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Canada

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Your file Votre référence
05MN047

Our file Notre référence
7075-70-7-10

January 17, 2014

Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, NU, X0B 0C0

RE: TMAC Resources Inc.'s Proposed Modifications to the Doris North Gold Mine Project and Reconsideration of the NIRB Project Certificate Terms and Conditions

Dear Ms Hanson:

Transport Canada (TC) received the Nunavut Impact Review Board (NIRB) letter dated December 19th 2013, requesting parties with jurisdictional authority and/or licences and approvals with respect to the Doris North Gold Mine Project (Doris North Project), to provide comments on the proposed amendments to the Project Certificate 003 (PC003) based upon the application submitted by TMAC Resources Incorporated (TMAC). NIRB specifically requested parties to provide their respective views on the PC 003, by following five points of discussion:

1. Whether the proposed changes, as presented in TMAC's amendment application may trigger the requirement for reconsideration as set out in the NLCA, Section 12.8.2 (a), (b), or (c), and if so, which provisions would trigger reconsideration;

Based upon their amendment application to NIRB¹, TMAC has indicated that the current project is not operationally feasible and that changes are necessary in order for the mine to proceed within the scope of the original project as described in the Doris North Final Environmental Impact Statement and NIRB PC 003. TMAC has also concluded that it needs to be reasonably certain that the mine life would be greater than two years for reasons linked to economic sustainability. It is TC's view that these conclusions may be used as justification that the circumstances relating to the project have changed and may trigger the requirement for reconsideration of the NIRB PC 003 terms and conditions pursuant to Section 12.8.2 (b) of the Nunavut Land Claim Agreement (NLCA).

¹ Doris North Mine Modifications and Related Amendments to Project Certificate No. 003 and Type A Water Licence No. 2AM-DOH1323, Section 1.3, Page 27

- 2) Whether specific terms and conditions within NIRB Project Certificate [No. 003] may need to be reconsidered pursuant to section 12.8.2 of the NLCA and, if so, identifying the terms and conditions that should be reconsidered;

TC has reviewed the NIRB PC No. 003 terms and conditions and TMAC application with respect to our mandate and is of the view that changes may be necessary given the amended scope of the project. TC would require additional information regarding the proposed works and activities associated with these changes, in order to effectively comment whether new conditions may be required.

- 3) Whether a reconsideration of the Project Certificate terms and conditions is likely to arouse significant public concern, and if so, a description of the basis for this concern;

TC would have to review additional information regarding our mandated interests in the project to determine if any significant public concern would be aroused.

- 4) Based on the proposed amendments and possible changes to specific terms and conditions, whether the reconsideration should include revisiting whether the potential adverse effects previously identified as mitigated in the original NIRB Review would continue to be considered mitigated if the proposed project modifications are implemented;

TC is of the view that there may be potential for the proposed changes to result in adverse environmental effects that were not previously identified and that previously identified mitigation measures outlined in the original terms and conditions may need to be modified to reflect the proposed changes to the project.

- 5) Any matter of importance to the party related to the amendment application as presented by TMAC;

The *Navigable Water Protection Act* (NWP) is a federal law designed to approve works on waterways while protecting the common law public right of navigation. The NWP sets out a regime to approve works built in, on, over, under, through or across navigable water in Canada. The proponent, TMAC will need to inform TC of any design, construction, or operational changes and may need to submit formal applications to TC for specific works, in order to obtain approval, promulgation, or exemption for each work in navigable waters. It is anticipated that the amendments to the NWP will come into force in April 2014, under a new legislative name entitled the *Navigation Protection Act* (NPA). The NPA will apply primarily to works constructed or placed in, on, over, under, through, or across a schedule of clearly listed major waterways, however it still prohibits throwing or depositing any material or rubbish that is liable to either interfere with navigation in any water, any part of which is navigable or that flows into any navigable water or to sink to the bottom in any water, any part of which is navigable or that flows into any navigable water, where there are not at least 20 fathoms (approximately 36.6 meters) of water depth at all times. As well, TC has an interest and will require additional information with respect to marine safety and security associated with shipping, spill response, overwintering of a fuel vessel and accommodation barge, and additional infrastructure in regards to the lay down area.

Transport Canada appreciates the opportunity to comment on the proposed modifications to the Doris North Project. Should you have any questions regarding Transport Canada's comments

concerning this project, please contact John Cowan via email at john.cowan@tc.gc.ca or by telephone at (204) 983-1139.

Sincerely,

A handwritten signature in black ink, appearing to read "Todd Frederickson", with a long horizontal flourish extending to the right.

Todd Frederickson
Regional Director, Programs