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NUNAVUT WATER BOARD  
NUNAVUT IMALIRIYIN KATIMAYINGI  
OFFICE DES EAUX DU NUNAVUT

Date: March 12, 2020

**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 2020 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 the Board requires Baffinland Iron Mines Corporation (the Licensee or Baffinland) to post under the Water Licence is subject to periodic review, and adjustment to reflect the scale and scope of

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

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 2020 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 2020 Work Plan.

The ASR process used by the Board to conduct this review of reclamation security associated with Baffinland's 2020 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 2020 Work Plan to reflect the needs of the participants, Baffinland, the Qikiqtani Inuit Association (QIA), and Crown-Indigenous Relations and Northern Affairs (CIRNA). To accommodate subsequent discussions between the QIA and Baffinland associated with providing a joint submission, the NWB extended the timeline for the 2020 ASR by several weeks. The NWB did not have all information required to conclude the 2020 ASR process and remit the matter to the Board's duly appointed Panel for decision-making until February 12, 2020. Consequently, the Board notes that Baffinland's filing of additional security resulting from the ASR and ability to undertake any activities in the 2020 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 Baffinland has also provided to the QIA under the reclamation requirements associated with the Commercial Lease between Baffinland 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 4, 2019 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 Baffinland will post the adjusted security under the Water Licence on or before April 11, 2020.

The ASR process commenced with the NWB, circulating the 2020 Work Plan by Baffinland on November 4, 2019. **Appendix A** provides a summary of the key documentation provided pursuant to the 2020 ASR Process and the key activities undertaken by the Board and the parties to complete the 2020 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 and at the following link:

## 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 2019 ASR Process, the Board required **\$1,448,801** or approximately 1.6% of the global security amount of **\$88,136,459** to be posted under the Water Licence. It should be noted that the value of reclamation security allocated under the Commercial Lease instrument was increased from **\$86,687,658** to **\$104,687,658** later in the year as a result of agreements made between Baffinland and QIA<sup>2</sup>. The resultant global security in place under both the Water Licence and the Baffinland-QIA Commercial Lease instrument is

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<sup>2</sup> Baffinland and QIA, in their joint submissions on March 15, 2019, informed NWB of the agreement to store equipment and materials designated for Phase 2 Expansion activities on the IOL at the Mary River Project. On July 12, 2019, Baffinland submitted that it would be posting additional security in the amount of \$18,000,000 "in order to ensure that any potential demobilization costs are properly secured".

## **\$106,136,459.**

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 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>3</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>4</sup>.*

## **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 have varied slightly to reflect circumstances, essentially the Annual Security Reviews (ASR) under the Water Licence commence with Baffinland 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.

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<sup>3</sup> Nunavut Water Board, Reasons for Decision for 2AM-JER1119, December 21, 2012 at p. 47.

<sup>4</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 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 (CIRNA) 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 Northern Affairs.

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

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

The 2020 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 2020 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 2020 Work Plan indicated that ongoing development of the mine will continue over the 2020 period. Similar to the previous years' work plans, the 2020 Work Plan includes details regarding new and ongoing works and activities, as well as works and activities proposed under the 2019 Work Plan that were not carried out as planned, will not be carried out in the future, or were deferred in 2019, and will be carried over into the 2020 Work Plan.

The following summarizes the main activities, works, or undertakings Baffinland proposed to carry out under the 2020 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 (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, fifteen (15) new quarries have been identified along the Northern Transportation Corridor 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. Material, fuel and supplies required for operational and construction activities will be transported to the Mine Site year round via the Tote Road;
- Ongoing 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. Planning of the details of the summer drilling and/or trenching program were 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;
- Site grading and laydown construction for supplies and equipment to support future construction activities and remove ponding and permafrost degradation issues around current infrastructure;
- Erection of additional maintenance facilities to safely service equipment; and
- Phase 2 Expansion activities.

Based on the scope of work proposed in the 2020 Work Plan and considering works and activities not undertaken under the 2019 Work Plan, and works and activities carried over from 2019 in the 2019 Work Plan, on November 2, 2019, Baffinland proposed that the overall reclamation security for the Project should be increased substantially from the \$106,136,459 fixed by the Board in 2019 and resulting from the agreement between Baffinland and the QIA concerning the 2019 sealift to

\$117,772,000 under the 2020 Work Plan. Baffinland proposed that the amount of security to be held under the Water Licence should be increased from \$1,448,801 to \$3,279,000. In its December 30, 2019 submission, Baffinland significantly adjusted the total estimate to \$100,990,000 with \$1,802,000 proposed to be allocated to security under the Water Licence. The decrease was the result of the Nunavut Impact Review Board's assessment of Baffinland's Phase 2 Development Proposal having been put to halt. Following the 2020 ASR teleconference hosted by NWB in January 2020, Baffinland submitted a revised 2020 Work Plan complete with an updated estimate that allocated **\$97,810,000** to the Baffinland-QIA Commercial Lease component and **\$1,802,000** to the Water Licence component resulting in a total of **\$99,612,000 for the Project**. The Licensee no longer included in the 2020 Work Plan Phase 2 Expansion activities or the development of fifteen (15) new quarries along the Northern Transportation Corridor.

### **QIA MAJOR SUBMISSIONS**

On December 13, 2019, the QIA submitted a cover letter and accompanying 2020 Mary River Reclamation Security Update Report (i.e. the "2020 Security Estimate") for the Project (conducted by ARKTIS Solutions Inc.). The submission recommended an increase in reclamation security under the Commercial Lease of \$163,410,500 that included any Phase 2 Expansion works planned for 2020. The NWB distributed Baffinland's responses to intervener information requests on December 30, 2019. On February 7, 2020, 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 2020 Work Plan and advising that the outcome of that agreement would be Baffinland and the QIA providing a joint submission on reclamation security to the NWB.

The QIA's February 12, 2020 updated estimate was based on the QIA's Abandonment and Reclamation Policy for Inuit Owned Lands and the Mine Site Reclamation Policy for Nunavut. The QIA explained that the updated amount represented an increase of \$30,833,942 from the 2019 security in place resulting in the updated estimate of reclamation security under the Commercial Lease of **\$135,521,600**. A comparison of the QIA and Baffinland estimates suggests that some of the main factors, contributing to the differences in the estimates were as follows:

- Findings of the QIA's 2019 Environmental Audit whose results remain a subject of disagreement between the QIA and Baffinland;
- Direct cost changes for buildings and foundations, site works (grading and re-contouring), storage tanks, piping, and contaminated soil and cabling removal;
- Higher indirect costs for:
  - demobilization of sea containers;
  - mobilization and demobilization of third-party equipment;
  - worker mobilization and accommodation;
  - fuel requirements during reclamation;
  - contingencies;
  - project supervision, management and contract administration; and
  - engineering, design and execution planning; and
- Inflation.

## **BAFFINLAND – QIA JOINT SUBMISSION**

On February 12, 2020, the QIA provided a joint submission developed by the QIA and Baffinland in support of the 2020 ASR Process for the Mary River Project. The joint submission was the result of extensive negotiations that occurred between Baffinland and the QIA following the NWB-hosted ASR Teleconference held on January 10, 2020.

The joint submission indicated that both parties were involved in an ongoing arbitration process to resolve reclamation security issues, and an arbitration hearing was scheduled to occur in April 2020. The parties stated:

*... [B]oth parties recognize that several components of QIA's 2020 Security Estimate are common to those included in the agreed-upon scope of the 2019 Arbitration. Under these circumstances, QIA has agreed, with conditions, to delay Baffinland's annual requirement to adjust reclamation security under the Commercial Lease until after the conclusion of the 2019 Arbitration. The conditions governing this delay have been accepted by Baffinland and are provided below for your reference:*

- 1. The existing reclamation security on deposit will remain unchanged (neither increased nor decreased) until after the arbitration decision for the 2019 Arbitration;*
- 2. No new 2020 work plans or work plan amendments will be issued to or considered by QIA to authorize 2020 work changes until after the arbitration decision;*
- 3. Subject only to delays in the April arbitration that are not within our reasonable control, Baffinland and QIA will reconcile any 2020 Reclamation Security adjustments before July 1, 2020, and in any event promptly following the arbitration decision, unless otherwise directed by the Arbitrator at the outcome of the arbitration;*
- 4. QIA's 2020 reclamation security adjustment amount will continue to address reclamation of the airstrip as well as disturbed areas along the Tote Road as being reasonable, and therefore required by the Commercial Lease (subject to Baffinland's arbitration right if the parties cannot resolve this issue);*
- 5. QIA reserves, and is not waiving or compromising, any of its rights and benefits under the Commercial Lease, including, without limitation, the requirement for prompt payment of all reclamation security adjustments when due under the Commercial Lease; and*
- 6. QIA continues to require strict compliance by Baffinland with all of its other obligations pursuant to the Commercial Lease.*

Therefore, the Licensee and the QIA do not intend to update the value of reclamation security



under the Commercial Lease until such time that the arbitration process is complete. Consequently, Baffinland will not perform any activities on IOL, for which reclamation security has not been placed, while arbitration is still ongoing.

## **CIRNA MAJOR SUBMISSIONS**

On December 13, 2019, CIRNA submitted a cover letter and an accompanying *Mary River Project FINAL 2020 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 2020 ASR process. CIRNA estimated the security for 2019 as \$146,893,961 that consisted of \$3,212,930 for Crown Lands' reclamation and \$143,681,031 for Inuit Owned Lands.

Following the January 10, 2020 teleconference hosted by NWB and Baffinland's submission of a revised 2020 Work Plan, CIRNA filed a *Mary River Project FINAL 2020 Annual Security Review Rev.4 Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)* (revised Report) with a cover letter on February 7 and 11, 2020. CIRNA introduced a number of changes to its original estimate:

- Acceptance of the 2018 equipment rates for the 2020 estimate with a suggestion to increase labour rates and
- Acceptance of an indirect cost of 3.9% for engineering.

In the revised Report, the agency recommended the security for reclamation on Crown Lands be increased by **\$142,199** from **\$1,448,801** to **\$1,591,000** and for Inuit Owned Lands proposed an increase to **\$112,122,720** resulting in an updated global security amount of **\$113,713,720** 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 revised Report (section 5 "Findings and 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 2020 period.

<b>Table 1: Security Proposed in Various Parties Submissions for the 2020 ASR</b>			
<b>Party -Submission</b>	<b>Water Licence (\$)</b>	<b>Commercial Lease (\$)</b>	<b>Total (\$)</b>
QIA - Initial	N/A	\$163,410,500	N/A
QIA - Final	N/A	\$135,521,600	N/A
Baffinland - Initial	\$3,279,000	\$114,493,000	<b>\$117,772,000</b>
Baffinland – Final	\$1,802,000	\$99,188,000	<b>\$100,990,000</b>
CIRNA - Initial	\$3,212,930	\$143,681,031	<b>\$146,893,961</b>
CIRNA - Final	\$1,591,000	\$112,122,720	<b>\$113,713,720</b>
Baffinland-QIA(Jointly)	N/A	No change	N/A

## The Updated Global Security Amount for 2020

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 global security amount for the reclamation of the undertaking. However, after reviewing all submissions received to date, the 2020 Work Plan and the estimates as proposed and revised as part of the 2020 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 by approximately \$142,000 from the existing **\$106,136,459 to \$106,278,658**.

This update to the total global security amount of \$106,136,459 reflects that the security being held by the QIA under the Baffinland-QIA Commercial Lease remains unchanged in accordance with the joint submission by Baffinland and QIA. The update to the total global security amount also includes an increase from the current amount of security held under Part C, Item 1 of Water Licence No: 2AM-MRY1325 from **\$1,448,801 to \$1,591,000** because the Board accepts the submissions of CIRNA that the activities proposed by Baffinland in the 2020 Work Plan will increase the reclamation liability by approximately \$142,000 on Crown Lands.

Having considered all the submissions of the parties throughout the 2020 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: 2019-27-P4-05 on March 11, 2020, that the increase to a global security amount of **\$106,278,658** is equal to the highest reclamation liability for land and water under the Water Licence during the period of March 2020 to March 2021 and will be sufficient to cover previous activities and activities proposed for this period under the 2020 Work Plan on Crown

Lands.

### **The Amount of Security Required by the NWB to be posted under Licence No. 2AM-MRY1325 for the 2020 Period**

As outlined in the preceding section, the Mary River Panel has determined, by way of Panel Motion No: 2019-27-P4-05 that Baffinland must maintain \$1,591,000 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 Northern Affairs.

### **Summary of Total Financial Security Posted Pursuant to Part C and Schedule C of Licence No. 2AM-MRY1325 for 2013-2020**

The following graphs and figures shows the total financial security posted for the Project during the years 2013-2020 and includes the amount directed by the Board to be filed by Baffinland for the upcoming 2020 period.

**Table 2: Global Security Amount Posted for the Mary River Project Annually, April 2013-March 2021**

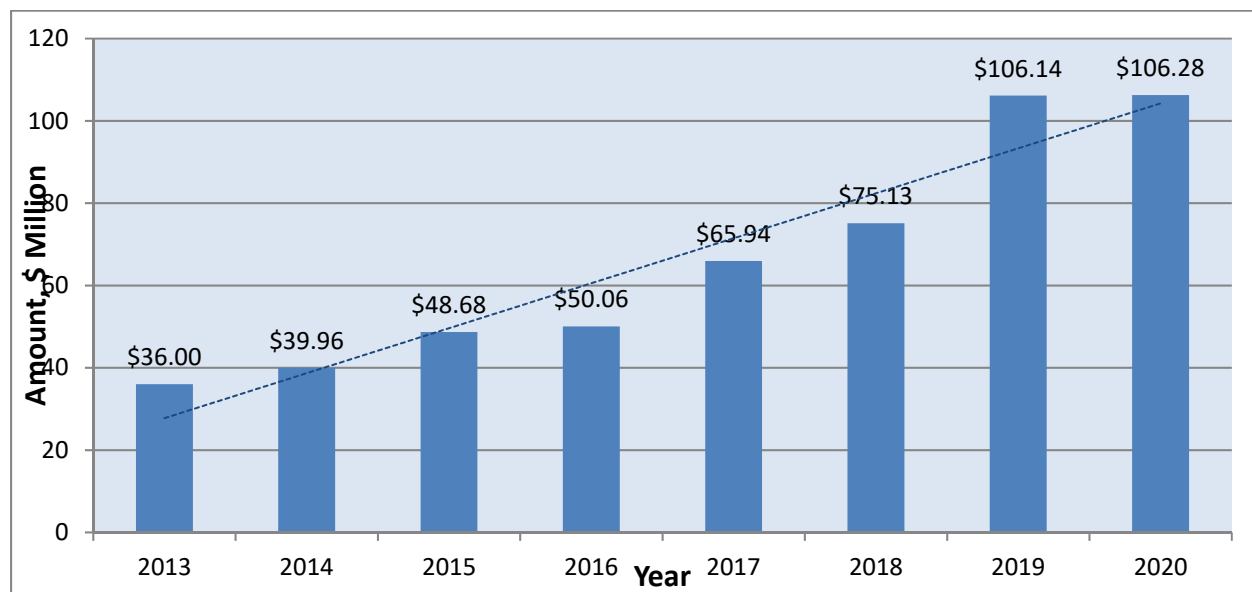
Year	2013	Q1 2014 to Q1 2015	Q1 2015 to Q1 2016	Q1 2016 to Q1 2017	Q1 2017 to Q1 2018	Q1 2018 to Q1 2019	Q1 2019 to Q1 2020	Q1 2020 to Q1 2021
	(With Licence Issuance)	(Based on 1 <sup>st</sup> ASR, 2014 ASR)	(Based on 2 <sup>nd</sup> ASR, 2015 ASR)	(Based on 3 <sup>rd</sup> ASR, 2016 ASR)	(Based on 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	Based on 7 <sup>th</sup> ASR, 2020 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	\$106,278,658

**Table 3: Summary of Security Amounts Posted Under the Commercial Lease and Water Licence for the Period 2013-2020**

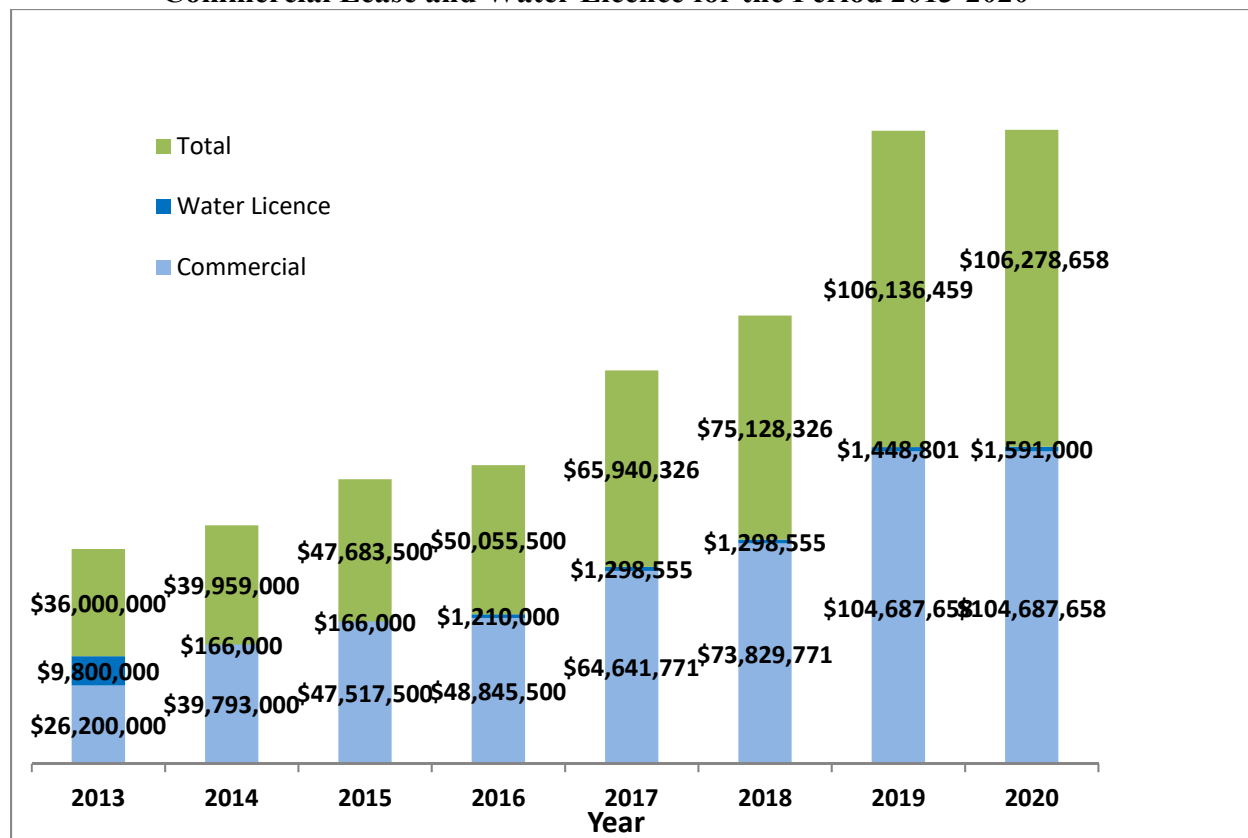
	<i>2013</i>	<i>2014</i>	<i>2015</i>	<i>2016</i>	<i>2017</i>	<i>2018</i>	<i>2019</i>	
Inuit-Owned Land and/or Water	\$26,200,000	\$39,793,000	\$47,517,500	\$48,845,500	\$51,384,000 \$64,642,000*	\$73,829,771	\$104,687,658	\$104,687,658
Crown Land and/or Water	\$9,800,000	\$166,000	\$166,000	\$1,210,000	\$1,298,555	\$1,298,555	\$1,448,801	\$1,591,000
<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>	<b>\$106,278,658</b>

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

**Figure 1: Graph Showing Reclamation Security Posted Annually for the Mary River Project, 2013-2020**



**Figure 2: Graph Showing the Relative Proportion of Security Posted Under the Commercial Lease and Water Licence for the Period 2013-2020**



## Closure of the 2020 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 2020-2021 season, as specified under the Licence, Schedule C, Item 4.

During the 2020 ASR Process, the Licensee agreed to furnish the financial security as set out in this determination on or before April 11, 2020. All parties are advised that, if confirmation of security being in force is not received by April 11, 2020, 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 2020 Work Plan.

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

- The receipt of further information from Baffinland and the QIA regarding the results of the arbitration conducted under the Baffinland-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 an amendment application from Baffinland 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  
Chris Spencer (QIA)  
Godwin Okonkwo (CIRNA)



**APPENDIX A**  
**List of Key Documentation and Activities in Support of the 2020 ASR**

<b>Date</b>	<b>Procedural Milestone</b>
November 4, 2019	NWB distributed Baffinland's 2020 Work Plan as required under Part J of the Licence. The 2020 ASR Process Guidance document with a proposed timeline was also issued by NWB.
November 12, 2019	CIRNA requested a deadline extension to December 12, 2019 to file review comments.
November 14, 2019	NWB issued the revised timeline for the 2020 Annual Security Review taking into consideration the request from CIRNA.
December 13, 2019	CIRNA and the QIA filed written submissions regarding the Licensee's 2020 Work Plan and updates to the reclamation security estimates for the Project.
December 23, 2019	Baffinland requested a deadline extension to December 30, 2019 to file its response to Intervener comments. The NWB granted the extension.
December 30, 2019	Baffinland submitted updated information regarding 2020 security assessment.
January 3, 2020	The NWB distributed the draft Agenda for the January 10, 2020 teleconference.
January 7, 2020	The parties filed their presentation materials in preparation for the teleconference
January 8, 2020	The NWB issued the Agenda for the 2020 ASR Teleconference.
January 10, 2020	ASR Teleconference hosted by the NWB with participation.
	The NWB received Baffinland's clarification regarding the application of engineering fees as an indirect cost.
January 24, 2020	The NWB distributed the revised 2020 Work Plan submitted by Baffinland.
February 7, 2020	The QIA requested a deadline extension to February 12, 2020 to submit comments on the revised 2020 Work Plan.
February 7 and 11, 2020	The NWB received from CIRNA the revised reclamation security estimate entitled "Mary River Project FINAL 2020 Annual Security Review Rev.4 Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)".

<b>Date</b>	<b>Procedural Milestone</b>
February 12, 2020	Baffinland and the QIA filed a joint submission to reflect the agreement reached by the parties. In addition, the QIA provided an updated estimate.
March 12, 2020	The NWB issues this correspondence to advise Baffinland and interested parties of the total reclamation security required to be posted under Part C and Schedule C of the Water Licence to reflect the activities proposed under the 2020 Work Plan.
April 11, 2020	Baffinland is to file the reclamation security required to be posted under the Type “A” Water Licence as determined by the NWB under the 2020 ASR process and set out in the NWB’s March 2020 correspondence.