



# Nunavummiut Makitagunarningit

March 24, 2009

Mr. Lucassie Arragutainaq, Chairperson  
Nunavut Impact Review Board  
Cambridge Bay, NU X0B 0C0

cc: distribution

**Re: NIRB File No.: 09MN003, Commencement of the NIRB's Part 5 Review of  
AREVA Resources Canada Inc.'s 'Kiggavik' Project**

Dear Mr. Arragutainaq,

We are writing to you on behalf of Nunavummiut Makitagunarningit, an independent, non-governmental organization with members in Iqaluit and Baker Lake. The purpose of this letter is to respond to correspondence from the Nunavut Impact Review Board dated March 12, 2010, in which the Board outlined the proposed Part 5 Review process for AREVA Resources Canada Inc.'s Kiggavik Project proposal.

Nunavummiut Makitagunarningit intends to intervene in this review process and is preparing to apply for participant funding by the April 12 deadline. It is our understanding that this application will satisfy the requirements of a request for intervenor status pursuant to Section 22.2 of the NIRB's Rules of Procedure (September 3, 2009). We respectfully submit the following comments with this objective in mind.

Our review of the proposed Part 5 Review process has raised concerns about intervenor funding and the proposed timelines for the scoping and guidelines development processes. These concerns are discussed below, along with a set of recommendations to improve the Board's proposal. We are confident you will give them due consideration in light of Minister Strahl's direction that "the Board... conduct its review of the Proposal in a manner that will facilitate thorough public consultation".

Nunavummiut Makitagunarningit believes that early engagement is necessary for thorough public consultation to occur. In our view, engagement should begin right from the start of the scoping process. We are encouraged by the Board's plan to hold community scoping sessions prior to the release of the *Revised Draft Guidelines*. However, we are disappointed that the NIRB has not initially committed to ensuring participant funding is available for intervenors to participate in those sessions.

As you know, community scoping is the foundation for the rest of the review process, including Guidelines development and the preparation of an Environmental Impact Statement. Community groups need to have a thorough understanding of the project proposal and contribute meaningfully to public discussion as the scope of review is developed. For community groups, this means not only participating in scoping sessions, but *preparing* to participate in them. It is very important that resources be made available for this purpose.

The NIRB's Participant Funding Guide does not contemplate funding to participate in community scoping sessions. Participant funding programs in other jurisdictions include funding for participation in scoping meetings. For example, funding for public participation in an assessment by a review panel under the *Canadian Environmental Assessment Act* may be awarded to help recipients "prepare for and participate in scoping meetings that may be held to identify issues that should be considered during the environmental assessment..." (Canadian Environmental Assessment Agency (CEAA)'s Guide to the Participant Funding Program under the *Canadian Environmental Assessment Act*, p. 8).

We encourage the NIRB to amend the funding guide to include community scoping sessions as well as participation in the EIS Guidelines development workshop as activities eligible for funding. Community scoping sessions should only begin after intervenor funding has been released and organizations have had adequate time to prepare.

Our organization has considered the amount of time the NIRB proposes for the scoping and guidelines development process. Participants are being asked to review both the scope and the draft guidelines simultaneously, with 30 days to review the *Revised Draft Scope* and *Draft EIS Guidelines*, followed by 15 days to review the *Revised EIS Guidelines*. This is simply not enough time for participants to conduct a thorough review. We respectfully urge the Board to adjust its proposed process such that the comment period for the draft EIS Guidelines is 90 days followed by a 30 day review of the revised EIS Guidelines to allow for adequate public consultation. We believe that these timelines are consistent with review schedules for similar projects in other jurisdictions.

If the NIRB agrees with our analysis, the proposed Phase 1 of the Review process would look as follows:

- Day 1: Indian and Northern Affairs Canada releases participant funding and community scoping sessions are announced
- Day 30: Community scoping sessions are held
- Day 60: NIRB releases the community scoping session summary, the *Revised Draft Scope* of the project proposal, and the *Draft Guidelines* proposal for comment.
- Day 150: Comments received from Parties on *Revised Draft Scope* of project proposal and *Draft EIS Guidelines*.
- Day 165: Final Scope of project proposal released, *Revised EIS Guidelines* released for comment.
- Day 195: Comments received from Parties on *Revised EIS Guidelines*
- Day 205: EIS Guidelines development workshop held.
- Day 225: EIS Guidelines issued to proponent.

(Nunavummiut Makitagunarningit has not reviewed or considered the other proposed phases of the review contained in Appendix A of the Board's March 12, 2010 correspondence. We reserve the right to comment on this timing at a future date.)

The NIRB Participant Funding Guide should also be amended to include a broader set of expenses eligible for funding. Specifically, staff benefits and administrative and reporting costs should be included as eligible. The CEAA admits these expenses, but presently the NIRB Guide does not.

The establishment of a funding review committee is a positive development for this review. However, unlike the CEAA review committee, the Nunavut review committee is not presently required to report on its recommendations and allocations. For the purpose of transparency and accountability, we urge both the NIRB and Indian and Northern Affairs Canada to ensure the review committee promptly publishes its recommendations to the Minister, and that the Minister also publish his decision when it is taken.

As you know, there has already been a review of a proposal to develop the Kiggavik project -- the Federal Environmental Assessment Review Office (FEARO)'s review of the proposal by Urangesellschaft Canada Ltd. in the late 1980s and early 1990s. The key intervenors at the time, the Baker Lake Concerned Citizens Committee and the Northern Anti-Uranium Coalition, had received their funding and had time to prepare themselves before the FEARO process began.

Shortly after the first Kiggavik review was suspended the provisions of the Nunavut Land Claims Agreement (NLCA) were ratified by the Inuit of Nunavut and approved by Parliament. The Inuit of Nunavut agreed to "cede, release and surrender to Her Majesty The Queen in Right of Canada, all their aboriginal claims, rights, title and interests, if any, in and to lands and waters anywhere within Canada and adjacent offshore areas within the sovereignty or jurisdiction of Canada" in return for an array of constitutionally protected rights and benefits that the Inuit of Nunavut will exercise and enjoy in perpetuity. One of those constitutionally protected rights and benefits is Article 12.2.24, which states that

In designing its by-laws and rules of procedure for the conduct of public hearings, NIRB shall ... give due regard and weight to the tradition of Inuit oral communication and decision-making.

We feel that if the opening phases of the NIRBs' review of AREVA's Kiggavik proposal follows the process that the NIRB set out in its correspondence of March 12, 2010, the review process taking place under the institutions established under the NLCA will allow for less thorough public consultation (to use Minister Strahl's term) and thereby give less regard and weight to the tradition of Inuit oral communication and decision-making (to quote the NLCA) than was the case under the federal institutions responsible for environmental assessment prior to implementation of the NLCA.

Mr. Arragutainaq, Appendix A of the NIRB's document of March 12 states that "Timelines may change based on project-specific circumstances and subject to NIRB's discretion." We hope that after reviewing this letter from Nunavummiut Makitagunarningit the NIRB will exercise its discretion appropriately. Regulatory efficiency for mining development should not come at the cost of meaningful public participation.

We would appreciate receiving a prompt response to this letter.

Sandra Inutiq, Chairperson  
Iqaluit

Joan Scottie, Vice-Chairperson  
Baker Lake