



Water Resources
Nunavut Regional Office
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January 19, 2017

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

INAC reference
CIDM# 1126270

NWB reference
#2AM-LUP1520

Re: INAC comments on the Nunavut Water Board's Third Party Technical Review of reclamation security estimates for the Lupin Gold Mine, report prepared by Knight Piesold Water Licence 2AM-LUP1520 - Licensee Lupin Mines Incorporated (LMI)

Dear Mr. Kharatyan,

On December 6, 2016 the Nunavut Water Board invited LMI and Indigenous and Northern Affairs Canada (INAC), to provide comments on Knight Piesold's (KP) *Third Party Technical Review of Reclamation Security Estimates for the Lupin Gold Mine, Nunavut*.

Section 1.3 on page 3 of 27 of the KP report states "*The Contractor was not mandated to developing its own independent reclamation security estimate.*". The technical review conducted by KP appears to have resulted in a new reclamation estimate being presented in their report, which was not what the Department had expected as an outcome.

KP's report was based on a review of different documents, assumptions and observed site conditions than INAC's 2015 estimate. A direct comparison of the KP and INAC's reclamation security estimates is therefore not appropriate.

There are numerous references to a 2016 Interim Abandonment and Reclamation Plan (2016 IARP) and a Norwest (2016) document, however, this 2016 IARP on the NWB public registry has not been approved by the Board as part of the current Water Licence 2AM-LUP1520 and the Department believes should therefore not have been used as the basis of the KP estimate.

Overall, the key differences between KP's 2016 numbers and INAC's 2015 reclamation security estimate can be attributed as follows:

- KP assigning different unit costs or quantities for certain activities. In one case where there was no material difference between LMI and INAC, KP assigned the lowest cost of the three parties, and the rationale is not clear.



- Where RECLAIM allows for a range in percentages to be used for indirect costs, KP often elected to use a lower value than what was used in INAC's estimate, which are based on recent northern experience in minesite maintenance and reclamation.
- With respect to tailings impoundment, the current IARP (2013) that has been reviewed by parties and approved by the NWB as part of the water licence does not account for the management of tailings. KP notes that the 2016 IARP describes a number of proposed activities, none of which have been subject to a public review by interested parties or approval as part of the NWB's normal process. The 2016 IARP was distributed for information purposes only. As part of the October 19, 2016 correspondence from the Nunavut Water Board, it was indicated that "prior to a Board decision on whether or not to approve the Plan, the NWB intends to distribute, for a thirty (30) day public review and comment period, the March 2016 version of the Plan or a subsequent version thereof that reflects the outcome of the current amendment process."
- KP made a determination that the period for interim care and maintenance should be reduced from 5 years to 3 years. INAC's recent experiences with other sites (such as Jericho and Colomac) re-inforce the need for the five year period to remain. The department's work through its Contaminated Sites Program have shown actual reclamation costs have exceeded RECLAIM estimates and for that reason the department is currently updating RECLAIM version 7.0
- KP's report considered remediation/reclamation activities completed since the August 2015 site visit which informed the INAC 2015 reclamation cost estimate, and thus should not be considered as part of this process.
- KP's report contains the statement "*INAC's assumptions around additional contamination has not been confirmed and is unfair to LMI*". This statement is not appropriate because reclamation security is for the protection of the Crown against potential future liabilities. Since INAC has noted there is visual evidence of contamination extending outside of the secondary containment for fuel facilities (see previous inspection reports), the Department must secure itself against the potential for contamination, until it can be proven otherwise. Reclamation security is financial assurance to guarantee the reclamation of any adverse effects of the mine to property, people and the environment if ever there is a default in a reclamation obligation, including insolvency. A licensee can apply for a reduction in reclamation security with evidence of progressive reclamation being provided and accepted as part of an amendment process. INAC notes KP makes repeated reference to guidelines under the Mackenzie Valley Land and Water Management Board (MVLWMB). Any reclamation estimate should be consistent with INAC's Mine Site Reclamation Policy for Nunavut and utilize the most current version of RECLAIM.



The Lupin mine site and associated infrastructure is located entirely on Crown land. Since any shortfall in reclamation security would be solely the responsibility of the Crown, the Department's estimate is therefore a reflection of what the Department feels it needs to properly mitigate any potential liability.

From a process standpoint, as noted above, the Department was of the belief that the Board was retaining expertise to compare the reclamation security estimates of LMI and the Department. However, this has not been the case since KP appears to have provided a third reclamation estimate (of which the Department is being asked to comment on). Although the Department fully respects the Board is within its authority to contract experts for the purpose of conducting its business, the Department is uncertain towards what end the KP report will be used and also the precedent setting nature of the Board conducting its own reclamation estimate. Secondly, the NWB has acknowledged that INAC's January 2016 submission has met the requirements of a water licence amendment application; however, it appears the process has not been consistent with typical water licence amendment processes (e.g. lack of technical meeting and pre-hearing conference, as well as a final public hearing). The Department would request that the Board set out a more detailed process outline indicating how the current consideration of this water licence amendment application meets the legislative requirements. It is assumed that this outline would include that any decision of the Board in relation to this process be referred to the Minister for approval.

Please do not hesitate to contact Ian Parsons at 867 975-4282 or ian.parsons@aandc.gc.ca if you have any questions or require further comments.

Respectfully submitted,

Karen D. Costello
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