



October 31, 2011

Mr. Ron Roach, Chairperson
Nunavut Planning Commission
P.O. Box 2101
Cambridge Bay, NU X0B 0C0

Re: North Baffin Regional Land Use Plan Transportation Corridor

Dear Mr. Roach

Baffinland Iron Mines Corporation ("**Baffinland**") would like to take the opportunity to comment on your letter dated October 12, 2011 to the Nunavut Impact Review Board ("**NIRB**") and to request that the Nunavut Planning Commission proceed with consideration of Baffinland's application for an amendment to the North Baffin Regional Land Use Plan ("**NBRLUP**").

The background and procedural chronology respecting the joint review process to date is summarized in the attached Schedule "A".

In accordance with the joint review process agreed to between NIRB and NPC as outlined in the joint letter of March 16, 2009, and in accordance with the provisions of the NIRB guidelines for the environmental impact statement, Baffinland included in its draft EIS at Appendix 1C-2 a cross reference to the information required under Appendices J and K of the NBRLUP. Section 1.4.1 of the EIS Guidelines provides that this Appendix and the information included in the DEIS serve as Baffinland's "formal application for an amendment to the NBRLUP".

As referenced in the background and procedural chronology, attached as Schedule "A" to this letter, it is anticipated that, in accordance with the joint review process established by NIRB and NPC on March 16, 2009, NIRB and NPC would consider the application for the transportation corridor amendment to the NBRLUP, at the Pre-Hearing Conference scheduled for Igloolik and Pond Inlet, on November 6 through November 10, 2011.

We were concerned to receive your letter of October 12, 2011, which appears to indicate that NPC would not be following the joint review process agreed to between NIRB and NPC on March 16, 2009.

We believe that we have complied with the requirements of the joint review process and we have been operating under the expectation that at the upcoming Pre-Hearing Conference, NPC and NIRB will determine whether the information requirements of Appendices J and K have been met. We would be pleased if NPC would confirm that it will continue to follow the joint review

process established in March 2009 and proceed with the joint consideration of the amendment application at the Pre-Hearing Conference.

Attached as Schedule "B" to this letter is a map showing the proposed transportation corridor. Once an amendment is issued to provide for the transportation corridor under the NBRLUP, we expect that no further participation by NPC in the NIRB review process would likely be required.

We are copying this letter to NIRB in the hope that NPC will be in communication with NIRB to complete the joint review process established between the two agencies.

Yours very truly,



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cc: Nunavut Impact Review Board

SCHEDULE "A"

On March 20, 2008, Baffinland filed the Mary River Project Development Plan with NIRB.

A 34 km of the section of the planned railway as proposed in the Mary River Project Development Proposal will be located in the North Baffin Planning Region.

On March 20, 2008, NIRB forwarded the Development Proposal to the NPC for a conformity determination under Article 11 of the Nunavut Land Claim Agreement ("NLCA").

By letter to NIRB and others dated August 30, 2008, the NPC determined that the project conformed to the NBRLUP and the NPC forwarded it to NIRB for screening.

The August 30, 2008 letter stated:

"The NPC has completed its review of the above noted project proposal. The project conforms with the North Baffin Regional Land Use Plan (NBRLUP) and we are forwarding it to NIRB for screening. We draw your attention to the provisions of sections 3.5.11 and 3.5.12 of Appendix "C" of the NBRLUP, a copy of which is enclosed, and note that a joint process to address the prospective transportation corridor is contemplated by those provisions. NPC looks forward to working with NIRB in accordance with those provisions."

Sections 3.5.10, 3.5.11 and 3.5.12 of Appendix "C" of the NBRLUP read as follows:

3.5.10 While ensuring the respect of applicable Canadian international obligations in the region, the NPC shall implement the concept of a transportation and/or communications "corridor" as a land use policy having general application, and applying to land and water routes throughout the region, based on the processes outlined in Appendices J and K.

3.5.11 All parties wishing to develop a transportation and/or communications corridor shall submit to the NPC a detailed application for an amendment. This application must include an assessment of alternative routes, plus the cumulative effects of the preferred route. It shall provide reasonable options for other identifiable transportation and utility facilities.

3.5.12 The NPC, and either NIRB or a panel acting under section 12.4.7 of the NLCA, shall publicly review the proposed corridor to determine whether the proposal adequately meets the guidelines set out in Appendices J and K. Once it is determined that a proposal does meet the guidelines, the NPC may request the ministers to amend the plan to include the new transportation corridor.

By letter to Baffinland dated May 2, 2008, NIRB indicated that it would proceed with a screening of the project proposal.

In the letter of May 2, 2008, NIRB confirmed that it had received a positive conformity determination from the NPC, and indicated as follows:

“As noted in the confirmation determination from the NPC, the NBRLUP, in conformity requirement 3.5.12 requires the NIRB and the NPC to jointly review the proposed transportation corridor associated with this project proposal in accordance with the guidelines set out in Appendices J and K of the NBRLUP. This public review exercise conducted jointly by the NIRB and NPC seems necessary to guide a potential amendment to the NBRLUP.”

During the screening process, a number of parties including the QIA and INAC confirmed the need to proceed with a joint process (NIRB and the NPC) towards an amendment, in accordance with the NPC conformity decision. (See the letter from the QIA dated June 2, 2008 to NIRB, the NWB and the NPC, and the letter dated June 4, 2008 from INAC to NIRB and NPC.)

By letter of June 27, 2008 to the Minister of Indian Affairs and Northern Development, NIRB provided its screening decision and recommendations to the Minister. NIRB recommended that a Part 5 review be commenced under Article 12 of the NLCA. In that letter, NIRB referred to the NLCA conformity decision and the joint process considering an amendment application under the NBRLUP provisions 3.5.10 – 3.5.12 and Appendices J and K. NIRB sought the advice of the Minister on this process.

By letter dated February 11, 2009, the Minister acknowledged receipt of the NIRB screening decision report and referred the project proposal to NIRB for a review under Part 5 of Article 12 of the NLCA. The Minister’s letter referenced the outstanding issues relating to the land use planning process, and stated as follows:

“In order to limit the delays to the overall review of the Proposal, I would encourage the Board and the Commission to develop an arrangement that will satisfy the outstanding requirements of the land use planning process, while not unduly encumbering the Board’s Part 5 review process. Once finalized, I would encourage the Commission and Board to communicate the agreed upon processes to all parties involved in the review.”

The letter to The Mary River Distribution List dated March 16, 2009 issued jointly by NIRB and the NPC referenced the Minister’s letter of February 11, 2009 and confirmed as follows:

“The NIRB and NPC are pleased to announce that their respective representatives have now had the opportunity to discuss and formalize arrangements to ensure an efficient Part 5 Review process which will satisfy both organizations requirements for this file. A detailed description of the process to be followed for the Part 5 Review of the Project is provided as Appendix A, and a diagram of the process is also provided as Appendix B to complement the written description.”

The process diagram referred to as Appendix B to the March 16 letter indicated that:

- the NIRB guidelines for the Part 5 Review would contain the information requirements established in the NBRLUP Appendices J and K;
- NIRB would forward technical review comments specific to NBRLUP Appendices J and K to the NPC for information and at the Pre-Hearing Conference, NPC and NIRB will determine whether the information requirements of Appendices J and K have been met; and
- once a final transportation corridor is determined, the NPC may request that the NBRLUP be amended to include the location.

The final NIRB guidelines for the preparation of the EIS for the project proposal included, in part 1.4.1, the arrangements made between NIRB and NPC for the joint review of the transportation corridor. Specifically, the guidelines specified:

“In keeping with the Minister’s direction and the provisions of the NBRLUP noted above, NIRB and the NPC have developed an arrangement to jointly review the transportation corridor (railway) proposed by the Project. The Proponent is required to include the project-specific information stipulated in Appendices J and K of the NBRLUP (see Appendix B), within its EIS. Given that much of the required information pertains directly to the impact assessment of the Project, the Proponent should cross reference where the required information can be found within the body of the EIS. It is recommended that an appendix be included in the EIS, with references to all the information required by Appendix B, which will then serve as the Proponent’s formal application for an amendment to the NBRLUP. “

The Baffinland DEIS includes Appendix 1C-2 which references the information required by Appendices J and K of the NBRLUP, and serves as the proponent’s formal application for an amendment to the NBRLUP.

In accordance with the coordinated Part 5 Review process, NIRB, in its letter of September 9, 2011, requested that the parties participating in the review submit Technical Reviews by October 5, 2011, and requested Technical Review comments on a number of issues including an indication of the issues relevant to the NIRB and NPC’s joint review of the transportation corridor. We presume that, in accordance with the process schedule attached as Appendix B to the NIRB/NPC letter of March 16, 2009, the Technical Review comments relating to the transportation corridor were forwarded to the NPC by NIRB.

Also in accordance with the process schedule, at the Pre-Hearing Conference which is now scheduled for November 6 – 10 in Igloolik and Pond Inlet, NIRB and the NPC are to determine whether the information requirements of Appendices J and K have been met.

SCHEDULE “B”

MAP OF PROPOSED TRANSPORTATION CORRIDOR

