



NIRB File No.: 09MN003

June 14, 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 NIRB's Review of AREVA Resources Canada Inc's "Kiggavik" Project

Dear Honourable Chuck Strahl:

On April 23, 2010 the Nunavut Impact Review Board (NIRB or Board) forwarded applications to your attention regarding requests for participant funding for the NIRB's review of AREVA Resources Canada's "Kiggavik" project (NIRB File No. 09MN003). The objective of the Board's previous correspondence was 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 Board also highlighted its expectation that, as the review process continues to progress, increased public awareness may result in additional parties requesting financial assistance to facilitate their full participation.

Recognizing the Minister's direction for the Board to "...conduct its review of the Proposal in a manner that will facilitate thorough public consultation", the NIRB conducted public scoping meetings in the seven (7) communities of the Kivalliq region from April 25 to May 10, 2010. As a result of these community meetings, public awareness of the NIRB's review of the Kiggavik project has increased. Reflecting this, the NIRB received indication that additional parties were interested in applying for participant funding to facilitate their participation in the review of the Kiggavik project.

In keeping with Minister's direction to facilitate thorough public consultation, on May 7, 2010 the Board extended the deadline for submission of participant funding applications for this review from the original date of April 12 to June 1, 2010. Parties who had submitted applications under the previous deadline were advised that their previously submitted applications could be revised and resubmitted for consideration, or these applications would continue to stand for consideration as originally submitted. On June 4, 2010 the NIRB received correspondence from INAC supporting the NIRB's recommendation to postpone the advisory committee's review of participant funding applications until after the extended June 1 deadline.

INAC further advised the NIRB that a total of \$250,000 had been set aside for participant funding for the Kiggavik review.

The purpose of this letter is to provide an update to the Minister and his representatives of the total funding requested by applicants, as well as to provide advice for consideration as requested by the Minister. As previously indicated, 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. On or before April 13, 2010 a total of six (6) applications for participant funding for the Kiggavik review had been received. On May 7, 2010 the Board extended the deadline for participant funding applications to June 1, 2010 based on increased public awareness and interest from parties to participate in the review of this project.

The funding requested from each applicant is broken down as follows:

1. **Beverly and Qamanirjuaq Caribou Management Board: \$ 112,475.00**
 - revised application with updated funding requirements submitted June 1, 2010
2. **Canadian Arctic Resources Committee Inc.: \$ 107,471.04**
 - revised application with updated funding requirements submitted June 1, 2010
3. **Nunavummiut Makitagunarningit: \$ 748,675.00**
 - original funding application resubmitted with additional comments June 1, 2010
4. **Athabasca Denesuline (Prince Albert Grand Council): \$ 77,850.00**
 - revised application with updated funding requirements submitted May 12, 2010
5. **Kivalliq Inuit Association: \$ 431,580.00**
 - original funding application submitted April 13, 2010
6. **Baker Lake Hunters and Trappers Organization: \$ 188,000.00**
 - original funding application submitted April 13, 2010
7. **Jerry Panegoniak: \$ 450.00**
 - original funding application submitted May 27, 2010
8. **Kitikmeot Inuit Association: \$ 55,000.00**
 - original funding application submitted May 31, 2010
9. **Lutsel K'e Dene First Nation: \$ 13,734.00**
 - original funding application submitted May 31, 2010
10. **Hamlet of Baker Lake: \$ 240,800.00**
 - original funding application submitted June 1, 2010

The total amount currently being requested by all parties is \$ **1,976,035.04**. In the enclosed funding applications, each party has identified which phases of the NIRB Review process they are interested in participating in: 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. With the exception of the Kitikmeot Inuit Association (KitIA) and Mr. Jerry Panegoniak, each intervener specifically requested participation in all three phases of the NIRB Review. The KitIA requested funding to participate in the Pre-Hearing Conference (PHC) and Final Hearing only, while Mr. Panegoniak did not specify what stage he would be participating in.

The Board also notes that on June 1, 2010 representatives from the Kivalliq Wildlife Board contacted the NIRB and expressed interest in applying for participant funding, requesting that a further extension be granted to the deadline for applications. The NIRB notified the Kivalliq Wildlife Board that, in an effort to ensure that the participant funding process does not unduly delay the regulatory process, no further extensions to the June 1 deadline would be granted. It was further explained that the participant funding process is separate from the NIRB review process and, as such, parties not submitting an application for participant funding, or parties not being awarded funding under the program may still participate in the NIRB's project review process as interested parties. Accordingly, the NIRB encouraged the Kivalliq Wildlife Board to still consider participating in the review process.

SUMMARY OF APPLICANT MANDATES

The mandate of the ten (10) 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 has 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 proposes to provide 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 is proposing to review the scientific and traditional knowledge components at each stage of the Part 5 Review and intends to 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 request was submitted by NM on the basis that re-evaluation of funding requirements at the PHC stage may be necessary 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 indicate 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 approached in a sustainable manner. The PAGC is applying for funding to participate in all three phases of the review.

Kivalliq Inuit Association (KivIA)

The KivIA 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. The KivIA 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 KivIA has participated in the NIRB review of the Meadowbank project and proposes to apply this experience to the AREVA review.

The KivIA 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; and the importance of community and regulatory consultation throughout the development of the Project's Guidelines Development, *Draft* EIS and *Final* EIS. The KivIA also proposes that their involvement will address 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 potential for 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.

Jerry Panegoniak

Mr. Jerry Panegoniak is a resident of Arviat who is interested in receiving funding to assist with increasing public awareness regarding the review of this project, and collecting opinions from local residents, particularly those residents who might not feel comfortable attending public meetings. He has not specified the phase of project review when he anticipates requiring this funding.

Kitikmeot Inuit Association (KitIA)

The mandate of the Kitikmeot Inuit Association (KitIA) is to represent the interests of Kitikmeot Inuit by protecting and promoting their social, cultural, political, environmental and economic well-being. The Kiggavik Project is within the traditional land use area of Inuit of the Back River Area, and Inuit living in Perry River and Chantrey Inlet area also used this area. Some of these Inuit now live in Gjoa Haven and Cambridge Bay of the Kitikmeot Region. Also, the Kiggavik project is adjacent to the Thelon Game Refuge and about 30% of the refuge is in the Kitikmeot region. The objective of KitIA’s participation is to represent the interests of

Kitikmeot Inuit who would otherwise not be represented, and its contributions would focus on environment, wildlife, traditional knowledge, and socio-economic matter.

Lutsel K'e Dene First Nation (LKDFN)

As an aboriginal user group, the LKDFN proposes to bring traditional knowledge and relevant concerns regarding Beverly caribou to this review. LKDFN has participated in various environmental assessments (EAs) over the past 10 years, including: DeBeers, Snap Lake, BHP, and Ur Energy as well as the current EAs for Gahcho Kue and Deze Energy for the proposed transmission lines currently under review. This past experience has allowed LKDFN to prepare submissions for the different agencies, organizations and government relating to environmental issues and concerns on mining & exploration, hydro developments and mine reclamation.

Hamlet of Baker Lake

The Hamlet of Baker Lake is a municipal government entity representing the closest community to the proposed Kiggavik project. The Hamlet has taken the position that it welcomes the economic opportunities that mineral development can bring and has previously stated its objectives “to maximize the employment, business and infrastructure benefits, while ensuring measures are in place to minimize and mitigate any potential negative impacts”. The Kiggavik project involves proposed infrastructure and facilities within Baker Lake, as well as employment and services which would directly impact the Hamlet and residents of the community.

The Hamlet of Baker Lake is applying for funding for all three phases of the review and proposes to conduct community debates, gather and share information at community forums and school forums, and conduct site visits to potentially impacted areas. As the Hamlet is excluded from IIBA negotiations, it hopes that participant funding will facilitate greater involvement for it in potential development decisions.

NIRB COMMENTS ON FUNDING APPLICATIONS

With the exception of the application from the Kivalliq Inuit Association (KivIA), the NIRB is confident that the above requests meet the initial requirements 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 KivIA, as a Designated Inuit Organization pursuant to the Nunavut Land Claims Agreement (NLCA), the KivIA 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 KivIA intervention may otherwise meet the initial requirements of interveners seeking funding, as it will be responsible for negotiating compensation and benefit agreements in respect of the lands affected, the NIRB notes that the KivIA could be considered to have a “direct commercial interest” in the Kiggavik Project. If KivIA is considered to have a direct commercial interest in the project, KivIA would be ineligible for participant funding as outlined in the NIRB’s *Participant Funding Guide* (March 2010).

The NIRB observes that the capacity in which the Kitikmeot Inuit Association (KitIA) intends to participate in the review of the project appears to be unclear, and the Board questions whether

the proposed intervention by the KitIA may overlap somewhat with the intervention of KivIA, as the focus of and mandate for the two Associations is similar. Although the NIRB recognizes each has a different geographical and membership focus, given their similar mandates it is likely that there may be broader issues where the perspectives of KivIA and KitIA may overlap, while on other issues they may offer unique perspectives. The NIRB observes that it may be advisable to suggest that the potential KivIA and KitIA interventions be co-ordinated so that areas of overlap and duplication are reduced as much as possible.

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. The Hamlet of Baker Lake and the Baker Lake HTO are based in the community nearest to the Kiggavik project, which has the potential for direct impacts resulting from the close proximity to project infrastructure and activities. As a community level organization which represents Inuit who harvest in and around the project area, therefore having the potential to be most directly impacted by the proposed project, the HTO would be in a unique position to offer guidance to the Board regarding the potential impacts to wildlife and wildlife harvesting. 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, Lutsel K'e Dene First Nation and the Beverly and Qamanirjuaq Caribou Management Board should be encouraged.

As the number and scope of the intervener funding applications illustrate, there is considerable interest in participating in the review of this project. However, as is also apparent from this summary, the amount of funding being sought by participants to date considerably exceeds the amount being made available. As the Board's focus is on facilitating adequate and substantial public participation and participant funding is likely central to achieving that goal, it is hoped that the potential exists for the Minister to reconsider the available funding once the independent funding review committee has completed its review of the applications.

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.

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 instil 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, once the Minister has reviewed and issued a decision 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 and for making participant funding available. In our experience, adequate 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

Enclosed: Participant Funding Applications Package
Participant Funding Guide for the Kiggavik Review