



Your file - Votre référence  
3BM-COR0813

March 2, 2015

Our file - Notre référence  
CIDM# 896470

Robin Ikkutisluk  
Licence Administrator Assistant  
Nunavut Water Board  
Gjoa Haven, NU, X0E 1J0

**Re: Aboriginal Affairs and Northern Development Canada Review of the Hamlet of Coral Harbour's Application to Renew Water Licence #3BM-COR0813**

Dear Ms. Ikkutisluk:

Thank you for the email on February 1, 2015 concerning the above mentioned application. A memorandum is provided for the Board's consideration. Comments and recommendations have been provided pursuant to Aboriginal Affairs and Northern Development Canada's mandated responsibilities under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Department of Indian Affairs and Northern Development Act*.

Please do not hesitate to contact me by telephone at 867-975-4282 or email at [ian.parsons@aandc-aadnc.gc.ca](mailto:ian.parsons@aandc-aadnc.gc.ca) if you have any comments or questions.

Sincerely,

Ian Parsons B.Sc.  
Regional Coordinator  
Water Resources Division  
Resource Management Directorate  
Aboriginal Affairs and Northern Development Canada  
IQALUIT, NU X0A 0H0

Encl.

c.c.: Andrea Morgan, A/Manager Water Resources, AANDC Nunavut  
Robert Savard, Water Resource Officer, AANDC Nunavut  
Erik Allain, Manager of Field Operations, AANDC Nunavut  
Karen Costello, Director of Resource Management, AANDC Nunavut

# Technical Review Memorandum

Comments:

## A. Background

Aboriginal Affairs and Northern Development Canada ("AANDC") supports the Hamlet of Coral Harbour (the "Licensee") request for a 10 year water licence renewal and would not oppose the Nunavut Water Board (the "NWB") if they wished to extend the request further to provide a 15-25 year term. AANDC recognizes that periodic amendments may occur to reflect changes to infrastructure as well as the possibility that the Licensee may require an additional application to move to a Type 'A' licence.

Furthermore, AANDC supports this move to 15-25 year water licence terms to address capacity building that may have been an issue within the communities and the Government of Nunavut in the past and may have lead to the number of water licences that have expired and remain expired. A staggered approach for the length of the water licences may also prevent a bottleneck of municipal water licences requiring renewal all within one or two years.

AANDC makes these recommendations for longer water licences recognizing that the communities and the Government of Nunavut are collaboratively working towards water licence compliance. Enforcement and compliance of a municipal water licence by AANDC can only be effective through administering water licence conditions for a valid water licence. A longer water licence term may help to ensure that licences are valid and reduce the risk of expiration while also reducing the administrative work required by the Government of Nunavut and the municipalities of renewing a water licence every 2-5 years for recognizing that communities can be viewed as permanent establishments requiring water licences in perpetuity.

AANDC would also like to respectfully remind the Nunavut Water Board that compliance and enforcement of all water licences and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* is the sole responsibility of Inspectors appointed by the Minister of AAND.

If the Nunavut Water Board considers compliance history when determining the length of a water licensee, the renewal of a water licence, or the decision to issue a water licence, AANDC would like to be able to provide comments weighted to reflect these responsibilities. AANDC believes this collaborative approach would help to promote the overall compliance of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*. This would also help to ensure consistency and prevent proponents from being caught in a perceived 'catch 22' of being out of compliance with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* for failing to have a valid water licence but not receiving a renewal water licence because they are out of compliance with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, namely terms and conditions of water licence.

As part of AANDC's program review as conveyed to Mr. Hohnstein on January 30, 2015 through correspondence from Erik Allain, Manager of Field Operations, the Field Operations Unit is reviewing previous conditions within existing water licences to ensure enforceability within the jurisdiction of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and to maintain the integrity of the program delivery.

At this time AANDC is providing comments to the NWB on water licence applications where there is a clear connection between water use, waste deposit to water, or appurtenant undertakings related to water use and/or deposit of waste to water, subject to the Act and Regulations.

AANDC would like to bring the attention of the NWB the following conditions that were part of the water licence 3BM-COR0813 that may not be enforceable by the AANDC Inspectors due in part that the conditions appear out of the jurisdiction of AANDC. AANDC would like to respectfully request that the

NWB consider removing these conditions from the new water licence issued for Coral Harbour and from any future water licences.

## **B. Licence Review Determinations**

AANDC notes that there are inconsistencies in the application with regards to the amount of water the applicant is asking for. The executive summary and water use table indicates that 45,000 cubic meters will be required in 2025 to satisfy the Hamlet's needs, however the water licence application indicates that the hamlet is only asking for 40,000 cubic meters.

AANDC recommends that the NWB licence the Hamlet for 45,000 cubic meters and not 40,000 cubic meters if a renewed water licence is issued.

AANDC also notes that although the application is complete, there are still several non-compliances with the water licence.

AANDC recommends that the Hamlet work closely with the AANDC field operations division to come into compliance with any outstanding issues.

The following conditions do not appear, or may require modifications to have a clear connection between water use, waste deposit to water, or appurtenant undertakings related to water use and/or deposit of waste to water, subject to the Act and Regulations.

### **Part A: Enforcement**

#### Part A, Item 3(d):

AANDC proposes the removal of this condition because it may not be enforceable.

*Rationale for Change:* As stated in Item 3 b, c, "All inspection and enforcement services regarding this Licence will be provided by Inspectors appointed under the *Act*, and " [f]or the purpose of enforcing this Licence and with respect to the use of water and deposit or discharge of waste by the Licensee, Inspectors appointed under the *Act*, hold all powers, privileges and protections that are conferred upon them by the *Act* or by other applicable law "

The submission and approval of a compliance plan is at the discretion of the Inspector appointed under the Act and therefore may not be enforceable as a condition in water licence.

*Condition that may not be enforceable:* "The Licensee shall, in relation to any application to renew or amend the Licence, have in place a Plan for Compliance approved by the Board in writing, to achieve full compliance with the conditions of this Licence, or a Plan for Compliance must be submitted at the time of Application, in order for the Application to be deemed complete.

### **Part B: General Conditions**

#### Part B, Item 1 (d)

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* A summary of modifications and/or major maintenance work carried out on the Water Supply and Waste Disposal Facilities, including all associated structures and facilities"

*Proposed Condition:* "a summary of modifications and/or major maintenance work carried out on the Water Supply and Waste Disposal Facilities, including all associated structures and facilities where structures and facilities are subject to the Act and regulations."

Part B, Item 1 (f)

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* A summary of any abandonment and restoration work completed during the year and an outline of any work anticipated for the next year;

*Proposed Condition:* Subject to the Act and regulations, the proponent is required to provide a summary of abandonment and restoration work completed during the year and an outline of any work anticipated for the next year;

Part B, Item 3

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* The “Monitoring Program” and compliance dates specified in the Licence may be modified at the discretion of the Board.

*Proposed Condition:* The “Monitoring Program” dates specified in the Licence may be modified at the discretion of the Board.

Part B, Item 7

AANDC would like Part B, Item 7 removed from the licence, because the information referencing the Taiga lab is out of date and not relevant to the water licence

**Analyst Contact:**

Taiga Laboratories

Department of Indian and Northern Affairs 4601 – 52 Avenue, P.O. Box 1500 Yellowknife, NT X1A 2R3

Telephone: (867) 669-2781 Fax: (867) 669-2718

Part B, Item 10

AANDC proposes the removal of this condition because it may not be enforceable.

*Condition that may not be enforceable:* The Licensee shall submit to the Board for approval within the lesser of ninety (90) days or upon the filing of any application in relation to the Licence, a Plan for Compliance that clearly demonstrates the ways and means the Licensee will undertake to achieve full compliance with the conditions of this Licence. The Plan for Compliance must also address the potential for minimally treated sewage to enter the environment during periods when the wetland area may be frozen or otherwise not fully capable of treating sewage.

*Rationale:* The submission and approval of a compliance plan is at the discretion of the Inspector appointed under the Act and therefore may not be enforceable as a condition in water

Part B, Item 11

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* The Licensee shall, for all Plans submitted under this Licence, include a proposed timetable for implementation. Plans submitted, cannot be undertaken without subsequent written Board approval and direction. The Board may alter or modify a Plan if necessary to achieve the legislative objectives and will notify the Licensee in writing of acceptance, rejection or alteration of the Plan.

*Proposed Condition:* The Licensee shall, for all Plans submitted under this Licence, include a proposed timetable for implementation. Plans submitted, cannot be undertaken without subsequent written Board approval and direction. The Board or an Inspector may alter or modify a Plan if necessary to achieve the legislative objectives and will notify the Licensee in writing of acceptance, rejection or alteration of the Plan. The Inspector will notify the Board of any alteration or modification

Part B, Item 12

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* The Licensee shall, for all Plans submitted under this Licence, implement the Plan as approved by the Board in writing.

*Proposed Condition:* The Licensee shall, for all Plans submitted under this Licence, implement the Plan as approved by the Board in writing. The Inspector may authorize minor modifications or amendment to submission dates. The Inspector will notify the Licensee in writing of acceptance, rejection or alteration of minor modifications to a Plan. The Inspector will notify the Board of any alteration or minor modifications.

## **Part D: Conditions Applying to Waste Disposal**

Part D, Item 7

AANDC proposes the removal of this condition because it may not be enforceable.

*Condition that may not be enforceable:* The Licensee shall dispose of and contain all solid wastes at the Solid Waste Disposal Facility or as otherwise approved by the Board.

Part D, Item 8

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* The Licensee shall segregate and store all hazardous materials and/or hazardous waste within the Solid Waste Disposal Facility in a manner as to prevent the deposit of deleterious substances into any water until such a time as proper disposal arrangements are made.

*Proposed Condition:* The Licensee shall store all hazardous materials and/or hazardous waste in a manner to prevent the deposit of waste into any inland water."

Part D, Item 9

AANDC proposes the removal of this condition because it may not be enforceable.

*Condition that may not be enforceable:* The Licensee shall implement measures to control wind-blown litter at the Solid Waste Disposal Facility.

## **Part E: Conditions Applying to Modifications and Construction**

Part E, Item 2

AANDC would like to propose changes because this condition is not clear and may be misinterpreted.

*Previous Condition:* The Licensee may, without written approval from the Board, carry out modifications to the Water Supply and Waste Disposal Facilities provided that such modifications are consistent with the terms of this Licence and the following requirements are met:

- a. the Licensee has notified the Board in writing of such proposed modifications at least sixty (60) days prior to beginning the modifications;
- b. these modifications do not place the Licensee in contravention of the Licence or the Act;
- c. the Board has not, during the sixty (60) days following notification of the proposed modifications, informed the Licensee that review of the proposal will require more than sixty (60) days; and
- d. the Board has not rejected the proposed modifications.

*Proposed Condition:* The Licensee may, without written approval from the Board, carry out modifications to the Water Supply and Waste Disposal Facilities provided that such modifications are consistent with the terms of this Licence and within the scope of the water licence application. The Licensee is required to provide 30 day notification to the Inspector and the Board prior to the modifications.

## **Part F: Conditions Applying to Operations and Maintenance**

### Part F, Item 1

AANDC proposes a modification to ensure the enforceability of the condition.

*Previous Condition:* The Licensee shall submit to the Board for approval, within ninety (90) days of issuance of the Licence, an Operations and Maintenance Manual prepared where appropriate, in accordance with the “*Guidelines for the Preparation of an Operation and Maintenance Manual for Sewage and Solid Waste Disposal Facilities in the Northwest Territories; 1996*”. The Manual shall take into consideration the comments received during the application review process and shall contain the following plans:

- a. *Water Distribution Facility Operation and Maintenance (O&M) Plan;*
- b. *Sewage Disposal Facility Operation and Maintenance (O&M) Plan;*
- c. *Sewage Sludge Management Plan;*
- d. *Solid Waste Disposal Facility Operation and Maintenance (O&M) Plan;*
- e. *Spill Contingency Plan; and*
- f. *Monitoring Program Quality Assurance/Quality Control Plan (QA/QC Plan).*

*Proposed Condition:* The Licensee shall submit to the Board for approval, within ninety (90) days of issuance of the Licence, an Operations and Maintenance Manual prepared where appropriate, in accordance with the “*Guidelines for the Preparation of an Operation and Maintenance Manual for Sewage and Solid Waste Disposal Facilities in the Northwest Territories; 1996*,” in so far as the plans are related to water use, waste deposit to water, or appurtenant undertakings related to water use and/or deposit of waste to water, subject to the act and regulations.

The Manual shall take into consideration the comments received during the application review process and shall contain the following plans:

- a. *Water Distribution Facility Operation and Maintenance (O&M) Plan;* Licence 3BM-0813 17
- b. *Sewage Disposal Facility Operation and Maintenance (O&M) Plan;*
- c. *Sewage Sludge Management Plan;*
- d. *Solid Waste Disposal Facility Operation and Maintenance (O&M) Plan; related to water use, waste deposit to water, or appurtenant undertakings related to water use and/or deposit of waste to water, subject to the act and regulations.*
- e. *Spill Contingency Plan; and*
- f. *Monitoring Program Quality Assurance/Quality Control Plan (QA/QC Plan).*

### Part F, Item 3

AANDC supports modifying the requirement of a geotechnical engineer to inspect engineered facilities. We recognize the risk associated with not having the inspection conducted annually, but also understand the significant resources needed to conduct geotechnical inspections on an annual basis in every community in Nunavut by CGS or the Hamlets.

*Previous Condition:* An inspection of all engineered facilities related to the management of water and waste shall be carried out annually in July or August by a Geotechnical Engineer. The engineer's report shall be submitted to the Board within sixty (60) days of the inspection, including a covering letter from the Licensee outlining an implementation plan addressing each of the Engineer's recommendations.

*Proposed Condition:* An inspection of all engineered facilities related to the management of water and waste shall be carried out annually in July or August by a Geotechnical Engineer or a Municipal Engineer. The engineer's report shall be submitted to the Board within sixty (60) days of the inspection, including a covering letter from the Licensee outlining an implementation plan addressing each of the Engineer's recommendations. A geotechnical engineer will be contacted to conduct an inspection if deficiencies were noted by the Municipal Engineer. The Inspector may also request the Licensee to conduct a geotechnical inspection to address compliance with the Act or the Licence.

## **Part G: Conditions Applying to Abandonment and Restoration**

### Part G, Item 1

AANDC proposes the removal of these conditions, Part G, Item 1(c)(d)(i)(j)(k) because they may not be enforceable under the Act. AANDC proposes a modification to condition, Part G, Item 1(l)(g), to ensure the enforceability of the condition. The removals and modifications are captured in the below condition:

*Proposed Condition:* The Licensee shall submit to the Board for approval an *Abandonment and Restoration Plan* at least six (6) months prior to abandoning any facilities or upon submission of the final design drawings for the construction of new facilities to replace existing ones. Where applicable, the Plan shall include information on the following:

- a. water intake facilities;
- b. the water treatment and waste disposal sites and facilities;
- e. leachate prevention
- f. an implementation schedule
- g. maps delineating site facilities
- h. consideration of altered drainage patterns;
- l. a proposal identifying measures by which restoration costs will be financed by the Licensee upon abandonment related to water use, waste deposit to water, or appurtenant undertakings related to water use and/or deposit of waste to water, subject to the act and regulations.

## **Part H: Conditions Applying to a Monitoring Program**

### Part H, Item 8

AANDC would like to propose changes so the licensee is not limited by techniques for water sampling that may be requested from an accredited lab and following a specific methodology.

*Previous Condition:* All sampling, sample preservation and analyses shall be conducted in accordance with methods prescribed in the current edition of *Standard Methods for the Examination of Water and Wastewater*, or by such other methods approved by the Board.



*Proposed Condition:* All sampling, sample preservation and analyses shall be conducted in accordance with methods prescribed in the current edition of *Standard Methods for the Examination of Water and Wastewater*, or by such other methods approved by a laboratory certified by the Canadian Association of Environmental Analytical Laboratories (CAEAL).

Part H, Item 10

AANDC proposes the removal of this condition because it may not be enforceable.

*Condition proposed to be removed from the Licence:* The Licensee shall measure and record the annual quantities of sewage solids removed from the Sewage Disposal Facility.