



ᐱᓐᓐᓐᓐᓐᓐ
ᓄᓐᓐᓐᓐᓐᓐᓐ

Serving the
communities of

ᐃᓐᐱᓐᓐᓐ
Arctic Bay

ᖃᓐᓐᓐᓐ
Cape Dorset

ᑲᓐᓐᓐᓐᓐᓐ
Clyde River

ᐃᓐᓐᓐᓐᓐ
Grise Fiord

ᓐᓐᓐᓐᓐ
Hall Beach

ᐃᓐᓐᓐᓐ
Igloolik

ᐃᓐᓐᓐᓐ
Iqaluit

ᖃᓐᓐᓐ
Kimmirut

ᐃᓐᓐᓐᓐᓐ
Pangnirtung

ᖃᓐᓐᓐᓐ
Pond Inlet

ᖃᓐᓐᓐᓐᓐᓐ
Qikiqtarjuaq

ᖃᓐᓐᓐᓐᓐ
Resolute Bay

ᓐᓐᓐᓐᓐ
Sanikiluaq

November 23, 2018

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

Karen Kharatyan
Director of Technical Services
Nunavut Water Board (NWB)
P.O Box 119
Gjoa Haven
Nunavut X0B 1J0
Email: licensing@nwb-oen.ca

SENT VIA EMAIL

RE: Information Requests for Baffinland's "Phase 2 Proposal" and Water Licence Application

Dear Sir/Madam:

Attached are Qikiqtani Inuit Association's (QIA) Information Requests (IRs) for the Nunavut Impact Review Board's (NIRB) review of Baffinland Iron Mines Corporation's (Baffinland) Mary River Project Phase II Proposal (Phase II Proposal), and QIA's completeness review submission for the Nunavut Water Board's (NWB) review of the Type A water licence application, as requested in the NIRB – NWB "Next Steps" joint correspondence dated October 12, 2018.

QIA also has concerns related to some general process issues. These issues are set out below.

Scope and Scale of Phase II

QIA understands the intent of the Phase II Proposal is to significantly increase the overall scope and scale of the Mary River Project. QIA is acutely aware that the Phase II Proposal, if approved, would result in a potential mine with an annual production rate of up to 30 mpta. The Phase II Proposal includes two operational railways (north and south) two operational port sites (at Milne Inlet and Steensby), and two life of mine shipping routes (north and south) to support the annual production rate. The scope and scale of the Mary River Project presented in the Phase II Proposal will be a

principal point of focus for QIA during the assessment process. Inuit face significant potential additional and cumulative impacts from the Phase II Proposal and the resulting 30 mpta mine.

Information Requests Related to the NIRB Process

QIA's IRs submission includes 95 entries addressing a number of themes including: Inuit Qaujimajatuqangit (IQ), socio-economic issues, terrestrial, freshwater and marine wildlife habitats, hydrology and hydrogeology, and landforms, soil and permafrost. QIA's IRs submission include particular focus on impacts of key activities associated with the Phase II Proposal including:

- Increased shipping on marine wildlife and marine habitat
- Construction of a northern rail on aquatic environment, terrestrial wildlife and habitat
- Cumulative effects of a north and south rail line
- Transition of temporary Early Revenue Phase infrastructure to life of mine use
- Consideration of IQ in activities/undertakings proposed

QIA also seeks additional information to support evaluation of potential benefits to Inuit arising from the Phase II Proposal.

QIA is submitting these IRs to ensure we can adequately assess the Phase II Proposal and develop technical comments. QIA expects fulsome responses to its IRs, and not mere redirection to the FEIS Addendum, suggestions that information will be presented at a future stage of the review process, or statements regarding the appropriate level of detail required at the environmental assessment stage. QIA also requests NIRB advise parties as to the need for Baffinland to present updated management plans.

Water Licence Application Deficiencies

QIA's completeness review submission related to the Type "A" water licence application highlights numerous and significant deficiencies. The submission includes 5 IRs specific to the water licence application, too. The deficiencies in the water licence application limit review in comprehensive and meaningful way.

For example:

- Absence of updated management, monitoring, and mitigation plans reflecting added activities and undertakings proposed
- Lack of details on financial/reclamation security including an updated closure and reclamation plan that is consistent with the activities and/undertakings proposed
- Lack of complete or fully developed engineering drawings/design for many of the water and waste management infrastructure/facilities proposed

In pursuing a coordinated review process, QIA expected it would have all relevant information required for the review at the outset. How will NWB ensure parties have the information necessary to review of the water licence application?

Coordinated Process Synchronization

NIRB and NWB have proposed a coordinated review of the Phase II proposal. The deficiencies in the water licence application are significant and do not support the ability to conduct regulatory assessments in parallel with impact assessments. This is an impediment to the coordinated review process for the Phase II Proposal.

QIA is concerned that it appears the NWB process is already lagging the NIRB process. For example, NIRB completed its conformity review and proceeded to the IRs stage whereas NWB has yet to issue its conformity assessment of the application. Given the extent of the deficiencies in the NWB application, some of which are outlined above, QIA seeks confirmation whether the Phase II Proposal can be considered complete in order to proceed with the coordinated process. If these deficiencies are not addressed now, they jeopardize the ability to execute a coordinated process. How will the coordinated review proceed in light of the fact the NWB review process still requires significant additional attention? How and when would NIRB and NWB decide to revert to a “traditional” review if the processes continue to have synchronization challenges?

Existing Performance of Mary River Project

Inuit have been patient awaiting action on historical performance issues at the Mary River Project. Extensive efforts were undertaken in 2018 to draw the proponent’s attention to resolving these matters. QIA notes existing project activities, particularly

related to dust and the marine environment, have previously resulted in significant public concern. In response, Baffinland has made additional commitments and terms and conditions have been incorporated into the Project Certificate (NIRB PC 005, Amendment No. 2, specifically term and condition 179(c)). While QIA recognizes and appreciates these efforts, Baffinland has yet to deliver upon or report on these latest commitments.

Due to the timing of the proponent's submissions, the Phase II Proposal was submitted prior to the NIRB Report on the Production Increase. Therefore, recent amendments to the Project Certificate associated with the Production Increase are not reflected in the Phase II Proposal. The outcomes of these commitments, in the form of reporting from Baffinland, should be available to assist the Phase II Proposal review. Existing project data, or lack thereof, weakens impact predictions for the Phase II Proposal and limits evidence available for NIRB review. This also requires QIA, and Inuit affected by the Mary River Project, continue to be patient. Baffinland and QIA have jointly approved a renegotiated IIBA, and Baffinland has finally initiated work on a framework and an implementation guide for the Water Compensation Agreement (2013). The Phase II Proposal review should not rely on promises of future improvement that are not assessed against past performance, particularly given Mary River is an operating project.

We are not currently able to assess the adequacy of Baffinland's efforts to improve upon the management of the current project. This raises serious questions about the appropriateness of a significant project expansion. Baffinland committed to have a third-party performance audit of its Mary River Project operations. QIA understands preparations are underway for this activity. It would be entirely reasonable to be able consider those findings in the Phase II Proposal review. Should NIRB advance the Phase II Proposal to technical review prior to reviewing key evidence related to the current project? QIA recommends NIRB consider a specific, separate and preliminary technical meeting focused on existing project performance with the results of the performance audit and annual monitoring results.

Overall Review Timelines

QIA is concerned that the timelines presented for the coordinated review process may impede effective Inuit participation. QIA is committed to fully engage with the Phase II Proposal, to collect and apply IQ to the Phase II Proposal, and to prepare and submit

integrated technical comments to NIRB and NWB. The time between Baffinland's responses to IRs and the date to submit technical review comments is short and overlaps with plans for NIRB-led community engagements. QIA anticipates its concern about timelines will increase as the review advances through technical meetings and final written submissions. The current timelines risk meaningful engagement, potentially undermining NIRB's primary objectives to protect and promote the well-being of Inuit, communities and ecosystemic integrity.

QIA has observed constant changes by Baffinland throughout the Mary River Project planning and regulatory permitting. QIA has accommodated recent processes to advance and stabilize the existing project (i.e. 2018 Production Increase, 2017 and 2018 work plan amendments, 2018 IIBA renegotiation, 2017 and 2018 Q-STEP Inuit training program). These processes have drawn the full attention of QIA and its available resources. The Phase II Proposal is in addition to all of this work. QIA understands the effort involved in fulfilling our mandate as a Designated Inuit Organization under the Nunavut Agreement for the Mary River Project. The Mary River Project challenges our ability to represent Inuit interests in part due to constant changes in project planning. In the present process, the ambitious and tight timelines complicate Inuit participation.

As outlined in this letter, QIA has some serious process-related concerns at this initial stage of the Phase II Proposal review. The Phase II Proposal is of significant scope and scale. QIA does not have adequate data for the review, particularly with respect to existing project commitments. There is insufficient information in the water licence application for the review required. The Phase II Proposal is to be reviewed under a coordinated process that may already be unsynchronized. Overall, the current review timeline poses a risk to meaningful engagement.

QIA considers it necessary to encourage NIRB to lead its review of the Phase II Proposal in a way that will not limit parties' effective participation. QIA values the functions NIRB provides for Inuit. QIA wants NIRB to have the best opportunity to fulfill its mandate. In order to do support the effectiveness of the review, we all need sufficient time and adequate information to have quality submissions.

Participant Funding

QIA would also like clarification on the availability of participant funding. This information should have already been available prior to the deadline for IR submissions to provide prospective participants with complete access to the review. If participant funding will be available, QIA insists it is accessible prior to the technical comments stage of the review.

We look forward to responses from NIRB and NWB related to QIA's foregoing questions. If you have any questions regarding the above, please contact our offices.

Sincerely,

Jeremiah Groves
Executive Director

CC: Mr. Jayklassie Killiktee, MHTO Chair
Mr. Joshua Katsak, Mayor of Pond Inlet
Mr. Levi Barnabas, QIA Executive Committee Member

Attachments: QIA Information Request Submission to NIRB
QIA Completeness Review Submission to NWB