

Baffinland Iron Mines Corporation's Mary River Phase 2 Proposal

**NOTICE OF MOTION**

The Mittimatalik Hunters and Trappers Organization (“MHTO”) submits this motion to the Nunavut Impact Review Board (“the Board”) on February 10, 2020 via email to [info@nirb.ca](mailto:info@nirb.ca).

**THE MOTION IS FOR** an order by the Board to:

1. Extend the timeline for written questions and answers to dates following the yet-to-be scheduled Community Roundtable (“CRT”) sessions, as follows:
  - a. One week after the close of the CRT for written questions; and
  - b. Two weeks after the close of the CRT for written answers;
2. In the alternative, extend the timeline for written questions and answers to a date following the release of transcripts for the first 12 days of the hearing, as follows:
  - a. One week after the release of transcripts for written questions; and
  - b. Two weeks after the release of transcripts for written answers.

**THE GROUNDS FOR THE MOTION ARE:**

1. In the final days of the hearing, several new documents were filed by Baffinland and intervenors, including:
  - a. The full Inuit Certainty Agreement; and
  - b. Baffinland’s “Mary River Project Economics Explained”.

2. There remain outstanding motions before the Board about other documents that may be admitted, including:
  - a. QIA's proposed "Community Engagement Summary"; and
  - b. Baffinland's "Preliminary Circular Offering".
3. In the last three and a half days of the hearing, all parties heard – for the first time – Baffinland's presentations on Adaptive Management and Socio-Economic Impacts, as well as presentations from 23 intervenors, several of whom presented updated presentations that were not yet on the Project registry. As such, there was a large amount of updated written material and oral presentations for participants to digest.
4. The Board has not yet set the dates for the remaining CRT, and as such the record is not closed.
5. Finally, there have been no dates set for final written submissions.
6. There were 12 hearing days in a 13 day period between January 25<sup>th</sup> and February 6<sup>th</sup>, 8 of which were extended days. The schedule was arduous and exhausting.
7. The extremely condensed schedule supports the need for all parties to be provided with a written transcript of proceedings, as well as sufficient time to review the transcripts, new materials, updated presentations and then submit any outstanding questions.
8. In our submissions, in the circumstances set out above, an extension of timelines for written questions is fair and reasonable. As we have described in prior motions, the Board must adopt a process in this proceeding that is procedurally fair.<sup>1</sup> This requires the Board to ensure that all of the parties are given an opportunity to present their case fully and fairly.<sup>2</sup>


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<sup>1</sup> *Baker v Canada (Minister of Citizenship & Immigration)*, 1999 SCC 699 at para 20.

<sup>2</sup> *Ibid* at para 28.

9. Further, the extension of timelines for written questions and responses would not cause prejudice to any party since:
  - a. all participants would have additional time to ensure the completeness and accuracy of questions and answers; and
  - b. an extension would apply equally to all parties.
10. Having written transcripts is critical to ensure a level playing field. Indeed, the additional time will allow parties to review transcripts and carefully vet questions to avoid repetition or redundancy.
11. Although we continue to assert that written questions are not a proper replacement for oral participation, additional time for written questions and answers will also provide the Board with a more fulsome evidentiary record with which to make its recommendations in the public interest.

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