



By Email and by Mail

June 8, 2015

The Honorable Bernard Valcourt, PC, QC, MP.
Minister, Department of Indian Affairs and Northern Development
21st floor, Les Terrasses de la Chaudière.
10 Wellington Street
Ottawa, ON K1A 0H4

Dear Minister Valcourt,

Re: Baffinland Iron Mines Corporation's (BIMC) exemption request in response to the Nunavut Planning Commission's (NPC) negative conformity determination on the proposed Mary River Project Phase II

Thank you for your letter dated June 4, 2015 responding to the Qikiqtani Inuit Association's (QIA) letter dated May 20th, 2015.

The NLCA outlines the purpose of land use plans, and the spirit and intent of Article 11 is clearly seen throughout section 11.2.1, with Inuit involvement having a crucial role in land use planning and processes.

"The primary purpose of land use planning in the Nunavut Settlement Area shall be to protect and promote ... the existing and future well-being of Inuit and Inuit Owned Lands." Subsection 11.2.1(b)

"The planning process shall ensure land use plans reflect the priorities and values of the residents of the planning regions." Subsection 11.2.1(c)

The North Baffin Regional Land Use Plan (NBRLUP) was created with such public involvement, and we find no reason for that involvement not to continue.

"The public planning process shall provide an opportunity for the active and informed participation and support of Inuit...." Subsection 11.2.1(d)

The amendment option would provide needed opportunities for appropriate levels of public involvement and consultation with Inuit, and for all parties to work together on a collaborative

basis. Moreover, as an organization created to represent Inuit, QIA is working to provide every opportunity for Inuit of the Qikiqtani region to participate effectively in Nunavut's highly integrated land use planning and other regulatory processes. A highly collaborative approach is a clearly stated organizing concept and requirement of the Nunavut Agreement: *"An effective land use planning process requires the active participation of both Government and Inuit."* Subsection 11.2.1(g).

Although a ministerial exemption is a process contemplated in Article 11 of the Nunavut Agreement, it should only be used in extraordinary and compelling circumstances, or for minor variances with minimal impacts, and not to bypass either the features of approved land use plans or the normative processes of land use planning. The exemption option is not the proper approach in this case given, among other things, the scale of the project, the extent and potential impacts of BIMC's recently proposed changes, and the availability of another remedy that better reflects Article 11's emphasis on public participation and confidence and on transparency and accountability in decision making.

Many land use issues are related to natural resources, as expressed in the opening pages of the Nunavut Planning Commission's Draft Nunavut Land Use Plan (2014, Section 1.1):

"Land use plans prepared by the NPC are intended to guide and direct resource use and development."

Exercising your authority to exempt Baffinland's Phase II project proposal from the NBRLUP would remove the ability of the NBRLUP to do just that – guide and direct resource development.

Using an exemption to bypass the role of the NPC is contradictory to the spirit and intent of Article 11 as well as the separate and distinct regulatory processes provided in Articles 11 and 12. Circumventing the purpose and core functions of an Institution of Public Government (IPG) like the NPC would undermine the well-designed regulatory processes under the Nunavut Agreement and set a dangerous precedent. A review before the Nunavut Impact Review Board (NIRB) alone would not remedy this deficiency as NIRB is not intended or designed to fulfill the broader functions of a land use planning process under the Nunavut Agreement. Full respect for Nunavut Agreement decision making requires that the project proposals should meet both land use planning and impact review tests fully in both spirit, letter, and in conformity with Inuit and broader public expectations.

At the recent post-settlement announcement of the lawsuit between the Government of Canada and NTI, you spoke of the event as opening a new chapter in the relationship between Nunavut Inuit and Government. NTI and QIA urges AANDC to work with the NPC and ensure that the Nunavut Agreement established IPG has the ability to fulfill its mandate and to help Inuit fully participate in the regulatory process in Nunavut.

We request that you decline BIMC's request for an exemption, and direct your officials to work with NPC to enable it to process an amendment application on a timely and priority basis.

Sincerely,



Pauloosie Akeeagok
President
Qikiqtani Inuit Association



James Eetoolook
Acting President
Nunavut Tunngavik Inc.

c.c.: Honourable Leona Aglukkaq, PC, MP
Honourable Peter Taptuna, Premier
Honourable Johnny Mike, Minister Environment
Honourable Joe Enook, MLA, Pond Inlet
Mr. Hunter Tootoo, Chair, Nunavut Planning Commission
Mrs. Cathy Towntongie, President, Nunavut Tunngavik Incorporated
Mr. Charlie Inuarak, Mayor, Pond Inlet
Mr. Ryan Barry, Nunavut Impact Review Board
Mr. Enookie Inuarak, Community Director, Pond Inlet
Mr. Tom Paddon, President Baffinland Iron Mines Corporation