



September 16, 2013

Phyllis Beaulieu  
Manager of Licensing  
Nunavut Water Board  
Gjoa Haven, NU X0E 1J0

Our reference  
IQALUIT-#740226

Your reference  
2BE-FER0712

Via email: [licensing@nunavutwaterboard.org](mailto:licensing@nunavutwaterboard.org)

**Re: Licence Assignment Application**

**Water Licence #2BE-FER0712 – Ferguson Lake Project – Starfield  
Resources Inc. – Kivalliq Region**

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Dear Ms. Beaulieu,

Thank you for your email of September 6, 2013, concerning the above mentioned licence assignment application.

A memorandum is provided 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 by telephone at 867-975-4555 or email at [david.abernethy@aandc-aadnc.gc.ca](mailto:david.abernethy@aandc-aadnc.gc.ca) for further information.

Regards,

David Abernethy  
Regional Coordinator  
Water Resources Division  
Resource Management Directorate  
Aboriginal Affairs and Northern Development Canada  
Iqaluit, NU X0A 0H0

Encl.

c.c.: Murray Ball, Manager of Water Resources  
Andrew Keim, A/Manager of Field Operations  
Karen Costello, Director of Resource Management

## Memorandum

<b>TO</b>	Phyllis Beaulieu Manager of Licensing Nunavut Water Board	OUR REFERENCE IQALUIT-#740226
<b>FROM</b>	David Abernethy Regional Coordinator, Water Resources Aboriginal Affairs and Northern Development Canada	YOUR REFERENCE 2BE-FER0712/GA  DATE September 16, 2013
<b>SUBJECT</b>	<b>Licence Assignment Application</b>  <b>Water Licence #2BE-FER0712 – Ferguson Lake Project – Starfield Resources Inc. – Kivalliq Region</b>	

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### A. BACKGROUND

On September 6, 2013 the Nunavut Water Board (the “NWB” or “Board”) provided notice of Starfield Resources Inc.’s (the “assignor”) application to assign the Ferguson Lake Project’s Type ‘B’ Water Licence, #2BE-FER0712, to Canadian North Resources and Development Corp. (the “Assignee”). This application is being processed according to the requirements of the *Nunavut Land Claims Agreement* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*. Interested parties were requested to provide representations by September 16, 2013.

The Ferguson Lake Project is a mineral exploration project that was initially licensed by the Board on April 22, 1999. The licence has been subsequently amended and renewed with the most recent renewal issued on October 2, 2007. The licence expired on July 1, 2012 and has not been renewed although a renewal application dated July 12, 2012 is posted on the NWB public registry. The licence authorized the use of water and disposal of waste associated with camp activities and exploration drilling operations, soil sampling, mapping, geophysical surveys, and prospecting within the project area (metals of interest include nickel, copper, cobalt, platinum, and palladium).

On April 20, 2009, Starfield Resources Inc. notified the department and other interested parties (attached) that the project would be temporarily closed due to pressures associated with the financial market. This letter could not be located on the NWB’s online public registry.

In June 2013 an Ontario Superior Court of Justice proceeding under the *Bankruptcy and Insolvency Act* determined that the assignor was bankrupt. On June 12, 2013, the

assignee purchased the project as demonstrated in the Notary of Assignment and Bill of Sale included in the submitted application.

The application appears to be generally consistent with the April 2010 guide titled, *Guide-#7: Licensee Requirements following the Issuance of a Water Licence*.

## **B. RESULTS OF REVIEW**

The following comments/ recommendations are submitted for the Board's consideration,

### **1. Adequacy of submitted information**

Based on the information made available for review, it is difficult to determine whether the assignment application is adequate to support a conclusion under s. 44(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (the "Act").<sup>1</sup> As information such as articles of incorporation, financial statements, etc. have not been publicly available on the NWTB's public registry, it is difficult for the department to provide comments on whether or not the assignment is likely to result in a contravention of any licence condition within the meaning of s. 44(2).

### **2. Effect of expiry of current water licence**

As described above, the current water licence expired on July 1, 2012. The assignee should be made aware, pursuant to s. 46 of the Act, that the expiration of the licence does not relieve the holder from any obligations under the licence. Therefore, the effect of the assignment of the expired licence is that the assignee will take on the *obligations* that continue to exist under the expired licence (i.e., site maintenance, spill prevention, reclamation, etc.). But, because it is expired, the assignee will not be assigned any *rights* to use water or deposit of waste under the licence (i.e., the right to use of water for the purpose of further drilling or other such activities requiring the use of water or deposit of waste).

### **3. Assignment of current licence**

Provided that in accordance with s. 44(2) of the Act, the Board is satisfied that the assignment will not result in a contravention of any condition of the water licence, the Act, or the regulations, the department is not opposed to the applied assignment.

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<sup>1</sup> Section 44. (2) The Board shall, on application, authorize the assignment of a licence if it is satisfied that the assignment and the operation of the appurtenant undertaking would not be likely to result in a contravention of any condition of the licence or any provision of this Part of the regulations.

#### **4. Observations that warrant consideration**

The Board should consider the following observations concerning the application's completeness:

- On the "Affidavit of Execution – Undertaking of Proposed Assignee," the date under clause 2 has not been filled out; and
- On the "Undertaking of Proposed Assignee" there is no corporate seal (although it is possible that while the electronic copy does not have a seal, the original does).

#### **5. Other considerations**

- The department looks forward to working with the assignee and the Board to resolve compliance issues noted by Inspectors appointed under the Act.
- The assignee should submit a plan on how it will acquire (or a description of how it has acquired) all of the necessary regulatory authorizations (i.e., new leases, permits, or other instruments) associated with the project. As a minimum, the status of regulatory authorizations administered by the department, Kivalliq Inuit Association, and the Department of Fisheries and Oceans (identified in the bill of sale) should be explained.

Prepared by David Abernethy