



Environmental Protection Operations Directorate
Prairie & Northern Region
5019 52nd Street, 4th Floor
P.O. Box 2310
Yellowknife, NT X1A 2P7

January 12, 2017

ECCC File: 6100 000 169 /001
NIRB File: 15EN028

Donna Tikhak
Environmental Administrator
Nunavut Impact Review Board
P.O. Box 1360
Cambridge Bay, NU X0B 0C0

Via email: info@nirb.ca

RE: 15EN028 – Dunnedin Venture Inc. – Kahuna Diamond Exploration – NIRB Screening

Attention: Donna Tikhak

Environment and Climate Change Canada (ECCC) has reviewed the information submitted to the Nunavut Impact Review Board (NIRB) regarding the above-mentioned screening. ECCC's specialist advice is provided based on our mandate, in the context of the *Canadian Environmental Protection Act*, the pollution prevention provisions of the *Fisheries Act*, the *Migratory Birds Convention Act*, and the *Species at Risk Act*.

The following comments are provided:

1. In the Environment and Wildlife Management Plan (Appendix D), Section 3.1 Table 1, a list of species or groups of species of most concern is listed by Dunnedin Ventures Inc. (the Proponent). ECCC notes that two species with special conservation status are missing from the table: Red-necked Phalarope and Short-eared Owl. Red-neck Phalarope is identified as a species of special concern from the the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). Short-Eared Owl is also identified as a species of special concern by COSEWIC and is listed on Schedule 1 of the *Species at Risk Act* (SARA).

Subsection 79 (2) of SARA states that during an assessment of a project, the adverse effects of the project on listed wildlife species and their critical habitat must be identified, that measures are taken to avoid or lessen those effects, and that the effects need to be monitored. This subsection applies to all species listed on Schedule 1 of SARA. However, as a matter of best practice, ECCC suggests that similar consideration be given to species on other Schedules of SARA and under consideration for listing on SARA, including those designated as "at risk" by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC). Project impacts could include species disturbance and attraction to operations.

ECCC recommends that Red-necked Phalarope and Short-eared Owl be added to Table 1 in section 3.1 of Appendix D and that measures be taken by the Proponent to avoid disturbance to Species at Risk.

2. On p.12 of Appendix A Project description, under Bulk Sampling, the Proponent states that "Should it be required, several of these kimberlites sites selected for bulk sampling could be accessed in the summer as these sites are well away from any water or drainages". ECCC notes that bulk sampling activities during the summer would result in vegetation clearing during the migratory bird nesting period which extends from **mid-May to mid-August** in the project area. This could result in the incidental take of migratory birds, their eggs or nests. The general nesting period covers most federally protected migratory bird species, but may not include the complete nesting period for species under territorial jurisdiction (such as jays, owls, hawks and blackbirds).

Paragraph 6(a) of the *Migratory Bird Regulations* states that no one shall disturb or destroy the nests or eggs of migratory birds. Migratory birds, the nests of migratory birds and/or their eggs can be inadvertently harmed or disturbed as a result of many activities including but not limited to clearing trees and other vegetation, draining or flooding land, or using fishing gear. The inadvertent harming, killing, disturbance or destruction of migratory birds, nests and eggs is known as **incidental take**. Incidental take, in addition to harming individual birds, nests or eggs, can have long-term consequences for migratory bird populations in Canada, especially through the cumulative effects of many different incidents. If active nests are encountered during project activities, the nesting area should be avoided until nesting is complete (i.e., the young have naturally left the vicinity of the nest). For further information on how to protect migratory birds and their nests and eggs when planning or carrying out project activities, consult ECCC's web page at: www.ec.gc.ca/paom-itmb/ for general guidance on avoidance of incidental take of migratory birds and the linked fact sheet "Planning Ahead to Reduce the Risk of Detrimental Effects to Migratory Birds, and their Nests and Eggs".

In order to reduce potential effects on migratory birds, ECCC recommends that the Proponent not conduct any clearing activities during the migratory bird nesting season.

Should you require further information, please do not hesitate to contact me at (867) 669-4746 or Gabriel.Bernard-Lacaille@canada.ca.

Sincerely,



Gabriel Bernard-Lacaille
Environmental Assessment Coordinator

cc: Melissa Pinto, Senior Environmental Assessment Coordinator
Georgina Williston, Head, Environmental Assessment North (NT and NU)