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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

NWB File No: 3AM-GRA1015 / Renewal

May 22, 2015

John Kusugak
A/Regional Director, Kivalliq Region
Government of Nunavut, Department of
Community and Government Services (GN-
CGS)
P.O. Box 490,
Rankin Inlet, NU, X0C 0G0

Megan Lusty, EIT
Municipal Planning Engineer-In-Training
Government of Nunavut, Department of
Community and Government Services (GN-
CGS)
P.O. Box 490, Rankin Inlet, NU, X0C 0G0

jpkusugak@gov.nu.ca

Email: mlusty@gov.nu.ca

Subject: Licence No. 3AM-GRA1015, Government of Nunavut, Department of Community and Government Services (GN-CGS), Hamlet of Rankin Inlet: Application for the Renewal - Outstanding information

Dear Mr. Kusugak and Ms. Lusty,

Further to the Nunavut Water Board (NWB or Board) email of May 12, 2015 with respect to the Information Requests (IR) from the Interveners in relation to the determination of completeness of the recent water licence renewal application, the Board acknowledges that in response to these IRs, the Board received additional information from the Applicant, Government of Nunavut, Department of Community and Government Services (GN-CGS or Applicant) on May 15, 2015.

Your additional submission has been placed in the Board's Public Registry and is available from our ftp site using the following link:

<ftp://ftp.nwb-oen.ca/1%20PRUC%20PUBLIC%20REGISTRY/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-GRA1015/1%20APPLICATION/2015%20Renewal/>

The pre-licensing information with respect to land use planning and environmental assessment processes for this Renewal Application remains outstanding. The NWB acknowledges that the Hamlet of Rankin Inlet Municipal Type "A" Licence application was originally reviewed for conformity against the Keewatin Regional Land Use Plan (KRLUP) on March 19, 2010. However, pursuant to s. 11.5.10 of the Nunavut Land Claims Agreement (NLCA), the Nunavut Planning Commission (NPC) shall review every project proposal (which would now consist of the Renewal Application) to confirm from NPC that the activities proposed in the Renewal Application remain in conformity with the KRLUP.

Following the NPC's conformity determination, under s. 12.3.1 of the NLCA, should the NPC determine that a project proposal is in conformity with the land use plans, or a variance has been approved, the NPC shall forward the project proposal with its determination and recommendations to the NIRB for further screening. A decision finding that the original Type "A" Water Licence was exempt from screening under the NLCA Schedule 12-1(3) was originally issued by the Nunavut Impact Review Board (NIRB) on March 16, 2010, and a Screening Decision report was issued with respect to the previous Amendment Application on June 26, 2014 as per s. 12.4.4 (a) of the NLCA.

Copies of the prior NPC and NIRB decisions are also available from the ftp site, at the following link:

<ftp://ftp.nwb-oen.ca/1%20PRUC%20PUBLIC%20REGISTRY/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-GRA1015/2%20ADMIN/>

It should be understood that the NWB may not issue, renew, or amend a licence for the use of waters or deposit of waste if, in accordance with s. 38(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (Act), there is an applicable land use plan approved in accordance with Part 5 of Article 11, unless the NPC has determined that the use of waters or deposit of waste, or in the case of an amendment any change to the use of waters or deposit of waste, conforms to the land use plan, and if in accordance with s. 39(1) of the Act, until the NIRB has completed the screening, reconsideration or where a review is required, issued a new project certificate. Therefore, the NWB requests that the Applicant provide updated information from the NPC and the NIRB regarding the completion of the land use planning and assessment requirements of Articles 11 and 12.

In the interests of ensuring this application is dealt with in a timely manner, but recognizing the limits on the Board's actions under s. 38 and s. 39 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSTRTA or Act), the Board advises that, while it awaits for the Applicant to provide the confirmation from the NPC and direction from the NIRB regarding the pre-licensing process that may be required, the NWB may continue with its technical processing of the Amendment Application but would be unable to schedule a Public Hearing until this information has been provided.

In addition to the outstanding information with respect to pre-licensing requirements, the Board notes that there is still some critical information related to the Application that has not been filed to date, and this is delaying the Board's issuance of the Notice of Application, the commencement of the technical review period for the Application and the scheduling of a technical meeting and pre-hearing conference for the file. The Rankin Inlet Panel (P10) met on May 21, 2015 and by Motion #2015-08-P10-05 moved that the Board will issue the notice of Application for Renewal of Water Licence No. 3AM-GRA1015 only when the Applicant has provided all outstanding information as previously requested. The Panel also directed the staff to advise GN-CGS of the importance of having a completed application before the Board, parties and the public commence their technical review of the Application. Receiving information in a piecemeal fashion, with deadlines that are not met, makes it very difficult for the reviewers and

the Board to establish reasonable comment timelines, to conduct a thorough, integrated and efficient review of the technical issues associated with the Renewal Application and creates inefficiency, delay and frustration for all parties to the process. As GN-CGS will recall from the previous Amendment Application in 2014, outstanding information that was requested from the Applicant as part of the technical review comments was not supplied in accordance with several agreed upon timelines and this necessitated a delay in closing the Public Hearing Record of several weeks after the in person component of the Public Hearing closed.

The three information items that remain outstanding are listed in the text that follows. The Applicant has two updated plans that were to be submitted to the NWB by April 17, 2015:

- Updated *Sewage Treatment Facility Operation and Maintenance (O&M) Plan*; and
- Updated *Environmental Monitoring Program and Quality Assurance/Quality Control Plan*.

On March 31, 2015, the Board invited Parties to conduct a thirty (30) day application completeness determination with an assumption that the updated management plans would be submitted on April 17, 2015 as advised. The deadline for the completeness check of the Application was extended to May 11, 2015 as requested by Aboriginal Affairs and Northern Development Canada (AANDC). However, the Board has yet to receive the updated plans for review. As the Board expects the technical review, comment and potential approval of these updated plans to be conducted as part of the processing of the Renewal Application, the Board requires these updated plans to be submitted before the Application proceeds to the technical review phase.

In addition, on March 11, 2015, the NWB reminded the Licensee that under Part C, Item 1 of the 2014 Amendment to the Licence, GN-CGS was required to submit a Water Pumping Adaptive Management Plan within the 2014 Annual Report, which was due on March 31, 2015. As noted in the Board's Reasons for Decision associated with the Amendment Application, the amendments to this section of the Licence were expressly linked to protection of the aquatic environment, and the Board developed the terms and conditions to reflect concerns of the community, the Board and the Federal Department of Fisheries and Oceans Canada (DFO):

Taking into consideration the DFO's concerns, the Board has included additional requirements to protect the aquatic environment. The Board has included requirements that the GN-CGS carry out, complete and file with the Board, a hydrological study in addition to desktop studies, to be included as a guidance document for seasonal withdrawal from the Char River. The Board has also included a requirement to cease the pumping activities should In-stream Flow Objectives, as per the Water Pumping Adaptive Management Plan, within the Char River defined by DFO's "Framework for Assessing the Ecological Flow Requirements to Support Fisheries in Canada", (DFO 2013, or more recent), not be met.¹

¹ Nunavut Water Board, Water Licence No. 3AM-GRA1015: Reasons for Decision Including Record of Proceedings: Amendment Application, December 23, 2014, pp. 19-20.

On March 15, 2015, the Licensee informed the Board that the Water Pumping Adaptive Management Plan is *being done by the consultant for the resupply pipeline project, Stantec, and they will have the final version back from them before March 31st*. However, the Board did not receive this Plan as required under the Licence by March 31st. Most recently GN-CGS advised the Board in its May 15, 2015 communication that this missing additional information shall be provided by **May 31, 2015**.

As highlighted above, the Board's grant of the Amendment considered the Licensee's provision of this information to be critical to determining the extent to which the seasonal withdrawal from the Char River is sustainable and sufficiently protective of the aquatic environment, and the Board continues to consider the Water Pumping Adaptive Management Plan to be critical information to be reviewed and considered in the context of the Renewal Application. Accordingly, the Board awaits the receipt of this outstanding information and urges the Applicant to provide the information as soon as possible in order to move to the next steps in the processing of the Renewal Application.

Recognizing the interests of all the parties in processing the Renewal Application in as timely and efficient a manner as possible, as soon as these three outstanding information items have been received, the information will be posted on the Board's registry, circulated to the distribution list and a Notice of Application and further direction regarding the next steps (in terms of process and timing) of the Board's consideration of the Renewal Application will be provided.

If you have any questions or require clarification on the above, please contact Karén Kharatyan, Technical Advisor at 867-360-6338 or by e-mail to karen.kharatyan@nwb-oen.ca or David Hohnstein, Acting Executive Director and Director of Technical Services at 780-443-4406 or by email to david.hohnstein@nwb-oen.ca or for any procedural inquiries please contact Phyllis Beaulieu, Manager of Licensing at 867-360-6338 or by email licensing@nwb-oen.ca.

Sincerely,

{Original signed}

David Hohnstein
Acting Executive Director, Director of Technical Services

DH/kk/ri

Cc: Kivalliq Dist.