

P.O. Box 119 Gjoa Haven, NU X0B 1J0 Tel: (867) 360-6338 Fax: (867) 360-6369 ຼຼວວ △L ← ሲጉና ЫΠ L ት Υ NUNAVUT WATER BOARD NUNAVUT IMALIRIYIN KATIMAYINGI OFFICE DES EAUX DU NUNAVUT

File: 2AM-LUP0008/Amend

September 24, 2008

By Email and Regular Mail

Andrew Mitchell, P.Geo. Development Manager Lupin Mines Inc. 200-1159 Alloy Drive Thunder Bay, ON P7B 6M8

Email: Andrew.Mitchell@zinifex.com

Subject: Lupin Mines Incorporated inquiry for emergency amendment (discharge) of the

Lupin Mine Sewage Lagoon; Licence 2AM-LUP0008

Dear Mr. Mitchell;

Further to your email of September 23, 2008, requesting an update on the status of an authorization for discharge of the Lupin Sewage Disposal System (Sewage Lagoon), at this time we are still waiting on confirmation from INAC on the powers of the Inspector under Section 87 and the Nunauvt Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA) more generally for a determination as to whether the Inspector can provide an order allowing release of the effluent due to the critical situation with the containment berm.

As we have discussed previously, the only provision that the Board has to expedite a licence amendment is on the basis of emergency circumstances pursuant to Subsections 55(5) and paragraph 52(2)(c) of the NWNSRTA. These provisions allow the Board to dispense with the public notice period if the Board, with the consent of the Minister, declares that the amendment is required on an emergency basis. The legislation does not define "emergency". The Board however, has typically been reluctant to bypass the public consultation process and has defined an emergency as a sudden occurrence which requires immediate action. The Board expects a Licensee to show that there will be an adverse environmental consequence if the application for amendment is not dealt with immediately or approved.

In order for the Board to proceed, the Licensee needs to make a formal request to the NWB asking the Board to exepdite an amendment to the licence on the basis of emergency circumstances and provide the supporting evidence. This information is also necessary to obtain the consent of the Minister. While it is up to Licensee to make the case, you should consider including the following:

1. A specific amendment request, i.e. extending the Licence expiry date from June 30, 2008 to say October 31, 2008 to accommodate the period of discharge;

- 2. A request for the amendment to be expedited in accordance with subsection 55(2) on the basis that emergency circumstances exist;
- 3. The details of the emergency (sewage ponds collect runoff from the area and therefor have resulted in capacity issues that cannot be resolved without the discharge), photographic evidence that the physical structures are at risk and will continue to be unless immediate action is taken (eg. if breach does not occur prior to winter, it will be frozen, however spring thaw will without a doubt result in the failure of the structure, releasing contents in an uncontrolled manner);
- 4. The associated adverse environmental consequences;
- 5. Alternatives available to the Licensee should the amendment not be expedited, and the potential impacts to water (some items discussed were the pumping of sewage pond water to the TCA where additional capacity is available, and pumping of the water to the underground workings; possibly increasing the capacity of the lower pond which would be difficult given the time of season and the water elevations at present);
- 6. Provision of data that confirms that the amendment request will allow for the discharge of water from the Sewage Lagoon within current licence effluent quality limits; and
- 7. Confirmation that the release of the water will result in a release that is compliant with current licence parameters, will result in a considerable amount of the water being retained by the wetland system immediately downstream (until spring), minimal environmental impacts to water will result from this action.

Once the NWB has received the formal request, a decision can be made by the Board as to proceeding with the request as provided, or requesting additional information prior to proceeding.

Should you have any further questions, please feel free to contact me at (780) 443-4406, at your earliest convenience.

Yours truly,

*Original signed by:* 

David Hohnstein, C.E.T. A/Director Technical Services

DH/lc/pb

Cc: Kevin Buck, Manager Water Resources, INAC