

## **APPENDIX H**

### **2022 ASR Decision from NWB**

(Pages H-1 to H-19)



<sup>1</sup> Nunavut Water Board, Reasons for Decision for 2AM-MRY1325, June 12, 2013 at pp. 54-63.

the Water Licence is subject to periodic review, and adjustment to reflect the scale and scope of proposed activities in the year ahead (as described in a work plan filed with the Board in the fall of the preceding year). This correspondence is provided to all parties to:

- Explain the Annual Security Review (ASR) process conducted by the Board this year to assess the reclamation security that should be posted under all instruments for reclamation of the licensed undertaking (Mary River Project) if the activities proposed in the 2022 Work Plan were to be carried out; and
- Provide the NWB's conclusions and direction in respect of the ASR process, including identifying any changes to security to be held under Water Licence No: 2AM-MRY1325 required to reflect the changes to reclamation liability associated with the 2022 Work Plan.

The ASR process used by the Board to conduct this review of reclamation security associated with Baffinland's 2022 Work Plan is generally described in the Water Licence under Part C and Schedule C. Although the general requirements of the ASR process are set out in Schedule C of the Water Licence, the general timing and steps in the process were modified in the ASR process associated with the 2022 Work Plan to reflect the needs of the participants: Baffinland, the Qikiqtani Inuit Association (the QIA), and Crown-Indigenous Relations and Northern Affairs (CIRNA). It should be noted that the usual timeline of the 2022 ASR process was significantly extended due to the discussions held between the Licensee and the QIA and the Licensee and CIRNA.

At the conclusion of the ASR process, the NWB sets the amount of financial security required to be posted under the Water Licence associated with the annual Work Plan on the basis the written submissions from Baffinland, the QIA and CIRNA regarding:

- the estimates of the highest reclamation liability for land and water in the upcoming year when all instruments (including the Commercial Lease between Baffinland and the QIA and the Water Licence) are taken into account (the total financial security amount);
- the reclamation security that is required for the reclamation of land and water associated with the components of the undertaking on Inuit Owned Lands (this security is held by the QIA under the Commercial Lease between Baffinland and the QIA); and
- the reclamation security that is required for the reclamation of land and water associated with the components of the undertaking on Crown Lands (security held by the Minister of Northern Affairs under the Water Licence).

In general, the NWB calculates the amount of security to be posted under the Water Licence by setting the total financial security amount for the overall reclamation of the undertaking and then subtracting the security held by the QIA under the Commercial Lease. As indicated in the NWB's guidance letter issued to the parties on November 3, 2021 with respect to the 2022 ASR Process, the NWB is issuing this correspondence to fix the security amount that must be posted under the Water Licence associated with the updated 2022 Work Plan. It should be noted that because the Board has accepted CIRNA's recommendation to slightly reduce the amount of reclamation security held under the Water Licence for the year ahead, the Board expects CIRNA to work with Baffinland to adjust the security by refunding the appropriate amount to Baffinland following the

issuance of this decision.

The ASR process commenced with the NWB circulating Baffinland's 2022 Work Plan on November 3, 2021. **Appendix A** provides a summary of the key documentation provided pursuant to the 2022 ASR process and the key activities undertaken by the Board and the parties to complete the 2022 ASR process.

The Board has placed all non-confidential information associated with the 2022 ASR process on its public registry. For further details, consult the NWB's FTP site at the following link:

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

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

The Board's jurisdiction to require a licensee to furnish security is set out under s. 76 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 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.*

In addition, the *Nunavut Waters Regulations*, SOR/2013-69 (the *Regulations*) further specify the limits on the Board's jurisdiction and state the following:

*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.*

With respect to this Water Licence particularly, the Board notes that almost all of the Mary River Project is located on Inuit Owned Lands (IOL). As a result, the Board must take into account that the QIA holds a significant portion of the total financial security amount required to reclaim the undertaking under the Commercial Lease between Baffinland and the QIA to ensure that reclamation and full restoration of the undertaking on IOL takes place. This circumstance has meant that the NWB, in fixing the amount of reclamation security required under the Water

Licence, has allocated only a small proportion of the total financial security amount for the overall reclamation of the undertaking to the security required to be posted under the Water Licence. Last year, in the 2021 ASR Process, the Board required **\$2,788,000** or approximately 2.25% of the total financial security amount of **\$123,787,500** to be posted under the Water Licence. In 2021, the value of reclamation security allocated under the Commercial Lease, as agreed to between Baffinland and QIA, was set at **\$120,999,500 (presently held by QIA)**. As a result, going into the 2022 ASR process, the total financial security amount in place under both the Water Licence and the Baffinland-QIA Commercial Lease was **\$123,787,500**.

As expressed in prior ASR decisions by the Board, failing to reduce the reclamation security required to be posted under the Water Licence to reflect that a significant portion of the total financial security amount for reclamation of the undertaking is secured under the Baffinland-QIA Commercial Lease would result in the NWB fixing an amount of security in excess of what is permissible under s. 10(1) of the *Regulations* because it would far exceed the costs set out in s. 10(1)(a)-(d). Reflecting these concerns of over-bonding, and as set out in the Board's previous decisions, the NWB developed an approach to allow the Board to factor security held under land-based instruments into the Board's fixing of security under water licences:

*... the Board's focus in assessing security is that the Applicant must have posted sufficient security, through all means, when taken together, to ensure that the overall reclamation of the site (land and water) has been adequately addressed. Consequently, the Board's starting point to assess security remains considering the security requirements holistically and then deducting from the aggregate land and water reclamation totals any security held under other instruments, with the remainder being secured under the water licence.*<sup>2</sup>

In fixing the security under the Water Licence as set out in Part C and Schedule C, the Board has therefore taken into account the reclamation security held by the QIA over time. The ASR process established under the Licence also takes into account that the total amount of financial security required to ensure reclamation of the undertaking may vary greatly over the life cycle of the Mary River Project. The ASR process was also designed to provide a mechanism for conducting periodic review of the security fixed under the Water Licence to reflect the objective, as stated in the Mine Site Reclamation Policy for Nunavut (2002) that:

*The total financial security for final reclamation required at any time during the life of the mine should be equal to the total outstanding reclamation liability for land and water combined (calculated at the beginning of the work year, to be sufficient to cover the highest liability over that time period)*<sup>3</sup>.

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<sup>2</sup> Nunavut Water Board, Reasons for Decision for 2AM-JER1119, December 21, 2012 at p. 47.

<sup>3</sup> *Mine Site Reclamation Policy for Nunavut*, 2002, Minister of Indian Affairs and Northern Development, (Ottawa: Minister of Public Works and Government Services Canada, 2002) available on-line: [https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-NTHAFF/STAGING/texte-text/recpolnuna\\_1100100036043\\_eng.pdf](https://www.rcaanc-cirnac.gc.ca/DAM/DAM-CIRNAC-RCAANC/DAM-NTHAFF/STAGING/texte-text/recpolnuna_1100100036043_eng.pdf)

## **The Annual Security Review (ASR) Process**

To date, the NWB has conducted security reviews under the Water Licence annually commencing in 2013. Although the timing and detailed process steps may vary slightly each year to reflect changed circumstances, essentially the Annual Security Review (ASR) under the Water Licence commences with Baffinland providing a new Work Plan each Fall to cover the work Baffinland is proposing to undertake for the following year, commencing in March to March, and also filing an updated reclamation estimate that reflects any changes to the total financial security amount required to reclaim the undertaking if all on-going and new activities identified in the new Work Plan were to proceed.

The NWB then receives comments on both the Work Plan and the updated reclamation estimate provided by the Licensee from the two land owners, Crown-Indigenous Relations and Northern Affairs (CIRNA) in respect of the total financial security amount and the security held by the Minister under the Water Licence for the reclamation of land and water associated with the components of the undertaking on Crown Lands, and the Qikiqtani Inuit Association (QIA) in respect of the reclamation security that is required for the reclamation of land and water associated with the components of the undertaking on Inuit Owned Lands held by the QIA under the Commercial Lease. When all submissions have been received, the NWB hosts an ASR meeting (by teleconference) with Baffinland, the QIA and CIRNA to present their submissions to the Board and discuss any outstanding technical or process issues. Following the ASR teleconference, parties are often permitted to file additional follow-up submissions. Often following the ASR teleconference, Baffinland and the QIA have provided the NWB with a joint submission about changes to the security held under the Commercial Lease. When all follow up submissions have been received, the security issue is remitted to the three-Member Panel appointed by the Board to make decisions in respect of the Water Licence. Following Panel deliberation, the Board issues direction under Part C and Schedule C of the Licence, determining the total financial security amount for the reclamation of the undertaking and specifying the amount of security that must be held under the Water Licence. As set out in the Water Licence, before Baffinland undertakes any actions under the updated Work Plan in March, any increase to security under the Water Licence must be provided to the Minister before Baffinland undertakes the Work Plan.

As established under the Water Licence, Part C, Item 1(a) and (b), changes to the amount of security that are the outcome of the ASR Process conducted under the Water Licence are not handled as amendments to the Water Licence, and any adjustment to the security required to be posted under the Water Licence is dealt with as an administrative change to the Water Licence that does not require approval of the Minister of Northern Affairs.

The schedule of the 2022 ASR was extended several times at the request of Baffinland and the QIA to allow for a proposed joint submission, and also to reflect the extension to the timelines for decision-making associated with the Nunavut Impact Review Board's assessment of Baffinland's proposed modifications to the Mary River Project under the Phase 2 Development Proposal. As set out in detail in Appendix A: List of Key Documentation and Activities, the 2022 ASR process commenced on November 3, 2021 when the Board circulated Baffinland's updated 2022 Work Plan and total financial security estimate and the final document considered by the Board in

relation to the 2022 ASR was a joint submission from Baffinland and the QIA provided on July 29, 2022.

## **Summary of Submissions Received During the ASR Process Relating to the Total Financial Security Amount and Financial Security Held under Licence 2AM-MRY1325**

### **LICENSEE (BAFFINLAND) MAJOR SUBMISSIONS**

The 2022 Work Plan, as required under the provisions of Licence 2AM-MRY1325 (the Water Licence), was originally filed with the NWB on November 1, 2021 and circulated for comments on November 3, 2021. As required under the Water Licence (Part J, Schedule J), the 2022 Work Plan included the following components:

- Details regarding mining and associated activities that occurred or had been proposed but were not undertaken over the previous year as well as information on similar and/or additional activities proposed for the upcoming year;
- An assessment of the previous and upcoming year's activities, identifying any changes in environmental liabilities or risk associated with the Project that would affect the amount of reclamation security required for the Project, and that would allow a third-party contractor to perform reclamation under a worst-case scenario, and identifying any associated changes to the amount of reclamation security held under all instruments that should be filed; and
- An examination of any material changes that the proposed works would have on other Project variables such as management plans, existing infrastructure, progressive reclamation and more.

Details contained in Baffinland's 2022 Work Plan indicated that ongoing development of the mine will continue over the 2022 period. Similar to the previous years' work plans, the 2022 Work Plan included details regarding new and ongoing works and activities, as well as works and activities proposed under the 2021 Work Plan that were not carried out as planned, will not be carried out in the future, or were deferred in 2021, and will be carried over into the 2022 Work Plan.

The following summarizes the main activities, works, or undertakings Baffinland proposed to carry out under the 2022 Work Plan:

- Development and operation of the mine, ore crushing and land transportation, stockpiling and marine shipment of ore;
- The continued development and construction of infrastructure required at Milne Port and the Mary River Mine Site and along the Tote Road for the Mary River Project;
- Continued operation of Mine Site and Milne Port Camps to support ongoing operations and construction activities which will include the use of water and deposition of waste as

- authorized under existing permits;
- On-going operation and expansion of permitted quarry and borrow sources;
- At Milne Port, vessels carrying fuel, equipment and supplies for use at the Mine Site and Milne Port will arrive during open water. Material, fuel and supplies required for operational and construction activities will be transported to the Mine Site year-round via the Tote Road;
- On-going environmental effects studies and baseline data collection will continue to support the construction and operation of the Project as well as for future engineering requirements;
- Continued environmental monitoring in accordance with the approved Project Certificate, licences, authorizations, management plans and environmental effects monitoring plans;
- On-going exploration activities including drilling, mapping, prospecting, sampling, and geophysics;
- Tote Road improvements to address safety concerns, freshet runoff issues, and poor road conditions during the spring and summer periods;
- Continued construction of additional fuel storage at the Project;
- Site grading and laydown construction for supplies and equipment to support future construction activities and remove ponding and permafrost degradation issues around current infrastructure, and;
- Erection of additional maintenance facilities to safely service equipment.

Based on the scope of work proposed in the 2022 Work Plan and considering works and activities not undertaken under the 2021 Work Plan, and works and activities carried over from 2021 in the 2022 Work Plan, in the November 1, 2021 submission, Baffinland proposed that the overall reclamation security for the Project should be **decreased** substantially from the total financial security amount of \$123,787,500 fixed by the Board in 2021 to **\$104,161,082** under the 2022 Work Plan. Baffinland proposed that the amount of security to be held under the Water Licence should also **decrease** from the amount set in 2021 of \$2,788,000 to **\$2,317,866**. In its December 31, 2021 submission, Baffinland increased the total estimate slightly to **\$106,335,384** with **\$2,319,828** proposed to be allocated to security under the Water Licence. On June 14, 2022, following the 2022 ASR teleconference hosted by NWB in January 2022, Baffinland submitted a revised 2022 *Marginal Closure and Reclamation Financial Security Estimate* that allocated **\$104,549,205** to the Baffinland-QIA Commercial Lease component and **\$2,321,269** to the Water Licence component resulting in updated total financial security amount of **\$106,870,474** for the Project.

## **QIA MAJOR SUBMISSIONS**

On December 31, 2021, the QIA submitted a cover letter and accompanying 2022 Mary River Reclamation Security Report – Version 2 (i.e. the “2022 Security Estimate”) for the Project (conducted by ARKTIS Solutions Inc.). The QIA explained that the updated amount represented an **increase** of **\$7,312,500** from the 2021 security in place resulting in the updated estimate of reclamation security under the Commercial Lease being increased to **\$128,312,000** in 2022. A comparison of the QIA and Baffinland estimates suggests that some of the main factors contributing to the differences in the estimates include the following:



- Disagreement in the methodology of estimating security for grade and recontour;
- Inventory of mechanical and mobile equipment;
- Significant differences in classifying Deposit 1 as a pit or hilltop outcrop;
- Buildings' height;
- Insufficient information in order to remove Quarries 1 and 5 from the security estimate;
- Engineering fees; and
- Inflation.

The NWB distributed Baffinland's revised estimate to the interveners on January 4, 2022. During the 2022 ASR teleconference on January 27, 2022, the QIA advised the NWB that further discussion with the Licensee was ongoing with the goal of coming to agreement on a reclamation security estimate associated with the 2022 Work Plan, and also advised the NWB that the expected outcome of the discussions would be Baffinland and the QIA providing a joint submission on reclamation security to the NWB.

### **BAFFINLAND – QIA JOINT SUBMISSIONS**

On March 15, 2022, Baffinland submitted a Baffinland-QIA joint correspondence with a proposed timeline for finalizing the two parties' discussion of the 2022 reclamation security estimate under the Commercial Lease. In the letter, Baffinland and the QIA set June 3, 2022 as the latest date to submit to the Board the results of the joint review.

On July 29, 2022, the QIA provided a final joint submission developed by the QIA and Baffinland in support of the 2022 ASR Process for the Mary River Project. The joint submission was the result of extensive negotiations that occurred between Baffinland and the QIA prior to and following the NWB-hosted ASR Teleconference held on January 27, 2022.

The parties stated:

*The revised Baffinland and QIA security estimates for 2022 are \$104,549,205 and \$123,293,000, respectively. QIA and Baffinland have agreed after extensive discussions that the amount presently held by QIA (\$120,999,500) is the appropriate quantum for 2022 and reflects an acceptable compromise given the following circumstances:*

- 1. The parties have, over the last six (6) months, achieved significant progress in aligning methodology and approach.*
- 2. Current economic uncertainty in Canada and worldwide may have an impact on Baffinland's operations and will certainly have an impact on many of the costing assumptions that support the parties' estimates.*

Consequently, in the July 29, 2022 joint submission, Baffinland and the QIA did not intend to update the value of reclamation security from the \$120,999,500 currently held by the QIA under the Commercial Lease since 2021.

## **CIRNA MAJOR SUBMISSIONS**

On December 30, 2021, CIRNA submitted a cover letter and an accompanying *Mary River Project FINAL Rev. 1 2021-2022 Annual Security Review Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)* produced by SNC Lavalin Inc. for CIRNA (Report). The Report was based on the document package submitted by Baffinland as part of the 2022 ASR process. CIRNA estimated the total financial security amount for 2022 as **\$106,471,393**, which consisted of a slight decrease to the security held under the Water Licence from \$2,788,000 to **\$2,784,218** for the reclamation of the undertaking on Crown Lands and **\$103,687,175** for the reclamation of the undertaking on Inuit Owned Lands.

Following the January 27, 2021 teleconference hosted by NWB and continued discussions with Baffinland, and the review of submissions provided by Baffinland and the QIA, CIRNA filed the *Updated Summary of 2022 Global Estimate (RECLAIM) and Comparison to BIMC 2022 Security Estimate* (Updated Estimate) with a cover letter on July 22, 2022.

In the revised Report, CIRNA reiterated the Department's recommendation that the security for reclamation on Crown Lands (held under the Water Licence) be decreased slightly from \$2,788,000 to **\$2,784,218** and for Inuit Owned Lands (held under the Baffinland-QIA Commercial Lease) be decreased to **\$106,507,675** resulting in an updated total financial security amount of **\$109,297,153** when the security held under both the Water Licence and the Baffinland-QIA Commercial Lease is considered.

In addition, CIRNA recommended that, for future iterations of the ASR, Baffinland satisfy information requests as outlined in the July 22, 2022 submission from CIRNA (outlined in a section entitled "Recommendations").

## **SUMMARY OF RECLAMATION ESTIMATES PROVIDED BY ALL PARTIES**

The following table (**Table 1**) summarizes the proposed reclamation estimates provided by the various parties initially and finally for the 2022 period.

<b>Table 1: Security Proposed in Various Parties Submissions for the 2022 ASR</b>			
<b>Party -Submission</b>	<b>Water Licence (\$)</b>	<b>Commercial Lease (\$)</b>	<b>Total (\$)</b>
QIA – Initial	N/A	\$128,312,000	N/A
QIA – Final	N/A	N/A	N/A
Baffinland – Initial	\$2,317,866	101,843,216	<b>\$104,161,082</b>

Baffinland – Revised	\$2,319,828	104,015,557	<b>\$106,335,384</b>
Baffinland – Final	\$2,321,269	104,549,205	<b>\$106,870,474</b>
CIRNA - Initial	\$2,784,218	\$103,687,175	<b>\$106,471,393</b>
CIRNA – Final	\$2,784,218	\$106,507,675	<b>\$109,297,153</b>
Baffinland-QIA(Jointly)	N/A	\$120,999,500	<b>N/A</b>

## The Updated Total Financial Security Amount for 2022

The Board recognizes that there continue to be significant differences of opinion between Baffinland, CIRNA and the QIA with respect to assumptions underlying the development of the total financial security amount for the reclamation of the undertaking. However, after reviewing all submissions received to date, the 2022 Work Plan, and the estimates as proposed and revised as part of the 2022 ASR Process, the Board is confident that there is sufficient information to support the Board's decision that the total financial security amount should be decreased by approximately **\$3,800** (or **\$3,782** exactly) from the existing **\$123,787,500** to **\$123,783,718**.

This update to the total financial security amount of \$123,783,718 reflects that the security being held by the QIA under the Baffinland-QIA Commercial Lease will continue to be \$120,999,500 in accordance with the joint submission by Baffinland and the QIA. The reduction to the total financial security amount reflects a decrease in the amount of security that is required under Part C, Item 1 of Water Licence No: 2AM-MRY1325 from **\$2,788,000** to **\$2,784,218** because the Board accepts the submissions of CIRNA that the reconciliation for 2021 and activities proposed by Baffinland in the 2022 Work Plan will decrease the reclamation liability by \$3,782 on Crown Lands. The Board's acceptance of CIRNA's updated estimate is based in part on the recognition that CIRNA's estimates are based on the RECLAIM Model, which is also the model that is generally accepted by the Board when fixing security under water licences.

In the absence of agreement amongst the parties and/or suitable rationales for why costs assumed in the RECLAIM Model should not be used, the Board has accepted that CIRNA's updated estimate would be sufficient to ensure the reclamation of the undertaking. Having considered all the submissions of the parties throughout the 2022 ASR process, the Board's duly appointed decision-making Panel for the file (Mary River Panel or Panel P4) concluded, by way of Panel Motion No: 2022-05-P4-05 on August 26, 2022, that the global security amount should be decreased from the current **\$123,787,500** to **\$123,783,718**. The Board is confident that this amount is equal to the highest reclamation liability for land and water associated with the undertaking governed by the Water Licence during the period of March 2022 to March 2023 and will be sufficient to cover previous activities and activities proposed for this period under the 2022 Work Plan on Crown Lands.

## **The Amount of Security Required by the NWB to be posted under Licence No: 2AM-MRY1325 for the 2022 Period**

As outlined in the preceding section, the Mary River Panel has determined, by way of Panel Motion No: 2022-05-P4-05 that Baffinland must decrease the reclamation security to be held by the Minister under Part C, Item 1 of the Water Licence from the current **\$2,788,000** to **\$2,784,218** in reclamation security. It is the Board's view that this decrease to the amount of security held under the Water Licence is reflective of the Project liability on Crown Lands and consistent with the factors to be considered by the Board in fixing security under s. 10 of the *Nunavut Waters Regulations*. As outlined in the Water Licence, this security must be held in the form required under the *Nunavut Waters Regulations* and as acceptable to the Minister of Northern Affairs.

## **Summary of the Total Financial Security Posted Pursuant to Part C and Schedule C of Licence No: 2AM-MRY1325 for 2013-2022**

The following graphs and figures show the total financial security posted for the Project (including under the Water Licence and the Commercial Lease) during the years 2013-2021 and include the amount directed by the Board to be filed by Baffinland for the upcoming 2022 period.

**Table 2: Total Financial Security Amount Posted for the Mary River Project Annually, April 2013-March 2022**

Year		2013	Q1 2014 to Q1 2015	Q1 2015 to Q1 2016	Q1 2016 to Q1 2017	Q1 2017 to Q1 2018	Q1 2018 to Q1 2019	Q1 2019 to Q1 2020
		(With Licence Issuance)	(Based on 1 <sup>st</sup> ASR, 2014 ASR)	(Based on 2 <sup>nd</sup> ASR, 2015 ASR)	(Based on 3 <sup>rd</sup> ASR, 2016 ASR)	(Based on 4 <sup>th</sup> ASR, 2017 ASR)	Based on 5 <sup>th</sup> ASR, 2018 ASR	Based on 6 <sup>th</sup> ASR, 2019 ASR
Total (\$)		\$36,000,000	\$39,959,000	\$47,683,500	\$50,055,500	\$52,682,600	As directed by NWB: \$85,007,826  As agreed by Baffinland and QIA: \$75,128,326	As directed by NWB: \$88,136,459  As agreed by Baffinland and QIA: \$106,136,459

Year	Q1 2020 to Q1 2021	Q1 2021 to Q1 2022	Q1 2022 to Q1 2023
	Based on 7 <sup>th</sup> ASR, 2020 ASR	Based on 8 <sup>th</sup> ASR, 2021 ASR	Based on 9 <sup>th</sup> ASR, 2021 ASR
Total (\$)	As directed by NWB: \$106,278,658  As agreed by Baffinland and QIA: \$114,962,000	\$123,787,500	\$123,783,718

**Table 3: Summary of Security Amounts Posted Under the Commercial Lease and Water Licence for the Period 2013-2022**

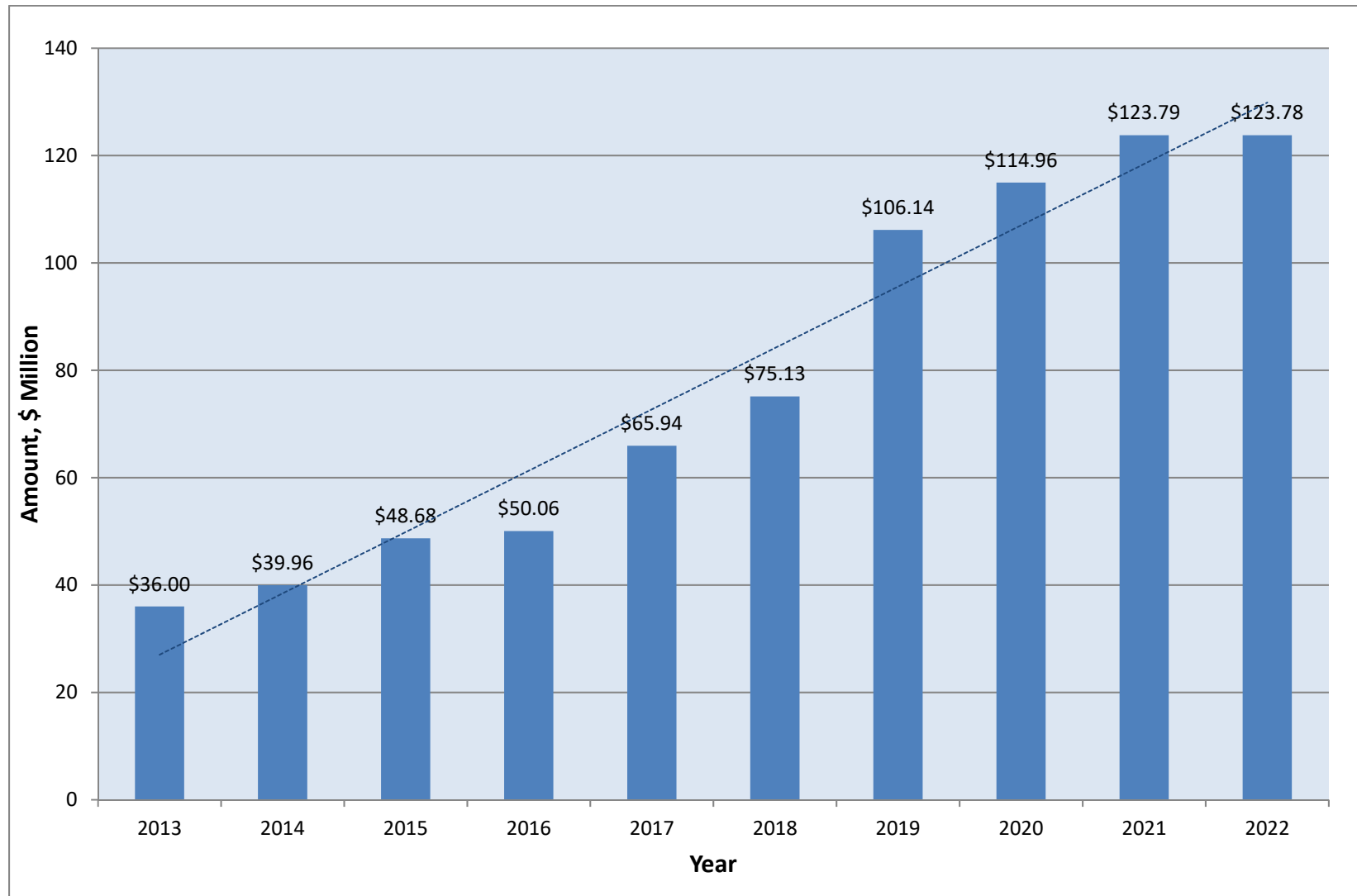
	2013	2014	2015	2016	2017	2018	2019
Inuit-Owned Land and/or Water	\$26,200,000	\$39,793,000	\$47,517,500	\$48,845,500	\$51,384,000 \$64,642,000*	\$73,829,771	\$104,687,658
Crown Land and/or Water	\$9,800,000	\$166,000	\$166,000	\$1,210,000	\$1,298,555	\$1,298,555	\$1,448,801
<b>Total</b>	<b>\$36,000,000</b>	<b>\$39,959,000</b>	<b>\$47,683,500</b>	<b>\$50,055,500</b>	<b>\$52,682,555</b> <b>\$65,940,500*</b>	<b>\$75,128,326</b>	<b>\$106,136,459</b>

	2020	2021	2022
Inuit-Owned Land and/or Water	\$104,687,658 \$113,371,000**	\$120,999,500	\$120,999,500
Crown Land and/or Water	\$1,591,000	\$2,788,000	\$2,784,218
<b>Total</b>	<b>\$106,278,658</b> <b>\$114,962,000**</b>	<b>\$123,787,500</b>	<b>\$123,783,718</b>

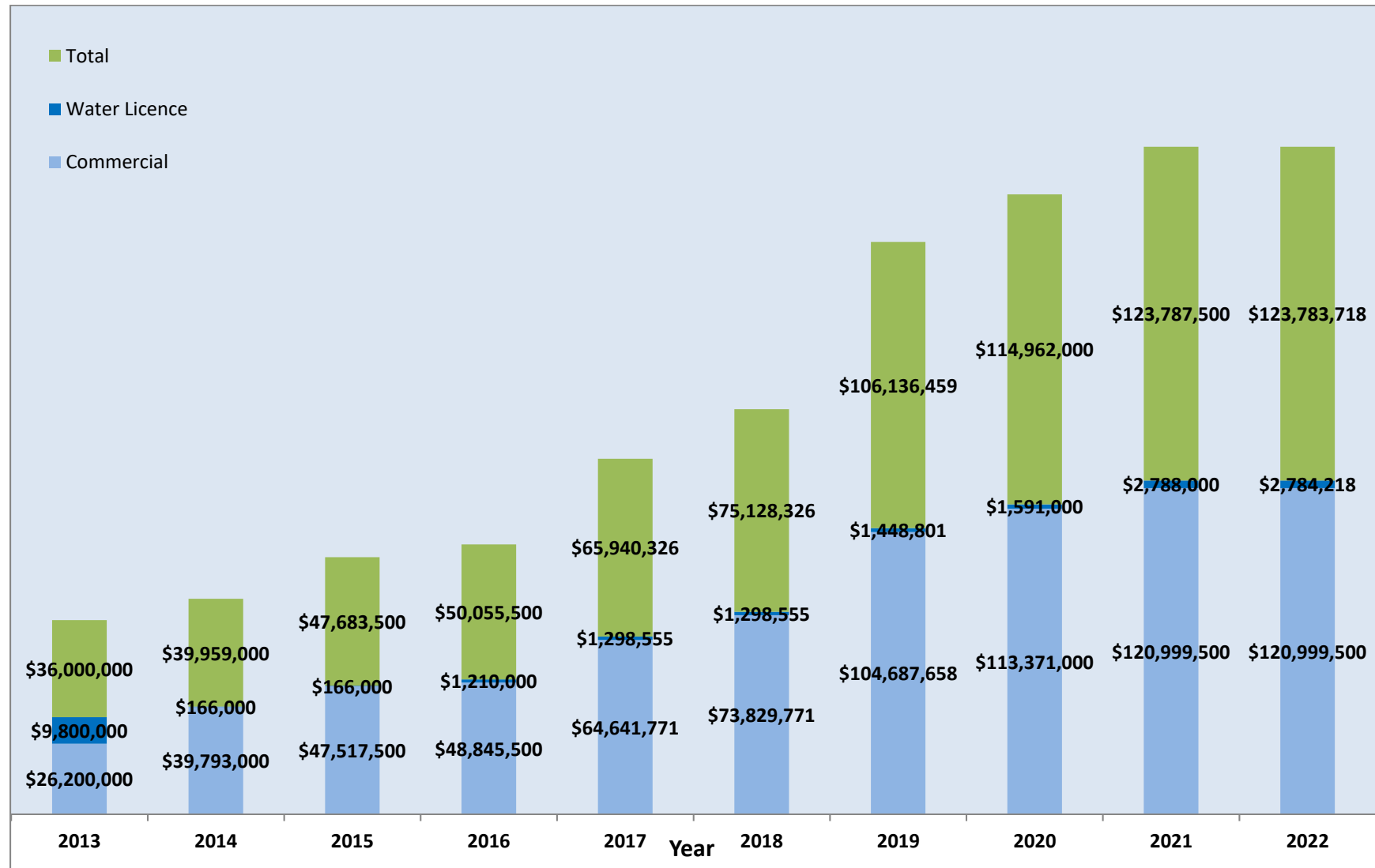
\*including additional security posted on August 7, 2017 in accordance with the 2017 Work Plan Addendum

\*\*including additional security posted in December 2020 in accordance with the arbitration outcomes for reconciliation for 2019

**Figure 1: Graph Showing Total Financial Security Posted Annually for the Mary River Project, 2013-2022**



**Figure 2: Graph Showing the Relative Proportion of Security Posted Under the Commercial Lease and Water Licence for the Period 2013-2022**





## Closure of the 2022 ASR Process

This concludes the Board's ASR determination with respect to the total financial security amount and the updated security required to be held under Part C, Item 1 and Schedule C of Licence No: 2AM-MRY1325 for the upcoming 2022-2023 season, as specified under the Licence, Schedule C, Item 4.

During the 2022 ASR Process, the Licensee agreed to furnish the financial security as set out in this determination within 30 days from the issuance of the NWB's determination, **August 26, 2022**. As the Board has accepted CIRNA's recommendation to slightly reduce the amount of reclamation security held under the Water Licence for the year ahead, the Board expects CIRNA to work with Baffinland to adjust the security by refunding the appropriate amount to Baffinland following the issuance of this decision. All parties are advised that, if confirmation of the required security remaining in force is not received by **September 26, 2022**, the Board may take further steps and issue further written direction under the ASR Process to ensure that adequate security remains in place to reflect the Licensee's activities under the 2022 Work Plan.

Further, the NWB recognizes that there are several processes underway that may alter the Board's future ASR process and the fixing of security under Water Licence No: 2AM-MRY1325 in the future, including:

- The receipt of further information from Baffinland and the QIA regarding the results of the discussions and security adjustments under the Baffinland-QIA Commercial Lease, and
- Subsequent consideration by the NWB of the amendment application from Baffinland to amend Water Licence No: 2AM-MRY1325 to reflect changes to water use and waste deposit associated with the Phase 2 Development Project Proposal which is currently being considered by the Minister following the assessment of the Proposal by the Nunavut Impact Review Board.

As updated information, decisions and advice to the Board associated with these processes is received, the NWB will issue additional guidance as considered necessary to ensure the NWB's periodic review of security is aligned with the NWB's developing best practices for fixing security, including changes that reflect amendments to the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* with respect to the Board's consideration of security that were brought into force only after the Water Licence for the original Mary River Project was issued in 2013.

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 at [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 at [karen.kharatyan@nwb-oen.ca](mailto:karen.kharatyan@nwb-oen.ca).

Regards,

Lootie Toomasie  
Chairperson  
Nunavut Water Board

cc. Public Registry  
Chris Spencer (QIA)  
Lauren Perrin (CIRNA)

**APPENDIX A**  
**List of Key Documentation and Activities in Support of the 2022 ASR**

<b>Date</b>	<b>Procedural Milestone</b>
November 3, 2021	NWB distributed Baffinland's 2022 Work Plan as required under Part J of the Licence. The NWB also circulated the 2022 ASR Process Guidance document with a proposed timeline.
November 17, 2021	On or before November 17, 2021, Baffinland and the QIA submitted their comments on the 2022 Annual Security Review Process and Timelines. Consequently, the NWB issued the <i>Updated Timeline for the Annual Security Review Associated with the 2022 Work Plan</i> .
December 31, 2021	By this date, CIRNA and the QIA filed written submissions regarding the Licensee's 2022 Work Plan and updates to the reclamation security estimates for the Project. Baffinland submitted updated information regarding its 2022 security assessment.
January 13, 2022	The NWB distributed the draft Agenda for the January 27, 2022 teleconference.
January 25, 2022	The NWB issued the final Agenda for the 2022 ASR Teleconference.
January 26, 2022	The parties filed their presentation materials in preparation for the teleconference.
January 27, 2022	The NWB hosted the 2022 ASR Teleconference with Baffinland, the QIA and CIRNA participating.
February 9, 2022	Based on the parties' feedback as received by the Board on or before February 8, 2022, the NWB issued a further revised timeline for the 2022 ASR.
February 25, 2022	The NWB granted Baffinland's request for a further extension to the 2022 ASR timeline.
March 15, 2022	Baffinland and the QIA submitted joint correspondence on the 2022 ASR timeline.
March 17, 2022	The NWB proposed holding a teleconference with the parties to discuss the revised timeline.
March 29, 2022	The NWB held the teleconference on further development of the 2022 ASR process with Baffinland, the QIA and CIRNA.
March 31, 2022	The NWB issued correspondence summarizing the discussion during the March 2022 teleconference and providing its recommendation on the parties' work to resolve the issues in respect of the security determination for 2022.

Date	Procedural Milestone
June 14, 2022	The NWB distributed Baffinland's submitted revision 2 of its <i>2022 Marginal Closure and Reclamation Financial Security Estimate</i> and requested final submissions from the QIA and CIRNA by June 23, 2022.
June 23, 2022	After receiving feedback from the Licensee, the NWB granted CIRNA's request for extension to the deadline for receiving CIRNA's final submissions and extended the deadline to July 22, 2022.
July 22, 2022	CIRNA provided its updated security estimate to the Board.
July 29, 2022	The QIA submitted the Baffinland-QIA joint submission.
August 26, 2022	The NWB issues the 2022 ASR decision to advise the Licensee and interested parties of adjustments to the total financial security amount and the security held by the Minister under Part C, Item 1 of the Water Licence to reflect the activities proposed under the 2022 Work Plan.
September 26, 2022	The Licensee is required to furnish the adjusted reclamation security as determined by the NWB and set out in the 2022 ASR decision in accordance with Part C of Licence No: 2AM-MRY1325.