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NUNAVUT IMALIRIYIN KATIMAYINGI
NUNAVUT WATER BOARD
OFFICE DES EAUX DU NUNAVUT

August 26, 2008

Mr. Scott Charland
Nasittuq Corporation
Suite 100, 170 Laurier Avenue West
Ottawa, Ontario
K1P 5V5
E-mail scott.charland@nasittuq.com

Dear Mr. Charland,

Re: Nasittuq Corporation - Application to amend 3BC-BAF0409, 3BC-CAM0409, 3BC-DYE0409, 3BC-FOH0409, 3BC-SHE0409 to Change the Name of Licensee

This letter is in regard to Nasittuq Corporation's March 30, 2007 applications to the Nunavut Water Board (NWB or Board) to amend the following six Type B water licences: 3BC-BAF0409, 3BC-CAM0409, 3BC-DYE0409, 3BC-FOH0409, and 3BC-SHE0409. The purpose of the amendment is to change the name of the licensee from the Department of National Defence, Government of Canada (DND) to Nasittuq Corporation (Nasittuq). The Licences are for camps associated with the North Warning System located on Crown land. The current Licences expire in 2009.

The Board understands from the applications that Nasittuq has a Government of Canada contract to operate and maintain the NWS in Canada on behalf of DND, with Nasittuq having care, custody and control of the NWS. Furthermore, on December 6, 2007 the NWS Project Office sent a letter to the NWB confirming that Nasittuq was awarded a contract to operate and maintain the NWS and that Nasittuq is responsible for operating, maintaining and controlling the "waste", as such term is defined in the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (the Act or NWNSRTA).

On the surface, there appears to have been an error in the original applications for the Licences. Unfortunately, the NWNSRTA does not contemplate changing the name of a licensee except through assignment of a licence pursuant to section 44 of the Act. While sub-paragraph 43(1)(b)(iii) of the NWNSRTA gives the Board the authority to amend any condition of a licence where the Board considers the amendment to be in the public interest, the name of the licensee is not a condition of the licence. Furthermore, a "licensee" is defined in the Act as "means a person to whom a licence is *issued* or *assigned*."

In May 2007 the Board wrote to Nasittuq to advise that a change in the name of a licensee was an assignment and accordingly requested that Nasittuq provide documentation as required by section 44. While the Board has no record of a reply to that correspondence, the Board accepts that a problem may lie in the fact that there does not appear to be any change in a related “right, title or an interest in the appurtenant undertaking” since the Licences were issued as required by section 44.

As a practical solution, the Board recommends that Nasittuq apply for a new licence to be issued to Nasittuq for each site. Upon a decision by the Board to issue new licences, DND may apply to have the existing Licences cancelled, or simply allow the Licences to expire in 2009. In either case, the Board notes that section 46 of the Act states that the expiry or cancellation of a licence does not relieve the holder from any obligations imposed by the licence. Legal counsel for the NWB has spoken with DND’s legal counsel, Marcia Mills, and understands that this solution is acceptable to Ms. Mills.

The Board notes that one of the six sites, Brevoort Island, is the subject of an Inspector’s Direction (undated, but noted in a subsequent report as received by DND on March 2, 2007) which resulted from a February 12, 2007, site inspection that was prompted by a Spill Report filed on January 13, 2007. The Board requests that Nasittuq include an explanation of the current status of the clean up of the site.

Furthermore, section 76 of the Act permits the Board to require a licensee (or prospective assignee) to furnish and maintain security with the Minister. The Board requests Nasittuq provide security related estimates for each site applying the principles of Mine Site Reclamation Policy modified to the 6 sites referenced above. Please refer to Page 6, Item 4 of the attached Mine Site Reclamation Policy for Nunavut which states in part.....”Estimates of reclamation costs, for the purposes of financial security, should be based on the cost of having the necessary reclamation work done by a third-party contractor if the operator defaults. The estimates should also include contingency factors appropriate to the particular work to be undertaken.

Please contact the undersigned at licensing@nunavutwaterboard.org if you have further questions or require assistance with the application process.

Sincerely,

Original signed by:

Phyllis Beaulieu
Manager of Licensing

cc: Marcia Mills, Counsel, Legal Services, Public Works & Government Services
Catherine Emrick, Associate, William A. Tilleman Professional Corporation
Kevin Buck, Water Resources Manager, INAC Iqaluit
Louise Chawner, Nasittuq Corp.