



³ Section 56(1) of the NWNSTRA requires that: The issuance, amendment, renewal and cancellation of a type A licence and, if a public hearing is held, a type B licence, are subject to the approval of the Minister.

Background and Regulatory History:

On December 21, 2004, the NWB issued licence NWB1JER0410 (the Original Licence), authorizing Benachee Resources Inc. a wholly-owned subsidiary of Tahera Diamond Corporation, (Licensee) to use water and dispose of waste into water at the Jericho Diamond Mine site. The Jericho Diamond Mine is located at the north end of Contwoyto Lake, NU, approximately 200 km southeast of Kugluktuk, 200 km southwest of Bathurst Inlet and 420 km northeast of Yellowknife, NWT. The Original Licence was approved by the Minister of Indian and Northern Affairs Canada on January 25, 2005. The Original Licence was issued for a period of approximately six years, and will expire on December 31, 2010.

Construction of the mine began in March 2005 and the first production of rough diamonds began during the first quarter of 2006. Commercial production was achieved at the mine on July 1, 2006, with the official mine opening occurring on August 17, 2006. From July 1, 2006 until the mine went into receivership in late 2008, the mine produced more than 780,000 carats of gem-quality diamonds from 1.2 million tonnes of kimberlite. The mine has not been operating since 2008 and is currently in care and maintenance.

On June 9, 2009, the Licensee applied to assign the Type A Water Licence (now renumbered) 2AM-JER0410 (the Existing Licence) from the Licensee to a new entity, Benachee Resources Inc. (no longer a wholly owned subsidiary of Tahera Diamond Corporation). On July 31, 2009, the NWB authorized the assignment of the water licence to the new licensee, Benachee Resources Inc. The assignment required the submission of numerous outstanding requirements of the Licence including:

- outstanding water use fees;
- 2008 annual report;
- as-built drawings;
- updates of the Spill Contingency Plan and General Monitoring Plan;
- an updated estimate of the total mine closure restoration liability; and
- confirmation that security in the amount of \$2.2 million was furnished.

On July 27, 2010, during court proceedings in relation to the Tahera receivership (Court File No. 08-CL-7355), the Ontario Superior Court of Justice approved the sale of Tahera's assets including the Jericho Diamond Mine to Shear Minerals Ltd. In addition, the order of the Honourable Justice Morawitz directed the Water Board to consider the application for assignment of the Existing Licence "forthwith". After a period of due diligence, the purchase by Shear Minerals Ltd. was completed at the end of August, 2010.

The Application:

On November 15, 2010 the NWB received an assignment request and associated documents from Shear Minerals Ltd. seeking to assign Licence 2AM-JER0410 from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp., a wholly owned subsidiary of Shear Minerals Ltd. In addition, given concern that the Existing Licence would be expiring on December 31, 2010, before Shear Diamonds (Nunavut) Corp. would be in a position to submit a full renewal

application, Shear Minerals Ltd. also sought a short-term renewal of the Existing Licence for a period of sixty (60) days commencing on January 1, 2011.

Documents pertaining to this application are available from our ftp site (username *public* and password *registry*) at the following link:

<ftp://nunavutwaterboard.org/1%20PRUC/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-JER0410/1%20APPLICATION/2010%20Assignment/>

On November 17, 2010, mindful of the Court's order in July, 2010 and the upcoming expiry of the Existing Licence, the NWB determined that the current circumstances of this application constituted "urgent circumstances" pursuant to subsection 55(4) of the NWNSRTA.⁴ As a result, the Board's decisions in respect of the application, both the assignment and the short term renewal of the licence by a period of up to sixty days without a hearing, were subject to a shortened notice period (reduced from the usual thirty day minimum time period for public comment to a ten day minimum time period).

Accordingly, the parties were invited to provide comments to the NWB on or before 3:00 pm MST, November 29, 2010. The responses are summarized in Table 1 that follows.

⁴ Subsection 55(4) of the NWNSRTA states:

55(4) Where a public hearing is not held in relation to an application, the Board shall not act on the application until at least thirty days notice of the application that has been published under subsection (1) unless, in the opinion of the Board, there are urgent circumstances that justify the Board acting on that application in a shorter period, but that shorter period shall not be less than ten days.

Table 1
Summary of Responses Received to NWB Notice of Application

Date	Party	Comments
Nov. 16	Kitikmeot Inuit Association (KIA)	Confirmation that Shear Diamonds (Nunavut) Corp. has brought up to date water compensation payments for 2010-2011 and is party to a water compensation agreement with KIA
Nov. 18	Environment Canada	No concerns provided mitigation measures followed and no change to terms and conditions of Existing Licence
Nov. 24	Indian and Northern Affairs Canada	Supports assignment and confirmed that Shear Diamonds (Nunavut) Corp. has furnished acceptable security as required by the Licence in the amount of \$2.2 million
Nov. 25	Nunavut Impact Review Board (NIRB)	Letter and attachment requiring Shear Diamonds (Nunavut) Corp. to request a reassignment of the NIRB's Project Certificate in relation to the Jericho Diamond Mine Project and to identify how the assignee will comply with the conditions of the Project Certificate
Nov. 26	Government of Nunavut Department of Culture, Language, Elders and Youth	No objection
Nov. 29	Kitikmeot Inuit Association (KIA)	No comments in respect of application

Reasons for Decision

On November 30, 2010, the NWB Type "A" Panel considered the application and is satisfied that the assignment of the existing licence to Shear Diamonds (Nunavut) Corp. and the operation of the appurtenant undertaking by Shear Diamonds (Nunavut) Corp. would not be likely to result in a contravention of any condition of the licence or any provision of the *Act* or *Regulations*. Further, the NWB notes the confirmation from KIA that water compensation issues have been appropriately addressed by Shear Diamonds (Nunavut) Corp. and confirmation from INAC that the required security has been posted.

With respect to the issuance of a short-term renewal of sixty days from January 1, 2011, the NWB recognizes that there is insufficient time to provide a complete renewal application to the Board for review prior to the expiry of the Existing Licence. For the regulatory process to function effectively, it is in the best interests of all the parties for the NWB to receive applications that are thorough and complete. Consequently, the Board has decided to issue the short term sixty day renewal of the Existing Licence, with the expectation that Shear Diamonds (Nunavut) Corp. will submit their complete renewal application as soon as possible.

Reflecting these decisions, the Board requests the following from the Minister:

- acknowledgement of the assignment of Licence 2AM-JER0410 from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp. (a wholly owned subsidiary of Shear Minerals Ltd.);
- consent to the NWB's exercise of its jurisdiction to exempt the application for the short-term renewal from the requirement to hold a public hearing; and
- approval of the issued short-term renewal of licence 2AM-JER0410, with no changes to the conditions of that licence, for a period of sixty days (term commencing on January 1, 2011 and expiring on March 1, 2011).

Should you have any questions or require clarification on the above or wish to discuss further, please contact the undersigned in writing.

Sincerely,



Thomas Kabloona
Nunavut Water Board
Chair

Cc: Kitikmeot Distribution List

Attachments:

1. 2010 Assignment of Licence 2AM-JER0410
2. Signature page for short term renewal of licence 2AM-JER0410, for sixty days, expiring March 1, 2011
3. Listing of Application Documents

List of Application Documents ReceivedPage: 6

1. Shear Minerals Ltd. Certificate of Amalgamation dated 2006/12/01;
2. Purchase and Sale Agreement between Tahera Diamond Corporation and Benachee Resources Inc. and Shear Minerals Ltd. Dated July 16, 2010;
3. Approval and Vesting Order of the Ontario Superior Court of Justice dated July 27, 2010;
4. Articles of Amendment to Change the Name of the Corporation from 5133 Nunavut Limited to Shar Diamond (Nunavut) Corp. Dated August 19, 2010;
5. Assignment of Reclamation Security Deposits Between Tahera Diamond Corporation and Benachee Resources Inc. And Shear Diamonds (Nunavut) Corp. dated August 27, 2010;
6. Letter dated October 13, 2010 from McLennan Ross, Legal Counsel to Shear Diamonds (Nunavut) Corp. re Extra-Provincial Registration of the Corporation;
7. Letter dated November 15, 2010 from Shear Minerals Ltd., to Nunavut Water Board re Nunavut Water Board Licence 2AM-JER0410;
8. From Shear Minerals Ltd., Interim Consolidated Financial Statements for the three and nine months ended August 31, 2010;
9. C1 Application for Assignment and Declaration of Assignee dated 9/9/2010;
10. C3 Undertaking of Proposed Assignee dated September 24, 2010;
11. C4 Affidavit of Execution Undertaking of Proposed Assignee dated September 24, 2010;
12. Shear Minerals Ltd., Water License [sic] Compliance Report NWB1JER0410 dated November 16, 2010;
13. Letter dated November 16, 2010 from Shear Minerals Ltd. to Nunavut Water Board re Nunavut Water Board Licence 2AM-JER0410 Compliance Assessment;
14. Letter dated November 17, 2010 from Shear Minerals Ltd. to Nunavut Water Board re Renewal of Nunavut Water Board Water Licence 2AM-JER0410 (the "Water Licence") Shear Diamonds (Nunavut) Corp. ("Shear Diamonds");
15. Email dated November 18, 2010 from Nunavut Planning Commission confirming that project falls outside the boundaries of an approved land use plan;
16. Letter dated November 25, 2010 from Nunavut Impact Review Board to Nunavut Water Board re Assignment of Water Licence 2AM-JER0410 from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp.;
17. Letter dated November 16, 2010 from John Donihee, M.E.S., LL.M, KIA Counsel to Nunavut Water Board re Assignment of Tahera Diamonds Water Licence to Shear Diamonds (Nunavut) Corp.;
18. Letter dated November 18, 2010 from Environment Canada to Nunavut Water Board re 1011117 2AM-JER0410 Assignment Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp. – Kitikmeot Region;
19. Letter dated November 24, 2010 from Indian and Northern Affairs Canada to Nunavut Water Board re 2AM-JER0410 – Application for Assignment of Licence from Benachee Resources Inc. to Shear Diamonds (Nunavut) Corp.;
20. Letter dated November 26, 2010 from Department of Culture, Language, Elders and Youth to Nunavut Water Board re Nunavut Water Board – 2AM-JER0410, Assignment of Licence Type A;
21. Letter dated November 29, 2010 from Kitikmeot Inuit Association to Nunavut Water Board re NWB 2AM-JER0410 Assignment Benachee Resources Inc to Shear Diamond (Nunavut) Corp.