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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

File No.: **3BM-REP0409**

September 27, 2007

Mr. Sheldon Dorey, SAO
Municipality of Repulse Bay
P.O. Box 10
Repulse Bay, NU X0C 0H0

RE: AMENDMENT #1 TO NWB LICENCE No. 3BM-REP0409 (Formerly NWB3REP0409)

Dear Mr. Dorey:

Please find attached Amendment #1 to Licence No. **3BM-REP0409**, issued to the Hamlet of Repulse Bay by the Nunavut Water Board (**Motion #: 2007-11-5**) pursuant to its authority under Article 13 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada*. The terms and conditions of the attached Licence related to water use and waste disposal are an integral part of this approval.

If the Licensee contemplates the renewal of this Licence, it is the responsibility of the Licensee to apply to the NWB for its renewal. The past performance of the Licensee, new documentation and information, and issues raised during a public hearing, if the NWB is required to hold one, will be used to determine the terms and conditions of the Licence renewal. Note that if the Licence expires before the NWB issues a new one, then water use and waste disposal must cease, or the Licensee will be in contravention of the Nunavut Land Claims Agreement. However, the expiry or cancellation of a licence does not relieve the holder from any obligations imposed by the licence. The NWB recommends that an application for the renewal of this Licence be filed at least three months prior to the Licence expiry date.

If the Licensee contemplates or requires an amendment to this licence, the NWB may decide, in the public interest, to hold a public hearing. The Licensee should submit applications for amendment as soon as possible to give the NWB sufficient time to go through the amendment process. The process and timing may vary depending on the scope of the Amendment. However,

a minimum of 30 days is required from time of acceptance by the NWB. It is the responsibility of the Licensee to ensure that all application materials have been received and acknowledged by the Manager of Licensing.

Sincerely,



Thomas Kabloona
A/Chief Executive Officer

TK/ajw/pb

Enclosure: Amendment 1 to Licence No. **3BM-REP0409**

Cc: Jim Rogers, INAC
Peter Kusugak, INAC
Andrew Keim, INAC
Colette Spagnuolo, INAC
Erin Calder, NWMB
Carson Gillis, NTI
Salamonie Shoo, Qikiqtani Inuit Association
Paul Savoie, DFO
Cindy Parker, EC
Earle Baddaloo, GN-DOE
John Dawe, GN
Leslie Payette, NIRB
Bhabesh Roy, GN

DECISION LICENCE AMENDMENT No. 1

Licensee:	Hamlet of Repulse Bay
Licence Number	3BM-REP0409
Date of Licence:	June 11, 2004
Effective Date of Amendment No.1:	September 27, 2007

LICENCE NUMBER: 3BM-REP0409

This is the decision of the Nunavut Water Board (NWB) with respect to an application for amendment dated June 25th, 2007 made by the:

HAMLET OF REPULSE BAY

to allow for upgrades to the Solid Waste Disposal Facilities currently utilized by the Hamlet of Repulse Bay, by the construction of a Landfarm Facility designed to biologically treat petroleum hydrocarbon-impacted soils, in a manner described by the Applicant in the Application for Licence Amendment filed with the NWB.

After having been satisfied that the application was exempt from the requirement for screening by the Nunavut Impact Review Board in accordance with Schedule 12.1, Paragraph 5 of the *Nunavut Land Claim Agreement* (NLCA), the NWB decided that the application could proceed through the regulatory process. In accordance with S.55.1 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWSRTA) and Article 13 of the *NLCA*, public notice of the application was given and interested persons were invited to make representations to the NWB.

After reviewing the submission of the Applicant and written representations made by interested persons, the NWB, having given due regard to the facts and circumstances, the merits of the submissions made to it and to the purpose, scope and intent of the *NLCA* and of the *NWSRTA*, decided to waive the requirement to hold a public hearing and determined that:

Amendment 1 to Licence Number 3BM-REP0409 be issued subject to the terms and conditions contained therein. (Motion #: 2007-11-5). All remaining terms and conditions of the Licence remain in force.

SIGNED this 27th day of September, 2007 at Gjoa Haven, NU.



Thomas Kabloona
A/Chief Executive Officer

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I. PROCEDURAL HISTORY

On June 23rd, 2005, an application to amend the Hamlet of Repulse Bay's current water licence was filed with the NWB, for the purpose of construction and operation of a Landfarm facility. This facility is to be utilized by the Hamlet of Repulse Bay and is designed to biologically treat petroleum hydrocarbon-impacted soils in an area adjacent to the Solid Waste Disposal Facilities currently utilized by the Hamlet.

It came to the attention of the NWB that the landfarm was constructed without a water license.

On May 28, 2007, pursuant to sections 86 and 87 of the NWNSRTA, the NWB advised the Department of Indian and Northern Affairs Canada (INAC) of the unauthorized actions of the Hamlet.¹ At that time, the Board was requested guidance from INAC on (a) issuing of a license of the existing facilities for past activities, and/or (b) issuing a license to these facilities for purposes of monitoring the future operations.

On July 20, 2007, INAC responded:

The NWB delay in processing an application does not authorize the applicant to use water or dispose of waste in contravention of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA). An applicant must diligently pursue its application for a licence, and must not engage in activities prohibited by sections 11 and 12 of the NWNSRTA until it has an approved water licence.²

INAC further advised the Board that INAC Water Resource Officers will be inspecting all Nunavut communities in the coming months for compliance with the NWNSRTA to determine whether further compliance and enforcement action is warranted.

Further INAC stated:

While INAC does not condone violations of the NWNSRTA, it is clear that the possibility of past violations must not forestall the NWB from reviewing a pending application. We encourage the NWB to continue its review of these applications. Further, we would be willing to recommend to the applicants that they submit information on the current status of the activities or infrastructure referenced in their original amendment applications.²

1 Letter from NWB to INAC dated May 28, 2007; re: Facilities constructed prior to NWB approval

2 Response from INAC to NWB; re: NWB letter dated May 28, 2007

The Board continued with its review of the Application and issued a Type B Water Licence Amendment effective September 27, 2007, to allow for the operation of a Landfarm Facility in the Hamlet of Whale Cove.

The Board does not condone the Applicant's failure to comply with NWNSRTA and notes that the Licence amendment does not operate retroactively.

II INTERVENOR COMMENTS

Recommendations relevant to waste disposal operations in the Hamlet were provided by Environment Canada.

The Board concurs with those recommendations which fall within the mandate of the NWB, as outlined in the *Nunavut Land Claim Agreement* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, which are reflected in the terms and conditions of the Water Licence.

AMENDMENT 1 TO LICENCE 3BM-REP0409

Effective Date September 27, 2007

PART A: SCOPE, DEFINITIONS AND ENFORCEMENT

- Amend** **"Solid Waste Disposal Facility"** means the facilities designated for the disposal of solid waste, as described in the Application for Water Licence filed by the Licensee on December 5th, 2003, and further to include a Landfarm Facility as described in the Application for Amendment to a Water Licence filed by the Applicant on June 23rd, 2005;
- Insert** **"Landfarm Facility"** means an area designed to biologically treat petroleum hydrocarbon-impacted soil, as described in the Application for Amendment to a Water Licence filed by the Applicant on June 25th, 2007 and illustrated in the Drawings entitled "Repulse Bay Contaminated Soil Storage Area: DWG 2002-1300-051 (June 16, 2005)."
- Insert** **"Petroleum Hydrocarbon-Impacted Soil"** means soil in which the primary petroleum product present, as determined by laboratory analysis consistent with that described in the *Canada-Wide Standards for Petroleum Hydrocarbons in Soil*, consists of fuel oil and/or diesel fuel and /or gasoline and/or jet fuel.

PART D: CONDITIONS APPLYING TO WASTE DISPOSAL

Amend Item 4 The Licensee shall provide notice to an Inspector at least ten (10) days prior to initiating any decant of the Sewage Disposal Facilities or the discharge of treated effluent from the Landfarm Facility.

Insert Item 11 The Licensee shall direct appropriately-characterized hydrocarbon-impacted soil to the Landfarm Facility, which shall be constructed and operated in such a manner as described in the Application for Amendment to a Water Licence filed by the Applicant on June 23rd, 2005.

Insert Item 12 All effluent discharged from the Landfarm Facility at Monitoring Station REP-5 shall be sampled, and shall meet the following wastewater discharge criteria, prior to being released:

Parameter	Maximum Allowable Concentration (µg/L)
pH	6 to9
Oil and Grease	5000
Arsenic (total)	100
Cadmium (dissolved)	10
Chromium (dissolved)	100
Cobalt (dissolved)	50
Copper (dissolved)	200
Lead (dissolved)	1
Mercury (total)	0.6
Nickel (dissolved)	200
PCB (total)	1000
Phenols	20
Zinc (total)	500
Benzene	370
Toluene	2
Xylene	90

Insert Item 13 The Licensee shall ensure that any effluent released from Monitoring Station REP-5 be demonstrated to be Not Acutely Toxic under the following tests, to be conducted once prior to discharge:

- i. Acute lethality to Rainbow Trout, *Oncorhynchus mykiss* (as per Environment Canada's Environmental Protection Series Biological Test Method EPS/1/RM/13); and
- ii. Acute lethality to the crustacean, *Daphnia magna* (as per Environment Canada's Environmental Protection Series Biological Test Method EPS/1/RM/14).

Insert Item 14 The Licensee, prior to removal of any treated soil from the Landfarm Facility, shall confirm with the Government of Nunavut Environmental Protection Service that the soils have been treated so as to meet all legislatively-required Soil Quality Remediation Objectives (SQROs).

PART F: CONDITIONS APPLYING TO OPERATIONS AND MAINTENANCE

Insert Item 6 The Licensee shall submit to the Board for approval within ninety (90) days of issuance of the Licence Amendment, an "Operations and Maintenance (O&M) Plan for the Hamlet of Repulse Bay Landfarm Facility", taking into consideration at a minimum, the comments received during the Application review process and any necessary changes to be consistent with this Licence..

Insert Item 7 If the Plan referred to in Part F, Item 6 is not approved, the Licensee shall make the necessary revisions and resubmit the Plan within thirty (30) days following notification from the Board.

Insert Item 8 The Licensee shall implement the Plan specified in Part F, Item 6 as and when approved by the Board.

Insert Item 9 The Licensee shall ensure that all effluent discharged from the Landfarm Facility is carried out in such a manner as to minimize surface erosion, and is to the satisfaction of an Inspector.

Insert Item 10 The Licensee shall provide as built plans/drawings of the Landfarm Facility referred to in this Licence within ninety (90) days of the issuance of this Amendment.

PART H: CONDITIONS APPLYING TO THE MONITORING PROGRAM

Amend Item 1: The Licensee shall maintain Monitoring Stations at the following locations:

<u>Monitoring Station</u>	<u>Description</u>
REP-1	Raw water supply at the Nuviq Luktujuk Lake Water Supply prior to treatment
REP-2	Effluent discharge from the Final Discharge Point of the Solid Waste Disposal Facilities
REP-3	Raw Sewage at truck offload point
REP-4	Effluent discharge from the Final Discharge Point of the Sewage Disposal Facilities
REP-5	Effluent discharge from the Landfarm Facility at the controlled point of release
REP-6	Monitoring well located up-gradient of the Landfarm Facility
REP-7	Monitoring well located down-gradient of the Landfarm Facility

Insert Item 12: The Licensee shall install groundwater monitoring wells at the Landfarm Facility. These wells shall be located with at least one located up-gradient of the facility for background data collection and at least one down-gradient of the Landfarm Facility.

Insert Item 13: The Licensee shall sample at Monitoring Program Stations REP-6 and REP-7 once annually in the summer, giving consideration to adequate ground thaw and obtaining a representative groundwater sample. Samples shall be analyzed for the following parameters:

BOD	Faecal Coliforms
pH	Conductivity
Total	Suspended Solids Ammonia Nitrogen
Nitrate-Nitrite	Oil and Grease
Total Phenols	Total Alkalinity

Total Hardness	Calcium
Magnesium	Potassium
Sodium	Sulphate
Total Arsenic	Total Cadmium
Total Copper	Total Chromium
Total Iron	Total Lead
Total Mercury	Total Nickel
TPH (Total Petroleum Hydrocarbons)	
PAH (Polycyclic Aromatic Hydrocarbons)	
BTEX (Benzene, Toluene, Ethylbenzene, Xylene)	

Insert Item 12: In accordance with Part D, Item 12, the Licensee shall test any contact water to be discharged from the Landfarm Facility at Monitoring Station REP-5, prior to discharge.