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February 7, 2020

File: W2014L3-0002

Chief and Council
Community Government of Behchokq
Behchokq, Northwest Territories
X0E 0Y0

Sent via Email

Dzë nezì Chief Clifford Daniels and Council,

Re: Compliance with Water Licence W2014L3-0002

It is the Wek'èezhìi Land and Water Board's (WLWB or the Board) objective and mandate to regulate the use of land and waters, and the deposit of waste, so as to provide for the conservation, development, and utilization of land and water resources in a manner that will provide optimum benefit generally for all Canadians, and in particular for the residents of the Wek'èezhìi region. One of the ways the Board does this is by issuing Water Licences and Land Use Permits, including but not limited to the Tłıchq community governments of the four Tłıchq communities. Each Tłıchq community government is responsible for meeting the requirements under their respective Water Licence. The Tłıchq Community Government of Behchokq (CGB's) Water Licence, W2014L3-0002, was granted by the Board in accordance with the *Mackenzie Valley Resource Management Act* and *Waters Act* for a period of 15 years, commencing on November 26, 2014, and expiring on November 25, 2029. Unfortunately, it has come to the Board's attention that several outstanding requirements continue to put the CGB out-of-compliance with their Water Licence, some of which are several years outstanding (see below):

- Geotechnical Inspections (and related reports) for the Rae and Edzo Sewage Disposal Facilities (*required as per Part D, Condition 10 – last one conducted in [2015](#); missing 2017 and 2019*)
- Geotechnical Sewage Treatment System Efficacy Studies for the Rae and Edzo Sewage lagoons (*required as per Part D, Conditions 14 and 15 – was due December 31, 2016*)
- Characterization for Edzo Sludge from Water Treatment Plant (*required as per Part D, Condition 13 – as requested in the [Reasons for Decision](#) for Issuance*)
- Version 2.0 of the Sewage Disposal Facility Operation and Maintenance Plan (*required as per Part H, Condition 1 – as requested in the [Reasons for Decision](#) for Issuance*)
- Version 2.0 of the Spill Contingency Plan (*required as per Part H, Condition 1 – as requested in the [Reasons for Decision](#) for Issuance*)
- Version 2.0 of the Hazardous Waste Management Plan (*required as per Part H, Condition 1 – as requested in the [Reasons for Decision](#) for Issuance*)

Compliance is fundamental in ensuring the protection of the land and water, which in-turn ensures the protection of wildlife and people. Some of the above outstanding requirements provide crucial information on how effective the sewage disposal facilities are in managing and treating Waste (specifically sewage waste) to prevent contamination of the surrounding environment. As the CGB's sewage disposal facilities have been in operation for several decades, the requirement for geotechnical inspections and the implementation of potential recommendations that may emerge from these inspections, are critical in ensuring the continued safe operation of these facilities.

Compliance is also important because the Water Licence is a legally binding authorization and there are serious consequences to non-compliance. For example, Section 71 of the *Waters Act* states:

- (1) Every type A licensee is guilty of an offence who
 - (a) Contravenes or fails to comply with any condition of the licence, if the contravention or failure to comply does not constitute an offence under section 75;¹ or
 - (b) without reasonable excuse, fails to furnish or maintain security as required under subsection 35(1)
- (2) Every Licensee who commits an offence under subsection (1) is liable on summary conviction,
 - (a) For a first offence, to a fine not exceeding \$250,000 or to imprisonment for a term not exceeding one year, or to both, and
 - (b) For a second or subsequent offence, to a fine not exceeding \$500,000 or to imprisonment for a term not exceeding one year or to both.

Over the years, Board staff have been trying to work with the CGB to ensure compliance. In the last few months, Board staff have met with the SAO of the CGB to discuss outstanding Water Licence requirements. Several years ago, staff and the Inspectors also met with the previous council to speak on the issue of Water Licence compliance. More recently, Board staff have tried emailing and calling the community government office to follow up on the above outstanding issues with limited success.

The Board believes that additional support and assistance from the Chief and Council is necessary to make progress towards compliance. It is the Board's understanding that CGB is working with GNWT-MACA and new staff to ensure that outstanding items are addressed as soon as possible and are planned for the upcoming fiscal year. The Board requests that the CGB provide the Board with an updated plan on how the CGB will address and submit the above outstanding submissions after its next council meeting.

Yours sincerely,



Joe Mackenzie

Chair, Wek'èezhii Land and Water Board

Copied to: Louisa Wedzin, Senior Administrative Officer
Wek'èezhii West Distribution List
Heather Beck, Water Resources Officer (North Slave) of GNWT-ENR
Eleanor Young, Deputy Minister of GNWT-MACA
Erin Kelly, Deputy Minister of GNWT-ENR
Alison Brown, Regional Superintendent (North Slave) of GNWT-MACA

¹ Section 75. A person who (1) contravenes or fails to comply with subsection 66(4), section 68 or regulations made under paragraph 63(l)(1), (r) or (s), or (b) except as authorized by the Act or another enactment, wilfully obstructs or otherwise interferes with a licensee or a person acting on behalf of a licensee in the exercise of rights granted to the licensee under this Act is guilty of an offence punishable on summary conviction.