



Water Resources  
Nunavut Regional Office  
P.O. Box 100  
Iqaluit, NU, X0A 0H0

January 22, 2016

INAC reference  
CIDM# 995514

NWB reference  
#2AM-LUP1520

Karen Kharatyan  
A/Manager of Licencing  
Nunavut Water Board  
Gjoa Haven, NU, X0E 1J0

**Re: Request for Amendment on Quantum of Security for Water Licence 2AM-LUP1520 - Licensee Lupin Mines Incorporated (LMI)**

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Dear Mr. Kharatyan,

Indigenous and Northern Affairs Canada (INAC) is requesting that the Nunavut Water Board (Board or NWB) initiate an amendment process for the purposes of increasing the quantum of security for water licence 2AM-LUP1520.

Rational and additional information to support INAC's earlier submission involving quantum of security is provided for the Board's consideration in initiating the amendment process.

Comments and supporting evidence have been provided pursuant to the Department's mandated responsibilities under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Department of Indian Affairs and Northern Development Act*.

Please do not hesitate to contact me by telephone at 867-975-4282 or email at [ian.parsons@aandc-aadnc.gc.ca](mailto:ian.parsons@aandc-aadnc.gc.ca) for further comments or any questions.

Sincerely,

Ian Parsons  
Regional Coordinator, B.Sc.  
Indigenous and Northern Affairs Canada  
P.O. Box 100  
Iqaluit, NU, X0A 0H0



## Memorandum

**TO** Karen Kharatyan  
A/Manager of Licencing  
Nunavut Water Board

**FROM** Ian Parsons  
Regional Coordinator  
Indigenous and Northern  
Affairs Canada

INAC reference  
CIDM# 995514

NWB reference  
#2AM-LUP1520

DATE: January 22, 2016

**Re: Request for Amendment on Quantum of Security in light of new and additional information for Water Licence 2AM-LUP1520 - Licensee Lupin Mines Incorporated (LMI)**

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### A. BACKGROUND INFORMATION

On August 4, 2015 INAC submitted a letter to the NWB, in which the department stated its concern to the NWB on the adequacy of \$ 25.5 million as security required to conduct post-closure monitoring and current mine reclamation liability.

In a NWB letter dated August 21, 2015 to the Minister of Aboriginal Affairs the NWB outlined its decision in regards to the quantum of security to be held under water licence 2AM-LUP1520. Contained below are excerpts from the NWB's letter:

*"In fixing \$25.5 million as the reasonable assessment of the reclamation security that should be posted under the Proposed Licence, the Board, in its original decision did, however, note that additional information may be presented to the Board over the term of the Licence that could require the Board to revisit (as a Board initiated amendment) the security amount fixed under the Licence, noting that:*

*...as is typical for most Type "A" licences, if information provided to the Board over the term of the Licence indicates that additional security is required to ensure that the financial security fixed under the Water Licence remains sufficient to cover the estimated reclamation liability for the site, consistent with the approach outlined in AANDC's Mine Site Reclamation Policy for Nunavut, 2002 [footnote omitted] the Board may, upon notice, revisit the security amount fixed by the Board in this decision."*



## **Board Decision in Respect of Amendments, Updates and Corrections to the Previously Proposed Licence**

*“Although during the Board’s further consideration of the quantum of security the Board has received no new evidence that would point to the need for an immediate amendment to the security amount currently fixed under Part C, Item 1, the Board does recognize that AANDC’s site visit, including geotechnical investigations in August may yield substantive information regarding the current conditions at the site that could challenge the extent to which the \$25.5 million security estimate remains adequate and appropriate in the circumstances.*

*In trying to balance the expectations of all licensees, and the Applicant in respect of this Application specifically, for certainty and finality under a water licence with the on-going public interest in ensuring that the reclamation security in place remains adequate and appropriate throughout the term of a licence, the Board has determined that it is appropriate to replace the current term and condition under Part C, Item 38 of the Proposed Licence with an amended term and condition. While the original term and condition only recognizes the ability of LMI to trigger a change to the amount of security to be held under the Proposed Licence, the Board’s suggested substitute clause would expressly allow both the Minister and the Applicant to apply for an amendment to the amount of security required to be held under Part C, Item 1, whenever either party has evidence to support such an amendment. The Board’s recommended replacement of Part C, Item 3 would, for example, allow AANDC to apply to update the security amount if the updated reclamation estimate submitted to the Board in November 2015 supports that a reassessment of the adequacy of the security held under the Proposed Licence is warranted.”*

On this basis, the Board is recommending that Part C, Item 3 of the Proposed Licence be replaced with the following clause:

*“The Licensee or the Minister may apply to change the amount of security held under Part C, Item 1 and/or Part C, Item 2 of the Licence. Any request to change the amount of security shall be supplemented by submission(s) that include supporting evidence to justify the request and will be processed by the Board as an amendment to the terms and conditions of the Licence.*

*Reflecting the reference to this specific type of amendment in the Board’s recommended replacement clause in Part C, Item 3, the Board also recommends an associated amendment to Part C, Item 6 of the Proposed Licence to include some additional wording to recognize that if the Minister triggers an amendment to the amount of security that the Licensee may not be obligated to provide an updated security*



assessment (the additional text proposed to be added is identified as underlined text in the amended clause below):

“The Licensee shall, with the exception of an amendment application submitted by the Minister under Part C, Item 3, submit an updated security assessment as part of any application to renew and/or amend the Licence, or notification to commence active reclamation of the Project site, if the application is submitted prior to, or subsequent to the assessment required under Part C, Item 5. The updated security assessment shall take into consideration the latest version of RECLAIM and address any changes to the reclamation security previously assigned under Part C, Items 1, 2, 3, 4, and 5 as well as any changes in the Project scope associated with the application.”

## **B. Evidence for the initiation of an amendment Process**

On behalf of INAC, the following comments/recommendations are submitted to the Nunavut Water Board for consideration in initiating an amendment process:

INAC is confident that ARCADIS's site visit in regards to verifying on-ground site conditions to substantiate their initial security estimate has strengthened our (INAC's) position that the \$25.5 million held under water licence 2AM-LUP1520 is insufficient .

Attached to this letter are two ARCADIS documents:

- i) Closure Cost estimate report which supports the department's earlier submissions and state that the revised estimate \$45,545,336 million is a more adequate and appropriate amount of security to be held under water licence 2AM-LUP1520, and
- ii) Fugitive Tailings assessment report

Also attached is the site inspection conducted by department representatives in August 2015. The report highlights the deficiencies at site and provides supporting evidence that the revised estimate of \$45,545,336 million is a more appropriate quantum of security to be held.

INAC is requesting the NWB initiate an amendment process to water licence 2AM-LUP1520 in light of new information/evidence being submitted with this letter in regards to adequate amount of quantum of security for water licence 2AM-LUP1520.

INAC suggests that the amendment process be initiated by the board on the basis of public interest.