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Building *Nunavut* Together
Nunavut liuqatigiingniq
Bâtir le *Nunavut* ensemble

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Government of Nunavut
Nunavut Kavamat
Gouvernement du Nunavut

January 10, 2022

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

Sent VIA Email: info@nirb.ca

RE: **124701/08MN053: Request for Closing Written Statements on the NIRB's Assessment of Baffinland's "Phase 2 Development Proposal"**

Dear Ms. Costello,

On behalf of the Government of Nunavut (GN), I would like to thank the Nunavut Impact Review Board (NIRB) for the opportunity to provide our Final Closing Statements for the Boards' assessment of Baffinland's "Phase 2 Development" Project Proposal.

The GN puts forth the following Closing Statements for consideration by the NIRB to further its review of the "Phase 2 Development Proposal". These closing remarks summarize our intervention and reflect the GN's mandate.

The GN looks forward to our continued participation in the review of Baffinland's proposed "Phase 2 Development". Please contact me by phone at (867) 975-7828 or by email at asimonfalvy@gov.nu.ca should you have any questions or concerns regarding this document.

Qujannamiik,

Agnes Simonfalvy
Avatilirinirq Coordinator
Government of Nunavut

NUNAVUT IMPACT REVIEW BOARD
IN THE MATTER OF MARY RIVER PHASE 2 PROPOSAL
BY BAFFINLAND IRON MINES CORPORATION

GOVERNMENT OF NUNAVUT'S CLOSING REMARKS

On behalf of the Government of Nunavut (GN), these are the GN's Final Closing Statements to the Nunavut Impact Review Board (NIRB) regarding the impact assessment of NIRB File No. 08MN053; the "Phase 2 Development" Project Proposal (the Expansion or Phase 2) submitted by Baffinland Iron Mines Corporation (BIMC).

1. Introduction

The GN has participated as an intervenor in this impact assessment from its beginning. Our remarks here summarize the GN's participation in the process, specifically the work conducted by the GN's Environmental Assessment Review Team (EART), that reflects our mandated responsibilities related to socio-economic priorities, and the protection of the environment and human health. The remarks also address briefly a few important issues that arose during the Community Roundtable during the week of November 1, 2021 in Iqaluit.

The GN continues to prioritize the development and management of our renewable and non-renewable resources for the long-term benefit of Nunavummiut. Our vision is for the development of the territory's resources in a responsible manner that ensures Nunavummiut can enjoy a strong and stable relationship with our land for generations to come while having economic opportunities via investment in public infrastructure and industry.

2. Scope and Intent of the GN's Participation

While the federal government currently has authority over the management of mineral resources in Nunavut, the GN has significant jurisdictional responsibility and permitting authority over matters such as activities that affect wildlife and wildlife habitat, Commissioner's lands, education, health, social services, public safety, culture, community development, property rights, and the administration of Nunavut laws.

The GN, consequently, has a unique role both as an intervenor in NIRB assessment process and throughout the life cycle of resource development projects in the territory. The GN has an interest in the outcome of the NIRB's review process to ensure projects minimize adverse impacts to the environment and maximize benefits to Nunavummiut.

Our submissions in this matter considered:

- a. BIMC's conclusions regarding project-related eco-systemic and socio-economic impacts and benefits;
- b. BIMC's responses to the GN's technical review comments; and

- c. the adequacy of BIMC's proposed mitigation and monitoring measures.

The GN's review, comments, and recommendations are based on the following considerations:

1. the requirements and objectives (including the principles of conservation) of the *Nunavut Agreement*;
2. the requirements of Nunavut law;
3. the priorities of the GN and Nunavummiut;
4. Inuit Societal Values and *Inuit Qaujimagatuqangit* (IQ);
5. the NIRB's guiding principles and documents; and
6. the Precautionary Principle.

The GN is guided by and has integrated the following IQ principles into its several submissions and appearances throughout this NIRB assessment:

1. *Inuuqatigiitsiarniq*: respecting others, relationships and caring for people;
2. *Tunnganarniq*: fostering good spirit by being open, welcoming and inclusive;
3. *Pijitsirniq*: serving and providing for family and/or community;
4. *Aajiiqatigiinni*: decision-making through discussion and consensus;
5. *Pilimmaksarniq/Pijariuqsarniq*: development of skills through observation, mentoring, practice, and effort;
6. *Piliriqatigiinni/Ikajuqtiinni*: working together for a common cause;
7. *Qanuqtuurniq*: being innovative and resourceful; and
8. *Avatittinnik Kamatsiarniq*: respect and care for the land, animals and the environment.

Over the course of this impact assessment, the GN brought forward 86 information requests, 30 technical review comments, and 9 comments in our final written submission with respect to BIMC's Final Environmental Impact Statement (FEIS). The GN also put forward several recommendations to address concerns with the Expansion.

The GN has reviewed BIMC's FEIS for Phase 2 and provided the Board, Proponent, and public with three sets of comments and recommendations (November 2018, March 2019, and September 2019). The GN put forward several comments regarding habitat loss (see GN Technical Review Comments 9, 10, 14, 15). Ultimately, BIMC addressed GN's concerns around habitat loss by committing to update their Terrestrial Environment Mitigation and Monitoring Plan (TEMMP) to reflect that BIMC will, at least every 5 years, undertake research to estimate the zone(s)-of-influence and disturbance coefficients exerted by the Project's operations on caribou.

3. Responses to issues from November 1-6 Community Round Table

3.1 The Agreement in Principle between the GN and BIMC

The GN, through the *Nunavut Agreement* has the ultimate responsibility for wildlife (Sections 5.1.2 and 5.2.33 of the *Nunavut Agreement*). This means the GN has a legal, constitutional obligation to research and monitor caribou on a regional scale. BIMC, on the other hand, has an obligation to monitor caribou with respect to potential Expansion impacts.

The GN has a caribou collaring program which provides data on caribou distribution, movement, and behaviour responses. There are, however, gaps in knowledge between project-specific impacts to caribou

and regional monitoring efforts with respect to the Baffin Island caribou herd. Additional data on this is directly relevant to the monitoring of potential Expansion-related impacts and potential mitigation for cumulative effects.

Therefore, a collaborative approach between BIMC and the GN will help to address the present uncertainty and gaps in knowledge between project-specific impact and regional monitoring efforts with respect to caribou. To this end, the GN and BIMC entered into an Agreement in Principle (AIP) for the development of a research contribution agreement (RCA) and data sample sharing agreement (DSSA) for caribou monitoring in the North Baffin. The AIP was added to the NIRB registry and this impact assessment's record on November 4, 2021.

The AIP includes a timeline for the GN and BIMC to reach agreement on an RCA and DSSA by January 30, 2022. The RCA is for additional funding for GN research. The DSSA would set out the manner of release of collar data from the GN and its use by BIMC.

The follow through on agreements in principle with respect to caribou monitoring varies widely based on project type, scope, and proponent. With respect to BIMC as the Proponent, the GN can provide a few historic examples as to timelines.

3.1.1. Timelines on implementation of historic AIPs between GN and BIMC

Between 2008 and 2011, a successful caribou-collaring program in the North Baffin was supported by BIMC in the form of financial and in-kind support that included fuel, accommodations, and use of a helicopter to deploy the program. The financial support from BIMC began in 2007 and finished in 2010.

There was also a second contribution agreement for caribou-composition monitoring between BIMC and the GN which was completed in 2016. The 2016 program informed territorial caribou management objectives.

3.1.2. Areas of focus for caribou monitoring

The GN has worked with Hunters Trappers Organizations (HTOs), co-management partners and communities to document critical habitat areas on Baffin Island for caribou based on IQ and scientific information. An assessment of seasonal range use was completed for the 2014 abundance survey report, though the data available for this work was limited and dated. IQ exists regarding where these areas were during various times in the population cycle that has also informed the GN's work. However, further research is required to determine current seasonal range use and migratory corridors to revise locations of these areas and assess any change through time.

The GN's approach to assessing population level effects of development activities on caribou involves the collection of multiple lines of evidence because several factors are at play with respect to impacts on the Baffin Island herd. In consultation with concerned HTOs, the GN monitors caribou through multiple methods including but not limited to; composition surveys, GPS satellite collaring, collection, and analysis of historical information (both IQ and scientific), health monitoring, abundance surveys and habitat analysis and mapping. Potential population-level effects on caribou can be identified initially by reviewing caribou distribution and movements in response to the Phase 2 Expansion.

BIMC's commitments to effectively and collaboratively update the zone-of-influence and to enter into a RCA and DSSA with the GN will help to address the uncertainty surrounding Project-related effects on caribou moving forward.

3.2 Dust

During the Community Roundtable of the week of November 1, 2021, many community members asked questions and expressed concerns regarding dust related to both the current mining activities at the Mary River Project as well as to the Phase 2 being considered by the Board.

BIMC is required to model, measure, and monitor dust produced from operations at the Mary River Project. In their FEIS Addendum, BIMC measured and modelled dust deposition at the mine, Milne Inlet and near the Tote Road.

The GN, along with other intervenors, made several recommendations (GN Technical Review Comments 07, 19, and 21) to BIMC regarding the dust monitoring programs which resulted in BIMC committing to implement mitigations such as the:

1. construction of an indoor crusher at Milne Port; and
2. use of dust suppressant on the ore stockpiles at Milne Port.

The GN also finds it reasonable that dust generation will be significantly reduced with the use of a train, under the Expansion, to transport ore versus the use of haul trucks as is the current practice.

3.3 Incorporation of *Inuit Qaujimagatuqangit* in the GN's intervention

During the Community Roundtable of the week of November 1, 2021, the GN was asked how its position with respect to BIMC's FEIS is informed by the presence and comments of affected communities and also by IQ.

IQ is a key component that informs the GN's research programs, including research objectives and design. IQ identifies key areas of concern as well as how and where to focus research efforts. The GN engages with Inuit and the public who have provided important perspectives and experiences that have informed our research priorities and manner of community engagement.

With respect to the GN's monitoring and research obligations for wildlife, consultations with HTOs occur at least annually to discuss results, provide research updates, and identify future research objectives. (See also section 3.1.2 above for additional information with respect to the involvement of communities and incorporation of IQ into the GN's caribou monitoring activities.) The GN's consultations with HTOs and communities has led to incorporation of community concerns and recommendations into GN research programs.

The GN's analysis of BIMC's Expansion proposal and FEIS is informed by these consultations and research. Additionally, to the extent IQ and community input is in GN data that is shared with BIMC for their monitoring, BIMC's analyses incorporate these elements as well.

3.4 Terrestrial Environment Working Group and Marine Environment Working Group

During the Community Roundtable of the week of November 1, 2021, there was a question about the function and functionality of the terrestrial environment working group (TEWG) and the marine environment working group (MEWG).

Both working groups are important for collaboration and discussion among stakeholders with BIMC on BIMC's monitoring programs and potential adaptive management decisions. These working groups can be an effective pathway to collaborate with BIMC on improvements to monitoring programs and potential adaptive management measures. The working groups offer the opportunity to form an efficient, effective,

and ongoing mechanism for timely collaboration with respect to ensuring BIMC is meeting its intended monitoring and reporting obligations while also operating the Mary River Project, and if the Phase 2 Proposal is recommended and approved, the Expansion.

To be most productive and functional, the working groups require timely and regular exchange of information, including with respect to monitoring program design and methodologies, updates from BIMC on the status of monitoring programs, and review of draft reports and preliminary analyses in order for the members of the working group to develop timely analyses and consider recommendations for BIMC.

The GN also recommends that the working groups collaboratively develop:

1. an annual monitoring work plan;
2. terms of reference that are clear; and
3. a reporting schedule of anticipated milestones for monitoring data and programs.

Moreover, the recommendations put forward by members of the working groups are valuable and important for BIMC to meet its monitoring obligations. Where BIMC diverges from the recommended approach, BIMC should address that the concerns and contribution of the working groups.

However, these working groups, per BIMC's Project Certificate for the currently active project, are not meant to—nor can—duplicate or supplement regulatory oversight or responsibilities of any working group member. Ultimately, it is the responsibility of BIMC to comply with any issued Project Certificate as well as licenses and permits with respect to its activities, and relevant regulations. This is inclusive of BIMC's obligations to monitor and to bear the associated costs.

3.5 Narwhal

During the Community Roundtable of the week of November 1, 2021, the topic of narwhal harvesting and tags arose.

Narwhal management ultimately is the responsibility of the Fisheries and Oceans Canada (DFO). DFO decides the allocated quotas per community and provides the tags to the local HTO who distribute them to hunters. The GN and DFO maintain a memorandum of understanding that covers enforcement, some program delivery, and harvest recording. Should a hunt be successful, and a tusk be procured, the hunter brings it to the GN wildlife office where a conservation officer will affix a metal cable tag to the tusk allowing for sale and export.

There are 3 distinct seasons for narwhal harvesting: Spring (April 1 to July 10), Summer (July 11 to October 15), and Fall (October 16 to March 31). During the 2021-2022 harvesting year a total of 152 tags were issued to Pond Inlet (137 for Summer, and 15 for the Fall/Spring). The entire summer quota of 137 narwhal were successfully harvested and reported to the GN Wildlife Office.

There have been reports of hunters needing to travel farther and search longer during their narwhal hunts. The catch-per-unit effort and any potential changes to it over time have not been analysed by the GN.

3.6 Project Certificate Revisions

During the review for the Mary River Phase 2 Project, the GN made several comments and recommendations regarding the Project Certificate. BIMC has addressed many of the GN's comments to a satisfactory level. However, one item remains outstanding, and this is with respect to term and condition 179b.

The GN's position is that activity levels—in addition to total tonnage levels—are most relevant to monitoring potential impacts to wildlife. However, these levels must be consistent with those assessed in the FEIS if monitoring is to be effective; the FEIS was based upon a maximum train traffic level of 16 transits per day (with trains of a specified length). If deviation from that level is desired, it is incumbent on BIMC to provide an assessment of this augmented activity level.

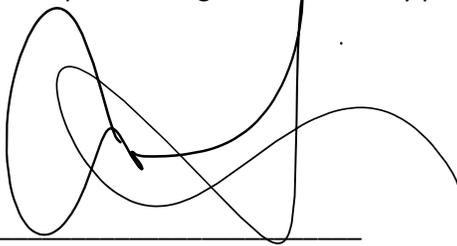
The GN continues to recommend revising TC 179b to reflect “operational flexibility”, i.e., specify a maximum of 20 transits per day (on any given day), but an average daily maximum (over a calendar year) of 16 transits per day. This will ensure activity levels are within the bounds of the FEIS assessment.

Specifically, the GN continues to recommend that TC 179b deal with the level of activity allowable along the Northern transportation corridor, i.e. the tote road and railroad.

4 Conclusion

Notwithstanding the comments with respect to draft TC 179b at section 3.6, the GN does not have any remaining concerns with BIMC's Phase 2 Project Proposal. If the Expansion is approved, the GN will continue to fulfill its obligations to monitor and advise mitigation with respect to Phase 2. We will also continue our work to enforce territorial laws and regulations that apply to the project, including with respect to taxes owing.

IQ and research show that there are many factors that affect wildlife and the environment such as climate change, harvesting pressures, predation, food availability, cycles in population levels as well as industrial activities. The GN is committed to working with our co-management partners to identify appropriate and effective adaptive management actions by participating in monitoring activities.

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Agnes Simonfalvy
Avatilirniq Coordinator, Government of Nunavut
January 10, 2022