



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

July 20, 2012

John Hussey
Chief Administrative Officer
City of Iqaluit
Box 460
Iqaluit, Nunavut
X0A 0H0
Email:
Fax: (867) 975-8505

RE: Request for Amendments to Water Licence 3AM-IQA0611, City of Iqaluit on an Emergency Basis

Dear Mr. Hussey:

The Nunavut Water Board (NWB or the Board) acknowledges the submission by the City of Iqaluit (the Licensee) received on July 13, 2012 requesting an amendment to the term of Water Licence 3AM-IQA0611 (the Water Licence) from July 15, 2012 to September 15, 2013 (the Request) on an emergency basis. Documents pertaining to the Request are available from our ftp site (username public and password registry):

<ftp://nunavutwaterboard.org/1%20PRUC/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-IQA0611/1%20APPLICATION/>

As identified in the Request, the Water Licence expired as of July 15, 2012. The NWB reminds the Licensee that the expiry of the Water Licence does not relieve the Licensee from its obligations under the Water Licence. Section 46 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSTRTA) expressly states “the expiry [] of a licence does not relieve the holder from any obligation imposed by the licence.”

Having considered the Licensee’s request, the Board advises that we do not find that “emergency circumstances” exist as required to support the Licensee’s request. The Licensee’s failure to comply with Part B, Item 3 of the Water Licence, requiring that “The Licensee shall file an application for Licence renewal on or before November 1, 2011”, has led to the situation of the Water Licence expiring before the application for a renewal has even been received by the

Board. While regrettable, this situation is entirely within the control of the Licensee, Thus, in the view of the Board, this failure on the Licencee's part, and the circumstances arising as set out in the Licensee's Request, do not constitute emergency circumstances as contemplated by the NWNSRTA.

In making this decision, the Board notes that in the Licensee's April 24, 2011 request to amend the term of the Water Licence to July 15, 2012, the Licensee stated "The City plans to submit its application for renewal by November 15, 2011." At the time of that renewal, the City of Iqaluit was advised by the Board in the clearest terms that meeting the November 1, 2011 date for submission of a complete renewal application set out in the Water Licence was an "absolute necessity" and "imperative", as the Water Licence is a Type A licence which requires a public hearing pursuant to the Act. At that time, the Board also set out the potential ramifications of failing to do so:

Failure to provide a complete renewal application on or before November 1, 2011 would be a breach of the amended Water Licence and could be subject to enforcement action by Indian Affairs and Northern Development Canada [as the Department then was] as a result.

The Board is also mindful of the concern expressed by the Minister of Indian and Northern Affairs (as he then was, now Aboriginal Affairs and Northern Development Canada) regarding the use of emergency amendments to address administrative matters within the control of the City:

I understand that the City did not apply to renew its licence with due consideration to guidelines and past practices and still has not submitted for a renewal other than this 14-month extension. I am becoming more concerned about the use of emergency amendments to address largely administrative matters.¹

In the face of the Licensee's failure to yet again to meet the renewal application deadline established in the Water Licence as amended in 2011, notwithstanding the Board's clear and unequivocal language that it was "imperative" in order to avoid the current situation of the Licence expiring before a renewal application is received and processed in accordance with the NWNSRTA, the Board does not find that the requested amendment to the Water Licence constitutes emergency circumstances, nor does the Board consider this amendment to be in the public interest.

Accordingly, the Board urges the Licensee to prepare and submit a complete application for renewal as soon as possible, recognizing that the Licensee does not currently have a valid Water Licence in place. As identified earlier in this letter, the Board emphasizes that the expiry of the Water Licence does not relieve the Licensee from the obligations under the Water Licence.

¹ Minister of Indian and Northern Affairs (as he then was, now Aboriginal Affairs and Northern Development Canada) letter of June 17, 2011 in reply to the Board's May 13, 2011 request for the consent of the Minister to emergency amendments to the Water Licence on May 13, 2011.

If you require further information please contact Dionne Filiatrault, Executive Director at 867-360-6338.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Filiatrault', written in a cursive style.

Dionne Filiatrault
Executive Director

Cc: Distribution List - Qikiqtani
NWB Public Registry
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