



MR CHRIS NATT MLA

MINISTER FOR MINES AND ENERGY

**COPY**

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Mr Brian Hearne  
McArthur River Mining Pty Ltd  
PO Box 36821  
WINNELLIE NT 0821

  
Dear Mr Hearne

Pursuant to Section 38(2) of the *Mining Management Act*, I wish to advise that the conditions of Authorisation 0059 for MLN1121, MLN1122, MLN1123, MLN1124, MLN1125, MLN1126 and MLN582 has been varied.

In particular, your Authorisation has been varied to include the suggestion from the Environment Protection Agency's review of the proposed open cut operation that an independent organisation be appointed to monitor the environmental regulation of the mining activity.

The Authorisation has also been changed to reflect the current level of security of \$55 500 000 for rehabilitation liability outlined in your Mining Management Plan for October 2006 to October 2007.

A copy of the Authorisation is attached for your records.

Yours sincerely



CHRIS NATT

13 OCT 2006



Northern Territory Government

ORIGINAL

NORTHERN TERRITORY OF AUSTRALIA

*Mining Management Act*

AUTHORISATION NUMBER 0059-02

(VARIATION TO AUTHORISATION NUMBER 0059-01)

TO: McArthur River Mining Pty Ltd  
34a Bishop Street  
Stuart Park NT 0820

I, CHRISTOPHER WILLIAM NATT, the Minister for Mines and Energy, under section 38(2) of the *Mining Management Act* and having regard to the matters mentioned to in section 34 of the Act, vary the Authorisation (Number 0059-01) granted to you to carry out mining activities by:

- (a) omitting from paragraph (c) "the Schedule" and substituting "Schedules 1 and 2"; and
- (b) omitting the Schedule to that Authorisation and substituting Schedules 1 and 2 in the Schedule to this instrument.

Dated 13 October 2006.

Minister for Mines and Energy

  
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**SCHEDULE**

**SCHEDULE 1**

**CONDITIONS OF AUTHORISATION NO 0059-02**

**(Variation of Authorisation No. 0059-01)**

1. McArthur River Mining Pty Ltd ("the Operator") must comply with the activities and commitments contained in the current Mining Management Plan in respect of the McArthur River Mine ("Mining Management Plan") as accepted by the Minister.
2. For section 41(1) of the Act and subject to clause 3, the Operator must review and amend (if necessary) the Mining Management Plan, and submit an amended Mining Management Plan, at intervals not exceeding 12 months after the acceptance of a previous amended Mining Management Plan.
3. If at any time the Operator proposes to make significant changes to the mining activities or management system on the mining site, the Operator must review and amend the Mining Management Plan and submit the amended Mining Management Plan for acceptance by the Minister.
4. For section 43 of the Act the Operator must, not later than 30 days after the date of this variation to the Authorisation, provide a security in the amount of \$55,500,000 in the form of an unconditional bank guarantee or cash.
5. The security provided under clause 4 will be reassessed, and may be revised, following each submission of an amended Mining Management Plan for acceptance by the Minister. The Operator must provide the revised security, in the form and amount and on the terms as required by the Minister by written notice.

6. The security referred to in clauses 4 and 5 is to be provided to the Director, Mines Division, Department of Business, Industry and Resource Development, Darwin, NT.

This Authorisation (as varied) is to be read in conjunction with the *Mining Management Act* and Mining Management Regulations.

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## **SCHEDULE 2**

### **INDEPENDENT MONITORING ASSESSMENT CONDITIONS**

#### **1. CITATION**

These conditions may be cited as the "McArthur River Mine – Independent Monitoring Assessment Conditions".

#### **2. DEFINITIONS**

"Community" means the community of Borroloola in the Northern Territory of Australia, including local businesses and other organisations such as Mawurli and Wirriwangkuma Aboriginal Corporation (ABN 54 878 185 797);

"Department" means the Department of Primary Industry, Fisheries and Mines (or any other Northern Territory department or Agency that is, from time to time, responsible for the administration of these conditions) and the delegates, officers, employees and agents of that Department;

"Mine" means the mining site known as the McArthur River Mine as described in Authorisation Number 0059-01;

"Minister" means the Minister responsible for the *Mining Management Act*;

"Operator" means McArthur River Mining Pty Ltd (ABN 90 008 167 815).

### **3. PURPOSE**

- 3.1 The purpose of these conditions is to establish and set out the operational requirements for an independent monitoring assessment of the environmental performance of the Mine.
- 3.2 The Department will engage an Independent Monitor to undertake the independent monitoring assessment.
- 3.3 The Operator and the Department acknowledge that this independent monitoring assessment is in addition to their respective obligations and statutory responsibilities in relation to the Mine.

### **4. ASSESSMENT OF ENVIRONMENTAL PERFORMANCE**

- 4.1 The Independent Monitor will:
  - (a) monitor the environmental performance of the Mine by reviewing:
    - (i) environmental assessments and monitoring activities undertaken by the Operator; and
    - (ii) environmental assessments and audits undertaken by the Department; and
  - (b) report to the Operator and the Department any urgent issues requiring investigation and reporting.
- 4.2 The Independent Monitor will not review:
  - (a) Mine safety; or
  - (b) social issues arising from the operation of the Mine in the McArthur River Region.

### **5. ENGAGEMENT OF INDEPENDENT MONITOR**

- 5.1 The Department will engage an Independent Monitor in accordance with its procurement processes.
- 5.2 The Independent Monitor may be (in order of preference):
  - (a) an environmental or mining agency in another jurisdiction in Australia; or
  - (b) a university having the necessary expertise; or
  - (c) an environmental consultant having the necessary expertise, relevant experience and the necessary resources.

- 5.3 Prior to advertising a tender seeking to engage an Independent Monitor, the Department must provide the Operator with a copy of the proposed tender documentation, including:
- (a) the conditions of tendering; and
  - (b) the scope of services; and
  - (c) the assessment criteria; and
  - (d) the conditions of contract.
- 5.4 The Operator may, within 14 days of receiving the proposed tender documentation, provide comment on the proposed documentation to the Department and the Department must consider any comments provided by the Operator on the proposed documentation prior to advertising the tender.
- 5.5 The Department must provide the Community with an opportunity to provide submissions on the engagement of the Independent Monitor and the Department must consider any submissions provided by the Community on the engagement of the Independent Monitor prior to advertising the tender.
- 5.6 The terms of engagement of the Independent Monitor may include the following:
- (a) a period of engagement between three and five years;
  - (b) a statement acknowledging that the Operator is responsible for the costs of the Independent Monitor;
  - (c) a warranty by the Independent Monitor that it will:
    - (i) act independently of the Department, the Operator, the Minister and any other person; and
    - (ii) act honestly, reasonably and with the degree of professional care, knowledge, experience, skill and diligence which may reasonably be expected; and
    - (iii) act within the time prescribed under these conditions, the terms of engagement, or where no time is prescribed, within a reasonable time; and
    - (iv) immediately notify the Department in writing upon becoming aware of the existence or possibility of a conflict of interest;

- (d) an obligation on the Independent Monitor to keep all information provided to the Independent Monitor confidential.
- 5.7 If the Independent Monitor requires an indemnity, the Operator must enter into a binding agreement providing a reciprocal indemnity to the Department.
- 5.8 The Department must notify the Operator of the appointment of the Independent Monitor and must provide the Operator with a copy of the terms of engagement.

## **6. INTERACTION WITH THE INDEPENDENT MONITOR**

- 6.1 The Operator and the Department must not interfere or attempt to influence the Independent Monitor in its assessment of environmental performance under these conditions.
- 6.2 The Operator and the Department must each:
  - (a) cooperate with the Independent Monitor; and
  - (b) provide all necessary information and documents within their possession, custody or control to the Independent Monitor; and
  - (c) procure for the Independent Monitor access to such premises owned, leased or licensed by it as may be reasonably necessary,to enable the Independent Monitor to undertake its assessment of environmental performance under these conditions.
- 6.3 The Independent Monitor must engage with the Operator, the Department and the Community in undertaking the independent monitoring assessment.
- 6.4 If the Independent Monitor identifies an issue it considers requires urgent investigation and reporting:
  - (a) the Independent Monitor must advise the Operator and the Department of the issue as soon as practicable and may include recommendations as to action to be taken; and
  - (b) the Operator must consider the advice, and any recommendations, from the Independent Monitor and notify the Department and the Independent Monitor of the action the Operator proposes to take; and
  - (c) the Department may, where appropriate, advise the Operator and the Independent Monitor of action the Department proposes to take; and

- (d) the Independent Monitor may provide further advice to the Operator, and where appropriate the Department, regarding the proposed action and the Operator and the Department must consider the further advice; and
- (e) if, after providing further advice, the Independent Monitor is not satisfied with the proposed action, the Independent Monitor may notify the Operator and the Department of the Independent Monitor's intention to undertake its own investigation and report; and
- (f) the Operator and the Department must facilitate the Independent Monitor's investigation and report.

## **7. TIMING OF INDEPENDENT MONITORING PROGRAM**

The independent monitoring assessment is to be conducted, where practicable, in a manner that complements the existing annual environmental assessment and audit processes undertaken by the Operator and the Department.

## **8. REPORTING**

- 8.1 The Independent Monitor must prepare and provide a report:
  - (a) annually to the Minister to assist with the review of the Mining Management Plan; and
  - (b) on request by the Minister.
- 8.2 The Minister must provide a report received from the Independent Monitor to the Operator and the Department within 14 days of receiving the report.
- 8.3 The Independent Monitor must prepare an additional report in a form suitable for distribution to the Community.
- 8.4 The Operator and the Department acknowledge that the report from the Independent Monitor will be made publicly available (including publication on an appropriate internet site) and may include data used in the preparation of the report.
- 8.5 Prior to being made publicly available, the Minister must request from the Operator and the Department any comments on the Independent Monitor's report. Such comments must be provided within 28 days of the Minister's request and must be made publicly available with the Independent Monitor's report.



## **9. PAYMENT**

- 9.1 The Operator acknowledges that it is responsible for all costs of the independent monitoring assessment other than those costs directly attributable to those elements of the independent monitoring assessment associated with clause 4.1(b) which are the responsibility of the Department.
- 9.2 The Department may provide to the Operator, from time to time, a notice setting out amounts due and payable under the terms of engagement of the Independent Monitor.
- 9.3 The Operator must pay an amount notified in accordance with clause 9.2 within 7 days of receiving such notice.
- 9.4 If the Operator disputes a notice provided by the Department under clause 9.2:
  - (a) the Operator must pay the amount specified in the notice in accordance with clause 9.3; and
  - (b) the Operator must notify the Department in writing within 14 days of receiving the notice, setting out the reasons why the Operator disputes the notice; and
  - (c) the Chief Executive of the Operator and the Chief Executive of the Department must meet within 5 working days to resolve the dispute.

## **10. DISPUTE RESOLUTION**

- 10.1 If there is a dispute (other than a dispute mentioned in clause 9.4) between the Operator and the Department as to any matter or thing arising out of these Conditions (the "Dispute"), the party claiming that a Dispute has arisen must notify the other party to the Dispute and the Chief Executive of the Operator, the Chief Executive of the Department and the Independent Monitor must meet within 5 working days to resolve the dispute.
- 10.2 If the Chief Executive of the Operator, the Chief Executive of the Department and the Independent Monitor are unable to resolve a Dispute within 10 working days of meeting in accordance with clause 10.1, the Operator and the Department may agree to the appointment of an independent party to assist in the resolution of the Dispute.
- 10.3 If, within 5 working days of either the Operator or the Department nominating a person to be the independent party, no agreement is reached as to who is to be appointed as the independent party, either the

Operator, the Department or both may refer the matter to the President of the Law Society of the Northern Territory.

- 10.4 The President of the Law Society Northern Territory may nominate a person to be the independent party and the parties to the Dispute are bound to accept the appointment of that person.
- 10.5 The role of the independent party is to assist in negotiating a resolution of the Dispute and the independent party cannot make a decision that is binding on either the Operator or the Department.
- 10.6 The Operator and the Department must make available to the independent party all materials requested by it and must provide the independent party with all other materials relevant to the Dispute.
- 10.7 The Operator and the Department must:
- (a) bear their own costs of resolving the Dispute under this clause; and
  - (b) bear equally the costs of any independent party engaged.

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