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Sent: Friday, February 5, 2021 2:29 PM

To: Teresa Meadows <tmeadows@meadowslaw.ca>; info@nirb.ca

Subject: RE: NIRB 124701/08MN053: Exhibits 32, 33 and 34 proposed to be filed by the Qikiqtani Inuit Association during the reconvened Public Hearing

Dear Board Members:

The Mittimatalik Hunters and Trappers Organization (“MHTO”) objects to the filing of Qikiqtani Inuit Association’s (“QIA”) Exhibits 32-34: “QIA 2020 Community Engagement Summary – Mary River Project”, in English and Inuktitut, and slide deck entitled “Enhancing Inuit Participation”.

First, in its decision dated January 29th regarding the Inuit Certainty Agreement, the Board said that while it would accept the full ICA on the record, it did not want any submissions by the parties about the consultation or negotiations around the ICA, as these issues were outside of the scope of the NIRB’s assessment. This has not been a new position of the Board. The Board has stated consistently since the fall that the NIRB’s assessment process is not the forum for discussion of the negotiation and consultations Baffinland and QIA undertook to develop the ICA.

Second, the Board also directed on January 29th that issues regarding general economic benefits are outside the scope of the NIRB’s assessment.

Despite the clear direction by the Board, QIA has filed the proposed Exhibits 32/33, which are a purported summary of consultation in 2020 by Baffinland with QIA, and QIA with affected communities. The document is QIA’s view of the consultation that it and Baffinland engaged in. The purpose of the document as a summary of consultation is clear at the outset: in the second paragraph on page 1, QIA says “Baffinland approached QIA to consider resolution of outstanding issues”. In the third paragraph on page 1, QIA says “(t)o ensure there was evidence of discussions QIA began exchanging letters with Baffinland to capture the spirit of what parties were contemplating in direct talks”. The document goes on at length to describe the dates of meetings and correspondence exchanged to advance the ICA negotiations, including who attended meetings, and whether telephone calls were made and returned.

Importantly, the document does not detail the technical issues themselves, just QIA’s view of the various communications and meetings, and negotiations. We note that the QIA has previously filed a summary of what they say are a resolution of technical concerns addressed the ICA – see QIA’s letter to NIRB dated July 7, 2020 (Doc ID 330682). The July letter attempts to summarize technical issues and as such is very different in nature and content than Exhibits 32/33, which focus on consultations and negotiations.

In our submission, QIA’s Exhibits 32/33 clearly contravene the Board’s decision to not allow consultation and negotiation materials on the record. Further, if the Board allows these

Exhibits, the Board will have only the QIA's view of consultations and negotiations. There are no other similar filings on the record. This is not fair to any of the other groups mentioned in the document, as none of them – including MHTO – have been allowed to file materials that reflect their views of the consultation record. Finally, the document is said to be a summary of events in 2020. Even if acceptable (which it is not), it should have been filed much sooner so that other parties could respond with their own similar filings. For all of these reasons, the Board should not allow Exhibits 32 and 33.

Exhibit 34 is a slide deck that sets out QIA's views of the benefits of the ICA. It is objectionable on two grounds: the first is that NIRB has said it will not consider economic benefits in its assessment of the Project. The slide deck speaks of a potential Community Benefits Policy, and royalties to be paid to the community. Second, the so-called benefits are all proposed, and are not in existence at this time. They may never come to fruition. Therefore, the Board should not allow this slide deck to be filed.

Regards,

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