



Water Resources  
Nunavut Regional Office  
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Your file - Votre référence  
2AM-LUP0914

February 23, 2015

Our file - Notre référence  
CIDM# 890858

Thomas Kabloona  
Chairperson  
Nunavut Water Board

**Re: 2AM-LUP0914 – Lupin Mines Incorporated – Lupin Mine Project –  
Amendment-Renewal Application – AANDC Closing Statement**

Dear Mr. Kabloona:

Thank you for your letter of February 9, 2015 inviting parties to file with the Board, closing statements and comments regarding the filing of documents offered by LMI and marked as Exhibits 3 and 9.

Aboriginal Affairs and Northern Development Canada (AANDC or the Department) is committed to ensuring responsible and sustainable resource development in Nunavut. The Department has been actively engaged in the Nunavut Water Board (NWB or the Board) water licence application process for the renewal and amendment of the Lupin Mines Incorporated (LMI or the applicant) Type 'A' water licence 2AM-LUP0914 for the Lupin Mine Project, providing technical advice to the Board and working with the applicant to clarify technical and compliance issues.

In response to the Board's direction in the letter dated February 9, 2015, AANDC offers comments regarding the filing of documents offered by LMI (Section A) and closing statements (Section B) for the Board's consideration.

**A. Comments Regarding the Board's Filing of Documents Offered by LMI**

Exhibit 3: Technical Report filed with SEDAR as a Mineable Reserves Update

AANDC objects to the admission of the report marked as Exhibit 3. The basis of the objection is simply that the report and the information contained in the report was known to LMI well in advance of the current application. LMI could easily have filed the report earlier in the process to allow interested parties the appropriate opportunity to review and comment on the report during the application process. Submission at the public hearing did not afford the interested parties enough time to consider and comment on the report during the final hearing.

In addition, the report itself is of questionable relevance since it specifically states:

“While the Martin reserve and resource estimate is believed to be reliable, the author has not done sufficient work to classify the historical estimate as current mineral resources or mineral reserves. Elgin Mining does not treat this historical estimate as a current reserve/resource estimate, and the reader is cautioned to not rely on this reserve/resource estimate.”

The report was to support a \$10 million exploration program and not to define mineable reserves and it does not in any way show there are sufficient proven reserves to support an economically viable mining operation.

The report is, at best, an indication that there is still some gold in the ground at the Lupin Mine. However, in order to determine whether mining this gold is economically viable, substantial work needs to be completed. Should the mine restart, the amount of waste rock and tailings will increase by an unknown amount and a determination is required on how this increase may factor into the reclamation cost estimate. The work done to date on the reclamation cost estimate did not factor these increases into the reclamation amount since the information was not presented before the public hearing.

#### Exhibit 9: Powerpoint Presentation entitled Reply Submission to the NWB

AANDC objects to the admission of Exhibit 9 filed during the public hearing. The basis of the objection is simply that the report and the information contained in the report was known to LMI well in advance of the current application. LMI could easily have filed the information contained in Exhibit 9 earlier in the process to provide interested parties the appropriate opportunity to review and comment on the information during the application process. Submission at the public hearing did not afford the interested parties enough time to consider and comment on the information during the final hearing.

The majority of the content of the exhibit is focused on showing exploration potential and a conceptual mine plan. The mine start-up schedule provided was for time in the past and appears to be outdated. It is unclear how this historic plan can be considered factual evidence to show a future mine re-start.

#### Exhibit 5: Mandalay Resources Corporation unaudited interim financial statements

LMI is the licensee of the existing water licence and the sole applicant for the water licence amendment-renewal application. Should such a licence be granted, the only entity responsible for the performance of the terms and conditions of that licence will be LMI. While LMI may be a wholly owned subsidiary of Elgin Mining Inc. (Elgin), the terms and conditions of the water licence will not affect or be enforceable against Elgin. Elgin in turn is a wholly owned subsidiary of Mandalay Resources Corporation (Mandalay). As such Mandalay is one further step removed from having any legal obligation with respect to the LMI water licence. AANDC notes there is no reference to LMI in the above document.

Therefore the current water licence renewal application should be considered only on the basis of financial strength of LMI and should not consider the financial capacity of Mandalay. While Mandalay or Elgin may provide support to LMI there has been no evidence presented showing any legal obligation to provide or continue such support.

With respect to the Mandalay financial statements submitted at the hearing, AANDC does not object to the admission of the financial statements as evidence but notes that since Mandalay is not a party to these proceedings and will have no obligations under any water licence, the information contained in those financial statements is of no assistance whatsoever in these proceedings.

## **B. Closing Statements**

### Reclamation Security

As part of the technical advice provided during the water licensing process, the Department is recommending an increase in financial security for the Lupin Mine in order to ensure that the financial security amount held is sufficient to cover the estimated reclamation liability for the site, as outlined in the *Mine Site Reclamation Policy for Nunavut* (AANDC, 2002). The reclamation estimate submitted in AANDC's final written submission (January 5, 2015) was calculated based on the RECLAIM model. This model uses industry-standard contingency rates and takes into consideration reclamation cost estimates for equipment, fuel mobilization, post-closure monitoring, etc.

The Interim Abandonment and Restoration Plan (IARP) provided a sound basis for assessing reclamation costs and LMI has completed a detailed cost estimate to undertake the work. Our consultant, SENES Consultants (SENES), has taken the estimate prepared by LMI and utilized essentially all of the information provided on quantities and unit cost rates (except where noted) and identified a number of areas where in their opinion the estimate is lacking or does not include adequate contingency to address the uncertainties associated with the IARP. There are essentially three major concerns, including:

1. Inadequate financial provisions for the long term care of the site:  
The site contains millions of tonnes of potentially acidic and acid bearing tailings that are retained behind man-made dams and impound water with hydraulic structures. These engineered facilities cannot be abandoned and require long term monitoring, inspection, care and maintenance. It was suggested this should be required for 100 years, and it was estimated this would add about \$1,400,000 to the LMI cost estimate.
2. The use of fuel on-site to support reclamation work:  
Previous reclamation cost estimates submitted by LMI to the NWB, included a provision to mobilize the fuel required for the reclamation activities. This is a

requirement of AANDC's *Mine Site Reclamation Policy for Nunavut* (2002) as the existing fuel inventory may not be accessible to the Crown (may not have ownership or if they do have ownership, by the time the plan is implemented the fuel may not be usable and could require off-site disposal.) Given the above, AANDC has suggested that the reclamation cost should include mobilization of fuel to the site and disposal of on-site inventories. These items add about \$6,200,000 to the LMI cost estimate.

3. Uncertainties in the quantities of contaminated soils, the quantities and methods for management of acidic waste rock and the performance of the tailings cover:  
As discussed at the public hearing, the tailings ponds in 2005 were alkaline and over time the pH has declined. This could be an indication that the cover may not be performing as predicted and additional cover may be required. LMI has only committed to addressing acidic waste rock concerns and defining quantities of contaminated soil at final closure. In the absence of this information, the Department is recommending a precautionary approach to ensure potential liabilities are appropriately secured. This uncertainty was addressed by including a higher level of contingency of up to 25% in the SENES estimate, as compared with a contingency of 10% proposed by LMI. This additional contingency has added about \$3,700,000 to the reclamation cost estimate.

These three primary concerns alone add approximately \$11,300,000 to the reclamation costs as proposed by LMI. Other items detailed in our final written submission (including direct costs associated with the underground mine, tailings ponds, buildings/equipment, hazardous waste and indirect costs such as environmental review and permitting, insurance, engineering work, project management, etc.) filed with the NWB on January 5, 2015, cumulatively add another \$8,100,000. This results in a reclamation cost estimate that is \$19,400,000 higher than that proposed by LMI. The Minister of AAND currently holds \$25,500,000 for water licence 2AM-LUP0914 as an irrevocable standby letter of credit provided by the HSBC Bank Canada at the request of Elgin. LMI estimates that reclamation liability at the Lupin Mine site is equal to \$24.1 million (December 2014 estimate) and stated at the Public Hearing that they are not applying to reduce the financial security and will accept to maintain financial security of \$25.5 million. Due to the uncertainty that remains, a precautionary approach is recommended. AANDC is proposing an increase to the financial security amount from \$25.5 million to \$43.5 million (an increase of \$18 million), which can be adjusted by the Board as information is made available by LMI.

### Term of Water Licence

The term of the last water licence was 5 years (2009-2014). There were no issues raised by parties at that time as LMI submitted their intention to hold the site in care and maintenance for the full 5 year term requested. In their application (February 28, 2014), LMI requested a licence term of 10 years for care and maintenance and in their cover letter they request the flexibility to resume mining operations at any time. Due to the outstanding information, ongoing compliance issues, uncertainty of any possible mine

restart, and the uncertainty of reclamation liability on site, AANDC is recommending a 5 year licence term with LMI's commitments reflected as terms and conditions with specific timelines as agreed to throughout the application review process. AANDC further recommends a term and condition requiring an updated environmental site assessment to address the uncertainties at Lupin and specific terms and conditions requiring the Licensee to address outstanding non-compliances of the licence within 2 years of issuance.

The Department notes that once the security amount is fixed only the Licensee or the NWB may take steps to amend the licence to change the security amount required under the licence (Section 43, *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, 2002, c. 10, N-28.8). Should further information arise as a result of the further site investigations agreed to by LMI during the amendment-renewal process, AANDC notes that LMI can apply to reduce the security amount based on that additional information but the Minister, who is ultimately responsible for the restoration of site, has no mechanism to apply to increase the total financial security amount.

We thank the NWB for the opportunity to provide our closing statements and comments regarding the exhibits marked by the Board. The Government of Canada's priorities are the health and safety of the public and the protection of the environment at the mine site. AANDC takes seriously its responsibility to ensure the protection of land and freshwater resources in Nunavut and to ensure the conditions of land authorizations (permits and leases) and water licences are met and that the environmental integrity of the mine site is maintained.

We would also like to thank the community for their kind hospitality, the Nunavut Water Board staff, and the interpretation and sound technician personnel for their assistance at the public hearing in Kugluktuk.

Should you have any questions or comments, please do not hesitate to contact me at (867) 975-4546 or by e-mail at [Karen.Costello@aandc-aadnc.gc.ca](mailto:Karen.Costello@aandc-aadnc.gc.ca).

Sincerely,

Karen Costello  
Director, Resource Management

cc. Erik Allain, Manager, Field Operations, AANDC  
Jean Allen, Water Management Specialist, Water Resources, AANDC  
Andrea Morgan, Senior Engineer, Resource Management, AANDC