



NIRB File No.: 08MN053

DFO File No.: NU-07

August 15, 2013

To: Mary River Distribution List

Sent via email

RE: Conformity Determination for Baffinland Iron Mine Corp.'s Addendum to the Final Environmental Impact Statement Submission for the Mary River Project and Commencement of the NIRB's Technical Review Period

Dear Parties:

On June 20, 2013 the Nunavut Impact Review Board (NIRB or Board) acknowledged receipt of Baffinland Iron Mine Corp.'s (Baffinland or Proponent) Addendum to the Final Environmental Impact Statement (FEIS Addendum) submission for the Mary River Early Revenue Phase (ERP) proposal (NIRB File No. 08MN053). The Board initiated an internal review of the FEIS Addendum to determine whether or not it conformed to the EIS Guidelines issued to Baffinland by the NIRB¹, while acknowledging that the Board would not complete the NIRB's internal review until a conformity determination had been received from the Nunavut Planning Commission (NPC) for this file. On August 13, 2013 the NIRB received the enclosed conditional conformity determination from the NPC advising that, pursuant to Section 3.5.12 of the North Baffin Regional Land Use Plan, a joint NPC/NIRB review of the proposed development of a transportation corridor associated with the ERP proposal must be undertaken.

The NIRB has completed its internal review of the FEIS Addendum submitted by Baffinland and determined that the submission conforms to the Board's EIS Guidelines. Recognizing the need to satisfy the outstanding North Baffin Regional Land Use Plan (NBRLUP) requirements as identified by the NPC, as well as the Minister's direction for the NIRB to ensure that an expeditious and thorough review of the ERP proposal is undertaken, the NIRB is hereby initiating the public technical review period for this file.

Baffinland's FEIS Addendum submission and all materials received and pertaining to the Board's assessment of the ERP proposal can be accessed from the NIRB's online public registry at the following location:

¹ "Final Guidelines for the Preparation of an Environmental Impact Statement for the Part 5 Review of the Mary River Project" (the EIS Guidelines) issued on November 16, 2009 and including the addendum to the Guidelines regarding the "Road Haulage Option" alternative issued on November 24, 2010.

Project Proposal Overview

The Mary River project involves the construction, operation, closure and reclamation of an 18 million tonne-per-annum (Mt/a) open pit mine on northern Baffin Island. High-grade iron ore would be mined and transported via a railway from the mine site to an all-season deep-water port and ship loading facility at Steensby Inlet, where the ore would next be loaded into ore carriers for overseas shipment through Foxe Basin. A dedicated fleet of cape-sized ore carriers, capable of breaking ice, would be operated year-round with more limited non-icebreaking ore carriers and conventional ships would also be used during the open water season.

As parties are aware, the Board previously reviewed the Mary River project proposal described above pursuant to Part 5, Article 12 of the Nunavut Land Claims Agreement (NLCA), which culminated in a Final Hearing held in July 2012, the NIRB's positive recommendation that the project be allowed to proceed, the subsequent acceptance of that recommendation by the Minister of Aboriginal Affairs and Northern Development in November 2012 and the issuance of the NIRB's Mary River Project Certificate (No. 005) on December 28, 2012 (the Project Certificate).

In January 2013, Baffinland indicated to the Board that due to changed circumstances, the Proponent wished to incorporate the ERP proposal into the development of the overall Mary River Project, which would result in changes to the project development schedule and some activities in the initial stages of project development. The Board determined in February 2013 that the changes and activities proposed in the ERP were not considered during the Final Hearing and as a result, the terms and conditions of the Project Certificate did not directly address the potential for impacts associated with the ERP proposal. Consequently, the Board commenced a reconsideration of the Project Certificate terms and conditions under Part 8, Article 12, Section 12.8.2 of the NLCA to 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 to reflect the ERP.

Baffinland's ERP proposal introduces the following *additional* activities and changes to the Mary River Project:

- Construction of ERP facilities;
- Mining and shipment of approximately 2 million tonnes of ore the first year of ERP operation, followed by 3.5 million tonnes per annum (Mt/a) for the next four years, while construction of the previously approved railway and facilities at Steensby Inlet is undertaken;
- Production level of iron ore for Mary River would be augmented from the originally proposed 18 Mt/a to a total of 21.5 Mt/a upon completion of railway infrastructure and facilities at Steensby Inlet. The initial 18.5 Mt/a will be shipped using ore carriers via

Steensby Inlet as originally proposed, with an additional 3.5 Mt/a of iron ore to be shipped via the Tote Road and the port at Milne Inlet; and

- The following additional activities are proposed:
 - a. Mine Site:
 - i. Loading of ore into truck; and
 - ii. Operation of truck fleet for hauling ore;
 - b. Tote Road:
 - i. Haulage of ore at an average of 152 ore truck transits per day;
 - c. Milne Port:
 - i. Ore stockpiling and loading into ships (maximum volume of 3.5 Mt);
 - d. Marine shipment of ore out of Milne Inlet:
 - i. Loading of ore carriers at Milne Port; and
 - ii. 55 approximate sailings of ore carriers (Panamax, Supramax, and Post Panamax) per year during the open water season.

As indicated previously by the Board, as this matter is a reconsideration under NLCA Section 12.8.2 and is not a Screening or a Review, strict compliance with the Board's *Rules of Procedure* is not required and the Board may, in its discretion, modify or eliminate steps that would typically be associated with a screening or review in developing the appropriate process to govern the reconsideration in this case. On this basis, the Board provides the following outline of the anticipated next steps and tentative schedule for the next steps in the reconsideration process. As the reconsideration unfolds, if necessary the NIRB may revise the anticipated next steps to meet the requirements of procedural fairness and the objectives of timely and thorough reconsideration. The FEIS Addendum will form the basis of the NIRB's reconsideration and the Board will now commence with a public technical review of this document, including information sessions in potentially-affected communities. Following the technical review, the Board anticipates facilitating a meeting of technical experts and the submission of parties' final written submissions with the reconsideration process to culminate with a Public Hearing. Please note that the Board does not intend to hold a pre-hearing conference in advance of the Public Hearing, and is, therefore, requesting comments on the Public Hearing location, timing and duration in the parties' technical review comment submissions.

NPC-NIRB Joint Review

In accordance with section 3.5.12 of the North Baffin Regional Land Use Plan (NBRLUP), the NIRB will engage with the NPC in the coming days to discuss the requirement for a joint review of the Proponent's application for an amendment to the NBRLUP associated with the ERP proposal. Further information and details regarding the NIRB-NPC joint review process will be made available to all parties as soon as practicable.

The Technical Review Period

The technical review period is meant to provide for a detailed review of the FEIS Addendum to qualitatively assess the information presented by the Proponent in its submission. This step in the NIRB's assessment of the ERP proposal involves parties' development of technical review comments which outline whether they agree with the Proponent's conclusions regarding the

potential ecosystemic and socio-economic impacts of the proposed activities, the adequacy of proposed mitigation and monitoring measures and ultimately whether parties support the approval of the ERP proposal as currently proposed. The Proponent will be provided with an opportunity to respond to parties' technical review comment submissions and the NIRB intends to schedule a meeting of technical experts following the provision of the Proponent's response package to facilitate further information exchange and assist with the formulation of parties' final written submissions. Interested parties, intervenors and the Proponent will be invited to provide final written submissions to the Board in advance of the Final Public Hearing for the ERP proposal and the Board's NLCA Section 12.8.2 reconsideration of the Mary River Project Certificate.

By copy of this letter, the NIRB is requesting that responsible authorities, interested parties and those with specialist advice provide their technical review comments to the NIRB on or before **12:00 pm MST, October 15, 2013**. Submissions should address the following points, based on the commenting party's jurisdiction or area of expertise:

- Determination of whether parties agree/disagree with the conclusions in the FEIS Addendum regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts and monitoring measures – and reasons to support the determination;
- Determination of whether or not conclusions in the FEIS Addendum are supported by the analysis – and reasons to support the determination;
- Determination of whether appropriate methodology was utilized in the FEIS Addendum to develop conclusions – and reasons to support the determination, along with any proposed alternative methodologies which may be more appropriate (if applicable);
- Identification of any terms and conditions contained within the Mary River Project Certificate which may require reconsideration or amendment in light of the ERP proposal;
- Identification of additional terms and conditions which would be required to address the potential impacts of the ERP proposal; and
- Any comments, preferences or concerns regarding the location, timing and duration for the NIRB's Final Public Hearing, including identification of potentially-affected communities which should be represented.

For each issue raised, parties should also be sure to include a clear reference to the volume, document, section, and/or page number in the FEIS Addendum where relevant information may be found, as applicable. Parties may find efficiencies in structuring submissions by issue, and are asked, where possible, to align their submission in accordance with the ordering of materials as presented within the NIRB's EIS Guidelines and the FEIS Addendum. A tabular presentation is requested as a means of systematically organizing comment submissions and to assist with the compilation of submissions for the next steps of the review. The NIRB will provide additional guidance to parties regarding the suggested format and structure of submissions within 30 days of this letter.

Request to the Proponent

During the technical review period for the FEIS Addendum, the NIRB requests that Baffinland also address the following three points in a formal submission due **12:00 pm MST, October 15, 2013**:

- Identification of any terms and conditions contained within the Mary River Project Certificate which may require reconsideration or amendment in light of the ERP proposal;
- Identification of additional terms and conditions which would be required to address the potential impacts of the ERP proposal; and
- Any comments, preferences or concerns regarding the location, timing and duration for the NIRB's Final Public Hearing.

NEXT STEPS

The next steps in the NIRB's NLCA Section 12.8.2 reconsideration of the terms and conditions of Project Certificate No. 005 for the Mary River Project can be summarized as follows:

- Submission to the NIRB of technical review comments from interested parties and formal submissions from the Proponent as requested above on or before **12:00 pm MT, Tuesday October 15, 2013**.
- The NIRB will post all submissions received to its online public registry and will forward a copy to the Proponent as soon as practicable following receipt.
- The NIRB will host community information sessions in potentially affected communities of the North Baffin Region – *tentatively* **September/October, 2013**
- Following receipt and the Board's initial review of the technical review comments, the NIRB may publish a Notice of Public Hearing (at least 60 days prior to the commencement of the hearing) identifying dates, timing, venue(s) and other relevant information.
- Baffinland has indicated it will be prepared to provide a response to parties' submissions within 30 days receipt – *tentatively* **November 15, 2013**
- Following the receipt of Baffinland's response to technical review comments, the NIRB will hold an in-person meeting of technical experts to discuss salient issues that should be dealt with further prior to a Final Hearing – *tentatively* **November 25-29, 2013**
- Following the Technical Meeting, the NIRB will solicit final written submissions from parties and will hold a Final Hearing to hear evidence from the Proponent, parties to the review, intervenors² and members of the public - *dates and location(s) to be determined*

² Additional information regarding the process for parties interested in applying for intervenor status at the Final Hearing will be provided by the NIRB in the formal Notice of Public Hearing.

Once again, the NIRB requests that all interested parties provide their technical comment submissions to the NIRB by email at info@nirb.ca or by fax to (867) 983-2594 on or before **12:00 pm MT, Tuesday October 15, 2013.**

If you have any questions or require further clarification regarding the NIRB's assessment of Baffinland's ERP proposal, please contact Jaswir Dhillon, Technical Advisor, at (867) 983-4609 or via email at jdhillon@nirb.ca.

Sincerely,



Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board

cc: Erik Madsen, Baffinland Iron Mines Corp.
Oliver Curran, Baffinland Iron Mines Corp.
Brian Aglukark, Nunavut Planning Commission
Dave Hohnstein, Nunavut Water Board
Stephen Williamson Bathory, Qikiqtani Inuit Association
Agnes Simonfalvy, Government of Nunavut
Karen Costello, Aboriginal Affairs and Northern Development Canada
Georgina Williston, Fisheries and Oceans Canada
Rob Johnstone, Natural Resources Canada
Meighan Andrews, Transport Canada

Enclosed: NPC Conditional Conformity Determination, NIRB File No. 08MN053 (*August 13, 2013*)