

Nunavut Water
Board

AUG 05 2003

Public Registry

FEDERAL COURT OF APPEAL

Court File No. **A-293-03**

BETWEEN:

NUNAVUT TUNNGAVIK INCORPORATED

Appellant

- and -

**ATTORNEY GENERAL OF CANADA
and MUNICIPALITY OF IQALUIT**

INTERNAL	
PC	DP
LA	
OM	
TA	
BS	
ST	
ED	
CEO	
BRD	
EXT.	

Respondents

NOTICE OF APPEAL

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED by the appellant. The relief claimed by the appellant appears on the following page.

THIS APPEAL will be heard by the Court at a time and place to be fixed by the Judicial Administrator. Unless the Court orders otherwise, the place of hearing will be as requested by the appellant. The appellant requests that this appeal be heard at Ottawa, Ontario.

IF YOU WISH TO OPPOSE THIS APPEAL, to receive notice of any step in the appeal or to be served with any documents in the appeal, you or a solicitor acting for you must prepare a notice of appearance in Form 341 prescribed by the *Federal Court Rules, 1998* and serve it on the appellant's solicitor, or where the appellant is self-represented, on the appellant, WITHIN 10 DAYS after being served with this notice of appeal.

IF YOU INTEND TO SEEK A DIFFERENT DISPOSITION of the order appealed from, you must serve and file a notice of cross-appeal in Form 341 prescribed by the *Federal Court Rules, 1998* instead of serving and filing a notice of appearance.

Copies of the *Federal Court Rules, 1998*, information concerning the local offices of the Court and other necessary information may be obtained on request to the Administrator of this Court at Ottawa (telephone 613-992-4238) or at any local office.

IF YOU FAIL TO OPPOSE THIS APPEAL, JUDGMENT MAY BE GIVEN IN YOUR
ABSENCE AND WITHOUT FURTHER NOTICE TO YOU.

Date: June 25, 2003

Issued by



Michael Kowalchuk
Registry Officer
Agent du greffe

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APPEAL

THE APPELLANT APPEALS to the Federal Court of Appeal from the Order of the Honourable Madam Justice Snider dated May 26, 2003, in the Federal Court of Canada, Trial Division, Court File No. T-1628-01.

THE APPELLANT ASKS that this Honourable Court set aside the Order of the Honourable Madam Justice Snider and order the decision of the Minister of Indian Affairs and Northern Development dated August 13, 2001, exercising a purported power to withhold approval of a licence issued by the Nunavut Water Board, be set aside.

THE GROUNDS OF THE APPEAL are as follows:

1. The Application Judge erred in law in holding that the *Nunavut Land Claims Agreement* ("the *Agreement*"), did not provide for the Nunavut Water Board to approve applications for water use and to issue licences for water use without the approval of the Minister and, in particular:
 - a. The Application Judge erred in law in holding that the provisions of Part 7 of Article 13 of the *Agreement* did not confer power on the Nunavut Water Board to issue approvals;
 - b. The Applications Judge erred in failing to recognize that the *Agreement* contemplated the enactment of new water legislation to replace the *Northern Inland Waters Act*;

- c. The Applications Judge erred in failing to recognize that the practice of the Minister in the years after the *Agreement* was ratified was inconsistent with the assertion that he was required to approve Nunavut Water Board decisions in that:
 - i. The Minister had not previously asserted a right to approve licences issued by the Nunavut Water Board and had not in fact approved prior licences issued by the Nunavut Water Board;
 - ii. The Minister appeared and participated through representatives in the very proceeding which led to the licencing decision which the Minister then purported to disapprove;
 - iii. The Minister's decision purportedly disapproving of the Nunavut Water Board decision was made more than seven months after the Nunavut Water Board decision;
- d. The Applications Judge did not interpret Article 13 in light of other provisions of the *Agreement* dealing with Ministerial approval of decisions of other regulatory bodies;
- e. The Applications Judge did not interpret Article 13 of the *Agreement* in a manner consistent with its purpose.

5

2. The Applications Judge erred in holding that there was no conflict or consistency between the *Agreement* and the Minister's purported power to approve licences issued by the Nunavut Water Board.
3. Such other grounds as the Appellant may advise.

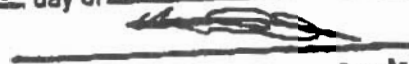
Date: June 25, 2003


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Solicitors for the Appellant

I HEREBY CERTIFY that the above document is a
true copy of the original filed of record in the Registry
of the Federal Court of Canada the 25 day
of June A.D. 2003
Dated this 25 day of June 2003


Michael Kowalchuk
Registry Officer
Agent du greffe

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6

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COMMENTS:

*As per teleconf. in Ottawa + Chair's request**Bill*

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