



**Full Report Title:** 2017 Nunavut Mining Symposium Workshop Summary Report for the Review of the NIRB's Project Specific Monitoring Framework (April 6, 2017) Nunavut Impact Review Board.

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# TABLE OF CONTENTS

ACKNOWLEDGEMENTS .....	iii
1.0 INTRODUCTION .....	1
1.1 Outline of the 2017 Nunavut Mining Symposium Workshop on NIRB’s Project Certificates .....	1
1.2 Setup of the NIRB Workshop .....	1
1.3 Attendance .....	1
2.0 The NIRB Workshop .....	1
2.1 Strategic Questions .....	2
2.2 Discussion items on Cost vs Results.....	3
2.3 Considerations from Regulatory Authorities on Opportunities to Coordinate .....	3
3.0 Meeting Notes .....	4
3.1 Strategic Questions .....	4
3.2 Discussion Items on Cost vs Results .....	6
3.3 Considerations from Regulatory Authorities on Opportunities to Coordinate .....	6
4.0 Additional Comment Period .....	7
4.1 Proponents.....	7
4.2 Regulatory Authorities .....	8
5.0 SUMMARY AND CONCLUSION .....	9
<b>APPENDICIES</b>	
APPENDIX A – The NIRB’s Meeting Notice Materials .....	11
APPENDIX B – The NIRB’s PowerPoint Presentation.....	12
APPENDIX C – The NIRB’s Comment Request for the Refining of the Project Specific Monitoring Framework.....	13

## **ACKNOWLEDGEMENTS**

The Nunavut Impact Review Board (NIRB) process is directed by the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* and the *Nunavut Planning and Project Assessment Act*, and requires the NIRB to undertake both pre-development impact assessment, as well as post-approval monitoring of projects that occur within the Nunavut Settlement Area. Monitoring activities are expected to inform the Board and interested parties regarding how a project is actually being implemented, measure success of mitigation measures imposed during the Review process, and enable the Board to provide annual recommendations to improve compliance and assist with the adaptive management of projects throughout their life cycle. The NIRB considers it important to check in with parties to ensure its monitoring programs are optimized, that they provide effective information to all parties involved, and maximize coordination between agencies while minimizing duplication of efforts. Therefore, the NIRB worked with the steering committee to offer a workshop in conjunction with the 2017 Nunavut Mining Symposium to seek parties input on NIRB's Monitoring role.

The NIRB would like to thank all the individuals that participated in the workshop and subsequent comment period, for representing their respective agency's perspectives and providing feedback on the NIRB's monitoring process. We look forward to your continued involvement throughout the subsequent updating of project-specific monitoring frameworks and ongoing monitoring efforts.

Sincerely,

Tara Arko  
Director, Technical Services  
Nunavut Impact Review Board

## **1.0 INTRODUCTION**

### **1.1 Outline of the 2017 Nunavut Mining Symposium Workshop on NIRB's Project Certificates**

The goal of the NIRB workshop was to inform the further development of the Project Specific Monitoring Framework utilized both for newly issued and recently amended project certificates. The NIRB has an interest in ensuring that participation in the monitoring process is optimized, that monitoring provides useful information to all parties, and allows for effective coordination between the NIRB, Proponents, and Regulatory Authorities.

### **1.2 Setup of the NIRB Workshop**

On March 3, 2017 the NIRB distributed correspondence inviting Proponents and Parties to attend a half day workshop on April 6, 2017 from 8:30 am to 12:00 pm held in conjunction with the 2017 Nunavut Mining Symposium (NMS) in Iqaluit and provided a draft Agenda for the session ([Appendix A](#)).

### **1.3 Attendance**

Representatives of companies currently holding NIRB Project Certificates, Regulatory Authorities, and interested members of the public attended the Workshop. Participants included:

- Nunavut Water Board
- Kitikmeot Inuit Association
- Kivalliq Inuit Association
- Qikiqtani Inuit Association
- Government of Nunavut - Department of Culture and Heritage
- Nunavut Research Institute
- Northern Projects Management Office
- Indigenous and Northern Affairs Canada
- Agnico Eagle Mines Ltd. (Meadowbank Gold Mine Project Certificate No. 004 and Meliadine Gold Mine Project Certificate No. 006)
- Baffinland Iron Ore Mines Inc. (Mary River Project Certificate No. 005)
- TMAC Resources Inc. (Doris North Gold Mine Project Certificate No. 003)

## **2.0 THE NIRB WORKSHOP**

As part of the introduction to the workshop, the NIRB provided a presentation ([Appendix B](#)) outlining its role in the monitoring process, the direction provided in

Section 12.7 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada* (Nunavut Agreement) and in the *Nunavut Planning and Project Assessment Act* (NuPPAA), and discussed the roles of Regulatory Authorities and Proponents in that process. The latter portion of the presentation provided parties with the following strategic questions considered during the NIRB facilitated discussion.

## **2.1 Strategic Questions**

### **Directed To Proponents**

1. Identify the most significant barrier your company experiences in participating in the NIRB's monitoring process.
2. Identify the area(s) of the monitoring program that you think would benefit from greater direction or clarification from the NIRB.
3. Identify those items in the NIRB's yearly monitoring process that create challenges for timing of activities (e.g., where the timing of submission does not match up with the availability of information).
4. Are there any other improvements to the NIRB monitoring program that would you like to see in future?

### **Directed To Responsible Authorities**

1. Identify the most significant barrier your organization experiences in participating in the NIRB's monitoring process.
2. Identify the most significant limitation to incorporating the NIRB monitoring program terms and conditions into permits/authorizations, suggestions as to how these limitations can best be addressed by the NIRB.
3. Are there mechanisms that could be used to more clearly establish communication between responsible authorities and the NIRB that would make it easier to collect and exchange the information from all the regulators with regulatory monitoring programs for a given Project?
4. Are there mechanisms that could be used to more clearly establish communication between Responsible Authorities and the NIRB that would make it easier to collect and exchange the information from all the regulators with regulatory monitoring programs for a given Project?
5. Is there something that the NIRB/Responsible Authorities can do to support this on-going participation in the NIRB's monitoring of the project?
6. Recognizing that there are currently no Project Certificates governed by NuPPAA, does Indigenous and Northern Affairs Canada have any thoughts on

ensuring that the NIRB's future monitoring programs are prepared in a fashion that makes the programs enforceable as will be the case for all terms and conditions of a NIRB Project Certificate issued under NuPPAA?

## **2.2 Discussion items on Cost vs Results**

### **Directed to Proponent**

1. Considering the costs of monitoring, including items such as data collection, in-person meetings/working groups, and processing of data which aspects of your monitoring program would you consider to be:
  - a. The most costly;
  - b. Most important; and
  - c. Best "value" for the costs incurred.

### **Directed to Responsible Authority**

1. Considering the costs of monitoring, including items such as data collection, in-person meetings/working groups, and processing of data which aspects of a Proponent's monitoring program would you expect to be:
  - a. the most costly;
  - b. most important; and
  - c. best "value" for the costs incurred.
2. On which aspects of the monitoring program does each agency consider that they receive the least/most information from current monitoring processes, and which aspects of monitoring do they find most useful?
3. In future refinements of monitoring programs, what issues would they like to see monitored more closely to inform their agency and other ongoing Environmental Assessment processes?

## **2.3 Considerations from Regulatory Authorities on Opportunities to Coordinate**

1. Given direction that the NIRB, the Nunavut Planning Commission, and the Nunavut Water Board coordinate to reduce duplication, what are some opportunities that Parties would request that the NIRB consider in planning for coordination? What are some challenges that parties have found with coordination processes undertaken to date especially with regards to project monitoring?
2. Often the reporting timelines specified in NIRB's monitoring program are intended to line up with the timelines for other regulatory reporting; is this truly a good fit or are there better ways to coordinate monitoring activities, align comment periods, etc.

## 3.0 MEETING NOTES

Based on the questions outlined above, the following is a summary of comments that were raised at the information session during the 2017 NMS. These comments help to identify items that need to be addressed or considered throughout the NIRB's further development of the Project Specific Monitoring Framework for new and amended Project Certificates.

### 3.1 Strategic Questions

#### Proponents

- Interpretation of terms and conditions can be different between Regulatory Stakeholders, the NIRB, and Proponents which can become problematic for the Proponent to be clear on implementation.
- The purpose of the monitoring that is requested in Project Certificates should be made clear. As well, if there is an amendment to Project Certificate terms and conditions sometimes the monitoring requirements can become cumbersome.
- There should be no overlap between the NIRB and other Regulatory Authorities, such as no overlap between NIRB requirements and the Metal Mining Effluent Regulations.
- The NIRB should continue to monitor for items that no one else monitors.
- Recommend that a sunset clause be clear for terms and conditions so that those that do not apply to the entire life of the project can be concluded as completed.
- Interested in greater option to change and/or modify the terms and conditions without the need to revise or reopen Project Certificate.
- A Scientific Research Licence should not be required for data that is collected as a requirement of a Project Certificate.
- Annual report deadlines of March 31 is difficult to meet as monitoring mostly takes place in the summer and the winter is spent analyzing the data and creating reports.
- Why do companies need to produce such large reports and who is reading them?
- Is it possible to create one report that meets the requirements of the NIRB and all Regulatory Authorities including the Regional Inuit Associations?
- Monitoring analysis should only be required or completed when there is a change.
- Commentary from parties tends to repeat from year to year and not be effective or informative.

- There is a lot of repetition in monitoring reports and it would be better to eliminate duplication and focus on yielding results that assess the project effects.

### Regulatory Authorities

- There are significant barriers to monitoring as a result of capacity issues, the time it takes to go through the lengthy reports provided by Proponents, and continue with other assessments.
- Community members may not know much about the NIRB's Project Certificate or monitoring process.
- Monitoring results need to be supported by meaningful summaries, and backed up with actual data, not just filling the report with raw data or oversimplified statement of "no change".
- If an issue was raised in a report what mechanisms would be available to make a change?
- Terms and conditions should be phrased so that they are specific, firm, and implementable. This is critical for both Regulatory Authorities and Proponents seeking financing or budgeting for appropriate monitoring.
- Often monitoring is disconnected from the requests of parties at the Final Hearing.
- Some activities related to mining projects, such as Mining Health - Safety and Workers' Safety and Compensation Commission's Mine Inspectors, are already highly regulated. Further discussion may be warranted to ensure duplication does not occur between the NIRB Project Certificate and these regulations.
- The *Scientists Act* says that any research approvals must be processed and permitted by the Nunavut Research Institute; discuss with the agency on when is best to engage the Nunavut Research Institute.
- Potential discussions during the Review process regarding how permitting would be undertaken.
- Project Certificates are functioning but there is so much turnover [Proponent and Regulatory Authorities] that it is difficult to have consistency on files and/or appropriate retention of corporate knowledge.
- Project specific monitoring frameworks should have a consensus regarding the overall approach which is then tailored to specific projects. This would assist with the reasonable assurance the commitments are kept by Regulatory Authorities, Proponents, and other parties as well as ensure and compensation happening.
- How are orphaned conditions handled that don't have another enforcement mechanism through a permit or license, and would the NIRB consider enforcing them?

- There should be an assurance of collection of baseline data so that the impact of a project may be properly assessed during the monitoring phase.
- Land tenure includes environmental components; what risk does the Regional Inuit Association bring into the picture that could result in orphan terms and conditions?
- Interested in additional or improved communications on the development and management of Project Certificates and NIRB's monitoring.
- What is the mechanism to initiate discussions with the NIRB for terms and conditions that are not being appropriately addressed by a proponent?
- A map and table approach has been initiated for archaeological monitoring and that is working.
- Could monitoring data (i.e., raw data, monthly reports, or monitoring reports) be uploaded or supplied prior to the submission of annual reports for agencies to access?
- Terms and conditions need to be specific so they are enforceable by Inspectors. In addition, enforcement of the terms and conditions should be more clearly divided between existing agencies and the NIRB.
- Monitoring program objectives should be clearly defined by the NIRB, and then have the onus on the Proponent to develop program(s). Monitoring programs can then focus on NIRB specific terms and conditions without duplication.

### **3.2 Discussion Items on Cost vs Results**

- Monitoring and production of the annual report can cost Proponents between 1.5 and 3 million dollars depending on the project; however sometimes the goals of the monitoring may not be clear, so it is difficult to justify the cost.
- The NIRB may consider ways to build value into the monitoring programs by combining results or coordinating monitoring programs.
- Local community values are important to know in terms of informing those values through monitoring activities and understand impacts to the local community on items which everyone has an interest in.

### **3.3 Considerations from Regulatory Authorities on Opportunities to Coordinate**

- Indigenous and Northern Affairs Canada conducted an audit of a Project Certificate as a tool to understand the extent to the Project Certificate is accomplishing its environmental objectives and will be sharing results in the fall of 2017.

## 4.0 ADDITIONAL COMMENT PERIOD

During the workshop, as a result of interest from those in attendance as well as parties that had to cancel attendance, the NIRB committed to provide an opportunity for feedback prior to the NIRB's summary report being issued. On April 20, 2017 the NIRB provided parties the opportunity to comment or to make additional submissions ([Appendix C](#)). The following parties submitted comments were received on or before May 12, 2017:

- Kitikmeot Inuit Association
- Qikiqtani Inuit Association
- Government of Nunavut
- Fisheries and Oceans Canada
- TMAC Resources Inc.

The following is a summary of the comments and concerns received by the NIRB.

### 4.1 Proponents

- Interested in additional clarification regarding the purposes of reviewing the NIRB's Project Specific Monitoring Framework.
- Reiterated that the NIRB's monitoring should avoid overlap with monitoring already required under operational permits and plans.
- Noted that requiring large volumes of materials in an annual report may not enhance the understanding of a project and could make it difficult for the public and Regulatory Authorities to focus on matters of importance.
- The NIRB's Project Specific Monitoring Framework should not include duplicate requests for information and/or summaries that are available in comprehensive monitoring reports which satisfy the terms and conditions; the NIRB's Annual Report should seek high level summaries of these reports.
- Reiterated that the NIRB should not be placing terms and conditions or commitments in Project Certificates which duplicate the existing robust regulatory regime (e.g., Metal Mining Effluent Regulation and Fisheries Act Authorization).
- NIRB Project Certificates and monitoring should focus on items of importance which may not be explicitly covered by regulation (e.g., commitments to follow governmental policies which have not yet been adopted into legislation).
- The NIRB and other parties should consider revisions to Project Certificate Monitoring Programs from time to time without having to undertake a formal Project Certificate amendment process.

- Recommended that if a proponent is required undertake research as part of the Project Certificate, it should not require a separate licenses.
- Intent of a term and condition should be provided rather than outlining prescriptive monitoring to allow for adaptation and flexibility.
- Reiterated the need for a sunset clause on terms and conditions.

## 4.2 Regulatory Authorities

- A general annual monitoring report does not always meet the needs of all Regulatory Authorities reading them and it can be difficult to find the information appropriate to your agency's jurisdiction.
- Project Certificates need to consider all Regulatory Authorities and their jurisdictions as well as their licences or permits or letters of advice required for each project and its specific activities.
- Collaboration should be considered, including using one location for all monitoring reports, such as the NIRB site, in order to find all the information required to review for any given year.
- Monitoring reports could be produced throughout the year based on milestones rather than annually.
- Suggest requiring photographic records as part of logs in order to ensure accurate species identification (e.g., wildlife and fish).
- Collaboration should be considered between all monitoring parties to coordinate site visits, share data, and provide notification of potential issues that may apply to another jurisdiction.
- Difficult to review annual reports concurrently for both NIRB and the Nunavut Water Board and can cause strain on personnel and workload.
- Proponents should be required to provide detailed geographic references and attributes for their project in order to streamline the review.
- The NIRB should acknowledge the work of the Socio-Economic Monitoring committees and their role in Project Certificate compliance.
- The NIRB should engage the Socio-Economic Monitoring Committee and/or coordinating staff in advance of their annual community information sessions on the content of their presentation materials.
- The NIRB should accommodate the inclusion of other parties with responsibilities under Project Certificates on site tours including representatives from the Socio-Economic Monitoring Committee.
- All site tours should consider relevant socio-economic terms and conditions in their investigations.
- There should be a standardized approach adopted for socio-economic monitoring for clarity and meaningful results. Socio-economic monitoring is

not just to see what impacts projects have but to set and adjust government policies and programs in the production of goods and services.

## 5.0 SUMMARY AND CONCLUSION

The NIRB appreciates the time and efforts to provide feedback both during and following the workshop, and understood some consistent themes from both Proponents and Regulatory Authorities. These included:

- Regulatory Authorities and the NIRB should further consider reporting requirements to identify if alternate timing of reporting or data provision would assist Proponents in being more efficient, or where improvements or efficiencies may be realized by Regulatory Authorities in assessing annual reports.
- Additional direction should be provided on annual report requirements to ensure Regulatory Authorities can efficiently find the information pertinent to their mandate, to assist Proponents where data vs. summaries would be required, and to allow reflection of community values in reports and to ensure that monitoring is valuable to communities.
- Opportunities for collaboration in data sharing and conducting site visits should be considered.
- Greater involvement of Socio-economic Monitoring Committees and additional reporting of socio-economic issues for approved projects.
- Consider wording of Project Certificate terms and conditions to:
  - Reduce duplication between the NIRB and Regulatory Authorities for activities already highly regulated,
  - Direct parties on issues rather than be prescriptive to allow for greater flexibility of monitoring programs required for adaptive management and better real time conservation,
  - Consider risk of Regional Inuit Authorities in implementing the terms and conditions or the creation of orphaned terms and conditions,
  - Consider possible sunset clauses, and
  - Focus on issues important to local communities to direct monitoring to be most informative to communities.
- Better outlining of Project Specific Framework such as development of monitoring during the Review phase.
- Increased education to communities, Regulatory Authorities, and Proponents to understand the NIRB Role in managing projects in Nunavut.
  - Improved communications during modification of Project Certificate terms and conditions.

- Ensure adequate funding and capacity needs to be available to fulfill monitoring requirements.

The NIRB continues to Review projects, issue new Project Certificates, and require its previously issued Project Certificates to undergo amendment processes as a result of changes to projects. The information gathered through this process will inform the NIRB's 2018-2022 strategic plan (currently under development); the Board will also further consider potential educational and collaborative opportunities for Proponents, Regulatory Authorities, other agencies, and communities while conducting its monitoring work.

Following the issuance of this report, the NIRB will be updating four (4) project specific monitoring frameworks associated with the newly issued or newly revised Project Certificates, and will ensure that the input parties have provided as outlined in this report is duly considered. These updates to Project Specific Monitoring Frameworks will be done in an open process with further opportunities for comment by interested parties.

The Nunavut Impact Review Board (NIRB) would like to thank all the individuals that participated in the NIRB facilitated workshop and looks forward to your continued involvement throughout this and other ongoing assessments.

## ***APPENDIX A – The NIRB’s Meeting Notice Materials***

## ***APPENDIX B – The NIRB’s PowerPoint Presentation***

***APPENDIX C – The NIRB’s Comment Request for the Refining of the Project Specific Monitoring Framework***