



## **NUNAVUT WATER BOARD**

**WATER LICENCE NO: 3AM-IQA1626  
AMENDMENT NO. 4**

**REASONS FOR DECISION  
INCLUDING RECORD OF PROCEEDINGS**



# NUNAVUT WATER BOARD

In the Matter of:

Applicant: City of Iqaluit

Subject: Application to Amend Type “A” Water Licence No: 3AM-IQA1626

Date: September 4, 2019

Precedence: Where there is any inconsistency or conflict between the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWSRTA)*, the Agreement prevails to the extent of the inconsistency or conflict. Where there is any inconsistency or conflict between the *NWSRTA* and any other act of Parliament, except the *Nunavut Agreement*, the *NWSRTA* prevails to the extent of the inconsistency or conflict.



## **RECORD OF PROCEEDINGS**

Applicant:	City of Iqaluit
Address:	P.O. Box 460 Iqaluit, NU X0A 0H0
Purpose:	Application to Amend Type "A" Water Licence No: 3AM-IQA1626
Original (incomplete) Application Received on:	January 10, 2019
Complete Application Received on:	February 1, 2019
Application Received from:	City of Iqaluit
Date of Public Hearing:	August 8, 2019
Public Hearing Record Closed:	August 8, 2019



## **ATTENDEES:**

### **NWB**

#### **Representatives:**

Nunavut Water Board Panel Members (Panel P6):	Chairman	L. Toomasie
	Member	M. Nartok
	Member	S. Silou
NWB Board Member	Observer only	E. Uniuqsaraq
Nunavut Water Board Staff:	Director Technical Services	K. Kharatyan
	Director of Board Administration and Communication	B. Kogvik
	Manager of Licensing	R. Dwyer
	Technical Advisor	D. Donald
	Legal Counsel (Meadows Law)	T. Meadows
Interpreters:	Inuktitut Translator	B. Kogvik
	Inuktitut Translator	R. Kayakjuak
	French Translator	D. Cuerrier
Court Reporter:	Dicta Court Reporting, Inc.	J. Albert
Sound Technician:	Nunavut Wildlife Management Board	M. Bougria

#### **Applicant:**

City of Iqaluit	Chief Administrative Officer	A. Elgersma
	Director of Public Works and Engineering	M. Hamp
	Acting Engineering Manager, Colliers Project Leaders Inc.	J. Deronja
	Consultant, Nunami-Stantec	E. Bonhomme

#### **Parties: Attending In Person**



Crown-Indigenous  
Relations and  
Northern Affairs  
(CIRNA)

Manager of Water Resources  
Water Resources Coordinator

G. Okonkwo  
B. Campbell

Fisheries and  
Oceans Canada

Team Leader, Fish and Fish Habitat  
Protections Program

N. Fisher

Biologist, Fish and Fish Habitat  
Protections Program

R. Di Rocco

**Written Record of  
Submissions:**

Available from the Board's public registry using the following link:  
<ftp://ftp.nwb-oen.ca/registry/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-IQA1626/2%20ADMIN/3%20SUBMISSIONS/2019%20Amendment/>

**Hearing Record  
(including Hearing  
Transcript):**

Available from the Board's public registry using the following link:  
<ftp://ftp.nwb-oen.ca/registry/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-IQA1626/2%20ADMIN/4%20HEARINGS/>



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## **ABBREVIATIONS**

<b>Short Form</b>	<b>Full Name</b>
CIRNA	Crown-Indigenous Relations and Northern Affairs Canada (formerly INAC and AANDC)
DFO	Fisheries and Oceans Canada
ECCC	Environment and Climate Change Canada (formerly Environment Canada)
GN-CGS	Government of Nunavut, Community and Government Services
NIRB	Nunavut Impact Review Board
<i>Nunavut Agreement</i>	<i>Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada</i>
NPC	Nunavut Planning Commission
<i>NuPPAA</i>	<i>Nunavut Planning and Project Assessment Act</i> , S.C. 2013, c. 14, s. 2
<i>NWNSRTA</i>	<i>Nunavut Waters and Nunavut Surface Rights Tribunal Act</i> , S.C. 2002, c. 10
NWB	Nunavut Water Board
PHC	Pre-Hearing Conference
PH	Public Hearing
TM	Technical Meeting

## **REASONS FOR DECISION**

### **Executive Summary**

This decision is in relation to an application before the Nunavut Water Board (NWB or Board), filed by the City of Iqaluit (the City, Licensee, or Applicant), seeking to amend the Type “A” Water Licence No: 3AM-IQA1626 (Amendment No. 4), for a municipal undertaking,<sup>1</sup> for the remaining term of the Licence (2019-2026). An incomplete application and supporting documentation was submitted by the Applicant on January 10, 2019, with supplementary materials, as required by the NWB to complete the application, being submitted on February 1, 2019 (the initial application and supplementary materials are referenced together as “the Application” for the purposes of these Reasons for Decision).

The City of Iqaluit is located on the southern region of Baffin Island, in the Qikiqtani Region of Nunavut, with a rapidly growing population of approximately 8000 (7,082 individuals in the 2016 Census).<sup>2</sup> The City operates a potable water treatment and

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<sup>1</sup> *Nunavut Waters Regulations*, SOR/2013-69, municipal defined as “a waste disposal or water system for a municipality.”

<sup>2</sup> Statistics Canada. 2017. *Iqaluit [Population centre], Nunavut and Baffin, REG [Census division], Nunavut* (table). *Census Profile*. 2016 Census. Statistics Canada Catalogue no. 98-316-X2016001. Ottawa. Released November 29, 2017.



supply facility (including the Lake Geraldine Reservoir), a wastewater treatment facility, and a solid waste management facility. The City's Lake Geraldine Reservoir is currently operating at its maximum capacity and is at the point where, water shortages over the winter are possible if the reservoir is not supplemented on a seasonal basis (June-October) to ensure the reservoir is at full capacity prior to freeze-up in late October or early November. The City is currently exploring options for a longer-term solution for supplementing the Lake Geraldine Reservoir (i.e. beyond the current term of the Water Licence which is set to expire in 2026), and is also in the process of planning a new solid waste facility.

Upon receiving the complete application on February 1, 2019, the NWB commenced technical review of the Application, including conducting a completeness check, an Information Request (IR stage), and seeking technical review and filing of comment submissions by interveners. On May 27, 2019 a teleconference technical meeting/pre-hearing conference (TM/PHC) was held by the NWB to identify outstanding technical issues and discuss the readiness, timing and process for the Application to proceed to a Public Hearing. Teleconference and interpretation facilities were available in the City office during the TM/PHC meetings to enable interested members of the community to participate in the meetings.

On August 8, 2019 the Board held an in-person Public Hearing in respect of the Application in Iqaluit. A Community Session was hosted by the NWB on the evening of August 8, 2019. Although the Board had scheduled the Public Hearing to extend into August 9, 2019 if needed, the Board completed the entire Public Hearing Agenda on August 8, 2019. Consequently, the Board closed the Public Hearing on August 8, 2019. During the Public Hearing, the City of Iqaluit indicated that they could arrange a site visit on the morning of August 9, 2019 for the Panel, Board staff and the CIRNA and DFO participants in the Public Hearing to view the Lake Geraldine Reservoir and the Niaqunguk River (Apex River). See [APPENDIX F – Site Visit Report](#) for a summary of the site visit hosted by the City of Iqaluit on August 9, 2019. As no additional evidence in respect of the Application was provided to the Board during the site visit, the Public Hearing Record remained closed and the Application was remitted to the Panel for decision-making on August 9, 2019.

On the basis of:

- the information provided with the Application by the City of Iqaluit;

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<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/prof/index.cfm?Lang=E> (accessed August 14, 2019).



- technical review of the Application by the Board, Interveners and the public;
- the Applicant's commitments and responses to information requests from the parties during the technical review of the Application;
- comment submissions received throughout the Board's consideration of the Application;
- the final written submissions filed with the Board in advance of and during the Public Hearing; and
- the information provided during the Public Hearing and Community Session,

the three-member panel of the Board, Panel (P6), duly appointed by the Board to consider the Application has made the following decisions. By way of Motion No. 2019-11-P6-03 on August 29, 2019, decided the following:

- To grant, in accordance with the terms and conditions outlined in this Decision, the City's request to amend the Type "A" Water Licence No. 3AM-IQA1626 with the attached amendment (Amendment No. 4); and
- To amend the terms and conditions of the existing Type "A" Water Licence to authorize the following additional water uses for the remaining term of the Licence (2026):
  - the use of up to 500,000 cubic metres of water annually from the Niaqunguk River (Apex River) to supplement Water levels in the Lake Geraldine Reservoir; and
  - an increase to the total amount of water use from Lake Geraldine Reservoir, from 1,100,000 cubic metres annually to 2,000,000 cubic metres annually.

## **SECTION I: FILE BACKGROUND AND REGULATORY HISTORY**

### **Current Application**

The complete Application was submitted by the City of Iqaluit (Applicant, Licensee or City) on February 1, 2019, and requested that the Nunavut Water Board (NWB or Board) amend the City of Iqaluit's Type "A" Water Licence No. 3AM-IQA1626 for the remainder of the Licence term (2019-2026). Following the receipt of responses to the NWB's requests for various clarifications and additional information in support of the Application, on February 13, 2019, the NWB acknowledged receipt of the City's Application, and began the NWB's formal processing of the Application.



For the 2019 season, the Applicant is currently taking steps to supplement the Geraldine Lake Reservoir under an emergency amendment (Amendment No. 3).<sup>3</sup> Amendment No. 3 authorizes the City of Iqaluit to pump 700,000 cubic metres of water annually from Unnamed Lake to the Niaqunguk River (Apex River), and subsequently from the Niaqunguk River (Apex River) to the Lake Geraldine Reservoir. Amendment No. 3 is different in scope than the Application because it included the use of an additional water source, Unnamed Lake, to reflect that both the Lake Geraldine Reservoir and the Niaqunguk River (Apex River) are currently at historic lows. Consequently, the Niaqunguk River (Apex River) did not have sufficient flows to sustain the withdrawals necessary to fill the Lake Geraldine Reservoir prior to freeze up. As the 2019 pumping season is now authorized under Amendment No. 3, the NWB has considered this Application separately from Amendment No. 3, and the resulting Amendment No. 4 does not include water use from Unnamed Lake within its scope.

All documents filed in association with the Application, as well as all documents provided by the Applicant in support of the Application are listed in detail in [APPENDIX D - List of Submissions and Correspondence](#) that is attached to these Reasons for Decision, but a summary of the key Application materials provided by the City in support of the Application included the following:

**January 10, 2019**

- 3AM-IQA1626 Application for Amendment – Supporting Submission, dated December 21, 2019

**February 1, 2019:**

- Cover Letter and Application form dated January 30, 2019
- 3AM-IQA1626 Application for Amendment – Supporting Submission, dated February 1, 2019 (Rev.1)
  - a. ENGAGEMENT PLAN AND RECORD
  - b. NPC AND NIRB DECISIONS

**February 12, 2019:**

- Compliance Assessment Table
- APEX RIVER WATER WITHDRAWAL: SITE-SPECIFIC SPILL CONTINGENCY PLAN

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<sup>3</sup> Nunavut Water Board, Type “A” Water Licence No. 3AM-IQA1626 – Emergency Amendment Decision and Licence Amendment No. 3; issued on August 2, 2019, approved by Minister of Crown-Indigenous Relations on August 9, 2019.



**March 22, 2019:**

- 3AM-IQA1626 City of Iqaluit 2019 Application for Water Licence Amendment – Response to Information Requests (R-01) March 7, 2019

**April 8, 2019:**

- 3AM-IQA1626 City of Iqaluit 2019 Application for Water Licence Amendment – Response to CIRNA Comments April 1, 2019

**May 14, 2019:**

- 3AM-IQA1626 City of Iqaluit 2019 Application for Water Licence Amendment – Response to Technical Review Comments

**May 21, 2019:**

- City of Iqaluit Presentation - Apex River Water Supply 2019-2026

**May 27, 2019:**

- City of Iqaluit Presentation - Apex River Water Supply 2019-2026 (with page numbers)

**July 10, 2019:**

- Lake Geraldine Water Balance Model
- A list of contingency options for low water availability scenarios

**July 23, 2019:**

- City of Iqaluit Response to Final Comments

**July 29, 2019:**

- City of Iqaluit Public Hearing Presentation

All submissions in respect of the Application are available from the NWB's public registry at the following link:

<ftp://ftp.nwb-oen.ca/registry/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-IQA1626/>

## **Scope of the Application**

The scope of the amendments proposed in the Application, as it was originally received by the Board in February 2019, and refined throughout the review process, is as follows:



1. To authorize the additional withdrawal of up to 500,000 cubic metres of water annually from the Niaqunguk River (Apex River); and
2. To increase the total amount of water use from Lake Geraldine Reservoir to 2,000,000 cubic metres annually.

## **Licensing History**

### Licences Issued to the City of Iqaluit

Both the Nunavut Water Board's predecessor, the Northwest Territories Water Board (NWTWB), and the Nunavut Water Board (NWB) have issued water licences to the City of Iqaluit in the past. A summary of the Type "A" and Type "B" Water Licences issued to the City of Iqaluit are available on the NWB's FTP site and consist of the following:

#### ***Licence No N5L3-0087***

- Issued by the Northwest Territories Water Board to the City of Iqaluit on February 23, 1996; and
- Allowed for the use of water and deposit of waste in support of a Municipal undertaking.

#### ***Licence No NWB3IQA9900***

- Issued by the Nunavut Water Board to the City of Iqaluit on December 31, 1999 and expired on December 31, 2000; and
- Allowed for the use 1,100,000 cubic metres of water annually and the deposit of waste in support of a Municipal undertaking.

#### ***Licence No. NWB3IQA0103***

- Issued by the Nunavut Water Board on January 1, 2001 and expired on December 31, 2003; and
- Allowed for the use 1,100,000 cubic metres of water annually and the deposit of waste in support of a Municipal undertaking.

#### ***Licence No. 3AM-IQA0611 Renumbered to 3AM-IQA0612 (when amended to extend the expiry date)***

- Issued by the NWB on May 15, 2006 with the expiry date originally set for May 15, 2011;
- Allowed for the use 1,100,000 cubic metres of water annually and the deposit of waste in support of a Municipal undertaking; and



- Prior to expiry of the licence, the City applied to the Board for an emergency amendment to extend the term of the licence. The Board granted the emergency amendment on May 13, 2011, and the Minister of Indigenous and Northern Affairs Canada (INAC as it was then) approved the amendment on June 17, 2011. This extended the expiry date of the Licence to July 15, 2012.

#### ***Licence No. 3AM-IQA1626***

- Issued by the NWB on June 17, 2016, with the expiry date of June 16, 2026;
- Allowed for the use of 1,100,000 cubic metres of water annually and the deposit of waste in support of a Municipal undertaking;
- The Board granted Amendment No. 1, on an emergency basis, on August 14, 2018, to allow for the use of 500,000 cubic metres of water in 2018 from Niaqunguk River (Apex River) watershed and/or small unnamed source water lakes, and 500,000 cubic metres in 2018 (pumping from August-October) from Unnamed Lake to supplement the Geraldine Lake water storage reservoir;
- The Board granted Amendment No. 2, on an emergency basis, on July 22, 2019, to allow for the temporary withdrawal (August 2019 – October 2019) of up to 500,000 cubic metres of Water from the Niaqunguk River (Apex River) to replenish Lake Geraldine Reservoir for the winter of 2019-2020; and the increase in the total amount allowed to be withdrawn from Lake Geraldine, from 1,100,000 cubic metres annually to 2,000,000 cubic metres annually. This Application was subsequently withdrawn before the Minister approved the amendment and was replaced with Amendment No. 3 (adding Unnamed Lake as a water source). The Application was withdrawn when the City of Iqaluit noted that the Niaqunguk River (Apex River) was very low and the flows within the River were likely insufficient to sustain the pumping required to fully replenish the Lake Geraldine Reservoir prior to freeze up; and
- The Board granted Amendment No. 3, on an emergency basis, on August 2, 2019, to allow for the temporary withdrawal (August 2019 – October 2019) of up to 700,000 cubic metres of water from Unnamed Lake and transferring it to the Niaqunguk River (Apex River), and/or subsequently withdrawing up to 700,000 cubic metres of water from the Apex River, and transferring it to Lake Geraldine Reservoir for storage over the winter of 2019-2020; and the increase in the total amount allowed to be withdrawn from Lake Geraldine, from 1,100,000 cubic metres annually to 2,000,000 cubic metres annually. The Minister approved Amendment No. 3 on August 9, 2019.

#### **Type B Licences issued by the NWB to the Project**

In addition to the Type “A” Water Licences described above, the NWB has issued two Type “B” licences to the City of Iqaluit, which are as follows:



***Licence No. 8BC-TAD0811***

- Issued on April 2, 2008 and expired on March 31, 2011; and
- Allowed for the use of water and the deposit of waste in support of the construction of an access road and for quarrying activities at the Trail Area Deposit, located approximately 1.3 kilometres northwest of the Upper Base, on the outskirts of Iqaluit.

***Licence No. 8BW-IGD1921***

- Renewed/issued on May 8, 2019, with an expiry date of May 07, 2021.
- Originally issued on May 27, 2015, under Licence ***8BW-IGD1516***; and
- Allowed for the construction of three (3) water crossings as part of a 4 kilometre long by 8.5 metres wide, access road to the proposed Northwest Iqaluit Granular Deposit and proposed new landfill site.

None of the works, activities, and undertakings captured under these Type “B” Water Licences are included in the scope of the Type “A” Water Licence that is the subject of this decision.

**Regulatory and Procedural History of the Application**

Pre-Licensing Regulatory History of the Application

***The Nunavut Planning Commission (NPC)***

With respect to this Application, the following pre-licensing requirements associated with the Nunavut Planning Commission’s (NPC) land use planning conformity determination for the Application were completed:

On **January 11, 2019**, NPC issued its determination (NPC File No. 149007) for the Application, which indicated that:

- a. the Project is outside of an area with an applicable regional land use plan;
- b. the Nunavut Impact Review Board (NIRB) previously screened the works and activities associated with the current proposal, including the withdrawal of water up to 1,100,000 cubic metres from Lake Geraldine;
- c. the above-noted project proposal is a significant modification to the project because of the increase of the amount of water withdrawn from Lake Geraldine from 1,100,000 cubic metres to 2,000,000 cubic metres;
- d. the undertaking requires screening by the Nunavut Impact Review Board (NIRB) under section 12.4.3 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)* as amended and ss. 145 and 146 of the *Nunavut*



*Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*) because it is for a component or activity that was not part of the original or previously amended proposal and its inclusion is a significant modification of the project; and

- e. on this basis, the NPC forwarded the Application to the NIRB for screening under Article 12 of the *Nunavut Agreement* and Part 3 of the *NuPPAA*.

### ***The Nunavut Impact Review Board (NIRB)***

The following summarizes the outcome of the NIRB's screening of the project proposed in the Application:

On April 17, 2019, the NIRB issued its Screening Decision Report<sup>4</sup> (NIRB File No. 19WA006, , previously NIRB File No. 13UN034) associated with the Application, stating that a further review of the project is not required in accordance with Article 12 of the *Nunavut Agreement* and s. 92(1)(a) of the *NuPPAA*. Specifically, the NIRB noted that:

*Following the Nunavut Impact Review Board's (NIRB or Board) assessment of all materials provided, the NIRB is recommending that a review of City of Iqaluit's "Apex River Drinking Water Supply" is not required pursuant to Article 12, Section 12.4.4(a) of the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement) and s. 92(1)(a) of the Nunavut Planning and Project Assessment Act, S.C. 2013, c. 14, s. 2 (NuPPAA).*

*Subject to the Proponent's compliance with the terms and conditions as set out in below, the NIRB is of the view that the project proposal is not likely to cause significant public concerns, and it is unlikely to result in significant adverse environmental and social impacts. The NIRB therefore recommends that the responsible Minister accepts this Screening Decision Report.*<sup>5</sup>

On the basis of the NPC's consideration of the project and the NIRB's screening of the project, the NWB concluded that the land use planning and environmental assessment requirements for the Application under Articles 10-13 of the *Nunavut Agreement*, Part 3 of the *NuPPAA*, and ss. 38 and 39 of the *Nunavut Waters and*

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<sup>4</sup> NIRB Screening Decision Report, NIRB File No.: 19WA006 (previously NIRB File No. 13UN034), April 17, 2019.

<sup>5</sup> NIRB Screening Decision Report, NIRB File No.: 19WA006 (previously NIRB File No. 13UN034), April 17, 2019 at p. 1.



*Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*) have been met and the Application could be considered by the NWB.

#### Pre-Licensing Regulatory History of the Applications for Emergency Amendment No. 2 and No. 3

Although Emergency Amendment No. 2 and Emergency Amendment No. 3 were processed independently of this Application, for the convenience of the parties, the Board has included information regarding the pre-licensing regulatory history of these applications in this section. As the scope of the City's application for Emergency Amendment No. 2 was the same as the scope of the Application, the NWB was able to consider Emergency Amendment No. 2 without triggering further conformity assessment by the NPC or additional assessment by the NIRB.

However, because the scope of the City's request for Emergency Amendment No. 3 included Unnamed Lake, which was not in the scope of Application as considered by the NPC and assessed by the NIRB, the land use planning and impact assessment requirements of the Nunavut Agreement and Part 3 of *NuPPAA* would have applied unless the activities were declared to be required on an emergency basis. On July 31, 2019, the Honourable, Lorne Kusugak, the Government of Nunavut's Minister of Community and Government Services (GN-CGS) declared a state of emergency under s. 11(1) of the *Emergency Measures Act* having formed the opinion that: "*the current water shortage in Lake Geraldine, combined with historic low water levels in the Apex River constitutes an emergency*". The GN-CGS Minister further noted that as set out in s. 152 of *NuPPAA* the land use planning and assessment requirements of *NuPPAA* do not apply to measures taken to prevent an emergency or remedy or minimize its effects if a federal or territorial minister is of the opinion that an emergency exists. On this basis, the NWB processed the City's Emergency Amendment No. 3 application on an emergency basis as provided for under *NuPPAA* and the *NWNSRTA*.

#### Key Steps in the NWB's Procedural History for the Application

The following listing summarizes only selected key steps in the procedural history of the NWB's processing of the Application. Complete information related to the procedural history of the Application and all information received in support of the file can be accessed from the NWB's FTP site and Public Registry using the following link:

<ftp://ftp.nwb-oen.ca/registry/3%20MUNICIPAL/3A/3AM%20-%20Municipality/3AM-IQA1626/>



<b>February 1, 2019</b>	NWB received from The City of Iqaluit a complete application for a Type “A” Water Licence Amendment (No. 4) to Licence No: 3AM-IQA1626 (the Application).
<b>February 13, 2019</b>	The NWB acknowledged receipt of the Application, determined that the Application met the requirements for public distribution, and invited interested parties to conduct an initial completeness check and provide Information Requests (IRs) by March 6, 2019.
<b>March 1, 2019</b>	CIRNA provided IRs in relation to the Application.
<b>March 22, 2019</b>	The City of Iqaluit responded to CIRNA’s IRs.
<b>April 1, 2019</b>	CIRNA provided a Reply to the Applicant’s responses, requesting additional information.
<b>April 8, 2019</b>	The City of Iqaluit responded to the second IRs from CIRNA.
<b>April 11, 2019</b>	CIRNA provided their second reply to the Applicant’s IRs, indicating CIRNA considered the Application to be complete and sufficient to proceed to the technical review stage of the process.
<b>April 15, 2019</b>	The NWB provided Public Notice of the Application and notice of the commencement of a twenty-one (21) day technical review period, and provided direction regarding the next steps in the Licensing process.
<b>May 6, 2019</b>	CIRNA provided their technical review comments regarding the Application.
<b>May 14, 2019</b>	The Applicant provided responses to interveners’ comments.
<b>May 16, 2019</b>	The NWB issued guidance regarding next steps in the process and circulated, for comment, a Draft Agenda for the TM/PHC.
<b>May 21, 2019</b>	The NWB received confirmation of participation and presentation documents from CIRNA and the Applicant.



<b>May 23, 2019</b>	NWB provided correspondence with the Final Agenda for the TM/PHC.
<b>May 27, 2019</b>	The NWB hosted the TM/PHC via teleconference. NOTE: As all items on the Agendas for both meetings were completed in May 27, the meeting scheduled for May 28 was cancelled.
<b>July 10, 2019</b>	The City provided the Lake Geraldine Water Balance Model; and a list of contingency options for low water availability scenarios, in response to commitments agreed to by the City at the NWB Technical Meeting and Pre-Hearing Conference on May 27, 2019.
<b>July 15, 2019</b>	CIRNA provided their final written submission prior to the Public Hearing.
<b>July 23, 2019</b>	The City of Iqaluit responded to CIRNA's final written comments.
<b>July 26, 2019</b>	The NWB provided parties with an update on the Public Hearing and a Draft Agenda.
<b>July 29, 2019</b>	The City and CIRNA filed their Public Hearing presentation materials with the NWB.
<b>July 31, 2019</b>	The NWB provided parties with the Public Hearing Final Agenda.
<b>August 8, 2019</b>	The NWB hosted the Public Hearing in the City of Iqaluit and the community meeting in the evening. NOTE: As all items on the Agendas for the Public Hearing were completed on August 8, 2019, the Public Hearing scheduled for August 9, 2019, was cancelled.

All information pertaining to the Application, including the supporting documents is available on the NWB's FTP site and can be accessed from the links provided above.

#### NWB Timeline for Processing the Applications

As set out under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*), s. 55.2, the NWB is required to process applications in relation to Type "A" Water Licences within 9 months from the receipt of a complete



application. However, as expressly noted in the *NWNSRTA*, s. 55.31<sup>6</sup> this 9-month time period does not commence until the Nunavut Impact Review Board's (NIRB) assessment has been completed and the Board considers the Application to be complete and provides public notice of the Application.

As set out in the key procedural steps outlined above, although the City submitted the Application on February 1, following the completion of the NIRB process, there were two rounds of Information Requests from CIRNA before the Application was considered to be complete and Public Notice of the Application was provided on April 15, 2019, as required under the *NWNSRTA*. Having concluded the NWB's consideration of the Application and issuance of these Reasons for Decision within 6 months of the Notice of Application, the NWB has concluded that the NWB's decision-making has been completed and provided to the Minister of Crown-Indigenous Relations and Northern Affairs (CIRNA) well within the 9-month timeline for processing the Application as required under s. 55.2 of the *NWNSRTA*.

## **SECTION II: SUMMARY OF FINAL SUBMISSIONS OF THE PARTIES**

### **Crown-Indigenous Relations and Northern Affairs Canada (CIRNA)**

Crown-Indigenous Relations and Northern Affairs Canada's (CIRNA)<sup>7</sup> participation in water licensing processes in Nunavut is informed by their mandate under the following Acts and associated regulations: *Department of Crown-Indigenous Relations and Northern Affairs Act*,<sup>8</sup> *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada, Nunavut Waters and Nunavut Surface Rights Tribunal Act*,<sup>9</sup> *Territorial Lands Act*,<sup>10</sup> and the *Arctic Waters Pollution Prevention Act*.<sup>11</sup>

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<sup>6</sup> As stated in s. 55.31:

If the Board is cooperating and coordinating with ...the Nunavut Impact Review Board...the time limit referred to in section 55.2 does not begin to run until the ...Nunavut Impact Review Board...has completed its screening or review of the project.

<sup>7</sup> Previously known as Indigenous and Northern Affairs Canada (INAC).

<sup>8</sup> R.S.C. 1985, c. I-6.

<sup>9</sup> S.C. 2002, c. 10.

<sup>10</sup> R.S.C. 1985, c. T-7.

<sup>11</sup> R.S.C. 1985, c. A-12.



During the technical review of the Application,<sup>12</sup> CIRNA raised concerns related to the following issues:

- The term of the amended Licence;
- The development of a Drinking Water Management Plan;
- Contingency planning to address potential water insufficiency in the Niaqunguk River (Apex River);
- Monitoring of water level and flow in the Niaqunguk River (Apex River);
- Solutions for long-term sustainable water sources; and
- The status of various updates and additions to management plans.

In addition to comment submissions on completeness and technical review submissions as set out in detail in APPENDIX D - List of Submissions and Correspondence, on July 15, 2019, the NWB received CIRNA's final written submission<sup>13</sup> summarizing their comments on the Application received throughout the NWB's process. In their final written submission, CIRNA emphasized that going into the Public Hearing, they considered the following points to be resolved:

- Development of a Drinking Water Management Plan
- Updates to the Spill Contingency Plan
- Monitoring and Reporting of Water Levels and Water Withdrawal
- Future Plans for Researching Alternative Water Sources
- Reporting Erosion and Sedimentation Control Measures

However, in their final written submission, CIRNA indicated the following issue remained unresolved:

- Development of a Contingency Plan

CIRNA also attended the in-person Public Hearing for the Application on August 8, 2019, and engaged in further discussion of outstanding issues at that time.<sup>14</sup>

#### Development of a Drinking Water Management Plan

During the technical review, CIRNA encouraged the City to continue developing a Drinking Water Management Plan that considers watershed management and provisions to mitigate the risk of a future emergency low water situation. It was

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<sup>12</sup> Crown-Indigenous Relations and Northern Affairs Canada Technical Review Comments on City of Iqaluit Application to Amend Water Licence No. 3AM-IQA1626 for Supplementary Water Supply, May 6, 2019.

<sup>13</sup> Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626; Crown-Indigenous Relations and Northern Affairs Canada; Final Submission to the Nunavut Water Board; July 15, 2019.

<sup>14</sup> CIRNA, NWB Public Hearing, Licence No. 3AM-IQA1626, Exhibits 2, 3, 4, Hard Copies, "Executive Summaries of CIRNA Intervention" (English), (Inuktitut), and (French) respectively, filed on August 8, 2019 and Exhibit 5, Hard Copy, PowerPoint Presentation, "Amendment Application for the City of Iqaluit Water Licence 3AM-IQA1626" (English/Inuktitut).



determined that a Drinking Water Management Plan would be included as a requirement for the renewal of the City's Type "A" Water Licence in 2026, as stated below, and CIRNA considered this comment resolved in respect of the Application. As confirmed during the Public Hearing, CIRNA expects that the City of Iqaluit will provide updated information when it comes time to renew the Licence.

...we would like to remind the Board and the City of the commitment to implement a drinking water plan with the renewal of the Water Licence come 2026...<sup>15</sup>

#### Updates to the Spill Contingency Plan

During the technical review of the application, CIRNA requested that the Applicant provide details regarding:

- how much fuel will be transported to site daily;
- the method of transportation;
- any mitigation measures which will be followed to handle fuel and prevent spills during transportation; and
- the provision of an updated Spill Contingency Plan to include the current contact information for CIRNA's Manager of Field Operations and the Material Safety Data Sheets (MSDS) for substances to be stored on site.

Following the technical review stage of the NWB's consideration of the Application, the City updated their spill plans accordingly, and CIRNA indicated that they consider this issue to be resolved.<sup>16</sup>

#### Monitoring and Reporting of Water Levels and Water Withdrawal

Throughout the technical review of the Application, CIRNA recommended that the City uphold their plans to install water level monitoring stations, carry out pre-pumping surveys, monitor water level and water withdrawal, and report the findings in its Annual Reports each year. The City agreed to continue monitoring and reporting water levels and water withdrawals, and to report the findings in the Annual Reports. Consequently, CIRNA considered this issue to be resolved.<sup>17</sup>

#### Future Plans for Researching Alternative Water Sources

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<sup>15</sup> B. Campbell, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 92, lines 4-7.

<sup>16</sup> Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626; Crown-Indigenous Relations and Northern Affairs Canada; Final Submission to the Nunavut Water Board; July 15, 2019.

<sup>17</sup> Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626; Crown-Indigenous Relations and Northern Affairs Canada; Final Submission to the Nunavut Water Board; July 15, 2019.



During the review of the Application, the City noted that, in the short-term, they proposed to address the water shortage situation in the Lake Geraldine Reservoir in the following ways:

- supplemental pumping from an alternate water source;
- water loss control; and
- Water Efficiency/Water Conservation program for the City of Iqaluit.

CIRNA requested further details on the City's strategies to complete these studies and also details regarding how the City will determine potential long term water sources. CIRNA also recommended the proposed studies be completed within the term of the amended licence (i.e. by 2026). As such, CIRNA considered this issue resolved in the context of this Application.<sup>18</sup>

At the Public Hearing, CIRNA indicated that they had no objection to the Applicant's request that the amended water use continue for the remainder of the term of the Licence to 2026, provided that the City identifies other alternatives for supplemental water sources prior to the renewal of the Type "A" Water Licence in 2026.<sup>19</sup> CIRNA also indicated that this additional information regarding water sources providing a longer term solution to meeting the City's water needs should include an analysis of the challenges and benefits to each alternative. As described by CIRNA at the Public Hearing the additional information provided should address:

...what are the challenges with those sources so that if you have any options that maybe you're looking at is not viable, it becomes clear...<sup>20</sup>

#### Reporting Erosion and Sedimentation Control Measures

During the Information Request (IR) stage of the Application review, CIRNA requested that the City provide the sedimentation and erosion control report referenced in the Sedimentation and Control Plan to CIRNA for review. This report provides daily records of implementation of erosion and sedimentation control measures from the 2018 pumping season authorized under Emergency Amendment No. 1, and includes information regarding the performance of silt curtains and days

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<sup>18</sup> Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626; Crown-Indigenous Relations and Northern Affairs Canada; Final Submission to the Nunavut Water Board; July 15, 2019.

<sup>19</sup> G. Okonkwo, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 44, lines 20-22.

<sup>20</sup> G. Okonkwo, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 88, lines 20-22.



of in-water works. The City made these reports available and CIRNA then considered this issue resolved.<sup>21</sup>

### Development of a Contingency Plan

During the application process, the City withdrew its Fish and Fish Habitat Monitoring Plan; a contingency plan that identifies the City's response to a situation in which the City's demand for water from the Niaqunguk River (Apex River) cannot be supplied by the available flow while maintaining a pumping rate that is within the Department of Fisheries and Oceans (DFO) *Science Advisory Report 2013/017, Framework for Assessing the Ecological Flow Requirements to Support Fisheries in Canada*<sup>22</sup> (10% instantaneous flow and 30% mean annual discharge). At the Pre-Hearing Conference, the City made a commitment to provide a contingency plan to account for when water levels in the Niaqunguk River (Apex River) may be too low for the City to maintain the flows required under the DFO *Recommended Flow Requirements*. A contingency plan addressing CIRNA's concern was not provided prior to, or at the Public Hearing.

At the Public Hearing, CIRNA stated that:

...we are requesting a contingency plan in either a stand-alone document or as an addendum to a current plan in a written format that includes the option for action that have been presented in the visual and oral presentations today and that we are comfortable with the option that was proposed to work with department of Fisheries and Oceans to exceed the guidelines [DFO *Recommended Flow Requirements*] with their guidance and that they are comfortable with the options proposed to use water from an alternate sources, not as part of the scope of this licence, but as a commitment in this licence to include those options in the next amendment of this licence...<sup>23</sup>

CIRNA considered this issue outstanding entering into the Public Hearing and indicated they would like to see a written contingency plan submitted with the 2026 renewal application. As stated at the Public Hearing, CIRNA was requesting:

...something that is formal and written and states concisely what the approach would be to react to the situation in

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<sup>21</sup> Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626; Crown-Indigenous Relations and Northern Affairs Canada; Final Submission to the Nunavut Water Board; July 15, 2019.

<sup>22</sup> (DFO, 2013) [http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013\\_017-eng.html](http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013_017-eng.html) (last accessed on August 30, 2019) (DFO *Recommended Flow Requirements*).

<sup>23</sup> B. Campbell, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 92, lines 7-19.



which possibly the Apex River cannot supply the requested amount of water.<sup>24</sup>

In addition, in their final written submission, CIRNA recommended that the Water Balance Model for the Lake Geraldine Reservoir be updated yearly with new data, noting that a longer timeframe to collect data will help to improve the model.<sup>25</sup>

In conclusion, CIRNA wanted to see the drinking water plan implemented by the renewal of the Licence in 2026, and the contingency plan included as a condition in the Licence, and in their closing statement indicated that they:

would like to remind the board and the City of the commitment to implement a drinking water plan with the renewal of the water licence come 2026 and remind that we are requesting a contingency plan in either a standalone document or as an addendum to a current plan in a written format that includes the options for action that have been presented in the visual and oral presentations today.<sup>26</sup>

### Increase in Total Water Use

CIRNA indicated that they had no objection to the Applicant's request for increase to the total water use from the Lake Geraldine Reservoir, provided that the City consider alternatives for alternate supplemental water sources that may be used sustainably in the longer term and provide this information in advance of the renewal of the Type "A" Water Licence in 2026.<sup>27</sup>

### Management Plans

Finally, CIRNA commented on a number of necessary updates to the Spill Contingency Plan and requested the submission of an updated Spill Contingency Plan be provided with the 2026 Licence renewal.

### **Fisheries and Oceans Canada (DFO)**

Fisheries and Oceans Canada (DFO-FPP or DFO) is responsible for the administration of the *Fisheries Act*,<sup>28</sup> and some aspects of the *Species at Risk Act*.<sup>29</sup>

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<sup>24</sup> B. Campbell, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 87, lines 10-13.

<sup>25</sup> Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626; Crown-Indigenous Relations and Northern Affairs Canada; Final Submission to the Nunavut Water Board; July 15, 2019.

<sup>26</sup> B. Campbell, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 101, lines 5-12.

<sup>27</sup> G. Okonkwo, CIRNA, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 44, lines 20-22.

<sup>28</sup> R.S.C. 1985, c. F-14.

<sup>29</sup> S.C. 2002, c. 49.



Under the *Fisheries Act*, DFO is responsible for the management, protection and conservation of fish (which include marine mammals as defined by the *Fisheries Act*) and their habitats to maintain the sustainability and ongoing productivity of Canada's fish-bearing waters. The Minister of Fisheries, Oceans and the Canadian Coast Guard is one of the competent ministers under the *Species at Risk Act*.

The Fisheries Protection Program (FPP or The Program) of Fisheries and Oceans Canada (DFO-FPP or DFO) is responsible on behalf of the Department for regulatory review of proposed activities occurring in or near Canadian fisheries waters.

DFO did not provide comments during the technical review component of the Board's consideration of the Application and did not attend the NWB's Technical Meeting and Pre-Hearing Conference for the Application held in May 2019. In the NWB's Pre-hearing Conference Decision, the Board identified that, based on DFO's prior comment submissions:

- to the NWB during the Board's consideration of the 2018 Emergency Amendment No. 1; and
- to the Nunavut Impact Review Board (NIRB) during the NIRB's screening level assessment of the Application;

DFO was identified as a party whose technical expertise would be beneficial to the Board's consideration of the Application at the Public Hearing.<sup>30</sup> Although not participating as a formal intervener, DFO did attend the in-person Public Hearing and site visit to provide technical expertise and advice regarding the preservation of fish and fish habitat in the lower reaches of the Niaqunguk River (Apex River).

At the Public Hearing, DFO requested clarification on the volume required to supplement the Lake Geraldine Reservoir and the ability of the Niaqunguk River (Apex River) to supply the needed water in future.<sup>31</sup> In response, the Applicant clarified that in a situation like 2019, when water levels in the Lake Geraldine Reservoir and the Niaqunguk River (Apex River) are at historic lows, if the City could increase the pumping rate earlier in the season (June) when freshet and high flows occur, the City is hopeful that the volumes necessary to fully replenish the Lake Geraldine Reservoir could be provided by the River.<sup>32</sup>

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<sup>30</sup> NWB, Type "A" Water Licence 3AM-IQA1626; Pre-Hearing Conference Decision Regarding an Application to Amend Water Licence No. 3AM-IQA1626; June 3, 2019

<sup>31</sup> N. Fisher, DFO, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 59; lines 10-16.

<sup>32</sup> M. Hamp, City of Iqaluit; NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 34, lines 21-26.



Of particular importance to the Applicant and the Board, DFO emphasized that if in future the City encounters circumstances that dictate the City must withdraw water from the Niaqunguk River (Apex River) in excess of DFO's *Recommended Flow Requirements*<sup>33</sup> (i.e. withdrawals that would exceed the 30 percent mean annual discharge and 10 percent of the instantaneous discharge of the River) DFO is open to working with the City to achieve site specific water use objectives applicable to periods of withdrawal from the River that exceed DFO's *Recommended Flow Requirements*, but that would still be protective of fish and fish habitat.<sup>34</sup> The flexibility for the City to, in consultation with DFO, exceed their normal pumping rates, provides the City with a contingency measure that may, in future, prevent the City from having to seek another amendment on an emergency basis.

At the Public Hearing, DFO also indicated that for short term single season approvals of pumping exceeding the DFO *Recommended Flow Requirements* they do not expect negative effects. DFO stated that:

...given the -- our analysis from the previous year [2018], we did not feel that for a one-year period of time, that that would have an effect on fish and fish habitat and that we would provide, simply, a letter of advice at that point.<sup>35</sup>

As such, DFO agreed with including flexibility in the amended Licence with respect to allowing the City to apply for a DFO authorization if needed to potentially pump volumes that would exceed the thresholds in the DFO's *Recommended Flow Requirements* of 10% of instantaneous flow and/or 30% of the River's mean annual discharge.<sup>36</sup>

### **City of Iqaluit (the Applicant or the City)**

Following the Technical Meeting/Pre-Hearing Conference (TM/PHC), the Applicant provided a water balance model and list of contingency measures

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<sup>33</sup> *Science Advisory Report 2013/017, Framework for Assessing the Ecological Flow Requirements to Support Fisheries in Canada* (DFO, 2013) [http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013\\_017-eng.html](http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013_017-eng.html) (last accessed on August 30, 2019) (DFO *Recommended Flow Requirements*).

<sup>34</sup> N. Fisher, DFO, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, pp. 51-52.

<sup>35</sup> N. Fisher, DFO, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 94, lines 2-6.

<sup>36</sup> N. Fisher, DFO, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, pp. 93-97.



applying to the proposed activities, satisfying the commitments made by the City of Iqaluit during the TM/PHC and outlined in the PHC Decision Report.<sup>37</sup>

In their final written submission, the Applicant responded to final comments made by intervening parties, and committed to the following:

- Water withdrawal would not, without approval from DFO as set out below, exceed 10% of instantaneous flow in the River when flows are greater than 30% of mean annual discharge;
- The City will seek approval from DFO to withdraw water at rates that exceed DFO's *Recommended Flow Requirements*<sup>38</sup> if such withdrawals can occur without causing serious harm to fish;
- Installation of a new hydrometric station upstream of the Niaqunguk River (Apex River) pumping location;
- Daily recording of flows and water withdrawal from the Niaqunguk River (Apex River);
- Providing a summary report of supplementation activities with the Water Licence Annual Report;
- Withdrawing water only during the open water season (as early as June and as late as October), as flows allow;
- Preparing a water balance model each year to quantitatively forecast the need for supplementing the Lake Geraldine Reservoir;
- Implementing the City's Spill Contingency Plan and Erosion and Sedimentation Control Plans throughout the refilling of the Lake Geraldine Reservoir to mitigate potential effects to water quality;
- Installing and maintaining water intake screens to prevent entrainment or impingement of fish in accordance with DFO's *Freshwater Intake end-of-Pipe Fish Screen Guideline (1995)*;<sup>39</sup> and
- Including Material Safety Data Sheets (MSDS) in their final Spill Contingency Plan.<sup>40</sup>

At the Public Hearing, and in the Applicant's reply to the Interveners' final written submissions, the City discussed the ability of the Niaqunguk River (Apex River) to

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<sup>37</sup> NWB, Type "A" Water Licence 3AM-IQA1626; Pre-Hearing Conference Decision Regarding an Application to Amend Water Licence No. 3AM-IQA1626; June 3, 2019.

<sup>38</sup> *Science Advisory Report 2013/017, Framework for Assessing the Ecological Flow Requirements to Support Fisheries in Canada* (DFO, 2013) [http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013\\_017-eng.html](http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013_017-eng.html) (last accessed on August 30, 2019) (DFO *Recommended Flow Requirements*).

<sup>39</sup> *Freshwater Intake End-of-Pipe Fish Screen Guideline*, (DFO, 1995), [https://www.northernhealth.ca/sites/northern\\_health/files/services/environmental-health/documents/dfo-fresh-water-intakes.pdf](https://www.northernhealth.ca/sites/northern_health/files/services/environmental-health/documents/dfo-fresh-water-intakes.pdf) (last assessed on August 30, 2019).

<sup>40</sup> A. Elgersma, City of Iqaluit; 3AM- IQA1626 City of Iqaluit 2019 Application for Water Licence Amendmet – City of Iqaluit Response to CIRNA Final Comments; July 23, 2019.



reliably provide enough water for supplementation of the Lake Geraldine Reservoir in the short and long-term, alternative water sources, and long-term plans for supplying water to Iqaluit's growing population.

During the Public Hearing, the City confirmed that in all 35 years of historical data, there was sufficient water in the Niaqunguk River (Apex River) to provide the 200,000 cubic metres needed to supplement the Lake Geraldine Reservoir in 2018. However the City noted this is not the case for the estimated 700,00 cubic metres required to supplement the Lake Geraldine Reservoir this year (2019).<sup>41</sup> However, the Applicant emphasized that commencing pumping "...beginning in June, greatly improves the confidence in being able to obtain that amount,"<sup>42</sup> and to help mitigate any future situation requiring an emergency amendment to the Licence (similar to 2018 and 2019),<sup>43</sup> "the Number one means of mitigating that type of event is to make sure that we are pumping during freshet, so when the flows are the highest."<sup>44</sup>

To address concerns regarding a longer-term solution to the City's water shortages, at the Public Hearing the City confirmed that pumping from the Niaqunguk River (Apex River) is only considered to be a "temporary" solution (until 2026), and that the City is studying options for a permanent long-term water source,<sup>45</sup> most notably the Sylvia Grinnell River and Unnamed Lake. Further, the City noted that these options required additional time to fully assess their viability as a source for supplementation. Another long-term initiative the City is investigating is updating the existing Utilidor water distribution system and developing additional water storage capacity to supplement the Lake Geraldine Reservoir.

To address concerns raised by parties regarding the protection of fish and fish habitat and to ensure that accurate measurements of the flows and water withdrawals from the Niaqunguk River (Apex River) are recorded, during the Public Hearing the City detailed how they planned to monitor withdrawals and stay within the DFO *Recommended Flow Requirements* that are protective of fish and fish habitat as follows:

There's an existing Water Survey of Canada station on the river right now downstream of the proposed pumping

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<sup>41</sup> E. Bonhhome, City of Iqaluit (Stantec), NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 50.

<sup>42</sup> E. Bonhhome, City of Iqaluit (Stantec), NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 51-52.

<sup>43</sup> D. Donald, NWB, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 58-59.

<sup>44</sup> M. Hamp, City of Iqaluit; NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 59.

<sup>45</sup> M. Hamp, City of Iqaluit; NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 28.



location, and, recently, the Water Survey of Canada installed another monitoring station upstream, and that, essentially, is an electronic meter that gives instantaneous measurements of flow in the [Niaqunguk (Apex)] river, so we can look at the flows on both sides, and we can adjust our pumping rate in real-time.<sup>46</sup>

The City closed by stating that:

We know that for the short term, Apex River is the most cost effective and most reliable source that we have at this time. The City anticipates obtaining most of the water needed within the freshet, so within the spring, with additional amounts perhaps being drawn from time to time throughout the open-water season. We know there's other options available, such as approaching DFO for permission to withdraw over the threshold amounts set in the guidelines [DFO's *Recommended Flow Requirements*].<sup>47</sup>

This additional information provided the interveners, DFO and the Board with reassurance that the City is committed to the consideration and optimization of both short-term and long-term options, and that ongoing studies will continue to be conducted to provide the information necessary to identify and maintain a reliable water supply for the City of Iqaluit beyond the 2026 term of the amendment in the Application.

### **SECTION III: SUBMISSIONS BY OTHER INTERVENING PARTIES OR MEMBERS OF THE PUBLIC**

There were no written submissions provided to the NWB by any other intervening party or members of the public. In the evening of August 8, 2019, as part of the in-person Public Hearing, the Board hosted a Community Session. Despite Public Notice of the Public Hearing being published and posted in advance of the Public Hearing in July 2019, and then being advertised in the community in the weeks prior to the Public Hearing, no members of the public attended the Public Hearing and Community Session with the exception of one CBC Reporter.<sup>48</sup> For more detail regarding attendees from the community, Appendix E provides the sign in sheets for the Public Hearing, including the Community Session. During the Public Hearing, including the Community Session, no specific questions were posed on the record, nor were any concerns raised by the members of the public.

<sup>46</sup> M. Hamp, City of Iqaluit; NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 31, lines 10-18.

<sup>47</sup> M. Hamp, City of Iqaluit; NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 103, lines 6-18.

<sup>48</sup> Jackie McKay, CBC, Appendix E, Community Session sign in sheet.



#### **SECTION IV: JURISDICTION OF THE NWB**

Under Division 2 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*<sup>49</sup> (NWNSRTA) the NWB has jurisdiction to issue a licence,<sup>50</sup> amend a licence,<sup>51</sup> or in certain circumstances, cancel a licence.<sup>52</sup> In exercising the Board's statutory functions under the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada* (Nunavut Agreement) and the statutory regime governing the Board (the NWNSRTA and the *Nunavut Waters Regulations*), the NWB must be guided by the following objects:

*... to provide for the conservation and utilization of waters in Nunavut, except in a national park, in a manner that will provide the optimum benefit from those waters for the residents of Nunavut in particular and Canadians in general.*<sup>53</sup>

In setting the terms and conditions of a licence or amending the terms and conditions of an existing licence, the NWB is guided by these objects and the NWB's statutory duty to make *all* reasonable efforts to minimize *any* adverse effects on aquatic ecosystems. Reading several of the Articles of the *Nunavut Agreement* together,<sup>54</sup> the NWB relies on the broad definition of "ecosystemic" found in Article 12, Section 12.1.1. of the *Nunavut Agreement*, requiring not only the Nunavut Impact Review Board (NIRB) but also the NWB to ensure that all components of the ecosystem, such as fish and fish habitat, are protected within the parameters of s. 71 of the NWNSRTA.

In accordance with Article 13, Section 13.3.6 of the *Nunavut Agreement* and s. 29 of the NWNSRTA,<sup>55</sup> the Board has delegated its power to dispose of all matters related to the Application to amend the Type "A" Water Licence No: 3AM-IQA1626, including the conduct of the Public Hearing, to a Panel of the Board (which is referred to as Panel P6 or the City of Iqaluit Panel).

As with any applications considered by the NWB, the burden of proof for the proposed amendment rested with the Applicant, the City of Iqaluit, to demonstrate

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<sup>49</sup> Sections 42-81 of the NWNSRTA.

<sup>50</sup> See ss. 42, 48, 55, 56, and 70 of the NWNSRTA.

<sup>51</sup> See s. 43(1)(b) of the NWNSRTA.

<sup>52</sup> See s. 43(1)(c) of the NWNSRTA.

<sup>53</sup> See s. 35 of the NWNSRTA.

<sup>54</sup> This approach is consistent with the direction provided in Article 2, section 2.9.1 of the NLCA.

<sup>55</sup> S.C. 2002, c. 10.



that the City's request for a Type "A" Water Licence amendment should be granted and that the proposed amendments to the terms and conditions of the Licence should be granted. In addition, the NWB Rules of Practice state: "[a]ny party offering evidence before the NWB shall have the burden of introducing sufficient and appropriate evidence to support its position."<sup>56</sup>

## **SECTION V: REQUIREMENTS OF THE NUNSRTA, THE NUNAVUT AGREEMENT AND NUPPAA**

### **Objects of the NWB and its Relationship to other Bodies**

As established under the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (the *Nunavut Agreement*) and Part 3 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*), prior to the NWB's consideration of the Application, the Applicant must meet the pre-licensing requirements of the Nunavut Planning Commission (land use planning) and the Nunavut Impact Review Board (impact assessment).

#### **Land Use Planning**

As noted in the previous sections of these Reasons for Decision providing the regulatory and procedural history of the Application, on **January 11, 2019**, the Nunavut Planning Commission (NPC) issued its determination (NPC File No. 149007)<sup>57</sup> for the Application that resulted in the referral of the Application to the Nunavut Impact Review Board (NIRB) to conduct a screening level assessment. The NPC referred the project to the NIRB for screening on the basis that the increase to the amount of water proposed to be withdrawn from the Lake Geraldine eater storage reservoir from 1,100,000 cubic metres to 2,000,000 cubic metres constituted a significant modification to the project as previously assessed by the NIRB under section 12.4.3 of the *Nunavut Agreement* as amended and ss. 145 and 146 of the *NuPPAA*.

#### **Impact Assessment**

Upon receiving the referral of the Application to the Nunavut Impact Review Board (NIRB), the NIRB conducted a screening level assessment of the proposed amendments, including allowing a period for public and intervenor comment. On **April 17, 2019**, the NIRB issued its Screening Decision Report<sup>58</sup> (NIRB File No.

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<sup>56</sup> Section 23.1 of the Nunavut Water Board "Rules of Practice and Procedure for Public Hearing" (May 11, 2005).

<sup>57</sup> Nunavut Planning Commission (NPC) Conformity Determination; RE: NPC File # 149007 [City of Iqaluit - Apex River Drinking Water Supply]; January 11, 2019.

<sup>58</sup> NIRB Screening Decision Report, NIRB File No.: 19WA006 (previously NIRB File No. 13UN034), April 17, 2019.



19WA006, previously NIRB File No. 13UN034) associated with the Application, stating that a further review of the project was not required in accordance with Article 12 of the *Nunavut Agreement* and s. 92(1)(a) of the *NuPPAA*. Specifically, the NIRB noted that:

Following the Nunavut Impact Review Board's (NIRB or Board) assessment of all materials provided, the NIRB is recommending that a review of City of Iqaluit's "Apex River Drinking Water Supply" is not required pursuant to Article 12, Section 12.4.4(a) of the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement) and s. 92(1)(a) of the Nunavut Planning and Project Assessment Act, S.C. 2013, c. 14, s. 2 (NuPPAA).

Subject to the Proponent's compliance with the terms and conditions as set out in below, the NIRB is of the view that the project proposal is not likely to cause significant public concerns, and it is unlikely to result in significant adverse environmental and social impacts. The NIRB therefore recommended that the responsible Minister accepts this Screening Decision Report.<sup>59</sup>

On the basis of the NPC's land use plan conformity assessment of the Application and the NIRB's screening of the Undertaking, the NWB has concluded that the conformity and environmental assessment requirements for the Application under ss. 38 and 39 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*) have been met and the Application can now be processed by the NWB.

The following NIRB Screening Decision terms and conditions are relevant to the NWB's consideration of the proposed amendments to the Water Licence, and as set out in s. 136 of the *NuPPAA* and s. 70 of the *NWNSRTA*, the NWB has considered these terms and conditions in the NWB's decision-making for the Application:

#### **Water Use**

4. The Proponent shall ensure that water extraction from any fish-bearing waterbody is done with appropriate care and caution. The Proponent shall not extract water from any fish-bearing waterbody unless the water intake hose is equipped with a screen of appropriate mesh size to ensure that there is no entrapment of fish.

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<sup>59</sup> NIRB Screening Decision Report, NIRB File No.: 19WA006 (previously NIRB File No. 13UN034), April 17, 2019 at p. 1.



5. The Proponent shall not use water, including constructing or disturbing any stream, lakebed or the banks of any definable water course unless approved by the Nunavut Water Board.

#### **Waste Disposal**

6. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent until disposed of at an approved facility. All such wastes shall be kept inaccessible to wildlife at all times.

#### **Fuel and Chemical Storage**

7. The Proponent shall store all fuel and chemicals in such a manner that they are inaccessible to wildlife.

8. Unless otherwise authorized, the Proponent shall locate all fuel and other hazardous materials a minimum of thirty-one (31) metres away from the high-water mark of any water body and in such a manner as to prevent their release into the environment.

9. The Proponent shall use adequate secondary containment or a surface liner (e.g., self-supporting installments and fold-a-tanks) when storing fuel and chemicals at all locations.

10. The Proponent shall ensure that appropriate spill response equipment and clean-up materials (e.g., shovels, pumps, barrels, drip pans, and absorbents) are readily available during any transfer of fuel or hazardous substances, at all fuel storage sites and when refueling equipment.

11. The Proponent shall remove and treat hydrocarbon contaminated soils on site or transport them to an approved disposal site for treatment.

12. The Proponent shall ensure that all personnel are properly trained in fuel and hazardous waste handling procedures, as well as spill response procedures. All spills of fuel or other deleterious materials of any amount must be reported immediately to the 24-hour Spill Line at (867) 920-8130.

#### **Ground Disturbance**

18. The Proponent shall implement suitable erosion and sediment suppression measures on disturbed areas before, during and after construction in order to prevent sediment from entering any water body.

#### **Restoration of Disturbed Areas**

19. The Proponent shall ensure that all disturbed areas are restored to a stable or pre-disturbed state as practical as possible upon completion of field work.



20. The Proponent shall complete all clean-up and restoration of the lands used prior to the end of each field season and/or upon abandonment of site.

#### **Other**

21. The Proponent should engage with local residents regarding planned activities in the area and should solicit available Inuit Qaujimaningit and information regarding current recreational and traditional usage of the project area which may inform project activities. Posting of translated public notices and direct engagement with potentially interested groups and individuals prior to undertaking project activities is strongly encouraged.

#### **Monitoring and Reporting Requirements**

##### **Spill Contingency Plan**

2. The Proponent shall update its Spill Contingency Plan to include the up to date emergency contact numbers for the Government of Nunavut-Department of Environment, Manager of Environmental Protection (867-975-7748) and Environment and Climate Change Canada, Enforcement Branch (867-975-4644).

#### **Other NIRB Concerns and Recommendations**

##### **Change in Project Scope**

1. Responsible authorities or Proponent shall notify the Nunavut Planning Commission and the NIRB of any significant changes in operating plans or conditions associated with the Project prior to any such change.

#### **Nunavut Water Board**

11. The Nunavut Water Board impose mitigation measures, conditions and monitoring requirements pursuant to the Water Licence, which require the Proponent to respect the sensitivities and importance of water in the area. These mitigation measures, conditions and monitoring requirements should address: the potential for effects associated with the use of water; spill contingency planning; abandonment and restoration planning; and monitoring programs.<sup>60</sup>

#### **The Regulation of the Additional Use of Water under the Federal *Fisheries Act* Regime**

In the summer of 2018, during the NWB's processing of Emergency Amendment No. 1 to allow pumping from the Niaqunguk River (Apex River) to supplement the Lake Geraldine Reservoir, Fisheries and Oceans Canada (DFO) indicated that as set

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<sup>60</sup> NIRB Screening Decision Report, NIRB File No.: 19UN013, April 17, 2019; pp. 16-19.



out in DFO's *Science Advisory Report 2013/017, Framework for Assessing the Ecological Flow Requirements to Support Fisheries in Canada*<sup>61</sup> withdrawals from the River should be less than 30% of the mean annual discharge and 10% of the instantaneous flow in the Niaqunguk River (Apex River) at the time of pumping to be considered low risk for environmental impacts. Consequently, DFO advised that the City of Iqaluit's withdrawals from the Niaqunguk River (Apex River) should be limited to below these 30%/10% flow thresholds to ensure that the withdrawals will not impact fish and fish habitat in the River. However, DFO indicated that if the emergency conditions meant that the City of Iqaluit would be unable to maintain these flow requirements, DFO would consider providing a form of time-limited, site specific, authorization to allow the City to pump in excess of the recommended flow requirements.

At the Public Hearing, DFO acknowledged that the information provided by the City of Iqaluit after implementing the pumping program under Emergency Amendment No. 1 indicated the following:

Just regarding your questions about the flow limits, I think it's important, for context, and the proponent can correct me if I'm wrong, but I believe they exceeded the daily or instantaneous flow in the previous year [2018] on, I think, 18 of the pumping days, and so they've done that in the past, where they've gone above that threshold, but with the monitoring and the monitoring report that was provided to us and reviewed eight months ago, it didn't appear that there was serious harm as a result of that, so that's, kind of, what's leading our thinking this time, that we have that information, that, you know, if they do it occasionally, it's not necessarily going to cause death of fish from an alteration or any serious harm definition under the current Fisheries Act.<sup>62</sup>

During the Public Hearing for the Application, during the following exchange between the Board's legal counsel and DFO it was confirmed that DFO has flexibility to authorize deviations from the *DFO Recommended Flow Requirements* in appropriate circumstances:

In what we're hearing from Fisheries and Oceans Canada, it sounds to me as though there should be more flexibility

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<sup>61</sup> *Science Advisory Report 2013/017, Framework for Assessing the Ecological Flow Requirements to Support Fisheries in Canada* (DFO, 2013) [http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013\\_017-eng.html](http://www.dfo-mpo.gc.ca/csas-sccs/Publications/SAR-AS/2013/2013_017-eng.html) (last accessed on August 30, 2019) (DFO *Recommended Flow Requirements*).

<sup>62</sup> R. Di Rocco, Fisheries and Oceans Canada, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 98, lines 9-23.



in that provision if we're talking about the longer term for this amendment where Fisheries and Oceans is given the authority -- their authority is recognized to perhaps be -- to allow for withdrawals that are below that threshold, that might exceed that threshold in terms of either the 10 percent or the 30 percent based on site-specific information, more information being given in terms of the watercourse; and correct me if I'm wrong, but I heard that CIRNAC is also -- would also find that to be acceptable if it was acceptable to Fisheries and Oceans Canada.<sup>63</sup>

And you've interpreted all the information very, very well, so I appreciate that, and, yes, [DFO] we'd be willing to consider that flexibility in order to allow the applicant to provide the information that would allow for the review and then in following year or years to complete that authorization, or just providing the advice, we would be able to -- we would have the information to make those decisions, yeah.<sup>64</sup>

DFO also advised the Board during the Public Hearing that due to pending amendments to the Fish and Fish Habitat Protection Provisions of the amended *Fisheries Act* (Bill C-68), that received Royal Assent on June 21, 2019, but that had not, at the time of the Public Hearing, come into force, DFO was not able to provide the specific details of the regulatory mechanisms (authorization/letter of advice/approval) that might be used by the Department to regulate the City's future withdrawals from the Niaqunguk River (Apex River) that could exceed the flow limits of the DFO *Recommended Flow Requirements*. However, as explained at the Public Hearing, although the precise regulatory mechanisms may change, DFO's assessment, objectives and decision-making in respect of future pumping activity that may exceed the flow limits on the River would not be changed by the pending regulatory process changes, noting that under the amendments to the *Fisheries Act* coming into force under Bill C-68, DFO:

... will be switching from what you may have heard as the serious harm to fish provision, which is Section 35, prohibition of the Fisheries Act. "Serious harm to fish" is defined, and I'll paraphrase, as death of fish and permanent alteration or the destruction of fish habitat. What has been proposed in the amended Fisheries Act is that death of fish will become its own prohibition, 34.4 of the Fisheries Act, and the harmful alteration, disruption, and destruction of fish habitat, which was in the previous version of the Act,

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<sup>63</sup> T. Meadows, NWB Legal Counsel, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, pp. 95-96, lines 24-26 and lines 1-10.

<sup>64</sup> N. Fisher, Fisheries and Oceans Canada, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 96, lines 17-24.



will be restored, and that will become the new Section 35 prohibition of the Act.

So in terms of water flow, that provision, whether we had the serious harm to fish prohibition or the two new ones, our consideration is the same. We're looking at impacts on -- still on fish and fish habitat and how to minimize those and authorize those that can't be avoided.<sup>65</sup>

After the Public Hearing, on August 28, 2019 the Fish and Fish Habitat Protection Provisions of the amended *Fisheries Act* (Bill C-68) came into force. The amendments to the way alterations to fish and fish habitat may be assessed and authorized by DFO prior to, during and after the coming into force of the amendments are outlined in detailed Guidance<sup>66</sup> provided by DFO. The NWB, recognizing that DFO indicated at the Public Hearing that notwithstanding the coming into force of these changes to the regulatory process, DFO's focus and decision-making will remain the same, the Board has included several terms and conditions under Part D of the Licence to ensure that water levels in the Niaqunguk River (Apex River) are sufficient to prevent harm to fish and/or fish habitat, and are either in compliance with the thresholds set out in the DFO *Recommended Flow Requirements* OR are otherwise considered to be acceptable by DFO.

## **SECTION VI: DECISION TO ISSUE**

On the basis of the Application, the written materials filed with the Board, and submissions of the parties provided to the Panel at the Public Hearing, the Board has decided to issue Amendment No. 4 to Type "A" Water Licence No. 3AM-IQA1626 (Amendment No. 4) subject to the terms and conditions set out below. Amendment No. 4 authorizes the City of Iqaluit to:

- use up to 500,000 cubic metres of water annually from the Niaqunguk River (Apex River) to supplement the Lake Geraldine Reservoir; and
- increase total water use from the Lake Geraldine Reservoir from the previous maximum of 1,100,000 cubic metres annually, to 2,000,000 cubic metres annually.

These activities continue to be associated with the Municipal Undertaking as defined under Schedule 1 of the *Nunavut Waters Regulations*, and the recommended amendments also contain amended terms and conditions necessary to protect the

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<sup>65</sup> N. Fisher, Fisheries and Oceans Canada, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, pp. 97-98, lines 15-26 and lines 1-6.

<sup>66</sup> See the discussion provided online by DFO of the *Guidance and Transitional Provisions of Bill C-68* <https://www.dfo-mpo.gc.ca/pnw-ppe/guidance-ligne-directrice-eng.html> (last accessed September 2, 2019).



environment, conserve freshwater resources, and provide appropriate safeguards in respect of the use of water in accordance with the Application.

In deciding to recommend the issuance of Amendment No. 4 to Type “A” Water Licence No: 3AM-IQA1626, the Board would like to remind the City of Iqaluit of the 9 to 12 month timeline associated with processing a Type “A” Water Licence amendment or renewal application. As noted by the Board during the processing of the Emergency Amendment No. 1 in 2018, this Application should have been submitted in October 2018 in order to allow the Board to follow the usual timelines for processing an amendment application. Clearly, the 3-4 month delay in the City’s provision of a complete Application on February 1, 2019, did not provide adequate time for the NWB and the Minister to complete their decision-making processes prior to the commencement of the 2019 pumping season. As a result, the processing and issuance of Amendment No. 2 and Amendment No. 3 during the summer of 2019, both on emergency bases, became necessary to ensure that the City has sufficient time to replenish the water supply in the Lake Geraldine Reservoir in advance of the winter of 2019/2020.

The NWB clearly wished to avoid this situation and emphasized the October timeline in their Reasons for Decision associated with the 2018 Emergency Amendment No. 1, in which the Board stated:

*if the City anticipates requiring additional water use to replenish the Lake Geraldine Reservoir in 2019, the City is required to submit an amendment application to authorize additional water uses to the NWB as soon as possible. This more permanent amendment would be processed in accordance with the normal Type “A” Water Licence amendment requirements for public notice, comment and a public hearing (estimated 9 months of processing time for the NWB and up to 90 days of decision-making time for the Minister thereafter).<sup>67</sup>*

The Board does, however, recognize the efforts made by the City of Iqaluit to address future water shortages and long term water use issues with the following initiatives:

- a. Assessment of the Sylvia Grinnell River as an alternate water source
- b. Assessment of Unnamed Lake as an alternate water source
- c. Updates to the existing Utilidor water distribution system to limit water losses throughout the system

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<sup>67</sup> Nunavut Water Board (NWB), NWB Water Licence Type “A” No. 3AM-IQA1626 – Amendment No. 1, Processed on an Emergency Basis; Decision, pp. 5; August 14, 2018.



- d. Pursuing options for the development of additional water storage capacity<sup>68</sup>

The Board anticipates that if the City of Iqaluit fulfills their commitment to meet the projected timeline outlined below, the NWB and interveners should have sufficient information to fully consider the issues of sustainability of alternate water supply sources during the Licence renewal process in 2025-2026:

- Data collection and concept designs, 2018-2020;
- Preliminary designs and engagement, 2020-2021;
- Detailed designs 2021-2022;
- Permitting, 2022-2023;
- Procurement and Construction, 2024-2025; and
- In service, 2026.<sup>69</sup>

The Board strongly advises the City that for future amendment (or renewal) applications, the NWB expects submission of a completed application at least 12 months prior to the proposed change (or expiry for a licence renewal application) in order to allow sufficient time for the NWB to process the application and to allow for up to 90 days for the Minister to consider the NWB's recommended disposition of the application, and if applicable, terms and conditions in a renewed/amended licence.

### **Conditions for Issuance of the Amendment to the Licence**

Section 57 of the *NWNSRTA* provides several key legislative requirements that must be satisfied before the NWB may issue a licence or amendment to a licence.

### **Compensation of Existing or Other Users**

The *NWNSRTA* requires that the NWB be satisfied that compensation of existing or other water users affected by the Application has been or will be paid.<sup>70</sup> To ensure that all parties with the potential to bring a water compensation claim have been notified of their rights under the *NWNSRTA*, the NWB provided, in the Notice of Application, an invitation to parties with water user compensation issues to advise

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<sup>68</sup> City of Iqaluit, Exhibit 1, NWB Public Hearing Licence No. 3AM-IQA1626, "Apex River Water Supply 2019-2026, August 2019", hard copy of a PowerPoint Presentation, (English and Inuktitut) filed on August 8, 2019.

<sup>69</sup> City of Iqaluit, Exhibit 1, NWB Public Hearing Licence No. 3AM-IQA1626, "Apex River Water Supply 2019-2026, August 2019", hard copy of a PowerPoint Presentation, (English and Inuktitut) filed on August 8, 2019.

<sup>70</sup> See ss. 58-60 of the *NWNSRTA*.



the NWB regarding such issues. The Notice of the Application was issued by the Board on April 15, 2019, and in the Notice of Public Hearing, published by the Board on July 3, 2019, anyone having a water user compensation claim was advised to inform the Board of their interests in accordance with s. 55 of the *NWNSRTA*. The NWB confirms that no representations regarding a claim of compensation were made to the NWB in respect of this Application.

### **Issuance of an Amended Licence**

As stated above and pursuant to s. 42(1) of the *NWNSRTA*, the NWB has decided to issue Water Licence 3AM-IQA1626 Amendment No. 4, subject to the terms and conditions set out in these Reasons for Decision and the attached Licence Amendment. In issuing the Licence Amendment, the NWB is satisfied that the Application contained the required information and is in the proper form having regard to the requirements of the *NWNSRTA*<sup>71</sup> and associated Regulations.<sup>72</sup> The amendments to the Licence do not take effect until the Minister has approved, or been deemed to approve the amendments.<sup>73</sup>

### **Application in Relation to the Licence**

Overall, the NWB is satisfied that the requirements of s. 48 of the *NWNSRTA* were met by the Applicant. The City of Iqaluit filed an Application which complied with the NWB's Rules, and was accompanied by the fees required by regulation, including the application fee. Further, the City has also provided the necessary application and supplementary information required to evaluate whether an amendment to the Licence should be granted and also to assess whether the amendments to the Licence requested by the Applicant are reasonable and consistent with the objects of the Board as established under the *Nunavut Agreement* and the *NWNSRTA*.

### **Application to Amend or Application for Future Modifications**

In relation to future applications to undertake significant modifications to the activities included within the scope of the Type "A" Water Licence 3AM-IQA1626, the NWB reminds the City of Iqaluit that it must comply with all requirements of the *Nunavut Agreement*,<sup>74</sup> the *NuPPAA*,<sup>75</sup> and the *NWNSRTA*.<sup>76</sup> In particular, the

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<sup>71</sup> See s. 48 of the *NWNSRTA*.

<sup>72</sup> *Nunavut Waters Regulations*, SOR/2013-69.

<sup>73</sup> As set out under s. 56 of the *NWNSRTA*.

<sup>74</sup> See Article 12, Clause 12.4.3 (b) of the *Nunavut Agreement*.

<sup>75</sup> *Nunavut Planning and Project Assessment Act* S.C. 2013, c. 14 (*NuPPAA*).

<sup>76</sup> See s. 43 of the *NWNSRTA*.



Board notes that the scope of the authorized water use is as provided by the City in the Application and as set out in Part A of the attached Licence, and any requested changes to that scope may require an amendment to the Licence. In addition, any significant modifications to the undertaking are required to be submitted to the Nunavut Planning Commission (NPC) and may subsequently be referred to the Nunavut Impact Review Board (NIRB) prior to the NWB's consideration of any associated amendment to the Licence.

### **Cancellation or Expiry of the Licence**

As identified above, the NWB reminds the City that the provisions of s. 46 of the *NWNSRTA* states: “[t]he expiry or cancellation of a licence does not relieve the holder from any obligations imposed by the licence.”

The Applicant is also reminded that pursuant to the NWB's authority under s. 43(1)(c)(iii) of the *NWNSRTA*, the NWB may, on application by a licensee, or on its own motion, cancel a licence at any time that the NWB considers the cancellation to be in the public interest.

### **Term of Licence**

Under s. 45 of the *NWNSRTA* the NWB is required to ensure that the term of a licence shall not exceed the longer of twenty-five years or the “anticipated duration” of the undertaking. The Applicant requested that Amendment No. 4 apply for the duration of the Licence commencing in 2019 and ending in 2026. The Applicant noted that this would allow time for the investigation and implementation of an additional long-term water source.

## **SECTION VII: WATER LICENCE 3AM-IQA1626 AMENDED TERMS AND CONDITIONS**

As noted above, the amendments to the Licence issued by the Board as Amendment No. 4 do not take effect until approval of the Minister is given or deemed to have been given pursuant to s. 56 of the *NWNSRTA*.<sup>77</sup> As indicated in Section VI, the Panel has decided to issue the amendment to the Licence, subject to the amended terms and conditions contained herein.

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<sup>77</sup> Section 56 of the *NWNSRTA* states:

*The issuance, amendment, renewal and cancellation of a type A licence, and if a public hearing is held, a Type B licence are subject to the approval of the Minister.*

Under s. 56(2.2) if the Minister does not issue a decision within 45 days of receiving the amended Licence from the Board, (or within 90 days if the Minister has extended the decision-making period by an additional 45 days) the Minister is deemed to have approved the amendments to the Licence.



To provide context and clarity, the NWB has provided the discussion and comments about the Board's amendments to specific terms and conditions that follow.

## **Part A: Scope, Definitions and Enforcement**

### **Scope**

Amendment No. 4 adds to the scope of activities, works, and undertakings included under the Licence to include the following additional water uses:

- a. the use of up to 500,000 cubic metres of water annually from the Niaqunguk River (Apex River) to supplement Water levels in the Lake Geraldine Reservoir; and
- b. an increase in the total amount of water used from Lake Geraldine Reservoir, from 1,100,000 cubic metres annually to 2,000,000 cubic metres annually.

### **Definitions**

A definition was added to the list of definitions to address the supplementary pumping program activities specifically outlined in Amendment No. 4.

## **Part B: Amendment to Conditions Applying to the Use of Waters and Water Management Plans**

The NWB has amended Part D of the Licence to authorize the withdrawal of up to 500,000 cubic metres of water annually from the Niaqunguk River (Apex River) to supplement the Lake Geraldine Reservoir, and to increase the maximum allowable annual water volume withdrawn from the Lake Geraldine Reservoir from 1,100,000 cubic metres annually to 2,000,000 cubic metres. As indicated by the City in the Application and throughout the NWB's processing of the Application, this additional water use should be sufficient to ensure the City can meet the water supply needs of the residents of Iqaluit, while maintaining a sufficient volume for contingency.

To ensure that the amount of additional water use authorized under Amendment No. 4 to the Licence does not negatively impact freshwater resources and aquatic ecosystems in general, and fish and fish habitat specifically, the Board has included several terms and conditions under Part D of the Licence to ensure that water levels in the Niaqunguk River (Apex River) are sufficient to prevent harm to fish and/or fish habitat, and are considered acceptable by DFO. More specifically, there are



amendments to the terms and conditions in Part D that prescribe that unless otherwise authorized by DFO, the Licensee's withdrawals on the Niaqunguk River (Apex River) shall not exceed ten per cent (10%) of instantaneous flow in the River and require that the City shall cease all water withdrawal when the instantaneous flow in the river is below thirty per cent (30%) of the mean annual discharge. Finally, in keeping with DFO's recommendations, the Board has retained requirements in the Licence for the use of DFO-compliant fish screens during pumping.

Under the amendments to Part D, the City will also be required to annually update the Lake Geraldine Water Balance Model using the most up to date information available.

### **Part C: Conditions Applying to Construction**

The Scope of Amendment No. 4 includes the construction, operation, and removal of temporary facilities for the Supplementary Pumping Program. In addition, with the approval of Amendment No. 4, the Board will also approve the specific *Apex River Water Withdrawal: Erosion and Sedimentation Control Plan*," Dated December 21, 2018.

### **Part H: Conditions Applying to Spill Contingency Planning**

As part of the Application, the Licensee submitted a spill contingency plan specific to the Supplemental Pumping Program. The Board has reviewed and approved the Plan entitled "*Apex River Water Withdrawal: Site Specific Spill Contingency Plan*," Dated December 21, 2018 upon the issuance of Amendment No. 4.

### **Part I: Conditions Applying to Monitoring**

During the course of the technical review and Public Hearing associated with the Application, and based on previous discussions associated with the Board's processing of Emergency Amendment No. 1, issued on August 14, 2018, and in cooperation with Water Survey of Canada, the City has agreed to monitor river discharge above and below the intake point on the Niaqunguk River (Apex River), to ensure water levels remain protective of fish and fish habitat. In addition, the City will directly measure the volume of water uptake from the Niaqunguk River (Apex River) at station ID IQA-10.

...there's one station that was installed by Water Survey of Canada  
35-ish years ago downstream of the pumping location, and just this



year, they installed another one just upstream of the pumping location.<sup>78</sup>

The Board has amended the Monitoring Program prescribed under Part I and described in detail under Schedule I of the Licence to reflect these additional monitoring commitments.

### **Schedules A, B and I**

Schedules A, B, and I have been updated to reflect the additional activities and water uses authorized under Amendment No. 4, and to provide additional context, details and guidance with respect to the specific requirements of Parts A, B and I as amended.

#### **Schedule A**

Amendment No. 4 to the Licence provides the additional definition to “The Supplemental Pumping Program” to refer to supplementation of the Lake Geraldine Reservoir with water from the Niaqunguk River (Apex River). The function of this Schedule addition is to support consistent interpretation and application of this program for the remainder of the Licence term.

#### **Schedule B**

Schedule B applies to general and specific annual reporting requirements for the undertaking.

The requirements under Schedule B, which are linked to Part B, Item 1 of the Licence, stipulates that the annual report, will include details on the use of water and the deposit of waste activities associated with the Supplemental Pumping Program, noting the inclusion of any monitoring prescribed by DFO, and importantly, a brief analysis and interpretation of the results. The annual report must be submitted to the Board for review prior to the 31<sup>st</sup> of March, annually. The Board provides public access to the information provided in Annual Reports submitted under Licences through its ftp site as well as upon requests from interested parties.

#### **Schedule I**

As noted above, this Schedule is linked to Part I of the Licence and the Conditions Applying to Monitoring. This amendment to the Licence includes updates to Schedule I, to include one active monitoring site for water volume uptake from the Niaqunguk River (Apex River), and the three inactive monitoring sites from the

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<sup>78</sup> M. Hamp, City of Iqaluit, NWB Public Hearing, File No. 3AM-IQA1626, Transcript, August 8, 2019, Volume 1, p. 43, lines 23-26, p. 44, line 1.



2018 Amendment No. 1 that do not require active monitoring under the scope of the Application and Amendment No. 4.

## **Management Plans, Manuals and Reports**

Throughout the review of the Application, Interveners, the Board, and the Applicant have considered and commented, to various extents, on the following management plans, which were received with the Application:

1. Spill Contingency Plan;
2. Erosion and Sedimentation Control Plan; and
3. Lake Geraldine Water Balance Model.

The Licensee should be aware that the Board may alter or modify a plan for the purpose of achieving legislative objectives, and that the plans approved by the Board are considered a part of the Licence.

### **Spill Contingency Plan**

As noted in the discussion of amendments to Part H, the Spill Contingency Plan entitled “*Apex River Water Withdrawal: Site Specific Spill Contingency Plan*,” Dated December 21, 2018, is approved by the Board with the issuance of Amendment No. 4 to the Licence. During the review of the Application, the City updated the spill contingency plan to include up-to-date contact information of parties, and MSDS sheets for all harmful substances used on site, in accordance with CIRNA technical review comments.<sup>79</sup>

### **Erosion and Sedimentation Control Plan**

As noted in the discussion of amendments to Part F, the Plan entitled “*Apex River Water Withdrawal: Erosion and Sedimentation Control Plan*,” Dated December 21, 2018, is approved by the Board with the issuance of this Licence.

### **Lake Geraldine Water Balance Model**

As highlighted under the discussion of the amendments to Part D, the City is required to annually update the Lake Geraldine Water Balance Model using the most up to date information available.

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<sup>79</sup> Crown-Indigenous Relations and Northern Affairs Canada (CIRNA) Technical Review Comments on City of Iqaluit Application to Amend Water Licence No. 3AM-IQA1626 for Supplementary Water Supply; May 6, 2019.



## **APPENDIX A - Agendas for Public Hearing and Community Session**

### **AGENDA**

#### **PUBLIC HEARING**

TYPE "A" LICENCE NO. 3AM-IQA1626, AMENDMENT APPLICATION

August 8, 2019, 9:00 a.m. – 5:00 p.m., EST, Nunavut Wildlife Management  
Board Office Building

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1. Opening Prayer
2. Opening Remarks by the Chairperson, which shall include the purpose of the Hearing and the scope of matters which will be considered by the Board
3. Introduction of the Board Members and staff
4. Identification and introduction of the Parties
5. Introduction of the Elders and their role in the Hearing
6. Introduction and identification of the persons, associations, agencies, etc., who have not submitted interventions but who have expressed a desire to speak at the Hearing
7. Identification of any Motions or any objections
8. Presentation by the Applicant
9. Questioning of the Applicant by Parties respecting the Applicant's presentation
10. Questioning by the Board staff and Panel Members
11. Presentation by Interveners
12. Questioning of Interveners by Parties
13. Questioning by the Board staff and Panel Members
14. Presentation by any other persons, associations, agencies, etc. who have advised the Chairperson that they wish to speak
15. Questioning of other persons, associations, agencies, etc. by Parties

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16. Questions by the Board staff and Panel Members
17. Upon completion of presentations by all Parties, the Board will give the Applicant the opportunity to reply. Then all Parties will have the opportunity to make final closing statements taking into account matters raised at the Hearing
18. Closing remarks by the Chairperson; and
19. Closing Prayer



## COMMUNITY SESSION

TYPE “A” LICENCE NO. 3AM-IQA1626, AMENDMENT APPLICATION

August 8, 2019, 7:00 p.m. – 10:00 p.m., EST, Nunavut Wildlife Management Board, Office Building

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1. Opening Prayer
2. Opening Remarks by the Chair
3. Introductions of the Board Members and Staff
4. Purpose and Scope of the Evening Session
5. Presentation by the Nunavut Water Board (NWB) – Type “A” water licensing process for the Application (15 minutes)
6. Questions and/or comments from community members and other participants
7. Presentation by the City of Iqaluit on the Application before the Board for Amendment to the Type “A” Water Licence 3AM-IQA1626 (20 Minutes)
8. Question and/or comments from community members and other participants
9. Presentation from each intervening party pertaining to its mandate and role(s) in the water licensing process as well as an overview of their findings during their technical review (15 Minutes/Intervener).
10. Questions and/or comments from community members and other participants
11. Closing Remarks
12. Closing Prayer



## **APPENDIX B - Exhibit List**

<b>Exhibit</b>	<b>Exhibit Description</b>	<b>Date</b>	<b>From</b>
1	Hard Copy PowerPoint Presentation Apex River Water Supply 2019-2026 Niaqunguutiup Kuunganik Imiqtarniq 2019-2026  (English and Inuktitut)	August 8, 2019	City of Iqaluit
2	Hard Copy Executive Summary of the Intervention of Crown-Indigenous Relations and Northern Affairs Canada (CIRNA)  (English)	August 8, 2019	Crown-Indigenous Relations and Northern Affairs Canada
3	Hard Copy Executive Summary of the Intervention of Crown-Indigenous Relations and Northern Affairs Canada (CIRNA)  (Inuktitut)	August 8, 2019	Crown-Indigenous Relations and Northern Affairs Canada
4	Hard Copy Executive Summary of the Intervention of Crown-Indigenous Relations and Northern Affairs Canada (CIRNA)  (French)	August 8, 2019	Crown-Indigenous Relations and Northern Affairs Canada
5	Hard Copy PowerPoint Presentation Amendment Application for the City of Iqaluit Water Licence 3AM-IQA1626  (English/Inuktitut)	August 8, 2019	Crown-Indigenous Relations and Northern Affairs Canada
6	Hard Copy PowerPoint Presentation Nunavut Water Board (NWB) Community Session Presentation  Type “A” Water Licence 3AM-IQA1626 City Of Iqaluit (English/Inuktitut)	August 8, 2019	Nunavut Water Board





## **APPENDIX D - List of Submissions and Correspondence**

### **Application:**

1. Cover letter and initial submission of amendment application for water licence 3AM-IQA1626 by City of Iqaluit, The City is seeking approval to pump water from the Apex River to the Lake Geraldine Reservoir in future years, as needed, until a permanent solution to address the City's water deficit is implemented, dated **January 30, 2019**.

### **Initial Submission & Correspondence:**

2. Submitted **February 1, 2019**, by Nunami on behalf of City of Iqaluit, RE: 3AM-IQA1626 Application for Amendment – Supporting Submission, Revision 1, dated **February 1, 2019**.
3. Letter to Jaida Ohokannoak, Nunavut Impact Review Board (NIRB), Derek Donald, Nunavut Water Board (NWB), RE: Reference: 3AM-IQA1626 City of Iqaluit 2019 Application for Water Licence Amendment, from, City of Iqaluit, dated **February 4, 2019**.
4. Submitted **February 12, 2019**, by Nunami on behalf of City of Iqaluit, RE: Compliance Assessment Table (e-mail).
5. Submitted **February 12, 2019**, by Nunami on behalf of City of Iqaluit, RE: APEX RIVER WATER WITHDRAWAL: SITE-SPECIFIC SPILL CONTINGENCY PLAN, dated February 8, 2019.
6. Letter to Amy Elgersma, City of Iqaluit, RE: Acknowledgement and Receipt of Application Fee – City of Iqaluit Amendment Application, from Richard Dwyer, NWB, dated **February 13, 2019**.
7. Letter to Matthew Hamp, City of Iqaluit, Erica Bonhomme, Nunami, RE: Application for Type 'A' Water Licence Amendment, File No. 3AM-IQA1626, City of Iqaluit, dated **February 13, 2019**.
8. Cover E-mail to: Matthew Hamp, City of Iqaluit, Erica Bonhomme, Nunami, & City of Iqaluit Distribution List, RE: 3AM-IQA1626, Application for Type 'A' Water Licence Amendment, from Richard Dwyer, NWB, dated **February 13, 2019**.
9. Submitted **March 22, 2019** by City of Iqaluit, RE: 3AM-IQA1626 City of Iqaluit 2019 Application for Water Licence Amendment – Response to Information Requests (R-01) March 7, 2019, dated March 22, 2019.



10. Cover E-mail to: Matthew Hamp, Amy Elgersma, City of Iqaluit, Josip Derjona, Colliers, RE: 3AM-IQA1626 Amendment (City to respond to CIRNAC comment), from Richard Dwyer, NWB, dated **April 1, 2019**.
11. Cover E-mail to: Bridget Campbell, Ian Parsons, Magaret Mike, CIRNAC, RE: 3AM-IQA1626 Amendment Application City of Iqaluit Response to CIRNAC comments, from Richard Dwyer, NWB, **April 9, 2019**.
12. Letter to Matthew Hamp, City of Iqaluit, Erica Bonhomme, Nunami, RE: Type 'A' Water Licence 3AM-IQA1626; Application for Amendment; City of Iqaluit Municipal Water Licence, from Stephanie Autut, NWB, dated **April 15, 2019**.
13. Cover E-mail to: Matthew Hamp, Amy Elgersma, City of Iqaluit, RE: 3AM-IQA1626 City of Iqaluit water licence amendment application Technical Review (City to respond to comments), from Richard Dwyer, NWB, dated **May 6, 2019**.
14. Letter to Matthew Hamp, City of Iqaluit, RE: Type "A" Water Licence 3AM-IQA1626; Application for Amendment; City of Iqaluit Municipal Water Licence; Technical Meeting and Pre-Hearing Conference Draft Agenda, from Stephanie Autut, NWB, dated **May 16, 2019**.
15. Submitted **May 21, 2019**, by the City of Iqaluit, RE: Apex River Water Supply 2019-2026 (Presentation).
16. Submitted **May 21, 2019**, by CIRNAC, RE: EXECUTIVE SUMMARY Apex Resupply.
17. Submitted **May 21, 2019**, by CIRNAC, RE: Water Licence Amendment Application for the City of Iqaluit for 3AM-IQA1626 Nunavut Water Board Public Hearing Teleconference, May 28-29, 2019 (Presentation).
18. Cover E-mail To: Derek Donald, NWB, RE: Iqaluit TM Attendees (CIRNAC), from Bridget Campbell, CIRNAC, dated **May 22, 2019**.
19. Cover E-mail To: Richard Dwyer, NWB, RE: 3AM-IQA1626 Technical Meeting & Pre-hearing Teleconference (City of Iqaluit Attendees), dated **May 22, 2019**.
20. Letter to Matthew Hamp, City of Iqaluit, RE: Type "A" Water Licence 3AM-IQA1626 Amendment Application, City of Iqaluit Municipal Water Licence; Technical Meeting and Pre-Hearing Conference Final Agenda, from Richard Dwyer, NWB, dated **May 23, 2019**.
21. Cover E-mail To: Matthew, Hamp, Amy Elgersma, Josip Deronja, City of Iqaluit, Distribution List City of Iqaluit, RE: 3AM-IQA1626 Final Agenda Technical



Meeting & Pre-Hearing Conference City of Iqaluit Water Licence Amendment Application, from Richard Dwyer, NWB, dated **May 23, 2019**.

22. Submitted **May 27, 2019**, by the City of Iqaluit, RE: Apex River Water Supply 2019-2026 (Presentation).
23. Cover E-mail To: Richard Dwyer, NWB, RE: City of Iqaluit Water Licence Amendment Application (Commitments Summary), from Matthew Hamp, City of Iqaluit, dated **May 27, 2019**.
24. Submitted **May 27, 2019**, by the City of Iqaluit RE: Government of Nunavut Department of Health Letter (May 24, 2019), Chief Medical Officer of Health Direction: City of Iqaluit compliance with Public Water Supply Regulations – seeking supplemental source water approval – in response May 10, 2019.
25. Submitted **May 27, 2019** by NWB and City of Iqaluit, Technical Meeting and Pre-hearing Conference Registration Form.
26. Submitted **May 30, 2019**, by CIRNAC, RE: INUKTITUT EXECUTIVE SUMMARY Apex Resupply
27. Submitted **May 30, 2019**, by CIRNAC, RE: Water Licence Amendment Application for the City of Iqaluit for 3AM-IQA1626 Nunavut Water Board Public Hearing Teleconference, May 28-29, 2019 (Inuktitut Presentation)
28. Letter to Iqaluit Distribution List, RE: Type “A” Water Licence 3AM-IQA1626; Pre-Hearing Conference Decision Regarding an Application to Amend Water Licence No. 3AM-IQA1626, from Stephanie Autut, NWB, dated **June 3, 2019**.
29. Cover E-mail To: Matthew, Hamp, Amy Elgersma, Josip Deronja, City of Iqaluit, Distribution List City of Iqaluit, RE: 3AM-IQA1626 Pre-Hearing Conference Decision, from Richard Dwyer, NWB, dated **June 3, 2019**.
30. Cover E-mail To: Licensing Department, Derek Donald, NWB, RE: Iqaluit 3AM-IQA1626 - Water Licence Amendment - LG Water Model Report, Submission Extension, from Josip Deronja, City of Iqaluit, dated **July 3, 2019**.
31. Cover E-mail To: Matthew Hamp, Amy Elgersma, Josip Deronja, City of Iqaluit, NWB City of Iqaluit E-mail Distribution list, RE: extension to submit the Lake Geraldine water balance model report and contingency plan memorandum, from Richard Dwyer, NWB, dated **July 3, 2019**.
32. Submitted **July 10, 2019**, by City of Iqaluit, RE: Supplementary Lake Geraldine Water Balance Modeling.



33. Submitted **July 15, 2019**, by CIRNA, RE: Final Submission for the Amendment Application of the City of Iqaluit Water Licence 3AM-IQA1626.
34. Cover E-mail To: Richard Dwyer, Derek Donald, NWB, RE: City of Iqaluit, to extend the deadline to provide final written comments on application, from Erica Bonhomme, City of Iqaluit, dated **July 22, 2019**.
35. Cover E-mail To: Amy Elgersma, Matthew Hamp, Madeleine Redfern , Romeyn Stevenson, Erica Bonhomme, Josip Deronja, Gregory Hawke, City of Iqaluit, NWB City of Iqaluit E-mail Distribution List, RE: The City of Iqaluit has requested an extension,copy attached, to submit final response, it is now due by July 23, 2019, from Richard Dwyer, NWB, dated **July 22, 2019**.
36. Submitted **July 23, 2019**, by City of Iqaluit, RE: 3AM-IQA1626 City of Iqaluit 2019 Application for Water Licence Amendment – City of Iqaluit Response to CIRNAC Final Comments.
37. Prepared **July 23, 2019**, by Derek Donald, NWB, RE: Nunavut Water Board (NWB) Community Session Presentation Regarding an Application for a amendment to Type “A” Water Licence 3AM – IQA1626 City of Iqaluit.
38. Letter to Matthew Hamp, City of Iqaluit, RE: Licence 3AM-IQA1626, Type “A”; City of Iqaluit, Amendment Application; Public Hearing Update and Hearing Agenda, from Richard Dwyer, NWB, dated **July 26, 2019**.
39. Cover E-mail To: Matthew Hamp, Amy Elgersma, City of Iqaluit, NWB City of Iqaluit E-mail Distribution List. RE: 3AM-IQA1626 City of Iqaluit Amendment Application draft agenda, from Richard Dwyer, NWB, dated **July 26, 2019**.
40. Submitted **July 29, 2019**, by City of Iqaluit, RE: Apex River Water Supply 2019-2026 Niaqunguutiup Kuunganik Imiqarniq 2019-2026 August 2019 (Presentation).
41. Submitted July 29, 2019, by CIRNA, RE: Amendment Application for the City of Iqaluit Water Licence 3AM-IQA1626 Nunavut Water Board Public Hearing August 8 – 9, 2019 (Presentation).
42. Letter to Matthew Hamp, City of Iqaluit, RE: Licence 3AM-IQA1626, Type “A”; City of Iqaluit, Amendment Application; Public Hearing Location Update and Final Agenda, from Richard Dwyer, NWB, dated **July 31, 2019**.
43. Cover E-mail To: Matthew Hamp, Amy Elgersma, City of Iqaluit, NWB City of Iqaluit E-mail Distribution List, RE: 3AM-IQA1626, Type “A”; City of Iqaluit, Amendment Application; Public Hearing Location Update and Final Agenda, from Richard Dwyer, NWB, dated **July 31, 2019**.



44. Cover E-mail To: Matthew Hamp, Amy Elgersma, City of Iqaluit, NWB City of Iqaluit E-mail Distribution List, RE: 3AM-IQA1626 Water Licence Public Hearing Location, from Richard Dwyer, NWB, dated **August 6, 2019**.
45. Prepared by Teresa Meadows, NWB, Exhibit List, dated **August 8, 2019**.
46. Prepared by Teresa Meadows, NWB, Exhibits 1-6, dated **August 8, 2019**.
47. Submitted **August 16, 2019**, by Dicta Court Reporting Inc., for NWB, Volume 1 AMENDMENT APPLICATION TO WATER LICENCE NO. 3AM-IQA1626 Public Hearing Transcripts.
48. Submitted **August 16, 2019**, by Dicta Court Reporting Inc., for NWB, Volume 2 AMENDMENT APPLICATION TO WATER LICENCE NO. 3AM-IQA1626 Public Hearing Transcripts.
49. Cover E-mail To: Amy Elgersma, Matthew Hamp, Josip , Madeleine Redfern, Romeyn Stevenson, Erica Bonhomme, City of Iqaluit, NWB City of Iqaluit E-mail Distribution List, RE: 3AM-IQA1626 Next Steps for Public Hearing City of Iqaluit water licence amendment application (e-mail notification of Public Hearing Exhibits & Transcripts), from Richard Dwyer, NWB, dated **August 16, 2019**.



## APPENDIX E - Sign-in Sheets – List of Participants in the Public Hearing

### PUBLIC HEARING CITY OF IQALUIT Iqaluit, Nunavut August 8, 2019 Registration Form Day One

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
1.	Josip <del>Deronja</del>	DERONJA	COVERS/CITY	683-710-0448		Josip.Deronja@coversprojectleaders.ca
2.	Clai <del>Ungava</del>		Private address	867-897-0535		
3.	MATTHEW	HARRIS	City	867-979-5653		M.harris@city.iqaluit.nu.ca
4.	ERICH	BONTOMME	Nunavut Star Inc	867-445-7988		eric.bontomme@starinc.com
5.	Richard	Di Rocco	DEO	201 984 1372		richard.dirosso@dirosso.ca
6.	Neil	Fisher	DEO	343 640 3943		neil.fisher@de-mo.ca
7.	Daniel	Guertler	Translator	867 979-1340		
8.	Alex	Kelly	DOE	-1763		Kelly.Kelly@nu.ca
9.	Feloyce	NKWA	CIRNAC	4657		feloyce.nkwa@canada.ca
10.	Godwin Okonko	SKONKWO	CIRNAC	4550		godwin.okonko@canada.ca
11.	Frederick Campbell	Campbell	CIRNAC	867 975 4282		frederick.campbell@canada.ca
12.	Amey	Agarwal	CITY	867 979-5600		amey.agarwal@city.iqaluit.nu.ca
13.	Madeline	McDonnell	CBG	222-5900		madeline.mcdonnell@cbc.ca
14.	Jordan	Hoffman	NWMB	647-223-381		J.Hoffman@NWMB.ca
15.	Loonie	Tamusie	NWMB			
16.	Sarah	Silva	NWMB			
17.	Flutube	Dastak	NWMB			
18.	Ben	Fovik	NWMB			
19.	Kyle	Kharatyan	NWMB			
20.	Deek	Donald	NWMB			
21.	Richard	Dwyer	NWMB			
22.	Reese	Reese	NWMB			
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PUBLIC HEARING CITY OF IQUALUIT  
Iqaluit, Nunavut August 8, 2019  
Registration Form COMMUNITY SESSION

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
1.	Rachel	Di Rocco	Fishermen & Queens			rachel.dirocco@fho-mpa.ca
2.	Neil	Fisher	Fishermen & Queens			neil.fisher@fho-mpa.ca
3.	Godwin	OKonRwo	CIRNAC	975 4550		godwin.okonrwo@canada.ca
4.	Bridget	Campbell	CIRNAC	975 4282		bridget.campbell@canada.ca
5.	Josip	Derenja	Colliers	613-710-0193		josip.derenja@colliersprospectors.com
6.	Mattie	Hamp	City	979-5653		m.hamp@city.iqaluit.nu.ca
7.	Amy	Elgetson	City	979-5600		
8.	Erica	Bo Xhonne	Nidemi Stank	867-445-7388		erica.bonhomme@stanlec.com
9.	Jackie	Malay	CBC	222-3966		jackie@cbc.ca
10.	Loatie	Womasi	NWB			
11.	Mutube	Wastok	NWB			
12.	Sarah	Silove	NWB			
13.	Ben	Kogvik	NWB			
14.	Fuson	Khecatyan	NWB			
15.	Derek	Ronald	NWB			
16.	Richard	Dwyer	NWB			
17.	Kesha	Meabows	NWB			
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PUBLIC HEARING CITY OF IQALUIT  
Iqaluit, Nunavut August 9, 2019  
Registration Form DAY TWO

Site visit Apex river

No.	First Name	Last Name	Organization/ Address	Phone	Fax	E-mail
1.	Jessie	DERONJA	COLLIERS/CITY	613-710-0498		jessie.deronja@colliersprojet.com
2.	Richard	D. Rocco	CIRNAC	9754550		gocluwin-0Kontkwo@Cernade.ca
3.	Godwin	OKon Kwu	CIRNAC			
4.	Bridget	Campbell				
5.	Eli	Wingsing				
6.	Kira Benham	Benham				
7.	Amy	Elmer	City	9-5600		
8.	Nail	Fisher				
9.	Lootie	Thomas	NWLB			
10.	Sarah	Silou	NWLB			
11.	Hakube	Dartok	NWLB			
12.	Ben	Korvik	NWLB			
13.	Fawn	Khatayag	NWLB			
14.	Jack	Domato	NWLB			
15.	Richard	Dwyer	NWLB			
16.	Teresa	Howards	NWLB			
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## **APPENDIX F – Site Visit Report**

### **RECORD OF SITE VISIT**

**Date of Site Visit:** 9:00 am – 11:00 am, August 9, 2019

#### **ATTENDEES:**

##### **NWB**

##### **Representatives:**

Nunavut Water	Chairman	L. Toomasie
Board Panel	Member	S. Silou
Members	Member	M. Nartok
(Panel P6):		

NWB Member	Observer Only	E. Uniuqsaraq
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Nunavut Water	Director Technical Services	K. Kharatyan
Board Staff:	Director of Board Administration and Communication	B. Kogvik
	Director of Licensing	R. Dwyer
	Technical Advisor	D. Donald
	Legal Counsel	T. Meadows
	(Meadows Law)	

##### **Applicant:**

City of Iqaluit	Chief Administrative Officer	A. Elgersma
	Acting Engineering Manager, Colliers Project Leaders Inc.	J. Deronja
	Consultant, Nunami-Stantec	E. Bonhomme

##### **Parties:**

Crown-Indigenous Relations and Northern Affairs (CIRNA)	Manager of Water Resources	G. Okonkwo
	Water Resources Coordinator	B. Campbell

Fisheries and Oceans Canada	Team Leader, Fish and Fish Habitat Protections Program	N. Fisher
	Biologist, Fish and Fish Habitat Protections Program	R. Di Rocco



## **Background**

During the Public Hearing for the Amendment Application conducted on August 8, 2019, the Applicant indicated that they could make an opportunity available to the Nunavut Water Board Members (Panel P6) and staff, and the participants in the Public Hearing, to attend a site visit to see the current circumstances at Lake Geraldine and at Niaqunguk River (Apex River). In considering whether it was appropriate for the Board to attend the site visit, the Board was made aware that the media had been taken on a similar tour on Friday, August 2, 2019 to convey information regarding the site conditions to the public. In addition, the Board confirmed that the participants in the Public Hearing (Crown-Indigenous Relations and Northern Affairs Canada and Fisheries and Oceans Canada) wished to participate in the site visit and also asked whether they had any objections to the Board attending the site visit.

All participants confirmed they wished to attend and that it was appropriate in the circumstances for the Board to attend. Although the Board normally provides advance notice of site visits conducted as part of a Public Hearing, given the recent evidence of the record low water conditions and the importance of these circumstances to the Board's full consideration of Applicant's Application, and noting that there were no objections from the participants at the Public Hearing, the Board decided that attending the site visit was reasonable given the circumstances.

**NOTE:** All parties are reminded that the Board did not rely on the site visit to hear evidence that was not otherwise provided to the Board prior to, or during the Public Hearing for the Application. The Board did not receive additional evidence or information about the Application during the site visit that was not already part of the Public Hearing Record for the Application.

## **Purpose of the Site Visit**

The purpose of the site visit was to provide the Board and participants in the Public Hearing with an opportunity to:

- increase their understanding and familiarity with the current circumstances at Lake Geraldine Reservoir and at Niaqunguk River (Apex River);
- understand the physical setting of the water withdrawal infrastructure within the scope of the Application; and
- get a first-hand view of the site features, area and the general location of both existing and proposed infrastructure within the scope of the Application.



## **Itinerary**

1. Meet at City Hall
  - a. Hand out safety vests
  - b. Receive safety briefing from City of Iqaluit personnel
  - c. Identify route
  - d. Discuss the following limitations:
    - i. Limits on site visit locations (no access to Unnamed Lake)
    - ii. Limits on picture taking (no pictures of contractor's construction personnel or activities)
    - iii. Limits on access to potentially restricted areas as directed by the City and contractor
2. Travel to Lake Geraldine Reservoir (note: Board Members and staff travelled in their own rental vehicles in a convoy behind the City of Iqaluit personnel)
3. View of Lake Geraldine Reservoir, with following topics discussed:
  - a. Current water levels in the Reservoir
  - b. Required water levels in the Reservoir to meet winter needs
  - c. Summary of repairs to Reservoir underway
  - d. Proposed location of pipeline from Niaqunguk River (Apex River) into Lake Geraldine Reservoir
4. View of lower reaches of Niaqunguk River (Apex River), with following topic discussed:
  - a. Fish and fish habitat in small lakes fed by the upper reaches of the River
5. View of Niaqunguk River (Apex River), with the following topics discussed:
  - a. Current water levels in Niaqunguk River (Apex River)
  - b. Water levels in Niaqunguk River (Apex River) during typical spring freshet period
  - c. Type of piping and thermal joint system for pumping infrastructure from Niaqunguk River (Apex River) to Geraldine Lake Reservoir
  - d. Location and installation of pumping infrastructure from Niaqunguk River (Apex River) to Geraldine Lake Reservoir
  - e. Locations on Niaqunguk River (Apex River) of existing downstream flow monitoring station (10UH002) and upstream flow monitoring station (10UH015).
6. Return to City Hall
  - a. Return of safety equipment



## Pictures Taken During Site Visit



*Lake Geraldine Reservoir surface showing the current water level well below the high water mark (#3(a) in Itinerary above).*



*Lake Geraldine Reservoir spillway showing the current water level relative to the level required to fill the reservoir (#3 (b) in Itinerary above).*



*Lake Geraldine Reservoir dam repair under way (#3 (c) in Itinerary above).*



*Nunavut Water Board Members and Staff viewing lower reaches of Niaqunguk River (Apex River) (#4 in Itinerary above).*



*Current "historic low" water levels in the Niaqunguk River (Apex River) (#5(a) in Itinerary above)*



*Water pipeline being assembled to carry water from Niaqunguk River (Apex River) to Lake Geraldine Reservoir (#5(d) in Itinerary above)*



*Location in the Niaqunguk River (Apex River) of water pipeline being assembled to carry water to Lake Geraldine Reservoir (#5(d) in Itinerary above)*



*Upstream on Niaqunguk River (Apex River) showing location of upstream flow monitoring station 10UH015 (#5(e) in Itinerary above)*

### **Closure**

The Board thanks the City of Iqaluit for facilitating a site visit for the NWB Board Members, staff and the parties participating in the Public Hearing. Getting a firsthand view of the existing facilities and proposed infrastructure was useful to put the Application in its proper context. There were no additional materials filed with the Board during the site visit and the Public Hearing Record remained closed as directed by the Board at the end of the Public Hearing on August 8, 2019.