



SCREENING DECISION REPORT
NIRB FILE NO.: 13UN039

AANDC File Nos.: N2013U0021, N2013F0024
NWB File No.: 1BR-ELR---
KIA File No.: KVRW14F01

February 24, 2014

The Honourable Bernard Valcourt
Minister of Aboriginal Affairs and Northern Development
Government of Canada
10 Rue Wellington
Gatineau QC K1A 0H3

Sent via email: minister@aandc.gc.ca; bernard.valcourt@parl.gc.ca

Re: Screening Decision for Aboriginal Affairs and Northern Development Canada – Contaminated Sites Program and Kudlik Construction Ltd.’s “Ennadai Lake Remediation” Project Proposal, Kivalliq Region, 13UN039

Dear Mr. Bernard Valcourt:

The primary objectives of the Nunavut Impact Review Board (NIRB) are set out in Section 12.2.5 of the Nunavut Land Claims Agreement (NLCA) as follows:

“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.”

Section 12.4.4 of the NLCA 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.”*

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 that the following or similar project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

General

1. Aboriginal Affairs and Northern Development Canada – Contaminated Sites Division (the Proponent) and Kudlik Construction Ltd. (the Proponent) shall maintain a copy of the Project Terms and Conditions at all sites of operation at all times.
2. The Proponent shall forward copies of all permits obtained and required for this project to the Nunavut Impact Review Board (NIRB) prior to the commencement of the project.
3. The Proponent shall operate in accordance with all commitments stated in correspondence provided to NIRB and comprising its project proposal (Aboriginal Affairs and Northern Development Canada Land Use Permit Application, December 25, 2013, NIRB Part 1 and Part 2 forms, October 25, 2013, and Kudlik Construction Ltd. Application for Aboriginal Affairs and Northern Development Canada Land Use Permit, December 18, 2013).
4. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

Water Use

5. The Proponent shall not extract water from any fish-bearing waterbody unless the water intake hose is equipped with a screen of appropriate mesh size to ensure that there is no entrapment of fish. Small lakes or streams should not be used for water withdrawal unless approved by the Nunavut Water Board.
6. The Proponent shall not use water, including constructing or disturbing any stream, lakebed or the banks of any definable water course unless approved by the Nunavut Water Board.

Waste Disposal/Incineration

7. The Proponent shall incinerate all combustible wastes daily and dispose of ash by burial beneath no less than one (1) metre of compacted soil. Non-combustible wastes shall be removed from the project site to an approved facility for disposal.
8. The Proponent shall ensure that the incineration of combustible camp wastes comply with the *Canadian Wide Standards for Dioxins and Furans*, and the *Canadian Wide Standards for Mercury*.
9. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent until disposed of at an approved facility. All such wastes shall be kept inaccessible to wildlife at all times.
10. The Proponent shall ensure that no waste oil/grease is incinerated on site.

Fuel and Chemical Storage

11. Unless otherwise permitted, the Proponent shall locate all fuel and other hazardous materials a minimum of thirty-one (31) metres away from the high water mark of any water body and in such a manner as to prevent their release into the environment.
12. Unless otherwise permitted, the Proponent shall ensure that re-fuelling of all equipment and use of transfer pump occurs a minimum of thirty-one (31) metres away from the high water mark of any water body.
13. The Proponent shall store all fuel and chemicals in such a manner that they are inaccessible to wildlife.
14. The Proponent shall use adequate secondary containment or a surface liner (e.g., self-supporting insta-berms and fold-a-tanks) when storing barreled fuel and chemicals and at all refueling stations. Appropriate spill response equipment and clean-up materials (e.g., shovels, pumps, barrels, drip pans, and absorbents) must be readily available during any transfer of fuel or hazardous substances. Spill kits and secondary containment structures should accommodate 110% of the capacity of the largest fuel storage container within the containment facility.
15. The Proponent shall inspect and document the condition of all fuel containment facilities on a weekly basis. All fuel and chemical storage containers must be clearly marked with the Proponent's name and examined for leaks immediately upon delivery.
16. The Proponent shall remove and treat hydrocarbon contaminated soils on site or transport them to an approved disposal site for treatment.
17. The Proponent shall ensure that all personnel are properly trained in fuel and hazardous waste handling procedures, as well as spill response procedures. All spills of fuel or other deleterious materials of any amount must be reported immediately to the 24 hour Spill Line at (867) 920-8130.

Landfarm Operations

18. The Proponent shall treat only petroleum and hydrocarbon contaminated soils at the landfarm facility. Materials contaminated with other substances such as glycol and heavy metals are not to be stored at the landfarm and must be disposed of at an authorized facility.

19. The Proponent shall ensure that it meets the required standards as set out in the Nunavut Water Board's Water Licence for this project prior to any discharge of water collected in the retention cell(s).
20. The Proponent shall ensure that the equipment used for aeration in the landfarm operation have been cleaned off within the landfarm facilities prior to exiting.
21. The Proponent shall take appropriate dust suppression measures when conducting soil turning and removal activities.
22. All operations personnel shall be adequately trained prior to commencement of landfarm operations, and shall be made aware of all operational guidelines and Proponent commitments relating to the Project.

Landfill Operations

23. The Proponent shall dispose of non-hazardous materials only at the landfill and shall limit this disposal to those materials listed as acceptable for disposal. Hazardous materials, materials listed as unacceptable for disposal at the landfill, or materials that contain asbestos, fluorescent tubes or ozone depleting substances are not to be disposed of in the landfill and must be disposed of at an authorized facility.
24. The Proponent shall ensure that it meets the standards and/or limits as set out in the Nunavut Water Board Water Licence and any other permits as required for this project and applicable to landfill operations.
25. The Proponent shall take appropriate dust suppression measures when conducting soil topping of landfill materials, or landfill capping activities.
26. All operations personnel shall be adequately trained prior to commencement of landfill operations, and shall be made aware of all operational guidelines and Proponent commitments relating to the Project.

Wildlife - General

27. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
28. The Proponent shall not harass wildlife. This includes persistently worrying or chasing animals, or disturbing large groups of animals. The Proponent shall not hunt or fish, unless proper Nunavut authorizations have been acquired.
29. The Proponent shall ensure that all project personnel are made aware of the measures to protect wildlife and are provided with training and/or advice on how to implement these measures.

Migratory Birds and Raptors Disturbance

30. The Proponent shall not disturb or destroy the nests or eggs of any birds. If nests are encountered and/or identified, the Proponent shall take precaution to avoid further interaction and or disturbance (e.g., a 100 metre buffer around the nests). If active nests of any birds are discovered (i.e. with eggs or young), the Proponent shall avoid these areas until nesting is complete and the young have left the nest.

Aircraft Flight Restrictions

31. The Proponent shall restrict aircraft/helicopter activity related to the project to a minimum altitude of 610 metres above ground level unless there is a specific requirement for low-level flying, which does not disturb wildlife and migratory birds.
32. The Proponent shall ensure that aircraft maintain a vertical distance of 1000 metres and a horizontal distance of 1500 metres from any observed groups (colonies) of migratory birds. Aircraft should avoid critical and sensitive wildlife areas at all times by choosing alternate flight corridors.
33. The Proponent shall ensure that aircraft/helicopter do not, unless for emergency, touch-down in areas where wildlife are present.
34. The Proponent shall advise all pilots of relevant flight restrictions and enforce their application over the project area, including flight paths to/from the project area.

Caribou and Muskoxen Disturbance

35. The Proponent shall cease activities that may interfere with the migration or calving of caribou or muskox, until the caribou or muskox have passed or left the area.
36. The Proponent shall not block or cause any diversion to caribou migration, and shall cease activities likely to interfere with migration such as movement of equipment or personnel until such time as the caribou have passed.
37. The Proponent shall not construct or operate any camp or cache any fuel within 10 km of any paths or crossings known to be frequented by (e.g., designated caribou crossings).
38. During the period of May 15 to July 15, when caribou are observed within 1 km of project operations, the Proponent shall suspend all operations, including low-level over flights, and use of snowmobiles and all-terrain vehicles outside the immediate vicinity of the camps. Following July 15, if caribou cows or calves are observed within 1 km of project operations, the Proponent shall also suspend all operations in the vicinity, including low-level over flights and use of snowmobiles and all-terrain vehicles, until caribou are no longer in the immediate area.

Ground Disturbance

39. 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. Overland travel of equipment or vehicles must be suspended if rutting occurs.
40. The Proponent shall implement suitable erosion and sediment suppression measures on disturbed areas before, during and after construction in order to prevent sediment from entering any waterbody.
41. All construction and road vehicles must be fitted with standard and well-maintained noise suppression devices and engine idling is to be minimized.

Winter Trail

42. The Proponent shall select a winter route that maximizes the use of frozen water bodies.

43. The Proponent shall not erect camps or store materials on the surface ice of lakes or streams, except that which is for immediate use.
44. Unless otherwise permitted, the Proponent shall ensure that no disturbance of the stream bed or banks of any definable watercourse occurs.
45. The Proponent shall not move any equipment or vehicles without prior testing the thickness of the ice to ensure the lake is in a state capable of fully supporting the equipment or vehicles without rutting or gouging.
46. The Proponent shall suspend overland travel of equipment or vehicles if rutting occurs. Likewise, upon spring break up, or at such a time as the shorelines of frozen water bodies begin to thaw, the Proponent shall suspend all travel over water bodies if disturbance to the banks or shorelines of any definable water body occurs.
47. The Proponent shall ensure that winter lake/stream crossings are located to minimize approach grades and constructed entirely of ice and snow materials. Ice or snow free of sediment should be the only materials used to construct temporary crossings over any ice-covered watercourse.
48. The Proponent shall ensure that bank disturbances are avoided, and that no mechanized clearing is carried out immediately adjacent to any watercourse.
49. The Proponent shall ensure that stream crossings and/or temporary crossings constructed from ice and snow, which may cause jams, flooding or impede fish passage and or water flow, are removed or notched prior to spring break-up.
50. The Proponent shall avoid disturbance on slopes prone to natural erosion, and alternative locations shall be utilized.
51. The Proponent shall implement sediment and erosion control measures prior to, and during operations to prevent sediment entry into the water during the spring thaw. This includes ensuring that a sufficient thickness of snow and ice is present on the winter trail to prevent unnecessary erosion of the underlying ground surface and impact on underneath vegetation.
52. The Proponent shall implement a clean-up and reclamation stabilization plan which should include, but is not limited to, re-vegetation and/or stabilization of exposed soil in trail bed.

Establishment of New Quarries

53. The Proponent shall clearly stake and flag pit and quarry boundaries so they remain visible to other land users.
54. The Proponent shall locate quarry/pit facilities so as to avoid all recreational sites and public use areas, and to protect unique geographical features and natural aesthetics.
55. The Proponent shall ensure there is no obstruction of natural drainage, flooding or channel diversion from quarry/pit access, stockpiles, or other structures or facilities.
56. The Proponent shall ensure that silt fences/curtains are installed down gradient of any quarry activities.
57. The Proponent shall maintain an undisturbed buffer zone between the periphery of quarry sites and the high water mark of any water body that is of an adequate distance to ensure erosion control.

58. The Proponent shall locate screening and crushing equipment on stable ground, at a location with ready access to stockpiles.

Temporary Camps

59. The Proponent shall ensure that all camps are located on gravel, sand or other durable land.

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

Restoration of Disturbed Areas

61. The Proponent shall remove all garbage, fuel and equipment upon abandonment.

62. The Proponent shall ensure that all disturbed areas are restored to a stable or pre-disturbed state as practical as possible upon completion of field work.

Other

63. The Proponent should, to the extent possible, hire local people and consult with local residents regarding their activities in the region.

64. Any activity related to this application, and outside the original scope of the project as described in the application, will be considered a new project and should be submitted to the NIRB for Screening.

MONITORING AND REPORTING REQUIREMENTS

In addition, the Board is recommending the following:

Annual Report

1. The Proponent shall submit a comprehensive annual report with copies provided to the NIRB by March 31st of each year of permitted activities. The annual report must contain, but is not limited to, the following information:
 - a. A summary of all work completed during the previous year (particularly reporting on winter trail development and overland movement of materials, landfarm, landfill and lagoon work), and a proposed work plan of any activities to be undertaken during the following year;
 - b. An update on the number and type of aircraft used to transport personnel and supplies as well as a discussion of the frequency and timing of flights;
 - c. A summary of consultations undertaken, including any issues and concerns raised, points of discussion and advice provided by communities and agencies, and a description of how the issues and concerns were addressed;
 - d. A description of local hires and Inuit-owned subcontractors and any training opportunities that were established, reflecting needs for confidentiality of certain information; and
 - e. A record of wildlife observations and incidences with problem wildlife while operating within the project area, including at a minimum:
 - i. A summary of measures taken to mitigate, monitor and/or analyze impacts; and
 - ii. A record of wildlife observations made within the project area including locations (i.e., latitude and longitude), species, number of animals, a

description of the animal activity, and a description of the gender and age of animals if possible.

Transport of Waste/Dangerous Goods

2. The Proponent shall ensure that a waste manifest accompanies the shipment of all waste oil/grease and is registered with the Government of Nunavut Department of Environment (GN-DoE). Contact the Manager of Pollution Control and Air Quality at (867) 975-7748 to obtain a manifest if hazardous waste will be generated during project activities.
3. The Proponent shall ensure that an export manifest or the appropriate transportation of dangerous goods (TDG) documentation accompany all potential hazardous samples and/or materials that are transported off site.

OTHER NIRB CONCERNS AND RECOMMENDATIONS

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

Bear and Carnivore Safety

1. The Proponent review the bear/carnivore detection and deterrent techniques outlined in “Safety in Grizzly and Black Bear Country” which can be down-loaded from this link: http://www.enr.gov.nt.ca/live/documents/content/Bear_Safety.pdf. Note that some recommendations in this manual are also relevant to polar bears. There is a DVD about polar bears and safety available from Nunavut Parks at the following link <http://www.nunavutparks.com/english/visitor-information/suggested-resources.html> and a “Safety in Polar Bear Country” pamphlet from Parks Canada at the following link <http://www.pc.gc.ca/eng/pn-np/nu/auyuittuq/visit/visit6/d/i.aspx>.
2. Any problem wildlife or any interaction with carnivores should be reported immediately to the local Government of Nunavut, Department of Environment Conservation Office (Conservation Office in Arviat, (867) 857-8932).

Incineration of Wastes

3. The Proponent review Environment Canada’s “Technical Document for Batch Waste Incineration”, available at the following link: <http://www.ec.gc.ca/gdd-mw/default.asp?lang=En&n=F53EDE13-1>. The technical document provides information on appropriate incineration technologies, best management and operational practices, monitoring and reporting.

Species at Risk

4. The Proponent review Environment Canada’s “Environment Assessment Best Practice Guide for Wildlife at Risk in Canada”, available at the following link: <http://www.ec.gc.ca/Publications/default.asp?lang=En&xml=5407909E-10F6-4AFE-ACDF-75B9E820B4A1>. The guide provides information to the Proponent on what is required when Wildlife at Risk, including *Species at Risk*, are encountered or affected by the project.

Winter Roads/Trails

5. If ice bridges are constructed, the Proponent follow the mitigation measures outlined in Fisheries and Oceans Canada's (DFO) Operational Statement for Ice Bridges, available at the following internet address: <http://www.dfo-mpo.gc.ca/regions/central/habitat/os-eo/provinces-territoires-territoires/nu/index-eng.htm>.
6. Cutting or filling of crossing approaches below the high water mark will require prior review and approval by Fisheries and Oceans Canada - Fish Habitat Management Branch (DFO-FHM).

Caribou Management

7. Territorial and federal government agencies in Nunavut should work together with Regional Inuit Associations, co-management boards and industry to develop an action plan to identify and mitigate potential cumulative effects of human land use activities on barren-ground caribou. This assessment of cumulative effects should occur at a regional scale (i.e., larger than individual project areas).

Aboriginal Affairs and Northern Development Canada

8. Aboriginal Affairs and Northern Development Canada forward to the NIRB copies of any decisions by Inspectors which allow project activities to continue in areas of caribou presence between dates indicating work stoppages are necessary (exemptions from Caribou Protection Measures).

Nunavut Water Board

9. The Nunavut Water Board (NWB) impose mitigation measures, conditions and monitoring requirements pursuant to the Water Licence, which require the Proponent to respect the sensitivities and importance of water in the area. These mitigation measures, conditions and monitoring requirements should be in regard to use of water, snow and ice; waste disposal; access infrastructure and operation for camps; spill contingency planning; abandonment and restoration planning; and monitoring programs.
10. In particular, mitigation measures, conditions and monitoring requirements should be considered for the use of water, snow and ice for the development and maintenance of the winter trail for this project.

REGULATORY REQUIREMENTS

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

1. The *Fisheries Act* (<http://laws-lois.justice.gc.ca/eng/acts/F-14/index.html>).
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-lois.justice.gc.ca/eng/acts/M-7.01/>).

4. The *Species at Risk Act* (<http://laws-lois.justice.gc.ca/eng/acts/S-15.3/index.html>). Attached in **Appendix B** is a list of Species at Risk in Nunavut.
5. The *Wildlife Act* (<http://www.canlii.org/en/nu/laws/stat/snu-2003-c-26/latest/snu-2003-c-26.html>) which contains provisions to protect and conserve wildlife and wildlife habitat, including specific protection measures for wildlife habitat and species at risk.
6. The *Nunavut Act* (<http://laws-lois.justice.gc.ca/eng/acts/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/eng/tdg/safety-menu.htm>), and the *Canadian Environmental Protection Act* (<http://laws-lois.justice.gc.ca/eng/acts/C-15.31/>). The Proponent must ensure that proper shipping documents accompany all movements of dangerous goods. The Proponent must register with the Government of Nunavut, Department of Environment Manager of Pollution Control and Air Quality at 867-975-7748.
8. The *Aeronautics Act* (<http://laws-lois.justice.gc.ca/eng/acts/A-2/>).
9. The *Navigable Waters Protection Act (NWP)* (<http://laws-lois.justice.gc.ca/eng/acts/N-22/index.html>).
10. The Proponent shall undertake quarrying in accordance with the *Nunavut Mining Safety Ordinance* and the *Territorial Quarrying Regulations* (<http://www.canlii.org/en/ca/laws/regu/crc-c-1527/latest/crc-c-1527.html>) or equivalent.
11. The *CEPA Storage Tank System for Petroleum Products and Allied Petroleum Products Regulations* (www.ec.gc.ca/st-rs). The Proponent must identify their tank system to Environment Canada and installation of new systems must comply with the regulations' design requirements.

Other Applicable Guidelines

12. The Proponent shall practice progressive reclamation in accordance with the restoration guidelines outlined in Aboriginal Affairs and Northern Development Canada's *Northern Land Use Guidelines Pits and Quarries* (<http://www.aadnc-aandc.gc.ca/eng/1100100023585>).
13. The Proponent shall review and apply as applicable, design, operation, monitoring, sampling, analytical methods, decommissioning and closure, record keeping and reporting requirements for landfarming projects as found within the *Federal Guidelines for Landfarming Petroleum Hydrocarbon Contaminated Soils* (Science Applications International Corporation Canada, March 2006). It is recommended that the Proponent and any consultants hired for the project refer to this document as it relates to the future operations of the landfarming activities.

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 February 24, 2014 at Arviat, NU.



Elizabeth Copland, Chairperson

Attachments: Appendix A: Procedural History and Project Activities
Appendix B: Species at Risk in Nunavut
Appendix C: Archaeological and Palaeontological Resources Terms and Conditions for Land Use
Permit Holders

Appendix A

Procedural History and Project Activities

Procedural History

On October 24, 2013 the Nunavut Impact Review Board (NIRB or Board) received Aboriginal Affairs and Northern Development Canada – Contaminated Sites Division’s (AANDC-Contaminated Sites) “Ennadai Lake Remediation” project proposal from Aboriginal Affairs and Northern Development – Lands Administration. Further, on November 14, 2013 the NIRB received an application for a Type B water licence from the Nunavut Water Board. On December 12, 2013 the NIRB received a positive conformity determination (Keewatin Regional Land Use Plan) from the Nunavut Planning Commission (NPC) for the AANDC Land Use Permit application (No. N2013U0021) which encompasses components of the Ennadai Lake Remediation project proposal but excludes the overland mobilization and demobilization of the proposed project. On December 16, 2013 the NIRB received confirmation from the NPC that its December 12, 2013 conformity determination (Keewatin Regional Land Use Plan) as issued would also apply to overland hauling activities to be undertaken by Kudlik Construction Ltd. The NIRB received Kudlik Construction Ltd.’s Land Use Permit application (No. N2013F0024) from AANDC – Lands Administration on December 18, 2013. This application requested permission to conduct the overland mobilization and demobilization of equipment on Crown Land that is associated with the proposed Ennadai Lake Remediation project proposal. The NIRB considered the two Land Use Permit applications as comprising a single project proposal, and assigned the proposal file number 13UN039.

This project proposal was distributed to community organizations in Arviat, Rankin Inlet and Whale Cove, as well as to relevant federal and territorial government agencies, and Inuit organizations. The NIRB initially requested that interested parties review the proposal and provide the Board with any comments or concerns by January 16, 2014 regarding:

- Whether the project proposal is likely to arouse significant public concern; and if so, why;
- Whether the project proposal is likely to cause significant adverse eco-systemic and socio-economic effects; and if so, why;
- Whether the project is of a type where the potential adverse effects are highly predictable and mitigable with known technology, (providing any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On December 20, 2013 the NIRB issued a request to the Minister of Aboriginal Affairs and Northern Development for the Government of Canada, the Honourable Bernard Valcourt, to extend the screening timeline for this proposal, with an anticipated completion date of February 7, 2014.

Recognizing a minor administrative error in the original distribution of the proposal, the NIRB re-distributed the project proposal on February 10, 2014 to include parties with interest pursuant to Nunavut Land Claims Agreement Article 40 areas (including the Denesuline of Saskatchewan

and Manitoba). The NIRB requested that interested parties review the proposal and provide the Board with any comments or concerns by February 17, 2014.

Further to the original application materials received and pertaining to the proposal, on February 10, 2014 the NIRB received an application for a Right of Way Access to Inuit Owned Land (File No. KVRW14F01) from the Kivalliq Inuit Association (KIA) for portions of the overland travel that are proposed on Inuit Owned Lands.

On or before February 17, 2014, the NIRB received comments from the following interested parties:

- **Manitoba Denesuline**
- **Environment Canada**
- **Fisheries and Oceans Canada**
- **Government of Nunavut**

All comments provided to NIRB regarding this project proposal can be viewed on NIRB's ftp-site, at the following location:

<http://ftp.nirb.ca/01-SCREENINGS/COMPLETED%20SCREENINGS/>

Project Activities

The proposed project is located within the Kivalliq region, approximately 380 kilometres (km) west of Arviat, 450 km southwest of Whale Cove and 500 km southwest of Rankin Inlet. The objective of the proposal is to remediate the former weather station at Ennadai Lake which was abandoned in the early 1990s. The remediation project is proposed to take place from January 2014 to March 31, 2016.

The proposed project components include:

- Winter trail development between Arviat, Henik Lake and Ennadai Lake for the transportation of equipment and supplies via CAT Train in 2014;
- Establishment of temporary 25 person camps at Henik and Ennadai Lake to support remediation activities;
- Use of aircraft to transport personnel and equipment to Ennadai camp in summer and winter, if required;
- Transportation, storage and use of fuel for overland mobilization, demobilization and remediation activities;
- On-site storage at Ennadai Lake of 200,000 litres (L) of arctic diesel, 4,920 L of gasoline and 6,560 L of aviation fuel;
- Use of 250,000 L of diesel, 1,000 L of gasoline and 2,000 L of aviation fuel for the overland mobilization and demobilization activities, with fuel being stored at Henik Lake site and in Arviat;
- Estimated water consumption at the camp of 3,000 litres per day (L/day);
- Production and onsite treatment of approximately 750 L/day of sewage and 4,250 L/day of greywater;

- Construction, use and decommissioning of two temporary lagoons for further treatment and disposal of site sewage and greywater wastes;
- Construction and use of a landfill for disposal of non-hazardous wastes, including scattered surface debris and partially buried non-hazardous debris;
- Use of incinerator for non-hazardous, combustible waste. Ash would be disposed of on-site or at an approved off-site facility;
- Consolidation of barreled waste materials to be either incinerated on-site or shipped off-site for disposal, and crushing and landfilling of empty barrels;
- Demolition of site infrastructure and segregation of hazardous and non-hazardous waste for proper disposal;
- Removal of hazardous waste to a licensed disposal facility off-site (including disposal of Tier II soils);
- Remediation of all landfills;
- Construction of a landfarm for the treatment of hydrocarbon contaminated soil;
- Re-construction and repair of roads and airstrip as required;
- Development of borrow sources for the remediation work (borrow areas to be primarily backfilled with clean material from the landfarm when remediation complete, re-graded and sloped to prevent erosion); and
- Final site demobilization via CAT train where all project supplies and contaminated material would be shipped off-site to Arviat via a winter trail in 2015/2016 followed by transportation of all material and equipment out of Arviat via sealift.

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 (http://www.sararegistry.gc.ca/default_e.cfm) to get the current status of a species.

Updated: January 2012

Terrestrial Species at Risk ¹	COSEWIC Designation	Schedule of SARA	Government Organization with Primary Management Responsibility ²
Eskimo Curlew	Endangered	Schedule 1	EC
Ivory Gull	Endangered	Schedule 1	EC
Ross's Gull	Threatened	Schedule 1	EC
Harlequin Duck (Eastern population)	Special Concern	Schedule 1	EC
Rusty Blackbird	Special Concern	Schedule 1	GN
Felt-leaf Willow	Special Concern	Schedule 1	GN
Peregrine Falcon	Special Concern (<i>anatum-tundrius</i> complex ³)	Schedule 1 - Threatened (<i>anatum</i>) Schedule 3 – Special Concern (<i>tundrius</i>)	GN
Short-eared Owl	Special Concern	Schedule 3	GN
Peary Caribou	Endangered	Schedule 1	GN
Barren-ground Caribou (Dolphin and Union population)	Special Concern	Schedule 1	GN

Terrestrial Species at Risk ¹	COSEWIC Designation	Schedule of SARA	Government Organization with Primary Management Responsibility ²
Polar Bear	Special Concern	Schedule 1	GN
Red Knot (<i>rufa</i> subspecies)	Endangered	Pending	EC
Red Knot (<i>islandica</i> subspecies)	Special Concern	Pending	EC
Porsild's Bryum	Threatened	Pending	GN
Horned Grebe (Western population)	Special Concern	Pending	EC
Grizzly Bear	Special Concern	Pending	GN
Wolverine (Western population)	Special Concern	Pending	GN
Atlantic Cod, Arctic Lakes	Special Concern	No schedule	DFO
Atlantic Walrus	Special Concern	Pending	DFO
Beluga Whale (Cumberland Sound population)	Threatened	Pending	DFO
Beluga Whale (Eastern Hudson Bay population)	Endangered	Pending	DFO
Beluga Whale (Western Hudson Bay population)	Special Concern	Pending	DFO
Beluga Whale (Eastern High Arctic – Baffin Bay population)	Special Concern	Pending	DFO
Bowhead Whale (Eastern Canada – West Greenland population)	Special Concern	Pending	DFO
Killer Whale (Northwest Atlantic / Eastern Arctic populations)	Special Concern	Pending	DFO
Narwhal	Special Concern	Pending	DFO

¹ The Department of Fisheries and Oceans has responsibility for aquatic species.

² Environment Canada (EC) 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.

³ The *anatum* subspecies of Peregrine Falcon is listed on Schedule 1 of SARA as threatened. The *anatum* and *tundrius* subspecies of Peregrine Falcon were reassessed by COSEWIC in 2007 and combined into one subpopulation complex. This subpopulation complex was assessed by COSEWIC as Special Concern.

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



INTRODUCTION

The Department of Culture and Heritage (CH) routinely reviews land use applications sent to the Nunavut Water Board, Nunavut Impact Review Board and the Department of Indian and Northern Affairs Canada. These terms and conditions provide general direction to the permittee/proponent regarding the appropriate actions to be taken to ensure the permittee/proponent carries out its role in the protection of Nunavut's archaeological and palaeontological resources.

TERMS AND CONDITIONS

- 1) The permittee/proponent shall have a professional archaeologist and/or palaeontologist perform the following **Functions** associated with the **Types of Development** listed below or similar development activities:

	Types of Development (See Guidelines below)	Function (See Guidelines below)
a)	Large scale prospecting	Archaeological/Palaeontological Overview Assessment
b)	Diamond drilling for exploration or geotechnical purpose or planning of linear disturbances	Archaeological/ Palaeontological Inventory
c)	Construction of linear disturbances, Extractive disturbances, Impounding disturbances and other land disturbance activities	Archaeological/ Palaeontological Inventory or Assessment or Mitigation

Note that the above-mentioned functions require either a Nunavut Archaeologist Permit or a Nunavut Palaeontologist Permit. CH is authorized by way of the *Nunavut and Archaeological and Palaeontological Site Regulations*¹ to issue such permits.

¹ P.C. 2001-1111 14 June, 2001

- 2) The permittee/proponent shall not operate any vehicle over a known or suspected archaeological or palaeontological site.
- 3) The permittee/proponent shall not remove, disturb, or displace any archaeological artifact or site, or any fossil or palaeontological site.
- 4) The permittee/proponent shall immediately contact CH at (867) 934-2046 or (867) 975-5500 should an archaeological site or specimen, or a palaeontological site or fossil, be encountered or disturbed by any land use activity.
- 5) The permittee/proponent 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 CH.
- 6) The permittee/proponent shall follow the direction of CH in restoring disturbed archaeological or palaeontological sites to an acceptable condition. If these conditions are attached to either a Class A or B Permit under the Territorial Lands Act INAC's directions will also be followed.
- 7) The permittee/proponent shall provide all information requested by CH concerning all archaeological sites or artifacts and all palaeontological sites and fossils encountered in the course of any land use activity.
- 8) The permittee/proponent shall make best efforts to ensure that all persons working under its authority are aware of these conditions concerning archaeological sites and artifacts and palaeontological sites and fossils.
- 9) If a list of recorded archaeological and/or palaeontological sites is provided to the permittee/proponent by CH as part of the review of the land use application the permittee/proponent shall avoid the archaeological and/or palaeontological sites listed.
- 10) Should a list of recorded sites be provided to the permittee/proponent, the information is provided solely for the purpose of the proponent's land use activities as described in the land use application, and must otherwise be treated confidentially by the proponent.

LEGAL FRAMEWORK

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

Where an application is made for a land use permit in the Nunavut Settlement Area, and there are reasonable grounds to believe that there could be sites of archaeological importance on the lands affected, no land use permit shall be issued without written consent of the Designated Agency. Such consent shall not be unreasonably withheld. [33.5.12]

Each land use permit referred to in Section 33.5.12 shall specify the plans and methods of archeological site protection and restoration to be followed by the permit holder, and any other conditions the Designated Agency may deem fit. [33.5.13]

Palaeontology and Archaeology

Under the *Nunavut Act*², the federal government can make regulations for the protection, care and preservation of palaeontological and archaeological sites and specimens in Nunavut. Under the *Nunavut Archaeological and Palaeontological Sites Regulations*³, it is illegal to alter or disturb any palaeontological or archaeological site in Nunavut unless permission is first granted through the permitting process.

Definitions

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:

Fossil means the hardened or preserved remains or impression of previously living organisms or vegetation and includes:

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

² s. 51(1)

³ P.C. 2001-1111 14 June, 2001

GUIDELINES FOR DEVELOPERS FOR THE PROTECTION OF ARCHAEOLOGICAL RESOURCES IN THE NUNAVUT TERRITORY

(NOTE: Partial document only, complete document at: <http://gov.nu.ca/cley/english/arch.html>)

Introduction

The following guidelines have been formulated to ensure that the impacts of proposed developments upon heritage resources are assessed and mitigated before ground surface altering activities occur. Heritage resources are defined as, but not limited to, archaeological and historical sites, burial grounds, palaeontological sites, historic buildings and cairns. Effective collaboration between the developer, the Department of Culture, Language, Elders and Youth (CH), and the contract archaeologist(s) will ensure proper preservation of heritage resources in the Nunavut Territory. The roles of each are briefly described.

CH is the Nunavut Government agency which oversees the protection and management of heritage resources in Nunavut, in partnership with land claim authorities, regulatory agencies, and the federal government. Its role in mitigating impacts of developments on heritage resources is as follows: to identify the need for an impact assessment and make recommendations to the appropriate regulatory agency; set the terms of reference for the study depending upon the scope of the development; suggest the names of qualified individuals prepared to undertake the study to the developer; issue an archaeologist or palaeontologist permit authorizing field work; assess the completeness of the study and its recommendations; and ensure that the developer complies with the recommendations.

The primary regulatory agencies that CH provides information and assistance to are the Nunavut Impact Review Board, for development activities proposed for Inuit Owned Lands (as defined in Section 1.1.1 of the Nunavut Land Claims Agreement), and the Department of Indian and Northern Affairs, for development activities proposed for federal Crown Lands.

A developer is the initiator of a land use activity. It is the obligation of the developer to ensure that a qualified archaeologist or palaeontologist is hired to perform the required study and that provisions of the contract with the archaeologist or palaeontologist allow permit requirements to be met; i.e. fieldwork, collections management, artifact and specimen conservation, and report preparation. On the recommendation of the contract archaeologist or palaeontologist in the field and the Government of Nunavut, the developer shall implement avoidance or mitigative measures to protect heritage resources or to salvage the information they contain through excavation, analysis, and report writing. The developer assumes all costs associated with the study in its entirety.

Through his or her active participation and supervision of the study, the contract archaeologist or palaeontologist is accountable for the quality of work undertaken and the quality of the report produced. Facilities to conduct fieldwork, analysis, and report preparation should be available to this individual through institutional, agency, or company affiliations. Responsibility for the curation of objects recovered during field work while under study and for documents generated in the course of the study as well as remittance of artifacts, specimens and documents to the repository specified on the permit accrue to the contract archaeologist or palaeontologist. This individual is also bound by the legal requirements of the *Nunavut Archaeological and*

Types of Development

In general, those developments that cause concern for the safety of heritage resources will include one or more of the following kinds of surface disturbances. These categories, in combination, are comprehensive of the major kinds of developments commonly proposed in Nunavut. For any single development proposal, several kinds of these disturbances may be involved

- *Linear disturbances: including the construction of highways, roads, winter roads, transmission lines, and pipelines;*
- *Extractive disturbances: including mining, gravel removal, quarrying, and land filling;*
- *Impoundment disturbances: including dams, reservoirs, and tailings ponds;*
- *Intensive land use disturbances: including industrial, residential, commercial, recreational, and land reclamation work, and use of heritage resources as tourist developments.*
- *Mineral, oil and gas exploration: establishment of camps, temporary airstrips, access routes, well sites, or quarries all have potential for impacting heritage resources.*

Types of Studies Undertaken to Preserve Heritage Resources

Overview: An overview study of heritage resources should be conducted at the same time as the development project is being designed or its feasibility addressed. They usually lack specificity with regard to the exact location(s) and form(s) of impact and involve limited, if any, field surveys. Their main aim is to accumulate, evaluate, and synthesize the existing knowledge of the heritage of the known area of impact. The overview study provides managers with baseline data from which recommendations for future research and forecasts of potential impacts can be made. A Class I Permit is required for this type of study if field surveys are undertaken.

Reconnaissance: This is done to provide a judgmental appraisal of a region sufficient to provide the developer, the consultant, and government managers with recommendations for further development planning. This study may be implemented as a preliminary step to inventory and assessment investigations except in cases where a reconnaissance may indicate a very low or negligible heritage resource potential. Alternately, in the case of small-scale or linear developments, an inventory study may be recommended and obviate the need for a reconnaissance.

The main goal of a reconnaissance study is to provide baseline data for the verification of the presence of potential heritage resources, the determination of impacts to these resources, the generation of terms of reference for further studies and, if required, the advancement of preliminary mitigative and compensatory plans. The results of reconnaissance studies are primarily useful for the selection of alternatives and secondarily as a means of identifying impacts that must be mitigated after the final siting and design of the development project.

Depending on the scope of the study, a Class 1 or Class 2 Permit is required for this type of investigation.

Inventory: A resource inventory is generally conducted at that stage in a project's development at which the geographical area(s) likely to sustain direct, indirect, and perceived impacts can be well defined. This requires systematic and intensive fieldwork to ascertain the effects of all possible and alternate construction components on heritage resources. All heritage sites must be recorded on Government of Nunavut Site Survey forms. Sufficient information must be amassed from field, library and archival components of the study to generate a predictive model of the heritage resource base that will:

- allow the identification of research and conservation opportunities;
- enable the developer to make planning decisions and recognize their likely effects on the known or predicted resources; and
- make the developer aware of the expenditures, which may be required for subsequent studies and mitigation. A Class 1 or 2 permit is required

Assessment: At this stage, sufficient information concerning the numbers and locations of heritage resources will be available, as well as data to predict the forms and magnitude of impacts. Assessments provide information on the size, volume, complexity and content of a heritage resource, which is used to rank the values of different sites or site types given current archaeological knowledge. As this information will shape subsequent mitigation program(s), great care is necessary during this phase.

Mitigation: This refers to the amelioration of adverse impacts to heritage resources and involves the avoidance of impact through the redesign or relocation of a development or its components; the protection of the resource by constructing physical facilities; or, the scientific investigation and recovery of information from the resource by excavation or other method. The type(s) of appropriate mitigative measures are dictated by their viability in the context of the development project. Mitigation strategies must be developed in consultation with, and approved by, the Department of Culture, Language, Elders and Youth. It is important to note that mitigation activities should be initiated as far in advance of the construction of the development as possible.

Surveillance and monitoring: These may be required as part of the mitigation program.

Surveillance may be conducted during the construction phase of a project to ensure that the developer has complied with the recommendations.

Monitoring involves identification and inspection of residual and long-term impacts of a development (i.e. shoreline stability of a reservoir); or the use of impacts to disclose the presence of heritage resources, for example, the uncovering of buried sites during the construction of a pipeline.