



Your file - Votre référence  
3BM-WHA0914

February 23, 2015

Our file - Notre référence  
IQALUIT-#893117

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

**Re: Aboriginal Affairs and Northern Development Canada Review of the Hamlet of Whale Cove's Application to Renew Water Licence #3BM-WHA0914**

Dear Ms. Beaulieu:

Thank you for the email on January 21, 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 867-975-4568 or email at [Lisa.Bachellier@aandc-aadnc.gc.ca](mailto:Lisa.Bachellier@aandc-aadnc.gc.ca) if you have any comments or questions.

Sincerely,

Lisa Bachellier  
Water Resource Technician  
Water Resources Division  
Resource Management Directorate  
Aboriginal Affairs and Northern Development Canada  
IQALUIT, NU X0A 0H0

Encl.

c.c.: David Abernethy, Water Resources Regional Coordinator, AANDC Nunavut  
Andrea Morgan, Senior Engineer, 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

# Memorandum

To: Phyllis Beaulieu, Nunavut Water Board

From: Lisa Bachellier, Aboriginal Affairs and Northern Development Canada

CC: David Abernethy (AANDC), Robert Savard (AANDC), Eric Allain (AANDC), Andrea Morgan (AANDC), and Karen Costello (AANDC)

Date: February 23, 2015

**Re: Water Licence Renewal Application, #3BM-WHA0914**

Licensee: Hamlet of Whale Cove  
Project: Municipal water licence  
Region: Kivalliq

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Comments:

## **A. Background**

Aboriginal Affairs and Northern Development Canada ("AANDC") supports the Hamlet of Whale Cove's (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 20 year term which the design of the lagoon upgrades supports. 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 the 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.

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-WHA0914 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 new water licence issued for Whale Cove and from any future water licences.

## **B. Review Findings**

The following conditions do not appear 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 or may required modifications to reflect the AANDC jurisdictional ability to enforce.

### **Landfarms**

#### **Part D:**

Item 6 (may not be enforceable)

6. The Licensee shall treat, to the Treatment Objective, Type B Soil in the Landfarm Facility, in a manner in accordance with the Plans submitted to the Board by the Licensee on June 2, 2006, with supplemental information and any subsequent revisions approved by the Board in writing.

Item 10 (may not be enforceable)

10. The Licensee shall dispose of soils containing contaminants in excess of *Canadian Environmental Protection Act* (CEPA) Guidelines of site at an approved treatment facility.

Item 11 (may not be enforceable)

11. 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 the legislatively-required Treatment Objective.

### **Hazardous Waste**

#### **Part D:**

Item 14 with proposed changes as follows:

“The Licensee shall store all hazardous materials and/or hazardous waste in a manner to prevent the deposit of waste into any inland water.”

## **Solid Waste**

### **Part F:**

Item 1 with proposed changes:

Existing text:

The Licensee shall submit to the Board for review, a Solid Waste Disposal Facilities Update Report and photographic record by October 31, 2009, which demonstrates the implementation of the measures recommended in the *Solid Waste Management Facility O&M Plan*, to improve the existing current facility.

Proposed text:

The Licensee shall submit to the Board for review, a Solid Waste Disposal Facilities Update Report and photographic record by October 31, 2009, which demonstrates the implementation of the measures recommended in the *Solid Waste Management Facility O&M Plan* **in so far as the measures 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.**

Item 2 with proposed addition

The Licensee shall submit to the Board with the 2009 Annual Report no later than March 31, 2010, an updated consolidated Operations and Maintenance (O&M) Manual, consisting of the previously submitted Plans:

**Conditions and clauses within all O&M manuals will be enforced 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.**

## **Abandonment, Restoration and Closure**

### **Part G**

Item 1 (c), (k) (may not be enforceable)

1. 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:

c. petroleum and chemical storage areas;

k. hazardous wastes;

Item 3 (may not be enforceable)

All disturbed areas shall be stabilized and re-vegetated as required, upon completion of work, and restored as practically as possible to a pre-disturbed state.

### **Conditions applying to Monitoring**

#### **Part H**

Item 1

Monitoring Site WHA -5 Soil entering the landfarm (may not be enforceable)

Item 5 (may not be enforceable)

5. The Licensee shall measure and record the volume of all soil, from all locations entering the Landfarm Facility at Monitoring Program Station WHA-5.

Item 6 (may not be enforceable)

6. The Licensee shall assess and record the concentration of petroleum hydrocarbon contaminated soil entering the Landfarm Facility (WHA-5) from all sources, as per the CCME *Canada-Wide Standard for Petroleum Hydrocarbons in (PHC) in Soil*.

### **Satisfaction of the Inspector**

#### **Part D**

Item 9 (This condition may not be enforceable without proposed change to remove "shall be to the satisfaction of an Inspector" due to the subjectivity of this condition.)

Existing text:

9. 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 text:

9. The discharge location for all treated effluents described in Part D, Items 7 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.