



NIRB File No.: 08MN053

NWB File No.: 2BE-MRY----

QIA File No.: LUA-2008-008

AANDC File No.: N2008T0014

NRCan File No.: NT-056

TC File No.: 7184-17-5

January 13, 2012

Mary River Distribution List

Sent via Email

Re: Acknowledgement of Applications and Request for Public Comment Regarding Baffinland's January 2012 Application for NLCA 12.10.2(b) Exceptions and New Type B Water Licence Application to the Nunavut Water Board

Dear Parties,

On January 3, 2012 the Nunavut Impact Review Board (NIRB) received a new application package from Baffinland Iron Mines Corp. (Baffinland or Proponent) in support of its Mary River project proposal (NIRB File No. 08MN053). The Proponent has submitted the application for consideration of the proposed activities as allowable exceptions to the NIRB's Review of the Mary River project, pursuant to Section 12.10.2(b) of the Nunavut Land Claims Agreement (NLCA).

As submitted to the NIRB, Baffinland's January 2012 12.10.2(b) application package consists of the following applications and supporting information:

- Type B Water Licence Application – Nunavut Water Board (NWB);
- Class A Land Use Permit Application – Aboriginal Affairs and Northern Development Canada (AANDC);
- 2012 Work Plan – Qikiqtani Inuit Association (QIA); and
- Maps, management plans and supporting documents.

All materials associated with Baffinland's 12.10.2(b) application can be accessed from the NIRB'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/1-APPLICATION/January%202012/>

On January 4, 2012 the NWB received a new Type B Water Licence Application from Baffinland; this NWB application forms part of Baffinland's 12.10.2(b) application package as set out above. In an effort to expedite and reduce the potential duplication of the review processes, the NIRB and the NWB are coordinating their respective public comment periods both for the NIRB 12.10.2(b) application package and the new Type B NWB Water Licence application package for the proposed Project.

RELEVANT FILE HISTORY

On September 13, 2011 the NIRB received an application from Baffinland in support of its Mary River project proposal, for consideration of the proposed activities as an allowable exception to the NIRB's Review of the Mary River project, pursuant to NLCA Section 12.10.2(b). 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 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, in which a number of questions and comments were generated 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.

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 viewed the risk associated with seeking approval for all of the works proposed within the original 12.10.2(b) application as too significant and that a reduction to the scope was therefore required. Baffinland further 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.

In correspondence dated November 29, 2011 the NIRB noted that Baffinland viewed the planned reduction in scope of the activities being proposed for exception as a positive outcome of the Board's assessment process which allowed the Proponent to receive constructive feedback from the public and interveners regarding its development proposal. The Board further cautioned the Proponent that substantial changes to the application could necessitate submission of a fully amended application package rather than an addendum only.

On December 14, 2011 Baffinland formally withdrew its 12.10.2(b) application, noting that a new application would be forthcoming for a more limited scope of exploration and development

activities in 2012. On January 9, 2012 the NWB also received confirmation¹ from Baffinland that the application submitted September 15, 2011 was to be withdrawn and the current application would reflect the work program for 2012.

NIRB REQUEST FOR COMMENTS

Prior to determining whether the activities proposed within Baffinland's amended 12.10.2(b) application should be permitted to proceed, the NIRB invites comment from the public and interested parties regarding:

- Determination of whether or not Parties agree/disagree with the conclusions in the 12.10.2(b) application package regarding the alternatives assessment, environmental impacts, proposed mitigation, significance of impacts, and monitoring measures – and reasons to support the determination;
- Determination of whether or not conclusions in the 12.10.2(b) application package are supported by the analysis – and reasons to support the determination;
- Determination of whether appropriate methodology was utilized in the 12.10.2(b) application package to develop conclusions – and reasons to support the determination, along with any proposed alternative methodologies which may be more appropriate (if applicable);
- Assessment of the quality and presentation of the information in the 12.10.2(b) application package; and
- Any comments regarding the expressed need for and required timing of the proposed exceptions as presented within the 12.10.2(b) application package – and reasons to support any comments made.

The NIRB also invites comment regarding the following: permanence of proposed infrastructure, the reversibility of potential impacts, the adequacy of proposed security bonding, and whether approval of the activities would have the effect or appearance of fettering any further or final decision by the Board relating to the larger project under review.

NWB REQUEST FOR COMMENTS

The NWB invites interested parties to comment, through a review of the water licence application package submitted for consideration, providing representations to the NWB as indicated below. Submissions provided should consider, but not be limited to the following elements:

- The scope of activities proposed in the water licence application;
- The quantity of water requested in the water licence application;
- The term requested for the new licence; and
- The appropriateness and adequacy of the environmental management plans and supporting information accompanying the application including design drawing and Rationale for proposed facilities.

¹ Letter from Baffinland, Erik Madsen, Vice-President Sustainable Development, to the NWB Re: Request withdrawal of Class B Water Licence Application submitted September 2011, dated January 9, 2012.

NEXT STEPS

In addition to the current request for comments, the NIRB respectfully requests that the Nunavut Planning Commission confirm that the previously issued conformity determination (North Baffin Regional Land Use Plan) for the Mary River project proposal is inclusive of the current application before the Board.

Following the NIRB's receipt of comments from interested parties, the NIRB will determine whether further clarification is required from the Proponent and, if not, the Board will make its determination on this 12.10.2(b) application. If approval is recommended by the NIRB for the proposed activities, authorizing agencies may proceed to process the respective licences and permits at their discretion.

Following the receipt of comments from interested parties, the NWB will carry out a final review of the water licence application and submissions received. The NWB retains the right to request additional information and studies pursuant to sections 48(2) of the Act or to issue guidelines for the provision of information pursuant to section 48(3) of the Act. Please note that the NWB will withhold any decision pertaining to the application until after the NIRB has issued a decision pursuant to 12.10.2(b) of the NLCA.

The NIRB and the NWB appreciate the efforts to be made by all parties to ensure a timely and efficient review of Baffinland's 12.10.2(b) exception application. The experience gained by the NIRB through consideration of this application has contributed greatly to further developing the process for consideration of future exceptions; the Board intends to release a draft public guide on this issue shortly after the release of its determination for this application.

All interested parties should submit their comments to the NIRB at info@nirb.ca or by fax at (867) 983-2594, and to the NWB at licensing@nunavutwaterboard.org or by fax at (867) 360-6369. Comment submissions will continue to be accepted until **February 13, 2012**.

If you have any questions or require further clarification regarding the NIRB's Review process or the NWB Licensing process, please contact:

- NIRB: Li Wan, Technical Advisor, at (867) 983-4606 or lwan@nirb.ca
- NWB: Sean Joseph, Technical Advisor, at (867) 360-6338, sjoseph@nunavutwaterboard.org.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board



Dionne Filiatrault
Executive Director
Nunavut Water Board

cc: Erik Madsen, BIMC
Brian Aglukark, NPC

Robert St. Eloi, QIA
Margaux Brisco, AANDC
Rob Johnstone, NRCan
Doug Soloway, TC