



Transport Canada
Prairie and Northern Region

Transports Canada
Région des Prairies et du Nord

Regional Director General **Directrice générale régionale**

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December 24, 2013

Percy Kabloona, Acting Chair
Nunavut Planning Commission
P.O.Box 2101
Cambridge Bay, NU
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Dear Chairperson Kabloona:

Re: Public Review of the Baffinland ERP Transportation Corridor

I am writing with respect to oral hearings that the Nunavut Planning Commission (NPC or Commission) plans to hold in community halls in January 2014 to assist the Commission in evaluating whether the Baffinland Early Revenue Phase (ERP) proposal meets the requirements of Appendices J and K of the North Baffin Regional Land Use Plan (NBRLUP or Plan), and ultimately whether to recommend an amendment to the land use plan.

Transport Canada is responsible for transportation policies and programs that promote all parts of the transportation system to work effectively and in an integrated manner, so as to provide Canadians with a sustainable transportation system that is safe, secure, efficient and environmentally responsible. The Department also has a responsibility to regulate associated transportation infrastructure, equipment and personnel in accordance with the legislation and regulations within the mandate of Transport Canada.

Transport Canada will not be attending the NPC's January hearings. However, the Department has a keen interest in the ongoing discussions regarding possible amendments to the NBRLUP particularly as they relate to transportation issues. We hope that the following comments will be of assistance to the NPC.

With respect to the proposed transportation corridor, based on our understanding, Transport Canada is not convinced that an amendment to the NBRLUP is necessary as there is existing transportation infrastructure and activity within the area. It is not clear that Baffinland's ERP would involve the development of a new transportation corridor, as (i) shipping already takes place in the waters that would be used during the ERP; (ii) there is an existing off loading facility at Milne Inlet; and (iii) the Milne Inlet Tote Road has existed for some time, with an NLCA-protected public right of access over Inuit Owned Lands for the purposes of transportation.

There may be any number of ways the NBRLUP could be amended in response to Baffinland's ERP proposal, however, in the absence of an identifiable amendment proposal, our comments must necessarily be general in nature. We would be pleased to provide further specific comments once a concrete amendment proposal is put forward.

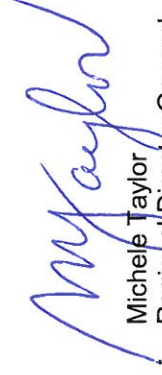
Marine shipping in Canada, and particularly, in Canada's Arctic waters, is a highly regulated activity. Transport Canada has made submissions to the Nunavut Impact Review Board relating to the Mary River Project review that explains the regime in some detail. The first, made June 11, 2012, was the Department's final written submission regarding Baffinland's Final Environmental Impact Statement: <http://ftp.nirb.ca/02-REVIEWS/COMPLETED%20REVIEWS/08MN053-BAFFINLAND%20MARY%20RIVER/2-REVIEW/09-HEARING/05-SUBMISSIONS/01-FINAL%20WRITTEN%20SUBMISSIONS/120611-08MN053-TC%20Submission-IDTE.pdf>. The second, made October 18, 2013 was Transport Canada's technical submission on the ERP: <http://ftp.nirb.ca/03-MONITORING/08MN053-MARY%20RIVER%20IRON%20MINE/01-PROJECT%20CERTIFICATE/04-AMENDMENTS/ERP/04-CONFORMITY%20%26%20TECH%20REVIEW/03-TECHNICAL%20REVIEW%20COMMENTS/131018-08MN053-TC%20Comments-IA2E.pdf>.

The submissions demonstrate that shipping associated with the Mary River project will be subject to a suite of laws and regulations that address the design, construction, equipping and crewing of vessels as well as protection of the marine environment. Given the robust regulatory framework, Transport Canada sees no technical reason why shipping should not take place in the area covered by the ERP. Shipping already safely occurs in the waters that would be used during the ERP of the project.

With respect to the other proposed infrastructure and the transportation corridor proposed as part of the ERP for the Mary River Project, Transport Canada has other Acts and Regulations that will apply. The *Navigable Waters Protection Act* (NWPA) is a federal law designed to approve works on waterways while protecting the common law public right of navigation. It is anticipated that amendments to the NWPA 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, e.g. the Arctic Ocean. The transportation of dangerous goods by air, marine, rail and road is regulated under the federal Transportation of Dangerous Goods Act, 1992 (TDGA 1992). The TDGA 1992 and its regulations are focused on preventing hazardous incidents when dangerous goods are imported, handled, offered for transport or transported.

I trust that this information is of assistance. Should you have any specific questions regarding the comments in this correspondence or the attached materials, please let me know. If it would be helpful, my staff is willing to meet with you and your officials to further outline Transport Canada's mandate; address any specific areas of concern and answer your questions. Finally, I would appreciate it if you could continue to keep the Department apprised of any further developments in the NPC's review of potential amendments to the North Baffin Regional Land Use Plan.

Sincerely,



Michele Taylor
Regional Director General
Prairie and Northern Region

Cc:

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