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To: Ms. Robyn Abernathy-Gillis, Fax: (867) 975-4585
Manager of Environment, Indian and
Northern Affairs, Nunavut Regional
Office, Iqaluit

From: John Donihoe Date: 11/29/2005

Re: INAC's Lead RA Status under CEAA Pages: 3 (includes cover)
- Meadowbank Gold Project

CC: Clare Cattryse, (613) 957-0941
Stephanie Briscoe (867) 983-2594

☐ Urgent ☒ For Review ☐ Please Comment ☐ Please Reply ☐ Please Recycle

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November 27, 2005

Ms. Robyn Abernathy-Gillis
Manager of Environment
Indian and Northern Affairs Canada
Nunavut Regional Office
P.O. Box 100
Building 918
Iqaluit, NU, X0A 0H0

By FAX**RE: INAC's Lead RA Status under CEAA – Meadowbank Gold Project**

Dear Ms. Abernathy-Gillis:

I am in receipt of your letter of November 4th, 2005 on the above captioned topic sent to Mr. Goodings of Cumberland Resources Ltd. (Cumberland). He has asked me to respond on Cumberland's behalf.

As you are aware, Cumberland is in the final phases of a Nunavut Impact Review Board (NIRB) Part 5 process. The Final EIS has been filed and distributed, including to INAC. Cumberland has NIRB's response on the conformity of the FEIS and dates have been proposed for the final hearings. Cumberland is encouraged by the assertion in your letter that INAC and other federal agencies, which we assume includes the Canadian Environmental Assessment Agency, agree that INAC is the lead Responsible Authority (RA) for the Meadowbank Project. We note as well your indication that your department "will continue to endeavour to accomplish its legislated responsibility through NIRB's Part 5 review."

Cumberland's primary concern is that INAC's assertion of CEAA jurisdiction at this late stage in the project review process should not extend the approvals process or impose any additional requirements to achieve environmental impact assessment approvals on Cumberland. It appears from Cumberland's review of the extensive guidelines issued by NIRB that all matters which need to be addressed under the *Canadian Environmental Assessment Act* (CEAA) have already been included in the NIRB Part 5 process. Cumberland seeks INAC's assurance, as lead RA, that there are no CEAA requirements which are not covered by the NIRB process which may lead to future delay or duplication. We suggest that such a commitment would be consistent with INAC's responsibilities set out in paragraph 4(1) (b.1) of CEAA as follows:

"to ensure that responsible authorities carry out their responsibilities in a coordinated manner with a view to eliminating unnecessary duplication in the environmental assessment process."

* Practising law through the John Donihee Professional Corporation.

We ask INAC as lead RA to work with the Canadian Environmental Assessment Agency other federal agencies and NIRB to ensure that this is the case and that all matters which must be addressed to satisfy CFAA requirements are identified and addressed through the NIRB process.

Your letter raises another concern for Cumberland which we set out below. We would appreciate assistance from INAC in addressing this matter as well.

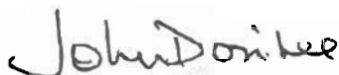
Your letter indicates that INAC based its assertion of lead RA status on the Cumberland application for land tenure for the 102 km all weather access road. A road, and the land tenure required for it, was always part of the Cumberland Meadowbank application. The Nunavut Planning Commission and NIRB treatment of the conversion of this access route to all weather status makes it clear that the all weather road is an integral part of the Meadowbank project. Your Minister's letter of September 7, 2005 in response to the NIRB pre-hearing decision reinforces that interpretation. Further, the Minister's letter indicates that he is satisfied that the current Part 5 review will result in a "thorough and comprehensive assessment of the entire project."

Cumberland is concerned that a CEAA focus grounded on the all weather access road and the late May 2005 lease applications may unduly shift the emphasis from the entire project to the road. We are also concerned that an INAC focus on the road based on 2005 lease applications may affect the statutory framework applicable to the project.

If CEAA applies in Nunavut, then it is Cumberland's position that we triggered CEAA in February or March of 2003 when the applications for authorizations under section 35 of the *Fisheries Act* and a type "A" water licence application for the project were filed. We are concerned that the date of application of CEAA to Meadowbank may be important in light of amendments to that Act which came into force in October 2003. We would appreciate it if INAC could explain its rationale for focussing on the road and in particular, your views about the timing of the application of CEAA as set out in your letter.

Please be assured that Cumberland will take all necessary steps to ensure that successful completion of the environmental assessment and regulatory approvals for its Meadowbank project are achieved. We will cooperate fully with INAC both in its role as lead RA and as a regulator to this end. We do, however, look forward to any response you may have on the concerns we have raised in order that we may initiate progress toward these goals at an early date.

Yours truly,



John Donihue
Counsel for Cumberland Resources Ltd.

cc. Craig Goodings, Cumberland
Stephanie Briscoe, NIRB
Clare Gattrysse, CEAA