



NIRB File No.: 08MN053
Ecojustice File: 2235

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Transmitted via email: igunvaldsenklassen@ecojustice.ca; igloodik@baffinhto.ca

Re: Response of the Nunavut Impact Review Board (NIRB) to requests for reconsideration of terms and conditions applicable to the Mary River Project, NIRB Project Certificate No. 005, NIRB File No. 08MN053

Dear James Gunvaldsen Klassen and Lloyd Idlout:

This correspondence is the response of the Nunavut Impact Review Board (NIRB or Board) to the attached correspondence dated February 6, 2026, sent to the NIRB by Ecojustice on behalf of the Arviq Hunters and Trappers Organization (Arviq HTO) and attached correspondence dated February 27, 2026 submitted by the Chairperson of the Igloodik Hunters and Trappers Association (Igloodik HTA). In the correspondence sent on behalf of the Arviq HTO, and also addressed to the Federal Ministers of Northern and Arctic Affairs, Fisheries and Oceans and Transport Canada (the Ministers) and the Chair of the Canadian Transportation Agency, Ecojustice requested that the Board conduct a reconsideration under s. 112 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*) of NIRB Project Certificate No. 005, governing Baffinland Iron Mines Corp.'s Mary River Project (NIRB File No. 08MN053) “*of those Terms and Conditions pertaining to the proposed southern railway, port and shipping components of that Project.*” In the body of the correspondence, the Arviq HTO states: “*The current status of the Mary River Project presents a timely opportunity to reconsider the entire Project.*” The correspondence indicates that:

In light of the reconsideration request set out in this letter, and the CEAFF [Cumulative Effects Assessment Framework] process that is currently under development, and as set out in its letter to the Crown of June 24, 2025, Arviq

HTO says that no new permits and authorizations should be issued in relation to the Mary River Project until it has been consulted and accommodated as required by the Constitution Act, and until the requested reconsideration and the CEAF process have been completed in consultation with Arviq HTO and all those exercising rights that may be impacted by the Mary River Project.

The correspondence sent by the Igloolik HTA and also addressed to the Ministers, and the Presidents of Nunavut Tunngavik Incorporated and the Qikiqtani Inuit Association subsequently expressed support for the Arviq HTO's request to reconsider "*the terms and conditions of Baffinland's project certificate for the Mary River project, particularly those terms and conditions related to the Steensby Inlet port and railway.*" The Igloolik HTA indicated that the reconsideration must include (but not be limited to) a re-examination of:

- 1. Terms and conditions related to shipping volumes and number of ship transits*
- 2. Terms and conditions related to the seasonal extent of icebreaking shipping*
- 3. Terms and conditions related to project oversight, especially the delegation of environmental oversight to the Marine Environment Working Group (MEWG) and Terrestrial Environment Working Group (TEWG)*
- 4. Terms and conditions related to dustfall monitoring and mitigation*
- 5. Terms and conditions related to protecting fish habitat*
- 6. Terms and conditions related to ballast water*

Both submissions indicated that substantive aspects of the Federal Crown's duty to consult and accommodate Inuit rights were not met in relation to the assessment and permitting associated with the proposed railway, Steensby Inlet port and shipping components of the Mary River Project. As the NIRB does not have jurisdiction in relation to the substantive aspects of the Federal Crown's duty to consult, the NIRB's response that follows focuses solely on the triggers for a reconsideration within the NIRB's jurisdiction, which are set out in 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)*¹ and s. 112 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (NuPPAA).

THE NIRB'S RECONSIDERATION DETERMINATION

To determine whether a reconsideration of the terms and conditions in NIRB Project Certificate No. 005 that govern the Mary River Project as amended (the Project Certificate), is warranted, the NIRB has considered:

- the Arviq HTO's and Igloolik HTA's requests and supporting information;
- the applicable regulatory requirements;

¹ Referenced as the *Nunavut Land Claims Agreement or NLCA* in the correspondence filed by Ecojustice.

- the context surrounding the NIRB’s assessment of the original Mary River Project and the subsequent reconsiderations and amendments to the Project Certificate;
- the information associated with the Board’s monitoring of the Mary River Project; and
- the current on-going initiative to develop an updated Cumulative Effects Assessment Framework (CEA Framework) for the Mary River Project.

As a preliminary matter, the Board notes that although the Arviq HTO’s request and the Igloodik HTA’s letter of support are presented as requests for the NIRB or Minister to exercise their discretion to conduct a reconsideration of specific terms and conditions of the Project Certificate, the requests are essentially a request for a reassessment of the original Mary River Project and the suspension of any further regulatory approvals required by the Mary River Project until such time as a reassessment is conducted. The NIRB does not view the discretion granted to the NIRB under Article 12, Section 12.8.2 of the *Nunavut Agreement* and s. 112 of *NuPPAA* to reconsider specific terms and conditions to ensure that the terms and conditions continue to achieve the objectives established by the Board, reflect significant changes in circumstances and technologies to be so broad as to allow the Board to conduct a “do over” in relation to the Board’s and Minister’s previously issued approval of a given project to proceed subject to specified terms and conditions. Accordingly, the NIRB has confined the determination that follows to the question of whether the information currently available indicates that specific terms and conditions of Project Certificate No. 005, associated with the components of the original Mary River Project (including the Southern Railway from the mine to the Steensby Port and all season shipping from the Steensby Port through Foxe Basin) is sufficient to trigger a NIRB-initiated reconsideration under Article 12, Section 12.8.2 of the *Nunavut Agreement* and s. 112 of *NuPPAA*.

In summary, and for the reasons explained in greater detail in the [Board Analysis And Conclusions](#) section that follows, the NIRB has concluded the circumstances required to trigger a NIRB-initiated reconsideration under Article 12, Section 12.8.2 of the *Nunavut Agreement* and s. 112 of *NuPPAA* have not been met at this time.

Specifically, the NIRB finds the following:

1. The NIRB does not agree that alleged shortcomings in the Board’s assessment (Screening and Part 5 Review under the *Nunavut Agreement*²) of the original Mary River Project (including the Southern Railway from the mine to the Steensby Port and all season shipping from the Steensby Port through Foxe Basin) mean that the terms and conditions in Project Certificate No. 005 applicable to the components of the Project involving the Southern Railway from the mine to Steensby Port, Steensby Port itself and all season shipping will not subsequently achieve their purpose if these components are developed in future. The

² The provisions of *NuPPAA* did not govern the Board’s assessment of the original Mary River Project, as *NuPPAA* did not come into force until July 9, 2015.

Board maintains that the 60+ terms and conditions established for the Southern Railway, Steensby Port, and all-season shipping remain robust and effective, and that concerns over past assessment processes do not support the presumption that these measures will be inadequate to fulfill the Board’s objectives.

2. The NIRB acknowledges that the Mary River Project has undergone significant changes since the issuance of Project Certificate No. 005 in 2012.³ However, these modifications to the scope of the Project have been assessed by the Board through formal reconsiderations, resulting in a series of NIRB and Ministerial decisions. Since 2012, these processes have led to the rejection of certain proposed modifications and to substantive revisions of the Project Certificate’s terms and conditions on five (5) occasions. Accordingly, any determination regarding potential changes to the existing terms and conditions of Project Certificate No. 005—as they apply to the Southern Railway, Steensby Port, and related project shipping activities—must be undertaken with full consideration of the broader context of the subsequent reconsiderations and amendments to the Project Certificate.
3. The reconsideration requests are also based on the observation that changes to the environmental and socio-economic conditions in the Region (such as climate change effects and cumulative impacts from the Mary River Project as currently carried out when combined with the original Mary River Project) constitute “changed circumstances”. The Board does not agree that the changes identified in the requests were not previously considered by the Board, and/or were unanticipated or unknown such that they establish changed circumstances necessary to trigger a reconsideration. The Board notes that the Mary River Project has been under almost continuous assessment by the Board between 2008-2024; consequently, the Board has received and considered regular updates to the information about environmental and socio-economic conditions in the Region since the assessment of the original Mary River Project. Information about changing conditions in the Mary River Project area is also being received and considered by the NIRB and project regulators and commented on by interested parties as part of the annual Project monitoring process.
4. As referenced in the Arviq HTO’s correspondence, enhancements to the assessment, monitoring, and mitigation of cumulative impacts—arising from the original project when considered in combination with the Mary River Project as currently carried out—are being discussed and advanced through the development of an overarching Cumulative Effects Assessment (CEA) Framework. As identified by the Board in the CEA Framework Workshop Report,⁴ this work may, over the longer term, trigger a reconsideration of specific terms and conditions of the Project Certificate, if information indicates the existing measures do not adequately meet the objectives of preventing, mitigating, or monitoring

³ See [Table 1: Summary of NIRB Review and Reconsiderations of Project Certificate No. 005 for the Mary River Project](#) that follows for a more complete summary of the Board’s assessment activities.

⁴ Nunavut Impact Review Board, Cumulative Effects Assessment Framework Workshop Report In relation to Baffinland Iron Mines Corporation’s Mary River Project NIRB File No. 08MN053, April 8, 2024 (NIRB Doc ID: 349249).

cumulative effects. However, given that the CEA Framework is still in the early stages of development, it remains uncertain whether reconsideration of any specific terms and conditions will result from this process. As previously indicated by the Board in response to Arviq HTO's inquiries regarding the CEA Framework, NIRB will continue to engage with interested parties, including affected communities, as the work of the Steering Committee progresses. The Board appreciates Arviq HTO's continued commitment to participating in this important initiative.

THE LEGAL FRAMEWORK APPLICABLE TO RECONSIDERATIONS OF PROJECT CERTIFICATES

As established under the *Nunavut Agreement*, Article 12, Section 12.8.2, the Board may, on its own or upon application by a Designated Inuit Organization, the proponent, or other interests, reconsider the terms and conditions contained in the NIRB project certificate if it is established that:

- (a) *The terms and conditions are not achieving their purpose;*
- (b) *The circumstances relating to the project or the effect of the terms and conditions are significantly different from those anticipated at the time the certificate was issued: or*
- (c) *There are technological development or new information which provide a more efficient method of accomplishing the purpose of the terms and conditions.*

Although stated slightly different in s. 112(1)(a) to (c) of *NuPPAA*, the triggers for a NIRB reconsideration remain:

- (a) *the terms and conditions are not achieving their intended purpose or are having effects that are significantly different from those anticipated at the time the certificate was issued;*
- (b) *the circumstances relating to the project are significantly different from those anticipated at the time the certificate was issued; or*
- (c) *technological developments or new information provides a more efficient method of achieving the intended purpose of the terms and conditions.*

The Minister may also require the NIRB to reconsider the terms and conditions in a NIRB project certificate under the *Nunavut Agreement*, Article 12, Section 12.8.3 and s. 112(2) of *NuPPAA*:

12.8.3

Where the Minister determines that any of the conditions in Sub-sections 12.8.2(a), (b) or (c) have been established, NIRB shall reconsider the terms and conditions contained in a certificate, and NIRB shall produce a report of its reconsideration. The Minister may accept, reject or vary that report only on the

grounds specified in Section 12.6.13. NIRB shall amend its certificate to reflect any changes as accepted, rejected or varied by the Minister.

112(2)

The Board must reconsider the terms and conditions set out in a project certificate that it has issued if the responsible Minister is of the opinion that any of paragraphs [of NuPPAA s. 112] (1)(a) to (c) applies.

BOARD ANALYSIS AND CONCLUSIONS

Alleged Deficiencies in the Assessment of the Original Mary River Project

The NIRB's assessment of the original Mary River Project (including the Southern Railway from the mine to the Steensby Port and all season shipping from the Steensby Port through Foxe Basin) via Screening and Part 5 Review under the *Nunavut Agreement* was a robust process that spanned four (4) years and considered the potential for the Project to have significant negative and positive environmental and socio-economic effects in the Nunavut Settlement Area and adjacent jurisdictions (Nunavik in Northern Québec). It constituted the Board's most extensive Review conducted in Nunavut, involved numerous opportunities for federal, territorial and local government representatives, designated Inuit organizations, community representatives, Elders and members of the general public in the potentially affected communities in the North Baffin Region to share their perspectives in writing and during in-person proceedings about the Mary River Project and about the potential effects, both positive and negative on communities and the environment of the Nunavut Settlement Area and adjacent jurisdictions. The public process culminated with the Board conducting an 11 day in-person Final Hearing hosted in Iqaluit, Igloodik and Pond Inlet with over 150 people appearing on the record in July and August 2012.

The impacts assessed by the Board during the Review are discussed in detail in the NIRB's Final Hearing Report,⁵ but for the purposes of this response, the Board highlights that the Board considered the potential for the Project to have environmental effects due to climate change, effects on terrestrial wildlife and habitat (including caribou), effects on the marine environment, marine water, ice and sediment quality, and effects on marine wildlife and marine habitat (including invasive species), cumulative effects, effects from accidents and malfunctions, and transboundary effects. From a socio-economic effects perspective, the Board highlights that the potential for the Project to have effects on education and training, livelihood and employment, economic development and self-reliance (including contracting and business opportunities), human health and well-being and culture, resources and land use (including potential effects on Inuit harvesting) were also considered.

At the conclusion of the Board's Review, the Board recommended, and the responsible Ministers agreed that the original Mary River Project could proceed, provided that the Proponent complied

⁵ NIRB File No. 00MN053, Final Hearing Report for the Mary River Project, Baffinland Iron Mines Corporation, September 14, 2012 (NIRB Doc ID No. 286425).

with over 180 terms and conditions in Project Certificate No. 005, (with more than 1/3 of the terms and conditions in the Project Certificate specifically applying to the components of the Southern Railway from the mine to the Steensby Port and all season shipping from the Steensby Port through Foxe Basin).

The NIRB does not concur with the assertion in the reconsideration requests that the record of the Board's Review demonstrates deficiencies in the Board's assessment of the original Mary River Project. Furthermore, even if it were to be accepted that the alleged deficiencies occurred during the NIRB's Review of the original Mary River Project, the Board does not agree that the net effect of any such deficiencies—or the passage of time since the issuance of the Project Certificate and subsequent development of all project components—should undermine and negate the substantial factual basis upon which the approval of the original Mary River Project, subsequent reconsiderations, and the terms and conditions of Project Certificate No. 005 (as amended) are founded. The Board's position is that neither alleged deficiencies nor elapsed time constitute a significant change in circumstances such that a reassessment of the Mary River Project or reconsideration of the associated terms and conditions of Project Certificate No. 005 is warranted.

Consideration of the Full Context of the NIRB's Numerous Assessments, Reconsiderations and Amendments to the Project Certificate

In determining whether the requirements of the *Nunavut Agreement*, Article 12, Section 12.8.2 and *NuPPAA*, s. 112(1)(a)-(c) are established, the NIRB must consider the full context of the terms and conditions contained within Project Certificate No. 005, including as the terms and conditions are currently implemented and reflect the Mary River Project as modified, constructed and currently operated. The contextual analysis recognizes that the terms and conditions of Project Certificate No. 005 have been amended five (5) times since the original Project Certificate was issued in December 2012. The five amendments were issued by the Board and Ministers following the NIRB's reconsideration of the terms and conditions of the Project Certificate triggered by various proposals filed by Baffinland Iron Mines Corp. to significantly modify the Mary River Project.

At this time, there is no evidence indicating that the terms and conditions of Project Certificate No. 005, as amended, governing the construction, operation, and reclamation of the proposed railway, Steensby Inlet port, and southern shipping components of the Mary River Project are not fulfilling their intended objectives. As summarized in [Table 1](#) that follows, for all significant modifications to the scope of the original Mary River Project as previously approved to proceed in 2012, the NIRB has initiated a reconsideration of the terms and conditions. Following the conclusion of the NIRB's various reconsideration processes the Board has amended Project Certificate No. 005 five (5) times. Accordingly, it is the Board's view that whenever information indicates that the circumstances relating to the Mary River Project are significantly different than what the Board has previously assessed, the NIRB has conducted a reconsideration of the relevant terms and conditions in Project Certificate No. 005.



Table 1: Summary of NIRB Review and Reconsiderations of Project Certificate No. 005 for the Mary River Project

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
<p>Mary River Project NIRB Project Dashboard: www.nirb.ca/project/123910</p> <p>The Project exploration, construction, operation, closure, and reclamation of an open-pit mine at Deposit No. 1 at a nominal production rate of 18 million tons per year (Mtpa). Included the associated infrastructure for extraction, transportation and shipment of iron ore and assessment of three (3) main project locations – the Mine Site, the Port at Milne Inlet north of the mine site (Milne Port), and a Port at Steensby Inlet south of the mine site (Steensby Port). Milne Port was proposed to be connected to the Mine Site by the existing Tote Road (as improved for the Project), and Steensby Port was proposed to be connected to the Mine Site by a 150 km Railway (South Railway), and the iron ore was planned to be shipped year-round on purpose-built ore carriers</p>	<p>Part 5 Review under the <i>Nunavut Agreement</i>, Article 12, Sections 12.5.1-12.5.12</p> <p>September 14, 2012 NIRB concluded its assessment and recommended the Project be allowed to proceed subject to 182 Terms and Conditions.</p> <p>December 3, 2012 the Minister of Aboriginal Affairs and Northern Development on behalf of the responsible Ministers accepted the Board’s Final Hearing Report and recommended Terms and Conditions.</p>	<p>December 28, 2012, the Board issues PC No. 005 containing 182 Terms and Conditions</p> <p>Specific Terms and Conditions associated with the Steensby portion of the Mary River Project included: 1, 8, 9,14, 83, 86, 87, 91, 93, 94, 94, 95, 96, 97, 99, 101, 104, 113, 114, 115, 124, 125, 166, 176, and 179.</p> <p>Specific Terms and Conditions associated with the South Railway included: 10, 15, 16, 28, 53, 54, 58, 165, 170, and 171.</p> <p>Terms and Conditions associated with marine shipping included: 7, 76, 77, 78, 79, 80, 81, 82, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 97, 98, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 125, 126, 127, 128,</p>

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
out of Steensby Port (the Southern Shipping Route). ⁶		162, 163, 164, 166, 173, 174, 175, 176, 177, 178, 181, 182
<p>The Early Revenue Phase (ERP) Proposal NIRB Project Dashboard: http://www.nirb.ca/project/124700</p> <p>Submitted in January 2013, in the ERP Proposal Baffinland Iron Mines Corp. proposed to modify the project by using the previously approved mining infrastructure to mine and transport 3.5 Mtpa of ore (up to 4.2 Mtpa if Operational Flexibility is required) along the Tote Road north to Milne Port for shipment during the open water season only (approximately July 15 to October 15). The purpose of this proposal was to use the Northern transportation and shipping corridor to generate sufficient revenue to fund the construction of the southern railway, Steensby Port, and the purpose-built ore carriers, allowing the original Project to be realized at a later date. The ERP Proposal proposed to change the shipping route from Foxe Basin in the South to Eclipse Sound in the North of Baffin Island.</p>	<p>Reconsideration of PC No, 005 under the <i>Nunavut Agreement</i>, Article 12, Section 12.8.2</p> <p>March 14, 014 NIRB concluded its assessment and recommends the ERP Proposal be allowed to proceed subject to specified existing, revised and added terms and conditions in PC No. 005</p> <p>April 28, 2014, the responsible Ministers accepted the NIRB’s recommendations that the ERP Proposal be allowed to proceed and suggest revised wording for some of the terms and conditions proposed in the NIRB’s Public Hearing Report and rejected one term and condition (103) as recommended by the NIRB as being too onerous.</p>	<p>PC No. 005 Amendment 01 Issued May 28, 2014 Amendment of Project Certificate to reflect modifications to the Project associated with the Early Revenue Phase Proposal.</p> <p>All existing Terms and Conditions brought forward to apply to the ERP Proposal EXCEPT for Terms and Conditions: 78, 82, 84, 85, 93-96, 119, 175, 178 and 180-182</p> <p>Revised Terms and Conditions: 1, 7, 8, 9, 10, 15, 16, 21, 51, 53, 54, 58, 59, 77, 83, 86, 87, 88, 89, 90, 91, 97, 99, 101, 102, 104, 105, 106, 107, 108, 109, 110, 113, 114, 115, 116, 125, 139, 149, 150, 164, 171, 173, 176</p> <p>New Terms and Condition added: 14(b), 48(a), 83(a), 125(a), 179(a), (b) and (c)</p>
Production Increase, Fuel Storage and Milne Port Accommodations Modification Proposal (Production Increase Proposal)	Reconsideration of PC No. 005 under the <i>Nunavut Agreement</i> , Article 12, Section 12.8.2 and s. 112(1) of <i>NuPPAA</i> .	PC No. 005 Amendment 02 Issued on October 30, 2018

⁶ NOTE: To date, significant elements of the original Mary River Project have not been constructed, although this infrastructure remains authorized under Project Certificate No. 005, including: the port at Steensby Inlet, the South Railway from the mine site to Steensby Inlet, and the fleet of purpose-built ice-breaking ore carriers.

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
<p>NIRB Project Dashboard: http://www.nirb.ca/project/124702</p> <p>In April 2018, Baffinland submitted the “Production Increase, Fuel Storage and Milne Port Accommodations Modification Proposal” (Production Increase Proposal) to the NIRB. This proposed an increase in the volume of ore that would be trucked from the Mine Site north to Milne Port via the Tote Road from 4.2 Mtpa to 6 Mtpa. The scope of the Production Increase Proposal also included the addition of a 15 million-liter (ML) diesel fuel tank within the existing Fuel Storage Facility at Milne Port and installation of a new 380-person accommodation at Milne Port.</p>	<p>On August 31, 2018, the NIRB issued the Reconsideration Report and recommended that only the camp upgrades and fuel storage expansion aspects of the Production Increase Proposal be allowed to proceed. The Board recommended that due to the potential for the trucking and shipping aspects of the Production Increase Proposal to result in adverse ecosystemic effects beyond what was previously considered by the NIRB during the Board’s Review of the original Mary River Project (2012) and the subsequent Early Revenue Phase Proposal (2014), the increased transportation and shipping of ore not be allowed to proceed.</p> <p>On September 30, 2018, the responsible Ministers accepted the Board’s positive recommendations; however, the Ministers varied the Board’s recommendation that the increased trucking and shipping not be allowed to proceed and authorized the increased transportation and shipping of up to 6 Mtpa through Milne Inlet until the end of 2019.</p>	<p>Amendment of Project Certificate to reflect modifications to the Project associated with the Production Increase Proposal.</p> <p>Existing Terms and Conditions revised by the Minister: 10, 179(a) and 179(b)</p> <p>New Terms and Conditions added by the Minister: 183 and 184</p>
<p>The Phase 2 Development Proposal NIRB Project Dashboard: www.nirb.ca/project/124701</p> <p>Although the Phase 2 Development Proposal was originally submitted by the Proponent in October 29, 2014, the Proponent subsequently issued an update to the scope of the proposed activities to include a North Railway for the transportation of ore to the Port facilities at Milne Inlet. The Phase 2 Development Proposal, with the scope updated</p>	<p>Reconsideration of PC No. 005 under the <i>Nunavut Agreement</i>, Article 12, Section 12.8.2 and s. 112(1) of <i>NuPPAA</i></p> <p>On May 13, 2022, the Board issued their Reconsideration Report and Recommendations to the Minister of Northern Affairs, advising that the potential to result in significant unmitigable adverse ecosystemic effects on marine mammals, fish, caribou and other terrestrial wildlife along with vegetation and freshwater ecosystems which could lead to adverse socio-economic effects on Inuit, as well as</p>	<p>As the Phase 2 Development Proposal was not authorized to proceed, no terms and conditions were modified in response to the Proposal</p>

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
<p>to include the North Railway, was formally referred back to the NIRB for assessment by the Nunavut Planning Commission on May 29, 2018. The modifications to the scope of the original Mary River Project (as modified by the ERP Proposal) proposed in the Phase 2 Development Proposal included the following: increased ore production from 6 Mtpa to up to 12 Mtpa and transportation to Milne Port for shipping via a proposed 110 km Railway between the Mine Site and Milne Port (the North Railway), expansion of the Milne Port facilities to add a second ore dock to accommodate cape-sized vessels, expansion of the accommodation camp at the Mine site and modifications of the shipping season from Milne Port from approximately July 1 to November 15.</p>	<p>the potential for transboundary effects on marine mammals, fish, and the marine environment generally the Proposal should not be allowed to proceed as that time.</p> <p>On November 16, 2022, the responsible Ministers accepted the Board’s Recommendation that the Phase 2 Development Proposal should not be allowed to proceed to the permitting stage.</p>	
<p>Extension Request to the Production Increase Proposal NIRB Project Dashboard: www.nirb.ca/project/124703</p> <p>On December 6, 2019, Baffinland submitted the “Extension Request to the Production Increase Proposal” (the Extension Request) to request the Board to further modify Conditions 179(a) and 179(b) of the Mary River Project Certificate to extend the 6 Mtpa trucking and shipping limit until the Board had completed its assessment of</p>	<p>Reconsideration of PC No. 005 under the <i>Nunavut Agreement</i>, Article 12, Section 12.8.2 and s. 112(1) of <i>NuPPAA</i></p> <p>On March 4, 2020, after the NIRB’s assessment of the potential ecosystemic and socio-economic effects of the Extension Request, the Board recommended to the responsible Ministers that Baffinland’s Extension Request Proposal, be approved to authorize the extension of the 6 Mtpa transportation and shipping limit via the northern route until the Board’s assessment of the Phase 2</p>	<p>PC No. 005 Amendment 03 Issued on June 18, 202 Amendment of Project Certificate to reflect modifications to the Project associated with the Extension Request to the Production Increase Proposal.</p> <p>Revised Terms and Conditions revised: 179(a) and 179(b)</p> <p>Existing Terms and Conditions revised by the Minister: 179(c) and 183</p>

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
<p>Baffinland’s additional proposed changes to the approved Project under the “Phase 2 Development Proposal”. Baffinland indicated that the Extension Request was necessary because the next steps (Public Hearings) associated with the Board’s assessment of the Phase 2 Development Proposal were not completed in November 2019 and the Board was considering the suspension of the assessment and the completion of additional process steps before reconvening the Public Hearing.</p>	<p>Development Proposal was completed on December 31, 2021.</p> <p>On May 19, 2020, the responsible Ministers accepted the Board’s recommendation regarding Term and Conditions 179 (a) and (b) of the Extension Request. The Minister also varied Term and Conditions 179 (c) and 183 in Project Certificate No. 005, Amendment No. 3 (issued on June 18, 2020), to ensure those conditions were meeting their original intent.</p>	
<p>The Production Increase Proposal (PIP) Renewal Proposal NIRB Project Dashboard: http://www.nirb.ca/project/125710</p> <p>While awaiting the Minister’s Decision in relation to the Phase 2 Development Proposal, on June 13, 2022, the Proponent filed an application requesting the Board to further modify Conditions 179(a) and 179(b) of the Mary River Project Certificate to authorize the continued trucking and shipping of up to 6 Mtpa of iron ore from the Mine Site to Milne Port using the existing northern route until December 31, 2022.</p>	<p>Reconsideration of PC No. 005 under the <i>Nunavut Agreement</i>, Article 12, Section 12.8.2 and s. 112(1) of <i>NuPPAA</i></p> <p>On September 22, 2022, after the NIRB’s impact assessment of the potential ecosystemic and socio-economic effects of the PIP Renewal Proposal, the Board recommended approval of Baffinland’s PIP Renewal.</p> <p>On October 4, 2022, the responsible Ministers to accept the Board’s recommendation regarding Term and Conditions 179 (a) and (b) of the PIP Renewal, added five (5) new Terms and Conditions and modified two (2) others to enshrine Baffinland’s commitments made during the Board’s assessment of the PIP Renewal as enforceable Terms and Conditions (Appendix B of Project Certificate No. 005, Amendment No. 004).</p>	<p>PC No. 005 Amendment 04 Issued on November 3, 2022 Amendment of Project Certificate to reflect modifications to the Project associated with the PIP Renewal Proposal</p> <p>Revised Terms and Conditions: 179(a) and 179(b)</p> <p>Terms and Conditions revised by the responsible Ministers: 49, 77, 179(a) and (b) and 183</p> <p>Terms and Conditions added by the responsible Ministers: 185-189 and Appendix B</p>

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
<p>The Sustaining Operations Proposal NIRB Project Dashboard: www.nirb.ca/project/125767</p> <p>On March 16, 2023, Baffinland submitted the Sustaining Operations Proposal to the Board requesting to modify Terms and Conditions 179 (a) and (b) to allow Baffinland to extend trucking and shipping up to 6.0 Mtpa using the northern transportation route. Baffinland further requested Operational Flexibility allowing them to ship up to an additional .9 Mtpa of stranded ore that remained on the stockpile at Milne Port owing to adverse weather and other shipping conditions in previous years.</p>	<p>Reconsideration of PC No. 005 under the <i>Nunavut Agreement</i>, Article 12, Section 12.8.2 and s. 112(1) of <i>NuPPAA</i></p> <p>On September 13, 2023 the Board provided its Reconsideration Report and Recommendations to the responsible Ministers indicating that the Sustaining Operations Proposal should be approved to proceed until December 31, 2024 and recommending revisions to 11 existing terms and conditions in Project Certificate No. 005 to limit the potential for adverse effects from the proposed activities.</p> <p>The responsible Ministers accepted the Board's recommendations on October 17, 2023.</p>	<p>PC No. 005 Amendment 05 Issued on November 17, 2023 Amendment of Project Certificate to reflect modifications to the Project associated with the Sustaining Operations Proposal</p> <p>Revised Terms and Conditions: 28, 35, 76, 82, 83 (a), 85, 99, 101, 150 and 179 (a) and (b)</p>
<p>The Sustaining Operations Proposal 2 (SOP 2) NIRB Project Dashboard: www.nirb.ca/project/125893</p> <p>On March 14, 2024 the Proponent submitted the application to modify the Mary River Project seeking authorization to: extend trucking up to 6.0 million tonnes per year (Mt/a) along the Tote Road until the end of 2030 and ship iron ore from Milne Port until the end of 2032 <u>unless</u> the Steensby Port and Southern Railway (as assessed and approved to proceed in 2012 under the original Mary River Project) becomes operational prior to that date. Further, Baffinland also requested to include a 0.9 Mt/a "Stranded Ore Contingency Allowance" as previously approved under the Sustaining</p>	<p>Reconsideration of PC No. 005 under the <i>Nunavut Agreement</i>, Article 12, Section 12.8.2 and s. 112(1) of <i>NuPPAA</i></p> <p>On June 5, 2024, the NIRB provided Notice to the responsible Ministers that the Board had initiated a formal reconsideration of the terms and conditions of Project Certificate No. 005 in light of the SOP 2 Proposal.</p> <p>On October 3, 2024, the Proponent filed a request to suspend the NIRB's reconsideration. On October 29, 2024, the NIRB provided Notice to the responsible Ministers of the suspension of the Board's assessment of the SOP 2 Proposal, advising that:</p>	<p>No changes to PC No. 005 as the NIRB's reconsideration of terms and conditions requested by the Proponent to reflect the SOP 2 Proposal is currently suspended</p>

Project Proposal NIRB Dashboard Summary of Scope	Form and Outcome of NIRB Assessment	PC Terms & Conditions (and amendments)
<p>Operations Proposal, until 2032 or shipping through the Steensby Port begins. The SOP 2 did not propose any changes to current operations, including with respect to ore extraction, handling, stockpiling, and supporting activities.. No modifications were proposed as part of the SOP 2 Proposal to the Southern Railway, Steensby Port or other components included withing the scope of the original Mary River Project as approved in 2012.</p>	<p><i>As provided for under s. 143(4) of NuPPAA, if Baffinland wishes to resume the assessment of the Sustaining Operations Proposal 2, a written request must be filed with the NIRB within three (3) years of the suspension date, by October 3, 2027. If Baffinland's request to resume the assessment is not filed with the Board on or before October 3, 2027, the assessment of the "Sustaining Operations Proposal 2" will be terminated under s. 143(4) of NuPPAA. As set out in s. 143(5) of NuPPAA, Baffinland can also file an express written request to terminate the assessment at any time, and such termination becomes effective on the day the Proponent's request is received by the Board.</i></p>	

Changes to Environmental and Socio-Economic Conditions Since the Board's Review

A central tenet of the reconsideration requests is that changes to the environmental and socio-economic conditions in the Region (such as climate change effects and cumulative impacts from the Mary River Project as currently carried out when combined with the original Mary River Project) establish the “changed circumstances” that should trigger a reconsideration of the terms and conditions in the Project Certificate. The NIRB does not view the changes identified in the requests to meet the requirement of changed circumstances that trigger a reconsideration because the Board finds that the Board’s assessment and monitoring processes have provided parties with a venue to regularly share information about such observed changes with the Board and interested parties.

As illustrated by the summary of the Board’s consideration and reconsiderations of the Mary River Project over time in Table 1: Summary of NIRB Review and Reconsiderations of Project Certificate No. 005 for the Mary River Project, the Mary River Project has been under almost continuous assessment by the NIRB from 2008 to 2024. This has provided an unprecedented opportunity for the NIRB to integrate new data, shared Inuit Qaujimaqatugangit, community observations and regulatory feedback into its decision-making framework governing the Mary River Project. The extensive reconsideration process undertaken to date has meant that regulators, Inuit organizations, affected communities and interested members of the public and the Proponent have been able to provide new information to the Board that reflect the Mary River Project as it has changed over time and identify significant changes to the environmental and socio-economic conditions in the Region since the Board’s Review of the original Mary River Project. In this regard, the Board’s assessment processes associated with the reconsideration of terms and conditions in the Project Certificate were designed to be dynamic, incorporating annual updates and stakeholder input to ensure that emerging issues and trends were identified and new information was provided to the NIRB as it became available.

The Board also notes that the annual Project monitoring process is a collaborative effort involving the NIRB, project regulators, and a range of stakeholders including Inuit organizations, hamlets, hunters and trappers organizations, non-governmental organizations, Elders advisory organizations and affected communities, such as Pond Inlet and interested members of the public. These parties provide comment on monitoring results, share observed changes, and provide feedback to the Board and the Proponent through various means, including in-person monitoring meetings. These mechanisms have enabled the Board to receive up to date information about evolving environmental and socio-economic conditions and incorporate this information into the Board’s fulfillment of its regulatory oversight and Project monitoring functions.

The NIRB also wishes to respond to the assertion that the Terrestrial Environment Working Group (TEWG) and Marine Environment Working Group (MEWG) established under the Project Certificate are being used as “oversight bodies” that are ineffective. This characterization of the role of the TEWG and MEWG does not accurately represent their roles within the regulatory framework. As stated in the applicable terms and conditions establishing the Working Groups, the TEWG and MEWG serve as advisory bodies and have not, in anyway supplanted the Nunavut Impact Review Board (NIRB) or other project regulators in their oversight responsibilities. In accordance with the Article 12, Section 12.7.1-12.7.5 of the *Nunavut Agreement* and ss. 135 and 136 of the *NuPPAA*, NIRB and all relevant project regulators continue to be responsible for project monitoring and ensuring regulatory compliance. The Project Certificate associated with the Mary River Project does not alter these obligations. This remains true for both the current construction and operation of the Mary River Project, as well as for any future construction, operation, and reclamation of previously approved components.

In summary, the Board’s analysis underscores its view that the changes to environmental or socio-economic conditions set out in the reconsideration requests do not present fundamentally new or unanticipated circumstances that trigger a reconsideration of the Project Certificate. In the Board’s view, in the case of the Mary River Project, the Board’s established processes have been sufficiently robust to capture and address the dynamic nature of conditions in the region, ensuring that the terms and conditions in the Project Certificate remain relevant and effective over time.

The Cumulative Effects Assessment (CEA) Framework Development Process

On October 17, 2023, the NIRB received correspondence from the Minister of Northern Affairs on behalf of the responsible Ministers, responding to the Board’s Reconsideration Report and Recommendations in relation to the “Sustaining Operations Proposal” (associated with Amendment No. 5 of the Project Certificate) directing the Board to:

...host a multi-party workshop in order to establish the components and set the parameters of a comprehensive cumulative effects assessment of the Mary River Project... This cumulative effects assessment framework will set an agreed-upon scope and methodology for an assessment which, once completed will be used to update mitigation and monitoring plans with consideration of any Project Certificate related amendments that may be required.⁷

Subsequently, the NIRB hosted the CEA Framework Workshop on February 19-20, 2024 with representatives from Baffinland, Nunavut Tunngavik Inc., the Qikiqtani Inuit Association, the Government of Nunavut, the Government of Canada, the Qikiqtaaluk Wildlife Board, Hunters and Trappers Organizations from Pond Inlet, Igloolik, Sanirajak, Arctic Bay, Clyde River, Kimmirut,

⁷ NIRB Registry Doc ID: 347422 (English) and 347500 (Inuktitut).

Kinngait and Coral Harbour, Oceans North and the World Wildlife Fund participating in person. Representatives from Makivik and the Nunavut Planning Commission and other interested parties also listened to the workshop online as observers. On April 8, 2024, the NIRB issued a CEA Framework Workshop Report,⁸ providing the responsible Ministers with short-, medium- and long-term recommendations for their consideration regarding a process to support the development of a comprehensive Cumulative Effects Assessment (CEA) Framework.

The NIRB's short-term recommendations involved improvements to the assessment of cumulative effects in the Sustaining Operation Proposal 2 (SOP2) amendment application which was under assessment by the NIRB as a reconsideration of Project Certificate No. 005 (as amended). The NIRB's assessment of SOP2 has since been suspended,⁹ so the Board is now pursuing the medium- and long-term recommendations from the CEA Framework Workshop Report, which include:

...an evaluation of the existing Mary River Project monitoring program (with the continued participation of the Workshop participants) to identify improvements and to consider whether updates to the existing Project Certificate terms and conditions or further direction on the effective implementation of the existing Project Certificate terms and conditions are needed to address concerns about potential cumulative effects associated with existing operations or for those project components that are approved under the current Project Certificate but that have yet to be constructed (e.g., the southern railroad and the port at Steensby Inlet).¹⁰

As referenced in the Arviq HTO's correspondence, the analysis of the existing Mary River Project monitoring program and identification of enhancements to the assessment, monitoring, and mitigation of cumulative impact advanced during the development of the Cumulative Effects Assessment (CEA) Framework may, in future, necessitate a reconsideration of relevant terms and conditions of Project Certificate No. 005 to ensure that the terms and conditions are effectively preventing, mitigating, or monitoring cumulative effects. However, the Board recognizes that the parties have considerable work yet to do in order to complete the required evaluation of the existing monitoring program. Consequently, it is premature to the Board to advise whether a reconsideration of any specific terms and conditions will result from the CEA Framework development process.

⁸ Nunavut Impact Review Board, Cumulative Effects Assessment Framework Workshop Report In relation to Baffinland Iron Mines Corporation's Mary River Project NIRB File No. 08MN053, April 8, 2024 (NIRB Doc ID: 349249).

⁹ On October 3, 2024 the NIRB's assessment of the SOP2 Proposal was suspended at the request of the Proponent.

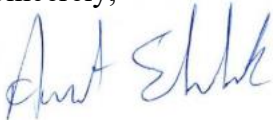
¹⁰ Nunavut Impact Review Board, Cumulative Effects Assessment Framework Workshop Report In relation to Baffinland Iron Mines Corporation's Mary River Project NIRB File No. 08MN053, April 8, 2024 (NIRB Doc ID: 349249).

CONCLUSION AND NEXT STEPS

As discussed above, the Board has determined that the information provided in the Arviq HTO's and Igloodik HTA's correspondence does not establish the circumstances required to trigger a Board-initiated reconsideration of the terms and conditions of Project Certificate No. 005 under Article 12, Section 12.8.2 of the *Nunavut Agreement* and s. 112 of *NuPPAA*.

In terms of next steps, the Board remains committed to ensuring that the Arviq HTO, the Igloodik HTA and all other interested parties remain engaged in the CEA Framework development process and can share relevant knowledge and provide their feedback as the work of the Steering Committee to develop the CEA Framework progresses. The Board appreciates the continued commitment of all parties to participating in this important initiative and advises that information associated with the development of the CEA Framework is available from the NIRB public registry at the following link: <https://www.nirb.ca/content/cumulative-effects-assessment-framework>.

Sincerely,



Albert Ehaloak
Chairperson
Nunavut Impact Review Board

Encls. February 6, 2026 Correspondence from James Gunvaldsen Klaassen, Ecojustice, Counsel for Arviq HTO to Dionne Filiatrault, NIRB Executive Director, and specified Responsible Ministers and Chairperson of the Canadian Transportation Agency, **RE: Request for reconsideration under s. 112 of the Nunavut Planning and Project Assessment Act – Mary River Project - NIRB File No. 08MN053**

February 27, 2026 Correspondence from Lloyd Idlout, Chairperson, Igloodik HTO to Dionne Filiatrault, NIRB Executive Director, and specified Responsible Ministers and Presidents of Nunavut Tunngavik Incorporated and the Qikiqtani Inuit Association **RE: Support for Reassessment of the Mary River Project**

cc The Honourable Rebecca Alty, Minister of Crown–Indigenous Relations
The Honourable Rebecca Chartrand, Minister of Northern and Arctic Affairs
The Honourable Joanne Thompson, Minister of Fisheries
The Honourable Steven MacKinnon, Minister of Transport
France Pégeot, Canadian Transportation Agency
Lori Idlout, Member of Parliament
Megan Lord-Hoyle, Baffinland Iron Mines Corporation
Lou Kamermans, Baffinland Iron Mines Corporation
Lisa Dyer, Canadian Northern Economic Development Agency
Joanna Ankersmit, Crown-Indigenous Relations and Northern Affairs Canada
Spencer Dewar, Crown-Indigenous Relations and Northern Affairs Canada
Andrew Randall, Fisheries and Oceans Canada
Shari Currie, Transport Canada
Philippe Madgin, Canadian Transportation Agency
Jeremiah Groves, Qikiqtani Inuit Association
Jared Ottenhoff, Qikiqtani Inuit Association

Dustin Fredlund, Nunavut Tunngavik Incorporated
Gabriel Karlik, Kivalliq Inuit Association
Mary River Project Distribution List