



**Town of Hay River**  
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March 8, 2010

Shannon Hayden, Regulatory Officer  
Mackenzie Valley Land & Water Board  
Box 2130  
7th floor, 4910 50th Avenue  
Yellowknife, NT X1A 2P6

***By Email: SHAYDEN@MVLWB.COM***

**Re: Water Licence MV2009L3-0005**  
**Response to Draft Licence**

The Town of Hay River requests a three-week extension (to March 30, 2010) to the draft licence response deadline of March 9, 2010, to allow for sufficient time to undertake legal consultation. Our rationale is as follows:

The Mackenzie Valley Land & Water Board has failed to acknowledge many of our arguments and concerns, most importantly our request that the Board to refrain from imposing themselves upon the daily lives of our citizens.

In this draft licence, specifically clause D.12, the Board has now gone beyond what was a previously a fully serviceable water licence, to insisting that the Board regulate economic development within the Town of Hay River.

The requirement that the MVLWB will approve or reject specific industry based on wastewater flows has the potential to be highly detrimental to municipal initiatives and could easily have serious implications of the timing and the type of development that occurs in Hay River.

The Town is surprised and offended that this specific issue was not raised before or at the Public Hearing where the Town, and certainly the public, would have enthusiastically voiced their opposition to such an intrusion into our community and her continuing development.

The failure to provide an opportunity to discuss this publicly is entirely contrary to the Public Process required by the Mackenzie Valley Resource Management Act, and therefore, should require the complete removal of this clause, if not invalidate this entire licence. We note further that this clause, nor anything similar, is in the February 11, 2010 draft licence for the City of Yellowknife or the final licence for the Hamlet of

Enterprise. The Town of Hay River questions the Board's motives as they relate to this clause. Based on the above, the Town is seeking a legal opinion and would request that the deadline for comments be deferred until March 30, 2010.

Our dismay that this clause may be included in this, or in any water licence, will also lead the Town to contact our Member of Parliament, Mr. Dennis Bevington, to protest such an intrusion by the Federal government into municipal affairs.

As mentioned earlier, the above constitutes but one of the many problems with this draft water licence. We have provided specific commentary on other issues in the table below:

<b>Licence Requirement</b>	<b>Town of Hay River Response</b>
<p>D.3</p> <p>Acute Toxicity -Rainbow Trout: pass/fail static bioassay test.</p>	<p>Once again we renew our objection to this requirement in the licence as the condition is of benefit to Environment Canada only. The Town would like to discuss arrangements for sample collection and analysis with EC outside of the scope of the water licence.</p> <p>Further, the new EC regulations are out and while they still do not apply to the NWT, they also still do not include bioassay testing for discharges from communities such as ours.</p>
<p>D.4</p> <p>The Licensee shall complete monitoring of wastewater effluent quality for carbonaceous biological oxygen demand (CBOD) and biological oxygen demand (BOD) for a minimum of three years. The study findings, including a trend analysis, shall be submitted to the Board for approval in a report that is completed by a qualified Engineer before August 31, 2014.</p>	<p>At the public hearing Board members themselves questioned the use of such data. The Town then submitted a scientific rationale for not analyzing for both BOD and CBOD. We have no use for this information but would now suffer the expense. We do not believe that we should be required to educate regulators.</p> <p>If another agency does have a use for it, then we would be pleased to work out an agreement with them outside the licence.</p> <p>Please remove this requirement from the licence and SNP program.</p>
<p>D.12</p> <p>The Licensee shall, prior to introducing any new industrial or agricultural Waste into the Waste Treatment Facilities,</p>	<p>The Town submits that this is an inappropriate and failed interpretation of the NWT Waters Act and/or Regulations prohibiting the deposit of waste.</p>

<p>submit to the Board for approval a description of the Waste, including volumes of Waste, types of Waste and any mitigative measures proposed to protect the treatment disposal facilities.</p>	<p>The Town reiterates our absolute opposition to this, or any form of this clause, in our water licence.</p>
<p>D.17</p> <p>The Licensee shall ensure all treated soil from the Biotreatment Pad that will be used for capping material of landfill cells will meet the following criteria prior to incorporation:</p>	<p>This licence incorrectly interprets the CCME and GNWT requirements for PHC in commercial soils.</p>
<p>I.1</p> <p>The Licensee shall, within 30 days of issuance of this licence, submit to the Board for approval, a spill contingency plan in accordance with Indian and Northern Affairs Canada's "Guidelines for Spill Contingency Planning"</p>	<p>Our discussions with INAC suggested that we would, and it was understood that it was agreed by all, update our currently acceptable plan to conform to the new INAC guidelines in the next submission.</p> <p>We request that the MVLWB require this update with submission of our annual report as per Schedule B(k).</p>
<p>Schedule H.1 (o)</p> <p>Details for the operation and maintenance of the Biotreatment Pad etc Including...frequency and mode of tillage; frequency and extent of additives; how future increases in soil volume will be managed;...</p>	<p>This is once again an inappropriate application of the NWT Waters Act.</p> <p>The level of detail required for APPROVAL by the MVLWB is completely inappropriate for someone who is not actually operating the process.</p> <p>The Town sees no need to go beyond the requirements of D.17 for the purpose of this licence.</p>
<p>SNP 1</p> <p>The effluent from Station Number 0053-2 shall be sampled at commencement and monthly during periods of flow and analyzed for the following parameters: BOD and CBOD.</p>	<p>Comments as per D.4 above.</p>
<p>SNP 2</p> <p>Station Number 0053-2 shall be sampled</p>	<p>Comments as per D.2 above.</p>

<p>two times yearly: at spring break-up, and again before freeze-up in the fall. The water samples are to be submitted to an accredited laboratory for bioassay testing using the pass/fail static bioassay test for rainbow trout.</p>	
<p>Throughout</p>	<p>“License” should be correctly spelled “Licence”.</p>

The Town of Hay River would like to thank the MVLWB for the opportunity to submit our comments on the draft water licence. We look forward to the Board’s response to the Town’s extension request. In the meantime, we will obtain legal counsel.

Regards,



Michael Richardson  
 Director of Public Works and Planning  
 Town of Hay River