



SCREENING DECISION REPORT NIRB FILE NO.: 08YN010

Previous NRI License No. 0201208N-A

January 27, 2009

Honourable Hunter Tootoo
Minister of Education
Iqaluit, NU

Via email: htootoo@assembly.nu.ca

Re: Screening Decision for Luke Copland's "Northern Ellesmere Ice Shelves, Ecosystems and Climate Impacts" Project Proposal, 08YN010

Dear Honourable Hunter Tootoo:

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.

PREVIOUSLY APPROVED PROJECT-SPECIFIC TERMS AND CONDITIONS

The following terms and conditions were previously approved by the NIRB for file **08YN010** in a screening decision report dated March 26, 2008:

General

1. Mr. Luke Copland (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 to the NIRB obtained and required for this project prior to the commencement of the project.
3. The NIRB shall be notified of any changes in operating plans or conditions associated with this project prior to any such change.
4. The Proponent shall operate in accordance with all commitments stated in the application provided to Nunavut Research Institute and the Nunavut Planning Commission.
5. The Proponent shall operate the project sites in accordance with all applicable Acts, Regulations and Guidelines.

Fuel and Chemical Storage

6. The Proponent shall locate all fuel and chemicals/ hazardous materials on the land with 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.
7. If fuel and chemicals/ hazardous materials have to be used on ice in conduction this research, all the residual maters and containers must be removed from ice when project activities are accomplished.

Restoration

8. The Proponent shall remove all garbage, fuel barrels and debris upon abandonment.
9. The Proponent shall complete all clean-up and restoration of the lands/ice used prior to the expiry date of the permit.

NEW RECOMMENDED PROJECT-SPECIFIC TERMS AND CONDITIONS (pursuant to Section 12.4.4(a) of the NLCA)

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

Water

1. 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

2. 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.
3. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent until disposed of. All wastes must be kept inaccessible to wildlife at all times.

Fuel and Chemical Storage

4. The Proponent shall ensure that all fuel caches are removed at the end of each field season.
5. The Proponent shall use secondary containment, such as self-supporting insta-berms, when storing barrelled fuel on location rather than relying on natural depressions. The Proponent shall also ensure that a spill kit is located at every fuel cache.
6. The Proponent shall use drip pans, or other similar preventative measures when refueling equipment on site.
7. The Proponent shall store all fuel and chemicals in such a manner that they are inaccessible to wildlife.
8. The Proponent shall ensure that all on site personnel are properly trained in fuel handling procedures as well as spill response procedures. All spills of fuel or other deleterious materials, regardless of quantity, must be reported immediately to the 24 hour Spill Line at (867) 920-8130.

Wildlife

9. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
10. 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.
11. The Proponent shall ensure all project staff are trained in appropriate bear/carnivore detection and deterrent techniques.

Other

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

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/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 *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 January 27, 2009 at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

Appendix A

Procedural History and Project Activities

Procedural History

On December 12, 2008 the Nunavut Impact Review Board (NIRB or Board) received an application from the Nunavut Research Institute (NRI) for an amendment/renewal to Luke Copland's (the Proponent) "Northern Ellesmere Ice Shelves, Ecosystems and Climate Impacts" project. The NIRB wrote to the Proponent on December 17, 2008 advising that the project proposal appeared to be located in an area which requires conformity to the North Baffin Regional Land Use Plan, and as such must be sent to the Nunavut Planning Commission (NPC) for a conformity determination. On January 7, 2009 the NIRB was notified by NPC that this project proposal conforms to the North Baffin Regional Land Use Plan.

The current project proposal is related to a general research program conducted by the Proponent and others, surveying the surrounding land fast sea ice and ice shelves of Ellesmere Island. Previous screenings related to the current project proposal include NIRB file numbers 02YN028 and **08YN010** (see "Previously Approved Project-Specific Terms and Conditions" section below).

This application was distributed to the communities of Resolute and Grise Fiord, as well as to interested federal and territorial agencies, and Inuit organizations. NIRB requested that interested Parties review the project proposal and previously recommended terms and conditions, and provide their comments by January 19, 2009 regarding:

- whether the proposed component or activity was a part of the original proposal;
- whether its inclusion would significantly modify the project;
- any additional mitigation measures that are appropriate; and
- any other matter of importance to the Party related to the project proposal.

On or before January 19, 2009 NIRB received comments from the following interested Parties (see Comments and Concerns):

- Environment Canada (EC)
- Government of Nunavut – Culture, Language, Elders & Youth (GN-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/>

Project Activities

The original application for NIRB file 08YN010 was received by the Board on February 4, 2008 from NRI. The project proposal was screened in accordance with Part 4, Article 12 of the Nunavut Land Claims Agreement (NLCA). On March 26, 2008 the NIRB issued a 12.4.4(a) screening decision to NRI, allowing the proposed project to proceed subject to project-specific recommended terms and conditions. Project components/activities for this one year research application included the following:

- Temporary camping;
- Use of aircraft for transport of project personnel;
- Use of on-site mechanized vehicles;
- Sewage or grey water storage and disposal;
- Solid waste disposal;
- Chemical storage;

- Hydrological testing;
- Ecological surveying; and
- Ice thickness radar surveys and shallow ice coring.

The Proponent is currently applying for a scientific research licence for this project for a period of 3 years, from April 1, 2009 to April 1, 2012. In addition to the project components/activities listed above, the current proposal includes the following amended/additional components or activities:

- 4 project personnel on site for 20 days each year;
- Temporary field camps (tents) established each year;
- Fuel cached for use in subsequent years; and
- Permanent installation of scientific equipment (weather station and GPS).

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.

Definitions

¹ s. 51(1)

² P.C. 2001-1111 14 June, 2001

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.