

Baffinland Iron Mines Corporation's Phase 2 Development Proposal

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**NOTICE OF MOTION**

**Pursuant to Rule 5.1, 7.1 to 7.7 of the  
NUNAVUT IMPACT REVIEW BOARD rules of Procedure**

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TAKE NOTICE THAT the NUNAVUT INDEPENDENT TELEVISION NETWORK ("NITV") will make a Motion to the Nunavut Impact Review Board (the "Board") in writing and will appear before the Board for the purpose of presenting oral argument on the Motion at a time and place as determined by the Board.

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

1. Permitting NITV to use electronic devices capable of transmitting and recording audio and video feed at the Extended Public Hearing, scheduled for November 1-6, 2021.
2. Permitting NITV to provide the public with live and recorded electronic public access to the Extended Public Hearing by broadcasting, streaming (live and on-demand), sharing and otherwise transmitting the entirety of the Extended Public Hearing, on the Internet, and through radio, television and other digital platforms ("Electronic Public Access").
3. Permitting NITV to provide the public with recorded electronic access to previously held public hearings in relation to this matter by broadcasting full hearing days on television, and streaming full hearing days live and on-demand on the Internet.

**THE GROUNDS OF THIS MOTION ARE:**

4. Residents of the impacted communities and Nunavut Inuit originating from and or living in the communities impacted by this development project (the “Impacted Community Members”) have common law, legislated, Charter, and Constitutionally protected Treaty rights to have meaningful participation in the Board’s process and meaningful access to the Board’s record.
5. Electronic Public Access is consistent with the principles of openness and transparency which are hallmarks of Canada’s justice system and are equally applicable to quasi-judicial bodies. Electronic Public Access also promotes the s 2(b) *Charter* rights of Impacted Community members and NITV.
6. Providing Electronic Public Access to residents of the Impacted Communities, and in particular Inuit from those communities who wish to view the Extended Public Hearing, is imperative for the Board to uphold their substantive and procedural rights and to fulfil the Boards obligation in accordance with the principles of procedural fairness and natural justice.
7. Electronic Public Access encourages public accessibility of the Board’s proceedings to Impacted Community Members who are directly affected by NIRB’s assessment of the proposed Phase 2 development and the recommendations that NIRB will make to the Minister.
8. Electronic Public Access is particularly suitable in this case due to the significant community and public interest surrounding the development proposal at issue before the Board. In addition:
  - a. The Board is an institution of public government and must be seen to be operating in a manner that is reflective of the values, norms and priorities of the Nunavut community, and in a manner that protects and upholds the rights and interests of Nunavut Inuit and Nunavummiut;

- b. As an institution of public government, it is a priority of the Board to consider the interests of all impacted community members, which necessarily includes their interest to see and hear the Extended Public Hearings;
  - c. The Extended Public Hearings and the process of the Board generally are not well understood by Nunavummiut and Inuit communities impacted by the proposed development. The Board has an obligation to ensure the process is understood;
  - d. There is misinformation circulating in the impacted communities, both in person and on the Internet, which has caused skepticism, confusion and mistrust of the parties and the Board's process. The most effective way to combat misinformation and distorted facts is to present an easily accessible, complete, and accurate account of the Extended Public Hearings so that community members may learn the truth about the evidence and arguments that have been presented to the Board;
  - e. The ability to impacted Nunavummiut and Inuit to attend the Extended Public Hearings is severely impaired given the public health restrictions in place arising from the COVID-19 pandemic, and the geographic limitations of residents, which may be further impacted by weather in early November.
9. The obligation to ensure access to the process and transparency of the Boards process is even greater in this case because the Indigenous Rights and Human Rights of Nunavut Inuit are at stake in this process. Electronic Public Access ensures the promotion and protection of significant substantive and procedural rights of a Nunavut Inuit and is vital to the advancement of reconciliation through meaningful and transparent co-management of lands and resources.
10. Public access to the Extended Public Hearings must mean effective and meaningful public access to ensure that impacted community members who are interested in seeing and hearing the Extended Public Hearings have the opportunity to do so at an accessible time and place.

THE FOLLOWING DOCUMENTARY EVIDENCE is relied upon in support of this motion:

1. Letter from NIRB to all parties re AV feed;
2. Letter to NITV to NIRB on March 23, 2021;
3. Letter from NIRB to the parties re Guidance to Media, April 6, 2021;
4. Letter from NITV to NIRB on April 8, 2021;
5. Letter from NITV to NIRB on April 9, 2021;
6. Letter from NIRB to NITV on April 10, 2021;
7. NIRB Decision, Dated April 12, 2021;
8. Affidavit of Anita Uuttuuvak;
9. Affidavit of Jayko Ootoowak;
10. Affidavit of Madeline Ivalu; and,
11. Letter from the Government of Canada to NIRB re Approach to Crown Consultation.

DATED THIS 15<sup>th</sup> day of September, 2021

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