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NUNAVUT WATER BOARD

NUNAVUT IMALIRIYIN KATIMAYINGI

May 31, 2005

File No: NWB3IQA

Mr. Brad Sokach, P. Eng.

City of Iqaluit

P.O. Box 460

Iqaluit, NU X0A 0H0

Email: bsokach@city.iqaluit.nu.ca

Subject: Nunavut Water Board Technical and Pre-Hearing Meeting Decision

Dear Mr. Sokach,

The Nunavut Water Board ("NWB" or "Board") has reached a decision following the Pre-Hearing Conference ("PHC") held in Iqaluit on May 12-13, 2005.

The parties who attended the Pre-hearing conference included representatives from the City of Iqaluit ("City"), the Government of Nunavut ("GN"), the Department of Fisheries and Oceans Canada ("DFO"), the Department of Indian and Northern Affairs Canada ("DIAND"), and one Elder from the community.

The purpose of the PHC was to discuss procedural issues and to identify key issues to be dealt with by the Board at the Hearing. A technical session was held prior to discussion of the administrative issues in order to clarify minor issues and assess potentially outstanding technical issues (refer to Appendix A for additional information).

The decision of the Board, which follows, is subject to the substantial resolution of certain information data gaps and depends on submissions expected from the City no later than June 24, 2005.

During the PHC, the Board received two submissions: firstly a letter from Gladis Lemus, Manager Pollution Control for GN, which assisted in facilitating the technical session discussion, and finally a "Certificate of Analysis" for the sewage effluent at monitoring station IQA-3 (effluent from the existing sewage lagoon) submitted by Constantine Bodykevich, DIAND Water Resources Officer. Both pieces of documentation can be found on the ftp site at <http://ftp.nunavut.ca/nwb/NWB3%20MUNICIPAL/NWB3IQA/>

History and Background

The City of Iqaluit filed an application for a municipal water licence on January 16, 2004 to allow for the use of water and disposal of waste into water and associated uses. Since that time the NWB has taken steps to identify and review additional information requirements to ensure that the Board proceeds through the hearing process with sufficient information on the application. The last valid water licence issued by the Board to the City of Iqaluit for municipal purposes was NWB3IQA9900. At present the City has been operating without a valid water licence since December 31, 2000.

Date, Time and Place of Next Hearing

On April 11, 2005 the Board gave public notice of a hearing in accordance with Section 55(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (“NWNSRTA”). The Board reaffirms its original decision that a final hearing will be held on July 4-5, 2005 in Iqaluit. More details will be forthcoming, again, no later than June 24, 2005, regarding the exact place (building) where the hearing will take place, the hours of sitting and final dates for intervention deadlines and translation of submissions.

Jurisdiction

The Board’s jurisdiction to conduct hearings is found in Part I, Division 2 of the Act. At the Pre-hearing conference, one of the issues discussed by the Board staff is the various limits on the Board’s authority placed on it by the Nunavut Land Claims Agreement and the Act. One such limit is that the Board only has jurisdiction over fresh and inland waters. See Article 1.1.1 of the NLCA and s.4 of the Act.

For purposes of the hearing, and until the Board receives convincing arguments to the contrary, the Board is assuming on the facts before it that the lagoon discharge impacts a portion, albeit small, of the adjacent surface and subsurface water, in liquid or solid state. Nevertheless, the Board invites parties to make submissions on this point if they so choose.

Issues for Public Hearing

The Board would like to receive and will be reviewing evidence on all categories of the City’s past water licence. Major categories of concern to the Board at present are:

1. Water Use: Two reports by Trow dated March 2005 to be filed by the City are the “Preliminary Design Report Expansion of Raw Water Storage” and “Geotechnical Investigation lake Geraldine Reservoir”, related to the raising of the dam at Lake Geraldine. The Board acknowledges that these reports were hand delivered on May 13 after the PHC, and can be found on the Board’s ftp site at: <http://ftp.nunavut.ca/nwb/NWB3%20MUNICIPAL/NWB3IQA/>

2. Waste Disposal:
 - a. The Proposed Sewage Treatment Contingency Measure Plan is a major information gap for the application. Parties agreed to work cooperatively to address the issue. INAC, GN, DFO, and EC agreed to develop a framework outlining the information requirements that will need to be addressed once a final decision by the City has been made on its preferred option for sewage treatment, either Option 1: continued use of the existing sewage lagoon pending further consultation on sewage treatment options, or Option 2: upgrade of the Sewage Treatment Facility and decommissioning of the current sewage lagoon, including a Sludge Management Plan (the City indicated that the contract to develop such plan would be awarded after a final decision on sewage treatment is made).
 - b. After considering the views of the Parties, the Board agrees that the expansion of the West 40 landfill (Site No. 1) is on the table for discussion at the final hearing. The City also committed to file with the Board no later than May 25, 2005 a complete draft Operations and Maintenance Manual that will include details related to the expansion, leachate drainage, and hazardous waste disposal.
 - c. North 40 Site: As discussed at the PHC, the Board requests the City to submit, no later than May 30, 2005, an application for a Type B water licence for this site. Should the City fail to meet this deadline, the Board will reassess the overall scope of current application to ensure that sufficient information is available to deal with the North 40 site by the hearing date.
3. Spill Contingency Plan: An updated Plan has been submitted by the City and can be found at the following link:
<http://ftp.nunavut.ca/nwb/NWB3%20MUNICIPAL/NWB3IQA/>

Other Procedural/Administrative Issues

1. Board Rules for Public Hearings

At the Pre-hearing conference, one of the parties asked which version of the Board's Rules applied at this hearing. The question arose because the Board had recently (May 11, 2005) adopted a revised set of Rules. Upon reflection, the Board has decided that since the Iqaluit application was received under the old set of Rules, those Rules, which are identified by the date February 3, 2000, will be used at the Pre-hearing conference.

2. Transcripts

The Board has decided to have a Court Reporter at the Hearing.

3. Exchange of Information

The Board expects to receive the following documents before the hearing:

- a. Contingency Measures Framework, as discussed previously; and
- b. New or revised documents currently identified as “Information needed” on the Attached Table Appendix A-Working Document.

If you have any questions, please do not hesitate to contact me.

Yours truly,

Original signed by:

Philippe di Pizzo
Executive Director

Encl.: Appendix A

cc. Distribution List