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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI

DECISION

LICENCE NUMBER: NWB4DUV0405 – Type “B”

This is the decision of the Nunavut Water Board (NWB) with respect to an application for a Licence dated September 28th, 2004 made by the:

DEPARTMENT OF COMMUNITY AND GOVERNMENT SERVICES (CGS)

to allow for the use of water and disposal of waste during emergency in-stream repairs to the Duval River Bridge, located within the Hamlet at Pangnirtung, Nunavut. With respect to this application, the NWB gave notice to the public that CGS had filed an application for a water licence.

DECISION

After having been satisfied that the application was exempt from the requirement for screening by the Nunavut Impact Review Board in accordance with S. 12.3.2 of the *Nunavut Land Claim Agreement* (NLCA), the NWB decided that the application could proceed through the regulatory process. After reviewing the submission of the Applicant and written comments expressed by interested parties, 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 *Nunavut Land Claims Agreement* and of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWNSRTA), decided to waive the requirement to hold a public hearing and furthermore to delegate its authority to approve the application to the Chief Administrative Officer pursuant to S. 49(a) of the NWNSRTA and determined that:

Licence Number NWB4DUV0405 – Type “B” be issued subject to the terms and conditions contained therein. (Motion #: 2004-41)

SIGNED this 15th day of October 2004 at Gjoa Haven, NU.


Philippe di Pizzo
Chief Administrative Officer

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I. BACKGROUND

The Duval River Bridge is located within the Hamlet of Pangnirtung, and was constructed in 1983. The bridge structure is approximately 26.7 m in length, and is supported on piles fronted by a gabion wall structure. This gabion wall is currently being undercut, which has resulted in the piles being exposed, unsupported, and in danger of structural collapse. The undertaking being proposed involves the placement of additional stabilizing material in front of the gabion wall, so as to protect the piles, and reduce the potential for pile undercutting and resultant structural collapse of the bridge structure.

II. PROCEDURAL HISTORY

On September 28th, 2004, an application for a water licence was filed by the Department of Community and Government Services (CGS), to allow for in-stream works required to complete emergency repairs on the Duval River Bridge, located within the Hamlet of Pangnirtung, Nunavut. The Nunavut Water Board publicly posted notice of this application, in accordance with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* S.55.1 and Article 13 of the *Nunavut Land Claims Agreement*, on October 1st, 2004. An assessment of CGS's request for an industrial water licence for water use and waste disposal activities within the Hamlet of Pangnirtung associated with emergency repairs to the Duval River Bridge was then undertaken, so that the Board could make a fully informed decision on the merits of application. This assessment process included the referral of the application to a variety of Federal, Territorial and local organizations for their review and comment. As no public concern was expressed, the NWB waived the requirement to hold a public hearing for the application.

Based upon the results of the detailed assessment, which was completed, including consideration of any potential accidents, malfunctions, or cumulative environmental effects that the overall project might have in the area, the Board delegated to the Chief Administrative Officer authority to approve the application pursuant to S. 13.7.5 of the *Agreement*.

III. ISSUES

A. Term of the Licence

In accordance with the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* S. 45, the NWB may issue a licence for a term not exceeding twenty-five years. In determining an appropriate term of a water licence, the Board considers a number of factors, including the compliance record of the Applicant.

The NWB has imposed the requirement to produce a Final Report. This Report is for the purpose of ensuring that the NWB has an accurate annual update of industrial activities during a calendar year.

This information is maintained on the public registry and is available to any interested parties upon request. The Licensee's attention is drawn to the information requirements outlined in Part B, Item 1 of this water license.

The NWB believes that a term of one (1) year is appropriate, and will allow enough time for CGS to complete the works proposed, as well as implement the Monitoring Program described in Part G of NWB4DUV0405.

B. Deposit of Waste

Construction Activities

The Department of Community and Government Services (CGS) proposes to undertake in-stream work during the completion of emergency repairs to the Duval River Bridge, located within the Hamlet of Pangnirtung, Nunavut. The repairs are necessary to prevent the structural collapse of the bridge, by reinforcing the gabion wall abutments of the bridge, which are currently being eroded. The stabilization of the bridge will entail the placement of approximately 300 m³ of clean stone adjacent to the piles supporting the bridge structure.

Specific comments relevant to proposed undertaking were provided by Environment Canada and the Department of Fisheries and Oceans Canada (DFO), who provided the Applicant with a Letter of Advice on September 16th, 2004. DFO and Environment Canada both recommended that CGS develop an implementation plan for the placement of the stabilizing materials. This plan would include measures to minimize the potential for sedimentation into water, and to prevent the deposition of petroleum products into water. This Plan should reflect that all material to be used in stabilization of the Duval River Bridge abutments should be clean, and free of fines. Additionally, DFO and Environment Canada recommended that the sites associated with the activities described by the Licensee be stabilized to prevent erosion, and that erosion control measures be left in place until the project has been completed. Finally, both DFO and Environment Canada recommended that all storage areas for fuel and granular materials be located above the ordinary high water mark of any water body, in a location where the deposition of deleterious substances into water does not occur.

The NWB concurs with these recommendations, which are reflected in the terms and conditions of this water license.

LICENCE NWB4DUV0405 – Type “B”

Pursuant to the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* and the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada*, the Nunavut Water Board, hereinafter referred to as the Board, hereby grants to

DEPARTMENT OF COMMUNITY AND GOVERNMENT SERVICES

(Licensee)

of

P.O. BOX 379, POND INLET, NUNAVUT, X0A 0S0

(Mailing Address)

hereinafter called the Licensee, the right to alter, divert or otherwise use water for a period subject to restrictions and conditions contained within this licence:

NWB4DUV0405 – Type “B”

Licence Number

NUNAVUT 05

Water Management Area

PANGNIRTUNG, NUNAVUT

Location

WATER USE AND WASTE DISPOSAL

Purpose

INDUSTRIAL UNDERTAKINGS

Description

NOT APPLICABLE-INSTREAM CONSTRUCTION

Quantity of Water Not to be Exceeded

OCTOBER 15, 2004

Date of Licence

OCTOBER 31, 2005

Expiry Date of Licence

Dated this 15th of October 2004 at Gjoa Haven, NU.

Philippe di Pizzo

Philippe di Pizzo
Chief Administrative Officer

PART A: SCOPE AND DEFINITIONS

1. Scope

- a. This Licence allows for the use of water and the disposal of waste for industrial undertakings (in-stream construction) associated with emergency repairs to the Duval River Bridge located within the Hamlet of Pangnirtung, Nunavut (62°10' N, 92°36'W);
- b. This Licence is issued subject to the conditions contained herein with respect to the taking of water and the depositing of waste of any type in any waters or in any place under any conditions where such waste or any other waste that results from the deposits of such waste may enter any waters. Whenever new Regulations are made or existing Regulations are amended by the Governor in Council under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, or other statutes imposing more stringent conditions relating to the quantity or type of waste that may be so deposited or under which any such waste may be so deposited, this Licence shall be deemed, upon promulgation of such Regulations, to be subject to such requirements; and;
- c. Compliance with the terms and conditions of this Licence does not absolve the Licensee from responsibility for compliance with the requirements of all applicable Federal, Territorial and Municipal legislation.

2. Definitions

In this Licence: **NWB4DUV0405 – Type “B”**

“Act” means the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*;

“Amendment” means a change to original terms and conditions of this licence requiring correction, addition or deletion of specific terms and conditions of the licence; modifications inconsistent with the terms of the set terms and conditions of the Licence;

“Appurtenant undertaking” means an undertaking in relation to which a use of waters or a deposit of waste is permitted by a licence issued by the Board;

“Board” means the Nunavut Water Board established under the *Nunavut Land Claims Agreement*;

“Chief Administrative Officer” means the Executive Director of the Nunavut Water Board;

“Inspector” means an Inspector designated by the Minister under Section 85 (1) of the *Act*;

“Licensee” means the holder of this Licence;

“Modification” means an alteration to a physical work that introduces new structure or eliminates an existing structure and does not alter the purpose or function of the work, but does not include an expansion, and changes to the operating system that are consistent with the terms of this Licence and do not require amendment;

“Monitoring Program” means a monitoring program established to collect data on surface water and groundwater quality to assess impacts to the freshwater aquatic environment of an appurtenant undertaking;

“Nunavut Land Claims Agreement” (NLCA) means the *“Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada”*, including its preamble and schedules, and any amendments to that agreement made pursuant to it;

“Waste” means, as defined in S.4 of the *Act*, any substance that, by itself or in combination with other substances found in water, would have the effect of altering the quality of any water to which the substance is added to an extent that is detrimental to its use by people or by any animal, fish or plant, or any water that would have that effect because of the quantity or concentration of the substances contained in it or because it has been treated or changed, by heat or other means;

PART B: GENERAL CONDITIONS

1. The Licensee shall file a Final Report with the Board no later than March 31, 2006, which shall contain the following information:
 - i. A list of unauthorized discharges and a summary of follow-up actions taken;
 - ii. Progressive reclamation work undertaken;
 - iii. A summary of the work undertaken to complete the project;
 - iv. A tabular summary of all information generated during the Monitoring Program;
 - v. A digital photographic record of construction activities; and
 - vi. Any other details on water use or waste disposal requested by the Board by November 1 of the year being reported.
2. The NWB shall be notified of any changes in operating plans or conditions associated with this project at least thirty (30) days prior to any such change.

PART C: CONDITIONS FOR THE PROTECTION OF WATER

1. The Licensee shall limit any in-stream activity to periods of minimum flow. In-stream activity is prohibited during fish migration.
2. The Licensee shall construct and maintain all structures placed in any water body frequented by fish, in such a manner that will not obstruct passage of fish.
3. The Licensee shall not deposit sediments into any water body.
4. The Licensee shall implement the measures as required to control erosion by surface disturbances and shall be required to undertake any corrective measures in the event of any impacts on surface drainage as a result of the Licensee's operations.
5. The Licensee shall implement erosion control measures to prevent deposition of silt into any water body.
6. The Licensee shall stabilize approaches during construction and upon completion of the project, to control runoff, erosion and subsequent siltation to any water body.
7. Machinery is not permitted to travel up the streambed and fording of any water body is to be kept to a minimum and limited to one general area.
8. Crossing of any water body should be in shallow depth areas and should be selected to avoid damage/erosion of the bank and damage to shoreline vegetation. Repeated crossing should not occur at the same locations.
9. The Licensee shall ensure that pollutants from machinery fording the crossings do not enter water.
10. Mechanized clearing is not licensed within thirty (30) metres of the normal high water mark of any water body in order to maintain a vegetative mat for bank stabilization.
11. The Licensee shall not cut any stream bank or remove any material from below the ordinary high water mark of any water body unless authorized by the NWB.
12. The Licensee shall ensure that all fill materials used is from an approved source and shall be free of contaminants.

13. To minimize impacts on surface drainage, the Licensee shall prepare all sites in such manner as to prevent rutting of the ground surface.
14. Equipment storage holding areas should be located on gravel, sand or other durable land in order to minimize impacts on surface drainage.
15. The Licensee shall designate an area for the deposition of excavated and stockpiled materials not within thirty (30) metres of the high water mark of any water body.
16. The Licensee shall not remove any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging. Overland travel of equipment or vehicles shall cease if rutting occurs.

PART D: CONDITIONS APPLYING TO WASTE DISPOSAL

1. Areas designated for temporary fuel or granular material storage shall not be located within thirty (30) metres of the ordinary high water mark of any body of water, unless otherwise authorized. All garbage and debris associated with this undertaking shall be temporarily disposed of in a covered metal container.
2. The Licensee shall not deposit any waste in any body of water, or on the banks thereof, which may impair the quality, quantity, or flow of water.

PART E: CONDITIONS APPLYING TO THE USE AND STORAGE OF FUEL, CHEMICALS AND ADDITIVES

1. If, during the duration of this Licence, an unauthorized discharge of waste occurs, or if such a discharge is foreseeable, the Licensee shall:
 - i. Take whatever steps are immediately practicable to protect human life, health and the environment;
 - ii. Without delay seek guidance from the Department of Community and Government Services and the Department of the Environment (GN) with regards to mitigation and remedial actions required to address the discharge;
 - iii. Report the spill immediately to the 24-Hour Spill Line at (867) 920-8130 and to the DIAND Water Resources Inspector at (867) 975-4298; and

- iv. Submit to the DIAND Water Resources Inspector a detailed report, including the GPS location, on each occurrence no later than thirty (30) days after initially reporting the event.
2. The Licensee shall ensure that vehicle and equipment maintenance and servicing shall be conducted only in designated areas and shall implement special procedures (such as the use of drip pans during re-fueling operations) to manage fluids, waste and contain potential spills.
3. The Licensee shall take all reasonable precautions to prevent the possibility of migration of spilled petroleum fuel or chemicals over the ground surface.
4. The Licensee shall examine regularly all fuel and chemical storage containers for leaks; all leaks should be repaired immediately.

PART F: CONDITIONS APPLYING TO ABANDONMENT AND RESTORATION

1. Upon abandonment, the Licensee shall remove all scrap metal, discarded machinery and parts, barrels, redundant sediment control structures and any building materials associated with the undertaking from the construction site.
2. The Licensee shall undertake progressive restoration for any component of the project which is longer required for the Licensee's operations.
3. All sites affected by construction activities shall be restored (stabilized and landscaped) upon completion of the project to minimize impacts on surface drainage.

PART G: CONDITIONS APPLYING TO THE MONITORING PROGRAM

1. The Licensee shall ensure that sediment control fencing and/or silt curtains are visually monitored for effectiveness on a daily basis during construction activities.
2. The Licensee shall determine the baseline level of total suspended solids (TSS) present in the water at the Duval River bridge site prior to the commencement of construction activities.
3. The Licensee shall ensure during construction activities that weekly sampling for total suspended solids (TSS) is carried out at an upstream reference site and a downstream impact-monitoring site, which shall be located with the assistance of an Inspector. Should increased

concentrations of TSS be observed during construction activities at the impact-monitoring site, the Licensee shall undertake daily sampling, until TSS concentrations return to pre-construction baseline levels.

4. The Licensee shall ensure during the Spring freshet occurring in the year following the completion of construction-related activities that weekly sampling for total suspended solids (TSS) shall be carried out at an upstream reference site and a downstream impact-monitoring site. Sampling shall be continued until water levels subside to normal seasonal levels.
5. The Licensee shall include all information collected during the Monitoring Program in the Final Report, to be submitted to the Board by March 31, 2006 in accordance with Part B, Item 1 (iv) of this water license.