



Government of Newfoundland and Labrador
Department of Municipal Affairs and Environment
Water Resources Management Division

WATER USE LICENCE
Commercial - Iceberg Harvesting

Pursuant to the *Water Resources Act*, SNL 2002 cW-4.01

Date of Issuance: FEBRUARY 08, 2019

No: WUL-19-10119
File: 514/515/516

Licensee: **Berg Water**
1171 Topsail Rd
Mount Pearl, NL A1N 5G2

Attention: **Gabriela Medellin-Kenny & Tony Kenny**


Re: **Water Use from Harvesting Icebergs**

The Minister of Municipal Affairs and Environment (the "Minister") hereby grants a non-exclusive water right to: **Berg Water** (the "Licensee") to harvest icebergs within the jurisdiction of the Province of Newfoundland and Labrador (the "Province") for the purpose of obtaining water from these icebergs. The water so obtained may be used to produce the Licensee's own bottled water and other finished water based products in the Province which may be sold to consumers in and outside the Province, in reference to the application dated September 14, 2018 and further information received on January 25, 2019.

This Licence is subject to the terms and conditions, reservations, exceptions, and provisions stated herein and the *Water Resources Act* and regulations thereunder. Appendices A, B and Schedule A (attached) form part and parcel of this Licence.

This Licence does not release the Licensee from the obligation to obtain appropriate approvals, permits or licences from other concerned municipal, provincial and federal agencies.

The Licensee shall complete and return the attached Notification of Acceptance of Water Use Licence to the Water Rights, Investigations, and Modelling Section of the Department of Municipal Affairs and Environment within thirty (30) days of receipt of this Licence.


MINISTER

GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR
DEPARTMENT OF MUNICIPAL AFFAIRS AND ENVIRONMENT

No: WUL-19-10119
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APPENDIX A
TERMS AND CONDITIONS FOR WATER USE LICENCE

The Minister of Municipal Affairs and Environment (the "Minister") hereby grants a non-exclusive water right to: **Berg Water** (the "Licensee") to harvest icebergs within the jurisdiction of the Province of Newfoundland and Labrador (the "Province") for the purpose of obtaining water from these icebergs. The water so obtained may be used to produce the Licensee's own bottled water and other finished water based products in the Province which may be sold to consumers in and outside the Province, in reference to the application dated September 14, 2018 and further information received on January 25, 2019.

1. The Licensee shall provide the name of its harvester(s) or agent(s) who will be involved in the harvesting activities. Also, the Licensee shall clearly instruct all personal involved in its harvesting activities to promptly report on harvesting activities, strictly adhere to the terms and conditions, reservations, exceptions, and provisions of this Licence and to give full care for protecting water resources and the environment.
2. Ownership of all icebergs and water within the jurisdiction of the Province remains with the Crown and is not transferred. The Water Use Licence only provides permission for the Licensee to use water from harvesting icebergs for the designated purpose indicated in this Licence.
3. This Licence shall not be interpreted as granting any right which might affect the quantity and quality of water required by residents of any nearby communities from the icebergs for traditional personal domestic use and the Licensee shall allow personal access for obtaining water. Also, this Licence shall not be interpreted as granting any interest or right in land or inland water resources in the Province.
4. This Licence shall expire on February 8, 2024 or earlier if suspended or modified or cancelled by the Minister due to reasons that include, but is not limited to, non-compliance with the Water Resources Act and terms and conditions, reservations, exceptions, and provisions, lack of utilization of iceberg water for the designated purpose and prompt reporting on harvesting activities and use of iceberg water pursuant to this Licence. This Licence may be renewed by the Minister for such a renewal term as the Minister deems appropriate and in the public interest, provided the Licensee applies for a new Licence at least hundred and eighty (180) days before the expiry date of this Licence.
5. The maximum annual water use from harvesting icebergs shall not exceed 1000 cubic metres (1 million litres), subject to the availability of water from icebergs within the jurisdiction of the Province. The Licensee shall not at any time use water from harvesting icebergs in excess of the need for the Licensee's own production of bottled water and other finished water based products in the Province, irrespective of the authorized water use from harvesting icebergs for the designated purpose indicated in this Licence.
6. The designated purpose of this Licence is Commercial: water use from harvesting icebergs for producing the Licensee's own bottled water and other finished water based products in the Province.
7. This Licence shall not be interpreted as granting any right to sell bulk water or ice from icebergs or other water sources in or outside the Province or to remove bulk water or ice from icebergs to outside the Province. The Licensee shall clearly instruct its harvester(s) or agent(s) who will be involved in the harvesting activities of this provision of the Licence.
8. The Licensee shall identify or mark the iceberg that the Licensee wishes to harvest for water use and must terminate the harvesting of that iceberg before selecting another one, if necessary unless such termination must be made for safety reasons. Also, the Licensee and/or its harvester(s)/agent(s) shall immediately notify the Water Rights, Investigations, and Modelling Section of the Department of Municipal Affairs and Environment of the location of that iceberg before the harvesting activities begin. In this Licence, the reference to Schedule A is hereby eliminated.
9. The Licensee shall not use explosive materials of any kind in connection with the harvesting activities.
10. The Licensee shall not interfere with any marine wildlife during the harvesting activities.
11. The Licensee shall not harvest icebergs in a manner that interferes with areas where fishing and aquaculture gear is set out.
12. The time of harvesting activities shall not interfere with tour boat operations or other recreational activities. Also, harvesting activities or collection of bergy bits shall not be carried out within visible distance from known locations frequented by

tourists including, but is not limited to, Cape Bonavista, Cape Spear, Twillingate and other locations.

13. The Licensee shall not discharge any waste material or effluent into any body of water and shall dispose of any waste at a site approved by Government.
14. The Licensee shall keep all systems, works and equipment used in the harvesting activities in good condition and repair, and shall immediately notify the Minister if any problem arises which may adversely affect public safety or other water users.
15. The Licensee and/or its harvester(s)/agent(s) shall record in a log book kept exclusively for this purpose and report to the Water Rights, Investigations and Modelling Section of the Department of Municipal Affairs and Environment, on or before March 31st of each year or as required at any time during the term created by this Licence, the following information: i) The date and time of arrival of harvested iceberg(s); ii) The time harvesting activities begin and end and a map or maps indicating the location and the extent of the harvesting activities; iii) An estimate of the number of icebergs within the area identified in ii) before the harvesting activities begin; and iv) The number and locations of other users, tour ships, recreational boats, and kayaks encountered within the visible area during the time of harvesting activities. The information will be used to enable the Minister to make informed decisions regarding management and planning of harvesting icebergs and avoid potential conflicts in the process.
16. This Licence is subject to the Water Use Charges Regulations, NLR 60/16 under the Water Resources Act, 2002 and the Licensee shall upon receipt of an invoice stating the amount owing for water use charges, pay to the Minister the full amount within thirty (30) days of the receipt of the said invoice and if imposed by provincial legislation, fees, incentives, royalties or subsidies for water use.
17. The Licensee shall prudently maintain in good faith records, accounts and statements of the rates and amounts of ice harvested and water used on a daily basis, monthly production of its own bottled water and other finished water based products, water quality, and any other information that the Minister may require in whatever form, manner and time. Copies of such records, accounts, statements, all information required to exercise the non-exclusive rights and privileges demised under this Licence, and a form following the format of Appendix B shall be submitted to the Water Rights, Investigations, and Modelling Section of the Department of Municipal Affairs and Environment on or before March 31st of each year or as required at any time during the term created by this Licence.
18. The Licensee and its agent(s), subcontractor(s), and consultant(s) indemnify and hold the Government and the Minister harmless against any and all liabilities, losses, claims, demands, damages or expenses including legal expenses of any nature whatsoever whether arising in tort, contract, statute, trust or otherwise resulting directly or indirectly from the non-exclusive rights granted under this Licence, systems, works and equipment in or outside harvesting activities and water use areas, or any act or omission of the Licensee or its agent(s), subcontractor(s), or consultant(s) in or outside harvesting activities and water use areas, or arising out of a breach or non-performance of any of the terms and conditions, and provisions of this Licence by the Licensee or its agent(s), subcontractor(s), or consultant(s).
19. If the Licensee or its agent(s), subcontractor(s), or consultant(s) fails to perform, fulfil, or observe any of the terms and conditions, or provisions of this Licence and/or Ministerial orders and guidelines, as determined by this Department, the Minister may, after providing ten (10) day notice to the Licensee, amend, modify, suspend or cancel this Licence in accordance with the Water Resources Act, 2002.
20. Should any provision of this Licence be unenforceable, it shall be considered separate and severable from the remaining provisions of this Licence which shall remain in force and be binding as though the provision had not been included.
21. This Licence is subject to the Water Resources Act, 2002 and any regulations in effect either at the date of this Licence or hereafter made pursuant thereto or any other relevant legislation enacted by the Province of Newfoundland and Labrador in the future.
22. This Licence shall be subject to, construed, and interpreted in accordance with any and all provisions of applicable laws of the Province of Newfoundland and Labrador.

All notices to be given pursuant to the terms and conditions of this Licence shall be given in writing and delivered by facsimile with auto confirmation or registered mail. If a notice is delivered by facsimile, it is deemed to have been received on the day it was sent if that day is a normal business day, if not, it is deemed to have been received on the next normal business day. If a notice is sent by registered mail, it is deemed to have been received three days after the day it was mailed. The address of the Licensee is:

Berg Water
1171 Topsail Rd
Mount Pearl, NL A1N 5G2

The address and facsimile number of the Department of Municipal Affairs and Environment are:

Water Rights, Investigations, and Modelling Section
Department of Municipal Affairs and Environment
PO Box 8700
St. John's NL A1B 4J6
(709) 729-0320

GOVERNMENT OF
NEWFOUNDLAND AND LABRADOR
DEPARTMENT OF MUNICIPAL AFFAIRS AND ENVIRONMENT
APPENDIX B

Report to Department of Municipal Affairs and Environment

To: Water Rights, Investigations, and Modelling Section
Water Resources Management Division
Department of Municipal Affairs and Environment
PO Box 8700
St. John's NL A1B 4J6

No: WUL-19-10119
File: 514/515/516
Authorized: FEBRUARY 08, 2019

Re: *Water Use from Harvesting Icebergs*

This report must be completed and filed on or before January 31st of each year or upon the completion of activities for a temporary period. Provide the information required below:

1. Has the Licensee used water during last year? Yes No
If no, explain (use extra sheet to provide more information, if any).

2. Does the Licensee wish to continue the non-exclusive water right? Yes No
If no, explain (use extra sheet to provide more information, if any).

3. Has the Licensee exceeded the estimated maximum water withdrawal of that indicated in Appendix A? Yes No
If yes, explain in the space below (use extra sheet to provide more information, if any).

In the table below, state the monthly water uses during last year or a temporary period and attach spreadsheet for daily water uses along with water quality report(s) as may be applicable:

Month	Jan.	Feb.	Mar.	April	May	June	July	Aug.	Sept.	Oct.	Nov.	Dec.	Total
Use in litres or cubic meters													

4. Is there any other matter on which the Licensee wishes to inform the Department of Municipal Affairs and Environment regarding this Licence and its terms and conditions? Yes No
If yes, explain (use extra sheet to provide more information, if any).

I/We acknowledge that the information contained in this report is true and correct.

Berg Water
1171 Topsail Rd
Mount Pearl, NL A1N 5G2

Signature: _____

Name/Title: _____

Date: _____

No: WUL-19-10119
File: 514/515/516

- cc: Amir Ali Khan, Ph.D., P.Eng.
Manager, Water Rights, Investigations and Modelling Section
Water Resources Management Division
Department of Municipal Affairs and Environment
P.O. Box 8700
4th Floor, West Block, Confederation Building
St. John's, NL A1B 4J6
akhan@gov.nl.ca
- cc: File Copy for Binder
- cc: Fisheries Protection Division
Ecosystem Management Branch
Fisheries and Oceans Canada
P.O. Box 5667
St. John's, NL A1C 5X1
FPP-NL@dfo-mpo.gc.ca
- cc: Marine Safety
Transport Canada, Atlantic Regional Headquarters
Airports, Harbours and Ports, and Environmental Services
95 Foundry St.
P.O. Box 42
Moncton, NB E1C 8K6
NPPATL-PPNATL@tc.gc.ca



Government of Newfoundland and Labrador
Department of Municipal Affairs and Environment
Water Resources Management Division

Water Rights, Investigations, and Modelling Section
Water Resources Management Division
Department of Municipal Affairs and Environment
PO Box 8700
St. John's NL A1B 4J6

Date: **FEBRUARY 08, 2019**
File: **514/515/516**

NOTIFICATION OF ACCEPTANCE OF WATER USE LICENCE
Water Use from Harvesting Icebergs

Water Use Licence No. WUL-19-10119 issued on FEBRUARY 08, 2019, and valid until February 08, 2024.

As a Licensee of Water Use Licence No. WUL-19-10119, issued pursuant to the *Water Resources Act*, **Berg Water** (the "Licensee"), agrees to accept this Licence for the stated duration and abide by all terms and conditions, reservations, exceptions and provisions stated therein. The Licensee acknowledges that failure to abide by the terms and conditions, reservations, exceptions and provisions indicated in Appendices A, B and Schedule A (attached), and the *Water Resources Act* will render the Licence null and void, place the Licensee and/or their agent(s) in violation of the *Water Resources Act* and regulations thereunder and cause the Licensee to be responsible for any and all remedial measures which may be prescribed by the Department of Municipal Affairs and Environment.

Signed, sealed, and delivered by
Berg Water,
in accordance with its rules and
regulations in that behalf
at _____, this _____ day
of _____, 2019 in the presence
of:

Witness

Per: _____
Signing Officer

Seal:

Important: The attached Water Use Licence is not valid unless the Licensee completes and returns this notification to the address above within thirty (30) days of receipt.