



NIRB File No. 15EN009

August 21, 2015

The Honourable Johnny Mike  
Minister of Environment  
Government of Nunavut  
PO Box 2410, Iqaluit  
NU X0A 0H0

Sent via regular post, fax and email: [jmike@gov.nu.ca](mailto:jmike@gov.nu.ca); [jmaniapik1@gov.nu.ca](mailto:jmaniapik1@gov.nu.ca)

**Re: Response to Government of Nunavut Request for Clarity Regarding NIRB Screening Decision for Tundra Copper Corporation's "Coppermine Exploration" project proposal**

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Dear Mr. Johnny Mike:

Thank you for your correspondence to the Nunavut Impact Review Board (NIRB or Board) dated July 13, 2015 and received July 29, 2015, in which you outlined the Government of Nunavut's concerns regarding the Board's recent screening decision for Tundra Copper Corporation's "Coppermine Exploration" project proposal (enclosed).

At the outset, on the specific matter of the NIRB's Screening for Tundra Copper Corporation's "Coppermine Exploration" project proposal, the Board, having discharged its obligations to issue its Screening Decision Report<sup>1</sup> and associated recommendations for this file, which were subsequently accepted by the Minister of Aboriginal Affairs and Northern Development,<sup>2</sup> is now *functus officio* (without jurisdiction to further consider this specific assessment). Reflecting that the Board has completed its screening function for this file, the Board's response that follows is not offered or intended to address the Government of Nunavut's project-specific comments and recommendations associated with this specific assessment. Rather, the Board would like to address some of the general issues raised by the Government of Nunavut's specific comments that may extend more broadly to all the Board's screenings of project proposals in this area or in areas where similar issues arise.

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<sup>1</sup> NIRB, Screening Decision Report, NIRB File No.: 15EN009, July 7, 2015.

<sup>2</sup> Letter from S. Van Dine, Assistant Deputy Minister, AANDC to R. Barry, Executive Director, NIRB, dated July 22, 2015 and received by the NIRB on July 30, 2015.

Firstly, the Board would like to highlight that, as with previous assessments, the recommendations in the Board's July 7, 2015 Screening Decision Report<sup>3</sup> reference terms and conditions which, in the Board's view, limit the potential for any adverse impacts identified during the assessment. These terms and conditions are developed by the Board but are very much shaped by the comments and information received during the assessment. As specifically outlined in the Board's Screening Decision Report for this file, the Board gave full consideration to the comments provided by the Government of Nunavut and all other interested parties during the screening of this project proposal. Further, the NIRB directed the project proponent to review all comment submissions received, highlighting concerns raised and providing an opportunity for a direct response to be provided. I note that in the context of this specific assessment, the proponent requested and was subsequently granted additional time to develop its response to comment submissions and consult with parties to develop a wildlife management plan for the proposed project.

Following the close of the public comment period for this file, in its response to concerns raised and in consultation with the Kugluktuk Hunters and Trappers Organization (Kugluktuk HTO), the proponent committed to altering its schedule of proposed activities to ensure that exploration drilling would not commence within the calving period for Bluenose East caribou. The proponent also committed to actively monitoring for caribou using local wildlife monitors, collecting additional wildlife data before activities commence and implementing a cessation of activities when monitoring indicates that caribou are within 2 km of project activities during the calving and post-calving period. This wildlife and environmental mitigation plan was subsequently endorsed by the Kugluktuk HTO, which indicated its support for the project if the guidelines and recommendations provided were followed and the proponent reports back regularly. The Hamlet of Kugluktuk similarly praised the proponent's consultation efforts and respect for traditional values, expressing its strong support for the project. This information was taken into consideration along with all comment submissions provided to the NIRB, the environmental management plans and other information provided to the NIRB by the proponent in support of the project.

Reflecting all of these considerations in context, the NIRB subsequently recommended approval of the proposed project on the basis outlined in the Screening Decision Report, with similar operating restrictions to be incorporated into the project's approvals to ensure protection of caribou and caribou habitat, in addition to restrictions on low level flights, activities which might result in ground disturbance, and required restoration of exploration sites prior to the end of each field season. In all, 44 project-specific terms and conditions were recommended and with an additional 15 recommendations requiring project-specific monitoring and highlighting the need for inspection/enforcement, among other things.

You have indicated that it is the Government of Nunavut's position that adverse development impacts within caribou calving grounds cannot be mitigated and that avoidance of these areas is therefore necessary to prevent negative impacts to caribou herds. While the NIRB respects the Government of Nunavut's stated position, when fulfilling its screening function the Board is tasked with determining, on a case-by-case basis, whether the potential adverse socio-economic and ecosystemic impacts of a given project proposal can be adequately mitigated or require

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<sup>3</sup> All materials pertaining to the NIRB's Screening can be accessed from the Board's online public registry at the following address: <http://ftp.nirb.ca/01-SCREENINGS/COMPLETED%20SCREENINGS/2015/15EN009-Tundra%20Copper-Hope%20Lake/>

further assessment. While land use plans and other legislative tools may be utilized to implement restrictions on specific types of development or for defined areas within the Nunavut Settlement Area, the NIRB must continue to evaluate project proposals on an individual, objective and impartial basis as project proposals are referred to the Board for screening. In each case the Board must determine the significance of potential project impacts and assess whether, in the Board's view, any potential for significant impacts can be appropriately managed. As noted in the Screening Decision Report for this file, there are significant jurisdictional and practical limits on the Board in terms of using a project-specific screening assessment to implement what would essentially be a ban on all development within caribou calving grounds.

Despite these limits, the Board is well aware that the potential impacts to caribou calving grounds from mineral exploration programs such as the Coppermine Exploration project include possible habitat alteration/destruction or disturbance to caribou through interference with movement or behaviour. Consideration for the physical and temporal scope of proposed activities is of critical importance to the screening of any project proposal in these areas, as is determining: the size and ecosystemic sensitivity of the geographic area which could be affected; the size of the caribou population likely to be affected; the nature and magnitude of the disturbance; the frequency, duration and reversibility of the impacts; and the cumulative impacts that could result from the impacts of the project combined with those of any other project that has been carried out, is being carried out or is reasonably likely to be carried out. As with all of the Board's assessments in these areas, and as indicated in the Board's Screening Decision Report for this file, these factors were considered by the Board in the NIRB's assessment of the Tundra Copper Corporation's "Coppermine Exploration" project proposal, and the advice provided by the Government of Nunavut and other interested parties was an essential part of the Board's assessment in this respect.

The Board appreciates the Government of Nunavut's recognition of the value of the NIRB's recommendation that additional caribou protection mechanisms be developed and incorporated into the Nunavut Land Use Plan by the Nunavut Planning Commission. However, the Board also acknowledges your point that, in the interim, there may be a pressing need for additional mechanisms to address these concerns in the short term. In general, the Board would agree that project-specific impact assessments may be one avenue for such concerns to be addressed, at least in part. However, as the management of the Bluenose East caribou herd is a joint responsibility of the Government of Nunavut and the Government of the Northwest Territories, a recommendation within the NIRB's Screening Decision Report for this file further acknowledged the need for the territorial and federal government agencies work together with Regional Inuit Associations, co-management boards and industry to develop an action plan to identify and mitigate potential cumulative effects of human land use activities, including mineral exploration, on barren-ground caribou. The Board will continue to seek information from both governments regarding their progress on these regional initiatives to ensure that the Board's assessments and project-specific terms and conditions are informed by the most up to date data and also adequately reflect any regional management measures being contemplated, developed or implemented.

It may well be that an overall regional assessment approach could be put into effect on a more immediate basis in advance of the completion of land use planning for the region. To that end, the NIRB remains ready to assist in any government-led initiatives of this kind, similar to the

Board's commitment to continued participation in the Range Plan Steering Committee for the Bathurst caribou herd.

As a final observation, I am pleased to advise that the NIRB has recently updated the format of its screening decision reports in an effort to make the Board's reasons for decision more transparent, understandable and easier to use. The new format provides increased discussion of the scope of the project assessed, the issues identified, the factors considered in attributing significance to identified potential impacts, and greater clarity regarding the linkage between the potential impacts identified during the assessment and, if applicable, the project-specific measures required to mitigate the identified potential impacts such that the project can be permitted to proceed. The Board is confident that these revisions will assist the Government of Nunavut and all parties to better understand the Board's screening process and outcomes going forward.

In closing, thank you again for bringing your concerns to my attention. Should you have any additional questions regarding this correspondence specifically, or the management of impacts to caribou and caribou calving grounds more generally, please contact the NIRB's Executive Director, Ryan Barry at (867) 983-4608 or [rbarry@nirb.ca](mailto:rbarry@nirb.ca) to discuss at your convenience.

Sincerely,



Elizabeth Copland  
Chairperson  
Nunavut Impact Review Board

cc: The Honourable Bernard Valcourt, Minister of Aboriginal Affairs and Northern Development  
The Honourable Peter Taptuna, Premier of Nunavut  
Stanley Anablak, President of the Kitikmeot Inuit Association

Enclosed: GN Letter to NIRB Re NIRB File No.: 15EN009 (July 29, 2015)