



July 30, 2025

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Sent via email

Re: Follow up on comments received for proposed screening exemption agreement between Environment and Climate Change Canada-Canadian Wildlife Service and the Nunavut Impact Review Board

Dear Parties:

As indicated by the Nunavut Impact Review Board (NIRB or Board) in correspondence issued on May 9, 2024,¹ after several years of discussion, the NIRB and Environment and Climate Change Canada² – Canadian Wildlife Service (ECCC-CWS) developed a draft of a new screening exemption agreement³. The proposed new screening exemption agreement would exempt from NIRB screening a class of physical works or activities that involve “Scientific Permits” and “Protected Area Access Permits” issued by ECCC-CWS (referenced as the Exemption Agreement

¹ 240509-NIRB Ltr Proposed CWS Screening Exemption Agreement-ODOE-5.pdf. The correspondence is available from the NIRB’s website under the Correspondence tab.

² It is the NIRB’s understanding that as of May 2025 the Ministry has been renamed to “Environment and Climate Change”, however, as the draft Screening Exemption Agreement was negotiated when the Ministry was “Environment and Climate Change Canada (ECCC)”, the NIRB has not updated the references in this correspondence.

³ Pursuant to Article 12, Schedule 12-1(7) of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)*, and s. 230 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14, s. 2 (*NuPPAA*),

and the *draft* Exemption Agreement). For ease of reference the *draft* Exemption Agreement is enclosed with this correspondence.

As set out in ss. 230(1) and 230(2) of *NuPPAA*, the Board’s May 2024 correspondence provided notice of the proposed Exemption Agreement to the Minister and designated Inuit organizations and invited comment from interested parties and the public on the proposed *draft* Exemption Agreement for a period of at least 120 days (between May 9 and September 6, 2024).

COMMENTS RECEIVED

By September 6, 2024, the following parties provided comments on the *draft* Exemption Agreement:

- Government of Nunavut (GN)
- Kitikmeot Inuit Association (KitIA)

For the convenience of reviewers, the Board has provided the following table summarizing the comments received; The Board also encourages parties to review the enclosed submissions in their entirety.

PARTY	SUMMARY OF COMMENTS/RECOMMENDATIONS
GOVERNMENT OF NUNAVUT	<p>Department of Environment</p> <ol style="list-style-type: none"> 1. Suggests adding preamble to clarify that all applications, including those exempted by the proposed Exemption Agreement, must be submitted by the proponent to the Nunavut Planning Commission. 2. Revise wording of Clause 2.2 Cumulative Impacts to clarify the Nunavut Planning Commission’s role to refer applications even if the project proposal is governed by the Exemption Agreement to NIRB for assessment if cumulative effects concerns are identified. 3. Recommends specifically referencing the legislation that defines “work and/or activities” in Clause 2.1 Authorization Governed by the Exemption Agreement. <p>Economic Development & Transportation</p> <ol style="list-style-type: none"> 4. ECCC’s annual reporting and monitoring should include socio-economic impacts. (Clause 4.0 Terms and Conditions) 5. Clarify how and when public concerns in relation to project proposals exempted from NIRB screening under the Exemption Agreement can be addressed, given the lack of opportunities for public participation in Nunavut Planning Commission’s conformity determination process. 6. Clarify if ECCC-CWS will involve a third party in the regulatory review of applications exempted from NIRB screening under the Exemption Agreement. 7. Clarify how the Exemption Agreement considers the relevance and application of Schedule 3 of <i>NuPPAA</i> to works and activities of the ECCC-CWS (Clause 2.1).

PARTY	SUMMARY OF COMMENTS/RECOMMENDATIONS
	8. Rephrase Clauses 2.2 and 2.3 to clarify Nunavut Planning Commission’s role to review and refer applications, including those exempted from NIRB screening under the Exemption Agreement.
KITIKMEOT INUIT ASSOCIATION	<ol style="list-style-type: none"> 1. Confirm how ECCC-CWS’s existing regulatory process for reviewing project proposals governed by the Exemption Agreement would ensure the Kitikmeot Inuit Association has the opportunity to meaningfully participate in the process with special regards to potential impacts on s.35 rights and interests of Inuit in the region. 2. Requests clarification on how the NIRB determined that the works and activities proposed for exemption will not have impacts listed on Page 4 of the NIRB comment request letter: 3. Clarify if the ECCC-CWS’s regulatory process is equivalent to or a substitute for the NIRB’s screening process in making these determinations. 4. Clarify if the ECCC-CWS’s process for the exempted works and activities is adequate to meet the Crown’s consultation obligations with the Kitikmeot Inuit Association. 5. Clarify how the Kitikmeot Inuit Association can participate in the regulatory process of an application exempted under this Draft Agreement if the Nunavut Planning Commission determines there may be cumulative impacts, including participation through the Nunavut Planning Commission and NIRB process.

NIRB RESPONSE TO COMMENTS

The NIRB has identified that comments in relation to the following issues are outside the scope of the NIRB’s jurisdiction and are not included in the Board’s response:

- Discussion of ECCC-CWS’s application review process for the “Scientific Permits” and “Protected Area Access Permits” exempted from NIRB screening under the Exemption Agreement, including the nature and extent of opportunities for comment and participation of interested parties and potentially affected communities.
- Discussion of ECCC-CWS’s approach to fulfilling the Crown’s consultation and accommodation duties for Inuit and other Indigenous Groups asserting s. 35 rights that could be associated with project proposals governed by the Exemption Agreement; and
- The Nunavut Planning Commission’s process for determining that a project proposal governed by the Exemption Agreement must nonetheless be referred to the NIRB for screening due to potential cumulative effects as set out in Article 12, Section 12.3.3 of the *Nunavut Agreement* and s. 80(1) of *NuPPAA*.

Recognizing ECCC-CWS’s primary role in Crown consultation, accommodation, and the regulatory process associated with the project proposals governed by the Exemption Agreement, the NIRB is forwarding the comments received to the Minister for review and response as ECCC-CWS considers appropriate.

With respect to the comments regarding the Nunavut Planning Commission's process for identifying cumulative effects concerns, the NIRB encourages parties to follow up with the Commission directly.

In the text that follows, the Board has provided responses to the comments directed to the Board and within the Board's jurisdiction.

NIRB Responses to the Government of Nunavut

The Board has considered the Government of Nunavut's suggestion to add specific language to the preamble of the *draft* Exemption Agreement to provide clear guidance that the Exemption Agreement would serve only to exempt a project proposal from screening by the NIRB. Importantly, the Exemption Agreement does not alter or remove the obligation of proponents under Article 11, Section 11.5.10 of the *Nunavut Agreement* and s. 76 of *NuPPAA*. Proponents of a project proposal governed by the Exemption Agreement must still submit a project proposal to the Nunavut Planning Commission (Commission) for a land use planning conformity determination and verification the project proposal is exempt from NIRB screening. Further even if the Commission verifies the project proposal is exempt from screening, the Commission may still refer that project proposal to the NIRB for screening if there are concerns about cumulative effects. The Government of Nunavut recommended amending Clause 2.2 Cumulative Effects of the *draft* Exemption Agreement to provide clarity on this point.

The Board agrees that incorporating such clarifications within the *draft* Exemption Agreement would enhance transparency and ensure that all parties understand the distinct and ongoing roles of both the Nunavut Planning Commission and the NIRB in Nunavut's unique integrated regulatory system. The additions to the *draft* Exemption Agreement recommended by the NIRB in the text below are intended to affirm that, notwithstanding the Exemption Agreement being in place, the established process of project proposal submission to the Commission for conformity review and verification of exemption from screening remains in full effect.

On this basis, the Board recommends the addition of the following as the first paragraph of the Preamble in the Exemption Agreement:

AND WHEREAS under Articles 11 and 12 of the *Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada (Nunavut Agreement)*, the *Nunavut Land Claims Agreement Act*, S.C. 1993, c. 29 (*Nunavut Land Claims Agreement Act*) and Part 3 of the *Nunavut Planning and Project Assessment Act*, S.C. 2013, c. 14 (*NuPPAA*) project proposals must be submitted to the Nunavut Planning Commission as required under Article 11, Section 11.5.9A of the *Nunavut Agreement* and s. 76 of *NuPPAA* for a land use conformity determination and referral to the Nunavut Impact Review Board (NIRB) for screening in accordance with Article 12 of the *Nunavut Agreement* and Part 3 of the *NuPPAA*.

The Board also recommends an additional paragraph be added between the second to last paragraph and the last paragraph in the Preamble of the *draft* Exemption Agreement to clarify the Nunavut Planning Commission's role in relation to referring a project proposal exempted from NIRB screening under the Exemption Agreement to the NIRB for screening if the Nunavut Planning Commission has concerns respecting the cumulative impact of that project proposal.

AND WHEREAS a project proposal exempted from NIRB screening by this Exemption Agreement may still be referred to the NIRB for screening, where the Nunavut Planning Commission has concerns respecting the cumulative impact of that project proposal in relation to other development activities in a planning region under Article 12, Sections 12.3.3, 12.3.5 and 12.3.6 of the *Nunavut Agreement* and s. 80(1) of the *NuPPAA*.

Regarding the Government of Nunavut's suggestions that the NIRB rephrase Clauses 2.2 and 2.3 to reference the Nunavut Planning Commission's role in relation to identifying cumulative effects concerns, the Board wishes to clarify that Clause 2.2 and 2.3 are not describing the cumulative effects jurisdiction of the Nunavut Planning Commission which is established by the *Nunavut Agreement* and *NuPPAA* and is not affected by the terms and conditions of the Exemption Agreement. These clauses were included to recognize the on-going role of ECCC-CWS during the implementation of the Exemption Agreement to ensure the scope of the Exemption Agreement as negotiated continues to be appropriate and ensures that only project proposals with low potential to have adverse impacts are exempted from NIRB screening. These clauses recognize that ECCC-CWS may wish to exercise the discretion under the Exemption Agreement to flag circumstances where ECCC-CWS has concerns about cumulative effects in relation to a given project proposal such that the project proposal should not be exempt from NIRB screening. This discretion is not intended to affect the exercise of the Commission's cumulative effects jurisdiction but is intended to give ECCC-CWS the opportunity to identify cumulative effect concerns prior to a project proposal being submitted to the Commission and engagement of the regulatory system.

In relation to the Government of Nunavut's recommendation that Clause 2.1 should reference the legislation that defines the "works and/or activities" included in the Exemption Agreement, the Board does not agree this addition is required, as the definitions of "Protected Area Access Permit" and "Scientific Permit" to which the Exemption Agreement applies provide guidance regarding the types of works and/or activities governed by the Exemption Agreement.

In relation to requiring the Minister's monitoring and reporting under Clause 4.1 of the *draft* Exemption Agreement to include socio-economic impacts, the Board does not consider this addition to be necessary. The focus of these monitoring provisions is on adverse impacts, which consist of both ecosystemic and socio-economic impacts.

With respect to how the Exemption Agreement considers the relevance and application of Schedule 3 of *NuPPAA*, as outlined in Part 5.0 of the *draft* Exemption Agreement, once the Exemption Agreement has been finalized and executed by the NIRB and the Minister, the works and activities as listed in the Exemption Agreement are forwarded to the Minister of Northern and Arctic Affairs for inclusion Schedule 3 of *NuPPAA*. Once added to Schedule 3 of *NuPPAA*, Schedule 3 provides the listing of works and activities to be exempted, and the terms and conditions of the Exemption Agreement provide details regarding how the NIRB and ECCC-CWS

will implement and maintain the Exemption Agreement, including providing notice of termination of the Exemption Agreement and a request to remove works and activities from Schedule 3 following termination.

Kitikmeot Inuit Association

With respect to the Kitikmeot Inuit Association's request for clarification as to how the NIRB determined that the works and activities that would be exempted from NIRB screening under the Exemption Agreement would not have the significant adverse impacts listed in the Board's correspondence, the Board reminds parties that the NIRB has an established process for developing an Exemption Agreement. In this case specifically, the following key steps were taken by the Board prior to the circulation of the *draft* Exemption Agreement:

- The NIRB has screened the category of project proposals proposed to be included in the *draft* Exemption Agreement for many years as required under the *Nunavut Agreement* and *NuPPAA*, developing a familiarity with the scope and potential for impacts of the activities and/or works involved in this category.
- Several years ago, the NIRB received a request from ECCC-CWS to develop an Exemption Agreement for the project proposals to be included in the *draft* Exemption Agreement. The NIRB and ECCC-CWS worked to develop descriptions or definitions of the physical works or activities that should be exempt from screening (Exemption List). The focus of the Exemption List was to identify the appropriate scope of the activities, undertakings and works that typically represent high volumes of permitting and licensing activity with low potential for adverse impacts.
- The NIRB reviewed the draft Exemption List, and assessed, on the basis of their experience with screening the category/categories on the *draft* Exemption List and the discussions with ECCC-CWS, that the Board agreed that exempting the activities or works on the draft Exemption List from NIRB screening was consistent with the objectives of the Board under the *Nunavut Agreement and NuPPAA*, and would not have adverse impacts as listed in the Board's May 9, 2024 correspondence.
- Once the NIRB and ECCC-CWS had finalized the scope of the category/categories to be included on the Exemption List, they worked to prepare the *draft* Exemption Agreement for consultation. The *draft* Exemption Agreement included terms and conditions to define/describe the class of exempted works or activities and the terms and conditions associated with such exemptions, including items such as reporting requirements and the ability of ECCC-CWS or the NIRB to terminate the screening exemption agreement, etc.

The Board also notes that while the NIRB and ECCC-CWS worked to prepare the ECCC-CWS *draft* Exemption Agreement, the Board also identified that the scope of the two permits in the *draft* Exemption Agreement was very similar to the scope of an existing exemption agreement the NIRB developed with the Government of Nunavut – Department of Environment applicable to specific authorizations issued under the *Wildlife Act* (Nunavut). The Government of Nunavut—Department of Environment Exemption Agreement has been in place under Schedule 12-1(7) of the *Nunavut Agreement* in some form since 2008 and was approved by the Board in 2016 in an updated form which is similar to the form of the ECCC-CWS *draft* Exemption Agreement. The Government of

Nunavut – Department of Environment Exemption Agreement was added by the Minister to Schedule 3 of *NuPPAA in 2022* (Schedule 3, Item 4 SOR/2022-118, s. 1).

With respect to how the Kitikmeot Inuit Association, or any other interested party or member of the public can participate in the regulatory process if a project proposal that is governed by the Exemption Agreement is nonetheless referred to the NIRB by the Commission due to cumulative effects concerns, the NIRB's normal notification and comment process associated with a screening would occur. Accordingly, the participation of interested parties and members of the public would be governed by the same NIRB screening process applicable to project proposals not governed by the Exemption Agreement.

CLOSURE

The Board appreciates the comment submissions provided by all parties and appreciates the patience of parties while the Board considered our responses and associated revisions to the *draft* Exemption Agreement. As outlined in the NIRB's response, to date the NIRB has identified revisions intended to provide greater clarity to all parties about the scope and operation of the Exemption Agreement.

In terms of next steps, the Board will work with ECCC-CWS to follow up with commenters specifically, discuss necessary revisions to the *draft* Exemption Agreement and take the steps necessary to finalize the Exemption Agreement.

In the interim, if you have any questions or require any additional information regarding this matter please contact the undersigned directly via email at dfiliatrault@nirb.ca or at (867) 983-4608.

Sincerely,



Dionne Filiatrault
Executive Director
Nunavut Impact Review Board

cc: System-Wide Distribution List
CWS - Bruce MacDonald, Lisa Pirie-Dominix & Brendan Kelly
NTI - Dustin Fredlund, Carson Gillis & Jorgan Aitaok,
KitIA - Wynter Kuliktana & Tannis Bolt
KivIA - Luis Manzo, Ashley Aupaluktuq-Burton & Brenda Pilakapsi
QIA - Jared Ottenhof, Chris Spencer, Conor Goddard, Joel Fortier & Assol Kubeisinova
GoC - Kaitlyn Bakker
CIRNAC - Spencer Dewar & Kim Pawley
CanNor - Adrian Paradi & Lisa Dyer
GN - Justin Buller & Dianne Lapierre
NPC - Sharon Ehaloak & Jonathan Savoy
NWB - Stephanie Autut & Karén Kharatyan

Enclosed (3): (1) *Draft* NIRB-ECC-CWS Schedule 12-1(7) Exemption Agreement (May 09, 2024)
(2) Government of Nunavut Re: Comment Request for New CWS Exemption Agreement (September 6, 2024)
(3) Willms & Shier on behalf of the Kitikmeot Inuit Association Re: Proposed Screening Exemption Agreement under Article 12, Schedule 12-1(7) of the Nunavut Agreement and s. 230 of the Nunavut Planning and Project Assessment Act between Environment and Climate Change Canada – Canadian Wildlife Service and the Nunavut Impact Review Board (September 5, 2024)