

**[Licensing] 7BL-BIL1215 Renewal Application Notice of Deficiencies**

2 messages

Brady MacCarl <brady.maccarl@nwb-oen.ca>
To: Boyd Warner <boydw@bathurstinlet.com>
Cc: Licensing Department <licensing@nwb-oen.ca>

Thu, Jul 30, 2015 at 11:26 AM

Dear Mr. Warner:

The NWB has conducted a preliminary technical review for the renewal application associated with Licence Number 7BL-BIL1215. Although acceptable in many aspects, there are important water use and waste management issues that have only been vaguely addressed, and moreover, there are outstanding cases of non-compliance associated with the Licence. These issues are elaborated on below, and the NWB requests that you provide a response or intended action to each point accordingly:

1. Pursuant to Part H, Item 1, of the Licence, the Licensee was to submit a revised Spill Contingency Plan to the Board within sixty (60) days following issuance of the Licence. The NWB received a revised Spill Contingency Plan on October 21, 2014.

The NWB has deemed the Plan deficient, as it does not conform to the *Spill Contingency Planning and Reporting Regulations*, nor address the comments received by parties in the original licence application and the conditions presented in the Licence. I have attached the AANDC Guidelines for Spill Contingency Plan, which explains more-or-less what the NWB expects, and provides a general template for a well-structured Spill Contingency Plan. I realize that your project is not as extensive as some of the industrial or mineral exploration projects in the Territory, however, a comprehensive SCP is instrumental to ensuring that hazardous wastes do not unintentionally end up in nearby water bodies. A site map, identifying the location of stored fuel and spill response equipment, can easily be made using Google Earth and Microsoft Paint. In addition to conforming to Part H, Item 1 of your Licence, the SCP revisions should accommodate the recommendations made by AANDC Water Resources in its comments received by the NWB November 28, 2014, which are attached for your convenience. A revised SCP must be submitted before the renewal application can proceed.

2. In a letter between Boyd Warner (Bathurst Inlet) and Andrew Kiem (AANDC) on September 3, 2013, Mr. Warner stated that communication should be directed towards Sam Kapolak, the president of Kingaunmiut Ltd. If this is the case, Sam Kapolak should be listed as a representative in the Application.

3. Block 9 of the Application (Description of Undertaking) states, "Same as current licence", however, the original application does not provide a thorough explanation of the undertaking nor list of planned activities.

4. Block 14 and 15 of the Application (Waste, and Quantity and Quality of Waste) states, "Same as before", however the original application does not provide an adequate description of waste volumes, types and disposal methods. For example, under the Supplementary Questionnaire, included with the 2009 application, it is stated that "burnables" will be burned. This should be expanded upon: what will be burned and how will it be burned?

Moreover, please note, the 2013 AANDC Inspection Report, received by the Board on August 26, 2013, highlights several instances of non-compliance. The Board has not received any indication that these issues have been resolved. The noted concerns are quoted below for your convenience, and the Licensee is asked to elaborate on the current circumstance of each issue:

"As initially identified in the Inspection conducted on July 10th, 2011 the Inspector again found that the Licensee has not undertaken the necessary actions or implemented any measures to prevent the deposit of waste from barreled fuel storage at the site from entering water.

- *Over 2000 empty and un-cleaned barrels are stored within 30 ft of water (Burnside River). These drums pose a*

serious risk of continuing to leak and deposit hydrocarbons (waste) into the river.

- The licensee has failed to comply with Part D item 2 by continuing to practice on site land filling (burying) of waste in Garbage Island.
- The Licensee has failed to comply with Part D Item 4 of the issued License by continuing to open burn wastes at Garbage Island.
- The licensee failed to provide the Inspector, when requested, with a transportation manifest or any other document that can provide evidence of proper disposal of Hazardous wastes (oil filters, batteries etc) generated on site contrary to Part D item 7.
- The Licensee has failed to implement Part D item 8 of the issued License by failing to install sufficient latrines or other such systems a minimum of 31 meters above the ordinary high water mark of any water body.
- The Licensee has failed to implement Part B item 2 (a through f) by not submitting the required Annual Report [noted as rectified]"

Also, the NWB finds cannot find any additional information regarding the status of the Direction issued to Bathurst Inlet Lodge Ltd. by Andrew Kiem (AANDC) on August 26, 2013. The Licensee is asked to elaborate on any developments that have occurred since this time.

Lastly Mr. Warner, I would like to bring to your attention that Bathurst Inlet Lodge may be eligible for an Approval Without a Licence authorization, as long as the only waste disposal occurring on-site constitutes sewage and greywater to sumps, with all other waste being stored, segregated and shipped to an approved waste disposal facility. Approvals Without a Licence are often less cumbersome to process, however they must be re-applied for every year, and in addition, upon an application for an Approval Without a Licence, you would be asked to cancel the 7BL-BIL1215, which would require you to fulfill the outstanding conditions related to the Licence (including a revised SCP).

Please contact me with any questions or concerns you may have.

Regards,



Brady MacCarl, MSc- >9Δ∩ L^bb^{9c}

Technical Advisor • Conseiller Technique

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2007_AANDC_Spill_Cont.pdf
1275K

Brady MacCarl <brady.maccarl@nwb-oen.ca>

Fri, Jul 31, 2015 at 9:49 AM

To: Boyd Warner <boydw@bathurstinlet.com>
Cc: Licensing Department <licensing@nwb-on.ca>

Hi Boyd,

Thank you for your comprehensive response. It certainly adds a valuable degree of depth to your renewal application.

I want to begin Boyd by stating that the Board holds no prejudice against your establishment; indeed, Bathurst Inlet Lodge is well known in the Territory for its long and unique history. It is important, however, that the Board performs its due diligence when processing all licence Applications, and a fundamental component of any review for an Application for Renewal of a Licence, is a conformity review to the pre-existing terms and conditions of the Licence.

The Direction issued to you by AANDC in August 2013, and two emails between Andrew Kiem and yourself that immediately followed, are the last official pieces of communication the Board has on record related to Licence compliance. From these communications it appears that many of the issues remain outstanding; however, I am aware that these communications are now two years old, and thus the communications were forwarded to you as part of your notice of deficiencies (which I should add, are very common to receive from the Board in the first stages of an application) so you had the first opportunity to expand on the current state of each item, which you have duly done. Please note, the Annual Reports are not outstanding, they were included in the text as part of the quotation from AANDC's Report, however, the text, "noted as rectified" was added next to the item. The text likely should have been in bold; I apologize for the confusion.

I agree that these issues require further discussion and clarification, and I will followup with AANDC to see if its stance has changed since the issuance of the Direction.

It is important Boyd that you are aware that the Board regulates the Act but does not enforce it. It is unfortunate if certain members of the community improperly utilize "Garbage Island" as a waste disposal area, but the Board must leave these issues to the Inspectors to enforce, and I'm sure you'll agree that the Board cannot weaken its implementation of the standards and guidelines reflected in its licences simply because there are other parties in the area who are irresponsible stewards of the land. I assure you however, the Board does not wish to hold you to any environmental obligations that Bathurst Lodge has not contributed to or taken responsibility for since its inception.

I do not believe a teleconference is required at this moment. I will contact AANDC and follow up with you shortly after.

Lastly, I confirmed that the email previously sent had the AANDC Guidelines for Spill Contingency Planning attached, so I'm not sure why it didn't go through; regardless, I have attached it again for your convenience.

Regards,



Brady MacCarl, MSc- >5Δ∩ L^bb^{5c}

Technical Advisor - Conseiller Technique

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 **Merci de penser à l'environnement avant d'imprimer ce courriel / Thank you for thinking of the environment before printing this email**

On Thu, Jul 30, 2015 at 5:20 PM, Boyd Warner <boydw@bathurstinlet.com> wrote:

Thank you for your letter below.

I do believe that by sharing some history of the lodge's operation might help the board when they are reviewing the lodges application. I would also really like to clear up some incorrect information and believe this is the best time to do so.

The lodge has operated since 1969 it started off with 4 guests, grew to a peak of 120 or so in the 80's and is just now rebounding from the last recession and we look forward to a long future.

The community of Bathurst Inlet has been in existence since the early 1930's. When the lodge opened there was a group of 25-30 permanent residents that lived there year round. While there is no longer full time residents people still continue to call Bathurst home and continue to use / dispose of waste as they always have. Residential use is much higher than that of the lodges. There were existing places set up for waste disposal and treatment prior to the lodges existence. At one time there was a Roman Catholic Church, Hudson Bay Trading post, Pacific Western Airlines had a navigational Beacon there and there was also a nursing station.

The lodge simply adopted and used those facilities. This was a approved / satisfactory method of disposal by all inspectors (territorial and federal) prior to the requirement of the lodge to have a license from the NWB (almost 40 years or so). Indeed Bathurst Inlet was inhabited place before Cambridge Bay.

The community residents of Bathurst Inlet continue to use and dispose of waste on what is locally know as "Garbage Island". Blackwater is put in pits any burnable garbage is burn off. We as a lodge are confused as to why we cannot use the same location? It is akin to someone in Cambridge Bay not being allowed to use the local waste and garbage dumps but being told they must fly their burnable garbage to Yellowknife for disposal. On observing what happens in Yellowknife it is the same as if we burn it off at Bathurst it is simply burned in open air. This puts a huge labour and financial cost on the lodge for no apparent benefit especially to the environment. Having the lodge operate within a existing community is likely unique but that is how it works at Bathurst.

Another key point is that the lodge operates for only a few weeks of the year. Indeed 2012 saw only two weeks of guests, 2013 saw one week, 2014 saw none. 2015 has had 3 weeks of ecotourism and a total of 32 guests for a total of 224 man days for the year.

In contrast in 2015 there have been 17 Inuit residents there since mid June (some since May) and they will be staying until the third week of Aug for a total of over 1000 man days. I am explaining this as it seems the board is under the impression that the lodge is a much bigger operation than we are and that the lodge is responsible for all the waste generated and referred to by Inspectors when in fact we are not. We do indeed hope to operate longer in the future but it is impossible to predict at this time the exact number of weeks until next spring when the booking season is finished.

INAC inspectors also have wrongly accused the lodge and tried to hold us responsible for waste and drum storage issues that do not belong to us. It is clearly a case of "guilty until proven innocent". Case in point is that the

Government of Nunavut is responsible for the 2000 + / - empty drums on site. They are indeed acting this fall on having the drums crushed and prepared for removal and are under a direction by INAC (crews are flying into site to do the work starting this weekend).

I have attempted several times to point this out to the board and the Inspectors but we continue to be found guilty without anyone ever showing any prove that the drums our the responsibility of the lodge. Surely there is something in place that would insure if we are to be accused of such a crime that proof must be shown.

Please see below for more information and some questions.

From: Brady MacCarl [mailto:brady.maccarl@nwb-oen.ca]
Sent: July-30-15 11:27 AM
To: Boyd Warner
Cc: Licensing Department
Subject: 7BL-BIL1215 Renewal Application Notice of Deficiencies

Dear Mr. Warner:

The NWB has conducted a preliminary technical review for the renewal application associated with Licence Number 7BL-BIL1215. Although acceptable in many aspects, there are important water use and waste management issues that have only been vaguely addressed, and moreover, there are outstanding cases of non-compliance associated with the Licence. These issues are elaborated on below, and the NWB requests that you provide a response or intended action to each point accordingly:

1. Pursuant to Part H, Item 1, of the Licence, the Licensee was to submit a revised Spill Contingency Plan to the Board within sixty (60) days following issuance of the Licence. The NWB received a revised Spill Contingency Plan on October 21, 2014.

The NWB has deemed the Plan deficient, as it does not conform to the *Spill Contingency Planning and Reporting Regulations*, nor address the comments received by parties in the original licence application and the conditions presented in the Licence. I have attached the AANDC Guidelines for Spill Contingency Plan, which explains more-or-less what the NWB expects, and provides a general template for a well-structured Spill Contingency Plan. I realize that your project is not as extensive as some of the industrial or mineral exploration projects in the Territory, however, a comprehensive SCP is instrumental to ensuring that hazardous wastes do not unintentionally end up in nearby water bodies. A site map, identifying the location of stored fuel and spill response equipment, can easily be made using Google Earth and Microsoft Paint. In addition to conforming to Part H, Item 1 of your Licence, the SCP revisions should accommodate the recommendations made by AANDC Water Resources in its comments received by the NWB November 28, 2014, which are attached for your convenience. A revised SCP must be submitted before the renewal application can proceed.

To my knowledge this is the first time that it has been pointed out that the SCP submitted almost a year ago is not Satisfactory. If notification was sent out earlier I am not aware of it. I will work on a second revised plan for

submission. I did not see any attachment in your email regarding this. Again I would like to point out that the lodge deals with less than 20 barrels of fuel at the most for any operating season. I believe we are allowed to cache up to 18 drums at any site without even a land use permit or any SPC.

2. 2. In a letter between Boyd Warner (Bathurst Inlet) and Andrew Kiem (AANDC) on September 3, 2013, Mr. Warner stated that communication should be directed towards Sam Kapolak, the president of Kingaunmiut Ltd. If this is the case, Sam Kapolak should be listed as a representative in the Application.

I believe you are referring to the letter in which the inspector was indicating that I would, as sole owner of the lodge would be held legally liable and could face potentially jail time for failure to comply with violations that were not even my responsibility.

I was simply pointing out that the lodge is co-owned by a Inuit company and that the inspector should have known that and directed such issues to all legal owners not just myself. Mr Kapolak is President of Kingaunmiut Ltd which owns 50% of the lodge. Should the board wish to send him letters that is the board's decision. I am the President of Bathurst Inlet Lodge Ltd and thus the main contact on the water license application.

3. 3. Block 9 of the Application (Description of Undertaking) states, "Same as current licence", however, the original application does not provide a thorough explanation of the undertaking nor list of planned activities.

I will look at this and send in a revised explanation, however if it did not provide enough of an explanation I am curious as to why we were not notified earlier?

4. 4. Block 14 and 15 of the Application (Waste, and Quantity and Quality of Waste) states, "Same as before", however the original application does not provide an adequate description of waste volumes, types and disposal methods. For example, under the Supplementary Questionnaire, included with the 2009 application, it is stated that "burnables" will be burned. This should be expanded upon: what will be burned and how will it be burned?

Similar to #3 I was unaware that the information was not adequate and will work on resending this.

Moreover, please note, the 2013 AANDC Inspection Report, received by the Board on August 26, 2013, highlights several instances of non-compliance. The Board has not received any indication that these issues have been resolved. The noted concerns are quoted below for your convenience, and the Licensee is asked to elaborate on the current circumstance of each issue:

"As initially identified in the Inspection conducted on July 10th, 2011 the Inspector again found that the Licensee has not undertaken the necessary actions or implemented any measures to prevent the deposit of waste from barreled fuel storage at the site from entering water.

- Over 2000 empty and un-cleaned barrels are stored within 30 ft of water (Burnside River). These drums pose a serious risk of continuing to leak and deposit hydrocarbons (waste) into the river.

As mentioned previously and again in this letter the drums in question are not the lodge's responsibility and never have been nor will be. However they are being cleaned up by the PPD this fall (as stated). While I understand you and your staff have not been on the site personally it is another example of how the lodge is accused of a wrong doing and is found guilty without any cause or proof. This must hurt our reputation in the eyes of board members as they see us as not good land users when in fact we are one of the best.

There must be a system in place that insures what the inspectors submit to you is indeed fact. It causes a lot of grief and confusion for us as operators when the inspectors word is taken as truth, no evidence is presented and our word is not believed.

If there are any issues with contaminated soil or leakage into the water bodies then the lodge cannot be held in any way responsible as the drums which may or may not have caused the leakage are more our responsibility than any of the other multiple uses / buyers of fuel from the department of PPD over the years can be.

Again this is a case of because we operate a lodge in the same location as a community operates we are being told we are responsible for everyone else's activities. I have pointed this out to inspectors that tried to tell us we are responsible in making sure other users in the area must comply with the law. The lodge pointed out that we are not

a enforcement body. All this information is in writing.

Is the Board aware that it is the Government of Nunavut through PPD that is the supplier for all gasoline and diesel in the community and we simply purchase a product off of them and this never has included the drums? They are responsible for shipping in and out of all gas and diesel. The lodge does bring in limited amounts of 100 LL and Jet Fuel and we backhaul these empty drums to Yellowknife regularly.

- *The licensee has failed to comply with Part D item 2 by continuing to practice on site land filling (burying) of waste in Garbage Island.*

- *The Licensee has failed to comply with Part D Item 4 of the issued License by continuing to open burn wastes at Garbage Island.*

The lodge while it deems it unfair has indeed taken steps to not bury any waste on Garbage Island and ceased to open burn waste on the island. As mentioned above the lodge has only operated a few weeks in the past 3 years (not at all in 2014) and since being told we have dug new pits and removed non-burnable waste from the site. This summer non-burnable waste was collected and removed to Yellowknife. Only cardboard boxes and paper products were burned on site and we had a drum incinerator on site for such operations.

- *The licensee failed to provide the Inspector, when requested, with a transportation manifest or any other document that can provide evidence of proper disposal of Hazardous wastes (oil filters, batteries etc) generated on site contrary to Part D item 7.*

I am not sure the procedure between NWB and the Inspectors and who is responsible for this but these items have been addressed with the inspector. Perhaps you can tell me who is responsible then for informing the board as the inspector was notified that in recent years the lodge has not generated enough of the above mentioned waste in the past 3 years to warrant the removal of any of the items listed above. We only generate 5 gals of waste oil / yr as we run a very small generator and the batteries often last for multiple years. All this information would have been in our annual report for 2015 which is not due for submission to my understand until March. We did submit annual reports for other years 2013 and in 2014 which the inspector has. The lodge did not even operate for tourist season in 2014.

- *The Licensee has failed to implement Part D item 8 of the issued License by failing to install sufficient latrines or other such systems a minimum of 31 meters above the ordinary high water mark of any water body.*

Once again the inspector has asked us to dig new latrines and this was completed after permafrost allowed this summer and will be used.

- *The Licensee has failed to implement Part B item 2 (a through f) by not submitting the required Annual Report [noted as rectified]"*

I have submitted Annual reports for all the years requested, are you saying they were not received? If received and were not satisfactory please advise as this is the first time we have been notified of it.

Also, the NWB finds cannot find any additional information regarding the status of the Direction issued to Bathurst Inlet Lodge Ltd. by Andrew Kiem (AANDC) on August 26, 2013. The Licensee is asked to elaborate on any developments that have occurred since this time.

Mr Kiem has extended the deadline of the above noted Direction to October of this year. However the lodge continues to state that the 2000 empty drums is not the lodges responsibility (nor has any evidence ever been submitted proving the lodge is responsible). It is indeed the department of PPD that is responsible for them and that department has taken responsibility for the cleanup of these drums (happening this fall). We have shipped out any drums that are our responsible for this year via aircraft to Yellowknife. Once again this will be in our 2015 annual report.

Lastly Mr. Warner, I would like to bring to your attention that Bathurst Inlet Lodge may be eligible for an Approval Without a Licence authorization, as long as the only waste disposal occurring on-site constitutes sewage and greywater to sumps, with all other waste being stored, segregated and shipped to an approved waste disposal facility. Approvals Without a Licence are often less cumbersome to process, however they must be re-applied for every year, and in addition, upon an application for an Approval Without a Licence, you would be asked to cancel the 7BL-BIL1215, which would require you to fulfill the outstanding conditions related to the Licence (including a revised SCP).

Thank you, that has been pointed out in the past however we find the paperwork required for such a small operation to be incredibly time consuming and therefore much prefer a longer license vs seeking approval each year.

I would like to work with the board to make sure that operations at the lodge and responsibilities are clearly understood. I believe the misconceptions out there have greatly impacting the boards understanding of our operation. Perhaps a meeting in person or a conference call would help clear all this up instead of emails?

In closing, I am not sure how we clear up all the miscommunication.

We continue to be accused and tasked with things that are not our responsibility. Also there is a huge time delay in letting us know that what we have submitted is unsatisfactory or not submitted at all (i.e SCP and Annual reports). I believe it is fair from our perspective to assume that if we do not hear back after submitting the required paperwork that there is no issues.

I also need clarification as there seems to be a huge information gap between the Inspectors and the board. It is my understanding that I deal directly with the inspector on issues that they bring to our attention and then once a year I submit a Annual report.

This is what we have been doing so please inform me it this is not the correct procedure.

The lodge continues to request a 25 year license and looks towards a long relationship with the board.

Sincerely,

Boyd Warner

President

Bathurst Inlet Lodge

Bathurst Inlet, Nunavut

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Please contact me with any questions or concerns you may have.

Regards,



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