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Ms. Kaviq Kaluraq
Chair, Nunavut Impact Review Board
Cambridge Bay, Nunavut

January 10, 2022

Dear Ms. Kaviq Kaluraq,

Thank you for the opportunity to submit a Final Closing Statement for the Nunavut Impact Review Board's reconsideration of the Mary River Project Certificate for Baffinland's Mary River Phase 2 Proposal.

WWF-Canada is a conservation organization with permanent offices and staff in Iqaluit, working directly with Nunavut communities on shared conservation priorities. WWF has participated in the NIRB assessment of the Mary River project since 2008, and through our comments and participation, continue to press for the sustainable development of the project and its potential expansion.

There are foundational activities and aspects of the current Mary River project and the proposed expansion proposal which must be in place before phase 2 is approved. These include:

- Development of appropriate thresholds and indicators, with community involvement and Inuit Qaujimajatuqangit,
- Adequately develop, with community involvement and Inuit Qaujimajatuqangit, monitoring programs that can inform ongoing activities and mitigation, and ensure monitoring results are providing meaningful information about ongoing adaptive management and relevant project impacts.
- A commitment to concrete climate change reduction targets, including GHGs and black carbon reductions from shipping and;
- Transboundary impacts are adequately assessed and addressed.

Without all of these in place, phase 2 expansion should not be approved, and the current project requires considerable scrutiny and reevaluation.

To add to WWF's September 2019 Final Written Submission, please consider this additional perspective to support the Board's decision on the phase 2 expansion:

Public Health Emergency

As expressed in our letter December 18th 2020, WWF is deeply concerned about how a Nunavut-based body such as the NIRB would be willing to risk public safety in an attempt to accommodate the construction timeline and wishes of a project proponent. As we highlighted, Section 12.2.27 of the Agreement states, "All necessary steps shall be taken by way of notice, dissemination of information, and scheduling and location of hearings to provide and promote public awareness of and participation at hearings." Convening a public hearing during a health crisis limits community participation, does not



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allow adequate engagement and consultation between community members and technical experts, and reduces in person debate and discussion time about the risks and benefits of the proposed mine expansion. Additionally, as we all experienced at the hearings and especially true for community members who had to travel, there is a very high human health risk and impact from attending in person meetings. Public hearings should be convened when it is safe for all parties to have a meaningful and productive role, without risk to personal and community health.

Clarifications from the Public Hearings

WWF wasn't given an opportunity during the November 2021 hearings to address these issues so we will do so here.

WWF misspoke at the final public hearing in November 2021. We characterized the observed reduced populations of Narwhal in the regional study area for the last two years as being 'chased' out of the region by Baffinland shipping operations. The correct characterization is Narwhal are being 'pushed' out of the region by shipping operations. We appreciate Baffinland pointing this out during the hearing.

Also, at that same hearing in November 2021, Baffinland misrepresented WWF's updated shipping fuel spill analysis. We updated the analysis not because we used the 'wrong information' but rather, we were given incorrect information by Baffinland. As all parties likely recall, early in the public hearings, there was a significant lack of clarity from Baffinland on shipping transit levels, volumes, and types of shipping associated with the phase 2 project. Many iterations from Baffinland were put before the NIRB with various scenarios which caused confusion and delay. WWF used the best information available at the time to direct our consultant to undertake shipping fuel spill modelling. Once Baffinland clarified their shipping volumes and operations, WWF redid the analysis and presented our findings in a transparent way to the board. We submitted this new analysis to NIRB, which is on the registry, and compared the new findings with the old findings in a written submission to the board. It's unfortunate that Baffinland chose to mischaracterize WWF's approach to determining shipping fuel spill probabilities during the public hearings.

Impacts to Caribou

There has never been railway infrastructure built in Nunavut or impacts from a railway to caribou monitored in Nunavut. The proposed phase 2 railway would be in the habitat of a herd that by some estimations is 99% depleted. The only other mining project (Meadowbank) in Nunavut with linear infrastructure, a 100 plus KM road, has shown that when the road was not closed for an extended period of time it interfered with the migratory patterns of caribou.

WWF suggests that with so many unknowns, a railway is an unacceptable risk given the current conservation status and cultural importance of Baffin Island caribou.

Dust

Before the suspension of the public hearing, WWF filed an excerpt from Brian Penney's court testimony. These transcripts show Baffinland's ability, and willingness, to reduce dust being dispersed for current operations at the mine site. WWF strongly suggests the NIRB look to what is possible to reduce the impact from dust now as opposed to increasing production before this immediate problem is resolved.

Phasing out Heavy Fuel Oil (HFO)

WWF supports ECCC's suggested term and condition on the need to switch away from the use of heavy fuel oil in Canadian waters for Baffinland ore vessels. Slowing down the melting of Arctic snow and ice – critical to the global climate system and to the way of life for people in the north – by reducing black carbon emissions can be achieved by shifting Arctic shipping from heavy fuel oil use to distillate fuels. Black Carbon reductions of up to 80% can be achieved by mandating this feasible switch. Not having this type of clean fuel mandate in the predominantly Indigenous Arctic, like Emission Control Areas south of 60 degrees in Canada, is a form of environmental racism. It's imperative that this discrepancy between shipping fuel use above and below 60 degrees in Canada be addressed urgently. WWF strongly encourages NIRB to accept the term and condition from ECCC and mandate a switch away from HFO for Baffinland project shipping in all of Canada's national waters (200 nautical miles).

Invasive Species

Further to the MHTOs questions about invasive species at the public hearing, Baffinland's Marine Environment Management Plan report from 2019 indicates the presence of a non-indigenous aquatic species in the regional study area. One of these species has been recorded for more than one year in a row, suggesting it may have established itself in the area. On the contrary to what Baffinland has suggested so far in the hearings, it needs to be clearly stated that there are Non-Indigenous Species in the Regional Study Area and they have likely come from bio-fouling or 'riders' on the ship's hull. It still remains unclear how Baffinland is responding to this to ensure the potential spread is managed. Considering Non-Indigenous Species are being introduced through bio-fouling or riders, effective mitigation measures need to be put in place like hull cleaning at the port of origin prior to transit into the RSA and frequent monitoring and testing of the ships' hull for invasive species.

Working Groups

As noted in numerous prior correspondences to the NIRB, the current approach for both the TEWG (Terrestrial Environmental Working Group) and MEWG (Marine Environmental Working Group) has proven ineffective in its aim to improve understanding of project-related impacts and provide advice and direction for incorporation into Baffinland's mitigation and monitoring protocol and processes. Despite questions and advice provided by participants at the MEWG and TEWG meetings and via comments and submissions, Baffinland has largely determined its own priorities and methods in its monitoring program, with little to no incorporation of advice provided by organizations involved. As the working group deliberations are not part of the public record, with the exception of meeting minutes, any concerns or issues raised by experts within municipal, territorial, and federal levels of government which are mandated to act in the public interest, are kept within the confines of the working groups.

Within the original Mary River Project Certificate, NIRB outlined the role of the working groups to provide advice to Baffinland on matters pertaining to its monitoring programs and plans, and mitigation measures relating to the project's development. Baffinland has not met the expectations set out in the Project Certificate, and the NIRB has not provided the necessary level of oversight with regard to the working groups to ensure those expectations are met. The monitoring programs put in place by Baffinland do not adequately reflect or respond to concerns raised by the working group. Given Baffinland's weak approach to project monitoring and analysis/interpretation of results, the NIRB, having ultimate authority for ensuring project developments do not have significant adverse impacts, remains uninformed with regard to those impacts.

WWF recommends that the NIRB revise conditions relating to the working groups, taking into consideration any revised Terms of Reference filed by working group members, and that revised terms and conditions be issued to reflect a more responsive role for the NIRB, a requirement that Baffinland integrate advice received with unanimous support from members, and provide rationale for not

integrating the same into its plans and programs. The NIRB should have ultimate authority to make decisions where Baffinland does not agree with advice from working groups. Revision should also clarify a requirement that working group discussions, debates, and recommendations be filed publicly with the NIRB.

Indicators and Thresholds

It's the understanding of WWF-Canada that the immature narwhal ratio indicator is still 'draft' and requires further discussion by the MEWG and community members. The NIRB's Mary River Project Certificate Terms and Conditions explicitly requires that Baffinland develop indicators and thresholds for Valued Ecosystem Components. These have not been developed and a draft indicator can't be considered as Baffinland having met this condition. It should be noted that without indicators and thresholds in place, Baffinland's monitoring results cannot be relied upon to accurately inform conclusions within the FEIS Addendum or to determine impact significance. Narwhal abundance, stress hormone levels, size and weight, should all be considered in the discussion of thresholds and indicators. But, without community engagement, appropriate use of Inuit Qaujimajatuqangit, and full agreement from Inuit, no indicators and thresholds can or should be established.

Shipping Increases and Impacts to Narwhal

The Josh Jones authored Oceans North report *underwater soundscape and radiated noise from ships in Eclipse Sound, NE Canadian Arctic* has been submitted to NIRB and includes an analysis of current and future vessel transits for the Mary River project:

Vessel Type	2015		2016		2017		2018		2019		BIMC phase II
	PI	MI	PI	MI	PI	MI	PI	MI	PI	MI	estimated
Bulk Carrier	26	26	76	76	112	114	145	142	166	168	332
General Cargo	11	6	9	6	31	30	17	12	26	22	22
Other Cargo	0	0	2	0	0	0	0	0	3	4	8
Oil/chemical Tanker	9	4	8	4	10	6	17	8	14	10	16
Commercial Icebreaker	0	0	0	0	0	0	22	39	22	26	52
Tug	4	4	4	4	7	4	8	8	0	11	22
Other Commercial Vessel	0	0	0	10	1	0	0	0	2	2	4
SAR	2	0	6	4	7	2	6	0	5	0	0
Military	2	1	2	0	7	0	0	0	7	1	1
Fishing	0	0	2	0	8	2	5	2	7	0	0
Passenger Ship	19	1	15	2	19	3	29	0	23	0	0
Sailing	2	0	7	2	9	3	9	0	6	0	0
Pleasure Craft	0	0	2	3	5	2	2	0	7	1	1
Research/Survey Vessel	0	0	2	0	2	0	0	0	0	0	0
Total transits	75	42	135	111	218	166	260	211	288	245	458
MRM-related transits	-	40	-	100	-	154	-	209	-	243	-
Ore produced (Mt)		0.92		2.6		4.1		5.1		5.86	12

Summary of AIS ship transits, passing within 15 km of the Milne Inlet (MI) and Pond Inlet (PI) acoustic recording locations between September 28, 2018 and September 21, 2019.

Over the past years in the Regional Study Area, Inuit Qaujimajatuqangit has observed significant decreases in Narwhal populations, and recorded detrimental health impacts such as reduced body mass. Changes have also been observed throughout Nunavut. The projected more than doubling of project vessel transits anticipated for the phase 2 expansion proposal will exacerbate these project impacts. Until mitigation measures are put in place to reverse these trends, increased shipping should not be contemplated.

Climate Change Reduction Plan

Limiting emissions must become a priority given the climate crisis, currently Baffinland has no emissions reduction plan in place for GHGs or Black Carbon. WWF recommends that for a project so heavily

dependent on transportation infrastructure, Baffinland should be required to look at ways to decrease its emissions. NIRB must mandate a GHG and Black Carbon emissions reduction strategy with clear reduction targets in line with keeping global temperature rise to 1.5 degrees: absolute zero emissions well before 2050 and absolute emission reductions of 45-50% by 2030 ([ICCT 2021](#)).

Greenland and Transboundary Impacts Outside the Regional Study Area

The concerns raised by Greenland communities and agencies about phase 2 transboundary impacts are wide ranging and substantive, with a unanimous view that the ESPOO report and Baffinland's risk assessment are deficient and don't properly address transboundary impacts from the phase 2 proposal. It should be noted that transboundary impacts were not evaluated for phase one of the project. Regardless of the outcome of the phase 2 hearing, comprehensive cross departmental and sectoral marine spatial planning and a transboundary risk assessment should be undertaken to determine the full extent of impacts and consequences of the current project outside the regional study area.

WWF reminds the NIRB that part 6 of Article 12 of the NLCA requires the review of transboundary impacts for development projects in Nunavut. Given the limited consideration of transboundary impacts during the NIRB's phase 2 review, the threshold to meet those obligations under the NLCA have not been met. It is also important that the NIRB, all intervenors, and the public hear directly from impacted communities in Greenland. Impacted Greenland communities must be offered the opportunity at some point to attend and testify in person and provide their testimony and point of view on the phase 2 expansion.

Respectfully,



Paul Okalik
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