



P.O. Box 119
GJOA HAVEN, NU X0B 1J0
TEL: (867) 360-6338
FAX: (867) 360-6369

ᓄᓇᓂᓪ ᐃᓕᓕᓂᓪ ᑲᑎᓕᓪᓴᓪ
NUNAVUT IMALIRIYIN KATIMAYINGI
NUNAVUT WATER BOARD
OFFICE DES EAUX DU NUNAVUT

By Email

File No. 2AM-LUP0008

Date: November 24, 2008

To: Lupin Distribution List

Subject: Pre-Hearing Conference for Lupin Mines Incorporated (LMI) Gold Mine application for renewal of a Type A Water Licence

A Panel appointed by the Board has made a decision on the above noted file and asked that I communicate with the parties the following information.

On October 1, 2008, the Nunavut Water Board (NWB or Board) directed that in accordance with Rule 14 of the NWB Rules of Practice and Procedure, the staff of the NWB hold a Pre-Hearing Conference (PHC) for the Lupin Mines Incorporated (LMI) application to renew Type A water licence 2AM-LUP0008 (previously NWB1LUP0008) (Licence) for the Lupin Gold Mine (Application).

The PHC was held by teleconference on November 17, 2008.

The PHC dealt with the following matters relevant to the Application:

- (a) To set a timetable for the pre-hearing exchange of information;
- (b) To finalize the list of issues to be dealt with at the hearing;
- (c) To identify interested parties;
- (d) To consider the desirability of amending an application for the purposes of clarification;
- (e) To finalize procedures to be followed in a hearing; and
- (f) To consider any other matters that may aid in the simplification and disposition of the application at the Hearing.

The PHC Agenda is provided as Appendix A.

The following Parties were present at the PHC: Lupin Mines Incorporated (LMI), Nunavut Impact Review Board (NIRB), Environment Canada (EC), Indian and Northern Affairs Canada (INAC), the Department of Fisheries and Oceans Canada (DFO), the Government of Nunavut Department of the Environment (GN-DOE), and the Kitikmeot Inuit Association (KIA).

Application to the Board

Regulatory History

On June 1, 1981, the Northwest Territories Water Board (NWT Water Board) issued the initial water licence for the Lupin Gold Mine to Echo Bay Mines Limited (EBM). Two amendments were approved by the NWT Water Board during the term of the initial licence:

- 1) Amendment No.1 modified waste disposal conditions to allow and set discharge limits for the disposal of sewage wastes separately from the tailings discharge;
- 2) Amendment No. 2 followed a public hearing and was approved to allow discharge of mine water to the Sewage Lakes system subject to specified criteria, and the Licence was extended to May 31, 1990.

The initial water Licence was renewed by the NWT Water Board in 1990 and 1995. In 1994 the licence was amended to allow EBM to use paste backfill technology to return a portion of tailings underground. In 1995 the Licence was renewed without further modification or amendment with a term expiring on May 31, 2000.

In July 1996 the NWB assumed water licensing regulatory authority for the Lupin Gold Mine from the NWT Water Board.

In January 1998, the mine entered into a care and maintenance phase due to the decline of world gold prices. On July 12, 1999, the NWB received an application for licence renewal from EBM. EBM notified the Board of resumption of operation on March 28, 2000. The renewal type A water Licence NWB1LUP0008 was issued by the NWB on July 1, 2000.

On May 25, 2001, EBM applied for reduction of security from \$29.2 to \$15.5 million, the NWB decided on November 15, 2001 following a hearing, to lower the security required by the Licence from \$29.2 to \$25.5 million.

Effective January 31, 2003 a merger between EBM, TVX Gold Inc. and Kinross Gold Corporation (KGC) was approved creating a single company, KGC. The Nunavut Water Board required notice of name change for the water licence.

In August 2003 EBM notified the Board that the Lupin Gold mine was entering into care and maintenance. In the spring of 2004 EBM resumed production. Production ceased in 2005 with EBM stating their intention to proceed to closure and request to cancel the Type A water licence. This request was withdrawn on June 26, 2006, and LMI maintained a state of care and maintenance.

On April 13, 2007, the NWB authorized the assignment of the Licence from KGC to LMI (a wholly owned subsidiary of Wolfden Resources Inc., now Zinifex Canada Inc.). On June 20, 2008, Zinifex Limited (parent company of Zinifex Canada Inc.) merged with Oxiana Limited to form Oz Minerals Limited. LMI is a wholly owned subsidiary of Oz Minerals Limited.

Application

The Licensee applied for a renewal of the Licence on February 21, 2008. The renewal application is for a five year extension of the Licence term, with no changes to the terms or conditions of the Licence. At present, operations at the Lupin Mine are in care and maintenance since 2005 pending the economic feasibility determination of the project.

The NWB acknowledged receipt of the application on February 28, 2008. At this time the NWB also advised LMI of the environmental assessment requirements of the NIRB and Article 12. On May 6, 2008, the NWB received notification from the NIRB of a decision to re-issue the terms and conditions of the November 16, 1999, screening decision.

On May 28, 2008, the NWB sent a letter to the Applicant with a copy to interested parties outlining the proposed process and timelines for consideration of the Application. The Board received comments from KIA, INAC, DOE, and DFO respecting the Board's determination of completeness of the water licence application and supporting documentation. The Board did not receive any indication that the application should not proceed through the regulatory process.

On September 23, 2008, the Board confirmed completeness of the Application and issued jointly a Notice of Application and Notice of Hearing to be carried out in writing commencing on November 25, 2008. At that time the Board also gave notice to all parties and interested persons to begin a thorough technical assessment of the application and to make submissions to the Board by October 27, 2008. The Board received comments from DFO and INAC.

During the course of the renewal process, the Licence expired on June 30, 2008. On September 25, 2008, LMI requested that the Board amend the term of the Licence to October 31, 2008, on the basis of emergency circumstances to permit the Licensee to proceed with the emergency discharge of effluent from two sewage lagoons at mine. With the consent of the Minister, an emergency amendment extending the term of the Licence to March 31, 2009 was granted on October 1, 2008.

On October 1, 2008 the Board delegated its authority to staff to hold a technical meeting and PHC in accordance with section 14 of the Board's Rules of Procedure for Public Hearings. Notice of the technical meeting and PHC was given to all parties on October 28, 2008.

Pre-hearing Review of the Application

a) LMI Presentation on Current Status of the Project

LMI provided Parties with an update to the current status of the Project that included: work in progress at the site, status of ongoing care and maintenance, effluent discharge requirements, and future considerations regarding economic feasibility and final closure.

b) Identification of Interested Parties

Interested Parties that attended the technical meeting/PHC and/or provided written submissions to the Board throughout the review process were KIA, GN-DOE, INAC, EC and DFO. A technical advisor from the NIRB also attended the technical meeting/PHC.

All written submissions are available for consideration on the NWB ftp site, **Username: public, Password: registry** at:

<http://www.nunavutwaterboard.org>

Parties that identified themselves as having a role in the Final Hearing include:

- Indian and Northern Affairs Canada;
- Kitikmeot Inuit Association;
- Environmental Canada;
- Fisheries and Oceans Canada; and
- Government of Nunavut (DOE).

There were no other parties or persons identified at the PHC whose expertise may be required for the Final Hearing.

c) Presentations from Interested Parties

No Party indicated an interest in making a presentation at the technical meeting or PHC.

d) Formulation of Issues

At the PHC, clarification was requested from LMI on several issues including: on site water management and sewage lagoon discharge criteria; cover of the tailings containment area during care and maintenance; fuel storage during care and maintenance; site inspection and the plan for contaminated soils during care and maintenance; the status of the abandonment and reclamation plan and the current status of security. LMI undertook to advise the parties of the extent of exposed tailings at the site and the status of the posted security.

In summary the detailed technical issues identified through written submissions and the technical meeting/PHC are set out in Appendix B: Summary of Technical Issues.

The parties confirmed that issues identified by way of previous written submissions and the clarifications of issues requested at the technical meeting/PHC can be fully addressed through a written hearing.

Issues to be presented to the Board at the Final Hearing should be generally classified under the following categories:

1. Term of Licence;
2. Annual Reporting;
3. Work plan Requirements;

4. Care and Maintenance Plan;
5. Type and Amount of Security;
6. Geotechnical;
7. Water Management and Water Quality;
8. Waste Management;
9. Tailings Storage Facility;
10. Contingency Planning;
11. Mitigation, Treatment and Management of Contaminated soils;
12. Monitoring;
13. Closure and Reclamation; and
14. Other Issues

e) Identification and Service of Documents to Parties (deadline, public registry, form)

The NWB Rules of Practice and Procedures for Public Hearings (Rules) require that parties are to submit their written interventions no later than thirty (30) days prior to the commencement of the Hearing. However, in consideration of the comments received to date and the procedures established for the Hearing to take place in writing as set out below, the Board has decided to vary the Rules to be in accordance with the submission dates set out below.

In order to facilitate the review of interventions, the Board requests that written submissions be made in accordance with the categories set out in the preceding section.

All submissions will be posted on the NWB's ftp-site (www.nunavutwaterboard.org) and within the public registry upon receipt.

f) Translation and the Record (language, transcripts)

In order to facilitate public participation and to accommodate the language requirements of Board members, all documents submitted in accordance with the procedure for the Hearing set out below, will be translated into Inuktitut by the Parties.

Hearing Procedures

The Board hereby confirms that the Hearing will proceed in writing with deadlines for submission as outlined below:

In accordance with the Notice of Hearing, the Hearing commences on November 25, 2008. The procedures for conducting the Hearing in writing are as follows:

- Written submissions on the issues from interveners to be submitted to the NWB no later than Tuesday, December 9, 2008;
- Reply submission from the Applicant to be submitted to the NWB no later than Tuesday, January 6, 2008;
- Final closing statements from interveners to be submitted to the NWB no later than Tuesday, January 13, 2009; and

- Final closing statement from applicant to be submitted to the NWB no later than Tuesday, January 20, 2009.

All submissions shall be made to:

Thomas Kabloona
Chairman
Nunavut Water Board
P. O. Box 119
Gjoa Haven, NU X0B 1J0
Fax: 867-360-6369
Email: licensing@nunavutwaterboard.org

Upon receipt of submissions, Phyllis Beaulieu, Manager of Licensing will acknowledge its receipt, post the information to the NWB ftp site and provide immediate notification to all parties that submissions are available for review.

For additional information, please contact David Hohnstein, A/Director Technical Services (dts@nunavutwaterboard.org) for technical issues and Phyllis Beaulieu, Manager of Licensing (licensing@nunavutwaterboard.org) for any other matter related to the Hearing.

Regards,



Dionne Filiatrault, P. Eng.,
Executive Director

Appendix A Agenda
Appendix B Summary of Technical Issues

APPENDIX A – AGENDA



P.O. Box 119
GJOA HAVEN, NU X0B 1J0
TEL: (867) 360-6338
FAX: (867) 360-6369

ᓄᓇᓂᓪᓴ ᐃᓕᓕᓂᓪᓴ ᑲᑎᓚᓪᓴᑦ
NUNAVUT IMALIRIYIN KATIMAYINGI
NUNAVUT WATER BOARD
OFFICE DES EAUX DU NUNAVUT

PRE-HEARING TECHNICAL MEETING
LUPIN MINE PROJECT
TELECONFERENCE
NOVEMBER 17, 2008 12:00 pm MST; 2:00 pm EST

Dial-in Number Toll Tree 877-579-4178
Participant Passcode 807543#

1. Introduction and Registration
2. Application to the Board
3. Purpose of the Pre-Hearing/Technical Meeting
4. Pre-Hearing Review of the Application
 - a) Presentation on current status of Project
 - b) Identification of Interested Parties
 - c) Presentations from Interested Parties
 - d) Formulation of Issues
 - e) Identification and Service of Documents to Parties (deadline, public registry, form)
 - f) Translation and the Record (language, transcripts)
5. Hearing
 - a) November 25, 2008 (written hearing)
 - b) Directions to the issued following the Pre-Hearing Conference
6. Other Issues
7. Closing of the Meeting

APPENDIX B – SUMMARY OF TECHNICAL ISSUES

No.	Issue Reference	Pre-hearing Commitment	Timeline for Submission or Response*	Additional Comment
1.		Term of Licence		
2.		Annual Reporting		
3.		Work Plan Requirements		Work plan proposed to provide clarification on dates annually
4.		Care and Maintenance		
	INAC	Submission of a Water and Wastewater Plan specific for the Care and Maintenance Phase (dates and controlled discharges to minimize emergency discharges)		
	INAC	Submission of Care and Maintenance Plan		
	INAC	Clarification regarding on site seasonal inspections (internally by LMI)		
	INAC	Storage of fuel		
5.		Type and Amount of Security		
	NWB	Guarantee of full Security by Oz Minerals		Legal verification to be provided by LMI
6.		Geotechnical		
		Dam Management		
	DFO	Dam 4 – Fish habitat assessment		
	DFO	Dam 1A – confirmation no fish passage		
7.		Water Management and Water Quality		
8.		Waste Management		
9.		Tailings Storage Facility		
	GN-DOE INAC KIA	Concerns with respect to cover depth, and ongoing status of reclamation activities of exposed tailings, concern windblown tailings, water management (levels)		Preference for interim monitoring plan; to develop operating procedures for Care and Maintenance
	KIA GN-DOE	Wildlife Access		
	DFO	Reclamation of Tailings Lines		
	INAC	Request formal mitigation/work plan for Tailings Containment Area (TCA)		
	GN-DOE	Request Tailings Management Plan		Proposal in written form to the parties; EC agreed with GN-DOE's written response request
10.		Spill Contingency Planning		
	INAC	No burning except through incineration		LMI to implement GN recommendation re: SCP
	INAC	Updated plan to include long term storage		
11.		Mitigation, Treatment and Management of Contaminated Soils		
12.		Monitoring		
13.		Closure and Reclamation		
	DFO	Updated plan to include reclamation for the breakwater and causeway		Interim plan to be revised
	INAC	Clarification for disposal of petroleum hydrocarbon contaminated soils		
	INAC	Plan for reclamation of roads and old airstrip		
	DFO	Need for culvert map		

	EC	Disposal of material underground and tank farm		
14.		Other Issues:		
		NIRB Screening		
	NIRB	Access wildlife to Tailings Containment Area (TCA)		
	NIRB	Continuance of maintenance, monitoring, and reporting		

* LMI to provide clarification of timelines for response in their written hearing submissions.

FOR COMPLETE DETAILS OF THE TECHNICAL ISSUES REFER TO PARTIES OFFICIAL SUBMISSIONS.