



NIRB File No.: 08MN053
NWB File No.: 2AM-MRY 1325

September 11, 2014

Thomas Kabloona
Chairperson
Nunavut Water Board
c/o Phyllis Beaulieu
Manager of Licensing
Nunavut Water Board
P.O. Box 119
Gjoa Haven, NU X0B 1J0

Sent via email: licensing@nunavutwaterboard.org; phyllis.beaulieu@nwb-oen.ca

Re: Application Exempt from the Requirement for Screening pursuant to Section 12.4.3 of the NLCA: Baffinland Iron Mine Corporation's Application to Amend its Type A Water Licence for the Mary River Project, Oikiqtani Region

Dear Phyllis Beaulieu:

On August 29, 2014 the Nunavut Impact Review Board (NIRB or Board) received an application from the Nunavut Water Board (NWB) for an amendment to NWB Type "A" Water Licence (2AM-MRY1325) for Baffinland Iron Mine Corporation's (Baffinland or Proponent) "Early Revenue Phase" (ERP) of the Mary River Project (NIRB File No.: 08MN053). Within associated correspondence, the NWB requested confirmation from the NIRB that the entire scope of Baffinland's amendment application with the NWB had been considered within the public hearing report issued by the NIRB for the ERP Proposal on March 17, 2014, or whether further review might be required. The NWB further requested that the NIRB conduct any further review as may be required, and/or provide the Board with a copy of its determination for the application.

PROCESS OVERVIEW

The NIRB Project Certificate [005] was issued for the original Mary River Project on December 28, 2012 pursuant to Section 12.5.12 of the Nunavut Land Claims Agreement (NLCA) and was the product of the Board's extensive public review of the potential impacts associated with the

project proposal. On January 13, 2013 Baffinland applied to the NIRB to conduct further assessment and reconsideration of the terms and conditions in the Project Certificate to reflect additional activities and a change in schedules to be carried out under the ERP Proposal. The Board determined that it was appropriate to assess the potential ecosystemic and socio-economic effects of the ERP Proposal and to reconsider, under Section 12.8.2 of Article 12 of the NLCA, modifications to the terms and conditions of the original Project Certificate to reflect the potential project effects of the ERP Proposal.

Following a thorough public reconsideration process, on March 17, 2014 the NIRB issued its public hearing report to the Minister of Aboriginal Affairs and Northern Development for the ERP Proposal, indicating that the proposed works and activities could be permitted to proceed subject to new and amended project-specific terms and conditions. Following acceptance of the NIRB's report by the Minister, on May 28, 2014, pursuant to Sections 12.5.5 and 12.8.2 of Article 12 of the NLCA, the NIRB issued an *Amended* Project Certificate [005], allowing the Project to proceed in accordance with Terms and Conditions issued therein.

All information associated the NIRB's monitoring program for the Mary River Project, including information filed as part of the NIRB's reconsideration of Project Certificate [005] for the ERP Proposal, can be accessed online from the Board's public registry at the following location:

<http://ftp.nirb.ca/03-MONITORING/08MN053-MARY%20RIVER%20IRON%20MINE/>

To determine the impact assessment requirements applicable to Baffinland's current application with the NWB, the NIRB had to consider two possible avenues under the NLCA:

If the NIRB determined that Baffinland's application with the NWB is within the scope of the ERP and the original Mary River Project as previously reviewed by the Board and as addressed by the existing terms and conditions of the *Amended* NIRB Project Certificate [005], the current amendment would be exempt from the requirement for screening by the NIRB as set out in Article 12, Section 12.4.3 of the NLCA:

12.4.3 Any application for a component or activity of a project proposal that has been permitted to proceed in accordance with these provisions shall be exempt from the requirement for screening by NIRB unless:

(a) such component or activity was not part of the original proposal; or

(b) its inclusion would significantly modify the project.

Alternatively, if the NIRB determined that the amendment request represents a significant change to the project as previously reviewed, the Board would then evaluate whether the proposed changes to the project warrant a formal reconsideration of the terms and conditions of the NIRB Project Certificate [005] pursuant to Section 12.8.2 of the NLCA:

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:

(a) the terms and conditions are not achieving their purpose;

(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; or

(c) there are technological developments or new information which provide a more efficient method of accomplishing the purpose of the terms and conditions.

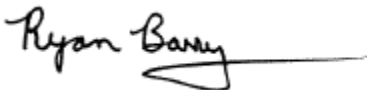
Given the integrated regulatory process established by the NLCA Article 12, Sections 12.10.1 and Article 13, Section 13.5.4, the NWB cannot approve the issuance of an amended licence until the NIRB has confirmed that the assessment provisions of Article 12 of the NLCA have been satisfied.

NIRB ASSESSMENT AND DECISION

After a thorough assessment of all materials provided to the Board, the NIRB is of the understanding that Baffinland's amendment application with the NWB does not change the general scope of the original Mary River Project or its Early Revenue Phase as previously reviewed by the NIRB, and the exceptions noted in NLCA 12.4.3 (a) and (b) do not apply. Therefore, this application is exempt from the requirements for screening pursuant to Section 12.4.3 of the NLCA and the amendment activities proposed therein remain subject to the terms and conditions of the NIRB Project Certificate [005] Amendment 01 as issued on May 28, 2014 (enclosed).

Should you have any questions or require clarification related to the NIRB's monitoring program for the Mary River Project, please contact Solomon Amuno, Technical Advisor and Monitoring Officer, at (867) 983-4603 or samuno@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Oliver Curran, Baffinland Iron Mine Corporation
Sean Joseph, Nunavut Water Board
Mary River Distribution List

Enclosure: NIRB Project Certificate [005] Amendment 01 (May 28, 2014)