



**NIRB File No.: 08MN053**  
NWB File No.: 2AM-MRY1325  
QIA File No.: LUA-2008-008  
DFO File No.: 2008 MR

April 18, 2019

To: Mary River Distribution List

*Sent via email*

**Re: Updated guidance regarding next steps in the NIRB's Assessment of Baffinland Iron Mines Corp.'s "Phase 2 Development Proposal", a proposed amendment to the approved Mary River Project**

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Dear Parties:

This correspondence provides updated guidance regarding next steps in the Nunavut Impact Review Board's (NIRB or Board) assessment of Baffinland Iron Mines Corp.'s (Baffinland or Proponent) "Phase 2 Development Proposal", a proposed amendment to the approved Mary River Project (NIRB File No. 08MN053), as was recently requested by parties and discussed during the Technical Meeting held April 8-10, 2019 for the assessment. Specifically, the Board is responding to issues and concerns raised by parties regarding the adequacy of information supplied by Baffinland to date in support of the assessment and implications for the remaining assessment timeline and planned Public Hearing in September.

By way of this correspondence, the NIRB is also notifying parties that the Board considers it appropriate to conduct a second Technical Meeting and proposes to host the additional Technical Meeting on **June 17-19, 2019** in Iqaluit (see enclosed updated process map). The purpose of the second Technical Meeting will be to review outstanding and unresolved technical issues associated with the Final Environmental Impact Statement Addendum (FEIS Addendum) for the Phase 2 Development Proposal.

#### THE APRIL 2019 TECHNICAL MEETING

As noted above, the NIRB recently hosted a meeting of technical experts (i.e. Technical Meeting) in Iqaluit, April 8-10, 2019 as part of its assessment of the Phase 2 Development Proposal. In advance of the meeting, parties had been asked to review the FEIS Addendum prepared by Baffinland and to develop technical review comments which outlined whether they agreed with the Proponent's conclusions regarding the potential ecosystemic and socio-economic impacts of the proposed activities and the adequacy of proposed mitigation and monitoring measures. A detailed response to parties' technical review comments was then prepared by Baffinland,

addressing issues raised by providing additional information, clarification and commitments for further analysis, information and management plans to be provided.

The Technical Meeting was structured to facilitate informal, face-to-face discussions of issues raised in parties' technical review comments regarding the FEIS Addendum prepared by Baffinland. The meeting was well attended and discussions between the Proponent, responsible authorities and interested parties attempted to clarify and/or resolve identified technical issues where the methodology, analysis or conclusions presented by the Proponent were not supported by reviewers.

However, during the Technical Meeting concerns were repeatedly raised by participants regarding their inability to undertake technical review and provide comment for specific agenda items due to data gaps and insufficient information having been provided by Baffinland in support of the assessment. In response, Baffinland indicated that additional submissions were being prepared to address specific deficiencies. The Proponent further committed to the provision of this additional information in accordance with several upcoming deadlines. The enclosed Commitment List was provided by Baffinland on April 17, 2019 and is intended to reflect a comprehensive summary of the commitments made by the Proponent in response to information requests and technical comments provided for the assessment of the Phase 2 Development Proposal, with the current status of resolution and a schedule for submission of additional information to NIRB.

#### RECENT CORRESPONDENCE

Prior to, during and following the Technical Meeting the NIRB also received correspondence from the following parties which addressed similar concerns and the resultant implications for the remaining timelines in the assessment of the Phase 2 Development Proposal:

- Northern Projects Management Office<sup>1</sup>
- Oceans North<sup>2</sup>
- Qikiqtani Inuit Association<sup>3</sup>
- Baffinland Iron Mines Corporation<sup>4</sup>

All documents associated with the NIRB's assessment of the Phase 2 Development Proposal can be accessed from the Board's online public registry at [www.nirb.ca/project/123910](http://www.nirb.ca/project/123910).

A summary of issues and concerns raised in recent correspondence included:

- Expressing frustration that information gaps have impaired the ability of responsible authorities to meaningfully participate in the assessment owing to outstanding required information, including not having the forthcoming ice breaking assessment, simulation modeling report, and updated cumulative effects assessment in advance of the Technical Meeting;

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<sup>1</sup> Received April 5, 2019, NIRB Public Registry ID: 324097

<sup>2</sup> Received April 10, 2019, NIRB Public Registry ID: 324281

<sup>3</sup> Received April 15, 2019, NIRB Public Registry ID: 324491

<sup>4</sup> Received April 8 and April 17, 2019, NIRB Public Registry ID: 324113 and 324551

- Requesting Baffinland provide updated monitoring and management plans, data and modeling with sufficient time for parties to review, comment and follow up with respect to outstanding areas of concern;
- Noting that the role, function and limited mandates of the marine and terrestrial environment working groups established under the Mary River Project Certificate makes these groups unsuitable vehicles for the broader discussion of the ongoing assessment for the Phase 2 Development Proposal and cautioning against Baffinland's reliance on these groups in the assessment;
- Expressing concern for the quality of information provided to date by Baffinland, and specifically highlighting a lack of evidence regarding how Inuit Qaujimajatuqangit has been collected, integrated and applied within Baffinland's assessment of the Phase 2 Development Proposal;
- Identifying that there is a lack of clarity regarding the treatment of potential cumulative effects, including cumulative impacts of existing project activities and their interaction with local communities; and
- Expressing concern for whether the current assessment schedule and planned Public Hearing in September can be maintained without compromising the ability of reviewers to effectively participate and the ability of the Board to have sufficient information to complete its assessment of the Phase 2 Development Proposal.

#### ADDRESSING INFORMATION REQUIREMENTS

The NIRB recognizes that Baffinland's Phase 2 Development Proposal represents a significant modification to the approved Mary River Project and expansion of the current operations under the approved Early Revenue Phase of the Project, with potential for interactions with the environment and communities which could have lasting effects. The NIRB has heard from parties and affected communities that the ongoing operation of the Early Revenue Phase of the approved project and the significant production increase approved in 2018 have already resulted in heightened public concerns about the associated project-related ecosystemic and socio-economic impacts. Substantial efforts have been invested into monitoring programs for the approved project, and responsible authorities, Inuit organizations, communities and other interested parties understandably expect the results of these monitoring programs to be used to address public concerns in the short term and to inform both the continued operation of the approved project and the consideration of the proposed amendments to approved activities in the longer term.

The Board appreciates that all parties may be struggling to some extent with the question of how much information from the monitoring of the approved project should be provided to inform the assessment of the Phase 2 Development Proposal and to identify whether the assessment should be delayed while Baffinland completes monitoring activities in accordance with the normal project monitoring schedules. The Board understands the desire of all parties to ensure that the information already generated by the baseline studies and monitoring of the Project since 2008 is made available for consideration by the Board, as the Board agrees this information is highly relevant. At the same time, the Board also recognizes that even though a Project is underway and undergoing active monitoring, the availability of monitoring data does not mean that all uncertainty regarding the effects of a project must be addressed through monitoring before the Board can complete its assessment. As with any assessment, the Board anticipates that uncertainty may exist in respect

of the potential for some effects. Although to the extent that existing monitoring and implementation of mitigation of the effects predicted in the assessment of the previously-approved project can inform the Board's assessment of the Phase 2 Development Proposal, for areas where data gaps and uncertainty exist, the NIRB expects that the precautionary principle and adaptive management approaches will be considered as appropriate, as is the case with all NIRB assessments.

Throughout the assessment of the Phase 2 Development Proposal the NIRB has encouraged Baffinland to meet directly with parties as necessary to advance the discussion and resolution of technical issues, with the understanding that outcomes of these discussions are to be documented and reported back to the NIRB to inform the public record. However, the Board agrees that the working groups established under the Mary River Project Certificate No. 005 are not an appropriate venue for advancing the technical assessment of the Phase 2 Development Proposal. While Baffinland and parties may find it convenient to coordinate other directed meetings with planned working group meetings, the meeting times and agendas should be kept separate and distinct to ensure ongoing monitoring efforts for the approved project are not compromised. The Board further highlights that not all the parties interested in the assessment of the Phase 2 Development Proposal may be present during working group meetings, and documentation of the outcomes from working group meetings is not expected to be provided to inform this ongoing assessment.

While it is recognized that a significant amount of documentation has been produced by Baffinland to support the assessment of the Phase 2 Development Proposal, process participants continue to identify critical information gaps and concerns regarding their ability to develop the comments and advice expected by the NIRB during the assessment. Prior to the recent Technical Meeting, at several critical junctures the NIRB provided detailed direction to Baffinland regarding the information required to support the assessment of the Phase 2 Development Proposal, including:

- the Environmental Impact Statement Guidelines issued by the NIRB in 2015;
- direction provided with the NIRB's September 2018 conformity review determination;
- Information Requests provided by Parties in November 2018; and,
- technical review comments provided by parties in March 2019.

The Board reminds the Proponent that the onus is on Baffinland to supply the information required to support the assessment process; if adequate information is not provided in accordance with agreed upon timelines, the assessment cannot move forward in accordance with the process and timelines originally proposed by the NIRB. Although the NIRB is aware of Baffinland's strongly stated desire to preserve the September Public Hearing timeline, Baffinland is advised that failing to supply sufficient information to support the assessment in a timely fashion that allows parties time for review may result in delays in proceeding to a public hearing or in the NIRB determining that supplemental evidence is required to be filed after a public hearing but before the assessment can be remitted to the Board for decision-making.

With approximately 5 months remaining until the planned Public Hearing in September, there is considerable opportunity for technical issues to be discussed and resolved moving forward. To achieve this, the NIRB expects the Proponent and responsible authorities to continue to work together to ensure required information is provided with sufficient time for review and feedback.

## NEXT STEPS

To assist in addressing the concerns noted above, the NIRB is scheduling an additional Technical Meeting in Iqaluit, on June 17-19, 2019 for the ongoing assessment of the Phase 2 Development Proposal. Correspondence will be issued by the NIRB in the coming days describing the focus of this planned meeting, with an invitation for parties to provide feedback on the draft meeting agenda prior to its finalization. While the Board has considered the recommendation from Baffinland to coordinate further technical review discussions with planned working group meetings for the approved project, the NIRB believes such meetings are best kept separate and focused on their respective objectives, though they may be scheduled in a coordinated fashion.

The NIRB appreciates the continued active participation of all parties in the ongoing assessment of Baffinland's Phase 2 Development Proposal. Should you have any questions or require clarification on any points raised in this correspondence, please contact the Board's Executive Director, Ryan Barry at (867) 983-4608 or [rbarry@nirb.ca](mailto:rbarry@nirb.ca).

Sincerely,



Kaviq Kaluraq  
A/Chairperson  
Nunavut Impact Review Board

cc: Grant Goddard, Baffinland Iron Mines Corporation  
Megan Loyd-Hoyle, Baffinland Iron Mines Corporation  
Lou Kamermans, Baffinland Iron Mines Corporation  
Jeremiah Groves, Qikiqtani Inuit Association  
Lisa Dyer, Northern Projects Management Office  
Kristin Westdal, Oceans North

Enclosures (2): 1. NIRB Updated Process Map (April 18, 2019)  
2. Baffinland Commitment List (April 17, 2019)