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October 1, 2012

The Honourable John Duncan  
Minister of Aboriginal Affairs and Northern Development  
Federal Interlocutor for Métis and Non-Status Indians  
10 Wellington, 21<sup>st</sup> Floor  
Gatineau, QC K1A 0H4

Sent via email: [duncan.j@parl.gc.ca](mailto:duncan.j@parl.gc.ca); [minister@aandc.gc.ca](mailto:minister@aandc.gc.ca)

**Re: Update on the Current Status of the NIRB's Review of Uravan Minerals Inc.'s Garry Lake Uranium Exploration Project Proposal**

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Dear Mr. John Duncan:

On April 20, 2012, in response to a request for an update from the Nunavut Impact Review Board (NIRB or Board) to Uravan Minerals Inc. (the Proponent) regarding the status of the preparation of an Environmental Impact Statement (EIS) for the Garry Lake Uranium Exploration Project Proposal, the Proponent reiterated its position since February 2010 that “the cost and time to complete an EIS on the Garry Lake Project robust enough to provide meaningful conclusions under the Guidelines is cost prohibitive”. The Proponent also requested the NIRB to “reconsider the need for a Part 5 review and EIS”.

As you are aware, the Nunavut Land Claims Agreement (NLCA) is not structured to allow for this type of “reconsideration” by the NIRB with respect to the need for a Part 5 Review, and as provided for under NLCA s. 12.5.2, once the project has been remitted to the NIRB by the Minister for Review and the NIRB has issued guidelines to prepare an EIS, it is the responsibility of the proponent to prepare an impact statement in accordance with the NIRB's guidelines. Consequently, the NIRB finds itself in the situation where the Proponent has communicated that it is unwilling or unable to prepare an EIS as required by the NLCA to move the Review forward. As a result, it appears the Board has reached an impasse in the Review process; the NIRB has therefore determined it necessary to provide the Minister with an update for his information at this time.

## **Procedural History**

The proposed project involves exploration for uranium deposits, including constructing permanent and temporary camps, diamond drilling, prospecting, mapping and geochemical ground sampling. The Garry Lake uranium property consists of 355 mining claims, totalling 829,170 acres that covers the northern margin of the Thelon Basin. The project is located in the Garry Lakes Area of the Kivalliq Region approximately 65 km East-Northeast of the Thelon Game Reserve, within the Caribou Protection Area and the traditional caribou calving grounds for the Beverly Caribou herd. The nearest community to the proposed project is Baker Lake, approximately 235 km to the Southeast.

The NIRB received the Garry Lake project proposal directly from the Proponent on January 25, 2008, with supporting applications received from the Kivalliq Inuit Association (KIA) and Indian and Northern Affairs Canada (INAC as it then was) on March 14, 2008 and April 17, 2008, respectively. On April 1, 2008, the NIRB initiated screening of the project proposal following receipt of a positive conformity determination in respect of the Keewatin Regional Land Use Plan from the Nunavut Planning Commission for this project. The Board screened the original project proposal in accordance with the requirements of NLCA Article 12 and on June 27, 2008 the NIRB issued its screening report to the Minister in respect of the project proposal.

In the NIRB's screening decision, the Board recommended that the project proposal undergo a Review under Part 5 or 6 of Article 12 of the NLCA on the following basis: the project may have significant adverse effects on the ecosystem, wildlife habitat or Inuit harvesting activities; adverse socio-economic effects on northerners; and would cause significant public concern. In addition, the Board identified that given the nature and extent of other exploration projects in the region the potential for cumulative effects associated with the project also needed to be considered. The Board also noted that although it was unusual for a project of this size to be recommended for review, given the potential for direct impacts to core caribou calving grounds, cumulative effects and the increasing public concern regarding these effects, it was appropriate for the project to be subject to a review to fully consider the potential impacts on caribou from the project proposal. Further, the NIRB indicated that should the Minister remit the matter for Review, the appropriate emphasis of the review could be limited to caribou-related impacts and the NIRB expressed willingness to focus the scope of the review on the project's impacts and cumulative impacts on wildlife habitat and Inuit wildlife harvesting.

Then-Minister of INAC (as it then was), the Honourable Chuck Strahl responded on September 18, 2008, accepting the Board's recommendations and sending the project to a focused Review as proposed by the Board. Commencing in October 2008, the NIRB conducted the usual project scoping meetings, EIS Guidelines Workshop and comment and review process on the draft EIS Guidelines, culminating in the NIRB issuing the final EIS Guidelines for the project on February 20, 2009. Although during the process leading up to the issuance of the EIS Guidelines the Proponent indicated it was committed to participating in the Part 5 Review and preparation of an EIS, the Proponent also continued to assert that a Part 5 Review was not necessary or warranted in the circumstances.

In May 2009, in response to the Board's request to the Proponent to provide an indication regarding the likely timing for filing an EIS submission that conforms to the EIS Final Guidelines, the Proponent indicated that fulfillment of the EIS requirements was "a concern for Uravan" and that it was considering three options: fulfilling the requirements; withdrawing the land use applications; or abandoning the project. In November 2009, the Proponent further indicated that it had commissioned a consultant's review of the EIS Guidelines to identify the timeline and costs associated with completing the EIS. In February 2010, the Proponent provided its consultant's report regarding the completion of an EIS in conformity with the Final EIS Guidelines. The Proponent's stated conclusion was that "the cost and time to complete an EIS on the Garry Lake project, robust enough to provide meaningful conclusions is prohibitive given the low impact entry-level exploration program proposed in the Garry Lake LUP application" and left Uravan seeking direction from the NIRB regarding a path forward.

In March 2010, the NIRB responded to the Proponent, identifying that as required under s. 12.5.2 of the NLCA, when a project proposal has been referred to NIRB by the Minister for review, NIRB shall, "... upon soliciting any advice it considers appropriate, issue guidelines to the proponent for the preparation of an impact statement. It is the responsibility of the proponent to prepare an impact statement in accordance with any guidelines established by NIRB".

In addition, the NIRB noted that the EIS Guidelines expressly recognize that the onus is not on the Proponent to meet all data gaps, and that the NIRB expects the Proponent to rely heavily on existing information sources in the completion of the EIS. The NIRB also noted that there is an express recognition in the EIS Guidelines that in the preparation of the EIS the Proponent may choose to limit the scope of responses under the EIS Guidelines as follows:

*"It is possible that the EIS guidelines include matters that, in the judgment of the Proponent, are not relevant or significant to the Project. If such matters are omitted from the EIS, they must be clearly indicated so that the public and other interested parties have an opportunity to comment on this judgment...The Proponent is advised to consult with the NIRB on any issues within these Guidelines on which it plans significant deviation"*

In March 2011, the Proponent inquired as to whether the NIRB would recommend the Proponent withdraw its application to allow for reconsideration of the situation. In July 2011, the NIRB responded that the NIRB has no jurisdiction or process to reconsider its screening determination, nor to request that the Minister revisit his decision that the project proposal requires Review. Further, the NIRB cautioned that withdrawing an application simply restarts the process, and unless the project proposal has been substantively modified, the Proponent should not reasonably expect a resubmitted application to lead to a different outcome. In addition, the Board encouraged the Proponent to identify specific sections/areas of the Guidelines where the Proponent believed critical data gaps may exist so that the NIRB and the regulatory authorities involved in the Review could discuss options to address these data gaps in the EIS.

## 2012 Status Update

On April 20, 2012, the proponent provided a status update (attached), restating their conclusion that the cost and time to complete an EIS conforming with the EIS Guidelines is cost prohibitive and requesting the Board to reconsider the need for a Part 5 Review.

## Conclusions/Recommendations

On the basis of the 2012 status update it is apparent that the NIRB cannot proceed with this Review as required under the NLCA. The next stage in the NIRB process is the preparation and submission of an EIS in conformity with the EIS Guidelines and, since February 2010, the Proponent has firmly established that it is unwilling/unable to prepare an EIS. In keeping with the Minister's September 18, 2008 direction to "structure the review in a manner that would facilitate a thorough, yet expeditious review of the project", the NIRB has previously waived the requirement for a Draft EIS submission and indicated to the Proponent that its EIS submission would be accepted as a Final EIS once provided to the NIRB.

Although the NIRB has expressed the view that the EIS Guidelines issued for the Project are sufficiently flexible to accommodate a lack of available data and the Proponent's desire to prepare a focused EIS, it is now apparent that the Proponent does not agree and will not prepare an EIS on that basis. Consequently, the NIRB will be required to continue with the current suspension until such time as the Proponent chooses to re-engage with an EIS submission or formally withdraw its project proposal from the Review process. Further, the Board also notes that for the interveners and other interested parties this Review has essentially been suspended since February 2009 when the EIS Guidelines were issued by the NIRB for this project proposal.

In closing, the NIRB would like to thank the Minister in advance for your attention with respect to this matter. The Board will update the Minister and all parties further should the suspended status for this Review change in the future.

Sincerely,



Elizabeth Copland  
Acting Chairperson  
Nunavut Impact Review Board

cc: Larry Lahusen, Uravan  
Garry Lake Distribution List