



NIRB File No.: 08MN053
NWB File No.: 2AM-MRY1325
QIA File No.: LUA-2008-008
DFO File No.: 2008 MR

April 6, 2021

To: The Mary River Distribution List

Re: **NIRB File No. 08MN053 – Outstanding and New Motions, Objections and Requests for Procedural Guidance Received by the Board by March 23, 2021 in respect of the extension of the reconvened Public Hearing for Baffinland’s “Phase 2 Development Proposal”**

Dear Parties,

The Nunavut Impact Review Board (NIRB or Board) received several written motions, objections, and requests for procedural direction from Intervenors during, and just following the reconvened Public Hearing for Baffinland Iron Mines Corp.’s amendment to the Mary River Project, the “Phase 2 Development” Proposal (the reconvened Public Hearing). The reconvened Public Hearing was held from January 25, 2021 to February 6, 2021 and parties were provided an opportunity to comment on the motions both at the Public Hearing and following the Public Hearing. The Board has received written responses from parties to some of these materials. For the convenience of reviewers, the following list summarizes these materials received and posted on the Public Registry to date, grouped under the specific motion, objection or procedural direction. Please note, the summary below is not exhaustive and has been provided for the convenience of reviewers, and the full documents, including supporting materials were considered by the decision-making Panel to decide these matters and issue this updated guidance. Interested parties are encouraged to review the individual submissions of Parties in their entirety as posted on the Public Registry the documents are available by clicking on the link to the file in the NIRB’s Public Registry www.nirb.ca/project/124701 and searching the NIRB Document ID No. provided.

- 1) An Objection from Oceans North filed with the Board on February 3, 2021 (NIRB Document ID No. 332896) objecting to the Board’s direction requiring parties to submit technical questions in writing in respect of the Marine Environment. As of March 23, 2021, the following replies to the Objection were received by the Board:

Commenting Party	NIRB Document ID
Nunavut Tunngavik Incorporated (NTI)	332903
Qikiqtani Inuit Association (QIA)	332902
Government of Nunavut (GN)	332907
Government of Canada (GoC)	333012
Mittimatalik Hunters and Trappers Organization (MHTO)	332901
Hamlet of Pond Inlet	332909 & 333167
Ikajutit Hunters and Trappers Organization	332904
Igloolik Working Group	332910
Amaruq/Amarok Hunters and Trappers Association	332997
World Wildlife Fund (WWF)	332908
Baffinland Iron Mines Corporation (Baffinland)	332996

In general, the Intervenor voicing support for the Objection (MHTO, Hamlet of Pond Inlet, Ikajutit Hunters and Trappers Organization, Igloolik Working Group, Amaruq/Amarok Hunters and Trappers Association and WWF), cited the importance of the marine environment to Inuit and the high potential for the Phase 2 Proposal to have effects on the marine environment. On this basis, the Intervenor supporting the Objection concluded that having full oral questioning of the Proponent through the Public Hearing on the marine environment and other topics of interest to Inuit is the only appropriate process for ensuring their questions have been answered on this critical topic. The Qikiqtani Inuit Association supported the motion and also indicated:

QIA is aware that the Inuit community parties are particularly interested in hearing the oral questions of the other parties who have marine experts (including DFO, Oceans North and World Wildlife Fund), as these questions address key points of clarification also sought by the impacted Inuit communities.

Nunavut Tunngavik also shared these concerns with the Board, but noted:

NTI recognizes that to the extent the Board had spoken to the matter earlier this week, NTI defers to the Board's decision while reserving all legal rights,

recognizing it is the Board's prerogative to rearrange the agenda and that the Board's decision on limiting oral questions was contrary to NTI's submission

The Government of Nunavut and Government of Canada deferred to the Board's judgement, noting that the Board's ruling on a similar procedural matter earlier in the Proceeding was reasonable and within their discretion. In response, Baffinland indicated that Baffinland's previous submissions during the reconvened Public Hearing continued to apply to this Objection. In those prior submissions,¹ Baffinland noted that the Board has the discretion to impose limits on oral questioning in the circumstances and that procedural fairness does not prescribe a right to unlimited oral cross examination. Baffinland also undertook to: "... *answer all written questions referred to it by the NIRB within the timeline set by the Board.*"

In several of the Intervenor's comments on the *draft* Agenda for the extension of the reconvened Public Hearing, the Board also received similar feedback as received in Parties' responses to the ON Objection, with the MHTO and ON both commenting that time should be added to the extended sessions of the reconvened Public Hearing to allow for unlimited oral questioning on the marine environment by the Intervenor who were unable to do so during the reconvened Public Hearing.

- 2) A Notice of Motion from the Mittimatalik Hunters and Trappers Organization (MHTO), dated February 11, 2021 to either:
 - schedule the remaining Community Roundtable in Pond Inlet rather than Iqaluit; or
 - add 4 extra days of Community Roundtable (CRT) time to be held in the community of Pond Inlet in addition to any CRT dates scheduled in Iqaluit (NIRB Document ID: 333359).

A response to this motion was filed on March 23, 2021 by the Hamlet of Sanirajak (NIRB Document ID: 334178). The Hamlet did not support moving the Community Roundtable to Pond Inlet, but did indicate support for the 4 additional days to be added to the Community Roundtable to be held in Pond Inlet in addition to any CRT dates in Iqaluit.

- 3) Objections to a request from the Qikiqtani Inuit Association (QIA) to enter documents in relation to community consultation as Exhibit 32 (NIRB Document ID: 332937), Exhibit 33 (NIRB Document ID: 332938), and Exhibit 34 (NIRB Document ID: 332939), onto the Public Hearing Record. The following objections to entering these documents as Exhibits were received by the following parties:

¹ NIRB Document ID No. 332834.

Commenting Party	NIRB Document ID ²
Mittimatalik Hunters and Trappers Organization	333166
Igloolik Working Group	333176

The MTHO objected to the filing of these Exhibits by the QIA citing the Board’s previous decision that although the Board granted the MHTO’s previous motion to file the Inuit Certainty Agreement (ICA) in its entirety, the Board also indicated that the NIRB’s consideration of the ICA would be limited to the aspects of the ICA that were directed at the management, mitigation and monitoring of potential ecosystemic or socio-economic effects of the Phase 2 Development Proposal. The Board also stated that general discussions of the negotiations and consultation process surrounding the ICA are not relevant to the Board’s assessment. The MHTO’s Objection stated that allowing the consultation records to be filed would contradict the Board’s previous ruling regarding the ICA and related documents. The Igloolik Working Group noted their objection to the filing of these documents but did not cite any additional rationale.

On March 23, 2021, the QIA filed a response to the objections from the MHTO and Igloolik Working Group (NIRB Document ID No.: 334177). QIA agreed with the MHTO that consideration of economic benefits referenced within the ICA was outside the scope of the Board’s assessment with respect to environmental management, mitigation and monitoring, and the QIA stated the following:

QIA engagement on issues related to proposed environmental monitoring and management structures, to address specific technical concerns raised by QIA and the Inuit parties in the hearing, is within the scope of NIRB’s jurisdiction as these are central to the recommendations and decisions which NIRB must make on these exact matters.

QIA also provided a significant discussion in their response submission regarding the nature and extent of the Board’s jurisdiction to consider economic benefits during the assessment. The QIA concluded their submissions with the following:

QIA therefore respectfully submits that the appropriate remedy to address the objections raised by MHTO and Igloolik Working Group regarding QIA Exhibits 32, 33, and 34 is:

a. That NIRB affirm the Engagement Summary is properly entered into evidence before the Board in this Public Hearing;

² All submissions received can be accessed on the NIRB’s online public registry for this assessment or by searching with the above specified Document ID numbers from the NIRB’s public registry at www.nirb.ca/project/124701

b. That NIRB allow QIA to enter a modified version of the Enhancing Inuit Participation Slide Deck, replacing the current Slides #10 and 11; and

c. That NIRB provide explicit direction upon the resumption the hearing that questions regarding the details of benefits for the proposed Phase 2 project are outside of the jurisdiction of NIRB and outside the scope of the hearing, and if posed, should not require a response from QIA.

On March 23, 2021 Baffinland filed a response to the MHTO's Objection (NIRB Doc ID: 334181), stating their support for QIA's request to file the documentation as follows:

While the NIRB has previously expressed that issues such as the negotiation and consultation associated with the development of the Inuit Certainty Agreement are outside the scope of the NIRB's assessment, the Community Consultation Summary Documents do not represent a detailed discussion of negotiations between the QIA and Baffinland. Instead, the Community Consultation Summary documents are a summary of the steps taken by the QIA with respect to the work undertaken regarding the Inuit Certainty Agreement for the purpose of advising community members about that work and the relation of mitigation measures put forward as applicable to the Phase 2 process which directly speak to issues raised by communities throughout the process.

Conclusion

7. The Community Consultation Summary Documents are relevant in that they relate to the factors of the NIRB's assessment in s. 103(1)(h)(i) and (ii) of NuPPA, and will serve to further assist community members in understanding the work undertaken by the QIA in relation to the Inuit Certainty Agreement. For the reasons provided above, Baffinland supports the QIA's request that they be posted to the NIRB's public registry.

- 4) A Notice of Motion from Oceans North (**Re: Admission of the Preliminary Offering Circular (2018) as evidence** (NIRB Document ID No. 333013) and Affidavit in support of the Motion from G. MacDonald (NIRB Document ID No. 333014). In summary, the grounds for ON requesting the filing of this material was stated as follows:

The Proponent's Preliminary Offering Circular (2018) reveals a large body of information regarding project plans that are fundamentally inconsistent with the project proposal under review...and The Proponent's failure to disclose the full scale of its project plans has resulted in an improper scoping of this review;

Additionally, and since December of 2019, the Proponent has continued to assert that absent Phase 2 approval, the current Mary River mine and output volumes are not viable. Oceans North continues to argue for greater transparency on this important issue.

We maintain that it is critical to distinguish core viability of the existing Mary River mine from financial problems that the Proponent may be incurring due to

massive capital expenditures that have been made in anticipation of Phase 2 approval and/or due to any unsustainable debt Baffinland may be carrying as a result of these Phase 2 capital expenditures.

ON also asserted that since this issue was considered by the Board in November 2019, the Preliminary Information Circular has come into the public domain and is no longer a confidential document.

On February 10, 2021, the MHTO filed a response in support of ON's Motion, stating:

The Preliminary Information Circular is relevant to the need for and financial viability of the Project as proposed by Baffinland. It contains information about the extent to which the Project at its current and proposed expanded (12 mtpa) capacity is financially viable and whether future expansions will be necessary to maintain the financial viability of the Project. The Board should have the benefit of this information in making its recommendation on the Project.

Further, it is very difficult for the Board to gauge the extent of the regional impacts when, as here, Baffinland continues to split its Project into components that do not disclose the full extent of its project plans. These plans are not hypothetical, but are being actively contemplated by Baffinland. The Board is entitled to transparency, as are the residents of Nunavut.

MHTO supports the Board having access to all relevant information before it. This Project has the potential to significantly impact the harvesting rights of Inuit. The need for the Project, the financial viability of the Project and the true scope of the Project should be relevant considerations of the Board in its review and should be rigorously analyzed prior to approving impacts to harvesting rights.

On March 23, 2021, Baffinland filed a response (NIRB Document ID No: 334180) noting that this Motion is in substance the same motion that was filed by Oceans North during the November 2019 Hearing and noted that the Board has already dismissed the motion in the NIRB's *Record of Proceedings and Disposition of Motions Report for the November 2019 Public Hearing Phase 2 Development Proposal* (issued on December 16, 2019). Baffinland noted that the issues previously argued by Baffinland in opposition to the original November 2019 Motion, continue to apply (the Preliminary Offering Circular was not final, is not relevant and is confidential). With respect to the confidentiality issue, Baffinland asserted that Baffinland has never waived confidentiality in the Preliminary Offering Circular:

Baffinland submits that while it may be that other parties, such as news outlets are breaching the terms of the Preliminary Offering Circular, this does not provide justification or permit the Board to breach the confidentiality terms of the document. At no time has Baffinland waived its confidentiality over that document. It would be inappropriate for the Board, in potential violation of Canadian and U.S. law, to post the Preliminary Offering Circular on the basis

that it has been previously released by others (a newspaper) to members of the public, in contravention of the confidentiality provisions.

In summary, Baffinland concluded:

Baffinland submits that the Board should not overrule its previous ruling outlined in the Disposition of Motions Report to decline to consider the Preliminary Offering Circular in the assessment of the Phase 2 Proposal. The reasons given by the Board in its Disposition of Motions Report continue to stand: the Preliminary Offering Circular is an incomplete draft document, it remains confidential, and it is irrelevant to the Board's assessment. For all of the reasons provided above, Baffinland submits that the motion of Oceans North should be denied.

Although not directly related to ON's Motion, on March 22, 2021 Oceans North referenced, and then attached the following three items to their answers to a written question to NIRB (NIRB-59 to ON) that raised similar questions regarding the scope of the Board's assessment and the relevance and admissibility of documents generated outside the Board's process to the assessment:

- Aecon Mining Construction Services, a Division of Aecon Construction Group Inc and Baffinland Iron Mines Corporation and Baffinland Iron Mines LP. Statement of Claim, 10th July 2020. Action No. 08 20 228 CVC)
- Tower E.B.C.G.P and Baffinland Iron Mines Corporation and Baffinland Iron Mines LP Amended Statement of Claim, December 21, 2018. Action # 08-18-812-CVC;
- Memorandum of Locomotive Security Agreement. Recordation No.32759 Filed September 29, 2017 4:00 pm. Surface Transportation Board;

The Board declined to file these materials on the Registry, and indicated to parties that the Board would assess whether these materials are within the scope of the Mary River Phase 2 Development Project Proposal that is under assessment by the Board, and would add a section providing its direction as to whether these materials are within the scope of the current assessment and will be accepted for filing to the Board's during the disposition of motions, objections and requests for direction.

In the answer provided by Oceans North to the NIRB's question, about why their presentation materials have changed since the November 2019 PH, they stated these three additional documents are relevant because:

Given that the need for project justification is intrinsic to NIRB's environmental assessment process, Oceans North recognized that it was not only reasonable, but necessary, to pursue a more robust understanding of the Proponent's financial circumstances. The report ultimately concludes that the mine itself is profitable, and any financial challenges faced by BIMC are reflective of poor financial decision-making—for instance, the decision to invest heavily in infrastructure related to yet-to-be-approved Phase 2 activities. This spending is

detailed in Baffinland's 2018 Preliminary Offering Circular (previously filed into the NIRB process), and further substantiated in a number of documents recently examined by Oceans North. These include a United States Surface Transportation Board Locomotive Security Agreement from September 2017 (almost a year before the Phase 2 FEIS Addendum was even released) arranging for the purchase of five locomotives, as well as two lawsuits filed with the Nunavut Court of Justice describing two contracts from September 2017 and July 2019 (valued at \$248 million and \$83 million, respectively) related to infrastructure for Phase 2. It is noteworthy that the lawsuits allege that materials and equipment were purchased and work on rail expansion-related undertakings began shortly after BIMC and the firms involved had entered into the contracts.

- 5) The reservation of an Objection to the Mittimatalik Hunters and Trappers Organization's request to file various articles as Exhibit 63 (NIRB Document ID No. 332990), Exhibit 64 (NIRB Document ID No. 332991), Exhibit 65 (NIRB Document ID No. 332993), Exhibit 66 (NIRB Document ID No. 332992) and Exhibit 67 (NIRB Document ID No. 332989) from Baffinland Iron Mines Corporation (333172);

On March 23, 2021 Baffinland filed a response (NIRB Document ID No: 333179) waiving their objection to the filing of all of these Exhibits as follows:

2. After considering the documents, Baffinland determined that it had previously been provided with copies of Exhibits 63, 64 and 66 at the September 2020 Technical Meeting; however, Baffinland had not previously reviewed Exhibits 65 and 67.

3. Baffinland has no objection to the entry of Exhibits 63-67. In response to the two new documents, Exhibits 65 and 67:

*(a) Baffinland has submitted a technical review to Exhibit 67 – "Cortisol Levels in narwhal (*Monodon monoceros*) blubber from 2000-2019" (NIRB Document No. 332989) as part of its written responses to questions filed March 22, 2021. This review is included under CR-5, Attachment 1: Golder Review of Paper on Cortisol Levels in Narwhal (p. 218/339).*

(b) Baffinland has prepared a very brief response to Exhibit 65 – "Trace metals and Persistent Organic Pollutants concentrations in Narwhals from Eclipse Sound" (NIRB Document No. 332993).

- 6) The reservation of an Objection to the late-filed presentation material of Oceans North from Baffinland Iron Mines Corporation (333173); and

No response was received from Baffinland in respect of sustaining this objection.

- 7) A Notice of Motion from the Mittimatalik Hunters and Trappers Organization (MHTO) **Re: Extension of Time to File Written Questions** dated February 10, 2021 (NIRB Document ID No. 333177).

GENERAL PRINCIPLES APPLICABLE TO THE PANEL'S CONSIDERATION OF THE MOTIONS, OBJECTIONS AND REQUESTS FOR PROCEDURAL DIRECTION

In the Panel's consideration of the outstanding Motions, Objections and Requests for Procedural Direction, the Panel considered the following generally applicable principles:

- Subject to only to the requirements of procedural fairness and paying due regard to Inuit oral tradition, it remains open to the Board to determine the practice, process and procedure that best fits the individual circumstances of a given assessment, and the Board has the discretion to decide issues such as whether questions should be in writing or posed in oral form, whether cross-examination may be permitted, selecting the format, venues and agendas for Board proceedings;
- Parties are entitled to a fair process, but fair process does not equate with all Parties' preferred or ideal processes;
- In the process, practice and procedural decisions made by the Board, the Board must balance considerations such as the Board's objectives in conducting the proceedings, the rights of parties to fairness and applicable logistical and practical limits;
- The Board is required to consider only material that is "relevant" and "material" to the assessment, and to determine whether information meets these requirements, the Board considers whether:
 - The facts that the proposed material seeks to establish must be necessary or helpful to the Board in its determination of the matters at issue. In deciding whether or not facts are necessary or helpful, the Board will consider its own expertise in the field.
- To assess relevance during an assessment the Board considers whether the information provided:
 - Is within the scope of the Project being assessed;
 - Addresses the potential for ecosystemic and socio-economic effects of the Project being assessed; and
 - Is within the scope of the considerations of ecosystemic and socio-economic effects that the Board has jurisdiction to decide.

THE PANEL'S DISPOSITION OF OUTSTANDING MOTIONS, OBJECTIONS AND REQUESTS FOR PROCEDURAL GUIDANCE

After weighing all the Parties' submissions and the generally applicable principles, the NIRB's decision-making Panel has provided the following disposition of outstanding Motions, Objections and Requests for Procedural Direction:

Item 7: Request for an Extension to the Time for Filing Written Questions

This Item was addressed on February 17, 2021 when the Board denied the extension request, noting that the Board had balanced many considerations to determine the appropriate schedule for exchange of information and that there was no flexibility to accommodate extensions to the timeline.

Item 1: Objection to the Board requiring parties to submit technical questions in writing in respect of the Marine Environment

When the Panel issued this procedural direction during the reconvened Public Hearing, the Panel noted that this is expressly permitted under the Rules of Procedure and that procedural fairness does not dictate that questions must be asked in oral form. The Panel reiterates that the questioning during a Public Hearing must be placed within the proper context of the Board's assessment process. The Public Hearing is not the first or only opportunity that the Parties have had to ask questions in oral and written form, to discuss the Proponent's Addendum to the Final Environmental Impact Statement and the potential for ecosystemic and socio-economic effects. To date, including the reconvened Public Hearing, the Board's assessment has included more than 30 days of in-person meetings, supplemented by teleconferences and written submissions over the course of two and half (2 ½) years, with a considerable focus on the potential for effects in the marine environment. The focus of the Public Hearing, as discussed with parties at both the Public Hearing in 2019, the Pre-Hearing Conference and restated during the reconvened Public Hearing is on questions in relation to outstanding or unresolved technical issues. Parties are not required to reiterate or repeat questions already on the Board's record for the assessment of the Project during the technical sessions of the Public Hearing in order for the Board to consider them.

When viewed in the full and proper context, the Board continues to consider the limits imposed on oral questioning during the reconvened Public Hearing to be reasonable and has overruled the Objection of ON in this respect. However, the Board does note that because Parties who did not get an opportunity to ask their questions on the topic during the reconvened Public Hearing may have submitted a greater number of written questions than other Parties, the Board has included one hour of follow up questioning for each Party who did not ask questions during the reconvened Public Hearing on the topic of the Marine Environment. The Government of Canada has been given 90 minutes for follow up questions, recognizing that several Departments may have questions on this topic.

Item 2: MHTO Notice of Motion to hold a CRT in Pond Inlet or add 4 Extra Days to the extension proceedings and hold a 4 Day CRT in Pond Inlet

As noted previously by the Board, there is insufficient accommodation to allow for the Board to have all the Community Representatives from the other potentially affected North Baffin Communities and representatives of the Proponent and Intervenors all present together in Pond Inlet for the Community Roundtable (CRT). The Board confirmed these constraints continue to exist when the CRT was held during the Pre-Hearing Conference in October 2020, with Pond Inlet as the primary hub.

Therefore, the Panel has denied the MHTO's motion to hold the CRT in Pond Inlet. In terms of adding 4 extra days to the CRT to be held in Pond Inlet, this is not logistically feasible. However, to ensure that the residents of Pond Inlet can continue to participate fully, the Board has made arrangements to provide a Zoom hub in the Pond Inlet Hall so that members of the public in Pond

Inlet will have the ability to ask questions during the public session, every day of the CRT, and the Community Representatives from Pond Inlet will be seated at the table every day of the CRT and will have the opportunity to ask questions and give comments along with the 2 other North Baffin Communities seated at the table on each of the first three (3) days of the CRT and also with all the community representatives from any of the affected North Baffin Communities on days 4 and 5 of the CRT.

Item 3: Objections to a request from the Qikiqtani Inuit Association to enter Exhibits 32-34 (documents in relation to community consultation) onto the Public Hearing Record and a Request from the QIA to declare the Board’s jurisdiction to consider economic benefits

Consistent with the Board’s previous direction on the Inuit Certainty Agreement (ICA), the Board does not consider discussions about how the ICA was negotiated between Baffinland and the QIA to be relevant to the Board’s assessment. However, the discussion of specific ICA terms and conditions that involve management, mitigation or monitoring of potential ecosystemic or socio-economic effects that were developed to address technical issues may be considered by the Board. The aspect of the Exhibits that speak to QIA’s efforts to solicit feedback from communities about management, mitigation or monitoring of ecosystemic or socio-economic effects may be spoken to by the QIA, and therefore, the Board will allow these Exhibits to be entered for those purposes. The Board is not asking for the QIA to file modified Exhibits, but rather for Parties and the QIA to focus their questions and comments about the Exhibits on only relevant aspects of the consultation record.

The Panel has declined to provide QIA’s request for declaratory guidance regarding the Board’s limited jurisdiction to consider economic benefits. However, the Board wishes to make it clear that although the Board’s jurisdiction to make recommendations with respect to economic benefits that are not linked to ecosystemic effects is limited, the Board’s assessment of the potential for a project to have positive or negative socio-economic effects necessarily involves the Board hearing evidence and considering the nature and extent of economic benefits that may be associated with a given project. As Parties are aware from the Board’s past assessments, although the details of specific economic benefits negotiated between the Proponent and the Designated Inuit Organization under an Inuit Impact Benefit Agreement are typically not known at the time of the assessment of a given project, the Board is often provided general information regarding the range and scope of economic benefits to facilitate the Board’s assessment of potential socio-economic effects.

Item 4: A Notice of Motion from Oceans North (Re: Admission of the Preliminary Offering Circular (2018) as evidence and proposed filing of 3 documents supplementing answers to Board questions

As noted by the Board previously in November 2019, the scope of the Board’s assessment of the Phase 2 Development Proposal is limited to the scope of the project as defined in the proposal referred to it by the Nunavut Planning Commission, and involves the shipment of 12 million tonnes of ore per year type via Milne Port.

Materials, such as forward-looking information provided to investors as communicated in the Preliminary Offering Circular outside the Board’s process does not change the scope of the assessment to an 18 million tonne shipping operation. For the reasons already found by the Board in 2019, and most notably relevance to the scope of the Board’s proceedings, the Panel denies the Motion to file the Preliminary Offering Circular. Although the Panel did permit Oceans North to file the Open Oil Report which does reference information in the Preliminary Offering Circular, the Open Oil Report is also based on information provided by Baffinland in the assessment, and it is not necessary to review the Preliminary Offering Circular in order to understand the Open Oil Report in context.

With respect to the three documents attached to Oceans North’s answers to questions filed on March 22, 2021, the Panel has determined that expenditures and planning activities that may have been contemplated or may have been made by Baffinland to prepare for the development of the Phase 2 Development Proposal are also irrelevant to the Board’s assessment. Given limited shipping windows and construction schedules, it is not unusual for project proponents to explore options and enter into contracts to prepare for future regulatory approvals. As with past assessments, the Board does not consider this kind of information as relevant to the assessment. Proponents are well aware that if regulatory approvals are not subsequently granted by regulatory authorities, there is a risk that advance plans may be shelved and associated costs may be incurred.

Item 5: Objection to the MHTO’s filing of Exhibits 63-67

On the basis that this objection has been withdrawn by Baffinland, the Panel has directed that Exhibits 63-67 will be entered on the Public Hearing Record.

Item 6: The reservation of an Objection to the late-filed presentation material of Oceans North from Baffinland Iron Mines Corporation

On the basis that this objection has not been spoken to further by Baffinland, the Panel has directed that the presentation material be entered as an Exhibit on the Public Hearing Record as filed.

This concludes the Panel’s disposition of outstanding Motions, Objections and Requests for Procedural Direction. Should you have any questions regarding the upcoming reconvened Public Hearings please contact Cory Barker, Technical Advisor, at cbarker@nirb.ca. Any questions regarding procedural matters should be directed to the NIRB’s Executive Director, Karen Costello at (867) 983-4608 or kcostello@nirb.ca.

Sincerely,



Marjorie (Kaviq) Kaluraq
Chairperson
Nunavut Impact Review Board

cc: Megan Lord-Hoyle, Baffinland Iron Mines Corporation