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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

File: 3AM-IQA1626

August 22, 2022

By Courier, E-mail and Regular Mail

Honourable Daniel Vandal, PC, MP
Minister of Northern Affairs
The Valour Building, Suite 550
House of Commons

Email: aadnc.ministrean-ministerna.aandc@canada.ca

Subject: NWB Water Licence Type “A” No: 3AM-IQA1626, City of Iqaluit – Request for the Minister’s Consent to Process the Application on an Emergency Basis and Attached Reasons for Decision and Amendment No. 7 for the Minister’s Consideration

Dear Honourable Minister Vandal:

This correspondence is in relation to the August 19, 2022 application to the Nunavut Water Board (NWB or Board) from the City of Iqaluit (City or Applicant) to amend Type “A” Water Licence No: 3AM-IQA1626 (the Water Licence) for a “Municipal Undertaking”¹ (including the City’s potable water treatment and distribution system) on an emergency basis (the Application). The Application requests authorization for the City to withdrawal water from an alternate water source, the Unnamed Lake to the Niaqunguk (Apex) River and to increase water withdrawal from the Niaqunguk (Apex) River, to replenish the water storage at the Lake Geraldine Reservoir in preparation for the winter season. The City stated in the Application that the situation constitutes an emergency as follows:

As of August 12, 2022 the City is again in a public health emergency situation due to a potable water shortage. The situation arises because of unforeseen water usage over winter and spring (contamination of treated water and firefighting), and ongoing exceptionally dry conditions, including flow conditions in the Apex River that have been equal to or lower than the minimum flows of the 42-year period of record...

¹ As defined under Schedule 1 of the *Nunavut Waters Regulations*, SOR/2013-69.

The Applicant's requested amendment would authorize (Amendment No. 7):

- withdrawal of up to six hundred thousand (600,000) cubic metres (m³) of water from the Unnamed Lake for transfer to the Niaqunguk (Apex) River and the subsequent withdrawal of up to nine hundred thousand (900,000) m³ of water from the Niaqunguk (Apex) River for transfer to the Lake Geraldine Reservoir for storage over the winter of 2022-2023; and
- Alteration of the Niaqunguk (Apex) River flow for the duration of the withdrawal in 2022.

The Applicant requested that Amendment No. 7 be dealt with on an emergency basis under the applicable provisions of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)*, the provisions of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*), and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*).

The Board notes that the Application may be exempted from the normal pre-licensing land use plan conformity assessment and impact assessment requirements of the *Nunavut Agreement* and *NuPPAA* if the circumstances constitute an “emergency”, as set out in ss. 152(1)(b) or (c) of the *NuPPAA*². On August 18, 2022, the Board received the Declaration of a State of Emergency in the City of Iqaluit by the territorial Acting Minister of Community and Government Services. The Declaration of a State of Emergency was made under the *Emergency Management Act* resulting in the Application being exempt from the conformity and impact assessment requirements as provided for under s. 152(1)(b) of *NuPPAA*.

In terms of the NWB's processing of the Application on an emergency basis, as provided for under ss. 52(2)(c) and 55(5) of the *NWNSTRA*³, with your consent, the Board may declare the amendment to be required on an emergency basis, with the effect that 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 are waived.

Reflecting this urgency, the NWB convened a teleconference meeting of the duly appointed three-member City of Iqaluit Panel P6 (Panel) responsible for decision-making with respect to the file on Monday, August 22 to consider the City of Iqaluit's Amendment No. 7 Application. By way

² See specifically s. 152(1)(b) and (c), which state that the conformity and impact assessment requirements do not apply in respect of any project that is carried out in response to

(b) an emergency if a federal or territorial minister who is authorized under any other Act of Parliament or any territorial law to declare a state of emergency, to take measures to prevent an emergency or to remedy or minimize its effects is of the opinion that an emergency exists; or

(c) an emergency if the federal Minister certifies that an emergency exists and that it is in the interest of ensuring the health or safety of an individual or the general public, or of protecting property or the environment that the project be carried out without delay.

³ Section 52(2)(c) states:

A public hearing need not be held ...(c) in the case of an application for the amendment of a licence where the Board, with the consent of the Minister, declares the amendment to be required on an emergency basis.

Section 55(5) states:

Subsections 55(1) and (4) [notice of Hearing, communication of information and timelines prior to the Board acting on do not apply in respect of an application for the amendment of a licence where then respect of an application for the amendment of a licence where the Board, with the consent of the Minister, declares the amendment to be required on an emergency basis”

of Panel Motion No: 2022-04-P6-05, Panel determined that it is appropriate that the City of Iqaluit's requested Amendment No. 7 to Water Licence No: 3AM-IQA1626, as received by the Board on August 19, 2022, should be considered by the Board on an emergency basis. In making this declaration, the Panel noted the Applicant expressed significant concerns about its inability to fully fill the reservoir before the winter season if the Amendment is not granted, which would result in a critical shortfall in the amount of potable water the City would be able to provide to the residents of Iqaluit during the upcoming winter. When considering these unexpected and urgent circumstances, the Board is, therefore, requesting the Minister's confirmation that an emergency exists and the Minister's consent to the Board's processing of Amendment No. 7 in emergency circumstances as permitted by s. 152 of the *NuPPAA* and ss. 52(2)(c) and 55(5), of the *NWNSTRA*, as explained above.

Also reflecting the urgent circumstances, by way of Panel Motion No: 2022-04-P6-06, Panel also decided that if the Minister consents to the NWB's processing of the Application on an emergency basis, the Board recommends the issuance of the attached Amendment No. 7 to Water Licence No: 3AM-IQA1626 for the reasons set out in the attached Reasons for Decision. Consequently, the Panel attaches the recommended wording of Amendment No. 7 for your consideration.

Conclusion

The Board recommends that Amendment No. 7 to Water Licence No: 3AM-IQA1626 be considered by the Minister for approval under s. 56(1) of the *NWNSRTA*. Given the urgent nature of this matter, the Board would appreciate receiving, as soon as possible, the Minister's decision regarding whether the Minister consents to the NWB's processing of Amendment No. 7 under emergency circumstances and, if so, the Minister's decision as to whether to approve the issuance of Amendment No. 7.

If the Minister has any questions or concerns regarding this matter, please contact Stephanie Autut, the NWB's Executive Director at Stephanie.Autut@nwb-oen.ca

Sincerely,

Lootie Toomasie
Nunavut Water Board, Chair

LT/ak/rqd

Enclosure: **Licence No: 3AM-IQA1626 – Emergency Amendment Decision and Licence Amendment No. 7**

cc. Amy Elgersma, City of Iqaluit
Iqaluit Distribution List

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:	
Amendment No. 7 Effective:	August 22, 2022
Amendment No. 7 Expiry:	Upon Completion of the Temporary Withdrawals Required to Replenish the Lake Geraldine Reservoir in 2022
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 (NWNSTRA or Act)*, with respect to the Application for an emergency amendment to the Licence noted above, dated August 19, 2022, provided by the City of Iqaluit, the Nunavut Water Board (NWB or Board) hereby grants the following licence amendments (Amendment No. 7).

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 of up to 600,000 cubic metres (m³) of Water from the Unnamed Lake for transfer to the Niaqunguk (Apex) River, and the subsequent withdrawal of up to 900,000 m³ of Water from the Niaqunguk (Apex) River to replenish Lake Geraldine Reservoir for the winter of 2022-2023.

Procedural History

On August 18, 2022, the Board received the Declaration of a State of Emergency in the City of Iqaluit by the territorial Acting Minister of Community and Government Services. The Declaration of a State of Emergency was made under the Territorial *Emergency Management Act* and as a result, the Application was exempt from the conformity and impact assessment requirements under s. 152(1)(b) of *NuPPAA*.

On August 18 and 19, 2022, the Nunavut Water Board (NWB or Board) received the Application for Water Licence Amendment (Application) from the City of Iqaluit (the City or Applicant) for Water Licence No: 3AM-IQA1626. The Application identified that, due to the low flow conditions and the unforeseen increase in the use of water in 2021 and the resultant difficulties with filling the Lake Geraldine Reservoir – the City’s water source – the water in the Reservoir is insufficient to supply the required amount of potable water to the City throughout the upcoming winter. In order to refill the Lake Geraldine Reservoir via the proposed temporary withdrawals from Niaqunguk (Apex) River and Unnamed Lake prior to freeze up, the City requested that 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 (Nunavut Agreement) and the Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSTRA). As provided 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. With the consent of the Minister, this declaration 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. In addition, the Minister’s consent exempts the Application from meeting the pre-licensing conformity determination and impact assessment requirements (as outlined under ss. 152(1)(b) and (c) of the *Nunavut Project and Planning Assessment Act*, S.C. 2013, c. 14, s. 2 (NuPPAA).*

On August 22, 2022, the NWB’s duly appointed Panel P6 (the Panel) responsible for decision-making for the file, met via teleconference and concluded that emergency circumstances had been established by the City of Iqaluit and directing that the Board seek the Minister’s consent for the Board to process the Application on an emergency basis. The Panel also decided to recommend that Amendment No. 7 be granted on the following basis.

General Considerations

The City of Iqaluit views the situation as an emergency due to low-flow conditions at the Niaqunguk (Apex) River:

The City has received an Authorization from Fisheries and Oceans Canada (DFO) under the Fisheries Act to take up to 80% of the flow of the Apex River and when flows are below 30% of the mean annual discharge as an option; however, as of August 15, the City has not exercised this option to “overpump” the river because the Apex River alone... will not have enough flow to fill the reservoir if minimum flow conditions continue... An additional water source is required.

The City requests an authorization to undertake pumping of water from the large unnamed source water lake (Unnamed Lake) for transfer to the Niaqunguk (Apex) River, and subsequent transfer from the Apex River into the Lake Geraldine Reservoir. The period of withdrawal is expected to be August 2022 through October 2022 to ensure that there will be sufficient water in the Lake Geraldine Reservoir to provide drinking water to the community throughout the winter. The proposal is technically similar to the activities that took place in 2019 that were authorized by the Board on August 2, 2019 under emergency circumstances (Amendment No. 3) and approved by the Minister of Crown-Indigenous Relations and Northern Affairs on August 9, 2019.

Recognizing that the emergency situation means that there has been a very limited opportunity for the Board and any interested parties to review and comment on the Application, the NWB has recommended the term of Amendment No. 7 should be limited to the works and activities required for the City to complete the replenishment of the Lake Geraldine Reservoir in 2022.

In the Application, the City indicated that the pumping of freshwater from the Unnamed Lake and the Niaqunguk (Apex) River is expected to be required for a term of August 29 to October 31,

2022 to ensure that there is sufficient water in the Reservoir to supply the population of the City of Iqaluit with potable water through the upcoming winter. If Amendment No. 7 was approved, submersible pumps would be installed at the Unnamed Lake, which would transfer water from the Unnamed Lake to the Niaqunguk (Apex) River by a combination of piping and flexible hoses. This would increase water flow at the Niaqunguk (Apex) River as the volume of water would be supplemented by pumping from the Unnamed Lake. Withdrawal from the Niaqunguk (Apex) River into Lake Geraldine Reservoir would then be conducted via the permanent setup utilized by the City during normal operations. Amendment No. 7 is limited to the withdrawals from the Unnamed Lake and the Niaqunguk (Apex) River, and no other alternate sources of water may be accessed under this amendment.

As the proposed activities by City will be similar to the ones that were conducted in 2019, the Board’s understanding is that similar monitoring will be conducted during 2022 pumping activities as indicated under Schedule I.

The Board also notes that the Applicant provided the Application materials to the Department of Fisheries and Oceans (DFO) and that the City will obtain necessary authorization from DFO prior to proceeding with the proposed activities. In addition, the Board is aware that the City is engaged in studies on determining an addition of a permanent water source in line with the August 10, 2018 correspondence from the Minister of Crown-Indigenous Relations and Northern Affairs⁴. The Board also reminds the Licensee of s. 152(2) of *NuPPAA*:

As soon as practicable after undertaking a project referred to in subsection (1), the person or entity carrying it out must submit a written report to the Commission, the Board and the federal Minister describing

- (a) all of the works or activities that have been undertaken or carried out in response to the emergency referred to in paragraph (1)(a), (b) or (c), as the case may be; and*
- (b) any further works or activities required after the end of that emergency to complete the project or maintain a work referred to in paragraph (a).*

On this basis, Panel P6, by way of Motion No: 2022-04-P6-05 has approved the processing of the Water Licence Amendment Application to Type “A” Water Licence No: 3AM-IQA1626 under emergency circumstances as requested by the City of Iqaluit. Further, Panel P6 has, by way of Motion No: 2022-04-P6-06 directed that if the Minister consents to processing the Application on an emergency basis, the Panel requests the Minister consider, for his approval, the Panel’s Reasons for Decision and recommended amendments to Water Licence No: 3AM-IQA1626 (Amendment No. 7) to authorize the activities outlined in the Application.

⁴ Honourable Caroline Bennett to Her Worship Madeleine Redford (City), Sharon Ehloak (Nunavut Planning Commission, and Ryan Barry (Nunavut Impact Review Board), dated August 10, 2018.

EMERGENCY AMENDMENT

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

2,000,000 CUBIC METERS ANNUALLY FROM LAKE GERALDINE RESERVOIR, 900,000 CUBIC METERS IN 2022 FROM NIAQUNGUK RIVER (APEX RIVER) FOR TRANSFER TO LAKE GERALDINE RESERVOIR, 2,500 CUBIC METRES ANNUALLY FROM IMIQTARVIVINIQ (DEAD DOG LAKE), AND 600,000 CUBIC METRES IN 2022 FROM LARGE UNNAMED SOURCE WATER LAKE (UNNAMED LAKE) TO THE NIAQUNGUK RIVER (APEX RIVER).

PART A: SCOPE, DEFINITIONS, AND ENFORCEMENT

Insert Item 1. m.:

Construction, operation, and removal of temporary facilities to provide for pumping Water from the Unnamed Lake.

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 2,000,000 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 2022, from the Niaqunguk River (Apex River) at Monitoring Station No. IQA-10, up to a total of 900,000 cubic metres of Water for the supplementation of Water levels in the Lake Geraldine Reservoir.

The Licensee is authorized to withdraw, from Imiqtarviviniq (Dead Dog Lake) at Monitoring Station No. IQA-14, up to a total of 2,500 cubic metres of Water annually for dust suppression and general municipal purposes.

The Licensee is authorized to withdraw in 2022, from the large unnamed source lake (Unnamed Lake) at Monitoring Station No. IQA-13, up to 600,000 cubic metres of Water for augmentation of flow in the Niaqunguk River (Apex River).

Insert Item 14:

The Licensee shall cease all withdrawals from the Unnamed Lake (Monitoring Station No. IQA-13) when the Licensee has completed the replenishment of the Lake Geraldine Reservoir for 2022. The Licensee shall remove infrastructure set up for water withdrawals at Monitoring Station No. IQA-13.

PART I: CONDITIONS APPLYING TO MONITORING

Insert Item 17:

The Licensee shall monitor withdrawals from the Unnamed Lake in accordance with requirements included under Schedule I.

PART J: CONDITIONS APPLYING TO CLOSURE AND RECLAMATION

Insert Item 7:

The Licensee shall, within three (3) months of terminating temporary withdrawal of Water from Unnamed Lake or with the 2022 Annual Report, whichever comes first, submit to the Board for review, the final closure report of temporary infrastructure established for Water withdrawals at Monitoring Station No. IQA-13.

SCHEDULE B: ANNUAL REPORT REQUIREMENTS

Insert Item v:

The 2022 Annual Report referred to in Part B, Item 1, shall provide the following information:

1. GPS co-ordinates (in degrees, minutes and seconds of latitude and longitude) and datum for the locations of all water withdrawals.
2. The daily and monthly quantities in cubic metres of fresh Water withdrawn from the Unnamed Lake at Monitoring Station IQA-13.
3. All other monitoring conducted to meet DFO requirements.
4. Discussion of any observed trends, exceedances, or unanticipated impacts.

SCHEDULE I: CONDITIONS APPLYING TO MONITORING

Amend Table 2 to include:

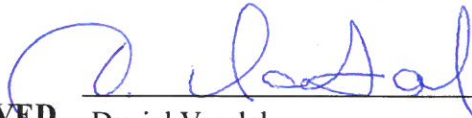
Station ID	Description	Status	Parameter	Testing/ Measurement Frequency	Reporting Frequency
IQA-13	Withdrawal from large unnamed source water lake (Unnamed Lake) for transfer into ephemeral tributary to Niaqunguk River. Intent of withdrawal is to provide water to withdrawal point at Monitoring Station IQA-10.	Active in 2022	F	Daily when withdrawals occur at this station.	2022 Annual Report

All remaining terms and conditions of Type "A" Water Licence 3AM-IQA1626, dated June 17, 2016, Amendment No. 4, dated September 4, 2019, and Amendment No. 5, dated March 15, 2021, still apply.

This Licence Amendment No. 7 issued and recorded at Gjoa Haven, NU on **August 22, 2022.**



Lottie Toomasie
Chairperson, Nunavut Water
Board



APPROVED
BY: Daniel Vandal
Minister of Northern Affairs

DATE: **AUG 26 2022**