



Indian and Northern
Affairs Canada
www.inac.gc.ca

Affaires indiennes
et du Nord Canada
www.ainc.gc.ca

Nunavut Regional Office
P.O. Box 100
Iqaluit, NU, X0A 0H0

Your file - Votre référence
08053MN
Our file - Notre référence
5510-5-4-4 ; CIDM # 460974

May 6th, 2011

Ryan Barry
Director, Technical Services
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, NU, X0B 0C0

Via electronic mail to: info@nirb.ca

INAC's Response to QIA Information Requests regarding NIRB's review of Baffinland's Mary River Project.

Dear Ryan Barry,

On March 17, 2011 Indian and Northern Affairs Canada (INAC) received an Information Request submission from the Qikiqtani Inuit Association (QIA) to be considered in the NIRB's review of Baffinland's Mary River project proposal. INAC has responded to the following five information requests, which QIA directed to each of "Q-SEMC", All Parties, INAC and "All Responsible Authorities".

The proponent, in this case Baffinland, bears the responsibility to establish the relevant information and evidence to the satisfaction of the NIRB. It is therefore somewhat unusual for the NIRB to direct Information Requests—on subjects it has already directed the proponent to cover—to interveners. With specific reference to Information Request #33, INAC notes NIRB's guidelines to Baffinland for the development of its Environmental Impact Statement for this review:

The Proponent shall present its understanding of the regulatory regime in which it would be operating by identifying all relevant federal ... laws, regulations, [and] policies ... relating to Project approval, construction, operations, monitoring, and closure.... It shall further explain how such requirements would be met and what specific governmental permits and approvals would be required (at section 5.2).

Nonetheless, INAC will not ask the NIRB to rule on this issue at this time, and in these circumstances we are prepared to respond to some of the Information



Requests directed to us. As will be discussed below, some of the requests are not capable of being answered at this time.

Please note that these responses were developed to inform QIA of INAC's roles and activities in order to assist QIA to better engage in this review. However these responses are not for reliance by any person as a definitive statement of the application or non-application of any law. Moreover, all statements in respect of authorizations are contingent on the outcome of this review and the information gathered therein, as well as the satisfactory completion of the post-review permitting process.

QIA IR # 4

To: Baffinland, Q-SEMC and NIRB

Subject: Monitoring and Intervention

Request:

It is requested that, as partners in the Q-SEMC, the Proponent and Committee members comment on the expertise and support that each can provide to ensure that the Committee has the capacity to perform effective monitoring.

INAC Response:

As in the EA process, INAC's prime role on the Regional Socio-Economic Monitoring Committees is to offer support, information and insight that will help the SEMCs become established and fulfill their role as effective regional socio-economic monitoring bodies.

INAC is also able to assist in the following areas:

- Providing comments on socio-economic reports and information provided by Proponents (such as industry), SEMC members, and community representatives;
- Working with the Regional Chairs and SEMC members in preparing for meetings;
- Exchanging and coordinating information with our partners.

INAC has an interest in supporting the establishment of Q-SEMC and is keen to continue working with the GN, RIAs, Hamlets, Communities and other participants towards this goal. We look forward to supporting the following through our SEMC membership:

- The development of regional and community-based, project specific and cumulative socio-economic indicators
- Enhanced socio-economic data collection and monitoring programs (accurate and reliable information to be shared publicly).
- Contribute to the quality of future Impact Statements by verifying predictions contained within EA reports.
- Identifying positive and negative socio-economic impacts in the regions.



- Working together with our partners to identify relevant data gaps and approaches to filling them.
- Encouraging the Q-SEMC as an important venue to inform proponents on the development of project-specific socio-economic monitoring programs for annual reporting to NIRB.
- Working with our partners to develop a process for monitoring community perceptions of projects and resource developments.
- Validating community-specific data through the SEMC meetings.
- Consolidation of federal, territorial and municipal data for the purposes of the SEMC.
- To continuously incorporate new information into the monitoring frameworks used by SEMCs and other stakeholders, to track baseline data and analyze impacts of major projects on the communities of a particular region.
- On a broader, Territorial level, the Regional SEMCs also have a role to play in relation to Nunavut General Monitoring. As Nunavut General Monitoring will contribute to the knowledge base regarding the long term state and health of the socio-economic environment in the Nunavut Settlement Area, the Regional SEMCs will become increasingly relevant and important in supporting broader monitoring initiatives.

To contribute towards meeting these objectives, INAC supports our partners' leadership in socio-economic review, evaluations and monitoring and participates in project-specific, regional and Territorial monitoring initiatives.

QIA IR # 10

To: All Parties

Subject: Impact Assessment Thresholds

Request:

1. It is requested that the Proponent present rationale for the 10% and 20% thresholds.
2. It is requested that clarity be provided as to whether it is reasonable to apply the same 10% threshold to assess the broad range of different impacts found in the DEIS.

INAC Response:

Request number 2 appears to be a request for a conclusion rather than for additional information. The rationale presented by the Baffinland in response to this request will be reviewed and any comments INAC may make on this question will be presented with the technical submission made to NIRB at the end of the technical review period.

QIA IR # 18

To: Baffinland, DFO and INAC

Subject: Aquatic Baseline



Request:

3. It is requested that Interveners confirm if the aquatic baseline is sufficient for use in detecting whether changes are occurring and, if so, at what level?
4. It is requested that Interveners confirm whether natural variations be confidently differentiated from project-related effects?
5. It is requested that Interveners confirm if the designed monitoring program is robust enough to support the assessment of cumulative impacts by future projects?

INAC Response:

These appear to be requests for conclusions rather than for additional information. Any comments INAC may make on these issues will be presented with the technical submission made to NIRB at the end of the technical review period.

OIA IR # 33

To: All parties

Subject: Applicable Acts, Regulations, Guidelines, and, Policies

Request:

It is requested that each Responsible Agency provide a summary of the project components that will require their attention according to the mandates authorized unto them by their governing jurisdictions. It is requested that each Responsible Agency provide context into their role in inspection, monitoring, and enforcement activities with respect to their act/regulation.

INAC Response:

Provided below is a description of INAC's authorizations with respect to this project, our role in inspections, monitoring and enforcement activities in relation to these authorizations as well as our role as supporting our Minister in the NIRB review of this project.

Impact Assessment:

The *NLCA* is given the force of law by the *Nunavut Land Claims Agreement Act*. INAC supports our Minister in discharging his decision-making responsibilities in relation to this impact assessment process under the *Nunavut Land Claims Agreement Article 12*. We also support our Minister in his mandate under the *Department of Indian Affairs and Northern Development Act* to coordinate the several departments, boards and agencies of the Government of Canada in Nunavut, and to foster knowledge of the Canadian North and the sound stewardship of its development. This includes our participation in this review as an intervenor.

Interests in Land and Permitting Land Uses

The *Department of Indian Affairs and Northern Development Act* and the *Territorial Lands Act* allocate the administration of certain lands in Nunavut to the Minister of INAC. In this project proposal, several project components are situated on lands



administered by our Minister and will require an authorization from INAC Lands [NTD* proper name of division or title of officer] for activity with respect to the use of such lands. INAC has identified the following project components on INAC-administered land (please note this list may not be exhaustive or cover all situations):

- Any portion of Steensby Inlet Port facility on INAC-administered land
- An approximately 2km wide railway corridor on INAC-administered land
- A small portion of the Milne Inlet Tote haulage road on INAC-administered land (for initial permitting purposes only)
- Facilities at Milne Inlet on INAC-administered land; and
- Quarry pits in INAC-administered land.

The *Territorial Lands Act* and certain regulations thereunder apply to this project proposal's components on INAC-administered lands:

- *Territorial Land Use Regulations* (land use permits for all regulated activities on INAC-administered lands)
- *Territorial Lands Regulations* (leases of INAC-administered lands such as Steensby Port area and portion of the Milne Inlet Tote haulage road (for initial permitting purposes only))
- *Territorial Quarrying Regulations* (quarry leases and permits)

The Proponent will also need to acquire interests in INAC-administered lands for the railway corridor, and land use permits for the construction, maintenance, and reclamation of the railway and related infrastructure.

Lands – Inspection, Enforcement and Monitoring

The *Territorial Lands Act* authorizes inspection and enforcement activities to determine and ensure compliance with the terms of the Act, the applicable regulation(s) and the terms of the individual permit, and any applicable tenure instrument, required for each of the above components. In some cases, the tenure instrument will provide for the furnishing of financial security to ensure the reclamation of the component.

Water Use & Waste Deposits – Licensing

The *Nunavut Waters and Nunavut Surface Rights Tribunal Act* establishes a co-management regime for inland waters in Nunavut. INAC supports our Minister in discharging his responsibilities under that Act. This includes the decision to approve the issuance of any Type A water licenses, or in the case of a licence following a public hearing, a Type B license issued by the Nunavut Water Board under that Act. Any security ordered by the Nunavut Water Board in respect of the proponent's obligations under the Act and licence must also be furnished to our Minister, who may apply that security in accordance with the terms of the Act.

Our preliminary analysis has identified the following project components with implications for licensing under the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*:



- Project-wide water use and waste deposition, and management of each, related to construction, operation, and reclamation processes;
- Project-wide water management, runoff and pumped water
- At each of Mary River Camp, Milne Camp, Rail Camp and Steensby Camp:
 - Water use and waste deposits, including sewage facilities;
- Mining, with a focus on deposition of waste and water management;
- Ore stock piles at the mine site and at Steensby Inlet
- All solid waste disposal (landfill)
- All winter lake/stream crossing and ice bridges
- All earthworks, including roadworks, railworks and culverts, and storage pads with respect to the release of sediment and other waste into waters
- Fuel storage facilities (with respect to waste and runoff); and
- Progressive and post-closure reclamation activities in relation to all components.

Water Use & Waste Deposits – Inspection, Enforcement and Intervention

INAC's Water Resource Officers, appointed as Inspectors under the Act, have the authorities and discharge the inspection, direction and enforcement functions afforded to them by the Act. Our Minister has the intervention authorities afforded to him by the Act.

Socio-Economic and General Monitoring

In furtherance of our Minister's mandates under the *Department of Indian Affairs and Northern Development Act*, and the *Nunavut Land Claims Agreement Act* INAC participates in regional socio-economic monitoring initiatives and the Nunavut General Monitoring Plan initiative. Please see our response to Information Request #4 for a more detailed description of INAC's role in the Q-SEMC based socio-economic monitoring. With respect to general monitoring, INAC, the Government of Nunavut, Nunavut Tunngavik Inc. and Nunavut Planning Commission have developed a collaborative framework for general monitoring of the long term state and health of the ecosystemic and socio-economic environment in the Nunavut Settlement Area.

QIA IR # 35

To: All Responsible Authorities

Subject: Interactions with Communities

Request:

It is requested that each Responsible Agency with a permit, licence or other approval commit to presenting their role in the project assessment and operational setting for the proposed project. To assist with this commitment, QIA will commit to working with all Responsible Agencies to facilitate effective community interactions.



Indian and Northern
Affairs Canada

Affaires indiennes
et du Nord Canada

INAC Response:

INAC has requested further clarification from QIA with respect to the above information request. Upon receipt of further clarification INAC will prepare a response in a reasonable time frame.

INAC looks forward to working further with the NIRB and other parties on this project. Should you have any questions, please do not hesitate to contact me at 867-975-4549 or by email at margaux.brisco@inac-ainc.gc.ca.

Sincerely,

[original signed by]

Margaux Brisco
A/Manager, Environment