

2005-03-01 08:55 From-

T-516 P 002/005 F-683



Indian and Northern
Affairs Canada
www.inac.gc.ca

**Affaires indiennes
et du Nord Canada**
www.ainc.gc.ca

Director of Operations
P.O. Box 100
Iqaluit, NU, X0A 0H0

February 25, 2005

Hand Delivered

Mr. Brad Sokach, P. Eng.
City of Iqaluit
P.O. Box 460
Iqaluit, NU X0A 0H0

Re: **North 40 Enforcement and Water Licensing Issues**

Dear Mr. Sokach:

On behalf of Indian and Northern Affairs Canada (INAC), I would like to thank you for the invitation for INAC to meet with yourself (City of Iqaluit (the City)) and Doug Sitland (Government of Nunavut – Community and Government Services) on February 4, 2005, to discuss the North 40 site in Iqaluit. As you are aware, a great deal of correspondence with respect to the North 40 was issued throughout 2004. As we approach the 2005 season, INAC commends you for being proactive in engaging the parties involved in North 40 management, and for working to ensure that any pending activities are undertaken in accordance with all applicable regulations and legislation.

In the February 4, 2005 meeting, attended on our behalf by Carl McLean as A/Director of Operations, you identified several areas of concern or clarification with respect to prior and future INAC actions and requirements at the North 40 site. These fell broadly into the categories of enforcement actions, asbestos and contaminated site concerns, water licence requirements, and abandonment and reclamation planning. I will attempt to adequately address each of your concerns below, however if you believe a discussion item was omitted or misrepresented, I encourage you to contact us and seek clarification.

On June 3, 2004, an INAC Water Resources Officer, in accordance with the Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWSRTA) directed the City of Iqaluit to cease gravel extraction at the North 40 site. The reasons behind this measure were provided in the Inspector's Direction, and the implications discussed with federal, territorial, municipal and private stakeholders. Subsequent to these discussions, INAC developed 14 conditions that provided for the protection of human and environmental health while allowing for the continuation of development activities.

Although you have articulated a concern that the North 40 correspondence issued by INAC has been contradictory, a review of all documentation would suggest that the communication issued by our enforcement staff has been consistent in both meaning and intent. In future, if INAC communications are perceived as inconsistent, we encourage you

	INTERNAL
PO	c/p
MA	
FO	
LA	
(
BROD	
EXT.	

Nunavut Water
Boa:
MAR 11
Public Re

to articulate your specific concerns in a timely manner, such that the necessary clarifications between parties can be achieved.

With further respect to communication, we would like to take this opportunity to clarify INAC's role in the issuance and implementation of Inspector's Directions. When an Inspector's Direction with respect to the North 40 is issued to the City of Iqaluit, it is the exclusive responsibility of the City to implement the actions and conditions contained therein. This includes the responsibility to communicate and ensure compliance with any contractors that may be undertaking work in an area affected by the Inspector's Direction. To avoid future miscommunications or misrepresentations, INAC enforcement staff will henceforth refer all contractor queries or concerns directly to City of Iqaluit staff. Any alteration or clarification of an Inspector's Direction will be provided by INAC to the City in writing.

Following the disturbance of asbestos waste in the course of gravel extraction, INAC enforcement staff closed the North 40 site once again on September 22, 2004. The asbestos was unearthed in an area that the City of Iqaluit had identified as suitable for gravel extraction and processing. Although you have identified that you are aware of only one site containing improperly stored asbestos, INAC enforcement staff indicate that in early fall they made the City (Mark Hall) aware of three separate areas confirmed to contain improperly stored asbestos waste. These sites, including GPS coordinates, are as follows:

- GPS: N 63.4600.9 W 68.3250.6 (site temporarily covered)
- GPS: N 63.4457.6 W 68.3238.9 (site by BBS stockpile)
- GPS: N 63.4556.7 W 68.3303.0 (site by asphalt plant)

INAC is unaware of any other waste asbestos areas located within the North 40 site.

INAC wishes to emphasize that each of the identified asbestos sites must be adequately remediated to a standard that meets all applicable regulations. In our February meeting you indicated it was in the City's plans to permanently remediate the asbestos waste in a manner satisfactory to the Workmans Compensation Board. INAC recommends that this asbestos management plan be simultaneously distributed to all regulatory agencies for review and comment. This will ensure that a universally acceptable remediation strategy is approved and applied.

The broader issue of contamination at the North 40 site was also identified as a concern at the February 4, 2005 meeting, as you communicated your understanding that the North 40 was identified on a list of contaminated sites maintained by an INAC "Management Board Secretariat". Despite further investigation, we were unable to identify the Management Board Secretariat, or associated list, identified by the City. The Treasury Board of Canada Secretariat, however, maintains the *Treasury Board Federal Contaminated Sites and Solid Waste Landfills Inventory*. This listing identifies all sites in Canada for which the Crown holds responsibility, as well as the Department to which ownership of each contaminated site is assigned. The North 40 is not included in this inventory. We therefore request that the City provide INAC with a copy of the list to which you referred.

As you are aware, INAC Water Resources Inspectors have provided guidance to the City of Iqaluit on the requirement for Water Licensing of the North 40, and of the water-related operations contained therein. In the Water Licence application, the City will be

required to clearly state the intended use of the North 40 site. At present, the operational status of the North 40, specifically its role as a metal dump, is unclear. While the City has informed INAC that the North 40 is not currently in use as a metal dump, INAC inspectors have observed the recent disposal of waste associated with the Joamie School.

If the City identifies the North 40 as an active waste disposal site in its Water Licence application, the Water Licence would then require an Operations and Maintenance (O&M) plan for the site. The Water Licence would also stipulate Terms and Conditions associated with the operation of the waste site. It is *very highly unlikely* that any extraction of materials would be permitted from an active waste site, and the continued removal of granular material would constitute non-compliance with the Water Licence. If the City identifies the North 40 site as inactive in the Water Licence application, the Water Licence will require an A&R plan for the site. Future disposal of materials at the site would also constitute an unauthorized deposit of waste under the NWNSRTA.

In this second instance, the purpose of the A&R plan would be to ensure the responsible management of existing waste such that the potential for the unauthorized release of waste to water is minimized. The A&R plan would not, therefore, simply dictate how waste at the North 40 site is to be handled when encountered in the process of extraction. Instead, it would demonstrate how the site will be characterized, reclaimed, and managed in such a manner that it does not, in and of itself, pose an environmental risk.

If additional activity (i.e. the extraction of granular materials) is intended at the site, the A&R plan must demonstrate how this activity is compatible with the reclaimed site. At a minimum, it must be demonstrated that the activity can be undertaken without posing an increased risk of contaminant release or dispersal. The information that establishes the certainty of risk (or lack thereof) associated with the proposed activity (i.e. site assessments, studies, management plans, etc.) is an essential component of the application.

Informal discussions with other regulators have identified several documents that would be required to establish a quantifiable level of environmental risk and management at the North 40 site. These include, but are not limited to:

- Asbestos Management Plan.
- Water Licence application including:
 - Phase 3 Environmental Site Assessment (including intrusive sampling)
 - A & R Plan
- Quarry Management Plan (how the site will be utilized)

Within the North 40, each of the operations, asphalt plant and two cement plants constitute a separate use of water and/or deposit of waste under the NWNSRTA. As such, each is a distinct Licensable activity and eligible to apply for a Water Licence. If it so chose, the City could include these undertakings under the North 40 Water Licence application, and contractor activities could be authorized by the City to operate in accordance with City's North 40 Water Licence. In the event of contractor non-compliance with Water Licence terms and conditions, however, the City, as the Licensee, would be held accountable.

In our discussions on February 4, and recent correspondence between the City and the Nunavut Water Board (NWB), the City seems to be opting to include the North 40 site

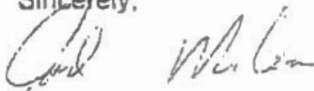
and associated activities in the Type A water licence application that encompasses all of the city's operations. As per INAC's oral submission at the City's NWB Water Licence Pre-hearing (September 3, 2004 in Iqaluit), we encourage the City to address the North 40 in a separate Type B application to allow the application to be processed in an efficient and timely manner. Recent discussions between INAC staff and the NWB have confirmed that this remains an acceptable route for the City to address water licensing requirements.

How the North 40 site is licenced is, of course, the City's decision to make. We would like to stress, however, that the North 40 site and associated activities require a water licence under the *NWNSRTA*. In the absence of a Water Licence, INAC will likely direct the City to cease activity at the site until a licence is issued. We therefore encourage the City to submit a separate licence application for the North 40, to include the bulleted items listed above, to the NWB as soon as possible.

Finally, we were unable to locate a copy of the August, 2004, letter from Stephen Traynor (INAC) to the City of Iqaluit which you mentioned in our meeting. We therefore request that the City provide us with a copy of this correspondence.

I hope that the above information adequately addresses the questions and concerns raised at the February 4, 2005, meeting. If you would like to discuss any of these matters further, please do not hesitate to contact the undersigned at 867-975-4280.

Sincerely,



Carl McLean
for Director of Operations
Indian and Northern Affairs Canada

cc. Doug Sitland
Department of Community Government and Services
Government of Nunavut

Jim Wall
Nunavut Water Board

Peter Kusugak
Manager of Field Operations
Indian and Northern Affairs Canada

Manager of Water Resources
Indian and Northern Affairs Canada