



By Email

Licence). The request sought an amendment under Part C, Item 2¹ of the Licence to reduce the security required to be posted by AEM under the Licence in order to reflect AEM posting additional security with the Kivalliq Inuit Association (KIA) under the Commercial Production Lease in February 2016. AEM's request indicated that when the security held under Part C, Item 1 of the Licence as originally issued was added to the reclamation security posted by AEM under the KIA Lease, the total amount of security posted for the undertaking was \$150,534,710 which by AEM's estimate "*is an over-bonding of \$64,015,096 against the accepted liability of \$86,519,614; an over-bonding of 174%*".

As the views of the KIA and Indigenous and Northern Affairs Canada (INAC) are central to the Board's consideration of the amendment request, in the Board's February 29, 2016 correspondence, the Board expressly invited comments from the Kivalliq Inuit Association as follows:

- Whether or not the KIA agreed that the updated security amount filed under the Commercial Production Land Use Lease was sufficient to secure the mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Inuit-owned lands; and
- Any other comments the KIA would consider relevant to the Board in assessing the Licensee's request for amendment to the security held under Part C, Item 1 of the Licence.

Also reflecting the requirements of Part C, Item 2 the Board also requested that representatives from Indigenous and Northern Affairs provide their comments on the requested amendment as follows:

- Whether or not the Minister agrees that the reduced security amount proposed by AEM to be required under an amended Part C, Item 1 of the Licence (\$7,684,904) would be sufficient to secure the mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Crown owned lands; and
- Any other comments the Minister would consider relevant to the Board in assessing the Licensee's request for amendment to the security held under Part C, Item 1 of the Licence.

The NWB's February correspondence also provided public notice of AEM's amendment request as required under s. 55(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and invited comment from any interested parties or members of the public who wished to provide relevant comments and/or recommendations to the Board regarding the proposed amendment by the end of the commenting deadline for all parties, March 21, 2016.

On March 14, the Board received comment submissions from Fisheries and Oceans Canada (DFO) raising issues with respect to the reclamation cost estimates as they may be associated with the expansion

¹ Part C, Item 2 of the Licence states:

Upon the Licensee filing evidence, in writing with the Board and with notice to the Minister and Kivalliq Inuit Association that the Licensee has furnished and maintained security with the Kivalliq Inuit Association in an amount that the Kivalliq Inuit Association confirms is sufficient to secure the mine closure and reclamation costs (including cumulative and legacy liabilities) estimated to be required for the portion of the Project located on Inuit-owned lands, the Board may reduce the amount of security required to be held under Part C, Item 1. The Board shall ensure that the reduced amount of security furnished under Part C, Item 1 is equal to the estimated anticipated mine closure and reclamation costs (including cumulative legacy liabilities) for the portion of the Project located on Crown-owned lands.

of mining activity into Phaser Lake (a matter currently before the Minister of INAC following assessment and a reconsideration of the terms and conditions in the existing Meadowbank Project Certificate by the Nunavut Impact Review Board).

Also, prior to the March 21, 2016 deadline, the Board received a request from the KIA and INAC to extend the comment deadline to April 25, 2016 in order to allow for AEM, the KIA and INAC to engage in further discussions regarding entering into an arrangement for managing reclamation security for the undertaking. Prior to April 25, a further extension request was received from the KIA and the NWB extended the deadline for filing comments to May 2, 2016.

On May 2, 2016, comment submissions regarding AEM's amendment request were received from INAC that provided the following recommendations:

Pursuant to Section 4 of the Department of Indian Affairs and Northern Development Act, the Department's Minister is responsible for the management of Nunavut's freshwater resources. The allocation of reclamation security under water licences should not be based on land ownership (Crown versus private land ownership) as it may not be sufficient for projects mostly or completely on Inuit-owned lands given the Minister's responsibilities for water in the whole of Nunavut under the Nunavut Waters and Nunavut Surface Rights Tribunal Act and the Nunavut Waters Regulations. The proposed amount \$7,684,904 is therefore inadequate...

Based on the establishment of a security management agreement between the Department, the Kivalliq Inuit Association, and the Licensee, the Department recommends that the reclamation security amount specified under Part C, Item 1 of the water licence be reduced to \$43,259,807.²

On May 2, 2016, the KIA requested a further extension to the comment deadline and on May 3, 2016, the Board extended the deadline to May 17, 2016. On May 17, 2016, the KIA provided their comment submission consisting of a cover letter and Security Management Agreement executed by AEM, KIA and INAC. As summarized by the KIA:

The Kivalliq Inuit Association, Indigenous and Northern Affairs Canada and Agnico Eagle Mines Limited entered into a Security Management Agreement, pursuant to which Agnico Eagle Mines must furnish security in the amount of \$86,519,614. The security is to be divided and held as follows: security to be held under the water license (sic) will be \$43,259,807; security to be held by the Kivalliq Inuit Association under commercial Lease KVPL08D280 will be \$43,259,807. Kivalliq Inuit Association is attaching the Security Management Agreement as part of the evidence in this proceeding.³

No other comments in respect of AEM's amendment request were received. AEM's amendment request, comment submissions and all other documentation related to the request are available from the NWB's public registry from the following link:

[ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-MEA1525%20Agnico/3%20TECH/2%20SECURITY%20\(C\)/](ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-MEA1525%20Agnico/3%20TECH/2%20SECURITY%20(C)/)

² Letter from K. Costello, INAC to NWB Licensing, May 2, 2016 at pp. 4 and 5.

³ Letter from L. Manzo, KIA to NWB Licensing Department, May 17, 2016 at p. 1.

Now that the comment period associated with AEM's amendment request is closed and comment submissions have been received from the parties as required under Part C, Item 2, this matter has been remitted to the Panel of the Board authorized to consider amendments to this Licence. As noted in the Board's February correspondence, as this amendment may be considered by the Board to constitute "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 Panel may determine that, as provided for under s. 9 of the *Nunavut Waters Regulations*, SOR/2013-69, this amendment request will not require a Public Hearing.

If the Panel determines that no Public Hearing is required, the Panel will proceed to their consideration of the amendment request, based on the documentation filed in support of AEM's request, the comment submissions received to date and also, as required by s. 76.1(3) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, the Panel must also take into account the Security Management Agreement signed by the KIA, INAC and AEM and filed with the Board as an attachment to the KIA's submissions of May 17, 2016. Following the Panel's consideration of the amendment request, the Panel will issue a decision report in respect of the amendment request to the Minister, the commenting parties and AEM. If the Panel's decision is to amend the amount of security required to be posted under the Licence, the Panel would also attach to the Board's decision the revised terms and conditions to the Licence to reflect the recommended revisions to the security provisions.

Alternatively, if the Panel determines that the amendment does require a Public Hearing, the Board would issue further procedural direction and a notice of Public Hearing.

Interested persons can direct all questions related to administrative matters for this file to the NWB's licensing department by email to licensing@nwb-oen.ca. Questions related to technical matters should be directed to the NWB's technical department by email to technical@nwb-oen.ca. Questions related to the procedural and Public Hearing aspects of this file should be directed to me by email: stephanie.autut@nwb-oen.ca.

Regards,

Stephanie Autut
Executive Director,
Nunavut Water Board