this threshold. We
16 also have to look at the 50 and 100, what are the
17 benefits for going from one to the other, and
18 we'd like to hear something on that to see what
19 would be the benefits from changing. A lot of
20 times, even if -- if we left -- even if it was
21 average still 100 cubic metres per day, the
22 requirement on the deposit of waste from that
23 undertaking would kick it into a 'B' licence
24 anyway, even if it was at 100, because of the
25 type of work and type of waste that come out. If
26 it was a drilling, there are muds and everything

1 that have to be deposited somewhere so that was
2 still -- even if it was at 100, it would still
3 kick it up to a 'B' licence, and it wouldn't
4 qualify for a use without a licence.

5 The security issue we have heard a lot.
6 There are parties that share the views that many
7 of you here today have on this issue. It's an
8 important issue. We realize that, but given the
9 pan-territorial nature of the issue, the
10 interconnectivity of the authorities, the roles,
11 the responsibilities that are outlined in
12 different land claims, the legislation,
13 regulation, as well as the different views that
14 people have on this and what are the desired
15 outcomes, the department does not believe it is
16 prudent to try to address this in the regulations
17 at this point. So the department is committed to
18 reviewing the broader -- to doing a broader
19 review of, say, the securities issue and that --
20 it will be consulting with affected stakeholders
21 in the future on this, so we are -- we know it's
22 a problem. We are going to address it. It's
23 just not going to be done in these regulations
24 right now.

25 Licencing fees, we've heard from various
26 stakeholders that the Water Board's collecting

1 fees for projects on IOLs. The landowner, the
2 Inuit regional associations is also charging a
3 water fee to the proponent. So the double
4 charging of fees, should there be only one.
5 We're looking at that. We say we -- we're giving
6 this a much greater look. We have to discuss it
7 within the federal system also, how this -- how
8 this could take place, and following that we'll
9 have discussions with the Board, the LAs, and NTI
10 as required because we need to find out what does
11 everybody want, how do we fix this. And we want
12 to do it within the timelines we've set to get
13 these regulations approved, so we're trying to
14 get this done over the next few months at the
15 latest to get these issues settled one way or the
16 other.

17 We've heard some people -- some stakeholders
18 talk about the lengths of time that people have
19 for a -- to keep records, even for de minimis
20 use, how long for a delay for reporting, and all
21 this, so we're going to be working with the Board
22 and see what would be a good compromise on time
23 limits on that to see does it make sense to keep
24 records for a small use for two years? Is it
25 only one year? You know, should it be longer?
26 Should it be five years? So we're going to be

1 looking at what makes more sense. Right now
2 we've got something in here, which -- in the
3 regulations, which raised some concerns, so we
4 will try to address that.

5 We also heard that some people were saying
6 that some of the words in the regulations need to
7 be defined. Well, we sort of pointed out at the
8 technical hearings that there are drafting
9 conventions that you cannot -- we can't change.
10 Department of Justice is locked into certain ways
11 of writing things. You can't change the way the
12 language is put in. Certain terms that --
13 certain terms nobody wants to define. You won't
14 find a drafter or anybody, a lawyer, a justice
15 that will try to define what is significant.
16 That's -- it's significant depending on the
17 condition at that time where it is. It is not a
18 term that gets defined. So there are -- in any
19 legislation regulations, there are terms that
20 people think are ambiguous or sort of fuzzy.
21 Well, these are terms that are not defined, and
22 so we have to live with those terms. There was
23 also a comment about restoration work should be
24 done after the undertaking has been -- has been
25 finished and abandoned. We're saying, No, in our
26 view, the work, the -- whatever research, the

1 work, or whatever, and the restoration of
2 the site is all part of the project, so it has to
3 be done within the limits of the -- that are set
4 out as time wise.

5 As we pointed out, this is for the use
6 without a licence, so if -- if the site -- the
7 regulations do point out that the site must be
8 restored within the year, which is the length of
9 time that you have in your approval without a
10 licence; however, if you've applied for a licence
11 and one has been issued prior to the interview --
12 your approval, then you don't have to do
13 restoration site. You're still staying on the
14 site and you're continuing your work, so -- but
15 if you have not made that application for a
16 licence, it means that you have to get everything
17 done and your site restored to what it was before
18 you got there by the end of your -- of the year.

19 Next steps, the department's next steps are
20 to continue to consult on three fronts. We are
21 in the process right now, so we are going to
22 continue in the Nunavut Water Board process to
23 obtain the concurrence of the Board. The second
24 is continue to closely consult with NTI, and the
25 third is to consult with other stakeholders that
26 the department has a responsibility to consult

1 with and may not have been part of the Board's
2 process here, so we have -- and we've had talks
3 with the Board to provide us with mailing lists
4 and everything, to who everything was sent out,
5 invitations and everything for this to make sure
6 that we -- everybody is aware of what we are
7 doing here that might be impacted. After all
8 this, the department will then review and address
9 the outcome of the consultations, which also
10 means what the Board comes out with after
11 these -- these hearings, what they will write
12 back to the Minister about. Once finished, the
13 department will proceed with the federal approval
14 process and for regulations that it meets by
15 approval by the governor in council as per the
16 regulations as per the *Nunavut Waters and Surface*
17 *Rights Tribunal Act*.

18 Again, if anybody else has more comments,
19 concerns, or anything, please write to us. We'll
20 get back to you. Glen Stephens, who is
21 the director of land and water management, is the
22 contact person on this file. He was supposed to
23 be here, but was not -- was pulled away for
24 operational priorities in Ottawa, so that's why
25 I'm doing the presentation, so we had the
26 information. They are on the photocopies of the

1 presentation, so if anything, please do not
2 hesitate to call us, and thank you, qujananik,
3 and we'll be taking questions.

4 THE CHAIR: Thank you. Questions from
5 Chamber of Mines to the applicant. Just walk up
6 to the microphone.

7 **Chamber of Mines Questions Aboriginal Affairs and**
8 **Northern Development Canada**

9 MS. KINGSTON: Thank you for the
10 opportunity to ask a couple of questions. I do
11 have one in particular. You had mentioned
12 earlier about the initial conversations at having
13 the threshold set at 100 cubic metres initially
14 and then had that reduced based on discussions
15 with your technical groups. Could you elaborate
16 on how that discussion -- could you just give a
17 little bit more detail on how you came to the
18 decision to do the reduction.

19 MR. BINDA: Okay. I wasn't part of
20 the technical working group; however, it was
21 formed part of with our INAC regional staff here
22 and Water Board and the -- they looked at a
23 typical year and looked at where would be a
24 typical cutoff but also looked at what made sense
25 as a cutoff of water use within universal
26 experience the Board had and with our

1 experience -- the experience in our regional
2 office, and like I pointed out, by -- they sort
3 of look -- they looked at 50. They knew the 100
4 was there. The 100 was there as an example from
5 the NWT Water Regulations, so they looked at that
6 information, and then looked at what would be a
7 good cutoff for -- based on water flows and
8 everything within Nunavut, and it came out at --
9 and looked at a typical year of water licence
10 applications and looked at what people were using
11 as a typical water use that they were applying
12 for, and they looked at the cutoff at 50, and the
13 cutoff at 50 took off 35 percent of the
14 applications that would not qualify for a use
15 without a licence. I'd have to -- I wanted to
16 find out more on this one because I knew it would
17 come up, and our technical person that was on
18 there from our regional office had just moved
19 down to Ottawa, and she wasn't available. I was
20 trying to find her books to find exactly why it
21 was picked, but it was done -- they looked at and
22 came up with that number as being one that was
23 really acceptable for Nunavut.

24 THE CHAIR: Excuse me. Before you
25 speak, please state your name and who you are
26 representing, thank you.

1 MS. KINGSTON: Excuse me, thank you. I
2 am Elizabeth Kingston. I am the general manager
3 for Nunavut with the Northwest Territories and
4 Nunavut Chamber of Mines, and thank you for
5 answering my question previously. I have no more
6 questions at this time and can -- am prepared to
7 make my presentation as an intervener, thank you.

8 THE CHAIR: Thank you. Next we have
9 questions from the public to the applicant.

10 Questions to the applicant from staff.

11 **Nunavut Water Board Staff Questions Aboriginal**
12 **Affairs and Northern Development Canada**

13 MS. FILIATRAULT: Thank you, Mr. Chairman.

14 I do have a couple questions. One is we
15 know that there was no changes to the regulations
16 with respect to security, and there's a lot of
17 comments in the submissions from various parties
18 both at the technical meeting and throughout this
19 process on security. Does INAC have any sort of
20 timelines moving forward on when potential
21 changes might be forthcoming to security or
22 moving forward on security.

23 MR. BINDA: Gilles Binda, Aboriginal
24 Affairs. To tell you exactly timelines, no. I
25 know that Glen Stephens and another director at
26 our offices have been tasked with the whole

1 issue, and we also have another person that's now
2 been hired to come and work with us on that
3 issue, and so we're going to be doing work
4 starting immediately. In the past, Glen and
5 Patrick O'Neil have had meetings with the
6 regional Inuit associations on that issue also,
7 so it's not -- like I pointed out, it's not an
8 issue that we're trying to brush off. We're
9 actually -- we know it's an issue. We've got to
10 address it, and hopefully it will be done in the
11 upcoming months. This is not something we're
12 pushing off. This is something that is actually
13 a priority right now. We want to address this.
14 MS. FILIATRAULT: Thank you.

15 Thank you Mr. Chairman, I have one more
16 question.

17 With Section 12(6), which talks about the
18 need for water-use fees or lack thereof. So
19 where it says: (as read)

20 No licence fees are payable by a designated
21 Inuit organization or Inuit for the right to
22 use -- for the right to use of waters on,
23 in, or flowing through Inuit-owned lands.

24 I guess the question would be, will there be any
25 clarification from Aboriginal Affairs and the
26 DIOs on how fees will be administered on

1 Inuit-owned lands or how there's an expectation
2 that the Board would have to deal with this?
3 There's different scenarios where it's not always
4 clear whether somebody is -- I think it's clear
5 where it's an Inuit organization that's applying
6 for a water licence, but does this -- does this
7 apply to an Inuit company? Does it apply to a
8 company that may be in a joint venture? And how
9 do you determine if something -- if an Inuit --
10 how do you define "Inuit" in this particular
11 instance? Is it an Inuit-owned company? Does it
12 qualify under this provision for not being
13 required to pay a fee? It would be very helpful,
14 given that the Board is going to be having to
15 administer the other fees, understanding how to
16 administer or not administer fees for IOL.
17 MR. BINDA: Gilles Binda, very good
18 question, and it's one -- at that point, one of
19 the issues that was raised is what about the
20 double -- double charging for a water use on IOLs
21 where the Water Board, because of the legislation
22 and regulations, charges a water fee for the use
23 of water, and the landowner, the regional Inuit
24 associations, also charge. I will point out this
25 is an issue that we want to look at and talk with
26 the Board and with the stakeholders that have

1 raised this, how do we resolve that? If we -- we
2 get a resolution on that, let's say the answer is
3 we -- we don't charge fees on Inuit-owned lands
4 by some way, then that will resolve the issue of
5 how you have to look at different scenarios, but
6 there are different scenarios. What about a
7 project that is on Crown land that takes water
8 from our -- on the IOL side of the line, things
9 like that. We have to look at the different
10 scenarios and how that would work out. A project
11 that's half and half. Do you just charge from
12 where the water is being taken? If the water is
13 being taken on the other side of the line on
14 Crown land, well, there should be no water fee
15 from the Inuit because they're not -- so we have
16 to look at the different scenarios on how this
17 would go, and like I say, we have to talk about
18 it within the federal system because right now
19 water use -- a water use fee that's collected is
20 a royalty that comes to Canada. We have to talk
21 to Department of Finance and Treasury Board, to
22 see is it okay that we, say, no longer -- we no
23 longer collect fees. We -- for projects on
24 Inuit-owned lands based on the *Nunavut Land*
25 *Claims Agreement* that says that the Inuit have
26 exclusive use of water on Inuit-owned lands.

1 It's been raised -- the point saying why is
2 Canada charging. If you've given exclusive use,
3 why are you charging for something that you've
4 given away the exclusive use of, so many good
5 points have been -- have been raised, and, of
6 course, the whole thing about what's in the
7 rights right now, but how do you -- the
8 definition of Inuit, like you say, and what about
9 limited partnerships or split partnerships,
10 whatever, how does that work? It's something
11 that we have to look at. We might have to
12 re-define in the regulations to make it clear.

13 THE CHAIR: Any more questions?

14 **Members of the Public Question Aboriginal Affairs**
15 **and Norther Development Canada**

16 BILL WESTWELL: Bill Westwell with --

17 THE CHAIR: Come up to the microphone,
18 please and state your name

19 MR. DEMPSTER: Do you have it on?

20 BILL WESTWELL: My name is Bill Westwell.
21 I'm with CGS of GN. I just have a question about
22 that threshold. Is that right across the board?
23 Or is that strictly limited to exploration and
24 mining? Or is that applicable to municipal uses
25 as well?

26 MR. BINDA: Gilles Binda. If you look

1 at the municipal water use --

2 BILL WESTWELL: Yeah.

3 MR. BINDA: -- I think it's set at

4 300.

5 BILL WESTWELL: Okay.

6 MR. BINDA: So it's a different --

7 this is for other uses. The 50, the municipal

8 undertaking, a 'B' licence is for municipalities

9 that use less than 300 cubic metres per day.

10 Sorry, what do we have for -- sorry, I was

11 looking at the waste side.

12 BILL WESTWELL: Okay.

13 MR. BINDA: Okay. No, I apologize,

14 yeah. So, yes, it would on -- the threshold

15 would be the same for everybody under water use.

16 BILL WESTWELL: Okay.

17 MR. BINDA: There's a separate --

18 there's a separate for the waste deposit.

19 BILL WESTWELL: So my understanding is

20 that a community, let's say, of 500 people that

21 uses less than 50 cubic metres a day will not be

22 required to get a licence for distribution.

23 MR. BINDA: From these -- sorry,

24 Gilles Binda. Yes. From what I read here, the

25 regulations say, yeah, if it uses less than 50

26 cubic metres, it would not require a licence, but

1 I'll just point out that you also have to -- that
2 is just the threshold for the water use, not for
3 the deposit of waste, so if that -- so you have
4 to look at both together to ensure that where you
5 fall -- in which category. If one or the other
6 picks you up in the 'B', you have to -- you are a
7 'B'. You can't say you're -- you use water
8 without a licence but you deposit waste under a
9 'B' licence. You'd have to be whatever the
10 highest threshold that is required, that is the
11 water licence that you will require.

12 BILL WESTWELL: Okay, thank you.

13 THE CHAIR: Thank you. Any questions
14 to the applicant from the board members?

15 Next we have Elizabeth Kingston, Chamber of
16 Mines.

17 Catherine, please swear her.

18 **ELIZABETH KINGSTON, sworn**

19 **Presentation By Northwest Territories and Nunavut**
20 **Chamber of Mines**

21 MS. KINGSTON: Good afternoon, everyone.

22 As stated earlier, my name is Elizabeth Kingston.

23 I am the general manager of the Nunavut office
24 for the Northwest Territories and Nunavut Chamber
25 of Mines. Hopefully I'm at the right distance
26 from the microphone.

1 MR. DEMPSTER: Closer.

2 MS. KINGSTON: Closer? Okay, thank you.

3 My presentation today is on behalf of the
4 Chamber of Mines, the Prospectors and Developers
5 Association of Canada, and the Mining Association
6 of Canada. Thank you very much for allowing me
7 to make this presentation. Let me begin by
8 saying that the industry supports the
9 establishment of these long-awaited Nunavut
10 waters regulations and is particularly encouraged
11 by the proposal to allow the use of water in
12 Nunavut without a licence in clearly defined and
13 appropriate circumstances. However, we do wish
14 to highlight two issues that significantly
15 concern a number of our members. Some of whom
16 may be making further submissions in response to
17 this public hearing on their own behalf, and I
18 understand, for example, that Newmont will be
19 making a presentation in Cambridge Bay. The two
20 issues we'd like to highlight are duplicate or
21 overlapping requirements for reclamation
22 security, double bonding, and thresholds of use
23 of water without a licence.

24 Double bonding occurs where a licensee must
25 provide financial security to more than one payee
26 to address the same or related reclamation

1 requirement. Given the significant amounts of
2 security that may be required for large-scale
3 mining operations, double bonding has the
4 potential to act as a significant deterrent to
5 the investment necessary for the development of
6 the mineral resources in Nunavut. It could,
7 therefore, put the territory at a competitive
8 disadvantage compared to other jurisdictions
9 throughout the world. Several mining companies
10 have been running into this problem for a number
11 of years. Industry was hopeful that the
12 long-standing concern with double bonding could
13 be addressed, at least in part, by incorporating
14 the appropriate provisions in these proposed
15 Nunavut regulations; however, during the
16 technical preconference meetings held this
17 spring, Aboriginal Affairs indicated that the
18 department does not intend to address this matter
19 through the rough draft regulations and has
20 restated that today, but rather through a
21 pan-northern approach or possibly through new
22 legislation or elsewhere, such as under the
23 *Mining Act*. Given the important differences that
24 exist between the regulatory regimes now
25 established in the Yukon, Northwest Territories,
26 and Nunavut, the industry questions whether a

1 pan-northern approach is feasible. If this
2 approach is adopted, it will lead this
3 longstanding and potentially damaging issue
4 unresolved in Nunavut -- for a prolonged period
5 of time. Thereby adversely affecting the
6 exploration for and development of the
7 territories' unrealized mineral potential.
8 Rather we believe that the issue of double
9 bonding should be addressed immediately under
10 these proposed regulations, as there are a number
11 of projects coming forward in the next year.

12 The industry fully agrees with the need to
13 ensure that adequate financial security will be
14 available in order to restore and rehabilitate
15 lands and waters affected by mineral exploration
16 by mining operations, if the operator fails to do
17 so. However, the divided jurisdiction over
18 surface lands and the concurrent jurisdiction of
19 the Nunavut Water Board over water resources
20 makes for a complicated process. As a result,
21 developers are potentially liable for security
22 pursuant to both the surface lease, whether
23 administered by the designated Inuit association
24 or Aboriginal Affairs and the Water Board.
25 Consequently, if a project were to be located
26 partly on Inuit-owned land and partly on Crown

1 lands, it would potentially be obligated to
2 provide three levels of security.

3 On a number of occasions leading up to the
4 technical preconference hearings in May, the
5 Nunavut Water Board proponents and the regional
6 Inuit associations have all raised this issue as
7 a concern or a problem to Aboriginal Affairs, but
8 to our knowledge, so far an actual solution has
9 yet to be offered. What we are proposing here
10 today is a solution. It's a way for the Nunavut
11 Water Board to take into account security that
12 has already been posted with the regional Inuit
13 association. This solution is detailed in our
14 written submission on page 2; however, for the
15 record, I will reiterate a recommendation that
16 Section 10 of the regulations be amended as
17 Section 10(2) in fixing an amount of security,
18 the Board must have regard to 'C', the amount and
19 terms of any security to pay the cost referred to
20 in subsection 1 that the Minister required the
21 applicant, licensee, or prospective assignee
22 to furnish pursuant to a lease or other
23 disposition of any federal land that is necessary
24 to carry out the undertaking, and as well,
25 Section 10(3), where an undertaking is located
26 wholly or partly on Inuit-owned land in fixing an

1 amount of security, the Board may also have
2 regard to 'A', the amount and terms of any
3 security the designated Inuit organization
4 requires the applicant, licensee, or perspective
5 assignee to furnish in order to pay the cost
6 referred to in subsection 1 in relation to the
7 Inuit-owned land on which the undertaking is
8 located, and 'B', any agreement between the
9 Minister and the designated Inuit organization
10 respecting the amount, terms, form, and
11 application of security that the applicant is
12 required to furnish in relation to the
13 undertaking.

14 This suggested amendment identifies a
15 pathway through this issue and could be the
16 catalyst that allows all parties to come together
17 to form an agreement without limiting the
18 regional Inuit association to what they ask for
19 in security. On behalf of the industry, we
20 respectfully request that the Nunavut Water Board
21 endorse this revision to the draft regulations in
22 order to resolve this issue of duplicate
23 reclamation security to the greatest extent
24 possible. Successfully resolving the
25 double-bonding issue will help to maintain
26 Nunavut's glowing reputation as an attractive

1 destination for investment. Doing so now, rather
2 than later, will strengthen the confidence needed
3 to make the significant investments that are
4 required to advance the many mineral development
5 projects that are situated on both Crown and
6 Inuit-owned lands throughout the territory. With
7 the appropriate amendments, the regulations will
8 enhance the clarity and efficiency of the
9 regulatory process and thereby help to ensure
10 that Nunavutian will enjoy the full potential of
11 Nunavut's mineral endowment.

12 Our second issue for consideration is
13 raising the threshold for use of water without a
14 licence. Again, it's already been mentioned. As
15 I stated earlier, the industry is encouraged by
16 the provisions included in the draft regulations
17 that would allow low level use of water without a
18 licence. However, we remain concerned that the
19 maximum permissible limit for unlicensed use is
20 unduly restrictive. The corresponding
21 regulations in both Yukon and Northwest
22 Territories allow the use of water without a
23 licence at a rate of up to 100 cubic metres per
24 day. If adopted, schedule 2 of the proposed
25 Nunavut regulations would establish an upper
26 limit of only 50 cubic metres per day or one

1 half of the limit that has been long in place in
2 the other two northern territories. If
3 implemented in its present form, the proposed
4 limit will not resolve the current situation in
5 Nunavut where the use of water at comparatively
6 minor rates requires operators to fulfill
7 regulatory requirements that are much more
8 extensive than those that prevail in the Yukon
9 and the Northwest Territories. As a result, if
10 the draft regulations are intended to streamline
11 Nunavut's application and approval process, then
12 this proposed structure will fall short of that
13 goal. Our recommendation is simple, we propose
14 that item 2(4) of schedule 2, columns 3 and 4 be
15 amended to read as follows -- and, again, these
16 are detailed in the written submission on page
17 3 -- column 3, use of less than 100 cubic metres
18 per day. Column 4 use of 100 cubic metres per
19 day but less than 300 cubic metres per day. An
20 increase from 50 cubic metres per day in each
21 case. In our view, the higher threshold would
22 better reflect the size and significance of the
23 operation being considered without the risk of
24 adverse impacts on the water resources of the
25 territory. While the industry welcomes the
26 adoption of provisions to permit some uses of

1 water in Nunavut without a licence, we believe
2 that the threshold that requires a type 'B'
3 licence can easily be increased to the same level
4 as the limit in effect in the Yukon or Northwest
5 Territories, in essence, 100 cubic metres per
6 day.

7 That concludes my presentation. Thank you
8 again for the opportunity to participate.

9 THE CHAIR: Thank you. Questions from
10 Aboriginal Affairs to the intervener?

11 **Aboriginal Affairs Questions Chamber of Mines**

12 MR. BINDA: Gilles Binda. Thank you,
13 Elizabeth. That was a good presentation. Again,
14 they are issues that we know are out there. I
15 won't address the security issue. We've heard
16 it. What I'd like to discuss is the threshold.
17 I'd like to -- what we'd like to hear is what are
18 the benefits of going up to 100 from 50? And is
19 it realistic that there would be that many --
20 let's say, in the mining industry that would fit
21 under the 50, given the type of work that's
22 included even exploratory camps and stuff like
23 this would still have to deposit waste and
24 everything, and in our regulations, the only
25 deposit of waste under mining exploration that's
26 allowed without a licence is deposit of sewage to

1 a sump, so anything else, that would be drilling
2 or anything else that would require bigger camps
3 and all this would still fall to a 'B' licence
4 anyway because of the -- of the deposit -- or
5 possible deposit of waste that would be required
6 under the work. If you -- we welcome any
7 comments, clarifications that would help us
8 perhaps move the threshold to a higher level, if
9 we saw that there was a clear benefit from doing
10 so from -- especially from -- coming from the
11 Chamber and the mining industry. We still don't
12 see if many additional projects, especially from
13 the mining industry, would fall under that, even
14 if they were using less than 100 would still
15 qualify given the type of waste that would be
16 produced and would still fall under a use without
17 a licence. As we pointed out earlier, the
18 requirement of a -- of a -- if a project requires
19 a 'B' licence because of, let's say, a deposit of
20 waste, no matter how much water is being used, it
21 would still require a 'B' licence anyway and the
22 proponent would still have to apply for a 'B'
23 licence. You always -- you have to apply for
24 whatever the highest threshold is required for a
25 project one way or the other, so it's just --
26 we -- we would appreciate any clarification, and

1 if you can give us some information on that that
2 would help us, that would be great. We're not
3 saying no, no, no. We're saying show us if --
4 and give us -- point us in the way, and we'll try
5 and help you out on this one.

6 MS. KINGSTON: Thank you for your
7 question. Elizabeth Kingston, Chamber of Mines.
8 I'm going to attempt to partially answer your
9 question or at least as best I can, but if I may,
10 I would like to bring it back to -- my technical
11 advisors and our working group and try to come
12 back with a -- with a better argument in writing,
13 if that's agreeable to the Board. We can do that
14 before the end of week to -- before the end of
15 your hearing process, if that's agreeable.

16 MS. FILIATRAULT: Thank you, Mr. Chairman.
17 Dionne Filiatrault, yeah, that's -- any
18 clarification that you can provide before the
19 close of the hearing would be most helpful to the
20 Board.

21 THE CHAIR: Thank you.

22 MS. EMRICK: Were you going to provide
23 an answer now, to the extent that you are able?

24 MS. KINGSTON: Thank you. I will -- just
25 to clarify, I will go back to our working group
26 and provide a more detailed response, but I can

1 make a couple of comments, just initially. The
2 intent overall is to work with our -- our
3 grass-roots exploration companies. This has a
4 huge impact on the smaller operator, the smaller
5 exploration group, and what we're concerned
6 about, as the industry, is that there are as many
7 as 60 exploration projects coming on stream in
8 the territory within the next year. So there's
9 more and more activity that's coming into the
10 territory, so we would like to have as much
11 flexibility within the licencing as is required,
12 and when you referred earlier to a 35 percent
13 reduction at the level of administration required
14 by the Water Board, that sounds like a great
15 number, but our feeling is that essentially with
16 a more generous threshold before the requirement
17 of a type 'A' licence that could increase it
18 maybe to 45 or 50 percent reduction in
19 administration, I'm not sure not being privy to
20 how you calculated that amount, so, basically,
21 we're essentially trying to ensure that our
22 smaller one- and two-person operations are
23 allowed to engage but also that we are aware of
24 the pressures that the Nunavut Water Board and
25 the environmental review process in general is
26 under in Nunavut, and we feel that as

1 much flexibility that's allowed for those groups
2 to work with will, overall, help the industry and
3 exploration in the territory, but I will come
4 back after meeting with the group and provide a
5 written submission. Thank you. I hope that
6 helps.

7 THE CHAIR: Thank you. Any more
8 questions from Aboriginal Affairs?

9 MR. BINDA: No.

10 THE CHAIR: Thank you. Questions from
11 the public to Chamber of Mines?

12 Questions to Chamber of Mines from staff?

13 **Nunavut Water Board Staff Questions Chamber of**
14 **Mines**

15 MS. FILIATRAULT: Thank you, Mr. Chairman.

16 I have one question. The working group
17 review that was done suggested that there was
18 very few type 'B' licences that would be affected
19 by the water use trigger volume between 50 cubic
20 metres to 100 cubic metres. That being said,
21 because the waste is the trigger -- for the
22 disposal of waste is the trigger that triggers
23 most of the exploration projects into a type 'B'
24 scenario. It would be helpful in the
25 clarification that you're going to be seeking --
26 and I can understand you probably can't give

1 me -- or give the Board any examples now, but if
2 you can give examples of projects that you feel
3 would fit within that threshold, it would be most
4 helpful to us and the Board, thank you.

5 THE CHAIR: Thank you.

6 MS. EMRICK: I just have one question.
7 I'm wondering if -- sorry, Catherine Emrick. I'm
8 legal counsel for the Board. I just have one
9 question regarding the tradeoff in terms of
10 timing. If it takes some time to have an
11 agreement reached on amendments to the securities
12 section of the regulations. There could be a
13 potential tradeoff between that and the ability
14 to implement the regulations and the de minimis
15 use or uses of approvals without a licence. I'm
16 just wondering if the Chamber of Mines has sort
17 of a sense of that tradeoff in terms of how long
18 you would be comfortable if there is a delay to
19 address security in this round of the
20 regulations, thanks.

21 MS. KINGSTON: Thank you for your
22 question. And it's a fair question, and we've
23 had a diverse number of responses when we polled
24 our membership on that very question. I would
25 like to restate that we are very happy to see
26 that there is some movement towards de minimis

1 use without a licence, so we're very happy to see
2 that, and we want to ensure that that's not
3 interrupted and that is allowed to happen, but we
4 did want to take this opportunity to reiterate
5 that a higher threshold would be advantageous to
6 our groups, but I can certainly bring that back
7 and elaborate more on that in written comments
8 before the end of the week, if that would be
9 helpful. Thank you. Sorry, I'm Elizabeth
10 Kingston.

11 THE CHAIR: Thank you. Any more
12 questions from staff? Questions to the Chamber
13 of Mines from board members?

14 Thank you, thank you.

15 The Board would like to thank the parties,
16 including especially Aboriginal Affairs and
17 Northern Development of Canada; Chamber of Mines;
18 staff and legal counsel; the interpreters, Saali
19 Peter, Etienne Denis, and Ben Kogvik; court
20 reporter, Toni Rizzoli; Ryan Dempster with PIDO
21 Audio Systems; and all the community members for
22 their participation in this hearing. Thanks also
23 to the community of Iqaluit for their outstanding
24 hospitality and patience with the Board.

25 This hearing will continue on Thursday,
26 September 15th, in Rankin Inlet. With that, I'd

1 like to ask Lottie Toomassie to do the prayer.

2 (Closing prayer)

3 (WHICH WAS ALL THE EVIDENCE TAKEN AT 4:42 PM)

4

5

6 CERTIFICATE OF TRANSCRIPT:

7 I, Toni Rizzoli, certify that the foregoing pages
8 are a complete and accurate transcript of the
9 proceedings, taken down by me in shorthand and
10 transcribed from my shorthand notes to the best
11 of my skill and ability.

12 Dated at the City of Calgary, Province of
13 Alberta, this 20th day of September, 2011.

14

15

16

17

18 Toni Rizzoli, CSR(A)

19 Official Court Reporter

20

21

22

23

24

25

26