

October 14, 2020

Karen Costello  
Nunavut Impact Review Board  
P.O. Box 1360  
Cambridge Bay, NU  
X0B 0C0

**Re: Baffinland Response to Comments Received by MHTO Concerning Engagement on Outstanding Phase 2 Technical Issues Between November 2019 and September 2020 and MHTO Commitment Update from September 30, 2020**

Dear Ms. Costello,

Baffinland Iron Mines Corporation (Baffinland) offers the following updates to the Nunavut Impact Review Board (NIRB) on its efforts to engage with the Mittimatalik Hunter and Trappers Organization (MHTO) on their outstanding Final Written Submissions as well as a summary of Baffinland's response to the MHTOs update on Baffinland's commitment list following the conclusion of the third Technical Meeting.

*Baffinland Response to MHTO Comments Concerning Engagement on Outstanding Phase 2 Technical Issues Between November 2019 and September 2020*

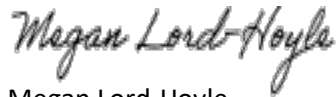
On August 11<sup>th</sup>, August 17<sup>th</sup> and September 30<sup>th</sup> the MHTO made submissions to the NIRB implying Baffinland has not carried out meaningful engagement to resolve outstanding technical issues related to Phase 2 since the adjournment of the Public Hearing. This is not an accurate statement and does not account for the face-to-face engagement carried out between November 2019 and February 2020, which has been documented in several recent updates to the NIRB on community engagement. The statements also do not reflect that since the onset of the COVID-19 pandemic and the imposition of limitations on travel into Nunavut, Baffinland and the MHTO began holding bilateral meetings on technical issues via teleconference. Two meetings took place on March 30<sup>th</sup> and May 13<sup>th</sup>, each of which were supported by the sharing of meeting minutes and a list of action items.

Since May 13<sup>th</sup>, the MHTO has not responded to repeated requests to continue to advance discussions around outstanding technical issues or next steps in the review process. A full summary of Phase 2 focused engagement efforts with the MHTO since March 30 2020 is included as Attachment 1. To confirm, Baffinland is not disputing that the MHTO has continued to engage in relation to the existing Project, as was identified during the Pre-Hearing Conference (PHC); however, meaningful engagement to resolve outstanding technical issues related to Phase 2 were discontinued by the MHTO after May 13<sup>th</sup>, despite multiple attempts from Baffinland to continue to move these discussions forward.

*Baffinland Response to MHTO Commitment Update*

On September 30<sup>th</sup> the MHTO submitted an update to commitments in support of the NIRB's Pre-Hearing Conference for Phase 2 (September 30 - October 1, 2020). On October 12<sup>th</sup> Baffinland provided a summary response directly to the MHTO to address their comments and provide context for other relevant commitments that objectively contribute to the resolution of outstanding issues. This summary is included as Attachment 2. Baffinland and the MHTO were able to meet on October 14<sup>th</sup>, 2020 to discuss the contents of the summary response and Baffinland looks forward to continuing to engage with the MHTO and will provide relevant updates to the NIRB as they are available.

Regards,

A handwritten signature in black ink that reads "Megan Lord-Hoyle". The signature is written in a cursive, flowing style.

Megan Lord-Hoyle

Vice President, Sustainable Development

Attachments:

Attachment 1 - MHTO Record of Engagement March 30 2020 to September 30 2020

Attachment 2 - Baffinland Response to MHTO September 30 2020 Commitment Update

Cc: Tara Arko, NIRB  
Solomon Amuno, NIRB  
Cory Barker, NIRB  
Eric Ootovak, MHTO  
Amanda Hanson-Main, MHTO Technical Consultant  
Lou Kamermans, BIM  
Jared Ottenhof, QIA

**Attachment 1**

MHTO Record of Engagement March 30 2020 to September 30 2020

Date	Correspondence Type	Topic	Notes	Attachment Description
3/30/2020	Teleconference	MHTO FWS Status Update	See follow-up minutes provided in Item 3.	n/a
3-Apr-20	Email	Follow up to call where status of resolution on MHTO FWS was discussed. Requested documents for review provided.	Material received by MHTO. <b>No comments on draft meeting minutes provided.</b>	1. Assessment of Icebreaking Operations during Shipping Shoulder Seasons on Marine Biophysical Valued Ecosystem Components (VECs) 2. Memo re: Impacts of Icebreaking of Sea Ice during Ice Decay and Formation 3. Memo re: RSA Sea Ice for Polar Bears 4. Memo re: Daily Ship Exposure Periods for Narwhal During Shoulder and Open Water Seasons Relevant to the 135, 120 and 110 Decibel Noise Fields 5. Draft Shipping Communications Protocol 6. Draft Icebreaking Operations Protocol 7. Memo re: 2019 Marine Mammal Monitoring Preliminary Results 8. Draft Meeting Minutes
6-Apr-20	Email	Follow up to call where status of resolution on MHTO FWS was discussed. Requested documents for review provided.	<b>No response from MHTO. No comments on draft meeting minutes provided by MHTO.</b>	1. Assessment of Icebreaking Operations during Shipping Shoulder Seasons on Marine Biophysical Valued Ecosystem Components (VECs) 2. Memo re: Impacts of Icebreaking of Sea Ice during Ice Decay and Formation 3. Memo re: RSA Sea Ice for Polar Bears 4. Memo re: Daily Ship Exposure Periods for Narwhal During Shoulder and Open Water Seasons Relevant to the 135, 120 and 110 Decibel Noise Fields 5. Draft Shipping Communications Protocol 6. Draft Icebreaking Operations Protocol 7. Memo re: 2019 Marine Mammal Monitoring Preliminary Results 8. Draft Meeting Minutes
13-May-20	Email	MHTO-4a and 5a Follow Up	Received MHTO response May 15 2020.	Actions items from May 13 teleconference (email body)
15-Jun-20	Email	MHTO-4a and 5a Follow Up	<b>Follow-up email. No response provided by MHTO.</b>	n/a
17-Jul-20	Email	MHTO-4a and 5a Follow Up	<b>Follow-up email. No response provided by MHTO.</b>	n/a
4-Aug-20	Email	MHTO-4a and 5a Follow Up	<b>Follow-up email. No response provided by MHTO.</b>	n/a
13-May-20	Teleconference	MHTO & BIM – Status of Final Written Submissions for Phase 2 Proposal Marine Environment/Shipping	<b>No response to email or comments on draft meeting minutes provided by MHTO.</b>	Baffinland Shipping Communication Protocol and Icebreaking Operations Protocol
15-May-20	Email	Draft Meeting Minutes and Follow-up to Teleconference	<b>No response provided by MHTO.</b>	Documents attached to email: - 2020-5-13 Teleconference with MHTO_Minutes and Agenda_FINAL DRAFT.docx - Working Group Terms of Reference Comment Submission Review Draft Minutes.docx
10-Jul-20	Email	NIRB Phase 2 Hearing Process	<b>No response provided by MHTO.</b>	n/a
16-Jul-20	Email	NIRB Phase 2 Hearing Process	<b>No response provided by MHTO.</b>	Documents attached to this email: - Baffinland Hearing Resumption Options_ENG.pdf - Baffinland Hearing Resumption Option_IUK.pdf
28-Jul-20	Teleconference	Call - MHTO engagement forecast/participation in Phase 2 review process	Call held between Baffinland and MHTO Technical Advisor. See comments on Item 8 below.	n/a
31-Jul-20	Email	Follow-up from Call (Key engagement Activities, Outstanding FWS, Potential Resourcing Needs)	<b>No response provided by MHTO.</b>	n/a
17-Aug-20	Email	Follow-up from Call (Key engagement Activities, Outstanding FWS, Potential Resourcing Needs)	Response in email indicated Baffinland should wait to hear from MHTO on timing for a meeting. <b>No follow up to schedule meeting ever occurred.</b>	n/a

Date	Correspondence Type	Topic	Notes	Attachment Description
19-Aug-20	Email	Follow-up from Call (Key engagement Activities, Outstanding FWS, Potential Resourcing Needs)	No response provided by MHTO.	n/a
18-Sep-20	Email	Meeting request following Sept 14-18 Technical Meeting	Response provided by MHTO indicating lack of availability to meet.	n/a
21-Sep-20	Email	Meeting request following Sept 14-18 Technical Meeting (Phase 2 Meeting)	No response provided by MHTO.	n/a

**Attachment 2**

Baffinland Response to MHTO September 30 2020 Commitment Update

Commitment ID/TCID	MHTO Submission	BIM Comments	Related Commitment ID's
Commitment 41 to MHTO 7a	<p><i>Baffinland is committed to incorporating Inuit knowledge into its identification of indicators and development of thresholds. One example where this is currently being done is at the MEWG, which the MHTO is a member of, which is currently working on the development of early warning indicators for marine mammals.</i></p> <p>During the Technical Meeting, the MHTO noted that significance means something very different to Inuit than it does to Baffinland through its paper based impact assessment considerations and definitions of thresholds for change. Baffinland may say, for example, that if 10% of a narwhal population is impacted, that is significant. But for Inuit, if a hunter normally expends 10 days of hunting effort and in that time can collect enough narwhal to fill their freezer for winter, but in a year where they must expend 30 days of harvesting effort and do not have a successful hunt, it does not matter if what Baffinland measures is less than 10% of the population experiencing impacts - Inuit have experienced a significant effect. We noted that this is happening now; Inuit are experiencing significant effects, and based on their knowledge of marine mammals and marine mammal behaviour, this is due to project shipping. We asked that Baffinland commit to collecting Inuit local knowledge and Inuit Qaujimajatuqangit related to impacts felt from current project operations and that it then revise its Phase 2 impact findings and significance determinations. Baffinland stated that it would not commit to revising its impact determinations or significance determinations, and that it stands by the information provided thus far and is confident taking it forward to a public hearing. We do not agree this is satisfactory to move forward to a public hearing, as it ignores the information and experiences provided and shared by Inuit, not only relevant to current project shipping, but also our understanding of potential impacts of future proposed Phase 2 shipping.</p> <p>We also requested that Baffinland commit to developing indicators and thresholds for the review and comment by parties, prior to our submission of Final Written Submissions, assuming the NIRB asks parties to provide these before a Hearing on the Phase 2 proposal. The MHTO is disappointed Baffinland would not commit to providing these ahead of a Hearing.</p> <p>Baffinland has not committed to collecting and incorporating Inuit knowledge and experiences with current impacts into the impact assessment and significance findings. Nor will it develop thresholds and indicators that can be subject to discussion and review before the NIRB. We are extremely concerned that the level of uncertainty around impacts to marine mammals (as well as caribou and other components of the environment) has not been, and will not be adequately captured in the impact assessment. Our request would see impact assessments take account of Inuit experiences and knowledge and would also see indicators and thresholds available for review ahead of the submission of Final Written Submissions. We need to have certainty that Baffinland will acknowledge Inuit concerns and knowledge in its development of indicators and thresholds. We do not accept their preparation post project approval. We believe the Environmental Assessment should be taking into account the indicators and thresholds for change that Baffinland has proposed for future mitigation and monitoring. These should be available for parties' consideration through the impact assessment, given the uncertainty around impact assessment and our concerns that Baffinland has not adequately considered Inuit Qaujimajatuqangit and local knowledge.</p> <p>Additionally, with regard to the example provided in Commitment 41, the MHTO does not agree that our serving as a member of the MEWG is an adequate or effective method of incorporating Inuit knowledge and Inuit Qaujimajatuqangit into the identification of indicators and development of thresholds. One person attending one day meetings and providing comment during these sessions a few times each year has been the extent of the MHTO's involvement at the MEWG meetings. We have not had resourcing to review materials filed by Baffinland nor to prepare and submit comment. We do not agree that the MEWG is an appropriate venue for the development of indicators and thresholds, because at present, it does not follow a consensus model, and Baffinland can choose to take or leave the input of parties as it deems without any recourse. Further, and of greatest importance to the MHTO, the MEWG does not facilitate the collection or contribution of Inuit Qaujimajatuqangit. This work must be done with and among Inuit, using knowledgeable facilitators and taking time to discuss and ensure understanding.</p> <p>This item remains outstanding.</p>	<ul style="list-style-type: none"> <li>- Baffinland submitted Early Warning Indicators for marine wildlife for public review in August 2020; the MHTO was engaged in the development of the first EWI. No other project in Canada has developed EWI's for the marine environment, this is a new field of study and will require ongoing research to continue to develop.</li> <li>- Baffinland has collected and incorporated Inuit knowledge and experiences with current impacts into the impact assessment through primary data collection, including the 2015-2016 Phase 2 IQ Workshops, and secondary data sources, as available and relevant to individual impact assessments i.e. the Food Security Assessment used information from the Tusaqtavut Reports as well as a series of harvester meetings with the MHTO between January and June 2019. Post FEIS Submission, IQ or community feedback initiatives aimed at improving proposed mitigation and monitoring plans include the Community Risk Assessment Workshops, Harvesting meetings with MHTO and the Crossing Selection Workshop.</li> <li>- Baffinland is not developing any new monitoring programs and management plans under its Environment Management System for Phase 2. The monitoring programs that exist now will remain or be expanded for Phase 2. These programs already monitor a number of indicators against previous FEIS predictions or other thresholds as identified through annual monitoring and review initiatives. The Phase 2 FEIS Addendum predictions will be integrated into existing or expanded monitoring programs and influence the development of our tiered adaptive management response system.</li> <li>- Baffinland is committed to incorporating a consensus based decision making component</li> <li>- Baffinland is committed to supporting the development of an Inuit Committee and Culture, Resource and Land Use Program and a process for Inuit to lead the development of Inuit based objectives, indicators, thresholds and responses. While this is something recognized in the ICA, this commitment has been put forward to the NIRB</li> </ul>	<p>Indicators &amp; Thresholds – 119, 150, 167</p> <p>WG Terms of Reference – 164</p> <p>WG Consensus Based Decision Making – 108, 119, 121</p> <p>Inuit Stewardship – 133, 134 and 135</p>

		and will likely become a condition of the Project Certificate.	
Commitment 42 to MHTO 6	<p><i>With the discontinuation of ore haulage under Phase 2, it is possible for Baffinland to develop a policy that ensures the safety of all land users to travel the Tote Road with recreational vehicles, and that of Baffinland employees. Baffinland will look to engage the MHTO in the development of this policy, as well as the timeline for its implementation.</i></p> <p>The MHTO appreciates this commitment however we note that Baffinland has indicated the policy will be developed post project approval. The MHTO is of the opinion that measures for public access and safety considerations should be considered during the NIRB assessment, where governments with experience in public roadways may be able to lend their experience and provide insight to potential issues or impacts of the use of the Tote Road in future.</p>	<ul style="list-style-type: none"> <li>- Baffinland is currently reviewing Agnico-Eagle Mines programs with a view to circulating details of what a similar program for Mary River could look like. To be clear, Baffinland is not proposing to finalize details prior to NIRB approval, nor do we believe that is necessary. Should Phase 2 be approved Baffinland will not be in a position to remove ore haul trucks from the Tote Road until the North Railway is commissioned, which is not expected until two years post approval at the earliest. This will provide ample time for Baffinland to solicit the advice of communities and Inuit, as well as governments with experience in public roadways.</li> </ul>	N/A
Commitment 43 to MHTO-5e	<p><i>Baffinland commits to continue to evaluate the feasibility of the development of a laboratory in Pond Inlet, in consultation with MHTO.</i></p> <p>During the Technical Meeting, the MHTO acknowledged that Baffinland has developed a pilot ballast water biological monitoring program for ships calling on Milne Port. We understand the program will be designed to reflect a more appropriately scoped form of a ballast water sampling protocol provided by DFO to Baffinland in 2017. As presented, the program is to include sampling from one ballast tank on a total of five vessels per shipping season. The MHTO does not think this is adequate, and requested that Baffinland commit to a more regular sampling frequency. Baffinland was not willing to make that commitment. The MHTO is concerned about aquatic invasive species, and is of the opinion that increasing sampling effort is the most important measure to take to ensure rapid detection of potential AIS in our environment. This item remains outstanding.</p>	<ul style="list-style-type: none"> <li>- the proposed biological monitoring pilot program has been replaced by a DFO led field program in 2021 in support of the development of a risk based approach to future compliance monitoring to prevent the introduction of AIS. DFO provided commentary at the technical meetings indicating they would look to engage Inuit in the 2021 field program.</li> </ul>	<p>Ballast Water and AIS – 105 to 114</p> <p>Inuit Stewardship – 133, 134 and 135</p>
Commitment 45 to MHTO-4a	<p><i>Baffinland confirms it is committed to consultation with the MHTO regarding shipping plans.</i></p> <p>During the Technical Meeting the MHTO asked that Baffinland commit to opening and closing its shipping dates based on approval from the MHTO, and that it acknowledge this may not be based solely on floe edge use, but on Inuit knowledge of animals and times that they require quiet and little disturbance and when IQ says stop using ice and disturbing the ecosystem.</p> <p>Baffinland’s commitment does not address our concern, and provides no certainty that times important for limited disturbance based on Inuit and wildlife needs will be respected or considered by Baffinland’s shipping plans.</p>	<ul style="list-style-type: none"> <li>- Baffinland cannot commit to the requirements proposed by MHTO on this subject, we do want to continue conversations around Inuit use of ice during the shoulder seasons to minimize potential impacts; Baffinland remains committed to ending the shipping season on or before October 31 each year.</li> </ul>	<p>Shoulder season ecology and land use - 94, 123, 142,</p> <p>MHTO meeting - 174</p> <p>Inuit Stewardship – 133, 134 and 135</p>
Commitment 46 to MHTO-3	<p><i>Baffinland is committed to continual improvement of its terrestrial monitoring program design, data analysis, and integration of Inuit perspectives and IQ.</i></p> <p>The MHTO is not aware how this commitment is intended to address MHTO-3, which stated: “Baffinland must undertake additional monitoring of caribou and update its current effects assessment for Phase 2. Baffinland must employ Inuit and specifically consult with the MHTO in the development and implementation of caribou monitoring programs. Inuit should also be trained in the interpretation of results from Baffinland’s studies, and should be informing Baffinland on what “significant” means to Inuit in terms of impacts to caribou or number of caribou sighted.” This item remains unresolved.</p>	<ul style="list-style-type: none"> <li>- Baffinland already employs Inuit in caribou monitoring programs, and will continue this practice through Phase 2. Baffinland is currently undertaking a desktop study to determine when it will be possible to increase its project based monitoring programs. Until a sufficient number of caribou interact with the project increasing project monitoring will not be able to determine if there are any project effects. In the interim, support for regional monitoring and ongoing systematic IQ collection through the Inuit Stewardship Plan will tell us critical details about the North Baffin caribou population, including size, abundance, distribution, etc.</li> </ul>	<p>Caribou monitoring and mitigation - 32, 33, 34, 36, 65, 67, 68, 158, 162, 163</p> <p>MHTO meeting - 171</p> <p>Inuit Stewardship – 133, 134 and 135</p>



		<ul style="list-style-type: none"> <li>- Through the Inuit Stewardship Plan Inuit from the impacted communities will lead monitoring initiatives as they see fit. Baffinland will provide the funding for these programs and supports the inclusion of training initiatives for local monitors.</li> </ul>	
Commitment 47 to MHTO-2b	<p><i>Baffinland has committed to the development of Community-specific engagement guidelines. Baffinland believes that the development and implementation of these guidelines will serve to improve the two-way dialogue between the Company and Inuit. These guidelines will be developed in consultation with the MHTO, as well as North Baffin community representatives. As the guidelines are developed, they will be appended to Baffinland’s Community and Stakeholder Engagement Plan.</i></p> <p>While not discussed during the Technical Meeting, we note that MHTO 2b requested that Baffinland undertake significantly more consultation to find certainty with regard to community acceptability of rail (and overall) project. This has not been addressed by the future commitment to develop engagement guidelines. We appreciate that these guidelines may assist and improve dialogue, but this item remains outstanding. No additional engagement and consultation regarding the railway has been conducted with Inuit in Pond Inlet to date. This item remains unresolved.</p>	<ul style="list-style-type: none"> <li>- Since the submission of final written submissions Baffinland engaged the Hamlet of Pond Inlet and the MHTO in November 2019 following the adjournment of the Public Hearing to discuss, among other things, the railway alignment. It was at these meetings that the MHTO proposed an alternative route, which Baffinland investigated and responded to during the January 2020 EA Workshop. The railway alignment, design and operation were central themes in the January EA workshop.</li> <li>- The topic of the railway was also included in Baffinlands community engagements held throughout January and February in communities and over the radio.</li> <li>- MHTO did not submit any additional technical comments on the issue of the railway or railway alignment in February.</li> </ul>	Railway alignment, design, operation and monitoring - 32, 33, 61, 67, 129, 158, 159, 161, 162, 163, 167
Commitment 4ti to MHTO-2a	<p><i>Baffinland will undertake geotechnical drilling to further establish technical feasibility for Route 3, but at this time based on a preliminary review Baffinland does not anticipate that such drilling will reveal any fundamental issues with the route. This work will be carried out prior to construction.</i></p> <p>We also note Commitment 176 to IWG and NRCan states “Baffinland will share the results of the Route 3 Geotechnical Program, currently planned to begin in October 2020, with the Igloolik Working Group and Nutural Resources Canada.”</p> <p>Similar to MHTO’s FWS-2a, we request to also be included in the parties listed in Commitment 176. We note that Baffinland has indicated the results would be provided “as results available”. The MHTO asks that Baffinland provide a more accurate anticipated date that results will be available. This information may be used to inform our Final Written Submissions and our participation at a public hearing.</p>	<ul style="list-style-type: none"> <li>- Baffinland will share the reports with MHTO as available</li> </ul>	176
Commitment 13 to MHTO 5d	<p><i>Baffinland commits to integrating independent relevant community based monitoring into Phase 2 adaptive management, and mitigation measures when available and shared with Baffinland for inclusion. This could be integrated under the Inuit Stewardship Plan or brought forward through other venues by community participants in the environmental and socio-economic working groups. Baffinland will incorporate results of relevant community based monitoring that have been brought forward to it in future environmental assessments should they be developed.</i></p> <p>Our Final Written Submission 5d requested that Baffinland undertake significantly more monitoring of marine wildlife and ecosystem, and that that work include and integrate Inuit in all aspects. We have also requested separately that Baffinland conduct additional monitoring on char and begin monitoring of seal. The commitment provided does not address these issues.</p> <p>Further, the MHTO is not clear how Baffinland’s commitment as worded will define the “relevance” of community based monitoring conducted by independent researchers, and whether the results will appropriately be incorporated. The MHTO asked for Baffinland</p>	<ul style="list-style-type: none"> <li>- The annual marine environmental effects monitoring program (MEEMP) has not identified detectable changes in local fish communities in areas close to Port activities to date, so it is unlikely that there are effects occurring further away. The MEEMP has also found that water quality, sediment quality, and fish tissue metals levels have been generally consistent with previous years. In the Technical Meetings of September 2020, Baffinland committed to working with the MHTO to complete surveys for the presence of arctic char in Qurluqtuq Lake which feeds into Koluktoo Bay. This monitoring</li> </ul>	<p>Marine Monitoring (general) – 88, 121, 123</p> <p>Ballast Water and AIS – 105 to 114</p> <p>Seal monitoring – 30, 89, 91, 92</p> <p>Hunter harvest survey – 36</p> <p>COPC Monitoring – 58</p> <p>Char monitoring – 41, 42, 172</p>

	<p>specifically to consider and integrate additional monitoring around char health, stressors on narwhal and that it commit for monitoring of seals, more than simply abundance and distribution.</p> <p>In response to QIA-04, Baffinland committed to “developing a ringed seal monitoring plan that incorporates Inuit perspectives into the design, planning and implementation phases.” The timing for the development of this program is listed as post-Project Certificate approval.</p> <p>We are concerned Baffinland has not provided details of what it plans to monitor and how it plans to conduct monitoring in respect of seal. We are not sure if it will include only population surveys, or whether it will delve into mammal health, as is our wish. We are also concerned this work has not been done to date considering the potential and likely impacts the project has already had on seals in our waters. Seal is an essential source of food for MiKmatalingmiut, and is an important part of our ecosystem, not only as a food source for Inuit.</p> <p>The MHTO submits that is unacceptable to have this program developed post Project Certificate approval. We note that Condition 119 of the current Project Certificate requires that Baffinland will, “in conjunction with the Marine Environment Working Group, monitor ringed seal birth lair abundance and distribution for at least two years prior to the start of icebreaking to develop a baseline, with continued monitoring over the life of the project as necessary to test the accuracy of the impact predictions and determine if mitigation is needed. Monitoring shall also include a control site outside of the Project’s zone of influence.”</p> <p>We note that this has not been completed to date. The Proponent’s 2019 Annual Report indicates that this Condition is not applicable because winter shipping has not been required by the Early Revenue Phase of the Project. It also indicates that “shipping and icebreaking will be conducted outside of key sensitive periods including pupping, nursing and mating periods (i.e., January to May, thus no temporal overlap with Project-related shipping). In so doing, ringed seal hotspots and pupping grounds will have dissolved as ice conditions deteriorate and thus by the time shipping begins in mid- to late July.”</p> <p>Given that Baffinland’s request for the Phase 2 proposal, and its use of the MV Botnica icebreaker have been ongoing since 2017, we submit there is no reason that this work has not yet been carried out. We do not note an exclusivity clause in the Condition 119 exempting its application from activities in the Northern shipping route. We note that Condition 119 does not refer to “winter shipping” but rather “icebreaking”.</p> <p>The Proponent’s promise to complete the development of a ringed seal monitoring plan only after project approval, is unacceptable. This should be completed in time for parties to consider its efficacy and contribution to baseline data and impact assessment prior to the submission of Final Written Submissions. This item remains outstanding.</p>	<p>program will be helpful in providing information which can shed further light on questions community members have about arctic char fish in this river system.</p> <ul style="list-style-type: none"> <li>- Baffinland has committed to char monitoring over and above what is required of a Fisheries Authorization Application</li> <li>- Baffinland is committed to a seal monitoring program for Phase 2 and will continue to carry out participative research with Inuit support. Baffinland will also look to the advice of the MHTO and the Inuit Committee's to inform the development and interpretation of our monitoring programs, including seal monitoring.</li> <li>- The ice conditions in the Spring and Fall for the proposed shipping season cannot support birthing lairs and therefore the required monitoring in PC005 TC 119 is not possible or required</li> </ul>	<p>Fisheries Authorization Application - 76-81, 102, 103, 104</p>
<p>Commitment 169 in response to MHTO 4a</p>	<p><i>Baffinland commits to working with MHTO to better understand any issues relating to sea ice use between October 15 and October 31.</i></p> <p>During the Technical Meeting, the MHTO noted that it does not agree with shipping past October 15. We asked that Baffinland clarify how it knows it will not impact seals that are preparing for wintering, and the creation of lairs? The MHTO asked that Baffinland commit to opening and closing its shipping dates based on approval from the MHTO, and acknowledge that this may not be based solely on floe edge use, but on Inuit knowledge of animals and times that they require quiet and little disturbance and when IQ says stop using ice and disturbing ecosystem.</p> <p>Baffinland has not addressed our concern or our request for a commitment. The commitment to work with the MHTO to understand issues relating to sea ice use between October 15-31 is coming much too late. The MHTO will develop comment for Baffinland’s consideration and will confirm if a meeting time can be arranged. We note that its commitment does not address our issue. This item remains outstanding.</p>	<ul style="list-style-type: none"> <li>- In May 2020 Baffinland offered to cut back the Fall season end date from Nov 15 to Oct 31, which the MHTO was to develop a resolution on. No resolution, for or against, was ever provided; repeated requests to meet and further discuss action items related to the marine environment were unanswered throughout the summer.</li> <li>- The 2015/2016 contemporary land use workshops did include discussions on the use of sea ice in the shoulder seasons. This is where the understanding is drawn that Inuit do not use sea ice until it is about 6 inches thick in the Fall. This is the same timing that our vessels commence their exit.</li> </ul>	<p>Shoulder season ecology and land use - 94, 123, 142,</p> <p>MHTO meeting - 174</p> <p>Inuit Stewardship – 133, 134 and 135</p>

		Baffinland would like to further discuss and reconcile this difference.	
Commitment 171 to MHTO-3	<p><i>Baffinland will meet with the MHTO to discuss their specific objectives with respect to local caribou monitoring programs.</i></p> <p>During the Technical Meeting, the MHTO made the following request:  “Given the current low numbers of caribou in the NB region, it remains uncertain that the 3 suggested methods by Baffinland to monitor caribou (HoL surveys, snow track surveys, snow bank height surveys) will be sufficient to evaluate impacts of a railway and other activities, either with current numbers, or in the future, should caribou numbers increase. Notwithstanding the role of the TEWG can Baffinland commit to the inclusion of additional methods consistent with the current academic literature and other development projects to monitor and evaluate impacts of proposed activities, especially the railway, prior to parties being asked to submit final written submissions?”</p> <p>We do not find the Proponent’s request to meet with the MHTO addresses our request. Further, we note that Baffinland has not committed to provide additional methods for our consideration. This is not a commitment to undertaking an action that will address our issue and concern. This item remains outstanding.</p>	- See response to Commitment 46 to MHTO-3	See response to Commitment 46 to MHTO-3
Commitment 172 to the MHTO	<p><i>Baffinland commits to work with the MHTO to achieve the objective of PC Term and Condition 4ti(a).</i></p> <p>PCC 4tia states: “The Proponent shall develop plans to conduct additional surveys for the presence of arctic char in freshwater bodies and ongoing monitoring of arctic char health where applicable, within watersheds proximal to the mine, tote road and Milne Inlet Port project development areas, including but not limited to, Phillips Creek, Tugaat and Qurluktuk. The Proponent shall consult with the MHTO regarding the design, timing, and location of proposed surveys and ongoing monitoring.”</p> <p>We note from Baffinland’s 2019 Annual Report, that it undertakes annual fish population assessments for Arctic char in Camp Lake, Sheardown Lake, Mary Lake and Reference Lake 3 near the Mine Site as part of the Project’s Core Receiving Environment Monitoring Program. During the Technical Meeting the MHTO requested that Baffinland commit to including Qurluktuq lake in the scope of its monitoring for sediments and fish, and we pointed out its responsibility to undertake the surveys and monitoring of Arctic Char health that it has not done to date. We expect Baffinland to develop plans for additional surveys and ongoing monitoring of Arctic Char health in those watersheds listed in the condition, and again submit that this should have been done much sooner than now. As plans for monitoring fish health are being developed, we will review and provide comment on design, timing, and location of surveys and proposed monitoring. We do not believe that the commitment intends for the MHTO to help Baffinland achieve the objective of Condition 4ti(a), but rather that Baffinland will do the work, and will consult with us as it is developed, which we look forward to doing.</p> <p>We have concerns that Baffinland has not committed to initiating this work immediately. We do not agree with Baffinland’s assertion in the Commitment table that this item is ongoing under the current project, as our concerns around possible impacts from Phase 2 to freshwater environment and fish require that we assess results from these projects which should have been initiated years ago. This information is essential to inform our understanding of the current status of the environment and prediction around future impacts of Phase 2. Baffinland’s response is unacceptable. This items remains outstanding.</p>	<p>- Changes in fish size and any fish mortality that were seen by local hunters in Koluktoo Bay are unlikely to be related to the Project, as the annual marine environmental effects monitoring program (MEEMP) has not identified detectable changes in local fish communities in areas closer to Port activities to date. The MEEMP has also found that water quality, sediment quality, and fish tissue metals levels have been generally consistent with previous years. In the Technical Meetings of September 2020, Baffinland committed to working with the MHTO to complete surveys for the presence of arctic char in Qurluqtuq Lake which feeds into Koluktoo Bay. This monitoring program will be helpful in providing information which can shed further light on questions community members have about arctic char fish in this river system.</p> <p>- Baffinland has committed to char monitoring over and above what is required of a Fisheries Authorization Application</p>	<p>Hunter harvest survey – 36</p> <p>COPC Monitoring – 58</p> <p>Char monitoring – 41, 42, 172</p> <p>Fisheries Authorization Application - 76-81, 102, 103, 104</p> <p>Inuit Stewardship – 133, 134 and 135</p>
Commitment 174 to MHTO-4a	<p><i>Baffinland commits to reviewing proposed ecological triggers from the MHTO for the fall season if they can be provided with dates and corroborating data for IQ.</i></p> <p>The MHTO will provide the NIRB, Baffinland, and parties with detailed information around ecological triggers, dates, and Inuit Qaujimagatuqangit supporting this request.</p> <p>This Commitment does not resolve our issue, noting that Baffinland commits only to reviewing information, and not to updating its shipping season opening and closing protocol based on ecological triggers as per requested.</p>	- Baffinland does not believe the October period to be a sensitive period in seal or narwhal lifecycles. Should MHTO provide alternative information with substantiation we will consider it in our shipping season operations guide.	Shoulder season ecology and land use - 94, 123, 142,

Commitment 175 to MHTO-2b	<p>For the duration of the Phase 2 Review Baffinland will prepare and provide public records of all engagement and consultation meetings with MHTO, which include the number of people in attendance, a record of questions comments and concerns raised, as well as copy of any materials provided by Baffinland or other parties as applicable.</p> <p>MHTO asked that Baffinland provide records of all consultations, not only those undertaken with MHTO. This does not meet our request, but should be easily rectified by Baffinland. Commitment 1ti3 to the Hamlet of Pond Inlet: Baffinland will provide a list of participants to each Hamlet and HTO from the North Baffin impacted communities who were present in the North Baffin community meetings reported in the February 2020 community update submission to the NIRB.</p> <p>Similar to our request to Baffinland for a commitment to provide records of consultations (per Commitment, we request that Baffinland provide records for the North Baffin community meetings reported in the February 2020 community update submission to the NIRB and that the record include details of the comments and questions raised, as well as copy of any materials provided by Baffinland or other parties as applicable. We would also request that these records be made publicly available through the NIRB for all parties' reference.</p> <p>After hearing testimony from MiKmatalingmiut during the first 2 days of the Community Roundtable in Pond Inlet September 2ti-29, we believe it remains essential that Baffinland provide full and detailed accounts of its public engagement and consultation efforts. Where it references "advice" provided by the MHTO, we request that Baffinland exercise due diligence and ask that the HTO provide formal Resolutions that substantiate the Board's position on matters in question.</p>	<ul style="list-style-type: none"> <li>- we cannot commit to MHTO that we will supply meeting records for groups outside the MHTO; should that request come from other parties we will expand the list of community groups we will do this for. Also, we asked MHTO for a resolution on action items in May 2020 and did not hear back until the technical meeting held September 2020</li> </ul>	N/A
Commitment 1ti2 to MHTO-5b	<p><i>Baffinland will look into the feasibility of installing acoustic monitoring equipment at the floe edge.</i></p> <p>The MHTO requested that Baffinland commit to developing a monitoring program that observes behaviour of ring and harp seal, narwhal, and other whale species as related to shipping, where these are found at the floe edge in spring and fall. We also requested that Baffinland commit to conducting acoustic monitoring and observation programs at the floe edge to identify calls from mammals, sounds from ships, and measure them as well as document responses, respectively. Finally the MHTO asked that Baffinland commit to conducting an IQ gathering exercise specific to the use of the floe edge by hunters, and what their knowledge of marine mammals and shipping at that area, in spring and fall can offer.</p> <p>Baffinland's response is not adequate, and does not address our request. This item remains outstanding.</p>	<ul style="list-style-type: none"> <li>- Baffinlands existing Ship Board Observer program monitors marine mammal behavior along the entire shipping route, including the floe edge, during the shoulder seasons; this program will continue through Phase 2; floe edge aerial surveys have also occurred over the last two years.</li> <li>- Baffinland commits to placing an acoustic monitor at the floe edge if that is the preference of the MHTO, Baffinlands acoustic monitoring program will be run for the duration of Phase 2 and the MHTO and MEWG will be included in program planning throughout</li> <li>- Through the CRLU Monitoring Program Baffinland will provide the financial support for Inuit led IQ gathering exercises. Use of the floe edge by hunters would be an appropriate topic for this program to investigate and monitor. The baseline collected through this initiative will inform Inuit specific objectives, indicators, thresholds and responses in Baffinlands adaptive management system</li> </ul>	<p>Marine Monitoring (general) – 88, 121, 123</p> <p>Hunter harvest survey – 36</p> <p>Seal monitoring – 30, 89, 91, 92</p> <p>Inuit Stewardship – 133, 134 and 135</p>
Commitment 9 to TC 04	<p><i>For the purposes of shoulder season vessel traffic management, Baffinland considers uninterrupted transits through ice concentrations of 3/10 or less as the open water shipping season. This will be considered in any relevant management plans or operating procedures.</i></p> <p>While not in relation to a specific MHTO technical comment, as noted in our submission to the NIRB regarding comment on Baffinland's 2019 Annual Report, we are opposed to ice breaking, and we have serious concerns with Baffinland continuing this activity. In regard to the commitment provided to Transport Canada 04, we would suggest that if the ice concentration requires the support of an ice management or ice breaking vessel, it be considered the shoulder season and not open water shipping. The use of ice</p>	<ul style="list-style-type: none"> <li>- How 'open water' is defined in Baffinlands management plans does not change how TC will regulate the activity.</li> <li>- Baffinland has proposed a definition of 'open water' that is consistent with the implementation of Spring shoulder season transit restriction measures. With 3/10 or less ice coverage it is</li> </ul>	N/A

	<p>management or breaking vessels will result in heavier traffic, substantial noise from the vessel and onboard equipment, and we expect, will have additional impacts as a result.</p> <p>We note that the definition of ‘open water’ as found in the Polar Code is “Open water means a large area of freely navigable water in which sea ice is present in concentrations less than 1/10. No ice of land origin is present”, and we also understand that Transport Canada has adopted this Polar Code into its regulations. We are not in agreement that the definition of ‘open water’ used in this assessment should be different from regulatory requirements in the instance that additional shipping and noise is generated. Baffinland has proposed more stringent mitigation measures during the times it defines as ‘shoulder season’ when ice breakers are used. We believe that while ice breakers are being employed, these more stringent measures should be maintained to manage additional impacts of their use.</p>	<p>possible to generally avoid contact with ice. Icebreakers would still escort vessels for safety, but icebreaking, which is the cause of additional acoustic noise as a result of increases in engine power, will not be needed.</p>	
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