



SCREENING DECISION REPORT
NIRB FILE NO.: 15TN012

AANDC File No.: N2015X0008

June 16, 2015

The Honorable Bernard Valcourt
Minister of Aboriginal Affairs and Northern Development
Aboriginal Affairs and Northern Development Canada
10 Rue Wellington
Gatineau, QC K1A 0H3

Sent via email: minister@aandc.gc.ca, bernard.valcourt@parl.gc.ca

Re: Screening Decision for Aziz Kheraj's "Ennadai Lake Lodge" Project Proposal, Kivalliq Region, NIRB File No. 15TN012

Dear Mr. Bernard Valcourt:

The primary objectives of the Nunavut Impact Review Board (NIRB) are set out in Section 12.2.5 of the Nunavut Land Claims Agreement (NLCA) as follows:

"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 NLCA 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 that the following or similar project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

1. Aziz Kheraj (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 NIRB (Nunavut Planning Commission Questionnaire, March 10, 2015; NIRB Part 1 Form, Oil Spill Contingency Plan and Abandonment and Restoration Plan, April 21, 2015; and NIRB Part 2 form, April 23, 2015)
4. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

Water Use

5. The Proponent shall not extract water from any fish-bearing waterbody unless the water intake hose is equipped with a screen of appropriate mesh size to ensure that there is no entrapment of fish. Small lakes or streams should not be used for water withdrawal unless approved by the Nunavut Water Board.
6. 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 Disposal/Incineration

7. The Proponent shall keep camp garbage and debris in covered metal container or equivalent and ensure that all such wastes are inaccessible to wildlife at all times.
8. 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.

9. The Proponent shall ensure that no waste oil/grease is incinerated on site.
10. The Proponent shall ensure that the incineration of combustible camp wastes comply with the *Canadian Wide Standards for Dioxins and Furans*, and the *Canadian Wide Standards for Mercury*.

Fuel and Chemical Storage

11. 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.
12. The Proponent shall ensure that re-fuelling of all equipment occurs a minimum of thirty-one (31) metres away from the high water mark of any water body.
13. The Proponent shall store all fuel and chemicals in such a manner that they are inaccessible to wildlife.
14. The Proponent shall use adequate secondary containment or a surface liner (e.g. self-supporting insta-berms and fold-a-tanks) at all refueling stations. Appropriate spill response equipment and clean-up materials (e.g., shovels, pumps, barrels, drip pans, and absorbents) must be readily available during any transfer of fuel or hazardous substances, as well as at vehicle-maintenance areas and at drill sites.
15. The Proponent shall remove and treat hydrocarbon contaminated soils on site or transport them to an approved disposal site for treatment.
16. The Proponent shall ensure that all personnel are properly trained in fuel and hazardous waste handling procedures, as well as spill response procedures. All spills of fuel or other deleterious materials of any amount must be reported immediately to the 24 hour Spill Line at (867) 920-8130.

Wildlife - General

17. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
18. 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.
19. 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.
20. The Proponent shall ensure that all project personnel are made aware of the measures to protect wildlife and are provided with training and/or advice on how to implement these measures.

Migratory Birds and Raptors Disturbance

21. The Proponent shall not disturb or destroy the nests or eggs of any birds. If nests are encountered and/or identified, the Proponent shall take precaution to avoid further interaction and or disturbance (e.g., a 100 metre buffer around the nests). If active nests of any birds are discovered (i.e. with eggs or young), the Proponent shall avoid these areas until nesting is complete and the young have left the nest.

22. The Proponent shall minimize activities during periods when birds are particularly sensitive to disturbance such as migration, nesting and moulting.
23. The Proponent shall avoid the seaward site of seabird colonies and areas used by flocks of migrating waterfowl by 3 kilometres.
24. The Proponent shall avoid excessive hovering or circling over areas where bird presence is likely.

Aircraft Flight Restrictions

25. Unless otherwise permitted the Proponent shall restrict aircraft/helicopter activity related to the project to a minimum altitude of 610 metres above ground level, which does not disturb wildlife and migratory birds.
26. The Proponent shall ensure that aircraft maintain a vertical distance of 1000 metres and a horizontal distance of 1500 metres from any observed groups (colonies) of migratory birds. Aircraft should avoid critical and sensitive wildlife areas at all times by choosing alternate flight corridors.
27. The Proponent shall ensure that aircraft/helicopter do not, unless for emergency, touch-down in areas where wildlife are present.
28. The Proponent shall advise all pilots of relevant flight restrictions and enforce their application over the project area, including flight paths to/from the project area.

Caribou and Muskoxen Disturbance

29. The Proponent shall cease activities that may interfere with the migration or calving of caribou or muskox, until the caribou or muskox have passed or left the area.
30. The Proponent shall not block or cause any diversion to caribou migration, and shall cease activities likely to interfere with migration such as movement of equipment or personnel until such time as the caribou have passed.
31. The Proponent shall not construct or operate any camp, including cache any fuel or conduct any operations within 5 km of any paths or crossings known to be designated caribou crossings.
32. During the period of May 15 to July 15, when caribou are observed, the Proponent shall suspend low-level over flights. Following July 15, if caribou cows or calves are observed, the Proponent shall suspend low-level over flights until caribou are no longer in the immediate area.

All-weather Road and Ground Disturbance

33. 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. Overland travel of equipment or vehicles must be suspended if rutting occurs.
34. The Proponent shall implement suitable erosion and sediment suppression measures on disturbed areas before, during and after construction in order to prevent sediment from entering any waterbody.
35. All construction and road vehicles must be fitted with standard and well-maintained noise suppression devices and engine idling is to be minimized.

Establishment of New Quarries

36. The Proponent shall clearly stake and flag pit and quarry boundaries so they remain visible to other land users.
37. The Proponent shall locate quarry/pit facilities so as to avoid all recreational sites and public use areas, and to protect unique geographical features and natural aesthetics.
38. The Proponent shall ensure there is no obstruction of natural drainage, flooding or channel diversion from quarry/pit access, stockpiles, or other structures or facilities.
39. The Proponent shall ensure that silt fences/curtains are installed down gradient of any quarry activities.
40. The Proponent shall maintain an undisturbed buffer zone between the periphery of quarry sites and the high water mark of any water body that is of an adequate distance to ensure erosion control.
41. The Proponent shall locate screening and crushing equipment on stable ground, at a location with ready access to stockpiles.
42. The Proponent shall use water or other non-toxic and biodegradable additives for dust suppression as necessary to maintain ambient air quality without causing water to pool or runoff.

Restoration of Disturbed Areas

43. The Proponent shall remove all garbage, fuel and equipment upon abandonment.
44. The Proponent shall complete all clean-up and restoration of the lands used prior to the end of each field season and/or upon abandonment of site.

Other

45. The Proponent should, to the extent possible, hire local people and to consult with local residents regarding their activities in the region.
46. The Proponent shall ensure that project activities do not interfere with Inuit wildlife harvesting or traditional land use activities.
47. Any activity related to this application, and outside the original scope of the project as described in the application, will be considered a new project and should be submitted to the NIRB for Screening.

MONITORING AND REPORTING REQUIREMENTS

In addition, the Board is recommending the following:

Caribou Viewing Authorization

1. The Proponent shall not commence viewing of caribou from the Qamanirjuaq herd without a "caribou viewing permit" or an exemption for the observation of wildlife. The Proponent shall submit copy of its caribou viewing permit or exemption authorization to the Nunavut Impact Review Board prior to undertaking activities in the proposed area. Additionally, the Proponent shall provide a copy of any wildlife mitigation or management plans to the NIRB, and further copies when updates are made thereafter, noting how the Proponent continued to

consult with Arviat Hunter and Trappers Organization (HTO) and implement HTO recommendations for minimizing impacts to caribou.

Archaeology

2. The Proponent shall not commence upgrades of the airstrip and development of gravel pit area without conducting Heritage Resource Impact Assessment (HRIA) in order to prevent or minimize potential Project-related effects on known heritage areas. The assessment should include locations (i.e. latitude and longitude) of where any archaeological sites and features are encountered relative to the project development area, including information on the participation of Ghotelnene K’Odtineh Dene in the HRIA. The results of the HRIA shall be submitted to the Nunavut Impact Review Board, Government of Nunavut-Department of Culture and Heritage, and Ghotelnene K’Odtineh Dene.

Fishing Licence

3. The Proponent shall ensure that all guests partaking in sport fishing activities during their stay at the lodge obtain fishing licences from the Government of Nunavut-Department of Environment.

Outfitting Licencing

4. The Proponent shall submit a copy of a new outfitting licence to the Nunavut Impact Review Board, with supporting documentations from Transport Canada confirming inspections and certifications of all vessels inclusive of the proposed new watercrafts (motor boats and kayaks) prior to commencing commercial recreation and tourism activities.

Abandonment and Restoration Plan

5. The Proponent shall submit a revised and final version of the Abandonment and Restoration Plan to the Nunavut Impact Review Board, Aboriginal Affairs and Northern Development Canada and Government of Nunavut- Department of Environment prior to undertaking activities in the potential development area. The revised Plan should include procedures for using native plant species for re-vegetation in order to eliminate risk of introducing invasive species to the area pursuant to the Wildlife Act.

Transport of Waste/Dangerous Goods

6. The Proponent shall ensure that waste manifest accompanies shipment of all waste oil/grease and is registered with the Government of Nunavut Department of Environment (GN-DoE). The Proponent shall contact the Manager of Pollution Control and Air Quality at (867) 975-7748 to obtain a manifest if hazardous waste will be generated during project activities.
7. The Proponent shall ensure that an export manifest or the appropriate transportation of dangerous goods (TDG) documentation accompany all potential hazardous samples and/or materials that are transported off site.

OTHER NIRB CONCERNS AND RECOMMENDATIONS

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

Bear and Carnivore Safety

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.cnr.gov.nt.ca/_live/documents/content/Bear_Safety.pdf. 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> 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>.

Incineration of Wastes

2. The Proponent review Environment Canada’s “Technical Document for Batch Waste Incineration”, available at the following link: <http://www.ec.gc.ca/gdd-mw/default.asp?lang=En&n=F53EDE13-1>. The technical document provides information on appropriate incineration technologies, best management and operational practices, monitoring and reporting.

Species at Risk

3. The Proponent review Environment Canada’s “Environment Assessment Best Practice Guide for Wildlife at Risk in Canada”, available at the following link: http://epe.lac-bac.gc.ca/100/200/301/environment_can/cws-scf/environmental_assessment-ef/ca_best_practices_2004_e.pdf. 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.

Migratory Birds

4. The Proponent review Canadian Wildlife Services’ “Key migratory bird terrestrial habitat sites in the Northwest Territories and Nunavut”, available at the following link: <http://publications.gc.ca/site/eng/317630/publication.html> and “Key marine habitat sites for migratory birds in Nunavut and the Northwest Territories”, available at the following link: <http://publications.gc.ca/site/eng/392824/publication.html>. The guide provides information to the Proponent on key terrestrial and marine habitat areas that are essential to the welfare of various migratory bird species in Canada.

Caribou Management

5. Territorial and federal government agencies in Nunavut should work together with Regional Inuit Associations, co-management boards and industry to develop an action plan to identify and mitigate potential cumulative effects of human land use activities, including mineral exploration, on barren-ground caribou. This assessment of cumulative effects should occur at a regional scale (i.e., larger than individual project areas).
6. Territorial and federal government agencies update the Caribou Protection Map with updated data and information from the Beverly Qamanirjuaq Caribou Management Board (BQCMB).

Aboriginal Affairs and Northern Development Canada

7. Aboriginal Affairs and Northern Development Canada (AANDC) impose mitigation measures, conditions and monitoring requirements pursuant to the Federal Land Use Permit,

which require the Proponent to respect the sensitivities and importance of the area. These mitigation measures, conditions and monitoring requirements should be in regard to the location and area; type, location, capacity and operation of facilities; use, storage, handling and disposal of chemical or toxic material; wildlife and fisheries habitat; and petroleum fuel storage.

8. AANDC 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.

Nunavut Water Board

9. The Nunavut Water Board (NWB) impose mitigation measures, conditions and monitoring requirements pursuant to the Water Licence, which require the Proponent to respect the sensitivities and importance of water in the area. These mitigation measures, conditions and monitoring requirements should be in regard to use of water, waste disposal; access infrastructure; quarrying operations; spill contingency planning; abandonment and restoration planning; and monitoring programs.

REGULATORY REQUIREMENTS

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

1. The *Fisheries Act* (<http://laws-lois.justice.gc.ca/eng/acts/F-14/index.html>).
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-lois.justice.gc.ca/eng/acts/M-7.01/>).
4. The *Species at Risk Act* (<http://laws-lois.justice.gc.ca/eng/acts/S-15.3/index.html>). Attached in Appendix B is a list of Species at Risk in Nunavut.
5. The *Wildlife Act* (<http://www.canlii.org/en/nu/laws/stat/snu-2003-c-26/latest/snu-2003-c-26.html>) 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-lois.justice.gc.ca/eng/acts/N-28.6/>). The Proponent must comply with the proposed terms and conditions listed in the attached Appendix C.
7. The *Transportation of Dangerous Goods Regulations*, *Transportation of Dangerous Goods Act* (<http://www.tc.gc.ca/eng/tdg/safety-menu.htm>), and the *Canadian Environmental Protection Act* (<http://laws-lois.justice.gc.ca/eng/acts/C-15.31>). The Proponent must ensure that proper shipping documents accompany all movements of dangerous goods. The Proponent must register with the Government of Nunavut, Department of Environment Manager of Pollution Control and Air Quality at 867-975-7748.

8. The *Aeronautics Act* (<http://laws-lois.justice.gc.ca/eng/acts/A-2/>).
9. The *Marine Liability Act* (<http://laws-lois.justice.gc.ca/eng/acts/M-0.7/>).
10. The *Navigation Protection Act (NPA)* (<http://laws-lois.justice.gc.ca/eng/acts/N-22/index.html>).
11. The Proponent shall undertake quarrying in accordance with the *Nunavut Mining Safety Ordinance* and the *Territorial Quarrying Regulations* (<http://www.canlii.org/en/ca/laws/regu/crc-c-1527/latest/crc-c-1527.html>) or equivalent.

Other Applicable Guidelines

12. The Proponent shall practice progressive reclamation in accordance with the restoration guidelines outlined in Aboriginal Affairs and Northern Development Canada's *Northern Land Use Guidelines Pits and Quarries* (<http://www.aadnc-aandc.gc.ca/eng/1100100023585>).

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 16, 2015 at Churchill, MB.



Elizabeth Copland, 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