



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

Water Resources Division
Nunavut Regional Office
Iqaluit, NU X0A 0H0

Your file - Votre référence
3BM-KUG0914

March 2, 2015

Our file - Notre référence
IQALUIT-#896472

Phyllis Beaulieu
Manager of Licensing
Nunavut Water Board
Gjoa Haven, NU X0E 1J0

Re: Aboriginal Affairs and Northern Development Canada's (AANDC) Review of the Hamlet of Kugluktuk's Application to Renew Water Licence 3BM-KUG0914.

Dear Ms. Beaulieu,

On February 2, 2015, AANDC received notice from the Nunavut Water Board (the NWB) regarding the above mentioned application, inviting interested parties to provide comments by March 2, 2015.

AANDC reviewed the renewal application and the results of our review are provided in the enclosed memorandum for the Board's consideration. Comments have been provided pursuant to the Department's mandated responsibilities under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Department of Indian Affairs and Northern Development Act*.

Please contact me by telephone at 867-975-4282 or by email at ian.parsons@aandc-aadnc.gc.ca for any additional information.

Regards,

Ian Parsons B.Sc.
Regional Coordinator
Water Resources Division
Aboriginal Affairs and Northern Development Canada

Enclosure

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

Canada 

Memorandum

To: Phyllis Beaulieu, Manager of Licensing, Nunavut Water Board

From: Aboriginal Affairs and Northern Development Canada (AANDC)

Date: March 2, 2015

Re: **Water Licence Renewal Application, #3BM-KUG0914**

Licensee: Hamlet of Kugluktuk
Project: Municipal Water Licence
Region: Kitikmeot

Comments:

A. Background

On February 2, 2015, The Nunavut Water Board (the NWB) provided notification of the Hamlet of Kugluktuk's application to renew their Type 'B' Water Licence #3BM-KUG0914. This licence authorizes the Hamlet of Kugluktuk (the Hamlet or the Licensee) to obtain water for municipal purposes from the Coppermine River.

Aboriginal Affairs and Northern Development Canada (AANDC) supports the Hamlet's request for a 4 year water licence renewal and would not oppose the NWB if they wished to extend the request further to provide a 15-25 year licence 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' water 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 (GN) 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 GN 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 GN 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 NWB that compliance and enforcement of all water licences and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (the Act) is the sole responsibility of Inspectors appointed by the Minister of AANDC.

If the NWB considers compliance history when determining the length of a water licence, 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 Act. This would also help to ensure consistency and prevent applicants from being caught in a perceived 'catch 22' of being out of

compliance with the Act for failing to have a valid water licence but not receiving a renewed water licence because they are out of compliance with the 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 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 to the attention of the NWB, the following conditions that were including the water licence #3BM-KUG0914 that may not be enforceable by the AANDC Field Operations 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 renewed water licence issued for the Hamlet of Kugluktuk.

B. Licence Review Determinations

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 B: General Conditions

Part B, Item 5:

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

Previous Condition: The Licensee shall maintain the necessary signs to appropriately identify the stations of the Monitoring Program. Signs are to be posted in the Official Languages of Nunavut, following confirmation by the Inspector.

Proposed Condition: The Licensee shall maintain the necessary signs to appropriately identify the stations of the Monitoring Program. Signs are to be posted in the Official Languages of Nunavut.

Part B, Item 6:

AANDC proposed changes to reflect the requirements to report spills.

Previous Condition: The Licensee shall immediately report to the 24-Hour Spill Report Line (867-920-8130) any spills of Waste, which are reported to, or observed by the Licensee, within the municipal boundaries or in the areas of the Water Supply or Waste Disposal Facilities.

Proposed Condition: The Licensee shall immediately report all '*reportable spills*' to the 24-Hour Spill Report Line (867-920-8130), which are reported to or observed by the Licensee, and which are within the municipal boundaries or in the areas of the Water Supply or Waste Disposal Facilities *subject to the Act and the Spill Contingency Planning and Reporting Regulations, 2006 (Nu) 068-93.*

Part B, Item 10

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 D: Conditions Applying to Waste Disposal

Part D, Item 5

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

Condition not enforceable: The Licensee shall treat, to the Treatment Objective, Type B Soil in the Landfarm Facility, in a manner in accordance with the Solid Waste Management Operation and Maintenance (O&M) Plan dated March 2007, and any subsequent revisions approved by the Board in writing.

Part D, Item 7

AANDC proposes a modification to this term because AANDC does not have jurisdiction required to classify waste as 'hazardous' or to ensure waste is disposed off-site at an approved facility.

Previous Condition: If effluent does not meet the effluent quality limits of Part D, Item 6 above, it shall be considered hazardous waste and disposed off-site at an approved facility.

Proposed Condition: If effluent does not meet the effluent quality limits of Part D, Item 6 above, it shall not be discharged into Inland Waters until meeting required effluent quality limits.

Part D, Item 8

AANDC proposes a modification to this condition because this condition may not be enforceable without the proposed change to remove, "shall be to the satisfaction of an Inspector" due to its subjectivity.

Previous Condition: The discharge location for all treated effluents described in Part D, Items 7 shall be to the satisfaction of an Inspector and shall be located at a minimum of thirty (30) metres from the ordinary high water mark of any water body and where direct or indirect flow into a water body is not possible and no additional impacts are created.

Proposed Condition: The discharge location for all treated effluents described in Part D, Items 6 shall be located at a minimum of thirty (30) meters from the ordinary high water mark of any water body and where direct or indirect flow into a water body is not possible and no additional impacts are created.

Part D, Item 9

AANDC proposes a modification to this condition because it may not be enforceable without the proposed change.

Previous Condition: Sewage Sludge shall only be placed in the Landfarm Facility if the quality is determined to be unsuitable for use as landfill cover and it shall remain only until such time as it is

suitable for use as landfill cover or removed disposal at an approved facility or as otherwise approved by the Board in writing.

Proposed Condition: Sewage sludge shall only be placed where it will not create an unauthorized discharge into inland waters, subject to federal and territorial legislation. All discharges into inland waters must meet effluent quality limits set out in the licence.

Part D, Item 10

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

Condition not enforceable: The Licensee shall, prior to the removal of any treated soil for future use, confirm with the Government of Nunavut, Environmental Protection Service that the soils have been treated so as to meet all legislatively-required Treatment Objective.

Part D, Item 12

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

Condition not enforceable: The Licensee shall dispose of and permanently contain all solid wastes at the Solid Waste Disposal Facilities or as otherwise approved by the Board in writing.

Part D, Item 13

AANDC proposes a modification to this condition because it may not be enforceable without the proposed change.

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 E: Conditions Applying to Modifications and Construction

Part E, Item 2

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

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 conditions of this Licence and within the scope of the water licence

application. The Licensee is required to provide a 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 within ninety (90) days of issuance of the Licence, an updated consolidated Operations and Maintenance (O&M) Manual, consisting of the previously submitted Plans:

- a. Solid Waste Management Facility Operation and Maintenance (O&M) Plan, Hamlet of Kugluktuk;
- b. Sewage Treatment Facility Operation and Maintenance (O&M) Plan, Hamlet of Kugluktuk, Nunavut;
- c. Monitoring Program and Quality Assurance/Quality Control Plan, Hamlet of Kugluktuk; and
- d. Environmental Emergency Contingency Plan, Hamlet of Kugluktuk

And 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 updated Manual shall take into consideration of the comments received during the application review process and include the following information where applicable:

- a. The updated sampling locations, parameters and timing required under the Licence;
- b. A plan for the inspection and management of Sewage Sludge that identifies the remediation objective for Sewage Sludge treated in the Landfarm Facility;
- c. An expanded *Spill Contingency Plan* that has the emergency contact information for the DFO, KIA, EC and the GN-DoE, includes a map and MSDS sheets and the Plan shall describe all chemicals and fuels stored by the Hamlet, their locations and quantities; *and*
- d. An approved QA/QC Plan as required by Part H, Item 9.

Proposed Condition: The Licensee shall submit to the Board within ninety (90) days of issuance of the Licence, an updated consolidated Operations and Maintenance (O&M) Manual consisting of the previously submitted Plans:

- a. *Solid Waste Management Facility Operation and Maintenance (O&M) Plan, Hamlet of Kugluktuk;*
- b. *Sewage Treatment Facility Operation and Maintenance (O&M) Plan, Hamlet of Kugluktuk, Nunavut;*
- c. *Monitoring Program and Quality Assurance/Quality Control Plan, Hamlet of Kugluktuk; and*
- d. *Environmental Emergency Contingency Plan, Hamlet of Kugluktuk*

and 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 updated Manual shall take into consideration of the comments received during the application review process and include the following information where applicable:

- a. The updated sampling locations, parameters and timing required under the

Licence;

b. A plan for the inspection and management of Sewage Sludge that identifies the remediation objective for Sewage Sludge treated in the Landfarm Facility 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;

c. An expanded *Spill Contingency Plan* that has the emergency contact information for the DFO, KIA, EC and the GN-DoE, includes a map and MSDS sheets and the Plan shall describe all chemicals and fuels stored by the Hamlet, their locations and quantities; *and*

d. An approved QA/QC Plan as required by Part H, Item 9.

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 F, Item 5

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

Previous Condition: If, during the period of this Licence, an unauthorized discharge of waste occurs, or if such a discharge is foreseeable, the Licensee shall:

Proposed Condition: If, during the period of this Licence an unauthorized discharge of waste occurs or if such a discharge is foreseeable, subject to the Act and the *Spill Contingency Planning and Reporting Regulations, 2006 (Nu) 068-93*, the Licensee shall:

Part G: Conditions Applying to Abandonment and Restoration

Part G, Item 1

AANDC proposes the removal of this condition Part G, Item 1(c)(d)(g)(i)(j)(k) because they may not be enforceable under the Act.

AANDC proposes a modification to condition, Part G, Item 1(g)(l), to ensure the enforceability of the condition.

Proposed Change: 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;
- c. leachate prevention;
- d. an implementation schedule;
- e. maps delineating site facilities;
- f. consideration of altered drainage patterns;
- g. 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 G, Item 2

AANDC proposes the removal of these conditions, Part G, Item 2(a)(f)(g) because they are not enforceable under the Act.

AANDC proposes a modification to condition, Part G, Item 2(d)(h), to ensure the enforceability of the condition.

Proposed Change: The Licensee shall submit to the Board for approval within sixty (60) days of issuance of this Licence, an Abandonment and Restoration Plan for the Decommissioned Sewage Disposal Facilities prepared in accordance with applicable sections of the "Guidelines for Abandonment and Restoration Planning for Mines in the Northwest Territories (1990)" 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. In addition, the Plan is to include the following:

- a. leachate prevention;
- b. an implementation schedule;
- c. maps delineating site facilities;
- d. consideration of altered drainage patterns;
- e. 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 7

AANDC wishes to modify Part H, Item 7 to better capture the intent and remove any possible confusion that may lead to non-compliance. AANDC would also 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 9

AANDC proposes that the Board remove this condition because of possible confusion and the intent of this condition is captured in proposed changes to Item 7 and existing term 8. Furthermore, there are no *Analysts* appointed by the Minister, and therefore, this term is not enforceable.

Condition proposed to be removed from the Licence: The Licensee shall submit to the Board upon approval by an analyst, for inclusion with the O&M Manual, required under Part F, Item 1(f), a Quality Assurance/Quality Control (QA/QC) Plan. The Plan shall include up to date sampling methods to all applicable standards, acceptable to an accredited laboratory as required by Part H, Item 7 and Part H, Item 8. The Plan shall include a covering letter from the accredited laboratory and analyst, confirming acceptance of the Plan for analyses to be performed under this Licence

Part H, Item 11

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

Condition not enforceable: The Licensee shall measure and record the annual quantities of sewage solids removed from the Sewage Disposal Facility.

AANDC's Comments on Plan Submitted with the Application

Lagoon Abandonment and Reclamation Plan

The Proponent must ensure that waste is not deposited to water and that all discharge criteria within the water licence are met and continued to be met during the reclamation and abandonment of the sewage lagoon.

AANDC supports the requirement for a water monitoring location as noted in Section 4.4 of the Kugluktuk Old lagoon A&R plan.

Though the remediation of soil within the lagoon can considered an appurtenant undertaking while being de-watered, once de-watering is complete AANDC's jurisdiction will cease and other regulatory agencies would have the lead role to administer and inspect the activity to ensure that soil remediation is done following relevant legislated requirements to meet soil remediation standards as may be required under the *Public Health Act* and *Environmental Protection Act* and other regulations applicable within Nunavut.