



Greenland Minerals Ltd
Att: John Mair

Greenland Minerals Ltd v. The Environmental Agency for Mineral Resource Activities

Greenland Minerals Ltd (hereinafter GML) has a license to investigate the feasibility of opening a mine in the Kvanefjeld near Narsaq, and the company prepared an EIA-report in 2015 after a public hearing concerning the draft Terms of Reference. The Environmental Agency for Mineral Resource Activities (hereinafter EAMRA) evaluated the draft EIA-report and decided in April 2017 that GML should add a number of supplementary data.

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On August 31, 2018 GML forwarded a new draft EIA-report. This draft has been scrutinized by EAMRA during the following months including correspondence and meetings with GML. On March 21, 2019 EAMRA asked GML to include supplementary information in the draft.

As a reaction to this request GML in an email of April 4, 2019 to EAMRA protested and complained that the handling of the draft by EAMRA did not meet acceptable professional standards. In particular GML found that EAMRA erroneously stated that the Kvanefjeld-project "is a highly complex project involving substantial environmental risks". GML referred to two opinions by its consultants, Arcadis Canada Inc. and ERM-Australia Pacific Pty Ltd, and stated that the radiation exposure will not be significantly different than current natural background conditions. GML therefore was of the opinion that the Kvanefjeld-project "is a simple mineral concentration process no different to Isua, Citronen or Tan-breez". The requests by EAMRA were considered exaggerated, cyclical and redundant, and the administration of the case was protracted.

GML further questioned the scientific professionalism of EAMRA's consultants, DCE and GINR, and GML insisted that EAMRA is biased against the project, and that the process had been excessively costly.

The EAMRA and the Department for Nature and Environment considered the intervention to be a formal complaint which could only be decided by Naalakkersuisut. Therefore, EAMRA was asked to comment on the criticism and request DCE and GINR to provide a response to the points raised in the email. These statements were forwarded to GML on June 12, 2019 with an invitation to comment before June 26.

GML responded in an email on June 17, 2019 to EAMRA who forwarded it to the Department for Nature and Environment. GML wrote that the second draft

EIA-report of August 2018 had been prepared by an internationally reputed, independent consultant “at the express suggestion of the Director of EAMRA Søren Hald Møller in order to assist and improve the EIA process, not to impede it”. GML- reiterated that they had had “to fund the excessively slow and cumbersome review process which seems to be endless and incapable of reaching any definitive conclusions.”

GML added that they would analyse EAMRA’s letter of June 12 and reply in detail. We have, however, not received any further communication.

We have shown the email of June 17 to Søren Hald Møller. He has stated that he stopped as the director of EAMRA in February 2015 and consequently did not have the authority to participate in a review process of a draft EIA report after that date. Søren Hald Møller informed us that when he was the permanent secretary of the prime minister’s Department, he several times was contacted by representatives of GML who sought to obtain a resolution on subjects which fall under the competence of EAMRA. He always referred GML to contact the authority which is vested with the competence to take a position.

Naalakkersuisut has asked EAMRA to clarify the review process concerning GML’s application compared with the requests directed to other applicants for a mining license e.g. Citronenfjord and Tanbreez. EAMRA in a note of August 13, 2019 has explained that the application by GML has been scrutinized according to the act on mineral resources and the guidelines adopted by Naalakkersuisut. The act and the guidelines have, however, been amended i.a. concerning the consulting procedure compared to the legal situation when previous applications were reviewed.

EAMRA has stressed that the obligation to provide equal treatment of applications must admit a concrete evaluation of an application due to a number of factors, such as

- The localisation of the project, i.e. whether the project is situated near settlements or in an area without inhabitants, whether the environment is important for fauna or flora, whether it is protected by a conservation regulation or used for existing commercial activities etc.
- What kind of mineral resource it is intended to extract
- Which extraction methods are likely to be applied
- How big quantities the applicant intends to extract and what infrastructure will be necessary.

EAMRA has made it clear that the Kvanefjeld project is of a unique character because the applicant intends to extract radioactive metals, Uranium and Thorium, and this will make it necessary to consider the long-term disposal of radioactive tailings. No other project in Greenland is in a similar position, and therefore the review of the draft EIA-report raises particular issues. These issues reflect the fact that Greenland has acceded to the relevant IAEA-convention on radioactive waste, and that the authorities of Greenland are therefore obliged to

follow the IAEA recommendations and to report on the handling of radioactive material.

EAMRA has stated that internationally it is considered appropriate to deposit radioactive tailings on land (dry deposit). GML's plan to deposit tailings in the Taseq Lake therefore requires a reasoning, which is supported by sufficient data.

Naalakkersuisut has been informed that GML has forwarded a new draft EIA-report together with the email of June 17, 2019, and that this draft is now being reviewed by EAMRA. This fact has not led to modifications of the complaint, and Naalakkersuisut will therefore make a decision as to the complaint of April 4, 2019.

DECISION

Naalakkersuisut is of the opinion that the complaint of April 4, 2019 is manifestly ill-founded and that GML has not supplied any information which could justify a criticism of EAMRA.

Naalakkersuisut orders GML to comply with the requests in the decisions by EAMRA.

This decision by Naalakkersuisut cannot be appealed to any other administrative authority.

REASONED ASSESSMENT

EAMRA was established by the act on mineral resources as an independent authority with the competence to administrate and enforce the rules on environmental protection in connection with the investigation and extraction of mineral resources, cf. the act on mineral resources, sec 51-89 d. EAMRA must ensure that good international practice is observed, cf. the act on mineral resources, sec 1, para 2, and EAMRA must when reviewing the environmental aspects of applications procure scientific advice from independent institutions, cf. the act on mineral resources, sec 3a, para 4. EAMRA has made a contract with two scientific institutions to provide advice as principal consultants, the Danish Centre for Environment and Energy, DCE, which is a research institution of the University of Aarhus, and Greenland Institute of Natural Resources, GINR, which is a research institution established by the Home Rule act No 6 of June 8, 1994.

In its statement of June 12, 2019, EAMRA at page 12 points out that in June 2016 it procured supplementary advice from the Canadian Nuclear Safety Commission, CNSC, concerning dust conditions, and from an external Canadian consultancy firm concerning air pollution, tailings waste rock, geochemistry and water conditions (hydrologi).

Naalakkersuisut is of the opinion that the allegations from GML and its consultants that the scientific advice, which EAMRA has procured, is of a low quality and does not meet the standard of the assessments by GML's advisers,

are unfair and unfounded. EAMRA, according to the act on mineral re-sources, is obliged to make an independent review of the data which a company quotes in support of an application, and EAMRA of course cannot accept at face value the views of the advisers of the applicant.

As to the review process, including the length of the scrutiny, Naalakkersuisut points out that EAMRA after having reviewed GML's first draft EIA report and after having consulted GML, issued a decision instructing GML to correct and supplement the draft on points where it was deficient. This decision, of April 2017, was not appealed to Naalakkersuisut. Consequently, under sec 74, para 2, of the act on mineral resources the decision by EAMRA was binding for GML and constitutes the basis for subsequent reviews of draft EIA-reports. Therefore, GML's criticism that EAMRA after having received the second draft EIA report requested information etc. which had been requested in the decision of April 2017, but not complied with by GML, is without merit. There is no "continuous loop" in the repeated requests by EAMRA that GML should provide data or supply supplementary investigation, when these requests are a consequence of GML not abiding by the decision of April 2017.

In the opinion of Naalakkersuisut GML must be considered responsible for a major part of the time consumed for the review process because GML has failed to comply in good faith with the requests and instructions by EAMRA. It is not for GML or the company's consultants to substitute the assessment of the competent Greenland authority with their own evaluation of which data should suffice.

Naalakkersuisut has examined the note of EAMRA of August 13, 2019 stating the review practice of applications under the perspective of the obligation of equal treatment. Naalakkersuisut finds that the review of GML's draft EIA report does not conflict with this obligation. On the contrary EAMRA has asked for data and research results which appear to be reasonable and proportionate bearing in mind that GML's project involves mining of a very great amount of the mountain and deposit of great quantities of tailings in a lake which is connected with fjords surrounding the town of Narsaq, and, not least, that GML intends to extract radioactive minerals.

Naalakkersuisut has taken note of the assertion by GML and its consultants that the radiation exposure from the Uranium and Thorium which will be extracted, and from the waste material, will not be significantly different than current natural background conditions and will not make the project complicated. This attitude is worrying and conflicts with the undertakings given by GML at the hearing on the draft Terms of Reference concerning the EIA. We refer to the summarising report point 3.3 which also contains the comprehensive comments by the authorities, and points 5.5, 6.10, 7.9 and 10.3.

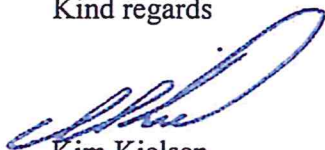
Under the IAEA and in respect of the international cooperation among governments, Naalakkersuisut is bound to enforce the rules of the IAEA conventions, and the Kvanefjeld project is only possible to realize because the

Danish Parliament adopted Act No 621 of June 8, 2016, an Act for Greenland on the control of the peaceful exploitation of nuclear materials. Further, Greenland must respect an ILO-convention, implemented by the Act of the Greenland Parliament, No 33 of December 9, 2015 on ionizing radiation and protection against such radiation. The adoption of these Acts was necessary to ensure a legal and proper handling of the products which will be extracted in a mine at Kvanefjeld and of the disposal of the waste and tailings resulting from the mining.

Naalakkersuisut emphasises that GML must comply with the legislation.

Finally, Naalakkersuisut notes that the assertion in GML's mail of June 17, 2019 referring to the al-legged advice from Søren Hald Møller is not correct, as Søren Hald Møller was not in charge of EAMRA after February 2015. Naalakkersuisut also notes that GML has frequently addressed high ranking civil servants or members of Naalakkersuisut who don't have any authority within the competence of EAM-RA, and that these contacts seek to undermine the authority of decisions by EAMRA. Naalakkersuisut finds that this behaviour is unacceptable and requests GML to abstain from this practice.

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Kind regards



Kim Kielsen
Chairman of Naalakkersuisut



Mette Skarregaard Pedersen
Permanent secretary
Department of Nature and Environment