

NUNAVUT IMPACT REVIEW BOARD

MARY RIVER PHASE 2 PROPOSAL

BAFFINLAND IRON MINES CORPORATION

NIRB File. No. 08MN053

**BAFFINLAND RESPONSE TO THE APRIL 15, 2021**

**NOTICE OF OBJECTION OF THE QIKIQTANI INUIT ASSOCIATION AND  
NUNAVUT TUNNGAVIK INCORPORATED REGARDING ADMISSIBILITY OF THE  
SUPPORT SLIDES**

1. Baffinland Iron Mines Corporation (“**Baffinland**”) opposes the objection of the Qikiqtani Inuit Association (the “**QIA**”) dated April 15, 2021 (the “**QIA Submission**”), and states that the 210414 BIM New Support Slides – IT4M (NIRB Registry No. 334663) (the “**Support Slides**”) should properly be marked as an exhibits by the Nunavut Impact Review Board (the “**NIRB**” or “**Board**”).
2. In its April 15, 2021 submission, Nunavut Tunngavik Incorporated (“**NTI**”) raised substantially the same issues as the QIA in objecting to the admissibility of the Support Slides (the “**NTI Submission**”). Baffinland’s submissions below also respond to the NTI Submission.
3. Baffinland submitted the Support Slides to the NIRB for the following reasons: they are in reply to issues raised during the proceeding, they provide information regarding new commitments recently made by Baffinland, or they seek to explain technical issues in plainer terms or graphically for the benefit of community members, NIRB staff and the NIRB. The slides could be used in conjunction with oral explanations or responses to questions during the community roundtable to help illustrate the points or information in a meaningful way.

4. All such documents are properly admissible, and in fact, should be considered by NIRB in its assessment. There is no prejudice to any party should they be admitted as evidence in the Phase 2 proceeding.
5. Baffinland's position on the admissibility of the Support Slides is set out below in further detail.
6. The Support Slides provide updated information to the NIRB and Parties regarding new mitigation measures, employment benefits, and refinements to the proposed adaptive management plan for the Phase 2 Proposal:
  - Slides 1 and 2 provide a graphic representation of potential wind fencing mitigation measures for dust control, which is a potential dust mitigation described in previous NIRB filings. In particular, Baffinland filed a "Dust Summary Report on April 6, 2021, in advance of the April 2021 Public Hearing Session (NIRB Registry No. 334330);
  - Slides 3 to 7 provide information regarding employment benefits with the Phase 2 Proposal, including recently developed commitments that are also described in the draft Commitment List (NIRB Registry No. 334329) and Updated Community Engagement Update (NIRB Registry No. 334460);
  - Slides 8 to 11 provide photographs of aspects of the mining process at Mary River, including crushing, hauling and stacking;
  - Slides 12 and 13 are placeholders for Baffinland to play recordings of narwhal vocalizations during the Public Hearing prepared in response to a request by the Hamlet of Sanirajak for such recordings during the January-February 2021 Public Hearing session.<sup>1</sup>

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<sup>1</sup> Public hearing transcript for February 3, 2021 (NIRB Registry No. 333453), p.1588.

- Slide 14 includes two graphic representations of ship noise; and
  - Slide 15 provides a graphic representation of the manner in which the proposed Adaptive Management Plan will be implemented, evaluated and adjusted. The slide presents similar information to that included at page 311 of the “BIM Responses to Questions” filing (NIRB Registry No. 334147).
7. With respect to the slides that describe additional commitments, Baffinland recently developed these commitments in consultation with other Parties after the adjournment of the Public Hearing in February 2021. Baffinland made these updated commitments in response to concerns raised by Parties, including concerns raised by Parties as recently as the Public Hearing held in April 2021.
  8. An example of those new commitments is Baffinland’s commitment to provide employment in the affected communities (the “**Communities**”), which Baffinland has made as of March 2021. During the Public Hearing session in January-February 2021, participants raised concerns that employment with Baffinland was being offered at the mine site, which might not be suitable employment for those with caregiver or other responsibilities who need to remain in the community and cannot undertake a two-week rotational work schedule.<sup>2</sup> The Hamlet of Pond Inlet had also raised the topic of more community-based employment with Baffinland at the November 2019 Public Hearing session.<sup>3</sup> In response to this concern, Baffinland has committed to employing a number of individuals in each of the affected Communities. This commitment is directly relevant and responsive to the issues raised by participants and the Hamlet of Pond Inlet specifically.
  9. It is important to consider that the Public Hearing has not yet completed. Baffinland’s position is that, taking into account the nature of the Support Slides, there is no prejudice

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<sup>2</sup> See, for example, the public hearing transcript for February 3, 2021 (NIRB Registry No. 333453), at pp.1629 to 1630.

<sup>3</sup> Public hearing transcript for November 2, 2019 (NIRB Registry No. 327559), p. 217.

to any party on the basis that the Support Slides were filed less than 15 days prior to the recommencement of the Public Hearing. However, if there was any prejudice, such prejudice has since been remedied through the passage of time.

10. As the Public Hearing was adjourned unexpectedly on April 14, 2021, Parties have now had more than 15 days with the Support Slides to consider them prior to the resumption of the Public Hearing. Accordingly, any prejudice that may have existed due to the timing of when the Support Slides were filed has been addressed by the adjournment.
11. It is open to the QIA or NTI to include any submissions on these materials they wish to make in their Final Written Summaries that will be filed with the Board at the end of the Public Hearing.
12. With respect to the QIA's specific concerns included in their submission respecting Slide 3, this information has been available through several presentations throughout the review process. This information was presented in January in the Socioeconomic Presentation at Slide 22. Baffinland is not suggesting the QSTEP information reflected on that slide is new information.
13. Slide 7 of the Support Slides references information that has been included in the Commitment List since November 2019.
14. With respect to the QIA's specific concerns included in their submission respecting Slide 15, it is noted that the slide presents similar information to that included at page 311 of the "BIM Responses to Questions" filing (NIRB Registry No. 334147), filed on March 22, 2021 in advance of the April Public Hearing. These materials represent Baffinland's understanding of discussions with QIA to date and commitments relating to adaptive management. However, it is expected that discussions on these important topics will continue with QIA and affected communities. Baffinland and QIA will be continuing to advance the implementation of the Inuit Certainty Agreement during the period leading to the recommenced Public Hearing. As noted at paragraph 11 above, QIA and Baffinland can provide any relevant updates to the NIRB on this topic prior to or at the recommenced Public Hearing.

15. As set out in the Updated Community Engagement Update (NIRB Registry No. 334460), QIA representatives attended meetings with Baffinland in Sanirajak on March 22, 2021 and in Igloolik on March 25, 2021. The new commitments described in the Support Slides were described and discussed at those meetings. The new commitments referenced on Support Slides 4-6 were also shared with QIA on April 8 in English and Inuktitut via a letter to Mayor Arreak that was copied to the QIA President and 2 QIA staff members.
16. With respect to the QIA's specific concerns included in their submission respecting their wish to be engaged on the new proposed mitigations included in the Support Slides, Baffinland is ready and willing to engage with QIA on these matters at any time. It is our hope that such engagement can continue during the current pause in the Public Hearing process, and that QIA and Baffinland can provide any relevant updates to the NIRB prior to or at the recommenced Public Hearing.
17. Baffinland notes that the commitments included in the Support Slides are all specifically outlined in the most recent Commitment List filed with NIRB, as well as the most recent Updated Engagement Summary Update (NIRB Registry No. 334460). Should NIRB approval of Phase 2 be granted, it is anticipated the Commitment List will be attached to and become part of the Project Certificate. It is proper for NIRB to take all commitments into account in making its determination on Phase 2, whether they are reflected in the Commitment List only or also reflected in external agreements.
18. As recognized in the NIRB's Final Hearing Report for the original Mary River Project, the exact amount and manner of distribution of Project-related benefits may not be finalized prior to the close of the hearing record.<sup>4</sup>
19. Baffinland also encourages the NIRB to give full consideration to the arguments set out in the "Analysis" Section of its Response to the MHTO Notice of Objection, as they also apply generally to the QIA's Notice of Objection as well as those raised by NTI in the NTI submission.

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<sup>4</sup> NIRB Final Hearing Report, Mary River Project, Baffinland Iron Mines Corporation, NIRB File NO. 08MN053, September 2012 at p. 207-208.

20. For all of the reasons cited, Baffinland submits the NIRB should admit all of the Support Slides into evidence for consideration as part of the Phase 2 Proposal assessment process.

Dated May 6, 2021

*“Lawson Lundell LLP”* \_\_\_\_\_  
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Solicitors for Baffinland Iron Mines  
Corporation