



SCREENING DECISION REPORT
NIRB FILE NO.: 08QN055

NIRB File No.: 08QN055
GN-CGS File No.: QB08-002
NWB File No.: 3BM-CLY0308

June 18, 2008

Honourable Levinia Brown
Minister of Community and Government Services
Government of Nunavut
Iqaluit, NU

Via email: lbrown1@gov.nu.ca

Re: Screening Decision for Government of Nunavut-Community & Government Service's (GN-CGS) "Quarry for Wastewater Treatment Facility- Sewage Lagoon" Project Proposal

Dear Honourable Levinia Brown:

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 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. Prior to commencement of operations, the Government of Nunavut-Community & Government Services (the Proponent) shall submit to NIRB all copies of authorizations required for the project activities.
2. The Proponent is required to submit to NIRB and Department of Fisheries and Oceans (DFO) the following information within 45 days after the date this Screening Decision issuance:
 - Site specific information on the location of any watercourse crossings along the transportation road and specify the manner in which the watercourse(s) will be crossed, or if no crossings are proposed, then provide rationale for this decision.
 - Details of whether fish are present at the crossing location during any time of the year, the type of crossing proposed for the installation, how fish habitat might be impacted by the crossing and the proposed methods to mitigate the effects.

Physical Environment

3. The Proponent is required to ensure the site for stockpiling and processing of quarried material is contaminant free prior to project activities taking place.
4. The proponent should make sure the slope of the quarry has a horizontal to vertical ratio of 2 to 1 for public safety purposes.
5. For site reclamation purposes, top soil should be salvaged and set aside near the quarry pit, to promote re-vegetation and restoration of the site.
6. The construction or disturbance of any stream/lake bed or banks of any definable water course are not permitted unless authorized by DFO.
7. The Proponent is required not to obstruct or divert natural drainage unless authorized by DFO and/or the Nunavut Water Board.
8. The Proponent is required to adopt measures as required to control erosion by surface disturbance including silt curtains and/or silt fencing.

Water

9. The Proponent shall not deposit or permit the deposit of sediment into any water body.

Fuel and Chemical Storage

10. The Proponent shall immediately report all spills of petroleum and hazardous chemicals to emergency contact numbers for the Government of Nunavut-Department of Environment (867-975-7700).

11. All waste generated through the operation must be disposed of at an approved facility in Hamlet of Clyde River.

Archaeological Sites

12. The Proponent shall not disturb any archaeological or palaeontological site if an archaeological site is encountered in the course of the land used activities.
13. The Proponent shall follow the attached conditions from the Government of Nunavut, Department of Culture, Language, Elders and Youth (CLEY) that specify plans and methods of site protection and restoration attached in Appendix B

Wildlife

14. The Proponent shall ensure that there is no damage to wildlife habitat outside of the site boundary while conducting this land use operation.
15. The Proponent shall avoid active any bird nests (nests containing eggs or young) until nesting is complete.
16. The Proponent shall adopt a "wildlife has the right of way" policy to minimize road kills and undue stress on animals, near, on or crossing the roadway.

Reclamation

17. The Proponent shall practice progressive reclamation in accordance with the restoration guidelines outlined in Indian and Northern Affairs Canada's document entitled Environmental Guidelines for Pits and Quarries.
18. The Proponent shall complete all clean-up and restoration of the lands used prior to the expiry date of the permit, unless an extension or renewal is granted.

Other Recommendations

19. The Proponent should ensure that all reasonable public safety procedures are implemented during the life of the operation.

Monitoring and Reporting Requirements

In addition, the Board is recommending the following:

The Proponent is required to file a bi-annual report with the Board, GN-DOE and DFO when abandonment and restoration of the project site have been completed. The bi-annual report shall contain but not be limited to the following:

- a. A summary of activities undertaken in the period of project execution. (i.e. quantity of material extracted, volumes, types and methods of waste disposed of);
- b. Wildlife encounters and actions/mitigation taken;
- c. A summary of local hires and initiatives;
- d. Any spills reported;
- e. Site photos prior to commencement of the quarry operation and after abandonment and restoration;
- f. A summary of how the Proponent has implemented and complied with all project terms and conditions; and
- g. A list with coordinates of any species under public concern encountered during the field season.

Other NIRB Concerns and Recommendations

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

All Authorizing Agencies shall notify the NIRB of any changes in operating plans or conditions associated with this project prior to any such change.

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. T
5. 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**.
6. 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.
7. The use of water, disposal of wastewater or waste as a result of the project proposal activities require a Nunavut Water Board license and the project cannot proceed until this is obtained (<http://www.nunavutwaterboard.org/en/legislation>).

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 June 18, 2008 at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

Appendix A

Procedural History and Project Activities

Procedural History

On May 5, 2008, the Nunavut Impact Review Board (NIRB) received a project proposal from Bhabesh Roy, Baffin Region, GN-CGS for quarry used for *Wastewater Treatment Facility-Sewage Lagoon*. NIRB assigned this project proposal file number 08QN055

This application was distributed to Clyde River, interested Federal and Territorial Agencies as well as Inuit Organizations. NIRB requested that interested Parties review the application and provide NIRB with comments by June 13, 2008.

On or before June 13, 2008, NIRB received comments from the following interested Parties (see Comments and Concerns):

- Government of Nunavut, Dept. of Environment(GN-DOE)
- Depart of Fisheries & Oceans (DFO)

All comments provided to NIRB regarding this project proposal can be viewed on NIRB's ftp-site, at the following location: [ftp.nirb.ca - /SCREENINGS/COMPLETED SCREENINGS/2008_SCREENINGS/ 08QN055-GN-CGS - Clyde River Quarry](ftp://ftp.nirb.ca/~SCREENINGS/COMPLETED_SCREENINGS/2008_SCREENINGS/08QN055-GN-CGS-Clyde_River_Quarry)

Project Activities

The project is located in Clyde River, Baffin Region. The purpose of this project is to quarry sufficient granular materials in the community for completing the construction of a new sewage Lagoon and rehabilitation of the existing Sewage lagoon as well. The project would be carried out in the summer of 2008 and finished in 2009.

The project activities include:

- Quarry and transportation of granular material for construction
- Wastewater treatment lagoon construction and rehabilitation
- Sewage or grey water disposal
- Construction and channeling
- Cut and/or fill Removal of vegetation
- River/ stream/ lake crossing or work/ bridge site restoration (fertilization/ grubbing/ scarification/ spraying/ recontouring)
- Soil testing, Soil disposal/ Soil storage

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

As defined in the *Nunavut Archaeological and Palaeontological Sites Regulations*, the following definitions apply:

¹ s. 51(1)

² P.C. 2001-1111 14 June, 2001

“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.