



SCREENING DECISION REPORT
NIRB FILE NO.: 07CN007

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INAC File No.: N2007X0006

March 20, 2007

Honourable Jim Prentice. PC., MP.
Minister of Indian Affairs and Northern Development
Gatineau, Quebec
Via email: PrenticeJ@parl.gc.ca

and

Donald Havioyak
President, Kitikmeot Inuit Association
Cambridge Bay, NU
Via email: Donald@qiniq.com

**Re: Screening Decision for Indian and Northern Affairs' Roberts Bay and Ida Bay Site
Remediation Project Proposal**

Dear Honorable Sirs:

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.

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.

NIRB Assessment and Decision

After a thorough assessment of all material provided to the Board (please see Appendix A), 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

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:

- storage and disposal of fuel, garbage, sewage, and gray water, and impact of these on the ecosystem;
- Potential impact of removal and disposal of contaminated soils;
- Potential impacts of discharge of untreated water into the environment and impacts to the groundwater;
- the potential impact and disturbance to nesting and migrating birds;
- the potential impact on wildlife and species at risk;
- the impact on terrain;
- the impact on archaeological sites or cultural landmarks in the area;
- the potential to contaminate marine environment through barge loading and off-loading;
- 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 impacts to air quality from incineration of combustible camp wastes and potential releases of contaminants into the air; and
- clean up/restoration of the camp site upon completion of remediation project.

Therefore, the Board is recommending that Indian and Northern Affairs Canada (INAC) incorporate the attached or similar terms or conditions into the Land Use Permit pursuant to Section 12.4.4 (a) of the NLCA.

Summary of Recommended Conditions

General

1. Indian and Northern Affairs Canada (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 prior to the commencement of the project to the NIRB.
3. The NIRB shall be notified of any changes in operating plans or conditions associated with this project prior to any such change. Prior to the 2007 mobilization season, all Environmental Plans must be submitted to the Nunavut Water Board (NWB) for review and approval, including the Landfill Design, Spill Contingency Plan, Monitoring Plan, Emergency Response Plan and Wildlife Management Plan.

4. The Proponent shall operate the project in a manner consistent with all commitments and mitigation measures outlined in all correspondence and documents provided to the NIRB from the period commencing February 5, 2007 to March 14, 2007.
5. The Proponent shall submit a comprehensive annual report with copies provided to the NIRB and INAC by January 31st of each year following the calendar year reported. Annual reports will be provided until the project has been completed. The report must contain, but not be limited to, 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 (if any);
 - 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 and updated site maps;
 - j. The number of barges utilized;
 - k. Issues related to monitoring including updates to the Plan;
 - l. A summary of how it has complied with all project Terms and Conditions and how the terms and conditions are achieving their purpose.

Water

6. The Proponent shall be advised that the use of water, disposal of wastewater or waste as a result of the project activities require a Nunavut Water Board license and the project cannot proceed until this is obtained.
7. The Proponent shall discharge surface water and waste water in accordance with a license issued by the Nunavut Water Board.
8. The Proponent shall not construct or disturb any stream, lakebed or banks of any definable water course unless authorized by the Department of Fisheries and Oceans.
9. The Proponent 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 on any type in water frequented by fish or in any place under any conditions where the deleterious substance may enter such a water body.

Wildlife

10. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation. Deliberate feeding of any wildlife is absolutely prohibited. The Proponent shall not hunt or fish, unless the appropriate permits and licenses are acquired.

11. The Proponent must avoid raptor nesting sites and concentrations of nesting or molting waterfowl by aircraft/helicopter at all times.
12. Pursuant to the *Migratory Bird Convention Act* Regulations, the Proponent shall not disturb or destroy the nests or eggs of migratory birds. If nests containing eggs or young are encountered, the Proponent shall avoid these areas until nesting is complete and the young have left the nest.
13. The Proponent shall be aware that the Species at Risk Act came into effect on June 1, 2004. Attached in **Appendix B** is a list of Species at Risk in Nunavut that may be encountered. The Proponent should consult the Species at Risk Public Registry (<http://www.sararegistry.gc.ca/>) to identify any Species at Risk within the project location. Further, the Proponent shall develop monitoring plans for each relevant Species at Risk in accordance with any applicable status reports, recovery strategies, action plans, and management plans posted on the Species at Risk Public Registry (<http://www.sararegistry.gc.ca/>) and in consultation with the Government Organization with Primary Management Responsibility. Monitoring plans should record the locations and frequency of observing species of special concern and note any actions taken to avoid contact or cause disturbance to the species, its residence, or its critical habitat.
14. In order to reduce disturbance to nesting birds, the Proponent shall ensure that any aircraft used in conducting project activities maintain a flight altitude of at least 610 metres during horizontal (point to point) flight during the nesting season.
15. In order to reduce disturbance to resting, feeding, or moulting birds, the Proponent shall ensure that any aircraft used in conducting project activities maintain a vertical distance of 1000 m and minimum horizontal distance of 1500 m from any observed concentrations (flocks / groups) of birds.
16. Harassment of wildlife is prohibited. This includes persistently worrying or chasing animals, or disturbing large groups of animals.
17. The Proponent shall cease activities that may interfere with migration or calving of caribou or Muskox, until the caribou or Muskox have passed or left the area.
18. The Proponent shall follow procedures outlined in the "Territorial Safety in Bear Country Manual", and should contact the Regional Biologist or the Wildlife manager for information and advice on measures which should be taken to minimize the possibility of conflicts/interactions with bears. Consideration should be given to setting up an electric fence around the camp.

Physical Environment

19. 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.
20. The Proponent shall control all movement of heavy machinery, vehicles and equipment within the hazardous material management area to prevent the dispersion of potentially hazardous dust and materials into the environment.
21. The Proponent shall remediate roads utilized between Roberts Bay and Ida Bay, and roads utilized on site to Environment Canada's satisfaction.

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

22. The Proponent shall incinerate all combustible wastes daily, and remove the ash from incineration activities and non-combustible wastes from the project site to an approved facility for disposal.
23. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent until disposed of.

24. The Proponent shall recover and recycle material wherever practical.
25. The proponent shall ensure that all hazardous material is managed, removed from site and disposed in accordance with the *Environmental Protection Act (EPA)* and the Nunavut Hazardous Waste Disposal Manual.
26. The proponent shall ensure that any hazardous materials, including waste oil, be removed from the site and disposed of in accordance with the *EPA*, Nunavut Territorial Regulations and Guidelines, and Nunavut Hazardous Waste Disposal Manual.
27. The Proponent shall ensure that workers follow established protocols for working with hazardous material and/or contaminated soil and conducting all on site works.
28. The Proponent shall treat and dispose of all lead contaminated paints and painted materials as toxic materials in accordance with the *EPA*.
29. The Proponent shall collect and dispose of sewage in accordance with a Nunavut Water Board License and the Nunavut Public Health Act.

Transportation and storage of contaminated solid waste

30. The Proponent shall ensure that the project contractor(s) and contract shippers involved in this project comply with *Transportation of Dangerous Goods Act* when handling, storing and transporting contaminated waste.
31. The Proponent shall install an impermeable membrane underneath containers that contain contaminated soil. Containers containing contaminated soil shall not be placed directly on the ground.
32. The Proponent shall ensure that containers stored on site are removed on an annual basis...
33. The Proponent shall ensure that soils with metal concentrations greater than Canadian Council of the Minister of Environment (CCME) Environmental Quality Guideline (EQG) for residential/ parkland land use are containerized and labeled in accordance with the *Transportation of Dangerous Goods Act*.
34. The Proponent 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.
35. The Proponent shall ensure that any exposed soil piles are covered to prevent migration of wind blown contaminants.
36. The Proponent shall, for all contaminated waste handling operations, beginning at Roberts Bay and ending at the licensed disposal facility, adhere to the requirements of the *Transportation of Dangerous Goods* legislation in Canada as well as the following 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*.

Fuel and Chemical Storage

37. The Proponent shall locate all fuel and other hazardous materials a minimum of thirty (30) metres away from the high water mark of any water body and in such a manner as to prevent their release into the environment.
38. **All spills** are to be documented and reported to the 24 hour Spill Line at 867-920-8130 or Environment Canada's 24-hour pager 867-920-5131.
39. Drip pans, or other similar preventative measures, shall be used when refuelling equipment on site.
40. The Proponent shall store all chemicals in such a manner that they are inaccessible to wildlife.

Camp Sites

41. The Proponent shall ensure that all camps are located on gravel, sand or other durable land.
42. The Proponent shall not erect camps or store material on the surface ice of lakes or streams.

Archaeological

43. The Proponent shall ensure that any archaeological or palaeontological sites encountered are not disturbed.
44. The Proponent should be aware of the law regarding disturbance of archaeological and palaeontological sites and the removal of artifacts found. If a site is found it should remain undisturbed and its location should be reported to the Government of Nunavut Department of Culture, Language, Elders and Youth. See attached **Appendix C**.

Restoration

45. The Proponent shall re-establish the landscape to as near as natural conditions as possible.
46. The Proponent shall confirm to Environment Canada's satisfaction that the clean-up objectives were met at the completion of remediation activities and prior to the expiry date of the permit. Depending on the results of confirmation sampling, the need for post closure monitoring will be re-evaluated.

Other Recommendations

47. The Proponent should, to the extent possible, hire local people and to consult with local residents regarding their activities in the region.
48. The Proponent shall conduct community consultation throughout the duration of the project to ensure that community members are kept well informed about the activities, results, and plans regarding the site and are active participants in the remedial action plan development.

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 March 20, 2007 at Cambridge Bay, NU.



Lucassie Arragutainaq, Acting Chairperson

Attachments: Appendix A – File History
 Appendix B – Species at Risk in Nunavut
 Appendix C – Archaeological and Palaeontological Resources Terms and Conditions for Land
 Use Permit Holders.

APPENDIX A – FILE HISTORY

On February 5, 2007, the Nunavut Impact Review Board (NIRB or Board) received Indian and Northern Affairs (INAC) Roberts Bay and Ida Bay Silver Mine Remediation Project Proposal (Remediation Project) from the Land Administration at INAC. After a pre-screening review it was determined that NIRB had enough information to commence the Part 4 Screening.

The application was distributed on February 9, 2007 to the following communities of Kugluktuk, and Cambridge Bay and distributed to interested Federal and Territorial Agencies including Nunavut Tunngavik Incorporated (NTI), Nunavut Water Board (NWB), Nunavut Wildlife Management Board (NWMB), the Kitikmeot Inuit Association (KIA), Inuit Heritage Trust, Indian and Northern Affairs Canada (INAC), Department of Fisheries and Oceans (DFO), Health Canada, Environment Canada (EC), the Government of Nunavut (GN), Kitikmeot HTO, and the Bathurst Port and Road Committee.

Project Description

The project proposal is for the remediation of the former Robert's Bay and Ida Bay Mine Sites, located 115 km southwest of Cambridge Bay. The site remediation is proposed to begin during the summer of 2007 and end with demobilization during the summer of 2009.

The site remediation project proposal activities include:

- Mobilization/demobilization of equipment, materials/wastes and personnel
- Enhancement of site access routes
- Installation of a temporary dock
- Camp set-up and operation
- Hazardous material removal, handling and transportation
- Temporary storage on-site for hazardous materials, equipment and fuels
- Demolition of buildings and structures
- Debris consolidation and disposal
- Excavation and relocation or removal of contaminated soil
- Capping waste rock and tailings
- Quarrying of gravel and overburden materials
- Landfill construction
- Site grading

Comments

By March 5, 2007, NIRB received comments from Environment Canada, Department of Culture, Language, Elders and Youth, and the Government of Nunavut Department of Environment.

Environment Canada (EC)

EC provided comments and recommendations related to the following:

- Removal/disposal of contaminated soils
- Fuel and chemical storage and deposition of deleterious substances
- Placement of non-hazardous waste in the tailings pond
- Discharge of untreated water into the environment and impacts to groundwater

- Disposal of steel components that are clad in lead paint
- Lack of information regarding remediation of roadways
- PCB concentrations in light ballast and capacitors
- Management of Total Suspended Solids (TSS) in runoff water during excavation of waste rock
- Incineration of combustible camp wastes and potential releases of contaminants into the air
- Potential impacts to wildlife and species at risk
- Long term monitoring

Government of Nunavut Department of Culture Language Elders and Youth

The GN-CLEY supports the project proposal on the condition that the proponent's activities avoid the known archaeological sites listed. Unknown sites are to be reported to GN-CLEY. GN-CLEY provided archaeological and palaeontological resources terms and conditions for land use permit holders. These recommendations have been attached as Appendix C.

Government of Nunavut Department of Environment

The GN-DOE provided comments and recommendations with respect to:

- human-carnivores conflicts;
- disturbance of raptors and raptor den sites
- the spill contingency plan;
- fuel and chemical storage;
- incineration of waste and potential effects on air quality

Proponent Response to Parties Concerns

Based on the concerns cited, NIRB provided an opportunity for the Proponent to respond to the Parties' concerns. The Proponent provided a response to the Parties' comments on March 13, 2007. The proponent has agreed to most of the suggestions raised by the parties.

NIRB recommends, that prior to the commencement of this project, all Environmental Plans be completed and developed appropriately according to the concerns raised by the Parties. The Proponent shall submit the Landfill Design Plan, final Monitoring Plan, final Spill Contingency Plan, and Wildlife Management Plan to NWB for review and approval.

APPENDIX B – SPECIES AT RISK

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: October 17, 2006

Species at Risk	Category of Concern	Schedule of SARA	Government Organization with Primary Management Responsibility ¹
Peregrine Falcon (subspecies tundrius)	Special Concern	Schedule 3	Government of Nunavut
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
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

¹ Environment Canada is the competent Minister under SARA for terrestrial species and as such, has a national role in the conservation and recovery of these species in Canada. However, day to day management of terrestrial species except migratory birds is primarily under the responsibility of the Territorial Government. Populations that exist in National Parks are also managed under the authority of the Parks Canada Agency.

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

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.

¹ s. 51(1)

² P.C. 2001-1111 14 June, 2001

“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 Proponent shall not operate any vehicle over a known or suspected archaeological or palaeontological site.
- 2) The Proponent shall not remove, disturb, or displace any archaeological artifact or site, or any fossil or palaeontological site.
- 3) The Proponent 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 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 the Department of Culture, Language, Elders and Youth, Government of Nunavut.
- 5) The Proponent 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 Proponent 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 Proponent 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 Proponent shall avoid the known archaeological and/or palaeontological sites listed in Attachment 1.
- 9) The Proponent 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