

Monday, 2009 September 14

Mayor Peter Aglak  
Hamlet Council of Pond Inlet,  
Pond Inlet, Nunavut  
X0A 0S0

Dear Mayor Aglak,

**Re: Storage of Calcium Chloride Drill Salt**

Over the past few months, I have been in contact with various departments and Ministries of the Government of Nunavut, the Nunavut Water Board (NWB), Lands Administration, Environment Canada, Indian and Northern Affairs Canada (INAC/DIAND) and senior administration for the Hamlet regarding the correct procedure for storage and handling of the calcium chloride drill salt that will be utilised in next years drill programme at the Mary River Project. There has been considerable discussion with various levels of government and with the exception of INAC; the consensus of opinion for the most environmentally effecient and effective storage of the salt is as follows:

- The Baffinland/Toonoonik Sagoonik/Hamlet lease site will be levelled, part of this will be completed this year and next year fill will be added to better level the site for future use. The levelling was requested by the Hamlet Lands Administration;
- The salt will remain on pallets and will be covered by a large impermeable heavy liner to both protect the salt from the environment and limit potential contamination to the environment; and
- The site will be inspected on a regular basis to ensure the liner stays in place and that minimal third party activity occurs on the site, specifically keep children from playing near the site.

The storage of the salt will not involve the creation of a lined berm storage site as this is, in the opinion of Baffinland, the NWB, Environment Canada and the Hamlet's Land Administration Officer, a less that optimal storage option. A lined berm would probably develop the collection of water under the salt and this is the worst possible recommendation that would create a potential environmental situation. It is the opinion of Environment Canada and the NWB that any liner beneath the salt would increase the potential 'footprint' of any spilled material and thus the use of a liner is not recommended for calcium chloride drill salt.

The only voice of disagreement is that of INAC, that suggests a lined berm be utilised for the storage of all materials. Discussions with INAC have been somewhat confusing. It wants all materials, primarily fuel and petroleum products, stored in a lined bermed storage site. I spoke to INAC's Water Resource Officer several times and despite concerns over the creation of a potential environmental situation, he stated that INAC suggests that all products be stored in a lined berm.

**Baffinland Iron Mines Corporation**

Suite 500, 56 Temperance Street, Toronto, ON Canada M5H 3V5  
Tel: +1 (416) 364-8820 • Fax: +1 (416) 364-0193

[www.baffinland.com](http://www.baffinland.com)

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There is some confusion regarding the storage of the salt. Discussions with the Hamlet Council at the beginning of the programme and throughout the year indicated that we would be mobilising both fuel, calcium chloride salt and equipment on the sealift. There appears to be some misunderstanding regarding the salt storage, the material was always going to be stored in Pond Inlet as per my letter of 18 August and earlier communication and discussion that started in May. The confusion appears to be with the salt purchased from Nanisivik mines that is stored at the Nanisivik Mine. This salt will be mobilised directly to Mary River site. The salt mobilised via the sealift would be stored in Pond Inlet and would be mobilised next year to Mary River project site. I believe the confusion is that the Mary River site is referred to by the SAO and many others as the Mine site. I apologise for the confusion however, the arrival of the salt in Pond Inlet was not at the 'last minute' as has been referred to in correspondence. I will seek to improve communication channels with the Hamlet and the Co-Op and Baffinland representatives.

Contacting INAC regarding storage of the calcium chloride salt is an unusual decision that has created a potential conflict and jurisdictional battle amongst federal and territorial government ministries. There is an effective battle between the GN and INAC over jurisdiction that still exists. The move to devolution that is in progress if one listens to the GN is not expected to occur until the next decade according to INAC. This situation remains a difficult issue to companies and the various government departments involved and should be resolved over time.

I spoke to both the Senior Administrative Officer and Assistant Administrative Officer of Pond Inlet about this and stated that I had spoke to INAC and relayed the comment that this was distinctly out of INAC's jurisdiction and quoted the INAC document, "A Guide to Regulatory Requirements and Procedures for Exploration, Development and Mining in Nunavut" that states:

*The **Commissioner's Land Act**, administered by the Department of Community Government and Transportation of the Government of Nunavut (GN), governs all access and disposition of surface rights on commissioner's lands.*

*The administration of the built-up area within incorporated communities rests with the municipal corporation. This is a direct result of Article 14 of the Nunavut Lands Claims Agreement (NLCA). Municipal corporations hold fee simple title to most developed lots within municipal boundaries.*

*In both cases, INAC administers all subsurface rights in accordance with the CMR.*

*Development projects planned on commissioner's lands, or anywhere else in Nunavut, must comply with the land use and environmental assessment process and procedures of the Institutions of Public Government (IPGs). They must also meet the terms and conditions laid out by the Department of Sustainable Development under the authority of the Nunavut **Environmental Protection Act**, which has exclusive jurisdiction on commissioner's lands.*

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The response from the SAO and ASAO was that the NLCA was never signed and thus not in force. The SAO and ASAO also state that the Municipal Corporations legislation was being renegotiated; however the comment about the NLCA is disturbing. It is not possible for administrative officials to decide which legislation that it will follow and effectively shop for suggestions and recommendations that it deems appropriate. This behaviour is dangerous and creates an atmosphere of confusion. A recent email states that the provided document is a guide and not legislation. It is a guide that summarises and refers to underlying legislation that can be accessed and easily examined. It should not be discarded and/or ignored. The reason it is in draft form is that it has yet to be published by INAC.

The ideal spot for the salt storage is the reclaimed dump area that was discussed in May as a potential storage site. However after some discussion with various government departments, the reclaimed dump area is reportedly zoned as an industrial site. However, there is a concern due to the longer than expected storage of contaminated soil and the site is currently in limbo. Baffinland accepts this fact but the statement that the agreement regarding management of Municipal Corporations is being renegotiated is also disturbing. The renegotiation is for the next ten years and existing legalisation is still in force. Until proposed changes are made and ratified, existing legislation remains binding.

An essential requirement for Baffinland is to follow best mining practise and ensure it exceeds environmental regulations set forth by appropriate levels of government. I do not expect the Hamlet to completely rely on its own resources and it should seek guidance from the appropriate level of government. Knowledge of appropriate legislation is not easily acquired. I also understand that there is sometimes difficulty in obtaining an appropriate and timely response from various government ministries or departments. However, it is necessary for the Hamlet to use resources that it has available to it. Utilisation of its Lands Administration Officer and the Government of Nunavut in Pond Inlet should be the first course of action. Even if professional staff has little or no knowledge of the specific action, they should be involved in the determining the best course of action and be able to recommend the correct course of action.

The Guide that was forwarded to the Hamlet will be published by INAC in the near future and is a reference to existing legislation affecting the mineral industry. The Guide refers to the specific section of appropriate legislation (Act/Regulations) for water permitting, land use, storage of materials etc. It is not legislation but a guide to it. It is a government document to make it easier for companies, local communities, and municipal and government employees to understand and apply the appropriate legislation to the mineral industry. Where Baffinland requires government approval it is expected that the administration will conform to the appropriate government legislation and will not arbitrarily determine which level of government to select the response that it wants. It is not possible for any one official to have complete knowledge of all appropriate legislation. I have attached a copy of the above referenced Guide so that the Council may have a corresponding document that details the appropriate legislation that mineral development companies are required to follow.

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It is a modern requirement for any mining company to inform and educate local communities about the mining life cycle process. Baffinland will apply and adhere to the highest standards available to it. It is attempting to improve communication channels between the local community and various levels of government. However, communication needs to flow both ways. Hamlet administration needs to approach the correct level of government to ensure that the correct level of government is approached and that the correct method is applied. It is essential for the Hamlet to both understand the potential issues and impacts of all of Baffinland activities and to correctly minimise the impacts and maximise the benefits. I am available to answer and advise on the appropriate course of action. Baffinland does intend not to tell the Hamlet how to proceed nor does it want carte blanche on its activities from the Hamlet, however it is important that the Hamlet's Administration also act correctly and not make assumptions about the project and the formidable logistics associated with it. Improving communication with the local community is an essential part of the development process and for Mary River to advance to production, excellent communication and open dialogue must exist.

Yours sincerely,

**Baffinland Iron Mines Corporation**

Michael T Zurowski, P.Eng.  
President

cc. David Mablick, Government of Nunavut  
Malachi Arreak, Government of Nunavut  
Silas Takatgak, Lands Administration Officer, Hamlet of Pond Inlet  
Joshua Arreak, Hamlet of Pond Inlet Council  
Chris Mitchell, Toonoonik Sagoonik Co-Op  
David Hohnstein, Nunavut Water Board  
Jim Wall, Nunavut Water Board  
Lori Nash, SAO Hamlet of Pond Inlet  
Ruby Watson, Hamlet of Pond Inlet  
Simon Merkosak, Baffinland Iron Mines  
Gordon McCreary Baffinland Iron Mines  
Salamonie Shoo, Qikiqtani Inuit Association

Attachment