

April 16, 2019



Dear :

Re: Your request for access to information under Part II of the *Access to Information and Protection of Privacy Act* (File # NR-54-2019)

On April 4, 2019, the Department of Natural Resources received your request for access to the following records/information:

February 2019 decision/direction note titled Tata Steel Minerals Canada's Financial Assurance.

I am pleased to inform you that a decision has been made by the Department of Natural Resources, confirmed by the Deputy Minister, to provide access to the requested records. The records are attached.

We are providing access to the most information possible but have made redactions in accordance with Sections 29(1)(a), 30(1)(a), 35(1)(d), 35(1)(f) and 35(1)(g) of *ATIPPA, 2015* as follows:

29. (1)(a) The head of a public body may refuse to disclose to an applicant information that would reveal advice, proposals, recommendations, analyses or policy options developed by or for a public body or minister;

30. (1)(a) The head of a public body may refuse to disclose to an applicant information that is subject to solicitor and client privilege or litigation privilege of a public body;

35. (1)(d) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to result in the premature disclosure of a proposal or project or in significant loss or gain to a third party;

35. (1)(f) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose positions, plans, procedures, criteria or instructions developed for the purpose of contractual or other negotiations by or on behalf of the government of the province or a public body, or considerations which relate to those negotiations;

35. (1)(g) The head of a public body may refuse to disclose to an applicant information which could reasonably be expected to disclose information, the disclosure of which could reasonably be expected to prejudice the financial or economic interest of the government of the province or a public body.

Please be advised that you may ask the Information and Privacy Commissioner to review the processing of your access request, as set out in section 42 of the *Access to Information and Protection of Privacy Act* (the *Act*). A request to the Commissioner must be made in writing within 15 business days of the date of this letter or within a longer period that may be allowed by the Commissioner.

The address and contact information of the Information and Privacy Commissioner is as follows:

Office of the Information and Privacy Commissioner
2 Canada Drive
P. O. Box 13004, Stn. A
St. John's, NL. A1B 3V8
Telephone: (709) 729-6309
Toll-Free: 1-877-729-6309
Facsimile: (709) 729-6500

You may also appeal directly to the Supreme Court Trial Division within 15 business days after you receive the decision of the public body, pursuant to section 52 of the *Act*.

Please be advised that this letter will be published following a 72 hour period after it is sent electronically to you or five business days in the case where records are mailed to you. It is the goal to have the letter posted to the Office of Public Engagement's website within one business day following the applicable period of time.

If you have any questions, please feel free to contact me at 709-729-0463 or rhynes@gov.nl.ca.

Sincerely,



Rod Hynes
ATIPP Coordinator

Decision/Direction Note
Department of Natural Resources

Title: Tata Steel Minerals Canada's Financial Assurance

Decision / Direction Required:

s.35.1.d

- It is recommended that the Deputy Minister accept the seven Amendments issued by [REDACTED] amending their corresponding Standby Letters of Credit (LOC) to extend their expiry dates by three years from their currently stated expiry date.

Background and Current Status:

- Tata Steel Minerals Canada (TSMC) is an iron ore miner operating in the Menihek region of Newfoundland and Labrador and the province of Quebec. They are a joint venture between Tata Steel of India (77.68%), Ressources Quebec (18%), and New Millennium Iron Corp. (4.32%).

- TSMC currently has posted financial assurance in the form of seven (7) LOCs issued by [REDACTED] as follows:

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LOC No	LOC Amount	Original Expiry Date	Amended Expiry Date
[REDACTED]	[REDACTED]	Nov. 10, 2019	Nov. 10, 2022
[REDACTED]	[REDACTED]	Oct. 30, 2019	Oct. 30, 2022
[REDACTED]	[REDACTED]	Oct. 21, 2019	Oct. 21, 2022
[REDACTED]	[REDACTED]	Aug. 29, 2019	Aug. 29, 2022
[REDACTED]	[REDACTED]	June 30, 2019	June 30, 2022
[REDACTED]	[REDACTED]	May 22, 2019	May 22, 2022
[REDACTED]	[REDACTED]	April 28, 2019	April 28, 2022
Total	\$12,339,779.00		

s.35.1.d

- Each of the above listed LOCs contains an "evergreen" clause which automatically renews the LOC on its expiry date unless [REDACTED] informs the Minister of Natural Resources of their intent to not extend the LOC. Automatic renewal is a standard requirement of NR intended to mitigate the risk of managing the financial assurance that is place and monitoring the expiry dates of LOCs.
- TSMC has informed NR that it can no longer provide LOCs with automatic renewal clauses. A compromised was reached where TSMC committed to a 3 year rolling expiry date. TSMC has committed to each year extending the expiry date of the LOCs by another year.
- Currently all of their LOCs have expiry dates in 2019.
- [REDACTED] has issued an Amendment to each of the above listed LOCs extending the LOC's expiry date to 2022 as per the above Table and removing the automatic renewal provision for each LOC. In 2020, TSMC has committed to extending the expiry dates to 2023. This will continue going forward.
- [REDACTED] has issued a Notice of Non Extension for their LOC [REDACTED] effective April 28, 2019.
- [REDACTED] has issued a Notice of Non Extension for their LOC [REDACTED] effective May 22, 2019.

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- By email to Mineral Development staff dated February 19, 2019, [REDACTED] has confirmed that they will "...rescind our notices of non-renewal for both files...upon receipt of your consent to our amendment no [REDACTED] for [REDACTED] ...and our amendment no [REDACTED] for [REDACTED]

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Analysis:

- The total value of financial assurance covered by these LOCs is \$12,339,779.00.

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- [REDACTED] has issued Notices of Non Extension to LOCs totaling \$7,076,455.00.

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- [REDACTED]

s.35.1.g

- A three year rolling renewal date mitigates the risk of managing the expiry dates of the LOCs. If the LOCs are not renewed in any given year, NR will have 2 years in which to engage with TSMC to address the issue before having to call on the LOC.

- [REDACTED]

s.29.1.a

s.35.1.d

s.35.1.g

- [REDACTED]

s.29.1.a

s.30.1.a.

s.35.1.d

s.35.1.f

s.35.1.g

- The Deputy Minister typically deals with issues related to the acceptability of forms of financial assurance.
- This has been reviewed by the Departmental Solicitor.

Prepared/Approved by: D. Tite / A. Smith / P. Canning
Deputy Minister Approval:



February 22, 2019