



Votre référence - Your file

Notre référence - Our file

Mr. Damien Côté
Executive Director
Nunavut Water Board
PO Box 119
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JAN 27 2014

Dear Mr. Côté:

I am writing in response to your letter dated August 21, 2013, requesting clarification concerning Aboriginal Affairs and Northern Development Canada's interpretation of the term "use" of water pursuant to the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA).

Your letter specifically identifies a circumstance, whereby, as I understand, water is continuously withdrawn from a source water body, circulated through equipment for the purpose of keeping that equipment from freezing, and then released back into the water body from which it was withdrawn. You have questioned whether this project-related activity constitutes "use" of water, as prescribed by the NWNSRTA.

As you note in your correspondence, the definition of "use" of water is generally identical across the legislation that applies in Canada's three territories (*Northwest Territories Waters Act*, *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Waters Act*). The definition of "use" is also very broad and wide-reaching. In relation to Nunavut, "use" is defined in section 4 of the NWNSRTA as:

"Use", in relation to waters, means a direct or indirect use of any kind, including, but not limited to,

- (a) any use of water power and geothermal resources;
- (b) any diversion or obstruction of waters;
- (c) any alteration of the flow of waters; and
- (d) any alteration of the bed or banks of a river, stream, lake or other body of water whether or not the body of water is seasonal.'

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The removal of a quantity of water from a source means that quantity is not available, if even for a short time, to any other authorized user of the same water body.

With this in mind, the diversion of waters (e.g. withdrawal), regardless of duration, would constitute a "use" of waters. That is to say, water used for the purpose of circulation through equipment, constitutes water use. As such, the water removed for circulation purposes needs to be accounted for in the overall water usage allowance, as water is clearly being diverted, directly or indirectly, from its original source.

The effective management and protection of Nunavut's water resources is dependent upon a clear understanding of the relevant legislation. A common understanding and consistent application of the term "use" of water is essential to securing adherence to water-related legislation, by both regulators and water licence applicants. A cooperative and consistent approach will allow for the conservation and utilization of waters in Nunavut in a manner that will provide the optimum benefit for those waters for the residents of Nunavut, in particular, and Canadians, in general.

I trust this response satisfies your request on the definition of water 'use' and will provide you with the clarification necessary to ensure the correct application of the NWNSRTA and its associated Regulations. To that end, the Field Operations Directorate of the Nunavut office of our Department will initiate discussions with your staff and stakeholders to support a consistent application of the definition.

If you wish further clarification on this issue please do not hesitate to contact me by e-mail at Glen.Stephens@aadnc-aandc.gc.ca or by phone at 819-994-7483.

Sincerely,



Glen Stephens
Director, Land and Water Management
Natural Resources and Environment Branch