

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. The Hamlet of Gjoa Haven (the Proponent) shall maintain a copy of these Project-Specific Terms and Conditions at the site of operation at all times.
2. The Proponent shall provide a detailed archaeological site protection plan to the Government of Nunavut, Department of Culture, Language, Elders and Youth (GN-CLEY), and obtain written approval from GN-CLEY prior to conducting any further quarrying activities at “Ocean site”.
3. Prior to commencement of operations, the Proponent shall submit to the Nunavut Impact Review Board (NIRB) all copies of authorizations required for the project activities

Quarry Site Design

4. The Proponent shall clearly stake and flag pit and quarry boundaries.
5. The Proponent shall locate quarry/pit facilities so as to avoid all present and planned recreational sites and public use areas, and to protect unique geographical features and scenic resources.
6. The Proponent shall ensure there is no obstruction of natural drainage, flooding or channel diversion when determining locations of quarry/pit access, stockpiles, etc.
7. The Proponent shall locate screening and crushing equipment on stable ground, at a location with ready access to stockpiles.
8. The Proponent shall utilize existing access roads wherever practical, to minimize surface disturbance.
9. The Proponent shall refer to the attached **Appendix C**, and consult with GN-CLEY to employ required mitigation measures to protect the archaeological site near the project site.

Physical Environment

10. The Proponent shall ensure the site for stockpiling and processing of quarried material is free of contaminants prior to commencement of project activities.
11. The Proponent shall ensure that a 2:1 slope of excavation (horizontal to vertical ratio of 2 to 1) is used during project activities, for public safety purposes.
12. The Proponent shall leave an undisturbed vegetation zone, minimum 100 metres width, between cleared areas, public roads, and navigable watercourses.

13. The Proponent is required to adopt measures to control soil erosion from surface disturbance, including the installation of silt curtains and/or silt fencing.

Waste Management

14. All wastes generated through project activities must be collected and disposed of at an approved facility within the municipality of Gjoa Haven.
15. The Proponent shall immediately report all spills of petroleum and hazardous chemicals immediately to the 24 hour Spill Line at (867) 920-8130.

Water

16. The Proponent shall not deposit or permit the deposit of sediment into any water body.
17. The Proponent shall not construct culverts/bridges over watercourses, obstruct or divert natural drainage, and/or disturb any stream/lake bed or banks of any definable water course unless authorized by Fisheries and Oceans Canada and the Nunavut Water Board.
18. The Proponent shall not extract any quarry materials from below high water marks of any water bodies.

Archaeological Sites

19. The Proponent shall not disturb any archaeological or palaeontological sites, including those identified by GN-CLEY, during the course of the land use activities. Procedures to safeguard such sites must be put in place prior to operations.
20. The Proponent shall follow the terms and conditions from GN-CLEY that specify plans and methods of site protection and restoration, attached in **Appendix C**.

Wildlife

21. The Proponent shall ensure that there is no damage to wildlife or wildlife habitat as a result of project activities.
22. The Proponent shall avoid raptor nesting sites and concentrations of nesting or moulting waterfowl at all times and shall ensure that there is minimal disturbance to any nesting birds, migratory birds and wildlife in the area.
23. 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 roadways associated with project activities.

Reclamation

24. 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.
25. The Proponent shall salvage top soil and overburden, and create stockpiles near the quarry/ pit site for use in re-vegetation and restoration of the site.
26. The Proponent shall re-contour abandoned pits with overburden and re-establish vegetation on all disturbed areas during site reclamation. It is recommended that native grass seed mixes and fertilizer be used to speed up re-vegetation over disturbed areas.

Other Recommendations

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

Other NIRB Concerns and Recommendations

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

1. The Proponent should 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*.
2. The Proponent and 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.
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 may require a Nunavut Water Board license and, if so, 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 _____ December 19, 2008 _____ at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

Appendix A

Procedural History and Project Activities

Procedural History

On November 4, 2008 the Nunavut Impact Review Board (NIRB) received the Hamlet of Gjoa Haven's (the Proponent) Granular Quarry project proposal from the Government of Nunavut, Community and Government Services (GN-CGS), Cambridge Bay office. NIRB has assigned this project proposal file number **08QN080**. Upon a preliminary completeness check, NIRB staff determined there was insufficient information to commence a Part 4 Screening for this file. On November 13, 2008 NIRB requested the Proponent provide the required information on or before November 26, 2008.

On November 19, 2008 NIRB received the required supplementary information from the Proponent and commenced screening this project proposal. The project proposal was distributed to the Hamlet of Gjoa Haven, relevant federal and territorial government agencies, Inuit organizations and other interested parties. NIRB requested that interested parties review the proposal and provide NIRB with their comments and/or concerns by December 10, 2008 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, (please provide any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before December 10, 2008 NIRB received comments from the following interested Parties (see Comments and Concerns):

- Fisheries and Oceans Canada (DFO)
- Environment Canada (EC)
- Transport Canada (TC)
- Government of Nunavut – Department of Environment (GN-DoE)
- Government of Nunavut – Department of Culture, Language, Elders and 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 Hamlet of Gjoa Haven (the Proponent) intends to extract quarry materials from 2 new sites, and produce granular materials within the boundary of the municipality, to provide construction material for the construction and maintenance of various community infrastructures. All proposed project activities are located within the boundaries of the municipality of the Gjoa Haven, in the Kitikmeot region.

The Proponent originally requested a 20 year permitting period for the quarry permits. However, as per the *Commissioners Land Act, Section 31*, a quarry permit may not be issued for a period exceeding 12 months.

The proposed major activities for the program involve the following components:

- Excavation of granular materials and soils;
- Material hauling between sites;
- Crushing of granular materials; and
- Transport of granular materials from quarry sites to various locations in the community.

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.

¹ s. 51(1)

² 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.