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September 5, 2018

File: W2014L8-0003

Mr. Andrew Richardson
Acting Project Manager
Indigenous and Northern Affairs Canada
Contaminants and Remediation Directorate
4923-52nd Street – Gallery Building
P.O. Box 1500 Yellowknife, NT X1A 2R3

Dear Mr. Richardson,

Performance Assessment Report

On August 24, 2018, the Wek'èezhii Land and Water Board (WLWB or the Board) approved Indigenous and Northern Affairs' (INAC's) Performance Assessment Report (PAR), submitted in accordance with Part G, Condition 6 of Water Licence W2014L8-0003.

The Board's decision and supporting reasons are described in the attached Reasons for Decision, which also provide context on what approval of the PAR means and some guidance on next steps.

Should you have any questions, please contact Ryan Fequet, Executive Director at rfequet@wlwb.ca or 867-765-4589.

Sincerely,

A handwritten signature in blue ink, appearing to read "Joe Mackenzie".

Joe Mackenzie
Chair, Wek'èezhii Land and Water Board

Copied: Wek'èezhii West Distribution List



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Reasons for Decision

Reference/File Number:	W2014L8-0003 (Type "B" Water Licence)
Licensee:	Indigenous and Northern Affairs Canada
Subject:	Performance Assessment Report

Decision from the Wek'èezhì Land and Water Board Meeting of August 24, 2018

1.0 Decision

On August 24, 2018, the Wek'èezhì Land and Water Board (WLWB or the Board) approved Indigenous and Northern Affairs Canada (INAC's) Performance Assessment Report (PAR). INAC submitted the report in accordance with Part G, Condition 6 of Water Licence W2014L8-0003.¹

2.0 Background

INAC-CARD's Water Licence includes a requirement for submission of a Performance Assessment Report (PAR) by March 31, 2018 (Part G, Condition 6). INAC submitted the PAR on April 12, 2018. This is the first PAR that INAC has submitted for the Colomac site.

The *MVLWB/INAC Guidelines for the Closure and Reclamation of Advanced Mineral Exploration and Mine Sites in the NT, 2013* (the CRP Guidelines) state the purpose of a performance assessment report is to "provide a detailed comparison of conditions at the site against the appropriate closure objectives and closure criteria." Specific requirements for the Colomac PAR are in Schedule 3, Condition 3 of the Water Licence:

- a) a summary and analysis of all results collected as part of the monitoring program outlined in the Post-Closure Monitoring and Maintenance Plan since implementation of the Plan;
 - b) a detailed comparison of the conditions at the site as described in Item 3a), against the monitoring endpoints that are described in the Post-Closure Monitoring and Maintenance Plan;
- and,
- c) updated photographs of all structures and monitored components.

¹ See WLWB (www.wlwb.ca) Online Registry for [Colomac - Performance Assessment Report - Apr 17 18.pdf](#).

The PAR provides an in-depth discussion on the results of the six monitoring programs in the approved Post-Closure Monitoring and Maintenance Plan (PCMMP) required by Part G, Condition 2 of INAC's Water Licence. The six monitoring programs are:

- Adaptive Hydrocarbon Monitoring Program
- Geotechnical Monitoring
- Habitat Compensation Monitoring
- Terrestrial and Aquatic Monitoring
- Hydrological Monitoring
- Surveillance Network Program (SNP)

2.2 Public Review

On May 18, 2018, Board staff posted the submission on the Online Review System. Review comments were due by June 27, 2018, and proponent responses were due on July 18, 2018.

The following parties submitted comments:

- Environment and Climate Change Canada (ECCC)
- The GNWT's Department of Environment and Natural Resources (GNWT-ENR); and
- WLWB staff.

The comments, proponent responses, and attachments are in the Review Summary.²

3.0 Reasons for Decision

- ***The Board approved the PAR.***

The Reasons for this are:

- The PAR adequately meets the requirements in the Part H, Condition 6 and Schedule 3, Condition 3 of the Water Licence.
- The PAR is consistent with the CRP Guidelines. Although the Guidelines indicate that the PAR should compare site conditions to closure objectives and criteria, the Colomac Remediation Plan and PCMMP do not include closure objectives and criteria. The PCMMP defines monitoring endpoints and the PAR discusses monitoring results related to monitoring endpoints, as required by Schedule 3, Condition 3. Although there were some comments on the monitoring endpoints (GNWT-ENR comment 1 and WLWB staff comment 1) this issue can be revisited during the review of a revised PCMMP.
- Approval of the PAR will provide a good foundation for next steps (discussed below).
- Reviewers did not raise any issues that would support a decision not to approve the PAR. However, reviewers identified a few issues related to the PAR. These issues and additional direction from the Board are presented below.

² See WLWB Online Registry for [Colomac - Performance Assessment Report - Review Summary and Attachments - Jul 18 18](#)

3.1 The PAR Does Not Include INAC's Conclusions

Blumetric™ Environmental, the consultant who wrote the PAR for INAC, made many detailed recommendations for each of the six monitoring programs. INAC did not provide its own conclusions from the data analysis or indicate whether it accepted the consultant's recommendations. The GNWT-ENR and WLWB staff noted this (GNWT-ENR comment 8 and WLWB staff comment 1), and INAC responded as follows:

As a commissioned report, the findings are those of the authors. The only opportunity for [INAC] to provide clarity to the Board as to which recommendations would be accepted would have been in the cover letter to the Board. Given the complexity of the monitoring at Colomac, it was decided that a more technical analysis of the recommendations [was] warranted.

In analysing the recommendations, [INAC] noted that many of the factors governing the monitoring of Colomac site features were based on analyses and decisions that were made long before the completion remediation in 2011. The PAR was intended to review the data collected since the start of post-remediation monitoring, so an analysis of the derivation of the site Effluent Quality Criteria or the objectives of the Zone 2.0 Pit Seepage Monitoring Program were outside of the scope of the review. [INAC] has submitted a subsequent request to revise the SNP and PCMMP that will be posted for review soon.

To be clear, the Board's approval of the PAR does not mean that the Board approves Blumetric™ Environmental's recommendations. Since INAC did not indicate whether it accepts any of the consultant's recommendations, the Board did not evaluate them.

3.2 Data Analysis

The only reviewer recommendation to improve the data analysis and presentation in the PAR was from ECCC (ECCC comment 1):

While the data that has been collected is summarized in the report, the actual data has not been provided and no analysis has been presented to indicate the effectiveness of the mitigation measures. Graphical analysis, including concentrations by sampling location over time, would aid the reviewer in understanding the effectiveness of the mitigation measures employed at the site and help in identifying any outstanding water quality concerns. ECCC recommends that the proponent provide its data collected during the 5 years summarized in the Performance Assessment Report be analysed graphically to show trends in water quality.

INAC responded as follows:

The stated intent of the Performance Assessment Report is to provide a summary and analysis of results collected as part of the monitoring program. The Contractor who completes the annual monitoring program provides the actual data, including all supporting documentation (Analytical Certificates, etc.), and graphically compares the data to previous collections years in the manner suggested here. Therefore, this level of detail is provided to the Board as part of the Annual Water Licence Update. [INAC] considered this level of detail redundant given it had been supplied by the Monitoring Contractor, so it was not requested as part of the PAR.

The Board believes that data analysis in the PAR is sufficient for moving forward. Given that the PAR should support any proposed changes to the PCMMP, and INAC did not submit its proposed changes with the PAR, it cannot be determined whether the presentation of the data (e.g., the lack of graphical trends) requires improvement. Reviewers and the Board can assess whether additional information is required to support INAC's proposed changes to the PCMMP during the review and approval process for a revised PCMMP. Approval of the PAR does not preclude the possibility that additional data analysis or presentation (e.g., graphs) may be required to support proposed changes to the PCMMP or Water Licence. For future PARs, INAC should submit any proposed changes to the PCMMP at the same time as the PAR to enable a more efficient public review.

3.3 Potential Water Licence Amendment and Revised PCMMP

The "subsequent request" that INAC refers to in its response (above) was submitted to the Board on May 28, 2018, i.e., approximately one month after the PAR was posted on the Online Review System. The submission is titled *Annual Review: Post-Closure Monitoring and Maintenance Plan: Water Licence Amendment Request and Justification for Post Remediation Monitoring Reduction May 2018* (the Annual Review). The submission includes the following:

- A request to revise the Post-Closure Monitoring and Maintenance Plan with a justification for reductions in the monitoring program. INAC did not submit a revised PCMMP. It would be difficult or impossible for the Board to approve a revised PCMMP without a revised PCMMP.
- A request to amend the Water Licence (e.g., Part A, Condition 2; Part G, Condition 4; certain Schedules; etc.). INAC did not submit a Water Licence application.

The Annual Review itself is not for Board approval and will therefore not be distributed on its own for public review. There are specific requirements for a Water Licence amendment, including an application and pre-submission engagement. Further, a revised PCMMP is required for the Board to approve revisions to the Plan. INAC should work with Board staff to determine what should be submitted to support a Water Licence amendment and revisions to the PCMMP.

Finally, in several of its comments the GNWT-ENR mentioned that it had been communicating with INAC during the GNWT-ENR's review of the PAR (GNWT-ENR comments 2, 3, 6, 7). This level of communication contributes to the efficiency and quality of the public review and the Board commends these parties for working together.

Signed the 5th day of September 2018, on behalf of the Wek'èezhii Land and Water Board.



Witness



Joseph Mackenzie
Chair, Wek'èezhii Land and Water Board