



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

June 24th, 2024

**Subject: Parks Canada's Comments on Baffinland Iron Mines Corporation's Mary River Project 2023 Annual Report**

Dear NIRB,

Parks Canada appreciates the opportunity to provide comments on the Mary River Project 2023 Annual Report submitted by Baffinland Iron Mines Corporation (BIMC) to the Nunavut Impact Review Board (NIRB) as requested by the NIRB in the May 9, 2024, correspondence. Parks Canada is providing comments attached in the table below, with respect to Effects Monitoring and Compliance monitoring.

Narwhals play a significant role in the marine ecosystem of Tallurutiup Imanga National Marine Conservation Area and in the continuation of Inuit cultural practices. The decision to reduce the aerial survey frequency of the narwhal abundance estimate in Eclipse Sound is of considerable concern to Parks Canada. Annual abundance estimates of narwhals have been highly variable since the start of project shipping activities leading to uncertainty with regards to how this activity impacts local narwhal populations in Eclipse Sound. Parks Canada would like to highlight that in 2023 ice conditions delayed the start of shipping by almost two weeks and as such the 2023 survey results may not fully capture project-related effects on narwhal abundance.

Following the precautionary approach and to better inform future assessments with regards to narwhal abundance estimates and related project effects, Parks Canada recommends maintaining annual aerial surveys of the regional study area during the open water season (leg 2) to see if there may be longer-term trends that subsequent surveys during following years could detect and until the results of the 2023 DFO aerial survey of the Baffin Bay Narwhal population are published.

Parks Canada also notes that we support comments, relevant to the marine environment, provided by the Department of Fisheries and Oceans, Transport Canada, and Environment and Climate Change Canada.

If you have any questions, please contact Marie-Claude Martel at [marie-claude.martel@pc.gc.ca](mailto:marie-claude.martel@pc.gc.ca).

Sincerely,

Jenna Boon  
Field Unit Superintendent, Nunavut  
Parks Canada Agency

Comment Number	Parks Canada-01
Subject/Topic	Interpretation of the 2023 narwhal abundance estimated in a delayed shipping season.
References	<ul style="list-style-type: none"> <li>• Thomas, T., Firman, M., Abrall, P. and Rouget, P. 2024. Baffinland Iron Mines Corporation — Mary River Project: 2023 Marine Mammal Aerial Survey Program (MMASP) - Technical Report prepared by WSP Canada Inc. (Appendix G.6.2 of 2023 monitoring report)</li> <li>• Mary River Project 2023 Annual Report.</li> <li>• Mary River Project 2022 Annual Report.</li> <li>• Mary River Project 2021 Annual Report.</li> <li>• Mary River Project 2020 Annual Report.</li> <li>• Mary River Project 2019 Annual Report.</li> <li>• Mary River Project 2016 Annual Report</li> <li>• May 2024. WSP presentation to the MEWG.</li> </ul>
Review Comment	<ul style="list-style-type: none"> <li>• The proponent repeated on several occasions that the results of 2023 aerial survey which indicated that: <i>"narwhal abundance in Eclipse Sound in 2023 has returned to baseline levels following lower narwhal numbers observed in the RSA in 2020, 2021, and 2022. The increase in 2023 was observed despite the use of larger Capesize ore carriers in the RSA during 2023, and higher shipping levels in the RSA than all previous years since the start of shipping operations. The results collectively show a lack of correlation between shipping levels in the RSA and narwhal numbers in Eclipse Sound."</i></li> <li>• The final recommendations of the MMASP includes <b>not continuing the summer (Legs 1 and 2) surveys in 2024</b> based on the results of the 2023 surveys.</li> <li>• During the May 2024 MEWG meeting, the proponent announced there will be no leg 1 and 2 aerial survey for summer 2024 and 2025.</li> <li>• The summer 2023 aerial survey (leg 2), survey #1 was conducted on August 12-13 and survey #2 on August 23-25 in Eclipse Sound.</li> <li>• Survey #1 (August 12-13) was selected as the peak abundance estimate for the Eclipse Sound stock because the length of time between the two surveys was too long to recommend an average of the two estimates.</li> </ul> <p>Parks Canada would like to highlight that the annual report indicated that in 2023, the land fast ice was late to melt and this condition delayed the start of shipping by almost two weeks.</p> <p>The annual report details the shipping season:</p> <ul style="list-style-type: none"> <li>- Between mid-July and August 9: no project-related vessels arrived in Milne Port</li> <li>- On August 10: First convoy reached Milne Port (3 vessels)</li> <li>- On August 11: Second convoy reached Milne Port (4 vessels)</li> <li>- <b>On August 12-13: 2023 aerial survey #1 (selected as the peak abundance estimate for the Eclipse Sound)</b></li> <li>- On August 23-25: second survey in Eclipse Sound but estimate was not included in final abundance estimate.</li> <li>- On August 29: first capsize vessel arrived at Milne Port</li> </ul>

	<ul style="list-style-type: none"><li>• Summer survey #1 was selected as the peak abundance estimate for the Eclipse Sound and it was conducted on August 12-13 in Eclipse Sound. This is only a day after the second convoy arrived to Milne Port. By this time, no capsized vessel had arrived in Milne Inlet and fewer than 10 project vessels had transited through Eclipse Sound. Even if the summer #2 survey estimates were used, only 17 vessels and no capsized vessel had arrived on Milne Port before August 23.</li><li>• Since the beginning of the summer aerial survey, the dates of arrival of the first vessels varied by 23 days (July 17 to August 9, see the table below).</li><li>• The date of the summer aerial survey varied by 17 days (August 12 to August 29, see the table below).</li><li>• Consequently, there is a great variability between the number of vessels that arrived in Milne Port and the timing of the narwhal estimated abundance survey. In 2020, there were 39 days between the first vessel in Milne Port and the aerial survey, compared to 2 days in 2023.</li></ul> <table><tr><th>Year</th><th>Date of First Vessel in Milne Inlet</th><th>Date of summer aerial survey</th></tr><tr><td>2023</td><td>August 9</td><td>#1: August 12-13 #2: Aug 23</td></tr><tr><td>2022</td><td>July 30</td><td>#August 17-21</td></tr><tr><td>2021</td><td>July 24</td><td>August 20-21</td></tr><tr><td>2020</td><td>July 21</td><td>August 29</td></tr><tr><td>2019</td><td>July 17</td><td>#1 : August 21-22 #2 : August 25-27</td></tr><tr><td>2017-2018</td><td></td><td>No survey</td></tr><tr><td>2016</td><td>July 25</td><td>August 15 and 21</td></tr></table>	Year	Date of First Vessel in Milne Inlet	Date of summer aerial survey	2023	August 9	#1: August 12-13 #2: Aug 23	2022	July 30	#August 17-21	2021	July 24	August 20-21	2020	July 21	August 29	2019	July 17	#1 : August 21-22 #2 : August 25-27	2017-2018		No survey	2016	July 25	August 15 and 21
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Conclusion/Requests	<p>Parks Canada welcomes the decision to delay the start of the shipping season until ice breaking could be avoided along the shipping route and acknowledges the situation where flights are reserved months in advance and the survey dates could not be changed to adjust for the late start to shipping.</p> <p>However, we do not agree with the report statement that “the increase [of narwhals] in 2023 was observed despite the use of larger Capesize ore carriers in the RSA during 2023, and higher shipping levels in the RSA [82 vessels] than all previous years since the start of shipping operations” because of the delay in the</p>																								

	<p>shipping season. This statement is misleading as both 2023 abundance estimate surveys were completed early in the shipping season, only after 7 vessels for survey #1 and 17 vessels for survey #2 and before any capsize arrived in Milne Port.</p> <p>Additionally, 2023 coincides with the latest start of the shipping season and the earliest summer survey. As a result, only 2 days of shipping had occurred in 2023 compared to 39 in 2020 (see table above). Although not statistically significant, the slope of the relationship between narwhal abundance and the time elapsed between the first vessels and the first day of aerial surveys was negative. Parks Canada requests that the proponent provide the number of project vessels that arrived at Milne Port prior to conducting aerial surveys (leg 2) in each year between 2015 and 2023.</p> <p>As a result, based on the timing of the surveys in relation to the shipping activities, Parks Canada believes that the potential shipping impacts of <i>“the use of larger Capesize ore carriers and higher shipping levels”</i> may not be fully captured during the 2023 narwhal abundance estimates. Timing of subsequent open water surveys should account for potential delays in the shipping season as well as capture potential effects of Capesize class vessels within the RSA.</p> <p>Following the precautionary approach and to better inform the SOP2 assessment with regards to narwhal abundance estimates and related project effects, Parks Canada recommends maintaining annual aerial surveys of the RSA during the open water season (leg 2) to see if there may be longer-term trends that subsequent surveys during following years could detect and until the results of the 2023 DFO aerial survey of the Baffin Bay Narwhal population are published.</p>
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comment Number	Parks Canada -02
Subject/Topic	Marine Environment Working Groups (MEWG) decision-making process
References	<ul style="list-style-type: none"> <li>• Thomas, T., Firman, M., Abrall, P. and Rouget, P. 2024. Baffinland Iron Mines Corporation — Mary River Project: 2023 Marine Mammal Aerial Survey Program (MMASP) - Technical Report prepared by WSP Canada Inc. (Appendix G.6.2 of 2023 monitoring report)</li> <li>• Mary River Project 2023 Annual Report.</li> <li>• MEWG Terms of Reference, April 2024 version</li> <li>• May 2024 MEWG document. 0524 Program Frequency_Marine_Milne_2024_2029 (1)</li> <li>• December and spring 2024 MEWG meeting minutes</li> </ul>
Review Comment	<ul style="list-style-type: none"> <li>• Annual Report: 2.5.2.1 Looking Ahead. “The Working Groups’ decision-making process is being amended so that decisions are consensus-based and recorded in writing by the independent chair. Recommendations brought forward by the Working Group that are not seen as enforceable will go to the independent chair for dispute resolution to ensure a fair outcome.”</li> <li>• The final recommendations of the MMASP includes not conducting the summer open water aerial surveys (leg 2) in 2024 based on the results of 2023 aerial surveys.</li> <li>• T&amp;C 101 in the Project Certificate states that the proponent is to “Schedule for periodic surveys as recommended by the Marine Environment Working Group.”</li> <li>• During the May 2024 MEWG meeting, the proponent announced for the first time there will be no leg 1 and 2 aerial survey for summer 2024 or 2025 with the next open water aerial survey planned for 2026.</li> <li>• The proponent also indicated that flights could not be secured for the 2024 season during the May MEWG meeting. This information was known by the proponent for several months but did not inform MEWG members or seek an alternative.</li> <li>• The proponent’s changes in the program frequency for marine monitoring programs in Milne Port and along the Northern shipping route were not discussed with the MEWG at a point in time to allow for meaningful input from other MEWG members.</li> <li>• When MEWG members indicated that they did not agree with the changes, BIM requested the MEWG members follow the draft Term of Reference process and dispute resolution.</li> </ul>
Conclusion/Requests	<p>Parks Canada acknowledges that the terms of reference are not yet finalized, and the independent chair is not in place.</p> <p>However, the decision of changing the program frequency for marine monitoring programs in Milne Port and along the Northern shipping route was not consensus-based involving other members of the MEWG. This is not in compliance with part e of T&amp;C 101 of the Project Certificate, nor does it adhere to the decision-making process of the MEWG.</p> <p>Parks Canada recommends that the proponent follows the same term of reference process and dispute resolution established for the MEWG before modifying/stopping the currently accepted mitigations/monitoring programs. Consequently, the proponent should have informed and proposed the modification of the program frequency for marine monitoring programs in Milne Port and along the Northern shipping with the MEGW members before making this decision.</p>

Comment Number	Parks Canada -03
Subject/Topic	Aerial surveys for marine monitoring, emergency response or search and rescue purposes are not subject to the flight restrictions set out in Term and Condition 150.
References	<ul style="list-style-type: none"> <li>• Mary River Project 2023 Annual Report. TC 150</li> <li>• May 2024. WSP presentation to the MEWG.</li> <li>• 231117-08MN053-NIRB Project Certificate No 005 Amendment 5-OT4E</li> </ul>
Review Comment	<ul style="list-style-type: none"> <li>• In NIRB Annual Report, Baffinland wrote that they <i>“will ensure that pilots are informed of altitude restrictions associated with Tallurutiup Imanga National Marine Conservation Area and Sirmilik National Park. Baffinland will continue to conduct EWI surveys at 1,000 ft above Tallurutiup Imanga National Marine Conservation Area, as needed, which will remain exempt from this Term and Condition.”</i></li> <li>• During the MEWG presentation in May 2024, WSP mentioned that <i>“the TC150 (minimum flying altitude of 2,000 feet over Sirmilik Park and Tallurutiup Imanga National Marine Conservation Area) were limiting the EWI surveys that need to be done at 1,000 ft.”</i> This is a misunderstanding by WSP because the aerial surveys are not subject to the flight restrictions set out in Term and Condition 150.</li> </ul>
Conclusion/Requests	<p>Narwhals’ aerial surveys are not subject to the flight restrictions set out in Term and Condition 150.</p> <p>Parks Canada would like to reinforce its support of aerial surveys and appropriate protocols and recommends that WSP correct their misunderstanding.</p>