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November 26, 2020

The Honourable Daniel Vandal, P.C., M.P.
Minister of Northern Affairs
House of Commons
Government of Canada
10 Wellington, 21st Floor
Gatineau, QC K1A 0H4

Sent via email: dan.vandal@parl.gc.ca

Re: Update to Minister on Recommendation for the Nunavut Impact Review Board to hold an Audit Workshop for Baffinland Iron Mines Corp.'s "Extension Request to the Production Increase Proposal" Related to the Mary River Project

Dear Honourable Minister:

On May 22, 2020 the Nunavut Impact Review Board (NIRB or Board) received the Minister's decision accepting the Board's recommendation that the "Extension Request to the Production Increase Proposal" related to Baffinland Iron Mine Corporation's (Proponent or Baffinland) Mary River Iron Ore Project (the Extension Request) be allowed to proceed subject to the terms and conditions of Project Certificate No. 005. In the correspondence sent on behalf of the Responsible Minister's, the following recommendation was provided to the Board:

Following receipt of the Board's Report, the Crown consulted with the Qikiqtani Inuit Association. It expressed concern that Term and Condition 179(c) does not provide enough certainty as to when performance audits will be performed and submitted and that the content of the audits received to date had not met the "spirit and intent" of the formal performance-based commitments made between it and the Proponent. The Association also suggested holding a workshop to clarify the scope of performance audits.

Responsible Ministers and I understand the Association's concerns and agree that Term and Condition 179(c) should be varied to ensure that performance audits are produced at regular intervals. Therefore, we are varying the wording as per section 112(6)(b)(i) of the Act to include the requirement that bi-annual

performance audits must be produced by Baffinland on or before March 31st and September 30th of each calendar year. Further, we are recommending that the Board, given its monitoring experience and expertise, host a workshop with the intent of clarifying the scope of the bi-annual performance audits to ensure the audits meet their intended purpose.

Reflecting the Minister's approval of the Extension Request, the Board has issued the amended Mary River Project Certificate No. 005 to reflect the Extension Request on June 18, 2020. Subsequently, on July 10, 2020 the NIRB received the Minister's direction under s. 114 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 directing that the Board consider resuming the suspended public meetings associated with the Board's on-going assessment of the Phase 2 Development Project proposal as a priority. Since July, reflecting the Minister's direction and the increases to public gathering limits and travel restrictions imposed by applicable public health authorities to limit the spread of COVID-19, the NIRB prioritized completing various meetings associated with the Mary River Project which had previously been suspended due to the COVID-19 pandemic. In August 2020, the NIRB held the Annual Marine Mitigation and Marine Monitoring Workshop in-person in Pond Inlet and in September and October, the Board completed the Technical Meeting and in-person Community Roundtable and Pre-Hearing Conference for the Phase 2 Development Project proposal.

When considering whether the Audit Workshop could be incorporated into this very busy schedule, the NIRB understood that there were several competing demands on the time and resources of parties who would be expected to participate in the Audit Workshop that would limit their ability to participate fully in the Workshop if it was to be scheduled in August-October. Specifically, the Board considered the following:

- The additional strain that the development and implementation of health and safety measures in response to the COVID-19 pandemic has imposed on territorial organizations;
- The workload for the parties and intervenors participating in ongoing monitoring of the project (including requirements that these parties prepare for and participate in the Marine Monitoring and Marine Mitigation Workshop, provide feedback to the Annual Monitoring Report, etc.); and
- The workload for these parties to also continue participating in the assessment of the Phase 2 Development Project proposal (including preparing and participating in bilateral meetings with the proponent, and the Board's Technical Meeting, Community Roundtable and Pre-Hearing Conference for the file).

Taking all these factors into account, the NIRB concluded that the earliest opportunity for parties to have capacity to participate in an Audit Workshop was following successful completion of the meetings referenced above. With the Board's release of the Pre-Hearing Conference Decision Report in respect of the Phase 2 Development Project proposal on October 30, 2020 in which the Board directed that the Public Hearing would resume on January 25, 2021, the Board then turned to consider when the Audit Workshop could be completed. At the beginning of November, it appeared that it may be feasible for the Board to conduct the Audit Workshop in December 2020.

However, on November 16, 2020, in response to the confirmation of several cases of COVID-19 in the Kivalliq Region of Nunavut, the Government of Nunavut issued public health orders to close all non-essential services, close schools and daycares, and ban all indoor gatherings in Nunavut for 2-weeks. The territory-wide closures will be revisited on December 2, 2020. However, in the interim, these public health closures and also travel restrictions into and out of Nunavut have made conducting an Audit Workshop in December 2020 no longer feasible, as parties are having to focus on adapting to office, school and daycare closures and would not be able to prepare for such a workshop regardless of format. As the Public Hearing for the Phase 2 Development proposal is scheduled to reconvene on January 25-February 2, 2021, the Audit Workshop will not be able to take place until sometime following the reconvened Public Hearing. Unfortunately, this timing, with the earliest opportunity to conduct the Workshop being delayed until at least March 2021 will mean that Baffinland will not have sufficient time to attend the Audit Workshop and then incorporate any recommendations developed during the Audit Workshop into the next audit, which is due in March 2021.

Although it is unfortunate that the response to the COVID-19 pandemic has affected both the timing and feasibility of conducting the Audit Workshop in 2020 and early 2021, the Board remains committed to holding the Audit Workshop at the first available opportunity. The timing of the Workshop, will however wait until the final stages of the Board's assessment of the Phase 2 Development Proposal project are completed (currently scheduled to be at the end of March 2021). The Board has provided this update to the Minister, to acknowledge that due to these unavoidable timing constraints, the recommendations developed through an Audit Workshop will not be integrated into Baffinland's March 2021 audit report as required under Term and Condition 179(c) of Project Certificate No. 005.

If you have any questions regarding the Board's approach moving forward, please contact the undersigned directly at (867) 983-4608 or kcostello@nirb.ca.

Sincerely,



Karen D. Costello
Executive Director
Nunavut Impact Review Board

cc: Megan Lord-Hoyle, Baffinland Iron Mines Corporation
Lou Kamermans, Baffinland Iron Mines Corporation
Mary River Distribution List