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April 20, 2002

Via Telecopier and Electronic Mail

Ms. Stephanie Briscoe
Executive Director
Nunavut Impact Review Board
Cambridge Bay, NU
X0B 0C0

Subject: Bathurst Inlet Port and Road Project

Dear Ms. Briscoe:

The Nunavut Water Board (NWB) has received the application for a water license for the Bathurst Inlet Port and Road Project from Mr. Tony Keen on behalf of the Bathurst Inlet Port and Road Group, a partnership between the Kitikmeot Corporation (KC) and Nuna Logistics Limited (NUNA). Applications have also been filed simultaneously with the Kitikmeot Inuit Association (KIA) and the Department of Indian and Northern Affairs (DIAND) for land use permits or leases, and the Department of Fisheries and Oceans (DFO) for *Fisheries Act* authorizations.

Hearing Request

In their submission, the Proponent has conceded that this project go to a public review as per section 12.4.4(b) of the Nunavut Land Claims Agreement (NLCA). In reaching this conclusion, the Proponent stated:

“The Project lies entirely within Nunavut and so we expect that it will be examined by the Nunavut Impact Review Board (NIRB) in the manner set out in the Nunavut Land Claim Agreement (NLCA). It is expected that on examination of the Project Description by NIRB, it will be found to pose “significant impact potential” under NLCA section 12.4.2. It is expected that NIRB will find that the Project should undergo a formal review pursuant to NLCA section 12.4.4 (b) and also provide guidelines for preparing an impact statement as set out in NLCA section 12.5.2.”¹

Outstanding Information

At the same time, the Proponent admits certain information deficiencies at this stage of the process. For example, in its letter to Mr. Kaniak of KIA, the Proponent states:

“We are assembling further information on the streams and rivers crossed by the proposed road alignment. On completion, this information will be filed as a supplement to the Project Description setting out the known details of each water crossing along the road alignment. Approximately half of the road alignment is located on land owned by the Kitikmeot Inuit Association. Likewise a

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April 2, 2002 letter to NWB, DIAND, KIA.

significant volume of construction materials from KIA lands are applied for.”²

Nature of the Project

As you already know, this project may have significant impact potential,³ again, a point conceded by the proponent. This potential for significant impacts comes from the nature and description of the project. For example, the following summary⁴ captures a brief look at the project, its construction and operations:

- The Project consists of a port on Bathurst Inlet connected to the Izok mineral deposit by a 211-km all-weather road to Contwoyto Lake, the existing winter ice road and a summer barge system to Lupin Mine, and a 79-km all-weather road from Lupin to Izok.
- The Project requires the use of Federal Crown Lands and Inuit Owned Lands. The port is located on Crown Land and requires 150 hectares of space and 700,000 cubic meters of quarried materials for construction. The port site will include:
 - a wharf to serve 50,000-tonne ice class vessels delivering fuel and bulk cargo and shipping out base metal concentrates from Izok;
 - a dock to handle barges serving the Kitikmeot communities of Kugluktuk, Bathurst Inlet, Cambridge Bay, Umingmaktok, Gjoa Haven and Taloyoak;
 - a 200-person camp and services;
 - a 220 million-litre diesel fuel tank farm;
 - a truck and trailer maintenance shop;
 - a 1,200-meter airstrip.
- The 290-km all-weather road passes over 148 km of Inuit Owned Land and 140 km of Crown Land. Road construction materials will be obtained from quarries adjacent to the roadway. Fifty-one quarries are proposed, 29 on Inuit Owned Land and 22 on Crown Land.
- Two barge terminals will be constructed on Contwoyto Lake. The terminal at kilometre 211 on the southeast shore of the lake will include a 20-person camp, a small maintenance shop and a truck parking area. The other terminal will be located at Lupin Mine on the northwest shore of the lake.
- The Project’s annual operating schedule will reflect the seasons of the arctic environment. Marine shipping will be completed between mid-July and late October. In the period, from six to ten round trips by 50,000-tonne ships will bring in approximately 225,000 tonnes of fuel and supplies for operating mines served by the Project and remove 300,000 to 470,000 tonnes of lead/zinc/copper concentrate from the Izok Project.
- Road operations will also follow the arctic seasons. Winter road operations will run from January through April and connect with the existing Lupin winter road from Yellowknife to haul 185,000 tonnes of fuel and supplies to Ekati and Diavik Diamond Mines in the NWT and Tahera in Nunavut. Accommodation and meals for drivers will be provided by the camp at the port. Operating the barge on Contwoyto Lake will permit hauling to Lupin and Izok in winter and summer. Fuel and supplies from the port to Lupin and Izok combined are 45,000 tonnes per year. The concentrate from Izok will range from 300,000-470,000 tonnes per year in the first ten years of Project operations. Summer barge operations will occur for 90 days in the mid-July to mid-October ice-free period.
- Project construction will require disturbance to approximately 670 hectares of

² April 2, 2002 letter to KIA, page 1.

³ Id.

⁴ Take from BIRAP Executive Summary, pp. I-iii.

terrestrial habitat, 2.3 hectares of marine habitat at the port, and 0.3 hectares of lake bottom in Contwoyto Lake for summer barge terminals. The road will cross 119 streambeds; 82 are intermittent streams.

- The most common animal in the Project area is caribou of the Bathurst caribou herd. During spring migration almost all of the animals in the herd could move through the Project area.
- Project construction will occur over a 26-month period and create 3,600 man-months of employment and a payroll of \$34.5 million. Project operations will create 800 man-months of employment every year (300 in summer and 500 in winter) and produce a payroll of approximately \$3.5 million. The services of contracted truck drivers will add an additional payroll of \$9 million per year.

Review Process Proposed by NWB

Obviously, several issues and facts need to be better developed and clarified as your screening and ours takes place; in particular, you will see that the Proponent's studies are not completed. Thus, the NWB and even NIRB could send the project back to the Proponent for completion of the studies, clarification of data, etc. Our initial review of the application concludes that it is incomplete and that it should normally be sent back to the proponent for re-submission with detailed information as required under 13.8.1 of the NLCA, for example. That is one option, though not our preferred option.

Another option is to accept the application and forward it to NIRB for screening, despite its incompleteness. While the procedural decision would then be up to NIRB, it seems to the NWB that one of the reasons why you would send the project back through the Minister's office (for clarification) would be to reach whatever decision is proper as it relates to the initial question of "should a public hearing occur". (See NLCA section 12.4.2(a)). However, in the case before us, the Proponent has *already* conceded this point.

All things considered, our Board opts for the second option, that is, to accept the application and to forward it to your Board for consideration, acknowledging the benefits of an immediate section 12.4.4(b) decision, in other words, referring this project to an Article 12, Part 5 or Part 6 review. (While this decision is clearly the prerogative of the Minister of DIAND, you will see that the proponent prefers a Part 5 Review but recognizes the potential for Part 6—see Project Description, March 2002, p. 5).

While the NWB does not in *any* way want to impose upon NIRB's screening discretion, we simply point out that both Boards must coordinate (e.g. NLCA 13.5.2 and 13.6.1) in the review of projects where no approved land use plan is in effect (the case with this Project). And, *if* NIRB and the Minister agree on the referral to a hearing panel, whatever type it is, then the NWB and NIRB could begin developing joint guidelines under Articles 12 and 13 in anticipation of whatever decision and guidance the Minister ultimately provides on the hearing process.

In summary, we are forwarding this application to you and look forward to whatever decision you eventually take: (12.4.4 (a), or (b), or (c), or (d)). In making your decision, please feel free to send this letter to your distribution list and/or to contact me if you have any questions.

Yours truly,

Original signed by:

Philippe di Pizzo
Executive Director

c.c. Distribution List

Distribution List- NWB4BAT – April 20, 2002

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Outpost Camp of Bathurst Inlet
Outpost Camp of Umingmaktuk