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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

February 15, 2017

File No: Jericho Site Stabilization Plan
By Email

Mark Yetman
Project Manager
Lands and Contaminated Sites, Nunavut Regional Office
Indigenous and Northern Affairs Canada
P.O. Box 2200
Iqaluit, NU X0A 0H0

Email: Mark.Yetman@aadnc-aandc.gc.ca

Re: Guidance with Respect to the Nunavut Water Board's Consideration of the Water Use and Deposit of Waste Aspects of the Jericho Mine Site Stabilization Plan

Dear Mr. Yetman,

Thank you for the correspondence received by the Nunavut Water Board (NWB or Board) on January 30, 2017, providing the Board with further details regarding the activities that Indigenous and Northern Affairs Canada (INAC) proposes to undertake in 2017 to implement the Site Stabilization Plan at the Jericho Diamond Mine. As indicated in your correspondence, the NWB understands that the Site Stabilization Plan will be conducted under the Minister's powers to take all reasonable measures to prevent, counteract, mitigate or remedy potential adverse effects from the mine under s. 89 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA).

Although the NWB does not have a defined role in respect of reviewing or approving the specific measures undertaken pursuant to s. 89, as INAC has noted, the *Nunavut Agreement* provides that all water uses in the Nunavut Settlement Area are subject to approval by the Board. Given that the proposed Site Stabilization Plan will involve several types of water use, the NWB will therefore review and consider the proposed Site Stabilization Plan to determine whether the proposed water uses are consistent with the objects of the Board as set out in s. 35 of the NWNSRTA:

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

The outcome of the Board's assessment as to whether the proposed water use and deposit of waste meet the objects as set out under the NWNSTRA, will be a letter of direction to INAC that outlines the Board's reasons for approving or refusing to approve the water use and deposit of waste proposed in the Site Stabilization Plan. It should be noted that if the Board approves the proposed water use and deposit of waste, the Board's letter of direction may also include terms and conditions that are, in the NWB's view, required to ensure that the water use and deposit of waste as approved, would continue to meet the objects of the NWNSTRA on an on-going basis.

To facilitate the Board's further consideration of the water use and deposit of waste proposed in the Site Stabilization Plan, the Board is, by way of this correspondence, providing notice of the Board's receipt of INAC's request to the Board to approve the specified water uses, deposit of waste, and supporting materials including materials previously submitted by INAC for this project in the form of a water licence application. The Board has placed all information associated with this file and received to date on its public registry, available from the following link:

<ftp://ftp.nwb-oen.ca/registry/11%20WITHDRAWN%20RETURNED/8BC-JER-----%20MSP/>

The Board also notes that the Site Stabilization Plan was submitted as a project proposal to the Nunavut Planning Commission to assess conformity. On September 30, 2016 the NPC determined that the project proposal was outside the area of an applicable regional land use plan (NPC File No.: 148350). On December 22, 2016 the Nunavut Impact Review Board issued the Screening Decision Report (NIRB File No.: 00MN059). Consequently, the applicable conformity and project assessment requirements associated with the project under the *Nunavut Agreement* and the *Nunavut Planning and Project Assessment Act* have been completed.

By way of this correspondence, the Board is also initiating a **thirty (30) day comment period** with respect to the water use and deposit of waste aspects of the Site Stabilization Plan. Specifically, the public and interested parties, including the Kitikmeot Inuit Association, Environment and Climate Change Canada and Fisheries and Oceans Canada are invited to provide the Board with their comments on or before **3:00 pm MST, Wednesday, March 15, 2017** regarding but not limited to the following activities:

- The removal of the C1 Diversion, the filling of the open Pit, and subsequent discharge to the receiving environment.
- Covering the fine tailings in Cell A with coarse tailings in order to prevent dispersion by wind.
- Discharge from the tailings area.
- The breach of Dyke A and the West Dam in order to prevent the build-up of water.
- Cleaning, dismantling and disposing (within a landfill) the fuel tanks.
- Shipping metal contaminated soils off-site for disposal, and consolidate fuel contaminated soils on-site in a bermed area.
- Sorting, packaging, incinerating and/or shipping hazardous materials off-site for disposal, and
- Any other issues the parties consider relevant to the Board's consideration of proposed water use and deposit of waste under the Site Stabilization Plan.

Although the Board reserves the right to modify timelines and process to reflect comments received or outstanding information requests, at present, the Board expects that within two weeks of the Board's receipt and review of comments and any replies from INAC as required, the water use aspects of the Site Stabilization Plan for the Jericho Diamond Mine will be remitted to the Board and the Board will issue the NWB's letter of direction. From INAC's correspondence and discussions with the NWB, it is the Board's understanding that this proposed timeline should provide INAC with sufficient notice of the Board's approval/refusal to approve the proposed water uses and/or deposit of waste prior to the commencement of planned project activities on-site.

If you have any questions or require further direction with respect to this matter, please contact the Board's Executive Director, Stephanie Autut by email at stephanie.autut@nwb-oen.ca or by phone at (867) 360-6338, Ext. 22.

Regards,

Stephanie Autut, Executive Director
Nunavut Water Board

cc. (Specific Contacts for KIA, ECCC and DFO)
Public Registry