



INSPECTOR'S DIRECTION
Pursuant to Section 87(1) of the *Nunavut Waters*
And Nunavut Surface Rights Tribunal Act, S.C. 2002, c.10

28 July 2015

ISSUED TO: Hamlet of Cape Dorset

**Attn: Ed Devereaux, Senior Administrative Officer; and,
Mary Joanasie, Acting Senior Administrative Officer
PO Box 30
Cape Dorset, NU X0A 0C0**

RE: *Nunavut Waters and Nunavut Surface Rights Tribunal Act*
INSPECTOR'S DIRECTION

This document constitutes an Inspector's Direction to the Hamlet of Cape Dorset, pursuant to subsection 87(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act, 2002*, hereinafter referred to as the "Act".

REASONABLE GROUNDS FOR BELIEF

I, Justin Hack, an Inspector designated by the Minister of Aboriginal Affairs and Northern Development Canada under subsection 85(1) of the Act, have reasonable grounds to believe:

That, pursuant to section 87(1)(a)(iii) of the Act, there has been a failure of a work related to the deposit of waste, AND;

That, pursuant to section 87(1)(b) of the Act, the adverse effects of that deposit and failure are causing, or may cause, a danger to persons, property or the environment.

RELEVANT FACTS

1. On June 22, 2015, it was reported that due to excessive run-off from the mountain adjacent to the Three-Tier Lagoon, and a blockage of the overflow culvert due to ice, the third cell of the lagoon experienced a significant breach.
2. On July 26, 2015, an AANDC Water Resource Inspector conducted an inspection of the facility and confirmed that there was a failure of the berm wall of the third cell of the lagoon. The Inspector notified the Acting SAO that an Inspector's Direction would be issued to the SAO of the Hamlet of Cape Dorset about this situation.
3. Sewage from the Hamlet of Cape Dorset continues to be deposited in the Three-Tier Sewage Lagoon and is passively flowing continuously through the cells into the environment.



4. The Three-Tier Lagoon is designed to operate most effectively with a third cell to increase holding time of the sewage. In order for construction to proceed on the berm wall, decanting of cell three and of the emergency lagoon is required.
5. On July 26, 2015 a request was made by the Hamlet of Cape Dorset to actively decant the 'Three-Tier Sewage Lagoon' and the 'Emergency Lagoon' in order to prepare the lagoon for emergency repairs.
6. On July 29, 2015 the licensee has indicated on the telephone that repairs of the berm wall will likely take approximately one week. It was agreed that a deadline of one month will be set in the Inspector's Direction to provide some flexibility for the construction to occur.

MEASURES TO BE TAKEN

Based upon the above grounds, I hereby direct, Senior Administrative Officer **Ed Devereaux**, the Hamlet of Cape Dorset, its principles, agents, employees, and/or contractors:

1. To immediately repair the damaged berm wall of the Three-Tier Lagoon, and complete the repairs by August 31, 2015.
2. To proceed with the discharge of cell three of the Three-Tier Lagoon in order for construction to proceed.
3. To stop all sewage being deposited into the Three-Tier Lagoon until the berm wall is fixed.
4. To decant the effluent in the Emergency Lagoon to provide temporary storage for the Hamlet's sewage while construction occurs.
5. To implement measures to prevent surface run-off from entering the Three-Cell Lagoon by September 31, 2015.
6. To implement measures to prevent the blockage of the culvert by September 31, 2015.
7. To provide plans and timelines outlining work related to repairing the structure and remedying the cause of the breach prior to undertaking any work.
8. To provide a final summary of all works completed during the 2015 season as well as any outstanding work that may be required to be completed in the 2016 construction season. This report will be provided to the Inspector on or before December 30th, 2015. This report will also include any challenges to the completion of the work. This report will be provided to the Inspector in writing, accompanied with any other documentation of the progress.

Please be aware that the Hamlet of Cape Dorset, its principles, agents, employees, and/or contractors, involved with any work to remedy deficiencies related to the performance of the municipal effluent system for treating municipal sewage may be held responsible under the *Act* or any other Act where acts or omissions that do not exercise due diligence occur. This includes but is not limited to uncontrolled spills or unauthorized discharges of waste water or other substances.



This inspector's direction does not exempt those persons or parties conducting the directed activities in the Hamlet of Cape Dorset from following or meeting other relevant legislation and it must be understood that one or more federal or territorial agencies may stop the activities prematurely where events occur that require early intervention.

Pursuant to subsection 90(1) of the *Act*, any person that fails to comply with a direction given by an inspector under 87(1), is guilty of an offence and is liable on summary conviction to a fine not exceeding \$100,000 or to imprisonment for a term not exceeding one year, or to both.

Nothing in this inspector's direction is intended to prejudice the Nunavut Water Board during the water licence renewal process or prevent the issuance of a valid water licence.

Procedural Fairness

Procedural fairness requires that any person or parties are notified of the case against them that may affect their rights, privileges and interests and that the person or parties are given the opportunity to speak to the Inspector about any administrative order.

The opportunity to be heard prior to the issuance of an administrative order, namely an inspector's direction, allows the person or party to correct or contradict any incorrect information and to ensure that the Inspector has all relevant information prior to the issuance of the inspector's direction.

The duty to provide procedural fairness and actions required when issuing an inspector's direction will be weighed against the level of emergency and the requirement for expediting action.

Review

This Inspector's Direction may be reviewed, pursuant to subsection 87(3) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, by the Minister of Aboriginal Affairs and Northern Development Canada. The Minister may, after review, alter or revoke the direction.

Signed this 29 day of July, 2015 at Iqaluit, Nunavut.

Justin Hack
Water Resource Officer
Field Operations, AANDC