



NIRB File No.: 09MN003

April 23, 2010

Honourable Chuck Strahl
Minister of Indian and Northern Affairs Canada
10 Wellington, 21st Floor
Gatineau, QC K1A 0H4

Sent via email: strahl.c@parl.gc.ca

Re: Participant Funding Applications for the AREVA Resources Canada Inc's "Kiggavik" Project

Dear Honourable Chuck Strahl:

Thank you for your letter dated March 2, 2010, regarding your referral of the AREVA Kiggavik project to the Nunavut Impact Review Board (NIRB or Board) for a review under Article 12, Part 5 of the Nunavut Land Claims Agreement. In your letter to the NIRB, you requested that the NIRB provide advice regarding the identification of interveners whose contribution is important for the review, and the level of funding required to facilitate their participation. The purpose of this letter is to inform the Minister and his representatives of the total funding requested, as well as to provide advice for consideration and an update regarding the implementation of the Minister's direction to the NIRB for this review.

The NIRB appreciates the Minister's commitment to making participant funding available to facilitate public participation in the NIRB Part 5 review process. Following receipt of the Minister's direction for this file, the Board has worked closely with representatives from Indian and Northern Affairs Canada (INAC) to develop a *Participant Funding Guide* for the review of the Kiggavik project. It was agreed that, following the receipt of applications for participant funding, the NIRB would forward all eligible submissions to INAC which would in turn establish an independent funding review committee to review the applications and recommend allocation of funds according to specified eligibility criteria. The committee's recommendations would then be forwarded to the Minister, who will determine final allocations. Finally, the NIRB will inform all applicants of the final funding decision within three days of that decision being communicated to the Board by the Minister.

SUMMARY OF PARTICIPANT FUNDING REQUESTS

On March 12, 2010 the Board published a public notice regarding the availability of participant funding for this review in newspapers with Nunavut-wide circulation, with applications to be submitted to the Board no later than April 12, 2010. The NIRB also distributed this public notice

via its Nunavut-wide email distribution list, which included interested parties located outside of the Nunavut Settlement Area. As of April 13, 2010 applications for participant funding for the Kiggavik review had been received from six (6) interveners, for a total \$1,628,901.04. Each intervener requested funding to participate in all three phases of the NIRB Part 5 Review, including: Phase 1: Scoping and Guideline Development; Phase 2: *Draft* EIS, Technical Meeting and Pre-Hearing Conference (PHC), and Phase 3: *Final* EIS and Final Hearing. The funding requested from each intervener is broken down as follows:

1. Beverly and Qamanirjuaq Caribou Management Board: \$ 95,075.00
2. Canadian Arctic Resources Committee Inc.: \$ 107,471.04
3. Nunavummiut Makitagunarningit: \$ 748,675.00
4. Athabasca Denesuline (Prince Albert Grand Council): \$ 58,100.00
5. Kivalliq Inuit Association: \$ 431,580.00
6. Baker Lake Hunters and Trappers Organization: \$ 188,000.00

The mandate of the six groups and their interest in the project is roughly as follows:

Beverly and Qamanirjuaq Caribou Management Board (BQCMB)

The BQCMB is a caribou co-management board that was formed in 1982 to safeguard the caribou of the Beverly and Qamanirjuaq herds. The Board is comprised of community representatives from northern Manitoba, Saskatchewan, Northwest Territories and Nunavut, all of them with caribou knowledge and experience.

A perceived serious decline have been observed in both herds, and the BQCMB intends to ensure that agencies and organizations responsible for regulating and approving land use activities on the caribou ranges recognize the value of the herds, their critical habitats, sensitivities to disturbance and the importance of stringent conditions to protect caribou and important habitats. The BQCMB is applying for funding to participate in all three phases of the review and will be providing a blend of scientific, community and traditional knowledge to the review.

Canadian Arctic Resources Committee Inc. (CARC)

CARC is a citizen's organization established in 1971-3 and is dedicated to promoting the stewardship of ecosystems and the social and economic well-being of northern peoples and fulfils this mission through, policy development and research, public information and education and capacity building. The CARC has hosted workshops, coordinated hearings, helped negotiate treaties, published studies and acted as the lead environmental intervener on the Mackenzie Valley Pipeline Inquiry hearings.

CARC plans to provide expert information relevant to the anticipated effects of the Kiggavik project built upon the work provided to the NIRB for the Bathurst Inlet Port and Road project (BIPAR), and for the Mackenzie Valley Environmental Impact Review Board (MVEIRB) De Beers Public hearings. CARC is not opposed to development but believes a complete CES is necessary. CARC is applying for funding to participate in all three phases of the review and to provide the NIRB with a report on the Kiggavik Project based on Caribou Landscape Vulnerability mapping similar to that provided for the NIRB's review of the BIPAR project.

Nunavummiut Makitagunarningit (NM)

NM is an independent, non-governmental organization (not-for-profit society) in Nunavut whose purpose is to promote research, public education, and informed discussion about the cumulative social, environmental and health impacts of uranium development in Nunavut. NM is a public interest group without ties to industry, Inuit organizations or governments. Members consist of concerned citizens from the Kivalliq and Qikiqtani regions of Nunavut. NM's interests reflect those of local community members with concerns about the impacts of uranium development on their environment, health and way of life.

NM is applying for funding to participate in all three phases of the review and will review the scientific and traditional knowledge components at each stage of the Part 5 Review and will bring forward community concerns to the proponent, government, Inuit organizations and the NIRB. NM also requested that the NIRB consider a participant funding re-evaluation opportunity at the time of the PHC. This is to ensure that funding recipients are able to carry on with the review process following the submission of the *Final* EIS.

Athabasca Denesuline (Prince Albert Grand Council - PAGC)

The PAGC is a First Nations Government representing twelve (12) First Nations from five (5) tribal groups, including the three (3) Athabasca Denesuline First Nations of Fond du Lac, Black Lake and Hatchet Lake. The PAGC was established twenty-five years ago, with a mandate to defend and implement member First Nation aboriginal and treaty rights and provide a comprehensive range of public services to its member communities (24 communities with a total population in excess of 40,000).

The Athabasca Denesuline have concerns about the development including its overlap with wildlife habitat and special ecological places and hope that their participation will help ensure that the Athabasca Denesuline Aboriginal and Treaty Rights are understood, that their relationship with the Beverly and Qamanirjuaq caribou herds is understood and that development is approach in a sustainable manner. The PAGC is applying for funding to participate in all three phases of the review.

Kivalliq Inuit Association (KIA)

The KIA is a "Designated Inuit Organization" (DIO), which represents the interests of all Inuit living in the Kivalliq Region, acts as a lobbying group, administers and monitors certain provisions of the Nunavut Final Agreement in the Kivalliq Region. KIA is interested in participating in the review to represent, in a fair and democratic manner, Inuit of the Kivalliq Region in the development, protection, administration and advancement of their rights and benefits as an aboriginal people; as well as to promote their economic, social, political and cultural well being through succeeding generation. The KIA has participated in the NIRB review of the Meadowbank project and will bring the experiences gained to the AREVA review.

The KIA is applying for funding for all three phases of the review and believes that their participation will explicitly acknowledge the centrality of Traditional Inuit Knowledge (IQ) to project design, mitigation, and monitoring; the importance of community and regulatory consultation throughout the development of the Project's Guidelines Development, *Draft* EIS and

Final EIS. As well as the range of potential hiring, training, education, workforce management, local procurement and community investment initiatives that will be required to share the positive economic benefits of this mine development, while addressing the any potential negative social and environmental effects.

Bake Lake Hunters and Trappers Organization (HTO)

Intervener funding is particularly important to the HTO because it is directly affected by the project and can provide unique and important perspectives to the NIRB and other parties, in the key land and wildlife impacts. The HTO highlighted the importance of its role given the current issues facing caribou populations in the North. The HTO indicated that it can provide an on-the-land perspective and the HTO's concerns and mandate are not covered by any other intervener that may have an interest in the project. The HTO believes its interests have been underrepresented in past project reviews and are interested in working cooperatively to ensure their contribution is improved during this review process.

The HTO is applying for funding for all three phases of the review and is interested in participating in the review to ensure that the project does not impact the hunting and trapping activities of their membership and affect the ability of Baker Lake to meet basic needs harvesting levels. The HTO also requested that the NIRB consider a participant funding re-evaluation opportunity at the time of the PHC. This is to ensure that funding recipients are able to carry on with the review process following the submission of the *Final EIS*.

THE NIRB COMMENTS ON THE APPLICATIONS RECEIVED

With the exception of the application from the Kivalliq Inuit Association (KIA), the NIRB is confident that the above requests meet the initial expectations of interveners seeking funding: the requests are *bona fide*, the interests presented would be unique; they would contribute to the hearing; would not delay it; and, there is no overlap. With regard to the application submitted by the KIA, as a Designated Inuit Organization pursuant to the Nunavut Land Claims Agreement (NLCA), the KIA holds title to the Inuit owned surface lands in the Kivalliq Region and is required to negotiate a Water Compensation Agreement and an Inuit Impact Benefits Agreement for the Kiggavik project pursuant to NLCA Articles 20 and 26, respectively. On this basis, notwithstanding that the KIA intervention may otherwise meet the initial requirements of interveners seeking funding, as the KIA will be responsible for negotiating compensation and benefit agreements in respect of the lands affected, the NIRB notes that the KIA could be considered to have a "direct commercial interest" in the Kiggavik Project. If KIA is considered to have a direct commercial interest in the project, KIA would be ineligible for participant funding as outlined in the NIRB's *Participant Funding Guide* (March 2010).

Further, the NIRB notes that some of the applicants have the potential to be more directly affected than others, and it is logical that those most affected by the Kiggavik project should receive a higher priority for funding consideration. To this end, the Baker Lake HTO is a community-level organization based in the community nearest to the Kiggavik project and representing Inuit who harvest in and around the project area, therefore having the potential to be most directly impacted by the proposed project. As such, the HTO would be in a unique position to offer guidance to the Board regarding the potential impacts to wildlife and wildlife harvesting

resulting from the proposed project. However, recognizing that the caribou herds with potential to be impacted by the proposed project have a range which is transboundary in nature, full participation by the Athabasca Denesuline and the Beverly and Qamanirjuaq Caribou Management Board should also be encouraged.

Recognizing that there is a need to re-visit contribution agreements when funded activities span multiple fiscal years, in the *Participant Funding Guide* for the review of the Kiggavik project, NIRB has endeavoured to clearly delineate the three phases of the Part 5 Review process:

- Phase 1: Scoping and EIS Guideline Development;
- Phase 2: Review of the *Draft* EIS, Technical Meeting and PHC; and
- Phase 3: Review of the *Final* EIS and Final Hearing.

In doing so, the Board's intention was to highlight the potential periods of disengagement resulting from proponent-driven activities (i.e. creation/submission of a *Draft* EIS, response to Information Requests, and a *Final* EIS) during which NIRB has minimal control over timelines. The funding review committee should be advised that several parties have requested that consideration be given to re-evaluating the requirements for participant funding prior to the commencement of Phases 2 and 3 of the NIRB review process. Also, as the Part 5 Review process continues to progress, increased public awareness may result in additional parties requesting financial assistance to facilitate their full participation; the NIRB respectfully asks the Minister for any advice on how best to respond to these potential future queries.

Finally, the Board respectfully requests that the findings of the independent funding review committee, as well as the Minister's final decision regarding the awarding of participant funding be made publicly available upon completion. From the NIRB's perspective, this level of transparency will instill public confidence in the impact assessment process, which in turn will further the Board's mandate to encourage public participation in all its reviews.

NEXT STEPS

The NIRB recognizes the Minister's direction for the Board to "...conduct its review of the Proposal in a manner that will facilitate thorough public consultation". Reflecting this direction, and as outlined in previous correspondence to the public, the Board will ensure that participant funding has been awarded by the Minister prior to inviting formal comment on the scope of the project and the assessment. Accordingly, when the Minister has reviewed and issued the decisions regarding the funding review committee's recommendations and subsequent awarding of funding to successful applicants, the NIRB will circulate the *Revised Draft* Scope of the project proposal and *Draft* Environmental Impact Statement (EIS) Guidelines to its Kiggavik distribution list, inviting comments from all interested parties.

In closing, the NIRB would again like to thank the Minister for encouraging effective public participation in the Board's review process. In our experience, funding is essential for interveners to fully inform themselves and participate in the review of major developments in the Nunavut Settlement Area.

Yours truly,



Lucassie Arragutainaq
Chairperson

cc: INAC Representatives
Kiggavik Distribution List

Enclosure: Participant Funding Applications
Participant Funding Guide for the Kiggavik Review