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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYIT
OFFICE DES EAUX DU NUNAVUT

File No.: 2AM-MRY----

September 13, 2011

Robert J. St. Eloi
Director, Lands and Resources
Qikiqtani Inuit Association
P.O. Box 1340
Iqaluit, Nunavut X00A 0H0

Email: dirlands@qia.ca

By Email and Regular Mail

Subject: NWB file 2AM-MRY----: NWB's Response to Questions Raised in QIA's Technical Review Comments with Respect to the Draft Water Licence Application Associated with the Coordinated Process and the Baffinland Iron Mines Corporation DEIS (NIRB File No.08MN053)

Dear Mr. St. Eloi:

This letter is in response to comments and questions that have been provided to the Nunavut Impact Review Board (NIRB) on behalf of the Qikiqtani Inuit Association (QIA) with respect to correspondence¹ on the Baffinland Iron Mines Corporation's (BIMC) Draft Environmental Impact Statement (DEIS), the Detailed Coordinated Process Framework (DCPF) and to the Nunavut Water Board's (NWB or Board) role in the process.

In the most recent correspondence², it was noted that the QIA had indicate all parties are waiting for the NWB's assessment of the draft water licence application that was included with the DEIS and that the QIA has raised specific concerns related to the coordinated review process proposed by the NIRB and the NWB. The NWB would like to clarify at this point that no other parties had indicated they are, at this point in the review phase, awaiting the assessment of the draft water licence application.

¹ Letter from Robert St. Eloi, Director, Department of Lands and Resources, Qikiqtani Inuit Association to Thomas Kabloona, Chairperson, Nunavut Water Board and to Lucassie Arragutainaq, Chairperson, Nunavut Impact Review Board, re: Coordinated Process Framework, May 26, 2011.

² Letter from Robert St. Eloi, Director, Department of Lands and Resources, Qikiqtani Inuit Association to Ryan Barry, Executive Director, Nunavut Impact Review Board, re: Commencement of Technical Review Period, Baffinland Iron Mines Corporation (BIMC) Proposed Mary River Project, July 21, 2011.

At the outset, the NWB would like to remind all parties of where the NWB process fits into the coordinated review process. From the NWB's perspective, the water licence application in this matter is at a very preliminary stage, with the proponent currently providing a **draft** Type A water licence application accompanied by a table of concordance (included under Appendix 1C-3 in the DEIS) as part of the requirements of the draft water licence application. The NWB is in the process of reviewing the draft Type A water licence application and other components of the DEIS to identify issues affecting the use of fresh water and the deposit of waste into freshwater.

The NWB initially confirmed its commitment to providing a conformity assessment for the Draft EIS within the joint letter issued by the NIRB and NWB³, in response to QIA's IR No. 30, which stated:

The NWB is currently conducting its conformance check of the Draft Water Licence Application and intends to use Baffinland's responses to Information Requests to further this process. As described in the Detailed Coordinated Process Framework (DCPF), the NWB will issue a conformity determination applicable to the Draft Water Licence Application and Supplemental Information Requirements related to the water license application and predevelopment activities as an Appendix to the NIRB Pre-Hearing Conference Decision. The NIRB's impact assessment process will proceed regardless of the conformity determination made by the NWB.

The NWB has further committed to provide a conformity assessment for the DEIS of the Mary River Project, as was indicated in the initial letter issued by the NIRB⁴ on the commencement of the Public Comment period for the NIRB's review of Baffinland's Draft EIS submission, as follows:

During the technical review period, the NWB is conducting its concordance assessment to determine whether the Draft Type A Water Licence application within the Draft EIS addresses the NWB information requirements (set out in Appendix C of the EIS Guidelines for the Project) such that the NWB may issue a public notice of application. The NIRB's PHC report will contain direction from the NWB regarding any outstanding information required with submission of the Final EIS to complete the application.

The NWB recognizes that there will likely be information requirements that will be required as part of the water licensing process that the proponent will not be able to provide at this early stage in the project-development process (for example, certain types of engineered drawings and detailed management plans would not normally be available in the DEIS stage), and these requirements could be identified as information gaps in the draft application or as information required at subsequent stages of the process.

³ Letter from NIRB/NWB to Salamonie Shoo, A/Director, Lands and Resources, Qikiqtani Inuit Association, re NIRB/NWB Response to QIA Information Requests Regarding NIRB's Review of BIMC's Mary River Project, April 18, 2011.

⁴ Letter from NIRB to distribution re: Commencement of Public Comment Period for the NIRB's Review of Baffinland's Draft EIS Submission, July 5, 2011.

The NWB emphasizes that these requirements or “data gaps” reflect that the coordinated process is intended only to streamline the regulatory process so that where the NIRB environmental review process and the NWB water licensing process (which would normally begin only after the environmental review process has concluded) require the same or similar information, that the project’s proponent prepares it once, and submits it at the outset. However, the coordination of the information submission in the DEIS does not mean that the NWB will be restricted to only receiving the information currently supplied in the NIRB environmental review process (DEIS and FEIS) to complete the water licensing process. The coordinated process does not replace the NWB’s independent requirements and the normal information requirements of the water licensing process. The coordination process is intended to simply streamline (from the perspective of timelines) and integrate the NIRB/NWB requirements where common issues and information requirements exist.

The NWB assures interested parties that where additional, specific and more developed information, with respect to the use of water and deposit of waste into water, is required by the NWB to consider the water licence application complete, the NWB will request such additional information at a later stage as needed. Similarly, the NIRB/NWB coordinated process is not intended to operate as a joint hearing process (the NIRB’s environmental review does not substitute for the NWB’s water licence hearing process). The NWB maintains its mandate and jurisdiction to conduct the water licence hearing as required.

With respect to the NWB’s next steps, the NWB can advise that it is currently reviewing the DEIS and the draft water licence application in order to provide a summary of the issues that might potentially impact freshwater resources. In addition, the review will identify any additional information requirements to complete the Type A water licence application. The NWB will provide the results of this review to the NIRB on the deadline set by the NIRB for submission of comments on the DEIS. Although, as noted above, the proponent may not be able to provide responses to some of these information requirements until the water use and waste deposit components of the project are more completely developed, the purpose of the NWB’s summary at this point will be to ensure that interested parties are aware of what water licensing information requirements have been supplied to date and to identify those water licensing information requirements that will need to be provided in future.

If you require further information regarding this matter, please contact me directly at (780) 443-4406 or by email at dts@nunavutwaterboard.org , or Dionne Filiatrault, NWB Executive Director at (867)-360-6338.

Sincerely,

Original signed by:

David Hohnstein, C.E.T.
Director, Technical Services

Cc: Nunavut Impact Review Board
Distribution List, NWB Public Registry