



NIRB File No.: 09UN052

EC File No.: 4704 004 041

June 28, 2012

The Honourable Peter Kent
Minister of Environment
Government of Canada
c/o Mark Dahl
Ocean Disposal Specialist
Environment Canada
Winnipeg, MB R3C 4W2

Via email: mark.dahl@ec.gc.ca and ec.ea.nu@ec.gc.ca

Re: Application Exempt from the Requirement for Screening pursuant to Section 12.4.3 of the NLCA: Public Works and Government Services Canada's "Disposal at Sea of Dredged Sediments, Pangnirtung Fjord" project

Dear Mark Dahl:

On June 14, 2012 the Nunavut Impact Review Board (NIRB or Board) received an application from Environment Canada (EC) for a renewal to Public Works and Government Services Canada's (PWGSC; the Proponent) Disposal at Sea Permit (No. 4543-2-02896) associated with its "Disposal at Sea of Dredged Sediments, Pangnirtung Fjord" project proposal.

PROCEDURAL HISTORY:

Please be advised that the original project proposal (NIRB File No.: 09UN052) was received by the NIRB from Fisheries and Oceans Canada (DFO) on June 22, 2009 and was screened by the Board in accordance with Part 4, Article 12 of the Nunavut Land Claims Agreement (NLCA). On July 24, 2009 the NIRB issued an NLCA 12.4.4(a) screening decision to the Minister of Fisheries and Oceans indicating that the proposed project could proceed subject to the NIRB's recommended project-specific terms and conditions. During the NIRB's assessment, it was identified that a Disposal at Sea permit from Environment Canada may be required for the project. It was further noted that any application for such an authorization would likely require additional screening by the Board.

On December 20, 2010 the NIRB received a Disposal at Sea permit application from EC for Public Works and Government Services Canada's above mentioned project. The additional activities were screened by the Board in accordance with Part 4, Article 12 of the Nunavut Land Claims Agreement (NLCA) and on March 22, 2011 the NIRB issued an NLCA 12.4.4(a)

screening decision to the Minister of Environment, Government of Canada which indicated that the proposed project could proceed subject to the NIRB's *additional* recommended project-specific terms and conditions.

On April 20, 2011 the NIRB received an application to amend the Proponent's Disposal at Sea permit to allow for dredging and associated disposal at sea activities for the above mentioned project. After a thorough assessment of the amendment request, the NIRB determined that the application was exempt from the requirement for further screening pursuant to Section 12.4.3 of the NLCA, and on May 12, 2011, reissued the March 22, 2011 screening decision report.

Furthermore, on April 20, 2012, the Proponent proposed to extend its Nunavut Water Board Type B Water Licence (No. 1BW-DUV0911) and the *Fisheries Act* HADD authorization (No. 09-HCAA-CA7-00003) for this project for an additional year, to December 31, 2013, as well as including the additional drilling of boreholes within the harbour. The NIRB determined that this additional activity constituted a change in project scope. On June 4, 2012 the NIRB issued the enclosed NLCA 12.4.4(a) screening decision to the Minister of AANDC and Minister of DFO which indicated that the proposed project could proceed subject to the NIRB's *additional* recommended project-specific terms and conditions.

Additional authorization and extension requests associated with this project have been reviewed by the NIRB following screening of the original project proposal. In each instance the NIRB confirmed that the applications were exempt from the requirement for further screening pursuant to Section 12.4.3 of the NLCA and the activities therein remained subject to the terms and conditions recommended in the NIRB's Screening Decision Report (July 24, 2009 and later, March 22, 2011 including additional terms and conditions). The various additional authorization requests are summarized below for ease of review.

Authorization	Application			Correspondence Issued by NIRB
	Date Received by NIRB	Type	Reason for Application	
Fisheries Act authorization and Class B Water Licence	August 11, 2009	Amendment	Reinstate crossing of Duval River to allow transport of material from quarry to harbour	August 20, 2009
Fisheries Act HADD	May 31, 2010	Amendment	Amend the area to be compensated under the HADD	May 31, 2010
Disposal at Sea Permit	December 20, 2010	Additional Permit requirement	Allow for disposal of dredged materials that were unsuitable for construction	March 22, 2011
Disposal at Sea Permit	April 20, 2011	Amendment	Permit dredging 24 hours a day, 7 days a week	May 12, 2011
Fisheries Act authorization and Class B Water Licence	April 20, 2012	Extension & Amendment	Continue construction and dredging work at the harbour	June 4, 2012

The current renewal to the Disposal at Sea permit application, the original NIRB Screening Decision Report (File No. 09UN052) and related file information are available from the NIRB's ftp site at the following link:

<http://ftp.nirb.ca/01-SCREENINGS/COMPLETED%20SCREENINGS/2009/09UN052-DFO%20-%20Pangnirtung%20Harbour/>.

PREVIOUSLY-SCREENED PROJECT PROPOSAL:

As previously screened by the NIRB (File No. 09UN052), the "Disposal at Sea of Dredged Sediments, Pangnirtung Fjord" project was located within the Qikiqtaaluk region, within the hamlet of Pangnirtung. The Proponent indicated that it intended to upgrade the existing docking facility in Pangnirtung into a small craft harbour capable of accommodating larger vessels.

The activities/components associated with the original project proposal included:

- Dredging of marine area;
- Disposal of dredged sediments (potentially at sea, to be determined);
- Installation of a culvert within a freshwater stream;
- Temporary isolation/dewatering of tidal flats areas to permit in-water construction;
- Installation of floating docks;
- Construction of marshalling areas;
- Extension of existing breakwater;
- Construction of new breakwater; and,
- Use of existing fuelling infrastructure.

In August 2009 the Proponent applied to amend its *Fisheries Act* authorization (No. 09-HCAA-CA7-00003) and Type B Water Licence (No. 1BW-DUV0911) to include the following additional activities:

- Reinstate a crossing of the Duval River in Pangnirtung for the purpose of transporting rock from the existing quarry to the harbour for construction materials.

In December 2010 the Proponent applied for a Disposal at Sea Permit in order to dispose of dredged materials resulting from improvements to the Pangnirtung harbour. Work was proposed to take place over a 12 week period between June 1, 2011 and October 31, 2011 with the option of an additional year if weather and/or ice delays occurred.

In April 2011 the Proponent proposed to amend its Disposal at Sea Permit to include the following additional components/activities:

- Change working hours from 16 hours per day, 6 days a week to 24 hours per day, 7 days a week; and
- During times of darkness, the Marine Wildlife Observer would employ strong lighting and possibly ship-borne radar to ensure mammals (such as beluga whales and narwhales) could be sighted if in the area.

On April 20, 2012 DFO-Small Craft Harbours proposed to extend the Nunavut Water Board Type B Water Licence (No. 1BW-DUV0911) and the *Fisheries Act* HADD authorization (No.

09-HCAA-CA7-00003) for this project for an additional year, to December 31, 2013. In addition, DFO-Small Craft Harbours applied for the following additional project components and activities:

- Geotechnical drilling of up to 20 boreholes in the harbour to assess the depth to bedrock.

CURRENT APPLICATION:

The Proponent is currently proposing to renew its Disposal at Sea permit to allow an additional year for the dredging work to be completed.

Please note that Section 12.4.3 of the NLCA states that:

“Any application for a component or activity of a project proposal that has been permitted to proceed in accordance with these provisions shall be exempt from the requirement for screening by NIRB unless:

(a) such component or activity was not part of the original project proposal; or

(b) its inclusion would significantly modify the project.”

After completing a review of the information provided in support of the current application, the NIRB is of the understanding that the proposed renewal does not change the general scope of the original project activities, and the exceptions noted in NLCA 12.4.3(a) and (b) do not apply. Therefore, this application is exempt from the requirement for screening pursuant to Section 12.4.3 of the NLCA and the activities therein remain subject to the terms and conditions recommended in the June 4, 2012 Screening Decision Report¹ (enclosed).

If you have any questions or concerns, please contact Kelli Gillard, Technical Advisor, at (867) 983-4619 or kgillard@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: John Davidson, Public Works and Government Services Canada
Derrick Moggy, Fisheries and Oceans Canada
Doug Soloway, Transport Canada
Jeff Mercer, Aboriginal Affairs and Northern Development Canada
Phyllis Beaulieu, Nunavut Water Board

¹ The June 4, 2012 Screening Decision Report is inclusive of recommendations contained within all previous Screening Decision Reports associated with NIRB File No. 09UN052

Enclosed: NIRB Screening Decision Report, File No.: 09UN052 (June 4, 2012)