

NIRB File No.: 17XN011

November 23, 2021

Paul Emingak Executive Director Kitikmeot Inuit Association P.O. Box 18 Cambridge Bay, NU X0B 0C0 Geoff Clark Director of Lands and Environment Kitikmeot Inuit Association P.O. Box 360 Kugluktuk, NU X0B 0E0

Sent via email: execdir@kitia.ca and dirlands@kitia.ca

Re: Status of the Board's Assessment of the "Grays Bay Road and Port" Project Proposal, Pursuant to NuPPAA Subsection 143(2)

Dear Sirs,

The Nunavut Impact Review Board (Board or NIRB) appreciates the May 2021 written request from the Kitikmeot Inuit Association (KIA) for re-engaging with the NIRB to resume the assessment of the "Grays Bay Road and Port" project proposal (the Proposal) and providing the Board with an update that the KIA has assumed primary control and management as the Proponent of the Proposal. To ensure all parties involved are aware of the key information required by the NIRB to provide procedural guidance regarding the regulatory path forward, the Board provides the following summary of the procedural history associated with the Proposal to date, including identifying key information gaps that must be addressed before the resumption of the Board's assessment of the Proposal.

PROCEDURAL HISTORY OF THE SUSPENSION OF THE ASSESSMENT

- On January 15, 2018 the Responsible Ministers referred the Grays Bay Road and Port Project to Review by the Board pursuant to section 94(1)(a)(iv) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*).
- On May 2, 2018 the NIRB received a request from the Nunavut Resources Corporation, on behalf of the KIA as a co-proponent of the Proposal, to suspend the assessment of the Grays Bay Road and Port Project.
- On May 4, 2018 the NIRB confirmed that effective May 7, 2018 the assessment was to be considered suspended as requested. The NIRB emphasized the following key points about the suspension and any subsequent request to resume the Board's assessment:
 - KIA was reminded that if the written request to resume the assessment was not filed with the Board within three years of the suspension date (May 7, 2018), the

assessment of the project would be terminated as per subsection 143(4) of the NuPPAA." ¹

- O Because the request to suspend the assessment of the Proposal came in before the close of the comment period for the *Draft* Scope List, and *Draft* Environmental Impact Statement (EIS) Guidelines and Summary of the *Draft* EIS Guidelines, if a request to resume the assessment was received, the NIRB would evaluate whether the Proponent and all interested parties would require additional time to complete/update their comments on these documents.
- Upon receipt of a written request from the Proponent for the assessment to resume, the NIRB would consider the circumstances at the time the request was received to provide direction regarding next steps and implications for the previously communicated timelines for the Review.
- On May 3, 2021 the NIRB received the written request from the KIA to resume the assessment. The KIA noted that it had taken over control and management of Proposal from the Nunavut Resources Corporation. The KIA also indicated that the KIA was conducting analysis that would shape their approach to the carrying out of the Proposal.
- On May 7, 2021 the NIRB acknowledged the KIA's written request to resume the assessment and outlined the additional information that the Board required the KIA to provide before the Board could resume the assessment and provide updated procedural guidance, specifically:
 - Comments from KIA on the *Draft* Scope for the Proposal, specifically updates to the
 description of project ownership and confirmation as to whether the activities outlined
 in the document remain the same as previously proposed; and
 - Whether the KIA is prepared to continue with the Board's assessment process while the analysis of the business case for the Proposal was underway but not yet complete.
 - O The Board identified that because the next steps in the assessment, as previously identified in the process map involve the NIRB issuance of a *Final* Scope and the *Revised Draft* EIS Guidelines for comment, the submission of any updates to the *Draft* Scope is necessary before the assessment can progress to the finalization of the Scope and revisions to the Draft EIS Guidelines.
- On **June 18, 2021** the KIA provided an update that follow up with the Government of Nunavut to ascertain whether it had any more interest in the Proposal, as well as to engage the consultants required to address NIRB's questions about the business case and to address the scope of the Proposal was necessary. The KIA noted it would respond to the NIRB's questions as soon as possible.

While the NIRB appreciates the interim updates from the KIA, the NIRB cannot provide a regulatory path forward and confirm the resumption of the assessment until such time as the KIA provides a firm timeline indicating when the required information will be provided to the NIRB. Please note that if the KIA is unable to provide a specific timeline for when the information necessary to advance the assessment can be provided to the Board by **January 4, 2022**, the Board may have to reconsider whether the Proponent has taken the steps necessary to resume the suspended assessment within the three-year time limit required by s. 143(4) of *NuPPAA*. Although the Board recognizes that the KIA currently has the intention to resume the assessment within the 3-year time limit, the suspended assessment cannot progress, and essentially continues to be

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¹ Subsection 143(4) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*).

suspended until KIA supplies the information required for the Board to move forward with the next steps in the assessment process, which triggers the termination of the assessment under s. 143(4).

If the current assessment is terminated because it has been suspended for more than 3 years, in future, when the KIA has developed additional information regarding the Proposal, the KIA could submit a new project proposal for the assessment of the activities. As provided for under s. 143 of NuPPAA when an assessment has been terminated, if a Proponent subsequently resubmits the project proposal for assessment in the future, the Board "must consider, and may rely on, any assessment activities carried out" in respect of the original proposal.

As a result, the information and comments submitted in respect of the Proposal to the point where the Board's Review was suspended could be brought forward into the Board's assessment of the subsequent project proposal submitted to the Board. Should the KIA require additional discussion about the NIRB's information requirements to advance the current assessment of the Proposal, or the options if an assessment is terminated, please contact the undersigned to arrange follow up.

Sincerely,

Karen D. Costello **Executive Director**

of Devitto

Nunavut Impact Review Board

Erica Bonhomme, Nunami Stantec cc:

Wynter Kuliktana, Kitikmeot Inuit Association

Karén Kharatyan, Nunavut Water Board

Agnes Simonfalvy, Government of Nunavut

Adrian Paradis, Canadian Northern Economic Development Agency

Tineka Simmons, Canadian Northern Economic Development Agency

Graham Irvine, Health Canada

Tracey McCaie, Crown-Indigenous Relations and Northern Affairs Canada

Environment and Climate Change Canada

Alasdair Beattie, Fisheries and Oceans Canada

Rob Johnstone, Natural Resources Canada

Peter Unger, Natural Resources Canada

Transport Canada

Grays Bay Road and Port Distribution List