



## SCREENING DECISION REPORT NIRB FILE No.: 22XN014

NPC File No.: 149711

**June 6, 2022**

Following the Nunavut Impact Review Board's (NIRB or Board) assessment of all materials provided, the NIRB is recommending that a review of Government of Nunavut's "Baker Lake Landfarm" 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 Minister accepts this Screening Decision Report.

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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 March 25, 2022 the NIRB received a referral to screen Government of Nunavut's (GN) "Baker Lake Landfarm" project proposal from the Nunavut Planning Commission (Commission), with an accompanying positive conformity determination with the Keewatin 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 **22XN014**.

#### PROJECT OVERVIEW & THE NIRB ASSESSMENT PROCESS

### 1. Screening Process Timelines

The following key stages were completed for the screening process:

Date	Stage
March 25, 2022	Receipt of project proposal and positive conformity determination (Keewatin Regional Land Use Plan) from the Commission.
March 25, 2022	Request to complete public registry online and provide information pursuant to s. 144(1) of the <i>NuPPAA</i>
March 29, 2022	Receipt of online application from Proponent
April 14, 2022	Request(s) to Proponent for additional information in order to carry out screening pursuant to s. s. 144(1) of the <i>NuPPAA</i>
April 20, 2022	Proponent responded to information request(s) and provided additional information
April 21, 2022	Scoping pursuant to s. 86(1) of the <i>NuPPAA</i>
April 28, 2022	Public engagement and comment request
May 19, 2022	Receipt of public comments

Date	Stage
May 24, 2022	Proponent provided with an opportunity to address comments/concerns raised by public
May 25, 2022	Proponent responded to comments/concerns raised by public
June 6, 2022	Issuance of Screening Decision Report

## 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/125677](http://www.nirb.ca/project/125677).

<b>Project:</b>	Baker Lake Landfarm				
<b>Region:</b>	Kivalliq				
<b>Location:</b>	Baker lake				
<b>Closest Community:</b>	Baker Lake	<b>Distance (approximate)</b>	Within Municipal Boundaries	<b>Direction</b>	East
<b>Summary of Project Description:</b>	The Proponent intends to construct a lined engineered landfarm, with a capacity of 5,000 cubic meters with the use of heavy equipment for the remediation of hydrocarbon-contaminated soils. The Landfarm will be located at the back of the existing Tank Farm.				
<b>Project Proposed Timeline:</b>	August 2022 to August 2026				

As required under s. 86(1) of the *NuPPAA*, the Board accepts the scope of the project as set out by GN in the proposal. The scope of the project proposal includes the following undertakings, works, or activities:

- Use of equipment including loader, excavator, Zoom Boom, dump truck, and packer to construct the Landfarm with a 2:1 sloped berm;
- Use of High-Density Polyethylene (HDPE) and Geotextile cloth liner to construct the Landfarm;
- Construction of a fence surrounding the landfarm to prevent access to wildlife and unauthorized persons;
- Use of a screener to separate soil and large rocks for remediation;
- Use of approximately four tons of fertilizer for remediation;
- Contaminated soils to be turned once a month during snow free seasons,
- Soil and water samples will be taken once a month during after the contaminated soil is turned;
- All contaminated water will be treated in a water treatment plant; and
- Landfarm will be designed to manage runoff and eliminate surface and subsurface contamination.

### 3. Inclusion or Exclusion to Scoping List

The NIRB has identified no additional works or activities in relation to the project proposal. As a result, the NIRB proceeded with screening the project based on the scope as described above.

### 4. Public Comments and Concerns

Notice regarding the NIRB's screening of this project proposal was distributed on April 28, 2022, to community organizations in Baker Lake, 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 May 19, 2022, 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 May 19, 2022, the NIRB received comments from the following interested parties:

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

On May 25, 2022, the NIRB received comments from the following interested parties:

- Government of Nunavut (Culture and Heritage)

#### *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 (Culture and Heritage)

- Recommends that the Proponent do an Archaeological Impact Assessment be carried out in advance of proposed activities to determine if archaeological sites are in potential conflict and identify any necessary avoidance or mitigation measures;
- Recommends that the Proponent works with a qualified archaeologist who will apply for an Archaeology Class 2 permit with the Department of Culture and Heritage; and
- During construction activities Culture and Heritage recommends that no activities be conducted in the vicinity (50 m buffer zone) of archaeological/historical sites, if archaeological sites of features are encountered, activities should immediately be interrupted and moved away from this location. Each site encountered needs to be recorded and reported to the Government of Nunavut Territorial Archaeology Office.

## CIRNAC

- Recommended that the Proponent clarify what measures will be taken to ensure that equipment used in the landfarm remediation area is cleaned prior from the landfarm;
- Recommended that the Proponent clarify if the annual precipitation falling over the footprint of the facility is expected to be adequate for dust suppression efforts of the facility, and if not provide quantities of water to be sourced from surrounding water bodies to meet the project's dust mitigation needs;
- Recommended the Proponent clarify what was consumption is expected;
- Recommends the Proponent prioritize the employment and training of local Inuit as well as procurement with Inuit-owned businesses when implementing project activities; and
- Recommends that the Proponent consults with the Hamlet of Baker Lake and the Baker Lake Hunters and Trappers Organization.

### *b. 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.

## **5. Proponent's Response to Public Comments and Concerns**

On May 24, 2022, due to the concerns and questions identified in the comments received from parties, the NIRB provided an opportunity for the Proponent to respond to the concerns raised during the commenting period. The following is a summary of the Proponent's response to concerns as received on May 25, 2022:

- In response to concerns about the equipment that will be used in the landfarm remediation area is cleaned prior to removal from the landfarm, the Proponent noted that the excavator will be used for soil screening is done in dry weather which makes it easy to clean the tracks with a shovel, Loaders and trucks can enter and dump their load without driving on impacted soil;
- In response to concerns about quantities of water to be sourced from surrounding water bodies to meet the project's dust mitigation needs, the Proponent noted the landfarm will require the use of tanks and will contain spring freshet water to be used as wetting agent, the water is pumped into tanks in the spring, water is sprayed over the soil to control dust and to maintain moisture content in soil increase microbial activity; and
- In response to concerns about projected water consumption, the Proponent noted that if tanks are used to contain melt water, there should be no water from an outside source required, all contained water must be used up or discharged prior to freeze up.

## 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:

<b>Factor</b>	<b>Comment</b>
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 physical footprint of the proposed project components is within municipal boundaries of Baker Lake</li> <li>▪ The proposed project would take place within habitats of far-ranging wildlife species such as migratory and non-migratory birds, arctic fox, arctic hare and caribou.</li> </ul>
The ecosystemic sensitivity of that area.	<ul style="list-style-type: none"> <li>▪ No specific areas of ecosystemic sensitivity have been identified by the Proponent within the physical footprint of the proposed project.</li> </ul>
The historical, cultural and archaeological significance of that area.	<ul style="list-style-type: none"> <li>▪ No specific areas of historical, cultural and archaeological significance have been identified by the Proponent 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 unlikely to result in impacts to local human and animal populations.</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 up to 20 km from the most potentially-disruptive project activities was selected for the NIRB's assessment.</li> <li>▪ With adherence to the relevant regulatory requirements and application of the mitigation measures recommended by the NIRB, no significant residual effects are expected to occur.</li> </ul>
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>▪ The proposed project would take place at the back of PPD existing Oil Facility.</li> </ul>



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

<b>NIRB Project Number</b>	<b>Project Title</b>	<b>Project Type</b>
<b><i>Past Projects</i></b>		
14UN030	Baker Lake Fuel Storage Upgrade	Infrastructure
16QN069	Baker Lake Landfarm and Interceptor Trench	Remediation

**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.

The NIRB has listed specific Acts and Regulations below that may be applicable to the project proposal but this list should not be considered as a complete list and the Proponent is responsible to ensure that it follows all Acts and Regulations that may be applicable to the project proposal.

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

<b>Valued Component</b>	Terrestrial wildlife including caribou, migratory and non-migratory birds, wolverine, Arctic fox,
<b>Potential effects:</b>	Potential adverse effects to migratory and non-migratory birds, and their migratory routes from noise and visual disturbance generated from the transportation of personnel and equipment at the project location.
<b>Nature of Impacts:</b>	The potential for impacts is considered to be limited due to infrequent and temporary activities and any resulting impacts would be expected to be reversible
<b>Mitigating Factors:</b>	The potential adverse impacts to terrestrial wildlife and birds may be mitigated by requiring the Proponent to avoid wildlife, wildlife habitat, and nesting areas, and to ensure wastes and fuels are inaccessible to wildlife.
<b>Proposed Terms and Conditions:</b>	Fuel and Chemical Storage – 11 through 16 Wildlife General – 22 through 27 Migratory Birds and Raptors Disturbance – 28, 29 Caribou and Muskoxen Disturbance – 30 through 32
<b>Related Acts and/or Regulations:</b>	1. The <i>Migratory Birds Convention Act</i> and <i>Migratory Birds Regulations</i> ( <a href="http://laws-lois.justice.gc.ca/eng/acts/M-7.01/">http://laws-lois.justice.gc.ca/eng/acts/M-7.01/</a> ). 2. The <i>Species at Risk Act</i> ( <a href="http://laws-lois.justice.gc.ca/eng/acts/S-15.3/index.html">http://laws-lois.justice.gc.ca/eng/acts/S-15.3/index.html</a> ). Attached in <b>Appendix A</b> is a list of Species at Risk in Nunavut.



	3. The <i>Wildlife Act (Nunavut)</i> and its corresponding regulations ( <a href="http://www.canlii.org/en/nu/laws/stat/snu-2003-c-26/latest/snu-2003-c-26.html">http://www.canlii.org/en/nu/laws/stat/snu-2003-c-26/latest/snu-2003-c-26.html</a> ).
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<b>Valued Component</b>	Land, terrestrial vegetation, and ground stability.
<b>Potential effects:</b>	Potential adverse impacts to the ground stability, vegetation quality, and terrain due to the removal of soils, creation of a landfarm, moving of equipment and personnel, and construction activities.
<b>Nature of Impacts:</b>	The potential for impacts is considered to be limited if regulations and best practices for construction operations are followed. The potential for disturbance due to other activities is considered to be minimal due to the localized and temporary nature of the activities.
<b>Mitigating Factors:</b>	As noted, the Board is recommending terms and conditions to ensure that project activities do not negatively affect land, terrestrial vegetation, and ground stability.
<b>Proposed Terms and Conditions:</b>	Waste Management – 10 Air Quality – 17, 18 Landfarm Operations – 20, 21 Land Use and Restoration of Disturbed Areas – 34 through 37
<b>Related Acts and/or Regulations:</b>	The <i>Nunavut Act</i> ( <a href="http://laws-lois.justice.gc.ca/eng/acts/N-28.6/">http://laws-lois.justice.gc.ca/eng/acts/N-28.6/</a> ).

<b>Valued Component</b>	Public and traditional land use activities
<b>Potential effects:</b>	No specific concerns or impacts to public and traditional land use activities in the area have been identified, however, the Board is recommending terms and conditions to ensure project activities are informed by available Inuit Qaujimaningit and that project activities do not interfere with Inuit wildlife harvesting or traditional land use activities.
<b>Nature of Impacts:</b>	Potential for impacts is considered to be minimal due to the location of the project.
<b>Mitigating Factors:</b>	Proponent will follow the Wildlife and Wildlife Habitat Management Plan to minimize impacts to wildlife and has committed to executing its work in a way that minimizes the negative effects to wildlife.
<b>Proposed Terms and Conditions:</b>	Heritage Sites – 38 through 40 Other – 41 through 43
<b>Related Acts and/or Regulations:</b>	1. The <i>Nunavut Act</i> ( <a href="http://laws-lois.justice.gc.ca/eng/acts/N-28.6/">http://laws-lois.justice.gc.ca/eng/acts/N-28.6/</a> ).

### **Socio-economic effects on northerners:**

<b>Valued Component</b>	Local hiring, contracting and economic impact
<b>Potential effects:</b>	Potential positive impacts from the hiring of local community members for various projects and activities.

<b>Nature of Impacts:</b>	Potential for impacts is considered to be positive if the Proponent adheres to its commitment to hiring locally to the extent possible.
<b>Mitigating Factors:</b>	The Board is recommending terms and conditions to ensure that the Proponent continues to inform the communities of the ongoing site activities and to ensure community members are aware of and best able to successfully connect with hiring opportunities.
<b>Proposed Terms and Conditions:</b>	Other – 41, 43
<b>Related Acts and/or Regulations:</b>	N/A

**Significant public concern:**

<b>Valued Component</b>	Public Concern
<b>Potential effects:</b>	No significant public concern was expressed during the public commenting period for this file, however, the Board recommends terms and conditions to ensure project activities do not interfere with Inuit wildlife harvesting or traditional land use activities, to the extent possible hire local people and access local services where possible, and to ensure planned activities in the area utilizes available Inuit Qaujimaningit.
<b>Nature of Impacts:</b>	The potential for impacts is considered to be minimal as long as the Proponent follows the recommended terms and conditions.
<b>Mitigating Factors:</b>	Given the distance from the closest community, direct impacts on Inuit are considered highly unlikely and are addressed through the proposed terms and conditions.
<b>Proposed Terms and Conditions:</b>	Water courses/Water bodies (including fresh and marine waters) – 6 through 9 Noise - 19 Other – 41, 42
<b>Related Acts and/or Regulations:</b>	N/A

**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: 1-5.

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. Government of Nunavut (the Proponent) shall maintain a copy of the Project Terms and Conditions at the site of operation at all times and make it accessible to enforcement officers upon request.
2. The Proponent shall operate in accordance with all commitments stated in correspondence provided to the Nunavut Planning Commission (NPC File No.: 149711) and the NIRB (Online Application Form, April 21, 2022; April 14, 2022). This information should be accessible to enforcement officers upon request.
3. The Proponent shall operate the site in accordance with all applicable Acts, Regulations and Guidelines.
4. The Proponent shall ensure that it meets the standards and/or limits as set out in the authorizing agencies' permits or licences as required for this project.
5. The Proponent shall ensure that all personnel, staff and contractors are adequately trained prior to commencement of all project activities, and shall be made aware of all operational plans, management plans, guidelines and Proponent commitments relating to the project.

### Water courses/Water bodies (including fresh and marine waters)

6. The Proponent shall not extract water from any fish-bearing water body unless the water intake hose is equipped with a screen of appropriate mesh size to ensure that there is no entrapment of fish. Small lakes or streams should not be used for water withdrawal unless otherwise authorized by the appropriate authorizing agency.
7. The Proponent shall ensure that no disturbance of the stream bed, lakebed or the banks of any definable watercourse be permitted, except where deemed necessary for maintaining project-specific operational commitments or approved by a responsible authority in cases of spill management.
8. The Proponent shall implement erosion and sediment suppression measures on all areas during all project activities in order to prevent sediment or fugitive dust from entering any water body or surrounding environment. Erosion prevention measures may include berms or silt fences.
9. The Proponent shall not deposit, nor permit the deposit of any fuel, chemicals, wastes (including wastewater) or sediment into any water body. The Proponent should have in place an Emergency Spill Response Plan that is approved by the appropriate authorizing agency(ies).

### Waste Management

10. The Proponent shall manage all hazardous and non-hazardous waste including food, domestic wastes, debris and petroleum-based chemicals (e.g., greases, gasoline, glycol-

based antifreeze) in such a manner to avoid release into the environment and access to wildlife at all times until disposed of appropriately or at an approved facility.

### **Fuel and Chemical Storage**

11. The Proponent shall locate all fuel and other hazardous materials a minimum distance away from the high-water mark of any water body and environmentally sensitive areas as required by the appropriate authorizing agencies. The materials shall be stored in such a manner as to prevent their release into the environment.
12. The Proponent shall ensure that re-fuelling of all equipment occurs a minimum distance away from the high-water mark of any water body as required by the appropriate authorizing agencies.
13. The Proponent shall have a Spill Contingency Plan in place at all fuel storage or transfer locations and shall ensure that appropriate spill response equipment and clean-up materials (e.g., shovels, pumps, barrels, drip pans, and absorbents) are readily available.
14. The Proponent shall follow the authorizing agencies' direction for management and removal of hazardous materials and wastes (e.g., contaminated soils, sediment and waste oil).
15. The Proponent shall ensure that wildlife deterrent systems are utilized at the time of a spill incident in order to avoid wildlife (terrestrial or marine) and migratory birds from being contaminated.
16. The Proponent shall ensure that all spills of fuel or other deleterious materials of 100 litres or more must be reported immediately to the 24-hour Spill Line at (867) 920-8130.

### **Air Quality**

17. The Proponent shall take appropriate dust suppression measures in conducting all activities for this Project including using approved dust suppression additives and techniques as necessary to maintain ambient air quality.
18. The Proponent shall eliminate unnecessary idling to reduce greenhouse gas emissions as much as possible.

### **Noise**

19. All construction and road vehicles must be fitted with standard and well-maintained noise suppression devices.

### **Landfarm Operations**

20. The Proponent shall treat only petroleum and hydrocarbon contaminated soils at the landfarm facility. Materials contaminated with other substances such as glycol and heavy metals are not to be stored at the landfarm and must be disposed of at an authorized facility.
21. The Proponent shall ensure that the equipment used for aeration in the landfarm operation have been cleaned off within the landfarm facilities prior to exiting.

## **Wildlife – General**

22. The Proponent shall not substantially alter or damage or destroy any wildlife habitat in conducting this operation unless otherwise authorized by the appropriate authorizing agencies.
23. The Proponent shall not chase, weary, harass or molest wildlife. This includes persistently circling, chasing, hovering over, pursuing or in any other way harass wildlife, or disturbing large groups of animals.
24. The Proponent shall not hunt or fish, unless proper Nunavut authorizations have been acquired.
25. The Proponent shall ensure that all wildlife have the right-of-way on any roads or trails. Vehicles are required to slow down or stop and wait to permit the free and unrestricted movement of wildlife across roads or trails at any location.
26. The Proponent shall enforce safe speed limits for vehicles travelling along the road to ensure drivers have sufficient time to react in a safe manner if wildlife are encountered on or adjacent to the road or trail.
27. The Proponent shall ensure that drivers maintain spacing appropriate for driving and road conditions, and speed limits, to ensure drivers have time to safely react to any wildlife on the road.

## **Migratory Birds and Raptors Disturbance**

28. The Proponent shall carry out all phases of the project in a manner that protects migratory birds and avoids harming, killing or disturbing migratory birds or destroying, disturbing or taking their nests or eggs. In this regard, the Proponent shall take into account Environment and Climate Change Canada's *Avoidance Guidelines*. The Proponent's actions in applying the *Avoidance Guidelines* shall be in compliance with the *Migratory Birds Convention Act, 1994* and with the *Species at Risk Act*.
29. The Proponent shall not disturb or destroy the nests or eggs of any birds. If active nests of any birds are discovered or located (i.e., with eggs or young), the Proponent shall avoid these areas until nesting is complete and the young have naturally left the vicinity of the nest by establishing a protection buffer zone<sup>1</sup> appropriate for the species and the surrounding habitat.

## **Caribou and Muskoxen Disturbance**

30. The Proponent shall avoid interfering with any paths or crossings known to be frequented by caribou during periods of migration as identified by current land use plans in place and/or by Inuit Qaujimaningit.
31. The Proponent shall not locate any operation or undertake activities that could block or cause any diversion to migration of caribou or muskoxen.
32. The Proponent shall immediately cease activities likely to interfere with the migration or calving of caribou or muskoxen until such time as the caribou or muskox have passed.

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<sup>1</sup> Recommended setback distances to define buffer zones have been established by Environment and Climate Change Canada for different bird groups nesting in tundra habitat and can be found at [www.ec.gc.ca/paom-itmb](http://www.ec.gc.ca/paom-itmb).

### **Road and Ground Disturbance**

33. The Proponent shall not move any equipment or vehicles unless the ground surface is in a state capable of fully supporting the equipment or vehicles without rutting or gouging. Overland travel of equipment or vehicles must be suspended if rutting occurs.

### **Land Use and Restoration of Disturbed Areas**

34. The Proponent shall use existing trails where possible during project activities on the land.
35. The Proponent shall ensure that the land use area is kept clean and tidy at all times.
36. The Proponent shall remove all garbage, fuel and equipment at the end of each field season and/or upon completion of work and/or upon abandonment.
37. The Proponent shall ensure that all disturbed areas are restored to a stable or pre-disturbed state using Best Available Technology Economically Achievable (BATEA) upon completion of work and/or abandonment.

### **Heritage Sites**

38. The Proponent shall ensure that archaeological and paleontological sites are not purposely or inadvertently disturbed by clients or staff as a result of project activities.
39. The Proponent shall ensure that all clients and staff are aware of the Proponent's responsibilities and requirements regarding archaeological or palaeontological sites that are encountered during land-based activities. This should include briefings explaining the prohibitions regarding removal of artifacts, and defacing or writing on rocks and infrastructure.
40. No activities shall be conducted in the vicinity (50 metres buffer zone) of any archaeological/historical sites. If archaeological sites or features are encountered, activities shall immediately be interrupted and moved away from this location. Each site encountered needs to be recorded and reported to the Government of Nunavut-Department of Culture and Heritage.

### **Other**

41. The Proponent should engage with local residents regarding planned activities in the area and should solicit available Inuit Qaujimaningit and information regarding current recreational and traditional usage of the project area which may inform project activities. Posting of translated public notices and direct engagement with potentially interested groups and individuals prior to undertaking project activities is strongly encouraged.
42. The Proponent shall ensure that project activities do not interfere with Inuit wildlife harvesting or traditional land use activities.
43. 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/or Parks Canada as appropriate, 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. The NIRB respectfully requests that responsible authorities submit a copy of each licence, permit or other authorization issued for the Project to the NIRB to assist in enabling possible project monitoring that may be required. 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).

### Use of Inuit Qaujimaningit

3. The Proponent is encouraged to work with local communities and knowledge holders to inform project design, to carry out the project, and to confirm or validate the perspectives represented in publications, and reports produced as part of the project. Care should be taken to ensure that Inuit Qaujimaningit and local knowledge collected for the project is used with permission and is accurately represented.

## CONCLUSION

The foregoing constitutes the Board's screening decision with respect to the Government of Nunavut's "Baker Lake Landfarm". The NIRB remains available for consultation with the Minister regarding this report as necessary.

Dated June 6, 2022 at Baker Lake, NU.



Kaviq Kaluraq, 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: September 2019

Terrestrial Species at Risk <sup>2</sup>	COSEWIC Designation	Schedule of SARA	Government Organization with Primary Management Responsibility <sup>3</sup>
Migratory Birds			
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	Threatened	Schedule 1	ECCC
Peregrine Falcon	Special Concern	Schedule 1	ECCC
Red Knot Islandica Subspecies	Special Concern	Schedule 1	ECCC
Red-necked Phalarope	Special Concern	Schedule 1	ECCC
Ross's Gull	Threatened	Schedule 1	ECCC
Rusty Blackbird	Special Concern	Schedule 1	ECCC
Short-eared Owl	Special Concern	Schedule 1	ECCC
Vegetation			
Porsild's Bryum	Threatened	Schedule 1	Government of Nunavut (GN)
Arthropods			
Transverse Lady Beetle	Special Concern	No Schedule	GN
Terrestrial Wildlife			
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	ECCC
Peary Caribou	Endangered	Schedule 1	GN
Polar Bear	Special Concern	Schedule 1	ECCC
Wolverine	Special Concern	Schedule 1	GN
Marine Wildlife			
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

<sup>2</sup> The Department of Fisheries and Oceans has responsibility for aquatic species.

<sup>3</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>2</sup></b>	<b>COSEWIC Designation</b>	<b>Schedule of SARA</b>	<b>Government Organization with Primary Management Responsibility<sup>3</sup></b>
Beluga Whale (Eastern High Arctic-Baffin Bay Population)	Special Concern	No Schedule	DFO
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 Overview Assessment and/or Inventory and Documentation and/or Mitigation
c)	Construction of linear disturbances, Extractive disturbances, Impounding disturbances and other land disturbance activities	Archaeological/Palaeontological Overview Assessment and/or Inventory and Documentation and/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>4</sup> to issue such permits.

<sup>4</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**



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Under the *Nunavut Act*<sup>5</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>6</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>5</sup> s. 51(1)

<sup>6</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.