



UNCLASSIFIED – NT1154

November 17, 2023

Kathy Racher
Executive Director
Mackenzie Valley Land and Water Board
YELLOWKNIFE, NT X1A 2P6

kracher@mvlwb.com

Dear Kathy Racher:

Thank you for your letter of November 1, 2023 requesting additional information for the Renewal Application for a type A Water Licence (MV2023L2-0006) for Cantung Mine. Crown Indigenous Relations and Northern Affairs Canada (CIRNAC) has prepared the following responses to the information requested:

1. *Please provide a true copy of the Court Order referred to in Matthew Spence's February 15, 2023 letter, including any affidavits in support and all attachments to the Order and affidavits.*

All documents related to North American Tungsten's *Companies' Creditors Arrangement Act (CCAA)* proceedings, including all court orders, affidavits, Monitor's reports, and motion materials, among other documents, have been uploaded to the Alvarez and Marsal ("The Monitor") website since the initial court order was made in June 2015. These documents are all accessible at the following link:

[North American Tungsten Corporation Ltd. | Alvarez & Marsal | Management Consulting | Professional Services \(alvarezandmarsal.com\).](https://www.alvarezandmarsal.com/north-american-tungsten-corporation-ltd)

For further clarity, the requested documents can be found at the following links:

- [Court Order dated November 16, 2015](#)
- [Monitor's Eleventh Report dated November 12, 2015](#)
- [First Affidavit of Thomas Powell sworn on November 13, 2015](#)

Should you require further documentation, you may directly request it from the Monitor/NATCL.



2. *Provide all necessary information to explain the funding to be provided for care and maintenance, and any other activities to be conducted at the NATCL mine site, under the Northern Abandoned Mines Reclamation Program for the duration of the licence term applied for by the Monitor/NATCL.*

As noted in CIRNAC's February 15, 2023 letter addressing NATC's Financial Security, the Government of Canada is essentially the primary senior secured creditor of NATC's property and assets at this time. The following provides a description of this financial arrangement:

In June 2015, NATC filed for creditor protection under the *Companies' Creditors Arrangement Act (CCAA)* and Alvarez & Marsal Canada Inc. ("A&M" or "the Monitor") was appointed by the Court as the Monitor. The Order of the Supreme Court of British Columbia, dated November 16, 2015 (entered November 17, 2015), gives the Court appointed Monitor exclusive powers to manage the business and property of NATC. This court order also requires the Government of Canada, through Crown Indigenous Relations and Northern Affairs Canada (CIRNAC), to fund NATC's care and maintenance activities at Cantung Mine. A full version of this court order and associated documents is available on A&M's website, as indicated in the answer to question 1.

The Government of Canada funds the care and maintenance activities at the Cantung Mine through the Northern Abandon Mines Reclamation Program (NAMRP). This program, announced in the 2019 Federal Budget, invests \$2.2 billion over 15 years starting in 2020–21 to exclusively address the eight largest and highest-risk abandoned mines in the Yukon and the Northwest Territories, including the Cantung Mine. Moreover, Budget 2023 announced an additional \$6.9 Billion in funding for the NAMRP program, for the remaining duration of the program (until 2035). The existence of NAMRP, particularly the additional funding provided in Budget 2023, ensures that the funding for the activities at Cantung Mine is both stable and long-term, and will be available for the duration of license term.

Given that all care & maintenance and closure planning activities at the Cantung Mine Site have been funded by this program since 2015 in a manner consistent with the letter provided by Canada to support the WL issued in January 2016, there should be no question as to the availability of funding to support the role of the Monitor in carrying out the obligations contained in the licence. It remains Canada's view that there is now a demonstrated record that NATCL and A&M have been able to meet license requirements under this funding arrangement with Canada, and will continue to do so.

While the CCAA Proceedings are extant, CIRNAC will continue to review the budget for care and maintenance activities on an annual basis and expects that it will, subject to the requirements of the *Financial Administration Act*, RSC 1985, c F-11, continue

to fund the care and maintenance activities that are currently contemplated by NATCL, including those proposed in the current water license application.

Should the CCAA Proceedings terminate, it is anticipated that CIRNAC will continue to financially support the management of the site including care and maintenance and eventual closure, through the Northern Abandoned Mines Reclamation Program.

- 3. Indicate whether there is any relationship between contractors or staff that could be retained by the Monitor for care and maintenance of the NATCL mine site and CIRNAC and explain. If none, outline the activities planned by CIRNAC for the duration of the licence term applied for.*

As per the court order, CIRNAC provides funding to the Monitor for Care and Maintenance of the Cantung Mine Site through the Northern Abandoned Mines Reclamation Program (NAMRP). As the primary funder, CIRNAC also provides advice to The Monitor on certain aspects of the site. CIRNAC does not manage or direct any contractors or staff that are or may be retained by the Monitor for care and maintenance of the Cantung Mine Site, nor does it intend to have a direct relationship with Parties contracted by the Monitor.

Should the CCAA Proceedings terminate, it is anticipated that CIRNAC will continue to financially support the management of the site including care and maintenance and eventual closure, through the Northern Abandoned Mines Reclamation Program. While it may be possible to assign or novate contracts to Canada should this occur, federal procurement policies would need to be followed and considered, meaning it is not certain at this time if site continuity of site personnel could be guaranteed.

- 4. Provide an explanation and legal rationale indicating how CIRNAC's federal funding provides a guarantee for the financial capacity required of a separate licensee under the MVRMA – in this case the Monitor/NATCL which are different legal entities than CIRNAC.*

The Northern Contaminated Sites Program has been set up with funding under NAMRP to fund the closure of the Cantung Mine, including care and maintenance activities. The licensee has financial capacity because CIRNAC has committed to financially supporting the obligations of the Monitor/NATCL.

To give further assurance to the Monitor/NATCL, Canada has both consented since 2015 and has indicated it will further consent to be bound by future Court Orders guaranteeing funding to this effect. CIRNAC is bound by the Court Orders of the Supreme Court of British Columbia to fund the Court Appointed Monitor A&M, who in turn has exclusive powers to manage the business and property of NATC. The Court

Order provides the guarantee of financial capacity of NATC as it mandates CIRNAC fund the actives of NATC through the Court Order.

Should you have any questions or comments, please contact:

Jeff Mackey – Cantung Project Director
Director Policy & Program Management
Northern Contaminated Sites Program
Jeffrey.Mackey@rcaanc-cirnac.gc.ca
613-222-1840

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Ron Pankratz', with a long horizontal flourish extending to the right.

Ron Pankratz
A/Regional Director General
Northwest Territories Region, CIRNAC