

NUNAVUT WATER BOARD

Licence No. 1AR-NAN0914 Type A Licence
Renewal/Amendment Application

PUBLIC HEARING

VOLUME 2

Arctic Bay, Nunavut

October 9, 2014

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1 (PROCEEDINGS COMMENCED AT 9:03 AM)

2 THE CHAIR: Welcome back, everyone, and
3 good morning. This morning we will start with DFO's
4 presentation, and after they'll all done, we will open
5 questions to DFO from the applicant, AANDC, DND,
6 public, staff, and Board. Not necessarily in that
7 order, but we'll start with DFO's presentation.

8 KEVIN BILL, Affirmed

9 THE CHAIR: Go ahead.
10 Presentation by Department of Fisheries and Oceans
11 Canada

12 MR. BILL: Thank you, Mr. Chairman. The
13 presentation is, essentially, the -- or is exactly the
14 same as what was provided last night at the public
15 hearing. I can provide a little bit more details. My
16 name is Kevin Bill, and I'm here representing Fisheries
17 and Oceans Canada. A quick summary of the
18 presentation. Again, I'll describe DFO's mandate and
19 our reasoning, our interest, and participation in the
20 licence and amendment renewal; our earlier
21 participation in the completeness of technical review
22 portions of the process; DFO -- our submission to the
23 technical hearing and the prehearing conference; and
24 finally, our review of supplemental information
25 provided by the applicant.

26 So Fisheries and Oceans is a fairly large

1 department in terms of the number of sectors that we
2 have. We have science, conservation and protection,
3 hydrographic service, Canadian Coast Guard.

4 With respect to the application for the renewal of
5 the licence, the two sectors within our department that
6 potentially would have interest would be the DFO
7 Fisheries Protection Program, formerly known at the
8 Habitat Program. They have participated in the
9 previous renewals of the licence, and as outlined in
10 the most recent and provided to myself, they have no
11 concerns with respect to the remediation and
12 reclamation of the site with respect to the impact or
13 potential impact on fish and fish habitat. I -- I'm
14 here representing DFO Real Property Management who are
15 the current administrator of the site on behalf of the
16 Crown, and our primary interest is to ensure that the
17 obligations outlined within the lease are being met.

18 With respect to our participation in the earlier
19 parts of the process, the completeness and technical
20 review -- I guess I should preface by saying that our
21 primary interest is with the activities for the
22 remediation in the -- in the dock area and tank farm.
23 That's where our lease and property is located, so
24 that's the primary part of the application we're
25 commenting on. During the completeness review, our
26 initial comments focused on Appendixes I and J of the

1 application, which includes the proposed amended
2 remedial approach, which has subsequently been
3 withdrawn from the process is or from the application.
4 Subsequent to that, during the technical review, we
5 provided comments and recommendations with respect to
6 the field sampling. At that time, it recommended a
7 shift from composite sampling to discrete confirmatory
8 sampling that would allow -- assist in the verification
9 of the remediation and also some comments with respect
10 to the remediation progress reports and that perhaps
11 they could be more comprehensive and include additional
12 information.

13 As a result of the technical hearing and
14 prehearing conference, there were several commitments
15 that DFO agreed to provide to the Board. The first was
16 information on the memorandum of agreement between DFO,
17 DND, and CanZinco. DFO and CanZinco had assigned a
18 memorandum of agreement that extended the use of the
19 concrete pad for temporary storage of soil in order to
20 facilitate the remediation project and DND's Nanisivik
21 naval facility construction to proceed concurrently.
22 The agreement requires that all the soil be removed
23 from the pad by August 1st of 2015. And DFO and DND
24 are currently finalizing a memorandum of understanding
25 to transfer the administration of the site from DFO to
26 DND. We were also requested to provide additional

1 information on the lease between the Crown and
2 CanZinco.

3 This slide provides -- there's a diagram of the
4 site. It's an older diagram or graphic that outlines
5 the boundary of the lease, the boundary of the total
6 size of the property. The original lease was signed
7 between the Crown and Nanisivik Mines Limited in 1978,
8 and at that time, it was administered by the ministry
9 of transport. The lease includes 30.36 acres of land.
10 Administration of the site was transferred to Fisheries
11 and Oceans Canada from Transport Canada in 1998. The
12 final lease for the site expired on December 31st of
13 2003. It was not renewed. The requirement -- the
14 information that was provided to the Board outlines --
15 includes the lease and also highlights the sections
16 within the lease that obligate the lessee to remove all
17 the structures and return the site to the previous
18 condition and that that remains in place even with the
19 expiration or even if it were a cancellation of the
20 lease itself.

21 So our most recent review of information was
22 specific to these three topics outlined on the slide.
23 First, the remediation confirmatory soil sampling
24 methodology: We had no specific concerns with the
25 methodology itself. It was reviewed against the
26 federal contaminated sites action plan guidance for

1 sampling sites on federal properties, and it's
2 consistent with that. It was also reviewed against
3 some other guidance documents. Methodology used to
4 develop site-specific remediation objectives: We have
5 no significant concerns with the proposed methodology.
6 We will have additional comments when the further
7 information is provided on the development of those
8 site-specific remediation objectives. Finally the
9 updated abandonment and reclamation plan: We have no
10 specific concerns with the proposed plan. We did have
11 some questions with respect to removal of some of the
12 remaining liner within the area and subsequent field
13 reports have outlined that that will be removed as
14 well.

15 So that's a brief summary of our -- our review of
16 those follow-ups and the supplemental information, and
17 at that time, that's the conclusion of the
18 presentation, and I'd be happy to field any questions.

19 THE CHAIR: Thank you. We will open the
20 questioning from the applicant to DFO.

21 Nyrstar Canada (Holdings) Limited Questions Department
22 of Fisheries and Oceans Canada

23 MR. SKOGLUND: Johan Skoglund from CanZinco.
24 I'd just like to state for the record that, from our
25 point of view, we've made several attempts to renew
26 this lease with the DFO, but the DFO has expressed that

1 they don't see an interest in renewing the lease, so I
2 would like the Board to be aware that we have made
3 those attempts. I would also like to comment on one of
4 the things that was said in the presentation that our
5 obligations are maintained if the lease is cancelled.
6 I don't agree with that opinion, and we will -- we will
7 seek a legal opinion on that.

8 THE CHAIR: DFO?

9 MR. BILL: Kevin Bill with Fisheries and
10 Oceans Canada. Yes, CanZinco has approached Fisheries
11 and Oceans Canada to update and renew the lease, and
12 the Department was of the opinion that, because of the
13 obligations remaining with the expiration of the lease,
14 that, at the current time, it was not of a benefit to
15 the Department to renew it.

16 With respect to the comment with the cancellation
17 or expiration, as outlined in -- in our submission to
18 the Board, we reference the relevant sections of the
19 lease that include that information.

20 THE CHAIR: Thank you.

21 Applicant?

22 MR. SKOGLUND: Johan Skoglund, CanZinco. The
23 comment was in terms of the cancellation of the lease.
24 I find it strange that, if a lease is cancelled, that
25 the obligations will remains, so that was my comment in
26 relation to that.

1 THE CHAIR: Thank you. Any further
2 comments?

3 MR. BILL: No. Not at this time.

4 THE CHAIR: Any further questions?

5 Next, AANDC?

6 MS. COSTELLO: Karen Costello for Aboriginal
7 Affairs. We have no questions at this time. Thank
8 you, Mr. Chair.

9 THE CHAIR: Thank you.

10 DND?

11 MR. LEMAY: Louis LeMay from Defence
12 Construction Canada for DND. We don't have a question
13 at this time. Thank you.

14 THE CHAIR: Thank you.

15 Questions from the public? Questions from the
16 public? Tommy?

17 Questions from Members of the Public

18 TOMMY TATATUAPIK: It's probably off. My
19 question, DFO, I -- there are two sides to DFO, the
20 fish and fish habitat and we call them lakes, fish
21 lakes. In the ocean, in Inuktitut, we call the oceans
22 fish as cod or turbot and bottom feeders. We don't
23 call them fish, so to my understanding, my question to
24 DFO is how do you define the ocean fish and the lake
25 fish, and -- if you can understand my question.

26 THE CHAIR: DFO?

1 MR. BILL: Kevin Bill, Fisheries and
2 Oceans Canada.

3 So if I understand the question, it's how
4 Fisheries and Oceans Canada defines lake fish versus
5 ocean fish. The way the Fisheries Act is structured in
6 the definition of fish, there is no distinction between
7 lake fish and ocean fish. They're all encompassed
8 within that definition, so there is no distinction with
9 considering what is a fish or what isn't a fish.
10 They're all considered the same under the regulations
11 and the acts.

12 THE CHAIR: Thank you.

13 (OTHER LANGUAGE SPOKEN)

14 TOMMY TATATUAPIK: Thank you. I got it. I
15 understand. But Inuit have specific names for
16 different species, so fish -- so when you say "fish",
17 we have to know what species of fish you're talking
18 about, so -- although you say "fish", we know, under
19 your definition, but we need to be more specific to say
20 whether it's ocean fish or if it's a non-fish, but if
21 you just say "fish", like, there's cod and other fish
22 in the ocean. We have to be more specific when you're
23 talking about fish especially because if you just said
24 fish habitat, let's say, I wouldn't understand which
25 species you're talking about. Thank you.

26 THE CHAIR: Thank you.

1 DFO?

2 MR. BILL: Thank you, Mr. Chair. Kevin
3 Bill, DFO. Yes, sorry. I was speaking initially with
4 just the generic definition of fish and how the
5 Fisheries Act would apply. With respect to the
6 identification and what type of species could be
7 potentially impacted that would definitely -- within a
8 review of any given project or development project, the
9 Fisheries Protection Program would provide comment on
10 potential impacts of that activity with respect to a
11 species, as the definition within the Fisheries Act now
12 states, that is important commercial recreation or
13 aboriginal fishery or if it's significant impact to the
14 habitat that supports that fishery, so any review of
15 any project would provide advice specifically to any
16 species present in the area that could potentially be
17 impacted by the activity.

18 THE CHAIR: Thank you.

19 (OTHER LANGUAGE SPOKEN)

20 Questions to DFO from Staff?

21 Nunavut Water Board Staff Questions Department of
22 Fisheries and Oceans Canada

23 MR. JOSEPH: Sean Joseph, NWB. Thank you,
24 Mr. Chair. We have two questions for DFO.

25 THE CHAIR: Go ahead.

26 MR. JOSEPH: Our first question has to do

1 with the memorandum of agreement. As part of the terms
2 and conditions included in the memorandum of agreement,
3 there is requirement to -- for the proponent, CanZinco,
4 to supply certain management plans and reports. One of
5 the things that NWB is wondering is whether this
6 information is public or can be provided to the -- to
7 the Board?

8 THE CHAIR: DFO?

9 MR. BILL: Kevin Bill, Fisheries and
10 Oceans Canada.

11 I believe that you're referring to the soil
12 management plan that's referenced in the agreement?

13 MR. JOSEPH: Sean Joseph, NWB.

14 That is correct.

15 MR. BILL: Kevin Bill, Fisheries and
16 Oceans.

17 I would suggest that we probably could share that
18 with the Board. It outlines, as you mentioned, what
19 activities would be undertaken to move soil and -- and
20 also the time frame for that, so I believe we could
21 provide that to the Board.

22 MR. JOSEPH: Thank you, DFO.

23 Our second question has to do with -- with the
24 transfer agreement that is currently being worked on
25 between DFO and DND, and what -- what we are wondering
26 is whether or not, if the transfer agreement were to

1 actually come into fruition, what would be the -- the
2 consequences of that agreement for the current
3 agreement that is in place between CanZinco and DFO?

4 THE CHAIR: DFO?

5 MR. BILL: Kevin Bill, Fisheries and
6 Oceans Canada. I would suggest that the agreement that
7 is in place currently between DFO and CanZinco would be
8 included in the transfer of administration of the site
9 to DND. I can't speak specifically to that. We
10 haven't had those direct discussions yet, but it would
11 be my opinion that that would be the case.

12 MR. JOSEPH: Sean Joseph, NWB.

13 Thank you, DFO, and that would be all.

14 THE CHAIR: Thank you.

15 Questions to DFO from Board members?

16 Staff?

17 MR. BOYER: Craig Boyer, legal counsel to
18 the Board. I just want to have an understanding.
19 You've referred to the soil management plan, which is
20 referenced in the memorandum of agreement. The
21 memorandum agreement has been provided as one of the
22 commitments following the technical meeting prehearing
23 conference and will be an exhibit in these proceedings.
24 Will you be able to get us the soil management plan in
25 short time? And can you tell us when you would expect
26 to do that because it could have impact on keeping the

1 record open?

2 MR. BILL: Kevin Bill, Fisheries and
3 Oceans Canada. I can attempt to provide that today.

4 THE CHAIR: Any further questions from
5 Staff?

6 Questions to DFO from Board members? Joe?
7 Nunavut Water Board Questions Department of Fisheries
8 and Oceans Canada

9 MR. PAMEOLIK: Thank you, Mr. Chair. Joseph
10 Pameolik, Nunavut Water Board. Although Nunavut Water
11 Board is responsible, our mandate is for freshwater.
12 Hearing from the public yesterday and as an Inuk, we
13 look at our environment as a holistic idea. Has DFO
14 done any types of testing for contaminants from fish
15 from the surrounding area, whether in the summer? Not
16 necessarily a test fishery, however, a small sampling
17 just to see? There is a lake called Kuhulu Lake. I
18 believe there is or was fish in there. We have really
19 an opportunity to clean this place up properly. It's
20 being done through the progress that's coming.
21 However, with DFO's regulations, with your act, has DFO
22 done any type of testing on fish? Thank you,
23 Mr. Chair.

24 THE CHAIR: DFO?

25 MR. BILL: Kevin Bill, Fisheries and
26 Oceans Canada. I'm not aware of any testing or

1 sampling of fish in the area, recent sampling at least.

2 What I can suggest is that I could do further
3 follow-up on that to determine whether or not any has
4 been, but to my knowledge, there has been no sampling
5 done of fish in the area by Fisheries and Oceans
6 Canada.

7 MR. PAMEOLIK: Thank you, Mr. Chair.

8 MS. DEAN: Bernadette Dean, Nunavut Water
9 Board. Just to add to what Joseph said, because my
10 understanding of yesterday's public comments is people
11 in this community still fish from Kuhulu Lake or Kuhulu
12 Lake or whatever, and I would think that it's -- and
13 according to the presentation that you did, it is part
14 of DFO's mandate to protect -- where was it? The
15 Fisheries Protection Program, and I just wanted to
16 remind you of that because there were concerns about
17 whether there was possible contamination from the
18 tailings ponds or things in that area. So I'm just
19 reminding DFO of those things. Thank you.

20 THE CHAIR: DFO?

21 MR. BILL: Thank you, Mr. Chair. Thank
22 you for the comments. That's correct. Fisheries and
23 Oceans Canada does have a responsibility to -- under
24 the Fisheries Protection Program, to determine whether
25 there are potential impacts to a fishery, as I
26 described earlier, or significant impacts to the

1 habitat. That side of our department, as I've
2 described, we have a number of sectors who are
3 responsible for a variety of things. That portion of
4 our department is not my expertise, but I would suggest
5 that the -- perhaps the mechanism to express those
6 concerns from the community level would perhaps be --
7 sorry, this is just my understanding of the process and
8 our activities in the area -- would be to provide those
9 concerns to the Department and the area offices in
10 Iqaluit who have fisheries management biologist and
11 Fisheries Protection Program staff who would be able to
12 provide better comment on that side of our programs.

13 THE CHAIR: Thank you. Any further
14 questions?

15 Any further questions from interveners, public,
16 Staff, Board?

17 On that note, we will take a half-hour break
18 before we get into the closing remarks, and we'll see
19 you back in half an hour.

20 (ADJOURNMENT)

21 THE CHAIR: Welcome back. Before we
22 proceed with other matters, I do believe we have one
23 more question from -- one more question from Tommy to
24 DFO.

25 Tommy?

26 (OTHER LANGUAGE SPOKEN)

1 Questions from Members of the Public

2 TOMMY TATATUAPIK: Thank you. Thank you,
3 Chairman. I first would like to say I want to tell you
4 that I do -- I'm Tommy Tatatuapik from Arctic Bay. One
5 of my responsibilities -- I want to tell you what my
6 responsibilities are. I work for Parks Canada. I
7 was -- I was one of the community members for Parks
8 Canada for over 5 years, and I'm with the rangers for
9 over 14 years, and I also participate in -- just as an
10 elder just expressly to make sure that people that are
11 going to court understand what there is and their
12 responsibilities are in the communities, but I'm part
13 of many communities in our community.

14 And also for government departments, I want to
15 apologize. I keep -- I keep saying I'm here for the
16 public to participate in the communities, but nobody
17 seems to be showing up to listen or to -- I apologize
18 for our community members for not participating in
19 the -- in this hearing because this is really important
20 for us as community members.

21 Maybe if you guys can inform more and -- to the
22 community members of the activities that will be taking
23 place in our community, and I will be talking -- and I
24 want to make sure that I inform all the people about
25 Nanisivik because I was working for Nanisivik for the
26 last 12 years before. I was not just an employee. I

1 was working for Nanisivik at that time.

2 And contaminants, they're a very big issue and
3 concerning for all of us, and I would take part in
4 cleaning the contaminants too at the same time. When
5 the ship was docked in the community and there were
6 contaminants that were leaking out from the boats, it
7 affects all the cods and all the fisheries where that
8 area is, yeah, and chemicals that were leaking to the
9 community -- leaking to the ocean, concentrate. And I
10 was -- I was looking at the assessment monitoring of
11 the creeks, and I just heard for the very first time
12 that those are being monitored, and to say -- the water
13 source, the lake, used to also have fish before, the
14 Twin Lake that was over there. Some of them are 5
15 inch, 12 inches before in the Twin Lake, and -- and the
16 tailings, the lake that was being used as the tailings
17 pond was also -- there was fish before, and Kuhulu Lake
18 is now being used actively by the community members,
19 and all the women go fishing over there.

20 There were many fish in those spots before, and
21 I've never heard from -- that DFO would participate in
22 taking -- in monitoring and everything, so this is the
23 very first time that I'm hearing that they are
24 responsible for monitoring and assessing the impacts
25 that it might have from mining. I just wanted to say
26 that and want to learn more about the assessment that

1 takes place. Thank you.

2 THE CHAIR: Thank you.

3 Is there a response to that?

4 MR. BILL: Kevin Bill, Fisheries and
5 Oceans Canada. To confirm what I believe was the last
6 statement provided with respect to DFO's
7 responsibilities for assessment and monitoring for
8 impacts on fish, that is on ongoing responsibility of
9 DFO. The responsibility to ensure that, as I described
10 earlier, fish have commercial, recreational, aboriginal
11 importance, and the potential for significant impact on
12 the habitat of -- that support those fisheries is the
13 responsibility of DFO.

14 THE CHAIR: Thank you.

15 (OTHER LANGUAGE SPOKEN)

16 Any further questions?

17 LILY KIGUTAK: My name is Lily. I'm from
18 Arctic Bay. I want to know more. I want to know if
19 the animals have been monitored as to -- for the
20 impacts of the contaminants, the land animals and sea
21 animals, and what kind of animals have been identified
22 that are being monitored for contaminants and also the
23 impacts that ships that are coming into our docks and
24 how it impacts the animals, and due to climate change,
25 are those being monitored and assessed at the same
26 time? And because the dock -- they have to be very

1 concerned of all the animals that will be impacted by
2 the dock area, and so I want to know -- I want to make
3 sure that I find out exactly what kind of assessment
4 monitoring and evaluation they have for all the boats
5 that will be coming -- all the ships that are docking
6 into Nanisivik dock.

7 THE CHAIR: Thank you. Is there a
8 response from the applicant, interveners?

9 MR. WATSON: Good morning, Rodney Watson
10 from National Defence. In terms of ship traffic
11 expected at the facility -- and mind you, the facility
12 is not expected to be in operation until the 2017, 2018
13 time frame -- we've identified that we -- we've
14 identified in our initial submission to the Nunavut
15 Impact Review Board that we expect the number of naval
16 vessels to visit the site to be in the range of four to
17 ten visits per season, and that's -- we consider it the
18 navigable season of the year, and that's the ice-free
19 season. It's difficult to speculate at this time the
20 exact number of visits, but I -- if you want to compare
21 the -- to say a private industry, like a mining
22 operation that can be expected to have probably a
23 fairly high amount of ship traffic coming to and from
24 in a season, the -- the visits by -- the expected
25 visits by the patrol ship is -- is fairly small in
26 number, and again, that's -- that's something we put in

1 our submission to the Impact Review Board and that --
2 that was accepted by the -- by the Board at that time.
3 As far as other ship traffic goes, we -- it's our
4 understanding that sealift vessels also come to -- come
5 to the dock in support of the local community.
6 There's -- we expect that to continue as the community
7 requires it, and we also expect the Coast Guard to
8 continue their operations at the site as they -- as
9 they do on an annual basis, so -- but from -- from a
10 national defence point of view, our visits to the
11 facility will be fairly minimal.

12 LILY KIGUTAK: Thank you. Right now, there
13 were many ships that came to our communities, and
14 there's been a lot more activity from the ships that
15 are coming to our community and also to the dock. And
16 if it's going to be used by DND, we know that the ships
17 coming in will be a lot more, and this is -- this will
18 be more visiting the Nanisivik dock. Will the DND --
19 does the DND have a facility that the DND will be --
20 what my concern is, once the DND starts going up to
21 Nanisivik all the time, one of my issues that I have
22 and the concern that I have is, when the ships start
23 going there, how will the DND be involved with the
24 issues of the passage and the dock, the environmental
25 and the ocean and also the dock area and the animals?

26 THE CHAIR: DND?

1 MR. WATSON: Rodney Watson, National
2 Defence.

3 There are a number of regulations that National
4 Defence follows in regards to their operations at sea
5 and the care not to interfere with marine wildlife.
6 Those regulations were submitted as part of our project
7 proposal to the Impact Review Board to demonstrate that
8 we are very cognizant of the importance of -- of the
9 marine habitat, and we will adhere to all of those
10 regulations that -- that are there. I think, as the --
11 as we get closer to the commissioning of the patrol
12 ship, I expect that there will be more information
13 brought forth to the communities about the expected
14 emissions of the ships, and again, this is a -- this is
15 a very important concern, one that we -- we have heard
16 in the past and have listened to, and as I said, we've
17 responded to in the project proposal and certainly will
18 take under advisement in the next few years again as we
19 get closer to the ship's launch date toward 2018, 2019
20 or so.

21 MR. LEMAY: Louis LeMay with DCC, also
22 representing DND. One of the things in our submission
23 to NIRB is that, currently DND does exercises every
24 summer up in the Arctic through the operation window,
25 which is screened to NIRB through the northern
26 operations group out of Yellowknife, which submits an

1 environmental assessment or land proposal of the impact
2 or what the operations are going to take place. It is
3 our understanding that the AOPS, the Arctic Offshore
4 Patrol Ships, will be incorporated into the submission
5 every year. So there will be a review of the
6 activities of the AOPS ships on a yearly basis through
7 the NIRB.

8 LILY KIGUTAK: I forgot that I had a question
9 yesterday or last night. There was a response on the
10 website to -- it was an address. I tried to check the
11 website this morning. I want the address, website.

12 THE CHAIR: Damien?

13 MR. COTE: Thank you, Mr. Chair. If the
14 website that we're talking about here is the Water
15 Board website -- and there's two ways to get there --
16 NWB for Nunavut Water Board dash oen.ca or
17 nunavutwaterboard.org.

18 LILY KIGUTAK: I did go into the website. I
19 just couldn't find the actual process that the
20 Department of National Defence is going through as to
21 the contractors.

22 MR. COTE: Okay. Thank you for that
23 clarification. That would be on -- we call it the FTP
24 site.

25 LILY KIGUTAK: FTP?

26 MR. COTE: Which is available on, it says

1 "public registry" on the website. You click on that.
2 Usually and exceptionally, for the first time this
3 year, the website happens to be down for the last 24
4 hours, for some reason, and that's an awful
5 coincidence, and we apologize for that. It's unusual,
6 but that's the FTP site. The website is working but
7 not where you would find the documents.

8 LILY KIGUTAK: Okay. Thank you.

9 MR. COTE: So I can verify and confirm if
10 it's back on today. Thank you.

11 THE CHAIR: Thank you. Any further
12 questions from anybody? Staff?

13 MR. JOSEPH: Thank you, Mr. Chair. Sean
14 Joseph, NWB. On the subject of the application that is
15 before the Board for DND, the comment deadline period
16 for that application has passed. The Board hasn't
17 issued a decision on the application yet, which is
18 separate application from what is being considered here
19 right now. So we had asked the Hamlet to actually post
20 a copy of the distribution of the notice of application
21 in the community. Yesterday I was at the Co-op. There
22 was actually a copy of the distribution that the Water
23 Board provided to the Hamlet, so the comment deadline
24 period is now passed, and we didn't receive any
25 comments from the Hamlet of Arctic Bay with respect to
26 the application, but the -- and also the information is

1 on the website, but the -- if you still want to comment
2 on it, you can provide some information, but all the
3 interveners have already provided their information to
4 the Board.

5 THE CHAIR: Damien?

6 MR. COTE: Mr. Chair, if I may as well,
7 on the earlier question --

8 THE CHAIR: Do you have a name?

9 MR. COTE: Damien Cote, Nunavut Water
10 Board. Thank you, Mr. Chair. On the earlier question,
11 DND has provided some answers, but for your benefit, I
12 also want to mention the Water Board, with the other
13 institutions of public government, NIRB, Wildlife
14 Management Board, and NPC together form what's called
15 the Nunavut Marine Council, and that -- with all the
16 IPGs, and are together meant to look at things like
17 marine mammals and the marine environment because the
18 Water Board alone only takes care of freshwater, but
19 together these IPGs look at the marine issues, so the
20 increase in shipping, et cetera, et cetera, are going
21 to be things that that council will look at, so there
22 is something in place there.

23 THE CHAIR: Any further questions from the
24 public?

25 Any outstanding questions to the application that
26 is before the Board from anybody?

1 Tommy?

2 TOMMY TATATUAPIK: Tommy Tatatuapik from Arctic
3 Bay. I didn't have a question, but I have a remark.
4 Nanisivik is -- will always be part of our community,
5 and I just wanted to make a remark. When the closure
6 first started happening, our community members, the
7 elders community and the elders committee and the
8 mining and DFO, we had -- we had a meeting together at
9 that time in the last consultation for the closure, and
10 our community -- we wanted to say thank you for all the
11 people that helped from the Department of Aboriginal
12 Affairs at that time.

13 One of our biggest concerns that we had at that
14 time in our last consultation is to make sure that all
15 the fish in the fish lakes were being looked after and
16 monitored. We would like acknowledgement to Arctic Bay
17 community members, but after Nanisivik closure
18 happened, like, all the containments of the whole site,
19 they were -- they were given to Arctic Bay people at --
20 it was like thank you from Nanisivik Mine at that time,
21 and it closed. All the buildings were thrown out in
22 containments, like the furniture were given to Arctic
23 Bay.

24 And I just want to say -- yeah, I just wanted
25 to -- I just wanted to acknowledge all the help we got
26 from the closure of Nanisivik too at that time. Thank

1 you.

2 THE CHAIR: Thank you. If there are no
3 further questions from the public or anyone, we will
4 move on to closing statements.

5 Nunavut Water Board Staff Questions Department of
6 Fisheries and Oceans Canada

7 MR. COTE: Thank you, Mr. Chair. Damien
8 Cote, Nunavut Water Board. I wanted to ask a couple of
9 questions, firstly, to DFO. We understand that there's
10 been a transmission of documents to the Water Board. I
11 was hoping you could put that on the record and explain
12 what that was.

13 MR. BILL: Kevin Bill, Fisheries and
14 Oceans Canada. Yes. The documents that were requested
15 earlier, the soil movement plan information that was
16 referenced in -- in the MOA between DFO and CanZinco
17 was provided to the Board.

18 MR. COTE: Thank you. Thank you,
19 Mr. Chair. Damien Cote, Nunavut Water Board.
20 Nunavut Water Board Staff Questions Aboriginal Affairs
21 and Northern Development Canada

22 MR. COTE: Second, to AANDC, also during
23 your short intermission we had discussed and we were
24 hoping that you might have had an opportunity to look
25 at the A&R plan and if you have some comments to share
26 at this time. Thank you.

1 THE CHAIR: AANDC?

2 MS. COSTELLO: Thank you, Mr. Chair. Karen
3 Costello, Aboriginal Affairs. We very much appreciate
4 the opportunity to offer some comments for the Board's
5 consideration based on our recent review with the
6 abandonment and reclamation plan for treatment of
7 contaminated soil that was submitted to the Board on
8 September 16th. Generally, we believe the plan is
9 sound. We are concerned on two aspects. There are
10 statements by CanZinco in the plan that indicate the
11 piles within the cells may exceed the initial design
12 height. We are concerned that this might impact the
13 effectiveness of the remediation and prolong -- prolong
14 the time required for the soil quality objectives to be
15 achieved.

16 Our second point was that there does not appear to
17 be any contingency in the plan in the event
18 contaminated soil is found under the 950-square-metre
19 liner that is still in place, and that, we understand,
20 is planned to be removed in 2015. This raises the
21 question, if the security estimate that is provided for
22 in the plan is adequate.

23 Based on our review of this plan for the treatment
24 of contaminated soils, the Department would be
25 satisfied to maintain the amount of security that is
26 currently held. Should new information become

1 available from the future work programs, there will be
2 an opportunity to review the security. At this time,
3 we are confident this can be managed going forward, and
4 we do not see the need for a site-wide security review
5 using Reclaim 7 as per our earlier submission.

6 And those are the comments that we'd like to bring
7 forward for the Board's consideration. Thank you.

8 THE CHAIR: Thank you.

9 Applicant?

10 MR. SKOGLUND: Johan Skoglund from CanZinco.
11 I guess first I'd like to clarify with AANDC whether
12 the four comments that were raised last night are still
13 maintained or -- or -- and if I need to respond to
14 those as well, so that would be good to get
15 clarification on that.

16 In regards to the two comments that are just
17 raised now for the first time, I have to say I'm a bit
18 surprised. The Department has had that documentation
19 for several weeks, and the information about the
20 biopile height has been responded to in the past, and
21 we have disclosed that information in several locations
22 in our annual report, so it is -- it's somewhat
23 surprising that it's raised now at the 11th hour of
24 this public hearing.

25 If I understood the comment correctly, the concern
26 are that the height of the biopiles are lower than the

1 design height or higher? Was the concern that they
2 were lower or higher than the designed height?

3 THE CHAIR: AANDC?

4 MR. BALL: Thank you, Mr. Chair. It's
5 Murray Ball with Aboriginal Affairs. We noted in the
6 plan that there's a reference to piling soil within the
7 treatment cells above the level which they were
8 designed to function, so the depth of the soil in the
9 cells will be increased in the event that it's
10 necessary for managing the amount of soil. And it also
11 states in the plan that, should that step be taken,
12 that the aeration process for treating the soil in the
13 cells would not be applied to the full depth of the
14 pile, which to us, raises the possibility that the
15 lower part of the pile may not be treated as
16 effectively as the upper part, so we see this as a
17 potential for extending the amount of time required to
18 achieve the reclamation objectives using that method.
19 Thank you.

20 MR. SKOGLUND: Johan Skoglund from CanZinco.
21 Thank you for that clarification. That makes it a bit
22 easier for me to respond. So I think both of these
23 comments are related to contingencies, so what Murray
24 is referring to is -- we would describe as contingency
25 options should not the remediation proceed as planned.
26 So we are saying, in the plan, that, as a contingency

1 option only, we could put more soil in the cells. That
2 is obviously not the preferred option, and we're hoping
3 to avoid this, but we've said that could be a
4 contingency option should we find more soil or if the
5 remediation does not proceed as swiftly as planned, so
6 hopefully we don't have to do it, but if we have to do
7 it, I mean, all it means is that the piles will be
8 higher, which means that the effective treatment of the
9 soil will be limited to what's closest to the surface,
10 so it essentially means, you get a bigger pile, it will
11 take longer to clean up, and the effective treatment
12 will be limited to the upper layers, so it's not a
13 preferred option, but it's something we could look at
14 as -- put forward as a contingency option, and I think
15 that that provides, actually, the question to -- the
16 answer to the second question as well. You know, if we
17 do decide -- if we do find more contaminated soil
18 underneath the liner, you know, that's when the
19 contingency plan comes into play, and that's when
20 this -- this option, you know, may be something we
21 would look at. I'd say, too, that, in terms of
22 contingency options, in the plan the other contingency
23 option is the development of the site-specific
24 remediation objective, and that's very important for us
25 because, you know, if we're successful with that work,
26 it will allow us to complete the treatment earlier. It

1 means that we would not have to pile more soil in the
2 treatment cells, and we can generally do the work more
3 efficiently, so we have two contingency alternatives
4 outlined in the plan of which one was brought up by
5 AANDC. I hope that answers your question, but I'm
6 happy to elaborate more if needed.

7 THE CHAIR: Thank you.

8 AANDC?

9 MS. COSTELLO: Thank you, Mr. Chair. Karen
10 Costello for Aboriginal Affairs. I appreciate the
11 clarification on the contingency. It was not clear
12 that -- from -- from the read that the contingency
13 included having room for any material that might be
14 under the liner, and for us, that represented, like, an
15 unknown, so a risk, and we are also -- we do appreciate
16 that, should you find something upon removal of that
17 liner, it -- it will be reported accordingly, and we
18 have every confidence that it will be addressed, and
19 that's why, overall, we thought that the plan was
20 sound, and we just wanted to be clear that what we
21 didn't see was contingency for the what if. What if
22 there is something? And also thank you for clarifying
23 that -- the implications of the increased pile height.
24 With regard to the other points, we had planned to
25 address them in our closing remarks, so if we could
26 just wait until we have that, and we'll address --

1 we'll speak to the four points that we addressed in our
2 opening remarks, which were based on our September 17th
3 submission, and based on our dialogue, we'd like to
4 offer some closing comments for the Board's
5 consideration. Okay. Thank you.

6 Thank you, Mr. Chair.

7 THE CHAIR: Anybody else? Thank you.

8 If there are no further questions, we will move on
9 to the closing remarks -- statements from the
10 applicant, AANDC, DND, public, Staff, and Board.

11 Applicant, you may go ahead.

12 Final Submissions by Nyrstar Canada (Holdings) Limited

13 MR. SKOGLUND: Thank you, Mr. Chairman.

14 Johan Skoglund from CanZinco. I think, at this point,
15 all I'd like to say is again, thank the members of the
16 Panel, thank the Nunavut Water Board Staff and all the
17 interveners and members of the public that have taken
18 the time and made the effort to come here and to listen
19 to what we have to say. I think our discussions have
20 been useful and fruitful. We obviously remain
21 committed to answer any more questions that may come up
22 as the process continues. I think, being here today,
23 if there's anything more we can help you resolve today
24 while we're all together, then we're obviously very
25 committed and -- and happy to do so, but also after
26 we've separated here today. So I would just like to

1 extend my gratitude and my thanks and thank --
2 thank the Board.

3 THE CHAIR: Thank you.

4 AANDC?

5 Final Submissions by Aboriginal Affairs and Northern
6 Development Canada

7 MS. COSTELLO: Thank you, Mr. Chair. Karen
8 Costello for Aboriginal Affairs and Northern
9 Development Canada. We really do appreciate the Board
10 providing this opportunity to contribute to this
11 hearing and also the licence review process. We'd like
12 to thank the community of Arctic Bay for the
13 hospitality, especially the elders for sharing their
14 insights and offer comments, and we truly have
15 appreciated the opportunity to hear comments from other
16 parties, the public, our fellow interveners, and the
17 applicant, and we've been able to work through a few
18 points that the Department and others have raised.

19 In our closing remarks, I'd like to go back to
20 some of the points we initially raised in our
21 presentation at the start of this hearing. Yesterday
22 we raised a point on the effectiveness of the soil
23 treatment process and sought clarification on the
24 ultimate fate of the treated soil. We were also
25 concerned about completing treatment within the
26 timeline proposed by CanZinco considering the volume of

1 material remaining on site. After reviewing the
2 information on record, it is clear of the amount of
3 material to be treated, which is approximately 6,000
4 cubic metres, can effectively be managed within two
5 years by continuing the current process and perhaps in
6 less time, were the company to develop site-specific
7 soil quality objectives. The question of where the
8 soil will ultimately be located, its end use, has been
9 answered by CanZinco to our satisfaction in their
10 explanation that it will be made available for
11 commercial and industrial purposes.

12 The second point of concern to us was the method
13 used to develop the site-specific soil quality
14 objectives. We gave two examples -- we gave two
15 examples of some points of confusion in the high-level
16 document developed by Hemerra and shared to this group
17 by CanZinco. That was specifically held in comparison
18 to soils at Nanisivik would be made to soils used in
19 developing guidelines in southern Canada and whether
20 end points would include use of insects and field
21 testing.

22 The Department accepts that these areas of
23 uncertainty to us, in reviewing this document, could be
24 clarified by CanZinco proceeding with their study and
25 sharing the detailed report.

26 At this time, the Department suggested it is

1 important to -- to review the methods, as that would be
2 something new for Nunavut that could affect other
3 projects, and the Department would be comfortable with
4 reviewing the study in detail after it has been
5 completed, and we recognize that it is not necessary
6 that we further review the study design before the
7 Board makes a determination on the application before
8 it.

9 I've already offered some comments on the
10 abandonment and reclamation plan for treatment of
11 contaminated soil. As we said, the plan is sound.
12 With regard to financial security, we are satisfied to
13 maintain the amount that we currently hold.

14 And just finally thanks to the community for
15 giving up their community centre to allow the Board to
16 host this meeting. Thanks to the catering crew. The
17 donuts were great. I enjoyed one last night. The
18 coffee was hot and plentiful, so thanks to the Staff
19 and, in particular, thanks for the interpreters for
20 their diligence. We sometimes don't make it easy for
21 you, so thank you.

22 And for me, this was my first visit to Arctic Bay
23 and I must admit I've been fortunate to have my first
24 experience to be spectacular weather. It has really
25 been a pleasure to be here, and thank you for
26 everyone's attention on this file. Thank you.

1 THE CHAIR: Thank you.

2 DND?

3 Final Submissions by Department of National Defence
4 Canada

5 MR. LEMAY: Louis LeMay for Defence

6 Construction Canada on behalf of DND. We want to thank
7 the Board and the members and the participants and all
8 the technical support for making this public hearing
9 possible and allowing us the opportunity to
10 participate. In our closing remarks, we just would
11 like to remind some of the points we brought up. Our
12 concern with possible migration of contaminants from
13 the contaminated cells with the state of the material,
14 how it's been placed in the cells at the end of the
15 season, and our concern with the availability of the
16 site for our construction. We are -- especially in
17 light of the latest discussion about possibility of
18 additional contamination in their liner and the
19 extension of -- of contingencies to excavate, we
20 absolutely need CanZinco to clean the footprint of our
21 project by the end of next season, which is 2015;
22 otherwise there will be financial impact to the project
23 and to taxpayers. That's it. Thank you.

24 THE CHAIR: Thank you.

25 DFO?

26 Final Submissions by Department of Fisheries and Oceans

1 Canada

2 MR. BILL: Thank you, Mr. Chairman.

3 Kevin Bill, Fisheries and Oceans Canada. I too would
4 like to thank the Board, the community of Arctic Bay,
5 the other participants, including the interpretation
6 (sic) as well. This is also my first visit to Arctic
7 Bay. I have visited many communities in the western
8 Arctic but not as many in the eastern Arctic, so I'm
9 happy to have the opportunity to come to Arctic Bay and
10 participate.

11 With respect to closing comments, as we outlined
12 in our -- in our presentation, our reviews of the
13 additional information produced no significant concerns
14 with the information provided. At this point, we would
15 like to just express our interest in continuing to
16 provide review and comment on additional information as
17 it is provided, including in the -- the results of the
18 site-specific remediation objectives, study, and any
19 proposed objectives resulting from that. We will
20 continue to provide comments on progress reports with
21 respect to the remediation itself and also with final
22 closure, the eventual closure of the remediation, we
23 will continue to provide comments and input into that
24 process as it proceeds. Thank you very much.

25 THE CHAIR: Thank you.

26 Craig, your exhibits.

1 MR. BOYER: Mr. Chair, thank you. Craig
2 Boyer, legal counsel for the Board. At this junction,
3 given that all the parties have presented their
4 materials and their submissions. I would just like to
5 read into the record all of the exhibits that have been
6 received by the Board in the process leading up to the
7 hearing and the hearing today and yesterday so that we
8 have it on the record, and with your approval, I'll
9 proceed with that.

10 Mr. Chair, the first exhibit in these proceedings
11 will be the agenda for public hearing, and that is both
12 the English and the Inuktitut versions.

13 EXHIBIT 1 - Agenda for public hearing
14 (English and Inuktitut)

15 MR. BOYER: Exhibit Number 2 will be the
16 CanZinco PowerPoint presentation that was presented at
17 the first day of the public hearing and that is in both
18 English and Inuktitut.

19 EXHIBIT 2 - CanZinco PowerPoint presentation
20 (English and Inuktitut)

21 MR. BOYER: Exhibit Number 3 would be the
22 AANDC PowerPoint presentation given yesterday, and that
23 is both in English and Inuktitut.

24 EXHIBIT 3 - Aboriginal Affairs and Northern
25 Development presentation (English and
26 Inuktitut)

1 MR. BOYER: Exhibit 4 would be the AANDC
2 presentation executive summary which was available with
3 Robin Ikkutisluk yesterday, and that is both English,
4 French, and Inuktitut versions.

5 EXHIBIT 4 - Aboriginal Affairs and Northern
6 Development Canada presentation executive
7 summary (English and Inuktitut)

8 MR. BOYER: Exhibit Number 5 would be the
9 DND PowerPoint presentation in English.

10 EXHIBIT 5 - Department of National Defence
11 PowerPoint presentation (English)

12 MR. BOYER: Exhibit Number 6 is the agenda
13 for the community session on October 8th, in both
14 English and Inuktitut.

15 EXHIBIT 6 - October 8, 2014, community
16 session agenda (English and Inuktitut)

17 MR. BOYER: Exhibit Number 7 will be
18 the -- I'm sorry, the Nunavut Water Board community
19 session PowerPoint presentation given last night, and
20 that's biota English and Inuktitut versions.

21 EXHIBIT 7 - Nunavut Water Board community
22 session PowerPoint presentation (English and
23 Inuktitut)

24 MR. BOYER: Exhibit Number 8 would be
25 CanZinco community session PowerPoint presentation
26 given last night, and that is both English and

1 Inuktitut versions.

2 EXHIBIT 8 - CanZinco community session
3 PowerPoint presentation (English and
4 Inuktitut)

5 MR. BOYER: Exhibit Number 9 being the
6 AANDC community session PowerPoint presentation, in
7 both English and Inuktitut.

8 EXHIBIT 9 - Aboriginal Affairs and Northern
9 Development community session PowerPoint
10 presentation (English and Inuktitut)

11 MR. BOYER: Exhibit 10 is the DFO
12 PowerPoint presentation in both English and Inuktitut.

13 EXHIBIT 10 - Department of Fisheries and
14 Oceans Canada PowerPoint presentation
15 (English and Inuktitut)

16 MR. BOYER: Exhibit 11 is the Nyrstar
17 letter dated September 5th, 2014, English and Inuktitut
18 versions.

19 EXHIBIT 11 - Nyrstar letter dated September
20 5, 2014 (English and Inuktitut)

21 MR. BOYER: And these are now going into
22 the materials that were provided before this public
23 hearing that had been referenced and will be part of
24 the record.

25 Exhibit 12 is the Hemmera letter of September 4th,
26 2014.

1 EXHIBIT 12 - Hemmera letter of September 4,
2 2014.

3 MR. BOYER: Exhibit 13 is the SRK
4 Consulting letter of memorandum dated September 4,
5 2014.

6 EXHIBIT 13 - SRK Consulting letter of
7 memorandum dated September 4, 2014.

8 MR. BOYER: Exhibit 14 is the SRK
9 Consulting letter of memorandum dated September 5th,
10 2014.

11 EXHIBIT 14 - SRK Consulting letter of
12 memorandum dated September 5, 2014

13 MR. BOYER: Exhibit 15 is the AANDC letter
14 dated September 17th, 2014.

15 EXHIBIT 15 - Aboriginal Affairs and Northern
16 Development letter dated September 17, 2014

17 MR. BOYER: Exhibit 16 is the DND letter
18 dated September 17th, 2014, in both English and
19 Inuktitut.

20 EXHIBIT 16 - Department of National Defence
21 letter dated September 17, 2014 (English and
22 Inuktitut)

23 MR. BOYER: Exhibit 17 is a DND e-mail
24 which was dated September 10th, 2014.

25 EXHIBIT 17 - Department of National Defence
26 e-mail dated September 10, 2014

1 MR. BOYER: Exhibit 18 is the Nyrstar
2 letter dated September 24, 2014.

3 EXHIBIT 18 - Nyrstar letter dated September
4 14, 2014

5 MR. BOYER: Exhibit 19 is Environment
6 Canada letter dated September 10th, 2014.

7 EXHIBIT 19 - Environment Canada letter dated
8 September 10, 2014.

9 MR. BOYER: Exhibit 20 is the DFO letter
10 dated September 30, 2014.

11 EXHIBIT 20 - Department of Fisheries and
12 Oceans letter dated September 18, 2014

13 EXHIBIT 21 - Department of Fisheries and
14 Oceans letter dated September 30, 2014

15 MR. BOYER: Exhibit 22 is the memorandum
16 of agreement dated July 25th, 2014, between DFO and
17 CanZinco, and this will include the schedules of the
18 soil management plan -- or soil movement plan that were
19 provided today and acknowledged on the record.

20 EXHIBIT 22 - Memorandum of agreement dated
21 July 25, 2014, between DFO and CanZinco

22 MR. BOYER: Exhibit 23 is the DFO letter
23 dated Sept -- February 19th, 2009, which is the lease
24 of the mine site.

25 EXHIBIT 23 - Department of Fisheries and
26 Oceans letter dated February 19, 2009, which

1 is the lease of the mine site

2 MR. BOYER: And lastly Exhibit 24 will be
3 the lease of the mine site dated March 22, 2001,
4 between DFO and CanZinco.

5 EXHIBIT 24 - Lease of the mine site dated
6 March 22, 2001, between Department of
7 Fisheries and Oceans and CanZinco

8 MR. BOYER: And these are all materials
9 that are all available on the FTP site, so those are
10 the exhibits of the hearing. Thank you.

11 Closing by the Chair

12 THE CHAIR: Thank you. The Board takes
13 this opportunity to thank the parties, especially the
14 applicant; and the NWB staff; interveners;
15 interpreters, Ben Kogvik and Kataisee Attagutsiak; the
16 court reporter, Toni Rizzoli; PIDO, Norbert Portraits;
17 all the community members acknowledged for their valued
18 participation in this hearing. Thanks also to the
19 Hamlet of Arctic Bay for its outstanding hospitality
20 and patience with the Board.

21 As we are at the close of this hearing, I would
22 will make some comments to let parties know what
23 happens next for the application. First, I now close
24 the hearing record for the renewal and amendment for
25 Type A for IAR-NAN0914 by Nyrstar Canada Holdings
26 Limited on behalf of CanZinco Mines Limited. What this

1 means is that no additional information will be
2 accepted on this application prior to the Board making
3 a final decision on the application.

4 The Board anticipates making the decision on the
5 application in approximately 30 to 45 days. If you
6 have any questions from this, until then, please
7 consult our executive director. Have a good afternoon,
8 safe travel home, and enjoy your visit to Arctic Bay.
9 The hearing is now adjourned in accordance with the
10 instruction.

11 And I would now like to ask Tommy Tatatuapik do
12 the closing prayer.

13 (CLOSING PRAYER)

14

15 PROCEEDINGS CONCLUDED AT 11:24 AM

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1 CERTIFICATE OF TRANSCRIPT:
2

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

8 Dated at the City of Calgary, Province of Alberta,
9 this 17th day of October 2014.

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Toni Rizzoli, CSR(A)

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Official Court Reporter

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22	Oceans letter dated September 18, 2014	
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25	Oceans letter dated September 30, 2014	
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1 EXHIBIT 22 - Memorandum of agreement dated 153
2 July 25, 2014, between DFO and CanZinco

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4 EXHIBIT 23 - Department of Fisheries and 153
5 Oceans letter dated February 19, 2009,
6 which is the lease of the mine site

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8 EXHIBIT 24 - Lease of the mine site dated 154
9 March 22, 2001, between Department of
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