



## SCREENING DECISION REPORT NIRB FILE No.: 19AN008

NPC File No.: 148982

**April 16, 2019**

Following the Nunavut Impact Review Board's (NIRB or Board) assessment of all materials provided, the NIRB is recommending that a review of Silverback Films Ltd. "BBC Perfect Planet – Ahiak Migratory Bird Sanctuary (Karrak Lake) – Arctic Foxes" is not required pursuant to Article 12, Section 12.4.4(a) of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)* and s. 92(1)(a) of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*).

Subject to the Proponent's compliance with the terms and conditions as set out in below, the NIRB is of the view that the project proposal is not likely to cause significant public concerns, and it is unlikely to result in significant adverse environmental and social impacts. The NIRB therefore recommends that the responsible Ministers accepts this Screening Decision Report.

### OUTLINE OF SCREENING DECISION REPORT

- 1) REGULATORY FRAMEWORK
- 2) PROJECT REFERRAL
- 3) PROJECT OVERVIEW & THE NIRB ASSESSMENT PROCESS
- 4) ASSESSMENT OF THE PROJECT PROPOSAL IN ACCORDANCE WITH PART 3 OF *NuPPAA*
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## REGULATORY FRAMEWORK

The primary objectives of the NIRB are set out in Article 12, Section 12.2.5 of the *Nunavut Agreement* and are confirmed by s. 23 of the *NuPPAA*:

*Nunavut Agreement*, Article 12, Section 12.2.5: 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.

The purpose of screening is provided for under Article 12, Section 12.4.1 of the *Nunavut Agreement* and s. 88 of the *NuPPAA* which states:

*NuPPAA*, s. 88: The purpose of screening a project is to determine whether the project has the potential to result in significant ecosystemic or socio-economic impacts and, accordingly, whether it requires a review by the Board...

To determine whether a review of a project is required, the NIRB is guided by the considerations as set out under Article 12, Section 12.4.2(a) and (b) of the *Nunavut Agreement* and s. 89(1) of *NuPPAA* which states:

*NuPPAA*, s. 89(1): The Board must be guided by the following considerations when it is called on to determine, on the completion of a screening, whether a review of the project is required:

- (a) a review is required if, in the Board's opinion,
  - i. the project may have significant adverse ecosystemic or socio-economic impacts or significant adverse impacts on wildlife habitat or Inuit harvest activities,
  - ii. the project will cause significant public concern, or
  - iii. the project involves technological innovations, the effects of which are unknown; and
- (b) a review is not required if, in the Board's opinion,
  - i. the project is unlikely to cause significant public concern, and
  - ii. its adverse ecosystemic and socioeconomic impacts are unlikely to be significant, or are highly predictable and can be adequately mitigated by known technologies.

It is noted that under Article 12, Section 12.4.2(c) and s. 89(2) of the *NuPPAA* provides that the considerations set out in s.89(1)(a) prevail over the considerations set out in s. 89(1)(b) of the *NuPPAA*.

As set out under Article 12, Section 12.4.4 of the *Nunavut Agreement* and s. 92(1) of the *NuPPAA*, upon conclusion of the screening process, the Board must provide its written report the Minister. The contents of the NIRB's report are specified under *NuPPAA*:

*NuPPAA*, s. 92(1): The Board must submit a written report to the responsible Minister containing a description of the project that specifies its scope and indicating that:

- (a) a review of the project is not required;
- (b) a review of the project is required; or
- (c) the project should be modified or abandoned.

Where the NIRB determines that a project may be carried out without a review, the NIRB has the discretion to recommend specific terms and conditions to be attached to any approval of the project proposal pursuant to paragraph 92(2)(a) of *NuPPAA* as follows:

*NuPPAA*, s. 92(2) In its report, the Board may also

- (a) recommend specific terms and conditions to apply in respect of a project that it determines may be carried out without a review.

## PROJECT REFERRAL

On January 15, 2019 the Nunavut Impact Review Board (NIRB or Board) received a referral to screen Silverback Films Ltd.'s "BBC Perfect Planet – Ahiak Migratory Bird Sanctuary (Karrak Lake) – Arctic Foxes" project proposal from the Nunavut Planning Commission (NPC or Commission), which noted that the project proposal is outside the area of an applicable regional land use plan.

Pursuant to Article 12, Sections 12.4.1 and 12.4.4 of the *Nunavut Agreement* and s. 87 of the *NuPPAA*, the NIRB commenced screening this project proposal and assigned it file number **19AN008**.

## PROJECT OVERVIEW & THE NIRB ASSESSMENT PROCESS

### 1. Information Requests and Suspension of Assessment

On January 16, 2019 the NIRB requested that the Proponent complete the online application form through the NIRB's public registry system and ensure, pursuant to s. 144(1) of the *NuPPAA*, that the information provided be sufficient to determine the scope of the project activities being proposed and that sufficient information has been provided to commence screening. On February 12, 2019 the NIRB followed up with the Proponent requesting an online application and later that day received the required additional information and commenced the screening pursuant to Part 3 of the *NuPPAA*.

### 2. Project Scope

All documents received and pertaining to this project proposal can be accessed from the NIRB's online public registry at [www.nirb.ca/project/125436](http://www.nirb.ca/project/125436).

The proposed "BBC Perfect Planet – Ahiak Migratory Bird Sanctuary (Karrak Lake) - Arctic Foxes" project is located within the Kitikmeot region, approximately 232 kilometres (km) southwest of Gjoa Haven and approximately 285 km southeast of Cambridge Bay. The Proponent intends to film and document how animals cope with periods of perpetual sunlight by focusing on

arctic fox pups during their first initial weeks and any predatory activities on snow geese nests in the area. The program is proposed to take place from May to July 2019.

As required under s. 86(1) of the *NuPPAA*, the Board accepts the scope of the “BBC Perfect Planet – Ahiak Migratory Bird Sanctuary (Karrak Lake) – Arctic Foxes” project as set out by Silverback Films Ltd. in the proposal. The scope of the project proposal includes the following undertakings, works, or activities:

- Filming arctic foxes and pups around active dens to document their activities and the pups in their first few weeks;
- Filming of snow geese nests around Karrak Lake with the aim to film predatory activities by arctic foxes and other opportunistic predators;
- Opportunistic filming of other wildlife such as caribou, grizzly bear, and muskox;
- Use of an unmanned air vehicle (UAV) for filming of scenic landscapes and nesting goose colonies to showcase scale;
- Travel on foot and use of small boats owned by Karrak Lake Research Station to access fox dens;
- Use of accommodations, facilities and equipment at the Karrak Lake Research Station; and
- Use of Polar Continental Shelf Program charter to transport personnel between Cambridge Bay and the Karrak Lake Research Station.

### 3. Inclusion or Exclusion to Scoping List

At this time, the NIRB has identified no additional works or activities in relation to the project proposal. As a result, the NIRB will proceed with screening the project based on the scope as described above. However, the NIRB notes that the camp and other activities at Karrak Lake have been previously approved under NIRB File No. 01LN055 and that the Proponent would be required to also abide by the terms and conditions issued for NIRB File No. 01LN055.

### 4. Key Stages of the Screening Process

The following key stages were completed:

Date	Stage
January 16, 2019	Receipt of project proposal and positive referral from the NPC
January 16, 2019 & February 8, 2019	Information requests
February 12, 2019	Proponent responded to information request
February 12, 2019	Scoping pursuant to s. 86(1) of the <i>NuPPAA</i>
February 15, 2019	Public engagement and comment request
March 8, 2019	Receipt of public comments
March 15, 2019	Ministerial extension requested from the Minister of Environment and Climate Change and the Minister of Transport

### 5. Public Comments and Concerns

Notice regarding the NIRB’s screening of this project proposal was distributed on February 15, 2019 to community organizations in Cambridge Bay and Gjoa Haven, as well as to relevant federal and territorial government agencies, Inuit organizations and other parties. The NIRB requested

that interested parties review the proposal and provide the Board with any comments or concerns by March 8, 2019 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 or socio-economic effects; and if so, why;
- Whether the project proposal is likely to cause significant adverse impacts on wildlife habitat or Inuit harvest activities; and if so, why;
- Whether the project proposal is of a type where the potential adverse effects are highly predictable and mitigable with known technology, (and providing any recommended mitigation measures); and
- Any matter of importance to the Party related to the project proposal.

On or before March 8, 2019 the NIRB received comments from the following interested parties (see Summary of Comments and Concerns section below):

- **Government of Nunavut (GN)**
- **Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)**
- **Environment and Climate Change Canada (ECCC)**
- **Fisheries and Oceans Canada (DFO)**

*a. Summary of Public Comments and Concerns Received during the Public comment period of this file*

The following provides a summary of the comments and concerns received by the NIRB:

**Government of Nunavut (GN)**

- Recommended that the applicant avoid conducting activities in the vicinity (50 m buffer zone) of archaeological/historical sites as they are not to disturb or alter archaeological sites. If archaeological sites or features are encountered, activities should immediately be interrupted and moved away from this location and refrain from removing artifacts or building inuksuit.
- Ensure that wildlife will not be harassed or disturbed by maintaining a minimum aircraft flight altitude of 610 m above ground level and 600 m horizontal distance from caribou as well as cease project activities during periods of caribou migration, calving, and post-calving.
- Apply for a Wildlife Observation Licence following Project approval.

**Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC)**

- Recommended that the Proponent provide information regarding any concerns and outcomes raised by the Ekaluktutiak HTO, Gjoa Haven HTO, and Umingmaktok HTO as a result of the communications that took place on January 15, 2019 including what information was shared to these organizations and the means of communication (e.g., teleconference, email, etc.).
- Recommended that the Proponent continue engaging with the identified HTO's as well as the Hamlets of Cambridge Bay and Gjoa Haven to discuss the project proposal and any

concerns raised by community members. The Proponent should also consider in-person meetings with community members when travelling through Cambridge Bay.

- The Proponent should consider hiring members from the communities of Cambridge Bay and Gjoa Haven to assist with their project activities.
- Recommended that NIRB include terms and conditions related to:
  1. Fuel and hazardous materials, storage and use; and
  2. Waste management practices.

## **Environment and Climate Change Canada (ECCC)**

- Had no comments at this time.

## **Fisheries and Oceans Canada (DFO)**

- Determined that the Project is not likely to cause serious harm to fish or impacts to aquatic species at risk.

### ***a. Comments and Concerns with respect to Inuit Qaujimaningit, Traditional, and Community Knowledge***

No concerns or comments were received with respect to Inuit Qaujimaningit or traditional and community knowledge in relation to the proposed project.

## **6. Time of Report Extension**

As a result of the time required to allow the Board sufficient time to review the project proposal, the NIRB was not able to provide its screening decision report to the responsible Minister within 45 days as required by Article 12, Section 12.4.5 of the *Nunavut Agreement* and s. 92(3) of the *NuPPAA*. Therefore, on March 15, 2019 the NIRB wrote to the Minister of Environment and Climate Change and the Minister of Transport, Government of Canada, seeking an extension to the 45-day timeline for the provision of the Board's Report.

### **ASSESSMENT OF THE PROJECT PROPOSAL IN ACCORDANCE WITH PART 3 OF *NuPPAA***

In determining whether a review of the project is required, the Board considered whether the project proposal had potential to result in significant ecosystemic or socio-economic impacts.

Accordingly, the assessment of impact significance was based on the analysis of those factors that are set out under s. 90 of the *NuPPAA*. The Board took particular care to take into account Inuit Qaujimaningit, traditional and community knowledge in carrying out its assessment and determination of the significance of impacts.

The following is a summary of the Board's assessment of the factors that are relevant to the determination of significant impacts with respect of this project proposal:

Factor	Comment
The size of the geographic area, including the size of wildlife habitats, likely to be affected by the impacts.	<ul style="list-style-type: none"> <li>▪ The proposed project would be carried out approximately 232 km from Gjoa Haven, approximately 285 km from Cambridge Bay and within the boundaries of the Ahiak (Queen Maud Gulf) Migratory Bird Sanctuary.</li> <li>▪ Proposed activities may take place within the habitat of caribou, foxes, muskox, grizzly bears, migratory and non-migratory birds and Species at Risk such as Red Knot and Ross's Gull.</li> <li>▪ The proposed Project area may overlap with caribou calving grounds and may potentially affect wildlife migratory routes.</li> </ul>
The ecosystemic sensitivity of that area.	<ul style="list-style-type: none"> <li>▪ The proposed project would occur within the Ahiak (Queen Maud Gulf) Migratory Bird Sanctuary.</li> </ul>
The historical, cultural and archaeological significance of that area.	<ul style="list-style-type: none"> <li>▪ The Proponent has indicated in their NIRB application that there are many Inuit artifacts in the region, however no specific areas of historical, cultural and archaeological significance have been identified by the Proponent or parties within the physical footprint of the proposed project.</li> </ul>
The size of the human and the animal populations likely to be affected by the impacts.	<ul style="list-style-type: none"> <li>▪ The proposed project is within the Ahiak (Queen Maud Gulf) Migratory Bird Sanctuary and may take place within the habitat of a number of species identified above and as such, may potentially affect wildlife, their habitat and their migratory patterns. It is expected that no human population will be affected as the nearest community is 232 km away.</li> </ul>
The nature, magnitude and complexity of the impacts; the probability of the impacts occurring; the frequency and duration of the impacts; and the reversibility or irreversibility of the impacts.	<ul style="list-style-type: none"> <li>▪ A zone of influence of 15 km from the most potentially-disruptive project activities was selected for the NIRB's assessment.</li> <li>▪ Based on past evidence from projects with a similar scope of activities, the potential adverse impacts are considered to be well-known, with potential for localized impacts to the biophysical environment that are mitigable with due care.</li> <li>▪ With adherence to the relevant regulatory requirements and application of the</li> </ul>

Factor	Comment
	mitigation measures recommended by the NIRB, no significant residual effects are expected to occur.
The cumulative impacts that could result from the impacts of the project combined with those of any other project that has been carried out, is being carried out or is likely to be carried out.	<ul style="list-style-type: none"> <li>The mitigation measures recommended by the NIRB have been designed with consideration for the potential for cumulative effects to result from the impacts of the project combined with other past, present and reasonably foreseeable projects.</li> </ul>
Any other factor that the Board considers relevant to the assessment of the significance of impacts.	<ul style="list-style-type: none"> <li>No other relevant factors were identified.</li> </ul>

**Other past and reasonably foreseeable projects considered in this assessment:**

NIRB Number	Project Title	Project Type
<b><i>Proposed Developments – undergoing assessment</i></b>		
19AN015	ESHL Sports Hunt	Tourism
19YN016	Peat Expansion in Arctic Tundra (Baffin Island)-Pattern, Process, and the Implication for the Carbon Cycle	Research
<b><i>Present Projects – approved or in operation</i></b>		
01LN055	Reserve Federal Crown Land	Lease
05AN018	Population Ecology of Arctic Breeding Waterfowl	Access
<b><i>Past Projects</i></b>		
06YN071	ArcticNet Project 1: The Northwest Passage at the end of the Last Glaciation. ArcticNet 2: River sampling during 2017 ArcticNet expedition	Research
15YN013	One Planet: Grasslands	Research
15YN019	Wild Canadian Year	Research
18AN006	Exploratory Hunting in the Queen Maud Gulf Migratory Bird Sanctuary	Access

**VIEWS OF THE BOARD**

In considering the factors as set out above in the screening of the project proposal, the NIRB has identified a number of issues below and respectfully provide the following views regarding whether or not the proposed project has the potential to result in significant impacts. In addition, the NIRB has proposed terms and conditions that would mitigate the potential adverse impacts identified.



**Ecosystem, wildlife habitat and Inuit harvesting activities:**

- Potential adverse affects from the filming activities (e.g., setting up remote cameras, foot traffic and drone activities, etc.) are applicable to a small geographic area around the filming sites and the noise from these activities may affect wildlife as well as migratory and non-migratory birds. The Board recommends terms and conditions 4 through 17 to mitigate any adverse affects to wildlife and migratory and non-migratory birds from research activities proposed. The Proponent would also be required to follow specific Acts and Regulations (see Regulatory Requirements section).

**Socio-economic effects on northerners:**

- No specific areas of historical, cultural and archaeological significance have been identified by the Proponent or the Government of Nunavut within the physical footprint of the proposed project; however, the Proponent has indicated that there are Inuit artifacts in the project area. The Proponent would be required to follow specific Acts and Regulations applicable to the project proposal (see Regulatory Requirements section). In the event that historical sites are encountered, the Board recommends, terms and conditions 18 to ensure that available Inuit Qaujimaningit can inform project activities and reduce the potential for adverse affects occurring to any potential historical sites.

**Significant public concern:**

- No significant public concern was expressed during the public commenting period for this file. Further, the Board recommends terms and conditions 19 and 20 to ensure that project activities do not interfere with Inuit wildlife harvesting or traditional land use activities and to the extent hire local people.

**Technological innovations for which the effects are unknown:**

- No specific issues have been identified associated with this project proposal.

**Administrative Conditions:**

To encourage compliance with applicable regulatory requirements and assist the Board and responsible authorities with compliance and effects monitoring for project activities, the following project-specific terms and conditions have been recommended: 1-3.

In considering the above factors and subject to the Proponent's compliance with the terms and conditions necessary to mitigate against the potential adverse environmental and social effects, the Board is of the view that the proposed project is unlikely to cause significant public concern and its adverse ecosystemic and socioeconomic impacts are unlikely to be significant, or are highly predictable and can be adequately mitigated by known technologies.

**RECOMMENDED PROJECT-SPECIFIC TERMS AND CONDITIONS**

The Board is recommending the following specific terms and conditions to apply in respect of the project:

## **General**

1. Silverback Films Ltd. (the Proponent) shall maintain a copy of the Project Terms and Conditions at the site of operation at all times.
2. The Proponent shall operate in accordance with all commitments stated in correspondence provided to the Nunavut Planning Commission (NPC File No.: 148982), and the NIRB (Online Application Form, February 12, 2019).
3. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.

## **Waste Disposal**

4. 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 such wastes shall be kept inaccessible to wildlife at all times.

## **Wildlife - General**

5. The Proponent shall ensure that there is no damage to wildlife habitat in conducting this operation.
6. The Proponent shall not harass wildlife. This includes persistently circling, chasing, hovering over pursuing or in any other way harass wildlife, or disturbing large groups of animals.
7. 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.
8. The Proponent shall not hunt or fish, unless proper Nunavut authorizations have been acquired.
9. 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**

10. 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 metres 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.
11. The Proponent shall minimize activities during periods when birds are particularly sensitive to disturbance such as migration, nesting and moulting.
12. The Proponent shall avoid the seaward site of seabird colonies and areas used by flocks of migrating waterfowl by three (3) kilometres.
13. The Proponent shall ensure its aircraft avoid excessive hovering or circling over areas where bird presence is likely.

## **Aircraft Flight Restrictions**

14. The Proponent shall restrict aircraft/helicopter activity related to the project to a minimum flight altitude of 610 metres above ground level except during landing, take-off or if there is a specific requirement for low-level flying, which does not disturb wildlife or migratory birds.

## **Caribou and Muskox Disturbance**

15. 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.
16. The Proponent shall not block or cause any diversion to caribou or muskox migration, and shall cease activities likely to interfere with migration such as airborne geophysics surveys, drilling or movement of equipment or personnel until such time as the caribou or muskox have passed.
17. Should pregnant caribou cows, cows with young calves, or groups of 50 or more caribou be observed within one (1) kilometre of project operations at any time, the Proponent shall suspend all operations in the vicinity, including low-level over flights, and use of snow mobiles and all-terrain vehicles outside the immediate vicinity of the camp, until caribou are no longer in the immediate area.

## **Other**

18. The Proponent should consult with local residents regarding their activities in the area and solicit available Inuit Qaujimaningit and information that can inform project activities.
19. The Proponent shall ensure that project activities do not interfere with Inuit wildlife harvesting or traditional land use activities.
20. The Proponent should, to the extent possible, hire local people and access local services where possible.

## **OTHER NIRB CONCERNS AND RECOMMENDATIONS**

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

### **Change in Project Scope**

1. Responsible authorities or Proponent shall notify the Nunavut Planning Commission and the NIRB of any changes in operating plans or conditions, including phase advancement, associated with this project prior to any such change.

### **Copy of licences, etc. to the Board and Commission**

2. As per s. 137(4) of the *NuPPAA*, responsible authorities are required to submit a copy of each licence, permit or other authorization issued for the Project to the Nunavut Planning Commission and the NIRB. Please forward a copy of the licences, permits and/or other authorizations to the NIRB directly at [info@nirb.ca](mailto:info@nirb.ca) or upload a copy to the NIRB's online registry at [www.nirb.ca](http://www.nirb.ca).

### **Bear and Carnivore Safety**

3. The Proponent should review the Government of Nunavut's booklet on Bear Safety, which can be downloaded from this link: [http://gov.nu.ca/sites/default/files/bear\\_safety\\_-\\_reducing\\_bear-people\\_conflicts\\_in\\_nunavut.pdf](http://gov.nu.ca/sites/default/files/bear_safety_-_reducing_bear-people_conflicts_in_nunavut.pdf). Further information on bear/carnivore detection and deterrent techniques can be found in the "*Safety in Grizzly and Black Bear Country*" pamphlet, which can be downloaded from this link: [http://www.enr.gov.nt.ca/sites/default/files/web\\_pdf\\_wd\\_bear\\_safety\\_brochure\\_1\\_may\\_2015.pdf](http://www.enr.gov.nt.ca/sites/default/files/web_pdf_wd_bear_safety_brochure_1_may_2015.pdf).

4. There are polar bear and grizzly bear safety resources available from the Bear Smart Society with videos on polar bear safety available in English, French and Inuktitut at <http://www.bearsmart.com/play/safety-in-polar-bear-country/>. Information can also be obtained from Parks Canada's website on bear safety at the following link: <http://www.pc.gc.ca/eng/pn-np/nu/quttinirpaaq/visit/visit6/d.aspx> or in reviewing the "*Safety in Polar Bear Country*" pamphlet, which can be downloaded from the following link: [http://www.pc.gc.ca/eng/pn-np/nu/quttinirpaaq/visit/visit6/~media/pn-np/nu/auyuittuq/pdf/shared/PolarBearSafety\\_English.ashx](http://www.pc.gc.ca/eng/pn-np/nu/quttinirpaaq/visit/visit6/~media/pn-np/nu/auyuittuq/pdf/shared/PolarBearSafety_English.ashx).
5. Any problem wildlife or any interaction with carnivores should be reported immediately to the local Government of Nunavut, Department of Environment Conservation Office (Conservation Officer of Cambridge Bay, phone: (867) 983-4164).

### **Species at Risk**

6. The Proponent review Environment and Climate Change Canada's "Environment Assessment Best Practice Guide for Wildlife at Risk in Canada", available at the following link: [http://www.sararegistry.gc.ca/virtual\\_sara/files/policies/EA%20Best%20Practices%202004.pdf](http://www.sararegistry.gc.ca/virtual_sara/files/policies/EA%20Best%20Practices%202004.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**

7. 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.
8. For further information on how to protect migratory birds, their nests and eggs when planning or carrying out project activities, consult Environment and Climate Change Canada's Incidental Take web page and the fact sheet "Planning Ahead to Reduce the Risk of Detrimental Effects to Migratory Birds, and their Nests and Eggs" available at <http://www.ec.gc.ca/paom-itmb/>.

### **Unmanned Air Vehicles (UAV) and Non-Recreational Drones**

9. The Proponent should review Transport Canada's site on Drone Safety which can be found at the following link: <https://www.tc.gc.ca/eng/civilaviation/drone-safety.html>
10. The Proponent should review Transport Canada's "Do I have permission to fly my drone?" which can be downloaded from which can be downloaded from this link: [https://www.tc.gc.ca/media/documents/ca-opssvs/Infographic-Do\\_I\\_need\\_permission\\_to\\_fly\\_my\\_drone.pdf](https://www.tc.gc.ca/media/documents/ca-opssvs/Infographic-Do_I_need_permission_to_fly_my_drone.pdf). The document provides information on whether or not a Special Flight Operations Certificate (SFOC) would be required or whether the operator of an unmanned air vehicle qualifies to operate under one of the exemptions to conduct lower risk operation in more remote areas without the need to apply for an SFOC.

## REGULATORY REQUIREMENTS

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

### **Acts and Regulations**

1. The *Migratory Birds Convention Act* and *Migratory Birds Regulations* (<http://laws-lois.justice.gc.ca/eng/acts/M-7.01/>).
2. The *Species at Risk Act* (<http://laws-lois.justice.gc.ca/eng/acts/S-15.3/index.html>). Attached in **Appendix A** is a list of Species at Risk in Nunavut.
3. The *Wildlife Act* (Nunavut) and its corresponding regulations (<http://www.canlii.org/en/nu/laws/stat/snu-2003-c-26/latest/snu-2003-c-26.html>).
4. 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 B**.
5. The *Aeronautics Act* (<http://laws-lois.justice.gc.ca/eng/acts/A-2/>) and the Interim Order No. 9 Respecting the Use of Model Aircraft (<http://www.gazette.gc.ca/rp-pr/p1/2018/2018-06-16/html/notice-avis-eng.html#ne6>).
6. The *Canadian Aviation Regulations* (<https://www.tc.gc.ca/eng/acts-regulations/regulations-sor96-433.htm>).

## CONCLUSION

The foregoing constitutes the Board's screening decision with respect to Silverback Films Ltd.'s "BBC Perfect Planet – Ahik Migratory Bird Sanctuary (Karrak Lake) – Arctic Foxes". The NIRB remains available for consultation with the Minister regarding this report as necessary.

Dated April 16, 2019 at Baker Lake, NU.



Marjorie Kaviq Kaluraq, A/ Chairperson

Attachments: Appendix A: Species at Risk in Nunavut  
Appendix B: Archaeological and Palaeontological Resources Terms and Conditions for Land Use Permit Holders

## APPENDIX A: SPECIES AT RISK IN NUNAVUT

Due to the requirements of Section 79(2) of the Species at Risk Act (SARA), and the potential for project-specific adverse effects on listed wildlife species and its critical habitat, measures should be taken as appropriate to avoid or lessen those effects, and the effects need to be monitored. Project effects could include species disturbance, attraction to operations and destruction of habitat. This section applies to all species listed on Schedule 1 of SARA, as listed in the table below, or have been assessed by the Committee on the Status of Endangered Wildlife in Canada (COSEWIC), which may be encountered in the project area. This list may not include all species identified as at risk by the Territorial Government. The following points provide clarification on the applicability of the species outlined in the table.

- 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.

If species at risk are encountered or affected, the primary mitigation measure should be avoidance. The Proponent should avoid contact with or disturbance to each species, its habitat and/or its residence. All direct, indirect, and cumulative effects should be considered. Refer to species status reports and other information on the species at risk Registry at <http://www.sararegistry.gc.ca> for information on specific species.

Monitoring should be undertaken by the Proponent to determine the effectiveness of mitigation and/or identify where further mitigation is required. As a minimum, this monitoring should include recording the locations and dates of any observations of species at risk, behaviour or actions taken by the animals when project activities were encountered, and any actions taken by the proponent to avoid contact or disturbance to the species, its habitat, and/or its residence. This information should be submitted to the appropriate regulators and organizations with management responsibility for that species, as requested.

For species primarily managed by the Territorial Government, the Territorial Government should be consulted to identify other appropriate mitigation and/or monitoring measures to minimize effects to these species from the project.

Mitigation and monitoring measures must be undertaken in a way that is consistent with applicable recovery strategies and action/management plans.

Schedules of SARA are amended on a regular basis so it is important to check the SARA registry ([www.sararegistry.gc.ca](http://www.sararegistry.gc.ca)) to get the current status of a species.

Updated: November 2018

<b>Terrestrial Species at Risk<sup>1</sup></b>	<b>COSEWIC Designation</b>	<b>Schedule of SARA</b>	<b>Government Organization with Primary Management Responsibility<sup>2</sup></b>
<b>Migratory Birds</b>			
Buff-breasted Sandpiper	Special Concern	Schedule 1	Environment and Climate Change Canada (ECCC)
Common Nighthawk	Threatened	Schedule 1	ECCC
Eskimo Curlew	Endangered	Schedule 1	ECCC
Harlequin Duck	Special Concern	Schedule 1	ECCC
Harris's Sparrow	Special Concern	Schedule 1	ECCC
Horned Grebe	Special Concern	Schedule 1	ECCC
Ivory Gull	Endangered	Schedule 1	ECCC
Olive-sided Flycatcher	Special Concern	Schedule 1	ECCC
Red Knot Islandica Subspecies	Special Concern	Schedule 1	ECCC
Red-necked Phalarope	Special Concern	No Schedule	ECCC
Ross's Gull	Threatened	Schedule 1	ECCC
Rusty Blackbird	Special Concern	Schedule 1	ECCC
Short-eared Owl	Special Concern	Schedule 1	ECCC
<b>Vegetation</b>			
Porsild's Bryum	Threatened	Schedule 1	Government of Nunavut (GN)
<b>Arthropods</b>			
Transverse Lady Beetle	Special Concern	No Schedule	GN
<b>Terrestrial Wildlife</b>			
Caribou (Dolphin and Union Population)	Endangered	Schedule 1	GN
Caribou (Barren-ground Population)	Threatened	No Schedule	GN
Caribou (Torngat Mountains Population)	Endangered	No Schedule	GN
Grizzly Bear (Western Population)	Special Concern	Schedule 1	GN
Peary Caribou	Threatened	Schedule 1	GN
Polar Bear	Special Concern	Schedule 1	GN
Wolverine	Special Concern	Schedule 1	GN
<b>Marine Wildlife</b>			
Atlantic Walrus (High Arctic Population)	Special Concern	No Schedule	Fisheries and Oceans Canada (DFO)
Atlantic Walrus (Central/Low Arctic Population)	Special Concern	No Schedule	DFO
Beluga Whale (Cumberland Sound Population)	Threatened	Schedule 1	DFO
Beluga Whale (Eastern Hudson Bay Population)	Endangered	No Schedule	DFO
Beluga Whale (Eastern High Arctic-Baffin Bay Population)	Special Concern	No Schedule	DFO

<sup>1</sup> The Department of Fisheries and Oceans has responsibility for aquatic species.

<sup>2</sup> Environment and Climate Change Canada (ECCC) 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.

<b>Terrestrial Species at Risk<sup>1</sup></b>	<b>COSEWIC Designation</b>	<b>Schedule of SARA</b>	<b>Government Organization with Primary Management Responsibility<sup>2</sup></b>
Beluga Whale (Western Hudson Bay Population)	Special Concern	No Schedule	DFO
<b>Fish</b>			
Atlantic Cod (Arctic Lakes Population)	Special Concern	No Schedule	DFO
Fourhorn Sculpin (Freshwater Form)	Data Deficient	Schedule 3	DFO
Lumpfish	Threatened	No Schedule	DFO
Thorny Skate	Special Concern	No Schedule	DFO



## APPENDIX B: ARCHAEOLOGICAL AND PALAEOONTOLOGICAL RESOURCES TERMS AND CONDITIONS FOR LAND USE PERMIT HOLDERS



### INTRODUCTION

The Department of Culture and Heritage (CH) routinely reviews land use applications sent to the Nunavut Water Board, Nunavut Impact Review Board and the Indigenous 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:

	<b>Types of Development</b> (See Guidelines below)	<b>Function</b> (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. CH is authorized by way of the *Nunavut and Archaeological and Palaeontological Site Regulations*<sup>3</sup> to issue such permits.

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<sup>3</sup> P.C. 2001-1111 14 June, 2001

- 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 CH 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 CH.
- 6) The permittee/proponent shall follow the direction of CH 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 Indigenous and Northern Affairs Canada directions will also be followed.
- 7) The permittee/proponent shall provide all information requested by CH 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 CH 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 *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut 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]*

*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*<sup>4</sup>, 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*<sup>5</sup>, 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 Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut 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.*

### *Guidelines for Developers for the Protection of Archaeological Resources in the Nunavut Territory*

(Note: Partial document only, complete document at: [www.ch.gov.nu.ca/en/Archaeology.aspx](http://www.ch.gov.nu.ca/en/Archaeology.aspx))

### 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, and Heritage (CH), and the contract archaeologist(s) will ensure proper preservation of heritage resources in the Nunavut Territory. The roles of each are briefly described.

CH 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

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<sup>4</sup> s. 51(1)

<sup>5</sup> P.C. 2001-1111 14 June, 2001

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 CH 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 *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)*), and the Indigenous and Northern Affairs Canada, 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 and Heritage. 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.