

NIRB ASSESSMENT AND DECISION

After a thorough assessment of all material provided to the Board (please see *Procedural History* and *Project Activities* in **Appendix A**), in accordance with the principles identified within Section 12.4.2 of the NLCA, the decision of the Board as per Section 12.4.4 of the NLCA is:

12.4.4 (a): the proposal may be processed without a review under Part 5 or 6; NIRB may recommend specific terms and conditions to be attached to any approval, reflecting the primary objectives set out in Section 12.2.5.

RECOMMENDED PROJECT-SPECIFIC TERMS AND CONDITIONS (pursuant to Section 12.4.4(a) of the NLCA)

The Board is recommending the following or similar project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

General

1. Indian and Northern Affairs Canada, Contaminated Sites (the Proponent) shall maintain a copy of the Project Terms and Conditions at the site of operation at all times.
2. The Proponent shall ensure that all field operations staff are aware of the Proponent's commitments.
3. The Proponent shall forward copies of all permits obtained and required for this project to the NIRB, prior to the commencement of the project.
4. The NIRB shall be notified of any changes in operating plans or conditions associated with this project prior to any such change.
5. The Proponent should, to the extent possible, hire local people and consult with local residents regarding the project activities in their region.

Water and Wastewater

6. The Proponent shall discharge sewage and wastewater effluents in accordance with requirements of Nunavut Water Board water license.
7. The Proponent shall not construct or disturb any stream, lakebed or banks of any definable water course unless authorized by the Department of Fisheries and Oceans.

Wildlife

8. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation. Deliberate feeding of any wildlife is absolutely prohibited. The Proponent shall not hunt or fish, unless the appropriate permits and licenses are acquired. Harassment of wildlife is prohibited. This includes persistently worrying or chasing animals, or disturbing large groups of animals.
9. The Proponent shall document any wildlife observations in the general vicinity of their operation, noting locations and frequencies, and modify activities accordingly to avoid wildlife when possible. Special note should be taken of any designated *Species at Risk* (see Appendix B) observed in the project area. These wildlife observations shall be reported to a Regional Wildlife Biologist and the nearest Conservation Officer at the end of each operational season.

Physical Environment

10. The Proponent shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging.
11. The Proponent shall control all movement of heavy machinery, vehicles and equipment within the hazardous material management area to prevent the dispersion of potentially hazardous dust and materials into the environment.
12. Following remediation activities, the Proponent shall ensure that the ground surface is prepared to facilitate vegetation establishment where possible. If seed mixes are used, only arctic seed mixes appropriate for the Central arctic should be used.

Storage and Management of Waste, Hazardous Waste and other Hazardous Materials

13. The Proponent shall ensure that the disposal of combustible camp wastes comply with the *Canadian Wide Standards for Dioxins and Furans*, and the *Canadian Wide Standards for Mercury*, by operating an incineration device rather than an enclosed container. The use of a dual-chamber, forced air incinerator is recommended.
14. The Proponent shall keep camp wastes inaccessible to wildlife at all times.
15. The Proponent shall recover and recycle material wherever practical.
16. The Proponent shall ensure that all hazardous materials be removed from the project site and disposed of in accordance with the *Environmental Protection Act*, *Nunavut Territorial Regulations and Guidelines*, and *Nunavut Hazardous Waste Disposal Manual*.
17. The Proponent shall ensure that workers follow established protocols for working with hazardous material and contaminated soils.

Transportation and Storage of Hazardous Wastes

18. The Proponent shall ensure that all containers with contaminated wastes stored on site are removed on an annual basis.
19. The Proponent shall ensure that any exposed soil piles are covered to prevent migration due to wind blowing and surface runoffs.

Fuel and Chemical Storage

20. Any releases of harmful substances, regardless of quantity, are immediately reportable to the 24 hour Spill Line at 867-920-8130 or Environment Canada's 24-hour Emergency pager 867-766-3737, where the release:
 - is near or into a water body;
 - is near or into a designated sensitive environment or sensitive wildlife habitat;
 - poses an imminent threat to human health or safety; or
 - poses an imminent threat to a listed species at risk or its critical habitat.
21. The Proponent shall ensure that appropriate secondary containment or surface liners are used for all fuel transfers on the project site.
22. The Proponent shall store all chemicals in such a manner that they are inaccessible to wildlife.

MONITORING AND REPORTING REQUIREMENTS

In addition, the Board is recommending the following:

The Proponent is shall file a comprehensive final report with the NIRB and INAC, Land Administration Division upon the completion of the project. The final report shall contain but is not be limited to the following:

- A summary of activities undertaken during the period of project implementation;
- A summary of the volume/weight and types of non hazardous materials disposed of on site, including the means of disposal;
- A summary of the volume/weight and types of hazardous materials shipped offsite for disposal;
- Descriptions of any wildlife encounters and actions/mitigation taken;
- A summary of local hires and initiatives;
- A summary of site-visits by inspectors with results and follow-up actions;
- A summary of site-visits with community members (if conducted);
- Site photos prior to and after the project completion;
- A summary of marine and overland transportation utilized;
- A summary of how it has complied with all Terms and Conditions, and how the terms and conditions are achieving their purpose.
- A list with coordinates of any species under public concern encountered during the field season.

The proponent shall limit the size of the required final report, in particular if the photos and graphics are contained in the document, to be not greater than 10 Mb.

OTHER NIRB CONCERNS AND RECOMMENDATIONS

In addition to the project-specific terms and conditions, the Board is recommending the following:

All Authorizing Agencies shall notify the NIRB of any changes in operating plans or conditions associated with this project prior to any such change.

REGULATORY REQUIREMENTS

The Proponent is also advised that the following legislation may apply to the project:

1. The *Fisheries Act* (<http://laws.justice.gc.ca/en/showtdm/cs/F-14///en>).
2. The *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (<http://www.canlii.org/ca/sta/n-28.8/whole.html>).
3. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* (<http://laws.justice.gc.ca/en/showtdm/cs/M-7.01>).
4. The *Species at Risk Act* (<http://laws.justice.gc.ca/en/showtdm/cs/S-15.3>). Attached in **Appendix B** is a list of Species at Risk in Nunavut.

5. The *Nunavut Wildlife Act* which contains provisions to protect and conserve wildlife and wildlife habitat, including specific protection measures for wildlife habitat and species at risk.
6. *Nunavut Act* (<http://laws.justice.gc.ca/en/showtdm/cs/N-28.6>). The Proponent must comply with the proposed terms and conditions listed in the attached **Appendix C**
7. The *Transportation of Dangerous Goods Regulations*, *Transportation of Dangerous Goods Act* (<http://www.tc.gc.ca/tdg/menu.htm>), and the *Environmental Protection Act* (<http://laws.justice.gc.ca/en/C-15.31/text.html>) The Proponent must ensure that proper shipping documents accompany all movements of dangerous goods. The Proponent must register with the GN-DOE Manager of Pollution Control and Air Quality at 867-975-7748.

Validity of Land Claims Agreement

Section 2.12.2

Where there is any inconsistency or conflict between any federal, territorial and local government laws, and the Agreement, the Agreement shall prevail to the extent of the inconsistency or conflict.

Dated January 15, 2009 at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

APPENDIX A

Procedural History and Project Activities

Procedural History

On December 4, 2008, the Nunavut Impact Review Board (NIRB or Board) received Indian and Northern Affairs Canada (INAC) Contaminated Sites' PIN-B (Clifton Point) DEW Line Site Remediation project proposal from INAC, Land Administration Division. NIRB has assigned this project proposal file number 08DN082

The project is located on the coast of the Amundsen Gulf, near the entrance of the Dolphin and Union Strait, within the West Kitikmeot region of Nunavut. The nearest community is Kugluktuk, approximately 200 km southeast of the project area. The Proponent is proposing to clean up and remediate the former Distant Early Warning (DEW) line site at the project area. This site cleanup and remediation operation is planned to be conducted in each summer (June to October) from 2009 to 2011.

On December 5, 2008 NIRB distributed the application for comment to interested Federal and Territorial Agencies, Inuit organizations as well as municipalities most affected by the PIN-B (Clifton Point) DEW Line Site Remediation project.

By January 9, 2009, the NIRB did not receive comments from any parties regarding this project proposal.

All documents provided to NIRB regarding this project proposal can be viewed on NIRB's ftp-site, at the following location: <http://ftp.nirb.ca/SCREENINGS/COMPLETED%20SCREENINGS/>

Project Activities

The Proponent is proposing to clean up and remediate the former Distant Early Warning (DEW) line site at the project area in each year (June to October) from 2009 to 2011.

The proposed activities for this project involve the following components:

- Access site via sealift;
- Setup and operation of construction camp;
- Development of quarry and borrow sources;
- Reconstruction/repair of existing roads/air strips
- Demolition of abandoned site structures;
- Segregation and disposal of demolished wastes;
- Transport and off-site disposal of Metal/PCB/Hydrocarbon contaminated soils;
- Remediation of existing landfills/dumps, and hydrocarbon impacted soil areas if required;
- Incineration or offsite disposal of barrel consolidation depend on the test results;
- On site landfills disposal of surface/partially buried debris and non hazardous waste; and
- Grading and restoration of the site.

APPENDIX B

Species at Risk in Nunavut

This list includes species listed on one of the Schedules of SARA (*Species at Risk Act*) and under consideration for listing on Schedule 1 of SARA. These species have been designated as at risk by COSEWIC (Committee on the Status of Endangered Wildlife in Canada). This list may not include all species identified as at risk by the Territorial Government.

- Schedule 1 is the official legal list of Species at Risk for SARA. SARA applies to all species on Schedule 1. The term “listed” species refers to species on Schedule 1.
- Schedule 2 and 3 of SARA identify species that were designated at risk by the COSEWIC prior to October 1999 and must be reassessed using revised criteria before they can be considered for addition to Schedule 1.
- Some species identified at risk by COSEWIC are “pending” addition to Schedule 1 of SARA. These species are under consideration for addition to Schedule 1, subject to further consultation or assessment.

Schedules of SARA are amended on a regular basis so it is important to periodically check the SARA registry (www.sararegistry.gc.ca) to get the current status of a species.

Updated: January 3, 2007

Species at Risk	COSEWIC Designation	Schedule of SARA	Government Organization with Lead Management Responsibility ¹
Eskimo Curlew	Endangered	Schedule 1	EC
Ivory Gull	Endangered ²	Schedule 1	EC
Peregrine Falcon (subspecies anatum)	Threatened	Schedule 1	Government of Nunavut
Ross's Gull	Threatened	Schedule 1	EC
Harlequin Duck (Eastern population)	Special Concern	Schedule 1	EC
Felt-leaf Willow	Special Concern	Schedule 1	Government of Nunavut
Peregrine Falcon (subspecies tundrius)	Special Concern	Schedule 3	Government of Nunavut
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
Fourhorn Sculpin	Special Concern	Schedule 3	DFO
Peary Caribou	Endangered ³	Pending	Government of Nunavut
Beluga Whale (Eastern Hudson Bay population)	Endangered	Pending	DFO
Beluga Whale (Cumberland Sound population)	Threatened	Pending	DFO
Beluga Whale (Western Hudson Bay population)	Special Concern	Pending	DFO
Beluga Whale	Special Concern	Pending	DFO

(Eastern High Arctic – Baffin Bay population)			
Bowhead Whale (Hudson Bay-Foxe Basin population)	Threatened ⁴	Pending	DFO
Bowhead Whale (Davis Strait-Baffin Bay population)	Threatened ⁴	Pending	DFO
Porsild's Bryum	Threatened	Pending	Government of Nunavut
Atlantic Walrus	Special Concern	Pending	DFO
Narwhal	Special Concern	Pending	DFO
Rusty Blackbird	Special Concern	Pending	Government of Nunavut
Barren-ground Caribou (Dolphin and Union population)	Special Concern ³	Pending	Government of Nunavut
Grizzly Bear	Special Concern	Pending	Government of Nunavut
Polar Bear	Special Concern	Pending	Government of Nunavut
Wolverine (Western Population)	Special Concern	Pending	Government of Nunavut

¹ Environment Canada has a national role to play in the conservation and recovery of Species at Risk in Canada, as well as responsibility for management of birds described in the Migratory Birds Convention Act (MBCA). Day-to-day management of terrestrial species not covered in the MBCA is the responsibility of the Territorial Government. Populations that exist in National Parks are also managed under the authority of the Parks Canada Agency. EC = Environment Canada, DFO = Department of Fisheries and Oceans

² Designated as Endangered by COSEWIC in April 2006 and it is expected that the category of concern in SARA will also be changed from Special Concern to Endangered.

³ Peary Caribou was split into three separate populations in 1991: Banks Island (Endangered), High Arctic (Endangered) and Low Arctic (Threatened) populations. The Low Arctic population also included the Barren-ground Caribou - Dolphin and Union population. In May 2004 all three population designations were de-activated, and the Peary Caribou, *Rangifer tarandus pearyi*, was assessed separately from the Barren-ground Caribou (Dolphin and Union population), *Rangifer tarandus groenlandicus*. The subspecies *pearyi* is composed of a portion of the former "Low Arctic population" and all of the former "High Arctic" and "Banks Island" populations, and it was designated Endangered in May 2004. Although SARA lists Peary Caribou on Schedule 2 as three separate populations, the most current designation is the COSEWIC designation of the subspecies *pearyi* as Endangered.

⁴ The "Eastern and Western Arctic populations" of Bowhead Whale were given a single designation of Endangered in April 1980 by COSEWIC. These were split into two populations to allow separate designations in April 1986. The Eastern population was not re-evaluated in April 1986, but retained the Endangered status of the original "Eastern and Western Arctic populations". The Eastern Arctic population was further split into two populations (Hudson Bay-Foxe Basin population and Davis Strait-Baffin Bay population) in May 2005, and both these populations were designated as Threatened. Both these populations are under consideration for addition to Schedule 1. Although SARA lists the Eastern Arctic population as Endangered (Schedule 2), the most current designation is the COSEWIC designations of the Hudson Bay-Foxe Basin and Davis Strait-Baffin Bay populations as Threatened.

APPENDIX C

Archaeological and Palaeontological Resources Terms and Conditions for Land Use Permit Holders



BACKGROUND: Archaeology

As stated in Article 33 of the Nunavut Land Claims Agreement:

The archaeological record of the Inuit of Nunavut is a record of Inuit use and occupancy of lands and resources through time. The evidence associated with their use and occupancy represents a cultural, historical and ethnographic heritage of Inuit society and, as such, Government recognizes that Inuit have a special relationship with such evidence, which shall be expressed in terms of special rights and responsibilities. [33.2.1]

The archaeological record of Nunavut is of spiritual, cultural, religious and educational importance to Inuit. Accordingly, the identification, protection and conservation of archaeological sites and specimens and the interpretation of the archaeological record is of primary importance to Inuit and their involvement is both desirable and necessary. [33.2.2]

In recognition of the cultural, spiritual and religious importance of certain areas in Nunavut to Inuit, Inuit have special rights and interests in these areas as defined by Article 33 of the Nunavut Land Claims Agreement. [33.2.5]

BACKGROUND: Palaeontology

Under the Nunavut Act¹, the federal Government can make regulations for the protection, care and preservation of palaeontological sites and specimens in Nunavut. Under the *Nunavut Archaeological and Palaeontological Sites Regulations*², it is illegal to alter or disturb any palaeontological site in Nunavut unless permission is first granted through the permitting process.

Definitions

¹ s. 51(1)

² P.C. 2001-1111 14 June, 2001

As defined in the *Nunavut Archaeological and Palaeontological Sites Regulations*, the following definitions apply:

“archaeological site” means a place where an archaeological artifact is found.

“archaeological artifact” means any tangible evidence of human activity that is more than 50 years old and in respect of which an unbroken chain of possession or regular pattern of usage cannot be demonstrated, and includes a Denesuline archaeological specimen referred to in section 40.4.9 of the Nunavut Land Claims Agreement.

“palaeontological site” means a site where a fossil is found.

“fossil” includes:

- (a) natural casts
- (b) preserved tracks, coprolites and plant remains; and
- (c) the preserved shells and exoskeletons of invertebrates and the eggs, teeth and bones of vertebrates.

Terms and Conditions

- 1) The permittee shall not operate any vehicle over a known or suspected archaeological or palaeontological site.
- 2) The permittee shall not remove, disturb, or displace any archaeological artifact or site, or any fossil or palaeontological site.
- 3) The permittee shall immediately contact the Department of Culture, Language, Elders and Youth (867) 934-2046 or (867) 975-5500 or 1 (866) 934-2035 should an archaeological site or specimen, or a palaeontological site or fossil be encountered or disturbed by any land use activity.
- 4) The permittee shall immediately cease any activity that disturbs an archaeological or palaeontological site encountered during the course of a land use operation, until permitted to proceed with the authorization of the Department of Culture, Language, Elders and Youth, Government of Nunavut.
- 5) The permittee shall follow the direction of the Department of Culture, Language, Elders and Youth and DIAND in restoring disturbed archaeological or palaeontological sites to an acceptable condition.
- 6) The permittee shall provide all information requested by the Department of Culture, Language, Elders and Youth concerning all archaeological sites or artifacts and all palaeontological sites and fossils encountered in the course of any land use activity.
- 7) The permittee shall make best efforts to ensure that all persons working under authority of the permit are aware of these conditions concerning archaeological sites and artifacts, and palaeontological sites and fossils.
- 8) The permittee shall avoid the known archaeological and/or palaeontological sites listed in Attachment 1.

9) The permittee shall have an archaeologist or palaeontologist perform the following functions, as required by the Department of Culture, Language, Elders and Youth:

- a. survey
- b. inventory and documentation of the archaeological or palaeontological resources of the land use area
- c. assessment of potential for damage to archaeological or palaeontological sites
- d. mitigation
- e. marking boundaries of archaeological or palaeontological sites
- f. site restoration

The Department of Culture, Language, Elders and Youth shall authorize by way of a Nunavut Archaeologist Permit or a Nunavut Palaeontologist Permit, all procedures subsumed under the above operations.