





## 1AR-NAN1419 Type “A” – Application for Renewal and Amendment Pre-Hearing Conference Decision

- Identification of interested parties;
- Submissions of interested parties;
- List of issues to be dealt with at the Public Hearing;
- Desirability of amending the Application for the purpose of clarification;
- Procedures for the Public Hearing; and
- Identification of any other matters that may assist in the simplification and disposition of the Public Hearing.

### **Introduction and Registration**

Representatives from the Applicant, the NWB, and from the Intervener, Crown-Indigenous Relations and Northern Affairs Canada (CIRNA), participated in the TM/PHC conference call. A representative from the Applicant’s consultants, SRK Consulting (Canada) Inc. and a representative from CIRNA’s consultant Tetra Tech, also attended the TM/PHC.

### **1.0 The Application before the Board**

The Nanisivik Mine is a former lead-zinc mine located on Northern Baffin Island, near Arctic Bay, within the Qikiqtani Region of Nunavut. The Mine, which was the first Canadian mine north of the Arctic Circle, operated from 1976 to 2002. Since 2002, the mine has been undergoing closure and active reclamation; these activities were completed in 2017. The Application seeks the renewal and amendment of the existing Type “A” Water Licence No: 1AR-NAN1419 to authorize the continued post-closure monitoring of water quality and geotechnical stability of the former Mining Undertaking.<sup>1</sup>

Ownership of the assets associated with the former mine has changed hands several times over the years. The current Licensee, CanZinco Mines Ltd. (CanZinco or the Applicant) is a wholly owned subsidiary of the Nyrstar group of companies, a global mining and metals business (with leading positions in zinc and lead mining) and mining and smelting operations throughout Europe, North America and Australia. Nyrstar acquired the Nanisivik Mine in 2011 as a result of the acquisition of the owner of the Nanisivik Mine at the time, Breakwater Resources.

### **Application and Supporting Materials Submitted by the Applicant**

The Application was received on June 20, 2019 and consisted of the following documents:

Appendix A: Executive summary of Water License amendment application (English)

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<sup>1</sup> As defined under the *Nunavut Waters Regulations*, SOR/2013-69, Schedule 1, Item 2, column 2 describes a Mining Undertaking to include “...the restoration of the site of a mine”.



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- Appendix B: Executive summary of Water License amendment application (Inuktitut)
- Appendix C: Resolution CanZinco Mines Ltd.
- Appendix D: Site location map
- Appendix E: Nunavut Planning Commission conformity determinations
- Appendix F: Nunavut Impact Review Board 2002 screening decision
- Appendix G: Nunavut Impact Review Board 2014 screening exemption decision
- Appendix H: Geotechnical monitoring beyond 2019
- Appendix I: Water quality monitoring beyond 2019
- Appendix J: CanZinco Mines Ltd. appointment of officers
- Appendix K: CanZinco Mines Ltd. Certificate
- Appendix L: Compliance assessment 1AR-NAN1419

- Email correspondence from Johan Skoglund to Richard Dwyer on July 12, 2019 in response to CIRNA comments during Application Completeness Check
- Memo from CanZinco, dated August 23, 2019, in response to CIRNA comments during Technical Review

### **Scope of the Current Application**

The Application before the NWB is for the renewal and amendment of the existing Type “A” Water Licence No: 1AR-NAN1419. The general scope of the Application includes the following:

- Renewal of the Licence for a ten (10) year period to allow for the continuation of post-closure monitoring activities at the former Nanisivik Mine site;
- Proposed amendments to reduce the current geotechnical monitoring frequency to a single monitoring event per year and further reductions to monitoring over the term of the Licence as proposed in the Application; and
- Proposed amendments to the water quality monitoring requirements under Part I/Schedule I of the Licence to include reductions in monitoring stations, sampling frequency and analytical parameters.

### **Proposed Amendments to the Existing Licence**

The Applicant states that the Application does not propose any changes to the Licensee, or the location of the undertakings and does not affect water rights or licences held by others. The focus of the amendments proposed in the Application are changes to the post-closure monitoring requirements to reflect the change in status of the site from active reclamation to post-closure monitoring. Accordingly, CanZinco has requested amendments to geotechnical monitoring requirements; and water quality monitoring requirements as set out in detail below.



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*Changes to Geotechnical Monitoring*

For ease of reference, the Board has included the details of the requested changes are set out in the April 24, 2019 memorandum from BGC Engineering Inc. (Appendix H to the Application) as follows:

*Under the current water license, site monitoring is conducted as per the schedule in Appendix IV of the 2018 Annual Geotechnical Inspection Report (BGC, March 6, 2019). BGC believes that reducing the current geotechnical monitoring frequency to a single monitoring event per year, starting in 2020 is warranted, based on the following:*

- *The cooling trend of ground temperatures observed since completion of much of the site reclamation work in 2005. This is considered favorable given that the primary objective of the reclamation measures is to permit the freeze-back of tailings and waste rock. In many areas of the site where mine waste has frozen back, the rate of cooling has slowed in recent years indicating these areas are nearing thermal equilibrium.*
- *The tailings retained by the West Twin Dyke have frozen back to depths below the foundation of the dyke. The remaining unfrozen tailings contained within the Surface Cell are located closer to the middle of the Surface Cell and at a depth below the foundation of the dyke. As such, the presence of the remaining unfrozen tailings and associated pore pressures are not considered to pose a risk to the stability of the dyke.*
- *The seasonal variability in ground temperatures at site is well understood based on monitoring data collected since 2005. The maximum active layer thaw depth, the data of greatest importance, is generally observed in mid to late August.*
- *Water quality, as reported by Stantec, has met Water License discharge requirements, has improved in many areas over time, and generally suggests the reclamation measures have been effective in limiting metal loading to the water in the Reservoir.*
- *The site has been observed to generally be physically stable. Maintenance has been completed in a few select areas where some erosion has been observed.*

*In addition to reducing the number of monitoring events per year, and provided that current performance monitoring trends continue to be observed, a further reduction in the monitoring frequency to skipping certain monitoring years should be considered. The reduction should be tapered such that annual inspections are gradually spaced farther apart.*



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*Table 1 outlines the proposed geotechnical monitoring frequency for the ten-year period beginning in 2020. Monitoring events would include a geotechnical inspection of all reclamation measures and collecting instrument readings as per Appendix A.*

Licence Year	Year	Proposed Geotechnical Monitoring Frequency
1	2020	1 monitoring event
2	2021	1 monitoring event
3	2022	1 monitoring event
4	2023	No site monitoring
5	2024	1 monitoring event
6	2025	No site monitoring
7	2026	1 monitoring event
8	2027	No site monitoring
9	2028	No site monitoring
10	2029	1 monitoring event

The quotation of this extract from the BGC Engineering Inc. Memorandum is not intended to demonstrate acceptance by the Panel of the proposed changes or reported data, but is provided in its entirety for ease of reference. The Interveners did not have any comments or concerns with respect to the Applicant’s requested changes to geotechnical monitoring.

#### *Changes to Water Quality Monitoring*

Secondly, the Applicant requests that changes be made to the water quality monitoring program, which is required under Schedule I of the existing Licence. The specific changes are set out in the Memorandum from Stantec Consulting Ltd. (Appendix I to the Application) as follows:

*The current Water Licence for the Site is due to expire on December 22, 2019. It is anticipated that the renewal process will take place during the summer of 2019, prior to the availability of water quality monitoring data for 2019. Therefore, this report provides data that will be relied upon during the Licence renewal process. A reduction of the number of sampling stations, analytical frequency, and/or the number of analytes was negotiated, based on demonstrated good performance, at the end of the last Water Licence period. It is anticipated that a further reduction in the number of sampling stations, sampling frequency, and analytical test groups, may also be reasonable at the present time.*



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*The results of water quality monitoring through the post-closure period (since 2009) have shown a high level of stability, with a majority of results falling within regulated levels at Station 159-4, and within site-specific action levels at other stations. There have been no significant detections of petroleum hydrocarbons (analytical test group NAN-2) at any time during the post-closure period. Similarly, there have been no findings of significance from the trace element scans (analytical test group NAN-4).*

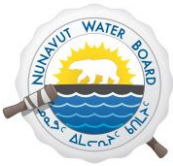
*Therefore, it is recommended that consideration should be given to reducing monitoring frequency at the former Nanisivik Mine site to once annually, in July, in conjunction with the annual geotechnical inspection of the tailings facility. It is also recommended that sampling at the voluntary stations ELO and 159-6 TEMP should be suspended, as they no longer serve any purpose. Lastly, it is recommended that the key analytical test groups going forward should be NAN-1 and NAN-2.*

**Proposed Water Quality Monitoring Stations and Schedule for Post Closure  
Period, 2020 to 2025**

Water Quality Monitoring Stations 2020 to 2025				
Station Number	Station Description	Purpose	Parameters to be Measured	Monitoring Frequency
<b>Twin Lakes Creek Watershed</b>				
NML-23	Outflow from East Twin Lake	Upstream Control Station	NAN-1	Annually
159-4	Outflow from West Twin Disposal Area	Final Discharge Point	NAN-1	Annually
159-6	Outlet of Twin Lakes Creek into Strathcona Sound	General Monitoring	NAN-1 NAN-2	Annually
<b>Chris Creek Watershed</b>				
159-14	Chris Creek downstream of K-Baseline	K-Baseline Monitoring	NAN-1	Annually
<b>Landfill Watershed</b>				
NML-29	Downstream of landfill – East Drainage System	Landfill Monitoring	NAN-1 NAN-2	Annually
NML-30	Downstream of landfill – West Drainage	Landfill Monitoring	NAN-1 NAN-2	Annually
<b>Notes:</b> Annual monitoring to be carried out shortly after the spring thaw, typically in July, and in conjunction with the annual geotechnical inspection of the tailings facility. NAN-1 includes: Metals analysis (total cadmium, lead and zinc), major cations (calcium, magnesium, sodium, potassium, ammonia, and hardness), major anions (chloride, sulphate, bicarbonate, carbonate, nitrate+nitrite, and alkalinity), TSS, and field-measured parameters (specific conductivity, temperature, pH and visual observation for hydrocarbon sheen). NAN-2 includes: Petroleum hydrocarbon analysis of F2 to F4 hydrocarbons.				

The quotation of this extract from the Stantec Consulting Ltd. Memorandum is not intended to demonstrate acceptance by the Panel of the proposed changes or the reported data, but is for ease of reference. At the TM/PHC the Interveners did not have any comments or concerns on the requested changes to water quality monitoring.





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### **2.0 Procedural History**

The following includes a summary of the procedural history for the Application that is before the Board to renew and amend Licence No: 1AR-NAN1419:

#### **June 20, 2019**

- NWB received an application from CanZinco for the renewal and amendment of Licence No: 1AR-NAN1419
- NWB acknowledged receipt of the application package and requested that the Applicant provide confirmation that the application fee and water use fee had been provided

#### **June 25, 2019**

- Following an internal review of documents, NWB distributed correspondence requesting that parties conduct their completeness check and initial technical assessment of information in the application, with the deadline for submission set for July 10<sup>th</sup>, 2019

#### **June 26, 2019**

- NWB confirmed receipt of the application fee and water use fee

#### **July 10-12, 2019**

- NWB received comments on completeness from CIRNA.
- NWB issued correspondence requesting that the Applicant respond to Interveners' submissions on completeness by July 15, 2019
- The Applicant provided its response to Interveners' submissions on completeness and initial technical assessment

#### **July 26, 2019**

- NWB distributed the Application publicly for a twenty-one day (21) technical review period with the deadline for submission set for August 16, 2019

#### **August 16, 2019**

- On or before August 16, 2019, technical comment submissions were received from the following intervening parties: CIRNA, ECCC and DFO.

#### **August 22-23, 2019**

- NWB inquired with the Department of National Defence (DND) (Defense Construction Canada) regarding any comments/concerns relating to the Application, as DND had previously intervened in the NWB's processing of the renewal of the existing Licence in 2014



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- DND confirmed that they had no comments/concerns regarding this Application and would not be intervening in the NWB’s processing of the Application

### **August 29, 2019**

- NWB distributed correspondence advising parties that the Board had directed the staff to hold a TM/PHC by teleconference for the Application in the week of September 9, 2019 (tentatively scheduled for September 13, 2019) and providing a draft TM/PHC Agenda for review and comment. The correspondence also requested that interested persons confirm their intention to participate in the TM/PHC, provide copies of their presentations, and comment on the draft agenda for the upcoming TM/PHC by September 4, 2019

### **September 4, 2019**

- NWB received copies of the presentation materials for the TM/PHC from the Applicant and CIRNA. No comments requesting amendments to the draft TM/PHC Agenda were received

### **September 6, 2019**

- NWB distributed correspondence that included details and the final Agenda for the upcoming TM/PHC scheduled for September 13, 2019

### **September 13, 2019**

- NWB hosted the teleconference TM/PHC, with representatives from the Applicant and CIRNA in attendance

Complete details on all submissions received or related to the Application and the file are available on the NWB’s FTP site, which can be accessed using the following link:

<ftp://ftp.nwb-oen.ca/registry/1%20INDUSTRIAL/1A/1AR%20-%20Remediation/1AR-NAN1419/2%20ADMIN/4%20HEARINGS/1%20PH%20TECH%20MTG/2019%20Amendments%20Renewal/>

### **Licences Issued to the Project**

Both the Northwest Territories Water Board (NWTWB) and the Nunavut Water Board (NWB) have issued Licences to the project in the past.

### **Licences Issued by the NWTWB**

- The first water licence for the Nanisivik Mine, licence N5L3-0159, was issued by the NWTWB on July 5, 1976 pursuant to the *Northern Inlands Waters Act*, and the Licence was subsequently renewed in 1978, 1983, 1988, and 1991.





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**Licences Issued by the NWB**

Reflecting the NWB’s jurisdiction for licensing undertakings resulting in the use of water and deposit of waste as established under Article 13 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (NWNSRTA), the NWB has issued four (4) Licences for this project to date.

1. Licence NWB1NAN9702:

- Issued to Nanisivik Mines Ltd. on July 1, 1997 and expired on June 30, 2002.
- Licence allowed for the use of 180,000 m<sup>3</sup>/year of water and deposit of waste for mining and milling activities.
- Amendment No.1 was issued to the Licence in December 9, 1999, to allow for changes in operational conditions.
- Amendment No. 2 was issued the Licence in March 20, 2000, to allow for further changes in operational conditions.
- On February 20, 2001, the Licence was assigned from Nanisivik Mines Limited to Nanisivik Mine, a division of CanZinco Ltd.

2. Licence NWB1NAN0208:

- Issued to CanZinco Ltd. on October 1, 2002 and expired on May 1, 2008.
- Licence allowed for the use of up to 180,000 m<sup>3</sup>/year of water and the deposit of waste in support of an industrial undertaking (closure and reclamation work including post-closure monitoring of the former mine site).

3. Licence 1AR-NAN0914:

- Issued to CanZinco Ltd., a wholly-owned subsidiary of Breakwater Resources Ltd., on April 1, 2009 and expired on March 31, 2014.
- On August 26, 2011 Breakwater Resources was acquired by Nyrstar Sales & Marketing AG.
- On December 27, 2013 CanZinco Ltd. changed their name to CanZinco Mines Ltd.
- Licence allowed for the use of up to 100 m<sup>3</sup>/day water and deposit of waste in support of continued remediation and monitoring activities at the former Nanisivik mine site.

4. Licence 1AR-NAN1419

- Issued to CanZinco Mines Ltd. on December 23, 2014 and expires on December 22, 2019.
- Licence allowed for the use of up to 100 m<sup>3</sup>/day water and deposit of waste in support of continued remediation and monitoring activities at the former Nanisivik mine site.



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### Pre-Licensing Requirements

On May 24, 2019, the Nunavut Planning Commission (NPC) issued its land use conformity determination associated with the application to renew and amend existing Type “A” Water Licence No: 1AR-NAN1419 for post-closure monitoring of water quality and geotechnical stability at the former Nanisivik Mine.<sup>2</sup> The NPC determined that because the Application involves components and activities that were previously screened by the Nunavut Impact Review Board (NIRB) and does not constitute a significant modification, the Application did not require further conformity review and impact assessment under Articles 11 and 12 of the *Nunavut Agreement* and the provisions of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*). As summarized by the NPC:

*...the activities associated with this proposal were previously reviewed by NPC, and a conformity determination was issued on January 8, 2002, on June 19, 2008 and on May 2, 2014, which still applies. In addition, the activities were previously screened by the Nunavut Impact Review Board (NIRB FILE NO.: 02MC117). This project proposal is exempt from the Nunavut Planning and Project Assessment Act (NUPPAA) under section 235 of that Act. The above noted project proposal is exempt from screening by the NIRB under section 12.4.3 of the Nunavut Agreement as amended because it is for a component or activity that was part of the original proposal and its inclusion is not a significant modification of the project.*

On this basis, the NWB has concluded that the conformity and environmental assessment requirements for the Application as required under ss. 38 and 39 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*) have been met and the Application could be processed by the NWB.

### **3.0 Technical Review Comments Received by the Board**

Technical review comments specific to the Application were submitted to the Board on or before August 16, 2019. Comments were received from CIRNA, ECCC and DFO.

#### **Crown Indigenous Relations and Northern Affairs (CIRNA) Comments**

The technical review comments from CIRNA included the following:

1. CIRNA requested that CanZinco provide documentation confirming that the buildings and equipment located in the vicinity of the old mine town site, and an old building with some

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<sup>2</sup> G. Djalogue, Nunavut Planning Commission, Letter to R. Dwyer, NWB, N. Lear, NIRB and J. Skoglund, CanZinco Re: NPC File #149145, [Former Nanisivik Mine], May 24, 2019.



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electrical components located at the old Short take-off and landing (STOL) airstrip, are now the property of either the Government of Nunavut or the Hamlet of Arctic Bay.

2. If no documentation can be provided regarding the ownership of this infrastructure, CIRNA expressed the view that these structures and equipment belong to CanZinco. Accordingly, CIRNA requested that CanZinco should describe their intentions with respect to the disposition of these buildings and/or equipment.
3. CIRNA commented that there still seems to be quite a bit of activity on or near the former mine site; namely on the roads in and around the former mine site. CIRNA noted that this activity may lead to spills, erosion of infrastructure, accidents or other related deterioration of closed mine infrastructure.
4. CIRNA recommended that CanZinco document as best they can either through mutual agreements or past and present photos of the activities that are occurring in and around any of the closed mine aspects.
5. CIRNA found the Long-Term Monitoring Plan being put forward by CanZinco to be reasonable.
6. CIRNA indicated they will be submitting an updated closure cost estimate with CIRNA's final submission for this water licence process. The site visit and the due date for the technical comments were too close together to submit a closure cost estimate at this time.

### **Department of Fisheries and Oceans Canada (DFO) Comments**

The technical review comments from DFO consisted of the following:

1. DFO indicated that, if plans are implemented in the manner and during the timeframe described in the Application, the undertaking and activities would not result in serious harm to fish nor would the activities result in prohibited effects on listed aquatic species at risk.
2. On this basis, DFO concluded that an authorization under the *Fisheries Act* or a permit under the *Species at Risk Act* would not be required to authorize the activities.

After submitting these written technical review comments, DFO did not participate further in the NWB's consideration of the Application.

### **Environment and Climate Change Canada (ECCC) Comments**

The technical review comments received from ECCC included the following:

1. ECCC did not object to the proposed reduction in sampling stations and parameters, but with respect to reducing frequency, requested clarification from the Application regarding



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the timing of sampling each year (e.g. providing the rationale for the selected month/timing) and the sampling frequency after 2025.

2. ECCC supported the recommendations set out in the Applicant’s 2017 and 2018 Water Quality Monitoring Reports, being:
  - a. Reduction of sampling frequency from 3 times a year to once per year from 2020 to 2025;
  - b. Discontinuation of sampling at stations ELO and 159-6 Temp; and
  - c. Discontinuation of the NAN-4 ICP analytical scan for trace metals.

ECCC was satisfied with the responses provided by the Applicant during the information request process and chose not to participate in the TM/PHC.

### **Term of the Renewed Licence**

During technical review it was confirmed that there was general support for the renewal of the Licence, and none of the Interveners made submissions (either for or against) the proposed ten-year term of the renewal.

### **4.0 Technical Meeting (TM)**

The TM for the Application was held by teleconference on September 13, 2019. From a procedural standpoint, it should be noted that, as is the Board’s practice, the TM was somewhat informal and the meeting was administered by the Board’s staff and chaired by Karén Kharatyan, the Board’s Director of Technical Services. In addition, it should also be noted that the Panel Members of the Board who will be the decision makers for the Application, did not participate in the teleconference for the TM, or the subsequent PHC.

The objects of the TM were outlined to the teleconference participants as follows:

- Examine technical data and other materials submitted as part of the Application, including relevant Interveners’ submissions that the Board has received to date for the Application;
- Informally discuss and resolve, to the extent possible, any technical matters / issues raised between Interveners and the Applicant, particularly those matters that could affect the Board’s determination of any Pre-Hearing Conference (PHC) issues, in advance of the PHC;
- Provide an opportunity for the Applicant and Interveners to identify for the Board the issues and concerns that have been resolved, and to discuss any unresolved or ongoing issues related to the Application;



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- Identify opportunities for streamlining the issues and process so as to eliminate existing or potential duplication or delay;
- Document any commitments made by the various parties involved in the TM; and
- Prepare the list of primary issues that are expected to be addressed if, and when the Application proceeds to a Public Hearing.

The TM participants were advised that the Board expected, upon completion of the TM, that any outstanding issues that may prevent the Board from moving forward to a PHC in respect of the Application will be resolved, or if not resolved, that some form of consensus may be achieved by the parties as to whether the Applicant may proceed to the next step of the licensing process in light of such unresolved issues.

During the TM, the following key issues were discussed:

- The specific amendments to the geotechnical and water quality monitoring requirements requested by the Applicant;
- Surface water accumulation above the spillway in the dry covered tailings area; and
- Ownership of various infrastructure and equipment that remains on-site.

### **Amendments to the Licence**

The parties discussed the revised post-closure monitoring requirements and the Applicant identified the specific reductions to monitoring frequency, parameters and locations and the associated amendments to conditions contained in the existing Licence. The requested amendments included:

- Changes to geotechnical monitoring requirements; and
- Changes to water quality monitoring requirements.

There were no objections to the amendments to the monitoring requirements requested by the Applicant in the Application.

### **Pooling of Water in the Dry Covered Tailings Area**

CIRNA requested clarification on the extent of surface water accumulating (“pooling”) in the dry covered tailings area just above the spillway as observed by CIRNA during a recent site visit. CIRNA recommended the Applicant provide additional evidence to establish that the area is either free of tailings and/or that the pooled water is not affecting the cover design of the tailings facility. In response, the Applicant stated that the accumulation of water in that area was not a new issue, had existed over time and did not affect the geotechnical stability of the tailings containment area or of the tailings cover design. CIRNA requested that CanZinco submit correspondence or a technical memo addressing this concern after discussing the issue with their consultants.



### **Ownership of Specific Infrastructure and Equipment Remaining On-site**

CIRNA requested clarification about the ownership of the garage building, vehicles, sea cans, electrical equipment and inert structures observed during a recent site visit. In response, CanZinco indicated that the infrastructure identified by CIRNA does not belong to CanZinco. CIRNA and NWB then requested that CanZinco submit correspondence or a technical memo outlining a list of the infrastructure that remains on-site, and identifying the owners of the infrastructure (CanZinco, Government of Nunavut, NorthWestel or others).

### **Security Update**

At the TM, there was general agreement concerning the need to update the costs for final closure of the mine site. CIRNA agreed to work with the Applicant to complete an updated reclamation security cost assessment to reflect the completion of remediation activities during the term of the existing licence.

### **Conclusion of the Technical Meeting**

At the completion of the TM, it was confirmed that there were no outstanding technical issues that would prevent the Board from moving forward to a Public Hearing for the Application.

Due to the TM being held by teleconference, a draft list of commitments and draft list of issues were prepared by the Board’s staff and circulated to the Applicant and the Intervener for their review and comment during an hour long break between the TM and the PHC. Participants reviewed both listings and confirmed that they had nothing to add to the list of issues to be addressed during the Public Hearing (set out in Section 5.0) and also confirmed the wording and the timing of the commitments listed in Appendix C.

## **5.0 Pre-Hearing Conference (PHC)**

As the parties confirmed in the TM that there were no outstanding issues that would prevent the Application from being considered by the Board in a Public Hearing, the PHC portion of the Agenda proceeded on the afternoon of September 13, 2019 by teleconference.

The PHC was chaired by the Board’s Director of Technical Services, Karén Kharatyan with the same parties as the TM. The purpose of the PHC was to discuss the various matters as set out in Rule 14 of the Rules in preparation for the Public Hearing. Specifically, Rule 14 directs that the following matters be addressed through the PHC:





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- To set a timetable for the Pre-Hearing exchange of information;
- To finalize the list of issues to be dealt with at the Hearing;
- To identify interested parties;
- To consider the desirability of amending the application for the purposes of clarification;
- To finalize procedures to be followed in the Hearing; and
- To consider any other matters that may aid in the simplification and disposition of the application at the Hearing.

### **Timetable for Pre-Hearing Exchange of Information**

It was noted at the beginning of this discussion that, as required by s. 55(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (NWSRTA), the NWB must give the public and parties a minimum of sixty (60) days’ notice in advance of a Public Hearing.

The Applicant and CIRNA were polled regarding any outstanding information requirements that must be supplied in advance of a Public Hearing and indicated, that as outlined in the commitments list provided in Appendix C the preparation and submission of the additional information listed is 30 days from the PHC and will not, therefore delay a potential Public Hearing.

On this basis, the Board has established a proposed timetable for the pre-hearing exchange of information as set below. However, the Board reserves the right to revisit the timing set out below in the event that parties are unable to meet the deadlines in the commitments, in response to the requests of the parties, the public, or as may subsequently be considered necessary by the Board. Unless modified as noted above, the Board requires the participants to observe the following timetable:

- **Friday, September 20, 2019** the NWB’s TM/PHC Decision Report will be released, and the Notice of Written Public Hearing will be issued on **Friday, September 27, 2019**;
- On or before **Tuesday, October 15, 2019** outstanding information as set out in Appendix C: List of Commitments will be provided by the parties;
- All further and final written submissions to be provided by Interveners or members of the public must be filed with the Board on or before **Tuesday, October 29, 2019**;
- All further and final responses of the Applicant to the information filed to date must be filed with the Board on or before **Friday, November 8, 2019**;
- All final written submissions, including closing arguments must be filed with the Board on or before **Monday, November 18, 2019**;
- If the Interveners and/or the Applicant file additional written submissions, final responses and presentation materials as outlined above, they are also required to provide **an Executive Summary of their written submissions in English, Inuktitut and French**



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**fully translated copies of their presentation materials or final responses in English and Inuktitut at the same time** as they file the full submission;

- The Board requires any party requesting French translation of presentation materials or final submissions to make such requests to the Board in writing **on or before Friday, November 8, 2019;** and
- **On November 27, 2019,** the NWB provides notice regarding whether the Public Hearing Record is closed and the Application can be submitted to the decision-making panel.

As the parties are aware, all submissions will be posted on the NWB’s FTP site (<ftp.nwb-oen.ca>) and in the public registry upon receipt. A copy of the public registry as it relates to the Application is available on-line via the links identified in Section 2.0 of this Decision for review prior to the Public Hearing.

Any additional information that the parties wish the Board to consider during their review of the Application must be filed with the Board in accordance with the timelines outlined above.

### **List of Issues to be Addressed at the Hearing**

During the TM, the Board’s staff prepared a draft of the list of issues that should be addressed by the parties at the Public Hearing. The parties reviewed the following list of items for discussion at the Public Hearing and agreed that, subject to adding issues following the review of information that may be exchanged in advance of the Public Hearing, the following topics should be items for discussion at the Public Hearing:

- Term of Renewed Licence
  - 10 years
- Water Use Requirements
  - Only for water quality monitoring program
- Waste Disposal
  - All active reclamation and remediation activities are completed, so no waste generation and no waste deposit required under the renewed licence
- Amendments to terms and conditions of the Licence
  - Changes to reflect 14-year post-closure monitoring to date (e.g. changes to monitoring frequency for both water quality and geotechnical conditions)
  - Reductions of water quality monitoring sites
  - Discontinue analytical test group NAN-4
- Financial Security



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- Reduced security proposed from \$2,000,000 to \$800,000

The NWB invites the parties to review the commitments and list of issues as expressed in this Decision and advise the Board in the event of any discrepancy, errors or additions as soon as possible.

### **Identification of Interested Parties**

The parties were polled by the Director of Technical Services to address whether there are any additional parties that should be invited to participate in the Public Hearing. CanZinco requested that the Government of Nunavut (GN) be invited to participate in the Public Hearing due to the GN having ownership and use of various infrastructure remaining at the site. The NWB advised that a specific invitation seeking the GN’s participation would be issued with the PHC Decision and relevant pictures of the infrastructure from CIRNA’s recent site visit will be attached. The NWB also advised that National Defence Canada (DND) Defence Construction Canada had been contacted directly to provide comment on the Application and that DND indicated that they had chosen not to be a part of the process as they had no concerns or issues pertaining to the Application at this time. No additional parties who should be invited to participate were identified.

The Notice of Written Public Hearing issued by the Board for the Application will be posted publicly and will be circulated to a broad distribution list, including the parties identified above and the general public. All parties having an interest in the Application will be advised to notify the Board regarding their interest and will be expected to observe the timelines for submission of written materials to the Board established for the other interveners and outlined at the start of this section of the Decision.

A complete list of participants who attended the TM/PHC is set out in Appendix B. During the PHC, the following parties confirmed their participation and attendance at the Public Hearing:

- the Applicant, CanZinco Mines Ltd.; and
- Crown-Indigenous Relations and Northern Affairs (CIRNA).

### **Desirability of Amending the Application prior to the Hearing**

During the PHC discussion of timing of the exchange of documents, and the potential Public Hearing, the NWB identified that given the prescribed timelines for the notice period in advance of a Public Hearing, the likely timing of a Public Hearing, the typical timelines for the Board’s decision-making and reporting following the close of the Public Hearing and recognizing the Minister’s timelines for decision-making, it is unlikely that the renewal and amendment process



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will be completed before the existing Licence expires on December 22, 2019. Consequently, the NWB indicated that the Applicant may wish to file a short term renewal application (STR Application) (as allowed for under s. 9(1)(b) under the *Nunavut Waters Regulations*, SOR/2013-69<sup>3</sup>) to request a renewal of the existing Licence on the following basis:

- Absolutely no changes to the existing Licence (administrative or otherwise);
- The short term renewal would not exceed 180 days from the date on which the existing Licence expires (December 22, 2019 to June 19, 2020) with the expiry of the short term renewal occurring on the earlier of June 19, 2020 or upon the grant of a renewed water licence, if the Board decides and the Minister approves the issuance of a renewed and amended water licence;
- No plans, studies, reports, or designs would be required to be submitted in support of the STR Application as this information has already been provided or will be provided during the Board’s processing of the Application; and
- The assumption that even if the NWB grants the short term renewal of the existing Licence, the current Application will continue to be processed by the Board in as timely and efficient a manner as possible.

CIRNA indicated agreement that it is preferable for CanZinco to apply for a short term renewal rather than allowing the existing Licence to expire while awaiting the completion of the NWB’s and Minister’s decision-making in respect of the Application. In addition, the Board and the Applicant indicated that discussions would take place following the PHC with respect to the content and process associated with the Board’s consideration of the STR Application.

Other than this matter, there were no further requests to modify the Application prior to the renewal and amendment request proceeding to a Public Hearing.

### **Procedures for the Public Hearing**

Parties were asked for their views with respect to the form of the Public Hearing (written, teleconference or in-person). Noting that the active reclamation measures that were the central issue discussed during the in-person Public Hearing associated with the existing Licence have been completed and that the activities at the site over the proposed ten-year term of the amended and renewed licence would be limited to long-term geotechnical stability and water quality monitoring,

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<sup>3</sup> Section 9(1)(b) establishes that:

*For the purposes of section 13.7.3 of the Agreement and subsection 52(1) of the Act, no public hearing is required in respect of an application for... (b) one or several renewals of a type A licence if the total duration of the renewal or renewals does not exceed 180 days.*



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with no significant water uses or deposits of waste, the Applicant favored a written or teleconference Public Hearing. CIRNA also indicated that although the decision as to the form of Public Hearing remains the NWB’s decision, with very few unresolved technical issues, it would be appropriate for the Public Hearing to be conducted in writing or held by way of teleconference with opportunities for members of the community to participate.

Given the limited scope of the amendments to the existing Licence proposed in the Application, and recognizing that the majority of technical issues raised by Interveners have been resolved, the NWB’s Nanisivik Panel, P13, has determined that it is most appropriate for the Board to conduct the Public Hearing in writing.

At present, based on the time commitments outlined in the discussion of the exchange of documents set out above, the Public Hearing is scheduled for **November 27, 2019**. This date is subject to final confirmation by way of the Public Notice to be issued on September 27, 2019, and the Board reserves the right to adjust this schedule if Hearing logistics dictate, or if the documentation required to be supplied in advance of the Hearing has not been provided, etc.

The parties have confirmed that they do not anticipate that any deviations from the Board’s *Rules of Practice and Procedure* (May 2005) (Rules), will be required, and as such, the Board directs all parties that the Public Hearing will be conducted in accordance with Parts III and IV of the Board’s Rules.

### **Measures to Simplify the Disposition of the Application**

During the PHC the parties were polled and none had any suggestions regarding measures to aid in simplifying the Application or its disposition at the Public Hearing.

### **Steps following the Public Hearing**

When the Panel has reached a decision, which is typically within thirty (30) to forty-five (45) days of the close of the Public Hearing Record, the Board will issue its Record of Proceedings and Decision to the Minister of Crown-Indigenous Relations and Northern Affairs. If the Panel recommends that the renewal requested in the Application be granted, an amended Licence would also be provided for the Minister’s consideration along with the Board’s decision.

If you require additional information regarding this Application, the Board’s specific direction or the Board’s processes in general, please do not hesitate to contact the Board’s Director of Technical Services, Karén Kharatyan, [karén.kharatyan@nwb-oen.ca](mailto:karén.kharatyan@nwb-oen.ca) or the Board’s Manager of Licensing, Richard Dwyer, at [richard.dwyer@nwb-oen.ca](mailto:richard.dwyer@nwb-oen.ca) for any other matters related to the Application.



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Regards,

**NUNAVUT WATER BOARD**

Stephanie Autut  
Executive Director

Attachments:

- Appendix A: Technical Meeting and Pre-Hearing Conference Agenda
- Appendix B: List of Participants at the Technical Meeting and Pre-Hearing Conference
- Appendix C: List of Commitments from the TM/PHC





**APPENDIX A: TM/PHC Agenda**

**FINAL AGENDA**

**TECHNICAL MEETING AND PRE-HEARING CONFERENCE**

**CANZINCO MINES LTD. - CONTINUED RECLAMATION AND POST-CLOSURE  
MONITORING ACTIVITIES, NANISIVIK MINE PROJECT**

**WATER LICENCE AMENDMENT (TYPE “A” LICENCE 1AR-NAN1419)**

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**Date: September 13, 2019**

**Time: 8:00 AM – 3:00 PM (MT) or 10:00 AM – 5:00 PM (EST)**

**Location: Via Teleconference (Toll Free #: 1-888-289-4573; Access Code: 7270413)**

**Technical Meeting**

1. Introduction
2. Opening remarks/Application to the Board (15 Minutes)
  - a. Overview of scope and procedural history of the application
3. Purpose of the Technical Meeting and Pre-Hearing Conference
4. Technical Review of the Application
  - a. Introduction of Participants
  - b. Presentation by Applicant (CanZinco) (up to 45 minutes, excluding time for questions and answers)
    - i. Questions from Parties, other conference call participants and the NWB regarding the Applicant’s Presentation
  - c. Identification of interested parties
  - d. Presentations by interested parties (up to 30 minutes, excluding time for questions and answers)
    - i. Presentation by Crown-Indigenous Relations and Northern Affairs (CIRNA)
    - ii. Presentation by other Interested Parties / Persons wanting to make representations
  - e. Formulation of outstanding issues



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- f. Identification of the parties’ commitments to resolve relevant technical issues, service of documents to parties (deadline, public registry, form)

5. Closing of Technical Meeting

**Pre-Hearing Conference**

6. Pre-Hearing Conference

- a. Identify issues that may prevent the Application from proceeding to a Public Hearing
- b. Discuss form, timing, and location of a potential Public Hearing for the Application
- c. Establish timetable for the pre-hearing exchange of information including:
  - i. preparation and filing of additional documents by the parties (deadlines, form, public registry)
  - ii. document-translation requirements
  - iii. documentation to be included in the Public Hearing Record
- d. Finalize list of issues to be addressed at the Public Hearing
- e. Identify interested parties / parties that should be invited to participate in the Public Hearing
- f. Identify any changes required to the Application for the purposes of clarification
- g. Final procedures to be followed at the Public Hearing including:
  - i. requested modifications to the applicable NWB Rules of Practice and Procedure for Public Hearings (May 2005)
  - ii. language requirements at the Hearing
- h. Consideration of any other matters that may aid in the simplification and disposition of the Application at the Public Hearing

7. Other issues

8. Closing of the meetings.



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**APPENDIX B: Attendees at TM/PHC**

<b>Participant</b>	<b>Position</b>	<b>Company/ Organization</b>	<b>Representing</b>
Johan Skoglund	Group Manager, Environment	Nyrstar	CanZinco
Arlene Stearman	Consultant	SRK Consulting	CanZinco
Ian Parsons	Water Resources Coordinator	CIRNA	CIRNA
Rick Hoos	Consultant	Tetra Tech, EBA	CIRNA
Karén Kharatyan	Director Technical Services	NWB	NWB
Mohammad Ali Shaikh	Technical Advisor	NWB	NWB
Richard Dwyer	Manager of Licensing	NWB	NWB
Kayla Carter	Licensing Administrator	NWB	NWB
Teresa Meadows	Legal Counsel	Meadows Law	NWB



**APPENDIX C: List of Commitments Generated during the Technical Meeting/Pre-Hearing Conference held September 13, 2019 for Licence 1AR-NAN1419, Renewal/Amendment Application**

No.	Party Responsible for Commitment	Party(s) who raised (Item#)	Issue - TM Commitment	Timeline for Submission	Form of Submission
1.	CanZinco	NWB	Provide a response to the NWB’s question regarding when the tailings in the Surface Cell (in the middle of cell) will be completely frozen back throughout	October 15, 2019	Correspondence/Technical Memo to NWB
2.	CanZinco	NWB	Provide Draft Licence Framework reflecting the current status of the site (i.e. that it is no longer an active operation and that current activities are limited to monitoring), listing plans and documents approved by the NWB during the existing licence period, and identifying changes to the post-closure monitoring period	October 15, 2019	Draft Licence Framework Document
3.	CanZinco	CIRNA, NWB	Provide a list of remaining infrastructure on site and clarifying the ownership of the remaining infrastructure (CanZinco, GN, NorthWestel or others), including providing supporting documentation which is known and readily available to CanZinco	October 15, 2019	Correspondence/Technical Memo to NWB



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No.	Party Responsible for Commitment	Party(s) who raised (Item#)	Issue - TM Commitment	Timeline for Submission	Form of Submission
4.	CIRNA	CIRNA	Conduct a review of CIRNA land use records and provide additional information regarding the status of any existing Federal land use permits for the site infrastructure noted above and owned by other parties (GN, NorthWestel or others)	October 15, 2019	Correspondence to all parties
5.	CIRNA	NWB	Updated closure cost estimate to be submitted	October 15, 2019	Technical Memo. Possibly joint submission or alternatively CIRNA submission