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April 15, 2019

Ryan Barry, Executive Director  
Nunavut Impact Review Board (NIRB)  
29 Mitik Street  
PO Box 1360  
Cambridge Bay, NU X0B 0C0  
Email: [rbarry@nirb.ca](mailto:rbarry@nirb.ca)

SENT VIA EMAIL

**Re: NIRB File No. 08MN053: Request for Additional Guidance following Baffinland's "Phase 2 Proposal" Technical Meeting**

Dear Mr. Barry,

Qikiqtani Inuit Association (QIA) is writing this letter to follow up the technical meeting held in Iqaluit last week as part of the Nunavut Impact Review Board's (NIRB) reconsideration of Baffinland Iron Mines Corporation's (Baffinland) Phase 2 Proposal.

QIA would like to express its deep concern with the number of outstanding materials that remain unconsidered in the context of a technical meeting, with the delays providing technical information, and with the sufficiency of the information provided by Baffinland for the technical meeting. We respectfully request direction from the Board on the path forward in light of these significant issues and concerns.

### Outstanding Materials

Qikiqtani Inuit Association (QIA) supports the April 5, 2019, letter from the Northern Major Projects Office (NPMO). In that letter, NPMO, on behalf of the Government of Canada, including the federal departments of Indigenous and Northern Affairs, Fisheries and Oceans, Environment and Climate Change, Natural Resources, Health, Parks and Transport Canada, raised questions regarding the significant information that was not provided prior to the technical meeting. These outstanding materials should have been available in advance of the technical meeting. Delays in providing such information reduces the efficiency and efficacy of the NIRB review process.

The technical meeting was hindered by the extensive information gaps that exist at this stage. Amongst the materials that remain outstanding include nearly 40 separate management plans, an ice breaking assessment, simulation modelling report, and an

updated Cumulative Effects Assessment. Without this information, discussing plans for environmental mitigation, management, and monitoring stemming from the Phase 2 Proposal at the technical meeting was premature. This impeded QIA's ability to participate adequately on discussions about the likelihood of mitigating impacts or the adequacy of proposed monitoring plans to address potential impacts.

Absent this outstanding material, the technical meeting process was weakened. In light of the outstanding materials, an absence of comment from QIA on a topic at the technical meeting should not be misconstrued as an absence of remaining concerns.

Under *NIRB Rules of Procedure (2009)*<sup>1</sup>, the purpose of a technical meeting is intended to assist NIRB in making a determination as to whether the EIS contains the information necessary in order to proceed to a hearing. While thankful for the opportunity to participate and appreciative of the work of NIRB in conducting this meeting, QIA is concerned that the meeting of technical experts has not satisfied our concerns with the quality of the information provided by Baffinland in advance of this meeting, or the significant number of plans and materials that remain outstanding.

We are not confident we have the required technical information that is necessary to proceed to a hearing at this point in time.

#### **Delays in Providing Technical Information**

Baffinland indicated in their letter of April 8, 2019, that the planned submission date for the outstanding materials is anticipated to occur between May and July 10, 2019. The technical meeting concluded on April 10. In other words, Baffinland is proposing that the outstanding material be provided up to 3 months *after* the technical meeting has ended. Given that final written submissions are due from parties on August 10, this 3-month delay from Baffinland seems unfair; currently, parties will be expected to comply with a 1-month turnaround between the final delivery of outstanding materials on July 10 and the August 10 deadline for final written submissions.

To compensate for this, in their letter Baffinland suggests adding a subsequent day to the working group meetings that are scheduled to take place on June 10, 2019, or participating in a further technical meeting via other formats, such as teleconference. QIA is concerned about Baffinland's proposed process for technical review of the outstanding material for the Phase 2 Proposal. Working groups are not a proxy for a NIRB technical meeting and should not be accepted as such in this case. Baffinland is proposing that the Terrestrial and Marine Working Group Meetings be used to manage the additional information; however these groups function in an advisory capacity for the Mary River Project under the Project

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<sup>1</sup> September 3, 2009, s. 18.1

Certificate.<sup>2</sup> This approach confuses the role of NIRB under the legislative scheme that is set-out under the *Nunavut Agreement* and the *Nunavut Planning and Project Assessment Act (NuPPAA)*. There is no mechanism through the working groups to facilitate public participation including from hamlets and HTOs, nor is it clear how information from, or decisions made at, these meetings would be integrated into the reconsideration process for the Phase 2 Proposal that is before NIRB. This process is under the jurisdiction of NIRB and a key function of the Inuit co-management decision-making process by which Inuit rights are meant to be protected.

### **Information Sufficiency**

The technical meeting revealed that the information provided by Baffinland was limited in substance; the insufficiency of information did not allow for a fulsome review of the validity of the impacts predicted by Baffinland. QIA's technical review comments sought to address these issues to the extent possible based on the limits of the information thus far collected and provided by Baffinland; however, further work is required by Baffinland to adequately permit a proper identification of issues and concerns. For instance, much of the information Baffinland has provided is limited largely to qualitative statements and notably lacking in collection or incorporation of Inuit Qaujimajatuqangit (IQ).

QIA, as a Designated Inuit Organization under the *Nunavut Agreement*, represents the rights and values of the Inuit within the Qikiqtani Region of Nunavut, which includes those communities most impacted by Baffinland's Phase 2 Proposal. QIA takes its role in the Mary River project very seriously. Pond Inlet is at risk of a major escalation in the impacts they experience from the Mary River Project. QIA and Inuit have historical concerns that may be exacerbated by more trucking, building railways and shipping. By way of example, there is already evidence the current project is affecting traditional uses of the land; these impacts are very likely to increase with the Phase 2 Proposal. QIA believes work must be done to ensure impacts are appropriately mitigated, or that Inuit benefit from the impacts of the Phase 2 Proposal. QIA's participation in the environmental assessment process for the Mary River Project over the years has necessitated an extensive and multi-faceted effort to represent the rights and values of the Inuit within the Qikiqtani region. QIA has invested considerable human and financial resources into understanding the perspective of Inuit and providing an Inuit voice throughout the NIRB reconsideration process.

QIA raises this point to highlight the importance that the voice of the Qikiqtani Inuit be fully considered in the review process, specifically with respect to assessing project alternatives, impacts, and cumulative effects. Yet, it is unclear how IQ has been integrated into or applied to inform environmental mitigation, management and monitoring plans by Baffinland. To date, no comprehensive data set addressing IQ and community knowledge has been

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<sup>2</sup> NIRB Project Certificate 05, Terms and Conditions Nos. 49, 77

undertaken. Without this, one cannot adequately assess project effects and the application may be found deficient with regard to the project-specific EIS Guidelines. It is unclear how this necessary work will be completed within the limited timelines Baffinland is currently proposing for this review.

Adequate consideration of IQ, which includes properly incorporating IQ into project plans and designs, is a critical component to the assessment process. Potential impacts to culture, traditional land use and food security were not discussed during the technical meeting. QIA is concerned, and has submitted technical comments to this effect, that cultural impacts to Inuit have not been adequately addressed in Baffinland's project risk calculations.

For instance, the information to-date does not appear to have properly considered possible negative impacts on food security. This is of significant importance to Inuit. It is largely unknown what impact the linear infrastructure being proposed will have on Baffin Island caribou – construction of Phase 2 would be the first rail line in the Canadian Arctic. This could have significant cultural and food security consequences for Inuit. A precautionary approach that is fully informed by IQ is warranted.

These concerns are compounded by a lack of clarity as to how cumulative effects have been assessed, including the cumulative impact of project activities and their interaction on impacted Inuit communities. Baffinland is, in effect, proposing rail transport that will stretch from Milne Inlet to Steensby Inlet despite the focus of the Phase 2 Proposal on the north route. The effects of this development on matters of significant importance to Inuit – namely caribou – have not been adequately considered. The Phase 2 Proposal environmental assessment must consider these cumulative effects more than has occurred to date.

### **Moving Forward**

QIA has diligently taken part in the information exchange process that preceded the technical meeting of April 8-10, but substantial information gaps persist. These gaps are the responsibility of Baffinland to fill. All of the outstanding material should be subject to an appropriate technical review that facilitates public participation. QIA is not satisfied that Baffinland has provided adequate technical information. We respectfully request direction from the Board on the path forward in light of these significant issues and concerns.

QIA sincerely appreciates the efforts of NIRB, Baffinland and all parties towards ensuring the requirements of the *Nunavut Agreement* and *NuPPAA* are respected and the assessment of the Phase 2 Development project proposal is undertaken by the most efficient and effective means possible.

Should you have any questions relating to the above, please contact the undersigned at your convenience.

Yours truly,



Jeremiah Groves  
Executive Director

CC: Mr. Jaykolassie Killiktee, MHTO Chair  
Mr. Joshua Katsak, Mayor of Pond Inlet  
Mr. Levi Barnabas, QIA Executive Committee Member, Arctic Bay  
Mr. Charlie Inuarak, QIA Community Director, Pond Inlet