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Building Nunavut Together
Nunavuliuqatigiingniq
Bâtir le Nunavut ensemble
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Department of Environment
Avatiliqiyikkut
Ministère de l'Environnement

March 25, 2024

Annette Gibbons
Deputy Minister
Department of Fisheries and Oceans

Request for Written Support for Advancing Marine Protection in the Tuvaijuittuq Marine Protected Area

Dear Ms. Gibbons:

Following your letter written February 28, 2024 seeking written support from the Government of Nunavut for advancing marine protection in the Tuvaijuittuq Marine Protected Area (MPA), the Government of Nunavut affirms its commitment to marine conservation in and around Nunavut that aligns with regional priorities and territorial interests. We must also recognize the importance of the Devolution Agreement since the current Ministerial Order was implemented, and therefore there are new considerations regarding the boundary.

Furthermore, we understand the rationale behind the decision to pursue the repeal and replacement of the Ministerial Order for Tuvaijuittuq, given that the feasibility and desirability assessment for long-term protection was not completed over the last 5 years. Nonetheless, the proposed interim measures, as they stand, appear to unjustifiably restrict activities, which is a significant concern for us.

The Department of Fisheries and Oceans ("DFO") current interpretation of the Oceans Act, specifically section 35.1 (2) (b), suggesting a blanket prohibition on all human activities, does not align with our understanding. Specifically, this section of the Act says, any activity:

"...that disturbs, damages, destroys or removes from that marine protected area any unique geological or archeological features or any living marine organism or any part of its habitat or is likely to do so".

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Not all human activities inherently contravene the Act's stipulations regarding disturbances in marine areas. However, DFO's current restrictive interpretation will have profound effects on recreation, tourism, and outfitting activities in the area, effectively banning them during the duration of the Ministerial Order; thus, diverging from our views on regional priorities and territorial interests.

In the spirit of consensus decision-making of protected areas in Nunavut and Tuvaijuittuq, the Government of Nunavut is requesting a resolution to this; and therefore, we propose two solutions within the legislative framework of the Oceans Act and the Ministerial Order to address our above noted concerns.

One solution would be to recognize that certain activities can occur within a Marine Protected Area that will not contravene the prohibition listed in the Ministerial Order. For instance, certain activities, like recreation, tourism, and outfitting, depending on how they are conducted, will not *disturb, damage, destroy or remove from that marine protected area any unique geological or archeological features or any living marine organism or any part of its habitat or is likely to do so.* Therefore, DFO needs to re-evaluate their messaging that the prohibition will limit all human activities within the boundaries of the MPA and must recognize the inherent flexibility that the prohibition within the Ocean Act allows for.

Alternatively, the Ministerial Order could recognize specific tourism, recreation, and outfitting activities as 'on-going' under section 35.1 (1) (c) of the Ocean's Act. Many of these activities, are authorized and continue to be authorized in Nunavut under Territorial and Federal Legislation, and this enables it to be classified as an on-going activity, regardless of whether the activity occurred in the 12-months prior to designation of the original Ministerial Order in 2019. Given this, the GN is requesting the ongoing activity list be expanded beyond marine research and National Defence related activities.

Given the critical nature of our concerns and the urgent need for a collaborative approach to marine protection in the Tuvaijuittuq MPA, our support is not merely conditional but contingent upon immediate and substantive action by DFO. This action must include a comprehensive reassessment of the restrictive interpretation currently proposed, ensuring it does not unjustifiably hinder those activities that we have identified, that are vital to our regional economy and cultural practices. It is imperative that DFO engages and cooperates

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directly and effectively with the Government of Nunavut and other key stakeholders as mandated under section 33(1) of the Oceans Act to swiftly address these issues. Failure to achieve a mutually agreeable resolution that respects both these objectives will necessitate a reconsideration of our support.

We look forward to continuing to collaborate with partners on marine conservation initiatives in and around Nunavut waters.

Sincerely,

Yvonne Niego
Deputy Minister
Department of Environment

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