

YUKON TERRITORY WATER BOARD

REASONS FOR DECISION

IN THE MATTER OF  
APPLICATION Y-IN86-05A  
TO AMEND WATER LICENCE NO. Y-IN85-05AL

CURRAGH RESOURCES

June, 1987

## REASONS FOR DECISION

The Board: This application arises out of the emergency amendment granted to Cyprus Anvil Mining Corporation by the Board in October 1985, which provided, in part, the following:

- "6. Part D, Sections 2,3, and 4 of the Licence be deleted.
  
7. Part D, Section 5 of the Licence shall be renumbered Part D, Section 7.
  
10. The following be inserted as Part D, Section 4 of the Licence:
  - '4. The Licensee shall make application under the provisions of the Act no later than December 31, 1986, for an amendment to this licence to provide for a detailed tailings pond and mine site abandonment plan.'
  
11. The following be inserted as Part D, Section 5 of the Licence:
  - '5. The application referred to under Part D, Section 4 of this licence, shall be accompanied by detailed and complete supporting documentation.'
  
13. Schedule D, entitled, 'Program of Investigations relating to Abandonment', and Schedule E, entitled, 'Summary of Abandonment - Related Activities', and Appendix I and Appendix II to Schedule E, of the Licence be deleted."

Since that date, this licence has been assigned, with the consent of the Board, first to Curragh Resources Corporation and then to Curragh Resources (hereinafter "Curragh") by assignments signed by the Board in October 1985 and July 1986 respectively. (During the course of the public hearing detailed below some questions arose as to the proper licence number

and whether either or both of these assignments had been effective to assign this licence. On the Board's instructions, the Board's legal advisor prepared a Licence Chronology which was distributed to interested parties on the last day of the hearing. Having reviewed the Licence Chronology and the circumstances surrounding the various amendments and assignments, the Board decided, for the reasons it gave through its legal advisor at the last day of the hearing, that the licence had through its convoluted life, been properly amended and assigned. For purposes of clarity a copy of the Licence Chronology is attached to these Reasons for Decision as Appendix "A". As indicated therein the current licence number is YIN85-05AL.)

This application, filed on December 30, 1986, does not seek approval of the Board, through the public hearing process, for an amendment to Curragh's licence "to provide for a detailed tailings pond and mine site abandonment plan."

Instead, it proposes that Curragh's licence be amended to require it to carry out a plan of studies and to allow it a further 4 years and 9 months, until September 30, 1991, to make application to the Board to amend its licence to provide for a detailed tailings pond and mine site abandonment plan.

After publication of the required notices a public hearing took place in Whitehorse on March 11, 12 and 25, 1987 to consider this application. Interventions were filed by:

1. Yukon Conservation Society (hereinafter "YCS");
2. Department of Fisheries and Oceans, and Environment Protection Services jointly (hereinafter "Fisheries and EPS");
3. Northern Affairs Program, Yukon Region, a part of the Department of Indian Affairs and Northern Development (hereinafter "DIAND"); and
4. Ross River Indian Band (hereinafter the "Band").

All of the Intervenors were present at the public hearing. In addition, with the Board's consent, a submission in support of the Band's position was made at the public hearing by the Council for Yukon Indians (hereinafter "CYI").

#### Applicant's Position

In its submission on the first day of the hearing, three people spoke on behalf of Curragh: Marvin Pelley, its Vice President - Transportation & Engineering; Robert Grant, its Environmental and Government Liaison Co-ordinator and Dr. Andy Robertson, an engineer with the firm of Steffen, Robertson, Kirsten. G. Webster, the Manager Environmental Engineering with Dome was also present to answer questions. Curragh's legal counsel was not present on the first day of the hearings but was present on the other two days.

Mr. Pelley gave the Board an overview of Curragh's development plans and pointed out the great economic benefits the opening of the mine have brought and its continued operation will continue to bring to the Yukon. He summarized these benefits when he stated:

"The benefits are many. Of course, Curragh's ongoing cash flow and continued existence; the profits for the shareholder. For the Yukon, it is increased employment, capital investment, government revenues, utilization of an existing infrastructure such as highways, towns, so on, and of course, tremendous economic spinoffs to Canada, in general, government revenues on a federal level; of course, employment, economic spinoffs, some improved balance of trade in excess of a billion dollars."

No one at the hearing disputed the importance of these economic benefits to Canadians and Yukoners.

In his presentation he also stressed, at several points, the financial constraints on Curragh. At one point he stated "There is not currently enough sufficient cash reserve to cover the implementation of any alternative abandonment plan, and I say 'currently'." Later he stated:

"The Faro pit alone, I must emphasize, will not generate enough cash flow to cover all current long-term creditors, ongoing operating costs and an abandonment plan. Therefore, Curragh can only implement an abandonment plan if the Vangorda deposits are developed and even then, the costs must be kept strictly in line, and metal prices must be at least maintained at the current level, and probably have to improve above current levels."

He also referred the Board to a pie chart to show what happens to each dollar of revenue received by Curragh. A very small piece was labelled for profit, research and development and reclamation. No percentages were indicated on the chart for any of the pieces and when questioned Mr. Pelley admitted the chart was not precise but merely intended to show the "order of magnitude."

The whole thrust of these statements was that Curragh is financially unable to commit to any abandonment plan at this time; that any abandonment plan which is added to its licence in the future will have to be funded out of the development of the Grun and Vangorda deposits and the projected profit arising out of the same (emphasis added). However, in addition, implicit in Mr. Pelley's statements was that one of the main reasons Curragh had not met the deadline for submission of a detailed abandonment plan required in the emergency amendment was due to financial constraints.

Mr. Grant echoed Mr. Pelley's statements regarding financial constraints when he stated that "the rate of reclamation expenditure will be limited by the fiscal capabilities of Curragh."

Mr. Grant's presentation suggested and during the course of the public hearing it was confirmed that Mr. Grant, at the very least, if not Curragh itself was operating under a misapprehension as to the effect of the 1985 amendment. Mr. Grant stated that Curragh was of the view that the

original mine site abandonment plan was still in place. It also became clear during the course of the hearing that Mr. Grant had a lack of understanding of the difference between abandonment objectives, which the current licence contains, and an abandonment plan which is the method to be used to achieve such abandonment objectives.

Mr. Grant also stated that Curragh's failure to file the detailed tailings pond and mine site abandonment plan by December 31, 1986 was not a sufficient or reasonable ground for cancelling Curragh's licences.

Dr. Robertson reviewed the technical reasons why the amendment was being sought and the proposed plan of actions and studies his firm had developed. A report titled "Final Report 60601: Studies Related to Evaluation of Alternative Abandonment Measures For Faro Mine Tailings" had been filed with the application. During the course of the hearing two further reports were filed as exhibits being:

1. Exhibit VII (b) - "Curragh Resources Long Range Development Plan Overview Faro Area March, 1987";
2. Exhibit VII (c) - "Report 60602: Faro Mine Tailings Abandonment Plan Development Program".

Dr. Robertson explained the relevant factors affecting the search for abandonment solutions; he outlined the two abandonment problems faced in this case, being stabilization of the structures after shutdown and the need to prevent acid generation; he raised the concerns arising from each problem; he reviewed the possible abandonment alternatives presently available; and he emphasized that in light of the data collected to date that it was not possible to make any intelligent choice as to which plan should be implemented.

He stated:

"Having gone through all of those solutions, we said, well, which makes sense, or which will definitely work? Can we meet the water quality standards that have been written into the water licence with any of those? We don't believe we, as engineers, can professionally say any one of them will meet those criteria. We can say, this one is probably better than that one, and that one may be able to meet it, and that one may be able to meet it. But our modelling, our understanding is not good enough to give that assurance that we could professionally take the responsibility and say, do this one, because it will work. We believe that the most expensive solution, which is in there at 58 million plus probably another six or seven million for neutralization and so on, has as little chance of working or as great a chance of working as the solutions that are below 20 million.

So how do we find the answer? We sat down and said, well, we think we can at least go and test it, we can go and see if we can cure some of the answers. There are still going to be some other uncertainties, but we can get some of our main uncertainties sorted out. And we set up a program to go out and find as much as these answers as we can. We divided it into a phased approach to developing an abandonment plan.

Phase 1 of four years, being to come up with a first good stab at this abandonment plan. During that period, we would obtain site specific data on acid generation, rates, and contamination migration to enable more reliable impact prediction. That's the modelling, the stuff we are going to rely, to say that this is not [sic] okay, or not okay, in the

long term. We are going to demonstrate the effectiveness of the alternative cover types so that we know whether this works better than this, by how much, and not to be dependent on modelling to make those predictions, because we believe that if we use modelling only, we can be out by certainly five and 10 times, given the current technology.

That takes us into Phase 2, which essentially starts in Year 5 and carries through to the time you finally close out and shut down the mine completely. That is, you implement whatever you can implement as an ongoing process. If you can place covers, you place covers and so on. And you continue your evaluation process. We have no doubt that you will vary your abandonment plan during that period, because technology is going to improve, and our understanding of what happens at Faro is going to improve.

Phase 3 is after the mine closes, you are going to do the last cleaning up and abandonment plan implementation and then we believe you can't escape the last one, and that is long-term monitoring and maintenance. There has to be some continued input into the thing for a very long -- or forever."

### Position of the Intervenors

At the public hearing, with the exception of the Band, whose position is set forth below, none of the Intervenors asked that the licence be cancelled for Curragh's non-compliance.

YCS, in its short submission, acknowledged that many of its concerns had been answered. It supported the concept of a Technical Advisory or Steering Committee (hereinafter "TAC") and was pleased that Curragh had committed to undertake the full program of study being proposed by Dr. Robertson with or without outside funding. YCS did indicate its concern with respect to premature closing.

Fisheries and EPS also acknowledged that many of their concerns had been addressed. They stated that they generally supported the program of study being proposed but were still concerned about the length of time of the extension being sought. They also put forward the objectives they would like a final abandonment plan to meet.

DIAND, in its submission, recognized the need for further study but was not prepared to accept that Curragh needed the amount of time being sought. In response to a question from Curragh, DIAND stated that it was not objecting to the date being proposed, it was merely leaving that issue to the Board's discretion.

DIAND specifically agreed with Curragh that shutting down Curragh's operation for this minor breach would not be in the best interests of the Yukon. Like Fisheries and EPS, DIAND put forward certain principles it would like to see Curragh follow in developing the abandonment plan.

The intervention of the Band, supported by CYI, put forward several alternative positions with respect to this application.

As in the recent Canamax hearing, the first position put forward by the Band is that it holds aboriginal title to the lands on which Curragh has its mine and to the waters which Curragh is licenced to use under its licence. It says that their aboriginal rights are recognized and affirmed by the Canadian Constitution.

For the reasons given in the Canamax decision, the Board is of the view that it has no jurisdiction to decide if the Band has aboriginal title to the lands and waters in question.

As a second position, unlike the other Intervenors, the Band says that the Board should consider cancelling Curragh's licence. As stated by the Band's Counsel:

"With respect to the cancellation issue, our position is that without regard to the economic concerns, if the economic interests were zero, this is a good case for cancellation, given the kind of violation that's gone on and the kind of environmental risks that are associated with the violations."

As its final position, the Band says that if the Board is not persuaded that it should cancel Curragh's licence, it is concerned about the long term environmental security of the area. The Band emphasized that: (a) it was in this area before the mine and will be there after the mine; and (b) that the mine has and continues to affect the lives and welfare of many members of the Band. To ensure environmental security it says the Band should consider increasing the amount of the security deposit. In addition, the Board should levy a penalty against Curragh for its non-compliance.

Again, unlike the other Intervenors, the Band indicated that it was not all that interested in participating on a TAC. However, if the Band received a formal invitation from Curragh it would be considered by the Chief and Band Council.

Prior to the end of the hearing, Curragh acknowledged that certain aspects of the abandonment plan as the same would pertain to stability of the mine site, could be completed and brought back to the

5. Does the Board have jurisdiction to impose a penalty for non compliance of a licence term by withholding part of the security posted under the licence?

Board's Decision

1. Does the Board have authority to compel production of Curragh's financial statements and cash flow projections?

Both Curragh and the Band made submissions on this issue and both agreed that the only basis on which such documents would not be compellable was if Curragh would be entitled to claim privilege with respect to the same.

The Board's powers to compel production of documents arise from provisions in two federal statutes.

Section 16 of the Northern Inland Waters Act ("NIWA") provides that the Board has "in respect of any public hearing . . . all the powers of a commissioner appointed under Part I of the Inquiries Act." The powers of such a commissioner with respect to obtaining the evidence are set out in Sections 4 and 5, which provide:

- "4. The commissioners have the power of summoning before them any witnesses, and of requiring them to give evidence on oath, or on solemn affirmation if they are persons entitled to affirm in civil matters, and orally or in writing, and to produce such documents and things as the commissioners deem requisite to the full investigation of the matters into which they are appointed to examine.
5. The commissioners have the same power to enforce the attendance of witnesses and to compel them to give evidence as is vested in any court of record in civil cases."

Board substantially sooner than September 30, 1991. The scope of such earlier abandonment plan was discussed at the hearing and the possible dates by which it could be prepared and submitted.

In addition, prior to the end of the hearing, it was brought to the Board's attention that the existing licence expires March 24, 1989, over two years in advance of the proposed submission date for the filing of the abandonment plan. Curragh took the position that the Board could extend the term of the existing licence as part of this amendment application, even though such extension had not been sought in the application filed or set forth in the published notices.

#### Issues

Numerous issues were raised by this application or during the course of this hearing. They are, in the order the Board proposes to deal with them, as follows:

1. Does the Board have authority to compel production of Curragh's financial statements and cash flow projections?
2. If the Board has such authority should Curragh be compelled to produce such documents and should they be treated in a confidential manner?
3. Does the Board have jurisdiction to extend the term of the existing licence at this hearing?
4. Should Curragh's licence be cancelled for non compliance or should the amendment being sought be granted and, if so, on what terms?

The Board does not necessarily agree with Curragh's Counsel's submission that these sections bring into play all the common rules of evidence, or, as Curragh's Counsel put it, do not abrogate the same. That issue does not need to be decided in this matter.

Suffice it to say that even if a party to a hearing before this Board is entitled to claim privilege with respect to certain documents, for the reasons that follow, the Board does not feel that Curragh is so entitled with respect to the documents it purported to claim such privilege.

Both parties' counsel directed the Board's attention to Wigmore's four conditions that must be met before a claim for privilege can succeed. They are as follows:

1. The communications must originate in a confidence that they will not be disclosed.
2. This element of confidentiality must be essential to the full and satisfactory maintenance of the relation between the parties.
3. The relation must be one which in the opinion of the community ought to be sedulously fostered.
4. The injury that would inure to the relation by the disclosure of the communications must be greater than the benefit thereby gained for the correct disposal of litigation.

These conditions were approved by the Supreme Court of Canada in Slavutch v. Board of Governors of the University of Alberta (1975), 3 N.R. 587.

The Board also accepts as stated by the Supreme Court of Canada in Solicitor General of Canada v. Royal Commission of Inquiry (1981), 38 N.R. 588 at page 619 (the judgment of Laskin C.J.C. dissenting) that the categories of privilege are not closed.

The issue then becomes whether or not these four tests have been met in this matter. In that respect the onus of showing these tests have been satisfied is on the party claiming the privilege. The Board does not feel that Curragh has satisfied this onus. There is no cogent evidence before the Board as to why the relationship between Curragh and its tax and financial advisers is one "which in the opinion of the community ought to be sedulously fostered." Nor was there any cogent evidence before the Board to satisfy the Board that the fourth condition was met.

The Band's counsel referred the Board to the decision of Madam Justice Wilson, delivering the judgment of the Supreme Court of Canada, in Re Canadian Javelin Ltd.; Sparling et al v. Smallwood (1982), 44 N.R. 571 as authority for the proposition that there is a general duty to testify.

2. If the Board has such authority should Curragh be compelled to produce such documents and should they be treated in a confidential manner?

Although it clearly has the authority to compel production of these documents, the Board in reviewing the transcript and written submissions in this matter has decided that it does not require this information in view of the decision it has made, as detailed below.

3. Does the Board have jurisdiction to extend the term of the existing licence at this hearing?

A similar issue arose as to the Board's jurisdiction in the J & C Holdings Ltd. hearing. In that matter one of the intervenors took the position that the Board had the jurisdiction to cancel J & C's licence at a hearing called to consider an amendment to J & C's licence.

In rejecting that argument the Board said:

"...as indicated by Mr. Justice Addy in The Yukon Conservation Society v. The Yukon Territory Water Board and Cyprus Anvil Mining Corporation, (1982) unreported decision of the Federal Court-Trial Division, at page 12:

'...except as provided for in Section 15 there is a firm statutory duty to hold a public hearing in all cases and there is no discretion in the Board to determine whether or not one should be held.'

In other words, except as provided for in sub-section 15(2), without a public hearing the Board has no jurisdiction to decide a licensing issue.

The term 'public hearing' and the requirement to publish the same surely imply that a member of the public, as well as the licensee or applicant, is entitled to appear at the hearing if he or she so wishes to make submissions and to determine whether or not he or she wishes to so appear to make submissions, is entitled to know the purpose for which the hearing is being held. Is it an application for a new licence? If so, who is applying and with respect to what body of water? Is it an application to amend or renew the existing licence? Or, has the Board got under its consideration the cancellation of a licence? It cannot be presumed that only the licensee is affected by cancellation of a licence any more than it can be presumed that only an applicant is affected by the granting of a licence in the first place. The Act does not permit the Board to make such determination.

Having received notice as to the nature of the hearing by publication in accordance with Section 17, a member of the public if he or she is concerned about the same, can obtain further details from the Water Board's staff as to the licencing matter that is being considered, whether it be an application for a licence or renewal or amendment thereof or a Board instituted hearing to consider the cancellation of a licence. The member of the public may then make an informed decision as to whether he or she wishes to appear and make submissions at the public hearing.

It follows that without proper publication of notice, the Board has no jurisdiction. It cannot consider the cancellation of a licence at a hearing called to deal with an amendment."

That reasoning, in the Board's opinion, is equally applicable here. Curragh's application did not ask for the term of its licence to be extended and, as a result, the published notices did not, nor could have, put the public on notice that such would be sought. Accordingly, the Board has no jurisdiction at this hearing to extend the term of Curragh's licence.

4. Should Curragh's licence be cancelled for non compliance or should the amendment being sought be granted and, if so, on what terms?

Curragh has not lived up to its obligations under the terms of its licence. It made commitments that it has not kept.

Nor was Curragh diligent in striving to meet the date it had requested. The emergency amendment was granted in October 1985 yet Curragh did not hire people to work on the abandonment plan until April 1986, approximately six months later.

Now Curragh is saying "trust us". We will live up to the commitments placed on us by this amendment. For the foregoing reasons it is hard to "trust" Curragh.

All parties at the hearing agreed that serious environmental harm could occur if a proper abandonment plan is not implemented.

Under NIWA, the Board is required "to provide for the conservation, development and utilization of the water resources of the Yukon Territory ... in a manner that will provide the optimum benefit therefrom for all Canadians and for the residents of the Yukon Territory in particular. As such, the Board often has to weigh various alternatives.

The Band was right when it said that the Board is in a very difficult position in this application. All the foregoing factors weigh in favour of cancelling Curragh's licence. On the other side, considerable economic benefits accrue to Canadians generally and Yukoners in particular from the operation of the mine. Economically, it is in the best interests of the people of the Yukon that the mine remain open. However, at what cost?

It was acknowledged by all parties that a serious long term problem already exists. It was created, in the most part, during the time Cyprus Anvil operated the mine. The issues thus became: (1) how to best ensure that the existing long term problems are alleviated or minimized? and (2) should Curragh be allowed to continue to mine and thus add to the long term problems?

At some point the economic benefits (the utilization of the resource) must be outweighed by legitimate environmental concerns (the conservation of the resource).

At this time, the Board feels, on the basis of the evidence presented, that the best chance of providing for the long term stability of the mine and for long term environmental security of the area is to allow the mine to continue to operate. If the mine was shut down at this time, it is likely that the taxpayers of the Yukon Territory or Canada would have to pay to put into place the necessary abandonment procedures.

Also, the Board accepts Dr. Robertson's statement that there needs to be more studies done and data collected before an intelligent choice can be made as to the proper means to be used. In addition, the Board has taken into account Dr. Robertson's assurances that the main long term environmental concern, acid-generation, is not presently a problem and will not likely be a problem for many years. In other words, there is time to do proper studies.

However, the Board is not satisfied that Curragh should have until September 30, 1991 to file an abandonment plan as to aspects other than acid-generation. Certain aspects of the overall plan can and should be prepared and submitted to the Board for approval, through the public hearing process, substantially sooner than that date.

For the foregoing reasons the Board has decided to allow the application in part. The licence will be amended as provided for in the Appendix "B" to these Reasons for Decision.

On the last day of the hearing, Curragh indicated that since March 12, 1987 it had entered into an agreement with Government of Canada which, among other things, put in place a trustee environmental fund. The exact terms of this fund were not discussed. In the amendment, the Board

requires Curragh to provide details of this fund as part of its amendment application that is to be filed no later than March 31, 1988. At this time the terms and adequacy of this fund can be reviewed by the Board, through the public hearing process.

5. Does the Board have jurisdiction to impose a penalty for non compliance of a licence term by withholding part of the security posted under the licence?

This was the first time this issue has been argued before the Board and the Board thanks counsel for Curragh and the Band for their submissions.

However, it is not necessary to decide this issue at this time as the Board has decided that even assuming it has such jurisdiction it is not prepared, in the circumstances, to impose, in effect, a penalty for Curragh's non compliance by withholding part of the security posted under the licence.

In the Board's view, the time requirement placed on Curragh by this amendment to file a further amendment with respect to the matters specified therein by March 31, 1988 coupled with the fact that this licence expires March 24, 1989 are sufficient incentives to ensure Curragh meets the terms of this amendment.

Part D, Section 4 be replaced by:

4. (a) The Licensee shall make application under the provisions of the Act no later than March 31, 1988, for an amendment to this licence to:
  - i) provide details of the proposed abandonment plan for the Faro pit and area;
  - ii) provide conceptual plans to stabilize the physical aspects of the Rose Creek diversion ditch and the tailings in the event of a temporary closure;
  - iii) provide conceptual plans to stabilize the North Valley Wall interceptor ditch in the event of a temporary closure.
- (b) The Licensee shall provide details for an abandonment plan for the Vangorda and Grum pits and the other Faro mine facilities as part of their licence renewal application.

Each proposal listed in Part D, Section 4(a) and (b) should specify the method of stabilization or modification which will be employed upon final abandonment and include a cost estimate of the measure.

Part D, Section 6 be replaced by:

6. (a) The Licensee shall immediately begin the four-year program of investigations outlined as Phase I of report "60602, Faro Mine Tailings Abandonment Plan Development Program" prepared by Steffen, Robertson and Kirsten (B.C.) Inc. This program shall be supervised by a professional engineer.
- (b) The Licensee shall provide to the Board a progress report on this plan every six months.
- (c) The Licensee shall provide to the Board as part of their licence renewal application a comprehensive progress report on this plan including detailed and complete supporting documentation.

The following be added as Part D, Section 8:

8. There is a Truusted Environmental Fund as part of an agreement between Curragh Resources and the Government of Canada. The Licensee shall provide details of this fund as part of the application required in Part D, Section 4(a) of this amendment.

## APPENDIX "A"

LICENCE CHRONOLOGY

<u>Application Date</u>	<u>Application #</u>	<u>Licence #</u>	<u>Description</u>	<u>Comments</u>
March 24, 1982	Y2L3-2226	Y2L3-2226	Amendment of Water Licence Y2L3-2098 in favour of Cyprus Anvil Mining Corporation Ltd. ("Cyprus Anvil"). New licence number created.	Expiry March 24, 1989.
October 4, 1985	IN85-05A	YIN85-05AL	Amendment of Water Licence Y2L3-2226. New licence number created.	Granted immediately before Emergency Amendment.
October 4, 1985	IN85-07A	YIN85-05AL	Emergency Amendment of Water Licence YIN85-05AL.	
October 18, 1985 (Signed by Board)	---	YIN85-05AL	Assignment of Water Licence from Cyprus Anvil to Curragh Resources Corporation ("CRC").	Inadvertently refers to licence number as being YIN85-07LE (clerical error). Effective date of assignment: December 15/85.
July 30, 1986 (Signed by Board)	---	YIN85-05AL	Assignment of Water Licence from CRC to Curragh Resources ("CR").	
August 6, 1986	YIN85-05AL-A1	YIN85-05AL	Amendment of Licence.	Resulted from application filed originally under IN84-08A
February 5, 1987	YIN86-03A	YIN85-05AL	Amendment of Licence.	

YUKON TERRITORY WATER BOARD

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4114 Fourth Avenue

Whitehorse, Yukon

Y1A 4N7

Phone (403) 668-4884

June 10, 1987

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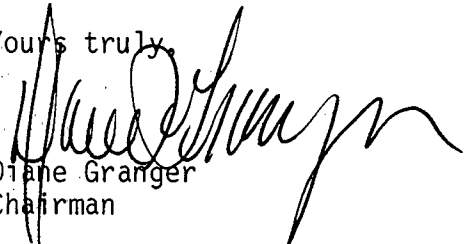
Curragh Resources  
117 Industrial Road  
Whitehorse, Yukon  
Y1A 2T8

SUBJECT: Amendment of Water Use Licence Y-IN85-05A

The Yukon Territory Water Board is please to enclose the amendment to your water use licence.

The Reasons for Decision document has not yet been finalized. You will receive a copy as soon as it is available.

Yours truly,



Diane Granger  
Chairman

/las

Encl.

Yukon Territory Water Board

Amendment of Licence

Licensee: Curragh Resources

Licence No: Y-IN85-05A

Location: Rose Creek, a tributary of the Pelly River, near Faro, Yukon

Expiry Date: March 24, 1989

Pursuant to Section 12(b) of the Northern Inland Waters Act, the licence is hereby amended as follows:

Part D, Section 4 be replaced by:

4. (a) The Licensee shall make application under the provisions of the Act no later than March 31, 1988, for an amendment to this licence to:
- i) provide details of the proposed abandonment plan for the Faro pit and area;
  - ii) provide conceptual plans to stabilize the physical aspects of the Rose Creek diversion ditch and the tailings in the event of a temporary closure;
  - iii) provide conceptual plans to stabilize the North Valley Wall interceptor ditch in the event of a temporary closure.
- (b) The Licensee shall provide details for an abandonment plan for the Vangorda and Grum pits and the other Faro mine facilities as part of their licence renewal application.

Each proposal listed in Part D, Section 4(a) and (b) should specify the method of stabilization or modification which will be employed upon final abandonment and include a cost estimate of the measure.

Part D, Section 6 be replaced by:

6. (a) The Licensee shall immediately begin the four-year program of investigations outlined as Phase I of report "60602, Faro Mine Tailings Abandonment Plan Development Program" prepared by Steffen, Robertson and Kirsten (B.C.) Inc. This program shall be supervised by a professional engineer.
- (b) The Licensee shall provide to the Board a progress report on this plan every six months.
- (c) The Licensee shall provide to the Board as part of their licence renewal application a comprehensive progress report on this plan including detailed and complete supporting documentation.

The following be added as Part D, Section 8:

8. There is a Trusteed Environmental Fund as part of an agreement between Curragh Resources and the Government of Canada. The Licensee shall provide details of this fund as part of the application required in Part D, Section 4(a) of this amendment.

DATED this 30 day of  
April, 1987

Marilyn Buntell  
Witness

DATED this 25th day of  
May, 1987

Jeanne Desrochers  
Witness

YUKON TERRITORY WATER BOARD

[Signature]  
Diane Granger, Chairman

Approved by:

[Signature]  
Minister of Indian and  
Northern Affairs



Indian and Northern Affairs    Affaires indiennes et du Nord

**WATER LICENCE**

issued pursuant to  
Northern Inland Waters Act and Regulations

Curragh Resources  
(Licensee)

Licence Number Y-IN85-05A issued on May 25, 1987 1987  
(Amendment)

Location Rose Creek, a tributary of the Pelly River near Faro, Yukon

