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March 7th, 2011

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David Hohnstein Director Technical Services Nunavut Water Board 18831-18A Avenue Edmonton, AB T5T 5B4

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Mr. Hohnstein,

4CVQV De Grise Fiord Re: QIA Review Comments, Renewal Application - 2BB-MRY0710

50556 Hall Beach The Qikiqtani Inuit Association (QIA) is thankful for the opportunity to present comments to the Nunavut Water Board (NWB) related to Baffinland Iron Mines Corporation's

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40P208 Sanikiluaq (BIMC) water licence renewal request.

In preparing comments QIA sought input from CLARCs specific to the current renewal application. Additionally, QIA reviewed the contents of the NWB public registry for specific information to aid in the development of the comments and the understanding of historical operations and site infrastructure. This included design reports, as-built reports and drawings, inspection reports, annual reports, and various management plans.

General Comments 1.0

Under the current application, BIMC has requested a renewal of the existing licence without further amendments "to allow for continued exploration, engineering, and scientific studies, as well as to allow for ongoing maintenance and minor upgrades as required of the existing project infrastructure". Further, BIMC has requested a five-year renewal of the water licence to bridge the time gap between current time and issuance of the Nunavut Impact Review Board's (NIRB) Environmental Impact Statement (EIS) Project Certificate.

Water licence 2BB-MRY0710 defines the use of and interactions with fresh water across a vast area of North Baffin Island which includes (among other elements); four camp sites, and, numerous fuel and waste storage areas stretching from Steensby Inlet to Milne Inlet.

Since 2007, the project has undergone a number of changes including; the completion of a Bulk Sample Project, numerous management changes, the submission of a Draft Environmental Impact Statement, and, most recently changes in company ownership.

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QIA also notes concurrent to this water licence renewal application, a formal Part 5 review process is being coordinated by Nunavut's Institutions of Public Government related to the proponent's desire to develop a full scale mine at the Mary River site.

Δ^kΛ d'≺^k Arctic Bay Included in the larger Coordinated Review Process for the proposed Mary River project is the opportunity for the proponent to seek approvals or licences for exploration and development activities. QIA understands that at this time no applications are being made by the proponent specific to 12.10.2, or, 13.5.5 of the Nunavut Land Claims Agreement (NLCA).

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Furthermore, although the current renewal application is seeking a five year extension to the licence period it is unclear to what degree this extension may, or, may not constitute the proponent's desire to also seek pre-project approvals. For instance the renewal application speaks in general terms reading the types of activities that may occur within a five year term. The renewal application does not clearly specify the types of activities, materials, storage of closure methods that may be associated with the request for a 5 year extension.

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2.0 Technical Comments

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In reviewing the water licence renewal application QIA was cognizant of the following factors:

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> Past performance of BIMC should be considered when defining the term of the water licence.

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> Changes to the current water licence terms and conditions are necessary to better reflect proposed operations and site activities.

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• There is uncertainty in whether select licence terms and conditions have been fulfilled. Part of this uncertainty is related to BIMC's application and public registry materials available to complete this technical review, apparent missing authorizations by the NWB to complete construction/modifications, apparent missing approvals from the NWB to clearly state if submitted reports, plans, and drawings have been accepted by the Board.

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• The applicability of comments from CLARCs in relation to water licencing provisions

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2.1 General Technical Review Comments

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The NWB Application for Water Licence Renewal Form specifies six conditions that
must be satisfied if an application is to be classified as a renewal. If any of the six
conditions are not satisfied, than the application is not to be classified as a renewal,
but rather an amendment. With regards to BIMC's application, the following three
conditions are in question as to whether they satisfy a renewal classification:

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- a. Condition- A change to the volume of water authorized for use.
 - The current allowable water use is 515 m³/day. BIMC preference is to maintain this limit; however, if NWB decided to lower the allowable water use, BIMC would agree to a water use of 385 m³/day. In the spirit of the renewal application condition, BIMC is contemplating a change to the volume of water authorized for use. As such, if this change is accepted by the NWB, than BIMC should be applying for an amendment, not a renewal.
- b. Condition A change in predicted environmental impacts.
 - Section 13 of the Renewal Application form denotes that the quantity of water to be used from each source will NOT be the same as that considered in the existing licence. Limited information was provided in the BIMC application materials to describe the change in water quantity use from each source and the potential environmental impacts of this change, if any. QIA recommends the NWB request additional information in order to understand if a change in predicted environmental impacts will result from the change in water use from each source.
- c. Condition A change to any term or condition to the original licence.
 - Section 1.2 of this QIA's Review provides recommendations to terms and conditions to the original licence. As such, if these changes are accepted by the NWB, than BIMC should be applying for an amendment, not a renewal.
- Section 9 of the NWB Application for Water Licence Renewal Form provides a
 description of the undertaking to be "similar activities as under the existing water
 licence. These include exploration drilling, geotechnical drilling, ongoing collection
 of scientific and engineering data, and reclamation activities associated with the
 completion of the Bulk Sample Program".

The BIMC October 15, 2010 cover letter that accompanies the NWB Application for Water Licence Renewal Form provides additional detail of proposed activities to be completed during the term of the new water licence. The following activity was noted, and is considered by QIA as being a new activity for the proposed new water licence that may not have been considered in the previous water licence. "Execution of annual sealifts at Milne Inlet and possibly Steensby Inlet...[to mobilize] to site equipment and supplies that are to be stored on site for future use after EIS release and the receipt of a project certificate".

BIMC's proposed intent to use the ports to store equipment and supplies that are to be used for purposes after EIS release clearly demonstrates that this water licence

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application renewal is simply not to compete drilling, collection of data, and complete reclamation associate with the Bulk Sample Program.

- a. This new proposed activity could change the nature of the land interest local to the ports, require additional land area to support storage and marshaling of materials and supply, increase potential environmental impacts due to the nature of materials stored and containment requirements, and, require additional operations and/or infrastructure to protect waters from the release (uncontrolled) of waste. Limited detail was provided by BIMC as to the types, quantities, and potential environmental impacts resulting from this proposed activity. This results in uncertainty in the adequacy of the current water licence to capture this new proposed activity. QIA recommends that additional detail is provided to detail the types, quantities, and potential environmental impacts resulting from the storage of equipment and supplies for the purpose to support "future use after EIS release and the receipt of the project certificate".
- b. Further, it is understood that the ports did receive materials and supplies for the bulk sample program. This was an activity that was required to support and allow for the execution of the bulk sample program, and therefore an activity that was defined in water licence amendments #1 (July 16, 2007). The most recent version of the water licence does not include storage of equipment and supplies for the purpose to support "future use after EIS release and the receipt of the project certificate". It is QIA's opinion that this is a new activity that should not be lumped into a water licence renewal application. QIA recommends that this new activity should be considered by the NWB as an activity that is not considered in the most recent water licence, and therefore, change(s) or new terms and conditions may be required to the water licence to capture the proposed new activities. QIA notes that any changes to the existing water licence would violate the NWB conditions to accept this application as a renewal instead of an amendment.
- 3. On February 23, 2011 NIRB confirmed with the NWB that BIMC's water licence renewal application does not require additional screening. QIA understands the NIRB process as follows: since this application was presented as a renewal, not an amendment, no screening is required. Within Section 20 of the NWB Application for Water Licence Renewal Form, BIMC states consultations were completed in early October 2010 and that no concerns were raised in regards to the renewal application. It is QIA's belief that the focus of these meetings was primarily associated with BIMC's Environmental Impact Statement, not the renewal application. As such, there may be limited input gained from public as a result.



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حام∿ Sanikiluaq Furthermore, neither NIRB nor NWB appears to have received details of the consultation work completed with regards to the renewal water licence. Therefore, public concern may not be adequately captured in BIMC's renewal application due to insufficient information presented regarding consultation work; any public concern has not been assessed by NIRB for recommendations to changes or new water licence terms and conditions because a screening was not completed; and, interested parties cannot assess if current terms and conditions of the water licence are acceptable to address concerns raised in the consultation work. The following bullet points may assist in addressing these uncertainties and the potential implications on a renewal application.

- a. There was no information provided within the renewal application with regards to the consultation meetings. More specifically, it is uncertain from the information presented: the purpose of the meetings completed; a summary of any concerns regarding site activities, operations, and infrastructure; and attendance record. QIA recommends that the input gained from consultation to be provided for review to allow for interpretation of the consultation information collected, not simply BIMC opinion of the consultations outcome without supporting evidence.
- b. QIA is concerned that since the details of the consultation have not been provided, this may have limited the determination of significant public concern regarding the proposed activities, operations, and infrastructure on site. As stated above, since NIRB does not require a screening for a renewal application, any public concerns would not be reviewed by NIRB, and therefore there are no recommendations from NIRB to the NWB to address any public concerns in the water licence (through the environmental screening process). QIA recommends further understanding the concerns of the public and that appropriate water licence terms and conditions be developed to address concerns raised. QIA notes that any changes to the existing water licence would violate the NWB conditions to accept this application as a renewal instead of an amendment.
- 4. Section 14 of the NWB Application for Water Licence Renewal Form lists oily water from fuel berms as being treated and discharged to an "approved receiver". The estimated volume of oily water per year was listed as 1,400 m³/yr. QIA understands oily water may be produced from contact water within the fuel containment structure as a result of precipitation and snow melt. QIA also understands that BIMC has experienced challenges with the current fuel storage bladders over the past years. More specifically, there has been occurrence of a fuel bladder failure within the fuel containment structure. The fuel that was released required capture and treatment. The soil within the fuel containment berms likely remains elevated in hydrocarbons as a result of the spill. QIA has observed sheen in pooled water within the fuel farm during site visits completed in the fall of 2009 and 2010, which



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Through experience gained during site investigations completed in 2009 and 2010 to the Mary River site, QIA understands that the hydrocarbon contaminated water from the fuel containment structures has been attempted to be treated and released to the environment.

The description of the "approved receiver" for the discharge of oily water is unclear in the application materials. The Site Water Management Plan does not provide description of the treatment methods for oily water, the capabilities/design of the treatment system, or the location for discharge of treated water. QIA recommends additional detail is provided to address these uncertainties. Without this additional information, it is not possible to evaluate if the current water licence conditions are acceptable or require change/amendment.

- The most recent water licence requires BIMC to submit various plans, design, drawings, and reports. The following is a summary of the documentation that was required for submission to the NWB and QIA's noted deficiencies.
 - a. Part B, Item 6 requires submission of a Site Water Management Plan. No information was identified on the NWB public registry to confirm if this plan has been approved by the Board and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.
 - b. Part D, Item 13 requires submission of a Waste Water Management Plan which includes provision for Operation and Maintenance. No information was identified on the NWB public registry to confirm if this plan has been approved by the Board and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.
 - c. Part G, Item 1 requires submission of a Spill Contingency Plan. No information was identified on the NWB public registry to confirm if this plan has been approved by the Board and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.
 - d. Part H, Item 2 requires approval of an Abandonment and Restoration Plan. No information was identified on the NWB public registry to confirm if this plan has been approved by the Board and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.



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- e. Part I, Item 1 requires submission and approval of an Environmental Monitoring Plan. No information was identified on the NWB public registry to confirm if this plan has been approved by the Board and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.
- f. Part I, Item 9 requires submission and approval of QA/QC Plan. No information was identified on the NWB public registry to confirm if this plan has been approved by the Board and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.
- g. Part I, Item 12 requires approval of the QA/QC Plan by the Analyst. No information was identified on the NWB public registry to confirm if this plan has been approved by the Analyst and therefore fulfill licence conditions. Additional information is requested to address this uncertainty.
- h. Part J, Item 1 requires BIMC to notify the Board in writing of proposed modification prior to their initiation. QIA understands that BIMC has completed modifications/changes to the method of treating oily water from the fuel containment facility at Milne Inlet. Additionally, QIA understands BIMC has completed modifications/changes to the method of treating wastewater at the Mary River camp. Both of these changes/modifications were observed during the fall 2010 site visit to Mary River site. No information was identified on the NWB public registry that notifies NWB of these modifications prior to initiation of the work. As such it is uncertain if this licence conditions has been fulfilled. Additional information is requested to address this uncertainty and to understand if BIMC is in compliance with the water licence terms and conditions.
- Part J, Item 4 requires BIMC to submit as-built plans and drawings, stamped and sealed by an Engineer post construction. Provided below is a summary of deficiencies that suggests that licence conditions are not being achieved.
 Additional information is requested to address this non-compliance with the water licence terms and conditions.
 - The 2007 Annual Report provided select as built reports and drawings. QIA identified the following deficiencies:
 - Milne Inlet Bulk Fuel Storage Facility did not have civil/structural drawings signed and stamped by an Engineer. Mechanical drawings were signed and stamped by an Engineer.



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2. Milne Inlet Wastewater Treatment Facility did not have drawings signed and stamped by an Engineer.

- 3. Landfill Design and Operations did not have drawing signed and stamped by an Engineer. The drawing provided was a design drawing, not post-construction drawing. Signed and stamped design drawings were also not identified in subsequent Annual Reports. QIA understands the landfill is constructed and accepting waste. No as-constructed drawings, signed and stamped by and Engineer, were identified on the NWB public registry.
- The 2008 Annual Report provided select as built reports and drawings. QIA has identified the following deficiencies:
 - Polishing/Waste Stabilization Pond #3 report not stamped by an Engineer. Drawings not signed and stamped by an Engineer.
 - Bulk Fuel Storage Facility at Mary River Camp report not stamped by an Engineer. Drawings not signed and stamped by an Engineer.
 - 3. Milne Inlet Tote Road drawings not signed and stamped by an Engineer.
- The 2009 Annual Report provided select as built reports and drawings. QIA identifies the following deficiencies:
 - 1. Milne Inlet Tote Road drawings not signed and stamped by an Engineer.

QIA notes, it is standard engineering practice and required by Northwest Territories and Nunavut Association of Professional Engineers and Geoscientsits to have both engineering reports, and any associated drawings, signed and stamped by an Engineer.

6. A failure of a fuel bladder occurred at the Milne Inlet fuel containment facility. This failure heightened concern about the long term integrity of the bladders. Based on the 2008 Arctic King Operations Manual (Version C) form SEI Industries Ltd, the following items should be considered with regards to fuel bladder tank integrity and longevity utilized in the fuel containment facilities.

The service life of the tank is expected to be five years. It is also noted that the service life may be more or less depending on climatic conditions (e.g., UV light) and operations. To limit the degradation of the tank there is emphasis to keep the tanks generally free of dirt on the surface and void of placement in standing water. QIA noted during site

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investigations completed in fall of 2009 and 2010 that bladders were partially submerged in standing water. The INAC inspector has also noted this occurrence in recent years.

It is QIA's understanding that the tanks have been in service since about 2007, as such, the service life may expire as early as 2012. It is therefore important to recognize that the tanks are not a permanent storage facility for fuel. Also, it may be important for BIMC to clean the tanks to limit degradation (e.g., dirt) as part of regular operations.

- a. QIA notes that no alternative plan to manage bulk fuel storage on site has been presented in the NWB Application for Water Licence Renewal Form. QIA notes that an alternative fuel storage method may be required as early as 2012. Any alternative fuel storage method is a significant infrastructure change and will likely require amendments to the water licence.
- b. Additional detail regarding the longer term plan to store fuel at site is requested.

2.2 Technical Review Comments Organized According to the Layout of the Water Licence

PART B: GENERAL CONDITIONS

7. The service life and integrity of the fuel bladders is of paramount concern and has potential to impact the environment.

QIA recommends a licence condition to complete fuel bladder tank integrity assessment by a qualified professional Engineer, registered in Nunavut, at a frequency of once a year and that the results be presented to the NWB within the Annual Report. The assessment report is recommended to be sign and stamped by the Engineer.

8. Sediment and erosion control plans are a typical licence condition that Proponents submit to the NWB to demonstrate adequate operations and activities to limit potential impacts to the environment and ensure compliance with the Fisheries Act. Select elements of sediment and erosion control are highlighted in the existing water licence. Part of QIA's concern regarding this topic stems from the numerous failures and evidence of erosion and sediment concerns related to the Tote Road over recent years. Given the importance of this issue, QIA recommends inclusion of a licence term and condition that requires completion of a Sediment and Erosion Plan to be submitted to the NWB for approval.



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PART D: CONDITIONS APPLYING TO WASTE DISPOSAL

 QIA notes that incineration of waste occurs on site; however, incineration of waste is not described in Section 15 of the Renewal Application form as a waste treatment/disposal method. Additional detail regarding incinerator waste and fly ash residual management is requested.

QIA recommends that the incinerator meet or exceed Canada Wide Standards for Dioxins and Furans and Mercury Emissions. It is recommended that a water licence conditions is developed to address this standard, of which Nunavut is a signatory for its application.

10. QIA notes that wastewater discharge effluent limits in the existing licence are typical "blue-book" values. In February 2009, CCME released "Canada-wide Strategy for the Management of Municipal Wastewater Effluent" that aims to harmonize the effluent quality from wastewater treatment facilities across Canada. In Nunavut, a five year period has been recommended for Territorial and Federal governments to work together to undertake research into factors that affect performance of wastewater facilities, in part to develop northern performance standards. Interim measures within this CCME Canada-wide strategy are that effluent quality requirements in existing authorizations will continue to apply and current authorizations will be retained. QIA notes that the NWB should be proactive in establishing wastewater discharge quality limits to achieve this proposed Canada wide strategy. If the Canada wide standard is being used for municipal water licences in Nunavut, it should also be applied to water licences in the resource sector.

PART H: CONDITIONS APPLYING TO ABANDONMENT AND RESTORATION

- 11. Addendum #2 of the water licence (issued Feb 13, 2008) removed select terms and conditions pertaining to Abandonment and Restoration. Limited reasons for decision for removal of select terms were provided in the Reasons for Decision. As such the rational for their removal is uncertain. QIA recommends reinstating the following Abandonment and Restoration terms and conditions:
 - a. All roads and airstrip, if any, shall be re-graded to match natural contour to reduce erosion.
 - b. All disturbed areas shall be contoured and stabilized upon completion of work and restored to a pre-disturbed state.

PART J: CONDITIONS APPLYING TO CONSTRUCTION AND MODIFICATIONS

12. QIA notes that the current water licence requires submission of as-built plans and drawings signed and stamped by an Engineer; however, there is no requirement to submit final engineering design reports and for-construction drawings that are

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In general,

- Final engineering design reports and for-construction drawings typically provide the rational for the design, expected performance, and construction details (i.e., construction QA/QC). This information is necessary to understand if the proposed design and construction will be adequate to protect waters and contain waste.
- As-built reports and drawings typically report changes made to the engineering design from the planning state to the execution/construction stage.
 Additionally, the as-built report and drawings provide information regarding the final construction physical layout and properties.

It is important to recognize that the intent and purposes of the above listed bullets are distinct and are both critical to ensure water protection/use and waste containment is achieved.

It is typical of other water licences issued by the NWB to require submission of both: engineering design reports and associated drawings, as well as, as-built reports and associated drawings. It is unclear to QIA why this isn't the case for the water licence under review. QIA recommends a water licence condition that requires all infrastructure at the Mary River site that requires Engineering authority for design and construction, to have final engineering design report and for construction drawings submitted to the Board for approval. The report and drawings are recommended to be signed and sealed by an Engineer

3.0 Closing Comments

Through a review of licence 2BB-MRY0710 QIA has determined there are a number of aspects of the licence that need to be addressed including the nature of the application and whether or not an amendment is required, the scope of the licence and activities, appropriate licence conditions, licence reporting, evidence of NWB plan approval and the requirement to present sign and sealed drawings.

Given the numerous changes in the project, the possibly of new changes stemming from new ownership, the provisions contained within the NLCA and the Coordinated Review Process, and, on-site conditions related to fuel storage, QIA strongly recommends that the NWB grant a licence expiry date no later than December 31st, 2011. QIA also notes this recommendation was suggested and supported by the CLARCs in Igloolik and Pond Inlet.

QIA believes this term will allow the project to continue to operate for exploration purposes, while also requiring the proponent to clarify how future activities are being planned within the context of the larger Part 5 review process. Additionally, the

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restricted term will allow the NWB time to adequately perform its duties within the current project context.

Should you have any questions or comments please do not hesitate to contact our office.

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Sincerely

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Salamonie Shoo Acting Director, Lands and Resources