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Nunavunmi Parnaiyiit
Nunavut Planning Commission
Commission d'Aménagement du Nunavut

May 16, 2014

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Dear Ms. Williston, Mr. Bathory, Ms. Hanson

Re: DFO NU-07-0050 NIRB File08MN053 Baffinland Iron Mine Early Revenue
Phase (ERP) Curran CD May 14

The Nunavut Planning Commission (NPC) issued a conditional positive conformity determination on August 13, 2013 for the above noted project proposal. Those conditions were: (1) the joint review process for the proposed transportation corridor provided in section 3.5.12 of the North Baffin Regional Land Use Plan (NBR LUP) is completed, (2) the NPC makes a recommendation to the Ministers on whether to amend the plan, and (3) the Ministers determine whether to amend the plan. The three conditions in the NPC's August 13, 2013 conditional conformity determination letter have now been satisfied as explained below.

The NPC and the Nunavut Impact Review Board conducted public reviews under section 3.5.12 of the NBRLUP. The NPC received and reviewed various documents, comments, and submissions, and posted these online in its public record of the review, which included but was not limited to the following:

- Mary River Project Final Environmental Impact Statement (February 2012);
- Department of Fisheries and Oceans Canada application (June 2013);
- Addendum to the Final Environmental Impact Statement (June 2013);
- NPC / NIRB Public Review Records regarding the BIMC ERP Proposal;
- NIRB's Final Report – BIMC ERP proposal (March 2014);
- Responses to the informational requests related to the Mary River project; and
- Submissions related to the NPC's public review of the ERP.

After its public review process was complete, the NPC drafted Amendment No. 2 to the NBRLUP and sent a letter to the federal and territorial Ministers on April 14, 2014, stating that the BIMC Mary River Project ERP proposal and application to amend the NBRLUP had satisfied the requirements in section 3.5.12 of the NBRLUP, and recommending the amendment. Both Ministers wrote to the NPC on April 28, 2014 approving of Amendment No. 2 to the NBRLUP to show a new Milne Inlet Tote Road and Marine Transportation Corridor from the Mary River Project location to Milne Inlet and North from Milne Inlet and then East through Eclipse Sound to Baffin Bay to the eastern extent of the land-fast ice zone. Amendment No. 2 came into effect when it was approved by the Ministers.

The NPC has completed its review of the above noted project proposal. It conforms to the amended NBR LUP, subject to the applicant's ongoing compliance with the conformity requirements listed in the attached undertaking. The authorizing agencies to

which this letter is addressed are responsible under the Nunavut Land Claims Agreement to implement any of the attached requirements by incorporating the requirements directly, or otherwise ensuring that they are met, in the terms and conditions of any authorizations issued.

My office would be pleased to discuss with these agencies how best to implement these requirements and to review any draft authorizations that the agencies wish to provide for that purpose.

This conformity determination applies only to the above noted applications as submitted. The proponent must ensure other applications for a permit under this project proposal not listed above are forwarded to NPC for a conformity determination against the NBRLUP, and must notify the NPC immediately if any material change to the project proposal is made.

Sincerely,



Brian Aglukark,
Director, Implementation
Nunavut Planning Commission

CC. Oliver Curran, BIMC (by email)
Amanda Hansen, NIRB (by email)
Phyllis Beaulieu, NWB (by email)
BIMC Dist. List

Encl.

AUGUST 9, 2013
NUNAVUT PLANNING COMMISSION
REVISED APPLICATION TO DETERMINE CONFORMITY
WITH THE NORTH BAFFIN REGIONAL LAND USE PLAN

All applicants for a project proposal shall comply with the requirements listed below.
The relevant sections of the plan are noted in each requirement.

- 2. Environmental Protection:** s3.13.8: The applicant undertakes to prevent any new occurrences of pollution, garbage and contamination at the site of the development.

☒ Yes

No

- 3. Removal of Fuel Drums:** s3.13.8: The applicant undertakes to remove all drums safely from the site and dispose of the drums in a safe manner.

☒ Yes

No

- 4. New Site Restoration and Clean Up:** Appendix H, s1: The applicant undertakes to clean up the site and restore the site to its natural condition to the greatest extent possible.

☒ Yes

No

- 5. Old Site Restoration and Clean Up:** s3.13.2 and Appendix H, S1: The applicant undertakes to clean up the site and restore the site to its original condition to the greatest extent possible, including any work required due to the applicant's action prior to this application.

☒ Yes

No

- 6. Low-Level Air Flights:** Appendix H, s3: Will the applicant avoid all low-level flights?

☒ Yes

No

- i. If not, explain why such flights are or may be absolutely necessary.

Low level flights will be avoided to the extent possible and subject to safety considerations during poor weather and or visibility.

- ii. If such flights are or may be absolutely necessary, will they avoid disturbance to people and wildlife?

☒ Yes

No

Mitigation measures for aircraft flights have been assessed and approved under Project Certificate No. 005. All mitigations are subject to safety considerations.

- iii. If not, explain why it is not possible to avoid such disturbance.

7. **Caribou Protection Measures.** s3.3.7 and Appendix I: Will the applicant comply with the Caribou Protection Measures outlined in section 3.3.7 and in Appendix I?

☒ Yes

No

9. **Polar Bear Denning Areas and Walrus Haul-outs:** s3.3.8: Will the applicant keep its activities away from any polar bear denning area or walrus haul-out?

☒ Yes

No

HERITAGE RESOURCES

10. **Reporting of Archaeological Sites:** s3.11.3 and Appendix H, s2 and s8: Will the applicant immediately report the discovery of all suspected archaeological sites to the Department of Culture and Heritage (GN)?

☒ Yes

No

MINING

11. **Mining Development:** s3.6.5: Is the proposal for mining development?

☒ Yes

No

If yes, include with the application a mine closure and restoration plan and the proof of complete financial guarantees for the abandonment and restoration of the site.

The Preliminary Mine Closure and Reclamation Plan which was Appendix 10G of the Final Environmental Impact Statement, has been approved by the Nunavut Water Board under Part B, Section 14 of the Water Licence issued June 12, 2013 (the Water Licence is still pending approval by the Minister). Subsequently, the Interim Abandonment and Reclamation Plan is provided in the Addendum to FEIS as Appendix 10G. The Plan

includes a closure and reclamation plan for all aspects of the Mary River Project including the mine site, and Milne Inlet.

The Water Licence also includes, as Part C, conditions applying to security under which the initial total security amount of approximately \$36 million to cover closure and reclamation of the current works and undertakings. The Water Licence provides for an Annual Security Review as set out in Schedule C of the Water Licence and will require Baffinland to provide an updated Abandonment and Reclamation Plan on an annual basis along with a calculation of security for the highest level of reclamation liability for land and water for the upcoming year. Additional security will be posted annually as necessary. Currently, as shown in Attachment 3, a Letter of Credit (LOC) has been issued in favour of the Qikiqtani Inuit Association in the amount of \$26,200,000.00 and a second LOC has been issued in favour of Aboriginal Affairs and Northern Development Canada in the amount of \$6,738,216.00. As per Part C, Item A of the Type A Water Licence issued by the Nunavut Water Board to the Minister, Baffinland will be required to post additional credit of \$4,311,784 once the Type A Water Licence is issued. The total of all LOC's would cover all security costs associated with planned activities in 2013.

The ERP, if approved by the Nunavut Impact Review Board, will be a modification of the Mary River Project and the above requirements for the Abandonment and Reclamation Plan and for security will continue to apply to the Project as amended.

- 12. Negative Effects:** s3.6.6: Has the applicant planned to minimize the negative effects of its activity on the environment?

☒ Yes

☐ No

Include with the application the mitigative measures developed.

The Project Certificate issued for the Mary River Project by the Nunavut Impact Review Board on December 28, 2012 includes extensive requirements for minimizing the negative effects of the Project on the environment. The Project Certificate contains 182 terms and conditions and requires the implementation of management plans for all aspects of the environment including water, vegetation, the aquatic environment, terrestrial wildlife and habitat, birds, the marine environment and marine wildlife and marine habitat.

- 13. Hunting Restrictions:** s3.6.9: The applicant is informed of any special hunting restrictions that may apply to the area and will strictly enforce them at its mine sites and along transportation routes.

☒ Yes

☐ No

Term and Condition No. 62 of the Nunavut Impact Review Board Project Certificate for the Mary River Project specifies that the proponent shall prohibit project employees from transportation of firearms to site and from operating firearms in project areas for the purpose of wildlife harvesting. These requirements are incorporated into the Environmental Management Plans for the Project and will continue to apply to the modifications proposed for the ERP. The IIBA will include provisions for beneficiaries pursuant to the NLCA.

14. Carving Stone Deposits: *Appendix H, s9.* Will the applicant report any discoveries of carving stone deposits to the Qikiqtani Inuit Association?

☒ Yes

☐ No

A soap stone deposit at Mary River is a resource harvested by residents of North Baffin for carving purposes. Like all soapstone deposits, it is protected under the Nunavut Land Claims Agreement (NLCA), giving Inuit inherent harvesting rights. Figure 3-2.3 in Volume 3 of the FEIS indicates the location of the deposit.

MARINE AND TERRESTRIAL TRANSPORTATION

21. Corridor: *s3.5.11, s3.3.5.12:* Does the proposal consider the development of a transportation and/or communications corridor?

☐ Yes

☐ No

If yes, include with the application an assessment of alternate routes, the cumulative effects of the preferred route and options for other identifiable transportation and utility facilities.

The issue of whether the proposal considers the development of a transportation corridor under the above sections has been the subject of correspondence between Baffinland and the NPC, and the issues are summarized in the August 2, 2013 Submission made by Baffinland in response to questions set out by the Commission in its letter of July 30, 2013.

By letter dated August 6, 2013, the NPC requested an application for the development of a transportation corridor pursuant to Section 3.5.11 of the NBRLUP, prior to making a conformity determination. We request that the Commission accept this Revised Application to Determine Conformity as including an application for an amendment to the NBRLUP required under Section 3.5.11 of the NBRLUP and Appendices J and K. The Application includes the Project Description and Addendum to the Final Environmental Impact Statement for the Mary River Project, which Addendum includes, in Appendix 1B-4 a table showing concordance with the EIS Guidelines and Appendices J and K of the NBRLUP. We trust this Application satisfies the August 6, 2013 request of the NPC.

22. Code of Good Conduct for Land Users: *Appendix H:* The applicant undertakes to adhere to the code of Good Conduct at all times.

☒ Yes

☐ No

I, Erik Madsen (Baffinland) (name of applicant), certify that the information I have given in this application is true and correct and hereby make the above undertakings which form part of my application for a project proposal within the meaning of the Nunavut Land Claims Agreement.



Date: 9 August 2013

Signature of Applicant: _____

North Baffin Regional Land Use Plan
Appendix H
Code of Good Conduct for Land Users

1. The landscape of each camp and other land use sites will be restored to its original condition to the greatest degree possible. Water quality will be preserved and no substances that will impair water quality will be dumped in water bodies. When possible and feasible, old sites will be restored to the natural state.
2. All land users shall assist communities and government(s) in identifying and protecting archaeological sites and carving-stone sites, as required by law.
3. Generally, low-level flights by aircraft at less than 300 metres should not occur where they will disturb wildlife or people. If such flights are necessary, they should only take place after consultation with the appropriate communities. All land users are responsible for reporting to the land managers any illegal or questionable low-level flight.
4. All activities on the land will be conducted in such a fashion that the renewable resources of the area in question are conserved.
5. Whenever practicable, and consistent with sound procurement management, land users will follow the practice of local purchase of supplies and services.
6. Land users will establish working relationships with local communities and respect the traditional users of the land.
7. During the caribou calving, post-calving and migrating seasons, land use activities should be restricted to avoid disturbing caribou, in general, and activities will be governed more specifically by caribou protection measures such as those contained in Appendix I.
8. Artifacts must be left where they are found. All land users are responsible for reporting the location of, or any removal or disturbance of artifacts, to Department of Culture and Heritage.
9. The mining industry is encouraged to assist in identifying local carving-stone deposits and report any discoveries to the QIA. Industry is also encouraged to identify and report old waste sites that need to be cleaned up.
10. All land users shall obey the laws of general application applying to land use.