



NIRB File No.: 08MN053

February 26, 2013

Brian Aglukark
Director, Implementation
Nunavut Planning Commission
P.O. Box 2101
Cambridge Bay, NU X0B 0C0

Sent via email: aglukark@nunavut.ca

Re: Follow up to Nunavut Planning Commission Letter Regarding Request for Confirmation of NIRB Process Under Article 12, Part 8 Section 12.8.2 NLCA Reconsideration of Project Certificate No. 005 – Mary River Project

Dear Brian Aglukark:

Thank you for your letter of February 20, 2013 to the Nunavut Impact Review Board (NIRB or Board) providing the Nunavut Planning Commission's (NPC) advice on the NPC's process for engaging in the conformity determination under the North Baffin Regional Land Use Plan (NBRLUP) of the different routing proposed by Baffinland Iron Mines Corporation (Baffinland) in Baffinland's "Early Revenue Phase" proposal. The prompt receipt of NPC's advice and direction regarding the NPC process is greatly appreciated.

The Board also wishes to respond directly to the second aspect of your letter expressing concern that by Baffinland's proposed Early Revenue Phase proposal proceeding as a reconsideration of the terms and conditions of an existing Project Certificate pursuant to Article 12, Part 8, Section 12.8.2 of the Nunavut Land Claims Agreement (NLCA) is being "interpreted to enable a proponent to sidestep the screening process". In response, the NIRB clarifies for the NPC and indeed all participants in the upcoming reconsideration process that the Board's consideration of matters under Section 12.8.2. in no way "sidesteps" the Board's usual approach to ensure robust and appropriate assessment, and the Board reiterates that proposed changes to the Mary River Project as proposed under the Early Revenue Phase will be subject to an appropriate, thorough and inclusive assessment during the reconsideration process.

As expressed recently in the Board's letter to the Minister concerning the Board's determination that the proposed changes are most appropriately addressed under the reconsideration process set out in Section 12.8.2 of the NLCA, the NIRB's reconsideration process recognizes the integral link between the original Project and the amendments to the Project as proposed by Baffinland in its Early Revenue Phase proposal. Further, as the NIRB recently outlined in response to inquiries by the Qikiqtani Inuit Association, reflecting the varied nature of the requests for reconsideration the Board may receive, the NIRB has considerable discretion in terms of

establishing the appropriate procedure for conducting a Project Certificate reconsideration under Section 12.8.2. However, in developing the appropriate reconsideration process applicable to this proposed Project amendment, the NIRB is mindful that in the past, when the Section 12.8.2 reconsideration involved the need for additional assessment of the potential ecosystemic and socio-economic effects of the Project as amended, the NIRB did ensure that opportunities for public consultation, technical review and comment and a public hearing in respect of the proposed amendment were provided (see the procedural history set out in the reconsideration of term and condition 32 of NIRB Project Certificate No. 004 for the Meadowbank Gold Mine Project¹).

Consequently, as indicated by the NIRB in recent correspondence to the Minister, the Qikiqtani Inuit Association and Baffinland regarding Baffinland's proposed changes to the Project, the Board envisions a similar reconsideration process in this case, involving public consultation in communities most affected by the changes, a technical review and comment period, culminating with a public hearing and community roundtable. The NIRB also recognizes that the comments provided by the Qikiqtani Inuit Association and others regarding this application highlights, as is the case with all of the NIRB's decision-making processes, the need to ensure that there is direct communication with potentially affected communities using appropriate methods.

In closing, the NIRB wishes to reiterate to the NPC and all interested parties that the Board recognizes the importance of providing as much clarity regarding the anticipated reconsideration process as possible, and to this end, the Board appreciates receiving the NPC's advice regarding the process for conformity determination provided in your recent letter.

If you have any questions or wish to discuss this matter further please contact Amanda Hanson, NIRB's Director of Technical Services at (867) 983-4615 or via email at ahanson@nirb.ca.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Erik Madsen, Baffinland Iron Mines Corporation
Sharon Ehaloak, Nunavut Planning Commission
Mary River Distribution List

¹ NIRB File No.: 03MN107, Hearing Report for the NLCA 12.8.2 Reconsideration of Condition 32 of the Meadowbank Gold Mine Project Certificate (No. 004), June 2009 at pp. 1-5.