



June 08, 2015

IC# 2015-01JH
WL# 3AM-IQA0612

Meagan Leach,
Director of Engineering and Sustainability,
Engineering Department,
City of Iqaluit,
Box 460, Iqaluit, NU, X0A-0H0
Phone: (867) -979-6363
Fax: (867) 979-5922
Email: M.Leach@city.iqaluit.nu.ca

Dear Ms. Leach:

On May 20, 2014 a fire began at the Western 40 Landfill in the municipality of Iqaluit, Nunavut. The City of Iqaluit took actions to extinguish the fire resulting in the creation of a drafting pond used to draw and recirculate water used for the purpose of extinguishing a fire as well as the collection of contact water from the fire extinguishment.

Current Situation

AANDC recognizes that the City of Iqaluit has captured water used in the extinguishment of the fire and will continue to use this water until such time as the treatment can take place and the water can be released into the environment. AANDC further recognizes that this use of water is directly or indirectly related to the use of water for the purpose of extinguishing a fire pursuant to Section 11(2)(a)(ii) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and Sections 13.7.1 and 20.5.2 of the Nunavut Land Claims Agreement.

“11.(1) Subject to subsection (2), no person shall use, or permit the use of, waters in Nunavut except in accordance with the conditions of a licence.

(2) subsection (1) does not apply in respect of

(a) any unlicensed use of waters that is authorized by the regulations;

(b) the use of waters

(i) for a domestic purpose, or

(ii) **for the purpose of extinguishing a fire** or, on an emergency basis, controlling or preventing a flood; or

(c) the use of waters in a national park.

(3) Where a person diverts waters for a purpose referred to in subparagraph (2)(b)(ii), the person shall, when the need for the diversion has ceased, discontinue the diversion and, in so far as possible, restore the waters to their original channel.

“13.7.1 With the exception of domestic or emergency use of waters as set out in Section 5 of the Northern Inland Waters Act RSC 1985, c. N-25, no person may use water or dispose of waste into water without the approval of the NWB.”

“20.5.2 Nothing in these provisions shall be interpreted so as to derogate from or to allow the



attaching of conditions or charges to the exercise of public rights of navigation, rights of innocent public passage on water, or use of water for emergency purposes or the ability to use water for domestic use as defined in the Northern Inland Waters Act.”

AANDC has also been informed that the City of Iqaluit is currently contracting the treatment of this captured water with the objective of discharging it into arctic waters in the 2015 season. Through meetings and email correspondence with AANDC the City of Iqaluit further understands that that any discharge must not be considered a waste pursuant to the Arctic Waters Pollution Prevention Act nor be considered to be deleterious under other federal legislation administered by other regulators.

Prohibition under the Arctic Waters Pollution Prevention Act

“ 4. (1) Except as authorized by regulations made under this section, no person or ship shall deposit or permit the deposit of waste of any type in the arctic waters or in any place on the mainland or islands of the Canadian arctic under any conditions where the waste or any other waste that results from the deposit of the waste may enter the arctic waters.”

“waste” means

*(a) any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of that water to an extent that is detrimental to their use by man or by any animal, fish or plant that is useful to man, and
(b) any water that contains a substance in such a quantity or concentration, or that has been so treated, processed or changed, by heat or other means, from a natural state that it would, if added to any other water, degrade or alter or form part of a process of degradation or alteration of the quality of that water to the extent described in paragraph (a), and without limiting the generality of the foregoing, includes anything that, for the purposes of the Canada Water Act, is deemed to be waste.*

Potential of flooding of works at the West 40 Landfill

AANDC recognizes that further action is required to prevent a deposit of waste where ‘flooding’ of the landfill detention pond, drafting pond and retention pond could occur and result in a deposit of waste to inland waters.

This further action was outlined in correspondence received from the City of Iqaluit on June 4th, 2015 which described the location and size of an additional retention pond next to the ‘off site’ existing retention pond at the West 40 Landfill location. The correspondence also relayed that the pond would be approximately 5000m³ as indicated in Figure 2 of the contingency plan which was received by AANDC and Environment Canada on May 26, 2015 and that construction would commence as early as June 09, 2015 in order to facilitate the storage and treatment of additional water runoff from the landfill as well preventing an unauthorized discharge of waste to waters.

AANDC recognizes further that this use of water is directly or indirectly related to the use of water for the purpose of controlling or preventing a flood to works pursuant to Section 11(3) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and Sections 13.7.1 and 20.5.2 of



the Nunavut Land Claims Agreement.

AANDC also would like to remind the City of Iqaluit that once this water use is no longer required, that the City must decommission and restore all ponds or works related to use for the prevention of flooding to the original state unless authorization is received from the Nunavut Water Board as required in Section 11(3)

“11.(1) Subject to subsection (2), no person shall use, or permit the use of, waters in Nunavut except in accordance with the conditions of a licence.

(2) subsection (1) does not apply in respect of

- (a) any unlicensed use of waters that is authorized by the regulations;
- (b) the use of waters
 - (i) for a domestic purpose, or
 - (ii) for the purpose of extinguishing a fire or, **on an emergency basis, controlling or preventing a flood**; or
- (c) the use of waters in a national park.

(3) Where a person diverts waters for a purpose referred to in subparagraph (2)(b)(ii), the person shall, when the need for the diversion has ceased, discontinue the diversion and, in so far as possible, restore the waters to their original channel.

AANDC will continue to monitor the City of Iqaluit's activities to ensure compliance with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Arctic Waters Pollution Prevention Act*.

AANDC would like to remind the City of Iqaluit that activities related to the treatment and catchment of water at the West 40 Landfill will require water licence authorization and that AANDC has an expectation that the City of Iqaluit will either include these activities in the current application or submit an amendment once the current application is processed to ensure that the City of Iqaluit remains in compliance with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and meets Nunavut Land Claims Agreement obligations once the activities related to fire extinguishment and flood control have met a reasonable conclusion. This authorization will provide guidance and certainty to the City of Iqaluit in all future water treatment, retention pond creation, and management of landfill runoff at the West 40 Landfill.

AAAND would also like to encourage the City of Iqaluit to be diligent in examining legislative requirements prior to undertaking activities where other territorial or federal legislative obligations may exist.

Nothing in this letter is to be construed as an authorization to undertake any activity or as a removal of liability for any act or omission that is deemed to be negligent, unreasonable or lacking in diligence on the part of persons or parties involved in any undertaking occurring within the Municipality of Iqaluit.



– 4 –

Sincerely,

Justin Hack
Water Resources Officer
Aboriginal Affairs and Northern Development Canada
Iqaluit, Nunavut.

cc. Erik Allain, Manager, Field Operations, AANDC Iqaluit.
Phyllis Beaulieu, Nunavut Water Board