



SEP 3 0 2018

Ottawa, Canada
K1A 0A6

Ms. Elizabeth Copland
Chairperson
Nunavut Impact Review Board
PO Box 1360
CAMBRIDGE BAY NU X0B 0C0

Via email: ecopland@nirb.ca; rbarry@nirb.ca; info@nirb.ca

Dear Ms. Copland :

Thank you for your letter of August 31, 2018, and the enclosed Report on the Nunavut Impact Review Board's assessment of Baffinland Iron Mine Corporation's proposed Production Increase Project, which would modify the existing Mary River Iron Mine Project, presently regulated under Project Certificate No. 005.

The Ministers of Transport, Environment and Climate Change, Natural Resources, Fisheries, Oceans and the Canadian Coast Guard, and I have the regulatory jurisdiction for authorizing the Mary River Project to proceed. As the responsible Ministers, we are required to accept, reject or vary the terms and conditions recommended in the Report. This role is established in section 12.8.3 of the *Nunavut Agreement*, which is brought forward into legislation in section 112 of the *Nunavut Planning and Project Assessment Act* (the Act).

As described in the Board's Report, the Nunavut Impact Review Board has assessed the proposal by way of a reconsideration of the terms and conditions of Project Certificate No. 005, conducted under section 112 of the Act. The Board concluded that only two of the three elements of the Production Increase Proposal should be allowed to proceed at this time, being careful to express no opinion as to whether the third element should proceed after further assessment as part of Baffinland's Phase 2 Project Proposal, already under assessment by the Board in a separate process.

Having carefully considered the Board's Report, the responsible Ministers accept the Review Board's recommendation that the following two activities included within the proposal can be, and hereby are, approved to proceed, subject to any further regulatory requirements that apply:

- the addition of a 15 ML diesel fuel tank to the existing Fuel Storage Facility at Milne Port; and
- the installation of a new 380-person accommodations camp at Milne Port.

The responsible Ministers agree that no additional changes to the existing terms and conditions of Project Certificate No. 005 are required at this time for these activities to proceed in a manner that is consistent with the objectives set out in Article 12, Section 12.2.5 of the *Nunavut Agreement*.

Baffinland has also proposed to increase the volume of ore from the current limit of 4.2 million tonnes of ore per annum (Mt/a) to 6 Mt/a, which would be transported by truck on the Milne Inlet Tote Road from the Mary River Mine site to Milne Port and subsequently shipped out of Milne Port during the open water season.

The Board declined to approve this change to the terms and conditions at this time, being careful to emphasize that the change is still under consideration by the Board within Baffinland's Phase 2 Project Proposal.

In response to the Board's Report, the Qikiqtani Inuit Association wrote to me, strongly expressing the view that this decision did not sufficiently take into account mitigations and environmental management strategies that the Association and Baffinland were jointly proposing as protective of the environment. These management strategies form part of what collectively they are referring to as their "Project Stabilization Approach". The Qikiqtani Inuit Association went on to say that this decision risked the continued operation of the existing Mary River Project, with consequential risks to the interests of the region the Association represents, as well as to the orderly continued impact monitoring and mitigation measures and other benefits to Inuit of the ongoing project. The Qikiqtani Inuit Association explained that they strongly support the Production Increase Proposal as a method of furthering Inuit aspirations in the region.

The responsible Ministers acknowledge and share many of the Board's concerns about information deficiencies on the potential long term impacts of increased shipping, primarily to marine mammals, and how these impacts could be effectively monitored for, avoided, mitigated and managed. We also agree with the Board that Baffinland did not fully demonstrate how dust generated from increased traffic on the Tote Road can be minimized, in order to limit potential effects on the adjacent freshwater, marine, sea ice and terrestrial environment; how dispersal toward communities can be prevented; or what mitigations will be employed if effects are greater than anticipated. The concerns raised in the Board's Report are consistent with many of the issues federal departments and others raised in their written submissions.

We must balance a number of competing issues and interests here. We are concerned about the interests of workers, and the socio-economic impacts that annual stoppages in mining operations would have each fall once Baffinland reaches its current yearly production limit. We are also concerned about the long-term viability of the Mary River Mine, and cognizant of QIA's concern that the economic viability of the project depends on the Production Increase Proposal. The QIA is deeply involved in the project in many ways, including financially, and therefore very well informed of the economics of the project, and the consequential risks to the project.

The Premier of Nunavut has also written to me, indicating that production interruption is undesirable, and urging a swift decision to avoid the disruption to employment that would follow from a halt in production.

For that reason, acting under section 112(6)(b) of the Act, we therefore will vary the terms and conditions to allow a time-limited increase in production and transport of ore, pending completion of the Board's assessment of the Phase 2 Project Proposal. On our review of the available information, we have concluded that – at least until the end of the 2019 shipping season – maintaining or re-imposing the production and transport caps at 4.2 Mt/a is both more onerous than necessary to adequately mitigate impacts, and would undermine the viability of the project and work against the regional interest in that project continuing. The specifics of the terms and conditions are as follows:

179(a) Until December 31, 2019, the total volume of ore shipped via Milne Inlet may exceed 4.2 million tonnes per year, but must not exceed 6.0 million tonnes in any calendar year. After December 31, 2019, the maximum total volume of ore shipped via Milne Inlet in a calendar year returns to 4.2 million tonnes per year, unless this condition has been further modified under s. 112 of the Act.

179(b) Until December 31, 2019, the total volume of ore transported by truck on the Milne Inlet Tote Road may exceed 4.2 million tonnes per year, but must not exceed 6.0 million tonnes in any calendar year. After December 31, 2019, the maximum total volume of ore transported by truck on the Milne Inlet Tote Road in a calendar year returns to 4.2 million tonnes per year, unless this condition has been further modified under s. 112 of the Act.

Allowing the production increase will allow the Inuit of the region the opportunity to maintain and more fully realize the economic and other benefits of the mine and the Qikiqtani Inuit Association's agreements with Baffinland.

We also add to the existing Term and Condition No. 10 (Air Quality – Dust Management and Monitoring Plan) to include implementation:

The Proponent shall implement its Dust Management and Monitoring Plan, report all monitoring data to the NIRB annually, and take all adaptive management measures described in its Dust Management and Monitoring Plan if monitoring indicates that dust in the ambient air or dust deposition from the increased traffic associated with the increased volume of ore being shipped is greater than initially predicted.

Prior to reaching our determination, the responsible Ministers also considered the formal commitments that were reached between Baffinland and the Qikiqtani Inuit Association to address specific issues of concern, including terrestrial and marine impacts. The Qikiqtani Inuit Association has stated that it believes the impacts

associated with the production increase are reasonable, particularly when considered in light of the "Project Stabilization Approach" agreed to with Baffinland. To this end, it is our full expectation that Baffinland follow through on these commitments as they are an integral link to the success of the Production Increase Proposal. The terms and conditions jointly proposed by the Qikiqtani Inuit Association and Baffinland include a third-party verification process, and on the basis of sections 112(6) and (7) of the Act, we will adopt this as follows:

<i>Term and Condition No.</i>	<i>179 (c)</i>
<i>Category:</i>	<i>Operational Variability/Flexibility</i>
<i>Responsible Parties:</i>	<i>The Proponent</i>
<i>Project Phase:</i>	<i>Operations</i>
<i>Objective:</i>	<i>To ensure that commitments made by the proponent with respect to the 2018 production increase and delivery of benefits to Inuit are adhered to, and, can be determined through a body of evidence.</i>
<i>Term or Condition:</i>	<i>The proponent shall be required to resource and support a third party to conduct performance audits of commitments made by the proponent in relation to both the IIBA and every proponent commitment and every term or condition of the Project Certificate relating to environmental management of the tote road component or environmental management related to shipping.</i>
<i>Reporting Requirements:</i>	<i>On a bi-annual basis, the proponent shall file a Performance Audit Report with NIRB. This report shall include the findings of the third-party auditor, and, Baffinland's commitment to addressing the findings of the auditor. This term and condition will remain in force for the duration of the Mary River project, unless it is modified under the Nunavut Planning and Project Assessment Act.</i>

To address concerns around impacts to marine mammals, and problems with compliance and enforcement of terms and conditions in Project Certificate No.005 relating to ship-based observer programs, noise exposure assessments, and the identification of other mitigation measures that have the potential to further reduce potential impacts to marine mammals, on the basis of sections 112(6) and (7) of the Act, we are adding the following two terms and conditions:

The proponent shall collaborate with the Marine Environment Working Group to develop impact avoidance or mitigation strategies for the protection of the marine environment. The proponent shall implement any direction from the Department of Fisheries and Oceans for any avoidance or mitigation measures, including cessation of any activity, for the protection of the marine environment.

The proponent shall collaborate with the Marine Environment Working Group to review the status of compliance with, and implementation of, all of the Terms and Conditions in Project Certificate No. 005 related to marine environmental protection.

Results of the observer program shall be provided in the Annual Report to the Board. Further, Baffinland shall report annually all data it generates from the implementation of the monitoring of marine impacts that it is required to implement pursuant to the Terms and Conditions of the Project Certificate.

Recognizing the concerns of the Qikiqtani Inuit Association and those most affected by the Project, and their expressed desire to actively engage with the Board with respect to Project monitoring, the Ministers also encourage the Board to host an annual marine monitoring and marine mitigation workshop in the community of Pond Inlet. Such a workshop would allow for direct involvement of the community in the review of project monitoring data, including but not limited to information collected under community-based monitoring programs. Ideally, such a workshop would be scheduled at a time which best aligns with the availability of monitoring results and review of the Annual Monitoring Report, yet prior to the commencement of the shipping season such that additional mitigations can be applied if warranted. Such a workshop should be held for the duration of the production increase.

Finally, the impacts of the production increase need to be more broadly examined during the Phase 2 reconsideration, and it will be important to integrate the experience, knowledge and data gained over the course of the next two production years into that review process.

We commend the Board on the extensive work undertaken on this key development project as it is very much appreciated. We would remind all interested parties that our acceptance of the Board's findings and heavy reliance on the Board's identification of issues and concerns reflects a high level of satisfaction with the Board's work.

On behalf of my colleagues, I would like to acknowledge the efforts of the Board and its staff to complete the reconsideration process in an expedited manner while meeting the objectives set out in Article 12 of the *Nunavut Agreement*.

Sincerely,



Hon. Dominic LeBlanc, P.C., Q.C., M.P.



Hon. Carolyn Bennett, M.D., P.C., M.P.

c.c.: The Honourable Jonathan Wilkinson, P.C., M.P.

The Honourable Amarjeet Sohi, P.C., M.P.
The Honourable Marc Garneau, P.C., M.P.
The Honourable Catherine McKenna, P.C., M.P.

EXTERNAL ADDRESSES

The Honourable Jonathan Wilkinson, P.C., M.P.
Minister of Fisheries, Oceans and the Canadian Coast Guard
House of Commons
OTTAWA ON K1A 0A6
Email: Jonathan.Wilkinson@parl.gc.ca

The Honourable Amarjeet Sohi, P.C., M.P.
Minister of Natural Resources
House of Commons
OTTAWA ON K1A 0A6
Email: Amarjeet.Sohi@parl.gc.ca

The Honourable Marc Garneau, P.C., M.P.
Minister of Transport
House of Commons
OTTAWA ON K1A 0A6
Email: Marc.Garneau@parl.gc.ca

The Honourable Catherine McKenna, P.C., M.P.
Minister of Environment and Climate Change
House of Commons
OTTAWA ON K1A 0A6
Email: Catherine.McKenna@parl.gc.ca