



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

Your file - Votre référence
2BB-MAE1727

July 7, 2017

Our file - Notre référence
CIDM#1162284

Ida Porter
Licensing Administrator
Nunavut Water Board
Gjoa Haven, NU X0B 1J0

**Re: Indigenous and Northern Affairs Canada's (INAC) comments on TMAC
Resources Inc.'s amendment #1 application for water licence #2BB-
MAE1727 – Madrid Bulk Sample Project**

Dear Ms. Porter,

Thank-you for the email notice received on June 16, 2017 regarding the above mentioned application.

INAC Water Resources Division reviewed the application and the results of our review are provided in the enclosed memorandum for the Board's consideration. Comments have been provided pursuant to the Department's mandated responsibilities under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Department of Indian Affairs and Northern Development Act*.

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

Regards,

Sarah Forté
Water Management Coordinator

Review Memorandum

To: Ida Porter, Licensing Administrator, NWB

CC: John Roberts, Vice President, Environmental Affairs, TMAC Resources Inc.

From: Sarah Forté, Water Management Coordinator, INAC

Date: July 7, 2017

Re: Amendment #1 Application for Water Licence #2BB-MAE1727

Licensee: TMAC Resources Inc.
Project: Madrid Bulk Sample Project
Region: Kitikmeot

A. BACKGROUND

TMAC Resources Inc. (TMAC) received a type B water licence 2BB-MAE1727 by the Nunavut Water Board (NWB or Board) for their Madrid Bulk Sample Project. The project is to take two 50 000 tonne bulk samples with underground installations from two separate locations called Madrid North and Madrid South. The project relies heavily on infrastructure at the Doris North Mine, already licenced under water licence 2AM-DOH1323.

The licence was issued on May 23, 2017. On May 31, 2017, TMAC wrote to the NWB requesting to postpone posting the security deposit because work on site is now not scheduled to start before October 1, 2018. The NWB replied that the options available were cancelling the licence if work had not yet been initiated, or applying for an amendment.

On June 15, 2017, TMAC wrote to the Indigenous and Northern Affairs Canada (INAC) Water Resources Officer responsible for the licence that they would not be posting the security as required by the licence, but had initiated an amendment process. The Water Resources Officer replied on June 16, 2017 that the licensee had a reasonable justification for failing to furnish security and was satisfied with the steps the licensee was taking.

On June 16, 2017, the NWB distributed TMAC's amendment application, asking interested parties to submit representations by July 7, 2017. The only amendments requested are to Part C of the licence, on conditions applying to security. The licensee has provided a copy of Part C of the licence in which they have modified the text.

B. RESULTS OF REVIEW

On behalf of Indigenous and Northern Affairs Canada (INAC), the following comments and recommendations are provided:

1. Timing to post security

Reference:

- Summary of Amendment Application, TMAC Resources Inc., June 10 2017
- Water Licence 2BB-MAE1727, Madrid Advanced Exploration Program, Nunavut Water Board, May 23, 2017

Comment:

TMAC is proposing to link the posting of security with the commencement of the Madrid Advanced Exploration Project. In the summary of amendment application, they state the commencement is not planned until October 1, 2018, with work at Madrid South not planned before 2019. The modified wording they propose for the licence does not refer to these dates.

The following paragraph is the original Part C, Item 1 from the licence and the one following is what is proposed by TMAC, with differences highlighted in bold.

The Licensee shall, within thirty (30) days of issuance of this licence, furnish and maintain with the Minister, in a form that is satisfactory to the Minister, reclamation security in the amount of \$7,131,000.

*The Licensee shall, **thirty (30) days prior to the commencement of the Madrid Advanced Exploration Project** furnish and maintain with the Minister, in a form that is satisfactory to the Minister, reclamation security:*

(a) in the amount of \$7,131,000; or

(b) in an amount determined by the Board in accordance with Part C, Item 6 to be sufficient to secure the Madrid Advanced Exploration Project closure and reclamation costs estimated for the coming year.

The proposed changes not only defer posting security to 30 days prior to the commencement of work, but request the possibility of reviewing the security amount annually.

INAC has several concerns with the proposed changes.

- a) TMAC have proposed linking the posting of security to project commencement without defining commencement. INAC's experience on other sites is that commencement can be hard to define, and the difficulty would be multiplied on

this site since some of the same activities could be occurring under a different licences or authorizations, for example water licence 2BE-HOP1222.

- b) In order to accept security, our protocol involves reviewing the letter of credit or other acceptable form of security provided by the licensee prior to the due date. Since this process can take a few weeks, combined with INAC's experience in accepting security instruments INAC believes that the timeline suggested by TMAC "*30 day period prior to project commencement*" maybe inadequate. Therefore INAC suggests an increase in this timeline
- c) INAC is of the opinion that an annual security review proposed by TMAC in option (b) is an unreasonable burden on our resources and probably that of the Board and other intervenors. The project's magnitude is relatively small, as reflected by the issuance of a type B licence, and if activities and infrastructure differ sufficiently from the original work proposed to significantly modify the reclamation cost estimate, a licence amendment will likely be required.

As the licence is presently worded, there is always the possibility for the licensee to request an adjustment to the amount of security (Part C, Item 6). This should be sufficient for covering any changes that come up.

Recommendation:

Given the applicant wants to postpone posting security and potentially provide security for limited parts of the project, INAC proposes the following two scenarios listed in order of preference:

- 1) The licensee be required to post security in the amount of \$ 7 131 000 on June 1, 2018, prior to the initiation of any work in the Madrid Project area.
- 2) The licensee be allowed to post security in two phases, with the amounts and dates clearly defined in the licence. The licensee has already proposed two phases, Madrid North and Madrid South. Further discussions would be necessary to define the amounts and dates.

2. Addition of consideration of potential security posted to the Kitikmeot Inuit Association

Reference:

- o Summary of Amendment Application, TMAC Resources Inc., June 10 2017
- o Water Licence 2BB-MAE1727, Madrid Advanced Exploration Program, Nunavut Water Board, May 23, 2017

- *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, last amended June 19, 2016

Comment:

TMAC is proposing to add wording to the licence to state explicitly that potential security arrangements with Kitikmeot Inuit Association be considered. The following paragraph is the original Part C, Item 6 from the licence and the one following is what is proposed by TMAC, with differences highlighted in bold.

The Licensee may submit to the Board for approval in writing, a written request for an adjustment to the amount of security. The submission shall include supporting evidence to justify the request.

*The Licensee may submit to the Board for approval in writing, a written request for an adjustment to the amount **and/or timing** of security **outlined in Part C, Item 1**. The submission shall include supporting evidence to justify the request. **Where the Licensee files evidence, in writing with the Board and with notice to the Minister and the Kitikmeot Inuit Association that the Licensee will furnish and maintain security with the Kitikmeot Inuit Association in an amount sufficient to secure all or part of the Madrid Advanced Exploration Project closure and reclamation costs, the Board may reduce the amount of security required to be held by the Minister under Part C, Item 1.***

The Board is already obliged to take different security arrangements with Inuit organizations into account by article 76.1 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*. It is therefore redundant and unnecessary to repeat similar wording in the licence.

Recommendation:

INAC recommends that, if the Board decides to amend the water licence, they do not include explicit wording regarding consideration of potential security arrangements with Kitikmeot Inuit Association.