



Water Resources Division
Nunavut Regional Office
Iqaluit, NU X0A 0H0

Your file - Votre référence
2AM-MRY1325

February 23, 2018

Our file - Notre référence
CIDM#12111990

Karén Kharatyan
Manager of Licensing
Nunavut Water Board
Gjoa Haven, NU X0B 1J0

**Re: Indigenous and Northern Affairs Canada's final statements for the 2018
Annual Security Review of Baffinland Iron Mines Corporation 2AM-
MRY1325 Type A Water Licence**

Dear Mr. Kharatyan,

Indigenous and Northern Affairs Canada (INAC) has participated in the above referenced Annual Security Review (ASR) since November 2017. The latest interaction between all interested parties was a teleconference organized by the Nunavut Water Board (Board) on February 15, 2018. We appreciate the opportunity to follow up with a final written submission.

Allocation of reclamation security based on land ownership

In previous years' the Board's ASR decisions setting security for Baffinland Iron Mines Corporation's (Baffinland) Mary River Project have divided security held for the total reclamation cost estimate between the Qikiqtani Inuit Association (QIA) and INAC based on land ownership. Since the majority of the project is on Inuit owned land, the QIA hold most of the total security.

The only part of the project on crown land is portion of the Tote Road, of which 7% is on crown land. The approach we and our consultants have used for dividing reclamation cost estimates has been:

- Mine site infrastructure - all as Inuit owned land
- Milne Port infrastructure - all as Inuit owned land
- Quarries - according to land ownership of quarry location
- Tote Road
 - larger items such as bridges and maintenance shop - according to land ownership of item location

- smaller and continuous items such as culverts and grading - split total costs according to percentage land ownership (93% Inuit owned land – 7% crown land)

The 2018 marginal increase in reclamation security estimate was divided between landowners using the same approach. Most of the work proposed is at the mine site with some at Milne Port. The only work on the Tote Road is upgrades to twelve communication towers along the road. When allocating costs of the towers, we used the percentage approach since they are distributed all along the road, resulting in a direct cost increase of \$6,520 to crown land. This generates indirect costs for a total marginal increase to crown land liability of \$16,680.

In their written communication and during the ASR teleconference, Baffinland staff took issue with our approach because they believed they had clearly indicated none of the twelve communication towers were on crown land.

Figures 1 to 12 provided in appendix D of the revised security estimate¹ do not show land tenure. However, using the geographical coordinates from the figures, we have been able to confirm that none of the towers are situated on crown land. INAC therefore agrees that the increased reclamation cost call all be assigned to Inuit owned land. We raise the concern that introducing this level of granularity in the estimate, so that every small culvert might be assigned in detail, is counter-productive and inefficient.

Actions to be taken if Baffinland misses March 1st deadline for posting security

During the ASR teleconference, NWB legal counsel asked what actions INAC's enforcement branch intended to take if Baffinland misses the deadline for posting security included in the licence.

Schedule C, Item 5 of the licence² states: *"In any event, if the Licensee fails to file the total financial security amount required for the upcoming year as determined by the Board under the Licence on or before March 1, the Licensee is not authorized to proceed with any planned activities that could increase the total financial security amount required to be held under the Licence until they have filed the total financial security amount required to be held under Part C for the upcoming year."*

If Baffinland has not posted security by March 1, 2018 for the ongoing ASR, they would not be authorized to proceed with any of the planned activities that could increase the

¹ Baffinland Iron Mines Corporation, 2018 Marginal Closure and Reclamation Financial Security Estimate, January 10, 2018

² Nunavut Water Board, LICENCE NO. 2AM-MRY1325 – AMENDMENT NO. 1, July 21, 2015.

total financial security amount required to be held under the Licence. If Baffinland was to undertake the activities, they would be in non-compliance with the water licence and subject to enforcement action.

Recommendation

INAC's peak-projected reclamation cost estimate for 2018 remains unchanged following the ASR at \$75,035,673. We recommend that the Board set a global security amount of at least this amount and support Baffinland's proposal of a \$24,184,445 increase over last year's global security amount.

Presently INAC holds \$1,298,555 in financial security for reclamation purposes under water licence 2AM-MRY1325 amendment #1. In our previous written submission³, INAC recommended increasing in the amount held by the Minister by \$16,680, based on our estimated increase in crown land liability. Following the ASR we modify this recommendation to propose that the amount held by the minister remain unchanged.

Please do not hesitate to contact me at 867-975-3876 or sarah.forte@canada.ca for any additional information.

Regards,

Sarah Forté
Water Management Specialist

c.c.: Christopher Murray, Environmental & Regulatory Compliance Manager,
Baffinland
Stephen Williamson Bathory, Director of Department of Major Projects, QIA

³ Indigenous and Northern Affairs Canada, Re: Indigenous and Northern Affairs Canada's reclamation cost estimate for the 2018 Annual Security Review of Baffinland Iron Mines Corporation 2AM-MRY1325 Type A Water Licence, February 12, 2018