

**NIRB File No.: 08MN053**

QIA File No.: LUA-2008-008

AAND File No.: N2008T0014

DFO File No.: 2008 MR

NRCan File No.: NT-056

TC File No.: 7184-17-5

July 27, 2011

To: Mary River Distribution List

*Sent Via Email***Re: QIA Request for an Extension to the Deadline for Technical Review Comments for Baffinland's Mary River Project**

Dear Parties:

On July 21, 2011 the Nunavut Impact Review Board (NIRB or Board) received the enclosed correspondence from the Qikiqtani Inuit Association (QIA), requesting an extension to the deadline for the submission of technical review comments associated with the NIRB's Review of Baffinland Iron Mines Corp.'s (Baffinland or Proponent) Draft Environmental Impact Statement (EIS) for the Mary River Project proposal (the Project). Specifically, the QIA has requested that the comment deadline be extended from September 6, 2011 to October 5, 2011 in recognition of the additional time required to meet the constraints of its internal review process.

Although the NIRB does recognize the value of the initiative undertaken by the QIA to thoroughly involve members of potentially impacted communities into its development of technical review comments, the Board has concerns for the resulting implications on NIRB's ability to maintain efficient timelines throughout its impact assessment processes. The current timelines that have been developed by the NIRB for projects undergoing review are the product of extensive public consultation and efforts to ensure parity with other northern jurisdictions in the review of major development projects. While it is understood that timelines are approximate and must be adjusted to fit project-specific circumstances, the approach taken by the QIA for the development of its technical review comments would appear to disregard the expectations of the Proponent and other interveners which have made scheduling decisions against the anticipated timelines set out by the NIRB at the initiation of this Review and a number of times thereafter.

The NIRB must endeavour to ensure consistent timelines in the review of major development projects across all regions of the Nunavut Settlement Area. Given that the Board has commitments to adhere to for the ongoing review and monitoring of other projects, a deviation in the scheduling for the Mary River Review can also have implications for the scheduling for these other files. Likewise, the Board recognizes that other interveners participating in the Mary River

Review and the communities which are to host the Pre-Hearing Conferences must be consulted before altering the scheduled dates. As this is the case, prior to approving an extension to the current deadline for the submission of technical review comments, the NIRB will accept comments from parties until **August 4, 2011** regarding any potential scheduling conflicts or other matters that warrant consideration. During this time the NIRB will also work on the logistics required for potential re-scheduling of the upcoming Technical Meeting in Iqaluit and Pre-Hearing Conferences and community roundtables in Pond Inlet and Igloolik, so that the Board can advise all parties as soon as possible if required.

NIRB/NWB Coordination

At the request of Baffinland, the NIRB and the Nunavut Water Board (NWB) have agreed to coordinate the NIRB Review process and the NWB's consideration of the Type A Water Licence application for the Mary River Project, as described in the Detailed Coordinated Process Framework¹. To date, the NWB has participated in the development of the NIRB's EIS Guidelines for the Project by outlining its information requirements in Appendix C of the document. The Draft EIS submitted to the NIRB by Baffinland in January, 2011 is also meant to serve as the Proponent's Draft Type A Water Licence application for the NWB.

During the technical review period, the NWB is currently conducting its concordance assessment to determine whether the Draft Type A Water Licence application within the Draft EIS addresses the NWB information requirements such that the NWB may issue a public notice of application. It should be noted that the NWB has not completed its assessment at this time, and parties have been asked to include within their technical review comments to NIRB, an indication of each issue's relevance to the NWB's evaluation of the completeness of the water licence application for the Project. Following the Pre-Hearing Conference (PHC), The NIRB's PHC Report will also contain direction from the NWB regarding any outstanding information required with submission of the Final EIS to complete the application. The Final EIS for the Project is intended to contain the complete Type A Water Licence Application with all deficiencies identified in the NWB's conformity assessment (to be contained within NIRB's PHC Report) fully addressed, as outlined in the Detailed Coordinated Process Framework.

Although this is the first instance of this level of coordination between the NIRB and NWB for the review/licensing of a major development project, it should be stressed that there is no intention to reduce the thoroughness of the NWB licensing process. The Proponent is expected to submit a Final EIS which includes its Type A Water Licence application as an appendix with cross referencing to the Final EIS to eliminate or reduce duplication and for ease of review. The Proponent may instead elect to submit a stand-alone Type A Water Licence Application directly to the NWB, with no cross referencing to the Final EIS. Baffinland will also be required to submit to the NIRB and the NWB a concordance table to NIRB's PHC Decision and NWB SIG (MM3) Guidelines. Should Baffinland elect not to submit a Type A Water Licence in coordination with submission of its Final EIS, or the NWB determines that it is warranted that the water licensing process be conducted outside of the

¹ Available online at: <http://ftp.nirb.ca/02-REVIEWS/NIRB%20NWB%20COORDINATION/>

coordinated process, the NIRB's Review process will proceed as scheduled and further consideration of water licensing may be postponed until the Review is completed.

The chief difference caused by this level of coordination is the early provision and consideration of detailed water licensing information concurrent with broader environmental assessment considerations in the NIRB Review process. During the NIRB's Review of the Final EIS, parties will also be asked to provide comment on water licensing issues in the Type A Water Licence application, recognizing that it is generally the same parties participating in both standard processes and there is significant overlap between many of the issues. Regardless of whether Baffinland continues to pursue a coordinated NIRB/NWB process to reduce overall assessment/licensing timelines, the requirement for technical meetings and hearings will not be diminished, as a fully joint review regulatory process or joint hearing process is not envisioned at this time. Although participating at the NIRB's upcoming Technical Meeting, the NWB would also hold its preliminary Technical Meeting for the Type A Water Licence application immediately following the successful conclusion of the NIRB's Final Hearing for the Project.

Pre-Development Works

The NIRB recognizes that Baffinland's July 4, 2011 addendum to the Draft EIS for the Project contains an Appendix 3 G – Pre-development Works Proposal, intended to allow time for discussion and consideration of these proposed works during the technical review period. Pursuant to the Detailed Coordinated Process Framework developed by the NWB and NIRB in consultation with the public and, more specifically, with Baffinland as applies to the Review of the Mary River project, it was previously agreed that if approvals for pre-development activities were being sought, applications for same would form part of the Draft EIS submission. This was meant to allow for consideration through the initial technical review period and rendering of a NIRB decision in conjunction with the NIRB's PHC Report. As Baffinland has elected to withhold its formal application package until following the NIRB's issuance of its PHC Report for this Review, consideration of these applications and associated decision-making will also be consequently delayed.

The Proponent has indicated that it will require a decision with respect to those activities that can proceed as pre-development works by the end of January in order to secure the resources required to carry out the activities within the 2012 sealift season. The Board notes that this timing will create significant challenges for the Board and the parties even under the current Review timelines. Accordingly, if the QIA's extension request should be granted and Baffinland's timing for submission of the pre-development applications remains unchanged, the Board is very concerned that the NIRB will not have sufficient time to solicit the necessary input from the parties and issue the required direction regarding the pre-development works to meet Baffinland's schedule.

Furthermore, recognizing that the proposed location of the deep sea port at Steensby Inlet is an issue of significant public concern to nearby communities, consideration of pre-development works for this particular area must be mindful of this and ensure adequate time is given for public input. The NIRB has committed to working with Baffinland, NWB and relevant

responsible authorities to give further guidance and clarity regarding the thresholds for pre-development versus construction activities, and the level of information required to ensure adequate assessment can be completed in an efficient manner. It is anticipated that time will be devoted to further discussion with responsible authorities regarding planned pre-development activities prior to and during the upcoming NIRB Technical Meeting for the Project.

Once again, the Board requests that all interested parties provide their comments or concerns to the NIRB on or before **August 4, 2011** regarding the extension request for the technical review comment deadline. Submissions can be directed to info@nirb.ca or by fax to (867) 983-2594.

If you have any questions or require further clarification on the NIRB Review process moving forward, please do not hesitate to contact Li Wan, NIRB Technical Advisor, at (867) 983-4606 or via email at liwan@nirb.ca.

If you have any questions or require further clarification on the NWB Licensing process moving forward, please do not hesitate to contact Sean Joseph, NWB Technical Advisor, at (867) 360-6338 or via email at sjoseph@nunavutwaterboard.org.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Erik Madsen, Baffinland Iron Mines Corp.
Matthew Pickard, Baffinland Iron Mines Corp.
Brian Aglukark, NPC
Dionne Filiatrault, NWB
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Luc Fortin, CTA
Margaux Brisco, AAND
Derrick Moggy, DFO
Christopher Aguirre, TC
Rob Johnstone, NRCan

Enclosed: QIA Letter to NIRB Re Extension Request (July 21, 2011)