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Department of
Culture, Language, Elders and Youth

Ministère de la Culture, de la Langue,
des Aînés et de la Jeunesse

July 18, 2011

Phyllis Beaulieu
Nunavut Water Board
P.O. Box 119
Gjoa Haven, Nunavut
X0B 1J0

Re: Nunavut Water Board – 2BE-SIP, New Application for Type B Licence – Southampton Island Project (S. Gagne, Vale Exploration Canada Ltd.)

Date due: **August 13, 2011**

Dear Phyllis Beaulieu

The department of Culture, Language, Elders and Youth (CLEY) has reviewed the information of Vale Exploration Canada Ltd. in its application to the Water Board for a water use and waste disposal permit for its activities on Southampton Island.

The department does not object to the application. However, the proponent needs to appreciate from our department of Environment records that within the coordinates of their activity there is a marked history of three interior traditional fishing sites, including a site where polar bear was harvested. Also, and within five kilometers to the West of the coordinates is additional traditional hunting grounds for Polar Bear and Arctic Charr harvest. The department environment sites infer the potential for archaeological evidence of historic human activity with tangible archaeology.

Accordingly, the proponent must especially sensitive to these cultural areas. The proponent must continue to appreciate that it is their responsibility to ensure that no heritage resources, if discovered, are directly or indirectly altered from their current state in the course, or as result of their activities.

Please note the attached department of Culture, Language, Elders and Youth *Terms and Conditions* for the protection and restoration of archaeological and palaeontological resources: these terms continue to apply. Should any site be encountered, the proponents must contact the department. All archaeological and palaeontological sites in Nunavut are protected by law.

Sincerely,

Edward Atkinson, for
Douglas R. Stenton, PhD
Director, Culture and Heritage



Department of Culture Language Elders and Youth Terms and Conditions

Introduction

The Department of Culture, Language, Elders and Youth (CLEY) 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. CLEY is authorized by way of the *Nunavut and Archaeological and Palaeontological Site Regulations*¹ to issue such permits.

- 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.

¹ P.C. 2001-1111 14 June, 2001

- 4) The permittee/proponent shall immediately contact CLEY 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 CLEY.
- 6) The permittee/proponent shall follow the direction of CLEY 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 CLEY 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 CLEY 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