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NUNAVUT WATER BOARD  
NUNAVUT IMALIRIYIN KATIMAYINGI  
OFFICE DES EAUX DU NUNAVUT

Date: April 11, 2019

**File No: 2AM-MRY1325**  
By Email and Regular Mail

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**Re: Licence No. 2AM-MRY1325, Part C and Schedule C, Baffinland Iron Mines Corporation Type "A" Water Licence, Mary River Iron Mine Project: Direction from Nunavut Water Board for the Annual Security Review Associated with the 2019 Work Plan**

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As set out in the Nunavut Water Board (NWB or Board) Decision<sup>1</sup> recommending the issuance of Type "A" Water Licence No. 2AM-MRY1325 (the Water Licence) in 2013, and as required under Part C and Schedule C of the Water Licence (as amended in 2015), the amount of financial security

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

the Board requires Baffinland Iron Mines Corporation (the Licensee or BIMC) to post under 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 (the Mary River Iron Ore Mine) if the activities proposed in the 2019 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 2019 Work Plan.

The ASR process used by the Board to conduct this review of reclamation security associated with BIMC's 2019 Work Plan is as 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, this general timing and steps in the process were modified in the ASR process associated with the 2019 Work Plan to reflect the needs of the participants, BIMC, the Qikiqtani Inuit Association (the QIA), and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC). Although the Board issued correspondence on January 16, 2019 to provide advice and direction regarding further modifications to the ASR process for this year,<sup>2</sup> to accommodate subsequent discussions between the QIA and BIMC associated with providing a joint submission, the NWB extended the timeline for the 2019 ASR by several months. The NWB did not have all information required to conclude the 2019 ASR process and remit the matter to the Board's duly appointed Panel for decision-making until March 15, 2019. Consequently, the Board notes that BIMC's filing of additional security resulting from the ASR and ability to undertake any activities in the 2019 Work Plan that would add to the Licensee's reclamation liability has also been delayed by this extension of the ASR process.

The amount of security required to be posted under the Water Licence following the conclusion of the ASR process is based on both an estimate of the highest reclamation liability for land and water in the upcoming year (the global security amount), and any reductions from the global security amount to reflect the reclamation security that BIMC has also provided to the QIA under the reclamation requirements associated with the Commercial Lease between BIMC and the QIA. This information and the parties' comment submissions provided during the course of the ASR are considered by the Board in order to fix the total security amount that must be held under the Water Licence for the upcoming year.

As indicated in the NWB's guidance letter issued to the parties on November 2, 2018 with respect to the ASR Process, the NWB is issuing this correspondence to fix the security amount that must be posted under the Water Licence with the expectation that BIMC will post the adjusted security under the Water Licence on or before May 11, 2019.

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<sup>2</sup> Karén Kharatyan, NWB, to Fai Ndofor, QIA, Christopher Murray, BIMC, and Ian Parsons, CIRNAC; Re: 2019 ASR progress, dated January 16, 2019.

The ASR process commenced with the NWB, circulating the 2019 Work Plan by BIMC on November 2, 2018. **Appendix A** provides a summary of the key documentation provided pursuant to the 2019 ASR Process and the key activities undertaken by the Board and the parties to complete the 2019 ASR Process

The Board has placed all non-confidential information associated with the ASR Process on its public registry. For further details, consult the NWB's FTP site under 2AM-MRY1325/TECH/2 SECURITY (C) 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 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 global security amount required to reclaim the undertaking under the QIA's Commercial Lease 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 global security amount for reclamation of the undertaking to the security required to be posted under the Water Licence. Last year, in the 2018 ASR Process, the Board required

**\$1,298,555 (unchanged from 2017)** or approximately 1.5% of the global security amount of **\$85,007,826** to be posted under the Water Licence. It should be noted that the value of reclamation security allocated under the Commercial Lease instrument was reduced from **\$83,709,271** to **\$73,829,771** later in the year as a result of agreements made between BIMC and QIA in May and July 2018<sup>3</sup>. The resultant global security in place under both the Water Licence and the BIMC-QIA Commercial Lease instrument is **\$75,128,326**.

As expressed in prior ASR decisions by the Board, failing to reduce the reclamation security under the Water Licence to reflect that a significant portion of the global security amount for reclamation of the undertaking is secured under the BIMC-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>4</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 costs of 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>5</sup>.

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

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<sup>3</sup> BIMC and QIA, in their joint submissions on May 22, 2018 and July 20, 2018, informed NWB of decreasing the security posted under the Commercial Lease from \$83,709,271 to \$73,829,771 in accordance with the reduction of planned activities.

<sup>4</sup> Nunavut Water Board, Reasons for Decision for 2AM-JER1119, December 21, 2012 at p. 47.

<sup>5</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: [http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/recpolnuna\\_1100100036043\\_eng.pdf](http://www.aadnc-aandc.gc.ca/DAM/DAM-INTER-HQ/STAGING/texte-text/recpolnuna_1100100036043_eng.pdf).

To date, the NWB has conducted security reviews under the Water Licence annually commencing in 2013. Although the timing and detailed process steps have varied slightly to reflect circumstances, essentially the Annual Security Reviews (ASR) under the Water Licence commence with BIMC providing a new Work Plan in the Fall for the upcoming period of March to March, coupled with an updated reclamation estimate that reflects any changes to the global financial security amount required to reclaim the undertaking, if all on-going and new activities as identified in the new Work Plan were to proceed.

The NWB then receives comments on both the Work Plan and the updated reclamation estimate from the two land owners, Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) in respect of security held for Crown Lands and in respect of the Water Licence and the Qikiqtani Inuit Association (QIA) in respect of the reclamation security held by the QIA under the Commercial Lease. When all submissions have been received, the NWB hosts an ASR meeting (by teleconference) with the parties to present their submissions to the Board and discuss any outstanding technical or process issues. Following the ASR teleconference parties are permitted to file additional follow up submissions. When all 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 deliberations, the Board issues direction under Part C and Schedule C of the Licence, determining the global financial security amount for the reclamation of the undertaking and specifying the amount of security that must be held under the Water Licence.

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 Intergovernmental Affairs and Northern Affairs and Internal Trade.

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

### **LICENSEE (BIMC) MAJOR SUBMISSIONS**

The 2019 Work Plan, as required under the provisions of Licence 2AM-MRY1325 (the Water Licence), was originally filed with the NWB on November 2, 2019. As required under the Water Licence (Part J, Schedule J), the 2019 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 BIMC's 2019 Work Plan indicated that ongoing development of the mine will continue over the 2019 period. Similar to the previous years' work plans, the 2019 Work Plan includes details regarding new and ongoing works and activities, as well as works and activities proposed under the 2018 Work Plan that were not carried out as planned, will not be carried out in the future, or were deferred in 2018, and will be carried over into the 2019 Work Plan.

The following summarizes the main activities, works, or undertakings BIMC proposed to carry out under the 2019 Work Plan:

- Development and operation of the mine, ore crushing and land transportation, stockpiling and marine shipment of ore;
- Continued development and construction of infrastructure required at Milne Port and the Mary River Mine Site (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; additionally, four (4) new quarries have been identified along the Tote Road to support ongoing maintenance and construction;
- At Milne Port, vessels carrying fuel, equipment and supplies for use at the Mine Site and Milne Port will arrive during open water (approximately between mid-July and mid-October 2019). 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, licenses,
- Authorizations, management plans and environmental effects monitoring plans;
- On-going exploration activities including drilling, mapping, prospecting, sampling, and geophysics.
- On-going exploration activities including drilling, mapping, prospecting, sampling and/or trenching, however planning of the details of the summer drilling and/or trenching program is not yet finalized;
- 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;
- Continued construction of the 800-person hardwall camp at the Mine site to address retention issues and safety concerns with continued long-term use of the tent camp at the Mine;
- Construction of the 380-person hardwall camp at Milne Port following approval of a Water Licence Modification;
- Site grading and laydown construction for supplies and equipment to support future construction activities and remove ponding and permafrost degradation issues around current infrastructure;
- Installation of a floating freight dock to improve efficiencies on offloading of sealift as well as provide an opportunity for shore based connection for fuel ships to potentially avoid future use of floating hose for fuel receipt; and
- Erection of additional maintenance facilities to safely service equipment.

Based on the scope of work proposed in the 2019 Work Plan and considering works and activities not undertaken under the 2018 Work Plan, and works and activities carried over from 2018 in the 2018 Work Plan, on November 2, 2018, BIMC proposed that the overall reclamation security for the Project should be increased substantially from the \$85,007,826 fixed by the Board in 2018 to \$97,259,000 under the 2019 Work Plan. BIMC proposed that the amount of security to be held under the Water Licence should be increased from \$1,298,555 to \$1,779,000. In its December 13, 2018 submission, BIMC adjusted the total estimate to \$97,404,000. Following the 2019 ASR teleconference hosted by NWB in December 2019, BIMC submitted a revised estimate that allocated **\$96,438,000** to the BIMC-QIA Commercial Lease component and **\$1,802,000** to the Water Licence component resulting in a total of **\$98,240,000 for the Project**.

BIMC indicated that the following main factors provided the rationale for the increase to the global financial security amount required to reclaim the undertaking:

- Mobilization of various trailers, offices and wash cars;
- Mobilization and assembly of a heated fold away building (contaminated) at the new KM110 laydown area for maintenance of mine operations equipment;
- Mobilization of mobile equipment;
- Development of four new quarries and expansion of the previously proposed quarry Q5, and the expansion of the existing quarry Q1;
- Construction of the Tote Road laydowns;
- Expansion of the proposed (2018) laydown LP2 at Milne Port;
- Expansion of the Mine Site Crusher Pad and associated sedimentation pond;
- Construction of laydowns at the Mine Site;
- Development of a landfarm facility at the Mine Site;
- Construction of the KM107 Run of Mine Stockpile and access road and associated sedimentation pond;
- Construction of the Mine Site bulk fuel storage facility with a lined footprint;
- Expansion of the Milne Port Ore Stockpile pad, and the construction of a new associated sedimentation pond;

- Construction of the east sedimentation pond (No. 2a) at the Milne Port Ore Stockpile;
- Construction of a new contaminated snow dump/oily water containment area at Milne Port;
- Construction of new hazardous waste berms at the Mine Site and Milne Port;
- Mobilization of additional water and fuel tanks, as well as construction of two 15-million litre arctic diesel tanks at the Mine Site;
- Installation of new culverts;
- Mobilization of a desalination plant to Milne Port;
- Additional compacted material requiring fill application;
- Fuel Demobilization and Reclamation Fuel Mobilization;
- Demobilization of ammonium nitrate planned to be mobilized to Site in 2019;
- Mobilization of workers required for marginal closure and reclamation activities
- Worker accommodation and camp operation during marginal reclamation activities;
- Indirect costs for moving equipment and materials to and from the reclamation site;
- Demobilization of the Phase 2 Expansion Project Materials and Equipment;
- Demobilization of hazardous waste materials associated with the Water Treatment Plant at the Waste Rock Facility;
- Revised estimate for Post Closure Monitoring;
- Project supervision, management and contract administration;
- Engineering, design and execution planning; and
- Contingency representing a 12.5% of the total estimate.

## **QIA MAJOR SUBMISSIONS**

On December 3, 2018, the QIA submitted a cover letter and accompanying 2019 Mary River Reclamation Security Report (i.e. the “2019 Security Estimate”) for the Project (conducted by ARKTIS Solutions Inc.). The submission sought further clarification from Baffinland on a number of items. NWB distributed BIMC’s responses to intervener information requests on December 10, 2018. In its speaking notes provided for the December 13, 2018 ASR teleconference, QIA indicated that based on the QIA’s estimate, the global security amount that should be held under the Commercial Lease for the 2019 period was \$124,285,000. On December 20, 2018, QIA submitted the revised 2019 Security Estimate and a cover letter indicating an updated reclamation security estimate of \$123,084,600. On January 18, 2019, QIA provided an update to the estimate, correcting a calculation error, with the total estimate amounting to **\$124,612,200**, which included an amount of **\$18,000,000** that should be allocated for expansion related activities associated with BIMC’s Phase 2 Project Proposal which is currently undergoing impact assessment by the Nunavut Impact Review Board. However, the QIA also 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 2019 Work Plan and advising that the outcome of that agreement would be BIMC and the QIA providing a joint submission on reclamation security to the NWB.

QIA’s January 2019 updated estimate was based on the QIA’s Landlord’s Abandonment and Reclamation Policy for use with reclamation activities on Inuit-Owned lands (IOL) and environmental audits, and is an extension of previous project specific QIA security assessments.



The QIA explained that the updated amount represents an increase of \$50,782,500 from the 2018 security in place and included updated unit rates. A comparison of the QIA and BIMC estimates suggests that some of the main factors, contributing to the differences in the estimates were as follows:

- Higher values generally, as determined by the QIA, with direct costs for buildings and foundations security;
- Direct cost changes for mechanical and mobile equipment owned by BIMC, site works (grading and re-contouring), storage tanks, culverts, fill application, and contaminated soil removal;
- Higher indirect costs for:
  - contaminated soil treatment;
  - explosives demobilization;
  - demobilization of hazardous substances (including CaCl<sub>2</sub>);
  - demobilization of sea containers;
  - mobilization and demobilization of third-party equipment;
  - worker mobilization and accommodation;
  - fuel requirements during reclamation;
  - labour and other supplies to operate the Waste Rock Facility water treatment facility;
  - site maintenance throughout temporary care and maintenance and closure;
  - some Phase 2 expansion activities;
  - for demobilization activities for equipment and materials associated with the Phase 2 Expansion Project Proposal;
  - contingencies;
  - project supervision, management and contract administration; and
  - engineering, design and execution planning.

### **BIMC – QIA JOINT SUBMISSION**

On March 15, 2019, BIMC provided a joint submission developed by the QIA and BIMC in support of the 2019 ASR Process for the Mary River Project. The joint submission was the result of extensive negotiations that occurred between BIMC and the QIA following the NWB-hosted ASR Teleconference held on December 13, 2018.

The joint submission indicated that an agreement had been reached between BIMC and the QIA, in respect of the security to be posted under the BIMC-QIA Commercial Lease, but did not address adjustments to the security amount to be held under the Water Licence. The parties stated:

*Baffinland and the QIA have identified a way forward, subject to the process to resolve outstanding differences referred to below, for Baffinland to post an additional \$30,857,887 to the QIA related to Baffinland's 2019 Work Plan. This interim measure will result in the QIA holding total security in the amount of \$104,687,658. This additional amount will be posted as a credit towards the*

*security requirements under the provisions of the signed Commercial Lease (Q13C301) between Baffinland and the QIA... Once submitted to the QIA a copy of the security amendment will be provided to the NWB for their own records upon receipt by the QIA...*

*Baffinland and QIA agree that the joint submission value of \$30,857,887 is considered a placeholder value without prejudice to either parties' rights under the Commercial Lease. These payments will be credited by QIA against the final amount required under the Commercial Lease determined by the process referred to below.*

The Board highlights that the increase to the reclamation security to be held under the BIMC-QIA Commercial Lease of \$30,857,887 includes \$18,000,000 to account for sealift of equipment and materials required for Phase 2 expansion activities, which are activities currently being assessed by the Nunavut Impact Review Board and these activities had not yet been approved to proceed to the licensing stage.

It should be noted that BIMC-QIA joint submission states this assessment of security to be “*an interim measure as Baffinland and QIA have agreed, without prejudice and without malice, to enter into arbitration under the Commercial Lease. The arbitration will seek to resolve the 2019 amount of annual adjustment of reclamation security for the Mary River Project, which may affect the overall aggregate and cumulative amount of security for the Mary River Project.*”:

*With the \$30,857,887 additional security posted, the parties remain \$19,925,042 apart in their respective security estimates for the 2019 adjustment, and there are several key issues related to security that have yet to be resolved. The final value of reclamation security required for 2019 is subject to adjustment based on the final determination of the arbitration process. The NWB will be advised of the outcome of the arbitration.*

## **CIRNAC MAJOR SUBMISSIONS**

On December 3, 2018, CIRNAC submitted a cover letter and an accompanying “Report of mine reclamation cost estimate update for the 2019 Annual Security Review process for the type A Water Licence 2AM-MRY1325” produced by SNC Lavalin Inc. for CIRNAC (the Report). The Report was based on the document package submitted by BIMC as part of the 2019 ASR process, as well as the site visit conducted by CIRNAC in August 2018. CIRNAC estimated the security for 2019 as \$114,373,609 that consisted of \$1,323,449 for Crown Lands reclamation and \$113,050,160 for Inuit-Owned Lands.

Following the December 13, 2018 teleconference hosted by NWB, CIRNAC submitted the “2018 Unit Rates Update and Revised Report” with a cover letter on December 20, 2018. CIRNAC introduced a number of changes to its original estimate:

- Assigning laydown L9 to Crown Lands;
- Revising its estimate for crusher pad expansion rate; and
- Including the items previously attributed to a Type “B” licence.

In the revised report, the agency recommended the security for reclamation on Crown Lands should be increased by **\$150,246** from **\$1,298,555** to **\$1,448,801** and for Inuit-owned Lands proposed an increase to **\$105,804,947** resulting in an updated global security amount of **\$107,253,748** when the security held under both the Water Licence and the BIMC-QIA Commercial Lease is considered.

In addition, CIRNAC expressed its disapproval of BIMC’s intention to include within the 2019 Work Plan Phase 2-related activities, as well as any changes to the security that could take place outside the ASR, stating:

*Baffinland and the Qikiqtani Inuit Association (QIA) regularly hold discussions on reclamation costs associated with the land lease, which CIRNAC respects and encourages. We would like to make sure the water licence and ASR process prescribed by it are also being respected. In both 2017 and 2018, discussions outside the ASR process resulted in Baffinland posting a different amount of security with the QIA than that set by the Board in its ASR decision letters. In 2017 the details of that summer’s negotiations were shared during the next ASR. In 2018, the final amounts agreed to were shared with the Board, but no details were provided...*

*The ASR is to discuss incremental posting of security for the project as permitted in water licence 2AM-MRY1325 amendment #1. There is no place in this process for security for work considered for Phase 2, which is not yet authorized.*

## **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 2019 period.

<b>Table 1: Security Proposed in Various Parties Submissions for the 2019 ASR</b>			
<b>Party -Submission</b>	<b>Water Licence (\$)</b>	<b>Commercial Lease (\$)</b>	<b>Total (\$)</b>
QIA - Initial	N/A	\$124,285,000	N/A
QIA – Revised	N/A	\$123,084,600	N/A
QIA – Final	N/A	\$124,612,200	N/A

BIMC - Initial	\$1,779,000	\$95,480,000	<b>\$97,259,000</b>
BIMC – Final	<b>\$1,802,000</b>	\$96,438,000	<b>\$98,240,000</b>
CIRNAC - Initial	\$1,323,449	\$113,050,160	<b>\$114,373,609</b>
CIRNAC - Final	\$1,448,801	\$105,804,948	<b>\$107,253,749</b>
BIMC-QIA(Jointly)	N/A	\$104,687,658	<b>N/A</b>

## The Updated Global Security Amount for 2019

The Board recognizes that there continue to be significant differences of opinion between BIMC, CIRNAC and the QIA with respect to assumptions underlying the development of the global security amount for the reclamation of the undertaking. However, after reviewing all submissions received to date, the 2019 Work Plan and the estimates as proposed and revised as part of the 2019 ASR Process, the Board is confident that there is sufficient information to support the Board's decision that the global security amount should be increased significantly by approximately \$13 million from the existing **\$75,128,326 to \$88,136,459**.

In fixing this amount, the Board has **not** included additional security for activities associated with the Phase 2 Expansion Project Proposal. The Board agrees with CIRNAC's position that it is inappropriate for the NWB to include in the global security amount reclamation security for activities associated with the Phase 2 Expansion Project Proposal that have not yet been assessed by the Nunavut Impact Review Board and therefore have not been approved to proceed to licensing. Until the assessment has concluded there is no certainty regarding whether these activities will be allowed to proceed in whole or in part. This update to the total global security amount of \$88,136,459 reflects the allocation of security in the amount of at least **\$86,687,658** being held by the QIA under the BIMC-QIA Commercial Lease, which is the value indicated by BIMC and QIA in their joint submission minus the \$18,000,000 estimate for the Phase 2 Expansion Project Proposal- related activities. In addition, the total global security amount includes an increase from the current amount of security held under Part C, Item 1 of Water Licence No: 2AM-MRY1325 from **\$1,298,555 to \$1,448,801**, because the Board accepts the submissions of CIRNAC that the activities proposed by BIMC in the 2019 Work Plan will increase the reclamation liability by approximately \$150,000 on Crown Lands.

Having considered all the submissions of the parties throughout the 2019 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: # 2019-01-P4-05 on April 11, 2019, that the increase to a global security amount of **\$88,136,459** is equal to the highest reclamation liability for land and water combined for the undertaking during the period of March 2019 to March 2020 and will be sufficient to cover

previous activities and activities proposed for this period under the 2019 Work Plan (with the exception of activities proposed in the 2019 Work Plan that would be associated with the Phase 2 Expansion Project Proposal).

## **The Amount of Security Required by the NWB to be posted under Licence No. 2AM-MRY1325 for the 2019 Period**

As outlined in the preceding section, the Mary River Panel has determined, by way of Panel Motion No: # 2019-01-P4-05 that BIMC must maintain **\$1,448,801** in reclamation security to be held by the Minister under Part C, Item 1 of the Water Licence. It is the Board's view that this amount is required to reflect Project liability on Crown Lands. 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 Intergovernmental Affairs and Northern Affairs and Internal Trade.

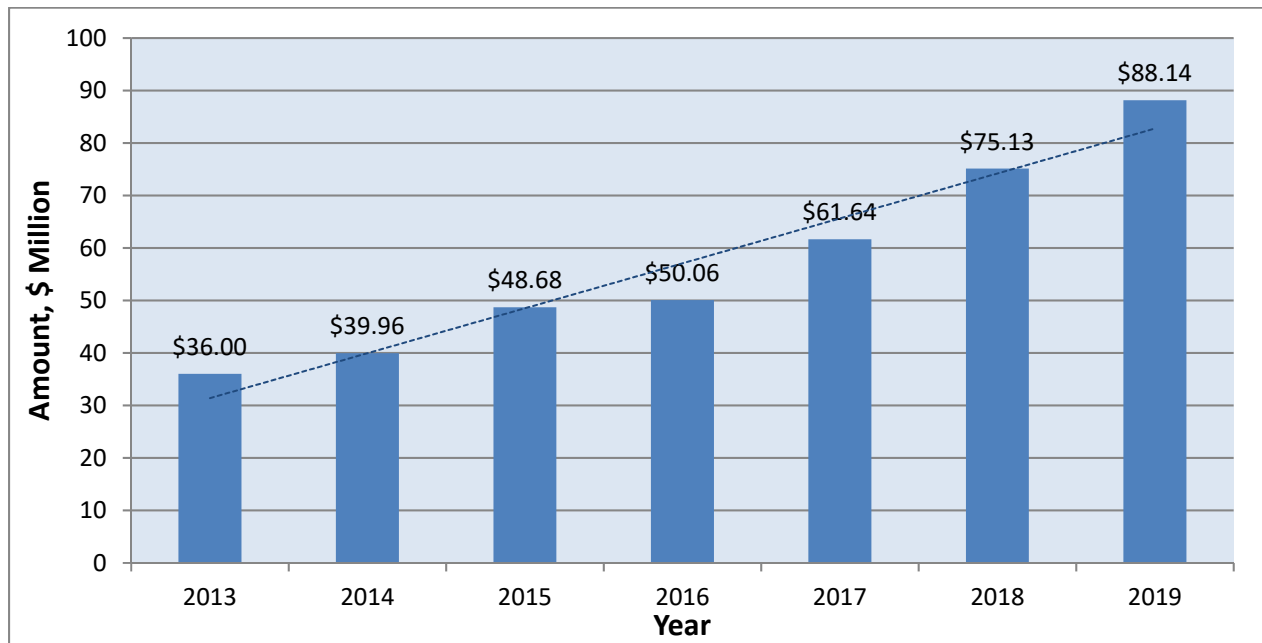
## **Summary of Total Financial Security Posted Pursuant to Part C and Schedule C of Licence No. 2AM-MRY1325 for 2013 -2019**

The following graphs and figures shows the total financial security posted for the Project during the years 2013-2019 and includes the amount directed by the Board to be filed by BIMC for the upcoming 2019 period.

**Table 2: Global Security Amount Posted for the Mary River Project Annually, April 2013-March 2020**

<b>Year</b>	<b>2013</b>	<b>Q1 2014 to Q1 2015</b>	<b>Q1 2015 to Q1 2016</b>	<b>Q1 2016 to Q1 2017</b>	<b>Q1 2017 to Q1 2018</b>	<b>Q1 2018 to Q1 2019</b>	<b>Q1 2019 to Q1 2020</b>
	(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 BIMC and QIA: \$75,128,326	\$88,136,459

**Figure 1: Graph Showing Reclamation Security Posted Annually for the Mary River Project, 2013 – 2019**

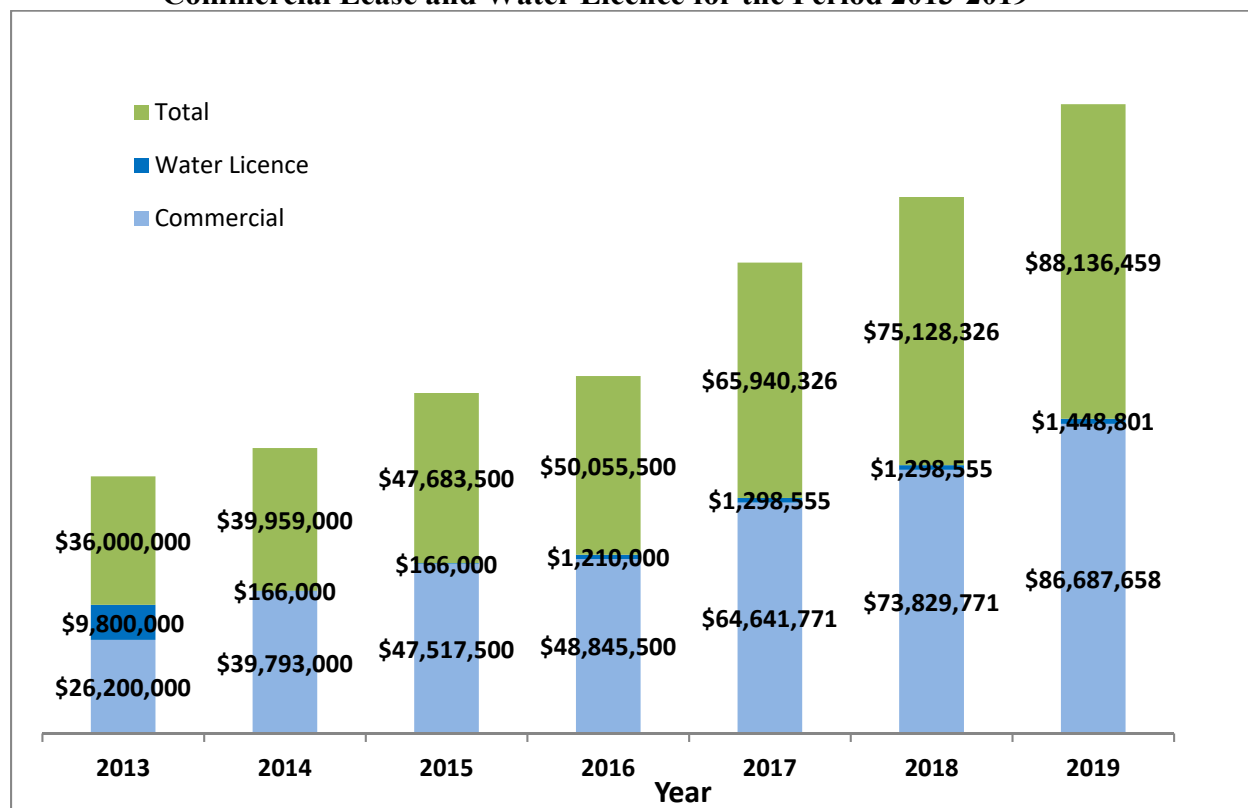


**Table 3: Summary of Security Amounts Posted Under the Commercial Lease and Water Licence for the Period 2013-2019**

	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>
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	\$86,687,658
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>\$88,136,459</b>

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

**Figure 2: Graph Showing the Relative Proportion of Security Posted Under the Commercial Lease and Water Licence for the Period 2013-2019**



## Closure of the 2019 ASR Process

This concludes the Board's ASR determination with respect to the global security amount and the updated total security required to be held under Part C, Item 1 and Schedule C of Licence No. 2AM-MRY1325 for the upcoming 2019-2020 season, as specified under the Licence, Schedule C, Item 4.

During the 2019 ASR Process, the Licensee agreed to furnish the financial security as set out in this determination on or before **May 11, 2019**. The Board expects that confirmation that the additional security has been filed with the QIA will be provided to the Board when that process is completed. All parties are advised that, if confirmation of security being in force is not received by May 11, 2019, the Board may take further steps and issue further written direction under the ASR Process to ensure that adequate security is in place prior to the commencement of work under the 2019 Work Plan.

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

- The receipt of further information from BIMC and the QIA regarding the results of the



- arbitration conducted under the BIMC-QIA Commercial Lease;
- The outcome of the Nunavut Impact Review Board's assessment of the Phase 2 Expansion Project Proposal; and
- The outcome of the NWB's consideration of a future amendment application from BIMC to amend Water Licence No. 2AM-MRY1325 to reflect the changes to water use and waste deposit associated with the Phase 2 Expansion Project Proposal.

As the information 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  
Stephen Williamson Bathory (QIA)  
Godwin Okonkwo (CIRNAC)

**APPENDIX A**  
**List of Key Documentation and Activities in Support of the 2019 ASR**

<b>Date</b>	<b>Activity</b>
November 2, 2018	NWB received and distributed BIMC's 2019 Work Plan and accompanying documentation as required under Part J, Item 3 of the Licence.
	NWB provided its guidance and schedule for the 2019 Annual Security Review process.
November 8, 2018	NWB received QIA's request to modify the timeline for the 2019 ASR process.
November 9, 2018	NWB received CIRNAC's letter expressing their support of QIA's proposal to modify the 2019 ASR timeline. NWB distributed its version of the modified timeline.
November 13, 2018	NWB distributed the revised timeline for the 2019 ASR process.
November 30, 2018	NWB received CIRNAC's request for extension. NWB adjusted the deadlines for parties' submissions.
December 3, 2018	NWB received and distributed CIRNAC and QIA security estimates and accompanying documentation.
December 10, 2018	NWB issued the draft agenda for the 2019 ASR teleconference.
December 11, 2018	NWB distributed BIMC's Responses to Intervener Submissions.
	NWB distributed the finalized Agenda and details regarding confirmed participants (BIMC, QIA, CIRNAC, and NWB) for the ASR Teleconference.
December 13, 2018	NWB received and distributed BIMC's presentation for the ASR Teleconference.
	ASR Teleconference hosted by the NWB with participation.
	NWB received QIA's speaking notes for the ASR Teleconference.
December 20, 2018	NWB received final submissions regarding respective security estimates from BIMC, QIA, and CIRNAC. In its letter, QIA informs NWB of the intent to file a joint submission with BIMC.
January 9, 2019	NWB received BIMC's letter informing that negotiations with QIA were ongoing.
January 15, 2019	NWB received QIA's letter informing that negotiations with BIMC were ongoing.
January 16, 2019	NWB informed the involved parties that NWB would issue its 2019 ASR decision upon the receipt of a joint submission from BIMC and QIA.
January 24, 2019	NWB participated in a teleconference hosted by BIMC and QIA to update NWB on the status of negotiations between BIMC and QIA.

Date	Activity
January 18, 2019	NWB received a revised security estimate from QIA.
March 15, 2019	BIMC and QIA filed a join submission to reflect agreement reached by the parties.
April 11, 2019	The NWB issues this correspondence to advise BIMC and interested parties of the total reclamation security require to be posted under Part C and Schedule C of the Water Licence to reflect the activities proposed under the 2019 Work Plan.
May 11, 2018	BIMC is to file the reclamation security required to be posted under the Type “A” Water Licence as determined by the NWB under the 2019 ASR process and set out in the NWB’s April 2019 correspondence.