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NUNAVUT IMALIRIYIN KATIMAYINGI
NUNAVUT WATER BOARD
OFFICE DES EAUX DU NUNAVUT

File No. 3BM-PAN0207

June 12, 2008

Honorable Chuck Strahl, P.c., M.P.
Minister of Indian Affairs & Northern Development
And Federal Interlocutor for Metis and Non-Status Indians
21st Floor, 10 Wellington
Gatineau, Quebec K1A 0H4

Re: NWB Authorization on an Emergency Basis

Dear Minister,

The Nunavut Water Board (Board or NWB) acknowledges receipt of the following (attached):

1. Letter from Dr. Isaac Sobol, Chief Medical Officer of Health, Department of Health and Social Services, Government of Nunavut, to Ron Mongeau, SAO, Mayor and Hamlet Council, Pangnirtung, Reference: Direction for emergency dumping of sewage into the Duvall River by the Hamlet of Pangnirtung for 48 hours to prevent potential health hazard, dated June 10, 2008;
2. Letter from Peter Kusugak, Inspector, Nunavut Regional Office, Indian and Northern Affairs Canada (INAC), to Ron Mongeau, Senior Administrative Officer, Hamlet of Pangnirtung, Reference: Emergency dumping of sewage into Duvall River dated June 10, 2008; and
3. Email from Sakiasie Sowlooapik, Conservation Officer III, Government of Nunavut, to Robert Eno, Manager Pollution Control, Environment Protection Division, Government of Nunavut, reference Pangnirtung Situation, dated 10 June 2008 at 1:55 p.m.

The correspondence from Dr. Isaac Sobol, Chief Medical Officer of Health (CMO) and Mr. Kusugak, Inspector, Nunavut Regional Office, Indian and Northern Affairs Canada (INAC) sets out that the collapse of bridge infrastructure due to flooding has resulted in a temporary order from the CMO to dump sewage from the Hamlet of Pangnirtung directly into the Duvall River downstream of the affected bridge. This temporary measure is effective June 10, 2008 and is to be reviewed at the end of 48 hours. Mr. Sowlooapik indicated in his email that the "Hamlet Council unanimously agreed to call the state of Emergency in the Hamlet to conserve water and sewage for public health purposes."

The Hamlet of Pangnirtung's Municipal Water Licence NWB3PAN0207 issued on December 1, 2002, expired on November 31, 2007. An application for renewal of the Municipal Water Licence (3BM-PAN0207) was received on November 20, 2007, and is being processed pending clarification from the Application as advised on April 17, 2008.

Further, Industrial Water Licence NWB4DUV0405 was issued to the Nunavut Department of Community Government and Services on October 15, 2004, to allow for in-stream work during the completion of emergency repairs to the Duval River Bridge. The Industrial Water Licence expired on October 31, 2005.

While both licences have expired, Section 46 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWSRTA or Act) states “the expiry [] of a licence does not relieve the holder from any obligation imposed by the licence.”

To ensure that emergency measures are duly authorized as required by the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWSRTA or Act), the following issues need to be addressed:

Emergency Authorization

Water Use:

Subsection 11(1) of the Act states “no person shall use, or permit the use of, waters in Nunavut except in accordance with the condition of a licence.” Clause 11(2) (a) (ii) provides an exception “for the purpose of extinguishing a fire or, on an emergency basis, controlling or preventing a flood.” The Board accepts the determination and decision of the Hamlet in declaring a state of emergency and confirms no authorization is required for the emergency use.

Disposal of Waste:

The Act does not provide exceptions on an emergency basis for a licence for the disposal of waste. However, clause 43(1)(b)(iii) of the Act permits the Board to “amend, for a specified term or otherwise, any condition of a licence where the Board considers the amendment to be in the public interest”. Further, subsection 55(5) of the Act allows the Board “in 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” to waive the requirements for notice of applications, notice of hearings, and communication of information, including where public hearings are not held.

In accordance with clause 43(1)(b)(iii) the Board deems the following amendments to the conditions of the Hamlet of Pangnirtung’s Municipal Water Licence NWB3PAN0207 (Licence) to be in the public interest, and requests the consent of the Minister pursuant to subsection 55(5) of the Act to declare the following amendment to be required on an emergency basis, such that the notice requirements of section 55 of the Act are waived:

- 1) Extend the term of the Licence to August 31, 2008.
- 2) Permit the Hamlet of Pangnirtung to discharge sewage and dispose of solid waste on an emergency basis in accordance with a Directive issued by the Chief Medical Officer and the Department of Health and Social Services, Government of Nunavut.
- 3) The Hamlet of Pangnirtung shall file with the Board and Inspector by June 23, 2008, and bi-weekly thereafter, unless otherwise approved by the Board, a summary report for the

discharge of waste including solid waste and sewage effluent. The summary report shall include:

- a. Site map showing detailed disposal locations and sources;
 - b. Projected timelines to address the emergency situation;
 - c. Alternatives investigated: with preferred option described;
 - a. Projected volumes of discharge;
 - b. Description of receiving environment;
 - c. Photographic supporting documentation;
 - d. Mitigation measures to minimize impact to fresh water; and
 - e. Monitoring proposed.
- 4) The Hamlet of Pangnirtung shall file with the Board no later than June 23, 2008, unless otherwise approved by the Board, an implementation plan for re-establishing access across the Duval River. The Implementation Plan shall include:
- a. Site map showing location of current bridge infrastructure and proposed works;
 - b. Projected timelines for in-stream work;
 - c. Alternatives investigated: with preferred option described;
 - d. Description of works to be undertaken;
 - e. Description of receiving environment;
 - f. Photographic supporting documentation;
 - g. Mitigation measures to minimize impact to fresh water; and
 - h. Monitoring proposed.
- 5) To respond to the ongoing emergency circumstances additional conditions may imposed by the Board.

The Board further requests the Minister to advise the Board of any further conditions recommended by Indian and Northern Affairs Canada to be incorporated into this emergency amendment.

Commensurate with the emergency situation the Board looks forward to a reply at your earliest convenience. If you require further information please contact Dionne Filiatrault, Executive Director at 867-360-6338.

Sincerely,

Thomas Kabloona
A/Chairman

Attachments

Cc: Distribution List attached

Distribution List –

R. Mongeau, SAO Hamlet of Pangnirtung
Mayor and Hamlet Council
Dr. I. Sobol, Chief Medical Officer Health, GN
R. Eno, GN
M. Aulakh, GN
P. Workman, GN
B. MacIssac, INAC
P. Kusugak, INAC
J. Rogers, INAC
C. Broome, Environment Canada
S. Autut, NIRB
A. Lui, DFO
P. Workman, GN