



August 2, 2013

Mr. Brian Aglukark, Director, Implementation
Nunavut Planning Commission
P.O. Box 2101
Cambridge Bay, NU X0B 0C0

Dear Mr. Aglukark:

Re: Application to Determine Conformity with the North Baffin Regional Land Use Plan in connection with the Mary River Project Early Revenue Phase – DFO File NU-07, NIRB File # 08MN053

This letter is in response to your Request for Submissions with respect to the conformity determination relating to the Early Revenue Phase.

In response to your request, please see the attached Submissions.

We trust that the Submissions are responsive to your request and we now look forward to your expeditious determination of conformity under the NBRLUP.

Sincerely,

A handwritten signature in black ink, appearing to read "Erik Madsen", written in a cursive style.

Erik Madsen, Vice President
Sustainable Development, Health, Safety & Environment

cc: Mr. Ryan Barry, NIRB
Ms. Georgina Williston, DFO
Mr. Bernie MacIsaac, QIA
Ms. Phyllis Beaulieu, NWB
Ms. Tracey McCaie, AANDC



Nunavut Planning Commission

**Application to Determine Conformity of the
Early Revenue Phase of the Mary River Project
under the North Baffin Regional Land Use Plan**

**Submissions of Baffinland Iron Mines Corporation
in response to the Request for Submissions issued by
the Nunavut Planning Commission on July 30, 2013**

August 2, 2013



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Schedule 1 – January 22, 2007 Conformity Determination

Schedule 2 – NPC Interpretation

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I. Introduction

These submissions are made in response to the Request for Submissions on Possible Development of Transportation Corridor and the General Application of the North Baffin Regional Land Use Plan to the Mary River Project Early Revenue Phase, issued to Baffinland Iron Mines Corporation (Baffinland) by the Nunavut Planning Commission (the NPC) by letter dated July 30, 2013.

It is the general submission of Baffinland that the proposed Early Revenue Phase (ERP) of the Mary River Project (the Project) is in conformity with the North Baffin Regional Land Use Plan (NBRLUP). A determination of conformity for the ERP would be consistent with the following previous conformity determinations:

- the January 22, 2007 conformity determination for the bulk sampling program which involved mining of ore at the Mary River Mine Site, haulage of the ore over the Milne Inlet Tote Road to Milne Port, and ocean shipment of the ore through the Milne Inlet shipping lane (in addition to the long term use of the Milne Port and the Milne Inlet Tote Road) as a transportation corridor for equipment, materials and supplies to the Mary River Mine Site since the 1960s;
- the April 30, 2008 conformity determination with respect to the Mary River Project which included extensive use of Milne Port and the Milne Inlet Tote Road for transportation of equipment, materials and supplies, particularly during the four year construction period for the Mary River Project, and continuing for the 21 year expected operating life of that Project.

The following submissions provide further clarification of these positions and respond specifically to the questions posed by the NPC in its letter of July 30, 2013.

II. The Milne Inlet Tote Road and Marine Shipments Through Milne Inlet

As indicated in Section 1.1 of the Development Proposal for the Mary River Project, the Project history of the Mary River ore deposit goes back to the 1960s. Baffinland Iron Mines Ltd. was established in 1963 and undertook exploration programs from 1963 through 1966. This work



included the construction of the 100 kilometre Milne Inlet Tote Road and the establishment of a camp and other facilities at Milne Inlet. The current Baffinland Iron Mines Corporation was formed in early 2004 and continuous contemporary exploration work began in 2004 and continues to date.

The Nunavut Land Claims Agreement (NLCA) which was ratified in 1993, recognizes the Milne Inlet Tote Road in Part 4 of Article 21 as follows:

PART 4: MILNE INLET TOTE ROAD PUBLIC ACCESS EASEMENT

21.4.1 There shall be a public right of access, as described in Schedule 21-2, on the Inuit Owned Lands described in that Schedule.

Schedule 21-2 to the NLCA provides further particulars of the location of the Milne Inlet Tote Road from Milne Inlet to the Mary River mine. The Milne Inlet Tote Road, Milne Port and marine shipments through Milne Inlet have been used continuously for the transportation of supplies and materials to the Mary River Mine Site (a distance of approximately 100 kilometres).

III. Bulk Sampling Program at Mary River - 2007

NIRB File No. 07EN012 – On January 22, 2007, NPC provided Baffinland with a positive conformity determination on for its 2007/08 bulk sampling program (see letter attached as Schedule 1). This successfully completed program involved the following:

- expansion of exploration phase camp facilities at the Mine Site;
- the establishment of camp facilities at Milne Port;
- upgrade of the Milne Inlet Tote Road to all-season capability;
- the mining of up to 250,000 tonnes of ore;
- haulage of the ore by truck over the Milne Inlet Tote Road to Milne Port;
- ore stockpiling and ship loading facilities, and ocean shipment of ore from Milne Port, through Milne Inlet to markets.



In the January 22, 2007 conformity determination for the bulk sampling program, the NPC, after referencing Items 3.5.11 and 3.5.12 of the NBRLUP relating to transportation corridors, stated as follows:

“And, the proposed improvements of the existing tote road from Milne Inlet to the Mary River camp site does not fall with-in the terms of a proposal for a development of a transportation corridor”.

IV. Mary River Project Review and Approval – 2008-2013

The following is a summary of the major steps in the regulatory review process for the Mary River Project, with particular reference to the determination of conformity under the NBRLUP:

March 14, 2008

Baffinland submits the Mary River Project Development Proposal to the NPC, the Nunavut Impact Review Board and the Nunavut Water Board for consideration.

The main components of the Mary River Project include the following:

1. the Mine Site at Mary River;
2. transportation to and from the Mine Site from Milne Inlet along the Milne Inlet Tote Road, and along the Milne Inlet shipping lane (during open water), including the transportation of equipment, materials and supplies during construction and operation of the Mary River Project (four years of construction and 21 years of operation). All material, equipment and supplies required for the construction of the Mine Site, and the northern portion of the railway will be delivered at Milne Port and transported to the Mine Site over the Tote Road (expected 30 truckloads per day during construction, and continued use for the life of the Project). Development of Milne Port (freight dock, laydown areas, expanded camp and sewage treatment facilities, maintenance shops and warehouses) and the upgrade of the Tote Road (limited realignment, replacement of culverts, addition of bridges) are included in the Mary River Project;



3. establishment of a new 143 kilometre railway corridor from the Mary River Mine Site to port facilities at Steensby Inlet, for the purpose of year-round transportation of iron ore from the Mary River Mine Site to Steensby Port, and year-round shipment of ore from Steensby Port to Europe.

In the March 14, 2008 cover letter to the NPC, the NIRB, and the NWB, Baffinland highlighted the following:

- “Land Use Plan Conformity – A portion of the Project is located within the North Baffin Planning Region, which is subject to the North Baffin Regional Land Use Plan (the Plan). Accordingly, NPC conformity review is required, and the roadmap [referring to Baffinland’s regulatory roadmap] contemplates that this process will commence immediately.
- Land Use Plan Amendment – A portion of the proposed railway line (approximately 34 kilometres) is within the North Baffin Planning Region. We understand NPC views this as a proposed transportation corridor thereby requiring Plan amendment. The roadmap is consistent with Term 3.5.11 of the Plan, and the NPC’s “Interpretation – North Baffin Regional Land Use Plan Terms 3.5.10, 3.5.11 and 3.5.12”, both of which require that new corridors under the Plan be subject to a coordinated NPC and NIRB public review.”

April 7, 2008

The NPC wrote to Baffinland acknowledging receipt of the Mary River Project Development Proposal and enclosing an Application to Determine Conformity with the NBRLUP with questions to be answered by Baffinland.

Baffinland submitted responses to the Application Questionnaire. Of particular relevance is Question 21 of the Questionnaire and Baffinland’s response which reads as follows:

MARINE AND TERRESTRIAL TRANSPORTATION

21. Corridor: s3.5.11, s3.5.12 and appendix J & K: Does the proposal consider the development of a transportation and/or communications corridor?

Yes

No

A rail line is proposed within a portion of the North Baffin Planning Region



April 30, 2008

The NPC wrote to NIRB, the QIA, Indian and Northern Affairs, the NWB and DFO (with a copy to Baffinland) indicating as follows:

"The NPC has completed its review of the above noted project proposal. This project conforms with the North Baffin Regional Land Use Plan (NBRLUP) and we are forwarding it to NIRB for screening. We draw your attention to the provisions of sections 3.5.11 and 3.5.12 of Appendix "C" of the NBRLUP, a copy of which is enclosed, and note that a joint process to address the prospective transportation corridor is contemplated by those provisions. NPC looks forward to working with NIRB in accordance with those provisions."

May 2, 2008

NIRB writes to Baffinland (copies to the "Distribution List") confirming that NIRB had received the positive conformity determination from the NPC of April 30, 2008 and indicating that NIRB would screen the Project Proposal under the provisions of Article 12 of the NLCA. NIRB referenced the requirement for a joint review by the NPC and NIRB with respect to the proposed transportation corridor and sought comments from all parties respecting options for coordination with the NPC on that issue.

June 27, 2008

NIRB issues its Screening Decision for the Mary River Project and recommends to the Minister that the Project requires a review under Part 5 or 6 of Article 12 of the NLCA.

February 11, 2009

The Minister refers the Mary River Project Proposal to the Board for review under Part 5 of Article 12 of the NLCA, and encourages NIRB and the NPC to develop an arrangement to satisfy the requirements of the land use planning process "while not unduly encumbering the Board's Part 5 review process".



February 26, 2009

NIRB and the NPC issued a joint letter outlining the coordination between the NIRB Part 5 review of the Project and the joint review by NIRB and the NPC of the application to amend the NBRLUP to address the prospective transportation corridor proposed by the Project.

March 13, 2009

NIRB issues a "Draft Scope of the Mary River Project" for the purpose of the Part 5 review.

In its cover letter to the Mary River Distribution List (copied to the NPC and other agencies), NIRB indicates as follows:

"As outlined in previous correspondence to this distribution list (see NIRB/NPC letter dated February 26, 2009), NIRB's Part 5 Review of the Project will include public review to satisfy the requirements of Appendices J and K of the NBRLUP, and address the prospective transportation corridor proposed by the Project."

The Board also summarized the Mary River Project as follows:

"The proposed major project components associated with the Project include:

- Mine at Mary River
- Railway transportation of iron ore from Mary River Mine Site to Steensby Inlet all season deep sea port
- Operation of all-season deep sea port at Steensby Inlet
- Operation of open water shipping at Milne Inlet and Milne Inlet Tote Road
- Marine Shipping:
 - o Open water shipping from Milne Inlet, through Eclipse Sound and Pond Inlet, via Baffin Bay and Davis Strait to south Canada and Europe.
 - o Open water and year round shipping (ice breaking shipping) from Steensby Inlet through Foxe Basin and Hudson Strait, to Southern Canada, or cross Atlantic Ocean to Europe.
- Air traffic and ongoing exploration."

The Draft Scope refers to the joint process for the proposed railway corridor as follows:

"5. The Requirements of Northern Baffin Regional Land Plan

The Mary River Project includes a component of railway from Mary River to Steensby Inlet port site, which is partially located within Northern Baffin Land Plan Region. Pursuant to 3.5.11 and 3.5.12 under Appendix C of North Baffin Regional Land Use Plan (NBRLUP), a joint process to address the prospective transportation corridor is



contemplated by those provisions. Thus, in coordination with the Nunavut Planning Commission (NPC), the NIRB's scoping process will also reflect the requirements of the NBRLUP, and ultimately will be included in the EIS Guidelines to direct the proponent to the information required to satisfy the NPC's land use planning requirements, more specifically the information requirements to meet the provisions of Appendix J and K of NBRLUP (attached with this draft scope)."

March 16, 2009

NIRB and the NPC jointly issue a letter outlining the proposed process for the Part 5 review of the Mary River Project and the implementation requirements of the NBRLUP.

September 4, 2009

NIRB, the NPC, and the NWB issue a joint letter including Appendix B which provides a detailed description of the process to be followed for the NIRB/NPC joint review of the proposed transportation corridor.

Appendix B to the joint letter, which outlines the NIRB/NPC joint review process for the Mary River Project notes as follows:

"It has been noted that many issues pertaining to the NIRB's impact assessment of the railway and of the Project are closely related to the information requirements of the NBRLUP, and may also aid in the NIRB/NPC joint review of the prospective transportation corridor. Section 1.4.1 of the Revised Draft EIS Guidelines document speaks to the requirement of the Proponent's future Draft EIS (DEIS) submission to address the information required by Appendices J and K of the NBRLUP, with cross-referencing to relevant sections of the DEIS. The DEIS will then serve as the Proponent's formal application to the NPC for an amendment to the NBRLUP, minimizing unnecessary duplication."

November 16, 2009

NIRB issues the "Guidelines for the Preparation of an Environmental Impact Statement" for the Mary River Project.

The Guidelines confirm that NPC and NIRB "have made significant efforts to cooperate and coordinate their efforts in the NIRB's Part 5 review for the Mary River Project".



Section 1.4.1 of the Guidelines addresses the “Joint Review of Transportation Corridor” and states as follows:

“In keeping with the Minister’s direction and the provisions of the NBRLUP noted above, NIRB and the NPC have developed an arrangement to jointly review the transportation corridor (railway) proposed by the Project. The Proponent is required to include the project-specific information stipulated in Appendices J and K of the NBRLUP (see Appendix B), within its EIS. Given that much of the required information pertains directly to the impact assessment of the Project, the Proponent should cross reference where the required information can be found within the body of the EIS. It is recommended that an appendix be included in the EIS, with references to all the information required by Appendix B, which will then serve as the Proponent’s formal application for an amendment to the NBRLUP.”

October 12, 2011

NPC issues a letter indicating that it is preparing a draft Nunavut Land Use Plan which would replace the NBRLUP and indicates that “As such the NPC will not be seeking an amendment to the NBRLUP”.

October 25, 2011

Nunavut Tunngavik (NTI) writes to the NPC and NIRB asking the NPC to reconsider the October 12, 2011 letter.

October 31, 2011

Baffinland writes to the NPC requesting that it reconsider the October 12, 2011 letter and complete the joint review process established between NPC and NIRB respecting the railway transportation corridor.

November 5, 2011

The NPC writes to Baffinland confirming that the Commission remains committed to the joint review process with NIRB.

The NPC letter refers to the consideration of a plan amendment to “include the new transportation corridor”. The letter states as follows:



"To assist with Baffinland Iron Mines Corporation understanding of the Terms of the NBRLUP please note that the NBRLUP contains conformity requirements, actions and recommendations. These are identified in NBRLUP Chapter 3. Also see footnote 7 on Page 29 for additional clarity. Terms 3.5.11 and 3.5.12 contain both conformity requirements and actions which, although related, must be implemented independently. For instance the "actions" set out in Term 3.5.12 of the NBRLUP provides an option for the Commission to consider a plan amendment to *"include the new transportation corridor"*. It is important to consider that:

- an amendment to show the new transportation corridor means to add a map showing the final location of the corridor.
- the NBRLUP requires alternative routes to be considered as part of the plan amendment request. Therefore, it is conceivable that the final location of the bed of the railway could be altered prior to the final approval of the NIRB Hearing Report.
- The final decision on the location of the new transportation corridor will be based upon the final approved routing of the railway.
- The completion of the action component of Term 3.5.12 has no effect on the Commission's positive conformity determination of April 30, 2008, the current NLCA Part 5 review, or the issuance of any permit, licence or authorization."

September 14, 2012

NIRB issues its Final Hearing Report on the Mary River Project. Section 1.8 of the Final Hearing Report summarizes the "NPC/NIRB joint review of the transportation corridor" (Final Hearing Report, pp. 16-20).

The Final Hearing Report includes the following excerpt from the NPC presentation at the Final Hearing:

"The Commission concludes that any requests, whether to amend the north Baffin land use plan to include the new transportation corridor would not advance until the final location of the Railway is determined. The final decision on the location of the Railway will not be provided to the Commission until the minister accepts the Nunavut Impact Review Board final hearing report and a Nunavut Impact Review Board final certificate is issued."



December 3, 2012

The Minister accepts the recommendation of NIRB for the issuance of a Project Certificate.

December 28, 2012

NIRB issues the Project Certificate for the Mary River Project. Maps showing the proposed alignment of the railway corridor, provided to NIRB and to the NPC and filed as Exhibit #3 in the Final Hearing, are referenced in Section 2.0 Project Description of the Project Certificate. By copy of the December 28, 2012 correspondence to the NPC, NIRB indicated its wish to notify the NPC that the Project Certificate has now been issued and that the NPC may proceed with consideration of Baffinland's application to amend the NBRLUP to allow for construction of the railway corridor proposed for the Mary River Project.

Summary of Submissions for Consideration

- The 34 kilometre section of the proposed new railway corridor located in the North Baffin Region was identified as the development of a new transportation corridor requiring an amendment to the NBRLUP. (The remaining 109 kilometres of the railway from the boundary of the NBRLUP to Steensby Inlet covers a portion of southern Baffin Island which is not subject to any approved land use plan).
- The NPC confirmed that the Mary River Project was in conformity with the NBRLUP, subject to a requirement for an amendment under Items 3.5.10, 3.5.11 and 3.5.12 for the transportation corridor proposed for the railway. This is consistent with Item 3.5.12 of the NBRLUP which provides that the NPC "may request the ministers to amend the plan to include the new transportation corridor", and with the NPC's Interpretation (attached as Schedule 2 to this submission) which indicates that an amendment under the above items of the NBRLUP will be required for new transportation corridors.
- No question was raised respecting conformity with the NBRLUP in connection with the Tote Road or the shipping lane (both of which are existing transportation corridors and not new transportation corridors).



V. Early Revenue Phase

On January 10, 2013 Baffinland writes to the Nunavut Impact Review Board to advise of the intention to proceed with the Mary River Project in two phases – the Early Revenue Phase (ERP) and the Rail Phase (as approved in the Project Certificate).

The cost and shortened construction time under the ERP will enable production and revenue generation to commence sooner, with the objective of facilitating the second, larger, rail phase of the project at a later date. The ERP will allow for training, employment and business opportunities for the region to commence in 2013 and allow all parties to be in a stronger position to realize maximum benefits once the second larger phase development proceeds.

In the June 10, 2013 letter Baffinland noted that it remains committed to the Mary River Project as approved under the Project Certificate, but is reintroducing the concept of delivering iron ore to Milne Port (originally proposed and evaluated in the Draft Environmental Impact Assessment (DEIS) but subsequently removed prior to the submission of the FEIS).

The January 10, 2013 letter summarized as follows:

“The Early Revenue Phase (the proposed First Development Phase) will include development of a nominal 3.5 million tonne per annum (Mt/a) road haulage operation from Mary River to a small port facility at Milne Inlet for shipping of iron ore or during the open water season. The operation will be very similar in concept to the bulk sample program undertaken by Baffinland in 2008. Please refer to Appendix A for an overview of the Early Revenue Phase.”

The January 10, 2013 letter goes on to indicate the intention of Baffinland to provide, through an addendum to the FEIS, an updated environmental and socio-economic effect assessment for the activities proposed under the ERP.

Baffinland recognized that the ERP will require an amendment to the Project Certificate for the Mary River Project and potential amendments to other regulatory permits and licences. Baffinland requested direction from the NIRB as to the review process required for consideration of the ERP.



The Project Proposal for the Early Revenue Phase describes the additional activities or infrastructure of the Early Revenue Phase not previously reviewed as part of the Mary River Project as follows:

1. Mine Site
 - (a) loading of ore into trucks;
 - (b) truck fleet and maintenance facilities.
2. Tote Road
 - (a) haulage of ore by trucks along the Tote Road (note: upgrades to the Tote Road were assessed as part of the Mary River Project).
3. Milne Port
 - (a) ore stockpiling at Milne Port.
4. Marine Shipping
 - (a) ore carrier loading at Milne Port;
 - (b) ore carrier shipping volume and timing.

The Early Revenue Phase Project Proposal is clear in describing the volume of the trucking traffic along the Tote Road. Table 1-2.1 to the Project Proposal indicates that during the ERP, 76 ore trucks will each make one roundtrip along the Tote Road per day and there will be 30 non-ore truck trips per day. (Note: the Approved Mary River Project includes 30 truckloads per day along the Tote Road during the four year construction period and continued use of the Tote Road over the life of the Project).

January 14, 2013

NIRB acknowledges that Baffinland requests to amend the Project Certificate, and refers to the process under Sections 12.8.2 and 12.8.3 of the NLCA for reconsideration of the Terms and



Conditions of a Project Certificate. NIRB indicated that it would seek direction from the Minister with respect to the proposed reconsideration.

NIRB requested comments on this process from the NPC and other agencies and parties.

February 7, 2013

Nunavut Planning Commission responds to the June 14, 2013 letter from NIRB and indicates that a conformity determination will be required for the ERP.

April 13, 2013

The NPC writes to Baffinland to summarize the procedure the NPC will perform to address conformity requirements of the NBRLUP in connection with the ERP.

June 12, 2013

Letter from Baffinland to the NPC to provide NPC with the project proposal for the ERP and other information requested by the NPC, to enable NPC to make any required conformity determinations relating to the ERP. The June 12, 2013 letter included:

- Early Revenue Phase Project Proposal for Nunavut Planning Commission conformity review,
- Links to the Mary River Project Certificate, the Type A Water Licence Application,
- Determinations for HADD Authorizations under the Fisheries Act, and
- Land Use Permit (section of Crown land along Tote Road).

June 20, 2013

Baffinland hand delivers a copy of the Addendum to FEIS to the NPC and walks through the submission with the Executive Director and staff from the NPC. The Addendum assesses the socio, economic and environmental aspects of additional activities not already assessed and approved under NIRB Project Certificate No. 005.



July 5, 2013

The NPC provides Baffinland with a questionnaire entitled "Nunavut Planning Commission Application to Determine Conformity with the North Baffinland Regional Land Use Plan".

July 9, 2013

Baffinland writes to the NPC enclosing the completed questionnaire (Application to Determine Conformity).

In response to question 21 of the questionnaire, the response that the ERP does not include "the development of a transportation and/or communications corridor" as contemplated under Items 3.5.11 and 3.5.12 of the NBRLUP. Baffinland describes the use of existing transportation corridors as follows:

"Terrestrial Transportation"

Terrestrial Transportation will take place along the existing Tote Road between the Mary River Mine Site and Mine Inlet. The Tote Road has been in existence as a transportation corridor for many years (back to the 1960s) and is recognised as a public access easement under Article 21, Part 4 (Section 21.4.1) of the Nunavut Land Claim Agreement. Accordingly, the Early Revenue Phase (ERP) does not include the development of a new transportation corridor. The Tote Road has previously been included as part of the bulk sampling program which received a positive conformity determination from the NPC on January 22, 2007, and continues to form part of the Mary River Project, which received a positive conformity determination from the NPC, on April 30, 2008.

As indicated in the Project Proposal for Early Revenue Phase, which is Attachment 1 to our letter of June 12, 2013, the ERP will result in increases in the volume of traffic along the Tote Road. Under the Mary River Project, the Tote Road traffic included vehicles for equipment and supplies between Milne Inlet and the Mary River Mine Site. Under the ERP, additional traffic will include ore trucks transporting ore from the Mine Site to Milne Inlet. The addendum to the FEIS for the ERP includes an assessment of the potential effects of the increase in traffic along the existing Tote Road transportation corridor, for review by the Nunavut Impact Review Board.

Marine Transportation Corridor

The Marine Transportation Corridor to Milne Port has been used since the establishment of the port at Milne Inlet and the Tote Road. The Marine Transportation Corridor is shown on Figure 1-1.1 in both the FEIS and the Addendum to the FEIS for the ERP



(Attachment 2 to this correspondence). This Marine Transportation Corridor has been established for many years and will not be changed under the ERP. As indicated in the Project Proposal for Early Revenue Phase which is Attachment 1 to our letter of June 12, 2013, the number of ship transits to and from Milne Port will increase. The Mary River Project included transits to and from Milne Port for ships bringing supplies and equipment. Under the ERP, shipping will also include ore carriers. This shipping will take place during the open water season, which Baffinland understand is in conformity with the North Baffin Regional Land Use Plan.

The shipping route into Milne Port was a component of the bulk sampling program which received a positive conformity determination from the NPC on January 22, 2007, and was also included as part of the Mary River Project, which received a positive conformity determination from the NPC on April 30, 2008.

The Addendum to the FEIS for the ERP includes an assessment of the potential effects of the shipping to Milne Port for review by the Nunavut Impact Review Board.”

In the July 9, 2013 letter, Baffinland submits its belief that the ERP is in conformity with the NBRLUP for the following reasons:

- The ERP works and activities are a modification of the works and activities outlined in Baffinland’s previous project activities that received positive conformity determinations from the NPC; and
- The ERP uses the existing Milne Inlet Tote Road, which is recognized as a public access easement under Article 21, Part 4 (Section 21.4.2) of the Nunavut Land Claim Agreement and includes shipping of ore from Milne Port during the open water season only, and along the currently established shipping route through Milne Inlet and Eclipse Sound.

July 18, 2013

Baffinland writes to the Nunavut Planning Commission to further summarize the request for a conformity determination, emphasizing that the Tote Road, Milne Port, and the Shipping Corridor have been recognized as existing corridors and in conformity with the NBRLUP, in the Positive Conformity Determination issued on January 22, 2007 by the NPC in connection with bulk sampling program, and in the Positive Conformity Determination issued by the NPC on April 30, 2008 for the Mary River Project. Both the Bulk Sampling Program and the Mary River



Project involved extensive use of the Tote Road and Milne Port. The Bulk Sampling Program involved hauling ore by trucks via the Milne Inlet Tote Road to Milne Port and ocean shipment of ore along the shipping route. The Mary River Project involves extensive use of the Tote Road and Milne Port during the four year construction period for the Mary River Project, and continuing use of the Tote Road and Milne Port as a route for the transportation of certain equipment, supplies and materials. It is emphasized that under the ERP shipping from Milne Port will only be done during the open water season (shipping during the open water season is specifically supported by the NBRLUP in Section 3.5).

July 24, 2013

Baffinland emails the NPC to include reference to the NPC "Interpretation – North Baffin Regional Land Use Plan – Terms 3.5.10, 3.5.11 and 3.5.12" which indicates that these items relate ". . . to the application and review of project proposals that involve the establishment of new transportation or communications corridors . . .", and submits that this Interpretation is consistent with the previous correspondence of Baffinland respecting the conformity determination for the ERP.

July 30, 2013

The NPC writes to Baffinland respecting the conformity determination for the ERP and requests further information from Baffinland.

VI. Provisions of the NBRLUP Respecting Transportation Corridors

Item 3.5 of the NBRLUP addresses Marine and Terrestrial Transportation.

Under the heading "Background" in Item 3.5, the NBRLUP notes that shipping is central to the economic well-being of the region and that present shipping activity usually occurs between June and November. The ships navigating in Canadian arctic waters must meet or exceed operating standards designed to ensure safe, pollution-free passage.

Baffinland wishes to emphasize that the shipping to Milne Port under the ERP (as under the Mary River Project) will meet or exceed operating standards designed to ensure safe, pollution-free passage.



Under the heading “Issues” under Item 3.5, the NBRLUP lists a number of concerns respecting potential effects of shipping on wildlife and on harvesting activities.

Baffinland wishes to emphasize that all of these potential effects, where appropriate, have been considered in the Addendum to the FEIS with respect to the ERP, and Baffinland expects that each of these concerns will be carefully considered and reviewed by NIRB in its consideration of the potential environmental and socio-economic effects of the ERP.

Items 3.5.1 to 3.5.9 of the NBRLUP set out a number of guidelines for shipping.

Baffinland wishes to emphasize that it will give careful consideration to these guidelines, as appropriate, in connection with shipping related to the ERP.

Items 3.5.10, 3.5.11 and 3.5.12 specifically address the issue of transportation and/or communications corridors as follows:

3.5.10. While ensuring the respect of applicable Canadian international obligations in the region, the NPC shall implement the concept of a transportation and/or communications “corridor” as a land use policy having general application, and applying to land and water routes throughout the region, based on the processes outlined in Appendices J and K.

3.5.11. All parties wishing to develop a transportation and/or communications corridor shall submit to the NPC a detailed application for an amendment. This application must include an assessment of alternative routes, plus the cumulative effects of the preferred route. It shall provide reasonable options for other identifiable transportation and utility facilities.

3.5.12. The NPC, and either NIRB or a panel acting under section 12.4.7 of the NLCA, shall publicly review the proposed corridor to determine whether the proposal adequately meets the guidelines set out in Appendices J and K. Once it is determined that a proposal does meet the guidelines, the NPC may request the ministers to amend the plan to include the new transportation corridor.

In addition to the above items, the NPC has issued the “Interpretation – North Baffin Regional Land Use Plan - Terms 3.5.10, 3.5.11 AND 3.5.12”.

It is Baffinland’s submission that in Item 3.5.11, the term “develop a transportation and/or communications corridor” means development of a new transportation or communications corridor. This interpretation is confirmed by the remaining terms of Item 3.5.11 which refer to

the consideration of “alternate routes” and the effects of “the preferred route”. This interpretation is also supported by the terms of Item 3.5.12 which indicates that after the “proposed corridor” is reviewed, the NPC may request the ministers to amend the plan “to include the new transportation corridor”.

The Interpretation of Terms 3.5.10, 3.5.11 and 3.5.12 issued by the NPC also confirms that these items relate to project proposals that involved the establishment of new transportation or communications corridors. Some excerpts from the interpretation are as follows:

“Specifically relating to the application and review of project proposals that involve the establishment of new transportation or communications corridors the NBRLUP contains: Terms 3.5.10; 3.5.11; 3.5.12; Appendix J – Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment; and Appendix K – Marine and Terrestrial Transportation / Communications Corridor Guidelines.”

After quoting Terms 3.5.10, 3.5.11 and 3.5.12, the interpretation goes on to state:

“According to these Terms, all project proposals that involve the establishment of new transportation or communications corridors will trigger two processes under the NBRLUP.” [Emphasis added]

This interpretation of Terms 3.5.10, 3.5.11 and 3.5.12 is consistent with the approach taken by the NPC in connection with the previous conformity determinations for the bulk sampling program on January 22, 2007 and for the Mary River Project on April 30, 2008, both of which involved the use of the existing Milne Inlet Tote Road and the shipping corridor through Milne Inlet and Eclipse Sound. Under the Mary River Project, the new transportation corridor proposed for the railway from the Mary River Mine Site to Steensby Inlet was identified by the NPC as a “proposed corridor” requiring an amendment to the NBRLUP (for the 34 kilometres of the railway corridor within the North Baffin Region).

VII. Response to Commission Question #1

Q – If a new project proposal or an application to extend a project is made for an existing project, whether a previous positive conformity determination precludes the need for additional conformity determinations or an amendment of an approved land use plan where a party wishes to develop a transportation or communications corridor.



A – Baffinland recognizes that a conformity determination is required for the ERP, and Baffinland has filed an application for this conformity determination with the NPC, along with accompanying materials relating to the ERP, including the Project Proposal for the ERP, the Addendum to FEIS, which assesses the potential environmental and socio-economic effects of the ERP, and copies of regulatory certificates, approvals, licences and permits relating to the Mary River Project and those requiring amendments for the ERP.

NIRB has identified a process to reconsider the Terms and Conditions of the Mary River Project Certificate under the provisions of Article 12, Part 8, Section 12.8.2(b) of the NLCA (see the NIRB letter to the Minister dated February 11, 2008). In the letter of February 11, 2008, NIRB referenced the NPC letter of February 7, 2013 and indicated that it would require confirmation from the NPC that the Project amendment conforms to the requirements of the NBRLUP. By his letter of March 28, 2013, the Minister agreed with the comprehensive reconsideration process proposed by NIRB and confirmed that this proposed process is appropriate in light of the scale and nature of the ERP.

The previous positive conformity determinations issued by the NPC in relation to the bulk sampling program (2007) and in relation to the Mary River Project (2008), do not preclude the conformity determination requested for the ERP.

It is Baffinland's position, however, that the previous positive conformity determinations provide a basis for consistency in issuing a positive conformity determination for the ERP for the following reasons (as stated in our letters of June 12, 2013, July 9, 2013 and July 18, 2013):

- both the bulk sampling program and the Mary River Project included use of the Milne Inlet Tote Road and Milne Port, and shipping through Milne Inlet and Eclipse Sound;
- the Milne Inlet Tote Road and the shipping route through Milne Inlet and Eclipse Sound have been existing transportation corridors since the 1960s. They pre-date the NLCA and the NBRLUP, and the Milne Inlet Tote Road is expressly recognized as a public right of access under Article 21.4.1 of the NLCA;
- the bulk sampling program of 2007/08 involved major upgrades and increased use of the existing Tote Road, Milne Port and shipping corridor, and the approved Mary



River Project will also involve the increased use of the existing Tote Road, Milne Port and shipping corridor (estimated 30 trucks per day delivering from Milne Port during construction;

- the proposed increased use of the existing Tote Road, Milne Port and shipping corridor under the ERP should, to be consistent, receive a positive conformity determination.

VIII. Response to Commission Question #2

Q – NPC welcomes any submissions Baffinland may wish to make on the definition of “develop” as it appears in section 3.5.11 of the NBRLUP and whether the ERP project proposal should be considered a “development”.

A – It is the submission of Baffinland that the term “develop” under Section 3.5.11 with respect to transportation and/or communications corridors, does not apply to additional use of an existing corridor, but applies to the development of a “new” corridor.

This interpretation is supported by the following considerations:

- under Item 3.5.11, reference is made to the assessment of “alternative routes” and the cumulative effects of “the preferred route”. These terms support the interpretation that Item 3.5.11 is applicable to the proposed development of a new transportation corridor;
- Item 3.5.12 specifically uses the terms “proposed corridor” and “new transportation corridor”. In particular, Term 3.5.12 specifies as follows:

“Once it is determined that a proposal does meet the guidelines, the NPC may request the ministers to amend the plan to include the new transportation corridor”. [Emphasis added];

- Appendix J to the NBRLUP requires information including a description of the “proposed corridor” and its “general routing” and a comparison of the “proposed

route with alternative routes". Again, these terms suggest the consideration of a new transportation corridor;

- Appendix K to the NBRLUP states as follows:

"The following planning guidelines will be used in the assessment of a new transportation/communications corridor proposal". [Emphasis added];

- the NPC "Interpretation – North Baffin Regional Land Use Plan – Terms 3.5.10, 3.5.11 and 3.5.12" confirms that the above terms and appendices apply to proposals involving the establishment of new transportation or communications corridors. The following are excerpts from the Interpretation:

"Specifically relating to the application and review of project proposals that involve the establishment of new transportation or communications corridors the NBRLUP contains: Terms 3.5.10; 3.5.11; 3.5.12; Appendix J – Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment; and Appendix K – Marine and Terrestrial Transportation / Communications Corridor Guidelines."

"According to these Terms, all project proposals that involve the establishment of new transportation or communications corridors will trigger two processes under the NBRLUP."

"In closing the approach provided in the NBRLUP respecting the establishment of new transportation or communications corridors is distinct from the standardized practices of both the NPC and NIRB."

Again, the NPC Interpretation of Items 3.5.10, 3.5.11 and 3.5.12 of the NBRLUP indicates that those items relate to the application and review of project proposals that involve the establishment of new transportation or communications corridors;

- In a 2008 presentation of the NPC to the Nunavut Petroleum Workshop (a copy of the presentation is attached as Schedule 3 to these submissions), the NPC stated the following questions and answers in connection with the NBRLUP:

"Q –Would year round shipping be considered as a 'new' transportation corridor and be subject to 3.5.10 – 3.5.12?



A – Depends. If the route is an existing marine shipping route [i.e. the Northwest Passage (NWP)] then it would be grandfathered. If a new route is proposed to connect to the NWP then the portion that is new would be a new corridor. New corridors are assessed under NLCA 12.4.7 as part of the NIRB Environmental Assessment (EA) process.”

“Q – Would a pipeline corridor on Melville Island be considered as a ‘new’ transportation corridor and be subject to 3.5.10 – 3.5.12?

A – If there is no pipeline existing in the location proposed on Melville Island then yes it would be a new corridor. Corridors are assessed under NLCA 12.4.7 as part of the NIRB EA process.”

These responses of the NPC to questions relating to transportation corridors are also consistent with the application of Items 3.5.10, 3.5.11 and 3.5.12 of the NBRLUP to new transportation corridors, and reflect the understanding that existing transportation corridors are grandfathered.

It is Baffinland’s submission that the use of the term “development” in Articles 6.1.1, 6.2.2 and 6.2.3 of the NLCA relate to different issues and are not relevant to the interpretation of Items 3.5.10, 3.5.11 and 3.5.12 of the NBRLUP.

It is Baffinland’s submission that the definition of the word “development” under the *Nunavut Planning Act* is not relevant. The *Nunavut Planning Act* applies to municipal planning and zoning bylaws. The *Planning Act* is not applicable to the NLCA or to the NPC, or the NBRLUP.

Baffinland submits that, while the development of a new transportation corridor (such as the railway corridor under the Mary River Project), may require an amendment to the Land Use Plan, the proposed use of pre-existing transportation corridors, such as the Tote Road and the shipping corridor through Milne Inlet and Eclipse Sound, does not require a review or an amendment.

As indicated above, the bulk sampling program of 2007/08 involved a change in the intensity of use of the Tote Road and the shipping corridor, and the Mary River Project involved a further change in the intensity of use of the Tote Road and the shipping corridor for the transportation of all materials, equipment and supplies for the construction of the Mary River Mine Site and the northern part of the railway corridor in particular, and for continued use as required during the 21 year mine life. In contrast, the proposed railway corridor from the Mine Site to Steensby Inlet



involved the establishment of a new transportation corridor which required an application for amendment of the NBRLUP.

For all of the above reasons, it is Baffinland's submission that the ERP does not involve a proposal to develop a new transportation corridor, and therefore Baffinland submits that Items 3.5.10, 3.5.11 and 3.5.12, and an application to amend the NBRLUP is not applicable to the ERP.

IX. Response to Commission Question #3

Q – Is the definition of “project proposal” in the NLCA as including a “physical work” or “physical activity” relevant to determining whether a transportation corridor, whether new or existing, is being developed; in the alternative does an existing transportation corridor wholly exempt all project proposals relating to that corridor from land use planning.

A – Baffinland acknowledges that the ERP contemplates physical works and physical activities that were not assessed in the FEIS of the approved Project.

These activities are referenced in the Project Proposal and in the Application to Determine Conformity.

The reconsideration process to be undertaken by NIRB in connection with the ERP, under Article 12, Part 8 of the NLCA is described above in our response to Question 2. As noted in the response to Question 2, both NIRB and Baffinland have requested that the NPC provide a determination of conformity of the ERP with the NBRLUP.

It is Baffinland's submission that the definition of “project proposal” is very general and does not alter our submissions above that the ERP does not propose to develop a new transportation corridor. The ERP does propose increased trucking activities on the Milne Inlet Tote Road and increased shipping activities through Milne Inlet. It is Baffinland's submission that existing transportation corridors do not exempt the ERP from the consideration of conformity under the NBRLUP.

As indicated above, an Application for a Conformity Determination has been submitted to the NPC for the ERP.



We recognize that the NPC has the authority and responsibility under the NBRLUP, to review the proposed ERP for conformity with the NBRLUP and to make a determination accordingly.

It is the submission of Baffinland that the works and activities proposed under the ERP are in conformity with the NBRLUP. Baffinland is not aware of any provision of the NBRLUP with respect to which the works and activities of the ERP would not be in conformity. Attached as Schedule 4 to this submission is a copy of Appendix 1B-4 to the Addendum to FEIS, showing concordance with the EIS Guidelines, including the content related to Appendices J and K of the NBRLUP.

Subject to the requirement for an amendment for the new railway corridor, the Mary River Project itself, which includes the Mine Site, extensive use of the Milne Inlet Tote Road, Milne Port, and shipping through Milne Inlet, was found to be in conformity with the NBRLUP. The ERP, which proposes to use the Milne Inlet Tote Road, Milne Port and open water shipping, as an early phase of the Mary River Project, in order to enable the Project, along with its benefits for training, employment, business opportunities and royalties to the people of Nunavut, to proceed.

Baffinland submits that the ERP (like the previous bulk sampling program, and the Mary River Project), meets the conformity criteria referred to in the NBRLUP, including the conformity requirements identified in Chapter 3, and involves land use of a type previously contemplated in the North Baffin region, and/or consistent with the principles identified under Item 6.3 of the NBRLUP.

Baffinland submits that the ERP, like the Mary River Project, is consistent with the well-being of Nunavut residents, the protection of, and where necessary, restoration of environmental integrity, compliance with the NLCA, the principle of sustainable development, support for regional economic development, and encouragement of multiple land uses subject to the principle of sustainable development (see NBRLUP Item 6.3, and the Summary of Conformity Requirements under Appendix C to the NBRLUP).

As indicated above, Baffinland knows of no conformity criteria, or conformity requirements, under the NBRLUP, that were not met or addressed by the Mary River Project, or that are not met or addressed under the ERP.



In particular, the above issues are addressed in detail in the Addendum to FEIS which includes a detailed assessment of potential environmental and socio-economic impacts of the ERP. As indicated in the letter from NIRB to the Minister dated February 11, 2013, and the response of the Minister dated March 28, 2013, NIRB is proposing a comprehensive reconsideration of the Terms and Conditions of the Project Certificate for the Mary River Project, in consideration of the ERP, pursuant to Section 12.8.2(b) of the NLCA. The detailed consideration and assessment of potential environmental and socio-economic effects of the ERP, under the Addendum to FEIS is indicative of compliance with the conformity requirements of the NBRLUP referenced above.

Baffinland does not submit that the works and activities proposed by the ERP “are entirely a matter for environmental screening and are exempt from the land use planning process established in the NLCA”.

However, for all of the reasons given above, Baffinland submits that, in considering its conformity determination, the NPC should take into account that NIRB will conduct a detailed consideration of the ERP under the provisions of Article 12 of the NLCA, including a detailed consideration of any potential environmental and socio-economic impacts of the ERP before determining whether or not the ERP should be allowed to proceed under amendments to the Project Certificate for the Mary River Project. If NIRB does determine that the ERP should proceed, it is expected that NIRB will include appropriate terms and conditions for the mitigation of environmental and socio-economic impacts, before submitting a report to the Minister respecting any amendment to the Project Certificate. Baffinland submits that this process for a comprehensive assessment of the ERP by NIRB should be a significant factor which would support the NPC in reaching a positive conformity determination for the ERP.

X. Response to Commission Question #4

Q – Whether the Milne Inlet Tote Road easement or existing transportation corridors mean the changes proposed by the ERP do not constitute the “development” of a transportation corridor.

A – Baffinland submits that the Milne Inlet Tote Road and the shipping corridor through Milne Inlet are existing transportation corridors and therefore, based on the responses to Questions 1, 2 and 3 above, Baffinland submits that the ERP does not include a proposal to “develop” a



transportation corridor as that term is used in Items 3.5.10, 3.5.11 and 3.5.12 of the NBRLUP, and the NPC Interpretation document for those items. Baffinland submits that Items 3.5.10, 3.5.11 and 3.5.12 of the NBRLUP and the requirement for an amendment are not applicable, since there is no proposal to develop a new transportation corridor.

The ERP does propose additional use of the Tote Road for the transportation of ore, and shipments of ore from Milne Port. Baffinland submits that these activities are in conformity with the NBRLUP (as discussed under Question 5 below).

XI. Response to Commission Question #5

Q – Whether increased intensity of use of Milne Inlet Tote Road and shipping from Milne Inlet conforms with NBRLUP.

A – Baffinland has filed an Application for a Conformity Determination for the ERP with the NPC, and assumes that the NPC will consider the conformity determination in accordance with the conformity requirements of the NBRLUP. As submitted above (in particular, see the response to Question 3), Baffinland is confident that the ERP meets the conformity criteria of the NBRLUP.

Baffinland submits that the ERP, like the Mary River Project as a whole, meets the conformity requirements of the NBRLUP. Baffinland is not aware of any conformity requirement that is not met by the ERP.

Your letter of July 30, 2013 requests clarification in relation to public safety interactions that might result from increased vehicle traffic on the Milne Inlet Tote Road. Safety issues relating to traffic along the Tote Road were considered in the FEIS at Section 10.5.2 and Baffinland has developed a Road Management Plan (Appendix 10D-8). Key components of that plan in relation to the safety of land users include:

- speed control and signage;
- speed limited to 60 kilometres per hour on all Project roads;
- signs warning of hazards and blind road curves or intersections;



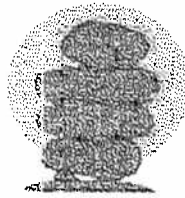
- kilometre markers used to radio in wildlife and non-Project individual sightings;
- vigilance of truck operators for non-Project individuals;
- reporting of non-Project individuals to other drivers and the Superintendent of Sustainable Development.

A further consideration of these mitigation measures is contained in the Revised Roads Management Plan attached as Appendix 10D-8 to the Addendum to FEIS. The issue of public safety along the Tote Road will be reviewed in detail in the NIRB assessment process, and in particular, under Volume 4 of the FEIS (and Addendum to FEIS) relating to effects of the Project on the human environment.

XII. Conclusion and Request for Conformity Determination

In conclusion, Baffinland submits that the ERP is in conformity with the NBRLUP, and requests that the NPC issue a positive conformity determination.

Schedule 1



January 22, 2007

Jeffrey Howell
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Terry Audla
Executive Director
Qikiqtani Inuit Association
Iqaluit, Nunavut X0A 0H0

Fax # (857) 979-3238

Dear Mr. Howell, Ms. Beaulieu and Mr. Audla,

Re: INAC # N2006C0036, NWB # 2BE-MRY 0406, QIA # Q05L2C14, DFO- Mary River Project, Study of Port location and possible transportation corridor & Bulk Sampling Proposal

The NPC has completed its review of the above noted project proposal. It conforms to the North Baffin Regional Land Use Plan (NBRLUP), subject to the attached conformity requirements.

The NBRLUP has specific terms in regards to a development of a transportation corridor where a request for amendment to the NBRLUP must be requested;

s3.5.11 - All parties wishing to develop a transportation and/or a communications corridor shall submit to the NPC a detailed application for amendment. This application must include an assessment of alternative routes, plus the cumulative effects of the preferred route. It shall provide reasonable options for other identifiable transportation and utility facilities.

S3.5.12 – The NPC, and either NIRB or a panel acting under 12.4.7 of the NLCA, shall publicly review the proposed corridor to determine whether the proposal adequately meets the guidelines set out in Appendices J and K. Once it is determined that a proposal does meet the guidelines, the NPC may request the Ministers to amend the plan to include the new transportation corridor.

By this letter and additional enclosures, the NPC is forwarding the project proposal with this determination to NIRB for screening.

Note-This project proposal includes research on options relating to alternative transportation / communications routes. As a proposal to conduct research, it does not constitute a proposal to *develop* a transportation and / or communications corridor. This positive conformity determination for research activities does not constitute a positive conformity determination with respect to development of a corridor.

And, the proposed improvements of the existing tote road from Milne Inlet to the Mary River camp site does not fall within the terms of a proposal for a development of a transportation corridor.

The applicant has undertaken to comply with the attached requirements. The authorizing agencies to which this letter is addressed are responsible under the *Nunavut Land Claims Agreement* to implement any of the attached requirements that fall within their respective authorities.

This may be accomplished by incorporating the requirements directly, or otherwise ensuring that they must be met, in the terms and conditions of any authorizations issued. My office would be pleased to discuss with these agencies how best to implement these requirements and to review any draft authorizations that the agencies wish to provide for that purpose.

This conformity determination applies only to the above noted project proposal as submitted. Please notify the NPC immediately if any material change to the project proposal is made before authorizations are issued.

Yours truly,



Ronnie Suluk
Regional Planner

Attachment

cc. Leslie Payette, NIRB
Mr. Rod Cooper, Baffinland Iron Mines Corporation

Application # N2006C0036/2BE-MRY 0406/Q05L2C14/DFC)

NUNAVUT PLANNING COMMISSION
APPLICATION TO DETERMINE CONFORMITY
WITH THE NORTH BAFFIN REGIONAL LAND USE PLAN

NUNAVUT PLANNING COMMISSION
BOX 419, Arviat, Nunavut
N0C-0E0

All applicants for a project proposal shall comply with the requirements listed below. The relevant sections of the plan are noted in each requirement.

GENERAL

2. **Environmental Protection:** s3.3.11.8: The applicant undertakes to prevent any new occurrences of pollution, garbage and contamination at the site of the development.

Yes

No

3. **Removal of Fuel Drums:** s3.3.11.8: The applicant undertakes to remove all drums safely from the site and dispose of the drums in a safe manner.

Yes

No

4. **New Site Restoration and Clean Up:** s3.3.11.1 and Appendix C, s1: The applicant undertakes to clean up the site and restore the site to its natural condition to the greatest extent possible.

Yes

No

5. **Old Site Restoration and Clean Up:** s3.3.11.2: The applicant undertakes to clean up the site and restore the site to its original condition to the greatest extent possible, including any work required due to the applicant's action prior to this application.

Yes

No

Application # N2006C0036/2BE-MRY 0406/Q05L2C14/DFO

6. Low-Level Air Flights: Appendix C, s3: Will the applicant avoid all low-level flights?

☒ Yes

☐ No

- i. If not, explain why such flights are or may be absolutely necessary.

- ii. If such flights are or may be absolutely necessary, will they avoid disturbance to people and wildlife?

- iii. If not, explain why it is not possible to avoid such disturbance.

7. Caribou Protection Measures s3.3.1.7 and Appendix D: Will the applicant comply with the Caribou Protection Measures outlined in section 2.4.6 and in Appendix D?

☒ Yes

☐ No

Application # N2006C0036/2BE-MRY 0406/Q05LZC14/DPQ

7. **Polar Bear Denning Areas and Walrus Haul-outs:** s3.3.1.8: Will the applicant keep its activities away from any polar bear denning area or walrus haul-out?

Yes

No

HERITAGE RESOURCES

10. **Reporting of Archaeological Sites:** s3.3.9.3 and Appendix C, s2 and s8: Will the applicant immediately report the discovery of all suspected archaeological sites to the Department of Culture, Language, Elders and Youth (GN)?

Yes

No

MINING

11. **Mining Development:** s3.3.4.4 & s3.3.4.5: Is the proposal for mining development?

Yes

No

If yes, include with the application a mine closure and restoration plan and the proof of complete financial guarantees for the abandonment and restoration of the site.

12. **Negative Effects:** s3.3.4.6: Has the applicant planned to minimize the negative effects of its activity on the environment?

Yes

No

Include with the application the mitigative measures developed.

13. **Hunting Restrictions:** s3.3.4.9: The applicant is informed of any special hunting restrictions that may apply to the area and will strictly enforce them at its mine sites and along transportation routes.

Yes

No

Application # N2006C0036/2BE-MRY 0406/Q25L2C14/DFO

14. **Carving Stone Deposits:** Appendix C, s9. Will the applicant report any discoveries of carving stone deposits to the Qikiqtaaluk Inuit Association?

Yes

No

MARINE AND TERRESTRIAL TRANSPORTATION

21. **Marine and Terrestrial Transportation:** (s 3.5.11 and s 3.5.12): Is this a proposal to develop a transportation and/or communications corridor? (Note: Research on options relating to alternative routes does not in itself constitute a proposal to develop a transportation and / or communications corridor. Further, a positive conformity determination with respect to research activities related to alternative routes and cumulative effects does not constitute a positive conformity determination with respect to development of a corridor.)

Yes

No

If yes, please forward to the NPC a detailed application for an amendment to the *North Baffin Regional Land Use Plan*. This application for amendment must include an assessment of alternative routes, plus the cumulative effects of the preferred route. It shall provide reasonable options for other identifiable transportation and utility facilities.

22. **Code of Good Conduct for Land Users:** Appendix C: The applicant undertakes to adhere to the code of Good Conduct at all times.

Yes

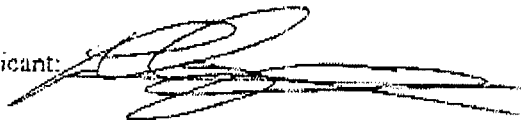
No

I, Rodney Cooper Baffinland IRON MINES (name of applicant), certify that the information I have given in this application is true and correct and hereby make the above undertakings which form part of my application for a project proposal within the meaning of the Nunavut Land Claims Agreement.

Date:

Jan 22 / 07

Signature of Applicant:



Application // N2006C0076/213E-MRY 0406/Q05L2C14/DFO

**North Baffin Regional Land Use Plan
Appendix H
Code of Good Conduct for Land Users**

1. The landscape of each camp and other land use sites will be restored to its original condition to the greatest degree possible. Water quality will be preserved and no substances that will impair water quality will be dumped in water bodies. When possible and feasible, old sites will be restored to the natural state.
2. All land users shall assist communities and government(s) in identifying and protecting archaeological sites and carving-stone sites, as required by law.
3. Generally, low-level flights by aircraft at less than 300 metres should not occur where they will disturb wildlife or people. If such flights are necessary, they should only take place after consultation with the appropriate communities. All land users are responsible for reporting to the land managers any illegal or questionable low-level flight.
4. All activities on the land will be conducted in such a fashion that the renewable resources of the area in question are conserved.
5. Whenever practicable, and consistent with sound procurement management, land users will follow the practice of local purchase of supplies and services.
6. Land users will establish working relationships with local communities and respect the traditional users of the land.
7. During the caribou calving, post-calving and migrating seasons, land use activities should be restricted to avoid disturbing caribou, in general, and activities will be governed more specifically by caribou protection measures such as those contained in Appendix I.
8. Artifacts must be left where they are found. All land users are responsible for reporting the location of, or any removal or disturbance of artifacts, to CLEY.
9. The mining industry is encouraged to assist in identifying local carving-stone deposits and report any discoveries to the QIA. Industry is also encouraged to identify and report old waste sites that need to be cleaned up.
10. All land users shall obey the laws of general application applying to land use.

APPENDIX D: CARIBOU PROTECTION MEASURES⁴⁷

MBRLUP

DIAND⁴⁸

1. (a) The Permittee shall not, without approval, conduct any activity between May 15 and July 15 within the North Baffin region.

(b) A Permittee may, upon approval by the Land Use Inspector (DIAND) or Land Manager (QIA), operate within the North Baffin region beyond the May 15 deadline set out in 1(a), provided that when caribou cows are approaching the area of operation, the Permittee will implement 1 (c).

(c) During the period of May 15 to July 15, the Permittee will suspend all operations, particularly blasting, overflights by aircraft at any altitude of less than 300 metres above ground level, and the use of snowmobiles and ATV's (all-terrain vehicles) outside the immediate vicinity of the camp, and all personnel will remain quietly in camp or, upon advice from the Land Use Inspector (DIAND) or Land Manager (QIA), the Permittee will remove all personnel from the site who are not required for the maintenance and protection of the camp facilities and equipment.

(d) The Permittee may resume activities prior to July 15 if the caribou cows have ceased to use the area for calving or post-calving.
2. (a) During migration of caribou, the Permittee shall not locate any operation so as to block or cause substantial diversion to migrating caribou.

(b) The Permittee shall cease activities that may interfere with migration, such as airborne geophysics surveys or movement of equipment, until the migrating caribou have passed.
3. The Permittee shall not, between May 15 and September 1, construct any camp, cache any fuel or conduct blasting within 10 km, or conduct any diamond drilling operation within 5 km, of any "Designated Crossing" as outlined on the map annexed to a Land Use Permit.
4. Concentrations of caribou should be avoided by low-level aircraft at all times.

⁴⁷ Caribou Protection Measures (Qamanirjuaq and Beverly Herds) 1988. DIAND

Schedule 2



Interpretation

North Baffin Regional Land Use Plan

Terms 3.5.10, 3.5.11 and 3.5.12

This plan interpretation is necessary as the procedure required under the North Baffin Regional Land Use Plan (NBRLUP) for proposed projects involving transportation and/or communications corridors diverges from the standard operational practices of both the Nunavut Planning Commission (NPC) and the Nunavut Impact Review Board (NIRB).

Under Part 3.5, Marine and Terrestrial Transportation, of the NBRLUP there are a number of issues, objectives and terms associated with the management of transportation and communications corridors. A “corridor” is considered to be any linear development, public or private, established for transportation or communication purposes.

Specifically relating to the application and review of project proposals that involve the establishment of new transportation or communications corridors the NBRLUP contains: Terms 3.5.10; 3.5.11; 3.5.12; Appendix J - Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment; and Appendix K – Marine and Terrestrial Transportation / Communications Corridor Guidelines.

Term 3.5.10 states that:

While ensuring the respect of applicable Canadian international obligations in the region, the NPC shall implement the concept of a transportation and/or communications “corridor” as a land use policy having general application, and applying to land and water routes throughout the region, based on the processes outlined in Appendices J and K.

Term 3.5.11 states that:

All parties wishing to develop a transportation and /or communications corridor shall submit to the NPC a detailed

application for an amendment. This application must include an assessment of alternative routes, plus the cumulative effects of the preferred route. It shall provide reasonable options for other identifiable transportation and utility facilities.

Term 3.5.12 states that:

The NPC, and either NIRB or a panel acting under section 12.4.7 of the NLCA, shall publicly review the proposed corridor to determine whether the proposal adequately meets the guidelines set out in Appendices J and K. Once it is determined that a proposal does meet the guidelines, the NPC may request the ministers to amend the plan to include the new transportation corridor.

According to these Terms, all project proposals that involve the establishment of new transportation or communications corridors will trigger two processes under the NBRLUP. The first process is the submission of a formal application to amend the NBRLUP including an assessment of alternative routes and cumulative impacts. The information required is set out under Appendix J. The second process is a joint public review of the information required under Appendix J and Appendix K of the NBRLUP by the NPC and NIRB or an appropriate panel to determine that the proposal meets the designated guidelines.

In summary, the Term 3.5.10 establishes, as a broad land use planning policy, the concept of a corridor which applies special terms to certain Transportation and Communications land use activities. These special terms are contained in NBRLUP Appendices J and K.

Term 3.5.11 requires that any proposal for a transportation or communications corridor include an application for a formal plan amendment. This application must provide all information required by Term 3.5.11 and Appendix J of the plan. This application would be provided to the NPC as part of NIRB's Nunavut Land Claims Agreement (NLCA) 12.4.7 information requirements.

Term 3.5.12 requires that the corridor will be reviewed publicly by NPC and either NIRB or a panel as set out under NLCA 12.4.7. The NPC and NIRB will review the proposal to ensure the project proponent has provided the information required by Appendix J and that the planning guidelines provided in Appendix K have been met. Once the NPC and NIRB determine the proposal meets the designated requirements the

NPC would then process the amendment in accordance with NLCA 11.6.3.

In closing the approach provided in the NBRLUP respecting the establishment of new transportation or communications corridors is distinct from the standardized practices of both the NPC and NIRB. Plan amendments are approached in a unique manner and project reviews of “corridors” will be conducted jointly by the NPC and NIRB. Project proponents are advised to make their applications in accordance with the special processes and terms set out in the NBRLUP and as described in the this plan interpretation.

APPENDIX J

Marine and Terrestrial Transportation/Communications Corridor Alternative Route Assessment

Applicants wishing to develop a transportation and/or communications corridor in the North Baffin region are required to provide the NPC with the following information:

1. A description of the proposed corridor, including its use, its general routing, the possible environmental and social impacts, and any seasonal considerations that may be appropriate.
2. A comparison of the proposed route with alternative routes in terms of environmental and social factors as well as technical and cost considerations.
3. An assessment of the suitability of the corridor for the inclusion of other possible communication and transportation initiatives (roads, transmission lines, pipelines, etc.). This assessment should include:
 - the environmental, social and terrain engineering consequences, and the cumulative impacts of the project, and
 - the environmental and social impact of the project on nearby settlements or on nearby existing and proposed transportation systems.

APPENDIX K

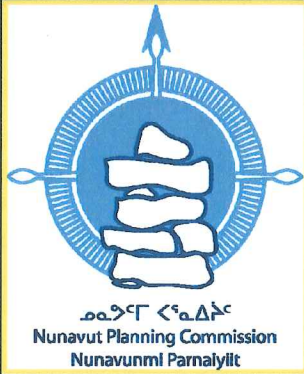
Marine and Terrestrial Transportation/Communications Corridor Guidelines

The following planning guidelines will be used in the assessment of a new transportation / communications corridor proposal:

1. The corridor width shall be a function of:
 - the number and type of identified facilities within the corridor;
 - physical and biophysical conditions;
 - availability of detailed engineering data for one or more transportation modes within the corridor;
 - safe distances between different facilities within the corridor; and
 - aesthetics.
2. Corridors shall:
 - minimize negative impacts on community lifestyles;
 - improve access to other resources having high potential for development, while still maintaining the shortest practicable distance between the primary resource areas and the trans-shipment location;
 - be designed in accordance with existing and prospective land use capability including topography, soil, permafrost and wildlife; and
 - be designed in accordance with the availability of granular supplies.
3. In keeping with existing legal and legislative requirements, including the NLCA, corridors shall not negatively impact:
 - community business, residential and projected expansion areas;
 - important fish and wildlife harvesting areas;
 - key habitat for fish and wildlife species, especially areas used by endangered species;
 - areas of high scenic, historic, cultural and archaeological value.

Schedule 3

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Nunavut Petroleum Workshop
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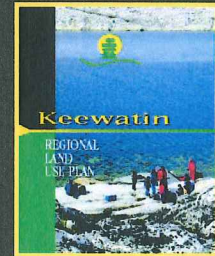
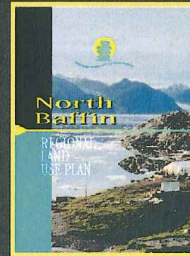


Due to previous commitments it is with regret that the Nunavut Planning Commission (NPC) is unable to attend this important workshop.

The NPC looks forward to working with the petroleum sector over the coming months.

The Nunavut Planning Commission has two approved regional land use plans

Both the North Baffin and Keewatin plans were prepared during the late 1980s. The plans were updated to reflect the provisions of the Nunavut Land Claims Agreement (NLCA) and approved in June 2000.



Nunavut Land Use Plan

- Article 11.5.1 of the NLCA requires that the NPC develop a single land use plan for the Nunavut Settlement Area.
- The NPC is working with Indian and Northern Affairs Canada (INAC), Government of Nunavut (GN) and Nunavut Tunngavik Incorporated (NTI) to accelerate the planning process to implement the NLCA 11.5.1 obligation.



Funding Challenge



The NPC is working with INAC, GN and NTI in hopes of acquiring additional funding to accelerate the NLUP planning process.



Nunavut Land Use Plan

- Once the Nunavut Land Use Plan (NLUP) is complete it will replace both the North Baffin and Keewatin Regional Land Use Plans.
- The NLUP will reflect the current goals of Nunavummiut and take into account changing economic trends and opportunities.



Accelerated Land Use Planning Process



- The NPC is proposing that, under an accelerated process, a draft NLUP could be completed within a 2 year period.



Until the Nunavut Land Use Plan is approved

North Baffin Land Use Plan

- Does the North Baffin Land Use Plan place a prohibition on year round shipping in the planning region?

No. Although there is a general statement in the plan to the contrary there are no terms implementing a prohibition on year round shipping.



North Baffin Land Use Plan

- Would year round shipping be considered as a "new" transportation corridor and be subject to 3.5.10 – 3.5.12?

Depends. If the route is an existing marine shipping route [i.e the Northwest Passage (NWP)] then it would be grandfathered. If a new route is proposed to connect to the NWP then the portion that is new would be a new corridor. New corridors are assessed under NLCA 12.4.7 as part of the NIRB Environmental Assessment (EA) process.



North Baffin Land Use Plan

- Would a pipeline corridor on Melville Island be considered as a "new" transportation corridor and be subject to 3.5.10 – 3.5.12?

If there is no pipeline existing in the location proposed on Melville Island then yes it would be a new corridor. Corridors are assessed under NLCA 12.4.7 as part of the NIRB EA process.



Keewatin Regional Land Use Plan

- What would be the process for lifting the moratorium on hydrocarbon exploration in the area encompassing southern Southampton Island and Coats Island?

continued



The NPC received a request from the Hamlet of Coral Harbour to amend the Keewatin Regional Land Use Plan to remove the moratorium.

The NPC has advised the Hamlet that the moratorium will be addressed as part of the Nunavut Land Use Plan process.



Keewatin Regional Land Use Plan

- What is the status of the National Wildlife Area envisioned for Coats Island?

The Term 2.4 is related to the Canadian Wildlife Service (CWS). If the CWS proceeds with the establishment of a conservation area on Coats Island the proposal will require the approval of the people of Coral Harbour.

Questions regarding the status of this proposal will need to be directed to the CWS.



Summary

- The NPC has proposed that with additional funding the NLUP planning process could be accelerated.
- Completion of the NLUP within 2 years will also require cooperative relationships and a shared vision to complete land use planning in Nunavut.
- The NPC is working with INAC, GN and NTI to develop an accelerated land use planning process.
- The Nunavut Land Use Plan will replace the North Baffin and Keewatin Land Use Plans.
- The Nunavut Land Use Plan will contain the current goals of Nunavummiut and reflect changing economic trends and opportunities.



Thank you



**For Additional Information Contact
Nunavut Planning Commission
Sharon Ehloak, Executive Director
1-867-983-4625**

Schedule 4



Appendix 1B-4 - Concordance with EIS Guidelines (Appendices J and K of the North Baffin Regional Land Use Plan)

Guideline Section	Guideline Section Reference	Guideline Content	EIS Volume Reference	EIS Section / Appendix Reference	Addendum to FEIS
Appendix J	Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment - Applicants wishing to develop a transportation and/or communications corridor in the North Baffin region are required to provide the NPC with the following information:				
Appendix J 1	Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment	• A description of the proposed corridor, including its use, its general routing	Vol 3	Sec 2.5, Sec 3.5	Vol 3, Sec 2.2, 2.3 and 2.4
		• the possible environmental and social impacts,	Vol 4 to Vol 7 inclusive and Vol 9	All sections	Vol 1, Sec 12; Vol 4 to Vol 9
		• any seasonal considerations that may be appropriate.	Vol 3	Sec 3.5.3.4	Vol 3, Sec 2.4
Appendix J 2	Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment	• A comparison of the proposed route with alternative routes in terms of environmental and social factors as well as technical and cost considerations.	Vol 3	Sec 6.5.3, Sec 6.7.3	No Change
			Vol 3, Appendix 3E	Railway Information	No Change
Appendix J 3	Marine and Terrestrial Transportation / Communications Corridor Alternative Route Assessment	An assessment of the suitability of the corridor for the inclusion of other possible communication and transportation initiatives (roads, transmission lines, pipelines, etc.). This assessment should include:			
		• the environmental, social;	Vol 4 to Vol 7 inclusive and Vol 9	All sections	Vol 4 to Vol 9
		• and terrain engineering consequences;	Vol 3	Sec 6.5.3 - 6.5.6	Vol 3, Sec 2.2, 2.3 and 2.5
			Vol 6	Sec 2.0	Vol 6, Sec 2.0
			Vol 9	Sec 2.0	Vol 9, Sec 2.0
		• and the cumulative impacts of the project; and,	Vol 9	Sec 1.0	Vol 9, Sec 1.0
		• the environment and social impact of the project on nearby settlements, or;	Vol 4 to Vol 7 inclusive and Vol 9	All sections	Vol 4 to Vol 9 All sections
		• on nearby existing and proposed transportation systems.	Not applicable - see Note 1		N/A - See Note 1
Note 1. There are no nearby or proposed transportation systems other than those related to Baffinland's activities.					

Appendix 1B-4 - Concordance with EIS Guidelines (Appendices J and K of the North Baffin Regional Land Use Plan)

Guideline Section	Guideline Section Reference	Guideline Content	EIS Volume Reference	EIS Section / Appendix Reference	Addendum to FEIS
Appendix K	Marine and Terrestrial Transportation / Communications Corridor Guidelines - The following guidelines will be used in the assessment of a new transportation / communications corridor proposal:				
Appendix K 1	Marine and Terrestrial Transportation / Communications Corridor Guidelines	The corridor width shall be a function of:			
		• the number and type of identified facilities within the corridor;	Vol 3	Sec 2.5, Sec 3.5	Vol 3, Sec 2.2 and 2.3; Appendix 3C
		• physical and biophysical conditions;	Vol 3	Sec 2.5	Sec 2.2
			Vol 3 Appendix 3E	All	Vol 3, Sec 2.2 & Appendix 3C
			Vol 6	Sec 2.0	Vol 6, Sec 2.0
		• availability of detailed engineering data for one or more transportation modes within the corridor;	Vol 3, Appendix 3E	All	Vol 3, Appendix 3C
		Vol 3, Appendix 3B	Attachement 7		
• safe distances between different facilities within the corridor; and	Vol 3, Appendix 3E	alignment drawings			
• aesthetics.	Vol 6	Sec 2.4.3	Vol 6, Sec 2.0		
Appendix K 2	Marine and Terrestrial Transportation / Communications Corridor Guidelines	Corridors shall:			
		• minimize negative impacts on community lifestyles;	Not applicable - see Note 1		No Change
		• improve access to other resources having high potential for development, while still maintaining the shortest practicable distance between the primary resource areas and the trans-shipment location;	Vol 3	Sec 6.5.3 - 6.5.6	Vol 3, Sec 2.2 and 2.3; Appendix 3C
		• be designed in accordance with existing and prospective land use capability including topography, soil, permafrost and wildlife; and,	Vol 3, Appendix 3B	Attachement 12	Vol 3, Sec 2.2 and 2.3; Appendix 3C
		• be designed in accordance with the availability of granular supplies.	Vol 3	Sec 2.5	Vol 3, Sec 2.2 and 2.3; Appendix 3C
			Vol 6, Appendix 6B-3	Railway Quarries	No Change
Appendix K 3	Marine and Terrestrial Transportation / Communications Corridor Guidelines	In keeping with existing legal and legislative requirements, including the NLCA, corridors shall not negatively impact:			
		• community, business, residential and projected expansion areas;	Not applicable - see Note 1		No Change
		• important fish and wildlife harvesting area,	Vol 6	Sec 5.0 & 5.1	Vol 6, Vol 7 and Vol 8
			Vol 7	Sec 4.4	
			Vol 3, Appendix 3B	Attachment 7	
		• key habitat for fish and wildlife species, especially areas used by endangered species; and,	Vol 6	Sec 5.2	Vol 6, Vol 7 and Vol 8
			Vol 7	Sec 4.0	
			Vol 3, Appendix 3B	Attachment 7	
		• areas of high scenic, historic, cultural, and archaeological value.	Vol 6	Sec 2.4.3 & 2.4.4	Sec 2.0
			Vol 4	Sec 9.0, Supporting Figures, Figure 4-9.6 to 4-9.9	
Note 1. There are no nearby or proposed transportation systems other than those related to Baffinland's activities.					