



NIRB File No. 08MN053

February 11, 2013

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Sent via email: erik.madsen@baffinland.com

Re: Next Steps for the NIRB's Reconsideration of Terms and Conditions Within Project Certificate No. 005 for Baffinland's Mary River Project

On January 13, 2013 the Nunavut Impact Review Board (NIRB or Board) received correspondence from Baffinland Iron Mines Corporation (Baffinland or the Proponent) which indicated that, due to various business drivers, Baffinland was proposing to make changes to the schedule and specific activities in the initial stages of project development associated with the Mary River Project (File No. 08MN053). Baffinland noted it understood that this Project amendment request would potentially necessitate a reconsideration of the Terms and Conditions contained within Project Certificate No. 005 as issued by the NIRB on December 28, 2012 for the Mary River Project.

On January 14, 2013 the NIRB requested that interested parties review a description of Baffinland's proposed amendments to the Mary River Project (collectively referred to by the Proponent as the "Early Revenue Phase") and provide comments to the NIRB by February 4, 2013 (later extended to February 5, 2013 at the request of parties) regarding the following:

- Whether the proposed changes as presented in the request meet the requirement for reconsideration as set out in the Nunavut Land Claims Agreement (NLCA), Section 12.8.2(a), (b), or (c), and if so, which provisions of the NLCA trigger the reconsideration;
- Whether at this point the parties had identified any specific terms and conditions within Project Certificate No. 005 that would need to be reconsidered or amended to reflect the Early Revenue Phase;
- Whether a reconsideration of the Project Certificate terms and conditions would be likely to arouse significant public concern, and if so, a description of the basis for the concern;

- Whether parties had comments or concerns regarding the potential format of the update or addendum to the existing Final Environmental Impact Statement required to support the reconsideration of the Project Certificate; and,
- Any matter of importance to the Party related to the request to reconsider the terms and conditions of the Project Certificate by the NIRB.

On or before February 5, 2013, the NIRB received comments from the following parties with respect to the consideration of Baffinland's proposed Project amendment:

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| ▪ Baffinland Iron Mines Corporation | ▪ Environment Canada |
| ▪ Qikiqtani Inuit Association | ▪ Fisheries and Oceans Canada |
| ▪ Government of Nunavut | ▪ Natural Resources Canada |
| ▪ Aboriginal Affairs and Northern Development Canada | ▪ Parks Canada |
| ▪ Canadian Arctic Resource Committee | ▪ Transport Canada |
| ▪ Canadian Coast Guard | ▪ Hamlet of Pond Inlet |
| ▪ Canadian Transportation Agency | ▪ Hamlet of Igloolik |
| | ▪ Paniloo Sangoya |

On February 7, 2013 the NIRB also received a submission from the Nunavut Planning Commission (NPC) which identified that a conformity determination against the North Baffin Land Use Plan may be required for the amended project components and activities as presented by Baffinland.

All materials received and pertaining to Baffinland's Project amendment request, including submissions received in response to the Board's January 14, 2013 request for comments are available from the NIRB's online public registry at:

<http://ftp.nirb.ca/03-MONITORING/08MN053-MARY%20RIVER%20IRON%20ORE%20MINE/01-PROJECT%20CERTIFICATE/04-AMENDMENTS/2012%20EARLY%20REVENUE%20PHASE/>

BOARD DETERMINATION

As reviewed by the NIRB, the Mary River Project involved the development of an open pit iron ore mine on northern Baffin Island, with associated infrastructure to include a tote road between Milne Inlet and a mine site at Mary River, ports at Milne Inlet and Steensby Inlet and a railway connecting the mine to the Steensby port. Iron ore would be transported from the mine site via the railway to the port at Steensby Inlet, with year-round shipping of ore through Foxe Basin and Hudson Strait to markets in Europe using custom designed ore carriers.

Baffinland's current proposal to incorporate an "Early Revenue Phase" into the development plans for the Mary River Project involves the proposed amendment of specific project components and activities, which has not yet been subject to impact assessment by the Board or approval by the various responsible authorities.

After considering the information provided by the Proponent, comments submitted by parties and options available pursuant to the NLCA, the NIRB has determined that a reconsideration of the Terms and Conditions contained within Project Certificate No. 005 is warranted pursuant to NLCA 12.8.2(b) which states as follows:

12.8.2 NIRB may on its own account or upon application by a DIO, the proponent, or other interests, reconsider the terms and conditions contained in the NIRB certificate if it is established that:

- (b) the circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the certificate was issued*

The Board has determined that the information provided by Baffinland and the comments submitted by parties clearly establish that the circumstances relating to the Project are now significantly different than were originally anticipated. The Board's reconsideration will determine whether the proposed Project amendment should be allowed to proceed and, if so whether the wording of specific Terms and Conditions within the Project Certificate would require updating and/or inclusion of additional Terms and Conditions.

ANTICIPATED NEXT STEPS

Having determined that a reconsideration of the Terms and Conditions of Project Certificate No. 005 is now necessary, the Board would like to provide the Proponent and all parties with direction regarding the anticipated next steps in the reconsideration process.

The NIRB is required to assess the environmental and socio-economic impacts associated with the proposed Project amendment for the Early Revenue Phase. In order to facilitate the assessment of the project amendment, the NIRB requests that Baffinland prepare a comprehensive addendum to the Final Environmental Impact Statement (Final EIS) describing all aspects of the proposed Early Revenue Phase, including updates to relevant baseline data, impact predictions and proposed mitigation measures and monitoring plans. As requested by the parties, it is suggested that the Final EIS addendum consist of a stand-alone document that meets the relevant criteria as set out in the NIRB's EIS Guidelines and subsequent Addendum to EIS Guidelines as issued to Baffinland for the Mary River Project on November 16, 2009 and November 10, 2010, respectively.

Given that the Addendum to the original EIS Guidelines which were issued by the NIRB in 2010 for the Project was intended to address the Proponent's "Road Haulage Option" alternative, which is closely aligned with the current amendment request, the NIRB anticipates that the Proponent currently has sufficient direction to prepare the required updates; however if Baffinland requires additional direction on the requirements, the Proponent may submit a written request to the NIRB for further guidance.

Upon receipt of Baffinland's addendum to the Final EIS and a positive conformity determination from the NPC which indicates that the proposed Project amendment conforms to the requirements of the North Baffin Regional Land Use Plan (NBRLUP), the NIRB will conduct an

internal check for conformity with the EIS Guidelines and the Addendum to the EIS Guidelines. Upon the NIRB's acceptance of Baffinland's submission, the Board will initiate a public technical review that includes a 60 day comment period, the facilitation of public information sessions in potentially affected communities, a potential meeting of technical experts, and a Final Hearing and Community Roundtable Session. Following the completion of these steps, the Board would prepare a report detailing its reconsideration and recommendations for the Minister of Aboriginal Affairs and Northern Development pursuant to NLCA 12.8.3.

In closing, the NIRB respectfully requests that Baffinland provide an indication of its anticipated timeline for submission of an addendum to the Final EIS to the NIRB on or before **February 25, 2013**. In addition to requiring confirmation from the NPC regarding the proposed Project amendment's conformity with the NBRLUP, the NIRB reminds the Proponent that sufficient hardcopies of the Final EIS addendum submission must be received by the NIRB's office prior to the Board initiating its internal conformity review.

Should you have any questions or require further clarification regarding next steps in the Board's assessment of the Early Revenue Phase, please contact Amanda Hanson, NIRB's Director of Technical Services at (867) 983-4615 or via email at ahanson@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Brian Aglukark, Nunavut Planning Commission
Dave Hohnstein, Nunavut Water Board
Stephen Williamson-Bathory, Qikiqtani Inuit Association
Pauloosie Suvega, Government of Nunavut
Alain Grenier, 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
Mary River Distribution List