



NIRB File No.: 12MN036

January 23, 2017

Matthew Pickard  
Vice President, Environment and Sustainability  
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Sent via email: [mpickard@sabinagoldsilver.com](mailto:mpickard@sabinagoldsilver.com)

**Re: Ministers' Referral of Final Hearing Report to NIRB for Clarification and Request to Sabina Gold & Silver Corp. for Additional Information to support further Review of the Back River Gold Mine Project Proposal**

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Dear Matthew Pickard:

On June 15, 2016 the Nunavut Impact Review Board (NIRB or Board) issued its Final Hearing Report (the Report) to the Minister of Indigenous and Northern Affairs with respect to Sabina Gold & Silver Corp.'s (the Proponent or Sabina) Back River Gold Mine project proposal (NIRB File No. 12MN036), as required under Section 12.5.6 of the *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty in right of Canada* (Nunavut Agreement). In the Final Hearing Report the NIRB concluded that due to the potential for significant adverse ecosystemic and socio-economic effects in Nunavut and also in the Northwest Territories that, in the Board's view, cannot be adequately managed and mitigated, the Back River Gold Mine Project Proposal (the Back River Project or the Project) should not proceed at this time.

On January 12, 2017 the Minister of Indigenous and Northern Affairs, writing on behalf of the Federal Responsible Ministers including Environment and Climate Change, Fisheries and Oceans and the Canadian Coast Guard, Natural Resources, and Transport, referred the Report for the Back River Project back to the NIRB for further Review under Section 12.5.7(e) of the Nunavut Agreement to further assess deficiencies with respect to 5 main ecosystemic issues. Within the *enclosed* letter the Ministers identified sections of the Report that may contain deficiencies or insufficient information related to ecosystemic and socioeconomic impacts: caribou and terrestrial wildlife; freshwater aquatic environment; marine environment; water quality (ground and surface); and climate and meteorology. It was further noted that, following the issuance of the Report by the Board, the Ministers invited and received feedback regarding the Report's findings from Indigenous Organizations, the Government of the Northwest Territories and the Government of Nunavut, as well as unsolicited comments from the Proponent

and other interested organizations and individuals. While indicating that the additional comments received were not all consistent with some questioning the Report's conclusions or supporting the Report, the Ministers confirmed that the additional feedback was given consideration in the Government of Canada's decision-making regarding the Report's acceptability. All such correspondence issued following the NIRB's Report and copied to the Board has been posted online to the NIRB's public registry for the Back River Project.

In referring the Report back to the Board for further review or public hearings, the Ministers also provided the following direction:

*“There are a number of areas where there was insufficient information presented in the Report to support the conclusions of the Board, and where further information is required so that the ministers may understand the rationale behind the conclusions presented by the Board prior to making a decision on whether the project should proceed. This is particularly important in areas where the Board has expressed a lack of confidence or significant uncertainty while the Report and the broader record indicates that many of the participants (including Indigenous and non-Indigenous witnesses and subject matter experts) expressed confidence that the measures presented could mitigate and manage potential adverse effects to an acceptable level.”*

#### NEXT STEPS IN THE REVIEW PROCESS

Having considered the Ministers' direction that the Board conduct further review or public hearings as necessary in respect of the proposed Back River Project, the NIRB is structuring the next steps in its Review process to enable further consideration of the effects assessment for the Back River Project. The focus of the Board's further review will be on those issues within its June 15, 2016 Final Hearing Report where a lack of confidence or significant uncertainty was expressed by the Board regarding the original effects assessment provided. To facilitate the Board's additional consideration, the Proponent will be provided with an opportunity to submit updated information in support of its effects assessment for the Back River Project and may also highlight where information that was previously provided during the NIRB's Review of the Project addresses uncertainties in the key areas identified by the Ministers. Providing submissions within this scope will assist in focusing further public review of the proposal and an additional public hearing to be scheduled by the NIRB. Upon initiating further public technical review, the Board will also provide additional direction to responsible authorities and interested parties regarding specific areas where receipt of specialist advice would assist in the Board's further consideration of the Back River Project.

Recognizing the central role of the December 7, 2015 Proponent's Final Environmental Impact Statement (FEIS) in facilitating the public technical review of the Project, the NIRB believes that provision of an updated FEIS document or addendum by the Proponent would be the most effective means of providing additional information and highlighting existing information regarding the effects assessment for the Back River Project and associated monitoring and mitigation plans required to support a public technical review. The updated FEIS should focus on providing additional information on the specific issues noted in the Ministers' decision, providing the Board and parties with any further supporting information on predicted impacts and anticipated effectiveness of proposed mitigation measures, and updated details on negotiations, communications, and results of community consultations conducted since the

Board's Report was issued. Additional information supplied should focus on sections of the FEIS where the Board's Report expressed particular concern for the potential for significant adverse ecosystemic and socio-economic effects to caribou and terrestrial wildlife, freshwater aquatic environment, marine environment, water quality (ground and surface), and climate and meteorology. Amendments and additions to the original FEIS should be clearly highlighted within an accompanying concordance table, and should address:

- Issues where the Board noted a lack of clear evidence or assurance in proposed mitigation measures in the Final Hearing Report,
- Direction provided in the NIRB's *Guidelines for the Preparation of an Environmental Impact Statement for Sabina Gold & Silver Corp.'s Back River Project* (EIS Guidelines, April 2013), and
- Address the particular issues highlighted within the Ministers' enclosed January 12, 2017 referral letter.

Topics presented in the FEIS addendum should focus on the key topics identified in the Ministers' letter, highlighting where updated information has changed the characterization of the impact or the associated determination of residual, significant, or cumulative effects. Updates to the assessment of ecosystemic effects for the Project should also clearly indicate where corresponding updates to the socio-economic effects assessment for the Project may be necessary. The key topics addressed in the FEIS addendum should follow the outlines below.

### *1. Caribou and Terrestrial Wildlife*

The FEIS addendum should reflect the information requirements outlined in Section 8.1.11 Terrestrial Wildlife and Wildlife Habitat of the EIS Guidelines to format and structure all updated FEIS content related to caribou and terrestrial wildlife. Areas of uncertainty specifically noted in the Minister's letter should be addressed in detail within the FEIS addendum as well as context around the Sabina-Government of Nunavut joint submissions presented at the end of the April 2016 Final Hearing proposing project-specific terms and conditions, amendments to the Wildlife Mitigation and Monitoring Plan, and additional amendments to the Wildlife Effects Monitoring Plan. This additional information would allow the Board and commenting parties the opportunity to consider the adequacy and effectiveness of proposed mitigation and monitoring measures, and potential project impacts to caribou and terrestrial wildlife, through further review.

### *2. Freshwater Aquatic Environment*

Section 8.1.9 Freshwater Aquatic Environment of the EIS Guidelines defines the requirements of the format and structure of the FEIS to discuss impacts related to the freshwater aquatic environment. Within the FEIS addendum, Sabina should provide more detailed information regarding the fisheries offsetting measures, dewatering of lakes, and fish-out plans being proposed as part of the Back River Project to allow the Board and commenting parties the opportunity to further assess potential effects on fish and fish habitat. Sabina should also consider providing additional relevant information related to the potential effects on the freshwater aquatic environment from the proposed winter road.

### *3. Marine Environment*

Section 8.1.13 Marine Environment of the EIS Guidelines provided the format and structure for presentation of impacts to the marine environment. Within the FEIS addendum, Sabina should provide clarity and any additional information available regarding potential impacts associated with the proposed saline water discharge operations as well as bulk fuel shipping operations and emergency response measures.

### *4. Water Quality (Ground and Surface)*

Section 8.1.7 Groundwater and Surface Water Quality of the EIS Guidelines provided direction on format and structure for the discussion of potential impacts to water quality (ground and surface). In its Final Hearing Report, the Board noted several topics where high levels of uncertainty remained with regards to the impacts and effectiveness of mitigation measures and these topics should be addressed in the FEIS addendum.

### *5. Climate and Meteorology*

Section 8.1.2 Climate and Meteorology within the EIS Guidelines detailed the required format and content related to climate and meteorology. Within the FEIS addendum, Sabina should provide additional analysis and detail related to the mitigation and monitoring measures associated with tailings and waste rock storage to address the concerns expressed in the Board's Final Hearing Report related to changing climate conditions and effects to permafrost. Sabina is also encouraged to consider the direction of Guidelines Section 8.1.4 Terrestrial Environment in this discussion. Information should include additional detail on climate change scenarios and how adaptive management protocols would mitigate fluctuating climatic conditions in the project area.

### *6. General*

The Board recognizes that additional topics and sections of the FEIS not directly related to those noted above may also benefit from updates where new or updated information is available to improve understanding of the Back River Project in context and increase certainty regarding its potential effects. The Board encourages Sabina to consider providing such updated information as Sabina considers relevant, further highlighting within its accompanying conformity table the links between any updated information and the specific sections of the EIS Guidelines, the Board's Report and/or the Ministers' January 12, 2017 direction.

Upon receipt of new or updated information submitted by the Proponent to support further consideration of the Back River Project, the NIRB will undertake an internal cursory concordance review of the information against the EIS Guidelines, the Board's Report and/or the Ministers' January 12, 2017 direction to determine its acceptability for the purpose of supporting a public technical review. After posting the information on the Board's online public registry and formal acceptance of the submission, the NIRB will initiate a public technical review of the documentation, inviting responsible authorities, potentially-affected communities and interested parties to provide their comments and advice to the Board regarding the Back River Project. The NIRB will then schedule a public hearing and will allow for sufficient time following the receipt

of written submissions to facilitate a response to comments by the Proponent, and a meeting of technical experts via teleconference to discuss outstanding technical issues as determined to be necessary.

At the conclusion of the Review process following the public hearing, the NIRB will issue an updated Public Hearing Report for the Back River Project to the Responsible Ministers for consideration. The Board will explicitly delineate between previously-considered issues and newly-provided information, highlighting where new information has been considered and any new conclusions that may have resulted. In considering all information provided to it, within its new Public Hearing Report the Board will provide the conclusions of its assessment of the Project and its impacts, and its determination pursuant to Article 12, Section 12.5.6 of the Nunavut Agreement regarding whether or not the Project should be allowed to proceed.

## CONCLUSION

The next steps in the Board's Review of the Back River Project may be summarized as follows:

1. Submission of additional updated information (FEIS or FEIS Addendum) by the Proponent;
2. cursory internal technical review of the Proponent's submission by the NIRB;
3. Initiation of a public technical review period and solicitation of written submissions;
4. Formal notice of scheduling of an in-person public hearing;
5. Receipt of final written submissions by parties;
6. Technical Meeting via teleconference (as determined to be necessary);
7. Receipt of Proponent's response to parties' written submissions;
8. Public Hearing; and,
9. Issuance of the NIRB's Public Hearing Report.

The NIRB hereby requests that Sabina confirm its intention to provide updated information to support the Board's further assessment of the Back River Project and also provide an anticipated date of submission for an updated Final Environmental Impact Statement (FEIS) or FEIS Addendum **as soon as practicable**.

Following receipt of Sabina's response, the Board will provide more explicit direction to Sabina and all parties regarding the next steps in the Review process and anticipated timelines for the NIRB's further consideration of the Back River Project.

Should you have any questions or require clarification, please contact the NIRB's Executive Director, Ryan Barry at (867) 983-4608 or [rbarry@nirb.ca](mailto:rbarry@nirb.ca).

Sincerely,



Elizabeth Copland  
Chairperson  
Nunavut Impact Review Board

cc: The Honourable Carolyn Bennett Minister of Indigenous and Northern Affairs  
The Honourable Dominic Leblanc, Minister of Fisheries and Oceans and the Canadian Coast Guard, GOC  
The Honourable Jim Carr, Minister of Natural Resources, GOC  
The Honourable Marc Garneau, Minister of Transport, GOC  
Stanley Anablak, President, Kitikmeot Inuit Association  
Thomas Kabloona, Chairperson, Nunavut Water Board  
Bruce McLeod, President and CEO, Sabina Gold & Silver Corp.  
Back River Distribution List

Enclosure: Minister Ltr to NIRB Re Final Hearing Report, NIRB File No. 12MN036 (*January 12, 2017*)