



NIRB File No.: 03UN114

February 19, 2008

Honourable Chuck Strahl, PC., MP  
Minister of Indian and Northern Affairs Canada  
10 Wellington, 21<sup>st</sup> Floor  
Gatineau, Que. K1A 0H4

Via email: [strahl.c@parl.gc.ca](mailto:strahl.c@parl.gc.ca) and Via fax: 819-953-4941 and Via regular mail

Dear Minister:

I am writing you to request an approval for intervener funding for the Bathurst Inlet Port and Road (BIPR) project.

On May 4, 2004 your predecessor the then-Honourable Minister Andy Mitchell wrote to NIRB regarding the procedure for the Part 5 Review of the BIPR project. Regarding funding, he said this (page 3):

“Again, I will be looking to the NIRB for their advice on who should participate and who may require funding, and would request a detailed analysis for participant funding be included in your project budget submission to the Nunavut Implementation Panel [NIP].”

Regarding who should participate, as you know, Honourable Minister Mitchell again on May 4, 2004, directed NIRB (page 2) to “... scope the BIPAR project broadly, and ensure that the interested parties in all potentially affected jurisdictions have an opportunity to provide input.” With this in mind, and to keep you up to date, NIRB is concurrently seeking that input from a trans-border distribution list on their interest and potential involvement (NIRB’s letter of today’s date attached).

The purpose of this letter to you is to inform you of the total funding request, provide some advice, and then to seek further direction regarding the next steps. NIRB needs this direction as soon as possible because the technical review of the BIPR Draft EIS (DEIS) is commencing tomorrow (we also attach NIRB’s direction letter to parties).

First, on the matter of identifying the participant funding needs, NIRB has received requests from six parties for a total of \$1,251,940, broken down as follows:

1. CARC: \$92,190.
2. Bathurst Road and Port Committee (BRPC): \$596,000.
3. Yellowknives Dene First Nation: \$87,500.
4. Joint Secretariat: \$37,250.
5. Bathurst Inlet Lodge: \$92,000, and
6. North Slave Métis Alliance (NSMA): \$347,000.

The mandate of the six groups, and their interest in the project is roughly as follows:

#### The Bathurst Road and Port Committee (BRPC)

The BRPC was formed in 2001 when the prospect of a Port development in the Bathurst Inlet area was first announced. The Committee was established by the people of Bathurst Inlet and was later expanded to also include the interests of those living and associated with the remote Outpost communities of Bay Chimo, Brown Sound and Contwoyto Lake. Based on the recognition of the potential for a significant change to their land and water, that would additionally provide access to significant mineral resources in the Bathurst Inlet area, the BRPC was established to specifically participate in every aspect of the BIPR project and to become a significant part of NIRB's environmental review and permitting process.

#### The Bathurst Inlet Lodge

As with the BRPC, the submission from Bathurst Inlet Lodge is also closely associated with the interests of the residents in the Bathurst Inlet area. The Lodge is the longest and most consistent employer and business operation in Bathurst Inlet and likely the longest operating tourism lodge in all of Nunavut, with 39 years in continuous operation this summer. Operating as one of the best Ecosystems Operators in the world, the success of the lodge is based on the ability of its guests to visit an undeveloped and untouched land in the Bathurst Inlet area. The Lodge is requesting assistance in reviewing the proponent's proposal to give a proper evaluation of the potential impacts of the project.

#### Joint Secretariat

The Joint Secretariat has submitted a joint application for intervenor funding on behalf of the Olokhaktomiut Hunters and Trappers Committee in Uluhaktok (Holman, NWT) and the Inuvialuit Game Council. Both organizations have a particular interest in the migration of the Dolphin and Union caribou herd across Coronation Gulf, and goals for the preservation of cultural identity its peoples, participation in the northern developing economy, and protection of the Arctic wildlife, environment and biological productivity.

#### North Slave Métis Alliance (NSMA)

The NSMA represents the North Slave Indigenous Métis people whose ancestors used and occupied what is now called the North Slave region, extending from Great Bear Lake to Great Slave Lake, and from the MacKenzie River to Contwoyto Lake. Registered as a not for profit society in the North West Territories since 1996, the NSMA has well a qualified Environmental staff and committee who regularly provide input in development projects. One of the numerous aims and objectives of the Alliance is to exercise the inherent Métis responsibility to protect the environment. The NSMA takes its responsibility seriously and must continue to ensure it is consulted and accommodated on any and all forms of activities that have the potential to impact its traditional lands, resources, or cultural practices.

#### Yellowknives Dene First Nation (YKDFN)

The YKDFN as represented by the YKDFN Land and Environment Committee has been around for a number of years. The YKDFN membership resides in the communities of Dettah and Ndilo and throughout the City of Yellowknife. Their priorities are the impact of the project on their peoples, understanding population migration patterns in their communities, and in particular understanding the project's potential impact on the Bathurst Caribou herd and the cumulative impacts.

#### Canadian Arctic Resources Committee (CARC)

CARC is a citizen's organization dedicated to promoting the stewardship of ecosystems and the social and economic well-being of northern peoples. Its policy and advocacy work is grounded in solid scientific and socio-economic research and experience. Formed thirty years ago, CARC has hosted

workshops, coordinated hearings, helped negotiate treaties, published studies and acted as the lead environmental intervenor on the Mackenzie Valley Pipeline Inquiry hearings. Included in its objectives for participation in the BIPR Review is an update to cumulative effects mapping in the project area, as well as both socio-economic impacts and impacts to caribou.

At this time, NIRB believes the six requests meet the initial expectations of interveners seeking costs: the requests are *bona fide*, the interests presented would be unique; all six would contribute to the hearing; would not delay it; and, there is no overlap except as pointed out above. That said, NIRB does note that some of the six interveners are more directly affected than others and however the funding awards are made, it is logical for many reasons including shrinking budgets, that those directly affected by the BIPR project should receive more funding.

Either way, NIRB believes that some form of *interim* funding is necessary, and NIRB needs your advice on how this funding award should be made, who should issue it and who should receive it. NIRB does not see itself as making decisions on funding because it does not want to prejudice the Board from the neutrality required as it decides the final hearing on the merits of the case. (Funding is inevitably tied to issues the Board may have to decide at the hearing. One example would be the project's impact on caribou.)

Of course, the NIP is one option but understanding how busy the NIP is, and the complex role and expertise required by an intervenor funding committee, NIRB anticipates that you might want to consider setting up an independent committee to evaluate and make these funding decisions. If that is true, NIRB is willing, if you wish, to provide several names of individuals who could sit on a committee to determine the funding matter. Further, NIRB can provide some advice of a policy nature (e.g. directly v. indirectly affected) and other including environmental matters that the intervenor funding committee may take into consideration, if you would like.

NIRB does note that there are models of funding committees elsewhere in Canada and in fact NIRB has done this successfully with the federal government (High Lake for example).

To conclude, NIRB would like to thank your office for directing NIRB to encourage a broad trans-boundary participation and ensure those individuals who share the important wildlife resources that migrate across borders, are heard from. We thank your office for supporting the funding request concept because we believe funding is essential to interveners to fully inform themselves and participate in major projects like the BIPR.

Yours truly,



Lucassie Arragutainaq  
Acting Chairperson

Cc: BIPR Distribution List

Attachments:

February 19, 2008 NIRB Letter to NWT BIPR Distribution Re IR Period  
February 19, 2008 NIRB Letter to BIPR Distribution Re IR Period



NIRB File No.: 03UN114

February 19, 2008

To: BIPR NWT Distribution List

Dear Parties,

The Nunavut Impact Review Board (NIRB or Board) would like to notify you of the commencement of the technical review period for the Part 5 Review under the Nunavut Land Claims Agreement (NLCA) of the Bathurst Inlet Port and Road (BIPR) project.

Regarding who should participate in this Review, on May 4, 2004 then-Honourable Minister Andy Mitchell directed NIRB to "... scope the BIPR project broadly, and ensure that the interested parties in all potentially affected jurisdictions have an opportunity to provide input."

During the scoping process for this review a total of eight communities in the Northwest Territories were identified as having potential to be impacted by the proposed project. These communities include: Yellowknife, Gamètì, Whatì, Behchokò, Wekweètì, Łutselk'e, Déline and Ulukhaktok. With this in mind, NIRB is seeking that input from a trans-border distribution list regarding your interest and potential involvement in this Part 5 Review.

### **Brief Project Summary**

Bathurst Inlet Port and Road (BIPR) Joint Venture Limited (the Proponent) proposes to build a port at Bathurst Inlet, Nunavut and a 211 km all-weather road to connect the new port to the Tibbitt to Contwoyto Winter Road, and to existing and future mines throughout the Kitikmeot Region of Nunavut and the Northwest Territories. The BIPR project is a 50/50 joint venture partnership between Kitikmeot Corporation and Nuna Logistics (both Inuit-owned companies).

### **File History**

On May 5, 2004 the Minister released his Screening Decision and sent the Bathurst Inlet Port and Road (BIPR) project to a Part 5 Review under the Nunavut Land Claims Agreement (NLCA). On December 6, 2004 the Board issued a finalized set of Environmental Impact Statement (EIS) Guidelines to the Proponent to be used in the creation of a Draft EIS (DEIS) submission.

More than three years later, on January 3, 2008 the NIRB received a DEIS submission for the BIPR project. NIRB technical staff undertook an internal review of the submission for conformity with the issued EIS guidelines. On January 21, 2008 NIRB indicated to Parties that the DEIS submission conformed to the EIS guidelines issued by the Board on December 6, 2004. At this time NIRB is ready to commence the technical review period for the DEIS.

Please note that the BIPR DEIS and all correspondence related to the Part 5 Review of the BIPR project can be viewed online at the NIRB ftp site using the following link:

[http://ftp.nunavut.ca/nirb/NIRB\\_REVIEWS/CURRENT\\_REVIEWS/03UN114-BIPAR\\_PROJECT/02-REVIEW/](http://ftp.nunavut.ca/nirb/NIRB_REVIEWS/CURRENT_REVIEWS/03UN114-BIPAR_PROJECT/02-REVIEW/)

### Next Steps

The first step in the technical review period is the submission of Information Requests (IRs) directly to the NIRB on or before **5:00 pm MST, Thursday, March 20 2008** (30 days). Please see the attached letter for detailed instructions regarding the format of these IRs and a full description of the next steps for the Part 5 Review of the BIPR project.

### How can you get involved?

When making a decision about whether a development project should go ahead, the NIRB takes into consideration the views of the Public. This includes:

- Individual people
- Community groups such as local Hunters and Trappers organizations
- Inuit, Métis and First Nations organizations
- Federal and Territorial Government agencies

If you have any questions about how you can participate further in this public Review process, please do not hesitate to contact me at (867) 983-4608 or toll free at 1-866-233-3033 or via email [rbarry@nirb.ca](mailto:rbarry@nirb.ca). I am looking forward to hearing from you and ensuring active public participation in this Part 5 Review.

Sincerely,

*(original signed by:)*

Ryan Barry  
Technical Advisor  
Nunavut Impact Review Board



NIRB File No.: 03UN114

February 19, 2008

BIPR Distribution List

Dear Parties,

On January 21, 2008 the Nunavut Impact Review Board (NIRB or Board) indicated to Parties that the Draft Environmental Impact Statement (DEIS) submission for the Bathurst Inlet Port and Road (BIPR) project conformed to the EIS guidelines issued by the Board on December 6, 2004.

At this point in the Part 5 Review process, the next step would be to commence the technical review period for the DEIS. However, the NIRB received a number of comments expressing concern with beginning the technical review period while the issue of Intervenor Funding is unresolved. The NIRB is now in receipt of Intervenor Funding applications from six Parties. At this time, the NIRB is prepared to commence the entire technical review period for the Part 5 Review of the BIPR project. However, the Board acknowledges the difficulties some Intervenor may have in acquiring the resources necessary to formulate their technical review comments. This letter serves to outline and explain some of the concerns the Board has with this situation.

On the one hand, the Board agrees with Parties that funding should be in place to help those Intervenor who qualify for the assistance. On the other hand, should the technical review period be significantly delayed, particularly the initial 30 day Information Request (IR) period, the Proponent may lose an opportunity to satisfy IRs through seasonal field work and the Board does not want to lose an entire year in its process. (There is the potential for IRs to require additional field research by the Proponent in order to provide an adequate response. Should this be the case, a delayed technical review period could result in the Proponent having insufficient time to conduct the field work during the 2008 summer season, resulting in a one year delay in the review process.)

Therefore, recognizing the importance of procedural fairness to all Parties, the NIRB considers it necessary to commence the 30 day IR period for this file on **Wednesday, February 20, 2008**.

The NIRB remains committed to providing all Parties with sufficient opportunity to review the document and prepare technical review comments. To accommodate this, the Board intends to extend the deadlines for the submission of technical review comments accordingly to ensure the Intervenor Funding issue has been addressed. (Under separate cover, the NIRB will be writing to the Minister regarding further direction on the Intervenor funding issue.)

The next steps for the technical review period are then as follows:

- Submission of IRs directly to the NIRB on or before **5:00 pm MST, Thursday, March 20, 2008** (30 days).
- After considering all IRs and making decisions regarding their suitability, NIRB technical staff will forward all appropriate requests to the Proponent by **Thursday, March 27, 2008**.

- The Proponent will be given until **Thursday, April 03, 2008** to supply the NIRB with a date for their submission of a response to the IRs. This ensures the process remains proponent-driven and will allow the Proponent as much time as necessary to formulate an adequate response.
- Upon receipt of the IR response package from the Proponent, all Parties will be given **60 days** for submission of technical review comments.

All Parties are reminded that IRs must contain the following information:

- To whom the IR is directed;
- Identification of the issue;
- The concern associated with the issue; and
- A clear rationale of the issue's importance to the impact assessment of the proposed project.

Again, please note that the NIRB will make a decision on whether or not the Party to whom the IR is directed must respond. In most cases, however, the IRs will be forwarded to the relevant Party and the NIRB will set a timeframe for Parties to respond. The NIRB will post all responses on the ftp-site ([http://ftp.nunavut.ca/nirb/NIRB\\_REVIEWS/CURRENT\\_REVIEWS/03UN114-BIPAR\\_PROJECT/02-REVIEW/08-CONFORMITY%20TECH%20REVIEW/02-INFORMATION%20REQUESTS/02-RESPONSES/](http://ftp.nunavut.ca/nirb/NIRB_REVIEWS/CURRENT_REVIEWS/03UN114-BIPAR_PROJECT/02-REVIEW/08-CONFORMITY%20TECH%20REVIEW/02-INFORMATION%20REQUESTS/02-RESPONSES/)) and notify the distribution list.

Please direct all IR submissions to the NIRB's Manager of Environmental Administration, Leslie Payette via email [lpayette@nirb.ca](mailto:lpayette@nirb.ca) or fax (867) 983-2594.

If you have any questions or concerns please do not hesitate to contact Ryan Barry, NIRB Technical Advisor, at (867) 983-4608 or via email [rbarry@nirb.ca](mailto:rbarry@nirb.ca).

Sincerely,



Jeff Rusk  
Director, Technical Services

cc. Minister, Indian and Northern Affairs Canada