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January 7, 2019

Karen Kharatyan
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SENT VIA EMAIL

RE: "Phase 2 Proposal" Water Licence Application Completeness

On December 21, 2018, the Nunavut Water Board (NWB) requested¹ parties confirm if they were "satisfied with the information and going to the next, full technical review stage" for Baffinland Iron Mines Corporation's (Baffinland) Mary River Phase II proposal (the Proposal).

The deficiencies in the original water licence application limited the Qikiqtani Inuit Association's (QIA) ability to complete a comprehensive review of the Proposal. These deficiencies have not been adequately addressed by Baffinland in their responses filed in December 2018. Examples of persisting deficiencies in Baffinland's application previously cited include but are not limited to the following:

1. Lack of details on financial/reclamation security
2. An updated closure and reclamation plan that is consistent with the activities and/undertakings proposed
3. Lack of complete or fully developed engineering drawings/design for many of the water and waste management infrastructure/facilities proposed
4. Absence of updated management, monitoring, and mitigation plans reflecting added activities and undertakings proposed

Regarding the requirement to provide updated management plans, at a minimum QIA would expect that the following plans would be made available prior to the commencement of technical review:

¹ NWB (2017) EMAIL entitled: 2AM-MRY1325 Baffinland Iron Mines Corporation Information Requests Responses. December 21, 2018



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1. Surface Water and Aquatic Ecosystems Management Plan
2. Waste Rock Management Plan
3. Life of Mine Waste Rock Management Plan
4. Quarry Management Plans required for the work along the Tote Road corridor (i.e., both the Tote Road upgrades and the rail development)
5. A construction water quality and dustfall monitoring program associated with Tote Road upgrades
6. A construction water quality and dustfall monitoring program associated with rail development
7. An operations water quality and dustfall monitoring program for the Tote Road and Rail. The final condition of the Tote Road should be stated in the program, or at least the anticipated status of the Tote Road during operations (i.e., upgraded to full IFC development, or upgraded from current condition, but not to IFC development)

In addition to the specific examples listed above, QIA has previously informed NWB of its “conformity check” of the application against the NWB’s Supplemental Information Guidelines (SIG).² QIA feels the application is incomplete. As the NWB has not yet release confirmation of its own conformity check using the SIG, QIA has attached its own review for consideration of the NWB. QIA respectfully requests NWB provide a completed SIG once it is complete. QIA believes the SIG is an important tool in assessing the completeness of the application and should be used as the basis for confirming whether the application is complete and should proceed to technical review.

QIA is concerned that NWB may elect to advance to the technical review stage without requiring additional information from the applicant. QIA believes advancing the application to the technical review stage would have the following impacts:

1. A precedence may be set where regulators allow proponents to proceed with incomplete applications.
2. Engagement between Baffinland and interested parties regarding water licence specific elements and components will be less meaningful and not focused upon final resolution of regulatory details.

² QIA (2018). 181123-QIA-REG-CommentsNWB-ENG-FINAL.pdf. December 23, 2018



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3. The NWB will only receive partial comments from review parties, which will be contingent upon receiving the information identified above. In other words, the review process will not be able to proceed, as pertinent information will not be available for reviewers. This approach appears to be counter intuitive to the overall intentions of an effective formal review process.
4. Duplication of work and resource drain – Conducting a technical review under the NIRB process and the NWB process simultaneously is burdensome for review parties. Furthermore, as changes to the project proposal are made, which is a regularity with the applicant, QIA and other Parties (including the NWB) will have to duplicate work to account for the changes. This may result in QIA and other parties' resources to be negatively impacted. For example, the mitigations and monitoring presented in the Proposal have not yet been assessed and could change substantially through the environmental assessment process. Additionally, changes will require additional judgement on behalf of the NWB as to how review parties should consider and respond to changes.
5. Administrative burden – proponents are expected to provide designs and management plans with their application. Not having this information during the review of an application creates uncertainty and adds to the administrative burden for the NWB, landowners and reviewers. If not presented and responded to during the review process the administrative burden then shifts from the applicant to the NWB, landowners and reviewers. QIA does not feel that Inuit should bear these additional costs.
6. Engagement between QIA and its membership regarding water licence specific elements and components will be limited and compromised. For example, QIA cannot engage Inuit upon the proposed closure scenario, despite the majority of project facilities being located upon Inuit Owned Lands. This is a considerable issue given the need to coordinate Inuit input during formal review process timelines.
7. On-going deferral of technical information. Through past performance with the Mary River Project, QIA has directly experienced the frustration of seeking to manage project impacts when information is deferred (example: dust management plans, prolonged conditional approval of the Interim Closure and Reclamation Plan, and, on-going efforts to initiate implementation the existing Water Compensation Agreement). A regulatory approach to the review and permitting of an application that allows for deferral of information ultimately limits the ability of parties to effectively manage project impacts.



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Attachments: QIA's Supplemental Information Guidelines (SIG) Conformity Check