



NIRB File No.: 08MN053
NWB File No.: 2AM-MRY1325

June 27, 2018

The Honourable Carolyn Bennett, P.C.
Minister of Crown-Indigenous Relations and Northern Affairs Canada
House of Commons
Government of Canada
10 Wellington, 21st Floor
Gatineau, QC K1A 0H4

Sent via email and courier: minister@aadnc-aandc.gc.ca; carolyn.bennett@canada.ca; and
infopubs@aadnc.gc.ca

Megan Lord-Hoyle
Director, Sustainable Development
Baffinland Iron Mines Corporation
2275 Upper Middle Road East
Oakville, ON L6H 0C3

Sent via email: megan.lord-hoyle@baffinland.com

**Re: Follow Up Guidance and Notice Regarding the Nunavut Impact Review Board's
Next Steps in the Processing of Baffinland Iron Mines Corp.'s "Production Increase,
Fuel Storage and Milne Port Accommodations Modification Proposal"**

Dear Honourable Carolyn Bennett and Megan Lord-Hoyle:

On May 18, 2018 the Nunavut Impact Review Board (NIRB or Board) received a referral from the Nunavut Planning Commission (NPC or Commission) to screen Baffinland Iron Mines Corporations (Baffinland, or Proponent) "Production Increase, Fuel Storage and Milne Port Accommodations Modification Proposal" (Production Increase Proposal),¹ a proposed modification to the approved Mary River Iron Mine. In summary, the application, as submitted to the NIRB on April 30, 2018 proposes an increase from the current limit of 4.2 Mt/a that can be trucked from the approved mine site at Mary River via the Milne Inlet Tote Road and shipped from the Milne Inlet Port to 6 Mt/a, and includes addition of a 15 ML diesel fuel tank to the existing Fuel Storage Facility at Milne Port and the installation of a new 380-person accommodations camp at the Milne Inlet Port. Baffinland has requested that the NIRB

¹ Public Registry ID: 318142 , 318143, 318141 , 318140

reconsider Conditions 179(a)² and 179(b)³ of Mary River Project Certificate No. 005 and amend these items to accommodate the proposed project changes.

As set out in greater detail in the enclosed correspondence issued June 11, 2018, the Board has decided that Article 12, Section 12.8.2(b) and (c) of the *Nunavut Agreement* and s. 112(b) and (c) of the *NuPPAA* (changed circumstances and technological innovations) trigger the reconsideration of the terms and conditions of Project Certificate No. 005 in light of the Production Increase Proposal. As required by s. 112(3) of *NuPPAA*, the NIRB is providing this notice of the reconsideration of terms and conditions of Project Certificate No. 005.

On June 20, 2018 the Nunavut Impact Review Board (NIRB or Board) received information in support of a Final Environmental Impact Statement (FEIS Addendum) submission from Baffinland for the Production Increase Proposal.⁴ Having undertaken an internal cursory review of the submission to confirm its concordance with the guidance provided by the NIRB on June 11, 2018,⁵ the NIRB is now formally accepting the FEIS Addendum and initiating a public review of the associated documentation. Through this correspondence the Board is also inviting responsible authorities and interested parties to provide final written submissions for the NIRB's consideration on or before **July 26, 2018**. Direction on the recommended format for final written submissions has been included as **Appendix A**.

All documentation associated with the Production Increase Proposal, including application materials filed by the Proponent with the NIRB can be accessed online from the NIRB's public registry using the following link: www.nirb.ca/project/123910.

To directly access any documentation cited in this correspondence, choose the "search documents" option on the NIRB's online public registry and search for the public registry identification numbers included here as footnotes.

RECONSIDERATION PROCESS AND NEXT STEPS

As noted previously, the NIRB has considerable discretion as to the precise process for conducting a reconsideration under Section 12.8.2 of the *Nunavut Agreement* and s. 112 of *NuPPAA*. In conducting a reconsideration, the Board remains, however mindful that the NIRB's primary objectives apply to reconsiderations and generally dictate that the NIRB conduct an assessment of the modification proposal with as much rigor at least as a Screening and sometimes even a full environmental Review. However, the NIRB also notes that process for the assessment of modification proposals must also reflect the scale and scope of the changes requested.

2 For each year after the Proponent commences shipping ore via Milne Inlet under the Early Revenue Phase Proposal, the Proponent shall include in the Annual Report to the NIRB, a summary of the total amount of ore shipped via Milne Inlet for the previous calendar year.

3 In any given calendar year, the total volume of ore transported by truck on the Milne Inlet Tote Road shall not exceed 4.2 million tonnes.

4 Public Registry ID: 318283

5 Public Registry ID: 318152

In this case, while the Board recognizes that the scope of the proposed modifications is largely limited to increasing the scale of currently-approved activities, the Board has also identified that the potential for adverse ecosystemic effects could be greater than was previously considered by the NIRB during the Board's Review of the original Project and the associated Early Revenue Phase Proposal, particularly related to the proposed increase to levels of road traffic and marine vessel traffic in support of ore transport. The Board is also uncertain regarding the extent to which significant public concern may exist in association with this proposal; the Board intends to consider information provided through its previous assessments and the ongoing monitoring program for the approved Mary River Iron Mine in addition to the results provided by Baffinland and the Qikiqtani Inuit Association (QIA) from their planned public engagement when evaluating the potential public concern associated with the Production Increase Proposal. Should significant public concern with the Production Increase Proposal be identified by the Board as this assessment progresses, the Board may, upon notice to all parties and subject to procedural fairness requirements, supplement the process as required (including through scheduling of a Public Hearing) to ensure the Board has provided opportunities for public concerns to be noted and considered.

In setting out the process below, the Board has been mindful of recent submissions provided by Baffinland in which it has indicated that due to seasonal shipping constraints, in order for the modification activities to proceed next year, the Proponent requires a decision as to whether or not the Production Increase Proposal has been approved to proceed by the end of August, 2018. The NIRB believes that the process outlined below, which is, in the NIRB's view, appropriately scaled to the technical issues and level of assessment required for the NIRB's reconsideration of the modification proposed can be completed by the Board by the end of August. The NIRB wishes to stress however that ensuring this assessment is completed in accordance with the timelines set out below is contingent on several factors outside the Board's control:

- Parties meeting deadlines throughout the process;
- Adequate information being provided to the parties and the Board throughout; and
- (As necessary) Baffinland and intervenors working to resolve outstanding issues and ensuring that the Board is being kept informed of the outcome/resolutions achieved.

In terms of the specific public engagement associated with the reconsideration process for this file, the NIRB has previously acknowledged the following:

- The NIRB agrees that the need for flexibility, efficiency and coordination must be considered by the Board when establishing applicable processes;
- The Board will investigate the feasibility of having a staff person attend the QIA-led engagement sessions planned for July in Pond Inlet as set out in Baffinland's June 6, 2018 correspondence. Further, the NIRB may undertake its own directed engagement with the community in coordination with these sessions, depending upon factors such as the availability of time and resources, and the support of the community;
- The Board will consider the engagement undertaken by Baffinland and QIA (and NIRB staff) as planned in July, in addition to feedback received from the community to provide subsequent additional direction to Baffinland, intervenors and communities regarding

whether an in-person Public Hearing will be required by the Board to assess the Production Increase Proposal.

As noted previously, recognizing the limited capacity of reviewers, the community, etc. the Board does not intend to commence the public technical review of the FEIS Addendum for the Phase 2 Development Proposal until the record is closed for the NIRB's assessment of the Production Increase Proposal.

The NIRB provides the following outline of the process and timelines for the NIRB's reconsideration of the terms and conditions of Project Certificate No. 005 to reflect the assessment of effects associated with Baffinland's Production Increase Proposal:

Date	Process Step
June 27, 2018	1) NIRB provides this Notice of Reconsideration under s. 112 (3) of the <i>NuPPAA</i> ; and 2) Public review of the proposal begins
July 10-13, 2018	QIA-led meetings in Pond Inlet
July 26, 2018	Intervenors file final written submissions
August 9, 2018	Baffinland files a final reply to written submissions
August 31, 2018	NIRB issues a Reconsideration Report and Recommendations under s. 112(5) of the <i>NuPPAA</i>

In determining the timelines necessary to facilitate this reconsideration process, the Board gave consideration to the submissions discussed above, as well as consideration for previous procedural guidance set out by the Board and scheduling challenges imposed by other competing assessment activities, including the following:

- Incoming screening level assessments;
- Scheduled site visits for ongoing NIRB monitoring programs (July/August);
- The Strategic Environmental Assessment in Baffin Bay/Davis Strait (NIRB File No. 17SN034);
- Reconsideration process for the "Phase 2 Development Proposal" associated with the Baffinland Iron Mines Corp.'s approved Mary River Iron Mine Project (NIRB File No. 08MN053);
- Reconsideration process for the "In-Pit Tailings Disposal Proposal" associated with Agnico Eagle Mines Ltd.'s Meadowbank Gold Mine Project (NIRB File No. 03MN107); and
- Reconsideration process for the "Saline Effluent Discharge Proposal" associated with Agnico Eagle Mines Ltd.'s Meliadine Gold Mine Project (NIRB File No. 11MN034).

The Board recognizes the discretion granted to the Minister under s. 114 of the *NuPPAA* to indicate to the Board that a review or a reconsideration of terms and conditions is a priority in relation to other reviews or reconsiderations and to propose a reasonable period within which it must be completed. As the In-Pit Tailings Disposal Proposal, the Saline Effluent Discharge Proposal and the Production Increase Proposal in particular have indicated that a decision in the

coming months is necessary to meet timelines associated with the limited seasonal shipping window for Nunavut, the Board invites any direction from the Minister with regards to prioritization of these files as may be deemed appropriate.

CONCLUSION

In closing, the NIRB invites interested parties to provide their final written submissions for the assessment of the Production Increase Proposal on or before **July 26, 2018**. Direction on the recommended format for final written submissions has been included as **Appendix A**.

Final Written Submissions can be provided directly through the NIRB's online public registry system at www.nirb.ca/project/123910, or via email to info@nirb.ca.

Should any parties have questions or require additional clarification regarding the process for this assessment, please contact the NIRB's Executive Director, Ryan Barry at (867) 983-4608 or via email at rbarry@nirb.ca.

Sincerely,



Elizabeth Copland
Chairperson
Nunavut Impact Review Board

cc: Mary River Iron Mine Distribution List
Lou Kamermans, Baffinland Iron Mines Corporation
Jamie Quesnel, Agnico Eagle Mines Limited
Ryan Vanengen, Agnico Eagle Mines Limited
Karén Kharatyan, Nunavut Water Board
Stephen Williamson-Bathory, Qikiqtani Inuit Association
Chris Spencer, Government of Nunavut
Erika Zell, Government of Nunavut
Tracey McCaie, Crown Indigenous Relations and Northern Affairs Canada
Georgina Williston, Environment and Climate Change Canada
Melissa Pinto, Environment and Climate Change Canada
Mark D'Aguiar, Fisheries and Oceans Canada
Rob Johnstone, Natural Resources Canada
Rachelle Besner, Natural Resources Canada
Christopher Aguirre, Transport Canada

Attached: Appendix A: NIRB's Suggested Format for Parties' Final Written Submissions

Enclosed: NIRB Letter to Baffinland Re Processing Modification Applications (June 11, 2018)

APPENDIX A: NIRB'S SUGGESTED FORMAT FOR PARTIES' FINAL WRITTEN SUBMISSIONS

When developing final written submissions for consideration by the Nunavut Impact Review Board (NIRB), parties are respectfully requested to consider the following direction regarding suggested format.

For each issue raised, parties are asked to include a clear reference to the volume, document, section, and/or page number in the Final Environmental Impact Statement (FEIS) Addendum documentation where relevant information may be found. 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 FEIS Addendum. A tabular presentation as provided below is requested as a means of systematically organizing comment submissions and to assist with the compilation of submissions for the next steps of the NIRB's Review process.

Format and File Size

Parties must provide submissions in a fully functional, electronically searchable Word, Excel or unlocked PDF format. Parties should endeavor to limit the size of digital files to no larger than 10 MB.

Final written submissions should contain the following:

1. Executive Summary

Submissions must contain a non-technical executive summary of the major issues identified during the review of the FEIS Addendum. The summary should not exceed two pages.

The NIRB requires executive summaries be provided in English and be translated into **Inuktitut** and **French**. Please note that parties are responsible for sourcing this translation.

2. Table of Contents

Submissions should contain a table of contents with sections that relate to the main headings of the FEIS Addendum for the Production Increase Proposal and which also identify the major issues under those headings the party intends to bring forward for discussion and intends to address at the Public Hearing. Submissions may also address any other matter that the party considers relevant to the NIRB's review of the FEIS Addendum.

3. Introduction

All submissions should contain a statement of the party's mandate and relationship to the project. Parties that have regulatory jurisdiction over the Mary River Iron Mine Project must also provide a description of the party's jurisdiction as well as a list of the legislation, regulations, policies and guidelines administered by the party that are applicable to the project.

4. Specific Comments

For each issue included in the submissions, parties should provide the following:

- a. A detailed description of the issue and, as appropriate, a reference to where within the FEIS Addendum (volume/document, section and page number);

- b. If provided by the Proponent within the FEIS Addendum, identify the Proponent's conclusion(s) related to the issue;
- c. A statement regarding the conclusion(s) of the commenting party related to the issue, including reference to the justification/data/rationale supporting that conclusion;
- d. A brief discussion assessing the issue's importance to the impact assessment process; and
- e. Any recommendation(s) to the NIRB with respect to the disposition of the issue, including whether or not the issue could be addressed through specific updates to the terms and conditions of Project Certificate No. 005 and/or other modifications to the existing monitoring and reporting requirements for the approved Mary River Iron Mine Project.

5. Summary of Recommendations

Finally, submissions to the NIRB should contain a *summary* of the recommendations to the Board with respect to:

- Whether Parties agree/disagree with the conclusions presented in the FEIS Addendum provided by the Proponent regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures – and all evidence supporting the parties' position;
- Whether or not conclusions presented in the FEIS Addendum provided by the Proponent are supported by the analysis – and all evidence supporting the parties' position;
- Whether appropriate methodology was utilized in the FEIS Addendum to develop conclusions – and all evidence supporting the parties' position along with any proposed alternative methodologies which may be more appropriate if applicable;
- An assessment of the quality and the presentation of the information presented in the FEIS Addendum;
- An assessment of the appropriateness of proposed monitoring measures – and evidence to support the determination, along with any proposed alternative monitoring measures which may be more appropriate (if applicable); and
- Any comments regarding additional information which would be useful in assessing impacts – and reasons to support any comments made.

6. Suggested submission format in Table Form

Review Comment Number	
Subject/Topic	
References to the FEIS Addendum (i.e., volume/document, section/sub-section, page number, etc.)	
Summary (include Proponent's conclusion if relevant and conclusions of commenting party)	
Importance of issue to the impact assessment process	
Detailed Review Comments	1. Gap/Issue 2. Disagreement with FEIS Addendum conclusion 3. Reasons for disagreement with FEIS Addendum

	conclusion
Recommendation/Request	