



**NIRB File No.: 08MN053**  
**NWB File No.: 2AM – MRY**

April 5, 2012

Mary River Distribution List

*Sent via Email*

**Re: NIRB Response to Issues Raised in IR Submissions and Next Steps for the Board's Review of Baffinland's Mary River project proposal**

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Dear Parties:

On February 29, 2012 the Nunavut Impact Review Board (NIRB or Board) initiated the public technical review period for the Final Environmental Impact Statement (FEIS) submitted by Baffinland Iron Mines Corp. (Baffinland or Proponent) for the Mary River Project (the Project). During the initial 30 day period the NIRB invited interested parties to submit Information Requests (IRs) to the Board on or before March 30, 2012 to facilitate their technical review of the FEIS and development of final written submissions for this Review.

Today, under separate cover with copy to this distribution list, the NIRB forwarded IRs to Baffinland and requested that an IR Response Package be submitted to the Board on or before April 19, 2012. The NIRB further identified a number of IRs which were forwarded to Baffinland for information only, noting that the majority of these items appeared to be initial technical review comments rather than IRs, and as such the Proponent would not be required to provide a response within its IR Response package but was encouraged to take them under consideration. The NIRB also committed to supplying additional clarification and direction to parties regarding process-related issues which were raised in IR submissions; the Board hopes to provide this additional clarification and direction through this correspondence.

### ***Objective of the NIRB's Review***

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 facilitate parties' determination of 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.

Reflecting the scale and scope of the activities contained within the Mary River project proposal, there are many parties participating in the Review for this project. The NIRB's Review process is structured with both Draft EIS and Final EIS stages in order to allow for a more iterative process in which environmental assessment serves to support the Proponent to plan the best possible project, with input from the public, government, Inuit organizations and other interested parties while also providing a foundation for the subsequent permitting and licensing work of authorizing agencies. The participation by these parties in the Review process also serves to provide the NIRB with important advice for its consideration in developing the a Final Report on the project, which determines whether the impacts from the project can be managed appropriately and ultimately, whether the project should be allowed to proceed and, if so, under what terms and conditions.

Reflecting the importance of the participation of parties in the Review process, a number of opportunities are provided for information exchange between the Proponent and parties throughout the Review process to ensure the necessary information is brought into the Review. Where there is disagreement on the need for information, the level of information required or the analyses and conclusions presented by the Proponent, every effort is made to address and resolve these issues through dialogue and information exchange throughout the Review process. However, all parties should be aware that as the conclusion of the Review process draws near and everyone prepares for the Final Hearing, it is expected that there will be issues which cannot be resolved prior to the Final Hearing and which will necessarily remain to be addressed at the Final Hearing itself.

When assessing how much information and what level of detail or confidence is adequate to allow for development of final written submissions, all parties are reminded that the focus of these submissions is expected to include 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).

Although several parties have requested that the Proponent be required to provide a written response to their final written submissions prior to entering into the Final Hearing, the NIRB's Review process is not structured in this way, because there is an expectation that the Final Hearing is the appropriate venue for the Proponent to provide its final response for consideration by the Board and all parties. For issues which remain unresolved at the time of the Final

Hearing, the Board and all parties do benefit from a full and fair discussion of the respective positions of the parties.

Although the NIRB has declined to add in as an additional step to this Review that the Proponent be required to provide a written response to the final written submissions of the other parties prior to entering the Final Hearing, the Board does note that throughout the remaining technical review period and in advance of the Final Hearing it is in the Proponent's best interest to work with parties to address and resolve as many of the issues brought forward as possible. The Board wishes to emphasize that the Proponent's upcoming IR Response Package and the meeting of technical experts which have been incorporated into the final phase for this Review are intended to facilitate this.

### ***Technical Meeting and Next Steps in the Review***

Following the submission of the Proponent's IR Response Package, the NIRB will host a meeting of technical experts in Iqaluit on **May 1-3, 2012**. The NIRB staff will facilitate discussions between the Proponent, responsible authorities and interested parties with the objective of addressing and/or resolving outstanding technical issues associated with the Proponent's FEIS, and assisting with the development of parties' final written submissions. A draft meeting agenda will be circulated as far in advance as possible to allow for planning and preparation of all parties, as well as to allow for input into the items scheduled for discussion. The possible need for additional technical meetings or a pre-hearing conference will be included as an item for discussion at the upcoming meeting in Iqaluit.

Following the meeting of technical experts, all parties will have several weeks remaining for submission of final written submissions to the NIRB, due Wednesday May 30, 2012. During this time it is expected that parties will further delineate outstanding issues which have not been addressed to their satisfaction. The NIRB will schedule a Final Hearing to occur a minimum of 30 days following the receipt of final written submissions.

### ***The Importance of Conducting an Efficient and Timely Review***

The 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 assessment of major development projects while allowing for appropriate levels of public engagement and issue resolution. Excluding the time required for a project proponent to prepare Draft and Final EIS documents and respond to Information Requests, the anticipated timeline for a NIRB Review is approximately one year from start to finish.<sup>1</sup> It is understood that timelines are approximate and must be adjusted to fit project-specific circumstances, and given the scale and scope of the Mary River project proposal and the number of potentially-affected communities it is perhaps not surprising that this particular Review has already substantially exceeded this timeframe. To date, the Mary River Review has been undergoing Review by the NIRB since Feb. 11, 2009 – approximately 17 months of which was directly spent undergoing steps in the Review process overseen by the NIRB.

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<sup>1</sup> NIRB Guide 5: The NIRB Review Process

Although the time period of this Review is greater than is generally the case, throughout this Review the NIRB has worked to implement consistent and predictable timelines, while accommodating reasonable requests from parties to extend timelines or add requirements to the Board's general process in order to allow for full and effective participation. As the conclusion of this Review approaches, the NIRB thanks all parties for their support in providing the ongoing commitment and considerable effort necessary to achieve efficient and timely review of this project proposal. Over the course of the next few months, the NIRB looks forward to continuing to work with parties and the Proponent to reach the conclusion of the Review for the Mary River project. The NIRB strongly encourages all parties to work collaboratively to prioritize outstanding technical issues according to their potential for environmental or socio-economic impacts, while considering the magnitude and significance of potential effects.

In closing, please be advised that the NIRB staff are continuing their engagement with host communities in order to determine acceptable dates for the Final Hearing, and are endeavouring to provide confirmation of dates and venues in advance of the meeting of technical experts in Iqaluit.

If you have any questions or require further clarification regarding how to effectively participate in the NIRB's Review process for this or for other files, please contact Amanda Hanson, Director of Technical Services at (867) 983-4615 or [ahanson@nirb.ca](mailto:ahanson@nirb.ca).

If you have questions or require further clarification regarding the NIRB's Review of the Mary River project, please contact Li Wan, Technical Advisor, at (867) 983-4606 or [liwan@nirb.ca](mailto:liwan@nirb.ca).

Sincerely,

A handwritten signature in black ink that reads "Ryan Barry". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Ryan Barry  
Executive Director  
Nunavut Impact Review Board

cc: Erik Madsen, Baffinland Iron Mines Corp.