



SCREENING DECISION REPORT NIRB FILE NO.: 08RN070

DFO File No.: NU-08-0031
NWB File No.: 8BW-CLY0810

July 12, 2011

Honourable Lorne Kusugak
Minister of Community & Government Services
Government of Nunavut
Iqaluit, NU

Via email: lkusugak@gov.nu.ca & rsuwaksirok@gov.nu.ca

Re: Screening Decision for an Amendment to Oikiqtaaluk Corporation's "Clyde River Road & Bridge" project, with Additional Application Terms and Conditions, NIRB File No.: 08RN070

Dear Honourable Lorne Kusugak:

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 12.4.3 of the NLCA states that:

Any application for a component or activity of a project proposal that has been permitted to proceed in accordance with these provisions shall be exempt from the requirement for screening by NIRB unless:

- (a) such component or activity was not part of the original project proposal; or*
- (b) its inclusion would significantly modify the project.*

NIRB ASSESSMENT AND DECISION

The NIRB has completed a review of a land use permit application from the Government of Nunavut – Community and Government Services (GN-CGS) for Qikiqtaaluk Corporation’s (QC) “Road between Clyde River and Cape Christian – Road Abandonment Activities” project proposal in support of QC’s “Clyde River & Bridge” project (NIRB File No.: 08RN070)

After a thorough assessment of the original project proposal, the application information and the comments received (please see *Procedural History* and *Project Activities* in **Appendix A**), in accordance with Section 12.4.3 of the NLCA, the Board has determined that this request will result in a change to the original scope of the project. Therefore, the NIRB is re-issuing the recommended project-specific terms and conditions contained in the September 30, 2009 and the July 4, 2010 Screening Decision Reports (NIRB File No.: 08RN070) to the Ministers of Fisheries and Oceans Canada (DFO), and GN-CGS respectively in addition to new terms and conditions which are recommended to mitigate any potential impacts to the environment as per Section 12.4.4(a) of the NLCA.

PREVIOUSLY APPROVED PROJECT-SPECIFIC TERMS AND CONDITIONS

The following terms and conditions were previously approved by the NIRB for file 08RN070 in Screening Decision Reports issued to DFO dated September 30, 2009, and to GN-CGS dated July 4, 2010, and are available from NIRB’s ftp site using the following link:

<ftp://ftp.nirb.ca/01-SCREENINGS/COMPLETED%20SCREENINGS/>

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 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.
30. It is recommended that the Proponent work to better communicate the intentions and outcomes of project activities throughout the life of the project. The Proponent should also give appropriate notification to the Hamlet Council and residents of Clyde River if there are to be any changes in operating plans or conditions associated with the project prior to any change.
31. The Proponent shall consult with CLEY to establish whether all areas of proposed disturbance have been subject to an archaeological assessment, and shall perform this assessment if consultation with Public Works indicates the assessment had not been undertaken previously.

Quarrying

32. The Proponent shall clearly stake and flag pit and quarry boundaries, and shall maintain an undisturbed buffer zone of at least 100 metres between quarry site and any high water mark of any water body.
33. The Proponent shall properly 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.
34. The Proponent shall ensure the excavation slope of quarry sites have a horizontal/vertical ratio of 2 to 1 to ensure public safety.
35. The Proponent shall locate screening and crushing equipment on stable ground, at a location with ready access to stockpiles.
36. The Proponent shall ensure that overburden is disposed of in an orderly fashion near quarry sites, to facilitate remediation efforts.

NEW 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 *additional* project-specific terms and conditions be imposed upon the Proponent through all relevant legislation:

Road Decommissioning

1. The Proponent shall ensure that work is scheduled so as to avoid periods of heavy precipitation.
2. The Proponent shall ensure that all disturbed areas are restored to a self-sustaining condition that resembles as closely as possible its pre-disturbed state.
3. The Proponent shall ensure that erosion and sediment control structures (temporary matting, geotextile filter fabrics etc.) are installed prior to commencement of work. This is to prevent erosion and release of sediment and/or sediment laden water during removal of culverts and other road decommissioning activities. The erosion control structures are to be left in place until vegetation is re-established and/or all exposed soils are stabilized.
4. The Proponent shall not remove rocks from any watercourse or shoreline. Removal of rocks from these areas could destroy fish habitat and may result in charges under the Fisheries Act.
5. The Proponent shall employ appropriate dust suppression methods when required. The Proponent shall determine locations where water is to be applied. Waste oil is not to be used for dust control under any circumstances.
6. The Proponent shall remove all garbage and equipment upon completion of work.

MONITORING AND REPORTING REQUIREMENTS

The Board has previously recommended the following, and it is still valid for this amendment:

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.
2. The Proponent shall submit a comprehensive annual report with copies provided to the GN-CGS, DFO, Nunavut Water Board, and Government of Nunavut, Department of Culture, Language, Elders and Youth by March 31st of each year of permitted activities. The annual report must contain, but not limited to, the following information:
 - a. A summary of all activities and earthworks undertaken for the year.
 - b. A map showing the approximate location of roads, bridges and culverts.
 - c. A description of local hires and initiatives.

- d. Documentation of all consultation undertaken with the Hamlet Council of Clyde River, and the community of Clyde River (meaning the general public).
- e. Documentation outlining the result of consultation undertaken with CLEY regarding the archaeological assessment of all disturbed areas. A detailed description of how the Proponent has complied with Terms and Conditions contained within this Screening Decision Report and any subsequently approved Terms and Conditions.

OTHER NIRB CONCERNS AND RECOMMENDATIONS

The Board has previously recommended the following:

1. The proponent should ensure that the height of the bridge is sufficient to avoid damage during ice break-up in the spring.
2. All Authorizing Agencies shall notify the NIRB of any changes in operation plans or conditions associated with this project prior to any such change.

The Board is currently also recommending the following:

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.nwtwildlife.com/Publications/safetyinbearcountry/safety.htm>. 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/pn-np/nu/auyuittuq/pdf/PolarBearEnglish2007final.pdf>.
2. The Spill Contingency Plan should be updated to provide direction regarding response action for spills on various types of terrain (e.g. spills on land, water, snow/ice, etc.).

REGULATORY REQUIREMENTS

The Proponent has been previously 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 *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.

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 8, 2011 at Sanikiluaq, NU.



Lucassie Arragutainaq, 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

Appendix A **Procedural History and Project Activities**

On May 19, 2011, the Nunavut Impact Review Board (NIRB or Board) received Qikiqtaaluk Corporation's (QC) "Road between Clyde River and Cape Christian – Road Abandonment Activities" project proposal from the Government of Nunavut Department of Community and Government Services (GN-CGS). This project proposal consists of the decommissioning of the road between Clyde River and the former LORAN site in Cape Christian, and is a component of QC's "Clyde River Road & Bridge" project, previously screened by the Board (NIRB File No.: 08RN070). On June 9, 2011, the NIRB received confirmation from the Nunavut Planning Commission that the previous conformity determination (North Baffin Regional Land Use Plan) made related to the original project application was to be applied to the current application.

Original Project

The original project proposal (NIRB File No.: 08RN070) was received by the NIRB from GN-CGS on June 18, 2008 and screened in accordance with Article 12, Part 4 of the Nunavut Land Claims Agreement. On July 24, 2008, the NIRB issued a 12.4.4 (a) screening decision to the Minister of GN-CGS indicating the proposed project could proceed subject to NIRB's recommended project-specific terms and conditions. Activities proposed included:

- 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

On September 14, 2009, the NIRB received an application from the Department of Fisheries and Oceans Canada (DFO) for an amendment to QC's "Clyde River Road and Bridge" project (NIRB File No.: 08RN070). After a thorough assessment of the amendment application, including comments received from the public, the NIRB re-issued the original terms and conditions (July 24, 2008), along with additional terms and conditions as outlined in a September 30, 2009, Screening Decision Report to the Minister of DFO. Activities proposed included:

- Installation of two (2) culverts in an unnamed stream

On May 13, 2010, the NIRB received a quarry permit application from GN-CGS in support of QC's "Clyde River Road and Bridge" project (NIRB File No.: 08RN070). After a thorough assessment of the amendment application, including comments received from the public, the NIRB determined that the request would result in a change to the original scope of the project and re-issued the original terms and conditions (July 24, 2008), along with additional terms and conditions as outlined in the enclosed July 4, 2010 Screening report to the Minister of GN-CGS. Activities proposed included:

- Developing a number of quarries along the road in support of the project.

The Proposed Amendment

QC has completed the remediation works at the Cape Christian site and is now proposing to decommission the road between the Hamlet of Clyde River and Cape Christian. The proposed activities will include the following:

- Removal of all culverts and re-establishing of pre-existing drainage courses along the road;
- Using bulldozers and other heavy equipment to re-grade the road to its original ground profile;
- Scarifying disturbed surfaces to promote natural vegetation cover;
- Backfilling trenches and ditches;
- Disposal of non-recyclable inert materials at municipal landfill in Clyde River; and
- Disposal of all sewage and greywater at municipal treatment facilities in Clyde River.

The proposed activities are scheduled from July to September 2011.

Public Commenting

As the proposed road decommissioning activities will result in a change in the original scope of the project, this application was distributed to community organizations in Clyde River, as well as to relevant federal and territorial government agencies, and Inuit organizations. The NIRB requested that interested parties review the proposal and provide the Board with any comments or concerns by July 4, 2011 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, (providing any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before July 4, 2011, the NIRB received comments from the following interested parties:

- Environment Canada

All comments provided to NIRB regarding this project proposal can be viewed on NIRB's ftp-site at the following location:

<ftp://ftp.nirb.ca/SCREENINGS/COMPLETED%20SCREENINGS/>

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: August 4, 2009

Species at Risk	COSEWIC Designation	Schedule of SARA	Government Organization with Lead Management Responsibility ¹
Eskimo Curlew	Endangered	Schedule 1	EC
Ivory Gull	Endangered	Schedule 1	EC
Ross’s Gull	Threatened	Schedule 1	EC
Harlequin Duck (Eastern population)	Special Concern	Schedule 1	EC
Rusty Blackbird	Special Concern	Schedule 1	Government of Nunavut
Felt-leaf Willow	Special Concern	Schedule 1	Government of Nunavut
Peregrine Falcon (<i>anatum-tundrius</i> complex)	Special Concern	Schedule 1 (<i>anatum</i>) Schedule 3 (<i>tundrius</i>)	Government of Nunavut
Short-eared Owl	Special Concern	Schedule 3	Government of Nunavut
Peary Caribou	Endangered	Pending	Government of Nunavut
Beluga Whale (Eastern Hudson Bay population)	Endangered	Pending	DFO
Red Knot (<i>rufa</i> subspecies)	Endangered	Pending	EC

Beluga Whale (Cumberland Sound population)	Threatened	Pending	DFO
Atlantic Cod (Arctic population)	Special Concern	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 (Eastern Canada – West Greenland population)	Special Concern	Pending	DFO
Killer Whale (Northwest Atlantic / Eastern Arctic populations)	Special Concern	Pending	DFO
Porsild's Bryum	Threatened	Pending	Government of Nunavut
Atlantic Walrus	Special Concern	Pending	DFO
Narwhal	Special Concern	Pending	DFO
Red Knot (<i>islandica</i> subspecies)	Special Concern	Pending	EC
Horned Grebe (Western population)	Special Concern	Pending	EC
Barren-ground Caribou (Dolphin and Union population)	Special Concern	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 (EC) 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. The Department of Fisheries and Oceans (DFO) has responsibility for management of aquatic species.



Appendix C

Archaeological and Palaeontological Resources Terms and Conditions for Land Use Permit Holders



INTRODUCTION

The Department of Culture, Language, Elders and Youth (CLEY) routinely reviews land use applications sent to the Nunavut Water Board, Nunavut Impact Review Board and the Department of Indian and Northern Affairs Canada. These terms and conditions provide general direction to the permittee/proponent regarding the appropriate actions to be taken to ensure the permittee/proponent carries out its role in the protection of Nunavut's archaeological and palaeontological resources.

TERMS AND CONDITIONS

- 1) The permittee/proponent shall have a professional archaeologist and/or palaeontologist perform the following **Functions** associated with the **Types of Development** listed below or similar development activities:

	Types of Development (See Guidelines below)	Function (See Guidelines below)
a)	Large scale prospecting	Archaeological/Palaeontological Overview Assessment
b)	Diamond drilling for exploration or geotechnical purpose or planning of linear disturbances	Archaeological/ Palaeontological Inventory
c)	Construction of linear disturbances, Extractive disturbances, Impounding disturbances and other land disturbance activities	Archaeological/ Palaeontological Inventory or Assessment or Mitigation

Note that the above-mentioned functions require either a Nunavut Archaeologist Permit or a Nunavut Palaeontologist Permit. CLEY is authorized by way of the *Nunavut and Archaeological and Palaeontological Site Regulations*¹ to issue such permits.

- 2) The permittee/proponent shall not operate any vehicle over a known or suspected archaeological or palaeontological site.
- 3) The permittee/proponent shall not remove, disturb, or displace any archaeological artifact or site, or any fossil or palaeontological site.
- 4) The permittee/proponent shall immediately contact CLEY at (867) 934-2046 or (867) 975-5500 should an archaeological site or specimen, or a palaeontological site or fossil, be encountered or disturbed by any land use activity.
- 5) The permittee/proponent 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 CLEY.
- 6) The permittee/proponent shall follow the direction of CLEY in restoring disturbed archaeological or palaeontological sites to an acceptable condition. If these conditions are attached to either a Class A or B Permit under the Territorial Lands Act INAC's directions will also be followed.
- 7) The permittee/proponent shall provide all information requested by CLEY concerning all archaeological sites or artifacts and all palaeontological sites and fossils encountered in the course of any land use activity.
- 8) The permittee/proponent shall make best efforts to ensure that all persons working under its authority are aware of these conditions concerning archaeological sites and artifacts and palaeontological sites and fossils.
- 9) If a list of recorded archaeological and/or palaeontological sites is provided to the permittee/proponent by CLEY as part of the review of the land use application the permittee/proponent shall avoid the archaeological and/or palaeontological sites listed.
- 10) Should a list of recorded sites be provided to the permittee/proponent, the information is provided solely for the purpose of the proponent's land use activities as described in the land use application, and must otherwise be treated confidentially by the proponent.

LEGAL FRAMEWORK

As stated in Article 33 of the *Nunavut Land Claims Agreement*:

Where an application is made for a land use permit in the Nunavut Settlement Area, and there are reasonable grounds to believe that there could be sites of archaeological importance on the lands affected, no land use permit shall be issued without written consent of the Designated Agency. Such consent shall not be unreasonably withheld. [33.5.12]

¹ P.C. 2001-1111 14 June, 2001

Each land use permit referred to in Section 33.5.12 shall specify the plans and methods of archeological site protection and restoration to be followed by the permit holder, and any other conditions the Designated Agency may deem fit. [33.5.13]

Palaeontology and Archaeology

Under the *Nunavut Act*², the federal government can make regulations for the protection, care and preservation of palaeontological and archaeological sites and specimens in Nunavut. Under the *Nunavut Archaeological and Palaeontological Sites Regulations*³, it is illegal to alter or disturb any palaeontological or archaeological 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:

“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:

Fossil means the hardened or preserved remains or impression of previously living organisms or vegetation and includes:

- (a) natural casts;*
- (b) preserved tracks, coprolites and plant remains; and*
- (c) the preserved shells and exoskeletons of invertebrates and the preserved eggs, teeth and bones of vertebrates*

² s. 51(1)

³ P.C. 2001-1111 14 June, 2001

GUIDELINES FOR DEVELOPERS FOR THE PROTECTION OF ARCHAEOLOGICAL RESOURCES IN THE NUNAVUT TERRITORY

(NOTE: Partial document only, complete document at: <http://gov.nu.ca/cley/english/arch.html>)

Introduction

The following guidelines have been formulated to ensure that the impacts of proposed developments upon heritage resources are assessed and mitigated before ground surface altering activities occur. Heritage resources are defined as, but not limited to, archaeological and historical sites, burial grounds, palaeontological sites, historic buildings and cairns. Effective collaboration between the developer, the Department of Culture, Language, Elders and Youth (CLEY), and the contract archaeologist(s) will ensure proper preservation of heritage resources in the Nunavut Territory. The roles of each are briefly described.

CLEY is the Nunavut Government agency which oversees the protection and management of heritage resources in Nunavut, in partnership with land claim authorities, regulatory agencies, and the federal government. Its role in mitigating impacts of developments on heritage resources is as follows: to identify the need for an impact assessment and make recommendations to the appropriate regulatory agency; set the terms of reference for the study depending upon the scope of the development; suggest the names of qualified individuals prepared to undertake the study to the developer; issue an archaeologist or palaeontologist permit authorizing field work; assess the completeness of the study and its recommendations; and ensure that the developer complies with the recommendations.

The primary regulatory agencies that CLEY provides information and assistance to are the Nunavut Impact Review Board, for development activities proposed for Inuit Owned Lands (as defined in Section 1.1.1 of the Nunavut Land Claims Agreement), and the Department of Indian and Northern Affairs, for development activities proposed for federal Crown Lands.

A developer is the initiator of a land use activity. It is the obligation of the developer to ensure that a qualified archaeologist or palaeontologist is hired to perform the required study and that provisions of the contract with the archaeologist or palaeontologist allow permit requirements to be met; i.e. fieldwork, collections management, artifact and specimen conservation, and report preparation. On the recommendation of the contract archaeologist or palaeontologist in the field and the Government of Nunavut, the developer shall implement avoidance or mitigative measures to protect heritage resources or to salvage the information they contain through excavation, analysis, and report writing. The developer assumes all costs associated with the study in its entirety.

Through his or her active participation and supervision of the study, the contract archaeologist or palaeontologist is accountable for the quality of work undertaken and the quality of the report produced. Facilities to conduct fieldwork, analysis, and report preparation should be available to this individual through institutional, agency, or company affiliations. Responsibility for the curation of objects recovered during field work while under study and for documents generated in the course of the study as well as remittance of artifacts, specimens and documents to the

repository specified on the permit accrue to the contract archaeologist or palaeontologist. This individual is also bound by the legal requirements of the *Nunavut Archaeological and Palaeontological Sites Regulations*.

Types of Development

In general, those developments that cause concern for the safety of heritage resources will include one or more of the following kinds of surface disturbances. These categories, in combination, are comprehensive of the major kinds of developments commonly proposed in Nunavut. For any single development proposal, several kinds of these disturbances may be involved

- *Linear disturbances: including the construction of highways, roads, winter roads, transmission lines, and pipelines;*
- *Extractive disturbances: including mining, gravel removal, quarrying, and land filling;*
- *Impoundment disturbances: including dams, reservoirs, and tailings ponds;*
- *Intensive land use disturbances: including industrial, residential, commercial, recreational, and land reclamation work, and use of heritage resources as tourist developments.*
- *Mineral, oil and gas exploration: establishment of camps, temporary airstrips, access routes, well sites, or quarries all have potential for impacting heritage resources.*

Types of Studies Undertaken to Preserve Heritage Resources

Overview: An overview study of heritage resources should be conducted at the same time as the development project is being designed or its feasibility addressed. They usually lack specificity with regard to the exact location(s) and form(s) of impact and involve limited, if any, field surveys. Their main aim is to accumulate, evaluate, and synthesize the existing knowledge of the heritage of the known area of impact. The overview study provides managers with baseline data from which recommendations for future research and forecasts of potential impacts can be made. A Class I Permit is required for this type of study if field surveys are undertaken.

Reconnaissance: This is done to provide a judgmental appraisal of a region sufficient to provide the developer, the consultant, and government managers with recommendations for further development planning. This study may be implemented as a preliminary step to inventory and assessment investigations except in cases where a reconnaissance may indicate a very low or negligible heritage resource potential. Alternately, in the case of small-scale or linear developments, an inventory study may be recommended and obviate the need for a reconnaissance.

The main goal of a reconnaissance study is to provide baseline data for the verification of the presence of potential heritage resources, the determination of impacts to these resources, the generation of terms of reference for further studies and, if required, the advancement of

preliminary mitigative and compensatory plans. The results of reconnaissance studies are primarily useful for the selection of alternatives and secondarily as a means of identifying impacts that must be mitigated after the final siting and design of the development project. Depending on the scope of the study, a Class 1 or Class 2 Permit is required for this type of investigation.

Inventory: A resource inventory is generally conducted at that stage in a project's development at which the geographical area(s) likely to sustain direct, indirect, and perceived impacts can be well defined. This requires systematic and intensive fieldwork to ascertain the effects of all possible and alternate construction components on heritage resources. All heritage sites must be recorded on Government of Nunavut Site Survey forms. Sufficient information must be amassed from field, library and archival components of the study to generate a predictive model of the heritage resource base that will:

- allow the identification of research and conservation opportunities;
- enable the developer to make planning decisions and recognize their likely effects on the known or predicted resources; and
- make the developer aware of the expenditures, which may be required for subsequent studies and mitigation. A Class 1 or 2 permit is required

Assessment: At this stage, sufficient information concerning the numbers and locations of heritage resources will be available, as well as data to predict the forms and magnitude of impacts. Assessments provide information on the size, volume, complexity and content of a heritage resource, which is used to rank the values of different sites or site types given current archaeological knowledge. As this information will shape subsequent mitigation program(s), great care is necessary during this phase.

Mitigation: This refers to the amelioration of adverse impacts to heritage resources and involves the avoidance of impact through the redesign or relocation of a development or its components; the protection of the resource by constructing physical facilities; or, the scientific investigation and recovery of information from the resource by excavation or other method. The type(s) of appropriate mitigative measures are dictated by their viability in the context of the development project. Mitigation strategies must be developed in consultation with, and approved by, the Department of Culture, Language, Elders and Youth. It is important to note that mitigation activities should be initiated as far in advance of the construction of the development as possible.

Surveillance and monitoring: These may be required as part of the mitigation program.

Surveillance may be conducted during the construction phase of a project to ensure that the developer has complied with the recommendations.

Monitoring involves identification and inspection of residual and long-term impacts of a development (i.e. shoreline stability of a reservoir); or the use of impacts to disclose the presence of heritage resources, for example, the uncovering of buried sites during the construction of a pipeline.