

February 22, 2019

The Honourable Catherine McKenna, Minister of Environment and Climate Canada  
The Honourable Francoise-Phillipe Champagne, Minister of Infrastructure and Communities  
The Honourable Dominic LeBlanc, Minister of Intergovernmental Affairs and Northern Affairs  
and Internal Trade  
House of Commons  
Ottawa, ON K1A 0A6

Dear Ministers McKenna, Champagne and LeBlanc:

**Re: Riverhead Wastewater Treatment Facility – St. John’s, NL**

The City of St. John’s has been issued a Transitional Authorization regarding discharge of effluent (the “Authorization”) for the City’s Primary Wastewater Treatment Plant (“Riverhead”) that expires December 31, 2020. When the Authorization expires the City is required to have a facility capable of secondary treatment constructed and operational. The Authorization was granted by the Federal Department of Environment and Climate Change (the “Department”) pursuant to the *Wastewater Systems Effluent Regulations* (the “Regulations”) under the *Federal Fisheries Act* (the “Act”). The Department placed Riverhead in a high-risk category based on the review of testing results from Riverhead prior to June 30, 2014. Testing, at that time, indicated that the final discharge point was allocated 70 or more points under the table to Schedule 2 of the Regulations, resulting in an expiry date of 2020.

At the time when the testing was carried out Riverhead was relatively new, having only been operational since September of 2009. Initially, Riverhead experienced significant operational issues with the digesters. It was determined that this was a result of incorrect installation and significant remediation was required. As a result, the two digesters were frequently operating at a reduced capacity and at times only one was operational. This had a direct negative impact on the City’s allocated points by increasing the Total Suspended Solids (TSS) and Chemical Biological Oxygen Demand (CBOD) in our effluent at the final discharge point. The City has two operational digesters in 2015. The testing period for submitting samples to the Department was April 2013 – June 2014 at a time when both digesters were not operational. Subsequently, Riverhead has seen an overall decrease in the TSS and CBOD. For the past 12 months the testing demonstrates that the final discharge point allocation overall is below 70 points and therefore, in our opinion, the Authorization should be extended to December 31, 2030, in accordance with the Regulations. Please see attached readings from 2013-2014 and 2018 (graphed) which puts in perspective the highly skewed average that resulted from Riverhead’s operational issues.

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A Secondary Treatment Facility, with an initial capital investment of \$84.9M, will have significant financial implications for the City of St. John's and its' regional partners – the City of Mount Pearl and the Town of Paradise. The City of St. John's alone will see its' operating budget increase by an estimated \$10.3M dollars once debt service and operating costs are factored in. Without secondary treatment, water taxes are estimated to rise to \$785 or 35% by 2026. The demands of secondary treatment will drive this increase to \$890 or 53% - an additional increase of \$105 per household. This projection means homeowners will see close to a 20% increase in water taxes above 2018 levels solely attributable to secondary treatment. Commercial property owners will not escape the increase and will see an increase in water usage rates of close to 20% as well.

The table below shows the total impact on the region – it is clear the demands of secondary treatment are placing a significant burden on the taxpayers of the region directly in the midst of highly uncertain economic times.

	Estimated Capital Cost	Annual debt service cost	Annual Operating Cost	Total Annual Cost
City of St. John's	70,868,519	5,315,139	5,009,400	10,324,539
City of Mount Pearl	10,151,964	761,397	717,600	1,478,997
Town of Paradise	3,862,160	289,662	273,000	562,662
	\$ 84,882,644	\$ 6,366,198	\$ 6,000,000	\$ 12,366,198

Further, the City of St. John's has yet to receive any Federal or Provincial funding with respect to same. The timeline for construction of the Secondary Treatment plant at the end of 2020 is not realistically achievable. The extension of the Authorization would provide the City adequate time for planning and budgeting for a Secondary Treatment plant.

City staff spoke with Sarah Radovan, Manager of Waste Water Program and the Regulatory Operations Manager of the Department to discuss the extension of the Authorization to 2030. The response was that there was no ability in the Regulations to reclassify Riverhead into another points category or to otherwise extend the Authorization.

It is important to note that as a component of an application for Authorization, the Regulations speak to the "design of the wastewater system". The City system was designed in such a way that would have resulted in lower point allocation for the final discharge point, had it been functioning correctly. The City invested significant funds in Riverhead to reduce and mitigate deleterious effluent. It is patently unfair for the City to be treated the same as an entity that continues to operate over the 70-point allocation for the duration of the Authorization. The current application of the Regulations does not align with the clear spirit and intent thereof. The fact that the City corrected the issue with the



digesters is a material change in the system from when the samples were taken and on which the authorization was based and should be considered.

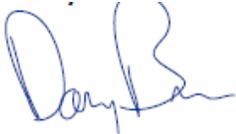
The Regulations set out an administrative process that does not appear to provide for any meaningful review, reconsideration, or appeal of the allocation of points or the duration of the Authorization. Considering the serious impact these Regulations have on environmental protection and financial stability, municipalities should be provided a fair process to review decisions made pursuant thereto. Furthermore, as the interests of the citizens of St. John's and the surrounding region will be affected by these administrative decisions, the City is owed a duty of procedural fairness in any decisions related to the Authorization. The City has a reasonable rationale for an extension of the Authorization and is entitled to the participatory right to present its case fully and fairly. Denying this procedural right offends the principles of natural justice.

The City requests that the Federal Government extend the Authorization expiry to December 31, 2030. This can be achieved through an amendment to the Regulations themselves, pursuant to s. 36(6) of the Act or by Executive Order. When consideration is given to all the facts, the expiration of the Authorization in 2020 is both unreasonable and unfair. If the City is not granted more time to complete the Secondary Treatment Plant the resultant financial burden on the taxpayer will be significant at a time when the economic downturn in the region and the Province is already having an acute effect. As demonstrated by our current TSS and CBOD results, the environmental impact is far more consistent with a medium risk categorization than a high risk one. As there are few, if any, municipalities that are in this unique situation, a decision in the City's favor would have a nominal effect on the national impact of the Regulations.

Furthermore, the City draws your attention to section 36(6) of the Act which provides the Minister with power to request further testing and to set procedures to be followed, notwithstanding the Regulations. Given the material change this may be an appropriate avenue to provide an extension of the Authorization.

We look forward to meeting with you at your earliest convenience to discuss this most pressing and urgent situation.

Sincerely yours,



Danny Breen  
Mayor

cc: Honourable Seamus O'Regan MP – St. John's South-Mount Pearl  
Honourable Nick Whalen, MP – St. John's East

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Honourable Ken McDonald MP – Avalon  
Honourable Graham Letto, Minister of Municipal Affairs & Environment  
Members of the St. John's Municipal Council  
Dave Acker, Mayor of Mount Pearl  
Dan Bobbett, Mayor of Paradise

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