

Ministre des Affaires autochtones  
et du développement du Nord



Minister of Aboriginal Affairs and  
Northern Development

Ottawa, Canada K1A 0H4

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**NOV 20 2012**

Ms. Elizabeth Copland  
Acting Chairperson  
Nunavut Impact Review Board  
PO BOX 1360  
CAMBRIDGE BAY NU X0B 0C0

Dear Ms. Copland:

Thank you for your letter of September 14, 2012 and the enclosed Final Hearing Report for the Mary River Project, as well as the subsequent erratum that you issued on October 24, 2012.

The Ministers of Environment Canada, Fisheries and Oceans Canada, Natural Resources Canada, Transport Canada and I have jurisdictional responsibility for authorizing the proposal to proceed. Accordingly, we have nearly completed our review of the Report in accordance with section 12.5.7 of the *Nunavut Land Claims Agreement*.

On reviewing your Report, my colleagues and I have been unable to ascertain with confidence the meaning of your recommendation in term and condition 41. That term states "*The Proponent shall maintain a minimum 100-metre naturally-vegetated buffer between the high-water mark of any fish-bearing water bodies and any permanent infrastructure*".

The Board has determined that the Project should proceed, yet we note that term 41 would prohibit the construction of key Project infrastructure such as the rail line, pump houses, access roads and other necessary works throughout the project footprint due to the indisputable clarity of the phrase '*any permanent infrastructure*' applying to these elements of the Project. For example, approximately 36 kilometres of the proposed railway is located within 100 metres of fish-bearing water bodies. The proponent's evidence indicates that building "into the edge of several lakes will be unavoidable because railways cannot turn sharp corners." It is therefore clear that the railway will need to pass near or cross above some fish-bearing water bodies to ensure safe rail design.

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Given that the evidence before you was clear that a Project-wide 100-metre setback would be impossible, and given that the Board nevertheless determined that the Project should proceed, it appears to us that term 41 might not properly express the Board's intention.

We recognize that at this stage, it is not open to the Board to reconsider the contents of its Report. However, if the Board has chosen words that do not properly express its manifest intention, then the Board can restate its original decision to correct a misstatement or provide needed clarity.

We therefore ask the Board to indicate whether term and condition 41, quoted above, accurately conveys the Board's intended meaning. If it does not, we ask the Board to restate the recommended term to more clearly express the Board's intention.

In view of the straightforward nature of this restatement request, we respectfully request that the Board respond by November 27, 2012 in order that my colleagues and I may make our decision regarding this Proposal in a timely fashion.

Sincerely,

A handwritten signature in black ink, appearing to be 'John Duncan', with a stylized, flowing script.

John Duncan, PC, MP

c.c.: The Honourable Keith Ashfield, PC, MP  
The Honourable Peter Kent, PC, MP  
The Honourable Denis Lebel, PC, MP  
The Honourable Joe Oliver, PC, MP  
Ms. Cathy Towtongie, President, Nunavut Tunngavik Incorporated  
Ms. Okalik Egeesiak, President, Qikiqtani Inuit Association  
Mr. Jobie Tukkiapik, President, Makivik Corporation  
Mr. Tom Paddon, President and CEO, Baffinland Iron Mines Corporation