

Ministre des Affaires
autochtones et du Nord



Minister of Indigenous and
Northern Affairs

Ottawa, Canada K1A 0H4

JUL 14 2016

Ms. Elizabeth Copland
Chairperson
Nunavut Impact Review Board
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Dear Ms. Copland:

Thank you for your letter of May 8, 2015, and the enclosed Final Hearing Report for AREVA Resources Canada Incorporated's Kiggavik Uranium Mine Project.

The Final Hearing Report (the Report) contains the Nunavut Impact Review Board's (the Board) assessment of the potential ecosystemic and socioeconomic effects of the Kiggavik Uranium Mine Project and determination that the Kiggavik Project should not proceed at this time. The primary basis for this determination is that "*[t]he Kiggavik Project as presented has no definite start date or development schedule. The Board found that this adversely affected the weight and confidence which it could give to assessments of future ecosystemic and socioeconomic effects.*"¹ Further to this, the Board highlighted that increased certainty regarding a start date for the Project would "*enable the Board to make more definite and confident assessments having regard to the enduring significance of caribou, fish and marine wildlife for Nunavummiut, especially the beneficiaries of the Nunavut Land Claims Agreement, and enable the Board to make more definite and confident assessments of ecosystemic and socioeconomic effects.*"² In addition, the Board indicated in the Report that there were outstanding uncertainties and concerns with respect to other valued environmental components and valued socioeconomic components.

The Ministers of Fisheries, Oceans and the Canadian Coast Guard, Natural Resources, Transport and I are responsible ministers for this project and have jurisdictional responsibility for authorizing whether the Kiggavik Project should or should not proceed. We have reviewed the Report and, pursuant to Section 12.5.7(a) of the *Nunavut Land Claims Agreement*, we accept the Board's determination that the Project should not proceed at this time.

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¹ Page xi of the Kiggavik Final Hearing Report.

² Page xi of the Kiggavik Final Hearing Report.

We accept the Board's conclusion that "*the absence of a definite start date for the project, and the admitted necessity of revisiting the predictions in the Final Environmental Impact Assessment in future, adversely affected its consideration of the weight and confidence which it could give to assessments of project specific and cumulative effects.*"³ This made it particularly challenging for the Board to make a sound and confident assessment of effects on caribou, fish and marine wildlife. As a result, the Board found the proponent had not met, at this time, the onus of proof that this project could proceed in accordance with the objectives and factors in sections 12.2.5 and 12.5.5 of the *Nunavut Land Claims Agreement*.

We understand that the Board's confidence in the prediction of impacts and their significance diminishes when extrapolated over a longer time period. Some parties to the review noted that the lack of a definite project start date made their analysis of the information presented by the proponent challenging. Other parties suggested that there were mechanisms available to the Board to ensure an ongoing review of effects. However, after having had the benefit of hearing the parties and reviewing the information in front of it, the Board concluded "*that the flexibility in relation to certificates ... is not a solution to all issues which may arise in relation to the absence of a definite start date for the Project.*"⁴

Provisions in the *Nunavut Planning and Project Assessment Act*, notably section 147(1) which requires a new assessment if a project is not commenced within five years after the day on which it was approved, have largely addressed the issue of uncertain start dates for projects proposed in the future. However, the responsible ministers note that, in environmental assessment processes, there will often be some uncertainty with respect to the start date and development schedule for major resource developments. This is a common situation for proposed developments in the North, reflecting time for permitting processes and the challenges of project economics and investment. The Board should continue to assess each project based on its specific circumstances and, if possible, consider terms and conditions that can accommodate uncertainties with respect to the commencement of a project. This is particularly true for project reconsiderations still assessed under the *Nunavut Land Claims Agreement*, which has no commencement delay clauses.

This decision is also consistent with the Government of Canada's January 2016 announcement of five interim principles to guide environmental assessment decision making. The Board's review accords with those principles in that it is based on science, Inuit Qaujimaningit and other relevant evidence; provides for meaningful consultations of Inuit and other Indigenous Peoples; and allows for due consideration of the views of affected communities.

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³ Page xiii of the Kiggavik Final Hearing Report.

⁴ Page 19 of the Kiggavik Final Hearing Report.

Due consideration of these principles further supports the Board's recommendation, and the responsible Ministers' acceptance of the Report and its conclusions. Finally, we acknowledge the Board's recommendation in Part 7 of the Report, regarding enabling actions associated with further consideration of uranium projects. Responsible ministers will consider these suggestions in working with relevant authorities.

We would like to acknowledge the hard work of the Board and its staff in its review of this Project. We would also like to reiterate that AREVA may resubmit the Kiggavik Project for consideration at such future time when increased certainty regarding the project start date can be provided.

Sincerely,



Hon. Carolyn Bennett, M.D., P.C., M.P.

c.c.: The Honourable Dominic LeBlanc, P.C., M.P.
The Honourable James Gordon Carr, P.C., M.P.
The Honourable Marc Garneau, P.C., M.P.
The Honourable Catherine McKenna, P.C., M.P.