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NUNAVUT WATER BOARD  
NUNAVUT IMALIRIYIN KATIMAYINGI  
OFFICE DES EAUX DU NUNAVUT

January 12, 2018

Distributed By Email and Posted to NWB Registry

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**Re: Response of the Nunavut Water Board with respect to Recent Correspondence  
Concerning the Definitions of “Project Proposal” and “Project” in the *Nunavut Agreement* and *NuPPAA***

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Dear Sirs:

This correspondence is provided by the Nunavut Water Board (NWB) to respond to both the joint correspondence issued by Nunavut Tunngavik Incorporated (NTI), the Government of Nunavut (GN) and Indigenous and Northern Affairs Canada (INAC) on October 24, 2017 (the joint letter), and the correspondence replying to the joint letter issued by the Nunavut Impact Review Board (NIRB) on November 22, 2017.

Based on the joint letter, the NWB understands that the signatories to the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (Nunavut Agreement) and the parties primarily responsible for drafting the *Nunavut Planning and Project Assessment Act*, S.C. 2014, c. 14 (NuPPAA) have confirmed that there is no significance associated with the difference between the definitions of “Project Proposal” under the *Nunavut Agreement* and “Project” under *NuPPAA*. With this confirmation, the signatories have indicated that the difference was not intended to result in activities, works or undertakings with *de minimus* impacts being required to be processed under the land use planning and project assessment requirements

of the *Nunavut Agreement* even though these activities, works or undertakings would otherwise be exempt from the parallel requirements of *NuPPAA*.

As originally highlighted by the NWB in a Discussion Brief issued in December, 2015, the ambiguity created by the differences between these definitions, coupled with changes to Article 13 of the *Nunavut Agreement* that required all project proposals involving “an application” (rather than “a licence”) to be submitted to the Nunavut Planning Commission (the Commission), had resulted in the NWB requiring that all applicants to the NWB seeking approval of to the use of water and the deposits of waste (including those uses and deposits that qualified for an approval without a licence, as allowed for under the *Nunavut Waters Regulations*, SOR/2013-69) to submit a project proposal to the Commission. As raised by the NWB in the 2015 Discussion Brief, this has resulted in the Commission having to review significant numbers of project proposals associated with these kinds of applications for approvals without a licence, primarily in the late winter and early spring months leading up to the field research season.

In future, based on the signatories’ guidance, the NWB proposes to implement steps to divert these *de minimus* types of applications from processing under the land use planning and project development requirements of the *Nunavut Agreement* and *NuPPAA*. Accordingly, moving forward, when the NWB receives an application for the approval of water uses and/or waste deposits without a licence the NWB will:

- undertake a preliminary review of the application, and if on the basis of the application documents related to the use of water and the deposit of waste, the NWB determines that the potential impacts of the undertaking are manifestly insignificant, the NWB will not require the applicant to submit a project proposal to the Commission, and will then process the approval without a licence in accordance with the *Nunavut Waters Regulations*; **OR**
- alternatively, if the NWB identifies during its review of the application, and if on the review of the application documents related to the use of water and the deposit of waste, that the potential impacts of the project proposal are not manifestly insignificant, the NWB will require that the applicant submit a project proposal for processing by the Commission as required under the *Nunavut Agreement* and *NuPPAA*.

The NWB agrees entirely with the NIRB’s request to INAC that it would be very helpful to have the signatories’ guidance on this point distilled into a guidance document for project developers. The NWB echoes the NIRB’s recommendation that such a guidance document should be prepared to provide potential project developers with the guidance and tools required to conduct their own assessment of their project and any associated regulatory authorization applications to determine whether a project proposal must be submitted to the Commission for their review. In the NWB’s view, the signatories are best positioned to provide this much-needed guidance to project developers.

The NWB also agrees with the NIRB’s request in terms of the timing of the development of these materials, confirming that the heaviest volume of applications for approvals without a licence occur during the late winter/early spring, a few weeks in advance of the field season for researchers. As such it would be very beneficial if INAC were prepared to circulate a draft of the proponent’s guidance/self-assessment materials by early January, 2018. The NWB would commit to reviewing these materials and providing comment back to INAC as expeditiously as possible so that the materials could be made available to project developers in the late winter/early spring of 2018.

The NWB would be happy to support INAC's development of these materials if requested. If you have any questions regarding the NWB's proposed approach or these issues in general, please contact Stephanie Autut, Executive Director by email at [Stephanie.Autut@nwb-oen.ca](mailto:Stephanie.Autut@nwb-oen.ca) or by phone at (867) 360 – 6338, or the undersigned, at [David.Hohnstein@nwb-oen.ca](mailto:David.Hohnstein@nwb-oen.ca) or phone direct at 780-906-8273.

Regards,  
Nunavut Water Board

David Hohnstein  
Director Technical Services

cc. Public Registry  
Sharon Ehloak, Executive Director, Nunavut Planning Commission  
Ryan Barry, Executive Director, Nunavut Impact Review Board