



SCREENING DECISION REPORT

NIRB File No.: 09DN024

May 12, 2009

Honourable Chuck Strahl
Minister of Indian and Northern Affairs Canada
Indian and Northern Affairs Canada
Gatineau, QC
E-Mail: Strahl.C@parl.gc.ca

Re: Screening Decision for Defence Construction Canada's "PIN-3 Lady Franklin Point Long Range Radar Reconstruction" Project Proposal, NIRB File Number 09DN024

Dear Honourable Chuck Strahl:

The primary objectives of the Nunavut Land Claims Agreement (NLCA) 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 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. Defense Construction 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 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 (Part 1 form).
4. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

Water

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 shall not be used for water withdrawal.
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

7. 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. The GN-DOE recommends the use of a dual chamber, forced air incinerator.
8. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent until disposed of. All wastes shall be kept inaccessible to wildlife at all times.
9. The Proponent shall ensure that the disposal of combustible camp wastes comply with the *Canadian Wide Standards for Dioxins and Furans*, and the *Canadian Wide Standards for Mercury*.
10. The Proponent shall ensure that no waste oil will be incinerated on site. All waste oil must be transported off site and disposed of at an approved facility. A waste manifest must accompany the shipment of all waste oil and the proponent must register with the GN-DOE. Contact the

Manager of Pollution Control and Air Quality at (867) 975-7748 to obtain a manifest if hazardous waste is generated during project activities.

11. The waste management strategy should consider and include the following:

- a. Purchasing policies that focus on reduced packaging.
- b. On-site diversion and segregation programs (i.e. the separation of non-food waste items suitable for storage and subsequent transport and disposal or recycling).

Fuel and Chemical Storage

12. 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.
13. The Proponent shall store all fuel and chemicals in such a manner that they are inaccessible to wildlife.
14. The Proponent shall inspect and document the condition of all large fuel caches (in excess of 20 drums) on a weekly basis. The Proponent shall examine all fuel and chemical storage containers immediately upon delivery for leaks. All containers must be marked with the Proponent's name. The proponent shall repair all leaks immediately.
15. The Proponent shall use secondary containment or a surface liner (drip pans, fold-a-tanks, etc) at all refuelling stations. The Proponent shall ensure that appropriate spill kits are located at every fuel cache.
16. A supply of spill kits, shovels, barrels, sorbents, and pumps shall be maintained on-site at the camp, the main fuel cache, and at drill sites.
17. The Proponent shall remove and treat hydrocarbon contaminated soils on site or transport them to an approved disposal site.
18. 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

19. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
20. 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.
21. The Proponent shall not touch, feed or entice wildlife to approach by holding out or setting out decoys or any such devices, foodstuffs or bait of any kind.
22. 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.
23. 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.
24. The Proponent shall ensure that aircraft/helicopter do not, unless for emergency, touch-down in areas where wildlife are present.

25. 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.
26. 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.
27. 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.
28. 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.
29. The Proponent shall take all possible measures to avoid wildlife encounters. Any problem wildlife should be reported immediately to the Government of Nunavut, Department of Environment:
- Manager, Wildlife: Dustin Fredlund, (867) 982-7441, dfredlund@gov.nu.ca.
 - Conservation Officer, Kitikmeot Region: Allen Niptanatiak (867) 982-7451, kugwildlife2@qiniq.com.
 - Regional Biologist: Mathieu Dummond, (867) 982-7444, mdumond@gov.nu.ca.
30. The Proponent shall ensure all project staff are trained in appropriate bear/carnivore detection and deterrent techniques. It is recommended the Proponent review the safety precautions contained within "*Safety in Grizzly and Black Bear Country*" which can be downloaded from the following link: <http://www.nwtwildlife.com/Publications/safetyinbearcountry/safety.htm>
31. The Proponent shall record all wildlife observation in a wildlife log and map the location of any sensitive wildlife sites, such as denning areas or nesting areas.

Physical Environment

32. 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. The Proponent shall suspend overland travel of equipment or vehicles if rutting occurs.
33. The Proponent shall implement suitable erosion and sediment suppression measures on disturbed areas before, during and after construction until vegetation or other appropriate measures are established in order to prevent sediment from entering any water body.
34. The Proponent shall ensure that the land use area is kept clean and tidy at all times.

Camp

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

Restoration

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

Other

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

39. 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:

1. The Proponent shall provide an updated **Spill Contingency Plan** to NIRB, INAC, EC, NWB, and DOE based on the Government of Nunavut *Spill Contingency Planning and Reporting Regulations* and *A Guide to the Spill Contingency Planning and Reporting Regulations* by December 31, 2009. The plan should include the up to date emergency contact numbers for the Government of Nunavut-Department of Environment (867-975-7700) and the Manager of Pollution Control and Air Quality (867-975-7748), and an updated NWT-Nunavut spill report form from the DOE website (<http://www.gov.nu.ca/env/applications.shtml>) submitted electronically so the information is legible to regulators inspecting the spill.
2. The Proponent shall provide a **Waste Management Plan** to NIRB, INAC, EC, and NWB by December 31, 2009 specifically addressing:
 - a. Proposed sewage waste treatment plan, sewage lagoon, and proposed sludge management,
 - b. Methods of waste tracking, or “manifesting”,
 - c. On site waste incineration unit specifications.
3. The Proponent shall submit an **Abandonment and Restoration Plan** to NIRB, INAC, EC, and NWB by December 31, 2009 for the temporary camp to house workers.
4. The Proponent shall maintain a **record of wildlife observations** while operating within the project area. The reports should include 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. Prior to conducting project activities, the Proponent should map the location of any sensitive wildlife sites such as denning sites, calving areas, caribou crossing sites, and raptor nests in the project area, and identify the timing of critical life history events (i.e., calving, mating, denning and nesting). Additionally, the Proponent should indicate potential impacts from the project, and ensure that operational activities are managed and modified to avoid impacts on wildlife and sensitive sites.

A copy of this wildlife record or report should be submitted annually at the end of the operational seasons between 2010 and 2012 to Government of Nunavut Wildlife Manager: Dustin Fredlund, (867) 982-7441, dfredlund@gov.nu.ca

Regulatory Requirements

In addition, the following approvals, permits and licenses are required for this project:

- Land Use Permit INAC (N2009X0007)
- Water Use License NWB (pending)

Furthermore, the Proponent will be advised, should the project proceed, that the following legislation may apply to the project:

1. The *Fisheries Act* (<http://laws.justice.gc.ca/en/showtdm/cs/F-14///en>).
2. The *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (<http://www.canlii.org/ca/sta/n-28.8/whole.html>).
3. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* (<http://laws.justice.gc.ca/en/showtdm/cs/M-7.01>).
4. The *Species at Risk Act* (<http://laws.justice.gc.ca/en/showtdm/cs/S-15.3>). Attached in **Appendix B** is a list of Species at Risk in Nunavut.
5. The *Nunavut Wildlife Act* which contains provisions to protect and conserve wildlife and wildlife habitat, including specific protection measures for wildlife habitat and species at risk.
6. 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 C**.
7. The *Transportation of Dangerous Goods Regulations*, *Transportation of Dangerous Goods Act* (<http://www.tc.gc.ca/tdg/menu.htm>), and the *Environmental Protection Act* (<http://laws.justice.gc.ca/en/C-15.31/text.html>) The Proponent must ensure that proper shipping documents accompany all movements of dangerous goods. The Proponent must register with the GN-DOE Manager of Pollution Control and Air Quality at 867-975-7748.
8. The *Aeronautics Act* (<http://laws.justice.gc.ca/en/A-2/>).

The *Navigable Waters Protection Act (NWPA)* (<http://laws.justice.gc.ca/en/N-22/index.html>).

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 12, 2009 at Sanikiluaq, NU.



Lucassie Arragutainaq, Chairperson

Appendix A Procedural History and Project Activities

Procedural History

On March 27, 2009 the Nunavut Impact Review Board (NIRB or Board) received Defence Construction Canada's "PIN-3 Lady Franklin Point Long Range Radar Reconstruction" project proposal from Indian and Northern Affairs Canada (INAC).

This application was distributed to Kugluktuk and Cambridge Bay, and to interested Federal and Territorial Agencies, and Inuit Organizations. NIRB requested that interested Parties review the application and provide NIRB with comments by **May 5, 2009** 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, (please provide any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before **May 5, 2009**, NIRB received comments from the following interested Parties (see Comments and Concerns):

- Government of Nunavut – DOE
- Environment Canada
- Nunavut Water Board
- Transport Canada
- Government of Nunavut – CLEY

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/SCREENINGS/COMPLETED%20SCREENINGS/>

On May 5, 2009 the NIRB submitted an extension request to the Honourable Chuck Strahl, Minister of Indian and Northern Affairs Canada to extend the screening process until **May 15, 2009**.

Project Activities

The proponent intends to rebuild structures damaged in the 2000 fire, as well as update site equipment to meet current codes. Construction will commence in 2010, and finish in 2012. This project is located at the pre-existing PIN-3 Long Range Radar Station, two kilometers inland at Lady Franklin Point, south-western tip of Victoria Island, Kitikmeot Region, Nunavut. Nearest communities include: Kugluktuk approximately 115 km south-west, and Cambridge Bay approximately 325 km east.

The proposed major activities for the program involve the following components:

- Repairs to pre-existing structures
- Removal and replacement of outdated vehicle refueling station
- Construction of new cribbing for existing double-walled fuel storage tanks to be relocated

- Connection of above ground lines and above ground cabling for power and communications equipment
- Reconstruction and furnishing of:
 - new radar tower,
 - communications shelter,
 - accommodation and utility building trains,
 - two independent power plants,
 - and associated infrastructure
- Approximately same layout as previous structures constructed in the 1950's and 1980's
- Transportation includes:
 - minimum 1 barge (from Hay River) of large equipment and building materials using existing beaching area;
 - aircraft of workers and small equipment using site's existing airstrip;
 - All Terrain Vehicle (ATV) site travel
- Construction of temporary camp (sleeping quarters, kitchen area, common room area, incinerator, generator, sewage disposal system, and water treatment and supply system from local supply lake) to accommodate approximately 30 workers.

Appendix B SPECIES AT RISK IN NUNAVUT

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

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

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

Updated: January 3, 2007

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

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

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

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

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

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

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



BACKGROUND: Archaeology

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

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

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

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

BACKGROUND: Palaeontology

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

¹ s. 51(1)

² P.C. 2001-1111 14 June, 2001

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:

- (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.