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NUNAVUT WATER BOARD
NUNAVUT IMALIRIYIN KATIMAYINGI
OFFICE DES EAUX DU NUNAVUT

File No: 2BB-MRY1114

September 27, 2013

To: Mary River Distribution List

Subject: Type “B” Water Licence No. 2BB-MRY1114; Notification and Call for Comments from Interested Parties

Proposed Nunavut Water Board Initiated Amendment (No.1) to the Scope and Associated Terms and Conditions for the Undertaking and Security Provisions of the Type “B” Water Licence No. 2BB-MRY1114 – Mary River Project, Nunavut; Baffinland Iron Mines Corporation

Dear Parties:

As indicated in the Nunavut Water Board’s (NWB or Board) decision¹ in respect of the Type “A” Water Licence No. 2AM-MRY1325 (the Type “A” Licence) issued in June, 2013 that authorizes Baffinland Iron Mines Corporation (the Licensee) to use water and deposit waste in relation to the construction, operation, closure and reclamation of an iron-ore mine under the Mary River Project, there is considerable overlap between the undertakings and activities authorized under the Type “A” Licence issued in June and the previously issued Type “B” Water Licence No. 2BB-MRY1114 (the existing Type “B” Licence). As recognized in the NWB’s Type “A” Decision, most if not all of the non-exploration activities and undertakings under the existing Type “B” Water Licence were expected to be incorporated into the Type “A” Licence. The specific activities and undertakings incorporated into the Type “A” Water Licence are described as follows in the Type “A” Decision:

Licence 2BB-MRY1114 was issued on April 5, 2011 and expires on April 5, 2014. The scope of activities and facilities at the existing project sites under Licence No. 2BB-MRY1114 that have been incorporated into the Type “A” Water Licence include: the Tote Road water crossings; oily water treatment systems; temporary hazardous and non-hazardous waste and material storage facilities; water supply facilities; sewage treatment facilities including the polishing waste stabilization ponds; landfill at the

¹ Nunavut Water Board, Record of Proceedings/Reasons for Decision: 2AM-MRY1325, June 12, 2013 (the Type “A” Decision).



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Mine Site; incinerators; explosives magazines; activities in support of engineering and scientific studies; ongoing maintenance of existing project infrastructure; bulk fuel storage (fuel bladder farms) and associated containment areas; relevant camp facilities; and domestic and industrial waste treatment and/or disposal.²

Reflecting that the Type “A” Water Licence has been issued and that the scope of the existing Type “B” Licence should now be limited to only those activities and undertakings that are not incorporated into the Type “A” Water Licence, it is the Board’s view that it is in the public interest to undertake a Board-initiated Amendment of the scope and associated conditions of the existing the Type “B” Licence. On this basis, pursuant to the Board’s jurisdiction to amend any term or condition of a licence when the Board considers the amendment to be in the public’s interest,³ the NWB proposes to amend, on the Board’s own initiative, the existing scope as set out under Part A, Item 1, along with the associated terms and conditions, of Type “B” Water Licence 2BB-MRY1114:

1. Scope

This Licence allows for the use of water and the deposit of waste for a Mining and Milling undertaking classified as per Schedule II of the Regulations at the Mary River Project, located approximately 160 kilometres south of Pond Inlet within the Qikiqtani Region, Nunavut. This Licence allows for exploration and bulk sampling operations, all-weather road construction, land based and on-ice drilling, a geotechnical drilling program, progressive reclamation programs, activities in support of engineering and scientific studies related to the draft EIS, ongoing maintenance to existing project infrastructure, camp operations, domestic waste treatment and/or disposal, fuel containment, and all associated uses at the Mary River Project.

The Board is considering the following amendment to the Part A, Item 1:

1. Scope

This amended Licence allows for the use of Waters and the deposited of Waste in support of a Mining and Milling Undertaking, classified as per Schedule 1 of the *Regulations*, at the Mary River Exploration Project (Previously called the Mary River Project), located approximately 160 kilometres (km) south of Pond Inlet within the Qikiqtani Region, Nunavut. The activities associated with the Undertaking generally to include

² The Type “A” Decision, at p. 48.

³ Section 43(1)(b)(iii), *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10.



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geotechnical and exploration drilling programs at the various project sites as outlined in Licensee's correspondence⁴ to the Board in October 2012.

For information purposes, see Appendix A, which is generally based on the Licensee's October 31, 2012 correspondence. The table in Appendix A captures the items considered for the proposed Board initiated amendment and lists the activities and undertakings under the existing, proposed by Licensee following the issuance of the Type "A" licence, and that appropriately considered by the Board for an amended Licence.

It should be noted that, although the amended scope of Licence 2BB-MRY1114 as proposed above, may appear to be limited, a significant number of the overall terms and conditions in the Licence are inextricably linked to the scope and will have to be accordingly modified or removed from under the Proposed Board initiated Amendment (No.1) to Licence 2BB-MRY1114 for consistency reason.

Further, the Board recognizes that the proposed Board amendment to the scope of Type "B" Water Licence 2BB-MRY1114 also requires the Board to revisit whether the reclamation obligations and the security for those activities and undertakings remaining under the Type "B" Licence comprises an amount not exceeding the aggregate of the cost of:

- a. Abandonment of the undertaking;
- b. Restoration of the site(s) of the undertaking; and
- c. Any ongoing measures that may remain to be taken after the abandonment of the undertaking.⁵

Under the existing Type "B" Licence, 2BB-MRY1114, the Licensee had furnished and maintained security for the project in the amount of \$6,738,216.00 in accordance with the estimated and accepted potential reclamation cost for land and water before the Type "A" Licence was issued. During the Public Hearing for the Type "A" Water Licence, the Proponent indicated that based on a reassessment of the scope of the activities and undertakings that would remain under the existing Type "B" Water Licence once the Type "A" Water Licence was

⁴ Letter from Oliver Curran, Director, Sustainable Development, Baffinland Iron Mines Corporation (BIMC) to Damien Côté, Executive Director, Nunavut Water Board (NWB), Re: Baffinland Response to Nunavut Water Board (NWB), dated October 31, 2012

⁵ Section 76(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10 and s. 10 of the *Nunavut Waters Regulations*, SOR/2013-69.



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issued, the amount of security appropriate for the reclamation costs for the activities and undertakings that would remain under the Type “B” would be \$1,250,000.⁶

To date, none of the intervening parties have objected to the amount of security proposed by the Licensee to continue to be held under the Type “B” Water Licence once the activities and undertakings to be governed by the Type “A” Water Licence are removed from the scope of the existing Type “B” Water Licence.

On this basis, pursuant to the Board’s jurisdiction to amend any term or condition of a licence when the Board considers the amendment to be in the public interest,⁷ the NWB also proposes to amend, on the Board’s own initiative Part B, Item 2 of the existing Type “B” Water Licence to reflect the change in reclamation liability associated with the reduced scope of activities and undertakings. The existing provision of Part B, Item 2 of Licence 2BB-MRY1114 is as follows:

2. The Licensee shall, within thirty (30) days of issuance of this licence, furnish and maintain security with the Minister in the form that is satisfactory to the Minister, in the amount of six million, seven hundred thirty eight thousand, two hundred sixteen (6,738,216) dollars.

The NWB proposes to revise Part B, Item 2 of the Type “B” Water Licence 2BB-MRY1114 as follows:

2. The Licensee shall, within thirty (30) days of issuance of this licence, furnish and maintain security with the Minister, in the form that is satisfactory to the Minister, in the amount of one million, two hundred fifty thousand (\$1,250,000.00).

For the benefit of the parties, and as contemplated by the Board’s Type “A” Decision,⁸ this proposed reduction in security held under the Type “B” Water Licence requires reconciliation with the security requirements of the Type “A” Water Licence to ensure that the amount of security held by the Qikiqtani Inuit Association under land-based instruments and Aboriginal Affairs and Northern Development Canada under both the Type “A” Water Licence and the amended Type “B” Water Licence are sufficient to meet the total security requirements for 2013 as outlined in the Type “A” Decision.⁹

⁶ The Type “A” Decision, at p. 61, Table 4.

⁷ Section 43(1)(b)(iii), *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, S.C. 2002, c. 10.

⁸ See the discussion in the Type “A” Decision, at pp. 58-63.

⁹ See Tables 3, 4 and 5 in the Type “A” Decision at p. 61.



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The following Table (Table 1) provides the parties with further direction as contemplated under Part C, Item of 5 of the Type “A” Water Licence regarding the security reconciliation once the proposed Amendment (No.1) to Part B, Item 2 of the Type “B” Water Licence 2BB-MRY1114 takes effect.

Table 1: Summary of Reconciled Security Requirements Updated 2013

Held By		Amount
The Qikiqtani Inuit Association	Existing LOC	\$26,200,000.00
Aboriginal Affairs and Northern Development Canada	Amendment No.1 to Type “B” Water Licence 2BB-MRY1114	\$ 1,250,000.00
	Security for activities and undertakings formerly included under the Existing Type “B” Water Licence to be incorporated into the Type “A” Water Licence” and removed from the scope of the Amended Type “B” Water Licence 2BB-MRY1114	\$ 5,488,216.00
	Security required under Part C Item 1(a) of the Type “A” Water Licence 2AM-MRY1325	\$ 4,311,784.00
TOTAL SECURITY HELD 2013		\$37,250,000.00

Further, the Board wishes to emphasize that in proposing to initiate the outlined Amendment (Amendment No.1) to the Type “B” Water Licence, 2BB-MRY1114, the Board respects the interest of the Qikiqtani Inuit Association in the quantum and form of security as a landowner with the authority to require security for the project on Inuit-owned lands under land instruments, the jurisdiction of the Minister of Aboriginal Affairs and Northern Development Canada pursuant to both the Minister’s authority for security under ss. 56 and 76 of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (NWSRTA) and as a landowner with the authority to require security for the project on Crown lands under land instruments, and the interests of the Licensee.

Consequently, by this letter, the Board is specifically seeking the comments of the Qikiqtani Inuit Association (QIA), Aboriginal Affairs and Northern Development Canada (AANDC) and the Licensee (Baffinland Iron Mines Corporation or BIMC) on or before 4 p.m. MST on **October 11, 2013** addressing the following:

- identifying any overall issues with the Board’s approach to the amendment of scope and associated conditions and security under a Board initiated amendment;
- commenting on any issues associated with the wording of the scope and security components of the proposed Amendments (No.1) to the existing Type “B” Water Licence;



- Following the Board's receipt and consideration of the comments of the parties, the Board will determine whether to proceed with the proposed Board initiated amendment to the existing Type "B" Water Licence and will communicate this decision (and if choosing to issue an amendment and/or direction, will communicate the amendment and direction) to the distribution list. In the interim, if you have any further questions regarding this matter, please contact me directly.



cc: NWB Public Registry



Appendix A

List of Activities and Undertakings under the Existing or Pre-amended Licence 2BB-MRY1114, those proposed by the Licensee following the Type “A” Licence Issuance and that being considered under the Board Initiated Amendment.

Site	Activities & Undertakings under Existing Licence 2BB-MRY1114	Activities & Undertakings Proposed as Part of the Reduced Scope of Licence 2BB-MRY1114	Activities/Undertakings Considered under the Proposed Board-Initiated Amendment
Milne Inlet Site	Fuel storage (one steel tank and bulk fuel bladder farm)	Geotechnical drilling to support future infrastructure development	Geotechnical drilling to support future infrastructure development
	Sewage treatment plant and Polishing Waste Stabilization Pond (PWSP)		
	Camp		
	Temporary hazardous/nonhazardous waste and materials storage		
	Oily water treatment system		
	Water supply from Philips Creek and 32 km Lake		
	Incinerator		
Mine Site	Exploration drilling and geotechnical drilling activities	On-going exploration drilling and geotechnical drilling activities on Baffinland’s mineral claims and development areas for the life of the Project	On-going exploration drilling and geotechnical drilling activities on Baffinland’s mineral claims and development areas
	Exploration camp and sewage treatment plant, PWSPs, and pipelines.	Use of existing camp infrastructure to house to service exploration and geotechnical drilling programs	
	Water supply from Camp Lake for potable and other uses	Drill water use to support ongoing exploration and geotechnical drilling for the life of the Project (specific sources identified prior to drilling)	Drill water use to support ongoing exploration and geotechnical drilling for the life of the Project (specific sources identified prior to drilling)



	Bulk fuel storage farm (bladders)	Potential for establishing future satellite camps to support exploration and drilling activities (amendment of licence would be required)	
	Landfill		
	Temporary hazardous/nonhazardous waste and materials storage		
	Explosive magazines		
	Incinerator		
Steensby Port	Current tent camp	Geotechnical drilling to support future infrastructure development	Geotechnical drilling to support future infrastructure development
	48 person hardwall camp and sewage treatment plant (not yet installed)		
	Drummed fuel storage		
	Temporary waste and materials storage		
	Water supply		
	Incinerator		
Railway Corridor	Mid-rail tent camp	Geotechnical drilling to support future infrastructure development	Geotechnical drilling to support future infrastructure development
	Water supply		
	Incinerator		
	Temporary waste storage		
Water Crossings	Tote road water crossings currently regulated under existing DFO authorizations and letters of advice	New water crossings for the railway require a DFO authorization (letter of advice or specific authorization)	