



NIRB File No.: 08MN053

April 30, 2012

Brian Aglukark
Director, Implementation
Nunavut Planning Commission
Arviat, NU

Sent via Email: aglukark@nunavut.ca

Re: NIRB's Views on Completeness of Baffinland's Application for a Transportation Corridor in Relation to the Mary River Project Proposal

Dear Brian Aglukark:

As you are aware, since the spring of 2009, the Nunavut Impact Review Board (NIRB or Board) and the Nunavut Planning Commission (NPC or Commission) have been working together in a joint review of a proposed transportation corridor associated with Baffinland Iron Mines Corp.'s Mary River project proposal (the Project), as directed by the Minister of Aboriginal Affairs and Northern Development Canada (AANDC) and as required by provisions of the North Baffin Regional Land Use Plan (NBRLUP). The intention of the NPC-NIRB joint review process is to consider an application for a transportation corridor for the Project pursuant to the requirements of NBRLUP Section 3.5.12 in coordination with the process for the NIRB's review of the Project under Part 5 of Article 12 of the Nunavut Land Claims Agreement (NLCA).

The proposed railway for the Mary River project is 149 km long and would include a construction access road with secondary arteries leading to quarries and camps required for railway construction. Approximately 34 km of the proposed railway routing originating at the proposed mine site at Mary River are within the boundaries of the North Baffin Regional Land Use Plan¹, while the remainder of the routing carrying on to a termination point at Steensby Inlet is not subject to the provisions of the NBRLUP. This initial 34 km section of the proposed railway falling within the NBRLUP area is the subject of Baffinland's application for a transportation corridor as required by NBRLUP Section 3.5.11.

On December 9, 2011, the NPC and the NIRB released an update on the joint review of this transportation corridor as Appendix 2 of the NIRB's *Preliminary Hearing Conference Decision Concerning The Mary River Project* (NIRB File No. 08MN053 (PHC Decision)). The NPC and NIRB noted that, in their opinion, further information on the following points would be needed to satisfy the information requirements in Appendix J of the NBRLUP:

¹ FEIS Volume 2, Section 2.2.1, page 45

- A more comprehensive alternatives assessment of the railroad options, including selection of railway, port and shipping options;
- Details regarding the final railway route; and
- Information regarding the construction and operation of the railway and related impacts on caribou, fish and fish habitat, and Inuit harvesting and traditional pursuits.

The NIRB went on to note that, should Baffinland submit a FEIS that complies with the Board's PHC Decision, including Baffinland's commitments as set out in Appendix 1, the FEIS should satisfy the information requirements set out in Appendix J, items 1 and 2. However, the NIRB also identified that as additional information requirements remained outstanding at the time of the PHC Decision, the NIRB was not in a position to provide the NPC with the NIRB's views on whether the assessments necessary to fulfill the environmental assessment elements of Appendix K of the NBRLUP had been provided. At the time the NPC noted it was considering whether it might require further information to satisfy item 3 of Appendix J.

Based on the results of the NIRB's compliance review of the FEIS as issued by the Board on February 29, 2012, the NIRB's consideration of Information Requests (IRs) received from parties on March 30, 2012 and Baffinland's subsequent IR responses received on April 19, 2012, the Board believes that sufficient information has now been provided in support of Baffinland's application for a transportation corridor to meet with the specific requirements of Appendices J and K that can reasonably be addressed through the NIRB's Review.

Please note, as identified in the PHC Decision, Appendix 2, the NIRB's project-specific review process is not designed to directly address some of the planning guidelines set out in Appendix K Item 1 (e.g. corridor width) and certain aspects of Item 2 (e.g. considerations of the role of the railway as a corridor to provide for improved access to other resources having high potential for development). Therefore, it is outside the scope of the NIRB's expertise to express our views regarding this information in the context of the NPC/NIRB joint review, and the NIRB defers to the NPC to evaluate whether it will be able to meet its planning guideline obligations using the information contained within Baffinland's FEIS, or whether additional information is required. Please note that the NIRB has enclosed FEIS Appendix 1 B-2 which provides an indication of relevant FEIS sections where the information provided by Baffinland in support of its transportation corridor application can be accessed.

In correspondence to the NIRB dated March 30, 2012, the NPC advised that, following its presence/absence review of the FEIS it appeared that more information regarding "the suitability of the corridor for the inclusion of other possible communication and transportation initiatives (roads, transmission lines pipelines, etc.)" may need to be provided in order to satisfy NBRLUP Appendix J, Item 3.

NBRLUP Appendix J item 3 requires that applicants wishing to develop a transportation and/or communications corridor in the North Baffin region provide the NPC with an assessment of the suitability of the corridor for the inclusion of other possible communication and transportation initiatives (roads, transmission lines, pipelines, etc.). This assessment should include:

- the environmental, social and terrain engineering consequences, and the cumulative impacts of the project, and
- the environmental and social impact of the project on nearby settlements or on nearby existing and proposed transportation systems.

While FEIS volumes 4, 7 and 9 address the potential environmental and social impacts of the Project on nearby settlements, it is recognized that potential impacts of this portion of the railway (i.e. the proposed transportation corridor) on nearby existing and proposed transportation systems are unlikely. This section of the proposed railway is located in the interior of northern Baffin Island and would be connected to the proposed Mary River mine site only. The only existing nearby transportation infrastructure is the Milne Inlet Tote Road which was built to allow for access from the coast at Milne Inlet to the Mary River mine site and does not connect with any other existing or proposed transportation systems. Consequently, in the NIRB's view there is no potential for environmental or social impacts on nearby existing or proposed transportation systems as a result of the portion of the proposed transportation corridor falling within the NBRLUP area.

In accordance with the PHC Decision and the NIRB's participation throughout the joint review process, now that the NIRB has provided our views to the NPC on the status of compliance with the requirements of Appendix K that are addressed under the joint review, we have now reached the extent of our advice and expertise under the NPC/NIRB joint review process. Consequently the NIRB will, unless requested otherwise by the NPC or the Minister, proceed with the next steps in the Board's Review of the Project in accordance with its established process and timelines.

Sincerely,



Ryan Barry
Executive Director
Nunavut Impact Review Board

cc: Erik Madsen, Baffinland Iron Mines Corp.
Mary River Distribution List

Enclosed: FEIS Appendix 1 B-2, Concordance with EIS Guidelines (Appendix J and K)