



NIRB File No. 08MN053

December 5, 2012

To: Mary River Distribution List

Sent via email

Re: Scheduling of a Project Certificate Workshop for Baffinland Iron Mines Corp.'s Mary River Project, December 18-19, 2012

Dear Parties:

On December 3, 2012, the Nunavut Impact Review Board (NIRB) received notification from the Honourable John Duncan, Minister of Aboriginal Affairs and Northern Development that the Final Hearing Report for the Review of Baffinland Iron Mines Corporation's Mary River Project (NIRB File No. 08MN053) had been accepted pursuant to section 12.5.7(a) of the Nunavut Land Claims Agreement.

Now that the Mary River Project has been approved to proceed, the NIRB is required to issue a Project Certificate which sets out the terms and conditions of approval, as included in the Final Hearing Report for this Review. Prior to finalization and issuance of a Project Certificate for the Mary River Project, the Board must ensure that all associated terms and conditions are clearly understood by the responsible parties and are clarified where necessary to allow for full implementation and incorporation into applicable regulatory instruments, as required by NLCA sections 12.9.1 and 12.9.2:

- 12.9.1 Subject to Section 12.9.3, the terms and conditions of NIRB project certificates shall be implemented by all government departments and agencies in accordance with their authorities and jurisdictional responsibilities.*
- 12.9.2 Without limiting the generality of Section 12.9.1, the terms and conditions of NIRB project certificates shall, in accordance with the authorities and jurisdictional responsibilities of government departments and agencies, be incorporated in relevant permits, certificates, licences or other government approvals that the proponent may require. Government departments and agencies shall discuss with NIRB how best to implement the terms and conditions of NIRB project certificates and may provide NIRB with drafts of permits, certificates, licences and other government approvals.*

To assist with the finalization of the Project Certificate for the Mary River Project, the NIRB is scheduling a project certificate workshop in Iqaluit for **December 18-19, 2012**. Although the Board acknowledges that a lengthier period of public notice is generally provided for its meetings and workshops, it should also be recognized that owing to the Christmas holiday season, alternate meeting dates would not be possible until mid-January, 2013, should they be required.

The Project Certificate workshop will be structured similarly to a NIRB EIS Guidelines Development workshop, with 2 days scheduled to facilitate discussions on the implementation of terms and conditions contained within the Project Certificate. While open to members of the general public to observe, the workshop will be set up to facilitate a focused discussion amongst regulators, NIRB staff and the Proponent. At the workshop regulators will be expected to confirm which terms and conditions from the Final Hearing Report will be incorporated into their respective licences, certificates and permits. Note that the NIRB does not intend to provide opportunity for discussion on the justification for specific terms and conditions during the workshop as this has been provided in the Final Hearing Report. Initial reporting expectations may be discussed as well, with the intention of coordinating future reporting requirements to the extent possible.

The Proponent and the following relevant regulatory authorities are asked to ensure appropriate representation for the workshop:

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| ▪ Qikiqtani Inuit Association | ▪ Environment Canada |
| ▪ Canadian Transportation Agency | ▪ Fisheries and Oceans Canada |
| ▪ Nunavut Water Board | ▪ Natural Resources Canada |
| ▪ Government of Nunavut | ▪ Transport Canada |
| ▪ Aboriginal Affairs and Northern Development Canada | |

In order to ensure the objectives of the workshop are met, each department, agency or organization is asked to select staff representatives who are directly involved in the development of their respective regulatory instruments for the Mary River Project.

To facilitate preparation and efficient discussion time, prior to the workshop parties are encouraged to submit a listing of any terms and conditions from the Final Hearing Report which they expect to implement through their respective licences, permits or approvals and, any terms and conditions which, in their view, might require clarification prior to issuance of a Project Certificate by the NIRB.

While the NIRB will issue the Project Certificate shortly after the workshop, the project-specific monitoring program which is usually issued as an Appendix to the Project Certificate may not be issued in *final* form until some months after key regulatory authorizations, including land use permits, water licences, mineral leases, etc. are issued. This will help to ensure that the monitoring program supplements and supports but does not duplicate the monitoring and reporting requirements that may be contained within and/or be required by regulatory instruments. The NIRB will begin actively monitoring the Mary River Project upon issuance of the Project Certificate.

Upon issuance of the Project Certificate to the Proponent, the NIRB will also provide all parties with a tracking document listing any points of clarification made to the terms and conditions as set out in the NIRB's Final Hearing Report. This will be provided for information only.

FINAL HEARING REPORT RECOMMENDATIONS:

Wherever possible, within the Final Hearing Report the NIRB used the following format for its recommended project-specific terms and conditions so as to provide clear direction on the intended application, objectives and reporting requirements:

Category: Identifies the relevant environmental component or project activity to which the term and condition applies. Wherever possible categories have been labelled so as to directly associate with the Final Environmental Impact Statement and Environmental Impact Statement Guidelines for the Project.

Responsible Parties: Identifies the parties responsible for implementation of the term and condition. While this is generally the Proponent, at times other agencies have been implicated as appropriate.

Project Phase: Identifies the phase(s) of Project development to which the term and condition is applicable. Project phase may include any one or more of the following:

- Construction – includes site preparation and staging of materials and equipment
- Operations
- Temporary Closure / Care and Maintenance
- Closure and Post-Closure Monitoring

Objective: Provides a short description of the impact or effect being mitigated. Where relevant, expectations regarding the timing for when terms and conditions will be deemed to be satisfied (i.e. sunset clause), who has discretion for determining it is satisfied has been provided.

Term or Condition: Provides specific direction on the required action or follow up. In most instances the NIRB has endeavoured to use generalized wording to allow for maximum flexibility in achieving the stated objective, however more explicit direction has been provided where deemed necessary.

Reporting Requirements: Sets out any specific reporting parameters required to measure achievement of objectives or to demonstrate compliance, as well as the required frequency of reporting.

Within the Final Hearing Report it was noted that for a number of the recommended terms and conditions, some of the above parameters would be developed following approval of the Project by the Minister through discourse at a meeting with regulators and prior to issuance of the Project Certificate (i.e. project certificate workshop). It is expected that a number of terms and conditions will require clarification for some of the parameters. For example, it may become apparent that there are additional parties responsible for implementing certain terms and

conditions, or it may be that the objective of the term and condition could be rephrased slightly to be clearer for all parties. Through the project certificate workshop the NIRB will provide opportunity to discuss where clarification to the terms and conditions is to be incorporated into the Project Certificate.

COORDINATION WITH NWB

The NIRB expects to have its technical staff available to participate through the remaining steps of the NWB's Type A water licensing process, including attending meetings and hearings as scheduled. NIRB staff will continue to be available to provide clarification regarding whether or not specific items have been addressed through the NIRB Review, and can assist with locating relevant information from the NIRB's public registry.

Given the dates for the NIRB's project certificate workshop, next steps in the NWB licensing process are not anticipated to occur until January, 2013 and will be scheduled separately by the NWB.

Once the Project Certificate has been issued by the NIRB, Monitoring Officers will be formally assigned to the file and will serve as the lead contact for the NIRB on any project-specific coordination with the NWB and other agencies as may be required. As with other licensing agencies, the NIRB expects to work with the NWB to ensure that relevant Project Certificate terms and conditions can be incorporated into the NWB Type A Water Licence (and associated Type B licences) and reporting requirements coordinated to the fullest extent possible.

NEXT STEPS

Prior to the project certificate workshop, the NIRB will distribute a *draft* Project Certificate containing the recommended terms and conditions as set out in the Final Hearing Report for the Project. This document will form the basis of discussions for the workshop, as set out in the draft workshop agenda in **Appendix A**.

In advance of the project certificate workshop, parties are encouraged to provide the NIRB with a listing of any terms and conditions from the Final Hearing Report which they expect to implement through their respective licences, permits or approvals and, any terms and conditions which, in their view, might require clarification prior to issuance of a Project Certificate. The NIRB also asks that the Proponent and all relevant regulatory authorities noted above confirm their planned attendance at the workshop with the NIRB, also noting any requirement for English-Inuktitut interpretation at these proceedings.

The NIRB respectfully requests that parties provide the Board with their respective listings, confirmation of attendance and indication of whether English-Inuktitut interpretation will be required, via email at info@nirb.ca on or before **December 13, 2012**. Should any of the required parties be unable to attend, the Board would appreciate being notified with as much advance notice as possible so as to permit potential re-scheduling.

Should any parties have questions or require additional clarification, please contact Amanda Hanson, Director of Technical Services at (867) 983-4615 or ahanson@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.
Stephen Williamson-Bathory, Qikiqtani Inuit Association
Luc Fortin, Canadian Transportation Agency
David Hohnstein, Nunavut Water Board
Paul Suvega, Government of Nunavut
Robin Aitken, Aboriginal Affairs and Northern Development Canada
Mark Dahl, Environment Canada
Derrick Moggy, Fisheries and Oceans Canada
Rob Johnstone, Natural Resources Canada
Meighan Andrews, Transport Canada

Attachments: Appendix A: Project Certificate Workshop *Draft* Agenda (NIRB File No. 08MN053)

**APPENDIX A:
PROJECT CERTIFICATE WORKSHOP *DRAFT* AGENDA**

Dates: December 18 & 19, 2012

Times: 8:30 am – 12:00 pm and 1:30 pm – 5:00 pm each day
Potential evening sessions from 6:30 pm – 9:00 pm, only if required

Location: Kojesse Room, Astro Hill Complex, Iqaluit

Objective:

- Bring together the Proponent and relevant regulatory authorities to facilitate discussions on the implementation of terms and conditions contained within the Project Certificate into their respective licences, certificates and permits.
- Identify specific points of clarification required for terms and conditions prior to finalization and issuance of the Project Certificate by the Board.

Notes:

- The workshop will be facilitated by NIRB staff and chaired by Ryan Barry, NIRB Executive Director.
- Each party will be provided with an opportunity to speak to each agenda item in an ordered fashion. Time limits will be implemented as necessary.
- Simultaneous English-Inuktitut interpretation will be made available upon request.
- Refreshments and light catering will be provided during Health Breaks.
- Seating at the table for each organization during the workshop discussions will be limited to approximately 2 representatives per organization.
- Workshop will be open to the general public as observers.

Tuesday, December 18, 2012

8:30 am	Welcome and Introductions
8:45 am	NIRB Opening Remarks
9:00 am	General Terms and Conditions: 1-12 Meteorology and Climate: Terms and Conditions 1-6 Air Quality: Terms and Conditions 7-12 Noise and Vibration: Terms and Conditions 13-15 Hydrology and Hydrogeology: Terms and Conditions 16-19
10:00 am	<i>Health Break</i>
10:15 am	Groundwater/Surface Waters: Terms and Conditions 20-24 Landforms, Geology and Geomorphology: Terms and Conditions 25-30 Vegetation: Terms and Conditions 31-40
12:00 pm	<i>Break for Lunch on own</i>

Tuesday, December 18, 2012 (continued)

- 1:30 pm Freshwater Aquatic Environment: Terms and Conditions 41-48
Terrestrial Wildlife and Habitat: Terms and Conditions 49-64
- 3:00 pm *Health Break*
- 3:15 pm Birds: Terms and Conditions 65-75
Marine Environment, Marine Water/Ice, Sediments: Terms and Conditions 76-98
- 5:00 pm *End of Day 1*

Wednesday, December 19, 2012

- 8:30 am NIRB Opening Remarks
- 8:45 am Marine Wildlife and Marine Habitat: Terms and Conditions 99-128
- 10:00 am *Health Break*
- 10:15 am Population Demographics 129-134
Education and Training: Terms and Conditions 135-141
Livelihood and Employment: Terms and Conditions 142-147
Economic Development and Self Reliance, and Contracting and Business
Opportunities: Terms and Conditions 148-152
- 12:00 pm *Break for Lunch on own*
- 1:30 pm Human Health and Well-Being: Terms and Conditions 151-157
Community Infrastructure and Public Services: Terms and Conditions 158-161
Culture, Resources and Land Use: Terms and Conditions 162-166
- 3:00 pm Health Break
- 3:15 pm Benefits, Royalty, and Taxation: Terms and Conditions 167-169
Accidents and Malfunctions: Terms and Conditions 170-177
Alternatives Analysis: Terms and Conditions 178
Operational Variability: Terms and Conditions 181
Transboundary Effects: Terms and Conditions 182-184
- 5:00 pm End Day 2: NIRB Closing Remarks