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International Union Of Operating Engineers

Local 793

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November 15, 2021

VIA EMAIL: info@nirb.ca

Nunavut Impact Review Board
29 Mitik Street
P.O. Box 1360
Cambridge Bay, NU X0B 0C0
Attention: Karen Costello, Executive Director

Dear Ms. Costello;

Re: Video: "Our Inuit Voices Matter: Supporting Baffinland's Phase 2 Expansion"
NIRB File. No. 08MN053

Thank you for the opportunity to provide this written response to the objections raised regarding the video submitted by International Union of Operating Engineers, Local 793 ("IUOE Local 793") on behalf of our Inuit members. Many of the participants in the video are aware of the objections being raised by a number of the parties to these proceedings and are outraged that any party would question the veracity and authenticity of their testimonials and suggest they are a proxy for the proponent. In that vein, attached are four statements prepared independently by four of the video participants that we ask the NIRB to consider as they weigh the objections.

At the core, IUOE Local 793 and our members believe that the NIRB's acceptance of the video as testimony from affected community members is fully consistent with the NIRB's mandate and the community roundtable portion of the public hearings and denies that there is any valid objection to the introduction and acceptance of the video by the NIRB. The voices of Inuit workers at the mine sharing their firmly held individual views of the benefits of Phase Two with the courage and emotion they demonstrate in the video must be accepted by the NIRB in the same manner as any other affected community member who was permitted to speak during the final week of hearing. As you are aware, IUOE Local 793 is a trade union representing more than 17,600 members in a variety of sectors in both Ontario and Nunavut. At the Baffinland Mary River Mine, IUOE Local 793 represents over 900 production workers across a broad range of occupations. Approximately 150 of these production workers are Inuit living in Nunavut.

Prior to representing workers at the Mary River Mine, IUOE Local 793 has a long and proud history of training Inuit workers who wish to pursue a career operating cranes and heavy equipment. Our training arm, the Operating Engineers Training Institute of Ontario ("OETIO"), has trained in excess of 500 people from Nunavut since 2005. We have maintained contact and relationships with many of these trainees over the years and some have ultimately decided to obtain employment at Baffinland's Mary River Mine.

IUOE Local 793 is proud of its role and relationship with many Inuit workers in Nunavut. For those that have pursued a career at the Mary River Mine, we continue to act as a resource and support for our members in all matters relating to their employment. We are a member-driven organization and rely heavily on interaction and support of our members in identifying the issues that are important to them. IUOE Local 793's collective bargaining agreement with Baffinland

specifically addresses the Union's unique role in representing Inuit members at the mine and issues of specific concern to them. We continue to promote Inuit members becoming union stewards and being leaders in the workplace.

As a starting point, IUOE Local 793 understands that NIRB's mandate is to assess the potential biophysical and **socio-economic** impact of proposals they are considering. We further understand that the primary objectives of the NIRB shall be at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area. The NIRB must also take into account the well-being of residents of Canada outside the Nunavut Settlement Area.

As a trade Union representing workers at the Mary River Mine, the views of these workers, whether they be resident of Nunavut or residents of Canada outside of the Nunavut Settlement Area, are relevant to the factors the NIRB must consider when making decisions about proposed projects. This is why IUOE Local 793 and IUOE previously submitted to NIRB a written submission with written testimonials from our members on **April 9, 2021**. It is worth noting that no party objected to the April 9, 2021 submission or it being posted on the public registry in this matter. At no time has IUOE Local 793 been an intervenor to these proceedings.

The video "**Our Inuit Voices Matter: Supporting Baffinland's Phase 2 Expansion**" that we have submitted to the NIRB and which was introduced via IUOE Local 793 member Norman Simonie at the community roundtable portion of the hearing on Tuesday November 2, 2021, was our continued effort to assist those of our Inuit members working at the Baffinland mine who wished to have their voices heard during the NIRB's regulatory process, which concluded with the community roundtable segment. As indicated by the NIRB to the parties to the proceedings, including the registered intervenors, the purpose of the community roundtable portion of the hearings was for the NIRB Mary River Panel to hear questions, comments, oral evidence and closing statements directly from nominated community representatives of the seven potentially affected North Baffin communities and from the residents of Pond Inlet in attendance at the Pond Inlet venue. Mr. Simonie who introduced the video at the Pond Inlet venue is himself a resident of Pond Inlet who is also a union member working at the Mary River Mine. With the technical phase of the hearings already concluded, it was the Union's understanding that the proponent and the many registered intervenors were making final closing statements in writing following the conclusion of the community roundtable segment.

This video was not submitted as, or intended to support, any of the technical environmental or other evidence that this Board is considering which we understand was dealt with in previous phases of these hearings and which were subject to their own timelines and evidentiary rules. IUOE Local 793 agrees with the NIRB's rationale on treating the video in the same manner as the request to show a video presentation on February 6, 2021 by James Simonee of Elders from Pond Inlet. In the case of twenty Baffinland employees, IUOE Local 793 emphasizes the point made by the Chair when calling on Norman Simonie to present the video wherein she recognized that not all of the participants were able to attend the hearing and the video may be the only opportunity to participate in the process.

That said, we do object to any suggestion that evidentiary standards applicable to technical evidence should be applied to the voices of our Inuit members who participated in the creation of this video for submission during the Roundtable portion of the NIRB's processes. Our members

are participating, with our assistance, pursuant to Rule 22.4 of the NIRB Rules of Procedure under which we understand any person may make their view known.

We have reviewed the letters of objection to the video asking that the NIRB reject to weigh the voices of Inuit working at the Mary River Mine. The concerns expressed seem to fall into general categories including questions about the reliability of the video evidence and concerns about its authenticity.

We provide these further submissions to respond directly to these concerns. We strongly reject any suggestion that the video is unreliable or prejudicial. None of the objecting parties have provided any foundation for their assertions and objections. The NIRB is tasked with considering all forms of impact – both negative and positive – of the proposal on the North Baffin region. The views in this video are those of individuals who will inevitably be directly impacted by the acceptance or rejection of the Phase Two Proposal. Their voices and views are relevant and should form part of the evidentiary record in the same manner as other community members' comments form part of the evidentiary record and therefore be given appropriate weight by the NIRB.

RELIABILITY

The objecting parties through their own letters or adopting the submissions of other parties allege, without any basis in fact that we can discern, that the speaker selection or editing during the video creation process may have inappropriately distorted and changed the true views of the individuals who appear in the video.

Inuit employees living in Nunavut were at home on standby pay due to COVID from March 2020 until approximately a month ago. As such, these employees were not able to participate in the first IUOE Local 793 submission dated April 9, 2021. In discussions with our Inuit members living in Nunavut, it became that these employees, though updated through regular meetings in their communities regarding the status of Phase Two, were not being given an opportunity to have meaningful participation in the process and in fact desperately wanted to do so. Considering the livelihoods of these members will be impacted in some way by the decision regarding Phase Two, it was shocking to IUOE Local 793 that no one had sought to assist these members in participating in the NIRB processes.

During IUOE Local 793's initial discussions with our Inuit members, it was thought that we could assist them in preparing written statements much the same as was done in the April 2021 submission. However, many of our Inuit members preferred an approach that honored their oral tradition versus a written statement. We fully supported this preference since we wanted to ensure their views and voices were heard and respected without heavy editing consistent with the purpose of the NIRB's process which is to hear directly and authentically from Inuit affected by the Phase Two proposal.¹

When we spoke with our Inuit members and asked them what way they would feel comfortable communicating their views to the NIRB, our members were overwhelmingly in favor of either

¹ *Nunavut Agreement 12.2.24: allow where appropriate evidence not normally admissible and give due regard and weight to tradition of inuit oral communication*

video or voice recordings. Since all of these workers were not yet allowed to come to the mine due to COVID-19 restrictions, all of the longer videos were done remotely with most of the participants filming in their own homes or homes of family or friends. For the shorter testimonial pieces towards the end of the video, these videos were filmed by each Inuit worker on their own and then submitted to IUOE Local 793 to include in the video. No representative of IUOE Local 793 was present with them while they self-filmed their own videos.

We wish to be very clear on this point. None of the individuals who participated in the video, either the longer segments or the shorter segments, were selected or identified by Baffinland. Baffinland had absolutely no involvement in the preparation of the video, except to the extent that Local 793's media department did seek permission to use some photographs and video belonging to Baffinland related to the mine in order to supplement background graphics to add visual appeal to the video. IUOE Local 793 regularly requests photographs and videos to use in a variety of union publications, be it our magazines, steward bulletins or training videos about the mine and of interest to our over 900 members working at the mine. For other pictures and video, the Union has both stewards and full-time Union Business Representatives stationed at the mine site on a rotating basis to assist our members in their dealings with their employer, which enabled them to get additional photography and video of our members in the workplace without the involvement of Baffinland management.

Our Inuit Voices Matter: Supporting Baffinland's Phase 2 Expansion is a collection of our Inuit members speaking their own words and expressing their own views, not those of the Union and definitely not those of Baffinland. Some of our members took notes for themselves to remind themselves what they wanted to say and where this was done, the video identifies the member speaking from notes they prepared on their own. The Union did not review these notes and has no copy of these notes.² We encouraged members to do whatever they decided to feel confident and comfortable. Some members were comfortable speaking extemporaneously. Some were most comfortable in engaging in a question and answer format to prompt them on different issues about which they had expressed an interest in speaking about. As already noted, the shorter segments of speaking by members which are grouped together at the end of the video were taken by our members themselves and sent into IUOE Local 793 for inclusion in the video.

IUOE Local 793 edited the compiled video footage taken for length and clarity but did not make any attempt to edit for content. Every member who participated in the video gave their explicit consent to be in the video and to have the video submitted to the NIRB for the purpose of weighing it as they made a decision on the Phase Two Proposal. All of these members were provided with a copy of the completed video, and in some cases draft versions of the video, well before it was sent to the NIRB. Every person in the video was given the opportunity to comment on or object to the way their remarks ultimately appeared. No negative concerns were raised with the final form and appearance of the video. All of the participants were very pleased with the final video. Local 793 has an ongoing relationship with all our members and relies on their support. It is not in our interests to damage that relationship by warping or misrepresenting their views in the ways about which the objectors are apparently concerned. Our goal was and remains to ensure the voices of our members are heard, period. We are simply a resource to assist them.

² See introduction to the video under content disclaimer which states in both English and Inuktitut "The opinions and statements expressed by the interviewees in this video are their own" and subtitle on portions of the video which state in both English and Inuktitut "Interviewee is reading their own prepared statement".

IUOE Local 793 has watched the video submitted and accepted by the NIRB on February 6, 2021 by James Simonee and has no concerns about its voluntariness, authenticity or editing, as did none of the other parties. However, it is worth noting that in this video there were numerous instances of participants potentially reading from a prepared script³, instances where it appeared the editor of the video was curating, picking or cutting portions of testimonials out of the video⁴ and instances where the person speaking clearly had visible either a script or facts document to assist in their testimony.⁵

AUTHENTICITY

A further objection which has been raised is that it is alleged that the individuals who appeared in the video were not subject to cross-examination.

We reiterate our position that the views of our members were not provided during the technical phase of these hearings and do not constitute evidence of a technical nature or direct evidence about factually disputed matters which the NIRB would normally subject to cross examination.

Rather, during this roundtable phase of the hearings we understand the hearings to have been held further to Rule 36.1 which allow interested persons the opportunity to communicate their views about the proposal. All information presented to the Board at such a hearing may be considered by the Board.

We note as well that the written submissions of our Inuit members employed at the mine have been accepted as part of the record without cross examination. We note further that our member Norman Simonie who participated in the video and was present in Pond Inlet at the Round Table and was called upon to speak and asked that the video be played. Mr. Simonie stated as follows:

Hello, I am an employee of Baffinland. I am training as a mechanic for pick up trucks. I have been training all year. In 2018, I started working for Baffinland. I am in favour of seeing Phase 2. Since I have started working there I am able to provide for my family. And I am able to purchase items that my children want. And because I don't go out hunting, we are only purchasing items from our grocery store or our local stores. I would like to see Phase 2 to be given the green light. There is going to be a crusher that's going to be enclosed and less dust will spread. Less fugitive dust will appear. I also work fueling vehicles. Once the train is being used to haul the iron ore, it's going to have less impact to the environment. I would like to see Phase 2 go ahead. Some of the people that I am employed with will appear in the video. There will also be people that are employed there appearing in the video. This has been provided by the union, thank you.

Mr. Simonie was present and available for cross examination and was not asked a single question by any participant or intervenor. It is our understanding that *none* of the Inuit who participated in the roundtable portion of the NIRB hearings were subjected to cross examination of any sort. We also understand that a previous video presented by the MHTO was accepted without cross examination. Cross examination was neither legally required nor practically an expectation.

³ See timestamps 3:27, 4:47, 11:11, 13:16, and 24:20 of the Elder video.

⁴ See timestamps 1:41 - 1:43, 13:11 - 13:14, 23:24 - 23:26 of the Elder video.

⁵ See timestamps 6:54, 15:19 of the Elder video.

The suggestion that cross examination would have been sought or conducted if the 20 members who participated in this view to communicate their views if they had attended in person is disingenuous and misleading, and it is difficult for us to view it as anything other than an attempt to shut down voices with a differing perspective to that of the objectors.

PREJUDICE

As a trade union with over 100 years history of representing the interests of workers, the suggestion that we or our members are acting as a tool of an employer is highly offensive to us. There are absolutely no facts to suggest this other than the opponents to the video share a different view of the Phase Two Proposal than those who participate in the video.

The fact that Inuit workers at the mine show pride in their employment at Baffinland and appreciate the significant skills training and opportunity they receive while being employed near their home communities should not be surprising to anyone. The fact that many would want to share their views on Phase Two and how they believe it will either positively or negatively affect them and their families should not be surprising either. IUOE Local 793 could never have predicted the kind of offensive criticism and skepticism shown by the submissions of the objectors to hearing the views and voices of Inuit members working at the Mary River Mine. These objections seem to ignore and fail to recognize that all Inuit want to be engaged in processes that will ultimately impact their livelihoods and those of their families.

From our observation of the NIRB process, it is clear to us that there are a variety of potential impacts of approving or not approving the Phase Two Expansion. It was therefore not surprising to us that there are individuals with a variety of views on the potential benefits and harms of the proposal. Our Inuit members working at the mine are navigating these conflicting pressures with courage and dignity. They do not expect there to be unanimous agreement with their viewpoints, but they do expect not to have the legitimacy of their views insulted when they go to the trouble of participating in the NIRB process to express their views. Including the evidence of these views is not prejudicial to the NIRB process. The function of the NIRB by law is to review both the ecosystemic and the socio-economic impacts of project proposals.

The full text of Rule 33.3, which was referred to both by the MGTO and the QIA makes clear that the default position of the Board shall be to accept relevant evidence, with exclusion the allowable exception to the general rule.

Excluding the video submission of these employees based on spurious technical objections or authenticity concerns without any factual foundation would be counter to the NIRB's function and mandate and fail to give weight to the voices of highly impact Inuit who would have found it difficult to participate in any other way during this regulatory process. All Inuit voices matter, not just the voices of those that object to the Phase Two Proposal.

Yours truly,



Melissa Atkins-Mahaney
Labour Relations Manager, Counsel, IUOE Local 793