



NIRB File No.: 08MN053

NWB File No.: 2AM-MRY1325 (Amendment No. 2)

DFO File No.: 07-HCAA-CA7-0050

July 22, 2015

Erik Madsen
Vice President Sustainable Development, Health, Safety & Environment
Baffinland Iron Mines Corporation
Suite 1016, 120 Adelaide Street West
Toronto, ON M5H 1T1

Sent via email: erik.madsen@baffinland.com

Re: Acknowledgement of Baffinland Iron Mines Corporation's Request to Reconsider the Terms and Conditions of the Mary River Project Certificate [No. 005]

Dear Erik Madsen:

On October 29, 2014 the Nunavut Impact Review Board (NIRB or Board) received the enclosed cover letter and a "Phase 2 Development" project proposal from Baffinland Iron Mines Corporation (Baffinland or the Proponent), which outlined proposed modifications to the activities previously approved under NIRB Project Certificate [No. 005] for the Mary River Project. In providing its Phase 2 Development project proposal to the NIRB, Baffinland requested a formal reconsideration of the terms and conditions of the Mary River Project Certificate pursuant to section 12.8.2 of the Nunavut Land Claims Agreement (NLCA), to determine if the proposed project amendment could proceed. Baffinland also provided the project description to the Nunavut Planning Commission (NPC) on October 29, 2014 with an application for a conformity determination against the requirements of the North Baffin Regional Land Use Plan (NBRLUP).

On November 6, 2014 the NIRB issued a news release advising the Proponent and interested parties that the Board would await receipt of confirmation from the NPC that the Phase 2 Development project proposal conformed to the requirements of the North Baffin Regional Land Use Plan prior to the Board considering Baffinland's reconsideration request. On April 8, 2015 the Nunavut Planning Commission provided notification to the NIRB that the Phase 2 Development project proposal did not satisfy the conformity requirements the NBRLUP.

On May 21, 2015 Baffinland applied to the Minister of Aboriginal Affairs and Northern Development for an exemption from the NBRLUP for its Phase 2 Development project proposal in accordance with Article 11, Section 11.5.11 of the NLCA. On July 14, 2015 the Board

received correspondence from the Minister of Aboriginal Affairs and Northern Development exempting Baffinland's Phase 2 Development project proposal from the requirement for conformity with the NBRLUP and referring the Phase 2 Development project proposal to the NIRB for assessment.

All materials received and pertaining to the Phase 2 Development project proposal and request to reconsider the terms and conditions of the Mary River Project Certificate can be obtained from the NIRB's online public registry at the following location:

<http://ftp.nirb.ca/03-MONITORING/08MN053-MARY%20RIVER%20IRON%20MINE/01-PROJECT%20CERTIFICATE/04-AMENDMENTS/02-PHASE%202/>.

SUMMARY OF THE REQUEST

Baffinland, through its "Phase 2 Development" project proposal, is proposing to increase shipment of iron ore from Milne Port as approved under the terms and conditions of the current Project Certificate from 4.2 million tonnes per annum (mtpa) to 12 mtpa for the life of the Mary River Project (estimated at 21 years). Baffinland also proposes to extend the annual shipping season of its northern shipping route from June through March. The proposed increased ore shipments from Milne Port would be facilitated through the establishment of a second dock at Milne Port. Two polar class ice-breaking Panamax self-discharging vessels would be operated annually from June through March, with additional market vessels during the open water shipping season of mid-July through mid-October. At the Mary River mine site, the nominal mining rate would be increased to 30 mtpa, with establishment of additional transitional facilities for fuel storage and temporary accommodations, and increased usage of existing infrastructure constructed for the approved Mary River project.

The Proponent has noted that the proposed project amendment would result in increased utilization of the Milne Inlet Tote Road for haulage of up to 12 mtpa of iron ore including: twinning of bridges; widening of the Milne Inlet Tote Road; twinning of sections of the road and realignment and grade improvements. The Proponent indicated that the proposed modifications to the Milne Inlet Tote Road would facilitate haulage of iron ore by ore trucks from the Mary River mine site to the Milne Port corresponding to up to 300 round trips per day.

At Milne Port, placement and expansion of the following infrastructure would be required:

- A tank farm to accommodate up to 140 million litres of fuel;
- Stockpiling of 6 million tonnes of iron ore;
- Camp and sewage treatment plant to accommodate peak construction work force of up to 500 persons, with 400 persons during the operations phase;
- Additional service buildings; and
- Use of Polar Class Post Panamax sized self-discharging ore carrier for ship-to-ship transfer of ore (i.e. trans-shipping) utilizing a conveyor system.

Baffinland projected that the proposed Phase 2 Development project would not change the project development area (PDA) at the Mary River Mine site and Milne Inlet Tote Road corridor, but that a marginal increase of the PDA could be expected in the marine environment at Milne Port to accommodate the second dock. Consequently, Baffinland indicated its understanding that the proposed modifications as contemplated for the Phase 2 Development proposal would likely

necessitate changes and a second amendment to specific terms and conditions of the current Mary River Project Certificate.

RECONSIDERATION OF PROJECT CERTIFICATE TERMS AND CONDITIONS

As all parties are aware, the current Mary River Project Certificate [No. 005] issued on December 28, 2012 and amended on May 28, 2014 is the product of rigorous public review processes facilitated by the NIRB which provided numerous opportunities for public participation through multiple public commenting periods and events such as public meetings, information sessions and public hearings. The development review process under the NLCA also recognizes that Project Certificates are not static documents, and that to be effective, a Project Certificate must reflect the actual circumstances of a project as those circumstances evolve and change. Sections 12.8.2 and 12.8.3 of the NLCA set out how the terms and conditions in a given Project Certificate may be reconsidered:

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.

12.8.3 Where the Minister determines that any of the conditions in Sub-sections 12.8.2(a), (b) or (c) have been established, NIRB shall reconsider the terms and conditions contained in a certificate, and NIRB shall produce a report of its reconsideration. The Minister may accept, reject or vary that report only on the grounds specified in Section 12.6.13. NIRB shall amend its certificate to reflect any changes as accepted, rejected or varied by the Minister.

Where the NIRB has established that terms and conditions within a Project Certificate require reconsideration, the NIRB would initiate a public review of the application, including public consultation, the issuance of additional Guidelines, facilitation of technical meetings, and written or oral hearings as deemed necessary in accordance with the NIRB's Rules of Procedures.¹ The project proponent would be required to provide any information determined to be necessary to facilitate the reconsideration process.

After assessing the potential ecosystemic and socio-economic effects of the proposed project amendment, the Board would then decide whether or not it should be allowed to proceed and, if so, whether amendments and/or additions to the Project Certificate terms and conditions are

¹ NIRB's Rules of Procedures (2009) are available online from the Board's public registry at the following location: <http://ftp.nirb.ca/06-RULES/>.

required. The Board's decision and, if applicable, recommended amendments to the existing Project Certificate terms and conditions, would be provided in a report to the Minister of Aboriginal Affairs and Northern Development for approval.

If the amended project proposal was eventually approved to proceed, the Project Certificate could contain new or amended terms and conditions specific to the amended activities. Alternatively, if the amendment to the project was not approved to proceed, the reconsideration process would have no effect on the NIRB's prior approvals for the original Mary River Project and the associated Early Revenue Phase amendment for the Mary River Project.

REQUEST FOR COMMENTS

By copy of this correspondence, the NIRB is inviting comments from interested parties and agencies with jurisdiction, authority and/or licences and approvals associated with the Mary River Project prior to determining whether the changes as proposed in the Phase 2 Development project proposal warrant reconsideration of the terms and conditions of the existing Project Certificate in accordance with NLCA Section 12.8.2. In soliciting comments at this point, the NIRB notes that if it establishes that the terms and conditions of the Project Certificate are to be reconsidered it is anticipated that a comprehensive submission in the form of an update or addendum to the Final Environmental Impact Statement for the Mary River project would be required to support the necessary technical review of the proposal. The NIRB would, at that time, also solicit additional comments from the parties with respect to the potential for ecosystemic and socio-economic impacts associated with Baffinland's proposed project amendment.

Specifically, the Board invites parties to comment on the following:

- Whether the proposed changes, as presented in the request, meet the requirement for reconsideration as set out in the 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 have identified any specific terms and conditions within the existing Project Certificate that would need to be reconsidered or amended to reflect the Phase 2 Development Project Proposal;
- Whether a reconsideration of the existing Project Certificate terms and conditions is likely to arouse significant public concern, and if so, a description of the basis for the concern;
- Whether parties have comments or concerns regarding the potential content and/or format of any update or addendum to the existing Final Environmental Impact Statement required to support the reconsideration of existing Project Certificate; and
- Any matter of importance to the Party related to the request to reconsider the terms and conditions of the existing Project Certificate by the NIRB.

The NIRB requests that interested parties submit comments directly to the NIRB via email to info@nirb.ca or via fax to (867) 983-2594 on or before **August 5, 2015**.

NEXT STEPS

Following the Board's receipt and review of comments received, the Board will: (a) determine whether the proposed changes are sufficient to warrant reconsideration under Section 12.8.2 of the NLCA; and (b) if the Board determines that the Project Certificate terms and conditions must be reconsidered, the NIRB would advise the Minister of Aboriginal Affairs and Northern Development (the Minister) of the Board's decision to initiate the formal reconsideration of the Project Certificate terms and conditions; the Board would also provide all parties with further direction on next steps and associated timelines at that time.

In the interim, should you have any questions or require further clarification regarding the current request for comments, please contact Tara Arko, Director of Technical Services at (867) 983-4611 or via email at tarko@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Brian Aglukark, Nunavut Planning Commission
Phyllis Beaulieu, Nunavut Water Board
Stephen Willaimson Bathory, Qikiqtani Inuit Association
Lilianne Arsenault, Government of Nunavut
Tracey McCaie, Aboriginal Affairs and Northern Development Canada
Luc Fortin, Canadian Transportation Agency
Mark Dahl, Environment Canada
Georgina Williston, Fisheries and Oceans Canada
Rob Johnstone, Natural Resources Canada
Meighan Andrews, Transport Canada
Tineka Simmons, Northern Projects Office
Mary River Distribution List

Enclosed: Baffinland Letter to the NIRB Re Project Certificate Amendment Request (October 29, 2014)