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Qikiqtani Inuit Association

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February 7, 2025

Robert Hunter

Nunavut Water Board

PO Box 119

Gjoa Haven, NU X0B 1J0

Email: [licensing@nwb-oen.ca](mailto:licensing@nwb-oen.ca)

**Subject: QIA Final Submission for Water Licence Renewal Application No: 2A-MRY1325**

Dear Robert,

The Qikiqtani Inuit Association (QIA) provides this submission on Baffinland Iron Mines Corporation's (Baffinland or the Applicant) Renewal Application for Water Licence No: 2AM-MRY1325 (the Application) (the Licence) as directed by Nunavut Water Board (the NWB or the Board).

## I. Technical Comments

In its original submission for the technical review stage of this licensing process, QIA identified 38 technical comments.

QIA is pleased to inform the Board that 25 of these comments can be considered resolved now, in a large part owing to the agreement between QIA and the Applicant on the necessity of the inclusion into the water licence of the following:




### 1. Commitment by Baffinland:

*Baffinland will collaborate with QIA to incorporate the outcomes of QIA-led data collection into relevant management plans listed in Part B Item 14 of the Water Licence, and will plan to submit any consequential updates to the NWB with the submission of the 2026 Annual Report. The timing of this commitment is contingent on QIA providing Baffinland with available verified QIA program-led data relevant to Project water use and management and/or waste generation and management by the end of September, 2025.*

### 2. Revision of Licence Part B, Item 17 in accordance with the following:



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Qikiqtani Inuit Association

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B of this submission. In addition, QIA is currently working on compiling the list of examples of incorporation of Indigenous Knowledge in permitting in other jurisdictions and will provide this information to the NWB shortly, in a supplemental submission.

### III. Cumulative Effects

Another concern that QIA brought up in its comments to date is the importance of the consideration of cumulative effects in the water licence. It is QIA's opinion that ensuring that the Project's management, monitoring and mitigation plans account for cumulative effects would result in a well-rounded water licence. From the discussion at the NWB Technical Meeting and Pre-Hearing Conference, it was understood that the Board was concerned with the risk of venturing outside of the confines of its mandate. QIA is confident that its recommendations relating to cumulative effects are entirely within the Board's powers in accordance with the *Nunavut Agreement*. Therefore, QIA is pleased to provide its argument in Appendix C of this document.

### IV. Draft Licence Framework

QIA provides in Appendix D its comments on the Applicant's draft licence framework distributed by the NWB on December 18, 2024.

QIA would like to thank the NWB for the continued opportunity to participate in the review of this Application. Please do not hesitate to contact QIA for any clarification.

Nakurmiik,

Assol Kubeisinova  
Manager of Regulatory Review  
Qikiqtani Inuit Association

Attachments:



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- Appendix A: Overview of the Inuit Stewardship Program
- Appendix B: Incorporation of Inuit Qaujimajatuqangit and Inuit Qaujimaningit in NWB Water Licence
- Appendix C: Consideration of Cumulative Effects in NWB Water Licence
- Appendix D: QIA Review of Draft Licence Framework as Proposed by Applicant
- Appendix E: QIA Technical Review Comments

## Appendix A Brief Overview of Inuit Stewardship Program

### **Subject: Overview of Inuit Stewardship Program and *Pond Inlet Freshwater Inuit Qaujimajatuqangit Study* for Nunavut Water Board**

This document presents a brief overview of the Qikiqtani Inuit Association's (QIA) Inuit Stewardship Program (ISP) and the *Pond Inlet Freshwater Inuit Qaujimajatuqangit Study*. This material is intended to provide the Nunavut Water Board (the NWB) with an introduction to these two related activities in the context of Baffinland Iron Mines Corporation's (Baffinland) application to renew Water Licence No: 2AM-MRY1325 for their Mary River Project (the Project).

#### **Inuit Stewardship Program**

The Inuit Stewardship Program (ISP) is an Inuit-led initiative being developed by the Qikiqtani Inuit Association (QIA) with support from Baffinland. The ISP is an Inuit-led system of research, monitoring and Inuit Qaujimajatuqangit analysis and reporting in relation to the Mary River Project. Its purpose is to support a better understanding of Mary River Project (the Project) effects on Inuit and their environment by adding a layer of ongoing IQ-related activities and analysis to inform the monitoring, management and adaptive management systems for the Project. The ISP places Inuit Qaujimajatuqangit and Inuit themselves at the forefront of decision-making. The ISP is focused on researching, monitoring, and identifying recommended mitigations to respond to impacts experienced by Inuit from the Project on Inuit rights and values. QIA is responsible for administering and implementing the ISP and funding is provided by Baffinland for each year of operations following review of the Annual Work Plan. Inuit Avatimut Kamattiarnimut Katimajajiit (IAKK) is overseeing the ISP, with members from each of the Project impacted communities.

ISP research and monitoring activities are at their inception in 2024-25. Specific areas of focus for the ISP include but are not limited to:

- Inuit Qaujimajatuqangit on freshwater values and impacts;
- Developing Inuit Objectives, Indicators, Thresholds, and Responses (OITRs) for freshwater and other topics;
- Tusaqtavut (What We Heard) studies in Kimmirut and Kinngait in advance of development of Steensby;
- An Inuit Qaujimajatuqangit study on terrestrial and aquatic habitats, wildlife, marine wildlife and the Steensby ecosystem, including on-territory data collection by Inuit;
- Ongoing work on the North Baffin Caribou Inuit Qaujimajatuqangit Study; and
- Baseline and Project effects monitoring of aquatic ecosystems and terrestrial wildlife along the future railway and Steensby Inlet Port and shipping facilities and activities.

#### **Pond Inlet Freshwater Inuit Qaujimajatuqangit Study**

The Pond Inlet Freshwater Inuit Qaujimajatuqangit currently being finalized by QIA with the support of Inuit Avatimut Kamattiarnimut Katimajajiit for the Mary River Project is the first study solely dedicated to

providing Inuit Qaujimajatuqangit on freshwater resources in areas potentially impacted by the Project. The study is using the results of mapping interviews conducted with Pond Inlet community members to provide baseline and trend-over-time information about how Inuit use freshwater in the area and how the Project has impacted Inuit freshwater resources and use. This knowledge was used to identify and locate values such as:

- Sites and areas used for gathering freshwater for drinking and other uses;
- Important char habitat, including spawning rivers and overwintering lakes;
- Important water crossings on travel routes that Inuit rely on to access hunting grounds and other communities;
- Important fishing sites that Inuit rely on for traditional food harvesting; and
- Waterbodies of Heightened Importance for Inuit that may merit further monitoring and management attention into the future.

The study includes a draft list of Inuit-identified Waterbodies of Heightened Importance. It also presents a series of draft Inuit objectives for freshwater that revolve around the quality, abundance, and availability of resources; the ongoing protection of Inuit waterbodies of heightened importance and Inuit culture connected to freshwater; the use of Inuit Qaujimajatuqangit, values, laws, and norms in assessing and protecting freshwater; and other values. These objectives are connected to Inuit indicators and thresholds, which are also presented in the Study and can be used in the future to evaluate Project impacts.

Project impacts described by Inuit and documented in the forthcoming report indicate that Inuit thresholds related to freshwater are already being surpassed in some areas and that Inuit objectives related to the use of freshwater are not being met as a result. Some Project impacts include:

- Increased contamination of snow, ice, and waterbodies from dust caused by Project components associated with the mine and the tote road;
- Avoidance due to reduced trust in the health and quality of water and fish;
- Deterrence from traveling to contaminated areas due to the lack of access to freshwater while out on the land; and
- Reduced confidence in the health of country foods due to concerns with dust and other contaminants from the Project.

Although further research and verification are required, this study presents a foundation for identifying Project impacts using Inuit OITRs. This framework offers a way to consistently use Inuit Qaujimajatuqangit to inform the Project's management structure and monitoring activities based on observable Inuit parameters. This will allow for expanded data collection and enhanced risk communication as it will more directly target the factors that cause Inuit concern when they are assessing the health of water and the land.

## Appendix B Incorporation of Inuit Qaujimajatuqangit and Inuit Qaujimaningit in NWB Water Licence



# OLTHUIS, KLEER, TOWNSHEND LLP

## MEMORANDUM

**DATE:** February 7, 2025  
**TO:** Nunavut Water Board  
**FROM:** Corey Shefman  
**RE:** Incorporation of Inuit Qaujimagatuqangit and Inuit Qaujimaningit in NWB Water Licence

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The NWB has all the necessary authority and jurisdiction to incorporate IQ into Baffinland's renewed Water Licence, and to do so would be consistent with the intention of the Nunavut Agreement.

### CONSISTENCY WITH THE *NUNAVUT AGREEMENT* AND NWNSTRA

Article 13.3.13 of the *Nunavut Agreement* states that the NWB must give "Inuit culture, customs and knowledge" due regard and weight when designing its by-laws and rules of procedure for the conduct of public hearings.<sup>1</sup> This requirement necessarily applies also to the NWB's substantive consideration of applications for licences, licence amendments, and licence renewals. It would be inconsistent with a broad and purposive approach to the interpretation of the *Nunavut Agreement* as a whole,<sup>2</sup> if the NWB were only required to consider IQ as it applies to its rules of procedure, but not to its substantive decisions affecting the lives and rights of Inuit in the territory.

The special role of IQ in the NWB's work can also be found by analogy to other features of the NWB's statutory scheme. The NWB is required, by its statute, to give standing to the Designated Inuit Organization.<sup>3</sup> Without needing to explain the reason for this requirement, an inference should be drawn to the special role that DIOs have in representing the collective interests of Inuit.

The statute also identifies key considerations when the NWB considers the adequacy of compensation to Inuit for adverse effects caused by the project on Inuit-Owned Land.<sup>4</sup> These considerations ought to inform the NWB's overall approach to project regulation.

These interpretations, and the broader application of IQ, is consistent with the underlying purpose of the Nunavut Agreement, and the role of institutions of public government ("IPGs") arising from that Agreement. In the Federal Court's first consideration of the jurisdiction of the NWB, in 1998, it pointed to

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<sup>1</sup> [Nunavut Agreement](#) at 13.3.13.

<sup>2</sup> See e.g. *Nunavut Tunngavik Incorporated v Canada*, 2024 FC 649 at [para 66](#), citing *Beckman v Little Salmon/Carmacks First Nation* 2010 SCC 53 at [para 10](#).

<sup>3</sup> *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (SC 2002, c 10) at [s 50](#).

<sup>4</sup> *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (SC 2002, c 10) at [s 67\(1\)](#).

these provisions in explaining how the NWB differed from its Northwest Territories' predecessor, and why the NWB was required to give special consideration to the interests of Inuit.<sup>5</sup>

The Federal Court has specifically affirmed importance of these considerations for the NWB in previous litigation brought by QIA:

“The Board is specifically directed to take into account Inuit culture, customs and knowledge and the *Agreement* expressly states that one of its objectives is to provide for the right of the Inuit to participate in decision-making that relates to the use of land, water and resources.”<sup>6</sup>

The importance of IQ to Nunavut policy-making, project regulation, and IPGs can be seen in the incorporation of IQ into decisions made by the Privacy Commissioner,<sup>7</sup> the Nunavut Court of Justice<sup>8</sup> and the Court of Appeal of Nunavut.<sup>9</sup> Neither the *Judicature Act*<sup>10</sup> nor the *Access to Information and Protection of Privacy Act*<sup>11</sup> expressly grant jurisdiction for (or even contemplate) the use of IQ by those decision-makers, yet both the courts and the Privacy Commissioner understood (without needing statutory direction) that fulfilling the purpose of the *Nunavut Agreement* requires that IQ and other related concepts be integrated into everyday governance and decision-making.

It is noteworthy that unlike the Privacy Commissioner and the Nunavut Court of Appeal, who, after considering the importance of IQ to public governance and criminal justice identified a lack of evidence about IQ on the record before them as a reason to not apply it in the decision at issue,<sup>12</sup> QIA is not asking the NWB here to apply specific IQ concepts in order to reach a particular decision how IQ should change the licence. Rather, QIA is doing exactly what the Nunavut Court of Appeal suggested. QIA asking that as IQ is collected and analyzed and the evidence becomes available, the licence should require that the IQ should be incorporated into relevant management and monitoring plans.<sup>13</sup>

The NWB should also have regard to how courts have considered the role of IQ in similar jurisdictions, such as decisions made under the *Nunavik Inuit Land Claims Agreement* (“NILCA”). In deciding how to

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<sup>5</sup> *Qikiqtani Inuit Assn v Canada (Attorney General)*, 1998 CanLII 8617 (FC), at paras [6](#) and [34](#).

<sup>6</sup> *Qikiqtani Inuit Assn v Canada (Attorney General)*, 1998 CanLII 8617 (FC), at paras [6](#) and [32](#); Nunavut Agreement at the Preamble.

<sup>7</sup> *Department of Economic Development and Transportation (Re)*, [2021 NUIPC 24](#); *Department of Human Resources (Re)*, [2021 NUIPC 14](#).

<sup>8</sup> See for example: *R v Aipeelee*, [2024 NUCJ 14](#).

<sup>9</sup> *R v Itturiligaq*, 2020 NUCA 6 at [paras 74-78](#).

<sup>10</sup> [CSNu, c J-10](#).

<sup>11</sup> [CSNu c A-20](#).

<sup>12</sup> *R v Itturiligaq*, 2020 NUCA 6 at para 75; *Department of Human Resources (Re)*, 2021 NUIPC 14 at [paras 76-79](#).

<sup>13</sup> See pages 1 and 2 of the QIA submission, regarding the new Baffinland Commitment, and proposed revisions to licence conditions at Part B #17 and Schedule B #1.

balance western science with “Inuit traditional knowledge” (akin to IQ), the Federal Court (in a decision not disturbed by the Federal Court of Appeal) explained that interpreting the NILCA required taking a purposive approach to its provisions and objectives. In that case, the Minister was required to give full regard to the NILCA objective to “create a wildlife management system for the [region] that... recognizes the value of Nunavut Inuit approaches to wildlife management and Nunavut Inuit knowledge of wildlife and wildlife habitat and integrates those approaches with knowledge gained through scientific research.”<sup>14</sup>

The *Nunavut Agreement* similarly has amongst its objectives “the creation of a wildlife management system that... fully acknowledges and reflects the primary role of Inuit in wildlife harvesting, [and] serves and promotes the long-term economic, social and cultural interests of Inuit harvesters.”<sup>15</sup> The *Nunavut Agreement* acknowledges as amongst its driving principles; “a need for an effective system of wildlife management that... recognizes Inuit systems of wildlife management.”<sup>16</sup> The phrase “Inuit systems of wildlife management” describes systems arising out of IQ relied on by Inuit for the traditional management of wildlife.

While these sections dealing with wildlife management do not specifically speak to the NWB’s jurisdiction, a purposive approach to the *Nunavut Agreement* requires the NWB to approach the *Nunavut Agreement* and its objectives as a whole; and not artificially separate out certain sections. The purpose and objectives of the wildlife sections of the *Nunavut Agreement* must also inform how the NWB interprets its own responsibilities.

## **SIMILARITY TO EXISTING CONDITIONS**

The type of conditions QIA is proposing<sup>17</sup> are already present in Baffinland’s water licence, and other licences issued by the NWB, but with the subject of those existing conditions being studies, reports and observations arising from western science methodologies and practitioners, rather than IQ.

When QIA proposes ‘conditions which incorporate IQ into the water licence’, QIA seeks a form of adaptive management which will ensure equitable treatment for IQ, rather than a privileged position for western science. QIA’s proposed conditions can be summarized as requiring Baffinland to receive and consider IQ (whether as a result of specific pending or ongoing studies like the ISP; or other sources), and to adapt and adjust its management and monitoring plans, when and where appropriate.

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<sup>14</sup> *Makivik Corporation v Canada (Attorney General)*, 2021 FCA 184 at [para 88](#). See [s. 5.1.3\(f\)](#) of the *Nunavut Inuit Land Claims Agreement*.

<sup>15</sup> *Nunavut Agreement*, s 5.1.3(b)(ii)-(iii).

<sup>16</sup> *Nunavut Agreement*, s. 5.1.2(e).

<sup>17</sup> See pages 1 and 2 of the QIA submission, regarding the new Baffinland Commitment, and proposed revisions to licence conditions at Part B #17 and Schedule B #1.

Conditions which achieve similar purposes can be found in a variety of the licences issued by the NWB. For example, nearly every licence issued by the Board requires that “The Licensee shall review the Plans or Manuals referred to in this Licence as required by changes in operation and/or technology and modify the Plans or Manuals accordingly.”<sup>18</sup> When technology changes (or in other words, when what we know about technology changes) the Licensee must change their approach to the Project. The Project should be as responsive to changes in what we know about IQ.

Conditions also require that lessons learned by the proponent during construction and monitoring during operations be incorporated into management plans: “The Licensee... should incorporate design changes and adaptive engineering required and implemented during construction and on the basis of actual site conditions and monitoring results over the life of the Project.”<sup>19</sup>

Similarly, the NWB has previously ordered that observed changes during operation be studied, and the recommendations from that study be implemented on a rolling basis: “A Geotechnical Engineer shall be consulted when significant issues associated with the TSF [Tailings Storage Facility] are observed, and the Engineer’s recommendations shall be implemented as necessary.”<sup>20</sup> A report by an engineer is no more reliable on its face than IQ which is collected according to established protocols. The same principle which requires the licensee to incorporate an engineer’s recommendations “as necessary”, should apply to IQ.

The Board has previously recognized the importance of adaptive management approaches to address uncertain effects of a project “when specified thresholds and triggers identified in an Adaptive Management Plan are exceeded”.<sup>21</sup>

If there is uncertainty about how IQ might be incorporated into management plans and operations, the NWB can look to existing controls on uncertainty to address those concerns. For example, the Meliadine licence requires that the licensee “review the Water Management Plan on an annual basis and submit an updated version of the Plan with a summary of changes to the Board for review within the annual report submission...”<sup>22</sup> Here, the NWB could require Baffinland to review its monitoring and management plans annually (or at other intervals) for incorporation of IQ, and report back as needed.

Each of the foregoing is an example of a situation where the NWB has acknowledged the existence of uncertainty and crafted a condition which provides for adaptive management in the face of that uncertainty.

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<sup>18</sup> Water Licence No: 2AM-MRY1325, s. 17 (Mary River Project); See also Water License No 3AM-IQA1626, s 10 (City of Iqaluit).

<sup>19</sup> Water Licence No: 2AM-MEL1631, s 16 (Meliadine Gold Project).

<sup>20</sup> Water Licence No: 2AM-MEL1631, s 21E

<sup>21</sup> Water Licence No: 2AM-MEA1530, s20 (Meadowbank Gold Mine).

<sup>22</sup> Water Licence No: 2AM-MEL1631, s 12

The only meaningful difference between these situations and QIA's request is the difference between IQ and western science. While applying adaptive management processes IQ may require a different approach to how those processes are applied to western science, those differences should not be seen as an obstacle, but as an opportunity. QIA submits that there is certainly no principled reason why adaptive management approaches could not be applied to IQ.

## THE ROLE OF INUIT BOARD MEMBERS

The Inuit members of the NWB, the decision-makers who will determine Baffinland's application for renewal, perform an invaluable service for Nunavut and Nunavummiut. They each bring important knowledge and experience to their roles.

Their knowledge, whether IQ or other forms of knowledge, is not enough, on its own, to ensure that the collective interests of Inuit are represented in the NWB's decisions. If it were, there would be no need for the DIO to have a mandatory presence in NWB proceedings.<sup>23</sup> Those collective interests include ensuring that IQ is collected and disseminated in respectful and meaningful ways.

It ought to be the shared interest of all affected parties – the NWB, Baffinland, QIA, NTI, and each affected community, for the role of Inuit and IQ regulatory processes to broaden and deepen over time. Even if the NWB were already achieving all of the objectives set out for it in the *Nunavut Agreement* and NWNSRTA, those objectives are not upper limits, and there is no obstacle to the NWB continuing to improve the ways in which it integrates IQ into its decision making.

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<sup>23</sup> *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, SC 2002, c 10 at s 50.

## Appendix C Consideration of Cumulative Effects in NWB Water Licence

**OLTHUIS, KLEER, TOWNSHEND LLP**  
**MEMORANDUM**

**DATE:** February 7, 2025  
**TO:** Nunavut Water Board  
**FROM:** Corey Shefman  
**RE:** Consideration of Cumulative Effects in NWB Water Licence

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QIA has asked that the NWB incorporate into Baffinland's renewed licence a condition requiring Baffinland to update its monitoring and management plans to incorporate the outcomes of a comprehensive cumulative effects assessment, when such an assessment is completed.

## **JURISDICTIONAL OVERLAP**

During preliminary discussions about this request at the Pre-Hearing Conference, and in subsequent communication, concerns were raised that cumulative effects falls within the jurisdiction of the Nunavut Impact Review Board (NIRB) and that the NWB is not able to impose conditions related to cumulative effects because to do so would result in jurisdictional overlap. QIA submits that this fear is unfounded, and that Nunavut's regulatory regime was specifically designed to encourage regulatory cooperation.

The NWB has jurisdiction over the use and management of water in Nunavut.<sup>1</sup> While it must coordinate with other regulatory agencies, it has the power to impose "any conditions that it considers appropriate..."<sup>2</sup> This can include conditions about how water is used, how waste is deposited, what monitoring must be undertaken, and conditions related to closure. The NWB's jurisdiction to consider cumulative effects to water is clear from its empowering statute.<sup>3</sup>

For that jurisdiction to have meaning, it cannot be limited to (as the Yukon Supreme Court put it), merely "monitoring the end of the pipe before waste is discharged."<sup>4</sup> Rather, it can, and must, regulate any aspect of the project's operation that might impact Nunavut waters. Shortly after the NWB was established, the Federal Court upheld the NWB's jurisdiction to impose more stringent mitigations than those recommended by the body which conducted the environmental screening.<sup>5</sup>

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<sup>1</sup> Nunavut Agreement, Article 13.2.1.

<sup>2</sup> *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, SC 2002, c 10, s. 70(1).

<sup>3</sup> *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, SC 2002, c 10, ss. 61, 67(1). While these sections are concerned with compensation, they demonstrate that cumulative effects are a legitimate part of the NWB's overall regulatory environment.

<sup>4</sup> *Western Copper Corporation v Yukon Water Board*, 2011 YKSC 16 at [para 140](#) ("*Western Copper*").

<sup>5</sup> *Qikiqtani Inuit Assn v Canada*, 1998 CanLII 8617 (FC) at [para 70](#): In that case, DIAND had conducted the environmental screening, as NIRB had not yet been stood up.

Nearly identical statutory provisions to those in the Act were considered by the Yukon Supreme Court in the context of Yukon's *Water Act*, and decisions made by the Yukon Water Board ("YWB").

Referring to sections of the Yukon *Water Act* which are identical to the NWB's statute, the Court described the YWB's jurisdiction as very broad, noting that in order to regulate Yukon waters in the context of a mining project, it will also be necessary for the YWB to regulate other aspects of the project: "...any attempt to set out separate jurisdictional spheres or areas would be fruitless and contrary to the harmonious operation of the statutory regime that has been created. There are undoubtedly many components of a project that have both a mining and a water quality aspect."<sup>6</sup>

The proponent in that case argued that the YWB exceeded its jurisdiction because its refusal to issue a water licence conflicted with the Yukon Government's issuance of a quartz mining licence. The court disagreed because the quartz mining licence (the equivalent of NIRB's project certificate, in this case) "is explicitly subject to all applicable laws and licences".<sup>7</sup> In 2024, the YKSC confirmed that when the Yukon Water Board receives a 'decision document' from the assessment process decision makers, the YWB's regulatory licensing process was not trumped by the terms and conditions in the decision document.<sup>8</sup>

In Nunavut, the NWB and other institutions of public government work together to implement NIRB's decisions. This is consistent with section 12.9 of the *Nunavut Agreement*, which requires agencies (including the NWB) to incorporate the terms and conditions of NIRB project certificates into their own licences, and to "discuss with NIRB how best to implement" those terms and conditions.<sup>9</sup> But, as in *Ross River Dena Council*, that does not deprive the NWB of its own jurisdiction, or mean that the NWB has to do what NIRB says.

The *Nunavut Agreement* is clear that the coordination requirement does not stop the NWB from "imposing additional or more stringent terms and conditions, or from refusing to issue a licence or approval that would be required in order to allow a proposed project to proceed."<sup>10</sup> NIRB's own Project Certificate #005 for the Mary River Project states that it must be interpreted in accordance with "the specific jurisdictional and policy limits applicable to authorizing agencies... or other regulatory authority with jurisdiction in respect of the Project."<sup>11</sup>

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<sup>6</sup> *Western Copper*, [para 137](#).

<sup>7</sup> *Western Copper*, [para 138](#).

<sup>8</sup> *Ross River Dena Council v Yukon*, 2024 YKSC 1 at [para 216](#) (overturned on appeal, but not on this point). A similar provision can be found at section 5 of NIRB Project Certificate #005 for the Mary River Project.

<sup>9</sup> Nunavut Agreement 12.9.2.

<sup>10</sup> Nunavut Agreement 12.9.8.

<sup>11</sup> NIRB Project Certificate 005, Amendment 05, November 17, 2023, Section 3.2(i), pg 12.



For “overlap” between NWB’s jurisdiction and NIRB’s jurisdiction to create an operational conflict which is so serious that it requires the NWB to ‘stand down’ from regulating, it would be necessary for the conditions in the Project Certificate and the Water Licence to reach a point of “true operational irreconcilability.... where it is impossible to comply with two administrative decisions in that they are in direct operational conflict.”<sup>12</sup>

To paraphrase the Yukon Supreme Court, “The suggestion that the Water Board leave [cumulative effects] exclusively to the [NIRB] would be an abdication of the Water Board’s duty to exercise its jurisdiction over water....”<sup>13</sup>.

## UNCERTAINTY

QIA has also heard the concern that a condition related to a future cumulative effects assessment should not be imposed because there is too much uncertainty regarding if and when such a study will be conducted. QIA submits that this uncertainty can be dealt with in a similar manner to the mechanisms proposed for incorporating IQ into the water licence. Licences issued by the NWB, both for the Mary River Project and others, frequently contain conditions which require the licensee to take certain steps if certain thresholds are met. Here, the threshold to be met is for the cumulative effects assessment to be conducted. Once conducted, it is a simple matter for the licensee to consider whether any changes to its monitoring and management plans might be needed as a result of the findings of that assessment, and to provide a report to the NWB.

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<sup>12</sup> *British Columbia Telephone Co v Shaw Cable Systems (BC) Ltd* 1995 CanLII 101 (SCC) [at para 53](#).

<sup>13</sup> *Western Copper*, [para 140](#).

## Appendix D QIA Review of Draft Licence Framework as Proposed by Applicant

Appended as a separate document

## Appendix E QIA Technical Review Comments

<b>Comment Number</b>	<b>QIA-TR-1</b>
<b>Issue</b>	<b>Compliance with Environmental Assessment predictions over licensed period</b>
<b>Status</b>	<b>Unresolved</b>
<b>Follow-up Discussion</b>	<p>QIA highlighted in previous submissions of completeness and technical comments that a summary of historical data is required to demonstrate compliance with the licence terms and conditions as well as the predictions outlined in the environmental assessment for the project over the entire period of record under which the Mary River Project has operated.</p> <p>The CREMP's objective is to detect mine-related effects relative to baseline and reference conditions, not evaluate how the effects observed compare to the predictions outlined in the Environmental Assessment.</p> <p>Figure C.9 provides a comparison of data collected during operations with baseline conditions and the reference lake. This highlights how water quality has changed as a result of the project. However, this does not provide the requested information. No comparisons are provided between water quality data and the predicted concentrations of parameters in those locations. It is expected that water quality has been impacted as a result of the project. What remains unclear is how water quality has changed relative to predictions outlined in the EA.</p> <p>The same issue is apparent in Figure 3.9 referencing sediment concentrations, Figure 3.11 regarding chlorophyll-a, Figure F.5 regarding the benthic invertebrate community endpoints at and Table 3.12 regarding impacts to Arctic Charr populations.</p>
<b>Recommendation</b>	<p>QIA continues to recommend Baffinland develop a memorandum comparing all aquatic monitoring data collected while the Project has been operating to FEIS predictions to demonstrate how actual monitoring conditions have remained within or exceeded environmental assessment predictions. This analysis should include seasonally specific summaries (e.g., median values and percentiles) throughout the receiving environment akin to an annual report using all data provided in "240916 2AM-MRY1325 Attachment 1 - Water Licence Water Quality Monitoring Results 2013-2023-ILAE". Further, the analyses should include trend analyses to provide confidence for reviewers that conditions are not trending up over time (and may either exceed environmental assessment predictions in the future or further exceed environmental assessment predictions). The results should be compared with area-specific environmental predictions presented in the Environmental Assessment. This memorandum should be provided with the 2024 Annual Report.</p>

<b>Comment Number</b>	<b>QIA-TR-1</b>
<b>Issue</b>	<b>Compliance with Environmental Assessment predictions over licensed period</b>
<b>Status</b>	<b>Unresolved</b>
	Further, upon completion of this requested analysis, Baffinland ought to update the plans intended to manage environmental effects pathways that have exceeded environmental assessment predictions.

<b>Comment Number</b>	<b>QIA-TR-2</b>
<b>Issue</b>	<b>Adaptive Management and the <i>Surface Water and Aquatic Ecosystems Management Plan (SWAEMP)</i></b>
<b>Status</b>	<b>Unresolved</b>
<b>Discussion</b>	QIA has highlighted concerns with the adaptive management components (Trigger Action Response Plan or TARP) of several management plans required under the water licence, including but not limited to the SWAEMP. Specifically, QIA highlighted both in its submissions in this process and our comments issued during the annual report review that the reliance on “professional judgment” in the TARP introduced significant uncertainty and subjectivity in how exceedances of triggers would be evaluated, and that professional judgment was used in multiple cases (see QIA submission to NWB - QIA 2023 NWB AEMP#3, QIA 2023 NWB CREMP#9, QIA 2023 NWB CREMP#15) to conclude that an observed effect was not attributed to the project.
<b>Recommendation</b>	QIA requests that Baffinland define the general intent of professional judgement and the rationale to be included when it is exercised within Baffinland’s annual reports. Where professional judgement is applied in relation to TARPs, QIA recommends that Baffinland include supporting rationale and further provide a clearer linkage of how exceedances of objective TARP thresholds will result in management actions of project effects pathways.  Further, QIA recommends that Baffinland update its monitoring approach for the aquatic environment to include event-based monitoring to better capture impacts from dust dispersed on the tundra within the aquatic environment.

<b>Comment Number</b>	<b>QIA-TR-3</b>
<b>Issue</b>	<b>Applicability of the <i>Metal and Diamond Mining Effluent Regulations (MDMER)</i></b>
<b>Status</b>	<b>Resolved</b>
<b>Discussion</b>	QIA considers this comment resolved following discussions with Environment and Climate Change Canada (ECCC). ECCC confirmed that the discharges from the

<b>Comment Number</b>	<b>QIA-TR-3</b>
<b>Issue</b>	<b>Applicability of the <i>Metal and Diamond Mining Effluent Regulations</i> (MDMER)</b>
<b>Status</b>	<b>Resolved</b>
	surface water management ponds at Milne Port are subject to s. 36(3) of the <i>Fisheries Act</i> which prohibits the deposit of deleterious substance.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-4</b>
<b>Issue</b>	<b>Waste Rock Facility water quality model</b>
<b>Status</b>	<b>Resolved</b>
<b>Discussion</b>	N/A
<b>Recommendation</b>	QIA has been actively working with Baffinland on improving the <i>Interim Closure and Reclamation Plan</i> (ICRP) as per QIA's obligation to approve it. Due to good progress in the discussions so far, QIA considers this comment as resolved, conditional to the continuation of collaborative work on updating this ICRP.

<b>Comment Number</b>	<b>QIA-TR-5</b>
<b>Issue</b>	<b>Water withdrawal restrictions</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	QIA understands Baffinland's goal to maintain flexibility with water withdrawal, recognizing that dust suppression is a key component of environmental management and impacts air quality and community health. However, continually exceeding agreed-upon water withdrawal limits from sensitive watercourses (as has been noted in QIA's review of annual reports) could impact fish and fish habitat. Implementing more conservative seasonal restrictions for specific sensitive water sources, as recommended by QIA, can be selectively applied based on habitat assessments and in consultation with NWB. This approach balances environmental protection with the project's operational needs.
<b>Recommendation</b>	QIA recommends that Baffinland provide an updated list of water withdrawal locations that remove locations with limited capacity. The additional required water volumes will be made up from existing water withdrawal sites that do not have seasonal limitations. The updated list should be incorporated into the water licence.

<b>Comment Number</b>	<b>QIA-TR-6</b>
<b>Issue</b>	<b>Management plans to protect fish and fish habitat during water withdrawals</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	QIA agrees with Baffinland that the relevant management plans, as required under the Water Licence and other regulatory approvals must be updated before Steensby proceeds. QIA recommends that these management plans should be updated and provided in advance of any approvals to allow for review and incorporation of community feedback.
<b>Recommendation</b>	QIA recommends that Baffinland update relevant plans, such as the <i>Aquatic Effects Monitoring Plan</i> (AEMP) to incorporate the Steensby component, specifically monitoring locations, and commence updating the baseline dataset throughout the Steensby rail corridor and port in 2025. One year of data will be sufficient if 2025 measurements fall within the range of natural variation characterized within the existing baseline and be updated every five years until the commencement of construction. Data should be collected annually for 3 years if the 2025 data falls outside the historical range of natural variation and updated once every 5 years thereafter until the commencement of construction.

<b>Comment Number</b>	<b>QIA-TR-7</b>
<b>Issue</b>	<b>Suspension of data collection at hydrometric stations</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	QIA supports Baffinland's plan to reactivate monitoring stations along the Steensby Railway to verify and supplement streamflow data. However, QIA emphasizes the importance of reactivating these stations in a timely manner to ensure the collection of adequate and useful background data that represents the range of current natural variation prior to construction. This will enhance the reliability of the baseline data and support more effective monitoring and mitigation during project construction and activities.
<b>Recommendation</b>	QIA recommends that Baffinland: <ul style="list-style-type: none"> <li>a. reactivate hydrometric monitoring stations along the Steensby rail corridor in 2025 to begin characterizing current natural variation; and</li> <li>b. maintain the hydrometric monitoring network along the Steensby rail corridor for a minimum of three years, and then reactive the monitoring network once year prior to construction.</li> </ul>

<b>Comment Number</b>	<b>QIA-TR-8</b>
<b>Issue</b>	<b>Water withdrawal volumes during ice cover</b>
<b>Status</b>	Resolved by commitment
<b>Discussion</b>	QIA acknowledges Baffinland's agreement to use the <i>Method for Determining Available Winter Water Volumes for Small-Scale Projects</i> (Land and Water Boards of the Mackenzie Valley, 2021) for under-ice water withdrawals at lakes lacking bathymetry data.
<b>Recommendation</b>	<p>This concern was resolved through Commitment 10 as stated in the NWB's <i>Pre-Hearing Conference Decision Report regarding Renewal Application for Type A Water Licence No: 2AM-MRY1325</i> dated December 19, 2024.</p> <p>QIA further recommends this information be provided thirty (30) days prior to water withdrawal. During QIA's discussions with Baffinland prior to the submission of this document, Baffinland committed to providing the requested information by the deadline stated above. QIA notes the positive development and looks forward to Baffinland's formal confirmation to fulfill this commitment.</p>

<b>Comment Number</b>	<b>QIA-TR-9</b>
<b>Issue</b>	<b>Water withdrawal volumes during open water</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	<p>For three of the four lakes that will be subject to increases in water withdrawals as noted in the report entitled <i>Water Withdrawal Notification and Hydrological Assessment</i>, the proposed withdrawal volumes do not exceed 10%. Ravn Camp Lake, however, will experience a flow reduction of 15% for the month of June. The report justifies this reduction by stating that the outflow typically begins only in the second half of the month and most of June flows occur over a shorter timeframe. The report goes on to state that the 5.6 cm reduction is within the range of natural variation, and the impact is unlikely to affect fish movement.</p> <p>In Section 4.5.1, a winter drawdown of 5.6 cm is identified for Ravn Camp Lake, which is determined to be minor. The migration of fish is recorded to occur until water temperature reaches 5-7°C at the end of June-early July. The reduction of an additional 15% has also been determined to have only minor impacts, yet no rationale is provided for this conclusion. In addition, with climate change, the 5-7°C temperature that precipitates fish movement will likely occur earlier in the month.</p> <p>Baffinland's response provided a high-level summary of baseline surveys completed; however, it did not provide a robust rationale that justifies the volume</p>

<b>Comment Number</b>	<b>QIA-TR-9</b>
<b>Issue</b>	<b>Water withdrawal volumes during open water</b>
	drawdown in Ravn Camp Lake, nor does it address changes to temperatures that trigger fish movement.
<b>Recommendation</b>	<p>QIA recommends that the Applicant develop a technical memo addressing:</p> <ul style="list-style-type: none"> <li>a. How often does a 5.6 cm change in water levels fall within the range of natural variation for Ravn Camp Lake (percentile / frequency of occurrences) in June?</li> <li>b. How often is this level of change (5.6 cm or 15%) predicted to occur and for what duration, during periods of water withdrawal?</li> <li>c. What impact is this drawdown expected to have on littoral areas of Ravn Camp Lake used by Arctic Charr?</li> </ul>

<b>Comment Number</b>	<b>QIA-TR-10</b>
<b>Issue</b>	<b>Water withdrawal location with respect to Arctic Char spawning habitat</b>
<b>Status</b>	Resolved
<b>Discussion</b>	N/A
<b>Recommendation</b>	This concern was resolved through Commitment 11 as stated in the NWB's <i>Pre-Hearing Conference Decision Report regarding Renewal Application for Type A Water Licence No: 2AM-MRY1325</i> dated December 19, 2024.

<b>Comment Number</b>	<b>QIA-TR-11</b>
<b>Issue</b>	<b>Camp Lake water quality</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	<p>QIA continues to be concerned that elevated concentrations in the parameters of potential concern (POPC) are derived from mine activities and would like to narrow down the specific cause of these values. QIA would like to understand how the five parameters (arsenic, copper, iron, manganese, and phosphorus) found to have elevated concentrations compared to the AEMP/benchmark values compare with the elements associated with the ore body and/or Tote Road chemical composition.</p> <p>QIA maintains that there exists a risk that changes in the parameters of potential concern may not be detected as soon as they occur because the data analysis being completed is not as sensitive to change as other methodologies.</p>



<b>Comment Number</b>	<b>QIA-TR-11</b>
<b>Issue</b>	<b>Camp Lake water quality</b>
<b>Recommendation</b>	QIA recommends that the Applicant provide a data analysis and reporting rationale that is supported by published academic research and/or industry-specific studies. The 75th percentile POPC concentration thresholds referenced in the comment responses appears to be an arbitrarily chosen value.

<b>Comment Number</b>	<b>QIA-TR-12</b>
<b>Issue</b>	<b>Dust suppression and water sources</b>
<b>Status</b>	Resolved
<b>Reference</b>	Application and Supporting Information to Renew Type A Water Licence 2AM-MRY1325, Section 5.3 - Page 19
<b>Discussion</b>	Spring freshet periods will be the driver for the majority of seasonal sediment and erosion control issues; therefore, QIA recommends developing and implementing more robust sediment and erosion control measures for these periods of high runoff and meltwater flows.
<b>Recommendation</b>	QIA made its recommendations regarding the implementation of dust suppression investigatory techniques in its <i>2024 2<sup>nd</sup> Annual Site Inspection Findings and Recommendations</i> dated December 5, 2024 as provided to the Applicant.

<b>Comment Number</b>	<b>QIA-TR-13</b>
<b>Issue</b>	<b>NIRB site visit findings</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA brings it to the Board's attention that site visit observations are more representative when made during periods of snowmelt and spring freshet conditions.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-14</b>
<b>Issue</b>	<b>Lake sampling</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	Baffinland currently has a limited understanding of pre-industrial baseline (reference) conditions of lakes located near and on the project area. The data

<b>Comment Number</b>	<b>QIA-TR-14</b>
<b>Issue</b>	<b>Lake sampling</b>
	<p>collected previously is inadequate to discern temporal patterns due natural processes and anthropogenic activities. The desired outcome would be for Baffinland to collect full length sediment cores, sectioned into 0.5 or 1.0 cm intervals and analyse the radiometrically dated sediment cores for concentrations of contaminants of concern. The above analyses should follow well-accepted standard methods. Lengthening and increasing the temporal resolution of the sediment record will provide a site-specific baseline to evaluate environmental change due to anthropogenic activities that would otherwise be unobtainable. The need for baseline conditions has been identified in numerous spots within the Mary River Project 2023 CREMP Report (e.g., pg. 57 and 76).</p> <p>It is important to discern the effect the Project has had on the aquatic environments. Concentrations of contaminants of concern, though below CCME guidelines, may have increased since mining activities started.</p>
<b>Recommendation</b>	<p>QIA's original recommendation remains:</p> <p><i>QIA recommends a one-time collection of full-length lake sediment cores (&gt;50 cm) from lakes located close to the mining operations at Mary River Mine – Sailivik Camp and reference lakes sites. The &gt;50 cm sediment core will be sectioned into 1 cm or 0.5 cm intervals. Routine analysis of metal concentrations can be reported downcore to provide context to metals concentrations observed in surficial sediment. Ultimately, this will provide the most rigorous baseline (pre-mine) data possible on substances of concern to discern the relative roles of natural and anthropogenic activities. Combined with systematic water and surficial sediment sampling, these methods provide a powerful approach to track changes at a range of temporal and spatial scales relevant to inform environmental stewardship decisions.</i></p> <p>QIA notes that, should the Applicant not conduct the sample collection and analysis described above, QIA may include such sampling and analysis in its inspection in accordance with the provisions of the Commercial Lease.</p>

<b>Comment Number</b>	<b>QIA-TR-15</b>
<b>Issue</b>	<b>Lake sampling</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	We appreciate Baffinland's continued large-scale monitoring efforts at lakes across the project area. Nonetheless, in complex northern landscapes, many factors such

<b>Comment Number</b>	<b>QIA-TR-15</b>
<b>Issue</b>	<b>Lake sampling</b>
	<p>as grain size can influence sediment metal(loid) concentrations. Despite consistent sampling techniques, variation in grain size may still hinder ability to detect temporal and spatial trends. As stated in earlier QIA submissions, changes in grain size are a very important factor to consider and should be included in analysis of concentrations of metal(loid)s. Comparing samples of varying grain size will likely mask temporal patterns further hindering the ability to discern temporal patterns. This has also been identified in previous reports by Baffinland (Mary River Project 2023 CREMP Report; pg. 55).</p>
<b>Recommendation</b>	<p>QIA's original recommendation remains:</p> <p><i>QIA recommends Baffinland continue sampling surficial sediment consistently from the deepest regions or profundal zone of lakes. Additionally, grain size of the sediment should be considered when evaluating for temporal or spatial trends. A common technique used to account for varying grain size is geochemical normalization.</i></p> <p>QIA notes that, should the Applicant not conduct the sample collection and analysis described above, QIA may include such sampling and analysis in its inspection in accordance with the provisions of the Commercial Lease.</p>

<b>Comment Number</b>	<b>QIA-TR-16</b>
<b>Issue</b>	<b>KM105 Pond management</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	<p>While QIA appreciates all the efforts directed towards remediation of the issues at this facility, we have concerns with the preliminary plan submitted on January 22, 2025. We feel the ability of the proposed Sediment Control Mitigation Plan to treat spring freshet and/or high-water events, is limited due to the lack of attenuation in the system. This is of concern where high TSS will result in downstream sedimentation into Sheardown Lake and other fish-bearing areas. QIA would like to see further demonstration and clarification on what design principles were considered in the detailed design of the treatment facility.</p>
<b>Recommendation</b>	<p>QIA recommends the Applicant provide a description of the remedial measures (alternatives analysis) for this facility, such as details on targeted sediment removal rates, design storm detention/treatment capacity, and the ability withstand spring freshet flows. Water and sediment monitoring programs should reflect the changes to the functionality of this facility, and detection of TSS exceedances, sediment accumulations or other impacts, as a result.</p>

<b>Comment Number</b>	<b>QIA-TR-17</b>
<b>Issue</b>	<b>CREMP early detections of mine water quality influence</b>
<b>Status</b>	Unresolved
<b>Discussion</b>	<p>The third paragraph of Baffinland's response to this question in the response dated November 12, 2024 is not consistent with the observations described by QIA in its earlier submissions and should be revised accordingly. Baffinland states that temporal monitoring of CLT1 has not shown an increasing trend in parameter concentrations during the past 5 years. Baffinland's August 15 response letter and the CREMP both acknowledged mine-related impacts to water quality in the upper portions of the CLT1 tributary.</p> <p>The active mining area exists near the upper reaches of the CLT1 catchment area. QIA would like further investigation to occur to clarify the sources of these elevated POPCs and if they could be related to mining input/impacts. The goal of this investigation would be to limit further water quality impacts downstream of the US CLT1 station. Findings can be used to address source inputs and take mitigative actions to protect the aquatic environment and drinking water source for the mine in Camp Lake.</p>
<b>Recommendation</b>	<p>QIA recommends detailed adaptive management actions be taken to prevent further impacts to the water quality in the CLT1 tributary to Camp Lake.</p> <p>This detection of significant, small magnitude changes in parameters of potential concern in sediment and/or water quality should be considered a major win for the monitoring program. This allows adaptive management actions to be taken before any water/sediment quality exceedances occur and environmental risks to be mitigated before they can have significant impacts on the local ecology in Camp Lake. The motivation for the CREMP is to make these detections resulting in adaptive management actions on site. In the case where these detections do not result in adaptive management practices, the entire environmental monitoring process does not provide the necessary protection to the environment.</p>

<b>Comment Number</b>	<b>QIA-TR-18</b>
<b>Issue</b>	<b>Monitoring Phillips Creek and KM 32 Lake water quality</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA considers this comment resolved by the information provided in Baffinland's submission dated November 12, 2024.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-19</b>
<b>Issue</b>	<b>Project-related changes in TSS</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA considers this comment resolved if the Board continues imposing a 30-mg/L limit for total suspended solids in the discharge from KM105 Pond as is currently set by the Licence.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-20</b>
<b>Issue</b>	<b>Flow path visualization</b>
<b>Status</b>	Resolved
<b>Discussion</b>	This concern was resolved through Commitment 12 as stated in the NWB's <i>Pre-Hearing Conference Decision Report regarding Renewal Application for Type A Water Licence No: 2AM-MRY1325</i> dated December 19, 2024.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-21</b>
<b>Issue</b>	<b>Reference watercourse for monitoring reporting</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA considers this comment resolved by the information provided in Baffinland's submission dated November 12, 2024.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-22</b>
<b>Issue</b>	<b>Reclamation of WRF</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA has been actively working with Baffinland on improving the <i>Interim Closure and Reclamation Plan</i> (ICRP) as per QIA's obligation to approve it. Due to good progress in the discussions so far, QIA considers this comment as resolved, conditional to the continuation of collaborative work on updating this ICRP.

<b>Comment Number</b>	<b>QIA-TR-22</b>
<b>Issue</b>	<b>Reclamation of WRF</b>
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-23</b>
<b>Issue</b>	<b>Research project findings</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA considers this comment resolved by the information provided in Baffinland's submission dated November 12, 2024.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-24</b>
<b>Issue</b>	<b>Inuit engagement</b>
<b>Reference</b>	Application and Supporting Information to Renew Type A Water Licence 2AM-MRY1325  Appendix I – Baffinland's Response to QIA's Comments on Draft Application Cover letter.
<b>Discussion</b>	Inuit community members again raised the issue of potential disadvantages of seasonal blasting and tunnel construction and related impacts to fish at the NWB community session on December 3, 2024.
<b>Recommendation</b>	QIA considers this comment resolved by commitment discussed in Item (1) in the covering letter for this submission:  <i>Baffinland will collaborate with QIA to incorporate the outcomes of QIA-led data collection into relevant management plans listed in Part B Item 14 of the Water Licence, and will plan to submit any consequential updates to the NWB with the submission of the 2026 Annual Report. The timing of this commitment is contingent on QIA providing Baffinland with available verified QIA program-led data relevant to Project water use and management and/or waste generation and management by the end of September, 2025.</i>

<b>Comment Number</b>	<b>QIA-TR-25</b>
<b>Issue</b>	<b>Future Operating Plans</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA considers this comment resolved by the information provided in Baffinland's submission dated November 12, 2024.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-26</b>
<b>Issue</b>	<b>Rail car design</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA considers this comment resolved by the information provided in Baffinland's submission dated November 12, 2024.
<b>Recommendation</b>	N/A

<b>Comment Number</b>	<b>QIA-TR-27</b>
<b>Issue</b>	<b>Cumulative effects</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>Several parties have flagged the need for better cumulative effects assessment (CEA) of the Mary River Project along with other anthropogenic cumulative-effects-causing agents, on the North Baffin environment and Inuit. As currently scheduled, it is possible the Water Licence will be updated before total cumulative effects loads are well understood. QIA suggests that the NWB include a mechanism in the updated Water Licence for future consideration of results from the Nunavut Impact Review Board's (NIRB) CEA Framework process.</p> <p>Although assessing cumulative effects remains a requirement under the NWB's information requirements, there remains no concrete, agreed-upon mechanism for addressing cumulative effects to freshwater resources that may be impacted by the Project. This is true for the Project as a whole but is especially concerning given the lack of updated baseline and trend-over-time data in the Steensby area over the past decade and the lack of meaningful Inuit on-territory data collection at any time in the Steensby corridor.</p> <p>Assessing cumulative effects should be a multi-party effort that applies to all physical and regulatory aspects of the Mary River Project, including the Water Licence, the NIRB certificate, Crown permits, and any other regulatory processes.</p>

<b>Comment Number</b>	<b>QIA-TR-27</b>
<b>Issue</b>	<b>Cumulative effects</b>
	<p>To this end, the NIRB recommended in its recent letter to the Minister of Northern Affairs regarding the CEA Framework:</p> <p><i>... the establishment of a specific CEA-focused multi-party committee (or if a separate committee is not established for this work, the Board recommended that it should, at the very least, be informed by consultations with relevant stakeholders). The end goal of this work would be to develop an updated CEA Framework to support the consideration of future assessments and to further enhance the monitoring of cumulative effects for the Project” (NIRB Letter to Responsible Ministers, Dec 3, 2024).</i></p> <p>Given these recommendations and the fact that Sustaining Operations Proposal 2 (SOP2) application, in relation to which the CEA Framework was originally developed, has been suspended at Baffinland’s request, QIA wishes to ensure that cumulative impacts to freshwater resources are considered and addressed through commitments and conditions in the Water Licence. For the sake of efficiency, consistency, and thoroughness, cumulative effects assessment conducted under the auspices of the Water Licence should be synchronised with other regulatory processes. The priority for QIA regarding the Water Licence is that there be a requirement or commitment to meaningfully consider and address cumulative effects to freshwater resources whenever that information is brought forward to the Nunavut Water Board.</p> <p>QIA sees no harm to any party with this request; it does not slow down the Water Licence process and the inputs that it would bring would enrich the project monitoring and management system longer-term when the NIRB CEA Framework produces results.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-28</b>
<b>Issue</b>	<b>Inuit Engagement on monitoring and the Adaptive Management Plan (AMP)</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA will be working with Inuit through the Inuit Stewardship Plan (ISP) to identify Inuit Objectives, Indicators, Thresholds and Responses that can be built into the Project monitoring and management system. This work has yet to be completed, which means that Inuit-specific monitoring and management perspectives and measurable/observable parameters (the material that goes in the Water Licence



<b>Comment Number</b>	<b>QIA-TR-28</b>
<b>Issue</b>	<b>Inuit Engagement on monitoring and the Adaptive Management Plan (AMP)</b>
	<p>Schedules) may not be integrated into the updated Water Licence unless there is a placeholder Water Licence condition to capture them.</p> <p>There remains no mechanism associated with the Water Licence for integrating Inuit Objectives, Indicators, Thresholds, and Responses (OITRs) into the Project's water monitoring and adaptive management regimes. NIRB Project Certificate Condition #18, which Baffinland wishes to defer to, contains no mention of freshwater specifically, and no concrete requirement that Inuit Objectives, Indicators, Thresholds and Responses be integrated into project monitoring and adaptive management.</p> <p>No specific condition exists requiring Baffinland to integrate Inuit Objectives, Indicators, Thresholds and Responses in relation to freshwater specifically. Although QIA agrees that the ISP is likely the best place to address these concerns, QIA would like further assurance the outcomes of bilateral processes on this issue will be adequately considered and addressed throughout the duration of the Project. The regulatory instrument of the water licence provides this assurance. QIA further notes that Baffinland would not be compelled to do anything unless and until Inuit provide Inuit OITRs. This is not a punitive measure on Baffinland in any fashion. QIA sees no harm to any party with this request; it does not slow down the Water Licence process and the inputs that it would bring would enrich the project monitoring and management system. Indeed, as framed by QIA, the onus is on QIA to bring forward the information, and the Water Licence clause would activate unless and until QIA does so. Integrating this request into the Water Licence would add "defence in depth" to bilateral commitments by making the required actions subject to Water Licence compliance and enforcement and would see the inclusion in the Water Licence of greater recognition of the importance of Inuit observational parameters for project monitoring and management.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-29</b>
<b>Issue</b>	<b>Inuit Qaujimajatuqangit</b>
<b>Status</b>	Resolved
<b>Discussion</b>	Notwithstanding that QIA disagrees that all impact pathways on freshwater/fish and fish habitat have been captured in the FEIS and its addendums, QIA is willing

<b>Comment Number</b>	<b>QIA-TR-29</b>
<b>Issue</b>	<b>Inuit Qaujimajatuqangit</b>
	<p>for the purposes of the water licence process, to focus on proponent commitments and NWB conditions that improve understanding of these values into the future.</p> <p>QIA's forthcoming <i>Pond Inlet Freshwater IQ Study</i> will bring important information forward regarding Inuit water values, Inuit waterbodies of heightened importance, and how Inuit used observational monitoring to separate between water that is good, questionable, or poor quality. Right now, there is nothing in the water licence that covers these topics. QIA would like to see firmer commitments from Baffinland and conditions associated with the water licence to cover these important issues.</p> <p>The NWB has stated its commitment to considering Inuit Qaujimajatuqangit in its decisions. We also note that the NIRB has previously recommended that other regulatory agencies in Nunavut, such as the NWB, "enhance their approach to consideration and application of Inuit knowledge and experience in fulfilling their roles in relation to the current Mary River Project" and build community engagement and knowledge sharing opportunities into all stages of research related to issues of concern to community members (NIRB Phase 2 Report, 252).</p> <p>Including Inuit Qaujimajatuqangit-infused items as part of a water licence terms and conditions is an important opportunity to ensure that Inuit Qaujimajatuqangit informs decisions that affect the freshwater resources that Inuit rely on.</p> <p>QIA sees no harm to any party with this request; it does not slow down the Water Licence process and the inputs that it would bring would enrich the project monitoring and management system. Additional waterbodies of heightened importance, if identified, should be built into project works, mitigation measures, monitoring plans, and adaptive management plans. As framed by QIA, the onus is on QIA to bring forward the information and the Water Licence clause would not kick in unless and until QIA does so. Integrating this request into the Water Licence would add "defence in depth" to the bilateral commitments made by making the required actions subject to NWB compliance and enforcement.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-30</b>
<b>Issue</b>	<b>Steensby Baseline and Trend-over-Time Information Adequacy</b>
<b>Status</b>	Resolved

<b>Comment Number</b>	<b>QIA-TR-30</b>
<b>Issue</b>	<b>Steensby Baseline and Trend-over-Time Information Adequacy</b>
<b>Discussion</b>	<p>Much of the baseline data relied upon for the original assessment of Steensby is dated now and should be updated prior to construction in order to improve monitoring and management plans.</p> <p>As of yet, there is no firm commitment or condition associated with this water licence requiring that updated baseline and trend-over-time data be provided, including data on Inuit Qaujimajatuqangit and use, adequately in advance of Steensby construction. There is also no commitment that, if such information is provided, it will be adequately integrated into Project works, monitoring, and adaptive management plans. Not doing so risks permanently losing the opportunity for accurate current and trend-over-time data against which to assess project impacts, which ultimately means losing the opportunity for accurate assessment of impacts throughout the life of the project and into the distant future. QIA would like this information to be provided 180 days prior to initiation of Steensby construction, a floating point in time that should not be initiated without adequate baseline, trend-over-time, and current condition profiles in place that have been vetted by QIA and Inuit communities. If Baffinland does not agree with this time frame, it must present to the parties and be prepared to support a timeframe. This cannot be neglected.</p> <p>Additional baseline and trend over time data will be critical to understanding whether changes have occurred since the original assessment occurred in the early 2010s. QIA expects that Inuit on-territory data collection will be part of any updating of Steensby baseline and trend-over-time data collection. To our knowledge there was no extensive on-territory data collection to set an Inuit Baseline as part of the work in the early 2010s.</p>
<b>Recommendation</b>	<p>QIA considers this comment resolved by commitment:</p> <p><i>Baffinland will collaborate with QIA to incorporate the outcomes of QIA-led data collection into relevant management plans listed in Part B Item 14 of the Water Licence, and will plan to submit any consequential updates to the NWB with the submission of the 2026 Annual Report. The timing of this commitment is contingent on QIA providing Baffinland with available verified QIA program-led data relevant to Project water use and management and/or waste generation and management by the end of September, 2025.</i></p>

<b>Comment Number</b>	<b>QIA-TR-31</b>
<b>Issue</b>	<b>Pond Inlet Freshwater IQ Study</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>QIA's forthcoming <i>Pond Inlet Freshwater IQ Study</i> will bring important information forward regarding Inuit water values, Inuit waterbodies of heightened importance, and how Inuit used observational monitoring to separate between water that is good, questionable or poor quality.</p> <p>There remains no commitment from Baffinland or condition tied with this water licence that ensures that the results of the <i>Pond Inlet Freshwater Study</i> will be integrated into Baffinland's management plans and or that Baffinland submit such updates to the plans for Board approval. On matters related to Inuit Qaujimajatuqangit and impacts to Inuit Culture, Resources, and Land Use (CRLU), Baffinland wishes to defer to its commitments in Appendix B of the NIRB Project Certificate, the <i>Inuit Impact Benefit Agreement</i> (IIBA) and the <i>Water Compensation Agreement</i> (WCA) as forums where QIA and Baffinland have agreed to address issues of OITRs, IQ, and impacts to Inuit CRLU. While these avenues are valid, they do not preclude the inclusion of further conditions in other licencing and impact review processes like this one, which seek to evaluate the need for a greater degree of specificity in the measures aimed at protecting sensitive ecosystems and communities from project-related impacts. A major goal of ongoing licensing and impact review processes with built-in expiry dates is to ensure that impacts are adequately addressed in an ongoing fashion and that systems are in place to address and mitigate for the possibility that impacts in fact exceed those predicted when earlier processes and mitigation measures were put in place. This is the case with this licensing process, where impacts observed by Inuit have exceeded original predictions and in some cases what Inuit deem acceptable. This, combined with the fact that the NWB has publicly stated its objective to seriously consider Inuit Qaujimajatuqangit in its licensing decisions, means that it is indeed appropriate to include more stringent monitoring and mitigation measures that better address impacts to Inuit water rights and use. QIA notes that the requested term/condition of the Water Licence would not force Baffinland in any fashion to put any aspect of the Project on hold. All that QIA is requesting is that when the <i>Pond Inlet Freshwater IQ Study</i> is finalized, that learnings from it be demonstrably integrated by Baffinland into its Project management and monitoring system.</p> <p>QIA sees no harm to any party with this request; it does not slow down the Water Licence process and the inputs that it would bring would enrich the project monitoring and management system. Indeed, as framed by QIA, the onus is on QIA to bring forward the information and the WL clause would not kick in <u>unless and until QIA</u> does so. Integrating this request into the Water Licence would add</p>

<b>Comment Number</b>	<b>QIA-TR-31</b>
<b>Issue</b>	<b>Pond Inlet Freshwater IQ Study</b>
	“defence in depth” to the bilateral commitments made by making the required actions subject to NWB compliance and enforcement.
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 and Schedule B, Item 1 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-32</b>
<b>Issue</b>	<b>AEMP, Waterbodies of Importance, and Inuit Objectives, Indicators, Thresholds, and Responses</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>See also QIA-TR-28.</p> <p>The current version of the AEMP does not incorporate Inuit OITRs or represent all Inuit waterbodies of heightened importance. This means, for example, that neither the AEMP nor the SWAEMP currently account for the impacts of dust deposition in freshwater, as noted in CIRNAC’s comments R-02, 03, and 04. Additionally, neither the IIBA or WCA contain adequate mechanisms for integrating Inuit OITRs and IQ on impacts to waterbodies of importance into project monitoring and response activities.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Schedule B, Item 1 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-33</b>
<b>Issue</b>	<b>Water Monitoring and Inuit Water Use and Rights</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>Currently there is no reference in the Water Licence to the need to consider findings of scientific studies and/or Inuit-led monitoring when conducting the annual reporting for the water licence. There remains no requirement for monitoring and adaptive management plans associated with the Water Licence to be reviewed and, where necessary, modified to consider new information about impacts to Inuit water rights and use. Part B, Item 17 of the Type A Water Licence does not contain any requirement that Baffinland review and modify the monitoring program annually in line with the findings of applicable scientific studies and Inuit-led monitoring. For reference, the text of this condition is as follows:</p>

<b>Comment Number</b>	<b>QIA-TR-33</b>
<b>Issue</b>	<b>Water Monitoring and Inuit Water Use and Rights</b>
	<p><i>The Licensee shall review the Plans or Manuals referred to in this Licence as required by changes in operation and/or technology and modify the Plans or Manuals accordingly. Revisions to the Plans or Manuals are to be submitted in the form of Addenda to be included with the Annual Report required by Part B, Item 4, complete with a revisions list detailing where significant content changes are made.</i></p> <p>We believe the Applicant's reference to Part B, Item 17 is erroneous and this revision would increase the chance that good IQ and scientific studies would inform revisions to Project monitoring and management systems. Our reading of Part B, Item 17 suggests it would be a substantial change to the "operation and/or technology that would be the driver for such a review. There is no mention of "findings of scientific studies and Inuit-led monitoring" initiating a review of project monitoring and management plans.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 and Schedule B, Item 1 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-34</b>
<b>Issue</b>	<b>Inuit Freshwater Engagement</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>QIA's forthcoming <i>Pond Inlet Freshwater IQ Study</i> will bring important information forward regarding Inuit water values, Inuit waterbodies of heightened importance, and how Inuit used observational monitoring to separate between water that is good, questionable or poor quality.</p> <p>QIA remains concerned about the lack of mechanisms to identify and address Inuit concerns about impacts to freshwater resources, culture, and land use. One of the best avenues for this to happen is by integrating the results of QIA Inuit-led studies into Baffinland's adaptive management mechanisms. Although Baffinland has stated its desire to defer to mechanisms set out in the WCA and IIBA on these matters, QIA wishes to see further commitments on these matters tied directly to the WL. As outlined in comment QIA-TR-32, this will allow for greater specificity and precision in how Inuit concerns about freshwater are identified and addressed. We also reiterate the requested term/condition of the Water Licence would not force Baffinland in any fashion to put any aspect of the Project on hold. All that QIA is requesting is that when the studies are finalized, the learnings from them be</p>

<b>Comment Number</b>	<b>QIA-TR-34</b>
<b>Issue</b>	<b>Inuit Freshwater Engagement</b>
	<p>demonstrably integrated by Baffinland into its Project management and monitoring system.</p> <p>QIA sees no harm to any party with this request; it does not slow down the Water Licence process and the inputs that it would bring would enrich the project monitoring and management system. Indeed, as framed by QIA, the onus is on QIA to bring forward the information and the WL clause would not kick in unless and until QIA does so. Integrating this request into the Water Licence would add “defence in depth” to the bilateral commitments made by making the required actions subject to NWB compliance and enforcement.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 and Schedule B, Item 1 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-35</b>
<b>Issue</b>	<b>Cumulative Effects</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>For this comment, QIA reiterates its response to QIA-TR-27 above:</p> <p>Although assessing cumulative effects remains a requirement under the NWB’s information requirements, there remains no concrete, agreed-upon mechanism associated with this water licence for addressing cumulative effects to freshwater resources that may be impacted by the Project. This is true for the Project as a whole but is especially concerning given the lack of updated baseline and trend-over-time data in the Steensby area over the past decade and the lack of meaningful Inuit on-territory data collection at any time in the Steensby corridor. Assessing cumulative effects should be a multi-party effort that applies to all physical and regulatory aspects of the Mary River Project, including the Water Licence, the NIRB certificate, Crown permits, and any other regulatory processes. To this end, the NIRB recommended in its recent letter to the Minister of Northern Affairs regarding the CEA Framework:</p> <p><i>... the establishment of a specific CEA-focused multi-party committee (or if a separate committee is not established for this work, the Board recommended that it should, at the very least, be informed by consultations with relevant stakeholders). The end goal of this work would be to develop an updated CEA Framework to support the consideration of future assessments and to further enhance the monitoring of cumulative effects for the Project” (NIRB Letter to Responsible Ministers, Dec 3, 2024).</i></p>

<b>Comment Number</b>	<b>QIA-TR-35</b>
<b>Issue</b>	<b>Cumulative Effects</b>
	<p>Given these recommendations and the fact that the SOP2 application, with which the CEA Framework was originally developed, QIA wishes to ensure that cumulative impacts to freshwater resources are considered and addressed through commitments and conditions in the Water Licence, including a shorter-term water licence to allow for greater consideration of cumulative effects and the opportunity to address any outstanding impacts. This echoes requests from Inuit during the community session on Dec 3 for a shorter licence period to allow more leeway for data collection and assessment of overall Project effects. For the sake of efficiency, consistency, and thoroughness, cumulative effects assessment conducted under the auspices of the Water Licence should be synchronised with other regulatory processes. The priority for QIA regarding the WL is that there be a requirement or commitment to meaningfully consider and address cumulative effects to freshwater resources on an ongoing basis.</p>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-36</b>
<b>Issue</b>	<b>Impacts to Inuit Culture, Resources, and Land Use (CRLU) and water rights</b>
<b>Status</b>	Resolved
<b>Discussion</b>	<p>Generally, QIA points out to the NWB that when considering whether additional reference to Inuit led monitoring, Inuit OITRs, or anything else Inuit-driven is required in the updated Water Licence, that the NWB should be aware of the fundamental gap identified by Canada, QIA, and the NIRB between impacts predicted and recorded by Baffinland and the impacts observed and felt by Inuit to date (as seen for example in NIRB's Phase 2 Assessment Report). To address this gap, it is important to consider updating the water licence to have greater requirements for Inuit-led and -informed data.</p> <p>Baffinland's support for the ISP is an important step toward ensuring accurate information on impacts to Inuit water rights and use. Commitments remain unclear regarding how results that relate to Inuit freshwater rights, culture, resources, and land use will be considered in Baffinland's monitoring and adaptive management plans. QIA requires further assurance and clarity in this regard. Compensation funds and other Baffinland-funded programs that address impacts are also essential. However, greater effort is required in accurately identifying and reducing impacts themselves, not just compensating for them or addressing their ripple effects.</p>



<b>Comment Number</b>	<b>QIA-TR-36</b>
<b>Issue</b>	<b>Impacts to Inuit Culture, Resources, and Land Use (CRLU) and water rights</b>
<b>Recommendation</b>	QIA considers this comment resolved by the revision to Licence Part B, Item 17 and Schedule B, Item 1 as agreed jointly between QIA and Baffinland.

<b>Comment Number</b>	<b>QIA-TR-37</b>
<b>Issue</b>	<b>Blasting for tunnel construction</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA believes further engagement is necessary on the issue of blasting for tunnel construction.
<b>Recommendation</b>	<p>QIA considers this comment resolved by commitment:</p> <p><i>Baffinland will collaborate with QIA to incorporate the outcomes of QIA-led data collection into relevant management plans listed in Part B Item 14 of the Water Licence, and will plan to submit any consequential updates to the NWB with the submission of the 2026 Annual Report. The timing of this commitment is contingent on QIA providing Baffinland with available verified QIA program-led data relevant to Project water use and management and/or waste generation and management by the end of September, 2025.</i></p>

<b>Comment Number</b>	<b>QIA-TR-38</b>
<b>Issue</b>	<b>Fish habitat offsetting</b>
<b>Status</b>	Resolved
<b>Discussion</b>	QIA will further discuss this issue as part of the <i>Fisheries Act</i> Authorization application process. QIA considers this issue as resolved for the purposes of this licensing process.
<b>Recommendation</b>	N/A