



Fisheries and Oceans  
Canada

Pêches et Océans  
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*Our file*      *Notre référence*

07-HCAA-CA7-00050

May 14, 2018

Nunavut Impact Review Board (NIRB)  
PO Box 1360  
Cambridge Bay, NU  
X0B 0C0

Dear NIRB:

**Subject:** Baffinland Iron Mines Corp. *Annual Monitoring Report 2017* - Mary River Project.

As requested by the NIRB in their letter dated April 06, 2017, Fisheries and Oceans Canada (DFO) is providing the following comments with respect to Baffinland Iron Mines Corp.'s 2017 Annual Monitoring Report.

DFO understands that the NIRB would like parties to provide comments regarding:

1) Effects Monitoring

- a) Whether the conclusions reached by Baffinland in the *Mary River Project 2017 Annual Monitoring Report* are valid;

DFO has reviewed the Annual Report and doesn't have concerns with the Proponent's conclusions at this time.

- b) Any areas of significance requiring further supporting information.

No additional supporting information is requested by DFO.

2) Compliance Monitoring

- a) Provide a summary of any compliance monitoring and/or site inspections undertaken in association with the Project, including specifically:
  - i. Identify the terms and conditions from the Project Certificate which have been incorporated into any permits, certificates, licenses or other approvals issued for the Project, where applicable;

The Proponent currently operates under two *Fisheries Act Authorizations* (14-HCAA-00525 and 06-HCAA-CA7-00084). Terms and Conditions # 87, 105, 109, 110 and 121 from the Nunavut Impact Review Board's Project Certificate No.:005 for the Mary River Project are directly incorporated into DFO's *Fisheries Act* Authorization for the Milne Inlet Ore Dock (DFO file no.: 14-HCAA-00525)

DFO notes that additional terms and conditions from the NIRB Project Certificate No.: 005 for the Mary River Project, while not directly incorporated, fall under DFO's mandate and overlap with conditions in Baffinland's existing *Fisheries Act*

Authorizations as follows:

- Milne Inlet Tote Road (DFO file no.: 06-HCAA-CA7-00084): Project Certificate 005, Terms and Conditions 19, 26, 45, 47, 48(a) and
  - Milne Inlet Ore Dock (DFO file no.: 14-HCAA-00525): Project Certificate 005, Terms and Conditions 45, 76, 88, 99, 101, 106, 113, 115, 123.
- ii. A summary of any inspections conducted during the 2017 reporting period, and the results of these inspections; and

No site inspections were conducted by DFO during 2017.

- iii. A summary of Baffinland's compliance status with regard to authorizations that have been issued for the Project.

DFO acknowledges that the Proponent is currently in compliance with the *Fisheries Act* Authorizations that have been issued and for the terms and conditions under the NIRB Project Certificate no.:005. However DFO has the following comments regarding the 2017 Annual Report as follows:

- 1) Ship-Board Marine Mammals Observation: Condition 3.4 of Baffinland's *Fisheries Act* Authorization for the Milne Inlet Ore Dock under DFO file number 14-HCAA-00525, states "the *Proponent shall provide sufficient marine mammal observer coverage on project vessels to monitor marine mammal interactions with project vessels*" DFO notes that the marine mammal observer program was discontinued in 2016 as stated in the Baffinland Iron Mines 2017 Annual Report to the Nunavut Impact Review Board, section 4, pg. 238 that "...neither observers nor UAV technology were demonstrated to be effective in detecting marine mammal (...) ahead of the ship, and there were safety issues for transfer of observers to the ship." Currently there is still no alternative to this program. DFO recognizes that through the Ship-Board Observer Committee and the Marine Environment Working Group (MEWG), Baffinland is working to find alternatives and to develop a new marine mammal observation program.
- 2) Fish Passage Obstruction along the Tote Road: As per the DFO *Fisheries Act* Authorization for the Milne Inlet Tote Road (DFO file no.: 06-HCAA-CA7-00084), condition 2.2 states "*Culverts shall be appropriately sized and embedded to maintain upstream and downstream fish passage at each crossing.*" In January 2018, the Proponent submitted its Annual Fish Habitat Monitoring Report to DFO and identified issues with fish passage at multiple culvert crossings, of which some are also reported in the 2017 Annual Report submitted to the NIRB. Specifically, the Proponent identified 12 fish passage/habitat issues in the Annual Report during the July 2017 Crossing Survey, including several perched and damaged culverts ranging from slight

obstructions to full fish passage blockages. The Proponent indicated that 10 crossings were already actively worked on and work will continue in the 2018 season. DFO recommends that all crossings with fish passage issues should be targeted for repair in the 2018 year. In addition, an unexpected absence of juvenile arctic char was identified downstream of crossing BG-50 and further investigation will be conducted during 2018 to determine the potential causes. DFO notes that the loss of juvenile char in the downstream area from the BG-50 crossing may result in additional serious harm to fish not accounted for in the issued *Fisheries Act* Authorization. DFO recommends that Baffinland notify DFO in the event that the trend of missing juvenile arctic char persists in the 2018 season.

If you have any questions, please contact Laura Watkinson at (867) 669-4920, or by email at [Laura.Watkinson@dfo-mpo.gc.ca](mailto:Laura.Watkinson@dfo-mpo.gc.ca). Please refer to the file number referenced above when corresponding with the Program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Bev Ross', with a stylized, cursive script.

Bev Ross  
Regional Manager, Regulatory Reviews  
Fisheries Protection Program

cc. Mark D'Aguiar – Senior FPP Biologist DFO  
Laura Watkinson – FPP Biologist DFO