

Minister of Indian Affairs
and Northern Development



Ministre des Affaires
indiennes et du Nord canadien

Ottawa, Canada K1A 0H4

MAY 4 2004

Mr. Albert Ehaloak
Acting Chair
Nunavut Impact Review Board
PO Box 2379
CAMBRIDGE BAY NU X0E 0C0

Dear Mr. Ehaloak:

I am writing in response to the September 23, 2003 letter, from former Chair Elizabeth Copland, addressed to my predecessor, on the results of the Nunavut Impact Review Board's (NIRB) screening decision of the revised Bathurst Inlet Port and Road (BIPAR) Project.

I have reviewed the Screening Decision Report and concur with the NIRB's decision that the proposal requires a review under Part 5 or 6 of Article 12 of the Nunavut Land Claim Agreement (NLCA). Pursuant to section 12.4.7(b), I am referring the proposal to the NIRB for a review under Part 5. It is my view that a Part 5 review is appropriate because the physical components of the BIPAR Project are located wholly within the Nunavut Settlement Area. There is no reason, at this stage, to conclude that the environmental impacts of the project cannot be mitigated, and letters received from the public expressed a variety of views regarding the level of review. The other federal Minister with jurisdictional responsibility in relation to the proposal, Fisheries and Oceans, concurs that a Part 5 review is appropriate.

Section 12.5.1 of the NLCA provides me with the authority to "identify particular issues or concerns which the NIRB shall consider" in the review. The BIPAR Project has generated considerable interest within Nunavut and the Northwest Territories, with respect to the potential for transboundary effects and cumulative impacts. Accordingly, I identify these two issues for the NIRB to consider in the review.

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My concern with respect to these two issues is primarily process-related because of the potential for this project to impact areas outside of Nunavut. It is essential that the NIRB structure the review to enable the best consideration of relevant issues, and to encourage a broad participation of the public. In fact, sections 12.2.5 and 12.5.5 of the NLCA direct the NIRB to take into account the interests and well-being of residents of Canada outside the Nunavut Settlement Area, and section 12.2.2(b) identifies as one of NIRB's primary functions, to gauge and define the extent of the regional impacts of a project.

In addition, it is my view that the scoping exercise to determine the project specific guidelines that are to be issued to the project proponent for the preparation of the Environmental Impact Statement (EIS), as required by section 12.5.2, will be critical. Some of the resources that may be impacted are shared by people who reside outside of Nunavut. Thus, it is important for the NIRB to scope the BIPAR Project broadly, and ensure that the interested parties in all the potentially affected jurisdictions have an opportunity to provide input. In this regard, I suggest that the NIRB develop an early and ongoing relationship with those Boards having environmental assessment responsibilities in the other affected jurisdictions. I believe their expertise and awareness of the issues and potential impacts will be helpful in the identification of components requiring consideration. I also suggest that the NIRB include the Bathurst Caribou Management Planning Committee in distribution lists, along with the wildlife departments of the Government of Nunavut and the Northwest Territories, to seek their views on the implications of the BIPAR Project with respect to the Bathurst caribou herd's range, habitat and health.

A broad approach to the development of the EIS Guidelines must similarly be taken by the NIRB to ensure all necessary information is requested. I note the excellent work the NIRB has recently done in revising its series of Guides. The *Guide to the Preparation of Environmental Impact Statements* will be extremely helpful, and in particular, the additional detail that has been provided for the 10 minimum EIS requirements. Well developed EIS Guidelines will not only provide certainty for the project proponent in terms of what is expected, but also will facilitate the Board's work later in determining conformity. I encourage the NIRB to apply the highest of standards during the conformity review. Deficiencies must be addressed before proceeding to the public review stage to ensure reviewers have the information they need to evaluate potential impacts, thereby, offering the best opportunity for the hearings to be productive and completed in a timely and efficient manner.

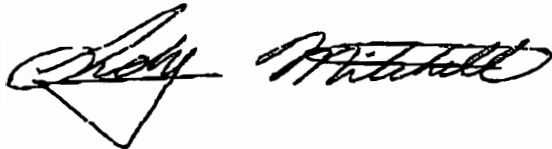
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Section 12.2.27 requires the NIRB to take all necessary steps to provide and promote public awareness and participation at hearings. It is essential that the NIRB give careful consideration to how to conduct the hearings for the BIPAR Project in order to facilitate the involvement of affected parties in jurisdictions outside of Nunavut. Based on current interest, I anticipate the hearings for the BIPAR Project will be well attended. 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.

Finally, I do not intend to propose a time frame in accordance with section 12.5.4. I would, however, encourage the NIRB to seek the input of all interested stakeholders to make sure the schedule is reasonable given other demands. I believe this review will be a challenging one, but I have complete confidence in the expertise and ability of the NIRB to carry out a comprehensive review and prepare a high quality report for my consideration.

Sincerely,

A handwritten signature in black ink, appearing to read 'Andy Mitchell', with a stylized, looped flourish at the end.

Andy Mitchell

c.c.: The Honourable Geoff Regan, PC, MP