
**COOPERATION AGREEMENT
RESPECTING THE GIANT MINE
REMEDIAION PROJECT**

Made as of March 15, 2005

Between

**HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY
THE MINISTER OF INDIAN AFFAIRS AND NORTHERN DEVELOPMENT**
(herein referred to as "Canada")

And

**THE GOVERNMENT OF THE NORTHWEST TERRITORIES AS REPRESENTED BY
THE MINISTER OF RESOURCES, WILDLIFE AND ECONOMIC DEVELOPMENT**
(herein referred to as "GNWT")

PREAMBLE

WHEREAS Canada and GNWT recognize in principle that past and present mine operators are responsible for all aspects of care and maintenance and remediation of mine sites operated by them;

AND WHEREAS it is anticipated that the Giant Mine will become an orphaned site;

AND WHEREAS Canada and GNWT recognize that the remediation of the Site is a priority for the public;

AND WHEREAS Canada and GNWT wish to proceed with the care and maintenance and remediation of the Site following the site becoming an orphaned mine site;

AND WHEREAS Canada and GNWT have different legislative and administrative responsibilities for the Giant Mine site;

AND WHEREAS Canada and GNWT intend to work together to ensure that the Site is managed to protect human health, safety and the environment;

AND WHEREAS Canada and GNWT have agreed to cooperate and coordinate actions to achieve the cost-effective and timely remediation of the Site;

NOW THEREFORE in consideration of the mutual agreements and covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties hereto, Canada and GNWT agree as follows:

ARTICLE I – INTERPRETATION

1.1 Definitions

For purposes of this Agreement, the following definitions shall have the meanings ascribed to them below:

"Agreement" means this agreement and all schedules, if any, attached to this agreement, in each case as they may be supplemented, amended, restated or otherwise modified from time to time, and the expressions "hereof", "herein", "hereto", "hereunder", "hereby" and similar expressions refer to this agreement, and unless otherwise indicated, references to Articles and sections are to the specified Articles and sections in this agreement;

"Approved Remediation Plan" means the remediation plan for the Site which ultimately receives all necessary regulatory approvals and final government decisions to finance and proceed with the remediation of the Site.

"City" means the City of Yellowknife.

"**Draft Remediation Plan**" means the Giant Mine Remediation Plan Draft Report dated January, 2005 prepared for Canada by SRK Consulting Inc. and SENES Consultants Limited that has been peer reviewed.

"**Giant Mine Remediation Project**" means the implementation of a care and maintenance plan and the Approved Remediation Plan and all ancillary activities related thereto including environmental assessment and regulatory activities.

"**Interim Office**" has the meaning ascribed to it in Section 8.2(a).

"**Oversight Committee**" has the meaning ascribed to it in Section 8.1(a).

"**Person**" means any individual, partnership, limited partnership, joint venture, syndicate, sole proprietorship, company or corporation with or without share capital, unincorporated association, trust, trustee, executor, administrator or other legal personal representative, regulatory body or agency, government or governmental agency, authority or entity however designated or constituted;

"**Project Management Costs**" shall mean direct costs incurred properly and reasonably by the GNWT for services and goods that are necessary for the completion of work approved under this Agreement for the care and maintenance plan or Approved Remediation Plan. For purposes of this definition, services may include surveying, engineering, supervision, testing and management services. Project Management Costs will not include GNWT employee wages and benefits or overhead costs and administrative costs incurred by the GNWT delivered directly by permanent employees of the GNWT or a corporation owned and controlled by the GNWT.

"**Site**" means the Giant Mine Site as described in the Draft Remediation Plan.

1.2 Extended Meanings

Words importing the singular number include the plural and vice versa; words importing gender include the masculine, feminine and neuter genders.

1.3 References

References to an article, section, subsection, paragraph or schedule shall be construed as references to an article, section, subsection, paragraph or schedule to this Agreement unless the context otherwise requires.

1.4 Headings

The division of this Agreement into articles and subsections and the insertion of headings are for convenience of reference only and shall not alter the construction or interpretation of this Agreement.

ARTICLE II – SCOPE OF APPLICATION

- 2.1 This Agreement shall apply exclusively to the joint management by the parties of the care and maintenance plan for the Site and the remediation of the Site, based on the Draft Remediation Plan and, subject to the terms hereof, the Approved Remediation Plan.

ARTICLE III – PURPOSE OF AGREEMENT AND PARTIES' GOALS

- 3.1 The purpose of this Agreement is to create an agreement between Canada and GNWT to cooperate and coordinate the care and maintenance of the Site and the implementation of the Approved Remediation Plan.
- 3.2 The parties agree to coordinate activities related to the Giant Mine Remediation Project based on the following key goals:
- (a) Finalize and implement an effective care and maintenance plan;
 - (b) Finalize and implement a remediation plan for the Site that is cost effective;
 - (c) Protect human health, public safety, and the environment;
 - (d) Maximize territorial economic opportunities; and
 - (e) Cooperate in the spirit of smart regulations, which is to achieve a timely, efficient and cost effective process based on accountability and performance.

ARTICLE IV – LIMITATIONS

- 4.1 To the extent of any conflict between the terms of this Agreement and any devolution agreement, this Agreement shall prevail.
- 4.2 This Agreement does not transfer jurisdictional responsibilities or liabilities that each party otherwise may have with respect to the Site.
- 4.3 This Agreement covers the Giant Mine Remediation Project only and is not intended in any way to establish a precedent for any other mine site on Commissioner's land.

ARTICLE V – CARE AND MAINTENANCE PLAN

- 5.1 The parties agree to implement a care and maintenance plan for the Site that comprises activities to protect human health, public safety and the environment. The key components of such plan are to:
- (a) Maintain the Site in compliance with all applicable environmental laws and regulations;
 - (b) Maintain security at the Site;
 - (c) Manage the facilities at the Site;
 - (d) Manage water at the Site;
 - (e) Treat effluent at the Site; and
 - (f) Conduct site monitoring activities.

ARTICLE VI – REMEDIATION PLAN

- 6.1 The parties agree to develop, review and finalize an integrated (surface and underground) remediation plan based on the Draft Remediation Plan that addresses the underground and surface remediation at the Site and which includes the following objectives:
- (a) To manage the underground arsenic trioxide dust;
 - (b) To remediate the surface of the Site to the industrial standards set out in the Environmental Guideline for the Remediation of Contaminated Sites adopted pursuant to the *Environmental Protection Act*, R.S.N.W.T., 1988, c.E-7 in effect at the date of the Approved Remediation Plan, recognizing that portions of the Site will necessitate land use restrictions;
 - (c) To minimize public health and safety risks associated with buildings, mine openings and other physical hazards at the Site; and
 - (d) To minimize the release of contaminants from the Site to the surrounding environment.
- 6.2 The parties agree that:
- (a) The Approved Remediation Plan will include surface and subsurface components;
 - (b) in situ underground freezing of arsenic trioxide dust is the preferred option for addressing the arsenic trioxide dust located at the Site; and
 - (c) they shall cooperate with each other in all aspects of environmental assessment proceedings and regulatory filings in obtaining the Approved Remediation Plan.

- 6.3 For greater certainty, the parties recognize that, while land uses for portions of the Site may broaden beyond the intended industrial use expressly contemplated by the Approved Remediation Plan, this Agreement does not render either party responsible for such costs.

ARTICLE VII – ENVIRONMENTAL ASSESSMENT AND REGULATORY ACTIVITIES

- 7.1 As co-proponents, in accordance with their respective jurisdictions, both parties agree to coordinate the environmental assessment and regulatory applications to establish the Approved Remediation Plan.
- 7.2 The coordination of remediation activities does not reduce the parties' obligation to comply with all applicable regulatory laws and permitting requirements, nor does it fetter any future decision-making responsibilities that a Minister may have in implementing this Agreement pursuant to subsequent regulatory applications.

ARTICLE VIII – ADMINISTRATION

8.1 Oversight Committee

- (a) The parties agree to jointly establish an oversight committee reporting to the Minister (or designate) of each respective government (the "Oversight Committee"). The Oversight Committee shall have equal federal and territorial representation.
- (b) The administrative structure of the Oversight Committee, whose decisions shall be made by consensus, is to be determined by the parties.
- (c) The Oversight Committee shall be a forum for the parties to co-operate on the administration of this Agreement and shall not perform management functions, rather it shall specifically:
- (i) provide general direction and guidance to the Interim Office;
 - (ii) develop options and recommendations for a project implementation office to implement the Approved Remediation Plan if the parties agree to establish such an office; and
 - (iii) provide general direction and guidance to the project implementation office if established.

8.2 Interim Office

- (a) The parties agree to establish an interim office under the management of Canada and under the general direction and guidance of the Oversight Committee (the "Interim Office") that will be responsible for:

- (i) finalizing an integrated (surface and underground) remediation plan for the Site based on the Draft Remediation Plan, suitable for filing with regulatory agencies;
- (ii) formulation of a single intergovernmental regulatory application for approval of a remediation plan for the Site and participate together in regulatory and environmental assessment processes with respect thereto;
- (iii) ensuring that care and maintenance activities are undertaken in accordance with the terms of contracts entered into for such purposes;
- (iv) monitoring remediation activities at the Site;
- (v) preparing plans for emergency response activities due to the occurrence of any extraordinary events that may occur at the Site; and
- (vi) addressing any other matter that may arise in carrying out the terms of this Agreement.

8.3 Project Implementation Management Structure

The parties may agree in the future to establish a project implementation office and management structure for the purpose of implementing the Approved Remediation Plan under the general direction and guidance of the Oversight Committee.

ARTICLE IX – INFORMATION SHARING

9.1

- (a) The parties agree to share information and records specific to the Giant Mine Remediation Project to the fullest extent possible within their discretion under the relevant access to information laws, subject only to the express exclusions under those legislative provisions.
- (b) Canada shall share information on alternative approaches to underground arsenic trioxide dust management options that may become viable in the future as a result of new technologies with respect to improving or modifying the frozen block alternative.

ARTICLE X – FINANCIAL RESPONSIBILITIES

10.1

- (a) In consideration of the roles and responsibilities identified in this Agreement, and on the basis of the Draft Remediation Plan the parties agree that the financial contribution of the GNWT shall not exceed \$23M, to be applied towards cost sharing with respect to a care and maintenance plan for the Site and the remediation of the surface only in accordance with the Approved Remediation Plan.

- (b) In consideration of the roles and responsibilities for the co-management and remediation of the Site pursuant to this Agreement, Canada acknowledges long-term responsibility for the arsenic trioxide dust stored underground at the Site.
- (c) Of the \$23M to be paid by the GNWT, the GNWT shall pay the initial amount of \$1M per year for the first three years of this Agreement.
- (d) Unless otherwise agreed by the parties hereto and subject to the parties agreeing to implement the Approved Remediation Plan and Section 17.8 of this Agreement, the balance of \$20M will be contributed by GNWT as follows:

Year 4----\$6.0M

Year 5----\$4.0M

Year 6----\$2.0M

Year 7----\$2.0M

Year 8----\$2.0M

Year 9----\$2.0M

Year 10--\$2.0M

- (e) If not expended, the GNWT yearly contribution amounts will accrue and carry over to the next annual period;
- (f) It is agreed that signing this Agreement will not result in higher costs for the management and remediation of Giant Mine than would have been incurred had this Agreement not been signed;
- (g) The parties will be responsible for their own personnel and internal costs otherwise related to their involvement in the environmental assessment and regulatory approvals process;
- (h) GNWT agrees to provide to Canada, through the appropriate tenure instrument, unrestricted surface access to and occupancy of the Site as well as use of borrow materials located on the Site, subject to the rights of the City under its lease with GNWT, all of which being free of any charge to Canada;
- (i) With the prior agreement of the Oversight Committee, the GNWT may obtain against its financial contribution required under this section, credit for work done in connection with the Giant Mine Remediation Project, including Project Management Costs and any utilities (electricity, heat and propane) costs.

- (j) In addition to the financial contribution required under this section and for the purpose of reducing costs, GNWT will use its best efforts to contribute, at no cost and without financial credit, a variety of in-kind services including but not limited to regulatory application preparation, land management, project management, monitoring, technical activities, and the secondment of staff.
- (k) Canada has the unrestricted right to use, sell and retain the proceeds, or dispose of any buildings, fixtures, chattels or other assets wherever situated on the Site, free of charge or cost to Canada, and whether or not such property located on the lands leased by the GNWT to the City, subject only to such agreements as are necessary with the City in respect of the lease between the GNWT and the City.
- (l) Each party shall share interim office costs. The GNWT portion of the Interim Office costs is \$250,000 per year which may include the costs of two full time GNWT employee positions, the choice of which is for the Oversight Committee to determine.
- (m) For greater certainty, neither party is responsible for costs relating to any environmental or site management liability that has resulted from the actions of Miramar Giant Mine Limited.

ARTICLE XI – COMMUNICATIONS

- 11.1** Forthwith following the signing of this Agreement, the parties agree to establish and implement a protocol for communications on all aspects of the Giant Mine Remediation Project. Within this protocol, the parties shall work together to share information with the public in order to promote understanding of the remediation process.

ARTICLE XII – CITY OF YELLOWKNIFE

- 12.1** The parties agree to work cooperatively to:
- (a) discuss with the City any care and maintenance and remediation activities that may take place on lands located at the Site of which the City is the lessee;
 - (b) discuss with the City access to municipal services for the purpose of carrying out the Giant Mine Remediation Project; and
 - (c) inform the City of the care and maintenance and remediation activities occurring at the Site.

ARTICLE XIII – FIRST NATIONS

- 13.1 The parties agree to work cooperatively to inform the First Nation communities of Ndilo and Dettah of the care and maintenance and remediation activities occurring at the Site.

ARTICLE XIV – DISPUTE RESOLUTION

- 14.1 In the event of a dispute between the parties arising out of this Agreement the parties agree to explore resolution through negotiation or other appropriate dispute resolution procedures before resorting to litigation.

ARTICLE XV – ECONOMIC DEVELOPMENT

- 15.1 Both parties agree to maximize northern economic development opportunities in carrying out the Giant Mine Remediation Project, subject to the policies and legislation of each government.

ARTICLE XVI – DESIGNATED CONTACTS AND CORRESPONDENCE

- 16.1 GNWT designates the Deputy Minister RWED, or successor, as its contact person under the agreement. Canada designates its Associate Regional Director General as its contact person under this agreement.
- 16.2 (a) All correspondence to GNWT concerning this Agreement shall be sent to:

**Deputy Minister
Resources, Wildlife and Economic Development
Government of the Northwest Territories
Scotia Centre, 6th Floor
P.O. Box 1320
Yellowknife, NT X1A 2L9**

- (b) All correspondence to Canada concerning this Agreement shall be sent to:

**Associate Regional Director General
Department of Indian and Northern Affairs Canada
Northwest Territories Region
P.O. Box 1500
Yellowknife, NT X1A 2R3**

ARTICLE XVII – GENERAL PROVISIONS

17.1 Severability

Any provision of this Agreement which is or becomes prohibited or unenforceable in any jurisdiction shall not invalidate or impair the remaining provisions hereof which shall be deemed severable from any such prohibited or unenforceable provision and any such prohibition or unenforceability in any jurisdiction shall not invalidate or render unenforceable such provision in any other jurisdiction.

17.2 Entire Agreement

This Agreement constitutes the entire agreement between the parties with respect to the Giant Mine Remediation Project and supersedes all previous relevant negotiations, communications and other agreements, whether written or oral, between the parties.

17.3 Modifications

No changes, additions, modifications, or amendments of this Agreement shall be effective unless they are set out in writing and signed by both parties.

17.4 Time of Essence

Time shall be of the essence in all respects of this Agreement.

17.5 Force Majeure

In the event that either party is prevented from complying in a timely manner with any time limit posed in this Agreement solely because of a strike, fire, flood, act of God, or other circumstances beyond its control and which by the exercise of all reasonable diligence, is unable to prevent, then either party may request an extension of time or seek other modifications to the Agreement from the other.

17.6 Members of House of Commons Not to Benefit

As required by the *Parliament of Canada Act*, it is an express condition of this Agreement that no member of the House of Commons shall be admitted to any share or part of this Agreement or to any benefit arising therefrom.

17.7 Not a Partnership or Joint Venture

Nothing contained in this Agreement shall be deemed to constitute the parties or any of them partners, joint venturers or principal and agent.

17.8 Financial Administration Act (Northwest Territories)

In compliance with Section 46 of the Northwest Territories *Financial Administration Act* it is a statutory condition of this Agreement that an expenditure pursuant to the Agreement will be incurred only if there is a sufficient uncommitted balance in the appropriated item for the fiscal year in which the expenditure is required under this Agreement.

17.9 Financial Administration Act (Canada)

In compliance with Section 40 of the *Financial Administration Act* (Canada), it is a statutory condition of this Agreement that payments by Canada under this Agreement are subject to there being appropriation for the particular service for the fiscal year in which any commitment under this Agreement would come in the course of payment.

17.10 Further Assurances

The parties undertake to provide and enter into such further and other documents or agreements as may be necessary to give effect to the terms of this Agreement.

17.11 Governing Law

This Agreement is governed by and is to be construed in accordance with the laws of the Northwest Territories and the laws of Canada applicable therein.

ARTICLE XVIII – TERM OF AGREEMENT

18.1 This Agreement shall be reviewed on its third anniversary date in the event that there is not yet an Approved Remediation Plan that the parties have both agreed to proceed to implement. In which case, unless both parties, acting reasonably, after having engaged in discussions and given due consideration to the matter, expect that there will be an Approved Remediation Plan that both parties will be prepared to proceed with imminently, either party may terminate this Agreement at such time upon 90 days written notice to the other party.

18.2 This Agreement shall come into force when duly signed and dated by each of the parties and shall remain in force for ten (10) years, unless terminated by the written agreement of both parties. On the written agreement of both parties, it may be renewed for a further period of time.

ARTICLE XIX – SIGNATURES

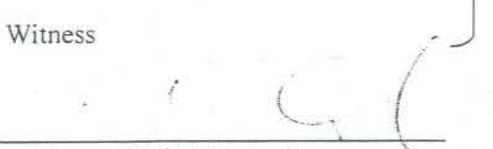
In Witness whereof the parties hereto have executed this Agreement as of the date hereinabove provided.

Witness

Minister of State (Northern Development)

HER MAJESTY THE QUEEN IN RIGHT OF CANADA, as represented by the Minister of Indian Affairs and Northern Development



Witness

Minister of Municipal and Community Affairs

GOVERNMENT OF THE NORTHWEST TERRITORIES, as represented by the Minister of Resources, Wildlife and Economic Development

