

## **SCREENING DECISION**

**June 28, 2005**

Hon. Andy Scott  
Minister for Indian and Northern Affairs  
Ottawa, ON

Dear Minister:

**RE: Screening Decision of the Nunavut Impact Review Board (NIRB) on Application:  
NIRB #05DN053      INAC #N2005X0009  
FOX-C DEW Line Site Clean Up Project - DIAND**

### **Authority:**

Section 12.4.4 of the Nunavut Land Claim Agreement states:

Upon receipt of a project proposal, NIRB shall screen the proposal and indicate to the Minister in writing that:

- 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;
- b) the proposal requires review under Part 5 or 6; NIRB shall identify particular issues or concerns which should be considered in such a review;
- c) the proposal is insufficiently developed to permit proper screening, and should be returned to the proponent for clarification; or
- d) the potential adverse impacts of the proposal are so unacceptable that it should be modified or abandoned.

### **Primary Objectives:**

The primary objectives of the Nunavut Land Claims Agreement are set out in section 12.2.5 of the Land Claims Agreement. This section reads:

In carrying out its functions, the primary objectives of NIRB shall be at all times to protect and promote the existing and future well-being of the residents and communities of the Nunavut Settlement Area, and to protect the ecosystemic integrity of the Nunavut Settlement Area. NIRB shall take into account the well-being of the residents of Canada outside the Nunavut Settlement Area.

The decision of the Board in this case 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;**

**Reasons for Decision:**

NIRB's decision is based on specific considerations that reflect the primary objectives of the Land Claims Agreement. Our considerations in making this decision included:

- the potential impact of further contamination of the ecosystem from PCB's, heavy metals, petroleum products or other materials entering the environment and subsequently into the food chain from failure of the designed storage and containment structures;
- the adequacy of plans for the clean up, storage and removal of contaminated soils, spills and to prevent the further migration of PCB's and petroleum products;
- the adequacy of plans to control runoff and drainage control within and around the facility;
- the potential to contaminate marine environment through barge loading and off-loading and marine shipping;
- the potential to contaminate land and surrounding waterbodies from on land transport of contaminated waste;
- the potential to contaminate clean areas from wind blown debris or contaminated machinery;
- the potential to impact fish or fish habitat;
- the impact and disturbance to nesting migratory birds and their habitat along coastal areas due to activities;
- the potential to impact on traditional hunting and fishing activities;
- the potential to impact permafrost;
- the potential impact from disturbance to vegetation;
- the potential impacts to the landscape;
- potential impact of quarrying activities to the ecosystem;
- the potential impact to the ecosystem from accidental spillage of petroleum products;
- the storage and disposal of fuel, garbage, sewage, and grey water, and the impact of these on the ecosystem.

**Terms and Conditions:**

- That the terms and conditions attached to this screening decision report will apply.

**PART A: General**

1. The Permittee shall file a comprehensive annual report with the Board no later than March 31 of the year following the calendar year reported, which shall contain the following information:
  - a. A summary of activities undertaken for the year, including but not limited to the amount contaminated soil removed from the site;

- b. A work plan for the following year;
  - c. An update on the extent of contamination on-site and supporting documentation;
  - d. Wildlife encounters and actions/mitigation taken;
  - e. A summary of local hires and initiatives;
  - f. A summary of community consultations undertaken and the results;
  - g. A summary of site-visits by inspectors with results and follow-up actions;
  - h. A summary of site-visits with community members (if conducted);
  - i. Site photos;
  - j. The number of barges utilized;
  - k. Issues related to monitoring including updates to the Plan;
  - l. Revisions to the Abandonment and Restoration Plan;
  - m. Reclamation work undertaken; and
  - n. A summary of how it has complied with all project Terms and Conditions and how the terms and conditions are achieving their purpose.
2. The Permittee shall submit to the Board an annual report, as mentioned in Part A Item 1, each year until post-closure monitoring is terminated and Regulators are satisfied that monitoring is no longer required.
  3. The Permittee shall submit to the Board, within sixty (60) days of commencing on-site activities, an updated general map of the site including but not limited to the following: the location of landfills, landfarm, lagoons, sumps, culvert locations, roads, barge landing site, camp, storage facilities, quarries, and waterbodies.
  4. NIRB shall be notified prior to any changes in operating conditions or plans associated with this land use activity.
  5. Any amendment requests deemed by NIRB to be outside the original scope of the project will be considered a new project.

## **PART B: Physical Environment**

1. The Permittee 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.
2. The Permittee shall install dust meters at all temporary contaminated soil storage facilities.
3. The Permittee shall clean (decontaminate) all heavy machinery and equipment prior to movement to another area. All fluids (including wash water) resulting from the cleaning shall be collected and contained.
4. The Permittee 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. The Permittee shall suspend operation if rutting occurs.
5. The Permittee shall avoid causing soil damage that disturbs natural drainage patterns or exposes permafrost. These areas shall be repaired immediately.
6. The Permittee shall insulate the ground surface beneath all structures and facilities, by constructing gravel pads or other approved methods to prevent the degradation of permafrost.
7. The Permittee shall leave a strip of undisturbed vegetation at least thirty (30) metres width between waterbodies and roads and quarries.
8. The Permittee shall remove any obstruction to natural drainage.

## **PART C: Water**

1. The Permittee shall ensure that all water intake hoses are equipped with a screen with an appropriate mesh size to ensure that there is no entrapment of fish.
2. The Permittee shall only use water from sources approved by the Nunavut Water Board.
3. The Permittee shall collect all wash water and dispose of it as directed by the Nunavut Water Board.

## **PART D: Biological Environment**

1. The Permittee shall ensure that there is no damage to wildlife habitat in conducting this land use operation.
2. The Permittee shall ensure that there is minimal disturbance to any nesting birds and wildlife in the area. Harassment of wildlife is prohibited. This includes persistently worrying or chasing animals, or disturbing large groups of animals.
3. Pursuant to the Migratory Bird Convention Act Regulations the Permittee shall not disturb or destroy the nests or eggs of migratory birds. The period from June 1 to August 15 is the general migratory bird breeding season. If nests containing eggs or young are encountered, the Permittee shall avoid these areas until nesting is complete and the young have left the nest.
4. The Permittee shall ensure that aircraft pilots adhere to flight altitudes of greater than 300 m above ground level, unless there is a specific need for low-level-flying which does not to disturb wildlife.
5. The Permittee shall ensure that aircraft maintain a vertical distance of 1000m and a horizontal distance of 1500m from groups/flocks of birds.
6. The Permittee shall not feed wildlife.
7. The Permittee shall follow procedures outlined in the "Safety in Bear Country Manual", and should contact the Regional Wildlife manager (Seeglook Akeeagok 867-980-4250) for information and advice on measures which should be taken to minimize the possibility of conflicts/interactions with bears.
8. The Permittee shall not locate any operation so as to block or cause substantial diversion to the migration of caribou.
9. The Permittee shall not construct any camp, cache any fuel or conduct blasting within 10 km, of any known caribou crossing. The regional biologist should be contacted for known crossings.
10. From May 15 to July 15, the Permittee shall cease activities that interfere with caribou migration or calving, such as the movement of equipment and ATV or snowmobile use until the caribou and their calves have vacated the area.
11. The Permittee shall ensure that during the presence of caribou and muskox within sight and sound of a camp that all personnel will remain quietly in camp.
12. The Permittee shall not conduct any activity associated with the land use operation if critical periods of wildlife cycles are observed (eg. caribou migration, calving, fish spawning or raptor nesting).

13. The Permittee shall ensure that there is no hunting by employees or any contractors hired (unless Nunavut authorizations are obtained).
14. The Permittee shall ensure that there is no fishing by employees of the company or any contractors hired (unless proper permits are obtained).
15. The Permittee shall contact the Regional Biologist (Mike Furguson 867-899-8876) to identify areas which should be avoided. Raptor nesting sites and concentrations of nesting or molting waterfowl should be avoided by aircraft at all times.
16. The Permittee shall avoid cliffs and bluffs as they are likely to contain nesting birds.
17. The Permittee shall ensure compliance with Section 36 of the Fisheries Act which requires that no person shall deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance may enter such a water body.
18. The Permittee shall ensure that land use activities avoid environmentally sensitive areas (denning, nesting areas) by a minimum of 250metres.

#### **PART E: Stream Crossings**

1. Culvert design and installation shall be approved by the Nunavut Water Board.
2. The harmful alteration, disruption or destruction of fish habitat is prohibited under Section 35 of the *Fisheries Act*. No construction or disturbance of any stream/lake bed or banks of any definable watercourse is permitted unless authorized by DFO.
3. The Permittee shall limit instream activity. Machinery is not permitted to travel up the streambed.
4. The Permittee shall ensure that stream crossings are located to minimize approach grades.
5. The Permittee shall ensure that bank disturbance is avoided.
6. The Permittee shall stabilize approaches during construction and upon completion of the project to control run off, erosion and subsequent siltation of the stream.
7. The Permittee shall not deposit sediment into any waterbody. Suspended solids shall be controlled during construction activities with measures such as silt fencing. These barriers must also be removed in a manner that does not result in the release of trapped sediments.
8. The Permittee shall **not** conduct mechanized clearing within thirty (30) metres of the normal high water mark of a watercourse in order to maintain a vegetative mat for bank stabilization.
9. The Permittee shall ensure that culverts are removed upon abandonment of roadways.

#### **PART F: Transportation of contaminated waste**

1. For the loading of contaminated soil into shipping containers, the Permittee must ensure that:
  - a. Workers in the storage area wear protective clothing and follow safety protocols for working with contaminated soil;
  - b. All spills are immediately cleaned up and reloaded into containers; and
  - c. WHMIS standards are fully adhered to.
2. The Permittee shall install an impermeable membrane on the ground/floor of the contaminated soil storage site/facility before storing contaminated soil.

3. The Permittee shall ensure that the loading of containers onto barges and ships is only conducted in good weather. Specific factors to consider are wind, ice concentrations, fog, waves, and icebergs.
4. When transferring hazardous or contaminated cargo, the Permittee shall ensure that conditions are such that the barges can be pulled up immediately adjacent to the second vessel, leaving no space large enough for a container to fall through between the two vessels.
5. The Permittee shall ensure that contaminated waste containers are strong enough to easily withstand dropping events without any breakage of the seal.
6. The Permittee shall secure containers on the barge.
7. The Permittee shall use waterproof containers that withstand corrosion in seawater for a minimum of 15 years.
8. The Permittee shall use containers that comply with the *International Maritime Organization Dangerous Goods Code* and the *Transportation of Dangerous Goods Act*, and will be approved by Transport Canada prior to use.
9. The Permittee shall physically connect containers by chains or safety lines to the barge or vessel at all times during transfer to other vessels.
10. If the containers are reused in subsequent years, the Permittee shall ensure that the containers are decontaminated, and washing effectiveness measured and compared to a minimum standard (i.e.  $<1.0 \text{ mg/m}^2$  PCBs by wipe test).
11. The Permittee shall rest containers on a wooden platform that will be used solely for this purpose each season. Containers will not rest directly on the beach.
12. The Permittee shall, for all handling operations beginning at Sarcpa Lake and ending at the licensed disposal facility, follow not only the requirements of the *Transportation of Dangerous Goods* legislation in Canada, but also the following legislative requirements:
  - a. The *Arctic Waters Pollution Prevention Act*;
  - b. The Guidelines for the Operation of Tankers and Barges in Canadian Arctic Waters;
  - c. The Arctic Ice Regime Shipping System Standards;
  - d. The *International Maritime Organization Dangerous Goods Code*; and
  - e. All other environmental and regulatory laws in Canada, including but not limited to: the *Fisheries Act*; *Canada Shipping Act*; *Safe Containers Convention Act*; *Nunavut Public Health Act*; *Nunavut Safety Act*; Nunavut Spill Contingency Planning and Reporting Regulation; and the *Canada Labour Act*.
13. The Permittee shall ensure that the following requirements are met for transportation at sea:
  - a. The designated carrier will have seaworthy certifications and Ice Class certification;
  - b. The designated carrier will follow all applicable environmental regulations;
  - c. The containers will be secured to prevent movement during sea transport;
  - d. The container design will be able to withstand corrosion and will not leak for a minimum of 15 years;

- e. The vessel will be on a direct route and will not approach any communities, thereby reducing the possibility of a vessel wreck occurring in proximity to community food chains;
  - f. The designated carrier obtains shipping insurance sufficient to enable an environmentally proper salvage in the event of a shipwreck;
  - g. The shipping facilities will have a retrieval process in place for retrieving containers if they should sink;
  - h. All containers will be double sealed; and
  - i. The pick-up will be scheduled during the ice-free period.
14. The Permittee shall ensure that the following is adhered to for the transportation of containers on land:
- a. The designated carrier will follow approved Transportation of Dangerous Goods Regulations;
  - b. Containers will be secured to prevent movement during land transport;
  - c. The designated carrier will have a spill contingency plan in place that will immediately and effectively remove all spilled PCB-contaminated soil in the event of a spill;
  - d. The carrier will have insurance to cover public liability and property damage, and pollution liability;
  - e. Trained personnel will perform the handling, loading and driving operations; and
  - f. The carrier will have a waste-tracking system in place.
15. The Permittee shall ensure that all contractors, including those handling the soils on-site, the shipping company, and the company responsible for transporting the soils in the final deposition site, are fully licensed and have all the permits necessary to operate such facilities.

#### **PART G: Storage and Management of Hazardous Waste and other Hazardous Materials**

- 1. The Permittee shall ensure that all waste and hazardous material management areas are located a minimum distance of one hundred (100) metres from the nearest water body.
- 2. The Permittee shall provide NIRB with a list of chemicals that will be stored on-site and a map indicating their storage location.
- 3. The Permittee shall have an Emergency Response and Spill Contingency Plan approved by the Nunavut Water Board prior to the commencement of on-site activities.
- 4. The Permittee shall have emergency response equipment appropriate for the hazardous waste stored on site.
- 5. The Permittee shall ensure that any chemicals or wastes associated with the project do not spread to the surrounding lands or enter into any water body.
- 6. The Permittee shall ensure that drainage into and from the site is controlled to prevent spills and leaks from leaving the site and to prevent runoff from entering the site and becoming contaminated.
- 7. The Permittee shall not mix or dilute any hazardous materials with any substance or divide into smaller quantities to avoid meeting the definition of hazardous waste.

8. The Permittee shall store hazardous material in their original containers, where possible, or in containers manufactured for the purpose of storing hazardous waste. The containers must be sealable and not damaged or leaking.
9. The Permittee shall maintain a record of the type and amount of waste in storage.
10. The Permittee shall label all containers according to the requirements of the Work Site Hazardous Materials Information System (WHMIS) of the Safety Act or the relevant Transportation Authority.
11. The Permittee shall ensure that residual waste, petroleum or other chemicals, from barrels are not released into the environment.
12. The Permittee shall assess the contents of barrels which still contain product and shall not bury those found to contain hazardous waste.
13. The Permittee shall segregate wastes by chemical compatibility to ensure safety of the public and workers.
14. The Permittee shall ensure the storage facilities are in a secured area with controlled access. Only persons authorized to enter and trained in hazardous waste handling procedures should have access to the storage area.
15. The Permittee shall perform regular inspections and provide reports to the authorizing agency.
16. The Permittee shall place containers such that each container can be inspected for signs of leaks and deterioration.
17. The Permittee shall remove any leaking and deteriorated containers and transfer their contents to an impermeable container.
18. The Permittee shall ensure that all ethylene glycol (antifreeze) is managed in accordance with the *Environmental Protection Act (EPA)* due to its high potential to attract wildlife.

## **PART H: Fuel**

1. The Permittee shall ensure that the transportation of fuel shall be done in compliance with the *Transportation of Dangerous Goods Act and Regulations* requirements.
2. The Permittee shall ensure that fuel storage containers are not located within thirty-one (31) metres of the ordinary high water mark of any body of water.
3. The Permittee shall ensure that all valves on fuel tanks have receptacles placed beneath them to catch any leaked fuel.
4. The Permittee shall inspect all fuel containers for leaks daily and shall report and repair all leaks immediately.
5. Fuel storage containers in excess of 4,000 litres capacity shall either be double-walled, self bermed construction, or diked with adequate storage capacity. An impermeable liner shall be used to ensure that no fuel escapes. The Permittee is encouraged to consult Environment Canada on the implementation of the 2003 CCME Guidance Document PN 1326 entitled: *Environmental Code of Practice for Above Ground and Underground Storage Tank Systems containing Petroleum Product and Allied Petroleum Products*.
6. The Permittee shall take all reasonable precautions to prevent the possibility of migration of spilled petroleum fuel or chemicals over the ground surface.
7. The Permittee shall use appropriate measures such as booms to contain spills when removing barrels from streams.



8. The Permittee shall immediately report **all** spills of petroleum and hazardous chemicals to the Twenty-four (24) hour spill report line (867) 920-8130. Spills shall also be reported to Environment Canada at (867) 920-5131.
9. The Permittee shall ensure that vehicle and equipment maintenance and servicing shall be conducted only in designated areas and shall implement special procedures to manage fluids, waste and contain potential spills.

#### **PART I: Waste Disposal**

1. The Permittee shall construct, operate, maintain, reclaim and monitor the landfarm and per the direction of the Nunavut Water Board.
2. The Permittee shall use an approved incinerator and incinerate all combustible and food wastes daily to eliminate potential for wildlife problems created by the attraction of wildlife to garbage.
3. The Permittee shall ensure that all ash and non-combustible non-hazardous wastes are buried in a landfill.
4. The Permittee shall construct, operate, maintain, reclaim and monitor the landfill and per the direction of the Nunavut Water Board.
5. The Permittee shall construct, operate, maintain, reclaim and monitor all containment areas to ensure that there is no seepage of leachate. Any seepage that occurs shall be collected and treated as hazardous material.
6. The Permittee shall ensure that any areas designated for waste disposal shall not be located within thirty (30) metres of the ordinary high water mark of any body of water, unless otherwise authorized.
7. The Permittee shall ensure that all waste management sites are mapped and inventoried. Updated maps shall be provided to NIRB.
8. The Permittee shall recover and recycle material wherever practical.
9. The Permittee shall treat and dispose of all lead and PCB contaminated paints and painted materials as hazardous materials.
10. The Permittee shall deposit all sewage and greywater discharged in a sump ensuring that no drainage enters any waterbody.

#### **PART J: Quarries**

1. The Permittee shall locate quarries at least thirty (30) meters above the high water mark of any waterbody.
2. The Permittee shall slope the sides of the excavations and embankments except in solid rock to 2:1 (two horizontal, one vertical).
3. The Permittee may only excavate and stockpile in areas designated.
4. The Permittee shall perform tests to ensure that construction material is not acid generating and/or metal leaching.

#### **PART K: Camp**

1. The Permittee shall not erect camps or store material on the surface ice of lakes or streams.

2. The Permittee shall locate all infrastructure facilities on gravel, or other durable land.
3. The Permittee shall keep the land use area clean and tidy at all times.

#### **PART L: Archaeological & Palaeontological Sites**

1. The Permittee shall conduct an archaeological study of the project site to identify potential archaeological resources and shall provide a detailed report to NIRB and the Government of Nunavut -Department of Culture, Language, Elders and Youths (GN-CLEY). The study shall be undertaken prior to the 2006 field season.
2. If on-site work is undertaken in 2005, the Permittee shall pre-screen the project site to reduce the potential for impacts to cultural resources in the short term. If pre-screening is undertaken in 2005, Part L Item 1, still applies.
3. The Permittee shall follow all protocols for the protection and restoration of archaeological and palaeontological resources as outlined by GN-CLEY.

#### **PART M: Monitoring**

1. The Permittee shall monitor all waste containment facilities during operation and closure to ensure that there is no seepage of leachate. Parameters shall include but not be limited to PCBs.
2. The Permittee shall monitor the landfarm during operation and closure to ensure its effectiveness.
3. The Permittee shall monitor quarry sites for potential acid generation and metal leaching.
4. The Permittee shall monitor water quality during operation and closure to ensure that water quality meets levels approved by the Nunavut Water Board.
5. The Permittee shall monitor soil quality for metals and other contaminants during operation to determine and verify the extent of clean-up required.
6. The Permittee shall monitor soil quality during operation to ensure clean-up objectives are met. The Permittee shall monitor soil quality during closure to ensure clean-up objectives are maintained.
7. The Permittee shall monitor permafrost aggradation in the landfills and propose contingency plans if this fails to occur or becomes ineffective due to global warming.

#### **PART N: Socio-economics**

1. The Permittee shall ensure that workers wear protective clothing and follow established protocols for working with contaminated soil and conducting all on site works.
2. The Permittee shall record all injuries and incidents and have reporting procedures included in an approved Emergency Response Plan.
3. The Permittee shall ensure that all personnel are trained and that the requirements of the Workplace Hazardous Materials Information System (WHMIS) are followed.
4. The Permittee shall maximize business opportunities in Nunavut to the fullest extent possible.
5. NIRB would like to encourage the proponent to hire local people where possible.
6. The Permittee shall keep local communities and residents informed regarding their activities in the region.

## **PART O: Closure**

1. The Permittee shall advise NIRB and the Land Use Inspector in writing at least 15 days prior to the completion of activities.
2. The Permittee shall remove all equipment, scrap metal and discarded machinery upon abandonment.
3. The Permittee shall commence and foster revegetation where possible. Methods should include scarification and transplanting of native vegetation from other areas.
4. The Permittee shall regrade the landfills to match the contours of the land.
5. The Permittee shall backfill and recontour all sumps to match the natural environment prior to the expiry date of the permit.

## **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 \_\_\_\_\_ at Cambridge Bay, NU

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Albert Ehaloak, A/Chairperson