

NUNAVUT WATER BOARD
Public Hearing
Iqaluit Municipal Water License Renewal
November 24, 2000

Chairperson: Thomas Kudloo

[TK = Thomas Kudloo

MM = Marcel Mason

SP = Unidentified Speaker]

RE = Robert Eno

JM = John Matthews

BS = Bonnie Segal

JT = John Tidball

[Start of Tape 8 - Side A]

RE: ...around town for the last year. I did not specifically discuss it in my written submission, I alluded to it, but I didn't specifically discuss it because I don't generally like to give rumours too much credence, because I haven't seen any basis in fact to support them. However, after Mr. Mackenzie's presentation yesterday, I urge the town to address this issue, either refute it or just to support their case, because the rumours are going around town, and I don't think it serves any useful purpose to ignore it. It should be addressed.

In terms of hazardous waste management, as I said yesterday the Department of Sustainable Development is quite willing to assist the town with this. However, gentlemen, the town has to take the lead on this. I can't do their job for them. If they want my assistance I'm quite willing to help, but they have to take the lead on this, and I will do everything I can to assist them. That's what I get paid the big bucks for. [laughter]

I also want to reiterate that the town should be carefully screening the business licenses that come in, that the town should not expect to assume the entire burden for management of hazardous waste. The businesses should be sharing in the cost of this, and again... I mean, one of the things I could suggest is to set up a meeting with business, industry, government, municipality, see if we can work something out, because I think it needs to be addressed, and thus far it hasn't been.

In terms of... and again, we weren't supposed to bring up the issue of jurisdiction, but it's come up again and again, so I'm going to comment on it. I feel that I have every right to do so. In terms of jurisdiction, Mr. Webber brought up some very valid and compelling points to support his argument. However, Mr. Mason yesterday also brought up a valid point that I agree with, and solid waste management is part of the water license. It's included in the water license. If the Nunavut Water Board does not have

jurisdiction over this, then take it out. In the meantime I suggest... I don't know whether you folks have the power to do that, but I suggest that you approach the minister - your minister - and advise him that there could be a regulator vacuum. We need to solve this. This issue has come up time and again. Every year it comes up, and we've yet to resolve it, and it's an argument that we've making for years, and I think it's time to do something about it. So, if you have jurisdiction over solid waste management, then keep it in the license. If you don't, take it out, and there won't be any more arguments about it.

Finally, as I said yesterday, the Department of Sustainable Development, and me personally, has every faith in the new town council. Like I said, I know some of these people, I've know for quite a while, and I know that their honour and integrity are beyond question. However, I've not seen anything in the presentations to change my mind about advising for a two-year license. I know they have the best of intentions, but we need a mechanism to keep everybody honest, and I said yesterday, this is the only forum that allows the public a chance to comment. So, I maintain that the... or, rather, I advise the Water Board to issue a two-year license. I think that will give the town ample time to get something together, at least get the two major issues together, and that is the establishment of the sewage treatment plant, and of the management of the long-term solid waste management facility. And I think after two years something should be in place, or something should be moving. We should see some evidence of some activity in that regard, and then we can take it from there.

And thank-you very much, that's all I have to say.

TK: Thank-you, Mr. Eno. I call upon Baffin Health and Social Services for their final closing remarks.

BS: Thank-you, Mr. Chairman. My name's Bonnie Segal and I represent Health.

For my final remarks, I would just like to reiterate that we really don't know, in any detail, a lot of the steps that are going on at present, let alone anything about future plans of the town. So, it's difficult to comment on how conditions should be put in the water license to control these present and future activities. We have a lack of information on funding, where new sites are going and what sort of technologies are going to be used there, and what are the concerns that these new sites, or even the closing of old sites will bring up in the future.

So, there is a need for all parties to have a fair chance to evaluate all of the material that will be produced in support of plans and actions that are going to be coming up in the next couple of years.

This is one of the only established forums for the general public to have their concerns voiced and recorded, so I urge no longer than a three-year license. In fairness to the public and the interveners, they really need the opportunity to be heard on these matters, and in the interest of public health, I don't think it's a good idea to have projects completed before we've had a fair chance to completely review, and the public to have a chance to comment.

So, the ones that are going on and we have some information on right now should be done in the next three years. The ones that are still in the early planning stages, by the end of two to three years they should have more concrete information to bring to the Board and to the public for comment, and to the interveners.

So, in fairness to everyone, I would urge that you keep the license confined to three years, and any conditions you put on the license deal with issues that we have concrete information on, or the request for more information as it becomes available.

Thank-you for your time, and I'll be available to anyone who has any questions in terms of what my role is, at any time. Thank-you.

TK: Thank-you. I call upon Mr. Marcel Mason for final closing remarks, please.

MM: Marcel Mason. Thank-you, Mr. Chairman. I'd like to preface my remarks with a vote of confidence for the new mayor. I believe Mr. Matthews has every intention of doing everything that he can to make sure that the town moves forward on these matters. The same with Mr. Butler. However, having said that, I believe that the one word I'd use to describe what's happened over the last year, and indeed over the last couple of days, here, is uncertainty.

We are uncertain, based on the municipality's previous actions - or inactions, as the case may be - if conditions are imposed they will be followed. We are uncertain as to if the plans the towns has made will be followed through on. Indeed, Mr. Chairman, because of the way the territorial budgeting process works, we're even uncertain if there will be adequate funds to allow the town to follow through on its plans, regardless of their will to do so.

We are, from a public perspective, anyway, uncertain as to who has jurisdiction over what. We are, in many cases, uncertain who has enforcement ability, and over what. There's a great deal of uncertainty here.

Because of that, my submission asks for a one-year license. If a multi-year license, a five-year license that the town has asked for, is granted, and any of the uncertainty factors kick into gear, then where is the public? If a five-year license is imposed, and there are a number of conditions attached to the license, and the

municipality does not abide by those conditions, or, as in the case of a couple of conditions imposed in the last license, does not see the necessity of following through on those conditions, where is the public?

And if we are uncertain as to who has jurisdiction over what, and who has enforcement authority over what, then we really are tied up in a little ball with nowhere to go.

As I said, I have every confidence in the new administration. I have every confidence in the new council. But there are some very, very high levels of uncertainty surrounding everything. And because of that, I would urge a short-term license. A one-year period of time will give the municipality time to get the sewage treatment plant in gear, as well as get some initial data from it as to how effective it is. One year from now, if the municipal plan is followed, then we will be probably able to go for a new incinerator.

Thank-you.

TK: Thank-you, Mr. Mason. I shall call upon Mr. William Mackenzie for final closing remarks. Thank-you. Let's take a fifteen-minute break, here, before I call upon the town of Iqaluit for their final closing remarks.

[break]

TK: ...Iqaluit to make their final closing statement.

JM: Thank-you, Mr. Chair. John Matthews, Mayor of Iqaluit. I will have a few closing remarks before I turn it to Mr. Tidball. I'd like to thank everyone who participated -

TK: Mr. Matthews, the mike is not working.

JM: Thank-you, Mr. Chair. John Matthews, Mayor of Iqaluit. I'd like to thank the participants, I'd like to thank the interveners for the well thought out presentations that have been provided, the administration of the Water Board, and the Water Board members themselves.

When I made my introductory remarks, I referred to the reasonableness of our presentation, and I think that's been shown, and I think it's been appreciated by everyone here that the town is trying to be as reasonable as possible. The town has made a commitment to clean up, and we'll continue to perform in light of that commitment.

We are trying to involve the community as much as possible. From the community level we go to committee level, and then it finally reaches council. So, any decisions that are made are well thought out, and have as much public input as possible.

I think it's fair to say that the harshest critics are usually ourselves, and I think in the presentations the interveners who have suggested that we be limited to a one-year

license are from ourselves. They are residents who are speaking on their own. And we very much respect what they say, we very much listen to what they say, but I think it's necessary to share with the Board that these issues, although very, very important, are not the only issues facing the community. We just went through an election, we listened to the people, what issues are important. As has been noted, the community is growing, the problem of homelessness is very acute, and we just have many other problems. The problems we're facing now that have been presented by our residents are very real, but they are not our only problems, and we want to make that point to the Board.

We are requesting a five-year license, with reasonable conditions. To prepare for anything shorter than that takes the time of our administration, takes the time of council, and costs money.

We want to meet the priorities that the people in the community have addressed, and in order to meet those priorities we are requesting that you do give us a five-year license so that we can balance one priority against another.

Thank-you very much for your time.

TK: Thank-you, Mr. Matthews. Please proceed, Mr. Tidball.

JT: Thank-you, Mr. Chairman. It's John Tidball. I think I only have to do this once, and that'll be it.

There are three parts to my final comments to the Board. I first wanted to start with some general comments. Secondly I want to briefly go through the issues one at a time, and canvas with you where we are on them, because I think what I'm going to suggest to you is that we're actually all very close on most of the issues, and there really isn't a whole lot that's outstanding before you, in terms of things in dispute. And thirdly - and this will be the duller part of it, I assure you - I'd like to go through conditions that we have discussed throughout the hearing, and sort of wrap that up for you.

So, first of all, on general comments. What I'd like to say to the Board is that I would like you to have regard to five specific things, and to a certain extent the mayor has spoken to the first one, and let me just repeat that we'd like the Board to have regard to Iqaluit's willingness to work in cooperation with the Board and other government departments towards reasonable conditions of the license.

Secondly - and again, I'll echo the mayor's remarks that he's just made - we'd like the Board to have regard to the phenomenal pressures that Iqaluit is facing right now, especially in the area of public works. The mayor has spoken to other things that are priorities of the community, but even on the public works side, there are - as you have heard - substantial pressures to get things done. There is the new sewage treatment plant

that Mr. Hough told you yesterday occupies... I forget how he put it, but I think he wishes he had time for other things beyond it. There is the matter of a whole new waste disposal system, and there is looming on the horizon the possibility that new water supplies will have to be located for the community.

I can tell you, Mr. Chairman and members of the Board, in my experience.. and I never really did introduce myself, but I do work like this, primarily in Ontario, for municipalities across the province, and I can tell you even from a much larger municipality, urban municipality in Ontario, those three challenges alone, over a short period of time, would strain an administration to the breaking point.

The third thing I'd like you to have regard to is the fact that Iqaluit has finite resources. It's obvious, I think, without saying it, that there is only so much money that can be raised from taxpayers to pay for any of the priorities of the community, and that the remainder has to come from other levels of government, and I very much appreciated Mr. Sitland's remarks to try to put that into perspective from the territorial government's point of view. The territorial government also has other priorities, and all of those have to be balanced.

The fourth thing I'd like you to have regard to, and I'm going to echo, to a certain extent, Mr. Webber's comments. Again, I appreciated his comments, and for the most part I agree with them, that the Board cannot turn itself into more than it is simply because other government departments either haven't chosen to exercise authority that they legitimately have, or that there is a gap, so to speak, in the legislative framework, and there's a need to fill it. Your jurisdiction, as Mr. Webber has suggested to you, comes from the Land Claims agreement, and it is over the use of water and the disposal of waste into water. I agree with Mr. Webber's suggestion to you about the... I think it's actually a two-part test, and I'm not going to repeat any of it.

I would point out to you, when you're considering this notion of who has the ability to regulate and who doesn't, that you may want to have regard to some of the territorial statutes. In particular, there were two regulations, or three regulations, I think, that Miss Segal mentioned to you, and you may want to have regard to them if you're concerned about the ability of some other government department to regulate. It's clear to me that under the public sewerage systems regulations and the public water supply regulations, there is a fairly broad jurisdiction vested in the Department of Health and Social Services, Baffin, to deal with much of what we've been discussing, certainly on the water and sewage side.

The waste side is an interesting... it's an interesting problem and I've already made comments to you on it, and I'm not going to talk generally on it. I'll come to specific issues a little bit later.

I would also refer to you, and I greatly appreciate Mr. Eno's remarks first thing this morning, where he dealt with the powers of the Department of Sustainable Development under the *Nunavut Environmental Protection Act*. He said something I was going to point out to you, that... in fact if you want to look at it, it's in Section 10.1 of the Act, the Department of Sustainable Development actually does have licensing powers, and if you go a little bit further and go to the back of the Act and look at the powers that the territorial cabinet has to make regulations, you can see that they can make specific regulations with respect to what I would term waste management. They can make specific regulations on licensing anything or everything.

And I guess I remind you of that simply to echo the point that the jurisdiction is there. There is another department that has the ability to use it, and I appreciate very much Mr. Eno's remarks that they consider it to be a luxury and they haven't got around to establishing it yet, but I guess I would echo Mr. Webber's comments and urge the Board not to sort of jump in, when it seems clear to me there isn't jurisdiction to do certain things.

The fifth thing that I wanted you to have regard to, and this is almost a corollary point to the last one, is that if the Board chooses to stretch its jurisdiction, I think it should have careful regard to any precedence it sets. The Board regulates municipalities across Nunavut, and it would be perfectly reasonable for citizens of any other community, should the Board decide to go, perhaps, than it might ought to in some areas, and impose conditions on the capital city, it would be perfectly reasonable for citizens of other communities to expect the Board to do the same thing in their communities. And I say that purely for the purpose of saying this is not just an issue of the capital city of Nunavut, and things that apply here. It should apply equally across the territory.

Now, I want to move, then, to the second main area, which has to do with issues, and I'll preface it simply by saying our approach, as you've heard the mayor say, is to try to, to the best we can, to resolve issues, to be reasonable, and to try to meet parties halfway. And as a result, I don't believe that there are a lot of issue that are really outstanding. They are outstanding in the sense that the Board has to determine them, but as amongst the parties there aren't. The first one is the best example of that. The first issue that was identified for the Board was the issue of long-term water supply. You have heard Mr. Hough describe what the municipality plans to do. There doesn't seem to

be any disagreement amongst any of the parties about that, and there seems to be an agreement with a condition that would require Iqaluit to do a study on long-term options, and as part of that study to include some of the things that were contemplated in the condition last year, and that was the suggestion of the federal government. Iqaluit has no difficulty with that. And I'm going to come back to all of this when I go through conditions, but when we come to that I hope that's all covered off.

The second issue is the integrity and the stability of the Lake Geraldine dam. This is a tricky issue, and it will require some... it may require some judgement on the Board's part. I liken it to something of a chicken and egg issue, and in retrospect, I guess, the municipality regrets not getting into this issue more deeply last year, because obviously that was the place to have dealt with it. We have the odd situation where, from the municipality's point of view, they don't think there's anything wrong with the dam. They have advice from their engineers that there's nothing wrong with the dam, and those engineers have been inspecting it since 1997, and so it sits here with no idea of what the concern is. The concern dates back to last year. I haven't yet heard any real rationale for why there is a concern about the dam, and so we're stuck with, do you believe the glass is half full or the glass is half empty?

The suggestion that I would make is, if we can, to try to meet that concern halfway. As I said this morning, OMM Trault has been asked to prepare a report. What we're going to suggest is that, rather than require the town to undertake a formal geotechnical inspection and report, which, is I understand it, is a bigger something, requires drilling and the like, and a fair commitment of resources, rather than requiring that we'd like to suggest that the Board require the municipality to submit an engineer's report - and we can tell you right now that would be coming from OMM Trault - that simply talks about the condition of the dam based on the information that has been assembled. We're perfectly happy to make that report available to all parties, and we'll see where we go from there.

Further - you may recall that Mr. Hough addressed this - the municipality intends to, in any event, address what I think he called life-cycle inspection and maintenance issues as part of the long-term study that I talked about a minute ago, on water supply. That's going to be essential to assess the viability of Lake Geraldine for additional water supplies in the future.

And one final thing, and just to remind you of it, because it is in the evidence, if you have any residual concern, there is also the fact that, as I understand it, the government of Nunavut is investigating the feasibility of a new hospital, directly

downstream from the dam, if I can put it that way, and as part of that there is a risk assessment on-going on that. And part of that risk assessment has to be an assessment of the structural capability of the dam, because obviously the biggest risk inherent in putting a hospital there would be problems with the dam. So, if the Board needs any other assurance, I simply remind you that that is sitting.

The next issue is the new sewage treatment plant. You've heard Mr. Hough's evidence on that, and you've had a chance to see it for yourself. I think the only outstanding issue is whether there'd be anything gained by imposing a deadline requiring the municipality to have it open in any particular period of time, and I'm going to suggest to you very strongly that I can't see than anything could be gained by that. I'm sure the Board must appreciate by now that the municipality has every incentive to open the plant as soon as it's ready. It wants to do that, you've heard from Mr. Hough on that point. But at the same time, the Board has no recognise that a certain amount of this is out of the municipality's control, and there are complex construction issues to be faced, and Mr. Hough described some of them. At the moment, the schedule is that the repairs will be completed by February, and then the expectation is that it will take about two more months to get the plant ready. I'm not sure what can be gained by establishing a date and requiring the municipality come forward and, say, to amend it if they can't meet it.

At the same time, we have no difficulty, as I think we said earlier, of adopting Mr. Eno's suggestion for a status report to the Board. It seems a reasonable thing. Frankly, we think it makes more sense to file a status report fairly shortly after the plant opens, so that the Board can be advised that the plant is open. And frankly, we don't see any particular reason to have to repeat Mr. Hough's evidence from yesterday, which is all the reasons why the repairs were necessary, and what they do or don't do to the long-term integrity of the plant.

The next issue is the disposal of the sludge from the new treatment plant. It seems to me that there's a consensus among all the parties that there is a need for both a short-term plan and the long-term plan. In my view, Mr. Hough has described the short-term plan for you, and I'm not going to go into it, I'm not going to repeat the evidence here. You've heard it.

We agree that there are issues about the ability to compost in an Arctic environment. That seems obvious. We have some concerns with the practicality of Mr. Eno's suggestion, yesterday, about going in and scooping a bucket of sludge off the bottom of the lagoon to do a pilot project, and we think, as a practical matter, given the timing, we'll probably be able to get sludge from the new plant before we could do that

anyway, and I would urge you to simply accept the evidence that Mr. Hough has given, to allow the municipality to adopt the short-term plan that they described, and we don't really see that there's any compelling logic to have a condition dealing with the short-term plan. They will deal with it as they can.

The long-term plan... clearly Iqaluit needs some time to develop one. They need some time to do it, and I think the only issue has to do with timing. Assuming they can get going on everything next spring and summer, they'll need the summer, at least, to evaluate the composting project, just to see if it works. They'll also be... they also need some time to consider whether or not the new incinerator will be capable of dealing with the sludge - that's a fairly common technique in other incinerators - and in our submission it's reasonable to require that kind of report by the end of next year, that is, December 31st of 2001.

The next issue on the sewage treatment side is the integrity of the lagoon dykes. This is, I guess, a similar issue to the dam at Lake Geraldine, except for the fact that there is a history of some failures. We tried very hard to give you the evidence about those failures. Clearly there were some significant failures back in the 80s, and right up to '91. As Mr. Hough told you, since that time, the dykes are about twice the size that they were before. The problem that occurred in 1997, and I guess we all understand, in retrospect, how it might have appeared to the parties and the Board last year that that was sort of a structural integrity problem, we hope Mr. Hough has explained that to you and you now understand the nature of that issue, and understand that it's really not a structural problem.

Having said that, there's a practical issue, here. The three federal departments are suggesting annual inspections of the lagoon... sorry, of the dykes.

[End of Tape 8 - Side A]

[Start of Tape 8 - Side B]

JT: ...lagoon to a back-up facility. You've heard Mr. Hough's evidence on that, and I'm not going to repeat it, but suffice it to say that here are issues about the integrity of the dykes once you empty them, once you empty the lagoon, and that issue has to be investigated fully and scientifically. The municipality intends to do that, and as a result of that, we have suggested a condition, and I'll come back to that a little bit later.

Finally, with respect to lagoon closure, we don't think there's any issues here that are left in dispute, and simply suggest that, as I've just suggested, that Iqaluit be required to submit a plan for converting the lagoon, and that that's the place to address the stability issues.

Now, finally, we come to the solid waste side of things. The first issue had to do with the status of the new disposal facilities. You've heard Mr. Hough's evidence on that point. You've heard that Iqaluit has adopted a plan, that town council has passed a resolution to implement a new waste disposal system that incorporates an incinerator and new landfill. There are a number of submissions to you, notably by the three federal interveners and the Department of Sustainable Development, that as I understand it seek to have that plan submitted again, and frankly I have difficulty understanding the rationale for it. You've heard the evidence, you know that the town has resolved to do that. I frankly cannot see the logic behind filing a one- or two-page document that repeats that and says, 'Yes, here's the town's final plan.'

Iqaluit, as you know, will have to apply to you for an amendment, or I guess an... I don't know whether it would be an amendment to this license, or a new license - I'm not sure how that would play out - for a new landfill, when they get to the point where they have gone through the siting exercise and have designed it. We, I guess, sympathise with Miss Segal's concerns about lack of detail, and I guess, given the length of time that these processes take, some impatience is natural. It will come, and it will come hopefully sooner than later, and it satisfy everyone. Mr. Hough told you, consultants are currently working on this, that a report I think is anticipated by Christmas, and at the appropriate time, I assume in the year 2001, an application will be made to the Board for a license for a new landfill.

You've also heard - and I guess there is some issues on this, and I don't really want to canvas the same ground as Mr. Webber went through on jurisdiction - but adopting the approach he urged you to take, I think it is relatively... I think it should be relatively settled that the Board would not have jurisdiction over the construction of a new incinerator. I agree with Mr. Webber - and I think he said it yesterday - that the Board might well have jurisdiction over the disposal of ash. I agree with that, because that obviously leads to the possibility of discharge to water, but as far as I can see, that matter will be wrapped up in the application for a new landfill anyway.

And it would appear, we believe, from the evidence that you've heard from the Department of Health and Social Services, that here is some approval authority there, and as I've suggested to you already this morning, should the Department of Sustainable Development wish to take the step to implement the luxury, I think, as Mr. Eno called it, it could easily have jurisdiction over the whole thing, if it wanted it.

The second issue on waste management is the contingency plan. There seems to be a consensus that a contingency plan should be submitted if it appears that the current

site will be full before the new facilities are ready. Again, you've heard Mr. Hough say that he dearly would like to avoid that contingency, but if it happens, it happens. He has described for you the current thinking about what that plan will be.

It appears to me that the only real issue is timing. In a proposed condition that we put before you, we suggested August 31st. If I read Mr. Eno's submission correctly, he is suggesting that it be submitted six months before closure. If we go to the October date that Mr. Hough is predicting for the site being full, that would imply submission in May. The federal departments are suggesting submission within six months of the issuance of the license, which I assume would be June, and I believe Miss Segal, she was... she wasn't precise, but I think she ended up saying no later than the end of June. She's nodding, I think that's what she said. So, you have kind of an array of dates.

I'd like to suggest to you that to properly investigate the feasibility of the extension, it should be relatively obvious to you that Iqaluit is going to need the summer months to deal with studying the site. Until the frost goes out of the ground and they can get at the site, they really can't properly evaluate the ability to do that small eastern extension of the site, and that's why we suggested August 31st in the first place, and I just urge you to adopt that as the date for submission of contingency plan.

The next issue has to do with operations at the current site, and the only issue appears to be burning. We are very reluctant to get into that jurisdictional issue again, and again I would echo Mr. Webber's comments to you, and I would just like you to consider the practical side of things and consider the evidence that you've heard. I think there's a consensus - and I'm not going to speak for Mr. Mason, he may be the one exception to this - that open burning at the landfill is a necessary evil.

I would urge you to consider some evidence you heard from Mr. Hough yesterday that it's not a simple matter to simply turn off burning, if the town were to do that. It raises very serious issues with respect to Transport Canada's interests in the airport. I can tell you without dipping into the area of giving evidence that where I come from it is a major concern, and Transport Canada intervenes in proceedings such as these, usually, to make their position known about locating food waste or putrescible landfill sites close to airports, and I can tell you with some certainty that this, the location of this in relation to the airport is one that I know from personal experience Transport Canada would take a serious issue with, and I'd urge you to think about that when you're thinking about the idea of imposing conditions about burning.

And finally, I think the evidence you've heard before, you, and despite Mr. Mason's belief, I think he told you that he didn't have any knowledge, or something

like that, that the town burns less often. That's what Mr. Hough told you, and the evidence before you is they no longer burn on Mondays. And I think you have evidence, because you're at the site, that there is segregation of waste going on, and I think Mr. Mason suggested that that wasn't happening.

Now, turning briefly to Mr. Eno, we certainly appreciate the sentiment behind Mr. Eno's suggestion that fire should be extinguished immediately if smoke blows into town. In the written evidence that we provided, we tried to deal with that issue. It wasn't deal with, as much, perhaps, by Mr. Hough in oral evidence yesterday, but there is a significant problem with simply turning off the fire, and I think it's... the Board has to understand the practicalities of it. It just... it's just not that easy, and as Mr. Hough said in the written evidence, sometimes the wind shifts and it's not called for, it just happens, and smoke blows into town. I guess if the town thought it was possible to simply turn off the fire, it would do so. It isn't.

And frankly, I think the Board might want to carefully consider the idea of simply calling the fire department to extinguish it in light of I think one of the pictures of Mr. Mason's, which as I could see showed vast pools of water flowing in and around the waste. I'm not sure that that's necessarily... I'm not sure whether it makes any sense to combat one evil with another one, and in fact, from your point of view, it brings it directly into line with what you're supposed to be doing, which is to deal with the discharge of things into water. And it would strike me that by throwing thousands of gallons of water onto a burning pile, I don't think you have to be a rocket scientist to figure out that there's going to be water to deal with. So, I'd ask you to consider that carefully.

I'd also ask you to consider the merits of Mr. Mason's suggestions. I appreciate the source of them, and the first one seems innocent enough, and frankly the town would do that... does that anyway. If the wind is blowing in a direction that's towards town they don't start the burn. His second condition causes me significant concern, however, and if you look at, I think you should ask yourself whether the effect of that condition wouldn't be to effectively ban burning between the 15th of April and the 1st of October. If you look at the various directions he's proposing, and add that to no burning when it's towards the town, I'm not sure that there are any conditions under which the town could burn.

That's all I have say about that, and the Board will have to consider what it wishes to do about burning.

A new issue emerged since the pre-hearing, and I wanted to deal with that, and that has to do with the management of hazardous wastes. Two parties have raised the issue. Department of Sustainable Development raised it, and I want to say again, and reiterate something I said yesterday, that we certainly appreciate Mr. Eno's suggestions, and in fact you heard Mr. Hough say that the idea of using the business license process to get at that issue is something that's being actively looked at right now. I don't take Mr. Eno's suggestions as being that the Board should attach conditions like that. I think he's trying to be helpful, and we appreciate it. And certainly, from the point of the view of the municipality of Iqaluit, of course, to the extent that it is able to do so, and can deal with hazardous waste generated in the community, it makes sense for it to do so.

Turning, then, to the suggestion made by the three federal departments, as I understand it what's being requested is a condition requiring Iqaluit to develop a plan for the management of hazardous waste. Mr. Chairman, I want to be very clear about this. We have difficulty with the notion that the Board can regulate with respect to hazardous waste that might find its way to landfill and then to, therefore, into water, by way of ground or surface water. We have no difficulty with that at all. That's clearly within your jurisdiction. And I have no difficulty, and I will be suggesting to you when I get to the last part of what I have to say, a condition, I think, that is a reasonable condition, that simply requires Iqaluit to take reasonable steps to prevent that from happening. That seems reasonable to me, and it seems to be right directly within what the Board should be doing.

My difficulty is with the specific suggestion that is being made, that Iqaluit be charged as... we'll call it the third level of government, for the moment, with coming up for a plan for hazardous waste management within its municipal boundaries. I'll talk about myself for a second again, but what I spend an awful lot of my time on is this issue. I deal with hazardous waste daily, in my practice, and I can tell you that other jurisdictions in this country devote considerable resources and very large staffs to dealing with this issue.

And if I can take one example - I was mentioning to Miss Wilson yesterday about this - in Ontario, even to ask the question, 'What is hazardous waste?' requires a six-page explanation in the regulation, because there are inclusions and exclusions, and unfortunately, I guess, it requires people like me who are trained in the law to interpret for other people. It is a huge and complicated area. It is generally considered to be a matter of provincial jurisdiction, and if the government of Nunavut wishes to establish a regime to manage hazardous waste in the territory, that may well be something that they

should do, but I would urge you very strongly not to sort of take the next step into becoming that regulatory authority and turning yourself into the Legislature and trying to draft within a water license a regulatory environment for the management of hazardous waste. It's reasonable to expect the town to do what it can to keep hazardous things out of its landfill. It's not reasonable to ask the town to become the regulatory agency for hazardous waste.

The next issue, and it's actually the last one, although there's another issue we'll come to in a second, is closure of the old sites. There doesn't seem to be an issue here. There seems to be a consensus that closure plans are needed for the current site, and other sites for which Iqaluit has responsibility. We've suggested a time-frame of December 31st, 2002, and that's simply to give Mr. Hough and his staff a chance to catch their breath and do some of the things that are... it's not that these things aren't a priority, it's just that there are other more pressing priorities. That's the logic behind that, and the municipality is certainly prepared to do that.

The final issue I wanted to speak to has to deal with the term of the license. I'll echo the mayor's comments on that, and I'll try not to repeat any of it. We have applied for five years. We believe that's a reasonable period of time to allow a number of things to happen. Over that five-year period, you've heard Mr. Hough say that it's anticipated that the municipality may need new water sources within five years. That roughly would coincide, then, with the next renewal process for a license, if you're inclined to grant a license for five years. It allows a reasonable period of time to get at running the new sewage treatment plant, seeing how it runs, dealing with the sludge issue, all of that, and it also gives you a reasonable period of time to deal with the solid waste issue and getting new facilities up and running, and hopefully it also allows time to get at the closure, the proper closure, of all of these other landfills.

I wanted to also say something briefly, just in reply to Mr. Mason's comments, now, about the rationale for a one-year license, and I'd urge you very strongly to think seriously before you do that. The problem with a one-year license, respectfully, is that it's not really a year. From the municipality's point of view, it has to start thinking about putting together a new application halfway through the year, and what you end up with, unfortunately, if you do that, is next summer the municipality trying to put together an application right when they're in the middle of everything, commissioning the new sewage treatment plant just up and going, other requirements of this license won't even be triggered yet. It could well be right in the middle of the process for trying to establish

new waste disposal facilities. I just think, when you think about that, one year is really only six months, and I'd suggest to you very strongly that it just doesn't work.

Now, finally, I'd like to turn to the area of conditions, and I'm going to try not to repeat myself very much, here. But this is... and this is the boring part, so I apologise in advance.

I would like to use, sort of as the template for this, the conditions from last year, and make some... most of the suggestions we've already made, and I just want to summarise them for you. There are a couple of small ones, and I'm hoping the staff will just take notes of this, and then we'll... so I think some of them are not terribly difficult to understand.

In the general conditions - and I'll just do them in order - which is Part B of the license, there is a requirement for an annual report. You may recall that there was an issue raised in a letter that the town wrote to the Board in February of last year, when they were... had some difficulty with some of the conditions that had to do with things in the annual report. And if you could just make a note, if it's possible, that in that part of condition 1 that's number H and I, if there could be simply a reference to where you're looking for capital projections and things like that, that it's in reference to water use or waste disposal. That particular provision was read, I think logically, by the municipality as saying the Board wanted to see all of the town's capital projections, and I'm not sure that's what you intended, and if you could correct that I would appreciate it.

Again, in Part B, General Conditions, if you could just make a note, there's a necessity to do something with conditions 5 and 6, that deal with the Surveillance Network Program. It actually deals with posting signs. Signs are posted, and if you could convert that to a condition just requiring maintenance of the signs. I'm using this just because this is my opportunity to do it.

When we get to Part C, Conditions Applying to the Use of Water, just to summarise the town's position, we would ask you to delete current conditions 5, 6 and 7, and replace them with, now, two conditions. We had an exhibit file, I think it's Exhibit #6, which are the new conditions. The first one is a condition that would require Iqaluit to submit to the Board, by December 31st, 2001, a report on long-term water supply options. The second one I'd like to suggest to you now, and I'll just read what I'm going to suggest, deals with the OMM Trault report, and I would suggest wording something along the following lines, that "The licensee shall submit to the Board," and we just picked arbitrarily by February 28th, just to give 60 days for Trault to do this, "by February 28th, 2001, a report prepared by a qualified engineer on the condition of the

Lake Geraldine reservoir dam that deals with..." We're hoping that that's exactly what OMM Trault will deliver, and will hope that that will satisfy the parties, and will certainly circulate that.

Coming, then, to Part D, Conditions Applying to Waste Disposal into Water, the first condition in Exhibit #6 that we had proposed is we intended that to be a replacement for condition 1 in Part D of the existing license, and it would say simply that, "The licensee shall direct all piped and pump-out sewage to the sewage treatment plant as soon as the plant is operational. Until the plant is operational, all sewage shall be disposed of in the sewage lagoon." That sentence is actually in the license right now. And then the third sentence would be, "The licensee shall submit a status report to the Board within seven days of the plant becoming operational." And I won't repeat the logic for any of that, because I've gone through all of it.

We would... a very small point, but with respect to condition 4 in Part D, that's the condition that requires a freeboard limit of 1 meter. To reflect that fact that the lagoon is to be converted to some other use, we were... let me see what I was going to suggest... if you could just add the words, in front of that, "Until the new sewage treatment plant is operational," to reflect that that's a condition that only applies during the sort of operating life of the current lagoon.

We would also propose that the Board delete conditions 6 and 7, that deals with the report of the geotechnical engineer, and we'll come back to that in a minute, and also delete condition 9 that has to do with sludge, and condition... oh, sorry, just leave that for a moment, and condition 9, and that you replace them with the two conditions that we suggested in condition 7, one, that the licensee shall submit to the Board by no later than December 31st, 2001, a long-term sludge management plan, and the next one is that the licensee shall submit to the Board within six months of the new plant becoming operational a plan for the conversion of the lagoon to a contingency back-up facility for short-term storage and treatment of sewage. The plan shall address long-term maintenance and inspection of the lagoon dykes, and as part of that, as you've heard from Mr. Hough, it is expected that geotechnical issues, or structural stability issues, will have to be addressed.

I'm still in Part D of last year's license, but sort of turning to the waste management side of it, we'd like to respectfully suggest that condition 10 could stay where it is, but that the Board delete conditions 11, 12 and 13. Condition 11 deals with the submission of the plan, which has been submitted. Conditions 12 and 13 are something we haven't talked very much about, but have to do with an investigative

monitoring program to try to address issues of contaminants from burning ending up in the water. Without trying to rehash all of the jurisdictional debate, again, I think as a practical matter the plan is that the site is going to be closed by some time next year, and there will a new site operating. It just doesn't seem practical to us to require that kind of an expenditure of resources to do that when we're kind of moving on at this point in time.

And in place of those conditions, we are suggesting... I think the fourth condition under Conditions Applying to Waste Disposal into Water on Exhibit #6, that if new solid waste disposal facilities will not be operational by the time that the landfill site is at capacity, the licensee shall submit to the Board by no later than August 31st, 2001, a contingency plan for the interim period.

Moving, then on, we have no submissions with respect to the Part E conditions, we're fine with those. The Part F conditions dealing with construction, and that, in fact, would... Parts E and F would deal with requiring the municipality to make an application for a new landfill.

Part G deals with conditions applying to operation and maintenance, and we'd like to make a suggestion for the Board's consideration. You've heard the evidence that there are in fact operation and maintenance manuals for all of the facilities. You've also heard the evidence, I think, from Miss Segal that she, in fact, reviews them, and at least with respect to sewage and water, has to approve them anyway. And on the waste management side it seems clear that she wants to do the same thing, and that perhaps Mr. Eno has a role, as well. And we're wondering whether it wouldn't be more efficient and logical to take the conditions in Part G and convert them to two basic conditions, one which would require the licensee to operate and maintain all of the facilities in accordance with operation and maintenance manuals approved by the relevant departments of the Government of Nunavut, and that will leave them to sort out who that is. It's clear it's Health and Social Services, and it may well be Mr. Eno.

And then the second condition, which is probably the same or similar to one that's already there, that the licensee is required to review, and amend as needed, the O&M manuals on an annual basis, and simply advise the Board in the annual report if they've made any changes. That seems to me to be a more logical and efficient way to approach this, when you've got legislative... sorry, departments of the government of Nunavut that already doing a similar function, here, in reviewing and approving the manuals.

Part H, Conditions Applying to Spill Contingency Planning, we have no difficulty with those conditions staying as they are.

And then, finally, Part I, Conditions Applying to Abandonment and Restoration, we would suggest replacing those conditions with the one simple condition that is the last one in the document that's marked as Exhibit #7, that the licensee shall, by no later than December 31st, 2002, submit to the Board closure plans for all closed waste disposal sites for which it is responsible.

And I'm hoping that that's the end of the boring part. Those are my submissions on conditions. I think those are all my submissions. I wanted to thank the Board. For someone who comes from a long way away, I very much appreciate the kindness and the courtesy that the Board has shown me, and I've very much enjoyed appearing before you.

TK: ...Mr. Tidball. Let's take a fifteen-minute break before the Board make their closing remarks.

[break]

TK: Thank-you. In closing, the Nunavut Water Board would firstly like to thank the interpreters for the wonderful job they did. I, myself, I speak Inuktitut and English very fluently, but I know for a fact that I could not do their job. Simultaneous translation is very difficult and stressful. Thank-you very much for the interpreters.

Once again, I wish to state that your comments, concerns and recommendations are important, and that the Nunavut Water Board will consider them when we are making our decision. Regarding the matter of jurisdiction, the Board would like to state that the current license is, and whatever conditions are in the new license, will be within the Board's jurisdiction. Furthermore, the licenses that the Water Board issues are final and binding, subject to the judicial review by the federal courts of Canada.

After we adjourn this hearing, the Water Board will meet to review the written and oral evidence presented during the hearing process. We expect to make a final and binding decision as soon as possible.

The hearing is adjourned. Please stand up for the closing prayer. And I would ask Lootie Toomasie to say the closing prayer, please.

[End of Tape 8]