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August 30, 2024

File: W2020L8-0003

Dawn Keim,
A/Senior Manager
Crown-Indigenous Relations and Northern Affairs Canada
Contaminants and Remediation Division
P.O. Box 1500 4923-52nd St
Yellowknife, Northwest Territories, X1A 2R3

Sent by email

Dear Dawn,

Re: Remedial Action Plan, Version 2.1 – Status Letter Response – Rayrock Remediation Project – Miscellaneous – Former Rayrock Mine, NT

The Wek'èezhì Land and Water Board (Board) met on August 28, 2024 and considered the Remedial Action Plan (RAP) Version 2.1 Status Letter provided by Crown-Indigenous Relations and Northern Affairs Canada – Contaminants and Remediation Division (CIRNAC-CARD).¹ A Remedial Action Plan is a requirement of the Water Licence (W2020L8-0003) for the Rayrock Remediation Project.

Version 2.0 of the RAP for the Rayrock Remediation Project was submitted by CIRNAC-CARD in August of 2022.² As communicated in its March 3, 2023 decision, the Board did not approve Version 2.0 of the RAP and directed resubmission of Version 2.1 no later than November 30, 2023.³ Among the revisions required for Version 2.1, CIRNAC-CARD was required to revise several closure objectives and closure criteria; engagement with the Tłı̄chq Government and the Government of the Northwest Territories (GNWT) was also required to help inform these revisions.

During the conformity review of Version 2.1 of the RAP, Board staff flagged missing requirements (i.e., that the Board's direction had not been fully addressed) and communicated the following to CIRNAC-CARD:

¹ See WLWB Online Registry www.wlwb.ca for [Rayrock - Status Letter - Remedial Action Plan \(RAP\) - Version 2.1 - Aug 16 24.pdf](#)

² See WLWB Online Registry for [Rayrock - Remedial Action Plan - Version 2.0 - Aug 18 22](#).

³ See WLWB Online Registry for [Rayrock - Remedial Action Plan - Version 2.0 - Reasons For Decision - Mar 3 23](#)

While staff understand that Engagement with the Tłıçhǫ Government was not possible and that the conformity table explains the attempts made, Version 2.1 of the RAP does not include numeric closure criteria for soils and sediments for closure objectives 1-6, 2-1, 2-3, 2-5, and 3-2 and does not include temporal components for closure criteria in closure objectives 2-2, 2-3, 2-4, 2-5, and 3-1 that require geotechnical inspections. These were expected to be proposed as part of addressing the Board's direction. The absence of new proposed numeric closure criteria and temporal components for geotechnical inspections in the specified closure objectives means that no parties will be able to provide feedback on these proposed criteria through this public review. As such, another public review of these proposed criteria will be required in the future before they can be approved by the Board. To allow for a more efficient review and consideration by the Board, staff would have expected this submission to include criteria for consideration, with acknowledgement that it did not yet include feedback from the Tłıçhǫ Government and/or the GNWT, along with the reasons why.

In light of this, has CIRNAC-CARD developed criteria it could propose with this submission? Or has their development been stalled until engagement takes place? If they have been developed to a point where they could be included, we would suggest that these be included now and feedback from parties, including the Tłıçhǫ Government and GNWT, could be provided through the public review. If they are not ready yet, how soon could they be provided? CIRNAC-CARD's response to these questions will help inform next steps regarding the process for Version 2.1 of the RAP.⁴

In response, CIRNAC-CARD indicated it had not been able to:

...a) discuss numeric closure criteria for soils and sediments for closure objectives 1-6, 2-1, 2-3, 2-5, and 3-2 or b) engage with the Tłıçhǫ Government and GNWT-ECC on temporal components for closure criteria in closure objectives 2-2, 2-3, 2-4, 2-5, and 3-1 that require geotechnical inspections. Additionally, CIRNAC-CARD has not yet been able to develop site-specific criteria; however, we are taking steps to increase our regulatory capacity for the coming year and are prioritizing our RAP. To that end, we have plans for related engagement to take place this coming Friday (January 26th) with the TG and GNWT-ECC. In that meeting, we will focus on the criteria not yet fully developed and provide the Board with an update during our next monthly meeting, or sooner if requested.⁵

⁴ See WLWB Online Registry for [Rayrock - RAP - V 2.1 - Correspondence between CIRNAC-CARD and WLWB Staff - Jun 27 24](#)

⁵ Ibid

On February 12, 2024, Board staff sent an email to CIRNAC-CARD asking for an update following the planned meeting in January.⁶ In response, CIRNAC-CARD indicated it did not expect to submit a revised RAP until the fall.⁷

The Board understands it was communicated by Board staff at the next monthly meeting with CIRNAC-CARD that the Licensee had failed to meet the Board's direction (of submitting Version 2.1 of the RAP that addressed the Board's required revisions) and that until a conforming submission was received, CIRNAC-CARD would be out of compliance with the Board's direction. Staff communicated that a full conformity assessment of the initial submission had not been completed and it was unclear how much of the document would need to change as a result of addressing the Board's direction. CIRNAC-CARD was asked if it would like to request a formal retraction of the submission and provide a formal update to the Board about the anticipated submission of Version 2.1. On June 27, 2024, CIRNAC-CARD indicated that it would prefer not to retract its current submission and indicated its hope that a revised Version 2.1 could be provided by September 30, 2024.⁸

This topic was further discussed at the next monthly meeting in July between Board staff and CIRNAC-CARD. It is the Board's understanding that staff once again flagged for CIRNAC-CARD that it remained out of compliance with the Board's direction and that the email update provided on June 27, 2024, suggested that CIRNAC-CARD may not be engaging on all the topics it was required to in order to inform Version 2.1. Board staff reminded CIRNAC-CARD that there were several outstanding requirements and asked if it would like to provide a more formal update to the Board.

CIRNAC-CARD submitted a Status Letter regarding the RAP on August 16, 2024. The letter references engagement that was conducted between CIRNAC-CARD and Tłchq Government between 2018 and 2020 and indicates that CIRNAC-CARD continues to work with the Tłchq Government to complete the RAP. The letter does not, however, provide an explanation for why CIRNAC-CARD was unable to meet the Board's direction for engagement and submission of a conforming RAP Version 2.1 by the deadline of November 30, 2023. The letter also suggests that additional requirements were communicated by Board staff via email in January 2024. The Board would like to clarify that these were not additional requirements being communicated – staff were identifying the required direction that was missed by CIRNAC-CARD and why the submission did not pass conformity and why CIRNAC-CARD was out of compliance with the Board's direction. The Board would also like to clarify that it is expecting the upcoming submission to be Version 2.1 as this Version has not been accepted by the Board as it did not meet the Board's direction and has thus not been further considered. In other words, the Board is still awaiting submission of Version 2.1.

The Board urges CIRNAC-CARD to review all the decisions from the Board's Reasons for Decision and seek clarity if required. The Board expects that the conformity table submitted with Version 2.1 will indicate how each requirement for this submission has been met. Notwithstanding the inclusion of proposed closure objectives and criteria, any other decision that is not addressed in this submission must be

⁶ See WLWB Online Registry for [Rayrock - RAP - V 2.1 - Correspondence between CIRNAC-CARD and WLWB Staff - Jun 27 24](#)

⁷ Ibid

⁸ Ibid

identified in the conformity table alongside detailed rationale for why. Considering that this submission was due in November of 2023, the Board also expects that the cover letter for this forthcoming submission include details of how CIRNAC-CARD will ensure it can satisfy licence requirements and any Board direction moving forward. The Board would like to remind CIRNAC-CARD that the Board's Reasons for Decision for the Sun Main Waste Rock Cover Design also included requirements to be included in Version 2.1 of the RAP.⁹ The Board expects that this will also be addressed in the revised submission and reflected in the conformity table.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Mason Mantla', written in a cursive style.

Mason Mantla
Chair, Wek'èezhìi Land and Water Board

BCC'd to: Rayrock Distribution List
 Ron Breadmore, CIRNAC-CARD
 Melanie Williams, CIRNAC-CARD
 Andrew Richardson, CIRNAC-CARD
 Erika Nissen – Inspector, CIRNAC

⁹ See WLWB Online Registry for [Rayrock - Sun Main Waste Rock Design Plan - Version 1 - RFD - May 23_24.pdf](#)