



NIRB File No.: 03UN114

February 11, 2013

The Honourable John Duncan
Minister of Aboriginal Affairs and Northern Development
Federal Interlocutor for Métis and Non-Status Indians
10 Wellington, 21st Floor
Gatineau, QC K1A 0H4

Sent via email: duncan.j@parl.gc.ca; minister@aandc.gc.ca

Re: Update and Request for Minister's Review of Participant Funding Associated with the Re-Engagement of the Nunavut Impact Review Board's Review of the Bathurst Inlet Port and Road Project (BIPR) Project

Dear Mr. John Duncan:

This letter provides you with an update and a request to review the participant funding associated with the re-engagement of the Nunavut Impact Review Board's (NIRB or Board) Review of Xstrata Zinc Canada (Xstrata) and Sabina Gold and Silver Corp. (Sabina) Bathurst Inlet Port and Road (BIPR) Project (the Project).

On the basis of the Board's review of the revised Project scope and comments received by the Board on the Proponent's request for re-engagement, the NIRB has determined the following:

- the amendment to the scope of the project proposal as now proposed by Xstrata and Sabina is not so significant as to require substantial alterations to the original project scope developed in 2004;
- the NIRB may however need to revise and/or supplement the existing EIS Guidelines to reflect the future update to the Project Description, the evolution and refinement of environmental assessment practices and expectations and the changing circumstances of the Project with respect to particular issues such as effects on caribou, cumulative effects, climate change and transboundary issues; and
- since the original project proposal was referred to the NIRB for Review in 2004, the context of the Project has changed in several respects that may increase the need for and extent of the original participant funding awarded in 2008, and accordingly the NIRB requests that the Minister review the available participant funding for this Review to consider if updates are required to fully support timely, effective and inclusive participation in the Board's process.

PROCEDURAL HISTORY REGARDING THE RE-ENGAGEMENT REQUEST

The original project proposal associated with the Project was submitted in May 2003 by the previous proponent, the Bathurst Inlet Port and Road Joint Venture Ltd. (BIPR JV). In September 2003, the NIRB provided its Screening Decision to the Minister of Indian and Northern Affairs (as he then was; now the Minister of Aboriginal Affairs and Northern Development) recommending that the project proposal undergo a Review pursuant to Part 5 or 6 of Article 12 of the Nunavut Land Claims Agreement (NLCA).

In May 2004 then-Minister Andy Mitchell issued his decision for the Project concurring with the NIRB screening and referring the project proposal to the NIRB for Review under Part 5 of Article 12 of the NLCA. In his referral, the Minister specifically identified transboundary effects and the facilitation of public participation from a broad audience as issues to be considered by the NIRB in its Review, specifically stating:

Section 12.2.27 requires the NIRB to take all necessary steps to provide and promote public awareness and participation at hearings. It is essential that the NIRB give careful consideration to how to conduct the hearings for the BIPAR Project in order to facilitate the involvement of affected parties in jurisdictions outside of Nunavut...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...

At that time, the NIRB Review consisted of the following BIPR components and/or activities:

- A marine port in Bathurst Inlet with a wharf to serve 50,000 tonne ice class vessels;
- A dock to handle barges serving Kitikmeot communities [Kugluktuk, Bathurst Inlet, Cambridge Bay, Umingmaktok, Gjoa Haven and Taloyoak];
- A 180 million litre fuel oil tank farm at the port;
- A 150 person camp at the port;
- A truck and trailer maintenance shop at the port;
- A 1200 metre airstrip at the port; and
- A 211 kilometre all-weather road to Contwoyto Lake

From 2004-2008, the original project proposal proceeded through the NIRB process of scoping, issuing EIS Guidelines, the development and submission of a *Draft* Environmental Impact Statement (DEIS) by the BIPR JV and the receipt of an initial round of technical review comments on the DEIS from the parties. In the latter part of 2008, at the request of the BIPR JV, the NIRB formally suspended the Review until such time as the NIRB received notice from the BIPR JV that they wished to re-engage the Review.

In July 2011, the BIPR JV indicated to the NIRB that it did not intend to re-engage the Review. However, in December 2011, Sabina indicated to the NIRB that it had completed the purchase of the BIPR Project and was considering re-engagement, contingent upon future development options. Accordingly, Sabina requested that the Review remain suspended until March 31, 2012. On March 31, 2012, the new project proponents, Xstrata and Sabina jointly advised the

NIRB that they had an interest in re-engaging the Review. On December 19, 2012, Xstrata and Sabina provided a letter to the NIRB outlining some changes to the original project and requesting the re-engagement of the Review. On January 17, 2013, the NIRB issued a request for comments on the re-engagement request, in particular requesting submissions on the following:

- Does the amendment to the scope as presented by Xstrata and Sabina on December 19, 2012 significantly change the scope of the original proposal as referred to Review by the Minister on May 6, 2004;
- Confirmation from responsible authorities as to the types of authorizations that would be required for the implementation of the new Project scope, including a consideration given to recent legislative changes which may affect the necessary regulatory instruments; and
- Any further comments regarding the proposed project amendment and/or re-engagement of the BIPR Review.

On or before February 1, 2013, the NIRB received submissions with respect to the re-engagement request from the following:

- Kitikmeot Inuit Association
- Government of Nunavut
- Aboriginal Affairs and Northern Development Canada
- Environment Canada
- Fisheries and Oceans Canada
- Natural Resources Canada
- Transport Canada
- Canadian Arctic Resources Committee
- Canadian Parks and Wilderness Society, Northwest Territories Chapter
- North Slave Métis Alliance
- A. Gunn, Wildlife Biologist

All relevant documentation for this project is available from the NIRB's online registry at:
<http://ftp.nirb.ca/02-REVIEWS/ACTIVE%20REVIEWS/03UN114-BIPR/>.

COMMENTS AND CONCERNS

The following represents only a brief *summary* of the comments and concerns received during the public commenting period on the re-engagement request; please note that the original comment submissions have been included in their entirety in [Appendix A](#).

Kitikmeot Inuit Association (KIA)

Although noting that certain components of the project have changed from the original proposal, the KIA indicated that these changes are not sufficient to change the scope of the Project as referred to Review in 2004. The KIA anticipated that the changes may, however lead to different considerations during the Review and may change the nature of the Information Requests submitted by the parties.

Government of Nunavut (GN)

The GN requested some points of clarification regarding terms used in the amended project scope for the consideration of the Proponent and the NIRB, including questioning whether the consideration of cumulative effects associated with the Project, and the Hackett River and Back River Projects can be effectively considered given that each of these Reviews are slated to be conducted separately as required under the NIRB process. The GN also confirmed their view that the additional activities included in the amended project scope do not significantly alter the original project scope.

Aboriginal Affairs and Northern Development Canada (AANDC)

Based on AANDC's expertise and regulatory authority, AANDC concluded that the revised Project Description did not significantly change the original BIPR project scope. AANDC noted that the revised Project breaks the construction of BIPR into two distinct phases and requested separation of the assessment into these two phases to assist reviewers. AANDC also identified for the Proponent that in the preparation of the DEIS particular attention should be given to: the Project amendments that extend the shipping and road transportation window; cumulative effects assessment; and baseline data.

With respect to the participant funding process initiated in May 2008 for this Review, AANDC confirmed that funding was awarded to five parties and that this original funding will be available for any of those parties that were in good standing and had unexpended funds from the initial allocation. However, AANDC also explained that as the Department's fiscal year end is March 31, 2013, no funding will be available prior to the start of the next fiscal year, April 1, 2013.

Environment Canada (EC)

Although EC noted that the Project as revised has expanded the shipping window from the original three month schedule to a potential 10 month window and that this could have various types of impacts on terrestrial and marine species along the shipping route, EC concluded that a review of the existing EIS Guidelines indicated that the current Guidelines are sufficiently broad to ensure that these potential impacts are included in the assessment. EC noted however that the spatial scope for the Review should be expanded to include the potential for a western shipping route through the Coronation Gulf and potentially up to the western boundary of the Inuvialuit Settlement Region, in order to account for transboundary impacts of increased ship traffic, accidents or malfunctions.

Fisheries and Oceans Canada (DFO)

With respect to the scope of the Project, DFO questioned whether the extension of the shipping window from the original 3 months to 10 months in the revised Project is necessary to support the BIPR Project only, or whether it includes shipping which may be associated with BIPR's potential clients such as the Hackett River Project. As a result, DFO requested that the NIRB seek further clarification regarding this issue from the Project Proponent. DFO provided specific guidance to the Proponent regarding deficiencies in the impact assessment of the port construction and shipping on marine mammals in the DEIS submitted in 2008. DFO also highlighted that BIPR should consider including, in the cumulative effects assessment, the

maximum number of ship transits within Bathurst Inlet if the BIPR infrastructure was used to its maximum carrying capacity.

Natural Resources Canada (NRCan)

With respect to the scope of the assessment, NRCan indicated that for areas within NRCan's mandate, the revised project proposal is consistent with the scope of the original proposal as referred to Review in 2004.

Transport Canada (TC)

With respect to the scope of the assessment, TC confirmed that for areas within TC's mandate, the revised project proposal is consistent with the scope of the original proposal as referred to Review in 2004.

Canadian Arctic Resources Committee (CARC)

CARC identified that recent information regarding the drop in population of the Bathurst caribou herd from 500,000 animals to 50,000 animals highlights the transboundary concerns for this herd as a food source. Further, CARC identified that the proponents should be required to place a substantial security deposit in place that the NIRB and other regulatory bodies could draw upon to meet the demands associated with the processing of project proposals such as BIPR. On this basis, CARC recommended that:

- the Review not be re-engaged, but rather the Project be submitted for a new review;
- participant funding be increased to allow a transparent community response;
- a transportation study for the Slave geological province be completed; and
- the Proponents be required to provide a security deposit as outlined above.

Canadian Parks and Wilderness Society, Northwest Territories Chapter (CPAWS-NWT)

CPAWS-NWT expressed deep concerns about the potential cumulative and transboundary impacts to wildlife and communities associated with the Project in concert with the mining projects most likely to use the BIPR infrastructure. In particular, CPAWS-NWT identified concerns with cumulative effects on the Bathurst caribou herd and suggested that the cumulative effects assessment for the Project include all existing, proposed and reasonably foreseeable projects within the entire Bathurst caribou range. Further, CPAWS-NWT indicated that the assessment must also recognize that impacts to the herd's sustainability within Nunavut will impact all communities that have traditionally harvested the herd, including NWT communities. Reflecting these transboundary concerns CPAWS-NWT indicated that a single collaborative cumulative effects assessment for Bathurst caribou and other wildlife that is regional in scope would be preferable and more efficient than individual project-specific assessments.

North Slave Métis Alliance (NSMA)

Although noting that the NSMA did not have the capacity in the time allotted to re-familiarize themselves with the original EIS, NSMA did identify concern with the change from a 3 month operating season to year-round operation of the road. The NSMA identified that there have been significant changes to the political, economic, cultural and ecological context of the project since the original DEIS was produced, most notably to the severe and ongoing risk of extinction of the Bathurst caribou herd and legal challenges in respect of the infringement of NSMA aboriginal

harvesting rights. The NSMA indicated that the availability of better baseline data, the increased knowledge, awareness and impacts of climate change and cumulative effects assessment also support the Project being subjected to a new Review rather than re-engaging the original Review.

The NSMA also noted that regardless of whether the Project proceeds through a new review or re-engagement, the NSMA expects to consulted, but will require capacity funding, including amounts to review and re-familiarize the NSMA with the work done to date in the previous Review.

A. Gunn

A. Gunn identified that the two phase approach proposed in the revised Project scope may significantly change the context for the environmental assessment associated with potential impacts to caribou. A. Gunn identified that since the original review the context has changed and the updated draft EIS needs to reflect that public concerns, especially with respect to transboundary effects for the Bathurst caribou herd, have intensified following sharp declines in the herd's abundance and distribution in 2006-2012 and new concerns regarding the status of the Dolphin and Union herds have also arisen.

A. Gunn also noted that the amount of data regarding the Bathurst caribou herd has increased considerably since the DEIS was submitted and that the context of cumulative effects assessment has changed, including the increase in vulnerability of the Bathurst herd. In addition, A. Gunn indicated that analytical methods for cumulative effects assessment have evolved since the completion of the original DEIS and that approaches to monitoring and mitigation have also evolved and should be reflected in the revised DEIS. A. Gunn cautioned that simply updating the DEIS with recent baseline data would be insufficient to reflect these changes in the Project's context and indicated that a mechanism for accommodating these changes would be to revise the Terms of Reference (EIS Guidelines) for specific sections such as impacts to caribou, climate change and cumulative effects.

BOARD DETERMINATION

Reflecting the Board's review of Xstrata and Sabina's request for re-engagement, the original project scope, the EIS Guidelines and the comments and concerns received during the public commenting period on the re-engagement request, the Board has made the following determinations. With respect to the issue of the scope of the project, the Board has concluded that the changes proposed in the amendment to the Project as presented by Xstrata and Sabina on December 19, 2012 do not significantly change the original scope of project. The NIRB notes that, as with all Reviews, the scope for the assessment was developed using the original project proposal through a public scoping process that took place over several months and included public scoping meetings in Yellowknife, Cambridge Bay and Kugluktuk in the summer and fall of 2004 and provided the basis for the development of the EIS Guidelines issued by the NIRB in 2004.

In arriving at the conclusion that the scope of the assessment need not be substantively revised, the NIRB does however recognize that, as noted by several commenting parties, the context of the Project has changed in some significant aspects since the original EIS Guidelines were issued

in 2004. For example, the public concern associated with the potential for transboundary ecological and socioeconomic effects associated with potential impacts on the Bathurst caribou herd has heightened considerably. In addition, the quality and quantity of baseline data associated with this herd has also increased. Further the scale and scope of development to be included in the cumulative effects analysis has also increased, as has the awareness, understanding and data associated with climate change issues that are now expected to be included in environmental assessments. In addition, as noted by some parties providing comments, the approach to and best practices of the NIRB with respect to the integration of comprehensive and meaningful cumulative effects assessment has also developed since the time the original EIS Guidelines were issued for this Review.

Reflecting these changes, the NIRB expects it will be necessary to undertake an internal review of the updated Project Description to be submitted by the Proponent in advance of submission of a revised DEIS to allow for determination of whether any revisions and/or supplements to the existing EIS Guidelines are required to reflect the updated Project scope, the evolution and refinement of environmental assessment practices and expectations and the changing circumstances of the Project with respect to particular issues such as effects on caribou, cumulative effects, climate change and transboundary issues.

Lastly, as consistently identified from the time of the NIRB's screening of the original project, the availability of participant funding continues to be a significant issue in this Review. In this regard, the NIRB is mindful of AANDC's direction that even with respect to the 5 participants who were awarded participant funding in 2008, and who may have some funding remaining (as they have not yet expended all of the funds allocated to them in 2008) due to the fiscal year end, no participant funding will be available to any party for steps taken prior to April 1, 2013. With these limits on the funding available, the Board anticipates that it will be necessary to make additional accommodations to ensure that the broad consultation integral to conducting efficient, timely, credible and inclusive reviews takes place. Specifically, due to the limited availability of participant funding, measures such as the following may be necessary:

- extending timelines to allow parties with capacity and resource constraints additional time to prepare comments;
- identifying and adding extra consultation venues to reduce the travel required of some participants, and particularly those located outside the Kitikmeot Region; and
- the NIRB taking steps to secure additional funding to support flying participants in to key meetings, consultations and hearings in order to ensure that the Board fulfills the promise of the NLCA that the Board will take "all necessary steps to provide and promote public awareness and participation at hearings".

In the NIRB's view, the significant changes to the context of the Project in terms of public concern over transboundary effects, potential impacts on migrating caribou, climate change, marine effects associated with shipping and cumulative effects also highlight just how critical it is that the NIRB ensure this Review provides adequate opportunity for broad-based consultation with participants both within and outside the Nunavut Settlement area.

While these factors emphasize the need for continued and robust participant funding, in light of the considerable constraints currently associated with the availability of participant funding in this Review, the NIRB respectfully requests that the Minister review the original participant funding to consider if updates are required to now encourage timely, effective and inclusive participation in the Review. The NIRB looks forward to hearing from the Minister in this regard.

ANTICIPATED NEXT STEPS

Although the Board has determined that no significant alterations to the original scope of the assessment are necessary, the Board recognizes that there has been a significant lapse of time since the Review was last active and, as noted in the comments of several parties, the revised project scope provided by the new Proponent has created some confusion regarding issues such as the extent to which the revised activities will include extending the proposed shipping season from 3 months to 10 months. Consequently, the NIRB is requesting, in a letter to the Proponent issued under separate cover today, that prior to submitting a revised DEIS, the Proponent submit an updated Project Description to the NIRB.

Once the NIRB has received the updated Project Description, the NIRB will complete its internal review of the existing EIS Guidelines and will issue guidance to the Proponent regarding any revisions and/or supplementary Guidelines required to reflect the updated Project Description and relevant changes to the context of the Review. If the EIS Guidelines are revised and/or supplemented, the Proponent's DEIS will be required to conform to the existing EIS Guidelines as revised and/or supplemented by the NIRB. Following the Board's acceptance of a revised DEIS submission, additional public information sessions may be undertaken by the Board to increase awareness of and participation in the Board's assessment moving forward.

The NIRB appreciates the opportunity to provide this important update to the Minister and looks forward to hearing from the Minister regarding the outcome of his reconsideration of the participant funding available to support participation in this Review.

If you have any questions regarding this matter, please contact the NIRB's Executive Director, Ryan Barry, at his direct line: (867) 983-4608 or via email at: rbarry@nirb.ca.

Sincerely,



Elizabeth Copland
Chairperson
Nunavut Impact Review Board

cc: Denis Hamel, Xstrata Zinc Canada
Matthew Pickard, Sabina Gold & Silver Corp.
Geoff Clark, Kitikmeot Inuit Association
Alain Grenier, Aboriginal Affairs and Northern Development
Jeff Mercer, Aboriginal Affairs and Northern Development
Tracey McCaie, Aboriginal Affairs and Northern Development
Derrick Moggy, Fisheries and Oceans Canada
John Clarke, Natural Resources Canada
Meighan Andrews, Transport Canada
BIPR Distribution List

Attached: Appendix A: Comment Submissions Received By the Board (on or before February 1, 2013)



Appendix A

Comment Submissions Received From the Parties (on or before February 1 2013)



P.O. Box 360
Kugluktuk, NU X0B 0E0
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Fax: (867) 982-3311
www.kitia.ca

January 31, 2013

Kugluktuk
ӄӈӈӈӈӈ

Bathurst Inlet
Kinguak
ӄӈӈӈӈ

Bay Chimo
Umingmaktok
ӄӈӈӈӈ

Cambridge Bay
Ikaluktutiak
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Gjoa Haven
Okhoktok
ӄӈӈӈӈ

Taloyoak
ӄӈӈӈ

Kugaaruk
ӄӈӈӈ

Ms. Kelli Gillard
Technical Advisor
Nunavut Impact Review Board
Cambridge Bay, NU
X0B 0C0

Sent electronically: info@nirb.ca

Re: NIRB 03UN114: Request for Comments on Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPR) Project

Dear Ms. Gillard,

The Kitikmeot Inuit Association (KIA) has reviewed the documents associate with the re-engagement of the review of the Bathurst Inlet Port and Road Project (BIPR). The Nunavut Impact Review Board (NIRB) requested that interested parties submit comments with regard to the three following items:

1. Does the amendment to the scope as presented by Xstrata and Sabina on December 19, 2012 significantly change the scope of the original proposal as referred to Review by the Minister on May 6, 2004?

Certain components of the project, as it is envisioned by the current proponents, have changed from the original proposal. For example, the proponents propose to: develop the project in a 2-phase approach; service a different set of clients than those originally envisioned; reduce the volume of daily traffic on the road; and increase the road's operating period from 3 months to (nearly) year-round.

The KIA is of the opinion that the proposed changes do not significantly change the scope of the original BIPR proposal. The project changes may, however, lead to different considerations and information requests. The KIA expects that the NIRB's processes would provide interested parties with an opportunity to assess such changes, and to make such information requests.

2. Confirmation from responsible authorities as to the types of authorizations that would be required for the implementation of the new Project scope, including a consideration given to recent legislative changes which may affect the necessary regulatory instruments.

Under the Nunavut Land Claim Agreement, the KIA is the Designated Inuit Organization in the Kitikmeot Region for Article 19 (access to surface Inuit Owned Land), Article 20 (Inuit Water Rights), Articles 26 and 27 (Inuit Impact and Benefit Agreement), and Article 6 (Wildlife Compensation).



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3. Any further comments regarding the proposed project amendment and/or re-engagement of the BIPR Review.

The KIA has no additional comments at this time.

We would like to thank the NIRB for the opportunity to comment on this file. Please contact us if you have any questions.

Sincerely,

Luigi Torretti, MSc, BComm
Senior Environment Officer
Dep't of Lands and Environment



February 1, 2013

Kelly Gillard
Technical Advisor
Nunavut Impact Review Board
P.O Box 1360
Cambridge Bay, NU X0B 0C0

via Email: info@nirb.ca

RE: NIRB File No. 03UN114: Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPR) Project.

Dear Ms. Gillard,

The Government of Nunavut (GN) thanks the NIRB for the opportunity to provide comments regarding XStrata Zinc Canada (Xstrata) Sabina Gold and Silver Corp. (Sabina) joint submission to the NIRB dated December 19, 2012, proposing re-engagement of the NIRB's review of the Bathurst Inlet Port and Road Project.

In reviewing the proponent's amendment, the GN offers the following requirements to be considered as part of the implementation of the new project scope:

In Section 2 of amended draft scope, **Anticipated ecosystemic and socio-economic impacts** of the Project directs the proponent to evaluate potential impacts on "caribou, caribou habitat migration and behavior, muskoxen, wolverine, grizzly bears, polar bears, wolves and less conspicuous species that may be maximally exposed to contaminants" (k)

In section 2 under clause m (marine environment), the potentially impacted marine mammals should be listed; in equivalent detail as the list of potentially impacted terrestrial species.

The GN has regulatory responsibilities for the protection, promotion and conservation of archaeological and palaeontological resources as per Article 33 in the Nunavut Land Claim Agreement (NLCA) and through implementation and enforcement under the Nunavut Archaeological and Palaeontological Site Regulations and would like to ensure

the proponent obtains such authorizations of archaeology and palaeontology permits as required.

Furthermore the GN would like the NIRB to consider providing further clarification from the proponent on the following comments:

First, the proponent lists the following in the draft scope: "Less conspicuous species", the GN believes this is a vague descriptor, and would like the NIRB to seek from the proponent a list to identify the species. Also, the wording of this requirement is vague as to whether the proponent must consider impacts on habitat, behavior and migration of animals other than caribou (e.g. bears, wolves, etc). The need to evaluate impacts to habitat, migration, and behavior should apply to all animals identified, not just to caribou.

Second, the proponent indicates in the conclusion section of the draft scope: "However, cumulative effects of the Hackett River Project and Back River Project with the BIPR Project would be evaluated in the BIPR EIS". The GN believes, that a mutually exclusive approach to the cumulative effects analysis of the three inter-related projects, and in particular the NIRB's screening and review for each individual project may differ, and may not allow for such an approach.

Finally, the GN has reviewed the original project scope referred to by the Minister review in May 6, 2004 and the amended project scope submitted by the proponent on December 19, 2012 and has determined that it does not consider the additional activities to significantly alter the scope of the original project.

The GN looks forward to continued participation in the Bathurst Inlet Port and Road Project. If you have any questions or concerns pertaining to our response, please do not hesitate to contact me by phone at 867-975-7830 or by email at asimonfalvy@gov.nu.ca

Qujannamiik.

[Original Signed By]

Agnes Simonfalvy
Government of Nunavut



Nunavut Regional Office
P.O. Box 100
Iqaluit, NU, X0A 0H0

Your file - Votre référence
03UN114
Our file - Notre référence
5510-5-13

January 31, 2013

Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, NU, X0B 0C0
Via electronic mail to: info@nirb.ca

Re: Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Road and Port (BIPR) Project

Ms. Hanson,

On January 17, 2013 the Nunavut Impact Review Board (NIRB) invited parties to comment on the proposed re-engagement of the NIRB's review of the BIPR project. Aboriginal Affairs and Northern Development Canada (AANDC) appreciates the opportunity to provide comments, and offers the following for the NIRB's consideration.

Amendments to Scope

AANDC has conducted a review of the revised Project Description as provided by the proponent, as per our areas of expertise and regulatory authority, and considers that from that perspective the scope of the original BIPR project proposal is not significantly changed. However, given the nature of the amendments to the project, we expect these will be appropriately accounted for in the biophysical and socio- economic impact assessments in the revised DEIS.

AANDC has noted the proponent's plan to implement the construction of BIPR in two phases. AANDC recommends that the revised DEIS clearly differentiates the project activities and corresponding environmental and socio-economic impact assessments for each phase. The separation of the assessment into phase one and phase two will assist reviewers in better understanding what impacts can be expected for each of these phases. This is particularly important in light of the uncertain length of time between the phases and will be particularly useful in ensuring that accurate information is available for monitoring and follow-up activities. Furthermore, we recommend that the objective



of each of the two phases of the BIPR project be more thoroughly explained in the DEIS.

In section 5 (Project Details) of the updated BIPR project summary the proponent indicates that the second phase of the road will be built at a later time once future users are confirmed. In the absence of a timeline for the second phase, AANDC recommends that the proponent provide in the DEIS an estimate of the maximum foreseeable capacity or use of the road and port for each phase. This analysis would be beneficial to gain a better understanding of the impacts and benefits of each project phase as well as the overall project.

When assessing the potential impacts of activities in the revised DEIS, particular attention should be given to the following project amendments:

- i) *Extension of shipping and road transportation window:* the proponent has indicated that the shipping window may increase from 3 to 10 months and the all –weather road will be used 10 -12 months/yr instead of 3 months/yr. AANDC recommends that any changes in impacts in relation to this be identified for each phase and include in addition to this a consideration of public concern regarding the expanded proposed window.
- ii) *Cumulative effects assessment:* considerable updates to the cumulative effects assessment are required to clearly outline potential interactions of both phase one and phase two with other current, proposed, or reasonably foreseeable projects. AANDC recommends the cumulative effects assessment includes but not be limited to the possibility of multiple shipping routes, various frequencies in shipping and year round shipping if applicable as the Proponent has indicated these may form part of their project.
- iii) *Baseline data:* The proponent should give adequate consideration for time passed since the original proposal referred to Review and highlight any changes to impact predictions due to updated environmental or socio-economic baseline data or community consultation.

AANDC Authorizations

The following Land's authorizations will be required from AANDC for implementation of any aspects of the project on Federal Crown lands:

- 1) Lease for road and any buffer zone;
- 2) Lease for port and lay down areas;
- 3) Lease for storage, fuel and campsite areas (could be separate or part of above leases);
- 4) Quarry permits or leases (proponent's option);



- 5) Land Use Permit for activities associated with the above.

Participant funding process

If the proposal to re-engage the BIPR review is approved by the Board, AANDC intends to continue with the participant funding process that was initiated in May 2008. At that time, funding was awarded to five parties. The unused portion of that allocation will be available to those parties who are in good standing. At this time not all of the parties are in good standing, and those seeking clarification with respect to this may follow up with the regional office of AANDC.

Further to this, AANDC would like to note that due to fiscal end of year fiscal related administrative requirements, no funding will be available to recipients for activities taking place before April 1, 2013. After this date, normal departmental requirements will need to be met before funds can be distributed.

In closing, we have used the information provided to date by the Proponent, to provide our best advice on what adjustments we expect may be needed to the content of the DEIS. Should NIRB decide to conduct a reconsideration of the EIS Guidelines for this project AANDC is prepared to participate. We look forward to working with the NIRB, the Proponent and other parties throughout the review of this project.

Should you have any questions, please contact Rosanne D'Orazio at (867) 975-4554 or by e-mail at Rosanne.Dorazio@aandc-aadnc.gc.ca.

Sincerely,

[original signed by]

Margaux Brisco
A/ Director, Resource Management



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February 1, 2013

EC File: 4703 003 014
NIRB File: 03UN114

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Via email: info@nirb.ca

RE: 130117: NIRB 03UN114: Request for Comments on Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPR) Project

Environment Canada (EC) has received the Nunavut Impact Review Board's (NIRB) request for comments regarding the re-engagement of the Part 5 Review of the proposed Bathurst Inlet Port and Road (BIPR) Project. EC's specialist advice is provided pursuant to the *Canadian Environmental Protection Act 1999*, the pollution prevention provisions of the *Fisheries Act*, the *Migratory Birds Convention Act*, and the *Species at Risk Act*.

Context

Xstrata Zinc Canada (Xstrata) and Sabina Gold and Silver Corp. (Sabina) have requested the re-engagement of the NIRB's Part 5 Review of the Bathurst Inlet Port and Road Project (BIPR). Xstrata and Sabina have jointly submitted a revised BIPR Project Description. At this time, the NIRB must assess whether the amended scope is significantly different from the scope of the original BIPR project proposal which was scoped in 2004 under a previous proponent and seeks confirmation from responsible authorities as to the types of authorization that would be required under the new scope. Along with comments on the amendment to the scope and confirmation of authorization required, the NIRB also requests any further comments regarding the proposed project amendment and/or the re-engagement of the BIPR Review.

Comments

Based on a review of the revised Project Description, the project scope has been expanded to include a potential ten month shipping window. Increasing the shipping window from three to ten months is a substantial change to the scope of the project. The risks and potential impacts associated with ice-breaking activities and the range of wildlife affected could be greater than originally scoped. EC notes that section 4.5.1.4 of the draft EIS guidelines requires information on potential use of icebreakers during the shipping season, section 4.6.2.6 requires baseline information on polar bear, caribou (Dolphin & Union, Peary), migratory birds and marine mammal distribution and habitat along the Shipping Route, and section 4.7.3.2 and 4.7.3.5 require an assessment of shipping impacts on migratory birds, caribou crossing, species at risk and marine mammals along the Shipping Route. EC believes these sections of EIS guidelines are broad enough to require that potential impacts of ice-breaking on marine wildlife and ice-dependent species be assessed.

The NIRB's original scope for the project included shipping due to public concern and identified the full spatial extent of the shipping route to the east. Currently, the Final Environmental Impact Statement Guidelines only includes: "the Shipping Route from Lancaster Sound (north of Arctic Bay) west through the Barrow Strait, south through Peel Sound, Franklin Strait, Victoria Strait, across Queen Maud Gulf, through Dease Strait and through the Bathurst Inlet to the proposed Port site, not previously having been used for regular shipping of fuel". Given that Sabina has indicated that their last shipment of the season may travel west, EC recommends that the spatial scope for the review be expanded to include the potential western shipping route through the Coronation Gulf, potentially up to the western boundary of the Inuvialuit Settlement Region, in order to account for trans-boundary impacts of increased ship traffic or accidents and malfunctions.

Should you have any questions or comments with regards to the foregoing, please do not hesitate to contact Mike Fournier at (867) 669-4743 or Mike.Fournier@ec.gc.ca.

Regards,



Paula C. Smith
Environmental Assessment Coordinator

cc Carey Ogilvie, Head, Environmental Assessment North, EA and Marine Programs Division, EC
Mike Fournier, Senior Environmental Assessment Coordinator, EC
Mark Dahl, Senior Ocean Disposal Officer, EC
James Hodson, Environmental Assessment Coordinator, CWS



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DFO file : 03-HCAA-CA7-00188

NIRB file : 03UN114

January 31st, 2013

Ms. Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, Nunavut
X0B 0C0

Via E-mail to :
info@nirb.ca

Dear Ms. Hanson:

Subject: Fisheries and Oceans Canada Comments on the Re-engagement of the Bathurst Inlet Port and Road Project

On January 17th, 2013, the Nunavut Impact Review Board (NIRB) invited parties to provide comments on the re-engagement of the Bathurst Inlet Port and Road Project (the BIPR Project) following the submission of an updated project description by the project proponents.

As you are aware, Fisheries and Oceans Canada's (DFO) primary focus in reviewing proposed developments in and around Canadian fisheries waters is to ensure that works, undertakings and activities are conducted in a manner that complies with the applicable provisions of the *Fisheries Act*. DFO has reviewed the material provided by the NIRB and the proponent for the BIPR project, and within its mandate and technical expertise, has the following comments to provide regarding the information requested by the NIRB.

Does the amendment to the scope as presented by Xstrata and Sabina on December 19, 2012 significantly change the scope of the original proposal as referred to Review by the Minister on May 6, 2004;

As directed by the NIRB in the February 2004 BIPR Public Scoping Report: “[...] the BIPAR project as proposed is a project for a Port and Road, not for shipping. The guidelines will include direction only for shipping activities directly related to the project.”

It is therefore DFO's understanding that only shipping related to the construction, operation and closure of the BIPR infrastructure is to be assessed under the BIPR environmental assessment.

Canada

It is unclear in the updated project description, provided by Xstrata Zinc Canada and Sabina Gold & Silver Corporation, whether the extension of the shipping window to 10 months from the original 3 month proposal is to support the BIPR project only, or whether shipping outside of the originally proposed 3-month window is in reference to that which may occur for Xstrata's Hackett River Project and other potential BIPR clients.

The project description submitted and referred for review in 2003 specifically states that shipping will be limited to the arctic open water season. The amended scope as presented in the updated project description represents a significant change in scope of the original proposal given the change from open water shipping (3 month window) to close to year-round shipping (10 month window) and the associated requirement for ice breaking activities to support an extended shipping window.

DFO notes that since the initiation of the BIPR and Hackett River Project environment assessments, a change in ownership for both projects has occurred. Given the dependence of the Hackett River Project on the infrastructure of the BIPR project, as noted in the updated project description, DFO recommends the NIRB seek further clarification as to the independence of the BIPR and Hackett River Projects in order to confirm the need for two separate environmental assessments on two distinct projects.

Confirmation from responsible authorities as to the types of authorizations that would be required for the implementation of the new Project scope, including a consideration given to recent legislative changes which may affect the necessary regulatory instruments;

Recent legislative changes have occurred to the *Fisheries Act*, in particular to section 35, which as of June 29th, 2012 states that;

No person shall carry on any work, undertaking or activity that results in the harmful alteration or disruption, or destruction of fish habitat.

At this time section 32 of the *Fisheries Act* remains unchanged and states that;

No person shall kill fish by means other than fishing except as authorized by the Minister or under regulation made by the Governor in Council under this Act.

In response to the NIRB's question regarding "...*types of authorizations that would be required for the implementation of the new Project scope...*" authorizations pursuant to section 35 and/or section 32 would be required for unavoidable and acceptable impacts from the project on fish and fish habitat. Please note, that the *Fisheries Act* defines "fish" as including marine mammals.

Any further comments regarding the proposed project amendment and/or re-engagement of the BIPR Review.

DFO notes that while the project description submitted in 2003 for the BIPR project specifically states that ice-breaking activities will not occur, the final guidelines by the NIRB issued in 2004 for the BIPR project does request the proponent contemplate "*the potential use of ice-breakers during the shipping season*" (Section 4.5.1.4). In reviewing the 2004 BIPR guidelines, DFO is of the opinion that NIRB's direction should not preclude the proponent from providing an assessment of all potential impacts that may occur as a result of the newly updated project proposal. The onus will remain on the proponent to provide sufficient information to parties in order to allow a complete and effective review of the potential impacts that may result from the construction and operation of the BIPR project.

In order to assist the proponent in the development of its updated draft Environmental Impact Statement, should the project proceed in the environmental assessment as requested, DFO would like to offer the following:

1. In its October 2008 technical submission, DFO noted several deficiencies in the impact assessment of the port construction and shipping on marine mammals. It is DFO's expectations that these deficiencies will be addressed in the updated draft EIS, as well as a consideration of additional impacts that may occur to fish and fish habitat, including marine mammals, as a result of any additional activities required for a 10-month shipping and trucking period, if required for the BIPR project. This should include a re-examination of previously selected Valued Ecosystem Components to ensure that those assessed reflect species that may be most sensitive to shipping or trucking beyond the arctic open-water season.
2. As noted by the proponent, consideration of potential impacts from shipping from the Hackett River and Sabina Back River projects would be provided in their respective environmental assessments. However, the BIPR EIS will include a consideration of the cumulative impacts of the overlapping activities within the area in the cumulative effects assessment section of the BIPR draft EIS.

Section 4.7.2 of the BIPR guidelines states:

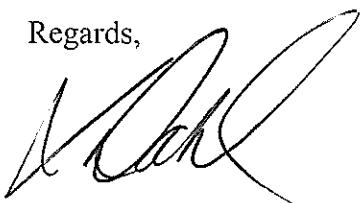
The Proponent shall assess the potential Cumulative Effects of the Project to determine its impacts on the bio-physical and socio-economic environments in combination with past, current, or Reasonably Foreseeable Future Developments. In considering Reasonably Foreseeable Future Developments the Proponent shall evaluate the potential of the Project to induce economic developments. The Proponent shall consider the combined impacts of the Project in combination with those of other predicted developments.

While it may not be feasible for the proponent to provide exact estimates of the shipping needs of all potential or proposed developments within the proximity of the Bathurst Inlet area, they would be best positioned to provide the maximum number of ship transits within Bathurst Inlet that could be expected should the BIPR infrastructure be utilized to its maximum carrying capacity. This would assist in

providing insight into "the potential of the Project to induce economic developments" and assessing the potential cumulative impacts that may result.

DFO would like to thank the NIRB for the opportunity to provide comments on the re-engagement of the Bathurst Inlet Port and Road Project prior to the submission of the draft Environmental Impact Statement. If you have any questions, please contact Nicola Johnson at (867) 669-4933 or by e-mail at nicola.johnson@dfo-mpo.gc.ca.

Regards,



Julie Dahl
Regional Manager Fisheries Protection Program
Central and Arctic Region, Fisheries and Oceans Canada

cc. Dale Nicholson, Regional Director, Fisheries and Oceans Canada
Larry Dow, Director, Fisheries and Oceans Canada
Derrick Moggy, Habitat Team Leader, Fisheries and Oceans Canada
Nicola Johnson, Senior Analyst, Fisheries and Oceans Canada
Jim Elliott, Senior Analyst, Fisheries and Oceans Canada
Johann Pelage, Project Manager, Northern Projects Management Office



February 1, 2013

Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board
PO Box 1360
Cambridge Bay, NU X0B 0C0

Via email: info@nirb.ca

RE: Potential Re-Engagement of the Nunavut Impact Review Board's (NIRB) Review of the Bathurst Inlet Port and Road (BIPR) (Letter Dated January 17, 2013)

Thank you for your letter dated January 17, 2013, regarding the Nunavut Impact Review Board's (NIRB) request for comments concerning the re-engagement of the Part 5 Review of the proposed Bathurst Inlet Port and Road (BIPR). Natural Resources Canada (NRCan) has reviewed the revised project description as presented by Xstrata Zinc Canada and Sabina Gold & Silver Corporation.

In response to your request for views on the amendment to the scope of the project, and potential re-engagement of BIPR Review process, the department is of the view that, for areas within our mandate (i.e. *Explosives Act* and technical expertise in the earth sciences), the revised project description is consistent with the scope of the original proposal as referred to Review by the Minister of Aboriginal Affairs and Northern Development (formerly Minister of Indian and Northern Affairs Canada) on May 6, 2004. Given the nature of the amendments to the project, however, we expect that these changes will need to be appropriately accounted for in the environmental effects assessment of a revised draft Environmental Impact Statement.

In response to your request regarding types of authorizations that may be required, our letter of January 28, 2008 to the NIRB with respect to this project indicated that, at that time, NRCan had determined that a licence for the manufacture or storage of explosives, issued under paragraph 7(1)(a) of the *Explosives Act*, was be required for the proposed project. We will proceed under this understanding that this remains a required project authorization, but will advise the NIRB should this determination change during the project review.

We look forward to participating in future stages of the review of this proposed Project.

Sincerely,

Original signed by

John Clarke
Director, Environmental Assessment Division
Natural Resources Canada

cc: Rob Johnstone, NRCan (Minerals and Metals Sector)
Matthew Spence, Director General, Northern Projects Management Office



Transport
Canada Transports
Canada

P.O. Box 8550
3rd Floor, 344 Edmonton Street
Winnipeg, Manitoba
R3C 0P6

Your file Votre référence
03UN114

Our file Notre référence
7075-17-1

January 31, 2013

Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, NU, X0B 0C0

RE: Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPAR) Project

Dear Ms. Hanson:

Transport Canada received the Nunavut Impact Review Board (NIRB) letter dated January 17 2013, which requested parties to review and provide comments on the proposed re-engagement of the NIRB's review of the Bathurst Inlet Port and Road Project (BIPAR), as well as a revised BIPAR project description from Xstrata Zinc Canada (Xstrata) and Sabina Gold and Silver Corp. (Sabina).

Transport Canada is responsible for the transportation policies and programs that promote a safe transportation system, ensuring that they work effectively and in an integrated manner. After reviewing the proposed objective and BIPAR Project Description, Transport Canada has identified a particular interest in several components and activities that would pertain to our mandate and area of expertise of our department.

Based upon a review of the project scope amendment as presented by Xstrata and Sabina on December 19, 2012, Transport Canada has noted that construction of the port facility may allow for the number of ships and ship transits to increase in the Kitikmeot region and the operational period for the all-weather road may also result in an increase in vehicle traffic use. Transport Canada is of the opinion that, for areas within our mandate, the presented amendment does not significantly change the original scope as referred to by the Minister on May 6, 2004. Transport Canada would ask the NIRB to consider information with respect to associated project scenarios or phases that could assist in determining the estimated use and linkages to proposed projects that may make use of this infrastructure.

Proposed Works in Navigable Waters

Several BIPAR project components may be of interest to the Transport Canada, Navigable Waters Protection Program (NWPP). These components may include, but are not limited to, the deep sea marine port, dock for barge landing and crossings along the all-weather road.

Canada

Any works built or placed in, on, over, under, through or across a navigable waterway should be assessed against the criteria of the Navigable Waters Protection Act (NWPA) Minor Works and Waters Order. Any works that do not meet these criteria will require formal applications to the NWPP.

Marine Based Activities:

After reviewing the Project Description and supporting documents, Transport Canada, Marine Safety has identified particular interest in several components and activities that would pertain to our mandate and area of expertise.

Fuel Storage and Transfer:

Transport Canada Marine Safety and Security (TCMSS) is the lead federal regulatory agency responsible for the National Marine Oil Spill Preparedness and Response Regime. Part 8 of the Canada Shipping Act (CSA) 2001 and its associated regulations and standards govern the regime, which is built upon the polluter-pay principle. Part 8 and its regulations require oil handling facilities (OHFs) to have emergency and prevention plans. Note that there are specific guidelines for the transfer of fuel in the Arctic.

Overwintering of Fuel barge:

Vessels that overwinter are subjected to requirements of the CSA 2001, Arctic Waters Pollution Prevention Act (AWPPA) and their associated regulations. The Proponent is to provide specific details about the vessel, over-wintering project and the plan as to how fuel storage and transfer operations will be carried out by that vessel. Details are to include vessel particulars, intended purpose and compliance with CSA 2001 and the AWPPA.

Vessels for Cargo Shipment:

All vessels transiting through and operating in Canadian Arctic waters are required to comply with the AWPPA and the CSA 2001. The Proponent is to confirm that vessels utilized conform to regulatory requirements. In addition, Oil Barges should comply with TP 11960. Further information is required in regards to utilization of dual capacity barges to load both deck and fuel cargoes and their regulatory compliance.

Port Facility and Ship Routes:

TCMSS requests specific details in regards to the proponent's plan for port facilities. The Proponent is to include bathymetric information and specific ships routes to accommodate planned 50,000+ Dwt vessels, especially in regards to shipping lanes which are not a regular shipping route.

Marine Security

Once the project is in the operational phase the Proponent must comply with the International Ship and Port Facility Security (ISPS) Code through the Marine Transportation Security Regulations (MTSRs), Part 2 Vessels and MTSR Part 3 Facilities, prior to interfacing with SOLAS or non-SOLAS vessels. The company is required to have a security assessment

conducted of their site by TCMSS prior to any SOLAS or non-SOLAS vessel interfacing with the site.

Bathurst Inlet Port and Road is required to have a security plan completed that addresses the elements identified in the security assessment. Both the security assessment and the security plan must be approved by TCMSS. A Statement of Compliance of a Marine Facility/Port certificate is provided to BIPAR, once the marine facility security plan is approved. The certificate is valid for a 5 year period. TCMSS will conduct an Intermediate Inspection in the 3rd year of the certificate's life and additionally as required.

The Canadian SOLAS and non-SOLAS vessels require a security assessment and a security plan approved by TCMSS if conducting international voyages. The SOLAS or non-SOLAS vessels Foreign Flagged Vessels must have an International Ship Security Certificate (ISSC), and an inspection conducted by TCMSS for compliance to the MTSR's prior to interface with the marine facility.

The proponent will need to provide MSS with advance notice of one year, if they are acquiring a Foreign Flagged Vessel to deliver supplies, or conduct a test run of cargo to another country, so Transport Canada can arrange to conduct the security assessment onsite prior to the interface, and to be in compliance with TCMSS requirements.

Civil Aviation Safety

Transport Canada suggests that the Proponent register the airstrip at Bathurst Port. The advantages of this free service would be to mark their locations on maps and in GPS databases so pilots can find them easier, and allow instrument approach procedures to the sites to be developed when required.

The proposed airstrip development at Bathurst Port should be constructed as close as possible in accordance with TP 312 Aerodrome Standards and Recommended Practices; in particular the width of runway shoulders and the set back distances for apron parking areas from the runway so as not to interfere with runway operations.

The guidance provided in TP 1247 Land Use in the Vicinity of Airports should be considered when locating any landfill sites.

Transportation of Dangerous Goods

Generally, there is no requirement for permits or licences in order to handle/transport/import dangerous goods. One exception would be for dangerous goods that require an Emergency Response Assistance Plan (ERAP) under Section 7 of the *Transportation of Dangerous Goods Act, 1992* (e.g. certain explosives, propane in 3000 L or greater size tanks). If the Proponent was to offer for transport or import dangerous goods that required an ERAP, they would have to submit a plan to Transport Canada, who would review the plan and, if it is found to be adequate, approve it. ERAPs are intended to assist local emergency responders by providing them with technical experts and specialized equipment at an accident site.

Transport Canada appreciates the opportunity to provide comments on the BIPAR re-engagement proposal. These comments are based upon our current understanding of the previous and most current supporting documents submitted by the Proponent.

Should you have any questions regarding Transport Canada's comments concerning this project, please contact me via email at john.cowan@tc.gc.ca or by telephone at (204) 983-1139.

Regards,

A handwritten signature in blue ink, appearing to read "J. Cowan".

John Cowan
Environmental Affairs

Canadian Arctic Resources Committee

MAILING ADDRESS: Box 371, Station A, Ottawa, Ontario, Canada, K1N 8V4
OTTAWA OFFICE: 488 Gladstone Avenue TEL: 613.789.4284 FAX: 613.237.3845

January 31, 2013

Ms. Elizabeth Copland
Chairperson– Nunavut Impact Review Board
Cambridge Bay, Nunavut,

Dear Ms. Copland,

RE: NIRB 03UN114: Request for Comments on Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPR) Project

Thank you for the opportunity to comment on the issues raised in your letter of January 13, 2013.

Recent meetings in Behchoko Northwest Territories with aboriginal leaders and officials from Nunavut, the NWT, Alberta, and Saskatchewan, highlight the number of provincial/territorial boundaries the migration of the Bathurst caribou herd spans. A drop in population from 500,000 animals to 50,000 highlights the trans-boundary concerns for this herd as a food source.

With reference to legislation and regulation proponents should be required to place a substantial security deposit. This would allow the NIRB and other regulatory bodies in Nunavut to draw upon for **time and resources** repeatedly required to deal with proposals such as BIPR.

Based on these factors CARC recommends:

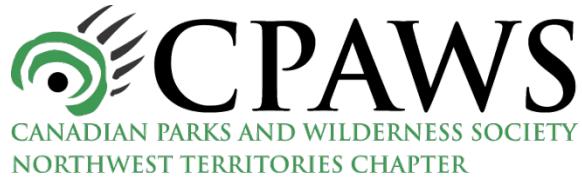
- That the review not be “re-engaged” but any proposal should be submitted to a new review;
- That participant funding be increased to allow a transparent community response;
- That a transportation study for the Slave geological province be completed; and
- The proponents should be required to provide a security deposit.

Yours truly,



David Gladders, Executive Director
CC: Canadian Arctic Resources Committee





January 30, 2013

Kelli Gillard – Technical Advisor Nunavut Impact Review Board (NIRB)

Re: Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPR) Project

Dear Ms Gillard,

The Canadian Parks and Wilderness Society – Northwest Territories Chapter (CPAWS-NWT) submits the following comments regarding the re-engagement of the BIPR review and amendments to the scope of the project as presented by Xstrata.

CPAWS-NWT remains deeply concerned about the potential cumulative and trans-boundary impacts to wildlife and communities that may be incurred by the development of the BIPR project and the mines that it will serve. The Hackett River and Back River mine projects will be the primary users of the BIPR during the first phase of the project. Development of these two mines, along with the proposed Izok corridor project, and existing and proposed mines in the NWT could bring the number of active mines in the Bathurst caribou range to a total of 10. It is expected that the BIPR project will be designed to facilitate even more mining development in the West Kitikmeot region.

Bathurst Caribou have yet to show a recovery from the herd's recent drastic decline and allowing further development within their range would add further uncertainty to the future of the herd.

CPAWS-NWT notes that the original scope for the BIPR review as described in the NIRB Final Draft EIS Guidelines (December 2004) directs the proponent to consider cumulative effects of new developments expected to use the Road and/or Port. As you are aware, in referring the Back River and Hackett River projects to Part 5 review, the responsible minister has in each case identified in his decision that cumulative impacts should be thoroughly assessed due to development pressures facing the Kitikmeot region. The more recent Back River project decision provides further direction to include consideration of trans-boundary impacts, specifically in regards to Bathurst caribou.

We recommend that the scope for the cumulative effects assessment for caribou for the BIPR project, as well as other mining developments in the Kitikmeot region in and west of Bathurst Inlet that are currently under review (Izok Corridor, Hackett River, Back River projects), should include all existing, proposed and reasonably foreseeable projects within the entire Bathurst caribou range.

The ecological and socioeconomic repercussions of these projects, particularly in regards to Bathurst caribou, must be considered a trans-boundary issue. Any negative impacts to the

herd's sustainability that result from exploration and development within Nunavut will impact all communities that have traditionally harvested the herd, including many NWT communities.

Trans-boundary cumulative effects assessments should also be conducted for other wide ranging wildlife species that are shared by the two territories, including marine wildlife that may be affected by shipping associated with these proposed developments.

CPAWS-NWT believes that a thorough assessment of environmental costs and benefits of alternative means of carrying out these projects is essential for identifying ways to reduce their ecological footprints. These alternatives should include ways to avoid development within the Bathurst calving ground altogether.

Rather than having proponents conduct separate analyses for their respective projects, we recommend that a single collaborative cumulative effects assessment (CEA) for Bathurst caribou and other wildlife that is regional in scope would be a more efficient use of resources and time. This collaborative CEA could be collectively financed by the project proponents, but also draw on expertise and knowledge from communities, HTOs, renewable resource boards, and substantive input and analysis by wildlife experts within Nunavut, NWT and federal government departments. A single collaborative CEA would provide greater opportunity for meaningful input from stakeholders that have limited time and resources for participating in four separate project reviews. This collaborative approach should ultimately produce a CEA that is more rigorous and comprehensive.

Dialogue between proponents, land managers and communities must effectively consider how the development of our non-renewable resources can co-exist with caribou and other species in the region if they are to thrive for future generations.

Thank-you for the opportunity to comment,

Kris Brekke

Executive Director
Canadian Parks and Wilderness Society - NWT Chapter
5020 52nd St.
Box 1934
Yellowknife X1A 2P5

NORTH SLAVE METIS ALLIANCE

PO Box 2301 Yellowknife, NT X1A 2P7



January 30th, 2013

Amanda Hanson
Director, Technical Services
Nunavut Impact Review Board
P.O. Box 1360, Cambridge Bay. NU. X0B 0C0
Via E-Mail: info@nirb.ca

Re: 03UN114 re-engagement of assessment of Bathurst Inlet Port and Road Project

The North Slave Métis Alliance (NSMA) has reviewed the correspondence of January 17th, 2013, and December 19th, 2012, with respect to the re-engagement of the environmental assessment for the proposed Bathurst Inlet Port and Road project, and provides the following comments.

It is beyond our capacity level at this time to re-familiarize ourselves with the original EIS. However, **the change from a 3 month operating season to year-round operation of the road is a very significant change in scope for the project.**

Much time has passed and there have been several staff changes since the NSMA reviewed the original EIS. Elders have passed away, and the leadership's composition and constitution of the NSMA has changed. The membership of the NSMA has undergone a significant change with the recent expulsion of "Status Indians". The NSMA would, essentially, have to start over with its review.

There have been significant changes to the existing political, economic, cultural and ecological environment since the original EIS was produced. Of most significance, to the NSMA, is the severe and ongoing risk of extinction of the Bathurst Caribou herd, and the infringement of NSMA's Aboriginal Harvesting Rights. The NSMA is waiting for the results of a judicial review confirming the obligations of the GNWT to Consult the NSMA with respect to management of the Bathurst Caribou herd. In addition, the NSMA expects Canada to provide the results of its "strength of claims analysis" any minute now.

Aboriginal Consultation and Accommodation jurisprudence has also undergone significant development. Aboriginal Métis Harvesting Rights have been confirmed, in the Powley case, and others. Just this month, the Supreme Court of Canada has confirmed that Métis are, just as the Inuit are, "Indians" according to section 91(24) of the Constitution Act (1867).

The NSMA suggests that there are many reasons why it may also be a benefit to everyone to start over from the beginning.

A great deal more, and better, baseline data is available now in comparison to the original EIS baseline data. Ekati and Diavik have been conducting environmental monitoring for a decade, and the Northwest Territories Cumulative Effects Impact Management Framework has continued development, including the recent improvement in secure multi-year funding of a much more adequate amount for the Cumulative Impact Monitoring Program.

The impact of climate change on the environment and on the project, and the impact of the project on the environment in the context of climate change can be better assessed now, with an additional decade of information. The information collected through the International Polar Year program is now available.

Other roads and mines are being proposed within the range of the Bathurst Caribou herd, which we have not yet had capacity to review.

The NSMA concludes that the description of the existing environment and the cumulative effects assessment both need a thorough re-write, informed by updated and higher quality data. In recognition of the asserted (and hopefully soon to be accepted/confirmed) Aboriginal Rights of the North Slave Métis, Traditional Métis Knowledge studies should be completed to contribute to these sections of the EIS. The effects assessment sections will then most likely also need to be redone.

Whichever approach the Nunavut Impact Review Board chooses to take, the North Slave Métis will certainly expect to be consulted, as a directly affected Aboriginal Rights bearing community, and will require capacity funding, including amounts to review and re-familiarize with work previously done.

Thank you for the opportunity to comment. Please direct your inquiries to Charles McGee, the NSMA's Office Manager, at researcher@nsma.net, with a copy to the reception desk, at general@nsma.net.

Sincerely,

A handwritten signature in black ink, appearing to read "Sheryl Shove".

Environment Manager
enviromgr@nsma.net

Comments on the Potential Re-Engagement of the NIRB's Review of the Bathurst Inlet Port and Road (BIPR) Project (File No. 03UN114)

1. Change in scope

The most conspicuous change in the scope of BIPAR as presented by Xstrata and Sabina (December 2012) compared to 2004 appears to be that the BIPR will be built as two phases (85 km and 126 km) over an unspecified time basis but using the same road and shipping routes and port. This does include a change in the traffic which will be using the road (year-round compared to 3 months).

While these changes in BIPR's scope do not of themselves seem significant, the context for the BIPR's environmental assessment for caribou has significantly changed (see #3 below).

2. Responsible Authorities

No comment

3. Further comments regarding the proposed project amendment and/or re-engagement of the BIPR Review

The proponents acknowledge the need to update the draft EIS if BIPR review is re-engaged. However, public and regulatory agency input and consultation for updating the draft EIS for caribou will improve the effectiveness and efficiency of the environmental assessment for BIPR for at least five reasons:

- a) Public concerns, especially trans-boundary, for the Bathurst caribou herd are intensified¹ given the herd's vulnerability following sharp declines in its abundance and changes in distribution (2006-2012). The status of the Dolphin and Union herd is also a public concern.
- b) The draft EIS Bathurst caribou analyses were undertaken using as a baseline 2000 and 2001 data (with an appended second baseline report using 2007 data). Since then, the amount of data has increased which reduces uncertainty in EIS predictions.
- c) The context of cumulative effects assessment has changed including the increase in vulnerability of the Bathurst herd. Other changes to the context include the proposed Izok road. In 2002, the scope of the BIPR

¹ For example, see www.reviewboard.ca/registry/ for Fortune Minerals and De Beers Gahcho Kué mine assessments

was amended as it would no longer serve the Izok Project due to reduced metal prices. Izok is now (2013) proposing a separate all-season road to High Lake. This modifies the context for BIPR as there could be two all-season roads on both the western and eastern extent of calving and post-calving distribution for the Bathurst caribou herd and winter ranges for the Dolphin and Union herd. Other changes include increases in the reasonably foreseeable projects on the Bathurst herd's annual range as well as the existing projects.

- d) Analytical methods for cumulative effects assessment have evolved since completion of the BIPR draft EIS which should then reduce uncertainty in predictions and increase confidence in the EIS review.
- e) Approaches to monitoring and mitigation especially for cumulative effects have also evolved which should be included in the draft EIS.

In other words, simply updating the BIPR draft EIS by appending recent baseline data will be insufficient given the increase in public concerns for caribou. The current availability of analytical techniques for cumulative effects assessment, monitoring and mitigation means that re-analysis for BIPR is required.

One way for the proponent for BIPR and NIRB to take advantage of the improved understanding would be to invite comments on updating the draft EIS. This would not delay the EA process as it would likely reduce the number of issues during the subsequent EA stages. It could be in the form of revised Terms of Reference or request input for specific sections (such as caribou, climate change and cumulative effects).

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