



ᓄᓇᓂᓪ ᐃᓕᓂᓪᓴᓪ ᑲᓂᓕᓪᓴᓪ
NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

April 22, 2016

File No: 3BM-IGL1520
By Email

Shawn Stuckey
Senior Administrative Officer
Hamlet of Igloolik
P.O. Box 30
Igloolik, Nunavut X0A 0A0
Email: igloolik@magma.ca

Bhabesh Roy, M.A.Sc., P.Eng.,
Municipal Planning Engineer, Baffin Region
Baffin Region, Government of Nunavut
P.O. Box 379
Pond Inlet, NU X0A 0S0
broy@gov.nu.ca

**Re: Type “B” Water Licence No. 3BM-IGL1520 – Regulatory Process Guidance
Regarding Inquiries made for Expansion considered by the Hamlet of Igloolik for
its Water Storage Reservoir**

Please accept this correspondence as clarification of the expectations of the Nunavut Water Board (NWB or Board) with respect to the regulatory process for the expansion being contemplated for the Hamlet of Igloolik’s Water Storage Reservoir as recently mentioned in email correspondence provided by the Government of Nunavut—Community and Government Services (GN-CGS). The Board appreciates the GN-CGS’s initiation of discussions regarding the NWB’s expectations regarding the regulatory process ahead in advance of a formal application in e-mails, a teleconference with the NWB staff and GN-CGS staff involved in the proposed expansion and the follow up summary provided by email to the Board on April 12, 2016.

Based on these discussions, the Board understands that the proposed expansion to the Hamlet of Igloolik’s Water Storage Reservoir is intended to address a shortage of winter water storage and is intended to proceed in two phases:

...To summarize, the Hamlet of Igloolik had a shortage of over-winter water storage in 2015. Due to the critical nature of the water infrastructure it is crucial the reservoir storage capacity is increased during the 2016 construction season. CGS is proposing the expansion occur over two seasons; 2016 expand the reservoir by 8,830 m³ to ensure adequate water storage to meet the immediate

*needs for the 2016/17 season; 2017 expand the reservoir by an additional 48,810 m3 to meet the Hamlet's current needs.*¹

GN-CGS has inquired of the Board as to whether, in light of short timelines with respect to the retention of contractors and arrangement of shipments of materials in the sealift and the limited nature of construction proposed for 2016, there may be an alternative regulatory process other than proceeding with the amendment to the existing Licence to include the reservoir expansion and related activities or a subset of those activities that is currently being screened by the Nunavut Impact Review Board. GN-CGS has asked the Board to explore any options that could result in the NWB authorizing the works for 2016 in a more expedited manner than is the case under the current amendment.

To provide the requested guidance, the Board reviewed the following: preliminary information regarding the proposed expansion provided to it by GN-CGS to date; the project proposals submitted to the Nunavut Planning Commission and the Nunavut Impact Review Board; the requirements of the amended Nunavut Land Claims Agreement, the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSTRA),² the *Nunavut Waters Regulations* (the Regulations),³ and the *Nunavut Planning and Project Assessment Act*, (NuPPAA);⁴ and the applicable requirements of the existing Type “B” Water Licence No. 3BM-IGL1520 (the Existing Licence).

Further, in considering potential alternative processes, the Board limited its focus to only the regulatory process applicable to the expansion to the existing Water Storage Reservoir proposed for 2016. The assumption being that the expansion proposed for 2017 and the increased water use (and potential change to the source of water proposed to be used to fill the expanded Water Storage Reservoir) would remain to be dealt with, eventually under the Application for the proposed Water Licence Amendment No. 2 for which the NWB received a partial submission from GN-CGS in February 2016. It should be noted that Amendment No. 2 has undergone the Nunavut Planning Commission's conformity determination and is currently being screened by the Nunavut Impact Review Board.

In assessing alternatives to the licence amendment process to authorize the expansion of the Water Storage Reservoir proposed for 2016 (and further into 2017) it is important to remember that the Board's approach to licensing is not to authorize under a licence, specific water uses and individual waste deposits, but rather, the Existing Licence authorizes all water uses and waste deposits associated with a single municipal undertaking, which is defined as “a waste disposal or water system for a municipality”. So within that broad scope, the Board must consider what

¹ Email from J. Lywood, Manager, Infrastructure Research, GN-CGS to K. Kharatyan, S. Autut, D. Hohnstein and S. Joseph, NWB sent on Tuesday, April 12, 2016.

² S.C. 2002, c. 10.

³ SOR/2013-69.

⁴ S.C. 2013, c. 14.

water uses and waste deposits are within the scope of the “waste disposal or water system” authorized under the Existing Licence. In considering the terms and conditions of the Existing Licence that define scope, it is also instructive to consider the Board’s decision accompanying the Licence, and in particular, the Board’s specific observations regarding the Water Storage Reservoir authorized under the Existing Licence at the time it was issued in March 2015 as follows:

Water Supply: This system consists of a Water Truck Fill Station, Water Storage Reservoir and an intake pipe from South Lake to the Water Storage Reservoir. The Licensee has indicated that the design and construction plans to expand the Water Storage Reservoir are currently on hold, pending capital fund approvals. The Board advises that an amendment application with construction drawings shall be submitted prior to the commencement of construction for the Water Supply system [emphasis added].⁵

Clearly, it was contemplated by the NWB at the time the decision and renewed Licence were issued that any expansion of the Water Storage Reservoir would require an amendment to the Existing Licence.

However, the Board, reflecting that the work proposed for 2016 is more restricted in scope than the entire expansion, which would not be completed until additional expansion work is completed in 2017, the Board also considered whether the 2016 work could be conducted as a “modification” under the Existing Licence. Under Part A, Item 2 of the Existing Licence:

“Modification” means an alteration to a physical work that introduces a new structure or eliminates an existing structure and does not alter the purpose or function of the work, but does not include an expansion; [emphasis added]

With an expansion expressly considered to be outside the scope of a modification under the Existing Licence, the Board has concluded that an amendment to the Existing Licence is the only mechanism for the Board to make the changes to the Existing Licence that are required to approve the expansion of the Water Storage Reservoir as proposed for 2016. While the Board recognizes that GN-CGS has conveyed that there is considerable urgency associated with getting the work completed in 2016, in all but established emergency circumstances (as provided for in the amended Nunavut Land Claims Agreement, Article 11, Part 10 and s. 52(2)(c) of the NWNSRTA) an amendment application in respect of the expansion of the Water Storage Reservoir in 2016 would be processed by the Board in the usual manner set out under the amended Nunavut Land Claims Agreement, NuPPAA, the NWNSRTA and the Regulations. Please note however, that within these requirements, and in particular the mandated timelines for notice, comment and technical review, the Board commits to working with GN-CGS to process the amendment application as expeditiously as possible given the circumstances.

⁵ Nunavut Water Board, Water Licence Number: 3BM-IGL1520, Decision, March 31, 2015 at p. 2.

If you wish to discuss this matter further, please contact me by email at stephanie.autut@nwb-oen.ca or by phone at (867) 360 – 6338.

Regards,

A handwritten signature in blue ink, appearing to read 'Stephanie Autut', with a stylized, cursive script.

Stephanie Autut, Executive Director
Nunavut Water Board

cc. Public Registry
Justine Lywood
Erin Mentink