



Kugluktuk
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Bathurst Inlet
Kingaok


Dear Ms. Ikkutisluk:

Bay Chimo
Umingmaktok
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KIA objects to the assignment of the Licence on the basis that the security required under the License is wholly inadequate.

Cambridge Bay
Ikaluktutiak
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Part B, Item 2 of the Licence requires \$1,685,542 in security. The assignment application has security listed at \$1,638,542.

Both KIA and Indigenous and Northern Affairs Canada (“INAC”) have previously raised concerns about the inadequacy of the amount of security required under the Licence.

Gjoa Haven
Okhotsk

Notwithstanding s. 9(1)(d) of the Nunavut Waters Regulations,¹ KIA requests a public hearing for this matter and the opportunity to make submission about the amount of security required under the Licence.

Taloyoak
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Section 51(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*² (the “Act”) permits the Board to hold a public hearing, even where one is not required if it is in the public interest to do so.

Kugaaruk
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KIA is a Regional Inuit Organization and an Organization under section 1.1.1 of the Nunavut Land Claims Agreement. KIA has standing under section 50(a) of the Act and the Board **must take KIA's submissions into account.**

KIA has significant concerns that the security under the Licence is not sufficient to cover the costs of outstanding reclamation liabilities. KIA has a direct interest in the adequacy of security as the Ulu project is on Inuit Owned Land (“IOL”) and the ultimate costs of any deficiency in reclamation security will likely to fall to KIA.

KIA requests a hearing and increased security requirements for the reasons set out below.

¹ SOR/2013-69.

² S.C. 2002, c. 10.



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HISTORY OF SECURITY

In May 2014, Bonito applied to the Board to assign the existing Ulu Licence to Bonito. On review of the application, INAC recommended that the Board request and review updated financial security assessments. The Board agreed and requested submissions on security.

After Bonito acquired the Ulu project, and prior to submitting a security assessment, Bonito applied for a land use licence from KIA. Given the use of IOL, the direction from the Board for security assessments, and the history of various owners, KIA wanted to ensure there was sufficient security in place.

To ensure sufficient security, KIA's land use licence required Bonito to:

"...pay all costs for the conduct of a comprehensive reclamation cost estimate of the Ulu site by a third party engineering firm. This work will be done in collaboration with the Kitikmeot Inuit Association staff person(s) and be completed before December 31, 2014. ... The KIA and the company must mutually agree, being reasonable, on the engineering firm to conduct the estimate."

Despite being an enforceable provision in the Land Use Licence, Bonito failed to comply with the provision. Bonito prepared its own cost estimate, without input or consultation with KIA.

On December 31, 2014, Bonito submitted this cost estimate to the Board without any review or notice to KIA. Bonito's failure to comply with the terms of Land Use Licence and its disregard for KIA's role as the Regional Inuit Organization and holder of IOL raises significant concerns.

In early 2015, as a result of Bonito's breach of the Land Use Licence, KIA was forced to retain a third party engineering firm to conduct a reclamation cost estimate. KIA required Bonito to pay the cost of this assessment under a renewed Land Use Licence. Bonito did not provide payment until July 4, 2016.

Both KIA and INAC have previously submitted security estimates to the Board. On February 12, 2015, INAC provided their security estimate to the Board. INAC's estimate was \$7,523,612. On February 27, 2015, KIA provided comments to the Board, raised concerns with the amount of security and provided a security estimate of \$8,700,000.

On May 13, 2015, the Board issued the Licence renewal to Bonito. The Board failed to incorporate KIA and INAC's submissions into the security amount required. The Board set security at \$1,685,542.

KIA continued to write to the Board to request a reconsideration of the security required in the Licence. The Board has not conducted any further review of security.



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As part of the current application to assign the Licence, Bonito has proposed security of \$1,638,542. This is significantly less than the estimates prepared by both KIA and INAC and fails to realistically address the risks and costs that may arise from the Ulu property.

TRANSFER TO AND SALE OF LUPIN MINES INCORPORATED

KIA understands that Bonito's application to assign the Licence to Lupin is due to a pending sale of the Ulu project to WPC Resources Inc. ("WPC Resources").

Based on a review of corporate profiles and available corporate reports, Lupin is a subsidiary of Bonito.

KIA understands that Bonito and WPC Resources have structured the deal by way of Bonito transferring the Ulu project ownership and permits into Lupin thereby allowing WPC Resources to acquire the Ulu project through the acquisition of Lupin.

Given the impending sale of Lupin to WPC Resources, it is crucial to ensure that the security required in the Licence is sufficient and that WPC Resources has adequate resources to continue the ongoing compliance requirements under the Licence.

SECURITY REQUEST

Under section 76(1) of the Act, the Board may require security. The purpose of the security is to make funds available to INAC and KIA to take steps to prevent or mitigate adverse effects on people, property or environment that may arise from the licence holder abandoning the work. This includes the costs to perform reclamation work if the Licence holder is bankrupt or walks away from the project.

The Ulu project has been owned by a number of different companies over the years, but none have been able to successfully develop the project. Now the project will once again be transferred. While Bonito has carried out care and maintenance, there is no indication that the new owners will continue with this practice.

For INAC and KIA to be in a position to successfully prevent or mitigate adverse effects and reclamation liability, there must be sufficient security under the Licence. The Board cannot allow Bonito and Lupin to post insufficient security. Insufficient security provides Bonito, Lupin and WPC Resources the option to simply walk away and leave the public, KIA and Inuit to pay reclamation costs.

When a Licence holder walks away from a project without sufficient security in place, KIA is left without any economic or development benefits and faces large reclamation costs. It is in the public interest to ensure that project owners post adequate security to prevent their private costs and liabilities from being effectively transferred to Regional Inuit Organizations and the public.



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REQUEST

KIA respectfully requests that the Board:

1. hold a hearing to consider the assignment application; and
2. request submissions in the hearing by interested parties on security

Yours Truly,

Paul Emingak
Executive Director

Cc: Regional Director General, INAC
Karen Costello, P. Geol FGC, Director, Resource Management, INAC

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