



NIRB File No.: 08MN053

May 13, 2022

The Honourable Dan Vandal, P.C., M.P.
Minister of Northern Affairs
Government of Canada
House of Commons
Ottawa, ON K1A 0A6

Sent via email and courier: dan.vandal@parl.gc.ca

Re: Reconsideration Report and Recommendations of the Nunavut Impact Review Board Regarding a Significant Modification to the Mary River Project as Proposed by Baffinland Iron Mines Corporation under the “Phase 2 Development Proposal”

Dear Honourable Dan Vandal:

In the Nunavut Impact Review Board’s (NIRB or Board) August 27, 2015 correspondence in respect of an application to modify the approved Mary River Project described as the “Phase 2 Development Proposal” submitted by Baffinland Iron Mines Corporation (Baffinland or the Proponent) on October 29, 2014, the Board concluded the following:

The proposed activities for the Phase 2 Development are integrally linked to the Mary River Project as approved under Project Certificate No. 005. Reflecting this linkage, the Board has determined that any potential ecosystemic and socioeconomic effects associated with these changes are most appropriately assessed pursuant to NLCA [Nunavut Agreement] Section 12.8.2. In making this determination, the Board has decided that the proposed activities do not constitute a distinct, stand-alone project that should be subject to a screening and review process separately from the Project as approved under Project Certificate No. 005.

...the new components and activities introduced in the Phase 2 Development are significantly different from those anticipated at the time that the May 28, 2014 version of the Project Certificate

was issued, and have not, to date been subject to impact assessment by the Board.

Reflecting these considerations, the Board finds that under Article 12, Part 8, Section 12.8.2(b) of the NLCA [Nunavut Agreement] it is appropriate and advisable for the Board to reconsider the Terms and Conditions of Project Certificate No. 005 for the Mary River Project. The Board's reconsideration will determine whether the proposed Project amendments should be allowed to proceed and, if so, whether the wording of specific Terms and Conditions within the Project Certificate would require updating and/or inclusion of additional Terms and Conditions.¹

Subsequently, Baffinland proposed changes to the scope of the Phase 2 Development Proposal as submitted in 2014 to add in the component of the North Railway for the transportation of ore. This change in scope resulted in the Proposal being referred back to the Nunavut Planning Commission (NPC) for further consideration and processing against the requirements of the North Baffin Regional Land Use Plan on December 19, 2016. The Phase 2 Development Proposal, with the scope updated to include the North Railway, was formally referred back to the NIRB for assessment by the NPC on May 29, 2018.² In the NIRB's correspondence of June 11, 2018,³ the Board confirmed that the assessment of this version of the Phase 2 Development Proposal would be conducted as a reconsideration of the Terms and Conditions of existing Project Certificate No. 005 under Article 12, Section 12.8.2 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)* and s. 112 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*). Consequently, the NIRB has undertaken the assessment of the Phase 2 Development Proposal as required under these provisions and as required under Section 12.8.3 of the *Nunavut Agreement* and s. 112(5) of *NuPPAA*, the NIRB is providing this Reconsideration Report and Recommendations to the Responsible Minister(s) for your consideration. As indicated in the Board's correspondence of February 4, 2022,⁴ due to various factors, including the extent and complexity of the Public Hearing Record for the file, the Board required 60 additional days beyond the prescribed 45-days following the close of the Public Hearing Record to complete their decision-making for the file and produce the attached Reconsideration Report and Recommendations.

The enclosed Reconsideration Report and Recommendations summarizes the NIRB's assessment of the potential ecosystemic and socio-economic effects of the Phase 2 Development Proposal, a

¹ (Doc ID Nos. 291267 & 291258) Correspondence from: E. Copland, NIRB Chairperson to B. Valcourt, Minister of Aboriginal Affairs and Northern Development re: The NIRB's Determination With Respect to Baffinland Iron Mines Corporation's Request to Reconsider Terms and Conditions in Project Certificate No. 005 for the "Phase 2 Development" Mary River Project Proposal, August 27, 2015 at p. 10.

² (Doc ID No. 318134).

³ (Doc ID Nos. 318378 and 318152).

⁴ (Doc ID Nos. 337857 and 337858).

proposed modification to the previously-approved Mary River Project (the Proposal). The Board's assessment was the longest in the Board's history, commencing with the technical review of the Proposal in October 2018 and concluding with a Public Hearing held in-person in Iqaluit with links to the Community Hall in Pond Inlet, Nunavut on November 1-6, 2021, and Zoom and teleconference links provided to participants unable to travel to Iqaluit or Pond Inlet. As the Minister is aware, approximately 2 years of the Board's assessment (March 2020 to May 2022) has been conducted during the COVID-19 pandemic. As detailed in the attached Reconsideration Report and Recommendations, with modifications to Board processes, the Board was able to carry out the reconsideration in a manner that preserved public health and safety but ensured the Board's objectives were met.

After due consideration of the extensive Public Hearing Record for the file, including all written and oral submissions received by the Board, the Board's duly appointed decision-making Panel for the file has concluded that the Phase 2 Development Proposal:

- has the potential to result in significant adverse ecosystemic effects on marine mammals and fish, caribou and other terrestrial wildlife, along with vegetation and freshwater, and these effects could lead to associated significant adverse socio-economic effects on Inuit harvesting, culture, land use and food security in Nunavut;
- poses the potential for transboundary effects on marine mammals and fish and the marine environment outside the Nunavut Settlement Area; and
- these potential significant adverse effects cannot be adequately prevented, mitigated, or adaptively managed under proposed mitigation, adaptive management and monitoring programs and/or with revisions to the Terms and Condition of NIRB Project Certificate No.: 005.

Consequently, the Board recommends to the Responsible Minister(s) that the Mary River Phase 2 Development Proposal should not be allowed to proceed at this time.

Translated versions of this Reconsideration Report and Recommendations are being prepared in Inuktitut and will be available as soon as possible.

Should you have questions or require clarification regarding this matter, please contact the NIRB's Executive Director, Karen Costello at (867) 983-4608 or kcostello@nirb.ca.

Sincerely,



Kaviq Kaluraq
Chairperson
Nunavut Impact Review Board

cc: The Honourable Steven Guilbeault, P.C., Minister of Environment and Climate Change
The Honourable Joyce Murray, P.C., Minister of Fisheries and Oceans and the Canadian Coast Guard
The Honourable Omar Alhabra, P.C., Minister of Transport
The Honourable Jonathan Wilkinson, Minister of Natural Resources Canada
The Honourable Lori Idlout, MP for Nunavut
The Honourable P.J. Akeagok, Premier of Nunavut
Aluki Kotierk, President, Nunavut Tunngavik Incorporated
Olayuk Akesuk, President, Qikiqtani Inuit Association
Andrew Nakashuk, Chairperson, Nunavut Planning Commission
Lootie Toomasie, Chairperson, Nunavut Water Board
Megan Lord-Hoyle, Baffinland Iron Mines Corporation
Lou Kamermans, Baffinland Iron Mines Corporation
Mary River Distribution List