



March 20, 2009

To: Meadowbank Distribution List

Re: **Public Easement Issue Arising for the NIRB Public Hearing Regarding the 12.8.2 Reconsideration of Term and Condition 32 of the Meadowbank Gold Mine Project Certificate (No. 004)**

Dear Parties,

On January 27, 2009, the Nunavut Impact Review Board (NIRB or Board) provided formal notification that a Public Hearing will be held April 28, 29, and 30, 2009 in Baker Lake regarding the NIRB's reconsideration of Condition 32 of the Meadowbank Project Certificate (No. 004) pursuant to Section 12.8.2 of the Nunavut Land Claims Agreement (NLCA).<sup>1</sup> At that time, the Board invited interested Parties to provide written submissions to the NIRB addressing several issues.<sup>2</sup>

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<sup>1</sup> Condition 32. Cumberland shall operate the all-weather road as a private access road, and implement measures to limit public access to the road, including:

- a. The installation of locked gates at bridges 1 and 4;
- b. The posting of signs in English and Inuktitut at each gate, each major bridge crossing, and each 10 kilometres of road, stating that public use of the road is prohibited;
- c. The posting of signs in English and Inuktitut along the road route to identify when entering or leaving Crown land;
- d. Prior to the opening of the road, advertise and hold at least one community meeting in the Hamlet of Baker Lake to explain to the community that the road is restricted to mine use only;
- e. Place notices on the radio and television to inform the residents of the Hamlet of Baker Lake that the road is restricted to mine use only;
- f. Require all mine personnel using the road to monitor and report unauthorized non-mine use of the road, and collect and report this data to NIRB one (1) year after the road is opened and annually thereafter; and
- g. Report any information received, including accidents or other safety incidents on the road, including the locked gates, to the GN, KivIA, and the Hamlet immediately, and to NIRB annually.

<sup>2</sup> At this time, the Board invites interested Parties to provide written submissions to the NIRB addressing the following issues:

- a. Those socio-economic impacts which require further assessment as a result of the reconsideration of Condition 32;
- b. Those environmental impacts which require further assessment as a result of the reconsideration of Condition 32;
- c. Whether the reconsideration of Condition 32 is likely to cause significant public concern, and if so, why; and
- d. Any other matter deemed to be of importance to the Party as it relates to the reconsideration.

The Board's attention has been subsequently drawn to a further and potentially relevant issue related to the designation of the all-weather road as having status as a private access road. Article 19 of the NLCA provides for a number of easements on Inuit Owned Land, including Section 19.6.3, which states:

*The Inuit Owned Lands described in an item of Schedule 19-11 are subject to the easement described in that item except that the more precise location of the easement and the terms and conditions of its exercise may be determined by:*

- (a) agreement between Government and the DIO; or*
- (b) an arbitration panel, pursuant to Article 38, at the request of Government or the DIO.*

Items 4 and 5 of Schedule 19-11 as described in Section 19.6.3 (NLCA) identify those parcels of Inuit Owned Land which are subject to the easement for a public transportation route that may be relevant to the Board's reconsideration of Condition 32. An excerpt containing the relevant items of Schedule 19-11 is as follows:

SCHEDULE 19-11 PUBLIC EASEMENTS (Section 19.6.3)	
<i>Parcels Affected</i>	<i>Easement</i>
...	
4. BL-19/66A BL-21/66A BL-22/66A	A public transportation route, the location to be based on the location of the winter road routes used in the years 1980 to 1990 between Baker Lake and the Kiggavik area.
5. BL-14/56D,E,66A,H	A public transportation route, the location to be based on the location of the winter road routes used in the years 1980 to 1990 between Baker Lake and the Meadowbank River area.
...	

At this time, the Board requests that Parties consider and address in their written submissions to the Board the following additional issue under "(d) Any other matter deemed to be of importance to the Party as it relates to the reconsideration" (see footnote 2 previous page):

- (d.1) The legal relevance of Section 19.6.3 of the NLCA and the parcel(s) affected by easement(s) as set out in Schedule 19-11(4) and/or (5) to the all-weather road, including:

- a) The relationship, if any, between the route of the all-weather road as built and the parcels as described in Schedule 19-11(4) and (5);
- b) The effect of the easement(s), if any, on the Board's reconsideration of Condition 32; and
- c) The effect of the easement(s), if any, on the obligation(s) of the Government of Canada, Government of Nunavut and/or the Hamlet with regard to the public use of the all-weather road.

Submissions for this additional issue are to be made in accordance with the instructions for written submissions as described in the Board's January 27, 2009 formal notice of Public Hearing. The Board seeks and appreciates Parties' best efforts to respond to this additional issue on or before March 30, 2009, as set out in the formal notice. However, given the potential importance of this issue to the Board's reconsideration of Condition 32, the Board will consider extending the submission deadline for this additional issue upon request.

Sincerely,



Stephanie Autut  
Executive Director  
Nunavut Impact Review Board

cc: The Honourable Chuck Strahl, Minister, INAC