

APPLICATION

This is an application for judicial review in respect of a decision by the Respondent, the Minister of Indian Affairs and Northern Development (the "Minister"). By letter dated April 11, 2003 (the "Letter") the Minister rejected the Applicant's request for review and consideration of the amount of financial security to be provided by the Applicant pursuant to licence NWB1NAN0208 (the "Licence") granted by the Nunavut Water Board (the "Board") to the Applicant under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (the "Act"). Specifically, in the Letter the Minister refuses to accept jurisdiction for the Applicant's request for review and consideration of the amount of financial security to be provided (the "Minister's Decision").

The Applicant makes application for:

- (a) An Order in the nature of *mandamus* requiring the Minister to review and consider the amount of financial security to be provided by the Applicant pursuant to the Licence with a direction by this Honourable Court that the Minister receive and consider relevant information available from the Applicant;
- (b) An Order in the nature of *certiorari*, quashing or setting aside the Minister's Decision;
- (c) A Declaration that the Minister has jurisdiction to review and consider the amount of financial security to be provided pursuant to the Licence, with a direction by this Honourable Court that the Minister receive and consider relevant information available from the Applicant; and
- (d) Such further and other relief as counsel may advise and this Honourable Court permit.

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May 9, 2003 **ROCHELLE S. RICHARDS**
AGENT DU GREFFE
REGISTRY OFFICE

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The grounds for the application are:

(a) The Minister erred in law in refusing to accept jurisdiction to review and consider the amount of financial security to be provided pursuant to the Licence for the following reasons:

(i) The Minister has been granted jurisdiction under the Act to review and consider the amount of financial security to be provided pursuant to a licence (see section 76(1));

(ii) The Minister has been granted jurisdiction under the Licence to review and consider the amount of financial security to be provided pursuant to the Licence (see Part B, Item 2);

(iii) The Minister has a duty to determine the amount of financial security to be provided pursuant to the Licence. In failing to exercise his statutory jurisdiction the Minister has impermissibly and without statutory authority, delegated his statutory jurisdiction to the Board.

(b) When the Minister decided to refuse to accept jurisdiction to review and consider the amount of financial security to be provided pursuant to the Licence, the Minister acted contrary to the principles of fairness and natural justice for the following reasons:

(i) The Minister rejected requests by the Applicant to meet with the Minister in order to provide information directly relevant to the Minister's Decision. This rejection denied the Applicant the opportunity to be heard with respect to both the Minister's Decision

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- (i.e., concerning his jurisdiction) and the Minister's subsequent decision concerning the amount of financial security to be provided;
- (ii) In rejecting the Applicant's request to meet, the Minister has failed to take into account relevant information and to provide the Applicant with a full and fair hearing; and
- (c) Such further or other grounds as counsel may advise and this Honourable Court permit.

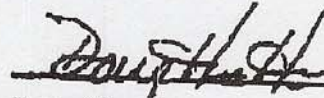
The application will be supported by one or more affidavits to be filed.

The Applicant requests that the Minister send a certified copy of the following material that is not in the possession of the Applicant but is in the possession of the Minister to the Applicant and to the Registry:

- (a) all materials that the Minister received, reviewed and/or relied on in rendering the Minister's Decision (without editing or deletions); and

(b) such further material which may be relevant to the issues in this proceeding.

May 9, 2003



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Counsel for the Applicant

Court file no.:

FEDERAL COURT — TRIAL DIVISION

BETWEEN:

CANZINCO LIMITED

Applicant

- and -


THE MINISTER OF INDIAN AFFAIRS AND
NORTHERN DEVELOPMENT

Respondent

NOTICE OF APPLICATION

SERVICE OF A TRUE COPY ADMITTED ON

MAY 12 2003

ON BEHALF OF THE
SOLICITOR GENERAL OF CANADA

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Counsel for the Applicant

I HEREBY CERTIFY that the above document is a
true copy of the original issued out of the Registry
of the Federal Court of Canada.

MAY 09 2003

At _____ day of _____ 2003
Dated this _____ day of _____ 2003

