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May 26, 2011

Ms. Dionne Filiatrault  
Executive Director  
Nunavut Water Board  
P.O. Box 119  
Gjoa Haven, Nunavut X0B 1J0

Dear Ms. Filiatrault:

**re: Draft Nunavut Water Regulations Hearings**

Nunavut Tunngavik Incorporated has received a copy of the Nunavut Water Board's April 20, 2011 notice of hearings in connection with the draft Nunavut Water Regulations (the draft Regulations).

NTI, in association with Nunavut Regional Inuit Associations, has been engaged in a process of bilateral (Crown/Inuit) consultation with respect to the design and wording of the draft Regulations pursuant to close consultation guarantees made to Inuit under section 2.6.1 of the *Nunavut Land Claims Agreement*. NTI anticipates that the consultation process between the Crown and NTI on the draft Regulations will continue before, during and after the NWB's process, and has received appropriate assurances from DIAND as to the Crown's intentions in this regard. Due to the bilateral nature of this consultation process, NTI intends to attend at least some of the NWB's hearing and pre-hearing meetings, but not to participate actively or make submissions.

Without limiting the reach of section 2.6.1 of the NLCA, NTI appreciates the role and work of the NWB, and NTI is happy to continue facilitating early and productive communications with the NWB. To that end, we wish to bring to your attention the following three outstanding items in relation to the draft Regulations. The Board would have received detailed submissions from Kitikmeot Inuit Association on the second and third items below, which NTI fully supports:

**1. Security matching criteria issue – new 10(a)**

The current section 10 of the draft Regulations does not match the criteria for the Minister's application of security under section 76(2) of the *Nunavut Waters and Surface Rights Tribunal Act* (the Act), which may result in inadequate security in the event of an incident requiring the Minister to apply security. A relatively simple addition to the draft Regulations along the following lines would remedy this mismatch:

10 . . .the Board may fix the amount of security. . .in an amount not exceeding the aggregate cost of:

\* \* \*

(a) compensating, fully or partially, a person, including the designated Inuit organization, identified in subsection 76(2)(a) of the Act.

## **2. Double payment of water fees - new 12 (6A)**

The draft Regulations allow the Minister to charge developers for water use on Inuit Owned Lands, introducing the anomaly of both the Crown and the DIO potentially charging for use of water on Inuit Owned Lands. This interferes with the exclusive right of the DIO to water use and would result in additional and unnecessary costs to developers. The following addition to the draft Regulations would remedy this:

12(6A) No licence fee is payable to the extent the licensee provides proof of having paid a fee for the right to use waters in connection with the same undertaking to a designated Inuit organization.

## **3. Double Bonding**

The double bonding issue relates to the Minister's authority to hold security under 76(1) of the Act. Security under the Act would require Inuit landowners to seek security for damage to landowners' interests, with the end result that the developer may be obligated to post double security. In NTI's view, this important issue should be resolved prior to completion of the draft Regulations.

Sincerely yours,



Terry Audla,  
Chief Executive Officer, NTI

cc: Paul Emingak, Executive Director, Kitikmeot Inuit Association  
Justin Merritt, Executive Director, Kivalliq Inuit Association  
Joanasie Akumalik, Executive Director, Qikiqtani Inuit Association