



SCREENING DECISION REPORT NIRB FILE NO.: 07EN068

NIRB File No.: 07EN068
INAC File No.: N2007C0037

November 21, 2007

Honourable Chuck Strahl
Minister of Indian and Northern Affairs Canada
Indian and Northern Affairs Canada
Gatineau, QC

Via email: Strahl.C@parl.gc.ca

**Re: Screening Decision for Tahera Diamond Corporation's Takijuak Lake Diamond
Exploration Project Proposal**

Dear Honourable Chuck Strahl:

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 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 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. Tahera Diamond Corporation (the Proponent) shall maintain a copy of this Screening Decision at the site of operation at all times.
2. The Proponent shall forward copies of all permits obtained and required for this project to NIRB 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 NIRB, INAC and other government agencies.
4. The Proponent shall submit, to NIRB, a comprehensive annual report by March 31st of each year. A copy is to be provided to INAC, Lands Department, Iqaluit. Annual reports will be provided until the project has been completed. The report must contain, but not be limited to, the following information:
 - A summary of activities undertaken in previous year;
 - A work plan for the following year;
 - Recording of wildlife observation and critical habitats including:
 - Location (i.e., latitude and longitude).
 - Species.
 - Number of animals.
 - Description of the animal activity.
 - Description of the gender and age of animals if possible.
 - Description of any wildlife encounters and any actions/mitigation measures taken;
 - A summary of local hires and initiatives;
 - A summary of site-visits by Land Use Inspectors with results and follow-up actions;
 - Site photos;
 - Efforts made (including the use of recommended incinerator) to achieve compliance with the Canada-Wide Standards for Dioxins and Furans and the Canada-Wide Standards for Mercury;
 - A summary of the number and location of spills and failures which activated the Spill Contingency Plan; and
 - A summary of how the Proponent has complied with NIRB conditions contained within this Screening Decision, and the conditions associated with all authorizations for the project proposal.

Wildlife

5. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation. Deliberate feeding of any wildlife is absolutely prohibited.
6. The Proponent must avoid raptor nesting sites and concentrations of nesting or molting waterfowl by aircraft/helicopter at all times.
7. The Proponent shall ensure that aircraft/helicopters do not, unless for emergency, touch-down in areas where wildlife are present.
8. The Proponent shall restrict aircraft/helicopter activity related to the project to a minimum altitude of 610m above ground level unless there is a specific requirement for low-level flying, which does not disturb wildlife.
9. The Proponent shall ensure that aircraft maintain a vertical distance of 1000 meters and a horizontal distance of 1500 meters from any observed groups (colonies) of migratory birds and take care not to disturb nesting raptors from 15 April to 1 September if approaching them closely on foot.
10. The Proponent shall cease activities that may interfere with migration or calving of caribou until the caribou have passed or left the area.
11. The proponent is required to report all wildlife observations near the project area at the end of the operational season to GN-DOE (Wildlife Division): Manager of Wildlife: Dan Shewchuk, (867) 857-2828, dshewchuk@gov.nu.ca

Waste Management

12. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent before disposal in a certificated facility.
13. The Waste Management Plan should consider and include:
 - Purchasing policies that focus on reduced packaging.
 - On-site diversion and segregation programs.
 - Recycling whenever possible.
14. The Proponent shall incinerate, with an approved incinerator rather than burn barrels, all combustible and food wastes daily to comply with the *Canada-Wide Standards for Dioxins and Furans*, and the *Canada-Wide Standards for Mercury*. Efforts made to achieve compliance shall be reported to the NIRB as part of the annual report.

Fuel Storage / Spill Contingency Plan

15. The proponent is required to 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.
16. The proponent is required to ensure the main fuel cache at camp is placed within an Insta-berm.
17. The proponent is required to use secondary containment or a surface liner (drip pans, fold-a-tanks, etc) at all refueling spots.
18. The Proponent is required to utilize the revised spill reporting form in case of spills, and any spill reporting is to be recorded electronically. This revised spill form, with instructions, can be obtained from the Spill Line at (867) 920-8130.

Drilling / Drilling Holes disposal

19. The Proponent is required to use biodegradable and non-toxic additives. The Canadian Environmental Protection Act lists CaCl as a toxic substance.

20. Land based drilling should not occur within 30 m of the high water mark of any water body. Drilling wastes from land based drilling shall be disposed of properly such that the contents do not enter any water body
21. Drilling additives or mud shall not be used in connection with holes drilled through lake ice unless they are re-circulated or contained such that they do not enter the water, or are demonstrated to be non-toxic.
22. The proponent is advised that if artesian flow is encountered, the drill holes be immediately plugged and permanently sealed.
23. The proponent shall not store materials on the surface ice of lakes or streams, except that which is for immediate use.
24. Drill areas should be kept to a minimum and constructed to facilitate minimizing the environmental footprint of the project area. It also should be kept orderly and any garbage is to be removed daily from the area to an approved disposal site.
25. Spill kits should be located at each drill site and the drilling staff trained to respond in the event of a spill.

Physical Environment

26. 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.

Others

27. The Proponent shall adhere to conditions stated in attached **Appendix C** Archaeological and Palaeontological Resources – Terms and Conditions for Land Use Permit Holders.
28. 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 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 Tahera Diamond Corporation 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.
- INAC should also consider the importance of conducting regular Land Use Inspections, pursuant to the authority of the Federal Land Use Permit, while the project is in operation. The Land Use Inspections should be focused on ensuring the Proponent is in compliance with the conditions imposed through the Federal Land Use Permit.

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 _____ November 21, 2007 _____ at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

Appendix A – Procedural History and Project Activities

Procedural History

On October 1, 2007 the Nunavut Impact Review Board (NIRB or Board) received Tahera Diamond Corporation's (Tahera) *Takijuak Lake Diamond Exploration* project proposal from Indian and Northern Affairs Canada (INAC). NIRB determined that this was a re-application for an existing diamond exploration project and therefore assigned this project proposal a new file number 07EN068. During a preliminary completeness check it was noted that additional information was required to conduct a Part 4, NLCA screening. Subsequently, in correspondence dated October 2, 2007, NIRB requested Tahera to provide the additional information by October 16, 2007.

On October 23, 2007, NIRB received the requested supplementary information from Tahera.

This project is located in the West Kitikmeot. The nearest community is Kugluktuk which is approximately 160 km to the North West. The Proponent is proposing to continue diamond exploration activities consisting of geophysical work, sampling and various drilling on their Rockinghorse Property from 2008 to 2010.

On October 25, 2007 NIRB distributed the application for comment to interested Federal and Territorial Agencies as well as municipalities most affected by *Takijuak Lake Diamond Exploration* project.

On November 8, 2007, NIRB received comments from Environment Canada (EC).

All comments provided to NIRB regarding this project proposal can be viewed on NIRB's ftp-site, at the following location: ftp://ftp.nunavut.ca/nirb/NIRB_SCREENINGS/COMPLETED_SCREENINGS/

Project Activities

The project activities include:

- Operation of existing camp;
- Soil sampling;
- Airborne or ground geophysics;
- Target-test drilling;
- Delineation drilling; and
- Evaluation drilling.

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)	Special Concern	Pending	DFO

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.