



**NIRB File No.: 08MN053**

February 12, 2013

Brian Aglukark  
Director, Implementation  
Nunavut Planning Commission  
P.O. Box 1360  
Cambridge Bay, NU X0B 0C0

*Sent via email: [aglukark@nunavut.ca](mailto:aglukark@nunavut.ca)*

**Re: Follow up to Nunavut Planning Commission Response to BIMC Request to Amend Project Certificate No. 005 for the Mary River Project**

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Dear Brian Aglukark:

Thank you for your recent letter of February 7, 2013 to the Nunavut Impact Review Board (NIRB or Board) in response to the Board's request for comments on the Baffinland Iron Mines Corporation (Baffinland or Proponent) letter of January 13, 2013 in which Baffinland indicated it may be necessary for the NIRB to reconsider the Terms and Conditions of Project Certificate No. 005 for the Mary River Project in accordance with Section 12.8.2 of the Nunavut Land Claims Agreement (NLCA). In the Nunavut Planning Commission's (NPC) response, you identified that the different routing proposed by Baffinland in the "Early Revenue Phase" proposal was not included in the NPC's original positive conformity determination for the Mary River Project issued on April 30, 2008. As a result, the NPC indicated that a new conformity determination will be required by the NPC specifically for the new development option now proposed by Baffinland prior to the NIRB's "screening" of the amendments.

As you may be aware from the NIRB's recent correspondence to the Minister of Aboriginal Affairs and Northern Development (Minister), the Board has made the determination that it is appropriate and advisable for the Board to consider the amendments to the Project proposed under the Early Revenue Phase as a reconsideration of the Terms and Conditions of Project Certificate No. 005 for the Mary River Project under Section 12.8.2 of the NLCA. In arriving at this determination, the Board expressly noted that in contrast to the situation where a revised Project constitutes a stand alone project that will be subject to a separate screening under Article 12, Part 4 Screening of Project Proposals of the NLCA, based on the integral link between the original Project and the amendments to the Project as proposed by Baffinland in the Early Revenue Phase it is appropriate for the NIRB to consider the amendments pursuant to the reconsideration process set out in Section 12.8.2 of the NLCA.

On this basis, the Board wishes to clarify for the NPC that the NIRB will not be conducting a screening of the proposed amendments to the Project under Article 12 Part 4 of the NLCA, but

rather will be undertaking a reconsideration of the Project Certificate Terms and Conditions under Article 12, Part 8, Section 12.8.2 of the NLCA. The Board notes, however, that although the NIRB will not be undertaking a screening in relation to the proposed amendments, in recognition of the central role of the NPC and land use planning under the NLCA's integrated regulatory process, the Board has indicated to the Minister, the Proponent and the parties, that until the proposed project amendments have been reviewed by the NPC for conformity with the North Baffin Regional Land Use Plan and the NPC has issued a positive conformity determination, the Board will not initiate the internal review processes associated with the Board's reconsideration of the Terms and Conditions of Project Certificate No. 005.

On this basis, the Board has issued direction to the Proponent that the NPC's conformity determination is a key precondition to the initiation of the NIRB's internal review processes, and the Board has encouraged the Proponent to follow up with the NPC in this regard. With the NPC's conformity determination constituting a key preliminary step and recognizing that the timeline for determining conformity with approved land use plans is completely at the NPC's discretion, the NIRB would appreciate receiving the NPC's guidance as soon as possible regarding the anticipated time required for its consideration of this pending application.

In the interim, if you have any questions, comments or wish to discuss further the Board's approach to the reconsideration, please contact Amanda Hanson, Director of Technical Services at (867) 983-4615 or via email at [ahanson@nirb.ca](mailto:ahanson@nirb.ca).

Sincerely,

A handwritten signature in black ink, reading "Ryan Barry", with a long horizontal flourish extending to the right.

Ryan Barry  
Executive Director  
Nunavut Impact Review Board

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