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NUNAVUT WATER BOARD  
NUNAVUT IMALIRIYIN KATIMAYINGI  
OFFICE DES EAUX DU NUNAVUT

**File No.: 2AM-LUP1520 /  
Amendment Request**

April 18, 2018

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**RE: Licence No. 2AM-LUP1520 – Nunavut Water Board (NWB) Decision Regarding Request of Lupin Mines Incorporated (LMI) to Amend the Amount of Security Held under Part C, Item 1 of the Licence and further NWB Guidance regarding the Approval of the *Interim Abandonment and Restoration Plan* and *Closure Cost Estimate* under the Licence, Part C, Item 4 and Part I, Item 2**

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The Nunavut Water Board (NWB or Board) is providing this correspondence in response to the request of Lupin Mines Incorporated (LMI or the Licensee) under Part C, Item 3 of Type “A” Water Licence No. 2AM-LUP1520 (the Licence) to reduce the reclamation security required to be held under Part C, Item 1 of the Licence. Filed in support of the amendment request were several documents, including an updated *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* (filed in October 2017 under Part I, Item 2 of the Licence) that

LMI supplied to support a reduction in total reclamation security held under the Licence by approximately \$13.6 million. Specifically, the Licensee has requested that the current amount of reclamation security posted under the Licence, \$34,650,000 be reduced to \$21,057,411. LMI has indicated that upon the grant of the reduction, LMI intends to use the funds returned to undertake reclamation activities.

Since October 20, 2017 when the NWB acknowledged receipt of LMI's requested amendment and supporting documentation and invited comment on the submissions, the NWB has received substantive comments from Environment and Climate Change Canada (ECCC) and was advised by Indigenous and Northern Affairs Canada (INAC) that substantive comments on LMI's submissions and, in particular the updated *Closure Cost Estimate*, would be provided only after INAC had the opportunity to conduct a site visit (during spring freshet at the site – likely June/July 2018).

The NWB-hosted a teleconference on April 6, 2018 from 8:45-11:00 am MDT with participation by the representatives of the Licensee and the Intervener, INAC. ECCC did not participate in the teleconference. At the teleconference, the two issues listed below were discussed, and the NWB committed to providing this correspondence to address the issues:

- the request of the Licensee to reduce the total reclamation security held under the Licence (Part C, Item 1) by approximately \$13.6 million from the current amount of \$34,650,000 to \$21,057,411; and
- the NWB's approval process and timelines associated with consideration of the updated *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* provided by LMI in support of the security reduction request.

As outlined in greater detail below, the establishment of security under the Licence has been the subject of on-going controversy between the parties and consideration by the NWB and the Minister since the original renewal of the Licence was recommended by the NWB in 2015.<sup>1</sup> Most recently, in March, 2017,<sup>2</sup> following the NWB's receipt of a request by INAC seeking to increase the security held under Part C, Item 1 of the Licence and after the NWB retained a neutral third party consultant to review the divergent closure cost estimates of LMI (\$25.5 million) and INAC (\$43.5 million), the NWB recommended that the reclamation security held under Part C, Item 1 of the Licence be increased by approximately \$9.15 million from \$25.5 million to the current amount of \$34.65 million. A guarantee in this increased amount was posted on behalf of the Licensee at the end of September 2017, and is currently held by the Minister.

Although as noted above, INAC had not provided substantive comment on the updated *Closure Cost Estimate* prior to the teleconference, during the teleconference, INAC restated their position that the NWB should not entertain a reduction in the reclamation security to be held under the Licence as this point.

As outlined in detail in the decision that follows, the Board's duly appointed decision-making

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<sup>1</sup> Nunavut Water Board, Record of Proceedings and Reasons for Decision, Type "A" Water Licence No. 2AM-LUP1520, May 15, 2015 at pp. 40-47.

<sup>2</sup> Nunavut Water Board, Decision Regarding Request of Indigenous and Northern Affairs Canada (INAC) under Part C, Item 3 of the Licence to Amend the Amount of Security Held under the Licence, March 28, 2017.

Panel<sup>3</sup> for this file, the Lupin Panel (P11 or the Panel) met on April 12, 2018 and by Motions No. 2018-03-P11-03 and 2018-03-P11-04 has decided the following:

- To recommend to the Minister that the security required to be posted under Water Licence No. 2AM-LUP1520 under Part C, Item 1 be **reduced** to **\$29,305,000**; and
- To provide this decision and the amendment to Part C of the Licence to the Minister for her review and approval.

Further, recognizing that substantive technical review comments have yet to be received from INAC in respect of the updated *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* (filed in October 2017 under Part C, Items 3 and 4 and Part I, Item 2 of the Licence) the Panel was not comfortable approving the *Interim Abandonment and Restoration Plan*, or basing reductions to security on the updated *Closure Cost Estimate* without receiving the benefit of INAC's review and comments. Consequently, the Panel has directed that by way of this correspondence INAC and any interested parties are invited to review LMI's submissions and provide their substantive comments on or before **May 18, 2018**. Shortly after comments are received, the NWB will decide whether or not to approve the updated *Interim Abandonment and Restoration Plan*.

As discussed in greater detail below, the amount of security required to be posted following the Panel's consideration of LMI's request to reduce security is based on an estimate of the highest reclamation liability for land and water associated with the Mining undertaking at the Lupin Mine, a gold mine located approximately 285 kilometres southeast of Kugluktuk, in the Kitikmeot Region of Nunavut. The Lupin Mine has been under care and maintenance since 2005, and as recently indicated by LMI is now moving into final reclamation.

## **LMI's Amendment Request under Part C, Item 3 of the Water Licence**

On October 18, 2017, the Licensee filed the following materials with the NWB while requesting a reduction to reclamation security:

- Lupine Mine Site *Interim Abandonment and Restoration Plan*
- Lupin Mine, Nunavut *Closure Cost Estimate* (Golder Associates);
- Phase I/II Environmental Site Assessment Update; and
- Environment Effects Monitoring Phase 5 Report.

It should be noted, that in contrast to the original *2014 Closure Cost Estimate* that was filed with the renewal application, the updated *Closure Cost Estimate* was not prepared by LMI, but rather was prepared by consultants, Golder Associates using the latest available version of RECLAIM V.7.

## **The Procedural History of the Amendment Request**

Although a detailed summary of key activities and documentation supporting LMI's October request to increase the quantum of reclamation security required under the Licence (the

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<sup>3</sup> The Panel was appointed by the Board as provided for under s. 29(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10, which states:

*The Board may establish panels of the Board and delegate any of its powers, duties and functions to them.*

Amendment Request) is attached as Appendix A, the NWB has summarized in the section below, the submissions considered by the Board during the NWB's assessment of LMI's Amendment Request.

Parties are also invited to review all non-confidential information associated with the Board's consideration of the Amendment Request on its public registry. For further details, consult the NWB's File Transfer Protocol (FTP) site using the following link:

[ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-LUP1520%20LMI/3%20TECH/2%20SECURITY%20\(C\)/2018/](ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-LUP1520%20LMI/3%20TECH/2%20SECURITY%20(C)/2018/)

As with the Board's amendment to security in March 2017, the Board has concluded that the amendment to reclamation security as requested by LMI does not constitute an amendment that affects the use, flow or quality of water or an alteration to the term of the Water Licence. On this basis, the Board has exercised their discretion to not hold a Public Hearing prior to the disposition of the Amendment Request (as set out in s. 9 of the *Nunavut Waters Regulations*, SOR/2013-69).<sup>4</sup>

## **The NWB's Jurisdiction to Fix the Quantum of Security Required under the Water Licence**

The Board's general jurisdiction to require a licensee to furnish security is established under s. 76 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* as follows:

*76. (1) The Board may require an applicant, a licensee or a prospective assignee to furnish and maintain security with the Minister in the form, of the nature, subject to such terms and conditions and in an amount prescribed by, or determined in accordance with, the regulations or that is satisfactory to the Minister.*

The limits on the Board's assessment of the quantum of reclamation security are set out under s. 10 of the *Nunavut Waters Regulations*, SOR/2013-69 as follows:

*10. (1) For the purposes of subsection 76(1) of the Act, the Board may fix the amount of security required to be furnished by an applicant for a licence, a licensee or a prospective assignee in an amount not exceeding the aggregate of*  
*(a) the costs of the abandonment of the undertaking;*  
*(b) the costs of the restoration of the site of the undertaking;*  
*(c) the costs of any ongoing measures that may remain to be taken after the abandonment of the undertaking; and*  
*(d) the compensation that a person, including the designated Inuit organization, who is adversely affected by the use of waters or deposit of waste may be entitled to under section 13 of the Act.*

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<sup>4</sup> As set out in s. 9(1):

*For the purposes of section 13.7.3 of the Agreement and subsection 52(1) of the Act, no public hearing is required in respect of an application for (a) an amendment to a type A licence that does not affect the use, flow or quality of waters or alter the term of the licence;*

The terms and conditions in relation to fixing and amending the quantum of security that should be held under the Water Licence are set out as follows under Part C of the Water Licence (as amended in 2017):

- 1. The Licensee shall, within sixty (60) days following approval by the Minister of Amendment No. 1 to Licence No. 2AM-LUP1520, furnish and maintain reclamation security with the Minister in the amount of \$34.650 million, in a form that is satisfactory to the Minister and consistent with the Act.*
- 2. The Licensee shall furnish and maintain such further or other amounts as may be required by the Board based on required periodic estimates of current mine reclamation liability.*
- 3. 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.*
- 4. The Licensee shall, in the year 2017, reassess and update the reclamation security for the Project and submit to the Board for review a copy of the updated assessment on or before September 30, 2017.*
- 5. 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.*

## **Summary of Submissions Received During the Board's Consideration of the Amendment Request and Updated Plan**

### **Submissions Specifically Related to Amendment Request and Updated Plan**

#### **LMI's Submissions**

October 18, 2017

The updated *Closure Cost Estimate* Prepared by Golder Associates used the latest available version of RECLAIM V.7. The unit costs used for each aspect of the cost estimate were based on one of the following as most appropriate:

- Documented costs for closure work in progress at Lupin;
- Costs based on contractor quotes,
- Unit costs from the RECLAIM database,
- Unit costs based on experience.

November 24, 2017

LMI also provided a response to comments received on *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* that provided the following:

- Summarized responses to INAC and ECCC comment submissions on *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate*, in particular:
  - INAC #1; Consistent with INAC's encouragement to reduce liability, the cost estimate submitted October 18, 2017, proposes a reduction in reclamation bonding of \$13.6 million;
  - Upon refund of the overbonding amount, LMI plans to reinvest the refund of security to implement reclamation activities as per the final closure plan;
  - INAC #2; discussion regarding INAC's request for a further site visit to verify site conditions (now post freshet 2018). LMI states that INAC was given ample notice and access to validate site conditions during 2017 (site was open until October 20, 2017). LMI noted that the inspector, Iva Paul, was on site in July and August of 2017, filing inspection reports noting no major concerns with the current site conditions. LMI referred to the INAC *Mine Site Reclamation Policy for Nunavut*, which does not identify the need for site validation inspection to occur for the application and consideration of security reductions associated with progressive reclamation.
  - INAC #3; the LMI security is based on a new security cost estimate, prepared by a third party (Golder Associates). LMI provided a Q4-2017 Progress Report which outlines the current status of the 2016-17 progressive reclamation activities and 2017-18 Work Plan, as well as clarification of several key issues raised during the 2016 amendment process that may warrant further Board consideration.
  - ECCC comments 1, 2 and 3; LMI agrees and will address these items in the final closure plan;
  - ECCC #4; Landfill management plan to be updated to include closure cover details of the landfill;
  - ECCC #5, 6 and 7; LMI agrees, will include in the final closure plan;
  - ECCC #8; this spill was incorrectly identified and recorded as being at the TCA but was in fact located at the satellite tank farm.
- Concluded that on the basis of LMI's submissions, the site is currently overbonded by approx. \$13.6M. LMI noted that this overbonding creates financial limitations on LMI that impact the ability of the Licensee to carry out reclamation activities going forward. A final closure plan is to be submitted in Q1 2018 for approval, which will guide LMI in moving forward with reclaiming the Lupin Mine over the next two construction seasons.

March 2, 2018

LMI filed correspondence with the NWB requesting clarification regarding next steps with respect to the *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate*.

April 4 and 6, 2018

In advance of the teleconference on April 6, LMI provided:

- Correspondence providing LMI's final submissions about the security reduction request and the Board's consideration of the *Interim Abandonment and Restoration Plan* and

updated *Closure Cost Estimate* (comments summarized below);

- A presentation by LMI and Golder presented at the April 6 teleconference; and
- A document comparing the figures from the 2016 third party review of Knight Piesold (KP) (as commissioned by the NWB and supporting the Board's recommendation to increase security in March 2017).

In LMI's final written submission and in the April 6 teleconference, LMI highlighted the following:

- the *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* now includes progressive reclamation work not previously included in LMI's 2015 estimate and not taken into consideration when KP completed their technical review;
- some tasks (e.g. covering Cell 5 are ongoing) and so it is appropriate to base these costs on the actual third-party costs being paid;
- *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* now takes into consideration the site conditions as assessed in 2017 and indicated in the updated Environmental Site Assessment (ESA) (filed as required under the Licence in October 2017);
  - The updated ESA has better defined the amounts of Petroleum Hydrocarbon Contaminated (PHC) soil and chemically contaminated soil on the site. The amount of PHC soil is now estimated at 35,200 m<sup>3</sup>, which is somewhat less than the 40,000 m<sup>3</sup> that was previously estimated.
- Golder has recommended disposing of contaminated soils into underground mine workings and the covering of most of the waste rock **in place** with a 1.0 m thick esker cover (rather than as originally proposed by disposal in the underground mine workings). Both actions would reduce overall reclamation costs.
- LMI has also provided letters to the NWB for the camp and charter air service to demonstrate that LMI does not receive preferred rates (which was assumed by KP in their report). As LMI is providing evidence of actual unit costs, LMI indicates these rates should be preferred over theoretical estimates that are not specific to this area or project.
- LMI has tested the fuel at site in 2017, (as they did previously in 2016), and the results show that the fuel is of good quality and usable for its intended purpose. LMI used the fuel during the 2017 season and plans to use the fuel to complete final closure reclamation during 2018 and 2019, with very little additional fuel expected to remain on-site.
- Site conditions have continued to improve over the last three years. The progressive reclamation program planned by LMI over the next two years to reclaim the site will eliminate most, if not all, environmental liability.

### **ECCC Submissions**

November 20, 2017

ECCC provided their submission to the NWB in respect of the *Interim Abandonment and Restoration Plan*, updated *Closure Cost Estimate* and the Phase I/II Environmental Site Assessment Update, as follows:

- Water quality monitoring, sec 7.1.2; ECCC recommends the Licensee provide water quality monitoring details (the plan references a water quality monitoring program)

- Cover Performance, sec 3.3.1; ECCC recommends that the *Interim Abandonment and Restoration Plan* be updated to include a description of cover performance monitoring and relevant (runoff) water quality monitoring, including but not limited to seepage and groundwater.
- Tailings containment area, sec 6.5.3; ECCC recommends that the performance of the water-saturated esker material cover in the TCA be monitored over time to confirm the predicted effectiveness of this closure approach.
- Landfarm sec 3.4 and sec 6.2.1; ECCC recommends that the *Interim Abandonment and Restoration Plan* be updated to include a description of treated-soil sampling and testing procedures and soil re-use criteria. Alternate management/disposal method(s) should be identified, in the event that treated soil does not meet re-use standards.
- Hydrocarbon Contaminated Soils, sec 6.2; ECCC recommends remediating hydrocarbon contaminated esker sands. If landfarming does not successfully remediate hydrocarbon-contaminated esker sands to meet re-use criteria, burial on site (with sufficient encapsulation) could be considered as a contingency option.
- Soil remediation options, sec 6.4; Identified concerns regarding elevated metals (including arsenic) in soils; ECCC supports the development of appropriate and protective site- specific soil quality remediation objectives for metals and petroleum hydrocarbons.
- Updated ESA; TCA Spill, additional information requested on the spill of oil contaminated water from the TCA in July 2012, completed remediation (completed and planned), sampling results, current condition and extent of the affected area.

ECCC did not participate in the April 6, 2018 NWB-hosted teleconference.

## **INAC Submissions**

November 24, 2017

INAC Water Resources Division provided a submission addressing the following with respect to the NWB notice provided October 20, 2017:

- Summary of comments indicated that INAC would like the opportunity to validate the information provided by LMI through a site inspection, following freshet in 2018.
- INAC indicated that a ‘joint site inspection’ should be arranged, so that INAC could prepare a review of the updated *Closure Cost Estimate* and undertake an update of INAC’s own reclamation security cost estimate based on the same year’s on-the-ground assessment of the site.
- INAC sought clarification on whether the updated security estimate was based on 1) Knight-Piesold security estimate of \$34.65 million, or 2) LMI’s original security estimate of \$24.1 Million, or 3) other sources (e.g. updated *Closure Cost Estimate*).
- Indicating that, at this point, INAC does not support any adjustment to security until elements of the assessment can be verified on the ground.

April 6, 2018

- INAC reiterated its position that at this point, INAC does not support any adjustment to security.
- INAC indicated, in discussions during the teleconference, that INAC could commit to conducting a desktop technical review of those aspects of the *Interim Abandonment and*



*Restoration Plan* and the *Closure Cost Estimate* that INAC's consultants determine do not require "on the ground" verification in advance of a site visit and within 30 days of receiving a request from the NWB to do so.

## **The Board's Disposition of the Amendment Request**

Although the Board recognizes that the lack of substantive comment on the *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* has significantly limited the NWB's comfort in reducing the security to the extent requested by the Licensee. The NWB also recognizes that LMI is committed to, and has substantive plans to, reinvest any security returned to LMI to undertake reclamation activities in the field season ahead. In contrast to a situation where the activities of the Licensee will result in an increase to the ultimate reclamation liability, in this case, the Board notes that the activities of LMI on-site planned for this year will further reduce the ultimate cost to reclaim the site. Obviously, it is in the interests of all parties, including the public in general and adjacent communities specifically that LMI be in a position to undertake planned and orderly reclamation, rather than allowing site conditions to deteriorate. While the NWB appreciates INAC's desire to verify site conditions, the NWB also notes that delaying the Board's consideration of the LMI's security reduction request until INAC's personnel are able to conduct a meaningful site visit and provide the associated technical report and comment would mean LMI would not have security revisited until late summer; long after personnel could be deployed to undertake reclamation work in 2018.

Against this context, the NWB has reviewed the evidence supplied by LMI to support the amendment to security, and particularly the *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* and the submissions of ECCC and INAC received to date and has determined that there are some reductions to the reclamation security held by the Minister under Part C, Item 1 that can be justified in the short term and are not dependent on the NWB accepting or rejecting updated reclamation plans proposed in the *Interim Abandonment and Restoration Plan* and incorporated into the updated *Closure Cost Estimate*.

### **Analysis of Direct/Indirect Costs the Board Recommends Removing from the Reclamation Security Required under Part C, Item 1**

The Board has provided a detailed breakdown below of the direct (Table 1) and indirect (Table 2) costs that the Board recommends removing from the reclamation security amount posted under the Licence (Table 3), but essentially the Board has determined that there are two categories of reduced costs that can be justified:

- Costs that were included in the 2015 estimate for studies, surveys, revisions to plans, etc. that were completed in 2017 (e.g. ESA update, etc.); and
- Costs in relation to disposal of fuel on site as waste and then remobilization of fuel on-site to complete reclamation.

With respect to the first type of costs, it is self-explanatory that these activities, having been completed in 2017, should no longer form part of the reclamation costs. With respect to the second type of costs in relation to on-site fuel usage, the Board notes that LMI has consistently argued that these costs should not be included in the required security. The Board agreed in 2015, but disagreed in March 2017 and included those costs. As noted in the Board's March 2017 decision, in 2017 it was unclear when reclamation activities would be undertaken at the site and also how long reclamation of the site should be expected to take. Consequently, it was

unclear to the NWB how many more years the fuel remaining on-site would need to remain in usable condition before reclamation activities using the fuel would be commenced and would be complete. In light of the timelines now proposed by LMI of 2018 and 2019, it appears to the NWB that this concern has largely been addressed. Accordingly, the NWB expects that the fuel on-site will be available to support the completion of the reclamation in the next two years and that it is unlikely that the disposal of large volumes of unused fuel and the remobilization of additional fuel to support the reclamation is unlikely.

In addition, the NWB noted that the updated information resulting from the Asbestos Survey indicated that \$387,602 should be added to the 2015 reclamation cost estimate to reflect that asbestos-containing material should be removed from site buildings for off-site disposal.

**Table 1:**

**Detailed Breakdown NWB Reductions/Addition to Reclamation Costs (Direct Costs)**

Description	Amount
<b>DIRECT COSTS</b>	
Provided as part of 2017 ESA Update: Waste Rock Survey	<b>\$100,000</b>
Provided as part of 2017 ESA Update: Soil/Waste Rock Risk Assessment	<b>\$250,000</b>
Provided as part of 2017 ESA Update: Waste Rock Disposal Option Assessment	<b>\$50,000</b>
Provided as part of Hazardous Material Audit: Asbestos Survey	<b>\$25,000</b>
Additional costs to 2015 estimate for removal of asbestos containing material	\$387,602
Provided as part of 2017 ESA Update: Contaminated Soil Investigation	<b>\$200,000</b>
Hazardous Material disposal costs associated with removing on-site fuel and disposing of fuel as a hazardous waste	<b>\$2,770,352</b>
<b>TOTAL REDUCTION FROM SECURITY (Direct Costs)</b>	<b>\$3,007,750</b>

**Table 2:**  
**Detailed Breakdown NWB Reductions to Reclamation Costs (Indirect)**

Description	Amount
<b>INDIRECT COSTS</b>	
Additional 8% for Engineering Costs	<b>\$240,620</b>
Additional 5% for Project Management	<b>\$150,388</b>
Mobilization/Remobilization of Fuel required for Reclamation Activities (assuming on-site fuel is not available or unusable)	<b>\$1,946,000</b>
<b>TOTAL REDUCTION FROM SECURITY (Indirect Costs)</b>	<b>\$2,337,008</b>

**Table 3:**  
**NWB Reductions to Reclamation Costs Totals (Direct and Indirect)**

Description	Amount
<b>TOTAL REDUCTION FROM SECURITY (Direct Costs)</b>	<b>\$3,007,750</b>
<b>TOTAL REDUCTION FROM SECURITY (Indirect Costs)</b>	<b>\$2,337,008</b>
<b>TOTAL REDUCTION FROM SECURITY (Direct and Indirect Costs)</b>	<b>\$5,344,758</b>
<b>TOTAL REDUCTION FROM SECURITY (Direct and Indirect Costs)</b> Recommended by the NWB (rounded to nearest \$1,000)	<b>\$5,345,000</b>

**Board Recommended Amendment to Reclamation Security Required under Part C, Item 1**

Reflecting these two categories of reductions and the addition for asbestos-containing material removal as outlined in Table 1 below, the NWB has recommended that the security held under Part C, Item 1 be reduced by approximately **\$5.345 million** so that the total security held under the amended term and condition would be **\$29,305,000**. The amendment to the Licence recommended by the Board is as follows:

- The Licensee shall, within sixty (60) days following approval by the Minister of Amendment No. 2 to Licence No. 2AM-LUP1520, furnish and maintain reclamation security with the Minister in the amount of \$29,305,000, in a form that is satisfactory to the Minister and consistent with the Act and Regulations.*

The Board notes that pursuant to s. 56 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10, as the Board has recommended an amendment to the Water Licence, the Board is providing this decision to the Minister for her review and approval. The amendment will not take effect until the Minister has approved the amendment.

## **Final Request for Comments on the Interim Abandonment and Restoration Plan and updated Closure Cost Estimate**

As noted above, the NWB recognizes that INAC wishes to conduct a site visit before providing substantive technical review comments in respect of the updated *Interim Abandonment and Restoration Plan* and updated *Closure Cost Estimate* (filed in October 2017 under Part C, Items 3 and 4 and Part I, Item 2 of the Licence). However, the Panel also notes that during the April 6, 2018 teleconference it became apparent that the majority of the revisions to reclamation planning proposed in the *Interim Abandonment and Restoration Plan*, and associated reductions to security on the updated *Closure Cost Estimate* can be considered without on-site verification. The NWB also appreciates that at the conclusion of the teleconference, INAC indicated that INAC would, if requested, retain a consultant to conduct a review of these aspects of the updated Plan and *Closure Cost Estimate* to provide technical review comments within 30 days of being requested to do so. Consequently, the Panel has directed that by way of this correspondence INAC and any interested parties are invited to review LMI's submissions and provide their substantive comments on or before **May 17, 2018**. Shortly after comments are received, the NWB will conclude its review and approval process for the updated *Interim Abandonment and Restoration Plan*.

### **Closure**

If you have any questions or require further direction with respect to this matter, please contact the Board's Executive Director, Stephanie Autut at (867) 360-6338, ext: 22 or via e-mail: [stephanie.autut@nwb-oen.ca](mailto:stephanie.autut@nwb-oen.ca) or Director of Technical Services, Karén Kharatyan at (867) 360-6338, ext: 35 or via e-mail: [karen.kharatyan@nwb-oen.ca](mailto:karen.kharatyan@nwb-oen.ca).

In closing, the Board appreciates the active and on-going participation of all the parties in this amendment request process and the completion of the review of the *Interim Abandonment and Restoration Plan* and *Closure Cost Estimate*.

Sincerely,

Lootie Toomasie  
Chairperson  
Nunavut Water Board

Cc: Jeoff Clark, Director Lands, Environment & Resources, KIA  
Lupin Distribution List

Enclosures: Recommended Type "A" Water Licence 2AM-LUP1520 Amendment No. 2

## Appendix A:

### List of Key Documentation and Activities

#### Associated with LMI's Security Amendment Request

Date	Submission
October 18, 2017	NWB received LMI's request and supporting information provided under Part C, Item 3 of the Water Licence to amend the reclamation security required to be posted under Part C, Item of Licence No. 2AM-LUP1520 (the Licence) (the Amendment Request)
October 20, 2017	NWB acknowledged receipt of LMI's Amendment Request and initiated a 30-day comment period in respect of the Amendment Request and the documentation (including the <i>Interim Abandonment and Restoration Plan</i> and updated <i>Closure Cost Estimate</i> )
November 20, 2017	Environment and Climate Change Canada (ECCC) submission to the NWB on the <i>Interim Abandonment and Restoration Plan</i> and updated <i>Closure Cost Estimate</i> and Phase I/II Environmental Site Assessment Update
November 21, 2017	NWB granted INAC's request to extend the submission deadline to November 24, 2017
November 24, 2017	INAC Water Resources Division provides a submission in response to the NWB's October 20, 2017 request for comments
November 29, 2017	LMI provides a response to comments received in respect of the <i>Interim Abandonment and Restoration Plan</i> , updated <i>Closure Cost Estimate</i> and Phase I/II Environmental Site Assessment Update
March 2, 2018	LMI provides correspondence to NWB requesting guidance regarding next steps in respect of LMI's security amendment request and Board approval of the <i>Interim Abandonment and Restoration Plan</i> and updated <i>Closure Cost Estimate</i>
March 26, 2018	NWB issues correspondence to the Lupin Distribution inviting parties to NWB-hosted Teleconference on April 6, 2018 and inviting submission of final comments on or before April 4, 2018
April 4, 2018	LMI provides final written submissions, presentation materials and summary comparison tables between reclamation estimate of KP 2016 and Golder's updated <i>Closure Cost Estimate</i> (October 2017)
April 6, 2018	NWB staff host teleconference with LMI and INAC participating