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October 2, 2014

RE: Continuation of the Voluntary Abatement Program

Mr. Richard,

Following the events that lead up to our meeting of September 26th, 2014, I feel that it is important for Aboriginal Affairs and Northern Development Canada (AANDC) and specifically the Field Operations Unit to put in writing our expectations of the Government of Nunavut, Sintra/Bouygues and the Iqaluit International Airport Improvement Project Authority (IIAIPA) are, and what AANDC's responsibilities are with respect to this project.

You will note that our initial contact with respect to this file was back on July 23rd, 2014. On that date it was revealed that the parties involved (as listed above) had, contrary to the Nunavut Waters and Nunavut Surface Rights Tribunal Act (*Act*) deposited waste without the authority of a license by unlawfully entering a property owned and licensed under the authority of the *Act* by Transport Canada and did remove and place in an unsecured or unlined location approximately 6000 cubic meters of Hydrocarbon Contaminated soils.

Additionally during that meeting it was identified that an inaccurate and insufficient amount of information was provided to the Nunavut Water Board in an attempt to release the parties involved (Proponents) of the project from the requirements under the Act (specifically the requirement to obtain a license).

Following these revelations, on the 23rd and 24th of July, 2014 representatives of the proponents and the Nunavut Water Board met to determine if a License was required for the Project. At the request of the Nunavut Water Board a meeting was then called for the 25th at 4:00pm where all parties reconvened by phone and in-person at our offices in Iqaluit.

At this second meeting the Board announced that following their discussion with the proponent's representatives, it was their opinion that a license was required for the activity (This is the deposit of waste). This issue was covered very well by the NWB staff and council and after a bit of discussion all parties had reviewed the definition of Waste and the requirements for licensing under the Nunavut Water and Nunavut Surface Rights Tribunal Act.



Following this, AANDC did make a presentation to the group on the options that were available to the Proponents and agreed to again meet in one week's time to determine next steps.

That meeting took place on August 1st, 2014 the Proponents provided a rough sketch of the proposed land farm to be constructed to replace that which was taken down by the proponent. Additionally the following were identified;

- Cell One had the contents of the cell removed but not the substrate below the cell. It was stated that because of the use of a woven tarp to contain the soils it was felt that the soils below the cell would be highly contaminated and needed to be tested.
- Cell Two had the contents and the substrate removed. The liner was taken off site to the Municipal land fill and is no longer available to be used.
- No sampling or work has gone on in the area or on at that location since the Voluntary Abatement process was initiated.
- Transport Canada is sending two staff (Dale Kirkland and Mike Molinski) to Iqaluit for Tuesday August 5th to undertake with a contractor confirmatory sampling to determine the volume of any contaminated soils and the levels of contamination.

At the end of this meeting it was still a matter of issue and concern for the proponents who would be responsible for obtaining Water Licence for the project. In fact this issue was not finally resolved until a third meeting was convened on August 18th a full month following our initial contact regarding this issue.

I would like to point out that as of our meeting on August 1st, 2014 AANDC had agreed to allow the Proponents to proceed to clean up their "mess" and to apply for a Water License for the project with the understanding that the proponent would no longer continue to undertake any further activities that would require a water license (until such time as one was issued) and to not enter the site where the original Transport Canada Land Treatment units were, in expectation that TC would be moving forward to remediate the site and apply for a closure of their Water License.

Since that time, I have found it necessary to attend the Iqaluit Airport Apron Area 3 times to review your works and to ensure compliance with the Voluntary Abatement approach that all parties agreed to in good faith.

In fact these terms of the agreement were communicated in writing to yourself in a written letter following the August 18th meeting.

On September 25th, 2014 I was advised by TC that in fact the Proponents had been into the site where TC has their remnants of the Land Treatment Unit and in fact cut a trench in the site allowing water to flow through and exit the site possibly carrying contaminants with it under the exiting Apron and possibly off site. Additionally, as discovered and confirmed by yourself while we attended the site together, a Dozer or other tracked vehicle had packed the remaining LTU walls into a large mound and flattened the upper end of the site in addition to the works carried out in the lower portion.



While you have provided me an e-mail detailing why it was, in the Proponent's opinion important that these works were undertaken, they in fact did breach the terms of the Voluntary Abatement Agreement and are further infractions of the Act.

This is, in fact, not the first such infraction of the Voluntary Abatement Agreement that we have dealt with since August 18th, 2014.

It is now the end of the season and as you indicated the Proponents are at this time packing up and closing down for the season. I note that as of this date a Water License has not been issued for the project and that the Water Board has advised the Proponent that further, more accurate and complete information is required for them to make their determinations and conduct a fulsome review of the project.

As such the question of whether or not to continue under a Voluntary Abatement Process is even viable or warranted in the given circumstances.

At this time, given the project is shutting down for the season and no further works are planned until April/May 2015. The Proponent has until then to secure a Water License that covers the activities associated with the project that fall under the authority of the Act.

Failing that, prior to entering the site to undertaking any work, the proponent will contact AANDC to arrange a meeting to provide an up-date on their progress to achieve compliance with the legislation and to seek approval to continue with the Voluntary Abatement Approach.

Please note that at any time, AANDC may chose to issue an Inspector's Direction and to order a cessation of activities on the site until such time as the Proponent is in compliance with the Legislation and a Water License has been issued for the project.

I look forward to hearing back from you in the near future if you have any questions or concerns regarding this letter or AANDC's position on this file.

Respectfully,

(Sent by Email – Original signed and on file)

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