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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

NWB File No: 2AM-MRY1325

January 24, 2019

Megan Lord-Hoyle
Director, Sustainable Development
Baffinland Iron Mines Corporation
Suite 300 – 2275 Upper Middle Road East
Oakville, Ontario, Canada L6H 0C3

Email: megan.lord-hoyle@baffinland.com

Subject: Application for Amendment to Water Licence No. 2AM-MRY1325 associated with the “Phase 2 Development” Project Proposal submitted by Baffinland Iron Mines Corporation

Dear Ms. Lord-Hoyle,

Further to the Nunavut Water Board (NWB or Board) correspondence¹ of October 12, 2018, this correspondence provides the NWB’s conclusions regarding the completeness of the 2AM-MRY1325 amendment application, submitted by Baffinland Iron Mines Corporation (BIMC or the Applicant) for amendments to the Mary River Project proposed in the “Phase 2 Development” Project Proposal (Phase 2) (the Application). The NWB’s assessment of completeness was informed by comments² received from the following interested parties: Qikiqtani Inuit Association (QIA), Fisheries and Oceans Canada (DFO), Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), and Environment and Climate Change Canada (ECCC).

In addition, after receipt and review of additional responses to Information Requests (IRs) from BIMC provided to the NWB on December 19 and 21, 2018, the NWB, the QIA, CIRNAC and BIMC participated in teleconference meetings on January 11, 2019 and January 15, 2019 to further discuss the completeness of the Application. During those meetings, these parties discussed the extent to which outstanding information identified by interveners and the NWB as required to

¹ Letter from Tara Arko (NIRB) and Karén Kharatyan (NWB), to “Interested Parties”, Re: Next steps in the NIRB’s Reconsideration and NWB Consideration of Baffinland Iron Mines Corporation’s “Phase 2 Development” Project Proposal and associated Water Licence Application, October 12, 2018.

² Fisheries and Oceans Canada (DFO), November 23, 2018; Qikiqtani Inuit Association (QIA), November 23, 2018, January 9, 2019 and January 21, 2019 and; Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), November 23, 2018, January 7, 2019 and January 15, 2019, Environment and Climate Change Canada (ECCC), November 23, 2018.

commence technical review would be provided by BIMC in sufficient time to be reviewed and commented on by interveners before the coordinated NIRB/NWB Technical Meetings proposed to occur in the week of March 11-15, 2019. Following the discussion of the parties on January 15, 2019, BIMC committed to providing information in the form of updated management plans at the end of March 2019. Following the January 15 meeting, CIRNAC and the QIA provided the NWB with additional submissions regarding whether the Application as currently constituted should be considered sufficiently complete to progress to the technical review stage of the regulatory process.

In CIRNAC's January 18, 2019 response, CIRNAC stated:

CIRNAC continues to find the application to be incomplete and proposes that it would be a better use of time and resources to begin the Technical Review at the end of March following the submission of the updated management plans. If the Technical Review does proceed before the updated management plans are submitted, more time will be required between the Technical Meeting and the Final Written Statements for the review of the updated management plans.

Similarly, in the QIA's January 21, 2019 response, the QIA stated:

Having reviewed the proponent's presentation, information requested by CIRNAC, and, the application filed before the NWB, QIA has not been swayed in its views that the application should [not] proceed to the technical review at this time. As detailed in QIA's submission of January 7th, 2019, QIA feels additional information, specifically the presentation of management plans, should be made available prior to the commencement of the technical review period.

In the event the NWB elects to initiate the technical review period prior to the presentation of information requested by review parties, QIA expects technical review comments will contain limited information and ultimately seek the same information as has already been requested. QIA feels such an approach would compromise the ability for parties to adequately respond to the application.

Consequently, on the basis of the scope and nature of the amendments proposed, the comments on completeness received from intervening parties, and the NWB's own assessment of the completeness of the Application, the NWB has concluded that the BIMC submission does not yet provide sufficient technical information to be considered complete and to progress to the NWB's technical review stage. Although the NWB recognizes the desire of BIMC to undertake the updates to management plans in accordance with the existing March 31 updating cycle, as indicated by two central interveners in the water licensing process, failing to include the updated plans with the Application, will mean that the NWB and parties conducting technical review will be unable to complete a thorough technical review of all information associated with the Application in a single technical review period that precedes the proposed joint Technical Meeting with the NIRB in mid-March. The NWB agrees with both CIRNAC and the QIA that this would result in parties duplicating their technical review and comment efforts and that it would not be an

effective and efficient way to proceed.

Recognizing that the NWB has the jurisdiction to request additional information and studies pursuant to s. 48(2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*) or to issue additional guidelines for the provision of information in support of an Application as set out in s. 48(3) of the *NWNSRTA*, the NWB has concluded that in order to complete the Application for an amendment to the existing Type “A” Water Licence 2AM-MRY1325 associated with the Phase 2 Development Project Proposal, the NWB requires BIMC to provide the additional information requested by the parties during the completeness check, including the updated management plans, to the NWB as soon as possible.

As soon as BIMC’s additional submissions are available, the information should be provided to the NWB’s Manager of Licensing, Richard Dwyer via email to licensing@nwb-oen.ca.

When the required information has been provided, the NWB will give Notice of the Application and a 30-day technical review period will commence. Also at that time, the NWB will give additional procedural guidance regarding the next steps in the NWB’s processing of the Application including the scheduling of a potential NWB Technical Meeting. The NWB notes that having concluded that the Application is not yet complete and cannot proceed to the technical review stage, it will no longer be possible for the NWB to maintain the timelines for coordinated technical review proposed jointly in the NWB and NIRB correspondence and process flow issued on October 12, 2018. Although the NWB will continue to consider coordination of NWB meetings to take place following NIRB meetings or Hearings wherever possible, based on the current status of the Application, the NWB’s technical review of the Application will now proceed separately from the NIRB’s assessment of the Phase 2 Development Project Proposal.

Copies of the comments received from Intervening parties, submissions from the Applicant, and all documents associated with the Application received to date have been placed in the Board’s Public Registry and made available through the NWB’s FTP site using the following links:

<ftp://ftp.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-MRY1325%20BIMC/1%20APPLICATION/2018%20Phase%202%20Expansion%20Project/>

If you have any questions regarding procedural matters related to the file, please contact Richard Dwyer, Manager of Licensing at richard.dwyer@nwb-oen.ca or by phone at (867) 360-6338 (ext. 27). For any Technical inquiries, please contact Assol Kubeisinova, Technical Advisor at assol.kubeisinova@nwb-oen.ca or by phone at (867) 360-6338 (ext. 31) or Karén Kharatyan, Director Technical Services at Karen.kharatyan@nwb-oen.ca or by phone at (867) 360-6338 (ext. 35).

Sincerely,

NUNAVUT WATER BOARD

Stephanie Autut
Executive Director

SA/ak/ip

Cc: Distribution List – Mary River
Tara Arko, Director of Technical Services, NIRB