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January 24, 2019

Tara Arko
Director of Technical Services
Nunavut Impact Review Board (NIRB)
29 Mitik Street
P.O. Box 1360
Cambridge Bay Nu X0B 0C0
Email: info@nirb.ca

SENT VIA EMAIL

RE: Request to Adjust Aspects of Baffinland Phase 2 Review Process

Dear Ms. Arko:

The Qikiqtani Inuit Association (QIA) submits this request that NIRB adjust aspects of the process for the consideration of Baffinland Iron Mines Corporation (BIMC) Phase 2 Development Proposal (Phase 2) as follows:

1. Extension of technical review comment deadline for submission, from February 21 to March 7, 2019 (an additional 14 days)
2. Included additional time to review management plans following submission by the proponent (at least 4 weeks after receipt)

This request is in furtherance of QIA's submissions to NIRB and NWB on November 23, 2018¹ and takes into account the letter from the Northern Projects Management Office sent January 11, 2019.

1. Extension of Technical Review Period

QIA extension request to the Technical Review Period are for the following reasons:

- 1.1 To ensure its technical comments are comprehensive and of high quality, including work to first collect and then integrate Inuit Qaujimagatuqangit (IQ). If the additional time requested is granted this will assist in enhancing the quality of QIA's submissions

¹ QIA (J. Groves) letter to NIRB (T. Arko) and NWB (K. Kharatyan), Information Requests for Baffinland's "Phase 2 Proposal" and Water Licence Application. November 23, 2018.

during the technical review. If no additional technical review time is provided, QIA requests other opportunities to make additional supplementary submissions outside of the process as it is currently structure be considered.

- 1.2 To allow the proponent to address outstanding requirements and/or information relevant to the project, including: (i) annual monitoring data; (ii) results from the project audit required under Amended Project Certificate 05, Term and Condition 179(c); (iii) updated management plans for Phase 2; and (iv) compliance information for regulatory reporting, due March 31, 2019. The content of these requirements should be subject to review and consideration during the review of the Phase 2 proposal. QIA notes that this information will only arrive following the technical review period. QIA has reservations about proceeding through the technical review period without this information. Proceeding without these requirements will potentially undermines expectations Inuit have that the Phase 2 process is procedurally fair and takes existing activities at Mary River into account. QIA anticipated when this information arrives it will necessitate consideration for how the latter portions of the review process unfold.
- 1.3 To ensure that QIA is appropriately represented at the upcoming marine and terrestrial environment working group (MEWG/TEWG) meetings in Ottawa during early February to discuss Phase 2 during the technical review period. These additional events, which QIA understands are proposed by the proponent to engage in discussions on management plans, requires additional time and attention that cannot otherwise be spent conducting a review of the application. QIA believes its time would be better spent on the application and technical comments. QIA also believes it is premature to hold such a session in the absence of updated management plans. QIA, therefore, will recommend to the proponent that these sessions are postponed until following the filing of updated management plans.
- 1.4 To allow for time loss during statutory holidays and afford time required for newly elected Community Directors, including the representative from Pond Inlet to familiarize themselves with the file and proceedings. The Mittimatalik Hunter and Trapper Organization is reviewing its position on Phase 2 during the technical review period. The technical review period included several days during the Christmas season in which offices were closed for statutory holidays or operating at reduced staffing levels. QIA's newly elected community directors will convene as a board for the first time in early March 2019.
- 1.5 To ensure that entities awaiting participant funding receive funding prior to/or in time for completion of the technical review period. The timing associated with the participant funding application process and delivery of funds should provide parties the

opportunity to participate in the review process. QIA requests NIRB ensure that parties receiving participant funding are able to participate in the technical review process, including having adequate time to receive funds and apply them to the technical review and attend the technical meetings. QIA suspects the synchronization of participant funding and the review process will be raised by other parties as a concern.

- 1.6 To enable completion of QIA's work to gather and prepare Inuit Qaujimajatuqangit evidence for Phase 2, which is currently ongoing. Following its initial assessment of the Phase 2 application, QIA considers there is insufficient integration of IQ in the proponent's materials. QIA is working to ensure the Board is able to give due regard and weight to IQ evidence when making decisions on Phase 2. QIA is striving to do this work in a timely fashion recognizing this work requires dedicated time, attention and considerable logistical planning.

QIA notes that the technical review is an important aspect of the review process. Therefore, if the technical review period is inadequate, it will likely undermines other successive steps of the process. The technical review portion of the process should inform a determination of whether the application should advance to a final hearing. Consequently, it may be necessary to discuss the remaining Phase 2 process during the technical meetings.

2 Additional Time to Review Management Plans

The proponent must supply updated management plans during the Phase 2 review. To date, what has been submitted is not considered adequate for the purpose of providing reviewer comments. The approach of the proponent appears to align with filing revised management plans one month following the technical review period as opposed to the onset of the review process. This method of management plan development unnecessarily limits parties' ability to determine whether management plans are functional and protective of the environment. QIA's view is that proposed updates to management plans, i.e. detailed edits, as opposed to tables summarizing anticipated edits, should be provided as the starting point for reviewers. Unfortunately, these documents remain unseen. While all management plans are important, some are particularly critical to the effective and reasonable review of Phase 2. Parties need additional time after the submission of updated management plans to properly review them. According to the schedule for submission of updated management plans, review of such plans would only commence following the submission of technical review comments, meaning party comments and interactions with these documents will be constrained to the latter portions of the review process.

Final Hearings

Adjustments to the review process may also require amending timeframes for when final hearings are scheduled. QIA understands there is a strong desire by NIRB to hold community

engagements to maximize the opportunity for community participation. QIA acknowledges requesting additional time could result in final hearings being scheduled during a key harvesting season for Pond Inlet (i.e. mid-June onwards). QIA is willing to consider alternative approaches to the Phase 2 process, including a possible pre-hearing conference, community oral hearings yet leaving the record open for final comments, to minimize interference with harvesting activities (i.e. fall 2019) or other proposals that emphasizes flexibility and facilitates Inuit participation.

Again, QIA believes the latter stages of the review process should be a point of discussion during the technical review meetings at which point all parties will be better informed of their views, including the community of Pond Inlet.

In summary, QIA reiterates the issues outlined above will likely affect the sufficiency of the Phase 2 review unless adjustments to the anticipated process circulated October 12, 2018, is considered and made. While QIA requested adjustments is focused on the anticipated process through March 2019, QIA has comments on the timing and organization of the final hearing, in an effort to share perspectives without seeking to prescribe the concluding parts of the process at this early stage.

QIA is acutely aware of how significant the impact of Phase 2 could be on Inuit, particularly in Pond Inlet. Inuit have serious concerns about the current operation of Mary River now, and it is possible the review of this application could find that Inuit are not ready to engage in Phase 2, both due to review process timing and the complexity of the impacts associated with the proposed scale of the application. QIA shares NIRB's objective to protect and promote the well-being of the residents and communities affected by Mary River. However, without adequate time, QIA is concerned that NIRB will not be able to determine in a procedurally fair manner whether Phase 2 should proceed, and, if so, under what terms and conditions.

If you have any questions regarding the above, please contact our offices.

Sincerely,

A handwritten signature in blue ink, appearing to read 'J. Groves'.

Jeremiah Groves
Executive Director

CC: Mr. Jaykolassie Killiktee, MHTO Chair
Mr. Joshua Katsak, Mayor of Pond Inlet

Mr. Levi Barnabas, QIA Executive Committee Member
Mr. Charlie Inuarak, QIA Community Director, Pond Inlet