



NIRB File No. 03UN114

August 11, 2009

Mr. Grant Pearson
Project Manager
BIPR Joint Venture Ltd.
340 Park Place, 666 Burrard Street
Vancouver, BC V6C 2X8

Via email: grantp@nunalogistics.com

Re: **Request from Bathurst Inlet Port and Road (BIPR) Joint Venture Ltd. for Continued Suspension of the Part 5 Review of the BIPR Project**

Dear Mr. Pearson:

On November 25, 2008 NIRB granted a request from Bathurst Inlet Port and Road (BIPR) Joint Venture Ltd. (the Proponent) to suspend further technical review of the BIPR project proposal (NIRB File No. 03UN114) until the project's schedule and the schedule of its potential users could be reassessed by the Proponent in early 2009. NIRB indicated in its response that a formal submission from the Proponent which addresses technical review comments and all outstanding Information Requests (IRs) would be a prerequisite for re-engaging NIRB's Part 5 Review process and subsequent scheduling of any Technical Meeting or Pre-Hearing Conference.

On June 18, 2009 NIRB wrote to the Proponent, requesting a written update regarding the current status of the BIPR project, with an approximate timeline for submission of an IR Response package and re-engagement of the Part 5 Review process. On June 26, 2009 the Board received a written response from the Proponent (attached), requesting further suspension of the Part 5 Review process until "*owners of the affected projects can thoroughly evaluate their respective properties*". The Proponent indicated it anticipates providing further update on the Project status in early 2010, with submission of an IR response package to NIRB expected after data collection in the 2010 field season (*i.e.*, re-engagement of the Part 5 Review process in late 2010).

On June 26, 2009 NIRB distributed the Proponent's suspension request to the public and asked interested parties to submit to the Board by July 20, 2009 any comments, concerns or pertinent issues that should also be taken into account. On or before July 20, 2009 NIRB received comment submissions from the following parties:

- Indian and Northern Affairs Canada (INAC)
- Government of Nunavut (GN)
- Environment Canada (EC)
- Canadian Arctic Resources Commission (CARC)

All comments are available for download from the NIRB's ftp site at the following link:

http://ftp.nirb.ca/REVIEWS/CURRENT_REVIEWS/03UN114-BIPR_PROJECT/02-REVIEW/02-GENERAL%20CORRESPONDENCE/

In general, commenting parties were supportive of the current suspension request, though submissions did address the need for continued communication throughout any suspension and re-evaluation of technical information upon re-engagement. However, the NIRB is concerned about the significant passage of time since the inception of this Part 5 Review process more than 5 years ago in 2004 (see Appendix A: Part 5 Review Timeline), particularly in light of the current request for further suspension until late 2010.

The Board notes that repeated suspensions to the Part 5 Review process may also make necessary further compromises to established review timelines, owing to the required re-examination of significant amounts of technical information, potential for additional community consultations to ensure awareness, and further challenges with ensuring timely updates to intervenor funding agreements. Additional challenges associated with the public perception of a seemingly over-lengthy regulatory process should also be noted.

By copy of this letter to the Minister, and before making any decision, the Board would like to ensure the Minister has the opportunity to provide direction to the Board pursuant to Section 12.5.4 of the Nunavut Land Claims Agreement, with regard to “*...reasonable time frames for completion of the reviews*”. The Board appreciates the Minister’s time and attention to this matter and will await his subsequent direction prior to granting any continued suspension to the Part 5 Review of the BIPR project.

Please direct any forthcoming correspondence to my attention at info@nirb.ca, or via fax at (867) 983-2594.

Sincerely,



Lucassie Arragutainaq
Chairperson
Nunavut Impact Review Board

Cc: Hon. Chuck Strahl, Minister of INAC
BIPR Distribution List

Attachments: Part 5 Review Timeline (2003-2009)
BIPR Ltr NIRB Re Project Status Update (June 26, 2009)

Part 5 Review Timeline (2003 – 2009)

- **Sept. 23, 2003:** NIRB issued a Screening Decision Report to the Minister of Indian and Northern Affairs Canada (the Minister) pursuant to NLCA Section 12.4.4(b), indicating that the BIPR Project required a review.
- **May 4, 2004:** The Minister referred the project to a Review under Part 5, Article 12 of the NLCA.
- **Dec. 6, 2004:** NIRB issued Guidelines for the Preparation of an Environmental Impact Statement (EIS Guidelines) to the Proponent.
- **Jan. 3, 2008:** NIRB received a *Draft* EIS submission from Proponent and began a conformity review with the EIS Guidelines.
- **Jan. 21, 2008:** NIRB accepted the Proponent's submission as a *Draft* EIS and requested public comment on its determination, as well as updated applications for Intervenor Funding.
- **Feb. 19, 2008:** NIRB wrote to the Minister requesting approval for Intervenor Funding for the review of the Project.
- **Mar. 10 to Mar. 17, 2008:** NIRB conducted information sessions in communities potentially affected by the proposed project (Kugaaruk, Taloyoak, Gjoa Haven, Cambridge Bay, Bathurst Inlet, Umingmaktok, Kugluktuk, and Holman – NWT).
- **Apr. 28, 2008:** The Minister wrote to NIRB to provide direction under NLCA Section 12.5.1, seeking input on whether updates to the EIS guidelines are subsequent documentation might be required of the Proponent. Further direction regarding intervenor funding was also provided.
- **Jun. 4, 2008:** NIRB released a summary report on its community information sessions.
- **Jun. 13, 2008:** NIRB provided an update to the Minister on the Part 5 Review of the Project. In order to ensure meaningful participation by all parties in the Review process, NIRB committed to awaiting formal indication from INAC that contribution agreements had been finalized before proceeding further with the technical review of the *Draft* EIS.
- **Aug. 1, 2008:** NIRB received a request from the Proponent to suspend further technical review of the Project until the project's schedule and the schedule of its potential users could be reassessed in 2009.
- **Aug. 29, 2008:** After soliciting comments from parties, NIRB commenced a 60 day technical review of the *Draft* EIS for the Project, but determined that no Technical Meeting or Pre-Hearing Conference (PHC) would be scheduled until the Proponent indicated it was ready to proceed further. During this technical review period, intervenors who had received funding from INAC

were also encouraged to submit Information Requests (IRs) to NIRB for consideration and forwarding to the Proponent for response.

- **Nov. 25, 2008:** NIRB forwarded IRs to the Proponent and formally suspended further proceedings until the Proponent chooses to re-engage the Part 5 Review process with an IR Response submission.
- **Jun. 18, 2009:** The Proponent requested further suspension to the Part 5 Review until late 2010.

June 26, 2009

Delivered via Email: info@nirb.ca

Leslie Payette
Manager of Environmental Administration
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, Nunavut
X0B 0C0

Dear Ms. Payette:

**RE: Bathurst Inlet Port and Road Project Status Update
Nunavut Impact Review Board (NIRB) File Number 03UN114**

In response to NIRB's letter of June 18, 2009 we are pleased to provide an update to the status of the Bathurst Inlet Port and Road Project (BIPR) technical review.

As you may be aware, there have been changes in ownership structure affecting some of the projects that will be users of the Bathurst Inlet Port and Road.

We respectfully request that the suspension of the review process continue until the Owners of the affected projects can thoroughly evaluate their respective properties. The Bathurst Inlet Port and Road Joint Venture Ltd. expect to provide an update to the project status in early 2010 at which time we intend to make additional funding requests. Moving forward we will focus on collecting data during the 2010 field season in preparation for submitting a formal response to technical review comments and outstanding Information Requests.

We are appreciative of the time and notice required for NIRB and all other parties participating in the review process to plan and allocate resources effectively, and will continue to provide updates as they become available.

Yours truly,

BATHURST INLET PORT AND ROAD JOINT VENTURE LTD.

per:



Grant Pearson, P.Eng.
Project Manager
WGP/sm

cc: Mervyn Hempenstall, President & Chief Executive Officer, Nuna Logistics Limited
Charlie Lyall, President, Kitikmeot Corporation