



NUNAVUT WATER BOARD

SHORT-TERM RENEWAL OF WATER LICENCE NO: 2AM-MRY1325

REASONS FOR DECISION



NUNAVUT WATER BOARD

In the Matter of:

Applicant: Baffinland Iron Mines Corporation

Subject: Application for a contingent Short-Term Renewal of Existing Type A Water Licence No: 2AM-MRY1325

Date: April 23, 2025

Precedence: Where there is any inconsistency or conflict between the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)* and the *Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSRTA)*, the Nunavut Agreement prevails to the extent of the inconsistency or conflict. Where there is any inconsistency or conflict between the *NWNSRTA* and any other act of Parliament, except the *Nunavut Land Claims Agreement Act*, the *NWNSRTA* prevails to the extent of the inconsistency or conflict.



Table of Contents

REASONS FOR DECISION	4
SECTION I: BACKGROUND AND REGULATORY HISTORY	4
Application.....	4
Application and Supporting Materials Submitted by the Applicant	6
Existing Water Licence History	7
Regulatory History of the STR Application.....	7
SECTION II: SUMMARY OF COMMENT SUBMISSIONS OF THE PARTIES	8
Qikiqtani Inuit Association (QIA)	8
Crown-Indigenous Relations and Northern Affairs (CIRNA)	8
SECTION III: SUBMISSIONS BY OTHER INTERVENING PARTIES OR MEMBERS OF THE PUBLIC	9
SECTION IV: JURISDICTION OF THE BOARD.....	9
<i>The Nunavut Waters Regulations</i>	9
Inuit Water Rights.....	10
SECTION V: DECISION TO GRANT THE SHORT-TERM RENEWAL	10
SECTION VI: SHORT-TERM RENEWAL OF WATER LICENCE 2AM-MRY1325.....	11



the Board without a Public Hearing. However, recognizing that under s. 55 of the Nunavut Waters and Nunavut Surface Rights Tribunal Act (NWNSTRA), the Board is required to provide at least 30 days' notice of an application before acting on the application, the Board recommended that Baffinland consider submitting a STR Application early in 2025.²

On February 28, 2025 the Board received the STR Application from the Applicant. The STR Application requested the renewal of the Existing Licence on the following basis:

- During the term of the STR Water Licence there would be no changes to the Existing Water Licence (administrative or otherwise);
- The STR Water Licence is a contingency only and Baffinland requested that the NWB clarify that the STR would only take effect if the NWB and the Minister have not completed (or been deemed to complete)³ decision-making in relation to the full Renewal Application prior to the expiry of the Existing Water Licence;
- The term of the STR Water Licence would not exceed 180 days from the date on which the Existing Water Licence expires (June 10, 2025), and the STR Water Licence would expire on the earlier of December 5, 2025 OR the Minister's completion of decision-making for the full Renewal Application (and if approved by the Minister, the issuance of a long-term renewed licence);
- No plans, studies, reports, or designs would be submitted in support of the STR Application as this information has already been provided, or will be provided during the Board's processing of the full Renewal Application; and
- Baffinland requested, and the NWB confirmed that even if the STR Water Licence was approved, the NWB's consideration of the full Renewal Application would continue in as timely and efficient a manner as possible with the goal of completing decision-making for the full Renewal Application before the expiry of the Existing Water Licence if possible.

9. (1) For the purposes of section 13.7.3 of the Agreement and subsection 52(1) of the Act, no public hearing is required in respect of an application for... (b) one or several renewals of a type A licence if the total duration of the renewal or renewals does not exceed 180 days.

² Nunavut Water Board, Pre-Hearing Conference Decision Report regarding Renewal Application for Type A Water Licence No: 2AM-MRY1325, December 19, 2024.

³ Under s. 56(2.2) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10, if the Minister does not make a decision within the forty five or ninety days referred to in subsection 56 (2) or 56 (2.1) respectively, whichever is applicable, the Minister is deemed to have approved the issuance, amendment, renewal or cancellation, as the case may be.



In the STR Application, Baffinland emphasized that the short-term renewal was only provided as a contingency, and urged the NWB and Minister to work diligently to make a decision with respect to the full Renewal Application in a timely manner so that Baffinland is not forced to operate under a short-term renewal, stating as follows:

If possible, Baffinland does not wish to operate under a “short term” licence, which could create potential for confusion within the community. Baffinland filed its Renewal Application in June 2024 in accordance with all applicable NWB guidance and it continues to have a reasonable expectation that the NWB and Minister can complete their decision-making process on the Renewal Application prior to June 10, 2025. The potential delays in the issuance of the Renewal Licence are not due to factors within Baffinland’s control. It is important that the issuance of a Short Term Water Licence not inadvertently extend the Renewal Licence process.

Therefore, should the NWB issue a Short Term Water License Baffinland asks that the NWB include a contingency term that is clear that the Short Term Water Licence is only to come into effect in the event that the Renewal Licence is not issued by June 10, 2025. This approach would serve the “bridging” function desired by the NWB, as well as encourage all parties to complete the processing of the Renewal Application in a timely manner, prior to expiry of the current Type A Water Licence.⁴

On March 10, 2025 the NWB provided notice of the STR Application as required under s. 55 of the *NWNSRTA* and invited comment on the STR Application within 30 days (April 10, 2025). As set out in the *NWNSRTA* (s. 55), the Board is required to provide at least 30 days’ notice of the STR Application before acting on the STR Application. In addition, as permitted under s. 9(1)(b) of the *Regulations*, the STR Application was processed by the Board without a Public Hearing once the 30-day time period elapsed. As the need for the STR Application is, as suggested by Baffinland, contingent, but necessary to preserve for the NWB and the Minister the full decision-making timeline as prescribed under the *NWNSRTA*, the Mary River Panel (P4) considered the STR Application in concert with the Board’s consideration of the full Renewal Application on April 15, 2025.

Application and Supporting Materials Submitted by the Applicant

The following documents were included with the STR Application:

1. Cover Letter;

⁴ Baffinland, 2AM-MRY1325 Type A Water Licence Short Term Renewal Application, February 28, 2025 at p. 1.

2. Completed Application form for STR Water Licence; and
3. \$30 application fee.

The Application and supporting documentation were placed on the Board's Public Registry and is available for access at the following link:

<https://public.nwb-oen.ca/registry/2%20MINING%20MILLING/2A/2AM%20-%20Mining/2AM-MRY1325%20BIMC/1%20APPLICATION/2025%20Short%20Term%20Renewal/>

Existing Water Licence History

The existing type A Water Licence No: 2AM-MRY1325 was issued by the NWB on June 10, 2013 (the Existing Water Licence). The Existing Water Licence was subsequently approved by the Minister of Aboriginal Affairs and Northern Development Canada (as the Minister was known then, now Minister of Northern Affairs) on July 15, 2013 and is set to expire on June 10, 2025. The Existing Water Licence authorizes the use of water and deposit of waste in relation to the construction, operation, closure and reclamation of a Mining Undertaking at the Mary River Project (Project) located approximately 160 kilometres south of Pond Inlet and approximately 1000 kilometres north of the City of Iqaluit within the Qikiqtani Region of Nunavut.

The Existing Water Licence was amended on July 21, 2015 to reflect changes to the Project associated with activities described by the Applicant as the “Early Revenue Phase”. Under the Early Revenue Phase of the Project, the Application requested amendments to allow for increased use of the Tote Road and shipping and ore stockpiling at the Milne Port site. Among other amendments to the Existing Licence, Baffinland was authorised to withdraw up to 1,500 cubic metres (m³) of water from several water bodies located along the Tote Road specifically for use in dust suppression.

Regulatory History of the STR Application

On March 10, 2025, the Board issued Notice of the STR Application and commenced a thirty (30) day technical review and comment period, which closed on April 10, 2025.

It should be noted that for the full Renewal Application, the Board had delegated its power to dispose of all matters in relation to this Licence, to the duly constituted Mary River Panel (P4 or the Panel) of the Board, and this Panel was also responsible for considering the STR Application.



Following the review of technical comments received during the thirty (30) day comment period, and pursuant to Article 13 Clause 13.3.6 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in Right of Canada (Nunavut Agreement)* and s. 29⁵ of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 (*NWNSRTA*) the members of the Mary River Panel (P4), on April 15, 2025, by Panel **Motion #2025-01-P4-05** approved the grant of the STR Application and contingent issuance of the Short-Term Renewal Licence. The Short Term Renewal Licence will only take effect if the NWB and Minister have not completed decision-making in relation to the full Renewal Application by June 9, 2025, and in that case, the term of the Short-Term Renewal Licence will expire on the earlier of the Minister's completion of decision-making for the full Renewal Application (and if approved by the Minister, the issuance of a long-term renewed licence) or December 5, 2025 (180 days after the June 10, 2025 expiry of the Existing Water Licence).

SECTION II: SUMMARY OF COMMENT SUBMISSIONS OF THE PARTIES

Qikiqtani Inuit Association (QIA)

The QIA is a Designated Inuit Organization under the Nunavut Agreement, representing the rights and values of the Inuit within the Qikiqtani Region of Nunavut in respect of rights to water and wildlife compensation, landowner rights and negotiation of an Inuit Impact and Benefit Agreement.

In the QIA's correspondence⁶ regarding the STR Application, QIA indicated:

QIA expresses its support for the issuance of the Short-Term Renewal for Water Licence No: 2AMMRY1325 to ensure an uninterrupted operation of the Mary River Project while awaiting the decision on the Renewal Application to be provided by the Board and, subsequently, the Minister of Northern Affairs.

It should also be noted that at the March 11, 2025 Public Hearing for the full Renewal Application, the Board received confirmation from the QIA that there are no outstanding water compensation issues that would affect the extension of the term of the Existing Water Licence.

Crown-Indigenous Relations and Northern Affairs (CIRNA)

⁵ Section 29 of the NWNSRTA states:

(1) The Board may establish panels of the Board and delegate any of its powers, duties and functions to them.

⁶ Letter from A. Kubeisinova, Manager of Regulatory Review, QIA, to R. Hunter, NWB; Re: QIA Technical Review Short-Term Renewal Application for Water Licence No: 2AM-MRY1325, dated March 28, 2025.



Crown-Indigenous Relations and Northern Affairs (CIRNA) has a broad mandate for the co-management of water resources and the management of Crown land in Nunavut. With respect to the STR Application, CIRNA provided their comments pursuant to the following applicable law and policy: the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*⁷ and the *Department of Indian Affairs and Northern Development Act*⁸. CIRNA's submission⁹ regarding the STR Application indicated: "*CIRNAC has no comments with Baffinland's short term renewal application.*"

SECTION III: SUBMISSIONS BY OTHER INTERVENING PARTIES OR MEMBERS OF THE PUBLIC

There were no submissions on the STR Application provided to the Board by any other intervening parties or members of the public.

SECTION IV: JURISDICTION OF THE BOARD

The Board has jurisdiction over the STR Application pursuant to Division 2 of the *NWNSRTA*.¹⁰ Relevant sections in that Division allow the Board to renew a licence¹¹ on application or on the Board's own initiative. As required by ss. 55(1) and (4) of the *NWNSRTA*, the Board provided notice of the STR Application on March 10, 2025 and invited interested persons to provide their comments on or before April 10, 2025.

The Nunavut Waters Regulations

As set out in s. 9(1)(b) of the *Nunavut Waters Regulations*,¹² because the STR Application involves a Short-Term Renewal not exceeding 180 days, the Board was not required to hold a Public Hearing in respect of the STR Application. It should also be noted that no submissions were received during the comment period for the STR Application that identified an interest in a Public Hearing being held. Consequently, the NWB processed the STR Application solely in writing and without a Public Hearing.

⁷ S.C. 2002, c. 10.

⁸ R.S.C. 1985, c. I-6.

⁹ Letter from L. Perrin, Water Management Specialist, CIRNA, to R. Dwyer, NWB; Re: Crown-Indigenous Relations and Northern Affairs Canada's Review of the Short Term Licence Renewal Application for Baffinland Mary River, Type A Water Licence No: 2AM-MRY1325; dated April 10, 2025.

¹⁰ Sections 42-81 of the *NWNSRTA*.

¹¹ See s. 43(1)(b) of the *NWNSRTA*.

¹² S.O.R./2013-69.



Pre-licensing Considerations

Land Use Planning and Environmental Assessment

On April 15, 2025, the Nunavut Planning Commission (NPC) provided correspondence to the NWB¹³ confirming that the NPC's previous conformity determination in relation to the full Renewal Application also applied to the STR Application.

It should be noted that the latest NPC conformity determination from May 24, 2024, for the full Renewal Application stated the following:

- *The activities associated with this proposal were previously reviewed by the NPC, and conformity determinations were issued on April 30, 2008, August 12, 2011, February 8, 2016, January 26, 2017, May 18, 2018, December 16, 2019, June 7, 2022, and February 2, 2023, which still apply;*
- *The Nunavut Impact Review Board (NIRB) previously screened and reviewed the activities included in the current Licence (NIRB FILE No. 08MN053, 17UN012, Project Certificate No. 005); and*
- *The Renewal Application is exempt from screening by the NIRB, because the project proposal does not change the general scope of the original or previously amended project activities, and the exceptions noted in Section 12.4.3 (a) and (b) of the Nunavut Agreement do not apply.*

On this basis, the NPC indicated that the Renewal Application could proceed to the permitting stage without a referral to the NIRB for further assessment.

Inuit Water Rights

It should be noted that during the Public Hearing for the Renewal Application on March 11, 2025, the QIA has confirmed that the requirements of water user compensation pursuant to s. 63(1) of the *NWNSRTA* have been satisfied with respect to the full Renewal Application.

SECTION V: DECISION TO GRANT THE SHORT-TERM RENEWAL

¹³ Email from G. Djalogue, NPC, to K. Kharatyan, NWB, dated April 15, 2025.



Following the close of the comment period associated with the STR Application and for reasons elaborated further below, the Board has decided to grant the Applicant's contingent request for the Short-Term Renewal of type A Water Licence N: 2AM-MRY1325 to extend, if necessary, the expiry of the Existing Water Licence to the earlier of December 5, 2025 or the date on which the NWB's and Minister's consideration and decision-making in relation to the full Renewal Application is complete.

In recommending that the STR Application be granted as a contingent measure to bridge any potential gap between the expiry of the existing Water Licence and the review, approval and eventual issuance of a renewed licence for the long-term, the NWB considers itself bound by the timelines in the *NWNSRTA* and continues to process the full Renewal Application in a timely manner. The Board recognizes that it may not be necessary to issue a short-term renewal if the Minister reviews and approves the issuance of the long-term renewed licence prior to June 9, 2025, but has attached the “contingent” Short-Term Renewal Licence that would take effect only if the Minister has not completed his/her decision-making in relation to the NWB’s decision on the full Renewal Application by June 9, 2025.

The NWB is confident that if this Short-Term Renewal is approved, the Mary River Project will continue to meet acceptable standards for water quantity, water quality and effluent quality throughout its duration. In granting the STR Application, the Board is satisfied that the STR Application contained the required information and was in the proper form having regard to the requirements of the *NWNSRTA*¹⁴ and associated regulations.¹⁵

SECTION VI: SHORT-TERM RENEWAL OF WATER LICENCE 2AM-MRY1325

The Applicant is advised that the Short-Term Renewal Licence does not take effect until approval of the Minister is given or deemed to have been given pursuant to s. 56 of the *NWNSRTA*.¹⁶

¹⁴ See s. 48 of the NWNSRTA.

¹⁵ *Nunavut Waters Regulations*, SOR/2013-69, April 18, 2013.

¹⁶ Section 56 of the NWNSRTA states:

The issuance, amendment, renewal and cancellation of a Type A licence, and if a public hearing is held, a Type B licence are subject to the approval of the Minister.

Under s. 56(2.2) if the Minister does not issue a decision within 45 days of receiving the Licence from the Board, (or within 90 days if the Minister has extended the decision-making period by an additional 45 days) the Minister is deemed to have approved the Licence.



As indicated in Section V, the Panel, by way of Motion #2025-01-P4-05 has decided to issue the requested contingent Short-Term Renewal of Water Licence No: 2AM-MRY1325 as described above. Other than extending the term of the Existing Water Licence, all other terms and conditions of the Existing Water Licence remain.