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January 20, 2020

Lou Kamermans
Director, Sustainable Development
Baffinland Iron Mines Corporation
2275 Upper Middle Road East
Oakville, ON L6H 0C3

Sent via email: lou.kamermans@baffinland.com

Re: Follow-up to Baffinland's 30-Day Response to The Nunavut Impact Review Board's 2018-2019 Annual Monitoring Report for the Mary River Project and Board's Recommendations

Dear Mr. Kamermans,

The Nunavut Impact Review Board (NIRB or Board) has received Baffinland Iron Mines Corporation's (Baffinland) 30-day response letter to the Board's *2018-2019 Annual Monitoring Report* and following review of this submission and additional discussions directly with Baffinland around the content of the NIRB's annual monitoring report, the following clarification is provided to all parties.

As a result of ongoing efforts to coordinate with agencies with respect to the implementation of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*), the NIRB continues to update the way information is presented about the tracking of issues and the Board's overall conclusions regarding compliance. The Board's reporting continues to develop as we work with parties to find the balance of being reflective of the process but also concise and we work to use accessible language that can be more readily translated to enable community involvement. For the Mary River project specifically, staff have now included an additional appendix to the monitoring report to track the applicability of terms and conditions to project operations, as well as indicating overall compliance with each applicable term and condition (Appendix A of the Board's Annual Monitoring Report; Appendix II in the *2018-2019 Annual Monitoring Report of the Mary River Project*). The NIRB recognizes Baffinland's ongoing work to comply with the terms and conditions of the Mary River Project Certificate and acknowledges that Baffinland has expressed concerns that changes to the ratings provided by the NIRB in the updated Appendix may appear to indicate that Baffinland has taken a step back in terms of compliance with specific terms and conditions due to the refinement of the NIRB's compliance ratings.

For the clarity of all parties considering the NIRB's refined compliance ratings communicated in this Annual Monitoring Report, these ratings reflect not only current activities at site, but the historical documents associated with each issue (e.g. Original and Amendment Hearing Reports, Site Visit Reports and Community Consultation Reports), previous recommendations, and development of issues as the NIRB's monitoring of this file progresses. The rating of compliance is therefore a reflection of many factors, including the knowledge gained by all parties in the implementation of the 180+ terms and conditions in the Project Certificate. The ratings should not be interpreted out of context as solely a reflection of Baffinland's efforts in implementing the Project Certificate. The NIRB's monitoring must consider the implementation of the term and condition, soliciting input from all responsible parties in fulfillment of the Board's monitoring obligations under *NuPPAA*'s. 135(3) and tracking the project's effects on the ground. Therefore, as the NIRB's determination of compliance in the annual report for the Mary River project is informed by the views of parties, the Board and the public, and was different than that the focus of Baffinland's recent compliance audit required by Term and Condition #179(c) of the Mary River Project Certificate, the resulting ratings could, and in some cases did, differ from the NIRB's compliance rating. These differences are indicative of the differing considerations assessed by the NIRB when compared to the compliance audit undertaken by Baffinland and should not be considered as indicative of conflicting results.

As always, the NIRB's staff remain available to answer questions or provide clarification on its reports to ensure that all parties are clear regarding the Board's findings and conclusions as summarized in each issue, and to ensure that the interpretation of the material in Appendix A of the NIRB's annual monitoring report is reflective of the unique context of the Board in fulfilling its monitoring function.

The responses and further discussion have been helpful to allow NIRB staff to further identify that the following adjustments should be made to the information represented in the monitoring report:

- The NIRB noted that **44 spills** were reported in the previous year in Baffinland's annual report for the project¹; Baffinland clarified that a **total of 36 spills** was summarized in Section 4.5.2 of its annual report to the NIRB.
- The NIRB noted elevated ammonia levels in the site 2018 groundwater monitoring program²; Baffinland clarified that this figure had been reported as part of its surface water run-off results and NOT as part of the groundwater monitoring program.

The NIRB appreciates the clarifications provided by Baffinland and will continue to work on monitoring these aspects of the Project, but would also like to highlight that the overall Board recommendations provided for the 2018 monitoring year are not affected by these corrections to the Report.

Finally, the NIRB has received an update from Baffinland noting that it is seeking an extension for the submission of its annual monitoring report from the usual March 31st submission date to providing it by **April 30, 2020**. The Board finds the extension requested to be reasonable, and has granted the extension to the timeline to allow Baffinland to file the annual monitoring report on or before **April 30, 2020**. This correspondence provides all parties with an update regarding the

¹ NIRB Public Registry No. 327239, The Nunavut Impact Review Board's 2018 – 2019 Annual Monitoring Report for Baffinland Iron Mines Corp.'s Mary River Project, section 4 pp. 19

² NIRB Public Registry No. 327239, The Nunavut Impact Review Board's 2018 – 2019 Annual Monitoring Report for Baffinland Iron Mines Corp.'s Mary River Project, section 5 pp. 23

extension to Baffinland's reporting timeline for their planning purposes. In granting the requested extension, the Board is mindful that for the next few months Baffinland and intervening parties will be very busy completing the assessment activities associated with the "Phase 2 Development Proposal", however, the Board expects that Baffinland will, nonetheless, commit sufficient time and resources to completing required project monitoring and addressing the remaining recommendations provided in the Board's 2018-2019 Annual Monitoring Report. Specifically, the Board notes the importance of Baffinland addressing the Board's outstanding recommendations to demonstrate progress on remaining issues in a timely fashion.

Should you have any questions or require further clarification regarding the Board's recommendations or the NIRB's monitoring program for the Mary River project, please contact the undersigned directly at (867) 983-4607 or cbarker@nirb.ca.

Sincerely,



Cory Barker, M.Sc.
Technical Advisor I
Nunavut Impact Review Board

cc: Megan Lorde-Hoyle, Baffinland Iron Mines Corp.
Mary River Distribution List