



**Department of Justice
Canada**

Northern Region, Nunavut Office
969 Qimugjuk Building
PO Box 2200
Iqaluit, Nunavut X0A 0H0

**Ministère de la Justice
Canada**

Région du Nord, Bureau du Nunavut
969 Qimugjuk Building
CP 2200
Iqaluit (Nunavut) X0A 0H0

Phone/Téléphone: (867) 975-4516
Fax/Télécopieur: (867) 975-4560

May 29, 2015

Phyllis Beaulieu
Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
X0B 1J0

Dear Ms. Beaulieu,

Re: Reply to Submissions RE Licence #2AM-MRY1325 Amendment Application

We would like to address a legal issue that was raised in the submissions made by both the Qikiqtani Inuit Association (QIA) and Baffinland Iron Mines Corporation (Baffinland), following the final hearing when the record was left open on the issue of quantum of security.

In their submission dated May 15, 2015, QIA states that “the NWB decision for 2015 Security ... under the current Licence, is a final determination for 2015”, that the Board “may not re-open that decision”, and that ignoring “the 2015 Security determination ... would offend basic principles of procedural fairness to the parties participating in the process”.

In their submission dated May 25, 2015, Baffinland also states that they consider the “NWB decision for 2015/2016 Security to be a final determination pursuant to all procedures under the current Licence, and submits the NWB should not re-open that decision and implicitly ignore the process, findings and results of the 2015/2016 ASR Process”.

With respect, we disagree with the contention that a final determination for security has already been made in the context of the amendment application. Renewals or amendments of water licences are not the extension of a single continuous licence, but rather a series of consecutive licences. For example, in *Carter v. Northwest Territories Power Corp.* (2014 NWTSC 19), which dealt with a judicial review of a licence renewal under a similar legislative scheme, the NWT Supreme Court said as follows:

[E]ach application for a licence is a separate proceeding. Thus, where an applicant is granted two licences consecutively, the latter is not a continuation of the former. They are separate licences [at para 127].

Therefore any amended licence constitutes a new licence in which the fixing of security is an integral component. As such, it is not only appropriate but essential for the Board to address the issue of quantum of security in this application process.

We look forward to continuing to work with the Board and the Parties towards resolving the issue of security.

Yours truly,

Sina Muscati
Legal Counsel

Canada