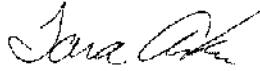


The NIRB is aware of GN-CGS's authority to regulate the terms and conditions attached to the enclosed Screening Decision Report, and requests that GN-CGS send a hardcopy of the authorization with NIRB's file number referenced on the document to the NIRB office to complete our files. In addition, the NIRB requests that copies of any subsequent inspection reports related to the subject Project Proposal be sent to the NIRB office.

Sincerely,



Tara Arko – Assistant Technical Advisor

cc: Kam So, Project Officer GN-CGS, kso@gov.nu.ca
Phyllis Beaulieu, Nunavut Water Board

Enclosure: NIRB Screening Decision Report (NIRB File No.: 10XN027)



SCREENING DECISION REPORT
NIRB FILE NO.: 10XN027

May 10, 2010

Honourable Lorne Kusugak
Minister of Community & Government Services
Government of Nunavut
Iqaluit, NU



E-Mail: lkusugak@gov.nu.ca & rsuwaksirok@gov.nu.ca

Re: Screening Decision for Government of Nunavut - Department of Community & Government Services' "Kugaaruk Soil Treatment Landfarm" project

Dear Honourable Minister:

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. Government of Nunavut - Department of Community & Government Services (the Proponent) shall maintain a copy of the Project Terms and Conditions at the site 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 correspondences provided to the NIRB (Impacts and Mitigation Measures Worksheet, Operations and Maintenance Manual, Spill Plan and Interim Abandonment and Reclamation plan) as well as materials provided to the Nunavut Water Board (NWB) and to the Government of Nunavut.
4. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

Landfarm Operation

5. The Proponent shall only treat petroleum contaminated soils using the landfarm facility, no other contaminated soils (such as, heavy metals, glycol and heavy oil contaminated) will be disposed of at this facility, and these contaminants shall be disposed in appropriate authorized facilities.
6. The Proponent shall ensure required standards, set out in the Nunavut Water Board's Water Licence for this project are met prior to any discharge of collected water in the retention cell.
7. The Proponent shall ensure that the equipment used in the landfarm operation for aeration, have been cleaned off within the landfarm facilities prior to exiting to prevent contaminated soil transfer.
8. The Proponent shall take appropriate dust suppression measures when conducting soil turning and removal.
9. All operation personnel shall be adequately trained prior to commencement of any operation in the landfarm facility. Operational personnel should also be trained in the commitments that the Proponent has made for this project.

10. The Proponent shall use drip pans or other equivalent device when refueling on-site equipment. The Proponent shall ensure that appropriate spill kit (e.g., shovels, absorbents, etc) must be readily available during any transfer of fuel.
11. The Proponent shall ensure that all on site 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.

Wildlife

12. The Proponent shall keep all wastes inaccessible to wildlife until they can be disposed of.
13. The Proponent shall store all fuel and chemicals in such a manner that they are inaccessible to wildlife.
14. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
15. 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.

Restoration

16. The Proponent shall remove all garbage, fuel and equipment upon abandonment.
17. The Proponent shall complete all clean-up, and restore the disturbed site to the original state to the extent practical upon abandonment of site, unless the facility is required to be preserved for future use.

Other

18. The Proponent should, to the extent possible, hire local people and to consult with local residents regarding their activities in the region.
19. 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

The Board is recommending the following:

1. The Proponent shall submit an annual report with copies provided to the NIRB, NWB, and the GN-DoE by March 31 each year that the project is in operation. The report should include, at a minimum, the following information:
 - a. A summary of activities undertaken for the year;
 - b. A work plan for the following year;
 - c. Monitoring results of hydrocarbon concentration in contaminated soil;
 - d. The number of effluents discharge conducted in the reporting year, and record of water quality analysis of water in the retention cell used to collect surface runoff and snow melt within the landfarm facility;
 - e. Amount of treated soil removed from the landfarm facilities for landfill;

- f. whether the 1000 ppm hydrocarbon concentration limit is achieved prior to disposal in proposed landfill;
- g. Wildlife encounters and actions/mitigation taken; and
- h. Site photos.

OTHER NIRB CONCERNS AND RECOMMENDATIONS

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

General

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

The Proponent

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.nwtwildlife.com/Publications/safetyinbearcountry/safety.htm>. 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/pn-np/nu/auyuittuq/pdf/PolarBearEnglish2007final.pdf>.
2. The Proponent should use rubber tire equipment to conduct soil turning/ aeration operations, to protect underlying liner from damage.
3. The landfarm facility should be closely monitored, and dust control measures shall be designed to prevent dust from the contaminated soil migrating to surround areas.
4. It is also recommended that students from the community could become involved in assisting with the program to become educated in the options available for soil remediation such as landfarming and bioremediation.

Nunavut Water Board

The Nunavut Water Board (NWB) impose mitigation measures, conditions and monitoring requirements pursuant to the renewed Water Licence, which require the Proponent to protect water from contamination during the operation of the facility.

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>).

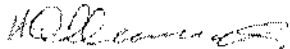
3. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* (<http://laws.justice.gc.ca/en/showtdm/cs/M-7.01>).
4. The *Nunavut Act* (<http://laws.justice.gc.ca/en/showtdm/cs/N-28.6>). The Proponent must comply with the proposed terms and conditions listed in the attached **Appendix B**.
5. The *Species at Risk Act* (<http://laws.justice.gc.ca/en/showtdm/cs/S-15.3>). Attached in **Appendix C** is a list of Species at Risk in Nunavut.
6. 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.
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 May 10, 2010 at Cambridge Bay, NU.



Henry Ohokannoak, Acting Chairperson
for Lucassic Arragutainaq, 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 March 29, 2010 the Nunavut Impact Review Board (NIRB or Board) received the “Kugaaruk Soil Treatment Landfarm” project proposal directly from the Government of Nunavut - Department of Community & Government Services’ (GN-CGS). As the proposed project is located in an area with no approved land use plan, a conformity determination from the Nunavut Planning Commission was not required for this file. The NIRB assigned this project proposal file number 10XN027.

This project proposal was distributed to community organizations in Kugaaruk, as well as to relevant federal and territorial government agencies, and Inuit organizations. The NIRB requested that interested parties review the proposal and provide the Board with any comments or concerns. On or before April 21, 2010, the NIRB received comments from the following interested parties:

- Government of Nunavut - Department of Culture, Language, Elders and Youth
- Kitikmeot Inuit Association
- Environment Canada

All comments provided to NIRB regarding this project proposal (NIRB File No. 10XN027) can be viewed on NIRB’s flip-site, at the following location:

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

Project Activities

This project is located in Kugaaruk, Kitikmeot Region and involves a landfarm (used to treat soil contaminated by petroleum hydrocarbons) which was built to remediate a former fuel tank farm site in the community in 2005. At the time, the construction of the landfarm was not sent to the NIRB for screening. In 2007 the NIRB and the Government of Nunavut – Community and Government Services (GN-CGS) reached an agreement regarding the types of projects requiring screening by the NIRB and, according to the agreement, landfarms were listed as an industrial activity subject to the screening by the NIRB.

Currently GN-CGS is applying for a renewal with the Nunavut Water Board for its Type B Water Licence (NWB File No: #8BR-KRK0609) associated with the landfarm facility. The landfarm was originally constructed in 2005 and will continue operations to remediate the contaminated soil until 2013. At that time it is predicted that the soil will be remediated to the levels that were agreed to with the Government of Nunavut – Department of Environment (GN-DoE) and the soil will be transported and used as cover material at the local solid waste disposal site.

The project activities include:

- Establishment and operation of landfarm;

- Treatment of contaminated soil;
- Monitoring of the treatment; and
- Disposal of the treated soil.

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: August 4, 2009

| Species at Risk | COSEWIC Designation | Schedule of SARA | Government Organization with Lead Management Responsibility ¹ |
|--|---------------------|--|--|
| 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 | Government of Nunavut |
| Felt-leaf Willow | Special Concern | Schedule 1 | Government of Nunavut |
| Peregrine Falcon (<i>anatum-tundrius</i> complex) | Special Concern | Schedule 1 (<i>anatum</i>) Schedule 3 (<i>tundrius</i>) | Government of Nunavut |
| Short-eared Owl | Special Concern | Schedule 3 | Government of Nunavut |
| Peary Caribou | Endangered | Pending | Government of Nunavut |
| Beluga Whale (Eastern Hudson Bay) | Endangered | Pending | DFO |

| | | | |
|--|-----------------|---------|--------------------------|
| population) | | | |
| Red Knot (<i>rufa</i> subspecies) | Endangered | Pending | EC |
| Beluga Whale (Cumberland Sound population) | Threatened | Pending | DFO |
| Atlantic Cod (Arctic population) | Special Concern | 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 |
| Porsild's Bryum | Threatened | Pending | Government of Nunavut |
| Atlantic Walrus | Special Concern | Pending | DFO |
| Narwhal | Special Concern | Pending | DFO |
| Red Knot (<i>islandica</i> subspecies) | Special Concern | Pending | EC |
| Horned Grebe (Western population) | Special Concern | Pending | EC |
| Barren-ground Caribou (Dolphin and Union population) | Special Concern | 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 |

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. The Department of Fisheries and Oceans (DFO) has responsibility for management of aquatic species.

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.