

**NUNAVUT IMPACT REVIEW BOARD**  
**MARY RIVER PHASE 2 PROPOSAL**  
**BAFFINLAND IRON MINES CORPORATION**  
**NIRB File. No. 08MN053**

**BAFFINLAND IRON MINES CORPORATION SUBMISSION ON EXPRESSIONS OF CONCERN  
AND OBJECTIONS TO VIDEO PRESENTED TO NIRB BY NORMAN SIMONEE DURING  
PHASE 2 COMMUNITY ROUNDTABLE ON NOVEMBER 2, 2021**

1. The following is Baffinland Iron Mines Corporation (**Baffinland**)’s response to the various submissions received by NIRB (the **Objections**) respecting the video which was screened during the Community Roundtable on November 2, 2021 (the **Union Inuit Employee Video**).
2. Baffinland wishes to make clear that it fully supports its Inuit employees in their efforts to be heard by the NIRB in whatever form they feel most comfortable expressing themselves and whatever their opinion on Phase 2 may be. Baffinland is surprised and disappointed that some interveners are attempting to prevent Inuit voices from being heard in these important proceedings.
3. Baffinland also wishes to state clearly and unequivocally that no individual that appeared in the Union Inuit Employee Video was coerced to do so. That is an outrageous suggestion by the lawyer for Oceans North that has no basis or merit. The words and views shared by the employees were their own (as was explicitly noted in text appearing on screen at the beginning of the video which stated “The opinions and statements expressed by the interviewees in this video are their own” as well as during the video which stated “Individual is reading from their own prepared statement”).
4. In conducting a review of a project, the NIRB must take into account the factors set out at section 103 of the *Nunavut Planning and Project Assessment Act*, which includes considerations

of the need for the project (see s. 103(1)(a)); the well being of residents and communities of the designated area (see s. 103(b)); the socio-economic impacts of the project (see s. 103(e)); the measures to avoid and mitigate adverse socioeconomic impacts, optimize the benefits of the project, and compensate persons adversely affected by the project (see s. 103(h)); and the significance of the impacts, taking into account the proposed mitigation measures (see s. 103(i)). The NIRB must also take into account any community knowledge provided to it (see s. 103(3)). It is clear that the matters testified to by the employees that participated in the Union Inuit Employee Video are directly relevant to the matters that the Board must consider as part of its decision making on the Phase 2 Proposal.

5. The primary purpose of the Community Roundtable is for community members to ask questions of parties, express their views and the views of the community they represent, and share information and perspectives. The strict approach to evidence reflected in the Objections is not consistent with the purpose and structure of the Community Roundtable.
6. The employees' union IUOE Local 793 has participated previously to provide support to employees who wish to participate in the NIRB Phase 2 process, specifically on April 9, 2021 [NIRB Registry No. 334533] filing letters on the Public Registry from employees sharing their views on the Phase 2 Proposal as well as their own submission.
7. The Union Inuit Employee Video was screened during the Community Roundtable at the request of Norman Simonee, an Inuk employee of Baffinland that attended in person in Pond Inlet. As indicated in the NIRB's introduction to the Union Inuit Employee Video, the employees' union IUOE Local 793 helped union members who are employees at the Project prepare the video to support them in their desire to provide oral testimonies to the NIRB (note the following summary of the Panel's procedural direction was prepared from Baffinland's notes as the transcript from the Community Roundtable is not yet available):

*Inuit employees of Baffinland have made a request to share their experience working at Baffinland by way of a video made with the help of their union, International Union of Operating Engineers. Board has handled the request same as the request to show the 30 minute video presentation made by James Simonee showing his interview from several elders from Pond Inlet during CRT held by Board on Feb 6, 2021.*

*Board recognizes that some were not able to attend hearing and video may be only opportunity to participate. However, Board also understands that because employees are sharing their opinions and views with the Board but are not subject to cross-*

*examination by the Board or intervenors the Board will not consider any facts submitted in the video as new evidence unless such facts were previously presented.*

*The video has been provided by the union in parts so that the Board can make the video available in sections on the NIRB public registry. And the same as the video presented in February, the Board will not be marking and entering the video as an exhibit. One of the employees who is featured in the video will now introduce the video, and when the video has concluded the Board will continue with questions and comments from community attendees.*

8. In other words, the Panel has been clear that it would not accept the Union Inuit Employee Video as a “technical” submission. The essence of the Panel’s statement was that the Board would accept the testimonials of the Inuit employees indicating their personal views respecting the Project. This approach is well within the boundaries of the Community Roundtable and is not dissimilar to other participants sharing their views live from Pond Inlet, Iqaluit, via Zoom or through phone capabilities.
9. Oceans North suggests that the Union Inuit Employee Video is improper because IUOE Local 793 was not a registered intervener. This point misunderstands the NIRB’s direction when it introduced the video, the Union Inuit Employee Video itself, and the purpose of the Community Roundtable, all of which focussed on personal and community views. The point also ignores Rule 22.4 of the NIRB’s Rules of Procedure, which states that, “[a]ny person who does not wish to intervene in an oral hearing but who wishes to make their views known may make an oral presentation during that portion of the hearing that has been set aside to hear the views of the public.”
10. The testimonials of the individual Inuk employees should be given the same weight as if each of them had stood up to a microphone at the Community Roundtable and provided their perspective to the Board. That perspective is a personal one only and it does not constitute technical evidence. As with other members of the community who stated their views during the Community Roundtable either as formal community representatives, or as individual members of the public, those views are given consideration by NIRB, and they are not subject to cross-examination.
11. The personal testimonies of the individual Inuk employees that participated in the Union Inuit Employee Video provide the Panel with a proper understanding of the views of those individuals

from their perspective as Inuit currently employed at the Mary River Project. For the Panel to give consideration to the personal testimonials of the Inuit employees helps the Panel to understand the diversity of community perspectives, which is the purpose of the Community Roundtable. Hearing these personal testimonials does not prejudice any other party in any way.

12. It would be unfair to the individual Inuit who participated in the Union Inuit Employee Video to deny their opportunity to present their personal views to NIRB, and unfair for those personal views to be dismissed. It would be particularly unfair to do so after the close of the Community Roundtable when the individuals no longer have the option to appear in person.
13. The approximate 30 minute length of the Union Inuit Employee Video is not a lengthy submission, within the context of other oral submissions offered by individuals during the Community Roundtable which lasted up to 45 minutes or more. Offering testimony in the form of a video that provided NIRB with the testimonials of 20 Inuit employees within approximately 30 minutes was respectful of the time limitations that are necessarily part of the Community Roundtable, balanced with the need for NIRB to hear from Inuit employees that will be directly impacted by the NIRB's decision on the Phase 2 Proposal.
14. All of the above submissions are equally applicable to the video presented at the request of the MHTO in which Elders presented their own personal views. It is clearly important to hear from Elders, and it is equally important to hear from other Inuit that wish to participate in the NIRB process, including Inuit employees at the Mary River Project.

DATED at the City of Vancouver, British Columbia, this 15<sup>th</sup> day of November, 2021.

*"Lawson Lundell LLP"*

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