



NIRB File No.: 08MN053

July 2, 2013

Adrian Boyd
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Nunavut Planning Commission
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Sent via email: aboyd@nunavut.ca

Re: Follow up to Nunavut Planning Commission Letter Regarding Timing of NPC Conformity Determination and NIRB Reconsideration Process Under Article 12, Part 8 Section 12.8.2 NLCA Reconsideration of Project Certificate No. 005 – Mary River Project

Dear Adrian Boyd:

Thank you for your letter of June 28, 2013 to the Nunavut Impact Review Board (NIRB or Board) from the Nunavut Planning Commission (NPC) regarding the timing of NPC's conformity determination of Baffinland Iron Mines Corporation's (Baffinland) "Early Revenue Phase" proposal that has triggered a reconsideration by the NIRB of the terms and conditions of Project Certificate No. 005. At the outset, the Board wishes to clarify that the Board does recognize the NPC's jurisdiction and discretion in conducting a conformity determination of this proposal against the provisions of the North Baffin Regional Land Use Plan and nothing in recent correspondence was intended to direct or limit the NPC's jurisdiction in that regard.

Specifically, it appears that when the NIRB issued its recent correspondence of June 24, 2013 to Baffinland regarding the receipt of Baffinland's addendum to the Final Environmental Impact Statement ("the Addendum") in support of the Early Revenue Phase proposal and indicated that the NIRB anticipated that it would take 15 days to conduct its internal conformity review of the Addendum against the previously issued EIS Guidelines and that the Board "...trusts that this time will be sufficient for the Proponent to have satisfied the Nunavut Planning Commission's (NPC) requirements to obtain a conformity determination (North Baffin Regional Land Use Plan) for the Early Revenue Phase proposal" inadvertently created the impression that the NIRB was somehow imposing a 15 day timeline on NPC's conformity determination process. This was not the Board's intention; rather, it was an indication of anticipated timing, based solely on the Board's previous experience with the NPC's conformity determination process in other cases, an update from Baffinland regarding the status of the NPC process and an indication of what appeared to be the status of the matter before the NPC.

This statement also reflected the Board's recognition of the direction provided by the Minister in his letter of May 28, 2013 accepting the Board's indication that Baffinland's Early Revenue Phase proposal was an appropriate case for reconsideration of project certificate terms and conditions and providing direction regarding timelines and priorities. The Minister's correspondence clearly highlighted the requirement for both an expeditious and a thorough review process. In keeping with this direction, the Board's letter of June 24, 2013 was intended to advise all parties of the Board's timelines in conducting its internal conformity review but was not intended to impose a timeline on the NPC.

The NIRB, as indicated in its correspondence since receiving Baffinland's reconsideration request, intends to await the receipt of NPC's conformity determination prior to completing its internal conformity review of the Addendum, as this requirement is an element of the Board's internal conformity requirements. However, the Board also wishes to make clear that upon receipt of the NPC's conformity determination, the Board will, as expeditiously as possible, complete the Board's internal conformity review and provide direction to all parties regarding next steps.

In the interim, the Board reiterates for all parties that the process for a NIRB reconsideration of project certificate terms and conditions under Article 12, Section 12.8.2 of the Nunavut Land Claims Agreement (NLCA) is not the same as that for a screening of a project proposal under NLCA Article 12, Part 4. Accordingly, the Board recognizes that the licence/permit/authorization applications typically submitted to the NPC to trigger the NPC's conformity determination process may, in this instance, vary from what would normally be the case with respect to a proposed project amendment requiring screening by the NIRB. Should the NPC wish to discuss the issues regarding these differences further with the Board, we would welcome the opportunity for a teleconference with the NPC, Baffinland and the authorizing agencies involved in the reconsideration.

In closing, the NIRB does recognize the importance of providing all parties with as much clarity regarding the reconsideration process as possible and the Board regrets that the NPC was left with the impression that the Board was in some way intending to limit the NPC's timing and process to conduct its conformity determination—that was not the Board's intention.

If you wish to discuss the Early Revenue Phase proposal further please contact Amanda Hanson, Director of Technical Services directly 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
Brian Aglukark, Nunavut Planning Commission
Phyllis Beaulieu, Nunavut Water Board
Bernie MacIsaac, Qikiqtani Inuit Association
Jeff Mercer, Aboriginal Affairs and Northern Development
Georgina Williston, Fisheries and Oceans Canada
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