



November 16, 2022

Kaviq Kaluraq
Chairperson
Nunavut Impact Review Board
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Dear Kaviq Kaluraq:

Thank you for your correspondence of May 13, 2022, regarding the Nunavut Impact Review Board's (the Board) Reconsideration Report and Recommendations (Report) for Baffinland Iron Mines Corporation's (Baffinland) Mary River Phase 2 Development Proposal (Phase 2). I apologize for the delay in responding.

The Ministers of Environment and Climate Change, Fisheries, Oceans and the Canadian Coast Guard, Natural Resources, Transport, and I have the regulatory jurisdiction to make a decision with respect to the Board's Report. As the responsible ministers, we are required to accept, reject, or vary the recommendations contained in the Board's Report. This role is established in section 12.8.3 of the Nunavut Agreement and set out under subsection 112(6) of the *Nunavut Planning and Project Assessment Act* (the Act).

The other responsible ministers and I have carefully considered the Board's Report, along with the recent modifications to Project Certificate No. 005, and input from the designated Inuit organizations, and have decided, as per paragraph 112(6)(a) of the Act, to accept the Board's recommendation that Phase 2 should not proceed at this time, and to maintain the existing Terms and Conditions of Project Certificate No. 005.

As described in its Report, the Board has assessed Phase 2 by way of a reconsideration of the Terms and Conditions of Project Certificate No. 005, conducted under section 112 of the Act. The Board has concluded that Phase 2 has the potential to result in significant adverse eco-systemic effects on marine mammals and fish, caribou and other terrestrial wildlife, along with vegetation and freshwater, and that these effects could lead to associated significant adverse socio-economic effects on Inuit harvesting, culture, land use and food security in Nunavut. The Board also concluded that Phase 2 poses the potential for transboundary effects on marine mammals and fish and the marine environment outside the Nunavut Settlement Area.

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Further, the Board concluded that 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 Conditions of Project Certificate No. 005. Consequently, the Board recommended to the responsible ministers that Phase 2 should not be allowed to proceed at this time, and did not propose any revisions to the Terms and Conditions of the Project Certificate.

In response to the Board's Report, the Qikiqtani Inuit Association and Nunavut Tunngavik Incorporated wrote to me on October 25, 2022, in their capacity as designated Inuit organizations, regarding the assessment of potential impacts on Inuit rights. In support of the Board's evidentiary findings, they expressed that there remains a consensus of the designated Inuit organizations and Hunters and Trappers Organizations that the significant adverse effects of Phase 2 cannot be adequately prevented, mitigated, or adaptively managed under the proposed mitigations, adaptive management, monitoring programs and/or with revisions to the Terms and Conditions of Project Certificate No. 005.

The other responsible ministers and I are sensitive to the economic significance of both the ongoing Mary River Mine operations and the Phase 2 proposal to the North Baffin Region, and Nunavummiut more generally. However, we have taken particular note of the conclusions of the Board, the designated Inuit organizations and the Hunters and Trappers Organizations (given their specific roles outlined in the Nunavut Agreement), who have expressed a lack of confidence that Phase 2, as currently conceived, can proceed without unacceptable impacts.

The other responsible ministers and I also wish to note that, prior to reaching our determination, we considered all materials relevant to the United Nations Economic Commission for Europe Convention on Environmental Impact Assessment in a Transboundary Context (Espoo Convention). This included environmental impact assessment documentation, comments received from the public and authorities in Greenland and Denmark, and the outcome of consultations between officials. Of note, in correspondence to Canadian officials on July 1, 2022, Greenland's Ministry for Agriculture, Self-Sufficiency, Energy and Environment indicated that Greenland's concerns regarding significant adverse effects are reflected in the Board's Report, and that it supports the Board's recommendation that Phase 2 should not proceed at this time.

Request for Clarifications

In its Report, the Board requested clarification from the responsible ministers about previously varied terms and conditions, as well as additional monitoring activities related to approvals for the Production Increase Proposal and Extension Request to the Production Increase Proposal. Responses to the Board's queries follow.

The Board raised a number of questions regarding Term and Condition 179(c). The responsible ministers are aware that there may be overlap between Term and Condition 179(c), recently added Term and Condition 189, and the functions of the independent third party ("Project Monitor") referenced in my decision letter for the Production Increase Proposal Renewal project proposal. I anticipate that greater clarity and specific answers to some of the Board's questions on this topic will be achieved as discussions on the role, scope and mandate of the "Project Monitor" develop. As indicated in my decision letter for the Production Increase Proposal Renewal project proposal, discussions will be initiated by November 30, 2022, and updates will be provided to the Board as appropriate. In the interim, it is our expectation that the requirement for performance audit reports continues, and the term "bi-annual" should be interpreted as "twice yearly."

The Board's Report notes that the responsible ministers, in their September 2018 decision letter for the Production Increase Proposal, encouraged the Board to hold an annual marine monitoring and marine mitigation workshop in the community of Pond Inlet. The Board requested direction as to whether the workshop should continue to be held, notwithstanding the expiry of the prior production increase proposals. As noted by the Board, community concerns persist regarding current impacts. The responsible ministers are supportive of the approach adopted by the Board and suggest the workshops continue to be held.

The Board also requested direction regarding whether Project Certificate Terms and Conditions would revert to those specified under Amendment No. 001 once the dates included in Terms and Conditions 179(a) and (b) expire. Per modifications to the Project Certificate made as part of the responsible Ministers' decision for the Production Increase Proposal Renewal project proposal, these dates have been updated to December 31, 2022. As stipulated in the Terms and Conditions, after this date, the maximum total volume of ore shipped via Milne Inlet and transported by truck on the Milne Inlet Tote Road in a calendar year returns to 4.2 million tonnes per year. All other Terms and Conditions of the Project Certificate, as amended through the Production Increase Proposal Renewal decision, shall remain in place.

In conclusion, the responsible ministers' acceptance of the Board's findings reflects the extensive work carried out by the Board, based on input from all parties. On behalf of my colleagues, I would like to acknowledge the efforts of the Board and its staff for completing the reconsideration process under challenging circumstances, while meeting the objectives set out in Article 12 of the Nunavut Agreement.

Sincerely,

A handwritten signature in blue ink, appearing to read "D. Vandal". The signature is fluid and cursive, with the first letter "D" being large and prominent.

Hon. Dan Vandal, P.C., M.P.

c.c.: The Honourable Steven Guilbeault, P.C., M.P.
The Honourable Joyce Murray, P.C., M.P.
The Honourable Jonathan Wilkinson, P.C., M.P.
The Honourable Omar Alghabra, P.C., M.P.
Karen Costello