



NIRB File No.: 08MN053  
NWB File No.: 2AM-MRY----

February 29, 2012

To: Mary River Distribution List

*Sent via Email*

**Re: Acceptance of FEIS and Next Steps in the NIRB's Review and the NWB's Water Licensing Process for Baffinland Iron Mines Corp.'s Mary River Project**

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Dear Parties:

On February 14, 2012 the Nunavut Impact Review Board (NIRB or Board) initiated an internal review of Baffinland Iron Mines Corp.'s (Baffinland or Proponent) Final Environmental Impact Statement (FEIS) submission for the Mary River Project (the Project) to determine compliance with the NIRB's previously issued EIS Guidelines<sup>1</sup> and Preliminary Hearing Conference Decision<sup>2</sup> (PHC Decision).

The NIRB has now completed its compliance review of Baffinland's FEIS submission and has determined that the FEIS generally complies with both the NIRB's EIS Guidelines and the Board's PHC Decision. While certain minor information gaps were identified during this compliance review, it is the Board's opinion that the information as presented is sufficient to accept the FEIS submission and initiate public review of the document. As copied to this Distribution List under separate cover today, the NIRB has requested that the Proponent address the deficiencies as noted during the technical review period.

With the acceptance of the Proponent's February 13, 2012 FEIS submission, the NIRB is now prepared to initiate the 90 day public technical review period of Baffinland's FEIS for the Mary River Project. The FEIS and all associated correspondence and documentation can be accessed online from the NIRB's public registry using the following link: <http://ftp.nirb.ca/02-REVIEWS/ACTIVE%20REVIEWS/08MN053-BAFFINLAND%20MARY%20RIVER/2-REVIEW/08-FINAL%20EIS/>.

NIRB/NWB COORDINATION

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<sup>1</sup> NIRB Guidelines for the Proponent's Preparation of an EIS for the Mary River Project, issued November 16, 2009.

<sup>2</sup> NIRB Preliminary Hearing Conference Decision for the Mary River Project, issued December 9, 2011.

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As previously described, at the request of the Proponent, the NIRB and the Nunavut Water Board (NWB) have agreed to coordinate the NIRB's 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 Framework (Framework) developed by the NIRB and NWB.

In consideration of this Framework, upon receipt of the final Type "A" Water Licence Application (Application), the NWB conducted an internal preliminary conformity review of the Application and supporting information provided as an appendix to the FEIS, which the NWB received on February 17, 2012. The review has determined that the application is materially complete and acceptable based on the Supplemental Information Guidelines (MM3) that were provided as an appendix to the NIRB's EIS guidelines as well as the concordance assessment provided with the NIRB's PHC Decision (included under sec. 4.2 and as Appendix 3). The NWB notes, however, that minor deficiencies exist within the final Application as it relates to referencing and gaps with the information provided. The Proponent has been informed that those deficiencies must be addressed and provided in a separate submission to the NIRB and the NWB in order for the technical review of the Application to proceed. The Proponent has agreed to provide an errata document by **March 9, 2012** to address these initial concerns. The NWB will be seeking input from interested parties on overall completeness of the Application through the coordinated process.

#### NWB Further steps

During the NIRB technical review period for the FEIS, the NWB will make notice and initiate its formal review and assessment of the Type A Water Licence application and supporting information submitted with the FEIS. At such time, the NWB would request that interested persons and parties commence their detailed technical review of the Type A Water Licence Application, including scope and quality of information provided. Based on the NIRB process and following receipt of the responses to IRs, for efficiency of review the NWB will ask all parties to consider beginning their technical review of the Application. The NWB anticipates holding a technical meeting for the Application following the NIRB Final Hearing (timeframe to be determined). Upon confirmation of the NIRB's issuance of a Project Certificate, the NWB may undertake an additional technical meeting if necessary to address any additional issues, followed by a Pre-Hearing Conference (PHC) and a Public Hearing for the Type A Water Licence Application in the community(ies) most affected by the Project.

At this point in the process, the NWB invites interested parties to comment on the suitability or appropriateness of the NWB's scheduling and facilitating of a technical meeting following the NIRB's Final Hearing.

Interested parties should note that the NWB process has been coordinated where possible within the various stages of the NIRB Review process in order to improve efficiencies for all stakeholders involved in both the environmental assessment and water licensing processes. The NIRB/NWB Detailed Coordinated Process Framework is available from the NIRB's online public registry here: <http://ftp.nirb.ca/02-REVIEWS/NIRB%20NWB%20COORDINATION/>.

All information related to the Type A Water Licence Application have been placed in the NWB's Public Registry, which can be accessed using the following information (Username: *public* and Password: *registry*) and link:

<ftp://nunavutwaterboard.org/1%20PRUC/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-MRY----/1%20APPLICATION/>

#### NIRB/NPC JOINT REVIEW

As outlined in Appendix 2 of the PHC Decision, the NIRB requests that the Nunavut Planning Commission (NPC) provide an indication as to whether it will require further information to satisfy Item 3 of Appendix J of the North Baffin Regional Land Use Plan. The Board requests that the NPC provide an update as to the consideration of this item by **March 30, 2012**.

Also in keeping with Appendix 2 of the PHC Decision, the NIRB anticipates providing the NPC with its views on the assessments required by Appendix K of the North Baffin Regional Land Use Plan under separate cover in the coming weeks.

#### THE TECHNICAL REVIEW PERIOD

Similar to the technical review of the Draft EIS, the technical review of the FEIS is also a detailed analysis of the EIS documentation, with the objective of assessing the quality of any new and/or revised information and reconsidering the conclusions of the impact predictions presented by the Proponent. During this final phase of the NIRB's Review process, the technical review period for the FEIS is meant to assist parties with determining whether they agree with the Proponent's conclusions regarding the Project's potential ecosystemic and socio-economic impacts, the adequacy of proposed mitigation and monitoring measures and, ultimately whether parties support the approval of the project as currently proposed.

Final written submissions will be brought forward to the Board during its Final Hearing for the Project and should be comprised of the following:

- Determination of whether Parties agree/disagree with the conclusions presented in the FEIS regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures – and all evidence supporting the parties' position;
- Determination of whether or not conclusions presented in the FEIS are supported by the analysis – and all evidence supporting the parties' position;
- Determination of whether appropriate methodology was utilized in the FEIS to develop conclusions – and all evidence supporting the parties' position;
- An assessment of the quality of the information presented in the FEIS; and
- Determination regarding the appropriateness of proposed monitoring measures – and evidence to support the determination, along with any proposed alternative monitoring measures which may be more appropriate (if applicable).

Final written submissions are being requested by the conclusion of the 90 day technical review period for the Mary River FEIS, to facilitate the NIRB's Final Hearing for the Project.

#### CALL FOR INFORMATION REQUESTS

During the initial 30 days of the 90 day technical review period the NIRB invites parties to submit Information Requests (IRs) to the Proponent and/or other parties as necessary to facilitate the development of final written submissions. It should be noted however, that as the FEIS document has been accepted by the NIRB, the focus of IR submissions at this point should be on identifying information gaps or areas of uncertainty within the FEIS and conclusions that need to be addressed to develop final written submissions. It is not anticipated that IRs formulated at this stage in the Review process will identify significant gaps in available information or the Proponent's assessment as presented, but rather, if considered necessary, IRs may identify areas within the FEIS that should be clarified or would benefit from additional supporting information.

IRs may also identify specific items that should be brought forth for discussion at a meeting of technical experts prior to a Final Hearing. IRs will be accepted by the NIRB until March 30, 2012 and should contain the following information:

- To whom the IR is directed;
- Identification of the information gap or issue/area of uncertainty within the FEIS;
- The commenting parties' concern associated with the issue, specifically how any identified information gap or area of uncertainty would prevent the party from formulating final written submissions to be presented during a Final Hearing;
- A clear rationale of the issue's importance to the impact assessment of the proposed project and/or the conclusions presented within the FEIS; and,
- Issues which remain unaddressed or unresolved throughout parties' review of the FEIS submission but which could be resolved in whole or part through discussions at a meeting of technical experts in advance of the Final Hearing.

In coordination with parties' review of the FEIS, the NIRB and NWB anticipate that parties will be reviewing the Final Type A Water Licence application as submitted within the FEIS. At this time, the NWB invites parties to submit comments regarding the completeness of the Final Type A Water Licence application information as presented. Parties are requested to submit these comments to the NWB on or before **March 30, 2012**. Parties are also asked to provide any input or advice relating to the next steps in the water licensing process as set out above and in the enclosed process map.

Following receipt of IRs, the NIRB will assess the appropriateness of each request and, where applicable, forward to the Proponent and/or parties as required. The NIRB anticipates that IRs received by March 30, 2012 will be provided to the Proponent and/or parties on or before April 5, 2012. The Proponent and/or parties will be requested to respond to these IRs by April 19, 2012.

#### MEETING OF TECHNICAL EXPERTS

As indicated in its PHC Decision, the NIRB is planning to schedule a meeting of technical experts with the intention of addressing and/or resolving outstanding technical issues associated with the Proponent's FEIS, and to help with the formulation of parties' preparation of final written submissions. This meeting will be held in Iqaluit following the submission of IRs and the Proponent's response to IRs, and will facilitate discussions between the Proponent and responsible authorities and interested parties to address outstanding issues prior to the Final Hearing. The meeting of technical experts will assist in further defining the issues which will be brought forward to the Final Hearing.

#### SCHEDULING OF A FINAL HEARING

The Board's PHC Decision acknowledged the challenges associated with scheduling a Final Hearing while respecting the traditional pursuits of affected communities, noting specifically:

"The Board further notes that a late Spring/Summer date for the Final Hearing may make it difficult for potentially affected communities to fully participate as many community members are typically engaged in traditional activities during this time.

When determining the Final Hearing date the Board will take into consideration Section 12.2.27 of the NLCA which states:

*"All necessary steps shall be taken by way of notice, dissemination of information, and scheduling and location of hearings to provide and promote public awareness of and participation at hearings."*

Further, the Board has decided that the venues for the Final Hearing will be the City of Iqaluit, Igloolik and Pond Inlet. The Board is committed to taking steps to ensure that a broad range of representatives from the communities of Arctic Bay, Cape Dorset, Clyde River, Coral Harbour, Grise Fiord, Hall Beach, Resolute, and Kimmirut are brought to one of the venues identified to participate in the Final Hearing."

While the NIRB is obligated to ensure a timely and efficient public review of this project proposal, the NIRB also recognizes that supporting effective public participation in the Review of the Mary River project is essential to the fulfillment of the Board's mandated responsibilities. Given the current timelines for comment and Proponent response for this Review as illustrated in the enclosed process map and recognizing that the Board must endeavour to meet its own established timelines for this and other ongoing Reviews and assessments, the NIRB has identified the month of July as the month when the Final Hearing for the Mary River Project will be scheduled. The NIRB will engage further with the host communities to identify specific acceptable dates in July. In addition, prior to finalizing the dates for the Final Hearing the Board must secure meeting venues, accommodations, transportation for participants, and undertake considerable related logistics.

To promote awareness to the importance of the upcoming Final Hearing and the opportunities to participate, the NIRB will continue actively engage with all potentially-affected communities and residents. As previously committed, the Board will directly facilitate the attendance of

community representatives at the Final Hearing, and the NIRB will also continue to release further scheduling details as they develop.

#### SUMMARY OF NEXT STEPS

The next steps in the NIRB's Review<sup>3</sup> and NIRB-NWB Coordinated Process for the Project are summarized as follows:

- Submission of the Proponent's errata document to the NWB by **March 9, 2012** and the submission of its plans for addressing items highlighted in the NIRB's FEIS compliance review table as requiring additional information and/or clarification on or before **March 14, 2012**.
- Submission of interested parties' Information Requests (IRs) and the NPC's response to information outlined within Appendix 2 of the PHC Decision to the NIRB on or before **Friday, March 30, 2012** (30 days). IRs and comments directed to the NWB regarding the completeness of the Final Type A Water Licence Application and proposed next steps in the NWB licensing process should be forwarded to the NWB, on or before **March 30, 2012**.
- After considering all IRs and making a determination regarding their suitability, NIRB will forward all appropriate requests to the Proponent (and other parties if applicable) by **Thursday, April 5, 2012**.
- The Proponent and other parties (if applicable) would be asked to respond to IRs by **Thursday April 19, 2012**.
- The NIRB will schedule a meeting of technical experts in Iqaluit approximately 30 days following the receipt of IRs, during the week of **April 30, 2012**. A draft meeting agenda will be circulated as far in advance as possible to allow for planning and preparation of parties. Commencement of the NWB Technical Review period, request technical review comments.
- Following the meeting of technical experts, all parties will have 30 days remaining for submission of final written submissions, due Wednesday, **May 30, 2012**.
- Technical Review comment submissions relating to the Water Licence Application due to the NWB on or before **Friday June 22, 2012**.
- The NIRB will schedule a Final Hearing a minimum of 30 days following receipt of final written submissions.
- NWB may schedule an additional Technical Meeting and Pre-Hearing Conference following the conclusion of the NIRB's Final Hearing (*dates dependent upon scheduling of NIRB Final Hearing*).

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<sup>3</sup> Note that all timelines are subject to change at the discretion of the NIRB and NWB, based upon project circumstances or other factors taken into consideration by the Board.

The NIRB requests that all interested parties submit any Information Requests associated with the FEIS to the NIRB at [info@nirb.ca](mailto:info@nirb.ca) or by fax at (867) 983-2594, and that comments regarding the completeness of the Final Type A Water Licence Application and proposed next steps in the NWB licensing process be sent to the NWB at [licensing@nunavutwaterboard.org](mailto:licensing@nunavutwaterboard.org) or by fax at (867) 360-6369. Comment submissions will be accepted until **Friday, March 30, 2012**.

If you have any questions or require further clarification regarding the NIRB's Review process or the NWB Licensing process, please contact:

- NIRB: Li Wan, Technical Advisor, at (867) 983-4606 or [liwan@nirb.ca](mailto:liwan@nirb.ca)
- NWB: Sean Joseph, Technical Advisor, at (867) 360-6338 or [sjoseph@nunavutwaterboard.org](mailto:sjoseph@nunavutwaterboard.org)

Sincerely,



Amanda Hanson  
Director, Technical Services  
Nunavut Impact Review Board



David Hohnstein  
Director, Technical Services, CET  
Nunavut Water Board

cc: Erik Madsen, Baffinland Iron Mines Corp.  
Brian Aglukark, Nunavut Planning Commission

Enclosed: NIRB Review Process Map (*February 29, 2012*)