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June 28, 2023

W2022L2-0001

John Moffet  
Assistant Deputy Minister, Environmental Protection Branch  
Environment and Climate Change Canada

Sent by email

Dear John Moffet,

**Re: Ekati – Water Licence Renewal – ECCC Responses to Undertakings and s. 22 Request**

Thank you for Environment and Climate Change Canada's submissions dated June 20 and 23, 2023 providing ECCC's response to the Wek'èezhìi Land and Water Board (WLWB).

**Response to Information Request** – *ECCC to provide its opinion on whether it considers Arctic's proposed licence Part H, Condition 23(e) to be less stringent than the requirements of MDMER, specifically with regards to pH.*

As ECCC is aware, this WLWB information request was made pursuant to section 22 of the *Mackenzie Valley Resource Management Act*, S.C. 1998, c. 25 (MVRMA) affording the WLWB the authority to request information from any federal department such as ECCC that the WLWB requires "for the performance of its functions".

While the WLWB appreciates ECCC's description of its expertise and knowledge, we note that the information provided does not expressly set out the ECCC's opinion as to whether it considers Arctic's proposed licence Part H, Condition 23(e) to be less stringent than the requirements of MDMER, specifically with regards to pH. Instead of providing its opinion, ECCC has repeated the language of subsection 27(5) of the *Waters Act*, S.N.W.T. 2014, c. 18, and concludes that it is up to the WLWB "to determine if the proposed condition is equivalent or more stringent than requirements of the MDMER". This response was not helpful and does not fulfill Canada's commitment to the co-management system in the Mackenzie Valley.

The WLWB will discharge its statutory obligations including the requirements of subsection 27(5) of the *Waters Act*. However, in fulfilling these duties, the WLWB is seeking to draw on the expertise and knowledge of ECCC in asking its expert opinion as to whether Arctic's proposed licence Part H, Condition 23(e) is less stringent than the requirements of MDMER, specifically with regards to pH. In providing its

opinion, the WLWB specifically wants to know whether ECCC has information in its possession relating to whether pH between 5.0 and 6.0 (that is caused by the natural environment) is equivalent to or less stringent than the requirements of the MDMER. Further, the WLWB wants to know whether and how ECCC takes account of naturally occurring environmental effects when interpreting and applying the requirements of the MDMER.

**Response to Undertaking No. 18**

The Board appreciates that ECCC is reviewing the consultation record concerning the MDMER and looks forward to receiving that part of the record involving the Tłıchq Government.

The WLWB looks forward to receiving a fulsome response from ECCC on or before July 7, 2023.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Ryan Fequet', with a stylized, looping flourish at the end.

Ryan Fequet  
Executive Director, Wek'èezhìi Land and Water Board

Copied: Ekati Distribution List  
Mary Taylor, Director General  
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