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NUNAVUT IMALIRIYIN KATIMAYINGI
NUNAVUT WATER BOARD
OFFICE DES EAUX DU NUNAVUT

File No: 3BC-DYE----

January 28, 2009

To:

Mr. Jacques Plante, President
Nasittuq Corporation
Suite 100, 170 Laurier Avenue W.
Ottawa, ON K1P 5V5
E-mail : Jacques.plante@nasittuq.com

And

Distribution List – Cape Dyer Project/Qikiqtani Region

Subject: Notice of Application and Request for Comments re: Nasittuq Corporation – DYE-M – Cape Dyer Project – New – Type “B”

Dear Parties:

The Nunavut Water Board (“NWB”) acknowledges receipt from Nasittuq Corporation (Nasittuq), on October 3, 2008, of a new application for a Type “B” water license for water use and waste disposal associated with activities in the Qikiqtani region of Nunavut (Application). **The Application replaces the previous application requesting a name change from Department of National Defence (DND) to Nasittuq.**

The application consists of the following documents:

- Cover letter dated September 30, 2008
- Water Licence Application Form
 - o Annex A – Site Plan Drawings
 - o Annex B – Environmental Evaluation
- Supplementary Questionnaire
 - o Annex A – Letter to D. Filiatrault dated December 6, 2007
 - o Article A2 – Infrastructure and Scope of Work
 - o Annex B – Site Plan Drawings
 - o Annex C – Aerial Photo
 - o Annex D – Spill Contingency Plan
 - o Annex E – MSDS sheets
 - o Final Report – Jacques Whitford – Supplementary Information for Hydrocarbon-Impacted Soil Storage and Landfarm Treatment Facilities

- English and Inuktitut summaries
- Letter dated October 14, 2008 with drawings attached
- Letter dated November 28, 2008 – Response to Issues and Concerns
- Site Specific Spill Contingency Plan for DYE-M, dated November 25, 2008
- Insurance Cover Note, dated September 28, 2006

The Application can be obtained from our ftp site, User name: public, Password: registry at the following link: <http://nunavutwaterboard.org> or by contacting our office. Please click on Public Registry, then Nunavut Water Board FTP site and follow the path to /PRUC/3 MUNICIPAL/3B/3BC - Camp/3BC-DYE0409 (DYE-M)/1 APPLICATION/2008 New Application

The NWB undertook a preliminary review of the Application and concluded that it meets the requirements of section 48(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (Act). However, the NWB retains the right to request additional information and studies from Nasittuq pursuant to sections 48(2) of the Act, or to issue guidelines for the provision of information pursuant to section 48(3) of the Act. A NWB Technical Advisor may be in touch with Nasittuq to clarify any technical details related to the Application.

In accordance with Section.11.5.10 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada* (NLCA), prior to the Application being fully processed by the NWB the project proposal shall be reviewed by the Nunavut Planning Commission (NPC), to determine whether the project proposal is in conformity with an approved land use plan. By copy of this letter to NPC, the NWB requests the NPC provide its determination and recommendations to the NWB pursuant to Sections 13.4.2 through 13.4.5 of the NLCA, or written confirmation that the project proposal falls outside the boundaries of an approved land use plan.

By copy of this letter to the Nunavut Impact Review Board (NIRB), the NWB requests that if the project proposal requires screening, the NIRB provide the NWB with a determination pursuant to Section 13.5.1 of the NLCA. If the project proposal falls outside a proposed land use plan and is exempt from screening pursuant to Schedule 12-1 of the NLCA, the NWB requests written confirmation from the NIRB that the project proposal is exempt from screening.

To ensure this application is dealt with in a timely fashion, the NWB is forwarding this Notice of Application to regulators and council of the municipality(ies) most affected by the project, and invites interested parties to make representation directly to the NWB **within 30 days from the date of this letter.**

In addition to any matters arising from the Parties' review of this application, the NWB specifically requests comments from the Parties on the following matters:

1) Owner vs. Operator Responsibility for Site Remediation

Site DYE-M is currently the subject of Type B Water Licence NWB6DYE0409, issued to the Department of National Defence, and expiring on February 28, 2009. In a letter to the NWB set out in Annex A to the Water Licence Application Form, DND advised the NWB that "Nasittuq was awarded a Contract by Canada to operate the North Warning System (NWS)...pursuant to the

Contract, possession, care, custody and control over the NWS passed from Canada to Nasittuq.” The NWB understands that should a licence be issued to Nasittuq, DND intends to apply to the NWB to cancel Water Licence NWB6DYE0409.

Further, this site is subject to a second Type B Water Licence: 1BR-DYE0409, issued to Defence Construction Canada, and expiring on May 31, 2009. This licence is issued for the purpose of demolishing and removing facilities that are not required for the operation of the North Warning System; removal of contaminated soils; remediation of existing landfills; clean up of surface debris; and physically restoring the site to as natural a state as practical.

Nasittuq in its letter dated November 28, 2008 – Response to Issues and Concerns, advised the NWB that “... it is implementing remediation work at BAF-3 as a result of a spill reported in January 2007”. However, in the same letter, Nasittuq advised the NWB that:

Considerable remediation activities have taken place at some of these sites as part of the ongoing DEW Line Clean-up (“DLCU”) project. However, this work is not being undertaken by Nasittuq, and we assume that those implementing the work have acquired a separate water licence for these activities.

The Board requests the Parties, and particularly DND and Indian and Northern Affairs Canada (INAC), to comment on any licensing and enforcement issues that may arise from a separation of licensing and the commensurate responsibilities for operating the site and for remediation/monitoring of the site.

2) Adequacy of Amount and Form of Proposed Security

In the Application at page 3 of 4, Nasittuq states:

Nasittuq believes that the North Warning System Contract provides the security required by the Board. Specifically, the North Warning System provides security in the form of definitions of liability and subsequent insurance requirements for the Contractor (“Nasittuq”) and also provides for Guarantors in the event of “Default of Contract” by the Contractor.

The NWS contract is very specific in terms of Nasittuq’s legal requirements and limitations of liability related to Government Property. Nasittuq is required to maintain insurance policies to cover liabilities for each occurrence (not less than) as follows:

- a) One Hundred Million Dollars (\$100,000,000)(Environmental) for losses, injuries, damages, expenses, charges and Costs resulting from environmental damages; and
- b) Sixty Million Dollars (\$60,000,000)(Property) for loss or damages of Government Property.

Details of the insurance coverage are set out in the Insurance Cover Notes, dated September 28, 2006, available on the NWB FTP site. The Board requests the Parties, and particularly INAC, to comment on the adequacy of the proposed security, including the amount and the form of the proposed security.

3) Request to treat Stamped and As-Built Drawings of Tank Farms as Confidential

Nasittuq has requested that in the interests of national security the stamped and as-built drawings of the tank farm on this site be treated by the NWB as confidential. The Board is open to considering this request and seeks comments from the Parties, and particularly DND, on the need to treat the as-built drawings of the tank farm on this site as confidential.

The NWB may provide additional procedural instructions once the application has been reviewed by interested parties.

Sincerely,

Original signed by:

Phyllis Beaulieu
Manager of Licensing

Enclosure: Notice of Application

Cc: Nunavut Planning Commission
Nunavut Impact Review Board