

NUNAVUT WATER BOARD	
Date:	Oct. 8/14
Exhibit No.:	22

(7pgs)

**MEMORANDUM OF AGREEMENT (Agreement)**  
**BETWEEN**  
**HER MAJESTY IN RIGHT OF CANADA, AS REPRESENTED BY THE MINISTER OF**  
**FISHERIES AND OCEANS CANADA (DFO)**  
**AND**  
**CANZINCO MINES LTD., A SUBSIDIARY IN THE NYRSTAR GROUP OF**  
**COMPANIES (CANZINCO)**  
**CONCERNING**  
**USE OF THE EXISTING CONCRETE PAD DURING REMEDIATION OF THE**  
**FORMER TANK FARM FACILITY AT NANISIVIK, NUNAVUT**

**PURPOSE**

The purpose of this Memorandum of Agreement (the 'Agreement') is to set out the terms and conditions for the temporary storage of petroleum hydrocarbon contaminated soil on the existing concrete pad at the former tank farm facility at Nanisivik, Nunavut. The use of the pad is provided in order to support a more efficient and rapid implementation of the remediation work completed by CanZinco Mines Ltd. (CanZinco).

This Memorandum of Agreement supersedes the previous agreement entered into between the same parties on 16 July 2013 for the 2013 and 2014 remediation seasons.

**1. DEFINITIONS**

The following definitions apply to this Agreement:

The Pad	The parts of the concrete pad shown in green and blue on the figure in Appendix A.
Concrete Pad Soil Movement Plan	A plan submitted by CanZinco to the DFO in advance of the 2014 and 2015 remediation seasons describing anticipated soil movements, modifications, monitoring procedures, mitigation measures, water management works and scheduling considerations as it concerns the use of the Pad.

## **2. BACKGROUND**

- 2.1 The former Nanisivik mine is located near the hamlet of Artic Bay, on the south shore of Strathcona Sound on the northern coast of Baffin Island in Nunavut. The former mine site includes a dock which was historically used by the mine for the storage of fuels. The land at the dock site is owned by the Government of Canada. Fisheries and Oceans Canada (DFO) is the current federal custodian of the land at the dock site.
- 2.2 CanZinco is in the process of completing environmental remediation at the dock site in accordance with the provisions of a lease agreement and a Water License (1AR-NAN0914) issued by the Nunavut Water Board (NWB). The licence expired on 31 March 2014 but is being held over for the 2014 remediation season. An application from CanZinco to renew and amend the licence has been filed with the NWB, however the renewed licence will not be in place for the upcoming 2014 summer season. Currently, contaminated soil remains in the former tank farm area, and its presence may conflict with the Department of National Defence (DND) Naval Facility construction project. This Agreement is intended to allow for the movement of soil from the former tank farm area which will ultimately help the DND to begin construction of their naval facility. The Agreement allows for the use of the Pad through August 1, 2015 subject to the terms and conditions outlined herein.
- 2.3 DFO and DND have ongoing operational requirements at the Nanisivik dock site. Use of the Pad for temporary storage of contaminated soil must be managed in a manner that will not negatively impact the current or future operational requirements of DFO and/or DND or cause undue risk to human health and safety or the environment. It is assumed that CanZinco will follow the terms and conditions of the expired Water Use License and the requirements of a renewed license issued by the NWB, when available.

## **3. CONCRETE PAD**

- 3.1 The portion of the site containing the concrete pad (the Pad) has been previously remediated to an acceptable standard. CanZinco will be permitted to use the Pad for temporary stockpiling of contaminated soil between July 1, 2014 and August 1, 2015, subject to the terms and conditions of this Agreement.
- 3.2 DND will require use of the Pad after August 1, 2015 in support of construction activities.
- 3.3 DFO will not require use of the Pad during the Canadian Coast Guard's (CCG) intermittent six-week re-supply operations, between July 1, 2014 and August 1, 2015.

#### **4. CONDITIONS FOR USE OF CONCRETE PAD**

- 4.1 For the portion of the Pad identified for their use (Appendix A), CanZinco will be responsible for:
  - a. Preparation of the Pad and associated water management structures for use in July 2014;
  - b. Maintenance of the Pad, associated water management structures, and any associated modifications during use between July 1, 2014 and August 1, 2015 (including winterizing the Pad in September 2014 and re-opening in June 2015); and
  - c. Restoration of the Pad and associated water management structures to the condition that existed on May 31, 2013, by August 1, 2015.
- 4.2 The Pad shall only be used for the temporary stockpiling of petroleum hydrocarbon contaminated soil as outlined in the Concrete Pad Soil Movement Plans. Contamination levels for the soil placed on the pad shall not exceed the Canadian Council for Ministers of the Environment (CCME) Management Limits. The CCME Management Limit for the F2 fraction is 1,000 ppm. Soil will not be stored within 10 metres of the trailers currently situated on the southwest corner of the Pad.
- 4.3 Descriptions of anticipated soil movements and any modifications to the Pad shall be described in Concrete Pad Soil Movement Plans submitted to the DFO in advance of each remediation season. The Plans shall outline the scope and schedule of anticipated works, modifications, type of soils to be stockpiled, mitigation measures, surface water management, monitoring, and restoration.
- 4.4 CanZinco will submit condition reports for the Pad and potentially affected surrounding areas:
  - a. Prior to use in 2013. The condition of the Pad and modifications made were documented in a memo issued to the DFO on 20 July 2013. The memo is attached as Appendix B.
  - b. During use from July 1, 2014 to August 1, 2015, monitoring of the Pad and associated water management structures shall be included in the bi-weekly reports provided to the DFO. Monitoring requirements include soil sampling of stockpiles, surface water sampling, and inspection of any modifications.
  - c. Following restoration by August 1, 2015, the final condition of the Pad shall be assessed and documented.
  - d. All reports are to be reviewed and accepted by DFO.
- 4.5 Mitigation measures are to be implemented to ensure there will be no adverse environmental affects to the Pad or surrounding (potentially affected) areas. The structural integrity of the Pad shall not be compromised. The Concrete Pad Soil Movement Plans shall also document the procedures to winterize the Pad and associated modifications in September 2014 and to re-open the area in June 2015.



- 4.6 Monitoring requirements shall be outlined in the 2014 and 2015 Concrete Pad Soil Movement Plans. Sampling and analysis in the immediate surroundings of the Pad shall be completed prior to CanZinco evacuating the Pad on August 1, 2015. The sampling and analysis shall be completed using the protocol for confirmatory soil sampling approved from time to time by the Nunavut Water Board.
- 4.7 Any water accumulating within the bermed areas of the Pad shall be collected and disposed of within the water management system implemented for the soil treatment cells. Surface water runoff shall be diverted away from the Pad.
- 4.8 Unless otherwise agreed to by the parties, by August 1, 2015 the Pad and surrounding areas shall be restored to the condition that existed on May 31, 2013. Restoration activities shall be documented and compared with the baseline condition.
- 4.9 CanZinco will develop and submit a contingency plan to DFO for review and approval by August 31, 2014. The plan shall provide a description of proposed contingency measures that may be implemented should evacuation of the Pad by 1 August 2015 not be feasible.
- 4.10 Should unforeseen events (e.g. road access, equipment failure, inclement weather) delay completion of the soil movement and remediation, then DFO and CanZinco will revisit the terms and conditions of this Agreement and negotiate in good faith to reach a mutually acceptable amendment to the Agreement.
- 4.11 CanZinco, DFO, DND and their representatives or contractors will co-operate with each other during any periods of joint occupation on the site to ensure that parallel activities are coordinated in a manner that allows all parties to meet their respective operational requirements.
- 4.12 Costs related to this agreement shall be borne by CanZinco, with the following exceptions:
  - a. Costs for testing activities undertaken by DFO or DND, as outlined in section 5.0, shall be borne by DFO and DND; and
  - b. Costs associated with the implementation of the contingency plan described in section 4.9 shall be negotiated between the parties and documented in the plan.

## **5.0 TESTING**

- 5.1 DND may complete periodic testing of the soil being stored on the Pad during the 2014 field season. Independent testing is required to facilitate DND's future redevelopment project and to establish baseline conditions prior to the transfer of federal administration between DND and DFO. Test results shall not impact

CanZinco's obligations with the regulatory authority and shall not be used for any purposes other than to facilitate the DFO's transfer of administration of the land to the DND.

- 5.2 DFO shall notify CanZinco at least five days in advance of the date when DND or any other party requires access to the pad. CanZinco is not required to provide access to any party except DFO unless this notification has been provided. However, access by DND or any other party will not be unreasonably withheld.

## **6.0 TERMINATION**

- 6.1 If CanZinco fails to perform or observe the conditions contained in this Agreement the DFO may give CanZinco written notice of the breach and if CanZinco fails to rectify the breach to the DFO's satisfaction, acting reasonably, within thirty (30) days after receipt of the notice, the DFO may declare the Agreement terminated.

## **7.0 NOTICES AND CORRESPONDENCE**

- 7.1 Any notice given under the Agreement shall be given in writing, and shall be delivered by messenger, by prepaid registered mail, by facsimile or by email to the following address:

DFO - Kevin Bill  
Real Property, Safety and Security  
Central & Arctic Region  
Fisheries and Oceans Canada  
520 Exmouth Street, Sarnia, ON N7T 8B1  
Telephone: 519-464-5129  
Fax : 519-383-1992  
Email: [Kevin.Bill@dfo-mpo.gc.ca](mailto:Kevin.Bill@dfo-mpo.gc.ca)

CanZinco - Johan Skoglund  
Group Manager Environment  
CanZinco Mines Ltd.  
c/o Nyrstar Sales & Marketing AG  
Tessinerplatz 7  
CH-8002 Zurich, Switzerland  
Tel: +41 44 745 8210  
Email: [johan.skoglund@nyrstar.com](mailto:johan.skoglund@nyrstar.com)

or to such other address as may be specified in writing during the course of the Agreement.

- 7.2 Each such notice will be deemed given: (i) when received, if delivered by messenger; (ii) upon confirmation of receipt, if given by facsimile or email; or (iii) four (4) business days after the date of mailing if sent by prepaid registered mail.

#### **8.0. LANGUAGE**

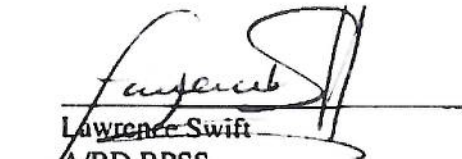
- 8.1 The parties confirm that it is their wish that the Agreement as well as all other documents relating to the Agreement, including notices, be drawn up in English only.

#### **9.0 APPLICABLE LAW**

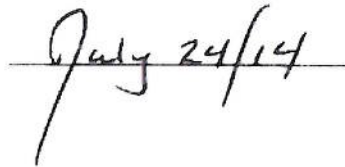
- 9.1 The Agreement and all matters relating to the Agreement (whether in contract, statute, tort (including, without limitation, negligence) or otherwise), is governed by and construed in accordance with the laws of British Columbia (without giving effect to the choice of law principles thereof).

#### **10. EFFECTIVE DATE AND SIGNATURE**

- 10.1 Provisions of the Agreement are confirmed by the authorized representatives of the Participants.

  
Lawrence Swift  
A/RD RPSS  
Fisheries and Oceans Canada

Date:



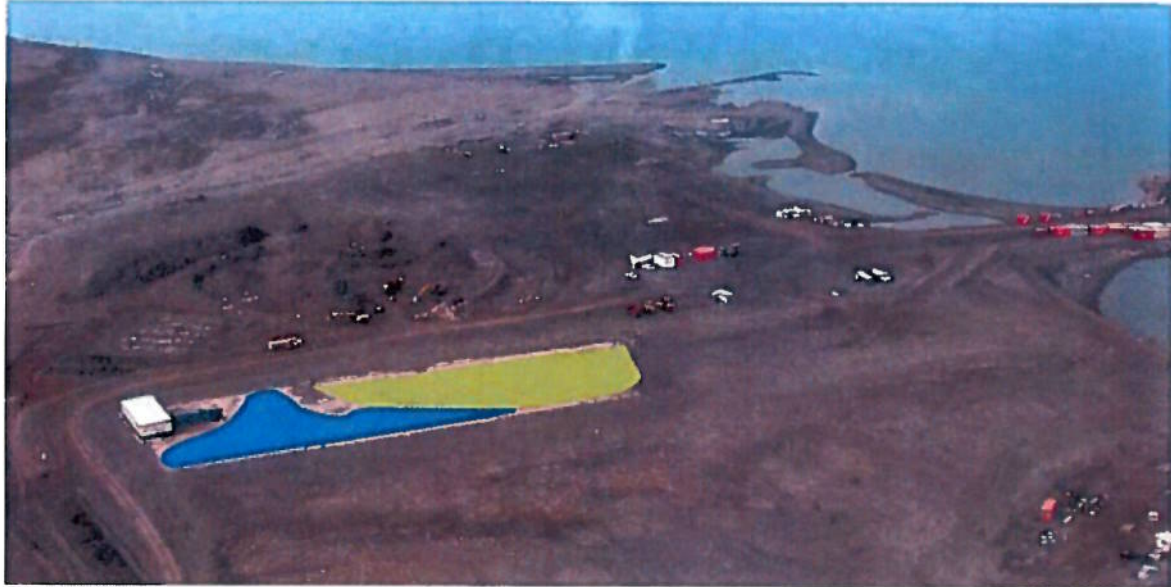
  
Johan Skoglund  
Group Manager Environment  
CanZinco Mines Ltd.

Date:





**Appendix A: Concrete Pad Areas Regulated by Memorandum of Agreement**



**Green area:** Area of concrete pad currently in use by CanZinco.

**Blue area:** Additional area of concrete pad to be used in 2014 and 2015.