



P.O. Box 119
GJOA HAVEN, NU X0B 1J0
TEL: (867) 360-6338
FAX: (867) 360-6369

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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYIT
OFFICE DES EAUX DU NUNAVUT

File No: 3AM-IQA0611/Amendment

May 13, 2011

Minister of Indian Affairs and Northern Development
And Federal Interlocutor for Metis and Non-Status Indians
21st Floor, 10 Wellington
Gatineau, Quebec K1A 0H4

By Courier, Email and Regular Mail

**Subject: Amendments to Water Licence 3AM-IQA0611, City of Iqaluit on An
Emergency Basis**

Dear Minister:

This letter is a request by the Nunavut Water Board (NWB or the Board), seeking your consent to the NWB's issued amendments, on an emergency basis, under s.55(5) and s.174(1)(a)(ii) of the *Nunavut Waters and Nunavut Surface Right Tribunal Act* (NWNSTRA)¹ to Water Licence 3AM-IQA0611 (the Water Licence). The Water Licence authorizes the use of 1.1 million m³ of water annually and disposal of waste associated with various municipal undertakings including a sewage lagoon and landfill by the City of Iqaluit (the Licensee) and expires on May 15, 2011.

On May 10, 2011, the NWB received a submission by the Licensee requesting an amendment to the term of Water Licence 3AM-IQA0611 from May 15, 2011 to July 15, 2012 (the Request). The Licensee also indicated that due to circumstances arising during the spring melt, in the absence of a Water Licence, it was anticipated that emergency authorizations would be required to address the West 40 Landfill retention pond and sewage lagoon capacity issues.²

¹ Section 55(5) of the Act allows the Board to waive the requirements for notice of applications, notice of hearings, and communication of information "in respect of an application for the amendment of a licence where the Board, with the consent of the Minister, declares the amendment to be required on an emergency basis". Section 174(1)(a)(ii) states that the following class of application in respect of a Type A licence is exempted from the requirement of a public hearing: any amendment that affects the use, flow or quality of waters or alters the term of the licence, where the Nunavut Water Board, with the consent of the Minister, is of the opinion that an emergency exists that requires the amendment.

² The situation, as stated in the Request is as follows:

Either during or after the spring melt, the City will need to request an emergency decant from the off-site retention pond at the West 40 landfill. Furthermore, if the Salsnes filter in the Wastewater Treatment Plant goes down for any reason, the City will have to request an emergency diversion of wastewater to the

Consequently, the Licensee asked the Board to process the amendment to the term of the Water Licence on an emergency basis (without public notice and a hearing) pursuant to s. 55(5) and s. 174(1)(a)(ii) of the NWNSRTA.

As the expiry of the Water Licence is imminent, the NWB reminds the Licensee of their on-going obligations under s. 46 of the NWNSRTA, that states: “the expiry of a licence does not relieve the holder from any obligation imposed by the licence.” However, to ensure that going forward, the emergency measures proposed by the Licensee are duly authorized as required by the NWSRTA, the Board considered the Licensee’s request received on May 10, 2011, to determine whether the amendment proposed should be granted on an emergency basis, and if so, whether there were any consequential amendments to the Licence that were necessary.

As you are aware, under s. 43(1)(b)(iii) of the Act the Board may “amend, for a specified term or otherwise, any condition of a licence where the Board considers the amendment to be in the public interest” and when the Board declares that an emergency exists under s. 55(5) of the Act, subject to the Minister’s consent, the Board may waive the requirements for notice of applications, notice of hearings, and communication of information, including where public hearings are not held.

After considering the technical information provided by the Licensee and the Board’s jurisdiction under ss. 43, 55 and 174, the Board decided, in a teleconference held on May 13, 2011, in Board Motion #2011-05-04 that emergency circumstances exist and in Board Motion #2011-05-05 that the following amendments to the conditions of the City of Iqaluit’s Water Licence 3AM-IQA0611 are in the public interest:

- 1) Amend the term of the Licence to July 15, 2012;
- 2) All terms and conditions of the original licence issued on May 15, 2006, continue to apply with the exception of Part B, Item 3, which is deleted and replaced by the following: The Licensee shall file an application for Licence renewal on or before November 1, 2011.
- 3) To respond to the ongoing emergency circumstances additional conditions may be imposed by the Board.

Accordingly, the Board now requests the consent of the Minister pursuant to ss. 55(5) and 174(1)(a)(ii) of the Act to waive the requirements for notice and a public hearing associated with the emergency amendment and requests the approval of the Minister to the amendments to the Water Licence. The Board also requests the Minister to advise the Board of any additional conditions recommended by Indian Affairs and Northern Development Canada to be incorporated under this emergency amendment.

Recognizing the emergency situation, the Board looks forward to a reply at your earliest convenience. If you require further information please contact Dionne Filiatrault, Executive Director at 867-360-6338.

sewage lagoon. Currently, it is estimated that there is only 12 days of capacity remaining in the sewage lagoon; therefore, it is anticipated that the City will also have to request permission for an emergency decant of the sewage lagoon.

Sincerely,

A handwritten signature in dark ink, appearing to read 'T. Kabloona', with a long horizontal flourish extending to the right.

Thomas Kabloona
Nunavut Water Board Chairman

Attachments:

1. Signature page for the amendment to alter the term of Licence 3AM-IQA0611, for approximately one year, expiring July 15, 2012
2. City of Iqaluit Request

Cc: Distribution List - Qikiqtani
NWB Public Registry