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NUNAVUT WATER BOARD  
NUNAVUT IMALIRIYIN KATIMAYINGI  
OFFICE DES EAUX DU NUNAVUT

**File No.: 3AM-GRA1015**

March 23, 2015

Erik Allain, Manager  
Field Operations  
Aboriginal Affairs and Northern Development Canada  
Nunavut Regional Office  
Building 918, PO Box 100  
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**Re: Re: Licence No. 3AM-GRA1015 - Request for Licence Expiry Extension-ODT3**

Dear Erik:

Thanks for your question. The short answer is “no”, the Board will not be sending out the Government of Nunavut – Community and Government Services’ (GN-CGS) request for a two year renewal of the Licence to the Minister. Something that the parties appear to not recognize in this discussion is that under the governing legislation there is actually no such a thing as an “extension”. From a process perspective, any “extension” is a Licence renewal by any other name, and other than a short term renewal which is contemplated under s. 9 of the Nunavut Waters Regulations as permissible without a public hearing, a two year renewal is exactly the same as a longer-term renewal in terms of process expectations and involves a public hearing.

Although the Board recognizes the basis for GN-CGS wishing to renew the licence for a two year term and the interests of all participants in ensuring that Licences remain current and in good standing , as outlined in the letter, the NWB does not have the jurisdiction to consider and recommend the issuance of a two-year renewal without a public hearing in all but emergency circumstances, and the failure of a Licensee to submit its application materials in time clearly does not constitute such an emergency.

As the NWB has the responsibility and powers over the regulation, use and management of water in the Nunavut Settlement Area under the NLCA (Article 13, s. 13.2.1) and as set out in more detail in the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and *Nunavut Waters*

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*Regulation*, the NWB is responsible for the processing, consideration, and issuance of any associated licences, renewals or amendments arising out of the applications for Type “A” Licences at the first instance. As set out in s. 56 of the Act (attached below), the Minister’s role is not to process such applications at the first instance without the involvement of the Nunavut Water Board. The Minister’s role in the integrated regulatory system established under the NLCA is to approve (or not approve) the issuance, amendment, renewal or cancellation that follows after the Board has concluded its prescribed process for handling the application (including but not limited to the Board complying with the requirements for a public hearing). Consequently, if the Board has no jurisdiction to renew a licence for a two-year term without a public hearing, the Board is without jurisdiction to forward such a renewal to the Minister for his approval. In this respect, both the Minister and the NWB are limited by the powers given to them by the legislated base and cannot act outside those limits.

*56. (1) The issuance, amendment, renewal and cancellation of a type A licence and, if a public hearing is held, a type B licence are subject to the approval of the Minister.*

As noted in your e-mail and in the Minister’s correspondence in response to the Nanisivik Licence Renewal, the problem of gaps between Licences expiring and renewals is problematic for all concerned, and the Board is committed to working with all parties to develop solutions that address this issue. However, the Board reiterates that in developing these solutions, we and the Minister are first and foremost bound by the Board’s objects, purposes and limits established under the NLCA and our governing legislation and can only entertain options that reflect those limits.

Thank you for following up with the Board in this regard; the Board welcomes the opportunity to discuss these and a host of other issues with you and your staff when we are in Iqaluit for the Mining Symposium.

Regards,



Ben Kogvik  
A/Executive Director