



March 24, 2014

Nunavut Planning Commission
PO Box 1021
Cambridge Bay, NU
X0B 0C0

Attention: Sharon Ehloak, Executive Director
Brian Aglukark, Director of Plan Implementation

Re: Conditional Conformity Review of the Early Revenue Phase ("ERP") of the Mary River Project

Dear Ms. Ehloak and Mr. Aglukark

Thank you for the opportunity to provide Baffinland Iron Mines Corporation ("**Baffinland**")'s comments on the Nunavut Impact Review Board ("**NIRB**") Public Hearing Report dated March 2014 (the "**NIRB Reconsideration Report**"), as well as the NIRB February 24, 2014 summary report (the "**NIRB NPC Report**") in respect of the Nunavut Planning Commission (the "**NPC**")'s consideration of potential amendments to the North Baffin Regional Land Use Plan ("**NBRLUP**").

As per Baffinland's submissions to the NPC of January 31, 2014 (the "**Baffinland NPC Submission**"), it continues to be Baffinland's view that the ERP does not propose the development of any new transportation corridors and that no amendment to the NBRLUP should be required in order to proceed with the use of the marine transportation corridor shown on Figure 1-1.1 in both the FEIS and the FEIS Addendum and Milne Inlet Tote Road (the "**ERP Transportation Corridors**") during the ERP. The ERP Transportation Corridors are well-established existing transportation routes.

However, if the NPC determines that an amendment to the NBRLUP is required in order to permit the use of the ERP Transportation Corridors, Baffinland submits that its application meets the requirements of Appendices J and K of the NBRLUP. Baffinland also submits that an amendment to the NBRLUP would be consistent with the factors referred to in section 7 of the NBRLUP (including chapters 1 and 3), and that the NPC should make a recommendation to the Ministers to amend the NBRLUP to include the use of the ERP Transportation Corridors (or the additional development of these corridors).

In addition to the Baffinland NPC Submission, Baffinland submits the following with respect to the NIRB Reconsideration Report and the NIRB NPC Report.

In the NIRB NPC Report, the NIRB outlined information relevant for the NPC arising during the NIRB's assessment and reconsideration and advised NPC that in the NIRB's view, the requirements of Appendix K that can be addressed by the NIRB in the assessment of the ERP Proposal as established under the joint review have been met. At the time the NIRB NPC Report was released, the NIRB had not yet released its final determinations with respect to the potential eco-systemic and socio-economic effects of the ERP Proposal and so the NIRB NPC

Report was necessarily limited to a summary of various comment submissions gathered during the NIRB process that were relevant to addressing the various requirements of Appendix J and K of the NBRLUP. The NIRB has since considered these submissions in making its conclusions in the NIRB Reconsideration Report, and has recommended specific terms and conditions to address the comment submissions of interveners (see Schedule A, attached).

In the NIRB Reconsideration Report, the NIRB provides a comprehensive assessment of the potential eco-systemic and socio-economic effects of the Early Revenue Phase Proposal and concludes that, *“if undertaken in accordance with the Board’s recommended limits and mitigation measures (as expressed in new and revised terms and conditions to the existing Project Certificate), the Early Revenue Phase Proposal can proceed in a manner that will protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and protect the eco-systemic integrity of the Nunavut Settlement Area.”* The NIRB proceeds to make the following recommendation to the Minister of Aboriginal and Northern Affairs:

After due consideration and in accordance with the process for reconsidering an existing Project Certificate established under Article 12, Part 8, Section 12.8.2 of the Nunavut Land Claims Agreement and reflecting the primary objectives of the Nunavut Land Claims Agreement, the Board has determined that Baffinland Iron Mines Corporation’s Early Revenue Phase Proposal, NIRB File No.: 08MN053 can proceed in accordance with the Board’s Public Hearing Report and [is] recommended.

With the conclusion of the NIRB process, Baffinland submits that the NPC now has all relevant information required in order to proceed with a positive determination in relation to the ERP Transportation Corridors.

Baffinland wishes to thank the NPC and all participants in the NPC Conditional Conformity Review, and looks forward to the NPC’s determination.

Yours truly,



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

cc: Mr. Ryan Barry, Executive Director, NIRB
Mr. Ian Gray, Regional Director, AANDC
Ms. Karen Costello, Director, AANDC
Mr. Stephen Bathory, Director, Major Projects, QIA
Mr. Damien Cote, Executive Director, NWB
Mr. Pauloosie Suvega, Assistant Deputy Minister, GN
Mr. Justin Buller, Manager of Lands, GN

Schedule A

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
Meteorology and Climate (including Climate Change)	<p>Terms and conditions 1 through 6 of the existing Project Certificate address Meteorology and Climate (including Climate Change).</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 2-6.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 1.</p> <p>Condition 1: revised to explicitly include monitoring and installation of tidal gauges at Milne Inlet Port site pursuant to recommendations of the QIA and the Proponent.</p> <p>There are no new terms and conditions to be added to the Meteorology and Climate (including Climate Change) section.</p>
Air Quality	<p>Terms and conditions 7 through 12 of the existing Project Certificate address Air Quality.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 11 and 12.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 7-10.</p> <p>Condition 7: revised to focus monitoring at project port sites, including Milne Port and address EC's recommendation that continuous monitoring through several seasons rather than passive monitoring be implemented to determine if hourly exceedances occur.</p> <p>Condition 8: revised to include monitoring of SO₂ and NO₂ emissions at Milne Port.</p> <p>Condition 9: revised to include a requirement for the calculation of greenhouse gas emissions associated with Milne Port.</p> <p>Condition 10: revised to include the Milne Inlet Tote Road and roads leading to the Tote Road in the Dust Monitoring and Management Plan.</p> <p>There are no new terms and conditions to be added to the Air Quality section.</p>
Noise and Vibration	<p>Terms and conditions 13 through 15 of the existing Project Certificate address Noise and Vibration.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>The following existing terms and conditions require no changes but should be applied to the ERP: 13 and 14.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 15.</p> <p>Condition 15: revised to include reference to the Milne Inlet Tote Road and project-related shipping.</p> <p>The following new terms and conditions are to be added to the Noise and Vibration section:</p> <ol style="list-style-type: none"> 1. The Proponent, through coordination with the MEWG as may be appropriate, shall demonstrate appropriate adaptive management for construction activities at Milne Inlet that have the potential to disrupt marine mammal species, including pile driving and ore dock construction, are undertaken. 2. The Proponent, through coordination with the TEWG as may be appropriate, shall demonstrate appropriate adaptive management for project activities during operations which have the potential to produce noise and sensory disturbance to wildlife and other users of project areas.
Hydrology and Hydrogeology	<p>Terms and conditions 16 through 19 of the existing Project Certificate address Hydrology and Hydrogeology.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 17, 18 and 19.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 16.</p> <p>Condition 16: amended to include diversion of runoff into watercourses from port sites.</p> <p>There are no new terms and conditions to be added to the Hydrology and Hydrogeology section.</p>
Groundwater/Surface Waters	<p>Terms and conditions 20 through 24 of the existing Project Certificate address Groundwater/Surface Waters.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 20, 22, 23 and 24.</p> <p>The following existing term and condition require minor revision and should be applied to the ERP: 21.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>Condition 21: note that revisions have been included within the Freshwater Aquatic Environment Including Biota and Habitat VEC, Section 4.8.4 of this report.</p> <p>There are no new terms and conditions to be added to the Groundwater/Surface Waters section.</p>
Landforms, Geology and Geomorphology, Soils and Permafrost	<p>Terms and conditions 25 through 30 of the existing Project Certificate address Landforms, Geology and Geomorphology, Soils and Permafrost.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 25-30.</p> <p>There are no new terms and conditions to be added to the Landforms, Geology and Geomorphology, Soils and Permafrost section.</p>
Vegetation	<p>Terms and conditions 31 through 40 of the existing Project Certificate address Vegetation.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 31 through 40.</p> <p>The Board has not identified any new terms or conditions that should be added to the Vegetation section.</p>
Freshwater Aquatic Environment Including Biota and Habitat	<p>Terms and conditions 41 through 48 of the existing Project Certificate address potential impacts to Freshwater Aquatic Environment including Biota and Habitat.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 41 through 48.</p> <p>The following new terms and conditions should be added to the Freshwater Aquatic Environment including Biota and Habitat section:</p> <ol style="list-style-type: none"> 1. The Proponent shall develop plans to conduct additional surveys for the presence of arctic char in freshwater bodies and ongoing monitoring of arctic char health where applicable, within watersheds proximal to the mine, tote road and Milne Inlet Port project development areas, including but not limited to, Phillips Creek, Tugaat and Qurluktuk. The Proponent shall consult with the MHTO regarding the design, timing, and location of proposed surveys and ongoing monitoring. <p>The following existing terms and conditions from the Groundwater/Surface Water VEC apply to the preceding discussion and require minor revision and should be applied to the ERP: 21.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>Condition 21: include amendments to the Proponent's Aquatic Effects Monitoring Program to include dust fall monitoring as follows:</p> <ul style="list-style-type: none"> a) To establish a pre-trucking baseline and collect data during Project operation for comparison; a) To facilitate comparison with existing guidelines and potentially with thresholds to be established using studies of Arctic char egg survival and/or other studies recommended by the Marine Environment Working Group (MEWG); and, b) To assess the seasonal deposition (rates, quantities) and chemical composition of dust entering aquatic systems along representative distance transects at right angles to the Tote Road and radiating outward from Milne Port and the Mine Site.
<p>Terrestrial Wildlife and Habitat</p>	<p>Terms and conditions 49 through 64 of the existing Project Certificate address potential impacts to Terrestrial Wildlife and Habitat.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 49, 50, 52, 55-57, 60-64.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 51, 53, 54, 58 and 59.</p> <p>Condition 51: revised to highlight the need for Baffinland to coordinate with/support regional monitoring initiatives for North Baffin caribou which will address areas of uncertainty for Project impact predictions.</p> <p>Condition 53: revised to clarify the expectation for Baffinland to develop specific mitigation measures in collaboration with the Terrestrial Environment Working Group, with clarification provided to ensure application to the Milne Inlet Tote Road during all seasons.</p> <p>Condition 54: revised to clarify the expectation for Baffinland to develop specific mitigation measures in collaboration with the Terrestrial Environment Working Group, with clarification provided to ensure application to the railway and Milne Inlet Tote Road.</p> <p>Condition 58: revised to clarify expectations associated with reporting on potential effects of the railway, road traffic, air traffic, and dust fall.</p> <p>Condition 59: revised to include a requirement for Baffinland to develop a program or specific measures, in collaboration with the Terrestrial Environment Working Group, to ensure that employees</p>

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	<p>and subcontractors providing aircraft services to the Project are respectful of wildlife and Inuit harvesting that may occur in and around project areas.</p> <p>There are no new terms and conditions to be added to the Terrestrial Wildlife and Habitat section.</p>
Birds	<p>Terms and conditions 65 through 75 of the existing Project Certificate address potential impacts to Birds.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 65 through 75.</p> <p>While existing terms and conditions 106, 107, and 108 appear in the Project Certificate section relating to the Marine Wildlife and Marine Habitat, the Board recommends slight modifications as follows to address the concerns set out in the preceding section:</p> <p>Condition 107: amended to apply this condition to the northern shipping route and to seabirds and sea ducks as appropriate to determine the presence of such species.</p> <p>Condition 108: amended to also apply to the northern shipping route and to seabirds and sea ducks as appropriate to analyze impacts to bird species from the ERP activities.</p> <p><i>Note: Condition 106 has been revised to reflect the preceding section; however additional revisions were proposed and have been included in the Marine Wildlife and Marine Habitat, Section 4.12.4.</i></p>
Marine Environment, Marine Water/Ice and Sediment Quality	<p>Terms and conditions 76 through 98 of the existing Project Certificate address Marine Environment, Marine Water/Ice and Sediment Quality.</p> <p>The following existing terms and conditions require no changes: 78, 82, 84, 85, and 93-96.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 76, 79-81, 92 and 98.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 77, 83, 86-91, and 97.</p> <p>Condition 77: revised to add Parks Canada and the Mittimatalik Hunters and Trappers Organization to the membership of the Marine Environment Working Group.</p> <p>Condition 83: revised to add Milne Inlet to the requirements for the installation of tidal gauges.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>Condition 86: revised to add Milne Inlet to the requirements for ballast water discharge modelling.</p> <p>Condition 87: revised to add Milne Inlet to the requirements for ballast water discharge monitoring.</p> <p>Condition 88: revised to not only apply to the Early Revenue Phase Proposal but also to incorporate updated risk assessment data received from Fisheries and Oceans Canada at the Public Hearing.</p> <p>Condition 89: revised to not only apply to the Early Revenue Phase Proposal but also to require ship owners to test their ballast water to confirm that it meets the salinity requirements of the applicable regulations prior to discharge at the Milne Port and to give preference to contract shippers with ballast water treatment capabilities.</p> <p>Condition 90: revised to expressly reference the applicable regulatory regime as it may change over time.</p> <p>Condition 91: revised to expressly reference the applicable regulatory regime as it may change over time.</p> <p>Condition 97: revised to require additional spill dispersion modelling along the Northern and Southern shipping routes in consultation with the Marine Environment Working Group.</p> <p>The Board has added term and condition 83(a) to address the potential for sediment redistribution and shoreline effects associated with the construction and operation of ore shipping from Milne Inlet Port which is worded as follows:</p> <p>The Proponent shall conduct hydrodynamic modelling in the Milne Inlet Port area to determine the potential impacts arising from disturbance to sediments including re-suspension and subsequent transport and deposition of sediment. The modelling results shall be used to update the marine water and sediment quality monitoring and mitigation program to include activities associated with the construction of the Milne Inlet port. The monitoring program shall include an ongoing assessment of the potential introduction of metals that bio-accumulate in the marine food chain.</p>
Marine Wildlife and Marine Habitat	Terms and conditions 99 through 128 of the existing Project Certificate address potential impacts to Marine Wildlife and Marine Habitat.

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>The following existing terms and conditions require no changes: 119</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 100, 103, 111, 112, 117, 120-124, and 126-128.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 99, 101, 102, 104-109, 110, 113-116, 118, and 125.</p> <p>Condition 99: revised to apply establishment of baseline data and monitoring of marine wildlife species in the area of Milne Inlet and the ERP shipping route.</p> <p>Condition 101: revised to clarify expectations for conducting shore based narwhal observations in Milne Inlet.</p> <p>Condition 102: revised to address the northern shipping route for the ERP and remove the requirement for annual submission of ship track summaries.</p> <p>Condition 104: revised to address the northern shipping route for the ERP and clarify expectations for reporting of shipping route deviations.</p> <p>Condition 105: revised to include mitigation measures for marine mammal interactions specific to the northern shipping route for the ERP.</p> <p>Condition 106: revised to address the northern shipping route for the ERP and clarify expectations for considering the function of shipboard monitors for any ore carriers purpose-built for the Project.</p> <p>Condition 109: revised to address the northern shipping route for the ERP and better reflect the associated seasonality of the shipping season.</p> <p>Condition 110: revised to extend the development of monitoring protocols for the Project to the northern shipping route associated with the ERP.</p> <p>Condition 113: revised to extend the required monitoring of Arctic Char to include Milne Inlet.</p> <p>Condition 114: revised to extend the required monitoring of Arctic Char to include the Milne Inlet and Eclipse Sound areas in the event of the development of a commercial fishery.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>Condition 115: revised to reflect the changed Fisheries Act requirements relating to offsetting of serious harm to fish.</p> <p>Condition 116: revised to clarify expectations with regards to the development of mitigation measures related to blasting and marine fish and fish habitat.</p> <p>Condition 125: revised to address the northern shipping route and development at Milne Inlet for the ERP, and to clarify expectations for consultation with potentially-affected communities.</p> <p>Condition 107: amended to apply this condition to the northern shipping route and to seabirds and sea ducks as appropriate to determine the presence of such species.</p> <p>Condition 108: amended to also apply to the northern shipping route and to seabirds and sea ducks as appropriate to analyze impacts to bird species from the ERP activities.</p> <p><i>Note: Conditions 107 and 108 have been revised to reflect the Birds Section 4.10.4 Board recommendations.</i></p> <p>The following new term and condition 125 (a) should be added to the Marine Wildlife and Marine Habitat section: 1. The Proponent shall consult with potentially-affected communities and groups, particularly Hunters' and Trappers' Organizations regarding the identification of project vessel anchor sites and potential areas of temporary refuge for project vessels along the shipping routes within the Nunavut Settlement Area. Feedback received from community consultations shall be incorporated into the most appropriate mitigation or management plans.</p>
Education and Training	<p>Terms and conditions 135 through 141 of the existing Project Certificate address Education and Training.</p> <p>The following existing terms and conditions require no changes: 135, 136, 137, 138, 139, 140 and 141.</p> <p>The Board has not identified any new terms or conditions that should be added to this section.</p>
Livelihood and Employment	<p>Terms and conditions 142 through 147 of the existing Project Certificate address Livelihood and Employment.</p> <p>The following existing terms and conditions require no changes and should be applied to the ERP: 142, 143, 144, 145, 146 and 147.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>Term and condition 139 of the Population Demographics section of the existing Project Certificate applies to the ERP and should be amended:</p> <p>Condition 139: amend wording to require an updated Labour Market Analysis which considers requirements of ERP as well as hiring points within Nunavut and outside of the North Baffin region and RSA.</p> <p>The Board has not identified any new terms or conditions that should be added to this section.</p>
Economic Development and Self-Reliance, and Contracting and Business Opportunities	<p>Terms and Conditions 148 through 152 of the existing Project Certificate address Economic Development and Self-Reliance, and Contracting and Business Opportunities.</p> <p>The following existing Terms and Conditions require no changes but should be applied to the ERP: 148, 151 and 152.</p> <p>The following existing Terms and Conditions require minor revision and should be applied to the ERP: 149 and 150.</p> <p>The Board has not identified any new terms or conditions that should be added to this section.</p>
Human Health and Well-being	<p>The Board recognizes the Proponent's commitment to providing adequate medical services on site, and further recommends the following:</p> <ol style="list-style-type: none"> 1. The Proponent is encouraged to employ a qualified mental health professional to provide counseling to Inuit and non-Inuit employees in order to positively contribute toward employee health and well-being. 2. The Proponent is encouraged to extend access to a qualified mental health professional to the families of employees that are experiencing significant changes to their home life associated with a family member's employment at the ERP. <p>Terms and Conditions 153 through 157 of the existing Project Certificate address Human Health and Well-Being.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 153-157.</p> <p>The Board has not identified any new terms or conditions that should be added to this section.</p>
Culture, Resources and Land Use	<p>Terms and Conditions 162 through 166 of the existing Project Certificate address Culture, Resources and Land Use.</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	<p>The following existing terms and conditions require no changes but should be applied to the ERP: 162,163, 165, 166, 167.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 164</p> <p>Condition 164: amend wording to clarify that in addition to the information required to be provided to communities in the RSA on a monthly basis, the Proponent is required to provide information on scheduled ship transits throughout Eclipse Sound and Milne Inlet, real-time data regarding ships in transit and any changes to proposed shipping schedule or routing, to the MEWG and agencies within Pond Inlet on a weekly basis during open water shipping, and to the communities of the RSA on a monthly basis.</p> <p>The Board has not identified any new terms or conditions that should be added to this section.</p>
Accidents and Malfunctions	<p>Terms and conditions 170 through 177 of the existing Project Certificate address the potential for Accidents and Malfunctions.</p> <p>The following existing terms and conditions require no changes: 175.</p> <p>The following existing terms and conditions require no changes but should be applied to the ERP: 170, 172 and 174.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP: 171, 173, 176 and 177.</p> <p>The following existing terms and conditions require minor revision and should be applied to the ERP:</p> <p>Condition 173: revised to reference best practices and regulatory requirements for marine based fuel transfer events.</p> <p>There are no new terms and conditions to be added to the Accidents and Malfunctions section.</p>
Alternatives Analysis	<p>Term and condition 178 of the existing Project Certificate addresses the area of Alternatives Analysis.</p> <p>The Board had determined that existing term and condition 178 requires no changes.</p>
Cumulative Effects	<p>The following new term and condition, Condition 179 (c) should be added to a Cumulative Effects section:</p>

<u>Topic</u>	<u>NIRB Conclusions and Recommendations</u>
	When mining commences under both the Approved Project and the Early Revenue Phase Proposal, the total volume of ore mined from Deposit #1 in any given calendar year shall not exceed 18 million tonnes.
Operational Variability/Flexibility	<p>Term and condition 179 of the existing Project Certificate addresses Operational Variability/Flexibility.</p> <p>The following existing term and condition requires no changes: 179</p> <p>The following new terms and conditions Condition 179(a) and Condition 179(b) should be added to the Operational Variability/Flexibility section:</p> <p>Condition 179(a): In any given calendar year, the total volume of ore shipped via Milne Inlet, shall not exceed 4.2 million tonnes.</p> <p>Condition 179(b): In any given calendar year, the total volume of ore transported by truck on the Milne Inlet Tote Road shall not exceed 4.2 million tonnes.</p>