

Mackenzie Valley Land and Water Board
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FILE NUMBER: MV2001L2-0003

Date: March 3, 2006
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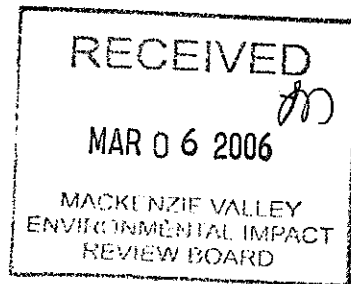
Remarks:

Attached for your records are the Board's **Reasons for Decision** for modifying the **Canadian Zinc** water licence as per the Federal Court's Order.

- Enclosures
- As requested
- For your information
- For your comment
- For your approval

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March 3, 2006

WL MV2001L2-0003

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President Ernie McLeod	Fort Liard Metis Local #67	42	867-770-3266
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President Robert Tordiff	Northwest Territory Metis Nation	45	867-872-2772

COMMUNITIES

Mayor Maggie Levavasseur	Hamlet of Fort Providence	18	867-699-3210
Mayor Diane Gonet	Hamlet of Fort Liard	39	867-770-4004
Mayor Raymond Michaud	Village of Fort Simpson	17	867-695-2005
Mayor Diana Ehman	Town of Hay River	16	867-874-3237
Mayor Winnie Cadieux	Enterprise Settlement Corporation	24	867-984-3400

ABORIGINAL ORGANIZATIONS

Laura Pitkanen	Dehcho Representative		705-756-4466
Darren Campbell	Fort Providence Resource Management Board		867-699-3133
Heidi Wiebe	Deh Cho Land Use Planning Committee	41	867-699-3166
Chris Paci	Dene Nation	40	920-2254
Frank Kotchea	Nahendeh Land & Environmental Services	43	867-770-4573

GOVERNMENT

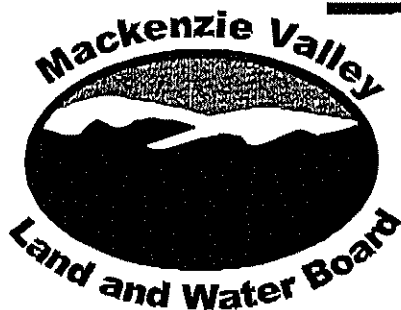
Ed Hornby	South Mackenzie District Office	57	669-2720
Kathleen Racher	DIAND - Water Resources	58	669-2716
Mineral Development Advisor	Mineral Development Division	59	669-2705
Tom Andrews	GNWT - Prince of Wales Heritage Museum	60	873-0205
Duane Fleming	GNWT - Health	65	669-7517
Jason McNeil	GNWT - ENR	63	873-4021
Mike Fournier	Environment Canada	66	873-8185
Ernest Watson	DFO	68	669-4940
Josephine Simms	WCB	67	873-4596

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OTHERS

Chuck Blyth	Nahanni National Park Reserve	46	867-695-2446
Katherine Cumming	Parks Canada	47	204-983-0031
Jennifer Morin	CPAWS	49	873-9593
Vern Christensen	MVEIRB	50	766-7074
Doug Bryshon	Dev. Corp Mgr Samba K'e(Trout Lake)	44	867-874-4505
Peter Redvers	Research Cons. Samba K'e	44	867-874-4505
Mandell Pinder, Barrister & Solicitors	(Ka'a'gee Tu First Nation)		604-681-0959

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REASONS FOR DECISION

Reference/File Number: Water Licence MV2001L2-0003, Type "B"
Licensee: Canadian Zinc Corporation
Regarding: Rectification of Water Licence MV2001L2-0003, February 2006

Mackenzie Valley Land and Water Board

REASONS FOR DECISION

Issued pursuant to Section 26
of the *Northwest Territories Waters Act*, R.S.C. 1992, c.39

BACKGROUND AND REGULATORY HISTORY

Canadian Zinc Corporation (the Licensee) applied to the Mackenzie Valley Land and Water Board (MVLWB or the Board) on March 5, 2001 for a Type 'B' water license, MV2001L2-0003 (the License). The application included underground decline development and metallurgical pilot plant operation among the activities planned for the Prairie Creek minesite, in the Deh Cho Region of the Northwest Territories (NT). The application was referred to the Mackenzie Valley Environmental Impact Review Board (MVEIRB) for Environmental Assessment (EA) pursuant to section 126(2) of the *Mackenzie Valley Resource Management Act* (MVRMA). The MVEIRB notified the Licensee on April 14, 2001 that the proposed developments would undergo an EA.

The MVEIRB submitted their Report of Environmental Assessment (EA Report) on February 5, 2002 to the Minister of Indian and Northern Affairs Canada (the Minister). On September 3, 2002, the Minister exercised his authority under section 130(1)(b)(i) of the MVRMA and instructed the MVEIRB to give further consideration to unresolved issues in the EA Report relating to the Tailings Containment Area (TCA), and water treatment in general. The MVEIRB released its Reasons for Decision on April 4, 2003, recommending revisions to be made to the recommendations in its February 5, 2002 EA Report. On June 16, 2003, the Minister approved the revised Reasons for Decision document and directed the MVLWB to proceed with the licensing process.

Section 62 of the MVRMA requires that the MVLWB incorporate into a water license, to the extent of its authority, any recommendations approved by the Minister in an EA Report. One of the recommendations approved by the Minister in the Reasons for Decision associated with the EA Report was that:

"CZN is required to file with the MVLWB and the federal Minister, a favourable geotechnical assessment and engineering certification of the suitability of the tailings pond before it can be used. This assessment must certify that the tailings pond liner is intact and impermeable, and that the soil underlying and surrounding the tailings pond is stable."

To satisfy this Ministerial recommendation, the Board issued the Licence on September 10, 2003 with the following condition under part D, item 2:

"The Tailings Containment Area [Tailings Pond] is not to be used in conjunction with the licensed undertakings."

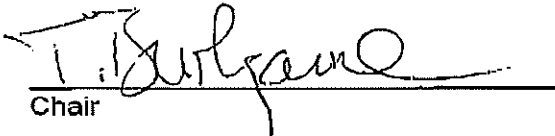
Following the issuance of the Licence which included the condition quoted above, the Nahanni Butte Dene Band, Pehdzeh Ki First Nation and the Dehcho First Nations filed an action seeking judicial review. These parties asserted that the Board had exceeded its jurisdiction by not incorporating the exact wording from the EA Report into part D, item 2.

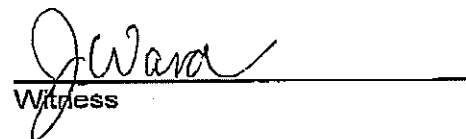
The judicial review ended on December 20, 2005 with the issuance of an Order with Reasons for Order from the Federal Court of Canada. The Order requires that the Board re-issue the Licence with the following rectification to part D, item 2:

"The Licensee shall submit to the Board for approval a favourable geotechnical assessment and engineering certification of the suitability of the Tailings Containment Area before it can be used in conjunction with the licensed undertakings. This assessment must certify that the tailings pond liner is intact and impermeable, and that the soil underlying and surrounding the Tailings Containment Area is stable."

The Board has now rectified part D, item 2 in accordance with the Court's Order.

Signed the 1st day of March 2006 on behalf of the Mackenzie Valley Land and Water Board:


Chair


Witness