



CITY OF YELLOWKNIFE

December 13, 2019

VIA ELECTRONIC MAIL to smontgomery@mvlwb.com

Mackenzie Valley Land and Water Board
7th Floor, 4922 48th St, PO Box 2130
Yellowknife, NT
X1A 2P6

Attention: Shelagh Montgomery, Executive Director

Dear Ms. Montgomery,

RE: Giant Mine Remediation Project (MV2007L8-0031) - Water Compensation Claim Reply

Please find enclosed the City of Yellowknife's reply to the Giant Mine Remediation Project's response to claims for compensation dated November 15, 2019. Please let us know if there is any difficulty opening the attachments or accessing any of the documents hyperlinked in the document.

As the Board is aware the Applicant and the City are continuing to engage in negotiations in relation to the Town Site Claim that will hopefully lead to a compensation agreement as contemplated by the MVRMA, however so far no such agreement has been reached.

As previously stated in the cover letters for the City's claims the City provided potential information requests that it may wish to ask in its Claim Forms under the heading "Any Other Information", some of which are still unanswered. The City is awaiting further direction from the Board on the information request procedure as well as any next steps in relation to the compensation claims process.

The City is happy to discuss any questions that the Board or staff may have.

Sincerely,

Keith Sulzer

A/Director, Economic Development & Strategy

cc Natalie Plato, CIRNAC

Docs #593006

CITY OF YELLOWKNIFE REPLY TO GMRP RESPONSE TO CLAIMS FOR COMPENSATION

WATER LICENCE APPLICATION MV2007L8-0031

DECEMBER 13, 2019

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I. INTRODUCTION

Should the GMRP be permitted to shift the risk and cost of its plans to treat water from the Giant Mine onto the taxpayers of the City of Yellowknife? Were the water compensation provisions of the MVRMA intended to allow the GMRP to avoid paying compensation to the City—who represents the majority of the residents of the Mackenzie Valley—because the GMRP says that in the long-run its project will have a “net benefit”? And should the same “net benefit” be permitted to override the fact that GMRP plans to preclude access to the City’s most significant boat access to Great Slave Lake for up to 10 years? Those are the questions that the Board will need to address in this case. The GMRP’s position is that it is somehow acceptable for the City and its taxpayers to be collateral damage to the way GMRP chooses, at its discretion, to execute the remediation. The City disagrees. However important the GMRP may be, the adverse effects of the project on the City cannot be ignored, and the City is entitled to compensation as a result.

These submissions are intended to be read in conjunction with the City’s two claims for the [Water Pipeline](#) and [Town Site](#) filed on October 18, 2019. Capitalized terms in these submissions have the same meaning as in those submissions. The City relies on the facts as detailed and referenced to the evidence in its claims, and as such will not restate the facts again in this reply brief, except to highlight them in reply argument. The City’s silence on any facts or arguments asserted by the GMRP is not to be taken as agreement that those facts or argument are accurate or relevant to the issues in this proceeding.

II. STATUTORY INTERPRETATION AND APPLICABLE LAW

1. Introduction

The Land and Water Boards established under the MVRMA and the Supreme Court of the Northwest Territories have considered the legal principles applicable to compensation in water licence hearings on a handful of occasions. The GMRP in its submission offers only a selective overview of these principles. The City agrees that the case law is clear that the Board has no authority to award compensation for loss and damage incurred under previous licences. However, as discussed below, the Supreme Court of the Northwest Territories has required that compensation must be paid to a party who “would be” adversely affected by what is “proposed” in a licence, and this Board has awarded compensation for continuing, prolonging and exacerbating existing activities under a new licence that would adversely impact water use going forward.

2. Applicable Legislation

The Giant Mine site is located on a “federal area”, as that phrase is defined in the MVRMA:

federal area means any lands under the administration and control of a minister of the Government of Canada and any land on which is situated a waste site for which the Management — as defined in the Northwest Territories Lands and Resources Devolution

Agreement that was made on June 25, 2013 — is the responsibility of the Government of Canada.¹

The operative section of the MVRMA for determining compensation claims in water licence applications is as follows:

72.03 (5) The board shall not issue a licence in respect of a federal area **unless the applicant satisfies the board that**

(a) either

(i) the use of waters or the deposit of waste proposed by the applicant **would not adversely affect, in a significant way, the use of waters**, whether in or outside the federal area to which the application relates,

(A) **by any existing licensee who holds a licence issued under this Act** or any other licence relating to the use of waters or deposit of waste, or both, issued under any territorial law ... , or

(B) by any other applicant whose proposed use of waters would take precedence over the applicant's **proposed** use by virtue of section 72.26 or any territorial law, or

(ii) every licensee and applicant to whom subparagraph (i) applies has entered into a compensation agreement with the applicant;

(b) compensation that the board considers appropriate has been or will be paid by the applicant to any other applicant who is described in clause (a)(i)(B) but to whom paragraph (a) does not apply, **and to any of the following who were licensees, users, depositors, owners, occupiers or holders, whether in or outside the federal area to which the application relates**, at the time when the applicant filed an application with the board in accordance with the regulations made under paragraphs 90.3(1)(d) and (e), **who would be adversely affected by the use of waters** or the deposit of waste **proposed** by the applicant, and who have notified the board within the time period stipulated in the notice of the application given under subsection 72.16(1):

(i) licensees who hold a licence issued under this Act or any other licence relating to the use of waters or deposit

¹ *Mackenzie Valley Resource Management Act*, SC 1998, c 25 s. 51 (“MVRMA”).

**of waste, or both, issued under any territorial law ...
and to whom paragraph (a) does not apply,**

...

(viii) owners of property,

(ix) occupiers of property, ...

[Emphasis added.]

The City makes detailed arguments below in reply to the GMRP's submissions about the City's eligibility to claim compensation pursuant to section 72.03(5) of the MVRMA for each of the Water Pipeline and Town Site claims. Before doing so, however, it is necessary to examine the applicable case law.

3. Applicable case law

There is one court case and a handful of Board cases that have interpreted section 72.03 of the MVMRA, or its equivalent legislation section 26(5) of the *Waters Act*,² (formerly section 14 of the *Northwest Territories Waters Act*³). The operative sections of those Acts are identical with respect to the requirement for compensation prior to the issuance of a licence, and as such the cases interpreting those sections should be equally applicable to these proceedings. Most important for the purpose of these proceedings are the *Carter* proceedings and the Sandy Point Lodge Case, discussed below.

(a) The Carter proceedings

Background

The Northwest Territories Power Corporation ("**NTPC**") applied to the Board in 2011 for a Type "A" water licence relating to the Taltson Hydro Electric Facility ("**Taltson**"). Taltson was first commissioned in 1968 to provide power to the Pine Point Mine, and has been the subject of a number of water licences since 1976.⁴

The Carter family operated a fishing camp on Nonacho Lake close to Taltson, and filed a claim for compensation with the Board in the 2011 NTPC water licence process, in which they sought compensation for past and future economic losses to their business. They also sought compensation for harm to their enjoyment of life, stemming from NTPC's past and proposed activities.⁵

² *Waters Act*, SNWT 2014, c 18.

³ *Northwest Territories Waters Act*, SC 1992, c 39. [Repealed, 2014, c. 2, s. 66]

⁴ MV2011L4-0002, *Notification of Board Recommendation Submitted to the Minister of Environment and Natural Resources for the Carter Family Claim for Compensation Taltson Twin Gorges Hydroelectric Generating Station, NT*, Mackenzie Valley Land and Water Board, August 10, 2017, Reasons for Compensation Decision, ("**Reconsideration Decision**") at paras 1 & 5.

⁵ *Carter v Northwest Territories Power Corp*, 2014 NWTSC 19 ([Carter](#)) at paras 5 - 6.

Board's first water licence decision

In its first water licence decision on NTPC's 2011 application, the Board found that the Carters would be adversely affected by NTPC's proposed activities, and imposed a number of conditions on the licence, including a requirement that NTPC "determine the nature and extent of the adverse effects its operations shall have on the ... Carter Family." However, the Minister declined to approve the licence, indicating that the Board, not NTPC, must determine the amount of compensation to be paid. As a result, the Board established a written information request (IR) process to gather the evidence it required to determine appropriate compensation.⁶

The Carters submitted an IR response in which they particularized compensation for both past and future loss of income and past and future out of pocket expenses in the amount of nearly \$5.7M. A further \$575,000 was sought in damages for nuisance, inconvenience and loss of lifestyle.⁷

The Board awarded compensation for nuisance and inconvenience in the amount of \$62,500 and the Minister subsequently approved the licence.⁸

Judicial Review in Supreme Court of the Northwest Territories

The Carters sought judicial review. There were a number of issues on the judicial review, but only two are relevant for the purposes of this case:

- Does the Board have authority to award compensation for past adverse effects?
- Did the Board err in its decision on compensation for future adverse effects?

Shaner J. of the Supreme Court of the Northwest Territories began her analysis with a consideration of ss. 14(4) and (5) of the *Northwest Territories Waters Act*, which read substantially similar to section 72.03 of the MVRMA. The court held:

[117] ... As a condition of granting a licence, the Board must be satisfied that appropriate compensation has been or will be paid to a party who "would be" adversely affected by what is "proposed". Both "would be" and "proposed" are expressions of something that will happen in the future. In this context, "provable" and "potential" losses could just as easily be interpreted to mean losses or damages that will *definitely* occur and those which *might* occur, respectively. [Emphasis in original.]

The court went on to hold:

[128] Based on the foregoing, I conclude that the framework created by the *Mackenzie Valley Resource Management Act* and

⁶ *Ibid* at paras 7 - 10.

⁷ *Ibid* at paras 14 - 16.

⁸ *Ibid* at paras 18 - 22.

the *Northwest Territories Waters Act* does not include the authority, either express or by necessary implication, for the Board to award compensation for loss and damage incurred under previous licences. The overall tenor of the legislation is “forward looking”. **The Board’s powers are there so it may balance conservation and development by, among other things, addressing adverse effects expected to occur in the future as a result of the licenced use.** Authority to award compensation for past adverse effects is not necessary to enable the Board to achieve its objectives or carry out its mandate, nor is it required to achieve the broader objectives of the licencing framework.

[Emphasis added.]

Of note in this analysis is the court’s consideration of the purpose of the Act:

[121] The legislative framework is prospective in nature, aimed at mitigating loss or damage that may occur in the future as a result of a proposed use while still permitting development.

[122] As noted, the Board’s objectives are “to provide for the conservation development and utilization of land and water resources in a manner that will provide the optimum benefit generally for all Canadians and in particular for residents of the Mackenzie Valley.” (*Mackenzie Valley Resource Management Act*, s. 101.1).

Significantly, for the purposes of this application, approximately half the residents of the Mackenzie Valley live in the City and are dependent on the water supply and access to the water the City provides.

The court returned the matter to the Board for reconsideration in accordance with its decision.⁹

Board’s Reconsideration Decision

The Board conducted a rehearing and issued a decision dated August 10, 2017.¹⁰ The Carter’s claim was considered under the framework of ss. 26(5) & (6) of the *Waters Act*. After acknowledging the *Carter* court case, the Board continued:

16. In order to establish a right to compensation, *a claimant must demonstrate that the Licence applicant’s activities will more likely than not cause a loss or damage or other adverse effect.* Once the loss, damage *or other adverse effect* is established on a balance of probabilities, the Board will determine what value constitutes

⁹ *Ibid* at paras 129 - 138.

¹⁰ Reconsideration Decision, *supra* note 4.

reasonable compensation by considering at least all five of the statutory factors contained in subsection 26(6):

[Emphasis added.]

The factors contained in subsection 26(6) are the same as those in section 72.03(6) of the MVRMA, namely:

- provable loss or damage;
- potential loss or damage;
- the extent and duration of the adverse effect, including the incremental adverse effect;
- the extent of the use of waters by persons who would be adversely affected; and
- nuisance, inconvenience and noise.

Against that background, the Board awarded the Carters compensation of \$100,000, or \$25,000 each.

With respect to the Carter's main complaint of raised water levels, while the Board recognized that the rise in water levels associated with the original construction of the dam impacted water levels in the lake and that "there have been incremental effects on Nonacho Lake that affect them and their business as a result of dam construction", the Board "cannot find any evidence to indicate that these effects will be exacerbated or prolonged as a specific result of the issuance" of the licence applied for by NTPC.¹¹ Importantly, however, the Board's reasoning reveals that where adverse effects will be "exacerbated or prolonged" as a result of the issuance of a licence, compensation may follow.

Indeed, while the Board found it unlikely that issuance of the licence itself would result "in unreasonable and substantial nuisance or inconvenience in the specific uses of the water described by the Carter family",¹² the Board accepted that the "emotional impacts on members of the Carter family that arise from the presence of the Taltson Hydro Facility are a significant nuisance and inconvenience" and that "the adverse impact to their family legacy and lifestyle may also qualify as a relevant consideration under the non-exclusive list of factors that the Board must consider in subsection 26(6) of the Act."¹³ As a result, the Board held that the applied for licence:

continues and promulgates activities that negatively impact the Carter's ongoing use of the water. The Board has discretion to determine appropriate compensation for this type of impact under

¹¹ *Ibid.* at para 64.

¹² *Ibid.* at para 110.

¹³ *Ibid.* at para 117.

subsection 26(6), and is satisfied that some compensation is warranted.¹⁴

The Board held that the amount:

takes into consideration the fact that the Carter family has chosen to maintain their presence on Nonacho Lake despite NTPC operations and that the adverse impacts are far from life threatening. The amount awarded also considers the seasonal use of the lake and the fact that the Nonacho Lake Lodge was established to earn revenue and continues to do so.¹⁵

The Minister approved the Reconsideration Decision and issued the licence, and no judicial review was ever sought.

The Board's reasoning in the Reconsideration Decision draws a distinction between:

- rejecting compensation for adverse effects attributable to past licences where there is no evidence that those effects will be “exacerbated or prolonged” as a result of the new licence; and
- awarding compensation for adverse effects of the new licence that “continue and promulgate” activities that negatively impact an ongoing water use.

The key difference in the Board's reasoning between these two types of damages is that while past and ongoing effects of past decisions are not compensable, where there is evidence that issuance of a new licence will exacerbate or prolong adverse effects on existing users, then those adverse effects are compensable.

Significantly, each of the factors that the Board used to limit the award payable to the Carters under this head of damage actually operate *in favour* of the City's claims in this case, particularly the Water Pipeline claim:

- whereas the Board found it significant that the Carter family *chose* to maintain their presence on Nonacho Lake, the City has no such choice;
- whereas the Board considered the adverse effects on the Carters far from life threatening, the adverse effects in the City's case are in fact life threatening;
- whereas the Board found it significant that the Carters only make seasonal use of the lake, the City's use is ongoing; and
- whereas the Carter family use was for the purpose of earning revenue, the City's use is to provide an essential service.

¹⁴ *Ibid.* at para 118.

¹⁵ *Ibid.* at para 119.

Given the objectives of the Board “to provide for the conservation, development and utilization of land and water resources in a manner that will provide the optimum benefit generally for all Canadians and in particular for residents of the Mackenzie Valley”,¹⁶ the City is entitled to compensation for the effects under the new licence that “continue and promulgate” the adverse effects of the Giant Mine on the City’s water supply.

Consider also the position the City is in as the representative of roughly 20,000 people. If the Board were to award compensation to each resident of Yellowknife in the same amount as each individual member of the Carter family, the City would be entitled to an award of \$500 million. But the City’s claim for \$8,620,740 to replace the Water Pipeline works out to approximately \$431 per person—or merely 2.2% of what each of the Carters received.

(b) Sandy Point Lodge - Gordon Lake Group Remediation Project

The Department of Indian Affairs and Northern Development - Contaminants and Remediation Division (DIAND-CARD) applied for a water licence in 2016 in connection with its mine remediation activities at nine mine and advanced exploration sites near Gordon Lake, collectively referred to as the Gordon Lake Group (GLG) remediation project. Duncan Cooke, the owner of Sandy Point Lodge, a remote wilderness fishing camp on Gordon Lake, applied for compensation for nuisance, inconvenience and noise under the MVRMA for the asserted adverse effects of the activities proposed under the licence on the Lodge (mostly air traffic, noise, air pollution from vehicles and machinery and human activity).

Like the GMRP argues in this case, DIAND’s position with respect to Mr. Cooke’s claim for nuisance, inconvenience and noise was that although there may be temporary disturbances from the remediation activity, the activities are seasonal and localized and the project would ultimately be a net benefit to the users of the Gordon Lake area, and as such no compensation would be required.¹⁷ In respect of that claim for *nuisance*, the Board held the applicable test to be:

... At least in respect of the claim for nuisance, inconvenience and noise, the evidence provided must convince the Board that SPL will be adversely affected by the activities associated with Water Licence MV2016L8-0006 and that those effects will be substantial and unreasonable given that the activities are designed for the greater benefit of the residents of the Mackenzie Valley and of other Canadians.

The GMRP confuses this passage—which is limited to the claim in nuisance—with its unsupported proposal for a “net benefit” test for compensation generally, when it suggests that “[t]he more a proposed project will benefit the public and align with public interest, the more substantial and unreasonable the interference with the claimant’s use and activities will need to

¹⁶ MVRMA *supra* at note 1, s. 101.1(1).

¹⁷ MV2016L8-0006, *Department of Indian Affairs and Northern Development – Contaminants and Remediation Division application for Gordon Lake Group Remediation Project*, Mackenzie Valley Land and Water Board, February 16, 2017, Reasons for Compensation Decision (“**Sandy Point Lodge Case**”), online (pdf): <http://registry.mvlwb.ca/Documents/MV2016L8-0006/MV2016L8-0006%20-%20DIAND-CARD%20-%20Compensation%20-%20Reasons%20for%20Decision%20-%20Feb16-17.pdf> at p 4.

be to justify awarding compensation under the MVRMA”.¹⁸ There is zero authority for such a sweeping proposition to apply to compensation claims generally. Any of a diamond mine, a remediation project, a hydroelectric project, an all season road, or any other project, could be considered as having a “net benefit” in one sense or another, but that does not mean other parties will not suffer adverse effects along the way for which they must be compensated. In fact, compensation for adverse effects is precisely what the scheme contemplates.

To be clear, merely because a project will have some benefit to the community, territory or country, whether through environmental remediation or economic prosperity, does not in anyway eliminate the need for a proponent to compensate qualifying entities under section 72.03. That is precisely why the test for compensation under the MVRMA is whether there would be an “adverse effect”, not whether there would be a “net benefit”. To conclude that a proponent providing a “net benefit”—however that would be defined—was not required to compensate qualifying entities would remove any meaning from section 72.03 and set a dangerous precedent.

In any event, in the *Carter Reconsideration Decision*—issued after *GLG*—the Board retreated from its earlier position on nuisance:

The content of “nuisance, inconvenience and noise” as a factor that must be considered by the Board when determining compensation does not necessarily conform exactly to the definition developed in civil litigation proceedings. First, the opportunity for a claimant to file a civil claim is separately preserved by section 60 of the *Waters Act*. Second, the factor itself lists both inconvenience (an element of the definition of nuisance) and noise (an example of a nuisance) as elements to be individually considered. Consequently, while the Board may consider the definition above, it is not bound to the confines of this definition and must continue to interpret this factor in a manner that best suits the objectives and purpose of section 26 and the Act as a whole.¹⁹

The GMRP’s argument rests on a shaky foundation. It relies on an old and narrow formulation of nuisance—which the Board has surpassed—and attempts to apply it broadly when there is no support for doing so. This Board should reject the GMRP’s assertion that the applicable law includes a weighing of the “net benefit” for the entirety of the compensation claim.

III. THE CITY CAN REPRESENT ITS OWN CITIZENS

The GMRP argues, without any authority, that the City cannot be compensated for damages to its residents, suggesting instead that residents of Yellowknife should have brought individual claims.²⁰ With respect, that is a disingenuous argument:

¹⁸ *GMRP Response to Claims for Compensation with Respect to Water Licence Application MV2007L8-0031*, November 15, 2019, online (pdf): (“[GMRP Response](#)”) at p 5.

¹⁹ *Reconsideration Decision*, *supra* note 4, at para 42.

²⁰ *GMRP Response* *supra* note 18 at p 12.

- First, it contradicts the GMRP’s own argument that compensation to any individual applicant should be denied because they lack standing under the MVRMA (see rejection of claims by recreational boaters in GMRP Submissions (pp 25 – 30) and Becky Jane Lang (pp 34 – 36)).
- Second, this argument is also counter to any notion of efficiency, practicality or reasonableness. Surely this Board does not have the resources to adjudicate a water compensation claim by every single resident who uses water from the municipal supply or uses the Giant Mine boat launch, and it would be excruciatingly inefficient for the Board to require citizens to do so.

Further, with respect to the water pipeline claim, the City has a public and legal duty under the *Public Health Act* to provide safe and clean drinking water to the residents of Yellowknife, Ndilo and Dettah.²¹

GMRP also ignores that Parliament through s. 126(2)(c) of the MVRMA gave the City—just like all local governments—the authority to refer a water licence application to environmental assessment because of public concern of its residents. And the City, having heard its residents’ concern, did just that (See City’s Referral of GMRP’s water licence application to EA, Exhibit F to [Water Pipeline compensation claim](#), PDF p 245).

Lastly, as noted by the Alberta Court of Appeal, “[m]unicipal council members are trustees for their ratepayers”.²² As trustees, the City, by way of its counsellors, may have a duty to seek compensation on behalf of its residents if failing to do so would result in increased costs to find a suitable replacement or an interruption in services due to a fouled water supply.

The City is not some unrepresentative entity trying to enrich itself to the exclusion of its residents, as the GMRP’s argument implies. The purposes of a municipal corporation such as the City of Yellowknife are:²³

- (a) to provide good government to the residents of the municipality;
- (b) to develop and maintain a safe municipality;
- (c) to provide the services, products and facilities required or allowed by this or any other enactment or considered by council to be necessary or desirable for all or part of the municipality.

Clearly, the City has authority to represent its citizens and be compensated to their benefit for the adverse effects caused by GMRP.

²¹ *Public Health Act* SNWT 2007, c 17, s 17 “‘operator’ means a person who is responsible for the operation of a water supply system”, and s 19(1)(b) “an operator shall ensure that water made available or provided to users of a water supply system meets all requirements and standards for drinking water set out in the regulations...”. See: *Water Supply System Regulations*, R-108-2009.

²² *Remmers v. Lipinski*, 2001 ABCA 188 at para 54. ([Canlii](#)).

²³ *Cities, Towns and Villages Act*, SNWT 2003 c 22 s 3.

IV. THE CITY MUST BE COMPENSATED FOR ITS WATER PIPELINE CLAIM

1. Eligibility and extent of use

GMRP correctly admits that the City is an existing licensee—though GMRP is incorrect that the City’s water licence and right to draw water from Yellowknife Bay dates back to only licence N1L3-0032, issued in 2002. Licence N1L3-0032 dates back to at least 1977.²⁴ As stated in the City’s claim—and not disputed by GMRP—from the inception of Yellowknife’s water system up until 1968, the City did in fact draw water from Yellowknife Bay until interrupted by the Giant Mine. The City’s right to draw water from Yellowknife Bay has been interrupted, but not extinguished, by the Giant Mine throughout its various owners, now the federal government.

In 1981, the City applied for a renewal of water licence N1L3-3200. In this application, the City applied to have Yellowknife Bay as the primary water intake for Yellowknife.²⁵ This application was made on the understanding that further tests were required to determine the quality of the water in Yellowknife Bay. The then Northwest Territories Water Board approved this modification contingent on further works to be completed with respect to the water supply facilities on Yellowknife Bay.²⁶ In 1983 the City commissioned a study which found that the water in Yellowknife Bay was not suitable to drink, because of, among other reasons, high levels of arsenic.²⁷

As a licensee, the City is eligible for compensation under either s. 72.03(5)(a) of the MVMRA, or, if that section does not apply, then under s. 72.03(5)(b)(i). Existing licensees can be compensated under either branch.

The City submits that GMRP is wrong in its assertion that the City is ineligible under s. 72.03(5)(a), but even if GMRP is correct on that point, then the City is nevertheless eligible under s. 72.03(5)(b)(i). The City raised this argument in its Claim²⁸ but the GMRP has failed to respond to it, and has no further procedural right to do so.

(a) The City is eligible under s. 72.03(5)(a)

The City is an existing licensee under s. 72.05(a)(i)(A). Section 72.26 of the MVRMA deals with the precedence afforded to an existing licensee:

Precedence

72.26 (1) If more than one person has a licence, or other authorization to use waters issued by any authority responsible for the management of waters in the Northwest Territories or in

²⁴ Water Licence N1L4-0032, 1977, attached as Schedule “A”.

²⁵ Application to renew Water Licence N1L4-0032, November 24, 1981, at p 3, attached as Schedule “B”.

²⁶ Renewal of Water Licence N1L4-0032 Granted, effective October 31, 1982, attached as Schedule “C”.

²⁷ Back Bay Water Quality Study, A.J Cullen, Water Resources Division Norther Affairs Program, government of Canada, attached as Schedule “D”.

²⁸ See “Notification from City of Yellowknife” on page 2 of [City of Yellowknife, “Claim for Water Compensation \(Water Pipeline\)”](#), October 18-19 (“Water Pipeline Claim”).

Nunavut, in respect of a federal area, the person who first applied is entitled to the use of the waters in accordance with that person's licence or authorization in precedence over the other persons.

Amendments to a licence or authorization

(2) Subsection (1) applies, with any modifications that the circumstances require, in respect of any rights a person acquires through an amendment to that person's licence or authorization.

Renewal or assignment of a licence or authorization

(3) Subject to subsection (2), a licence or authorization that has been renewed or assigned shall, for the purposes of this section, be deemed to be a continuation of the original licence or authorization.

Despite the City's historical use of Yellowknife Bay for drinking water purposes, and despite the acknowledgement in the City's successive water licences of the City's water use from Yellowknife Bay, GMRP takes the position that the City's right to use water is somehow frozen in time to the expressly authorized uses in the *current* licence. That is not only a rewriting of history but also directly contrary to s. 72.26(2) of the MVRMA, which grants precedence over water use to an existing licensee "in accordance with that person's licence" and "in respect of any rights a person acquires through an amendment to that person's licence or authorization". The GMRP takes an opposite interpretation that is contrary to the grammatical and ordinary sense of that section,²⁹ but to the extent that there is any ambiguity, section 12 of the *Interpretation Act* requires that ambiguity to be resolved in favour of the City: "Every enactment is deemed remedial, and shall be given such fair, large and liberal construction and interpretation as best ensures the attainment of its objects".³⁰

Section 72.12 of the MVRMA allows the Board to renew a licence, with or without changes to its conditions, when it appears to be in the public interest. That section also allows the Board to amend a condition of a licence. A renewal, with or without changes, will be deemed to be a continuation of the original licence. Therefore, even if the City does *not* already have an entrenched right to take water from Yellowknife Bay that takes precedence over the GMRP's application—which is denied—if the City were to expressly apply for the use of Yellowknife Bay as a primary water source in its next renewal application in 2022, that right obtained through a renewal would have precedence over the proposed use by GMRP.

Either way, if the Board decides that the City is eligible under s. 72.03(5)(a), then unless the Board is satisfied that the GMRP's proposed use of water "would not adversely affect, in a

²⁹ See *Rizzo & Rizzo Shoes Ltd. (Re)*, [1998] 1 SCR 27 at para 21, citing Elmer Driedger in *Construction of Statutes* (2nd ed. 1983) "Today there is only one principle or approach, namely, the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament". [[Canlii](#)].

³⁰ *Interpretation Act*, RSC 1985, c I-21, s. 12. [[Justice Canada](#)].

significant way, the use of waters” by the City, then the Board has no jurisdiction to issue a water licence unless a water compensation agreement is entered into under s.72.03(5)(a)(ii).

(b) The City is eligible under s. 72.03(5)(b)

Even if the GMRP is correct that the City’s rights are somehow frozen in time under s. 72.03(5)(a), which is denied, then the City is still eligible for compensation under section 72.03(5)(b)(i) as a licensee “to whom paragraph (a) does not apply”. Under that subsection, the Board has no jurisdiction to issue a licence unless the Board is satisfied that compensation the Board considers appropriate has been or will be paid to licencees (the City) who would be adversely affected by the use of waters or deposit of waste. Despite being on notice of the City’s claim in this regard, the GMRP has failed to respond, and it has no further right to respond. And in order to accept GMRP’s argument, this Board would need to read the MVRMA as though s. 72.03(5)(b)(i) is not there.

2. The adverse effects of the GMRP’s water use and deposit of waste on the City

(a) Adverse effects of the GMRP’s proposed effluent discharge

There is no denying that the activities GMRP applies for in its water licence will *both* cause actual contamination in Yellowknife Bay and continue and promulgate the contamination that already exists. As noted in the City’s claim (p 7), MVEIRB has already determined that discharge of water at concentrations proposed by the GMRP will, at least until 2026, cause significant adverse impacts on water quality and the environment in Back Bay”.³¹ The significant adverse effect on the City’s use of Yellowknife Bay is clear.

GMRP does not refer to any evidence for its broad statement that “GMRP will not deposit wastes in a manner that would raise the level of contamination in Yellowknife Bay”.³²

GMRP asserts that the “proposed effluent quality will meet the [Guidelines for Canadian Drinking Water Quality] for arsenic 10 µg/L”.³³ In fact, this will not occur until 2026 at the earliest. Until such time, the applicant intends to continue to discharge into Yellowknife Bay “at or below” 300 µg/L, and continue to load Yellowknife Bay in the process.

GMRP attempts to explain this away by asserting that the arsenic will be diluted by the time it reaches the intake at Yellowknife Bay, and that the MVEIRB didn’t *actually* mean that GMRP had to comply with drinking water quality guidelines for discharge of arsenic at the outset of the licence. Neither position is tenable.

The argument that there is no cause for concern because the arsenic will be diluted to acceptable concentrations by the time it reaches the intake at Yellowknife Bay is the very same argument the GMRP made in the Environmental Assessment process that the MVEIRB rejected. The City acknowledges that its own evidence and GMRP’s additional evidence in the *Giant Mine Effluent*

³¹ Report of Environmental Assessment and Reasons for Decision on the Giant Mine Remediation Project (EA0809-001) June 20, 2013 (“[EA Report](#)”) at p 152.

³² GMRP Response *supra* note 18 at p 7

³³ *Ibid* at p 9.

Quality Criteria Report indicate “a substantial decrease in concentrations of arsenic as you go further into Yellowknife Bay”,³⁴ but concentrations are not the only concern. As stated by MVEIRB:³⁵

The Developer has stated that at the edge of the mixing zone, the water will meet the CCME criteria for the protection of aquatic life. Throughout the EA, the Developer’s discussions on arsenic in effluent have focussed on arsenic concentrations. The Board notes that the Developer has put much more effort into predicting *concentrations* than it has to looking at the potential *loading* of arsenic in the bay. **In the Board’s opinion, even very low concentrations of arsenic can cause a problem if the arsenic accumulates, for example, in water, sediments, fish or people.**

[Emphasis added.]

GMRP continues to take the very narrow view that so long as its model predicts that diluted concentrations of arsenic should fall within water quality guidelines under modelled conditions, then there are no adverse effects. Even if one ignores that GMRP doesn’t plan to meet the 10µg/L threshold for years to come, maintaining concentrations at or below that threshold is just one piece of the puzzle. Just as it did in the MVEIRB EA proceedings, the GMRP ignores the effect of loading before the Board in these proceedings.

Further, the MVRMA is not and has never been an exercise in ticking a box. Rather, interpretation of the MVRMA requires a holistic approach to considering the interactions between all aspects of the environment, including people, as part of an interconnected system, consistent with section 101.1 (1) of the MVRMA which provides that “[t]he objectives of the Board are to provide for the conservation, development and utilization of land and water resources in a manner that will provide the optimum benefit generally for all Canadians and in particular for residents of the Mackenzie Valley.”

The GMRP further makes the assertion that it is “unreasonable to expect the GMRP to meet the measure provided by the MVEIRB on the day the license is issued”.³⁶ In so claiming, the GMRP is arguing that the City should bear the risks and costs of the GMRP’s inability to satisfy the conditions of the EA, namely Measure 14:

Measure 14: The Developer will add an ion exchange process to its proposed water treatment process to produce water treatment plant effluent that at least meets Health Canada drinking water standards (containing no more than 10 µg/L of arsenic), to be released using a near shore outfall immediately offshore of the Giant mine site instead of through the proposed diffuser. The Developer will

³⁴ *Ibid* at p 9.

³⁵ EA Reports *supra* note 31 at p 150.

³⁶ GMRP Response *supra* note 18 at p 9.

achieve this concentration without adding lake water to dilute effluent in the treatment plant.

This Measure was adopted by the Minister without amendment.³⁷ Unlike other Measures in the EA Report, such as Measure 11 which expressly provides for delayed or staged compliance with that Measure,³⁸ there is no allowance for staged implementation of this Measure.

The City accepts that the GMRP requires certain operational flexibility and wishes to minimize costs, but those costs cannot come at the expense of the City. The GMRP has made certain choices in the timing, design and implementation of its project that have now put it in the position of needing to compensate the City for the consequences of its inability to comply in the period between license issuance and full compliance with the Measure. The compensatory scheme established by the MVRMA is not designed to force other licencees to bear the risk or cost of another applicant's compliance—in fact the opposite is true. The compensatory scheme under the MVMRA is intended to keep existing licensees whole.

(b) Adverse effects of perpetuating risk of the Northwest Pond

GMRP wrongly asserts that the Board “cannot award compensation for the perpetuation of the risk of release from the Northwest Pond”.³⁹ In support of this, the GMRP cites *Carter*, which stands for the proposition that the Board will not award compensation for “loss or damage incurred under previous licences”.⁴⁰ The City does not dispute that proposition, but it does not apply here. The GMRP ignores that in the *Carter Reconsideration* decision this Board did award compensation for adverse effects of a new licence that “continues and promulgates” activities that negatively impact an ongoing water use.⁴¹

GMRP incorrectly asserts that a risk of a release of arsenic from the Northwest Pond would not result from its application for a water licence.⁴² To the contrary, maintaining and developing the Northwest Pond in the specific configuration proposed by the GMRP is currently an unlicensed activity that the Applicant is now seeking to have licenced. To recap from the City's claim:

- Under the Closure and Reclamation Plan, the Applicant intends to continue to pump minewater into the Northwest Pond until at least 2026 when the new water treatment plant is completed.

³⁷ Final Approved Wording of Modified Measures, Bernard Valcourt, Letter to JoAnne Deneron, Chairperson of the Mackenzie Valley Environmental Impact Review Board, August 14, 2014 online (pdf): <http://registry.mvlwb.ca/Documents/MV2007L8-0031/MV2007L8-0031%20-%20DIAND-GIANT%20-%20Minister%20of%20DIAND%20Approval%20of%20EA%20and%20Modified%20Measures%20-%20Aug11-14.PDF>

³⁸ *Ibid* see: Measure 11 which allows the GMRP one year from the receipt of its licence to come up with a plan to divert Baker Creek and select an option on how to proceed, with input from GMOB and stakeholders. No such flexibility exists in Measure 14.

³⁹ GMRP Response *supra* note 18 at p 7.

⁴⁰ *Carter supra* note 5 at para 128.

⁴¹ Reconsideration Decision *supra* note 4 at para 118.

⁴² GMRP Response *supra* note 18 at p 7.

- Despite the Applicant’s statement that “Surface storage of contaminated water is not considered a suitable option for site remediation” (Crown-Indigenous Relations and Northern Affairs Canada, Giant Mine Remediation Project, January 2019, Closure and Reclamation Plan at 5-222 “Closure and Reclamation Plan”) the Applicant intends to do exactly that until the new water treatment plant is in place.
- Minewater will continue to be pumped out of the underground into the Northwest Pond to be stored while waiting for treatment at the existing water treatment plant. It is not until the new water treatment plant is commissioned, in 2026 at the earliest, that contaminated water will be directed underground for storage (Closure and Reclamation Plan at viii).
- The Applicant has designed the Project such that any surface water requiring treatment is also pumped to the Northwest Pond, prior to treatment in the existing plant (Closure and Reclamation Plan at viii).

Despite the City’s specific proposed information request to GMRP about whether it considered any alternatives to storing minewater and hazardous waste in the Northwest Pond, and the costing of those alternatives, the GMRP has provided no evidence that maintaining the Northwest Pond was the only option. There is no evidence that maintaining the Northwest Pond is even necessary. Further, GMRP has provided no evidence that its “activities at the site are actively minimizing the pre-existing risks associated with the Northwest Pond”. And the GMRP makes several claims regarding its apparent work to reduce the risks of various dams on site, but it is unclear whether any of this work is related to the Northwest Dam.

Under all these circumstances, there is no denying that the GMRP itself continues and promulgates the risk of catastrophic contamination of Yellowknife Bay through the GMRP’s continued and persistent use of the Northwest Pond.

But most importantly, there is no support for the GMRP’s sweeping assertion that the risk of a “failure of the Northwest Pond causing a release is a very low probability event, and if it occurred, it would result in short-term effects”.⁴³

Recall that in *Carter* the Northwest Territories Supreme Court held:

[117] ... As a condition of granting a licence, the Board must be satisfied that appropriate compensation has been or will be paid to a party who “would be” adversely affected by what is “proposed”. Both “would be” and “proposed” are expressions of something that will happen in the future. In this context, “provable” and “potential” losses could just as easily be interpreted to mean losses or damages that will *definitely* occur and those which *might* occur, respectively.

The adverse effect in this case is the risk of failure. The GMRP has not disputed the risk established by the AECOM report. The consequences of the risk are so great that the City has no choice but to eliminate the risk entirely. As such, regardless of whether the dam failure *actually*

⁴³ *Ibid* at p 8.

occurs (and in the words of the NWT Supreme Court in *Carter*, it certainly “*might* occur”), the existence of the risk has been proven on a balance of probabilities, thereby establishing the City’s right to compensation.

The GMRP’s claim that that a failure of the Northwest Pond would result in a “short-term effect” is patently false. Shutting down the City and evacuating its residents because they have no water to drink is not a short-term effect. The AECOM report estimates that in the event of a failure of the Northwest Dam arsenic levels in Yellowknife Bay, and specifically at Pump House #1 would be unsafe to drink for three to four months.⁴⁴ The length of time required to clean such a disaster would depend on the nature of it, but it is inaccurate to assert that a release of approximately 190 µg/L to 4,600 µg/L total arsenic into Yellowknife Bay would result in a short term effect.

If the City were drawing from Yellowknife Bay during a catastrophic event, the City would run out of water within one day.⁴⁵ The significant and drastic consequences of such an event are set out at page 8 of the City’s Claim. It would be impossible to mitigate or remedy such a spill in one day, even if it the Applicant went into action quickly. Having an entire City—let alone a capital—without water is unacceptable.

(c) Proof of loss and damage

Section 72.03(6) of the MVRMA contemplates compensation for both provable and potential loss and damage.

In this case, the City’s losses are provable because the City must construct the water pipeline in order to mitigate against the risk of the Northwest Pond and the continued arsenic loading from the ETP discharge. The GMRP’s statement that “the pipeline is simply at the end of its life, and must be replaced regardless of the Project activities” (p 11) misses the point of the City’s application entirely. It is precisely because of the GMRP’s activities that the pipeline needs to be replaced. The risks and continued contamination caused by the GMRP have and continue to prevent the City from drawing its water from Yellowknife Bay. The suggestion that the timing of the pipeline replacement has nothing to do with the GMRP is akin to a driver complaining that an accident is not her fault because the pedestrian she hit in the crosswalk shouldn’t have been there at that time. It defies logic.

Given the GMRP’s plans to continue to load Yellowknife Bay with arsenic and perpetuate the risk of the Northwest Pond, the City has no choice but to replace the water pipeline. Requiring the GMRP to compensate the City is merely a continuation of the obligation that the federal government and Giant Mine assumed in order to secure the City’s water supply, as detailed in the City’s claim at p 16. The GMRP does not dispute those facts. The problem has not yet been solved and the City’s costs of avoiding that problem must continue to be to the account of the proponent of the Giant Mine who took on the obligation of avoiding it in the first place.

Further, the GMRP makes the argument that the City is somehow better off than without the Northwest Pond because, with the proceeds of the City’s DMAF application, constructing the water pipeline actually puts the City in a better position than having to pay for the Yellowknife

⁴⁴ City of Yellowknife Potable Water Source Selection Study, AECOM, December 6, 2017 at page 29.

⁴⁵ Water Pipeline Claim *supra* note 28 at p 9.

Bay option. The City should not be penalized for mitigating its damages. The purpose of the City's DMAF application was to eliminate the risk created by the Northwest Pond, and the acceptance of the DMAF application substantiates the need to eliminate that risk. But DMAF does not cover the entire cost of the replacement, and without funding for the entire cost, the adverse effects of the perpetuation of the Northwest Pond on the City remain uncompensated, contrary to s. 72.03(5) of the MVRMA.

Contrary to the GMRP's statement at p 12 that the City "has not submitted any evidence to show there will be actual, emotional, economic, spiritual or cultural effects to the wellbeing of users of the City's drinking water" as part of its claim for nuisance damages, the City has described these damages in some detail, quantifying them in the amount of \$447,305,755.82.⁴⁶ The City is claiming only a fraction of those potential damages as a cost of avoiding the risk the GMRP presents. Surely it is not unreasonable to require the GMRP to pay less than 2 percent of those damages established by precedent as appropriate compensation for avoiding that risk entirely.

And, as noted in the City's claim at page 11, MVEIRB has acknowledged the stress and anxiety of the effects of arsenic contamination on the community.

Lastly, but not least, the City wishes to highlight for the Board's attention the support letters it received from the YKDFN and NSMA for its DMAF application, included in the City's evidence.⁴⁷ The YKDFN state:

The City and its surrounding area known as the Chief Drygeese Territory is the traditional homeland of the Yellowknives Dene First Nation. The area around the City is regarded by many as 'the heart of the YKDFN territory'. To the Yellowknives Dene First nation and the all peoples safe drinking water is a right not a privilege. We along with the City of Yellowknife sincerely urge fund the replacement the aging submarine water later to ensure safe drinking water for our communities.

The NSMA states:

Safe and clean water is a human right and an essential service. Given the historical contamination of Back Bay as caused by the former Con and Giant gold mines, and the uncertainties and risks related to climate change (which can cause flooding) as well as the slow progress of remediation at Giant Mine, we believe that the best course of action is to maintain Yellowknife River as the City's primary water source.

The City has received the consent of the YKDFN and the NSMA to rely on these letters of support in these proceedings, and the City submits that those letters apply with equal force as evidence in this proceeding.

⁴⁶ Disaster Mitigation & Adaptation Fund: Return on Investment (ROI) Calculation, City of Yellowknife, attached as Exhibit D, pages 193 – 201, of the Water Pipeline Claim *supra* note 28.

⁴⁷ Attached as Exhibit "F", pages 221 & 223, of the Water Pipeline Claim *supra* note 28.

V. THE CITY MUST BE COMPENSATED FOR ITS TOWN SITE CLAIM

1. Introduction – this claim should have been resolved a long time ago

As noted by the GMRP in its submissions, the City and GMRP have been in discussions regarding maintaining access to Great Slave Lake on the Lease since July 2018, when the GMRP first suggested that the City would lose access to the boat launch. Since that time, however, no real progress has been made. It wasn't until October 10, 2019, almost two months after the City first filed notification of its intention to claim compensation,⁴⁸ and on the eve of the extended deadline for submission of the City's claim, that the GMRP first began to acknowledge the necessity for mitigation measures due to the adverse effects on the City of its project.

To be clear, the City welcomes the GMRP's additional commitment in its submissions that:

“The GMRP will make best efforts to maintain continuous public access to Great Slave Lake for boating through the Town Site Area during the boating season. The GMRP proposes to achieve this by constructing a boat launch comparable to the existing one at the Giant Mine boat launch near the site of the GSSC, and to make sure that at least one of the existing or new boat launches will be accessible by the public over the duration of the project during the boating season”.⁴⁹

The City also generally agrees that satisfaction of the above commitments “should mitigate most of the issues raised by the City in its claim for compensation”,⁵⁰ though the City notes that the access issue is complex and resolution will likely need to involve the Great Slave Sailing Club and the Yellowknife Historical Society. In that regard, while those parties have brought compensation claims in their own right, the City must point out that the foundation for the GMRP's claim that those parties have no standing in these proceedings because they have no right to a lease, is a problem of the GMRP's own creation. The GNWT must approve any lease renewal and has refused that consent because of the GMRP's plans.⁵¹

Unfortunately, the City has received no comfort that the GMRP will in fact do what it is suggesting in its offers. Despite the City's best efforts, and despite what GMRP has represented in its submissions, the GMRP has not yet proposed an agreement to demonstrate how it would meet those commitments. This is despite the fact that GMRP has promised that such an agreement would be forthcoming.

⁴⁸ Letter from Natalie Plato to Sheila Bassi-Kellet (October 10, 2019) RE: Giant Mine Remediation Project Water Compensation Claims Process – Mitigated Impact on Boat Launch Access, online (pdf): <http://registry.mvlwb.ca/Documents/MV2007L8-0031/MV2007L8-0031%20-%20DIAND-GIANT%20-%20Letter%20to%20City%20of%20YK%20Re%20-%20Water%20Compensation%20Claims%20Mitigation%20and%20Accommodation%20-%20Oct10-19.pdf>

⁴⁹ GMRP Response *supra* note 18 at p 16.

⁵⁰ *Ibid* at p 16.

⁵¹ Letters from the Government of the Northwest Territories, attached as Schedule “E”

Without an actual enforceable agreement from GMRP as to the terms of the access, the City has no choice but to continue this aspect of its compensation claim. That is unfortunate for the City and its taxpayers because this aspect of the City's claim should have been eminently solvable. Instead, the GMRP has unnecessarily prolonged this process at great cost to the City and its limited resources.

Under the circumstances, the City does not believe that the GMRP has heeded the Board's direction that "The Claimants and the GMRP Team will be expected to make best efforts to negotiate a settlement and advise the Board of the results of these efforts."⁵² The City stands ready and willing to accept an agreement along the lines of what GMRP has proposed, but to date GMRP has not committed to maintaining access by way of an actual, enforceable agreement. Even with such an agreement, the City will be facing a diminished level and quality of access because of a decrease in usable space for residents and the City's subtenants.

The City does not believe that the access issue should be difficult to solve by agreement. But at the same time, the access issue is not limited to the City and GMRP. Given the clear adverse effects of the GMRP on the City and its subtenants, the City asks this Board to require the GMRP to implement the mitigation measures it proposes by mandating that a compensation agreement be entered into, and not issue a water licence until that has occurred.

2. Eligibility and extent of use

The GMRP admits that the "City uses the property it leases for the purpose of enabling the public and its sub-lessee, the Great Slave Sailing Club, **to have access to the water**".⁵³ It is unclear what the GMRP means when it says "[t]his is not a stand-alone water use"⁵⁴ or how that is relevant to interpreting the legislation. The fact remains that the City uses the lands for the purpose of accessing the water and the GMRP is seeking to restrict that access, adversely affecting the City's use of those waters.

In its response, GMRP puts forth an unduly cynical view of the importance of the Dock Facilities to the City and its residents, by suggesting that evidence is required to demonstrate that access to Great Slave Lake is the source of an "emotional and intangible connection to the water and contributes to the quality of life of all the residents of Yellowknife". This fact is self evident to Board members, staff, and City residents. An emotional and intangible connection is by its very nature not conducive to being proven as a black and white matter on a rigid legal standard of proof. It is plain and obvious that many, many Yellowknifers of various backgrounds and traditions share this commonality. The City believes that this fact is intuitive to those who live here. As demonstrated by the attached newspaper articles, there is significant public concern.⁵⁵

⁵² Mackenzie Valley Land and Water Board, Outline of General Board Process for Considering Claims for Water Compensation, (August 29, 2019) online (pdf): <http://registry.mvlwb.ca/Documents/MV2007L8-0031/MV2007L8-0031%20-%20DIAND-GIANT%20-%20Board%20Process%20Overview%20for%20Water%20Compensation%20and%20Claim%20Form%20-%20Aug28-19.pdf>

⁵³ GMRP Response *supra* note 20 at p 14.

⁵⁴ *Ibid* at p 14.

⁵⁵ See Newspaper articles attached as Schedule "F".

The City admits that there is no “evidence of the number of users of the Giant Mine boat launch and dock”, and while it is true that no formal surveys have been conducted, at a multiparty meeting (between GMRP, GNWT, the City, GSSC and Great Slave Yacht Club) on December 10, 2019, members of the GSSC anecdotally noted that there could be hundreds of boats passing through the Giant Dock on a summer weekend day. But given the significant public concern about this issue—as evidenced by GMRP’s late-blooming concern that public access must be maintained—and the personal experience of anyone who visits the Dock Facilities on a summer weekend, the City submits that the estimates of use of the Dock Facilities it provided in its claim are more than sufficient (p 10) to prove the extent of the City’s use.

GMRP also suggests that the City must provide evidence that no alternative facilities exist for the launching of commercial and barging vessels in particular. The City viewed the lack of alternative facilities as commonly understood. And the GMRP has not pointed to any adequate alternative sites in its evidence to refute the City’s claim. To the contrary, the GMRP has admitted that maintaining access comparable to the existing facilities is necessary.

3. Effects of GMRP’s proposed use on the City

Nowhere in the GMRP’s submissions does the GMRP deny that it is adversely affecting the City’s rights to access and use the waters of Great Slave Lake via the Lease. It is patently false for the GMRP to claim that “the City is not claiming that the GMRP’s proposed use of waters or deposit of waste will result in unwanted and adverse effects to it as an owner or occupier of property”. The adverse effect is the suspension of the Lease and no, or limited, access to the water. The GMRP’s use of water and deposit of waste as set out in their application would completely prevent the City, and its residents, from accessing or using the water to which the City has an entitlement as an owner and occupier for up to ten years. This adversely affects, in a significant way, the use of waters by the City.

It is also false for GMRP to say “[t]he City’s claims for compensation are directly linked to the fact that the City wanted the benefit of having its leasehold property remediated to residential soil standards as per its own request”.⁵⁶ Yes, during the EA, the City along with other parties requested that the soil be remediated to a residential standard, but at the time that request was made, there was no suggestion that access to the Lease would be impeded for up to 10 years. The GMRP did not indicate until this Spring 2018—long after the City’s recommendation was made, and the long after the GMRP agreed to it.

But in any event, the implication that the City brought this on itself is a red herring. Regardless of the standard of remediation, GMRP will impede access to the City’s land. The GMRP has provided no evidence that the request to remediate to a residential standard is the reason it requires a longer lease suspension. Nor has the GMRP provided any evidence of the extra costs it says it must incur in order to remediate this part of the site to a residential standard. Similarly, it has not detailed the costs that it is not incurring by choosing *not* to remediate much of the site to an industrial standard (as was the proposal approved in the EA Report). Regardless of what, if any, the extra costs are (GMRP variously asserts that this figure is \$30M (p 14) or \$36M (p 3)), they are ultimately irrelevant, because the object of the legislation is compensation for adverse impacts, not how much the applicant chooses to spend on its project.

⁵⁶ GMRP Response *supra* note 20 at p 17.

The GMRP then makes the heavy-handed suggestion that “The City has a choice to make”,⁵⁷ of either giving in to the GMRP or having parts of the leasehold property left not remediated. If the City does have a choice to make, it is only because GMRP has forced it into this position by leaving negotiations to the last minute and then being slow to move them forward. But the better view is that it is simply not true that the City faces a binary choice. The GMRP has an *obligation* to remediate the Town Site under the Cooperation Agreement⁵⁸ and the Devolution Agreement. It cannot now say that the obligations and the consequences of the obligations it bargained for are “unfair”.⁵⁹ Fairness, in this case, is in the eye of the beholder, and in any event fairness is not the test before the Board. The GMRP must play by the rules just like any other applicant would.

Further, despite all the arguments that GMRP makes about access, the GMRP then argues—without authority—that the Board has no jurisdiction to impose restrictions on access. A grammatical and ordinary reading of section 102 of the MVMRA supports the opposite construction:

“The Board has jurisdiction in respect of **all uses of land** in the Mackenzie Valley for which a permit is required under Part 3 **and** in respect of all uses of waters or deposits of waste in the Mackenzie Valley for which a licence is required ...”

Clearly, the Board has broad jurisdiction in all matters related to the issuance of a licence. More fundamentally, the Board has no jurisdiction to grant a licence without adequate compensation.⁶⁰ The GMRP is asking this Board to confirm that it is powerless in awarding compensation in a situation where an applicant’s proposed activities under a water licence prevent another party from using property it occupies. Such an interpretation would strip the compensation provisions of the MVRMA of all meaning. That is a dangerous precedent for this Board to set.

4. Proof of loss and damage

GMRP asserts throughout its response that it will maintain continuous public access to Great Slave Lake at a comparable level to what is currently provided by the Giant Mine boat launch and dock. On the basis of this assertion, GMRP claims that the City will not incur damages. But as discussed above, until GMRP actually commits to providing access, the damage to the City remains. Even so, the City and its residents will be facing a diminished level of access to the facilities they currently enjoy.

GMRP also underestimates the extent to which the City and its residents will be impacted if GMRP fails to maintain access. As it stands, the City stands to lose that access to Great Slave Lake for up to ten years, necessitating an alternative dock arrangement.

The GMRP also makes the unsupported claim that the City cannot be compensated for the damages to its residents, suggesting instead that every individual resident of Yellowknife should

⁵⁷ *Ibid* at p 15.

⁵⁸ Cooperation Agreement, attached as Exhibit “C”, at pages 31 to 43 of the Dock Claim *supra* note 51 Claim Exhibit C

⁵⁹ GMRP Response *supra* note 20 at p 16.

⁶⁰ MVRMA *supra* note 1 s. 72.03(5)(b).

have brought a claim. As discussed above, the City is accountable to its residents and is the proper claimant. Further, the GMRP's position contradicts its own statement that "the City uses the property it leases for the purpose of enabling the public ... to have access to the water".

In the absence of a negotiated agreement—which is the City's preference and which the City is asking the Board's help to achieve—the City stands by its position in its claim that it is entitled to be compensated for the loss of use of the Town Site during the project. The City maintains that it is entitled to \$290,000 for a feasibility study to construct suitable alternate boat launch and dock facilities, plus the actual cost of alternate facilities during the Lease suspension period. In the alternative, the City is entitled to \$13 million, representing \$65 per year per resident of Yellowknife for the up to 10 year duration of the lease suspension. The GMRP suggests that the City cannot make this claim because it did not submit any evidence on the actual use of the Giant Mine boat launch and dock, but as noted by this Board in the *Carter Reconsideration Decision*, quantification of damages is an imprecise exercise that requires the Board to exercise its judgment:

118. In balancing the competing interests of conservation, development and utilization of land and water, the Board recognizes that Water Licence MV2011L4-0002 continues and promulgates activities that negatively impact the Carter's ongoing use of the water. The Board has discretion to determine appropriate compensation for this type of impact under subsection 26(6), and is satisfied that some compensation is warranted. The amount cannot be determined using principles of business loss, whether for increased costs or decreased value. The quantification of an emotional loss is difficult to do with precision and requires an exercise of judgment, taking into consideration all of the evidence and submissions by the parties.

It is no surprise that the damages have not been as precisely calculated as GMRP would like—valuing water and access to it is intangible. The City used the best information and most reasonable estimations at its disposal to come up with the values it proposed. GMRP has led no evidence or argument as to what aspect of the calculations may need to be revised, or may be misleading, other than to make the sweeping generalization that the claim for \$13 million dollars is groundless and exaggerated. This generalization fails to clarify their point or help the City to negotiate what may be, in the eyes of the GMRP, a more accurate amount. As such, the City maintains that a negotiated agreement is the best solution for all parties in this case.

V CONCLUSION

Fundamentally, this Board has no jurisdiction to grant a licence unless it is satisfied that adequate compensation has been paid, or an agreement is in place for adverse effects of a proposed licence on the City. The City agrees that the Board cannot award compensation for loss and damage incurred under previous licences. But there is considerable scope for the Board to award compensation for adverse effects of the new licence that "continue and promulgate" activities that negatively impact an ongoing water use, regardless of whether the overall activity proposed by the applicant has a "net benefit".

It is also important to remember that the adverse effects the City now complains of are not limited to those occurring under past licences. GMRP has never had a water licence covering the full extent of the work now under consideration, and to the extent that the GMRP now seeks a water licence to legitimize the activities conducted in the interim period without a water licence, the GMRP cannot hide behind the argument that those activities were approved under a previous licence.

The adverse effects to the City of the GMRP continuing to discharge and load Yellowknife Bay with arsenic are clear. The City cannot source its water from there, requiring it to go elsewhere.

The adverse effects of the GMRP's plan to suspend the City's access to the water are also clear. A solution seems within reach, yet GMRP has so far failed to deliver one.

The City is entitled under the governing case law to be compensated as a result.

The City thanks the Board and its staff for the time and resources required to resolve this important claim.

SCHEDULES

1. Schedule “A” – City of Yellowknife Water Licence N1L4-0032 1977 .
2. Schedule “B” – City of Yellowknife, 1981 Application for renewal of Water Licence N1L4-0032.
3. Schedule “C” – 1982 Issued Renewal of Water Licence N1L4-0032.
4. Schedule “D” – 1983 Study of the Water Quality of Yellowknife Bay performed by the Water Sources Division, Northern Affairs Program.
5. Schedule “E” – Letters regarding sublease renewal of the Town Site.
6. Schedule “F” – News Paper Articles Regarding the Town Site and Boat Launch.

Schedule “A”



NORTHWEST TERRITORIES WATER BOARD

Pursuant to the Northern Inland Waters Act and Regulations the Northwest Territories Water Board, hereinafter referred to as the Board, hereby grants to

THE CITY OF YELLOWKNIFE

(Licensee)

of YELLOWKNIFE, NORTHWEST TERRITORIES
(Mailing address)

hereinafter called the Licensee, the right to alter, divert or otherwise use water subject to the restrictions and conditions contained in the Northern Inland Waters Act and Regulations made thereunder and subject to and in accordance with the conditions specified in this licence:

Licence Number N1L4-0032

Water Management Area NORTHWEST TERRITORIES 01

Location APPROXIMATELY LATITUDE 62°27'N AND LONGITUDE 114°21'W

Purpose TO OBTAIN WATER AND RETURN THE FLOW OF WATER

Description MUNICIPAL USE IN THE CITY OF YELLOWKNIFE

Quantity of Water Not to be Exceeded 600,000 Imperial gallons per year

Rate of Use of Water Not to be Exceeded 3,300,000 Imperial gallons per day

Effective Date of Licence NOVEMBER 1, 1977

Expiry Date of Licence OCTOBER 30, 1982

This Licence issued and recorded at Yellowknife includes and is subject to the annexed conditions.

Northwest Territories Water Board

Arthur P. Redman
Witness

D. G. Gordon
Chairman

Approved by [Signature]
Minister of Indian Affairs
and Northern Development

PART A

GENERAL CONDITIONS

1. The Licensee shall file reports pursuant to section 15 of the Regulations not later than February 1st of the year next following the year reported.
2. The annual water use rental fee shall be payable quarterly in advance.
3. The Annual Report for the preceding year as required under Part A Item 1 shall contain the following information:
 - (a) The total annual quantity of water in Imperial gallons pumped from the Yellowknife River and supplied to:
 - (i) The City of Yellowknife;
 - (ii) Giant Yellowknife Mines Limited; and
 - (iii) Cominco Limited, Con Mine.
 - (b) The total annual quantity of water, in Imperial gallons, pumped from Yellowknife Bay; and supplied to the City of Yellowknife;
 - (c) Both tabular and graphical summaries of the water quality data generated under the "Surveillance Network Program";
 - (d) A detailed record of any major maintenance work carried out on the water supply and waste treatment systems; and
 - (e) Any other details on water use and waste disposal as requested by the Board.
4. The Licensee shall comply with the "Surveillance Network Program" as is annexed to this Licence.
5. The "Surveillance Network Program" as annexed may be modified at the discretion of the Board.

6. All compliance and reporting dates required by this Licence may be modified at the discretion of the Board.
7. This Licence is issued subject to the conditions contained herein with respect to the taking of water and the deposit of waste. However, in accordance with Section 10(3) of the Northern Inland Waters Act, whenever new Regulations are made or existing Regulations amended by the Governor in Council under the Northern Inland Waters Act, or other statute, which imposes more stringent conditions relating to the quantity or types of waste that may be deposited in any waters or under which such waste may be so deposited, this Licence shall be deemed upon promulgation of such Regulations, to be automatically amended to conform with the Regulations.
8. The Licensee shall carry out a reclamation program on all facilities associated with the taking of water or deposit of municipal waste as related to this Licence in a manner that is satisfactory to the Board upon the termination of the Licence or renewals thereof, on abandonment of the operation, or if during the period of the Licence or renewals thereof, an unauthorized deposit of waste occurs.

PART B CONDITIONS APPLYING TO THE TAKING OF WATER

1. The Licensee shall obtain all water for municipal purposes from the Yellowknife River by use of the existing intake structure and associated piping and pumping facilities as described in drawing number 109-800-1, City of Yellowknife, Northwest Territories, dated December 15, 1972. -
2. The Licensee may, in the event of an emergency, obtain water for municipal purposes from Yellowknife Bay on Great Slave Lake by use of the existing intake structure and associated piping and pumping facilities as described in drawing number 109-800-1, City of Yellowknife, Northwest Territories, dated December 15, 1972.
3. The annual quantity of water obtained from the Yellowknife River and from Yellowknife Bay shall not exceed 600,000,000 imperial gallons per year, and this quantity includes the water supplied by the City of Yellowknife to Giant Yellowknife Mines Limited and to Cominco Limited, Con Mine.
4. The maximum rate of use of water obtained from the Yellowknife River and from Yellowknife Bay shall not exceed 3,300,000 imperial gallons on any one day, with the average daily use over any one year not exceeding the quantity stated in Part B Item 3 divided by the number of days in the given year, and this rate includes the water supplied by the City of Yellowknife to Giant Yellowknife Mines Limited and to Cominco Limited, Con Mine.

5. All waters obtained by the Licensee from the Yellowknife River or from Yellowknife Bay shall meet the following water quality standards:

Parameter	Maximum Concentration of any Grab Sample (mg/l)
Total Arsenic	0.05
Total Barium	1.0
Total Boron	5.0
Total Cadmium	0.01
Total Chromium	0.05
Total Cyanide	0.20
Total Lead	0.05
Total Mercury	0.002
Total Nitrate & Nitrite	10.0
Total Selenium	0.01
Total Silver	0.05

6. The Licensee shall by December 1, 1977, post such signs as are required by the Board, in the areas of the water supply intake structures on the Yellowknife River and on Yellowknife Bay, which will serve to inform the public that these waters are used for municipal purposes and no waste of any type shall be deposited therein.
7. The Licensee shall by January 15, 1978 file with the office of the Board, details on the methods and procedures used for the measurement of the daily quantity of water supplied to the City of Yellowknife, Giant Yellowknife Mines Limited and Cominco Limited, Con Mine, from the Yellowknife River and supplied to the City of Yellowknife from Yellowknife Bay. Each method or procedure of measurement must be acceptable to the Board and be fully implemented by May 1, 1978.
8. The Licensee shall at all times operate and maintain all intake structures and associated piping and pumping facilities in a manner satisfactory to the Board.
9. The Licensee shall file with the office of the Board at least two (2) months prior to any proposed new construction or work associated with the systems identified under Part B Items 1 and 2, the final design and construction plans, specifications, and work schedules, and shall receive a letter of approval from the Board prior to the start of any construction or work.
10. The Licensee shall file with the office of the Board at least ten (10) days prior to any construction or work referred to in Part B Item 9, a detailed construction schedule.
11. The Licensee shall construct each structure and carry out work in accordance with the plans and specifications approved by the Board.

12. All design alterations from those approved by the Board shall be submitted to the office of the Board and the Licensee shall receive a letter of approval from the Board prior to any alterations being made.
13. The Licensee shall provide as-constructed plans and drawings of the work referred to in Part B Item 9, within three (3) months of completion of construction. These plans and drawings shall be submitted on transparencies that will reproduce with the use of a standard printer.

PART C CONDITIONS APPLYING TO DISPOSAL OF WASTE

1. Conditions Applying During Interim Disposal From November 1, 1977 to October 31, 1980

- (a) The Licensee may discharge municipal waste to Kam Lake from the areas of the City of Yellowknife listed below through the existing outfall located as defined in Reid Crowther and Partners Limited drawing number 111-800-3, Town of Yellowknife, Compiled Plan Sewerage Layout:
 - (i) Forrest Park Subdivision;
 - (ii) Frame Lake South Subdivision;
 - (iii) Northland Mobile Home Park; and
 - (iv) Yellowknife Correctional Institute.

Application in writing must be made to the office of the Board, and written approval received from the Board, prior to any municipal waste being discharged to Kam Lake at any other location or from any other area within the City.

- (b) The Licensee shall discharge all municipal waste, other than that permitted under Part C Item 1(a), to the Niven Lake Sewage Lagoon through the existing outfall structure as defined in Reid Crowther and Partners Limited drawing number 111-800-3, Town of Yellowknife, Compiled Plan Sewerage Layout, with final discharge to Back Bay via the existing overflow structure at the northern end of Niven Lake Sewage Lagoon. Application in writing must be made to the office of the Board and written approval received from the Board, prior to the discharge of these wastes at any other location.
- (c) The Licensee shall advise the office of the Controller by the fastest means possible should a failure of the waste handling, treatment, and disposal system occur, and results in, or is likely to result in an unauthorized discharge of wastes. A detailed report of each such event shall be submitted to the office of the Controller not later than seven (7) days after the failure.

2. Conditions Applying to Construction of New Municipal Waste Treatment and Disposal System

- (a) The Licensee shall by January 15, 1978 file with the office of the Board proposals for studies which satisfy the "Terms of Reference for Design of Waste Treatment and Disposal System", appended to this Licence, and shall receive a letter of approval from the Board prior to the start of any such studies.
- (b) The Licensee shall commence the studies referred to in Part C Item 2(a) by April 30, 1978 and shall file progress reports with the office of the Board on these studies by June 30, 1978 and August 31, 1978. The studies shall be completed and the final report filed with the office of the Board by October 31, 1978.
- (c) The Licensee shall complete the design of a waste treatment and disposal system based on the studies referred to in Part C Item 2(a) by January 31, 1979. The Licensee shall submit the final construction plans and drawings as required for the calling of tenders of the above system to the Board for approval by March 31, 1979. *June 29*
- (d) The Licensee shall file a detailed construction schedule with the office of the Board at least ten (10) days prior to the proposed start of any construction or work related to the system approved under Part C Item 2(c).
- (e) The Licensee shall submit to the office of the Board all proposed changes of a major nature in the construction schedule approved under Part C Item 2(d) and shall receive approval from the Board prior to any changes being implemented.
- (f) The Licensee shall submit to the office of the Board all alterations to the plans and drawings referred to in Part C Item 2(c) and shall receive approval from the Board prior to any alterations being implemented.
- (g) The Licensee shall file with the office of the Board at least ten (10) days prior to the start of any construction or work related to the system approved under Part C Item 2(c) the name of the City of Yellowknife official responsible for the project and any changes to this appointment shall be reported to the office of the Board immediately.

- (h) The Licensee shall file construction progress reports with the office of the Board as outlined below:

Reporting Period	Filing Date of Report
April 1, 1979 to September 30, 1979	October 31, 1979
October 1, 1979 to March 31, 1980	April 30, 1980
April 1, 1980 to October 31, 1980	November 30, 1980

- (i) The Licensee shall complete construction of the waste treatment and disposal system in accordance with the plans referred to in Part C Items 2(c) and 2(f) and shall direct all sewage from the City of Yellowknife to this system by October 31, 1980.
- (j) The Licensee shall by April 30, 1981 submit to the office of the Board a complete set of as-constructed plans and drawings of the waste treatment and disposal system. These plans and drawings shall be submitted on transparencies that will reproduce with the use of a standard printer.
- (k) The Licensee shall by October 31, 1981, submit to the office of the Board a detailed proposal for the reclamation of the Niven Lake Sewage Lagoon, and that portion of the Kam Lake receiving raw sewage. The Licensee shall file with the office of the Board a proposed implementation schedule for the reclamation work, and shall receive approval from the Board prior to the start of any work.

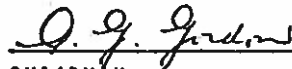
3. Conditions Applying to Disposal of Waste After October 31, 1980

- (a) The Licensee shall, after October 31, 1980, direct all sewage from the City of Yellowknife to the waste treatment and disposal system constructed in accordance with Part C Item 2(i) and shall direct the treated sewage from this system through a control point to Great Slave Lake, at or southwest of Peter Baker Slough.
- (b) All treated sewage discharge by the Licensee to the water of Great Slave Lake through the control point, referred to in Part C Item 3(a) shall strive to meet the following effluent quality requirements:

Parameter	Maximum Concentration of Any Grab Sample
<hr/>	
Biochemical Oxygen Demand (filtered)	40 mg/litre
Suspended Solids	50 mg/litre
Oil & Grease	30 mg/litre
Phenols	0.05 mg/litre
Total Coliform Density	1000/100 ml
Fecal Coliform Density	400/100 ml

The treated sewage shall have a pH between 6.0 and 9.0 and be in an aerobic state prior to discharge.

- (c) The Licensee shall advise the office of the Controller by the fastest means possible should a failure of the waste treatment or disposal system occur, and results in or is likely to result in an unauthorized discharge of wastes. A detailed report of each such event shall be submitted to the office of the Controller not later than seven (7) days after the failure.
- (d) The Licensee shall at all times operate and maintain waste treatment and disposal systems in a manner satisfactory to the Board.



CHAIRMAN
NORTHWEST TERRITORIES WATER BOARD

NORTHWEST TERRITORIES WATER BOARD

LICENSEE: City of Yellowknife

WATER LICENCE NUMBER: NIL4-0032

EFFECTIVE DATE OF LICENCE: November 1, 1977

CRITERIA FOR THE DESIGN OF WASTE TREATMENT AND DISPOSAL SYSTEM

"TERMS OF REFERENCE"

1. Objective

The criteria stated below, are to be used by the Licensee when developing the proposals for studies, as required under Part C Item 2(a), which will lead to the design and construction of a waste treatment and disposal system for the City of Yellowknife.

2. Criteria

- (a) No treated or untreated sewage shall be deposited into Kam Lake or Grace Lake.
- (b) The receiving waters for treated sewage shall be Great Slave Lake at, or southwest of Peter Baker Slough.
- (c) Effluent quality control points shall be included in the sewage disposal system.
- (d) A method of accurately measuring the quantity of effluent discharge at control points shall be included in the sewage disposal system.
- (e) All treated sewage discharged from the waste treatment and disposal system, through any control point to Great Slave Lake, at or southwest of Peter Baker Slough, shall strive to meet the following effluent quality requirements:

Parameter	Maximum Concentration of any Grab Sample
Biochemical Oxygen Demand (filtered)	40 mg/litre
Suspended Solids	50 mg/litre
Oil & Grease	30 mg/litre
Phenols	0.05 mg/litre
Total Coliform Density	1000/100 ml
Fecal Coliform Density	400/100 ml
The treated sewage shall have a pH between 6.0 and 9.0 and be in an aerobic state prior to discharge.	

NORTHWEST TERRITORIES WATER BOARD

LICENSEE: City of Yellowknife

LICENCE NUMBER: NIL4-0032

EFFECTIVE DATE OF LICENCE: November 1, 1977

SURVEILLANCE NETWORK PROGRAM

A. Location of Surveillance Stations

<u>Station Number</u>	<u>Description</u>
32-1	Valve on Yellowknife River water supply line in the City pumphouse on Yellowknife Bay.
32-2	Wet well on Yellowknife Bay water intake in the City pumphouse on Yellowknife Bay.
32-3	At decant structure on Niven Lake Sewage Lagoon.

B. Sampling and Analysis Requirements

1. The raw water at Station 32-1 shall be sampled during June and December of each year and analyzed for the following parameters:

Total Arsenic	pH
Total Cadmium	Oil & Grease
Total Cyanide	Suspended Solids
Total Mercury	Total Dissolved Solids
Total Phosphorus	Total Alkalinity
Calcium	Total Hardness
Sodium	Colour
Potassium	Nitrate-Nitrite
Total Coliform	Chloride
Fecal Coliform	Sulphate

The direction and velocity of the wind, the water and air temperature and the rate of pumping shall be recorded at the time of sampling.

2. The raw water at Station 32-2 shall be sampled weekly, during periods of use, and analyzed for Total Arsenic.
The direction and velocity of the wind, the water and air temperature and the rate of pumping shall be recorded at the time of sampling.

3. The raw water at Station 32-2 shall be sampled during June and December of each year and analyzed for the following parameters:

Total Arsenic	pH
Total Cadmium	Oil & Grease
Total Cyanide	Suspended Solids
Total Mercury	Total Dissolved Solids
Total Phosphorus	Total Alkalinity
Calcium	Total Hardness
Sodium	Colour
Potassium	Nitrate-Nitrite
Total Coliform	Chloride
Fecal Coliform	Sulphate

The direction and velocity of the wind, the water and the air temperature and the rate of pumping shall be recorded at the time of sampling.

4. The outflow from the Niven Lake Sewage Lagoon at Station 32-3, shall be sampled on the first and third Wednesday of every month and analyzed for the following parameters:

Total Coliform	pH
Fecal Coliform	Suspended Solids
Fecal Streptococci	Dissolved Oxygen
Total Organic Carbon	Oil & Grease
Biochemical Oxygen Demand (filtered & non-filtered)	Total Phosphate
Chemical Oxygen Demand	Ammonia Nitrogen

The water level at Station 32-3, the barometric pressure and the air and water temperature shall be recorded at the time of sampling.

5. All sampling and sample preservation shall be done according to methods approved by the Board.
6. All analyses shall be conducted in accordance with methods prescribed in the current edition of "Standard Methods for the Examination of Water and Wastewater" or by such other methods as are approved by the Board.
7. All analyses shall be performed in a laboratory approved by the Board.

C. Flow Measurement Requirements

The Licensee shall measure and record the following:

1. The daily quantity of water, in Imperial gallons, pumped from the Yellowknife River;
2. The daily quantity of water, in Imperial gallons, pumped from the Yellowknife River and supplied to Giant Yellowknife Mines Limited;
3. The daily quantity of water, in Imperial gallons, pumped from the Yellowknife River and supplied to Cominco Limited, Con Mine; and
4. The daily quantity of water, in Imperial gallons pumped from Yellowknife Bay and supplied to the City of Yellowknife.

D. Reports

The Licensee shall submit monthly reports to the office of the Board, which contain all the data and information required by the Surveillance Network Program. This data and information shall be submitted within fifteen (15) days of the end of each month.

0.9.

Schedule “B”

City of

Yellowknife



P.O. Box 580
Yellowknife, N.W.T.
X1A 2N4

(403) 873-2671

Telex
034-45561

Please Quote
FILE # _____

November 24, 1981

HAND DELIVERED

Mr. Neil Bryant
Regional Co-ordinator of
Municipal Works
N.W.T. Water Board
P.O. Box 1600
Yellowknife, N.W.T.



Dear Mr. Bryant:

Please find enclosed an application for the renewal of the City of Yellowknifes water licence under the existing terms.

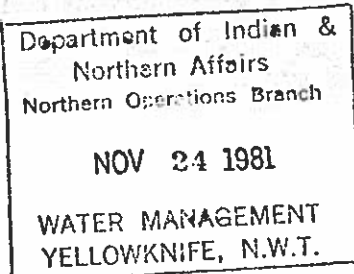
As we discussed earlier, application has also been made for an alternate primary water intake from Yellowknife Bay. The water quality of this area will have to be evaluated from water samples and temperature profiles at test sites established on Yellowknife Bay. A testing program will have to be initiated in conjunction with your office and the other Federal agencies involved. The Government of the Northwest Territories Energy Conservation Division is also interested in this project because of the potential for energy savings which will result if the project proves to be feasible.

Any assistance that your office can provide in establishing guidelines for the information that the N.W.T. Water Board will require in order to make this decision will be greatly appreciated. Any other assistance or direction that your office can provide will also be very helpful.

If you wish to discuss this matter further with me, please do not hesitate to call me at any time.

Sincerely,

R. Walton
Director
Department of Works



Schedule II

No.:



Department of Indian and Northern Affairs
WATER, FORESTS AND LAND DIVISION

Application for Licence, Amendment of Licence or Renewal of Licence

NOTE: If insufficient space, attach sheets

1. Name & Mailing Address CITY OF YELLOWKNIFE P.O. BOX 580 YELLOWKNIFE, N.W.T. X0E 1H0	2. Address of Head Office in Canada if incorporated SAME
3. LOCATION OF UNDERTAKING — describe and attach map naming river, creek, lake, spring or ground water reservoir SEE ATTACHED	
4. NATURE OF UNDERTAKING — describe and attach plans TO SUPPLY WATER FOR MUNICIPAL PURPOSES AND TO DISPOSE OF WASTE ASSOCIATED WITH THIS USE. THE UNDERTAKING WOULD BE CONSISTENT WITH THE CURRENT WATER USE LICENCE. A REQUEST IS ALSO MADE FOR THE BOARD TO CONSIDER AN ALTERNATE PRIMARY WATER SOURCE OF SUPPLY - DESCRIBED IN #3.	
5. PURPOSE OF UNDERTAKING a) To obtain water <input checked="" type="checkbox"/> b) To divert water <input type="checkbox"/> c) To store water <input type="checkbox"/> d) To alter the flow of water <input type="checkbox"/> e) To return the flow of water <input checked="" type="checkbox"/> f) Other (specify) <input type="checkbox"/>	6. WATER USE CLASSIFICATION a) Agriculture <input type="checkbox"/> b) Conservation <input type="checkbox"/> c) Industrial <input type="checkbox"/> d) Municipal <input checked="" type="checkbox"/> e) Power <input type="checkbox"/> f) Water Engineering <input type="checkbox"/> g) Storage <input type="checkbox"/> h) Recreation <input type="checkbox"/>
7. QUANTITY OF WATER INVOLVED — (cubic feet per second, gallons per day, acre feet per year) 5,500,000 IMP. GAL/DAY	8. QUALITY OF RETURNED WATER a) Unaltered x b) Altered (specify) MUNICIPAL SEWERAGE 4,000,000 IMP. GAL/DAY
9. OTHER PROPERTIES AFFECTED BY THIS UNDERTAKING — describe location and list owners	

NIL

Department of Indian &
Northern Affairs



SCHEDULE II

DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS

WATER, FORESTS AND LAND DIVISION

APPLICATION FOR LICENCE, AMENDMENT OF LICENCE OR RENEWAL OF LICENCE.

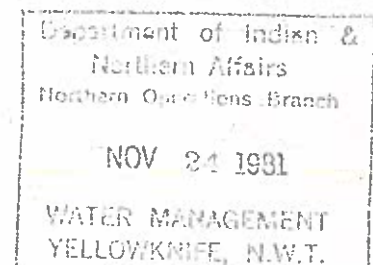
3. Water intake at the present location on the Yellowknife River and emergency water intake from Yellowknife Bay at City Pumphouse #1 and municipal sewage disposal into the fiddlers lake chain, with emergency disposal to Kam Lake, and/or Niven Lake. An alternate location for water supply from Yellowknife bay is also requested.

Proposed Alternate Primary Water Supply for the City of Yellowknife

The Municipality requests the Boards assistance in assessing the possibility of using Yellowknife Bay as the primary source of water for municipal purposes. Because of two recent events it is hoped that it can be shown that the water quality in Yellowknife Bay has improved sufficiently to allow the City of Yellowknife to withdraw water directly from Yellowknife Bay. These two recent events are:

1. Giant Yellowknife Mines have greatly improved the quality of the effluent that they discharge to Yellowknife Bay and
2. The City of Yellowknife is no longer using Niven Lake lagoon for sewage disposal thus eliminating this source of effluent.

If this water use is feasible the City proposes to put an intake structure into deep water in Yellowknife Bay. It is hoped that water of a constant temperature of 4°C can be withdrawn from Yellowknife Bay thus eliminating the need to heat the City's water supply during the winter months. The resultant savings, estimated to be \$100,000 - \$150,000 per year, would be passed on to the rate payers of Yellowknife.



City of

Yellowknife



C. C. Bell
Carton
P.O. Box 580
Yellowknife, N.W.T.
X1A 2N4

(403) 873-2671

Telex
034-45561

Please Quote
FILE # _____

November 24, 1981

HAND DELIVERED

Mr. Neil Bryant
Regional Co-ordinator of
Municipal Works
N.W.T. Water Board
P.O. Box 1600
Yellowknife, N.W.T.



Dear Mr. Bryant:

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As we discussed earlier, application has also been made for an alternate primary water intake from Yellowknife Bay. The water quality of this area will have to be evaluated from water samples and temperature profiles at test sites established on Yellowknife Bay. A testing program will have to be initiated in conjunction with your office and the other Federal agencies involved. The Government of the Northwest Territories Energy Conservation Division is also interested in this project because of the potential for energy savings which will result if the project proves to be feasible.

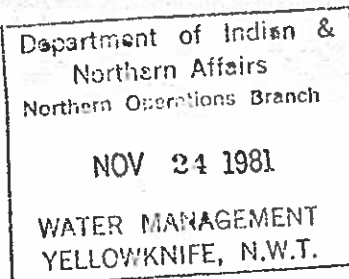
Any assistance that your office can provide in establishing guidelines for the information that the N.W.T. Water Board will require in order to make this decision will be greatly appreciated. Any other assistance or direction that your office can provide will also be very helpful.

If you wish to discuss this matter further with me, please do not hesitate to call me at any time.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Walton".

R. Walton
Director
Department of Works



Schedule II

No.:

Department of Indian and Northern Affairs
WATER, FORESTS AND LAND DIVISION

Application for Licence, Amendment of Licence or Renewal of Licence

NOTE: if insufficient space, attach sheets

1. Name & Mailing Address

CITY OF YELLOWKNIFE
P.O. BOX 580
YELLOWKNIFE, N.W.T. X0E 1H0

2. Address of Head Office in Canada if incorporated

SAME

3. LOCATION OF UNDERTAKING — describe and attach map naming river, creek, lake, spring or ground water reservoir

SEE ATTACHED

4. NATURE OF UNDERTAKING — describe and attach plans TO SUPPLY WATER FOR MUNICIPAL PURPOSES AND TO DISPOSE OF WASTE ASSOCIATED WITH THIS USE. THE UNDERTAKING WOULD BE CONSISTENT WITH THE CURRENT WATER USE LICENCE. A REQUEST IS ALSO MADE FOR THE BOARD TO CONSIDER AN ALTERNATE PRIMARY WATER SOURCE OF SUPPLY — DESCRIBED IN #3.

5. PURPOSE OF UNDERTAKING

- a) To obtain water ☒
- b) To divert water ☐
- c) To store water ☐
- d) To alter the flow of water ☐
- e) To return the flow of water ☒
- f) Other (specify) ☐

6. WATER USE CLASSIFICATION

- a) Agriculture ☐
- b) Conservation ☐
- c) Industrial ☐
- d) Municipal ☒
- e) Power ☐
- f) Water Engineering ☐
- g) Storage ☐
- h) Recreation ☐

7. QUANTITY OF WATER INVOLVED —
(cubic feet per second, gallons per day, acre feet per year)

5,500,000 IMP. GAL/DAY

8. QUALITY OF RETURNED WATER

- a) Unaltered
- x b) Altered (specify) MUNICIPAL SEWERAGE
4,000,000 IMP. GAL/DAY

9. OTHER PROPERTIES AFFECTED BY THIS UNDERTAKING — describe location and list owners

NIL

Department of Indian &
Northern Affairs

10. CONTRACTORS AND

NOT KNOWN

11. T1

SCHEDULE II

DEPARTMENT OF INDIAN AND NORTHERN AFFAIRS

WATER, FORESTS AND LAND DIVISION

APPLICATION FOR LICENCE, AMENDMENT OF LICENCE OR RENEWAL OF LICENCE.

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Department of Indian &
Northern Affairs
Northern Operations Branch

NOV 24 1981

WATER MANAGEMENT
YELLOWKNIFE, N.W.T.

4571-1-55(1)

Department of Indian Affairs and Northern Development

Water, Forests and Land Division

APPLICATION FOR LICENCE, AMENDMENT OF
LICENCE OR RENEWAL OF LICENCE

	No.
Name and Mailing Address CITY OF YELLOWKNIFE	2. Address of Head Office in Canada if incorporated YELLOWKNIFE NORTHWEST TERRITORIES
Location of Undertaking - describe and attach map, naming river, creek, lake, spring or groundwater reservoir YELLOWKNIFE RIVER at GREAT SLAVE LAKE	
Nature of Undertaking - describe and attach plans MUNICIPAL WATER SUPPLY and SEWAGE DISPOSAL	
Purpose of Undertaking (1) <input checked="" type="checkbox"/> To obtain water (2) To divert water (3) <input checked="" type="checkbox"/> To store water (4) To alter the flow of water (5) <input checked="" type="checkbox"/> To return a flow of water (6) Other (specify)	6. Water Use Classification (1) Agricultural (2) Conservation (3) Industrial (4) <input checked="" type="checkbox"/> Municipal (5) Power (6) River Improvement (7) Storage
Quantity of Water Involved - (cubic feet per second, gallons per day, feet per year) 1,000,000 per day at present 3,000,000 per day within 5 years	8. Quality of Returned Water (1) Unaltered (2) <input checked="" type="checkbox"/> Altered (specify)

 2 copies each
 Plan 109-800-1
 " 110-800-2
 " 111-800-3

ties Affected by this Undertaking Describe location and list owners

Cominco mine

Giant Mine

10. Contractor and Sub-Contractors
Names and Addresses

Functions

Sub-Contractor

Water Delivery

Peter Pagonis

By Truck

Yellowknife, N.W.T.

11. Time Schedule Proposed

12. Fees

Start

Application

Water Use

Total

Completion Continuous

\$ 10.00

\$

\$ 10.00

P. Pagonis

Signature

Secretary-Treasurer Manager

Title

December 7, 1972.
Date

FOR OFFICE USE ONLY

APPLICATION FEE

WATER USE FEE

APPLICATION

Amount \$ 10.00

Amount \$

Approved by

Filed in
Water Use
Register

Receipt No.

Receipt No.

H. S. Redd
Dec 15 1972

Dec 15 1972

NORTHWEST
TERRITORIES
WATER BOARD



*file
October
November 2/87*

WATER REGISTER NO.: **N1L4-0032**

October 22, 1987

Ms. M. Buckley, E.I.T.
Engineering Assistant
City of Yellowknife
P.O. Box 580
YELLOWKNIFE, N.W.T.
X1A 2N4

Dear Ms. Buckley:

RE: AMENDMENT REQUEST: LICENCE N1L4-0032 - CITY OF YELLOWKNIFE

The Northwest Territories Water Board has reviewed the City of Yellowknife's request to decrease the frequency of dam and dyke inspections from monthly to yearly. The request for reduced frequency of inspections is approved however the Board requires two yearly inspections, one at low water as well as one at high water levels. The inspection at low water levels will enable examination of structures for signs of deterioration which may be submerged at high water levels. The Board further requests that the integrity of the inspected structures be certified by a registered professional engineer. A revised Surveillance Network Program is attached.

The request to negate sewage effluent phosphorus limits in the Licence will not be granted by the Board at this time since the Northern Inland Waters Act does not allow modifications to the body of a Licence without a formal Licence Amendment. This Amendment can be addressed by the Board in conjunction with the request to relocate the municipal water supply intake.

In order to initiate the Licence amendment process, please complete and return the attached Schedule II form.

Sincerely,

Glenn B. Warner
Chairman
N.W.T. Water Board

Attachments(2)

P.O. Box 1500, Yellowknife, N.W.T., X1A 2R3, 9th Floor, Precambrian Building
Phone: (403) 920-8191
Telex 034-45023

Schedule “C”



NORTHWEST TERRITORIES WATER BOARD

Pursuant to the Northern Inland Waters Act and Regulations the Northwest Territories Water Board, hereinafter referred to as the Board, hereby grants to

-----THE CITY OF YELLOWKNIFE-----
(Licensee)

of -----YELLOWKNIFE, NORTHWEST TERRITORIES-----
(Mailing address)

hereinafter called the Licensee, the right to alter, divert or otherwise use water subject to the restrictions and conditions contained in the Northern Inland Waters Act and Regulations made thereunder and subject to and in accordance with the conditions specified in this licence:

Licence Number -----N1L4-0032-----

Water Management Area -----NORTHWEST TERRITORIES 01-----

Location -----APPROXIMATELY LATITUDE 62° 27' N. AND LONGITUDE 114° 21' W.-----

Purpose -----TO OBTAIN WATER AND TO DISPOSE OF WASTE-----

Description -----MUNICIPAL USE IN THE CITY OF YELLOWKNIFE-----

Quantity of Water Not to be Exceeded -----8,000,000 CUBIC METRES PER YEAR-----

Rate of Use of Water Not to be Exceeded -----775,000 CUBIC METRES PER MONTH-----

Effective Date of Licence -----OCTOBER 31, 1982-----

Expiry Date of Licence -----OCTOBER 30, 1992-----

This Licence issued and recorded at Yellowknife includes and is subject to the annexed conditions.

Northwest Territories Water Board

Witness

Chairman

Approved by

Minister of Indian Affairs
and Northern Development

GENERAL CONDITIONS

PART A

1. Definitions

In this Licence:

"Act" means the Northern Inland Waters Act;

"Regulations" means Regulations proclaimed pursuant to Section 26 of the Northern Inland Waters Act;

"Board" means the Northwest Territories Water Board established under Section 7 (1) of the Northern Inland Waters Act;

"Licensee" means the holder of this Licence;

"Controller" means the Controller of Water Rights for the Northwest Territories;

"Inspector" means an inspector designated by the Minister under Section 29 of the Northern Inland Waters Act;

"Waste" means waste as defined by Section 2 (1) of the Northern Inland Waters Act;

"Maximum Average Concentration" means the average of the last four analytical results submitted to the Board in accordance with the sampling and analysis requirements specified in the "Surveillance Network Program";

"Sewage" means all toilet wastes, greywater and commercial wastewater;

"Toilet Wastes" means all human excreta and associated products, but does not include greywater or commercial wastewater;

"Greywater" means all water wastes from showers, baths, sinks, kitchens and washing facilities but does not include toilet wastes or commercial wastewater; and

"Commercial Wastewater" means water and associated waste generated by the operation of a commercial or industrial enterprise.

2. The Licensee shall file an annual report pursuant to Section 10 (2) of the Act and Section 15 (1) of the Regulations not later than February 1st of the year next following the calendar year reported, which shall contain the following information:
 - (a) the total annual quantity of water in cubic metres pumped from the Yellowknife River and Yellowknife Bay and supplied to the City of Yellowknife, Giant Yellowknife Mines Limited and Cominco Ltd. (Con Mine);
 - (b) tabular summaries of the water quality data generated under the "Surveillance Network Program";
 - (c) a description of any major maintenance work carried out on the water supply and waste disposal facilities;
 - (d) a description of any restoration or reclamation carried out at areas where water supply or waste disposal facilities have been abandoned; and
 - (e) any other details on water use or waste disposal that may be requested by the Board by November 1st of the year being reported.
3. The Licensee shall carry out a reclamation program on all facilities associated with the taking of water or the depositing of waste as relates to this Licence in a manner that is satisfactory to the Board upon the termination of the Licence or renewals thereof, on abandonment of each facility after its use has terminated, on abandonment of the operation as a whole, or if, during the period of this Licence or renewals thereof, an unauthorized deposit of waste occurs.

4. The Licensee shall comply with the "Surveillance Network Program" annexed to this Licence.
5. The "Surveillance Network Program" and compliance dates specified in this Licence may be modified at the discretion of the Board.
6. The Licensee shall have posted the necessary signs in the area of the water supply intake, water supply reservoirs, and in the areas of waste treatment and waste disposal to advise the public that these areas are being used for the municipal water supply and for the disposal of municipal wastes. All postings shall be maintained to the satisfaction of the Controller.
7. The Licensee shall install volume measurement facilities as approved by the Controller which shall be maintained and operated to the satisfaction of the Inspector.
8. The Licensee shall by October 31, 1983, submit to the office of the Board a proposal for the reclamation of the former Niven Lake Sewage Lagoon, and that portion of Kam Lake formerly receiving raw sewage. The Licensee shall file with the office of the Board a proposed implementation schedule for the reclamation work and receive approval from the Board prior to the start of any work.
9. This Licence is issued subject to the conditions contained herein with respect to the taking of water and the depositing of waste of any type in any waters or in any place under any conditions where such waste or any other waste that results from the deposit of such waste may enter any waters. However, in accordance with Section 10 (3) of the Northern Inland Waters Act, whenever new Regulations are made or existing Regulations are amended by the Governor in Council under the Northern Inland Waters Act or other statute, imposing more stringent conditions relating to the quantity or type of waste that may be so deposited or under which any such waste may be so deposited, this Licence shall be deemed upon promulgation of such Regulations to be automatically amended to conform with such Regulations.
10. Compliance with the terms and conditions of this Licence does not absolve the Licensee from responsibility for compliance with other Federal, Territorial and Municipal legislation.

CONDITIONS APPLYING TO WATER SUPPLY

PART B

1. The Licensee shall, except as specified in Part B, Item 2, and Part B, Item 5, obtain all water for municipal purposes from the Yellowknife River by use of the existing intake facilities as shown on drawing number 109-800-1, City of Yellowknife, Northwest Territories, dated December 15, 1972.
2. The Licensee may, in the event of an emergency obtain water for municipal purposes from Yellowknife Bay on Great Slave Lake by use of the existing intake facilities as shown on drawing number 109-800-1, City of Yellowknife, Northwest Territories, dated December 15, 1972.
3. The annual quantity of water obtained shall not exceed 8,000,000 cubic metres per year.
4. The maximum volume of water obtained shall not exceed 775,000 cubic metres per month.
5. The Licensee may obtain all water for municipal purposes from Yellowknife Bay on Great Slave Lake provided that the Licensee has complied with all items specified under Part E of this Licence.

CONDITIONS APPLYING TO SEWAGE DISPOSAL

PART C

1. The Licensee shall direct all piped and pumpout sewage from the City of Yellowknife through the Fiddlers Lake sewage system with final discharge via a control structure located at Lake F6 as defined in Reid, Crowther & Partners Limited, drawing numbers 40505-G101, G102, G103, S101 and S102 dated December, 1981 and Klohn Leonoff Limited drawings numbers D-1430-2, 3, 4, 5, 6, 7, 8 and 9 dated August 1981.
2. All sewage effluent discharged from the Fiddlers Lake sewage system at the control structure specified in Part C, Item 1 shall meet the following quality requirements:

Parameter	Maximum Average Concentration	Maximum Concentration of any Grab Sample
BOD	45.0 mg/l	70.0 mg/l
Suspended Solids	55.0 mg/l	85.0 mg/l
Oil & Grease	non-visible	non-visible
Phosphorous	2.0 mg/l	4.0 mg/l
Total Coliforms		
Counts/100 mg/l	10,000.0	20,000.00
pH	6-9	6.9

3. A minimum of one (1) metre of freeboard shall be maintained in the Fiddlers Lake sewage system.
4. All bagged toilet waste (honey bags) shall be disposed at a municipal dump in an area where minimal leaching will occur. This bagged sewage will be punctured and periodically land filled to the satisfaction of the Inspector.
5. Greywater produced in existing dwellings which use bagged toilet waste may be discharged to the overburden adjacent to the dwelling.
6. The Licensee shall immediately advise the Inspector should a failure occur in the waste treatment system which results in or is likely to result in an unauthorized discharge of waste. A detailed report of each such event shall be submitted to the Controller not later than fourteen (14) days after the failure was detected.

CONDITIONS APPLYING TO SANITARY LANDFILL SITES AND GARBAGE DUMPS

PART D

1. The Licensee shall within two (2) years of issuance of this Licence submit to the Board for approval, a proposal to contain and/or treat discharges from the existing site.
2. The Licensee shall implement the proposal referred to in Part D, Item 1 at the request of the Board.

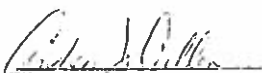
3. The Licensee shall, prior to the proposed use of any new Sanitary Landfill and Garbage Dump site(s) submit to the Board for approval:
 - (a) a proposed location; and
 - (b) plans to meet the quality criteria specified by the "Guidelines for Municipal Type Wastewater Discharges in the Northwest Territories".

CONDITIONS APPLYING TO MODIFICATIONS

PART E

1. The Licensee may, without written consent from the Board, carry out modifications to the water supply and waste disposal facilities provided the following conditions are met:
 - (a) the Licensee has notified the Board of such proposed modifications at least sixty (60) days prior to beginning;
 - (b) such modifications do not place the Licensee in contravention either of this Licence or of the Act;
 - (c) the Board has not, during the sixty (60) days following notification of the proposed modifications, informed the Licensee that review of the proposal will require more than sixty (60) days; and
 - (d) the Board has not rejected the proposed modification.
2. Modifications for which all of the conditions referred to in Part E, Item 1, have not been met, can be carried out only with written consent from the Board.
3. The Licensee shall provide as-built plans and drawings of the modifications referred to in this Licence within ninety (90) days of completion of the modification. These plans and drawings shall be submitted to the Controller on material that will reproduce with the use of a standard printer.

NORTHWEST TERRITORIES WATER BOARD


Witness


Chairman

NORTHWEST TERRITORIES WATER BOARD

LICENSEE: THE CITY OF YELLOWKNIFE
 LICENCE NUMBER: NIL4-0032
 EFFECTIVE DATE OF LICENCE: OCTOBER 31, 1982
 EFFECTIVE DATE OF SURVEILLANCE NETWORK PROGRAM: OCTOBER 31, 1982

SURVEILLANCE NETWORK PROGRAM

A. Location of Surveillance Stations

<u>Station Number</u>	<u>Description</u>
32-1	Valve on Yellowknife River water supply line in the City pumphouse on Yellowknife Bay.
32-2	Wet well on Yellowknife Bay water intake in the City pumphouse on Yellowknife Bay.
32-F3	Lake F3 of the Fiddlers Lake system.
32-F4	Lake F4 of the Fiddlers Lake system.
32-F5	Lake F5 of the Fiddlers Lake system.
32-F6	Lake F6 of the Fiddlers Lake system.
32-F9	Lake F9 of the Fiddlers Lake system.
32-F11	Discharge from the Fiddlers Lake system just prior to Great Slave Lake receiving waters.
32-6	Raw sewage from Kam Lake lift station.
32-10	Sewage effluent at the control structure located at Lake F6.
32-12	Pumphouse on the Yellowknife River.

B. Sampling and Analysis Requirements

- The sewage effluent at Station No. 32-10 shall be sampled weekly during periods of discharge and analysed for the following parameters:

BOD	Total Coliforms
Suspended Solids	pH
Phosphorous	
- All sampling and sample preservation shall be conducted in accordance with methods approved by the Inspector.

3. All analyses shall be conducted in accordance with methods prescribed in the current edition of "Standard Methods for the Examination of Water and Wastewater" or by such other methods as are approved by the Controller.
4. All analyses shall be performed in a laboratory approved by the Controller.

C. Flow Measurement Requirements

1. The Licensee shall measure and record the following:
 - (a) the daily quantity of water in cubic metres, pumped from the Yellowknife River at Station No. 32-1 and from the Yellowknife Bay at Station No. 32-2;
 - (b) the monthly quantity of water in cubic metres, supplied by the City to Giant Yellowknife Mines Limited;
 - (c) the monthly quantity of water in cubic metres, supplied by the City to Cominco Ltd. (Con Mine); and
 - (d) the weekly flow of sewage effluent discharged from the control structure at Station No. 32-10.

D. Dam and Dyke Monitoring

1. The dams constructed on the Fiddlers Lake sewage system shall be inspected during the first week of each month and records of stability maintained for review by the Inspector.
2. The dykes constructed to divert the drainage flow from Lake F-9 and Unnamed Lake into the Grace Lake system shall be inspected immediately following spring breakup and just prior to fall freezeup each year and records of stability maintained for review by the Inspector.
3. The Inspector may alter the frequency of the dam and dyke inspections required in Part D, Items 1 and 2 of the "Surveillance Network Program".

E. Reports

1. The Licensee shall submit quarterly reports for January through March, April through June, July through September, and October through December. These quarterly reports shall contain all of the information generated by Parts A, B and C of the "Surveillance Network Program" and shall be submitted within thirty (30) days of the end of the quarter being reported.

NORTHWEST TERRITORIES WATER BOARD


Witness


Chairman

Schedule “D”



Government
of Canada

Gouvernement
du Canada

MEMORANDUM

NOTE DE SERVICE

TO
A

G. Warner
Chairman
N.W.T. Water Board

FROM
DE

A.J. Cullen
Regional Manager
Water Resources Division
Northern Affairs Program

SECURITY - CLASSIFICATION - DE SÉCURITÉ

OUR FILE - N / RÉFÉRENCE

NTL4-0032 N1L3-0040
N1L3-0043

YOUR FILE - N / RÉFÉRENCE

DATE

August 15, 1983

SUBJECT
OBJET Back Bay Water Quality

Enclosed is a copy of the Back Bay Water Quality review carried out
by Doug Stendahl, for your information.


A.J. Cullen

Att.



CULLEN/p1

MEMORANDUM

NOTE DE SERVICE

TO
A
A.J. Cullen
Regional Manager
Water Resources Division

FROM
DE
D. Stendahl
Water Quality Officer

SUBJECT
OBJECT
Back Bay Water Quality

OBJECTIVE:

- 1) establish whether Back Bay water quality is improving considering:
 - a) City of Yellowknife as of November 1981 no longer discharges sewage effluent into Back Bay.
 - b) improvement to the quality of Giant Yellowknife Mines Effluent.

- 2) establish whether Back Bay water is suitable for drinking and/or recreational use.

METHODOLOGY:

Heavy metal, cyanide and bacteriological results were considered in this evaluation.

i.e. copper, zinc, cadmium, lead, mercury, arsenic,
total cyanide, total coliforms, fecal coliforms

Water quality data for Back Bay were tabulated.

Data collected in the last two years were used to define existing water quality in Back Bay.

Data collected 5-8 years ago were used as a reference to determine whether the water quality was improving in Back Bay.

To determine whether Back Bay water is acceptable for drinking and/or recreational use, the data collected within the last two years (i.e. recent data) were compared to establish acceptable limits for Canadian water quality. (Tables 1 and 2)

SECURITY - CLASSIFICATION - DE SÉCURITÉ	
OUR FILE - NOTRE RÉFÉRENCE	
N1L4-0032	N1L3-0040
N1L3-0043	
YOUR FILE - VOTRE RÉFÉRENCE	
DATE December 7, 1982	

0-0-22
a.c.
S.H.
n.B.
Yk. office

Table 1 Guidelines For Canadian Drinking Water Quality*

<u>Parameter</u>	<u>Maximum Acceptable Limits</u>
Arsenic	0.050 mg L ⁻¹
Cadmium	0.005 mg L ⁻¹
Lead	0.05 mg L ⁻¹
Mercury	0.001 mg L ⁻¹
Zinc	5.0 mg L ⁻¹
Copper	1.0 mg L ⁻¹
Cyanide	0.2 mg L ⁻¹ (free cyanide)
Total Coliforms	10 organisms per 100 ml
Fecal Coliforms	0 organisms per 100 ml

* Source - Canada Drinking Water Standards and Objectives, 1968. Department of National Health and Welfare, Ottawa, Canada, 1969.

Table 2

Guidelines for Canadian Bathing Waters and Other Direct
Contact Recreation**

<u>Parameter</u>	<u>Objectives</u>	<u>Maximum Limit</u>
Total Coliforms	<100 median MPN	500 median MPN
Fecal Coliforms	<20 median MPN	200 median MPN

** Source - Guidelines for Water Quality, Objectives and Standards. Technical
Bulletin No. 67. Environment Canada. Ottawa, Canada, 1972.

Water Quality Database

Bacteriological parameters:

In September - October 1975 an intensive bacteriological survey of Back Bay and Yellowknife Bay was carried out by Environment Canada at 33 stations (Figure 1). Samples were collected at each station on nine different days during this two month period. The results showed that the water in these bays was not suitable for drinking without prior disinfection. The waters did however meet the criteria developed for public water supplies and recreational usage.

On 13 September 1982, DIAND Water Management Section collected duplicate samples for bacteriological parameters at six of the stations used in the 1975 survey. These results along with those obtained in 1975 are given in Table 3.

The only other source of bacteriological information for Back Bay is Station 32-5 of the City of Yellowknife Water Licence Surveillance Network Program. This Station is located on the shore of Back Bay at the former discharge point from Niven Lake sewage lagoon. The results for a single grab sample collected at this Station in the summer of 1982 were the following:

total coliforms	540 per 100 ml.
fecal coliforms	13 per 100 ml.
fecal streptococci	150 per 100 ml.

Table 3 Bacteriological Results for Back Bay and Yellowknife Bay

Monitoring Station (see Figure 1.)	September 1975*			September 1982**	
	F. Streptococci	T. Coliforms (per 100 ml.)	F. Coliforms	F. Coliforms (per 100 ml.)	F. Coliforms
(former City of YK effluent outfall)					
1	3	780	16	24 33	5 2
10	3	150	16	<1 <1	<1 <1
17	1	160	6	8 8	<1 2
28	1	32	1	<1 <1	2 <1
29	4	72	7	17 12	2 6
32 (Giant effluent outfall)	1	36	2	<1 <1	1 <1

NOTE: Data for 1975 given as geometric means calculated from 9 values.

*Source - The Effects of Sewage Disposal on Back Bay and Yellowknife Bay, Yellowknife, N.W.T. 1975.
Environment Canada Surveillance Report EPS-5-NW-75-5.

**Source - DIAND Water Management Data.

Heavy Metal and Cyanide:

Moore et al (1978) collected samples for heavy metal analysis on 9 different days in 1976 at 2 stations in Back Bay. They also collected single grab samples at each of 6 stations near the point of entry of Baker Creek water (i.e. Giant Yellowknife Mines effluent discharge course) into Back Bay (Figures 2, 3). The results of this study are given in Table 4.

The only other information available for Back Bay is the data supplied by Giant Yellowknife Mines Limited for their mill water drawn from Back Bay several 100 metres from Baker Creek and the water quality data for Baker Creek itself at the point of discharge into Back Bay. Spot checks for these stations are made by DIAND Water Management Section. The data for these stations are given in Tables 5, 6 and 7.

Table 4 Back Bay Water Quality in 1976*

Station	Arsenic (D) (mg L ⁻¹)	Zinc (E) (mg L ⁻¹)	Copper (E) (mg L ⁻¹)	Nickel (E) (mg L ⁻¹)	Lead (E) (mg L ⁻¹)
E	\bar{X} Range N	\bar{X} Range N	\bar{X} Range N	\bar{X} Range N	\bar{X} Range N
	<0.06 <0.002-0.4 9	<0.07 <0.005-0.26 9	<0.015 <0.015-0.025 9	<0.03 <0.02-0.03 9	<0.12 <0.10-0.12 9
F	\bar{X} Range N	\bar{X} Range N	\bar{X} Range N	\bar{X} Range N	\bar{X} Range N
	<0.03 <0.02-0.04 9	<0.005 <0.005-0.16 9	<0.015 <0.015-0.025 9	<0.02 <0.02-0.03 9	<0.10 <0.10-0.10 9
1	0.03	0.051	0.280	0.03	<0.01
7	0.74	0.014	<0.015	<0.02	<0.01
9	0.05	<0.005	<0.015	<0.02	<0.01
10	<0.02	<0.005	<0.015	<0.02	<0.01
11	<0.02	<0.005	<0.015	<0.02	<0.01
17	<0.02	<0.005	<0.015	<0.02	<0.01

D Dissolved
E Extractable

*Source - The Effects of Metal Mines on Aquatic Ecosystem in the N.W.T.
II Giant Yellowknife Mines Limited 1978 Environment Canada
Environmental Protection Service Report EPS 5-NW-78-9

Table 5 Back Bay Water Quality - Arsenic, Lead, Cyanide

Station is Giant Yellowknife Mines freshwater supply for mill drawn from Back Bay near Baker Creek (see Figure 2)

Year	Arsenic (mg L^{-1})		Lead (mg L^{-1})		Total cyanide (mg L^{-1})	
	DIAND	GIANT	DIAND	GIANT	DIAND	GIANT
1982	0.010	N/A	0.026	N/A	N/A	N/A
1981	0.03	\bar{X} Range 0.017-0.06 10*	<0.05	\bar{X} Range 0.04 0.002-0.112 12	<0.01	\bar{X} Range 0.13 0.002-0.4 5*
1980	0.0019	\bar{X} Range 0.06 ND-0.24 12	N/A	\bar{X} Range <0.02 ND-0.02 11	<0.01	\bar{X} Range 0.08 ND-0.26 11
1979	0.066	\bar{X} Range 0.16 0.01-1.38 11	<0.05	\bar{X} Range 0.04 ND-0.08 12	<0.01	\bar{X} Range 0.18 0.01-0.98 8*
1978	0.04	\bar{X} Range 0.17 0.01-1.38 12	<0.04	\bar{X} Range <0.04 0.01-0.1 12	0.06	\bar{X} Range 0.21 0.01-0.72 12

* Some value suspect and thus not considered

ND none detected

N/A data not available

N number of samples considered

Table 6 Back Bay Water Quality - Cadmium and Mercury*

Station is Giant Yellowknife Mines freshwater supply for mill drawn from Back Bay near Baker Creek (see Figure 2)

Year	Cadmium (mg L ⁻¹)	Mercury (mg L ⁻¹)
1982	0.0007	<0.00001
1981	<0.02	-
1978	<0.01 <0.01	-
1977	<0.01	0.00003

* Source - DIAND Water Management Data

Table 7 Baker Creek Water Quality at Point of Discharge into Back Bay*

Year	Statistic	Arsenic (mg L ⁻¹)	Parameter Lead (mg L ⁻¹)	Total Cyanide (mg L ⁻¹)
1982	\bar{X}	1.7	0.11	1.17
	S			
	N	18	23	23
1981	\bar{X}	3.21	0.08	5.26
	S			
	N	35	35	34
1980	\bar{X}	1.64	0.03	0.36
	S	0.71	0.04	0.48
	N	47	45	50
1979	\bar{X}	3.97	0.05	4.52
	S	0.28	0.04	11.4
	N	41	43	43
1978	\bar{X}	7.42	0.05	1.61
	S	4.77	0.03	1.36
	N	45	46	44

* Source - Giant Yellowknife Mines Surveillance Network Data

S - Standard Deviation

N - Number of Samples Considered

RESULTS AND DISCUSSION

Bacteriological parameters:

The results given in Table 3 indicate that Back Bay water without prior disinfection is not suitable for drinking. It is however suitable for recreational use and as a raw public water supply.

Based on the limited data available to describe present water quality it appears that the bacteriological quality of Back Bay has improved since 1975. More sampling is needed, however, to substantiate this preliminary observation.

heavy metals and cyanide:

The results given in Table 4-7 are discussed in relation to Canadian Drinking Water Standards (CDWS).

Zinc - Levels of zinc in Back Bay are well within the Canadian Drinking Water Standards (Table 4). During the period for which water quality data was examined, 1978 to 1982, zinc levels in Baker Creek water at the point of discharge into Back Bay were within the CDWS of 5 mg L^{-1} . In 1981 the mean concentration ($N=12$) for zinc in water drawn from Back Bay for use, in Giant's mill was 0.075 mg L^{-1} .

Copper - Levels of copper in Back Bay are within the Canadian Drinking Water Standards (Table 4). In 1981 the mean concentration ($N=10$) for copper in water drawn from Back Bay near Baker Creek for use in Giant's mill was 0.118 mg L^{-1} . This is inspite of the fact that Baker Creek water entering Back Bay usually has a copper content in excess of the Canadian Drinking Water Standard of 1.0 mg L^{-1} .

Mercury - Only 2 water samples have been collected for mercury determination in Back Bay Water (Table 6). These values indicate that mercury levels are within Canadian Drinking Water Standards (Table 1). However, Back Bay sediments are known to contain elevated levels of mercury (see reference given on Table 4) and therefore it is recommended that further sampling be carried out to support the limited database that presently exists.

Cadmium - Table 6 gives the results for 5 water samples analysed for cadmium content. Four of these samples did not detect cadmium in the water although the detection limits were above the Canadian Drinking Water Standard of 0.005 mg L^{-1} (Table 1). The last sample collected in 1982 had an acceptable measured level of cadmium of 0.0007 mg L^{-1} . More data are needed before it can be definitely stated that the cadmium levels in Back Bay water are within Canadian Drinking Water Standards.

Total Cyanide - The cyanide levels in Baker Creek water entering Back Bay are in excess of the Canadian Drinking Water Standards (Tables 1 and 7). In spite of this, cyanide levels at a station in Back Bay within several 100 metres of Baker Creek are within the Canadian Drinking Water Standard of 0.2 mg L⁻¹ free cyanide.

Lead - Lead levels in Baker Creek water entering Back Bay are often below the Canadian Drinking Water Standard of 0.05 mg L⁻¹ (Table 7). Levels of lead in Back Bay only infrequently are unacceptable based on Canadian Drinking Water Standards (Table 5).

Arsenic - Arsenic levels in Baker Creek water entering Back Bay have improved significantly since 1978 (Table 7), although they still exceed Canadian Drinking Water Standards (Table 1). Similarly arsenic levels in water samples collected in Back Bay near Baker Creek have improved (Table 5) and presently, on average, are within Canadian Drinking Water Standards.

CONCLUSION AND RECOMMENDATIONS

- The water quality in Back Bay has noticeably improved over the past 8 years. ✓
- Based on Canadian water quality guidelines, Back Bay is suitable for recreation use (i.e. bathing waters).
- Back Bay water, however, is not suitable to drink due to the levels of bacteria lead and arsenic which border or exceed the maximum limits acceptable for drinking water.
- There is very little information on the levels of mercury and cadmium in Back Bay water. Thus it could not be determined whether the levels of these metals in Back Bay water are acceptable.
- There are considerable deficiencies in the water quality database for Back Bay and Yellowknife Bay. To overcome this, the following studies should be undertaken:
 - 1) The 1975 bacteriological of Back Bay and Yellowknife Bay should be repeated in September-October of 1983 to document the apparent water quality improvements in these areas.
 - 2) An extensive and intensive water quality survey of heavy metal and cyanide levels in Back Bay should be undertaken. Sampling dates and stations should coincide as much as possible with those given in Moore et al (1978).

Michelle Menard
for Doug Stendahl

Schedule “E”



JUN 17 2019

Mr. Vic Fontanilla
Development and Lands Officer
Planning and Development
City of Yellowknife
P.O. BOX 580
YELLOWKNIFE NT X1A 2N4

Dear Mr. Fontanilla:

Sublease Renewal for Yellowknife Heritage Society and Great Slave Sailing Club

Thank you for the opportunity to respond to the renewal of the City of Yellowknife (City) subleases on Headlease No. 17889T (Townsite) to both Yellowknife Heritage Society and Great Slave Sailing Club.

We note that that Headlease contains a provision that requires the consent of the Deputy Minister to sublet the land (provision 32). The Deputy Minister is not prepared to consent to the renewal of the subleases until such time as the City, the GNWT, and CIRNAC have had the opportunity to negotiate an Agreement to Use and Occupy for Remediation Purposes (Agreement), an initial draft of which was recently provided to the City of Yellowknife. Given that the remediation project is imminent and there are concerns that need to be addressed as we move forward, we would like to engage in further discussion with you about the terms and conditions in the subleases. Our intention is to provide clarity and certainty to the affected parties as the remediation project moves forward. Consequently, it is the GNWT's position that the Agreement and the renewed subleases should be drafted to be consistent with one another.

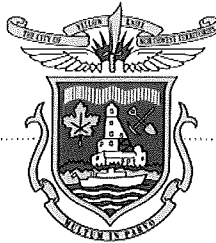
We would like the opportunity to discuss this further and possibly make some recommendations that would benefit all parties involved.

We look forward to your response.

Sincerely,

Robert Marchiori
Manager
Commissioner's Land Administration
Department of Lands

- c. Mr. Scott Stewart, Regional Superintendent
North Slave Region, Department of Lands



CITY OF YELLOWKNIFE

June 10, 2019

Lands Administration - Department of Lands
Government of the Northwest Territories
4923- 52 St.
Yellowknife, NT X1A 2L9

Attention: Robert Marchiori –Manager, Commissioner Land Administration

Re: Subleases Renewal for Yellowknife Heritage Society and Great Slave Sailing Club

The City of Yellowknife ("the City") leases from the Commissioner of the NWT Lot 1039 Quad 85 J/8 the area known as former Giant Mine townsite under Headlease No. 17889T. Portions of this Lot are subleased to the Yellowknife Heritage Society and Great Slave Sailing Club.

The sublease for the Yellowknife Heritage Society will expire on October 31, 2019, and they have expressed their intent to renew the lease. The sublease for the Great Slave Sailing Club expires on December 31, 2019, and they have requested to renew and increase the land area and lease all the lands approved by City Council in 2004 under disposal By-law no. 4321, please refer to attached site map.

The City is considering renewals for a further term of 3 years for each group. The Yellowknife Heritage Society lease would expire on October 31, 2022, and the Great Slave Sailing Club lease would expire on December 31, 2022. The City requests that you provide us with any comments or concerns regarding these lease renewals on or before July 9, 2019. If a reply is not received within the period specified the City will proceed to issue the sublease renewal.

The City is aware of the forthcoming Giant Mine Remediation Project and its tentative construction timeline and the possible closure of the sublessees' specific areas in 2023. The proposed renewal term of 3 years for both subleases will expire prior to 2023. The proposed sublease renewal and amending agreements' terms and conditions will have the same clauses related to reclamation of the Giant site as has been in previous agreements. See clauses below.

- *Notwithstanding any other termination clauses in this agreement, due to the on-going remediation activities that may impact the use of the Land as described in this lease, the agreement may be terminated upon six (6) months notification from the City.*
- *The City accepts no responsibility for costs or services associated with termination or relocation due to completion for remediation activities.*

Should you have any questions, please contact me. I look forward to your response.

Sincerely,



Vic Fontanilla
Development & Lands Officer, Planning and Lands Division

Attachment:

Subleases Site Map

cc: Nalini Naidoo – Director, Planning & Development, City of Yellowknife
Rob Lok – Manager Planning & Lands, City of Yellowknife
Kathleen Lanteigne- Planning Coordinator, City of Yellowknife
Chris Van Dyke - Team Lead – Commissioner's Land Administration
Robin Sproule - Lands Officer, Commissioner's Land



Subleases Site Map



Schedule “F”

Giant Mine cleanup will likely force shutdown of boat launch

By **Simon Whitehouse** - January 4, 2019

The Giant Mine Remediation Project team is preparing to enter the next phase of the cleanup project and if it goes ahead, it could present major obstacles to recreational use in the vicinity of Giant Mine.

Natalie Plato, deputy director of the remediation project, which is co-managed by the department of Crown-Indigenous Relations and Northern Affairs Canada and the territorial government, said this week that the team is awaiting the results of a resubmission for a Type A Water licence from the Mackenzie Valley Land and Water Board. Results aren't expected until mid-2020, but if approved, it will allow for the next phase of the remediation project to begin in 2021.

A big reality from the next phase will be that much of the public access to the Back Bay public boat launch and the Great Slave Sailing Club as well as parking and dry-dock storage of boats in and around those areas will likely be made off-limits to users for much of the next decade.

Both sites are leased by the city from the Department of Lands and are located within the Giant Mine Remediation project boundary.

The public boat launch, which is one of the few launches in the city that gives users direct access to Great Slave Lake, is expected to be shut down when soil contamination cleanup along the shoreline and dredging of sediment at the bottom of the bay tentatively begins in 2023, Plato said.

"We are envisioning getting to contaminated soil in the city area in 2023," she said. "At that time there will be restricted areas which means the public boat launch will likely be shut down."

Plato added in an email that the safety of residents has to be the number one consideration when working on the site.

"To ensure the safety of the public, the safety of the workers and to meet the general logistical requirements of a project of this scope, certain areas will not be accessible during some of the remediation work."

Plato has been attending regular monthly meetings with the city since at least last summer to discuss plans on how to deal with the impact of users of the public boat launch as the team carries out remediation.

Timelines are uncertain and still being fine-tuned by the team, but Plato said work would likely take place over much of the coming decade, provided the water license application is successful.

Great Slave Sailing Club

Similar setbacks are expected to occur at the Great Slave Sailing Club, a major recreational area where about 80 sailboats, which range from 14-to 40-foot sized crafts, access the lake through Northwest Yellowknife Bay. Plato said her team has been meeting with the club board of directors regularly and as recently as this past fall to try to come up with a plan to limit the impact on users. In the end, however, all club users – which number up to 120 individuals and households – will be impacted, she said.

"For the people who have their boats dry docked – we have been meeting with the Great Slave Sailing Club on what that will look like," she said. "Will they have to move their boats off site? Yes, very likely. But some boats are big and cumbersome, so we are working with (the club) on the best mechanism for the soils remediated with the boats there."

Stephen Jeffery, commodore of the sailing club said there is likely to be less recreational impact on the club versus the heavily used public dock. He said logistical challenges are expected, especially with the larger sized boats, most of which are in the mooring field located offshore from the club.

Final details are unknown about how the club will respond until the project team receives its licence permitting, Jeffery said.

"There are simply too many unknowns at this time to answer questions concerning any temporary or extended relocation of the club as a result of ... remediation of the site over the next decade," Jeffery said in an email.

Photo courtesy of the Giant Mine Remediation Project team. The Giant Mine Remediation Project team, pictured here in September 2018, meet with members of the regarding the site's remediation, which will include clean-up work on city leased property on Northwest Yellowknife Bay over the next decade.

"We have an internal committee at the club tasked to keep an ongoing dialog with CIRNAC (Crown-Indigenous Relations and Northern Affairs Canada) and to explore all options available to the club."

Rock face above town site to be blasted for fill

Plato said should licence permitting be approved, the next phase will begin with the demolition of the Giant Mine townsite in 2021 and include remediation of that area to residential standards.

The rock-face, located above the public boat launch is also expected to be blasted and sloped to make for rockfill in open pit areas across the highway, she said. These decisions were drawn out from an 18-month surface design engagement completed in 2016.

"Through our engagement process we determined we will fill the open pits," she said. "We need a lot of rock to fill in the pits, so one of the things we are looking at is the rockface above the pit."

Plato said the team is expected to engage more with the public this year on whether blasting will go ahead and a solid plan is yet to be finalized.

Questions to the City of Yellowknife were not returned by press time.

Simon Whitehouse

Simon Whitehouse came to Yellowknife to work with Northern News Services in 2011. He came from Prince Edward County, Ont., and obtained his journalism education at Algonquin College and the University of Ottawa. Working in Yellowknife, he covers education-based stories and general news but has also taken other beats in the past, including city hall and entertainment. He is a champion of the printed word and the importance of newspapers. As a board member of the United Way NWT and Rotary True North, he believes in the importance of civic engagement and community building. He spends his spare time with his boxer Sharona. Simon can be reached at (867) 766-8295 and editorial@nnsi.com.

Giant boat launch closure a priority

By **Editorial Board** - January 11, 2019

Looking at a map of Yellowknife one might be struck by the awesomeness of the water surrounding it, as well as the hostile nature of almost all its shoreline on Great Slave Lake.

From Negus Point to Mosher Island is an uninterrupted expanse of rock and when the weather is rough, which is at least half the time during open water, there are pounding waves. There is some protection behind Mosher Island, which is why the original owners of Con Mine put a dock there years ago, but it is vulnerable to north/south winds and the shore is steep.

Areas that are sheltered – behind Jolliffe and Dog islands, McMeekan Causeway and the east shore of Back Bay were occupied and developed long before anybody had any thoughts of public boat launches and marinas. What wasn't being used by the Yellowknives Dene at Ndilo, who have lived there since time immemorial, was quickly gobbled up by Yellowknife's earliest inhabitants who began pouring into the city in the mid-1930s after gold was discovered at Burwash Point.

Access to Great Slave Lake has been a problem ever since, particularly for motorboats and sailboats. There was one, single-lane boat launch at MacDonald Drive and Wiley Road – still is – but it hardly sufficed in this growing city and the amount of congestion on these narrow roads made dropping a boat there an aggravating experience for boaters and anybody else who had to make way for them.

In 2001, the City of Yellowknife presented a Waterfront Management Plan with a goal of winning back some of the shoreline for public use. Much of the shoreline in Old Town is in fact, Commissioner's Land but people have been have been building their docks and boathouses on it for years.

City council quickly backed away from that scheme after angry residents began showing their opposition in council chambers so serious waterfront improvement efforts in Old Town were largely shelved.

One thing that did happen though was the construction of the public boat launch at Giant Mine, also in 2001, which quickly became the go-to location for recreational boaters. With the closure of Giant Mine, suddenly the city had access to a suitable location for a growing number of boaters in the city to access Great Slave Lake, a way from town, with parking and largely free of congestion.

The Yellowknife Harbour Plan, which came in 2011, recommended the city pursue the feasibility of a marina at Giant Mine with an alternate site at Mosher Island. But clearly, Giant Mine is the ideal spot.


Of course it is but now the federal government is throwing a spanner into the spokes. Its remediation team wants to dredge the waters for arsenic contamination and raze the old town site adjacent to the boat launch. This will likely require the closure of the boat launch and Great Slave Sailing Club next door within four years for a yet undetermined period of time, perhaps years.

If there wasn't any urgency when the city was compiling all those reports for the last 20 some-odd years there certainly is now. City councillor Niels Konge suggests it is not a problem yet and if it does become a problem, the city can deal with it then.

We suggest this an overly optimistic view and if there is no crisis now, there will be if the federal remediation team does indeed insist the boat launch and sailing club be shut down entirely, or even partially, while cleaning up the shoreline.

As we pointed out earlier in this editorial, alternatives are few, and if four years from now the city insists the hundreds of people who own boats in Yellowknife must now have to funnel through Old Town where there is now a multitude of tourism operations and a busy bar, to access Great Slave Lake, there will be bedlam.

People spend a lot of money on their boats and boating season is short. If there was ever a need for a plan, now is the time.

 The Giant Mine Remediation Project team is proposing to block access to one of two public boat launches in the city starting in 2023, should the next phase of mine remediation take place. The Giant Mine location is the most popular site in the city and sees more than 100 boats, trailers, and vehicles per day throughout the months of June, July and August. NNSL file photo

The Giant Mine Remediation Project team is proposing to block access to one of two public boat launches in the city starting in 2023, should the next phase of mine remediation take place. The Giant Mine location is the most popular site in the city and sees more than 100 boats, trailers, and vehicles per day throughout the months of June, July and August. NNSL file photo

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