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Nunalingni Kavamatkunillu Pivikhaqautikkut
Department of Community and Government Services
Ministère des Services communautaires et gouvernementaux

June 21, 2007

Kevin Buck
Director of Technical Services
Nunavut Impact Review Board
Box 1360
Cambridge Bay, NU
X0B 0C0

Re: Nunavut Land Claims Agreement and Project Permitting

Dear Mr. Buck,

In response to NIRB's letter dated May 23rd, 2007 and further to John Walsh's letter dated May 30th, the Planning and Lands Section is pleased to see that the NIRB position is very close to ours with regards to 12-1 of the NLCA. We have reviewed NIRB's general interpretation of 12-1 and I think we should be able to reach agreement.

The Planning and Land Section is prepared to work with NIRB to develop an interpretation of 12-1 that would respect NIRB's primary objective to protect the environment and the GN's desire to streamline Nunavut's regulatory system. I would make the following comments on a without prejudice basis and would suggest that a meeting might be useful to see if we can't find the basis for an agreement.

The Planning and Lands Section has reviewed your revised position on the definition of "industrial" and "bulk fuel storage". We appear to be close to an agreement respecting the definition of "bulk fuel storage"; however, we feel that the Territorial Land Use Regulations are too restrictive. We believe that bulk fuel storage tanks outside municipal boundaries that have a capacity equal to or exceeding 4,000L should be reviewed and that on land within the municipal boundaries, only the establishment of petroleum fuel storage facilities with a capacity equal to or exceeding 80,000 L should be reviewed.

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With regards to the definition of industrial, we believe the general definition of industrial which has been proposed is not user friendly and will result in confusion over what should and should not be sent to NPC/NIRB. We would like to see an inclusion list similar to a municipal zoning by-law. We would also like to see an exclusion list which would be composed of commercial activities that do not require screening.

Below is an example of an inclusion list:

- 1) Automotive Gas Bar
- 2) Automotive Service Station
- 3) Automotive Commercial Garage
- 4) Land Farm
- 5) Fuel Storage (bulk fuel storage)
- 6) Manufacturing Plant
- 7) Power Generation Plant
- 8) Recycling Depot
- 9) Testing or Research laboratory
- 10) Truck Transportation Terminal
- 11) Water Treatment Facility
- 12) Warehouse
- 13) Storage of hazardous material
- 14) Quarries – initial development of the site only.

As well, we suggest that the establishment and the disestablishment of sewage lagoons and solid waste disposal sites should be considered to be “industrial activity” so as to be reviewable.

12-1 (1) Land use activities not requiring a permit or authorization from the Government of Canada or Territorial Government:

This applies only to land use activities and would not affect municipal titled land. We see this only applying to permits that CGS would issue for land development on Commissioner's land outside the built up area of the community but within the municipal boundary.

12-1 (2) Land use activities requiring only a Class B permit under the Territorial Land Use Regulations:

This applies only to land use activities on federal land. We see this only applying to the small parcels of Crown land scattered within the municipal boundary and to Crown land outside the boundary.

Item (1) and (2) only apply to land use activities and do not apply to general permitting such as, electrical and boiler inspections and approvals from the Fire Marshal.

12-1 (3) All construction, operation, and maintenance of all buildings and services within an established community except for bulk storage of fuel, power generation with nuclear fuels, or hydro power and any industrial activity:

In our view industrial activities, power plants, the storage of fuel, sewage lagoons and waste disposal sites are the only activities, within an established municipality, other than those identified in (5), that should be reviewed by NPC/NIRB. This would exclude, for example, the review of leases or development permits for residential, commercial, institutional uses.

12-1 (4) All hotels, motels or tourist facilities of 20 beds or less outside of the municipal boundary:

Not applicable to land within the municipal boundary.

12-1 (5) Water uses that do not require a public hearing under 13.7.3:

We see this only applying to water uses that require a Class A or B permit and where there is a public concern or where the NWB considers a public meeting warranted. In summary, we see this only applying to major projects that involve the use of water, such as a sewage lagoon.

12-1 (6) Prospecting, staking or locating a mineral claim unless it requires more than a Class B permit mention in item 2:

Class B permits do not apply to Commissioner's Land or municipal land and therefore this item does not affect the vast majority of land within the municipal boundaries which, apart from a few remaining parcels of Crown reserve land scattered within the municipality, is either Commissioner's land or titled municipal land.

With regards to projects within the municipal boundary, we are mainly looking at items 1, 3, and 5. Item 2 would, as mentioned, only affect a small number of lots and item 6 is

not relevant. The Planning and Land Section believes that any project that requires a water license and a public meeting should be reviewed by NIRB but that is with the understanding that a public meeting would only be required for a major project. We also believe that any project requiring a permit for a land use activity should be reviewed, but agree that that activity would be exempted by item 3. You can see that with respect to the application of 12-1 the Planning and Lands position is similar to NIRB's. We would appreciate your thoughts on the foregoing. We would also welcome the opportunity to meet with a view to arriving at a workable understanding. We feel that it is in both our interests to reach agreement before any attempt might be made to deal with environmental oversight within municipalities by way of any amendment to Schedule 12-1 of the NLCA.

Sincerely,



Robert Chapple
Senior Manager of Planning and Lands
Community and Government Services

cc: Barth Curley, Legal Counsel for CGS
cc: Darren Flynn, Director of Community Development