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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

**File: 3AM-IQA1626 /
Amendment No. 1**

August 14, 2018

By Courier, E-mail and Regular Mail

Honourable Carolyn Bennett, PC, MP
Minister of Crown-Indigenous Relations
21st Floor, 10 Wellington, North Tower
Gatineau, QC K1A 0H4
Email: carolyn.bennett@parl.gc.ca;

**Subject: NWB Water Licence Type “A” No. 3AM-IQA1626 – Amendment No. 1,
Processed on an Emergency Basis**

Dear Honourable Minister Bennett:

Please find enclosed recommended amendments and brief reasons for Decision in support of specified amendments to Type “A” Water Licence No. 3AM-IQA1626 (Licence) for a Municipal Undertaking as defined under Schedule 1 of the *Nunavut Waters Regulations*, SOR/2013-69. The recommended amendments (Amendment No. 1) would authorize temporary additional water use from new water sources in 2018, as required to augment the City of Iqaluit’s Geraldine Lake Reservoir to ensure that the City of Iqaluit has sufficient water to meet the needs of the City during the upcoming winter in 2018 and into early 2019 +(the Emergency Amendment). As outlined in greater detail below, the Emergency Amendment was processed on an emergency basis by the Nunavut Water Board (NWB or Board); following the NWB’s expedited consideration of the Emergency Amendment, on August 14, 2018 the NWB’s decision-making Panel for the file met by teleconference and has concluded that it is appropriate to issue the City’s requested amendments to the Licence.

On August 13, 2018, the Board received the Minister’s consent to the Board’s processing of the Emergency Amendment Application on an emergency basis.¹ As a result, the NWB processed the Emergency Amendment Application as permitted by ss. 52(2)(c) and 55(5), of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (NWNSTRA), allowing the Board to

¹ The Hon. Carolyn Bennett, Minister of Crown-Indigenous Relations to Lootie Toomasie, Chairperson, Nunavut Water Board, correspondence dated August 10, 2018, but received by the NWB on August 13, 2018.

waive the normal notice, public hearing and comment requirements typically associated with the Board's consideration of an application to amend a Type "A" Water Licence. As outlined in the attached reasons for Decision and Licence Amendment No. 1, by way of Motion No.: 2018-10-P6-03 and Motion No.: 2018-10-P6-04, the Board's duly appointed Panel responsible for decision-making in respect of the Emergency Amendment Application (Panel P6 or Iqaluit Panel) approved the issuance of this Emergency Amendment for your consideration. The Board recommends that this Emergency Amendment be considered for approval under s. 56(1) of the *NWNSRTA*. Given the urgent nature of this matter, the Board would appreciate receiving the Minister's response as soon as possible.

In addition to the Minister's consent to the NWB's emergency processing of the requested Emergency Amendment Application, on August 10, 2018, the Minister of Crown-Indigenous Relations also certified that the circumstances associated with the Emergency Amendment Application constituted an emergency under s. 152(1)(c) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*). On this basis, the Emergency Amendment Application was excluded from the requirements of conformity assessment by the Nunavut Planning Commission and impact assessment by the Nunavut Impact Review Board under Part 3 of the *NuPPAA*.²

Sincerely,

Lootie Toomasie
Nunavut Water Board, Chair

LT/db/rqd

Enclosure: **Licence No. 3AM-IQA1626 – Emergency Amendment Decision and Licence Amendment No. 1**

cc. Amy Elgersma, City of Iqaluit
Erica Bonhomme, Stantec / Nunami Stantec Ltd.
Iqaluit Distribution List

² The Hon. Carolyn Bennett, Minister of Crown-Indigenous Relations to Madeleine Redfern, Mayor of Iqaluit, Sharon Ehloak, Executive Director, Nunavut Planning Commission and Ryan Barry, Executive Director, Nunavut Impact Review Board, correspondence dated and received by the NWB on August 10, 2018.

DECISION

WATER LICENCE 3AM-IQA1626 - EMERGENCY AMENDMENT

| | |
|---------------------------------------|-----------------------------|
| Licensee: | The City of Iqaluit |
| Licence No: | 3AM-IQA1626 Type “A” |
| Licence Issued: | June 17, 2016 |
| Emergency Amendment for 1 year | |
| Effective: | August 14, 2018 |
| Amendment No. 1 Expiry: | August 14, 2019 |
| Licence Expiry: | June 16, 2026 |

Pursuant to its authority under Article 13 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA or Act)*, with respect to the Application for an emergency amendment to the Licence noted above, dated August 4, 2018, provided by the City of Iqaluit, the Nunavut Water Board (NWB or Board) hereby grants the following licence amendments (Amendment No. 1).

The Licence issued June 17, 2016, with an expiry date of June 16, 2026, shall be amended to include the following terms and conditions, with respect to the use of Waters and the deposit of Waste, to allow for:

- The temporary withdrawal (in August – October 2018) of Water from the Niaqunguk River (Apex River) watershed to replenish Lake Geraldine Reservoir for the winter of 2018-2019.

Procedural History

On August 2, 2018, the Nunavut Water Board (NWB or Board) received notice from the City of Iqaluit (the City or Applicant) of the City’s intention to submit an application to amend Water Licence No. 3AM-IQA1626. The notice requested that due to the potential for the situation to result in a water shortage in the upcoming winter, the amendment be dealt with on an emergency basis under the provisions of Article 13 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (the Nunavut Agreement)* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act (the NWNSRTA)*. As provided for under s. 52(2)(c) and s. 55(5), of the *NWNSTRA* with the consent of the Minister, the Board may declare the amendment to be required on an emergency basis. This declaration with the consent of the Minister, allows the Board to waive the normal notice, public hearing and comment requirements typically associated with the Board’s consideration of an application to amend a Type “A” Water Licence and to process the amendment application on an expedited basis.

The City of Iqaluit considers the situation as an emergency because their drinking water source, Lake Geraldine Reservoir (Reservoir) is currently at record low levels and the City predicts the Reservoir will be insufficient to supply the drinking water needs of the City over the winter of 2018/2019. The low levels are the result of low precipitation this year, higher than normal water use and water losses during distribution. On July 23, 2018, the Government of Nunavut, Chief

Medical Officer of Health, identified this situation as a public health and safety emergency and directed the City of Iqaluit to take immediate steps to remedy the situation.³

The City of Iqaluit proposes to conduct maintenance to minimize leakage, explore opportunities for reduced usage, and to temporarily augment the water supply in Lake Geraldine Reservoir by pumping water from additional water sources.

The notice provided to the NWB on August 2, 2018 indicated that the City would be filing an amendment application to authorize the additional water uses necessary to support a Temporary Augmentation Program (TAP) to the existing Water Licence.

On August 2, 2018, the Board concluded that when the amendment application was received, it would be appropriate for the Board to process the application on an emergency basis. On this basis, on August 3, 2018, the NWB wrote to the new Minister of Northern Affairs (upon the direction of Departmental officials at Crown-Indigenous Relations and Northern Affairs Canada), seeking the Minister’s consent for the Board to process the application on an emergency basis.⁴

On August 4, 2018, the NWB received an application and associated information from the City of Iqaluit to amend Water Licence No. 3AM-IQA1626 to authorize the additional water uses and activities associated with the TAP (the Emergency Amendment Application).

On August 10, 2018, the Minister of Crown-Indigenous Relations, declared that:

...pursuant to paragraph 152(1)(c) of the Nunavut Planning and Project Assessment Act, an emergency exists and it is in the interest of ensuring the health of general public that this project be carried without delay. The City Iqaluit may therefore carry out this project without being subject to Part 3 of the Nunavut Planning and Project Assessment Act. This certification only extends to the temporary works and activities intended to address the emergency replenishment of Lake Geraldine for the coming winter.

On August 13, 2018, the Board received correspondence from the Minister of Crown-Indigenous Relations providing consent to the NWB’s processing of the Emergency Amendment Application on an emergency basis. However, in the Minister’s August 10 correspondence, the Minister noted that this certification (and therefore processing of the Emergency Amendment Application on an emergency basis) should be limited to the works and activities under the TAP that are required to meet the City’s water needs for the upcoming winter of 2018 and into early 2019.

General Considerations

This Emergency Amendment Application was reviewed by NWB technical staff and considered by the duly appointed Panel (Iqaluit or P6 Panel) of the Board responsible for decision-making in respect of this Licence by teleconference on August 14, 2018. Although the Emergency

³ Dr. Kim Barker, Chief Medical Officer of Health, Department of Health, Government of Nunavut to Amy Elgersma, Acting Chief Administrative Officer, City of Iqaluit, correspondence dated July 27, 2018.

⁴ Lootie Toomasie, Chairperson, Nunavut Water Board to The Hon. Dominic LeBlanc, Minister of Northern Affairs, correspondence dated August 3, 2018.

Amendment Application was processed on an emergency basis without public notification and formal comment, the following parties were, however, consulted about the TAP in advance of, and following the receipt of the Emergency Amendment Application, via a number of teleconferences and other exchanges of information regarding the proposed water uses and activities:

- The Qikiqtani Inuit Association (QIA);
- Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC); and
- Fisheries and Oceans Canada (DFO).

On August 7, 2018, the City of Iqaluit applied to DFO for a Paragraph 35(2)(b) Authorization (emergency circumstances) under the *Fisheries Act*, R.S.C. 1985, c. F- for this activity.⁵ On August 13, 2018, the City received correspondence from DFO acknowledging the emergency application and directing the City to address the emergency as soon as possible and noting that an authorization would be sent shortly.⁶

The Emergency Amendment Application sought authorization for additional water uses associated with the implementation of the Temporary Augmentation Project (TAP) by the City of Iqaluit in 2018 and also, if necessary, again in 2019.⁷ However, as noted in the Minister’s August 10, 2018 correspondence to the Nunavut Planning Commission and the Nunavut Impact Review Board, the Minister noted that her certification that this Project constitutes an emergency and could be processed on an emergency basis was limited to “*the temporary works and activities intended to address the emergency replenishment of Lake Geraldine for the coming winter*” [underlining added].

On this basis, the NWB has recommended the term of the amendment should be limited to the works and activities required to replenish the Lake Geraldine Reservoir in 2018 as required to meet the City’s water needs for this winter only. Consequently, if the City anticipates requiring additional water use to replenish the Lake Geraldine Reservoir in 2019, the City is required to submit an amendment application to authorize additional water uses to the NWB as soon as possible. This more permanent amendment would be processed in accordance with the normal Type “A” Water Licence amendment requirements for public notice, comment and a public hearing (estimated 9 months of processing time for the NWB and up to 90 days of decision-making time for the Minister thereafter).

The TAP seeks authorization for the City to undertake pumping of fresh Water from the Upper Niaqunguk River (Apex River), from an unnamed source lake, and from other small non-fish bearing water bodies into the Lake Geraldine Reservoir to replenish the Reservoir. The period of withdrawal is expected to be August through October, to ensure that there will be sufficient water in the Reservoir to provide drinking water to the community throughout the winter.

The Upper Niaqunguk River will be the primary source of water. Water would be pumped directly into Lake Geraldine Reservoir. Temporary coffer dams may be employed to manage water depth to aid pumping.

⁵ Application Form for Paragraph 35(2)(b) *Fisheries Act* Authorization (Emergency Circumstances), filed with Fisheries and Oceans Canada by City of Iqaluit, dated August 7, 2018.

⁶ Fisheries and Oceans Canada correspondence with the City of Iqaluit, dated August 13, 2018.

⁷ 3AM-IQA1626 Application for Amendment – Supporting Submission, Revision 2, dated August 7, 2018.

If required, other sources will be utilized to augment the amount of water that is withdrawn from the Upper Niaqunguk River, especially if the Applicant and DFO determine, through monitoring, that the level of withdrawal on the Niaqunguk River has unacceptable adverse impacts. This may occur when the natural flow in the river begins to decrease due to seasonal conditions.

The secondary source of water proposed in the Emergency Amendment Application is the large source water lake to the east of the Lake Geraldine Reservoir. Water would be pumped from this lake into an ephemeral tributary that runs into the Niaqunguk River just downstream of the Bridge to Nowhere. Water would then be pumped out of the tributary or the river downstream of the tributary depending on site conditions. Temporary coffer dams may be employed to manage water depth to aid pumping. Because the water passes through two pumping stations for this option, it would be tracked as two separate withdrawals.

The tertiary source of water would be a number of small source water lakes directly adjacent to the Lake Geraldine Reservoir. Water would be pumped out of the lakes directly into the Lake Geraldine Reservoir.

On this basis, the Panel, by way of Motion No.: 2018-10-P6-03 has approved the grant of the Emergency Amendment to Type “A” Water Licence No. 3AM-IQA1626 as requested by the City to authorize the TAP and by way of Motion No.: 2018-10-P6-04 the Panel authorized the issuance of this Decision and the specified amendments to Water Licence No. 3AM-IQA1626 (Amendment No. 1) that follow.

EMERGENCY AMENDMENT

Amend Page 3 **Quantity of Water not to be exceeded** to read:

1,100,000 CUBIC METERS ANNUALLY FROM LAKE GERALDINE RESERVOIR, 500,000 CUBIC METERS IN 2018 FROM NIAQUNGUK RIVER (APEX RIVER) WATERSHED AND/OR SMALL UNNAMED SOURCE WATER LAKES, AND 500,000 CUBIC METERS IN 2018 FROM THE LARGE UNNAMED SOURCE WATER LAKE.

PART A: SCOPE, DEFINITIONS, AND ENFORCEMENT

Insert Item 1.k.:

Construction, operation, and removal of temporary facilities for the Temporary Augmentation Project (TAP).

PART D: CONDITIONS APPLYING TO THE USE OF WATER AND WATER MANAGEMENT PLANS

Amend Item 1 to Read:

The Licensee is authorized to withdraw, from the Lake Geraldine Reservoir at Monitoring Station No. IQA-01, up to 1,100,000 cubic metres of Water annually for the relevant activities, works, and undertakings authorized under the scope of this Licence.

The Licensee is authorized to withdraw in 2018, from the Niaqunguk River (Apex River) watershed at Monitoring Stations No.: IQA-10 and IQA-11, and small unnamed lakes adjacent to Lake Geraldine Reservoir at Monitoring Stations No.: IQA-12, up to a total of 500,000 cubic metres of Water in 2018 for the augmentation of Water levels in the Lake Geraldine Reservoir.

The Licensee is authorized to withdraw in 2018, from the large unnamed source water lake at Monitoring Station No. IQA-13, up to 500,000 cubic metres of Water in 2018, for augmentation of flow in the Niaqunguk River (Apex River) watershed.

Insert Item 10:

The Licensee shall ensure that withdrawals from the Niaqunguk River (Apex River) watershed at Monitoring Stations No.: IQA-10 and IQA-11 be limited to the rate and volume that is considered acceptable by Fisheries and Oceans Canada. If, at any time, Fisheries and Oceans Canada advises the Licensee that withdrawals from the Niaqunguk River (Apex River) are no longer acceptable, the withdrawals must cease until Fisheries and Oceans Canada indicates that withdrawals can resume.

Insert Item 11:

The Licensee shall ensure that withdrawal of Water from the large unnamed source water lake at Monitoring Station No.: IQA-13 only as necessary to provide water towards Monitoring Station No. IQA-11.

Insert Item 12:

The Licensee shall cease all withdrawals associated with the TAP (Monitoring Station No.: IQA-10, 11, 12 and 13) if sufficient water has been transferred into Lake Geraldine Reservoir to provide enough drinking water for Iqaluit for the winter of 2018 and into early 2019.

PART H: CONDITIONS APPLYING TO SPILL CONTINGENCY PLANNING

Insert Item 4:

The Licensee shall submit to the Board for approval in writing, within thirty (30) days of the Effective Date of this Amendment, an addendum to the approved Spill Contingency Plan that addresses facilities and activities associated with the TAP.

PART I: CONDITIONS APPLYING TO MONITORING

Insert Item 13:

The Licensee shall monitor the TAP in accordance with requirements included under Schedule I.

SCHEDULE A: DEFINITIONS

Insert Item:

“**Temporary Augmentation Project (TAP)**” means the pumps, pipe/hose, intakes, coffer dams, and related temporary facilities to use fresh Water from the Niaqunguk River (Apex River) watershed and several small unnamed lakes adjacent to Lake Geraldine Reservoir to augment Water levels in the Lake Geraldine Reservoir and fresh Water from the large unnamed source water lake to augment the Niaqunguk River (Apex River) watershed. The active pumping under the TAP is authorized to proceed in accordance with the terms and conditions of the Licence from August to October 2018 to address a pending Water shortage in the winter of 2018 and early 2019.

SCHEDULE B: ANNUAL REPORT REQUIREMENTS

Insert Item q:

The 2018 Annual Report referred to in Part B, Item 1, shall provide the following information about the TAP including:

1. A summary of the TAP program, including lessons learned, based on monitoring and mitigation efforts.
2. GPS co-ordinates (in degrees, minutes and seconds of latitude and longitude) and datum for the locations of all water withdrawals.
3. The daily and monthly quantities in cubic metres of fresh Water withdrawn from the Niaqunguk River (Apex River) watershed at Monitoring Station IQA-10 and IQA-11.
4. The daily and monthly quantities in cubic metres of fresh Water withdrawn from the small unnamed source water lakes at Monitoring Stations No.:

IQA-12.

5. The daily and monthly quantities in cubic metres of fresh Water withdrawn from the large unnamed source water lake at Monitoring Station IQA-13.
6. A comparison of withdrawals at Monitoring Station Nos.: IQA-11 and IQA13.
7. The daily water levels and/or flow rates in the Niaqunguk River when withdrawals are occurring at Monitoring Station No.: IQA-10.
8. If Monitoring Station No. IQA-11 is directly on the Niaqunguk River, the daily water levels and/or flow rates in the Niaqunguk River when withdrawals are occurring at Monitoring Station No.: IQA-11.
9. All other monitoring conducted to meet DFO requirements.
10. Discussion of any observed trends, exceedances, or unanticipated impacts.

SCHEDULE I: CONDITIONS APPLYING TO MONITORING

Add to the end of Table 2:

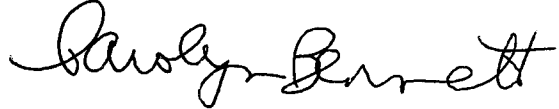
| Station ID | Description | Status | Parameter | Testing/ Measurement Frequency | Reporting Frequency |
|------------|---|--------|-----------|---|------------------------|
| IQA-10 | Withdrawal from Upper Niaqunguk River for transfer directly into the Reservoir. | New | F | Daily when withdrawals occurring at this station. | 2018 Annual Report |
| IQA-11 | Withdrawal from Middle Niaqunguk River watershed for transfer directly into the Reservoir. Withdrawal point to be located on an ephemeral tributary near where it enters the Niaqunguk River or on the river itself just downstream of the confluence with the tributary. | New | F | Daily when withdrawals occurring at this station. | 2018 Annual Report |
| IQA-12 | Withdrawal from small unnamed source water lakes adjacent to Lake Geraldine Reservoir for transfer directly to the reservoir. | New | F | Daily when withdrawals occurring at this station. | 2018 Annual Report |
| IQA-13 | Withdrawal from large unnamed source water lake for transfer into ephemeral tributary to Niaqunguk River. Intent of withdrawal is to provide water to withdrawal point at Monitoring Station IQA-11. | New | F | Daily when withdrawals occurring at this station. | 2018 Annual Report |

All remaining terms and conditions of Type "A" Water Licence 3AM-IQA1626 dated June 17, 2016, still apply.

This Licence Amendment No. 1 issued and recorded at Gjoa Haven, NU on August 14, 2018.



Lootie Toomasie
Chairperson, Nunavut Water
Board



APPROVED
BY: Carolyn Bennett
Minister of Crown-
Indigenous Relations

DATE: AUG 16 2018