



NIRB File No. 03UN114

June 13, 2008

Mr. Carl McLean
Director of Operations
Indian and Northern Affairs Canada
Nunavut Regional Office
P.O. Box 100
Iqaluit, NU, X0A 0H0

Via email: mclean@inac.gc.ca

Re: **Information Request (IR) to NIRB**

Dear Mr. McLean,

On March 20, 2008 the Nunavut Impact Review Board (NIRB or Board) received an IR submission from your office to be considered in the Part 5 Review of the Bathurst Inlet Port and Road (BIPR) project, NIRB file no. 03UN114. Of the IRs contained within your submission, one item was directed to the NIRB for response, as detailed below:

Information Request to NIRB

Issue: It is unclear what consultation methodology NIRB has required throughout the period between BIPR project was initiated until the EIS guidelines were issued. INAC recommends that NIRB outline any specific requirements with respect to consultation/engagement methodology that existed during the period between the initiation of the project and the finalisation of the 2004 EIS Guidelines.

EIS Guidelines Reference: 4.2

Concerns: Section 4.2 of the BIPAR Final Guidelines December 2004 indicates that the Proponent shall identify all federal and territorial environmental and other related laws, regulations and associated standards that require compliance in respect to the Project and explain how such requirements will be met. The BIPR project has been ongoing for some time, during a time when Nunavut was developing as a territory. Throughout the development of the project, various laws, guidelines and standards were presumably adopted by Nunavut which would guide project proponents. In assessing the engagement process for this project over the years, and to put the engagement process in the proper context, it is important to consider if there were any specific engagement methodology requirements at various points in time with respect to consultation methodology. Section 4 of Appendix 2 attached to A-2, Project Description, outlines general requirements for consultations in terms of results (example the VECS that were identified by consultation) but does not provide details as to specific methodology (i.e. the “how, when, where, who of consultation”).

It would be helpful to the reader of the EIS to understand which specific requirements regarding consultation methodology, if any, governed the project prior to the 2004 EIS Guidelines being finalised.

Rationale: This information is required in order for INAC to assess the comprehensiveness and adequacy of the engagement efforts over the course of the entire project.

NIRB Response to INAC IR:

On May 13, 2003 the NIRB received a revised project description for the BIPR project and commenced a Screening under Part 4, Article 12 of the Nunavut Land Claims Agreement (NLCA). On September 23, 2003 the Board issued a screening decision report to the Minister of Indian and Northern Affairs, recommending the revised proposal required a public review under Part 5 or 6 of the NLCA. The Minister concurred with the Board's recommendation, and on May 4, 2004 referred the BIPR project to a Part 5 Review.

Prior to the commencement of the Part 5 Review of the BIPR project, the NIRB did not issue any formal direction to Bathurst Inlet Port and Road Joint Venture Ltd. (the Proponent) with respect to specific requirements for consultation/engagement methodology for the BIPR project. To do so would have required the NIRB to initiate Review activities prior to the federal Minister making his decision in accordance with 12.4.7 of the NLCA.

Following the direction outlined by the Minister's previously mentioned correspondence, the NIRB scoped the BIPR project broadly and took steps to ensure active and informed participation by members of the public, governments and organizations in Nunavut and the Northwest Territories, as well as the rest of Canada. As a result of the scoping for the BIPR Review, on December 6, 2004 guidelines were issued to the Proponent for creation of an Environmental Impact Statement (EIS). These guidelines represent the sole formal direction recommended by the NIRB to the Proponent with regard to consultation/engagement methodology to be used in the creation of a Draft EIS. There were no other formal consultation methodology requirements issued to the proponent by the NIRB prior to issuance of EIS guidelines.

I trust this addresses the information request submitted by your department to the NIRB as outlined above. Should you have any additional questions or concerns, please do not hesitate to contact the NIRB's Technical Advisor, Ryan Barry, at (867) 983-4608 or rbarry@nirb.ca.

Sincerely,



Jeff Rusk
Director, Technical Services
Nunavut Impact Review Board

Cc: BIPR Distribution List