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Nunavut Department of Justice

February 22, 2000

By facsimile: 867-360-6369

Philippe di Pizzo
Executive Director
Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
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Dear Mr. Di Pizzo:

Re: Iqaluit Water Licence - # NWB3IQA9900

Thank you for the opportunity to comment on the Municipality of Iqaluit's letter to the Nunavut Water Board ("NWB"), regarding the newly issued Water Licence for the Municipality.

The Government of Nunavut ("GN"), through the Bathurst Mandate, has established broad objectives and principles that will serve to guide the government in its decision making process. Among others, the Bathurst Mandate states:

- To provide for *Healthy Communities*, all levels of government working together will strengthen Nunavut;
- For *Simplicity and Unity*, the process of government will invite participation, will be open, responsive and accountable and cooperation will be the operating standard at every level;
- To provide for *Self Reliance*, the government will work within our means in establishing common goals; and
- In the spirit of *Continuing Learning*, it is recognized that learning is a lifelong process and shall recognize all potential teachers, beginning with elders.

In this context, and recognizing the unique issues associated with issuing a Water Licence to the Municipality of Iqaluit, we wish to provide the following comments for your consideration, on behalf of the GN as a whole.

1. **Penalties and Jurisdiction** - Mr. Kilabuk is here concerned with the NWB's identification of the NWT Water Act as the primary authority for this License. Penalties for non-compliance are set out in s.40 of the Act, and are enforceable by federal officials.

In the event the Municipality violates its license then GN may also be in a position to act, in the event our legislation has also been violated.

2. **Term and timeframes in the Licence** – Mr. Kilabuk also raised concerns about time restrictions in several of his comments on the Licence.

From a GN perspective, this License imposes a great many stipulations for completion in light of its one-year timeframe. During this same year Iqaluit will also face intense administrative demands and expense associated with the completion, approval, construction and implementation of its Comprehensive Waste Management Plan, not to mention the additional preparations required for a further full NWB Licensing hearing this fall.

GN did not agree with the DIAND proposal of a 10-year license, nor the Municipalities proposed 6 years. It is our conviction, however, that from a practical perspective 1 year is too short a term in light of the conditions imposed. It would assist the Municipality, if the NWB were willing to either extend this term slightly. Alternatively, the NWB may wish to consider a truncated review of "benchmark" accomplishments at that time, (likely focussing on the Comprehensive Waste Management plan) in assessing the appropriateness of further extension after one year.

GN is also concerned that the Municipality may be impeded or paralyzed in relation to its priority effort, implementing Comprehensive Waste Management, if there is no possibility of extension or deferral of other particular study and reporting items in this License. The NWB may wish to consider these concerns now, rather than on a case-by-case basis as the deadlines arise.

3. **Geotechnical Engineer's Inspection of Lake Geraldine Reservoir Dam** – The visual inspection of Municipal infrastructure to ensure integrity is a routine and important part of Municipal infrastructure management. A specific Municipal Lifecycle Management program would be applicable to this Dam. The Lifecycle Management program generally entails routine visual inspection by Municipal staff of the infrastructure item. It is our understanding that the DIAND Water inspector would also be responsible to inspect this structure to ensure it meets any standards or criteria that the NWB may wish to impose, including structural integrity, consequently, GN has taken the position that this federal appointee should be an engineer duly qualified to perform his function.

In the event problems or defects were noted or suspected, then a more intensive inspection such as that contemplated in the new Water Licence would be tailored to the apparent defect. In the absence of reasonable grounds for suspecting the presence of structural problems or defects, a full Geotechnical Engineering Inspection may be excessive, or only infrequently required.

4. **Hydrological Assessment of Lake Geraldine Watershed** – A Water Treatment Plant Design Brief, was prepared by Reid Crowthers and Partners Limited in May 1998. This report indicated that there is no reason to believe there will be a shortage of water supply over a significant period of time (refer to section 1.2.5 of the report).

GN recognizes that a hydrological assessment relating to alternative water sources will be required within one decade at maximum. Given that,

- a relatively recent report exists and confirms the adequacy of Lake Geraldine to meet Iqaluit's immediate needs, and
- there are other matters urgently requiring Municipal attention at this time,

GN shares the Municipality's concern that this study requirement is also if not also fiscally impossible. If this License term continues, we too would benefit from additional direction as

to which issues, not addressed by the Reid Crowthers and Partners Limited report, require immediate investigation.

5. **Sewage Treatment Plant operational deadline of February 15, 2000** – Our GN Departments unanimously assert a greater interest in avoiding adverse impacts on Iqaluit's effluent quality, as opposed to the rigid enforcement of this deadline.

Strictly speaking, the Municipality is already in violation of their Water Licence. While the Municipality had every intention to have the plant operational early in 2000, it is our understanding that testing of the plant, using water, revealed some cracks in the concrete tankage. The Municipality's consultants have had to devise a correction for this minor defect, and consequently the plant is not yet operational. From GN's perspective, a deadline of March 31, 2000 could reasonably be stipulated.

This situation spotlights the need, in the event legitimate obstacles prevent compliance with the License deadlines, for an abbreviated method whereby the Municipality may return to the NWB (and interested stakeholders) requesting an extension and committing to a plan of action to rectify the problem. In light of the substantial completion of this particular project, another alternative would be to change the wording of this clause, directing the Municipality to start using the new Sewage Treatment Plant immediately when operational, and after all required testing has been completed and permits (occupancy for example) obtained.

6. **Geotechnical Engineer's Inspection of Sewage Lagoon Dykes** – GN concerns about this stipulation mirror those identified in item 3 of this memo. However in this instance, there has been concern about the integrity of the dykes at the sewage lagoon, and at least one recent failure. As the lagoon is still needed for emergency back-up purposes, the Municipality is required to continue periodic inspections as a part of ongoing operations and maintenance, and again the Water Inspector may be required by the NWB to continue periodic inspections in the event specific concerns or criteria are identified (i.e. a requirement to maintain structural integrity). In the absence of specific concerns arising from these inspections, the required geotechnical inspection may be excessive in light of the 'back-up' function being performed by these structures.
7. **Interim Sewage Treatment Plant Sludge Disposal Plan** - We agree that the Municipality should revise its present Operation and Maintenance Plan to incorporate an interim plan for the management of sludge from the sewage treatment plant. Any untested methods, including composting, should be piloted during the coming construction season to ensure their effectiveness. The GN officials who's approvals will be required would appreciate the opportunity to review this plan in the event the NWB has in fact received it, and are in support of time-lines that are consistent with these comments.¹
8. **Comprehensive Solid Waste Management Plan** – This is GN's priority item for the year 2000. We strongly disagree with the Municipality's submission on this item.

It is our understanding that the Municipality is currently undertaking this study using GN funding, and to be completed by March 31, 2000. Considering the importance and scope of the study, siting evaluation and the assessment of spring and summer conditions at the selected site are also necessary. Consequently, the "Plan" may be subject to minor amendments during the spring and summer of 2000.

For greater clarity the Plan should in our view address

¹ We wanted to note for the benefit of the NWB and Municipality, that the Chief Medical Health Officer must be satisfied of the appropriateness of their Plan, and there are also approvals required under GN's public sewerage regulations [s.3(1)]. There has been no such consultation to date. Generally speaking, if there are confusions in this area, it may be advisable to obtain legal advice confirming that the list of GN approvals required is fully complete.

- i) proposed procedures for the existing facility to deal with sewage sludge for treatment during the period through June 2001 when our new sewage treatment facility is commenced;
- ii) a pilot study, in the event the plan includes locally untested methods such as composting, including for example a characterization of the treated compost (metal content etc...) and disposal proposal as to where the treated compost would be disposed.

9. **Terms of Reference for Study Linking the Impacts of Burning at the Municipal Solid Waste Facility to Water Quality** – This license condition came as a surprise to GN. While the linkage issue was discussed in one of our memoranda as the lynchpin for establishing NWB jurisdiction, no one in GN anticipated such a study request being imposed at the Municipal level. The crucial point to be addressed by the NWB, in our view, was the need to mitigate or end adverse impacts of solid waste burning.

The study contemplated by the NWB would involve a multi-year project requiring the collection of tremendous amounts of data. Such a study would involve collecting background (existing) air, water and soil quality parameters, undertaking emission testing at a number of sources (solid waste facilities, jet fumes, NTPC emissions, etc.) and then collecting this data repeatedly over a number of years to establish links to water, if indeed they exist.

Meanwhile, the Municipality is undertaking a Comprehensive Waste Management Plan, and doing so in a context where sole-reliance on open burning for a community the size of Iqaluit is clearly unacceptable both to many responsible GN Departmental officials and experts, and to members of the community of Iqaluit itself. Accordingly, the intention is to reduce and phase out the practice of open burning.

In light of this context in which the study is being requested, and the limited time and resources available to the community, it is doubtful that the study contemplated by the NWB could be completed within this two year period, or that it will, if completed, apply to or benefit the Municipality of Iqaluit in any way.

As the NWB will observe from our various comments in this memo, GN takes the position that the assessment and implementation of fiscally responsible alternatives to open burning require absolute priority during this year, 2000. Our hesitance toward the NWB's study requirement should not be interpreted to mean that such a study would not clarify NWB's mandate and constitute a tremendous benefit northern communities, if undertaken by an appropriately resourced and mandated body, or as a co-operative effort between several jurisdictions. Rather, our position is that GN and the NWB should support Iqaluit, using all means necessary to ensure the town can get through the onerous process of publishing its Comprehensive Waste Management Plan, making such amendments required by the NWB and stakeholders, obtaining required approvals constructing, testing, training and otherwise operationalizing, and all before the fall of 2000.

10. **Abandonment and Restoration Plan for the Sewage Lagoon** – GN intends (subject to the approval of the Legislative Assembly) to fund the Municipality to undertake an Abandonment and Restoration Plan for the Sewage Lagoon in fiscal year 2001/02. Funding to meet the earlier date proposed by NWB may not be possible.

Again, thank you for this opportunity. We appreciate the NWB's willingness to receive comments in this manner. As a new government player in these ongoing relationships, we hope to work with the NWB and our various partners in an open manner, and to address the specific needs of Iqaluit in terms of management of sewage, solid waste, and water.

We are also all too aware as a new government that not all deficiencies can necessarily be corrected within short time frames. GN has been actively engaged in a priority-implementing process these last months, and we hope that the NWB's deliberations may be assisted by some

of our thinking in this area. It is our submission that priorities have to be identified and acted on in a responsible and realistic manner and we are prepared to co-operate with the NWB and other parties in setting and implementing priorities for the 1999 Water License.

Should you wish to discuss further the matters raised in this memorandum, please do not hesitate to contact Douglas Sitland at 867-975-5341, Robert Eno (867-975-5907) or legal counsel Susan Hardy at 867-979-6000.

Sincerely,

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