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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

File No.: **2BE-HIG0712**

October 7, 2008

Aaron MacDonell
Health Safety and Environment Coordinator
Zinifex Canada Inc.
Suite 200 - 1159 Alloy Drive
Thunder Bay, ON, P7B 6M8
Email: aaron.macdonnell@zinifex.com

RE: NWB Licence No. 2BE-HIG0712; Application for Amendment (Exemption)

Dear Mr. MacDonell,

The Nunavut Water Board (Board or NWB) acknowledges receipt on February 25, 2008, of an application for amendment of Licence No. 2BE-HIG0712 (Application), submitted by Zinifex Canada Inc. (Zinifex). Pursuant to the Board's authority under Article 13 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada* (NLCA) and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (Act), the Board has completed its review of the Application.

BACKGROUND

On July 1 and 2, 2007, the Water Resources Officer (Inspector) for Indian and Northern Affairs Canada (INAC) conducted an inspection of the Zinifex High Lake Camp and subsequently issued an Inspection Report dated October 16, 2007 (Inspection Report). The Inspection Report identified several buildings and fuel storage facilities that contravened the Licence and directed Zinifex to either apply to the NWB for an amendment or relocate them:

...the storage and placement of buildings and fuel in such close proximity to High Lake is contrary to the terms of the issued license. As such the licensee is required to either submit to the board an application for amendment to the existing license or remove these buildings, fuel caches, heavy equipment and incinerator to a location a minimum of 30 meters from the high water mark of High Lake.

On February 25, 2008, the NWB received the Application from Zinifex requesting an amendment to the existing conditions of the Licence to permit two buildings to remain on the bank of High Lake and fuel for their use to remain within 30 metres of the high water mark of High Lake. Precautionary measures against spills were identified within the Application that included: no storage of hazardous materials in any of the buildings with the exception of fuel

required to operate the generator and heating equipment; fuel sources to be contained within secondary containment capable of holding 110% of the largest single storage capacity; spill kits to be made available within each of the buildings; a larger spill kit down gradient of the two shacks and a boat capable of deploying water top spill booms; and weekly inspections of the buildings with findings documented.

On March 11, 2008, notice of the Application was given pursuant to subsection 55(1) of Act. Written representations to NWB were requested by April 11, 2008. Representations were received from the Kitikmeot Inuit Association (KIA), INAC and Environment Canada (EC).¹

KIA advised the Board that it does not support the Application, as it does not permit projects on Inuit owned land to store fuel within thirty (30) metres of the high water mark of any waterbody. INAC advised the Board that Zinifex's justification to amend the Licence was inadequate, recommending that Zinifex be required to remove the two buildings within the 30 meter high water mark of High Lake within 30 days of the commencement of this year's project field season. INAC further recommends that the footprint of the two buildings should be reclaimed within the 30 day time period, and a detailed report specific to the removal of the two should be submitted to the INAC Kitikmeot Region Water Resource Officer and the NWB for review. **EC advised the Board that High Lake** does periodically flow into fish bearing waters, making any type of spill a cause for concern. EC recommends that where possible all fuel powered equipment should be kept a minimum of thirty (30) metres away from any water body, or all precautions should be taken to ensure that any potential spills do not enter a waterbody.

The Board also notes that the Nunavut Impact Review Board (NIRB) Screening Decision dated September 9, 2008, for a second amendment application, submitted during this review, set out a condition requiring fuel to be located at least 31 metres away from the high water mark:

9. The Proponent shall locate all fuel and other hazardous materials a minimum of thirty-one (31) metres away from the high water mark of any water body and in such a manner as to prevent their release into the environment.²

DECISION

After reviewing the Application and considering the representations received from KIA, INAC and EC, the Board, is satisfied that the conditions originally set out in the Licence continue to be appropriate and reasonable to minimize any adverse effects of the licensed use of waters or deposit of waste on aquatic ecosystems. Therefore, the Board has decided not to approve the Application, leaving the terms and conditions of the Licence in effect without change.

Following this Decision, the Board expects Zinfex to comply with the terms and conditions of

¹ Comments received are available on the NWB Public Registry at: [ftp://nunavutwaterboard.org/2BE-Exploration/2BE-HIG/2008 Amendment 1/Comments & Intervenor](ftp://nunavutwaterboard.org/2BE-Exploration/2BE-HIG/2008%20Amendment%201/Comments%20&%20Intervenor)

² NIRB Screening Decision available at: [ftp://ftp.nirb.ca/SCREENINGS/COMPLETED_SCREENINGS/2008_SCREENINGS/08EN067-Zinifex Canada Inc - Canoe Lake](ftp://ftp.nirb.ca/SCREENINGS/COMPLETED_SCREENINGS/2008_SCREENINGS/08EN067-Zinifex%20Canada%20Inc%20-%20Canoe%20Lake)

the Licence and the Inspection Report. In addition, the Board requests Zinifex provide to the NWB and the Kitikmeot Region Water Resources Officer, evidence that the corrective actions have been taken in accordance with the direction set out in the Inspection Report and in compliance with the Licence. As set out in the Inspection Report, failure to address the issues of non-compliance with the Licence may result in the Licensee being subject to enforcement measures and penalties provided for under the Act.

Sincerely,

A handwritten signature in dark ink, appearing to read 'T. Kabloona', with a long horizontal flourish extending to the right.

Thomas Kabloona
Chief Executive Officer

TK/dc/dh

cc: Kitikmeot Distribution