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## LET-R-52-2024

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October 23, 2024

Case: 24-44554

By email:

[Elisabeth.Luther@baffinland.com](mailto:Elisabeth.Luther@baffinland.com)

Baffinland Iron Mines Corporation

c/o: Elisabeth Luther

**Application by Baffinland Iron Mines Corporation  
(Baffinland) for approval to construct a railway (application)  
to the Canadian Transportation Agency (Agency) pursuant to  
section 98 of the *Canada Transportation Act*, SC 1996,  
c 10 (CTA)**

Dear Elisabeth Luther:

- [1] The Agency has reviewed Baffinland's application and supplementary supporting documents, submitted on August 28, 2023, and revised on August 29, 2024, in response to comments received from Agency staff. Although Baffinland has made significant progress with its application, the Agency finds that Baffinland's application remains incomplete as described below.

## **Analysis and determinations**

- [2] Before constructing a railway line, a railway company must apply for, and obtain, the Agency's approval under section 98 of the CTA. The onus is on the railway company to provide the required information, in enough detail and with supporting evidence, to enable the Agency to fully assess the application. To assist railway companies in meeting their burden, the Agency has published the Guide to Railway Line Construction (Guide), which describes the information a railway company is required to include in a section 98 application. The Agency may also require additional information based on the specific facts of each case.
- [3] The Agency, in taking into consideration the requirements for railway operations and services and the interests of localities that will be affected by the railway line, requires sufficient evidence from the applicant in order to properly weigh these two factors. The Agency has determined that elements of Baffinland's application are complete while other elements require additional information in order to be complete, as follows:

### **1. Application overview—complete**

The Agency finds that the application overview is complete and no additional information is required. It provides the applicant's name and primary contact information, as well as high-level descriptions of railway line construction and operations, the planned timelines for the project, and the services to be operated.

### **2. Location of the railway line—complete**

The Agency finds that Baffinland's description of the location of the railway line is complete and no additional information is required. The application identifies the general location of the railway line, including the proposed rail infrastructure, and its proximity to the different localities.

### **3. Alternative locations—complete**

The Agency finds that the information about alternative locations for the railway line is complete and no additional information is required. The application identifies the

potential alternative locations of the railway line, including an analysis of the physical requirements and potential impacts on existing infrastructure, the biophysical environment, and the socio-economic environment for each site; and Baffinland's rationale for choosing the preferred location.

#### **4. Maps and plans—incomplete**

The Agency finds that the maps and plans are incomplete. Although the application includes numerous maps and plans that show the general location of the proposed railway line and associated infrastructure in relation to their geographic surroundings, typical cross-section, grade crossings around the Mary River mine and Steensby port and the general design of the tunnels, Baffinland must file the following required information:

- additional information concerning the design of the load-out facilities at the Mary River mine and at the Steensby port; and
- detailed plans from 0 km to 0 +577, including the loading points at the Mary River mine and at the Steensby port.

#### **5. Archaeological elements and related maps—incomplete**

The Agency finds that the archaeological elements and related maps are incomplete. Baffinland's application includes information relating to:

- the Crown-owned and Inuit-owned lands as per the 2012 Final Environmental Impact Statement;
- any archaeological surveys that are planned or are underway and the development of a more detailed mitigation plan;
- a number of areas along the proposed railway alignment that have archaeological resources; and
- the concern identified by the localities of potential disturbance of cultural and archaeological sites.

However, Baffinland must also file the following required information:

- maps that show the specific locations of all of caribou and ATV crossings;
- an update on the results of the archaeological studies; and
- an archaeological management and mitigation plan for the railway operations phase.

## **6. Railway operations and services (infrastructure and ground alterations)—incomplete**

The Agency finds that Baffinland’s descriptions of its railway infrastructure and ground alterations are incomplete. While it includes information on the proposed infrastructure and the potential disturbance of wildlife resulting from noise and vibration, which was identified as a concern by the localities, Baffinland must file additional information describing:

- the location of all sidings, specifically identifying those sidings that will be used to store idling locomotives that can directly impact local residents and wildlife by their noise and air emissions;
- the yard’s topography; and
- any plans for the use of railroad retarders, noise reduction, and anti-idling technologies.

## **7. Railway operations and services (operational activities)—incomplete**

The Agency finds that Baffinland’s description of its railway operational activities is incomplete. It includes information on typical railway operational activities to be undertaken along the railway line; however, it has not described the actual activities that will occur within the yard. Baffinland must file information about idling, shunting, train building and marshalling activities planned for the yard along with where, when, and how they will be conducted, as appropriate.

## **8. Railway operations and services (railway services)—incomplete**

The Agency finds that Baffinland's description of its railway services is incomplete. Although it includes information on railway services to be provided by the proposed railway line, letters of support demonstrating their interest in the services to be provided, and information that emergency response was identified as a concern by the localities, Baffinland must file the following required information:

- an update on Baffinland's commitment to work with the Qikiqtani Inuit Association (QIA) to hold meetings in the communities to discuss safety aspects of the railway and railway crossings, including in relation to the planning and timing of those meetings; and
- documentation confirming that potentially impacted Indigenous communities were consulted on the Railway Emergency Response Plan, including any feedback received and how comments were integrated in the plan, as necessary.

## **9. Railway operations and services (construction activities)—complete**

The Agency finds that Baffinland's description of its construction activities is complete and no additional information is required. It provides detailed plans about proposed construction activities, including information about potential impacts when the railway line is being constructed (e.g., impacts on local road traffic, air emissions, etc.) and construction-related studies and reports.

## **10. Interests of localities—incomplete**

The Agency finds that Baffinland's description of the interests of localities is incomplete. It currently provides:

- details on its engagement activities undertaken with localities and the results of those activities;
- information on several rounds of public engagement activities undertaken during the Nunavut Impact Review Process, during the negotiation of the

Mary River Inuit Impact Benefit Agreement, during the establishment of the railway transportation corridor under the North Baffin Regional Land Use Plan, and other studies undertaken by Baffinland;

- a summary of all comments received compiled in a stakeholder engagement report that includes necessary commitments to respond to public concerns identified throughout the process;
- information about engagements with key stakeholders (including federal departments) since 2007 and that approval is required from the Department of Fisheries and Oceans and Transport Canada, among others;
- information that describes the outcome of the above-noted engagements and any outstanding requirements; and
- information about an engagement database that Baffinland developed that includes a summary of meetings and relevant public engagement.

However, Baffinland must file the following required information:

- an updated stakeholder engagement report that specifically responds to each type of concern raised by localities including Indigenous communities, describing how it will be addressed and how any applicable mitigation measures were developed with the localities or any rationale if a concern is not addressed;
- an update on future multi-community engagements, including lessons learned from meetings held in Pond Inlet; and
- extracts of that engagement database relating to the rail component of the project.

## Conclusion

- [4] The Agency has found that Baffinland's application is incomplete and has identified information that Baffinland must file in order for the application to proceed. It is important that the required information be filed in a timely fashion given that incomplete applications lead to delays in the Agency's review and approval process.
- [5] If Baffinland's submissions call for further clarification or if the project's circumstances change, the Agency may require that Baffinland file further information in order for the application to be complete. Once it is found to be complete, the Agency can proceed to its public comment period stage, as described in the Guide.
- [6] The Agency will proceed to review information submitted related to the interests of the localities, including Indigenous consultations, and will advise if further information is required.
- [7] Please send all official application and supplemental filing information to the Agency's Secretariat at [secretariat@otc-cta.gc.ca](mailto:secretariat@otc-cta.gc.ca).

By the Agency Members:

Elizabeth C. Barker

Marisa Victor