



NIRB File No.: 08MN053
NWB File No.: 2AM-MRY-xxxx
QIA File No.: LUA-2008-008
AANDC File No.: N2008T0014
DFO File No.: 2008 MR
NRCan File No.: NT-056
TC File No.: 7184-17-5

November 29, 2011

Erik Madsen
Vice-President, Sustainable Development, Health, Safety & Environment
Baffinland Iron Mines Corporation
Suite 1016, 120 Adelaide Street West
Toronto, ON M5H 1T1

Sent via Email: erik.madsen@baffinland.com

Re: Receipt of Baffinland's Response to Comments Regarding its NLCA 12.10.2(b) Application and Anticipated Next Steps

Dear Erik Madsen:

On September 13, 2011 the Nunavut Impact Review Board (NIRB or Board) received an application from Baffinland Iron Mines Corporation (Baffinland or the Proponent) in support of its "Mary River" project proposal (NIRB File No. 08MN053), for consideration of the proposed activities as an allowable exception to the NIRB's Review of the Mary River project, pursuant to Section 12.10.2(b) of the Nunavut Land Claims Agreement (NLCA) (the 12.10.2(b) application). On September 22, 2011, the NIRB invited comments from interested parties on Baffinland's 12.10.2(b) application package, with a request for submissions to be received on or before October 28, 2011 (later extended to November 4, 2011 at the request of parties). During the Technical Meeting held in Iqaluit on October 18-20, 2011 and the Community Roundtables and Pre-Hearing Conference (PHC) held more recently in Igloolik and Pond Inlet as part of the NIRB's Review of the Project, time was also provided for discussion of the 12.10.2(b) application with parties, community representatives and members of the public, generating a number of questions and comments for the Board's consideration.

On November 14, 2011 the NIRB requested that Baffinland provide a response to the written comment submissions received and the additional public comments and questions outlined by the Board, on or before November 24, 2011. The NIRB also requested that Transport Canada and the Qikiqtani Inuit Association (QIA) respond to several specific points to aid in the Board's

consideration of Baffinland's 12.10.2(b) application. On November 24, 2011 the Board received responses from Baffinland, TC and the QIA as requested. The NIRB appreciates the responses provided as well as the ongoing efforts of all parties to assist in the Board's consideration of this 12.10.2(b) application in the most efficient manner possible.

Please note that all correspondence related to the NIRB's consideration of Baffinland's 12.10.2(b) application can be accessed from the Board's online registry using the following link:

<http://ftp.nirb.ca/02-REVIEWS/ACTIVE%20REVIEWS/08MN053-BAFFINLAND%20MARY%20RIVER/2-REVIEW/14-12.10.2%20EXCEPTIONS/>

Following receipt of the November 4, 2011 comment submissions and participation in the recent NIRB meetings, in its November 24, 2011 response to comments Baffinland indicated that it now views the risk associated with seeking approval for all of the works proposed within the current 12.10.2(b) application as too great and that a reduction to the scope of the application is therefore required. Baffinland has stated its intention to submit an addendum to its 12.10.2(b) application by December 15, 2011 which would present a reduced scope of proposed works and a detailed response to the comments provided by parties to date on the application package. Owing to this change, Baffinland acknowledged that the NIRB would not be in a position to provide a decision on the 12.10.2(b) application by December 10, 2011, as originally anticipated. Baffinland further noted that it would remain appreciative of receiving the Board's PHC Report on December 10, 2011 as previously set out, as this document is necessary for completion of the Proponent's Final Environmental Impact Statement.

The Board is currently preparing its PHC Report for this Review and can confirm that it intends to meet its targeted date of December 10, 2011 for release of this report to Baffinland. The NIRB views the planned reduction in scope of the activities being proposed for exception as a positive outcome of the Board's assessment process which has allowed the Proponent to receive constructive feedback from the public and interveners regarding its development proposal. While the NIRB remains committed to respecting its obligation to fairly consider all applications in a timely manner consistent with the requirements of the NLCA, as acknowledged by Baffinland it is now necessary for the Board to adjust the timelines for its consideration of the Proponent's 12.10.2(b) application.

Recognizing that Baffinland has indicated its intention to submit a December 15, 2011 addendum to its original 12.10.2(b) application, the NIRB believes it is necessary to caution that substantial changes to the application could necessitate submission of a fully amended application package rather than an addendum only. At this time the Board is unaware of the full extent of the planned reduction in the scope of proposed works, however the NIRB is concerned that the Proponent give sufficient time and attention to ensuring that the amended application is structured in such a manner as to facilitate an effective review by the Board and interested parties. Similar to the Board's previous direction to Baffinland regarding the removal of the Road Haulage Option alternative from consideration, while it is recognized that the amended 12.10.2(b) application is likely to reduce the potential for impacts to the environment, sufficient clarification will be required to support the associated analyses and allow for a thorough and accurate technical assessment by the NIRB and reviewers.

Recognizing that most offices across the territory experience a significant reduction in staffing levels during the Christmas holiday season, the Board's general practice is to effectively extend public comment periods for all active files to account for a two-week "holiday period" (December 19, 2011 through January 2, 2012 inclusive). The NIRB strongly recommends that Baffinland consider using this additional time to ensure its application package is structured in the most efficient manner possible to facilitate the additional public comment period that will now be required for the NIRB's consideration of an amended 12.10.2(b) application. To be completely clear, whether the Board receives a submission from Baffinland on December 15, 2011 or January 3, 2012 a 30 day public comment period would effectively have comments due to the NIRB for February 2, 2012 in either case.

NEXT STEPS

The next steps below reflect the NIRB's anticipated timeline for consideration of Baffinland's 12.10.2(b) application moving forward:

1. Baffinland submits its 12.10.2(b) application addendum and response to Parties' comments to the NIRB.
2. The NIRB distributes Baffinland's submission for a 30 day public comment period.
3. Comments received by NIRB from Parties on or before **February 2, 2012**.
4. Baffinland response to Parties' comments submitted to NIRB by **February 13, 2012**.
5. The NIRB will endeavour to provide relevant authorizing agencies with its determination on Baffinland's 12.10.2(b) application within 30 days of the final receipt of all supporting documentation (**March 14, 2012**).
6. If approval is recommended by the NIRB for any of the proposed activities under s. 12.10.2(b), authorizing agencies would proceed to consider the respective licences and permits at their discretion and in accordance with their own processes and timelines.

The NIRB appreciates the continued active engagement and responsiveness demonstrated by the Proponent and all Parties in the ongoing Review process for the Mary River project. If you have any questions or require clarification regarding the NIRB's Review, please contact Li Wan, Technical Advisor, at (867) 983-4606 or liwan@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Dionne Filiatrault, Nunavut Water Board
Robert St. Eloi, Qikiqtani Inuit Association
Doug Soloway, Transport Canada

Margaux Brisco, Aboriginal Affairs and Northern Development
Derrick Moggy, Fisheries and Oceans Canada
Rob Johnstone, Natural Resources Canada
Luc Fortin, Canadian Transportation Agency
Mary River Distribution List