

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. Qikiqtaaluk Corporation (the Proponent) shall maintain a copy of the *NIRB Screening Decision Report* at the site of operation at all times.
2. The Proponent shall ensure all employees, contractors and persons associated with the project are aware of the Proponent's obligations to mitigate impacts to the environment. This includes instructing all personnel on the provisions of the *Spill Contingency Plan*, the *Erosion, Drainage and Sediment Control Plan* and the Terms and Conditions contained within the *NIRB Screening Decision Report*.
3. 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.
4. The NIRB shall be notified of any changes in operating plans or conditions associated with the project prior to any such change.
5. The Proponent shall operate in accordance with all commitments stated in correspondence provided to NIRB (*Spill Contingency Plan* and *Erosion, Drainage and Sediment Control Plan*) and Government of Nunavut – Community and Government Services (Application for Land Use Permit).
6. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.
7. The Proponent shall ensure the residents of Clyde River are notified of the proposed works and advised of appropriate safety precautions. The Proponent shall ensure adequate signage is installed at the project area with safety precautions clearly stated in English and Inuktitut.

Water

8. 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.
9. The Proponent shall not extract water from any fish-bearing waterbodies unless the water intake hoses are equipped with a screens of appropriate mesh size to ensure that there is no entrapment of fish. Small lakes or streams should not be used for water withdrawal.

Physical Environment

10. 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. The Proponent shall suspend overland travel of equipment or vehicles if rutting occurs.
11. The Proponent shall ensure that any water crossings are located to minimize approach grades.
12. The Proponent shall stabilize approaches during construction and upon completion of the project to control run off, erosion and siltation into the water bodies.
13. The Proponent shall not stockpile materials, nor deposit any excavated materials within thirty (30) metres of the high water mark of any waterbody.
14. The Proponent shall avoid causing disturbances to natural drainage patterns or exposing permafrost. Any such disturbances must be repaired immediately.
15. The Proponent shall ensure areas impacted by construction are re-vegetated and restored to their original condition using native seed mixes.
16. The Proponent shall ensure all equipment is well-cleaned and free of contaminated materials, oil and grease.
17. The Proponent shall obtain gravel and fill materials only from approved sources, and must ensure all such materials are clean and free of contaminants prior to use.

Waste

18. The Proponent shall keep all garbage and debris in bags placed in a covered metal container or equivalent until disposed of at an approved facility. All wastes should be kept inaccessible to wildlife at all times.

Fuel and Chemical Storage

19. The Proponent shall locate all fuel and other hazardous materials more than 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.
20. The Proponent shall store all fuels and chemicals in such a manner that they are inaccessible to wildlife.
21. The Proponent shall inspect and document the condition of all large fuel caches (in excess of 20 drums) on a weekly basis.
22. The Proponent shall use secondary containment or a surface liner (drip pans, fold-a-tanks, etc) at all refueling spots.
23. The Proponent shall report all spills of fuel, or other deleterious materials immediately to the 24 hour Spill Line at (867) 920-8130.

Wildlife

24. The Proponent shall ensure that there is no damage to wildlife habitat as a result of project activities.
25. The Proponent shall not harass wildlife. This includes persistently worrying or chasing animals, or disturbing large groups of animals. Deliberate touching, feeding or enticing of wildlife with decoys or any such devices, foodstuffs or bait of any kind is absolutely prohibited. The Proponent shall not hunt or fish, unless proper Nunavut authorizations have been acquired.
26. The Proponent shall avoid raptor nesting sites and concentrations of nesting or moulting waterfowl at all times and ensure that there is minimal disturbance to any nesting birds, migratory birds and

wildlife in the area. If nests containing eggs or young are encountered, the Proponent shall avoid these areas until nesting is complete and the young have left the nest.

27. The Proponent shall cease activities that may interfere with migration or calving of caribou or muskox, until the caribou or muskox have passed or left the area.
28. The Proponent shall follow procedures outlined in the "Safety in Bear Country Manual", and should contact the Regional Biologist or the Wildlife Manager for information and advice on measures which should be taken to minimize the possibility of conflicts/interactions with bears.

Other Recommendations

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

Monitoring and Reporting Requirements

In addition, the Board is recommending the following:

1. The upstream migration of Arctic char in the Clyde River is known to occur during the late summer (August) in the project area. Therefore, the Proponent shall establish a monitoring program to ensure the upstream migration of Arctic char in Clyde River has ended before any in-stream work takes place. The Proponent shall consult with Fisheries and Oceans Canada (DFO) for expert advice on appropriate procedures and technique for the monitoring program. Monitoring should be implemented during the first week of September and continue until it is evident that char migration has been completed and after consultation with DFO.

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. *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 *Transportation of Dangerous Goods Regulations*, *Transportation of Dangerous Goods Act* (<http://www.tc.gc.ca/tdg/menu.htm>), and the *Environmental Protection Act* (<http://laws.justice.gc.ca/en/C-15.31/text.html>) The Proponent must ensure that proper shipping

documents accompany all movements of dangerous goods. The Proponent must register with the GN-DOE Manager of Pollution Control and Air Quality at 867-975-7748.

8. 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 _____ July 24, 2008 _____ at Sanikiluaq, NU.



Lucassie Arragutainaq, A/Chair

Appendix A

Procedural History and Project Activities

Procedural History

On June 18, 2008 the Nunavut Impact Review Board (NIRB) received Qikiqtaaluk Corp.'s "Road between Clyde River and Cape Christian" project proposal from the Government of Nunavut – Community and Government Services (GN-CGS). After consulting with the Nunavut Planning Commission it was determined that this project did not require a conformity determination. The NIRB assigned this project proposal file number **08RN070**.

This application was distributed to the community of Clyde River, interested Federal and Territorial Agencies, and Inuit Organizations. The NIRB requested that interested Parties review the application and provide NIRB with comments by July 18, 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 July 18, 2008, NIRB received comments from the following interested Parties (see Comments and Concerns):

- Municipality of Clyde River
- Clyde River Hunters' and Trappers' Organization
- Transport Canada
- Environment Canada
- Government of Nunavut – Department of Environment

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 proposed project is located within the Municipality of Clyde River, North Baffin region. Construction is proposed to begin in September 2008.

The proposed project activities include:

- Installation of a free-span bridge over the Clyde River
- Installation of culverts in shallow streams
- Grading of road between Clyde River and the former LORAN site at Cape Christian

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.