



November 1, 2010

William N. Gula
Dir 416 863 5511
bgula@dwpv.com

File No. 232849

BY E-MAIL AND COURIER

Ontario Securities Commission
12th Floor, Pacific Centre
20 Queen Street West, Suite 1903
Toronto, ON M5H 3S8

Attention: Secretary of the Commission

Dear Sirs/Mesdames:

Offer (the "Offer") of Nunavut Iron Ore Acquisition Inc. ("Nunavut Iron") to purchase all of the outstanding common shares of Baffinland Iron Mines Corporation ("Baffinland")

Application for a cease trade order under Section 127 of the *Securities Act* (Ontario) (the "Act")

We are the solicitors for Nunavut Iron. Nunavut Iron hereby applies for an order pursuant to Section 127 of the Act in connection with the Offer and Baffinland's amended and restated shareholder rights plan dated January 27, 2009 (the "**Rights Plan**").

In this application, Nunavut Iron seeks the following relief (the "**Orders**"):

- (a) a permanent order pursuant to Section 127 of the Act that trading cease in respect of any securities issued, or to be issued, under or in connection with the Rights Plan, including without limitation, in respect of the rights issued under the Rights Plan (the "**Rights**") and any common shares of Baffinland to be issued upon the exercise of the Rights;
- (b) a permanent order removing prospectus exemptions in respect of the distribution of Rights on the occurrence of the Separation Time (as defined in the Rights Plan) and in respect of the exercise of the Rights; and
- (c) such further and other relief as the Commission deems appropriate.

Nunavut Iron respectfully submits that the continued operation of the Rights Plan constitutes an improper defensive tactic implemented by management of Baffinland for the purpose, and with the effect, of depriving the shareholders of Baffinland of their fundamental right to dispose of their shares as they choose by accepting Nunavut Iron's Offer.

We hereby request that the Commission agree to conduct a hearing in connection with the matters described herein. In the circumstances, it is in the public interest that a hearing in respect of this matter be held at the earliest available date, and that the Orders sought in this application be made. Nunavut Iron is prepared to make an additional extension of its Offer, which currently expires on November 8, 2010, to accommodate an expedited hearing schedule and the issuance of the decision (the final date of such period being referred to herein as the "**Final Date**"); however, Nunavut Iron is not prepared to have its Offer remain open beyond that period.

In this application, references to tab numbers in parentheses indicate the applicable tab of the volume that accompanies this application where the materials referred to can be found. All information concerning Baffinland set out in this application has been taken from or is based exclusively upon Baffinland's publicly available documents and records on file with the Canadian securities regulatory authorities.

Summary of Material Facts

Nunavut Iron

1. Nunavut Iron is a corporation existing under the laws of Canada with its principal and head office located in Toronto, Ontario.
2. Nunavut Iron was incorporated on August 27, 2010 and has not carried on any material business other than in connection with matters directly related to the Offer. Nunavut Iron is wholly owned by Iron Ore Holdings, LP ("**Iron Ore Holdings**").
3. Iron Ore Holdings is a limited partnership formed under the laws of Delaware, the interests of which are owned by Bruce Walter, the Chairman of Nunavut Iron, Jowdat Waheed, the President and Chief Executive Officer of Nunavut Iron and funds (the "**EMG Funds**") managed by The Energy & Minerals Group, which are providing the majority of the equity financing for the Offer. Iron Ore Holdings was formed for the purpose of making the Offer. The Energy & Minerals Group is a private investment firm with a family of funds with over US\$2 billion under management that invest in the energy and minerals sectors.
4. None of Nunavut Iron, Iron Ore Holdings or the EMG Funds is a reporting issuer in any jurisdiction in Canada.

Baffinland

5. Baffinland is a company existing under the laws of the Province of Ontario with its principal and head office located in Toronto, Ontario.
6. Baffinland is a Canadian publicly-traded junior mining company that is focused on its wholly-owned Mary River property iron ore deposits located on Baffin Island, Nunavut Territory, Canada. The Mary River property is still in the exploration and development stage and to date there is no operating mine.
7. The authorized capital of Baffinland consists of an unlimited number of common shares ("**Common Shares**"). As of October 6, 2010, the issued and outstanding capital of Baffinland consisted of 343,097,949 Common Shares. As of October 6, 2010, Baffinland also had outstanding options and warrants exercisable for an aggregate of up to 59,869,322 Common Shares.
8. The Common Shares are listed on the Toronto Stock Exchange ("**TSX**") under the symbol "**BIM**".

Nunavut Iron's Offer for Baffinland

9. On September 22, 2010, Nunavut Iron commenced the Offer by publishing an advertisement in The Globe and Mail and La Presse and filing its take-over bid circular (the "**Bid Circular**") relating to the Offer (Tab 1) with the Canadian securities regulatory authorities on SEDAR.
10. The Offer represents a premium of approximately 100% over the volume-weighted average price of \$0.40 per Common Share over the 20 trading days on the TSX ending August 26, 2010. Nunavut Iron believes that August 26, 2010 is the most relevant date from which to measure the premium represented by the Offer as it is the last trading day prior to commencement of purchases of the Common Shares currently held by Nunavut Iron and its affiliates. The Offer also represents a premium of approximately 42.9% over the closing price of \$0.56 per Common Share on the TSX on September 21, 2010, the last trading day prior to commencement of the Offer and a premium of approximately 36.6% over the volume-weighted average price of \$0.586 per Common Share over the 20 trading days on the TSX ending on September 21, 2010.
11. On September 22, 2010, Nunavut Iron requested that Baffinland provide the shareholder, optionholder and warrant holder information necessary for mailing. On September 29, 2010, Nunavut Iron received the information necessary to mail the Bid Circular and the related documents to the Baffinland shareholders, optionholders and warrant holders, and such mailings have been completed by Nunavut Iron.

12. The Offer was initially scheduled to expire at 5:00 p.m. (Toronto time) on October 28, 2010. On October 28, 2010, the expiry of the Offer was extended to 7:00 p.m. (Toronto time) on November 8, 2010 by a Notice of Extension filed by Nunavut Iron (Tab 2).

Baffinland's Lengthy Search for a Strategic Transaction and its Response to Nunavut Iron's Offer

13. On September 22, 2010, Baffinland issued a press release announcing that it had appointed a special committee (the "**Special Committee**") to consider the Offer and make a recommendation to the Baffinland board of directors and that the Special Committee would be advised by CIBC World Markets Inc. ("**CIBC**") as its financial advisor (Tab 3).

14. In this press release Baffinland also advised its shareholders not to take any action with respect to the Offer.

15. On October 7, 2010, Baffinland filed its directors' circular (the "**Directors' Circular**") recommending that Baffinland shareholders reject the Offer (Tab 4). On that same day, Baffinland issued a press release regarding its recommendation (Tab 5).

16. According to the Directors' Circular, in early 2008, the board of Baffinland retained CIBC and another financial advisor to assist it in seeking one or more strategic partners for the development of Baffinland's Mary River property. A number of parties entered into confidentiality agreements with Baffinland and were granted access to a data room. Certain of these parties also attended management sessions and conducted site tours of the Mary River property. Baffinland received certain expressions of interest in mid-2008. However, the global financial crisis and deteriorating economic conditions which commenced in 2008 resulted in Baffinland suspending its efforts to seek a strategic partner in the second half of 2008.

17. Also according to the Directors' Circular, Baffinland subsequently renewed its strategic partnering initiative in the second half of 2009 by re-engaging CIBC. In late 2009, the board of Baffinland appointed a Strategic Committee (two of the three members of the Special Committee are also members of the Strategic Committee). In February of 2010, the then-Chief Executive Officer of Baffinland stated that "20 companies or thereabouts" had expressed interest in Baffinland (Tab 6).

18. The Directors' Circular further indicates that (i) since the date the Offer was announced, the Special Committee, together with management and Baffinland's legal and financial advisors, have continued working to evaluate a range of strategic alternatives that may enhance shareholder value and (ii) Baffinland has been solicited by, and has initiated contact with, a number of third parties who have expressed an interest in considering

alternative transactions and that discussions are being pursued with several of these third parties in order to generate value enhancing alternatives.

19. Despite Baffinland's lengthy and extensive search for a strategic partner between early 2008 and the present, during which at least "20 companies or thereabouts" expressed an interest in a strategic transaction with Baffinland, and notwithstanding the work of the Special Committee since the commencement of the Offer, Baffinland and its financial advisor have not publicly identified any alternative bids.

20. The Directors' Circular advises that the 60 day "Permitted Bid" concept in the Rights Plan (discussed at paragraph [26] below) would provide "sufficient time to pursue alternatives that may lead to a higher offer". Taking into account the substantial length of time that Baffinland has devoted to its search for a strategic partner, and the time that the Special Committee will have had from the date of the Offer until the Final Date, Baffinland will have had substantially more than the 60 days that it stated was sufficient time for it to seek out an alternative bid.

The Rights Plan

21. Baffinland entered into the Rights Plan on January 27, 2009 (Tab 7), as an amendment and restatement of a plan previously entered into on January 13, 2006. The Rights Plan received Baffinland shareholder approval on March 24, 2009.

22. The Rights Plan provides that, after a point in time defined as the "Separation Time", the Common Shares and the Rights separate and the Rights issued pursuant to the Rights Plan become exercisable. The Directors' Circular discloses that on October 6, 2010 the board of directors of Baffinland deferred the Separation Time to a later date to be determined by the board.

23. After the Separation Time, each Right entitles its holder to acquire Common Shares at a 50% discount to the then current market price after the occurrence of an event defined as a "Flip-in Event", which includes the acquisition of 20% or more of the outstanding Common Shares.

24. The Rights Plan also contains a "Permitted Bid" provision. Among other things, to be a "Permitted Bid", an offer must be made to all holders of Common Shares and be open for not less than 60 days. It must also contain an irrevocable provision that any Common Shares deposited may be withdrawn at any time prior to the close of business on such 60th day and that, if all other "Permitted Bid" conditions are satisfied, the offeror will extend the bid for a further period of at least 10 business days.

25. The Offer is not a "Permitted Bid" under the Rights Plan. It is therefore a condition of the Offer that the Rights Plan be terminated or that action be taken by the

Baffinland board of directors, securities regulators or the courts to ensure that the Offer will not be adversely affected by the Rights Plan.

The Prospects for an Alternative Bid or Transaction

26. As described above, Baffinland has had a leading financial advisor, CIBC, working to identify a strategic partner for the company since mid-2009 (and previously in 2008). Following announcement of the Offer, CIBC has continued to work with the Special Committee and Baffinland's management to identify and negotiate possible alternatives to the Offer.

27. On October 28, 2010, Baffinland issued a press release reaffirming its position that Baffinland shareholders should reject the Offer, and stating that the board of directors is in the process of pursuing alternative transactions to maximize shareholder value (Tab 8). No details of any such alternatives were included in the press release, nor have any additional details surfaced to date.

28. Nunavut Iron believes that given the large expected capital expenditures to develop Baffinland's Mary River property, there are a limited number of companies able to acquire Baffinland and successfully develop it.

29. Nunavut Iron believes, given the lengthy and extensive search that Baffinland has conducted for a strategic partner and the number of third parties with which it had discussions and given due diligence access to prior to the commencement of the Offer, that any third party likely to make an alternative bid would already have looked at the company and the Mary River property and therefore would not require a great deal of time to evaluate Baffinland's assets and propose and negotiate such alternative bid.

30. The Baffinland board of directors, the Special Committee and Baffinland's financial advisor have not publicly identified any alternative bid. Baffinland has not made any announcement that an alternative bid is being negotiated or imminent, only that such alternative is being "pursued". It is apparent that no such alternative bid has materialized or is likely to materialize in the future.

Nunavut Iron's Submissions

31. Having regard to the lengthy period of time that Baffinland has been engaged in its extensive search for a strategic partner and that Baffinland will have had prior to the Final Date to identify possible alternatives to the Offer, Nunavut Iron submits that the continued operation of the Rights Plan beyond the Final Date constitutes an improper defensive tactic, contrary to the public interest.

National Policy 62-202

32. The paramount consideration of the take-over bid provisions in Canadian securities legislation is the protection of the *bona fide* interests of the shareholders of the target company.

33. In adopting National Policy 62-202 – *Take-Over Bids – Defensive Tactics* ("National Policy 62-202"), the Canadian securities regulators recognized that while defensive tactics may sometimes be legitimately used by a target company as a means of maximizing shareholder value, it is inappropriate for the target corporation to adopt defensive tactics "that are likely to deny or limit severely the ability of shareholders to respond to a take-over bid or to a competing bid".

34. The implementation of a shareholder rights plan is a common defensive tactic employed by the management of a target corporation, as the effect of a shareholder rights plan is to prevent any take-over bid from succeeding without the board's approval. As is described in greater detail below, and consistent with the objectives of National Policy 62-202, Canadian securities commissions have recognized that it is a fundamental right of shareholders that they be allowed to decide for themselves whether to tender to a bid. As such, Canadian securities commissions have repeatedly held that a shareholder rights plan will be set aside where the rights plan is being used to prevent shareholders of a target corporation from exercising their fundamental right to determine whether to accept or reject an offer to acquire their shares.

Shareholder Rights Plans

35. Since the Commission's decision in *Re Canadian Jorex*¹, the Canadian securities commissions have consistently held that all rights plans must, at some time, be set aside in order that shareholders may determine whether or not to tender their shares to an outstanding offer. Therefore, the fundamental issue in this application is not whether the Rights Plan will be set aside, but when it will be set aside.

36. In *Re Royal Host Real Estate Investment Trust*², a decision which has been reaffirmed in recent rights plan decisions, the Commission identified the following as factors that may be relevant in determining whether the time has come for a rights plan to go:

- (a) whether shareholder approval of the rights plan was obtained;
- (b) when the plan was adopted;

¹ (1992), 15 O.S.C.B. 257.

² (1999), 22 O.S.C.B. 7819.

- (c) whether there is broad shareholder support for the continued operation of the plan;
- (d) the size and complexity of the target company;
- (e) the other defensive tactics, if any, implemented by the target company;
- (f) the number of potential, viable offerors;
- (g) the steps taken by the target company to find an alternative bid or transaction that would be better for shareholders;
- (h) the likelihood that, if given further time, the target company will be able to find a better bid or transaction;
- (i) the nature of the bid, including whether it is coercive or unfair to the shareholders of the target company;
- (j) the length of time since the bid was announced and made; and
- (k) the likelihood that the bid will not be extended if the rights plan is not terminated.

37. Each of these factors is relevant to the determination of whether the rights plan will facilitate an unrestricted auction for the corporation or, alternatively, will deprive shareholders of their fundamental right to tender their shares to an offer that has been made to them. As is described in greater detail below, this Rights Plan clearly falls into the latter category.

Application to the Facts

38. The principal factors relevant to the Commission's determination of whether the Rights Plan in this case ought to be set aside at the present time are as follows:

- *The Offer is not coercive or unfair to the holders of Common Shares.*

As the Offer is a bid for all of the outstanding Common Shares and was made at a significant premium to the trading price of the Common Shares, it is clearly not coercive, unfair or improper.

The Offer has received all applicable regulatory approvals and only the Rights Plan now stands between shareholders and their acceptance of the Offer.

- *At the Final Date, Baffinland will have been seeking a strategic partner since early 2008 and, since Nunavut Iron commenced its Offer, more than sufficient time will have passed to negotiate an alternative bid.*

Given the large expected capital expenditures to develop Baffinland's Mary River property, there are only a limited number of companies able to acquire Baffinland and successfully develop the property. Furthermore, given the extensive and lengthy search that Baffinland has conducted for a strategic partner, with at least "20 companies or thereabouts" having examined the opportunity, it is reasonable to conclude that any candidate likely to bring an alternative bid is one of the companies that has previously examined Baffinland and the Mary River property prior to Nunavut Iron commencing its Offer. In addition, given Baffinland's sole asset is the Mary River property, which is in the exploration and development phase (without an operating mine), the limited scope of due diligence and the ease of valuation, it should not take any significant amount of time for any credible third party to evaluate Baffinland and its assets and for Baffinland and such third party to determine whether a mutually agreed alternative bid can be obtained.

Nunavut Iron believes that the period of time that will have passed between the commencement of the Offer and the Final Date will have been more than adequate for that purpose. If no alternative bid has been announced by the Final Date, it is extremely unlikely that such a bid will be announced following that date. If any alternative bid has emerged by the Final Date, removal of the Rights Plan will give Baffinland shareholders the right to choose between the Offer and such proposed alternative bid.

There is no reasonable prospect that the Rights Plan, if permitted to continue, would result in an alternative bid more attractive to Baffinland's shareholders.

It is simply not appropriate for, and Nunavut Iron objects to, the Baffinland board of directors keeping the Rights Plan in place to buy additional time to pursue a joint venture or other transaction that is not an alternative bid.

- *There is no informational disadvantage to be remedied by permitting the Rights Plan to remain in place.*

In its Directors' Circular, Baffinland has made a number of assertions regarding an alleged informational advantage possessed by Mr. Jowdat Waheed. Nunavut Iron does not possess, and has been advised by Mr. Waheed that he does not possess, any material information with respect to Baffinland that has not been publicly disclosed. As such, there is no informational advantage. Moreover, as described above, in light of the lengthy history of Baffinland's search for a strategic transaction, and the informational access Baffinland has given to third parties to the date hereof, it is simply not realistic to suggest that any credible third party is at a

timing or informational disadvantage to Nunavut Iron in proposing an alternative bid.

- *Nunavut Iron will not extend the Offer in the face of the indefinite operation of the Rights Plan.*

Nunavut Iron will be unable to take up and pay for the Common Shares tendered to the Offer unless the Rights Plan is cease traded or waived. Nunavut Iron has already extended the Offer which has provided Baffinland shareholders additional time to consider the Offer and allow alternative bids to surface. Nunavut Iron is also prepared to extend its Offer to accommodate an expedited hearing schedule and the issuance of the decision in this matter. However, Nunavut Iron does not intend to further extend the Offer in the face of the continued indefinite operation of the Rights Plan. Failing to cease trade the Rights Plan would therefore deprive Baffinland's shareholders of their fundamental right to choose and frustrate the Offer.

- *Fairness to Nunavut Iron and its shareholders.*

A key objective of the changes made to the securities legislation in Ontario and the other provinces of Canada in 2001 extending the minimum bid period from 21 days to 35 days (among other things) was to strike an appropriate balance between the interests of shareholders of a target company, from a value maximization perspective, on the one hand, and the interests of bidders on the other hand, so that companies would not be deterred from launching bids and shareholders would not be deprived of the opportunity to receive take-over premiums. We believe it is appropriate for the Commission to consider the interests of Nunavut Iron and its shareholders and the balancing of interests in its determination as to whether the Commission should exercise its discretion to grant the relief requested by Nunavut Iron. It is inappropriate and unfair to Nunavut Iron and its shareholders to allow Baffinland to maintain the Rights Plan at an enormous cost to Nunavut Iron and its shareholders.

- *Nunavut Iron's Offer to Settle.*

By letter dated October 29, 2010 (Tab 9), Nunavut Iron advised Baffinland of its intention to bring this application to the Commission. In the interests of achieving a reasonable compromise and avoiding unnecessary costs for both sides (as well as for the Commission), Nunavut Iron offered to extend the expiry date of its Offer by an additional 15 days to Tuesday November 23, 2010 (such that the Offer will be open for acceptance for an aggregate of 62 days) in consideration for, among other things:

- (a) Baffinland waiving the application of the Rights Plan to the Offer effective at least 10 days prior to the expiration of the Offer, as so extended;

- (b) Baffinland agreeing to not adopt a new shareholder rights plan or other similar measures; and
- (c) Baffinland ceasing its complaint regarding an alleged informational advantage.

Nunavut Iron pointed out that although it denies having any informational advantage (either over shareholders of Baffinland or over credible third parties), the extension of time would reasonably afford Baffinland more than sufficient opportunity to (i) make available any further information it deems desirable for a decision to be made by its shareholders and (ii) determine whether an alternative bid can be negotiated with a third party.

The fact that Baffinland refused to accept Nunavut Iron's eminently reasonable offer to settle these proceedings on a consensual basis and avoid an expensive hearing is a clear indication that maintaining Baffinland's Rights Plan is more about entrenchment of management than about protecting the interests of shareholders.

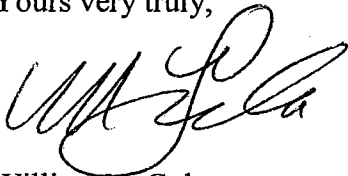
39. Having regard to all of the above, Nunavut Iron submits that the circumstances of this case provide a substantial and compelling foundation for the Commission to exercise its public interest jurisdiction to cease trade the Rights Plan at the earliest opportunity.

Conclusion

Given the urgency of this matter, we respectfully request that the Commission hold a hearing to consider and determine this application by no later than November 15, 2010.

Should you have any questions or require any additional information, please do not hesitate to contact the undersigned (416-863-5511) or my partner Steven M. Harris (416-367-6936).

Yours very truly,



William N. Gula

SMH/jg
Enclosure

cc: Bruce Walter, *Nunavut Iron Ore Acquisition Inc.*
Jowdat Waheed, *Nunavut Iron Ore Acquisition Inc.*
Steven Harris, *Davies Ward Phillips & Vineberg LLP*
Kent Thomson, *Davies Ward Phillips & Vineberg LLP*

Andrea Burke, *Davies Ward Phillips & Vineberg LLP*
Andrew Sunter, *Davies Ward Phillips & Vineberg LLP*
Jay Kellerman, *Stikeman Elliott LLP*
Katherine Kay, *Stikeman Elliott LLP*
Rob Nicholls, *Stikeman Elliott LLP*
Alex Rose, *Stikeman Elliott LLP*
Amanda Linett, *Stikeman Elliott LLP*
Naizam Kanji, *Ontario Securities Commission*
Erin O'Donovan, *Ontario Securities Commission*
Sasha Angus, *Ontario Securities Commission*

NUNAVUT IRON ORE ACQUISITION INC.

CERTIFICATE OF VERIFICATION

To: Ontario Securities Commission

Nunavut Iron Ore Acquisition Inc. hereby authorizes Davies Ward Phillips & Vineberg LLP to make this application and confirms the truth of the facts contained therein.

DATED as of this 1st day of November, 2010.

NUNAVUT IRON ORE ACQUISITION INC.

By



Name: Jowdat Waheed

Title: President & Chief Executive Officer