

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. Dr. Grant Gilchrist from Carleton University (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 the NIRB (NIRB Part 1 Form, December 3, 2010) and to the Canadian Wildlife Service (CWS Permit Application, November 29, 2010).
4. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

Water

5. 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

6. 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.
7. The Proponent shall remove all wastes daily to an approved facility for disposal.

Fuel Storage

8. 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.
9. The Proponent shall store all chemicals in such a manner that they are inaccessible to wildlife.

10. The Proponent shall ensure that appropriate spill response equipment and clean-up materials (e.g., shovels, pumps, barrels, drip pans, absorbents, etc) are readily available during any transfer of fuel.
11. The Proponent shall report all spills of fuel, or other deleterious materials immediately to the 24 hour Spill Line at (867) 920-8130.

Wildlife

12. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
13. 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.
14. 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.
15. 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.
16. The Proponent shall ensure that aircraft/helicopter do not, unless for emergency, touch-down in areas where wildlife are present.
17. The Proponent shall ensure all project staff are trained in appropriate bear/carnivore detection and deterrent techniques.

Other

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

OTHER NIRB CONCERNS AND RECOMMENDATIONS

1. The Proponent review the bear/carnivore detection and deterrent techniques outlined in “Safety in Grizzly and Black Bear Country” which can be down-loaded from this link: http://www.enr.gov.nt.ca/live/pages/wpPages/Safety_in_Grizzly_and_Black_Bear_Country.aspx (Jan 7, 2011 link). Note that some recommendations in this manual are also relevant to polar bears. There is a DVD about polar bears and safety available from Nunavut Parks at the following link <http://www.nunavutparks.com/english/visitor-information/suggested-resources.html> (Jan 7, 2011 link) and a “Safety in Polar Bear Country” pamphlet from Parks Canada at the following link <http://www.pc.gc.ca/eng/pn-np/nu/auyuittuq/visit/visit6/d/i.aspx> (Jan 7, 2011 link).
2. Any problem wildlife or interaction with carnivores should be reported immediately to the local Government of Nunavut, Department of Environment Conservation Office.

3. The Proponent review Environment Canada's "Environmental Assessment Best Practice Guide for *Wildlife at Risk in Canada*."¹ The guide provides information to the Proponent on what is required when Wildlife at Risk, including *Species at Risk*, are encountered or affected by the project.

REGULATORY REQUIREMENTS

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

1. The *Fisheries Act* (<http://laws.justice.gc.ca/en/F-14/> (Jan 7, 2011 link)).
2. The *Nunavut Waters and Nunavut Surface Rights Tribunal Act* (<http://www.canlii.org/ca/sta/n-28.8/whole.html> (Jan 7, 2011 link)).
3. The *Migratory Birds Convention Act* (<http://laws.justice.gc.ca/en/M-7.01/> (Jan 7, 2011 link)) and *Migratory Birds Regulations* (<http://laws.justice.gc.ca/eng/C.R.C.-c.1035/index.html> (Jan 7, 2011 link)).
4. The *Species at Risk Act* (<http://laws.justice.gc.ca/en/showtdm/cs/S-15.3> (Jan 7, 2011 link)). 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> (Jan 7, 2011 link)). The Proponent must comply with the proposed terms and conditions listed in the attached **Appendix C**.
7. The *Aeronautics Act* (<http://laws.justice.gc.ca/en/A-2/> or <http://www.tc.gc.ca/eng/civilaviation/regserv/affairs-aeronauticsact-menu-90.htm> (Jan 7, 2011 links)).

1 Canadian Wildlife Service. 2004. *Environmental assessment best practice guide for wildlife at risk in Canada*. Canadian Wildlife Service, Environment Canada, Gatineau, Quebec.

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 January 14, 2011 at Sanikiluaq, NU.



Lucassie Arragutainaq, Chairperson

Attachments: Appendix A: Procedural History and Project Activities
Appendix B: Species at Risk in Nunavut
Appendix C: Archaeological and Palaeontological Resources Terms and Conditions for Land Use Permit Holders

Appendix A

Procedural History and Project Activities

Procedural History

On December 14, 2010 the Nunavut Impact Review Board (NIRB or Board) received Carleton University - Dr. Grant Gilchrist's "Detecting Avian Cholera in the Hudson Bay Common Eider in the Belcher Island Archipelago" project proposal from the Canadian Wildlife Service (CWS). As the proposed project is located within the South Baffin region, which does not have an approved land use plan, a conformity determination from the Nunavut Planning Commission (NPC) was not required for this file. The NIRB assigned this project proposal file number **10YN058**.

This project proposal was distributed to community organizations in Sanikiluaq, as well as to relevant federal and territorial government agencies and Inuit organizations including the Nunavik Region Marine Impact Review Board, Makivik Corporation and the Nunavik Marine Region Wildlife Board. The NIRB requested that interested parties review the proposal and the NIRB's proposed project-specific terms and conditions, and provide the Board with any comments or concerns by January 4, 2011 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, (providing any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before January 4, 2011 the NIRB received comments from the following interested parties (see Comments and Concerns section below):

- **Nunavik Marine Region Impact Review Board (NMRIRB)**

All information provided to NIRB regarding this project proposal can be viewed on the NIRB's ftp-site, at the following location:

<http://ftp.nirb.ca/SCREENINGS/COMPLETED%20SCREENINGS/>

Project Activities

The objective of this proposed research project is to collect samples of Common Eiders in the polynyas and leads at the southern end of the Belcher Island Archipelago near Sanikiluaq in the Qikiqtani Region. The samples will be analysed for avian cholera, and would indicate whether the disease has reached the wintering grounds of Common Eiders in Nunavut and possibly where the disease originated from. The proposed fieldwork, 1-2 weeks in duration, would be concluded by the end of March 2011.

The project activities would include:

- Using snowmobiles to move five people and scientific equipment from a previously established camp near Sanikiluaq to the study area;
- Using a helicopter for site to site pick-ups and drop-offs;
- Collection and preservation of blood, feather, cloacal and choanal swabs, and tissue (liver, kidney, and lungs) samples from birds harvested by local hunters;
- Opportunistic collection of any dead eiders found in the study area; and
- Shipping of samples to a laboratory at the Veterinary College in St. Hyacinthe, Quebec for cholera analysis.

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: August 4, 2009

Species at Risk	COSEWIC Designation	Schedule of SARA	Government Organization with Lead Management Responsibility ¹
Eskimo Curlew	Endangered	Schedule 1	EC
Ivory Gull	Endangered	Schedule 1	EC
Ross's Gull	Threatened	Schedule 1	EC
Harlequin Duck (Eastern population)	Special Concern	Schedule 1	EC
Rusty Blackbird	Special Concern	Schedule 1	Government of Nunavut
Felt-leaf Willow	Special Concern	Schedule 1	Government of Nunavut
Peregrine Falcon (<i>anatum-tundrius</i> complex)	Special Concern	Schedule 1 (<i>anatum</i>) Schedule 3 (<i>tundrius</i>)	Government of Nunavut
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
Peary Caribou	Endangered	Pending	Government of Nunavut
Beluga Whale (Eastern Hudson Bay population)	Endangered	Pending	DFO
Red Knot (<i>rufa</i> subspecies)	Endangered	Pending	EC

Beluga Whale (Cumberland Sound population)	Threatened	Pending	DFO
Atlantic Cod (Arctic population)	Special Concern	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 (Eastern Canada – West Greenland population)	Special Concern	Pending	DFO
Killer Whale (Northwest Atlantic / Eastern Arctic populations)	Special Concern	Pending	DFO
Porsild's Bryum	Threatened	Pending	Government of Nunavut
Atlantic Walrus	Special Concern	Pending	DFO
Narwhal	Special Concern	Pending	DFO
Red Knot (<i>islandica</i> subspecies)	Special Concern	Pending	EC
Horned Grebe (Western population)	Special Concern	Pending	EC
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 (EC) 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. The Department of Fisheries and Oceans (DFO) has responsibility for management of aquatic species.

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 Act², 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*³, it is illegal to alter or disturb any palaeontological site in Nunavut unless permission is first granted through the permitting process.

² s. 51(1)
³ 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.