

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 Terms and Conditions, pursuant to Section 12.4.4(a) of the NLCA

The Board is recommending the following or similar project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

General

1. Peregrine Diamonds Ltd. (the Proponent) shall maintain a copy of this Screening Decision at the site of operation at all times.
2. The Proponent shall forward copies to the Nunavut Impact Review Board (NIRB) of all permits obtained and required for this project prior to the commencement of the project.
3. The Proponent shall conduct project activities in accordance with all commitments stated in all documentation provided to the NIRB, Indian and Northern Affairs Canada (INAC) and Qikiqtani Inuit Association (QIA).
4. The Proponent is required to update the Spill Contingency Plan by replacing Environment Canada's (EC) 24 hr telephone number with (867) 766-3737 and including name and quantity of chemicals (e.g. drill additives), and submit it to NIRB, EC, GN-DOE, INAC and QIA before the commencement of project activities.
5. The Proponent shall submit an annual report with copies provided to the NIRB, INAC, QIA and the Government of Nunavut, Department of Environment (GN-DOE) before March 31 of each year during the project operation period. The report must contain, but not be limited to, the following information:
 - A summary of activities undertaken in the reporting year;
 - A work plan for the following year;
 - An analysis regarding potential impacts to wildlife from the project, and the any mitigation measurements adopted to modify the operational activities to minimize the impacts to wildlife in project areas.
 - Description of any wildlife encounters and any actions/mitigation measures taken;
 - A summary of site-visits by Land Use Inspectors with results and follow-up actions;
 - Site photos;
 - A summary of community consultations;
 - Progressive reclamation work undertaken;
 - Efforts made to achieve compliance with the *Canadian Wide Standards for Dioxins and Furans*, and the *Canadian Wide Standards for Mercury*;
 - A summary of the number and location of spills and failures which activated the Spill Contingency Plan;
 - The number of helicopter touch-downs on the land with date and location (provide unless confidential);

Fuel Storage and Spill Contingency Plan

6. The Proponent shall ensure the locations of all fuel containers are in a manner that allows easy access and removal of containers in the event of leak or spill. Large fuel caches in excess of 20 drums should be inspected daily

7. The Proponent shall locate fuel caches above the high water mark of any water body and in such a manner as to prevent the contents from entering any water body frequented by fish if fuel caches are to be established.
8. The Proponent shall use drip pans, or other similar preventative measures when refueling equipments at project site.
9. The Proponent shall use self-supporting insta-berms at barreled fuel catch locations.
10. The proponent is required that any spill of fuel or hazardous materials, adjacent to or into a water body, regardless of quantity, should be reported immediately to the NWT/NU 24-hour Spill Line, (867) 920-8130.

Waste Management:

11. The Proponent is required to incinerate all combustible and food wastes daily in a dual chamber, forced-air incinerator, rather than a burning barrel, and shall store the ash in such a way that it is inaccessible to wildlife at all times.
12. The Proponent shall ensure that the disposal of combustible camp wastes comply with the *Canada-Wide Standards for Dioxins and Furans*, and the *Canada-Wide Standards for Mercury Emissions*, Efforts made to achieve compliance shall be reported as part of the annual report.
13. The Proponent shall ensure that no waste oil will be incinerated on site. All waste oil will be transported off site and disposed of in an approved facility. A waste manifest must accompany the shipment of all waste oil products.

Wildlife

14. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
15. The Proponent is required to record all wildlife observations in a 'wildlife log', and map the location of any sensitive wildlife sites such as denning sites, calving areas, caribou crossing sites, and raptor nests. It also should include the identification and timing of critical life history events (i.e., calving, mating, denning and nesting).
16. The Proponent shall ensure that unless there is a specific requirement for low level flights, aircraft activities should maintain a minimum altitude of 610 metres above ground level in places where there are occurrences of wildlife. In areas where there are observed large concentrations of birds, flight level is restricted to 1,000 metres vertical distance and 1,500 metres horizontal distance from the birds. It is recommended to avoid critical and sensitive wildlife areas at all times by choosing alternate flight corridors
17. The Proponent is required to implement the following mitigation measurements regarding Caribou protection:
 - During the period of May 15 to July 15 when caribou are observed calving in the project area, the proponent should suspend all operations, particularly blasting, over flights by aircraft of less than 610 metres above ground, and the use of snowmobiles and ATV's (all-terrain vehicles) outside the immediate vicinity of the camp. Furthermore, following July 15 when caribou with new calves are observed in the area, all activities should also be suspended.
 - Flights of less than 610 metres above ground should be avoided when caribou are in sight of operation.
 - During caribou migration, the proponent shall not locate or operate project activities so as to block or cause diversion to migrating caribou. The proponent shall cease activities that may interfere with migration, such as airborne geophysics surveys or movement of equipment or personnel, until the caribou have passed.

- Between May 15 and September 1, the proponent shall not construct any camp, cache any fuel, conduct blasting or drilling operations, operate ground, air or water based mobile equipment, including geophysics surveys, within 10 km of caribou crossings.
18. The Proponent should be aware that the proposed area for the project is near or possibly overlaps the area of the Western Cumberland Sound Archipelago, which has been identified as a Key Migratory Bird Site. Therefore, the proponent should avoid activities during June to September within the area identified as the Key Migratory Bird Site. This includes no low-level flights over this area at the time when birds are present.
 19. The proponent should not to disturb nesting raptors from April 15 to September 1 and will stay at least 1.5 kilometer (km) away from them when in transit by aircraft and avoid approaching them closely while on foot.
 20. The proponent should follow procedures outlined in the "Safety in Bear Country Manual", and should contact the Regional Biologist or the Wildlife Manager indicated below for information and advice on measures which should be taken to minimize the possibility of bear-people conflicts. Regional Manager, Wildlife - Seeglook Akeeagok, (867) 975-7800, sakeeagok@gov.nu.ca or Biologist, Baffin Region- Debbie Jenkins, (867) 899-8876, pondbiologist@qiniq.com

Drilling / drilling holes

21. The Proponent is recommended to use biodegradable and non-toxic additives. The Canadian Environmental Protection Act lists calcium chloride (CaCl) as a toxic substance. The proponent shall therefore ensure that if CaCl is used as a drill additive, all sumps containing CaCl are properly constructed and located in such a manner as to ensure that the contents will not enter any water body.
22. The Proponent is required that the drill holes should be properly backfilled or capped at the end of project, and drill sumps should only be used for inert drilling fluids, not any other materials or substances.

Others

23. The Proponent is required to ensure the camp-site is clean and tidy. Furthermore, upon abandonment of the project activities, the Proponent shall ensure that the project area is clean and tidy, and no remnants of past exploration activities are left within the project area. The area should left in a state as near as possible to pre-exploration conditions

OTHER NIRB CONCERNS AND RECOMMENDATIONS

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

Indian and Northern Affairs Canada (INAC)

- INAC impose strict mitigation measures, conditions and monitoring requirements, pursuant to the Federal Land Use Permit, which require Peregrine Diamonds Ltd. to respect the ecosystem in the project area. These mitigation measures, conditions and monitoring requirements should be in regard to:
 - Wildlife and habitats protection.
 - Routings, timing and locations of airborne geophysics.
 - Use, Storage, Handling and Disposal of Chemical or Toxic Material.
 - Petroleum Fuel Storage.
 - Matters Not Consistent with the Regulations.

Qikiqtani Inuit Association (QIA):

- QIA impose strict wildlife mitigation measures and/or conditions upon the Proponent pursuant to the Inuit Owned Lands License in regard to fuel and chemical storage, drilling, water conditions, ground disturbance and wildlife on Inuit owned land.

Regulatory Requirements

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

1. Section 36(3) of the *Fisheries Act* (<http://laws.justice.gc.ca/en/showtdm/cs/F-14///en>) which states that no person shall deposit or permit the deposit of a deleterious substance in any type in water frequented by fish or in any place under any conditions where the deleterious substance may enter such a water body.
2. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* which state that no person disturb or destroy the nests or eggs of migratory birds, and that no person shall deposit or permit to be deposited oil, oil wastes or any other substance harmful to migratory birds in any waters or any area frequented by migratory birds (<http://laws.justice.gc.ca/en/showtdm/cs/M-7.01>)
3. 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. 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 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.
4. The *Nunavut Act* (<http://laws.justice.gc.ca/en/showtdm/cs/N-28.6>) which requires that no person alter or disturb any archaeological or palaeontological sites in Nunavut unless permission is first granted through the permitting process. If any archaeological or palaeontological sites are found they should remain undisturbed and their location should be reported to the Government of Nunavut Department of Culture, Language, Elders and Youth. The Proponent must comply with the proposed terms and conditions listed in the attached **Appendix C**.
5. 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>) which presents the requirements for the handling, storing, managing and transportation of dangerous goods, including hazardous wastes, fuel and contaminated material. The Proponent must ensure that proper shipping documents accompany all movements of dangerous goods. The Proponent must register with GN-DOE by contacting Robert Eno at 867-975-7748 or reno@gov.nu.ca.
6. Article 13.7.1 of the NLCA and Section 173(1) of the *Nunavut Waters and Nunavut Surface Rights Tribunal Act*, state that no person shall use water or dispose of waste into water without the approval of the Nunavut Water Board (NWB). The Proponent is encouraged to contact the NWB prior to engaging in any activities to determine if a license is required (<http://www.nunavutwaterboard.org/en/home>).

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 28, 2008 at at Sanikiluaq, NU.



Lucassie Arragutainaq, Chair

APPENDIX A

Procedural History

On January 28, 2008 the Nunavut Impact Review Board (NIRB or Board) received Peregrine Diamonds Ltd.'s (Peregrine) Chidliak project proposal from Qikiqtani Inuit Association (QIA). On February 13, 2008 the NIRB received an application for this project proposal from Northern Affairs Canada INAC. NIRB assigned this project proposal file number 08AN008.

This project is located on both Crown Land and Inuit Owned Land on South Baffin Island, Nunavut. The nearest community is Pangnirtung, located approximately 30 km to the east. The proposed project operation period is planned from 2008 to 2009. The project intends to conduct an early-stage diamondiferous kimberlite exploration in the project area.

On January 31, 2008 the NIRB distributed the applications to the Hamlet and HTO of Pangnirtung as well as interested Federal and Territorial Agencies for comments by February 22, 2008.

On February 18, 2008 the NIRB received comments from the following parties:

- Government of Nunavut, Department of Environment (GN-DOE)
- Environment Canada (EC)
- Nunavut Water Board (NWB)

Due to the lack of Board quorum to work out a Screening Decision for this project proposal, the NIRB requested an extension with the Minister of INAC on March 11, 2008.

Project Activities

The proposed project activities include:

- Setup and operation of temporary camp;
- Staking and prospecting;
- Airborne magnetic and electromagnetic surveying by helicopter;
- Ground magnetic surveying and heavy mineral sampling
- Surface sediment sampling; and
- Demobilization and winterization of camp.

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	Special Concern	Pending	DFO

(Western Hudson Bay population)			
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

Government of Nunavut – Department of Culture, Language, Elders and Youth Standard Terms and Conditions



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]

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 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.