

**Guidelines for Applicants and Holders of Nunavut Territory Archaeology and  
Palaeontology Permits**

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## **Guidelines for Applicants and Holders of Nunavut Territory Archaeology and Palaeontology Permits**

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For a complete copy of the Nunavut Land Claims Agreement, contact Nunavut Tunngavik Incorporated or the Department of Indian and Northern Affairs.

## Acknowledgements

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## 1 Introduction

The purpose of this guide is to assist applicants with their planning for archaeological or palaeontological research in the Nunavut Territory. Institutions and individuals have specific responsibilities that must be met in order to ensure that all materials and information arising from any archaeological or palaeontological project in Nunavut are preserved for future generations.

The guide:

- summarizes the legislative authority governing the protection of archaeological and palaeontological sites;
- describes the types of permits issued by the Government of Nunavut;
- describes the processes of applying for, reviewing, receiving and complying with permit provisions;
- outlines the role that each permit holder must play in order to ensure that the process is effective;
- outlines the requirements for community consultation;
- provides contact information for federal and territorial authorities;
- includes copies of permit applications, permits, and amendment forms;
- includes copies of relevant articles of the Nunavut Land Claims Agreement

## 2 Nunavut Archaeological and Palaeontological Sites Regulations

The protection of Nunavut's archaeological and palaeontological heritage is an important priority and shared responsibility of the Governments of Nunavut and of Canada. Under the *Nunavut Act*, the federal government can make regulations for the protection, care and preservation of archaeological and palaeontological sites and specimens. The territorial Department of Culture, Language, Elders and Youth administers the *Nunavut Archaeological and Palaeontological Sites Regulations (NAPSR)*, through which it grants research permits to qualified applicants for the purpose of documenting and investigating

archaeological and palaeontological sites in a controlled and professional manner.

The regulations in force in Nunavut prior to 2001 (*Northwest Territories Archaeological Sites Regulations*) were out of date. They did not reflect modern standards and practices of professional archaeology, the creation of the Nunavut Territory, the increased role of territorial governments in heritage resource management, or the role of organizations established under the Nunavut Land Claims Agreement. In a joint federal-territorial initiative, the Governments of Nunavut and of Canada modernized the regulations to meet the needs of Nunavut. The sections that follow describe the nature of the changes that have been made, and the manner in which the permitting system established under the *NAPSR* will be administered.



## 3 Applications

These guidelines apply to all applicants for permits to conduct archaeological or palaeontological research on all lands and waters in Nunavut, excluding those specified in s.2 of the *Regulations*.

## 4 Acronyms

<b>ASC</b>	Archaeological Survey of Canada
<b>CCI</b>	Canadian Conservation Institute
<b>CMC</b>	Canadian Museum of Civilization
<b>DCH</b>	Department of Canadian Heritage
<b>INAC</b>	Indian and Northern Affairs Canada
<b>GN</b>	Government of Nunavut
<b>IHT</b>	Inuit Heritage Trust
<b>IOL</b>	Inuit Owned Lands
<b>NA</b>	Nunavut Act
<b>NAPSR</b>	Nunavut Archaeological and Palaeontological Sites Regulations
<b>NLCA</b>	Nunavut Land Claims Agreement
<b>NSA</b>	Nunavut Settlement Area
<b>NTI</b>	Nunavut Tunngavik Incorporated
<b>PWNHC</b>	Prince of Wales Northern Heritage Centre



## 5 *Legislation & Authority*

### 5.1 *Nunavut Act*

Nunavut's archaeological and palaeontological sites are unique and highly cherished resources, and are invaluable to our understanding of past generations and environments. They are also public properties held in trust by Government on behalf of Nunavummiut. Under law, all individuals involved in the study of archaeological and palaeontological sites, and in the creation of information arising from field research, are obligated to protect these resources for the benefit of present and future generations.

The legal foundation for the control of archaeological and palaeontological activities in Nunavut is the *Nunavut Archaeological and Palaeontological Sites Regulations* (Appendix A) established pursuant to Section 51 of the *Nunavut Act*. The *Regulations* came into force on June 15, 2001.

These *Regulations* stipulate that the Minister of Indian Affairs and Northern Development has the power to grant archaeology and palaeontology research permits, to require reports, and to direct the disposition of specimens and documents. The *Regulations* stipulate that only individuals who have obtained a permit can investigate archaeological or palaeontological sites. Under the *Nunavut Act*, individuals who contravene these *Regulations* are guilty of an offense punishable on summary conviction.

The Minister, Department of Culture, Language, Elders and Youth, Government of Nunavut, has been delegated the authority to administer the *Regulations*, and the Department's Heritage Directorate is the Government of Nunavut agency which performs this work.

### 5.2 *Nunavut Land Claims Agreement*

On May 25, 1993, the Government of Canada ratified an *Agreement Between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada*. On April 1, 1999, the Government of Nunavut was formally established. The Nunavut Land Claims Agreement (NLCA) contains specific provisions concerning archaeological resources in Nunavut,

which are reflected in Nunavut's archaeology regulations, policies and guidelines.

- Where an archaeological or palaeontological research project will occur in whole or in part on Inuit Owned Lands, under the provisions of Article 21 (see Appendix G), an applicant must obtain permission to access the land from the Regional Inuit Organization (see Contacts).
- Under the provisions of Article 33 of the Nunavut Land Claims Agreement (Appendix H), the Government of Nunavut must forward copies of archaeology permit applications to the Inuit Heritage Trust for review.

The Inuit Heritage Trust may object to an archaeology permit application for reasons stated in Article 33 of the Nunavut Land Claims Agreement:

#### 33.5.4

Upon receipt of the copy, the Trust shall have a reasonable number of calendar days, as determined by the Designated Agency in consultation with the Trust, to object to the application in writing.

#### 33.5.5

If the Designated Agency is in receipt of such written objections within the specified number of calendar days, it shall:

- (a) withhold the issuance of any permit;
- (b) investigate the objections; and
- (c) provide the Trust with a copy of the report prepared on the basis of the investigation.

#### Article 33.5.6

Where the objections referred to in Section 33.5.5 are reasonably founded on

- (a) inadequate efforts to secure Inuit



participation and benefits or inadequate performance of commitments to provide such participation and benefits under permits issued at an earlier date, or

- (b) disturbance of a site of Inuit religious or spiritual significance, as such significance is defined by the Trust in consultation with the Designated Agency,

the Designated Agency shall reject the application for the permit.

*Permit requirements for activities on land subject to any aboriginal claims other than those of the Inuit of Nunavut (Dene, Makivik etc...), may be subject to some procedural variations not indicated in these guidelines. If you fall into this category, we recommend you contact the Department of Culture, Language, Elders and Youth directly for additional information.*

## **6 Regulations Summary**

- Section 1**      ***Interpretation***  
This section describes the terms and definitions (e.g., sites, artifacts, permit classes) that apply in the *Regulations*.
- Section 2**      ***Application***  
This section defines the geographical area covered by the *Regulations*.
- Section 3**      ***Protection of Artifacts and Fossils***  
This section describes the prohibitions concerning possession and selling of artifacts and fossils.
- Sections 4, 5**    ***Protection of Archaeological Sites***  
These sections set out the requirement for a permit to investigate an archaeological site.
- Sections 6, 7**   ***Protection of Palaeontological Sites***  
These sections set out the requirement for a permit to investigate a palaeontological site.

- Section 8**      ***Issuance of Permits***  
This section describes the procedures and qualifications required in order to obtain a Class 1 Permit.
- Section 9**      ***Issuance of Permits***  
This section describes the procedures and qualifications required in order to obtain a Class 2 Permit.
- Section 10**     ***Denial of Permit***  
This section provides for the denial of a permit where an applicant has contravened the *Regulations*.
- Section 11**     ***Assignment***  
This section states that a permit may not be assigned.
- Section 12**     ***Expiration***  
This section indicates the date on which a permit expires.
- Section 13**     ***Site Restoration***  
This section states that the permit holder must restore the excavated portion of the site.
- Section 14**     ***Reports***  
This section describes the reporting requirements for permit holders.
- Section 15**     ***Archaeology Repository***  
This section describes the procedures to be followed when submitting archaeological collections made under permit to the designated repository.
- Section 16**     ***Palaeontology Repository***  
This section describes the procedures to be followed when submitting palaeontological collections made under permit to the designated repository.
- Section 17**     ***Coming into Force***  
This section indicates the date on which the *Regulations* came into force.



## 6.1 Permit Classes

Two classes of archaeology and palaeontology permits, with differing eligibility and reporting requirements, have been established under the NAPS. By establishing two classes of permits, the Government of Nunavut has made provisions in the *Regulations* to address circumstances where investigations do not involve excavation or the removal of artifacts or specimens.

### 6.1.1 Class 1



R.W. Park

A *Class 1 Permit* authorizes only the documentation of an archaeological or palaeontological site, including preparing a site map, recording of the site's geographic location, and the number, type and distribution of features present. Under no circumstance can the holder of a *Class 1 Permit* collect artifacts

or specimens, or alter or disturb a site in any manner.

The information required in an application for a *Class 1 Permit* includes the:

- name, affiliation, and qualifications of the applicant;
- names, affiliations, and qualifications of others in the party;
- geographic area and coordinates of the project (including a map);
- time frame of the project;
- a summary of the aims and objectives of the proposed project;
- sponsor(s) of the project, if any;
- confirmation of consultation with land owners and affected communities

### 6.1.2 Class 2

A *Class 2 Permit* authorizes the documentation of an archaeological or palaeontological site, as well as the excavation and removal of artifacts or

palaeontological specimens, or other materials (e.g., soil samples). *Class 2 permits* have the most extensive and detailed requirements, and will be issued only to professionally qualified archaeologists and palaeontologists.



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In order to obtain a *Class 2 Permit*, an individual must have advanced training in archaeology or palaeontology and extensive field experience, which is appropriate to their proposed permitted activities. This level of expertise is required in order to ensure that excavations of archaeological and palaeontological sites, treatment and analysis of artifacts and specimens, and the publication of the results are undertaken according to professional standards.

The information required in an application for a *Class 2 Permit* includes the:

- name, affiliation, and qualifications of the applicant;
- names, affiliations, and qualifications of others in the party;
- geographic area and coordinates of the project (including a map);
- time frame of the project;
- a summary of the aims, objectives and benefits of the proposed project;
- budget, including funds allocated for conservation purposes;
- funding agency(ies), confirmation of funding;
- description of plans for site restoration;
- confirmation of consultation with land owners and affected communities;
- statement of anticipated artifact conservation needs and location where artifacts or specimens will be housed during analysis;





### 6.1.3 Submitting Applications

An individual submitting an application for an archaeologist or palaeontologist permit is required to furnish, on the form supplied by the Government of Nunavut, the information described in Section 7 (for a Class 1 permit) or Section 8 (for a Class 2 Permit) of the *Regulations*. Appendix B contains a sample application form.

Permit applications can be obtained from and should be submitted to:

Chief Archaeologist  
Heritage Division  
Department of Culture, Language,  
Elders and Youth  
Government of Nunavut  
Box 310  
Igloolik, NU X0A 0L0  
[Cleypermits@gov.nu.ca](mailto:Cleypermits@gov.nu.ca)

It is the sole responsibility of the applicant to ensure that applications are complete and submitted on the approved forms. A permit application that is not submitted on the required form will not be considered. Incomplete applications will not be considered until the applicant has provided all of the required information. Questions concerning the permit applications should be directed to the Chief Archaeologist.

### 6.1.4 Review of Permit Applications

The Government of Nunavut's Chief Archaeologist and Director of Heritage review permit applications. Archaeological, palaeontological, conservation and curatorial staff at the Prince of Wales Northern Heritage Centre, the Canadian Museum of Civilization, the Canadian Museum of Nature, or other agencies are consulted at the discretion of the Government of Nunavut on permit, repository, conservation or related issues.

The Government of Nunavut administers the permit system, judges the qualifications of the applicant to perform the proposed research, and assesses the anticipated conservation requirements of artifacts to be housed at the designated repository.

The suitability of the applicant is judged on the basis of demonstrated qualifications and, thus, capability to perform the research or activity described in the application. First-time applicants are required to submit a resumé. A permit can be refused if the applicant lacks appropriate credentials, has not justified the research project, or has obligations outstanding on previous permits or other authorizations. A permit can also be refused on the basis of an objection filed by the Inuit Heritage Trust under Article 33, Part 5, of the Nunavut Land Claims Agreement. The decision of the Government of Nunavut concerning a permit application is final.

### 6.2 Summary of Permit Review System

The main components of the permit review system are:

- Undertaking professional evaluations of applications for an archaeologist or palaeontologist permit;
- Consulting with designated land claim and community organizations;
- Managing artifacts, material samples and documentation arising from archaeological and palaeontological research, and
- Disseminating information obtained through archaeological and palaeontological projects.

#### *Permit Review Procedures*

Upon receipt of an application for an archaeologist or palaeontologist permit, the following procedures are followed:

#### *Step 1*

The Chief Archaeologist reviews the application for completeness of information. If the application is incomplete, the applicant is contacted and asked to provide the missing information. If the information requested is not provided, the application will not be processed.



### Step 2

#### *Archaeology:*

The Department of Culture, Language, Elders and Youth translates applications into Inuktitut, and the original application and the Inuktitut copy are forwarded to the Inuit Heritage Trust for review. The Inuit Heritage Trust coordinates the community review of permit applications. The Government of Nunavut may also forward copies of the application to other organizations for their comments.

#### *Palaeontology:*

The Department of Culture, Language, Elders and Youth translates the application into Inuktitut, and the original application and the Inuktitut copy are forwarded to the appropriate community, government or land claim organizations for review. The Government of Nunavut may also forward copies of the application to other organizations for their comments.

### Step 3

The Chief Archaeologist reviews each application and makes permitting recommendations to the Director of Heritage. The review criteria include the qualifications of the applicant, research justification, design and methods, artifact/specimen conservation plans, plans for site restoration, budget, community consultation, compliance on previous permits, and sharing of research results.

### Step 4

When a community or review agency raises concerns over the issuing of a particular permit, these concerns are related to the applicant and are addressed before the permit is issued, or are reflected in conditions attached to the permit. In some cases, the permit may not be issued. If the Government of Nunavut receives written objections to a permit application from the Inuit Heritage Trust, the provisions of Article 33, Part 5 are invoked.

### Step 5

When the review and consultation concerning a permit application have been completed, the Department of Culture, Language, Elders and Youth will:

- (a) **Issue** a permit for the work originally outlined in the application; or
- (b) **Issue a permit with conditions attached;** or
- (c) **Refuse to issue a permit,** and provide the reasons for the refusal to the applicant.

A permit may be refused for several reasons, including:

- (i) The applicant lacks appropriate credentials;
- (ii) The applicant has not justified the research;
- (iii) The applicant has obligations outstanding on permits or other authorizations previously issued;
- (iv) An objection filed by the Inuit Heritage Trust concerning the proposed disturbance an archaeological site of religious or spiritual significance to Inuit

#### 6.2.1 *Permit Responsibilities*

Upon expiry of the permit, a permit holder must have complied with a number of obligations that are detailed in the Regulations. The permit holder must, within the time frame specified in the *Regulations*:

- Write and submit a technical report on the research to land claim and other agencies listed on the permit;
- Write and submit to the Department of Culture, Language, Elders and Youth a non-technical summary for use in public education programs, and
- Submit the catalogued artifacts or palaeontological specimens, material samples, field notes, catalogues, maps and photos to the designated repository. If the permit holder requires artifacts and notes for further research, loan arrangements must be made with the repository.





### 6.3 Application Deadlines

The process of reviewing and issuing a permit can take several months, and the *Regulations* require that complete applications are submitted a minimum of 90 days prior to the planned start date for the project. However, due to delays that can arise during consultation processes, applicants are strongly urged to submit permit applications as early as possible in the planning stages of a project. Individuals applying for permits in consecutive years must have complied with all of their obligations under pre-existing permits before a new permit will be issued.

### 6.4 Additional Permits and Licenses

In many cases, it will be necessary for an applicant for an archaeology or palaeontology permit to also obtain licenses or permits from other agencies (e.g., Land Use Permit, Access to Inuit Owned Lands Permit, Scientific Research License, Firearms Acquisition Certificate). These licenses and permits are issued under separate authorities and are administered independently. Accordingly, the issuance of an archaeology or palaeontology permit *does not* authorize access to the land on which the study site is located. Similarly, the issuance of a Scientific Research License or an Access to Inuit Owned Lands Permit *does not* authorize any archaeological or palaeontological intervention. *It is the sole responsibility of the applicant to ensure that any and all license/permit requirements are fulfilled* (see Contacts).

Permits are issued to an individual, not to a group or institution, and they are not transferable. The Government of Nunavut does not issue multi-year permits for archaeology or for palaeontology. All permits contain a checklist that informs the permit holder of their obligations. These are an integral part of the permit. Conditions, which are legally binding, may also be applied to a permit. A sample permit is found in Appendix C.

In accepting the permit, the permittee assumes all responsibilities as defined in the *Nunavut Archaeological and Palaeontological Sites Regulations* including:

- (i) direct supervision of the field research for which the permit was issued, including field conservation of specimens and site restoration;
- (ii) preparation and submission of the permit report;
- (iii) analysis, temporary curation, and submission of archaeological or palaeontological collections, by the required date, to the designated repository;
- (iv) arrangement of a loan agreement, by the required date, for archaeological or palaeontological collections for study purposes;
- (v) submission of ancillary documents

### 6.5 Permit Amendments

A permit may be amended after it has been issued. Amendments may be initiated by the Government of Nunavut, or be requested by the permit holder. Amendments requested by permit holders must not alter substantively the nature or purpose of the work for which a permit was originally issued. Requests to amend the class of an issued permit will not be considered. The Director of Heritage authorizes permit amendments. The decision of the Government of Nunavut concerning a request for a permit amendment is final. A sample amendment form is found in Appendix D.

### 6.6 Permit Cancellations and Revocations

Occasionally, a proponent may cancel a project for which a permit has been issued. Should this occur, the proponent must immediately notify the Department of Culture, Language, Elders and Youth, and advise community, land claim and any other licensing organizations of the change in plans.

The Department of Culture, Language, Elders and Youth may also conduct on-site inspections as a means of monitoring compliance with terms or conditions attached to a permit. Inspections may be initiated by the Department, or as a result of concerns expressed by permit holders, individuals, communities, or other organizations. In cases where a permit holder has engaged in



activities not authorized under the permit, or has failed to properly observe appended terms and conditions, the permit may be revoked. Should this occur, all investigative work at the site must immediately cease, all excavated units must be restored (backfilled), and the research team must leave the field site within a time frame specified by the Government of Nunavut.

### 6.7 *Permit Notifications*

The following agencies are informed of the issuance of each permit:

- Archaeological Survey of Canada (Canadian Museum of Civilization)
- Canadian Museum of Nature (Palaeontology permits only)
- Indian and Northern Affairs Canada
- Inuit Heritage Trust
- Nunavut Research Institute
- Polar Continental Shelf Project
- Prince of Wales Northern Heritage Centre

## 7 *Permit Requirements*

On or before March 31 of the year following the year in respect of which a permit was issued, permit holders must have complied with the obligations listed below. Permit requirements take precedence over any contractual arrangements involving the permittee. A permit is considered open until the permit holder has met all requirements.

### 7.1 *Site Forms*

Upon returning from the field, permit holders must send to the Government of Nunavut within 60 days, completed site forms for all sites discovered or revisited. These forms are available from the Department of Culture, Language, Elders and Youth. They must be accompanied by a 1:50,000 topographic map, where available, showing the site locations. Maps in the scale of 1:250,000 are acceptable where 1:50,000 coverage is unavailable. Clear photocopies of the pertinent portions of the maps are also adequate, as long as they are to scale. GPS readings for sites may be submitted in addition to topographic

maps. All GPS readings must use the NAD 83 datum, and must include the Dilution of Precision (DOP) for each reading. Latitude and longitude (Degrees:Minutes:Seconds) and UTM coordinates must also be submitted for each site reported.

### 7.2 *Non-Technical Summary*

By September 30 of the year in which the permit was issued, the Department of Culture, Language, Elders and Youth requires the submission of a non-technical summary and two colour photographs for use in public education programs and annual reports of fieldwork conducted in Nunavut. Summaries should be submitted electronically by e-mail or on disk. Text must be in Microsoft Word or in 'text-only' format. Photographs must be submitted in jpeg (.jpg) format at a resolution of 150 dpi or less. Summary text and photographs are to be submitted as separate files.

### 7.3 *Technical Reports*

On or before March 31 of the year following the year in respect of which a permit was issued, permit holders must submit a technical report in hard copy to the agencies listed on the permit, and to the community nearest the research area. The Government of Nunavut also requires a copy in electronic format (Microsoft Word). Photographs contained in the report must be submitted in jpeg (.jpg) format at a resolution of 150 dpi or less. The format and information to be contained in the report are specified in Section 14 of the *Nunavut Archaeological and Palaeontological Sites Regulations*. The principal author of this report is the permit holder. In the event that the permit holder leaves the employ of the agency that sponsored the research, or is assigned to other duties, an alternate person with the requisite qualifications may assume this task. The Government of Nunavut must pre-approve any proposed change in authorship.

### 7.4 *Specimens and Documentation*

On or before March 31 of the year following the year in respect of which a permit was issued, permit holders must submit the catalogued and



numbered artifacts, palaeontological specimens, material samples, faunal remains, field notes, maps and photographs to the repository specified on the permit. In some cases, the permit holder will require some or all of the artifacts, palaeontological specimens, faunal remains and original documentation for analysis and publication purposes. In order to retain these materials for research purposes, a loan agreement must be arranged with the repository by the required date (see *Collections Management*).

### 7.5 *Collections Catalogues*

On or before March 31 of the year following the year in respect of which a permit was issued, permit holders must submit a complete artifact/specimen catalogue. Permit holders should consult with curatorial staff of the designated repository before cataloguing and numbering archaeological or palaeontological collections.

Catalogues for both archaeology and palaeontology collections must be submitted in hard copy and in electronic formats. The electronic versions must be submitted via e-mail or on disk in Microsoft Excel, or in text tab-delimited format.

#### 7.5.1 *Artifacts*

Artifacts must be numbered with the Borden/artifact number (e.g. AbCd-1:1) and accompanied by a catalogue listing the object number and type.

#### 7.5.2 *Palaeontological Specimens*

Permits holders must contact the designated repository for information concerning the numbering system to be used for palaeontological specimens.

#### 7.5.3 *Faunal Remains*

Faunal remains often form a significant part of archaeological site collections. Depending on the size or nature of a faunal collection, it may not be

necessary to number individual bones with a catalogue number. The remains may be grouped into lots according to recovery unit (e.g., feature, unit, quadrant, level) with a single number assigned to the lot, and the lot placed in a numbered container. The catalogue description for the lot number must include the number of bones or fragments in the lot. Permit holders must also provide, at a minimum, a summary report on the faunal remains recovered from each site at which collections were made. The report must include quantification of the collection by species and element, the type and frequency of bone modification, and any other relevant information such as the age or sex of the specimens. A specialist in faunal analyses can perform the analyses and interpretation, but the faunal analyst's report must be submitted as part of the permit report on or before the required date.

## 8 *Community Consultation*

Consultation with the community nearest the research area is an integral part of the permit-granting process. It is also essential for the applicant to establish and maintain a good working relationship with the community. Applicants are encouraged to contact the community nearest the location of the proposed field study at the beginning of the project planning process.

The Inuit Heritage Trust, as part of its review of archaeology permit applications, has assumed responsibility for contacting the community nearest the research area. The Trust informs the community that the research has been proposed, forwards copies of applications to communities, and invites comments concerning the project. Communities often express a strong interest in the hiring of local field assistants. The Government of Nunavut promotes the employment of local northerners in scientific projects and encourages the incorporation of *Inuit Qaujimagatuqangit* in research.

Community representatives may request that an archaeologist or palaeontologist return artifacts or palaeontological specimens directly to the community. Permit holders do not, however, make decisions concerning the disposition of collections. Questions from community members



concerning the repository for artifacts or palaeontological specimens should be referred to the Department of Culture, Language, Elders and Youth.

## 9 Conservation

In deciding to undertake excavation, archaeologists and palaeontologists accept the responsibility for the initial conservation of the objects collected. Section 9(e) of the *Regulations* requires applicants to describe their plans for conservation of specimens. In doing so, applicants must consult with a professional conservator for advice on immediate post-excavation conservation, and long-term conservation requirements. Applicants are encouraged to employ a conservator on-site to ensure that specimens, and especially fragile objects, are properly handled and treated.

## 10 Human Remains

Human remains refer to skeletal, cremated or any other traces of human bodies within the context of recognized cemeteries, marked or unmarked graves, and marked or unmarked surface or subsurface locations.

Under the Government of Nunavut's *Human Remains Policy* (Appendix E), archaeological excavation of human remains will be permitted only under exceptional circumstances, and only following consultation with relevant government, community and land claims authorities.

### 10.1 Adventitious Human Remains

If human remains are encountered during the course of an archaeological field project, either on site or in the immediate vicinity, they should not be disturbed. The location of the remains should be marked on a topographic map (or on a field sketch), photographed, recorded in field notes, and reported as soon as possible to local and territorial authorities. The remains might represent evidence of criminal activity if they are not found in a clearly defined archaeological context. If local and territorial authorities cannot respond within a reasonable period of time, the

remains must be left in their original state, covered and protected from further interference.

Many of the bones of the human skeleton are not recognizable as such to a non-expert. Occasions may arise in which human bones or bone fragments are discovered in the laboratory in the course of analyzing collections. Should this occur, the permit holder must immediately notify the Chief Archaeologist of the discovery, who will advise on the course of action to be followed.

## 11 Destructive Analysis

Certain kinds of analysis require the destruction of an archaeological or palaeontological specimen in whole or in part. Written permission from the Government of Nunavut's Director of Heritage must be obtained before any destructive analysis, including for radiometric dating purposes, can proceed. Decisions concerning requests for destructive analysis will involve consultation with collections management staff of the designated repository, who will assess the value of the information gained against the loss of the object or part thereof. Before any artifact or specimen will be approved for destructive analysis it must be fully documented (e.g., photographed, measured, described, etc.) and be included in the collection catalogue.

## 12 Collections Management

For the purposes of the *Nunavut Archaeological and Palaeontological Sites Regulations*, the term "collection" refers to all objects, samples and documents resulting from research conducted under a permit. Collections include, but are not limited to, the following:

- *Artifacts*
- *Palaeontological specimens*
- *Faunal remains*
- *Samples of rock, soil, charcoal, shell, pollen, etc.*
- *Field notes*
- *Map(s)*
- *Site forms*
- *Photo documentation (film, tape or digital): photographs, slides, negatives, video*





- *Artifact catalogues*
- *Report(s) (including the results of technical analyses, such as radiocarbon dating)*

## 12.1 *Repositories*

Facilities to house archaeological and palaeontological collections do not currently exist in Nunavut. Agreements have been reached with federal, provincial and territorial governments to meet collection management needs until Nunavut has established its own storage and conservation facilities.

For archaeological collections, the repository will be either the Prince of Wales Northern Heritage Centre (Yellowknife), or the Canadian Museum of Civilization (Gatineau). For palaeontological collections, the repository is the Canadian Museum of Nature (Ottawa). The Inuit Heritage Trust specifies the repository for archaeological collections recovered from Inuit Owned Lands. The Government of Nunavut determines which repository will be used for archaeological collections from lands other than Inuit Owned Lands.

A permit holder has significant responsibilities and obligations for the immediate and long-term care and conservation of collections. They are required to ensure that all collections are properly cared for while they are in their custody for research purposes, which typically takes place at a university or a museum facility. Once the research is completed, the collections must be sent to a designated public institution with proper facilities and professionally trained staff. For these reasons, permit holders are required, as part of the research planning process, to consult with repositories on a range of collections management issues.

## 12.2 *Submissions to Repositories*

### 12.2.1 *Loans*

Permit holders who wish to retain for research purposes archaeological or palaeontological collections beyond the submission date specified in the *Regulations* must arrange a loan with the

designated repository. Requests for loans should be sent to (i) Director of Heritage, Government of Nunavut, and (ii) the Curator of Collections or Loans Registrar of the repository specified on the permit. Submission of an artifact/specimen catalogue is a permit requirement, and loan requests will not be considered unless the designated repository has received all of the required documentation in the proper format(s).

Upon expiry of the loan agreement, collections must be returned to the Curator of Collections or Loans Registrar of the specified repository. *Permits holders should ensure that costs for shipping archaeological or palaeontological collections to the repository upon expiry of the permit or loan agreement are included in the project budget.*

Requests for the renewal of a collections loan will be considered. However, under the provisions of Article 33 (s33.1.1) of the Nunavut Land Claims Agreement, the Inuit Heritage Trust must consent in writing to the long-term alienation of archaeological specimens from the Nunavut Settlement Area. Long-term alienation is defined as a period of three years or longer.

### 12.2.2 *Documents*

Documents such as field notes, maps, photographs, and videos must be submitted to the Department of Culture, Language, Elders and Youth on or before March 31 of the year following the year in respect of which a permit was issued.

### 12.2.3 *Archival Issues*

Permit holders must ensure that field records are prepared according to archival standards. Permit holders must consult with Nunavut's Territorial Archivist concerning the submission and proper long-term storage of digital images, slides, negatives and photographic prints. All paper field records (e.g., field notes, sketch maps, site forms, etc.) that are submitted must be legible.



### 12.2.4 Packing

Collections being shipped to the repository must be properly packed to avoid damage during shipment. Permit holders should consult the designated repository concerning packing procedures. Appendix G provides instructions for packing material for shipment to the Prince of Wales Northern Heritage Centre.

## 13 Contacts

### 13.1 Government of Nunavut

#### **Director of Heritage**

Department of Culture, Language,  
Elders and Youth  
Government of Nunavut  
P.O. Box 1000, Station 800  
Iqaluit, NU X0A 0H0  
Telephone (867) 975-5524  
Fax (867) 975-5504

#### **Chief Archaeologist**

Department of Culture, Language,  
Elders and Youth  
Government of Nunavut  
P.O. Box 310  
Igloolik, NU X0A 0L0  
Telephone (867) 975-2046  
Fax (867) 975-2047  
cleypermits@gov.nu.ca

#### **Territorial Archivist**

Department of Culture, Language,  
Elders and Youth  
Government of Nunavut  
P.O. Box 310  
Igloolik, NU X0A 0L0  
Telephone (867) 934-2044  
Fax (867) 934-2047

#### **Nunavut Research Institute**

Manager, Research Liaison  
Nunavut Research Institute  
P.O. Box 1720  
Iqaluit, NU X0A 0H0  
Telephone (867) 979-4108  
Fax (867) 979-4681  
[www.nunanet.com/~research/](http://www.nunanet.com/~research/)

### **Nunavut Legal Registries**

For assistance concerning the title status of the lands on which a project has been proposed, applicants can contact:

#### **Nunavut Legal Registries**

Department of Justice  
Legal Registries Division  
P.O. Box 1000, Station 570  
Iqaluit, NU X0A 0H0  
Telephone (867) 975-6192  
Fax (867) 975-6194



### 13.2 Government of Canada

1. Depending on the scale of the project, researchers working on Federal Crown Lands may need a Land Use Permit. Contact:

#### ***Indian and Northern Affairs Canada***

Land Administration

P.O. Box 100

Iqaluit, NU X0A 0H0

Telephone (867) 975-4283

Fax (867) 975-4286

2. An archaeological research permit is required to conduct archaeological research on lands and waters under the administration of Parks Canada. Contact:

#### ***Parks Canada***

Manager, Cultural Resource Services

Western Canada Service Centre

145 McDermot Avenue

Winnipeg, MB

Telephone (204) 983-6802

Fax (204) 983-8187

Cultural Resources Management Officer

Parks Canada - Nunavut Field Unit

P.O. Box 278

Iqaluit, NU

X0A 0H0

Telephone (867) 975-4676

Fax (867) 975-4674

#### ***Canadian Museum of Civilization***

Sites Office

P.O. Box 3100, Station B

Hull, PQ J8X 4H2

Telephone (819) 776-8505

Fax (819) 776-8300

[www.civilization.ca](http://www.civilization.ca)



### 13.3 Regional Inuit Associations

**Researchers working on Inuit Owned Lands may require an access to Inuit Owned Lands Permit issued by the Regional Inuit Association.**

**Contact:**

**Qikiqtani Inuit Association**  
Regional Land Manager  
P.O. Box 219  
Iqaluit, NU X0A 0H0  
Telephone (867) 979-5391  
Fax (867) 979-3238

**Kivalliq Inuit Association**  
Regional Land Manager  
P.O. Box 340  
Rankin Inlet, NU X0C 0G0  
Telephone (867) 645-2810  
Fax (867) 645-3855

**Kitikmeot Inuit Association**  
Regional Land Manager  
P.O. Box 18  
Cambridge Bay, NU X0E 0E0  
Telephone (867) 982-3310  
Fax (867) 982-3311

### Communities by Region

**Qikiqtani**

*Arctic Bay  
Qikiqtarjuaq (Broughton Island)  
Cape Dorset  
Clyde River  
Grise Fiord  
Hall Beach  
Igloolik  
Iqaluit  
Kimmirut (Lake Harbour)  
Pangnirtung  
Pond Inlet  
Resolute  
Sanikiluaq*

**Kivalliq**

*Arviat  
Baker Lake  
Chesterfield Inlet  
Coral Harbour  
Rankin Inlet  
Repulse Bay  
Whale Cove*

**Kitikmeot**

*Cambridge Bay  
Gjoa Haven  
Kugluktuk (Coppermine)  
Kugaaruk (Pelly Bay)  
Taloyoak (Spence Bay)*

**Or you can contact:**

**Inuit Heritage Trust**  
P.O. Box 2080  
Iqaluit, NU X0A 0H0  
Telephone (867) 979-0731  
Fax (867) 979-0269  
Heritage@iht.ca



D. Stenton





# APPENDICES





## 14 Appendix A

### *Nunavut Archaeological and Palaeontological Sites Regulations*



D. Stenton



## Registration

SOR/2001-220 14 June, 2001

### NUNAVUT ACT

#### Nunavut Archaeological and Palaeontological Sites Regulations

P.C. 2001-1111 14 June, 2001

Her Excellency the Governor General in Council, on the recommendation of the Minister of Indian Affairs and Northern Development, pursuant to subsection 51(1) of the *Nunavut Act*, hereby makes the annexed *Nunavut Archaeological and Palaeontological Sites Regulations*.

#### NUNAVUT ARCHAEOLOGICAL AND PALAEOLOGICAL SITES REGULATIONS

##### INTERPRETATION

1. The following definitions apply in these Regulations.

“Archaeological artifact” means any tangible evidence of human activity that is more than 50 years old and in respect of which an unbroken chain of possession or regular pattern of usage cannot be demonstrated, and includes a Denesuline archaeological specimen referred to in section 40.4.9 of the Nunavut Land Claims Agreement.

“archaeological site” means a site where an archaeological artifact is found.

“Class 1 permit” means a permit that entitles the permittee to survey and document the characteristics of an archaeological or palaeontological site in a manner that does not alter or otherwise disturb the site.

“Class 2 permit” means a permit that entitles the permittee to

- (a) survey and document the characteristics of an archaeological or palaeontological site;
- (b) excavate an archaeological or palaeontological site;
- (c) remove archaeological artifacts from an archaeological site or remove fossils

- from a palaeontological site; or
- (d) otherwise alter or disturb an archaeological or palaeontological site.

“designated agency” has the same meaning as in section 33.1.1 of the Nunavut Land Claims Agreement.

“fossil” includes

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

“Inuit-owned lands” has the same meaning as in section 1.1.1 of the Nunavut Land Claims Agreement.

“Nunavut Land Claims Agreement” means the Agreement between the Inuit of the Nunavut Settlement Area and Her Majesty the Queen in right of Canada, signed on May 25, 1993.

“palaeontological site” means a site where a fossil is found.

##### APPLICATION

2. These Regulations apply to all lands and waters in Nunavut other than
- (a) those within the boundaries of a park, as defined in the *Canada National Parks Act*; and
  - (b) any lands set apart as a national historic site of Canada under section 42 of that Act.

##### PROTECTION OF ARTIFACTS AND FOSSILS

3. (1) Subject to subsection (2), no person shall possess or sell
- (a) an archaeological artifact that was removed from an archaeological site on or after June 15, 2001; or
  - (b) a fossil that was removed from an palaeontological site on or after June 15, 2001.
- (2) The prohibition on possession in subsection (1) does not apply to:



- (a) a person or organization receiving an archaeological artifact or fossil pursuant to section 15 or 16;
- (b) a person or organization possessing an archaeological artifact or fossil under the terms of an agreement with a person or organization referred to in paragraph (a); or
- (c) the holder of a Class 2 permit, during the term of the permit and for a period of three months after the expiration of the permit.

#### **PROTECTION OF ARCHAEOLOGICAL SITES**

4. No person shall search for archaeological sites or archaeological artifacts, or survey an archaeological site, without a Class 1 or Class 2 permit.

5. (1) No person shall excavate, alter or otherwise disturb an archaeological site, or remove an archaeological artifact from an archaeological site, without a Class 2 permit.

(2) No person, other than a person engaged in a search and rescue operation, shall dive, or approach with an underwater submersible, to within 30 m of an archaeological artifact without a Class 2 permit.

(3) Subsection (1) shall not be interpreted to prohibit the establishment of an outpost camp on an archaeological site in accordance with section 7.6.3 of the Nunavut Land Claims Agreement.

#### **PROTECTION OF PALAEOONTOLOGICAL SITES**

6. No person shall search for palaeontological sites or fossils, or survey a palaeontological site, without a Class 1 or Class 2 permit.

7. No person shall excavate, alter or otherwise disturb a palaeontological site, or remove a fossil from a palaeontological site, without a Class 2 permit.

#### **ISSUANCE OF PERMITS**

8. (1) A person may apply for a Class 1 permit by submitting an application, in writing, to the

designated agency, setting out

- (a) the name and qualifications of the applicant and of all persons who will be working on the proposed project;
- (b) a description of the project, including
  - (i) a statement as to whether the project relates to archaeological or palaeontological sites, and
  - (ii) a map and geographic coordinates of the project area; and
- (c) the objectives of the project.

(2) Subject to section 10 of these Regulations and section 33.5.6 of the Nunavut Land Claims Agreement, within 90 days after receipt of an application made under subsection (1), or after any longer period required to ascertain that the requirements of paragraphs (a) and (b) have been met, the designated agency shall issue a Class 1 permit for the proposed project if

- (a) the applicant has demonstrated the expertise in archaeology necessary to conduct the project and complete the report required under subsection 14(2); and
- (b) the applicant has complied with all conditions precedent to obtaining such a permit set out in the Nunavut Land Claims Agreement.

9. (1) A person may apply for a Class 2 permit by submitting an application, in writing, to the designated agency, setting out

- (a) the name and qualifications of the applicant;
- (b) the name and qualifications of all persons who will be working on the proposed project, if known;
- (c) a description of the project, including
  - (i) a statement as to whether the project relates to archaeological or palaeontological sites, and
  - (ii) a map and geographic coordinates of the project area;
- (d) the objectives of the project;
- (e) plans for the conservation of any archaeological artifacts or fossils proposed to be collected under the permit;
- (f) where the project relates to an archaeological site, a description of arrangements made for acceptance,
  - (i) by a curation repository designated by



the Inuit Heritage Trust under section 33.7.6 of the Nunavut Land Claims Agreement, of any archaeological artifacts proposed to be collected under the permit on Inuit-owned lands, or

(ii) by a curation repository designated by the designated agency under section 33.7.7 of the Nunavut Land Claims Agreement, of any archaeological artifacts proposed to be collected under the permit on any other lands;

(g) where the project relates to a palaeontological site, a description of arrangements made with the minister of the government of Nunavut responsible for culture and heritage for acceptance of any fossils proposed to be collected under the permit;

(h) a copy of the budget of the project, including funds allocated for the preservation of archaeological artifacts or fossils, and a confirmation of the project funding; and

(i) a description of the manner in which the archaeological or palaeontological site will be restored.

(2) Subject to section 10 of these Regulations and section 33.5.6 of the Nunavut Land Claims Agreement, within 90 days after receipt of an application made under subsection (1), or after any longer period required to ascertain that the requirements of paragraphs (a) to (c) have been met, the designated agency shall issue a Class 2 permit for the proposed project if

(a) the applicant has demonstrated the expertise in archaeology or palaeontology necessary to conduct the project;

(b) the scientific and cultural benefits of the project outweigh the adverse impact of the project on the archaeological or palaeontological site; and

(c) the applicant has complied with all conditions precedent to obtaining such a permit set out in the Nunavut Land Claims Agreement.

**10.** An applicant who has contravened these Regulations or the conditions of any previous permit or other authorization for the search for, or excavation of, archaeological or palaeontological

sites that was issued in any country is not entitled to issuance of a permit under section 8 or 9, if the contravention has not been remedied.

### **ASSIGNMENT**

**11.** A permit shall not be assigned.

### **EXPIRATION**

**12.** A permit expires on December 31 of the year for which it was issued.

### **SITE RESTORATION**

**13.** A person who excavates an archaeological or palaeontological site shall, on completion of the excavation, restore the site, in so far as is practicable, to its original state.

### **REPORTS**

**14.** (1) On or before March 31 of the year following the year for which a permit was issued, the holder of a Class 1 permit shall provide a copy of the report referred to in subsection (2), and the holder of a Class 2 permit shall provide a copy of the report referred to in subsection (3), to each of

(a) where the permit is in respect of an archaeological site,

(i) the Inuit Heritage Trust;

(ii) the minister of the government of Nunavut responsible for culture and heritage; and

(iii) the Canadian Museum of Civilization; and

(b) where the permit is in respect of a palaeontological site, the minister of the government of Nunavut responsible for culture and heritage.

(2) A report of work done under a Class 1 permit shall set out the name of the permittee, the date of the report and the permit number and shall include, for each archaeological or palaeontological site visited, a description of the work undertaken, including

(a) a description of the site;

(b) National Topographic Series maps, on a scale of 1:50,000 or 1:250,000, showing the location of the site;

(c) a detailed plan of the site; and



- (d) representative photographs of the site.
- (3) A report of work done under a Class 2 permit shall set out the name of the permittee, the date of the report and the permit number and shall include, for each archaeological or palaeontological site visited,
- (a) a description of the work undertaken, including
    - (i) a description of the site,
    - (ii) National Topographic Series maps, on a scale of 1:50,000 or 1:250,000, showing the location of the site,
    - (iii) detailed plans of the site and each excavation unit on the site,
    - (iv) a vertical scale drawing of the stratigraphy of each excavation unit,
    - (v) representative photographs of the site, taken before and during excavation and after completion of restoration of the site,
    - (vi) a description of any subsurface testing, and
    - (vii) measurements of the depths at which all archaeological artifacts or fossils were found and their horizontal provenience;
  - (b) a description of the methods used in data acquisition, recording and analysis, including those used in field, archival and laboratory investigations;
  - (c) a description of any archaeological artifact or fossil conservation treatments and the name of the conservator;
  - (d) a description of any environmental factors and recent history relating to the site;
  - (e) an assessment of the current physical status of the site and any present or potential factors that could alter that status; and
  - (f) an interpretation of the significance of the site based on a summary examination of the findings resulting from the work undertaken.

## REPOSITORY

**15.** (1) Subject to subsection (2), all archaeological artifacts collected by a permittee shall be submitted, on or before March 31 of the year following the year for which the permit was issued,

- (a) where the artifacts were collected on Inuit-owned lands, to a curation repository designated by the Inuit Heritage Trust under section 33.7.6 of the Nunavut Land Claims Agreement; or
- (b) where the artifacts were collected on any other lands, to a curation repository designated by the designated agency under section 33.7.7 of the Nunavut Land Claims Agreement.

(2) Any Denesuline archaeological specimens collected by a permittee shall be submitted to the designated agency on or before March 31 of the year following the year for which the permit was issued.

**16.** All fossils collected by a permittee shall be submitted, on or before March 31 of the year following the year for which the permit was issued, to the minister of the government of Nunavut responsible for culture and heritage.

## COMING INTO FORCE

**17.** These Regulations come into force on June 15, 2001.

**N.B. The Regulatory Impact Analysis Statement for these Regulations appears at page 1283 following SOR/2001-218.**



D. Stenton







## 15 Appendix B

### *Sample Permit Application Form*



D. Stenton





**NUNAVUT TERRITORY**



**ARCHAEOLOGIST AND PALAEOLOGIST PERMIT APPLICATION**



**APPLICATION FOR NUNAVUT TERRITORY  
ARCHAEOLOGIST AND PALAEOLOGIST PERMIT**

**Permit Year**

**SECTION A Applicant Information**

**Name of Applicant:** \_\_\_\_\_

**Mailing Address:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Tel.** (Work): \_\_\_\_\_  
(Home): \_\_\_\_\_

**Fax.** (Work): \_\_\_\_\_  
(Home): \_\_\_\_\_

**E-mail:** \_\_\_\_\_

**Affiliation:** \_\_\_\_\_

**Position:** \_\_\_\_\_

**Representing:** \_\_\_\_\_

**Please attach a copy of your current résumé / curriculum vitae to your application.**

**SECTION B Research Team Information**

**Names, affiliations, and qualifications of others in your party:**

[Please attach a résumé or statement of qualifications for all Co-investigators and Technical Support personnel]

Co-Investigator (if any): \_\_\_\_\_

Affiliation: \_\_\_\_\_

Technical Support  
Personnel: \_\_\_\_\_

Students/Assistants: \_\_\_\_\_  
\_\_\_\_\_



**Permit Category Requested**

Archaeology

Palaeontology

**Permit Class Requested**

Class 1

Class 2

Please indicate the most recent year (if any) during which you held a Nunavut Archaeologist or Palaeontologist Permit: \_\_\_\_\_.

**SECTION C Research & Analysis Schedule**

**Proposed Time Frame:**

Field Work: \_\_\_\_\_

Analysis: \_\_\_\_\_

**SECTION D Research Project Overview**

**Please attach a copy of your research proposal. The proposal must provide a clear statement of the aims and objectives of the project, the field and laboratory research methodology, and of the potential scientific and public benefits.**

**Project Title:** \_\_\_\_\_  
\_\_\_\_\_

**Geographic Area of Project:** \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**NTS Map Reference:** \_\_\_\_\_

Latitude \_\_\_\_\_ Longitude \_\_\_\_\_

UTM \_\_\_\_\_

**Air Photo Reference:** \_\_\_\_\_

**Land Title Status:** Federal Crown Land

Inuit Owned Land

**Funding Agency:** \_\_\_\_\_

\*[Attach a copy of the contract if the fieldwork described in this application is being undertaken through a contractual agreement]

**Budget:** \_\_\_\_\_



**SECTION E Consultation**

**Land Owner**

Applicants must inform and consult about proposed research with landowners or other groups that may have land rights in the study area. Copies of all correspondence with the relevant Government, Land Claim agency, or individual property owner(s) must be attached to the permit application. Contact addresses are listed at the end of the application.

**Communities**

Applicants must inform and consult with communities about their research proposals. Provide the details of your consultation (including the name(s) of the individual(s) and organizations contacted) concerning the proposed research project and attach copies of your correspondence.

**SECTION F Collections and Conservation**

**Applicants must provide the name, address, telephone number and affiliation of a conservator that has been consulted and retained to provide conservation services for the artifacts that will be collected.**

Name: \_\_\_\_\_  
Affiliation: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_

Tel. \_\_\_\_\_  
Fax. \_\_\_\_\_  
E-mail: \_\_\_\_\_

**Indicate the budget allocation for the conservation of artifacts:** \_\_\_\_\_

**Collection Type(s):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Where will the artifacts, faunal remains, and associated sample materials be housed for analysis before their return to the permanent repository?**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_



## INFORMATION FOR APPLICANTS

Depending on the scale of the project, researchers working on Federal Crown Lands may need a Land Use Permit. Contact:

Land Resources  
Indian and Northern Affairs Canada  
P.O. Box 100  
Iqaluit, NU X0A 0H0  
Telephone (867) 975-4283  
Fax (867) 975-4286

Researchers working on Inuit Owned Lands may require an Access to Inuit Owned Lands Permit issued by the Regional Inuit Association.

Contact:

### **Qikiqtani Inuit Association**

Regional Land Manager  
P.O. Box 219  
Iqaluit, NU X0A 0H0  
Telephone (867) 979-5391  
Fax (867) 979-3238

### **Kivalliq Inuit Association**

Regional Land Manager  
P.O. Box 340  
Rankin Inlet, NU X0C 0G0  
Telephone (867) 645-2810  
Fax (867) 645-3855

### **Kitikmeot Inuit Association**

Regional Land Manager  
P.O. Box 18  
Cambridge Bay, NU X0E 0E0  
Telephone (867) 982-3310  
Fax (867) 982-3311

### ***Communities by Region***

#### **Qikiqtani**

*Arctic Bay  
Qikiqtarjuaq (Broughton Island)  
Cape Dorset  
Clyde River  
Grise Fiord  
Hall Beach  
Igloolik  
Iqaluit  
Kimmirut (Lake Harbour)  
Pangnirtung  
Pond Inlet  
Resolute  
Sanikiluaq*

#### **Kivalliq**

*Arviat  
Baker Lake  
Chesterfield Inlet  
Coral Harbour  
Rankin Inlet  
Repulse Bay  
Whale Cove*

#### **Kitikmeot**

*Cambridge Bay  
Gjoa Haven  
Kugluktuk (Coppermine)  
Kugaaruk (Pelly Bay)  
Taloyoak (Spence Bay)*



**Declaration:**

I agree to comply with the provisions of the *Nunavut Archaeological and Palaeontological Sites Regulations*, and the terms and conditions of the permit issued pursuant to this application.

\_\_\_\_\_  
Applicant's Signature

\_\_\_\_\_  
Date

**Permit applications should be submitted to:**

Chief Archaeologist  
Heritage Division  
Department of Culture, Language, Elders and Youth  
Government of Nunavut  
Box 310  
Igloolik, NU X0A 0L0  
[cleypermits@gov.nu.ca](mailto:cleypermits@gov.nu.ca)

**Attachments** (please specify):





## 16 Appendix C

### *Sample Archaeological and Palaeontological Permits*



D. Rudkin



## NUNAVUT TERRITORY ARCHAEOLOGY PERMIT

**PERMIT NO. 00-000A**

Under the authority of the *Nunavut Act* and the *Nunavut Archaeological and Palaeontological Sites Regulations*, authorization is granted to:

Permit Holder:  
Affiliation:  
Name of Project:  
For the purpose of:

Permit Period:                      This Permit is valid from Month xx, xxxx Month xx, xxxx

**Conditions:**

1. The Permittee shall abide by the *Nunavut Archaeological and Palaeontological Sites Regulations*
2. The Permittee shall distribute documentation to the agencies identified below according to this schedule:

	<i>Government of Nunavut Department of Culture and Heritage Box 310 Igloolik, NU X0A 0L0</i>	<i>Canadian Museum of Civilization Box 3100, Station 'B' Hull, PQ J8X 4H2</i>	<i>Prince of Wales Northern Heritage Centre Box 1320 Yellowknife, NT X1A 2L9</i>	<i>Inuit Heritage Trust Box 2080 Iqaluit, NU X0A 0H0</i>
--	--	---	--	--

**Required by September 30:**

One-page technical summary and 2 colour photographs	X		X	
---	---	--	---	--

**Required by March 31:**

Report	X		X	X
Site forms & maps		X	X	
Field Notes			X	X
(1) Artifacts, (2) catalogue and (3) loan arrangements				

Approved by:

\_\_\_\_\_  
Minister  
Department of Culture, Language, Elders and Youth  
Government of Nunavut

Issued at:                      Iqaluit, Nunavut  
Date of Issue:                      \_\_\_\_\_

Attachment: Nunavut Archaeological and Palaeontological Sites Regulations



## NUNAVUT TERRITORY PALAEOLOGY PERMIT

**PERMIT NO. 00-000P**

Under the authority of the *Nunavut Act* and the *Nunavut Archaeological and Palaeontological Sites Regulations*, authorization is granted to:

Permit Holder:  
Affiliation:  
Name of Project:  
For the purpose of:

Permit Period:                    This Permit is valid from Month xx, xxxx Month xx, xxxx

**Conditions:**

- 3. *The Permittee shall abide by the Nunavut Archaeological and Palaeontological Sites Regulations*
- 4. *The Permittee shall distribute documentation to the agencies identified below according to this schedule:*

	<i>Government of Nunavut Department of Culture and Heritage Box 310 Igloolik, NU X0A 0L0</i>	<i>Canadian Museum of Nature Box3443, Station 'D' Ottawa, ON K1P 6P4</i>
--	--	--

**Required by September 30:**

One-page technical summary and 2 colour photographs	<b>X</b>	
---	----------	--

**Required by March 31:**

Report	<b>X</b>	<b>X</b>
Site forms & maps	<b>X</b>	<b>X</b>
Field Notes	<b>X</b>	
(1) specimens, (2) catalogue and (3) loan arrangements		

Approved by:

\_\_\_\_\_  
*Minister  
Department of Culture, Language, Elders and Youth  
Government of Nunavut*

Issued at:                    Iqaluit, Nunavut

Date of Issue:             \_\_\_\_\_

Attachment: Nunavut Archaeological and Palaeontological Sites Regulations





## 17 Appendix D

### *Sample Permit Amendment Forms*



D. Stenton



Heritage Division  
Culture, Language, Elders & Youth  
Government of Nunavut  
Box 310  
Igloolik, NU X0A 0L0

## Nunavut Territory Archaeology or Palaeontology Permit

### REQUEST FOR AMENDMENT TO PERMIT

Permit No. \_\_\_\_\_

Issued to: \_\_\_\_\_

Project : \_\_\_\_\_

Reason for requesting amendment:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

Permit Amendment Requests are to be forwarded to:

Chief Archaeologist  
Heritage Division  
Department of Culture, Language, Elders and Youth



Heritage Division  
Culture, Language, Elders & Youth  
Government of Nunavut  
Box 310  
Igloolik, NU X0A 0L0

## Nunavut Territory Archaeology or Palaeontology Permit

PERMIT AMENDMENT  
Record of Decision

Permit No. \_\_\_\_\_

Issued to: \_\_\_\_\_

Project : \_\_\_\_\_

Request for amendment is approved as follows:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Request for amendment is declined:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Director of Heritage  
Department of Culture, Language, Elders and Youth







## 18 Appendix E

*Government of Nunavut  
Human Remains Policy*



D. Stenton



## Department of Culture, Language, Elders and Youth Culture and Heritage Program (Archaeology) Human Remains Policy

### 1. Preamble:

- a) Whereas the federal government, pursuant to subsection 51(1) of the *Nunavut Act*, has made the Nunavut Archaeological and Palaeontological Site Regulations;
- b) And whereas those regulations require application for a permit to investigate an archaeological site, in writing, to the designated agency;
- c) And whereas "designated agency" is defined in Article 33 of the Nunavut Land Claims Agreement (NLCA), to refer to the government agencies and departments *or their successors* described in Schedule 33-1 to the NLCA;
- d) And whereas Schedule 33-1 refers to the Prince of Wales Northern Heritage Centre as the only designated agency for the Government of the Northwest Territories;
- e) And whereas the Government of Nunavut through the Department of Culture, Language, Elders and Youth is the successor to the Prince of Wales Northern Heritage Centre in the Nunavut Settlement Area;
- f) And whereas the Department requires a policy for determining its response to an application for a permit where the investigation or analysis of the archaeological site involves human remains or associated grave goods,

The following policy shall apply to those applications.

### 2. Statement of Policy

The Government of Nunavut will ensure that any archaeological investigation or analysis of human remains or associated grave goods will be conducted in a manner that is sensitive to Nunavummiut values, ethical and scientific principles, and which complies with all applicable laws, codes of conduct, and conventions.

### 3. Principles

This policy is based on the following principle:

Decisions concerning the study of human remains in Nunavut must appropriately balance scientific and educational importance with:

- respect for the dead, and
- the spiritual and cultural interests and views of Inuit as described in Article 33 of the Nunavut Land Claims Agreement.

### 4. Scope

This Policy applies to all departments, agencies and employees of the Government of Nunavut.

### 5. Definitions

**Human remains** are defined as skeletal, cremated or any other traces of human bodies within the context of recognized cemeteries, marked or unmarked graves, and marked or unmarked surface or subsurface locations.

**Grave goods** are defined as any objects or specimens directly associated with gravesites, cemeteries, or human remains.



## 6. Authority and Accountability

### (i) General

This policy is issued under the authority of the Executive Council with the authority to make exceptions and approve revisions to this Policy.

#### (a) *Minister*

The Minister of Culture, Language, Elders and Youth is accountable to the Executive Council for the implementation of this Policy

#### (b) *Deputy Minister*

The Deputy Minister of Culture, Language, Elders and Youth is accountable to the Minister and responsible to the Minister for the implementation of this Policy

#### (c) *Assistant Deputy Minister*

The Assistant Deputy Minister of Culture, Language, Elders and Youth is accountable to the Deputy Minister and responsible to the Deputy Minister for the implementation of this Policy

#### (d) *Director of Heritage*

The Director of Heritage of Culture, Language, Elders and Youth is accountable to the Assistant Deputy Minister and responsible to the Assistant Deputy Minister for the implementation of this Policy and the approval or rejection of applications based on the recommendations made by the Chief Archaeologist.

### (ii) Authority and Accountability of the Chief Archaeologist

The Chief Archaeologist will:

- a) review all applications involving requests for permission to excavate, collect or analyze human remains or associated grave goods for scientific purposes;

- b) consult, as required, with specialists concerning the ethical and scientific merits of the application;
- c) consult, as required, with specialists concerning any legal issues associated with the application;
- d) consult with the Inuit Heritage Trust;
- e) based on the above, recommend to the Director of Heritage whether the application(s) should be approved or rejected;
- f) with respect to human remains encountered unexpectedly, provide appropriate interim information, assistance or referrals, as well as a written report to the Director of Heritage, outlining the discovery and interim assistance provided, and recommending appropriate GN action with respect to the remains.

## 7. Powers and Duties Respecting Human Remains

- a) The excavation of human remains will be permitted only under exceptional circumstances.
- b) Consultation with community and Land Claim authorities will be conducted before excavation or collection of human remains will be permitted.
- c) Where human remains are encountered during the course of an archaeological field project, excavation of that part of the site must stop immediately. The location of the remains must be recorded and the remains reburied as closely as possible to their original state.
- d) Where human remains are encountered during the course of a land use operation or project, the project or operation must stop immediately. In law, the owner of the project or operation is responsible to ensure that the appropriate authorities are contacted, including the RCMP, Office of the Chief Coroner, and the Department of



Culture, Language, Elders and Youth. The Department of Culture, Language, Elders and Youth will provide appropriate assistance and advice to the owner in determining the correct course of action.

- e) Unless the required review and written report conclude otherwise, a location where human remains are found shall be treated as an archaeological site. Conduct at that site shall comply with the laws, conventions, and penalties applicable to human remains and to archaeological sites.

#### **8. Prerogative of Executive Council**

Nothing in this Policy shall in any way be construed to limit the prerogative of the Executive Council to make decisions or take action outside the provisions of this Policy.

Original signed by:

**Paul Okalik**

Premier and Chairman of the  
Executive Council



## 19 Appendix F

### *Sample Destructive Analysis Forms*



D. Stenton



Heritage Division

Culture, Language, Elders & Youth  
Government of Nunavut  
Box 310  
Igloolik, NU X0A 0L0

## NUNAVUT TERRITORY ARCHAEOLOGY OR PALAEOONTOLOGY PERMIT

### Request For Authorization For Destructive Analysis Archaeological or Palaeontological Specimens

**Permit No.**

**Issued to:**

**Project:**

**Specimen Catalogue Number(s):** \_\_\_\_\_

Describe (i) the type of destructive analysis for which authorization is requested, (ii) where, and by whom the analysis will be performed and (iii) justification for the proposed destructive analysis. (Attach additional sheets if required).

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Applicant's Signature \_\_\_\_\_

Date \_\_\_\_\_

Requests for destructive analysis are to be forwarded to:

Chief Archaeologist  
Heritage Division  
Department of Culture, Language, Elders and Youth



Heritage Division

Culture, Language, Elders & Youth  
Government of Nunavut  
Box 310  
Igloolik, NU X0A 0L0

## NUNAVUT TERRITORY ARCHAEOLOGY OR PALAEOONTOLOGY PERMIT

### Authorization For Destructive Analysis Archaeological or Palaeontological Specimens

**Permit No.** \_\_\_\_\_

**Issued to:** \_\_\_\_\_

**Project:** \_\_\_\_\_

The Department of Culture, Language, Elders and Youth hereby authorizes the destructive analysis of the specimens or portions thereof listed on the attached form, with the following conditions:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Signature \_\_\_\_\_

Date \_\_\_\_\_

Director of Heritage  
Department of Culture, Language, Elders and Youth







## 20 Appendix G

### *Instructions for Returning Archaeological Collections*



R.W. Park



## Instructions for Returning Archaeological Collections

### Collections Section Prince Of Wales Northern Heritage Center Culture, Heritage and Languages Division

This document provides instructions to assist Borrowers in preparing archaeological materials and associated records for submission to the repository.

#### Documentation

Submit a current artifact catalogue with each returning site collection. Provide this documentation in both printed and computerized versions, including the software name and version;

Provide a translation guide if codes have been used in the artifact catalogue;

Provide the following information on each artifact catalogue:

- Permit number
- Researcher
- Site name and site Borden Number
- Borden catalogue numbers assigned to each object, specimen or specimen lot
- Name of object or specimen
- Material(s) object or specimen is made of
- Provenience
- Cultural period or dating information

Indicate on the artifact catalogue the reason why an item is missing from the shipment (i.e., lost; not an artifact; undergoing conservation);

Place the artifact catalogues in the top of the first crate or box of the shipment;

Provide treatment documentation for any items that were treated without notifying Collections staff. In most cases, appropriate treatment documentation will

be in our files if items were treated at CCI (Canadian Conservation Institute)

#### Marking Numbers

Mark each artifact, specimen or specimen lot with the Borden catalogue number assigned to the item or groups of items;

Number artifacts using the most appropriate marking method (i.e., acid-free paper labels attached by acrylic adhesive; India ink and nail polish method);

Place any artifact too small or too irregular to be numbered in a labeled package of appropriate size with identifying information marked on the front of the package or on an acid-free tag inserted in the package

Tag oversize items using acid-free tags clearly marked with identifying information in pencil or permanent marker

#### Sorting

Sort and pack artifacts associated with a specific permit and site together;

Organize sample and faunal material by permit and site, and pack in boxes separate from the artifacts;

#### Packing List

Prepare a packing list, which outlines the contents of every container in the



shipment, and insert this documentation in the top of the first crate;

Provide on the packing lists: (i) permit number, (ii) Borden number, (iii) Borden catalogue numbers, (iv) the number of the box or crate in the shipment (e.g., 1 of 12);

Insert in the top of every container, a copy of the packing list for that box or crate

### **Packaging and Packing**

Ensure that all artifacts and specimens are completely dry and clean before final packaging and packing;

Clearly label all packaging with identifying information;

Pack artifacts from each site collection in three stages:

- Place artifacts in plastic bags (self-sealing, “zip-loc” type bags are preferred), polystyrene boxes, or in plastic or glass vials, if particularly fragile;
- Place bagged artifacts from the same site in a box, or in a series of boxes, that are clearly identified;
- Place artifact boxes in sturdy (e.g., wood) shipping crates that are lined with polyethylene as a moisture barrier and then sealed at the top.

Insulate artifacts from shock and vibration by lining the tops and bottoms of the crate with bubble packs, Styrofoam chips, or ethafoam;

Wrap smaller, fragile items (bone, wood, ivory, antler, etc.) in acid-free tissue paper prior to placing in bags or vials;

Package larger items in micro-foam

(1/32” thick) or bubble wrap. Don't use newspaper as it is highly acidic and unstable;

Place large fragile items in boxes with Styrofoam peanuts placed at the bottom to act as a buffer and reduce excess volume. Once an item has been positioned, fill any remaining space with Styrofoam peanuts to keep the materials in an upright or stable position;

Distribute the weight of boxed collections as evenly as possible in the shipping crate

### **Labeling Shipping Crates and Boxes**

Attach clearly addressed labels securely to the shipping container;

Number each crate and box in sequence (e.g., 1 of 24);

Identify containers with fragile contents (e.g., ***Fragile: Handle with Care***);

Label boxes containing faunal and sample material to indicate contents;

Address crates in shipment to:

Pat Freeman, Registrar  
Prince of Wales Northern  
Heritage Centre  
1/4 mile NW on Highway 4  
Yellowknife, NT X1A 2L9

For further information regarding these instructions contact: Pat Freeman, Registrar, at Telephone (867) 920-6187; Fax (867) 873-0205; e-mail: [pat\\_freeman@ece.learnnet.nt.ca](mailto:pat_freeman@ece.learnnet.nt.ca)





## 21 Appendix H

### *Guidelines for Developers*



L. Cousins



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

### **Introduction**

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

The Department of Culture, Language, Elders and Youth (CLEY) is the Nunavut Government agency which oversees the protection and management of heritage resources in Nunavut, in partnership with land claim authorities, regulatory agencies, and the federal government. Its role in mitigating impacts of developments on heritage resources is: 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; ensure that the developer complies with the recommendations.

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

A developer is the initiator of a land use activity. It is the obligation of the developer to ensure that

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

Through his or her active participation and supervision of the study, the contract archaeologist or palaeontologist is accountable for the quality of work undertaken and the quality of the report produced. Facilities to conduct fieldwork, analysis, and report preparation should be available to this individual through institutional, agency, or company affiliations. Responsibility for the curation of objects recovered during field work while under study, and for documents generated in the course of the study as well as remittance of artifacts, specimens and documents to the repository specified on the permit accrue to the contract archaeologist or palaeontologist. This individual is also bound by the legal requirements of the Nunavut Archaeological and Palaeontological Sites Regulations.

### **Types of Development**

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



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

### **Types of Studies Undertaken to Preserve Heritage Resources**

**Overview:** An overview study of heritage resources should be conducted at the same time as the development project is being designed or its feasibility addressed. They usually lack specificity with regard to the exact location(s) and form(s) of impact and involve limited, if any, field surveys. Their main aim is to accumulate, evaluate, and synthesize the existing knowledge of the heritage of the known area of impact. The overview study provides managers with baseline data from which recommendations for future research and forecasts of potential impacts can be made. A Class 1 Permit is required for this type of study if field surveys are undertaken.

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

reconnaissance.

The main goal of a reconnaissance study is to provide baseline data for the verification of the presence of potential heritage resources, the determination of impacts to these resources, the generation of terms of reference for further studies and, if required, the advancement of preliminary mitigative and compensatory plans. The results of reconnaissance studies are primarily useful for the selection of alternatives and secondarily as a means of identifying impacts that must be mitigated after the final siting and design of the development project. Depending on the scope of the study, a Class 1 or Class 2 Permit is required for this type of investigation.

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

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

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





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

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

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

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

### Reporting Procedures

By law, a holder of a Nunavut Archaeologist or Palaeontologist Permit must submit a report on the work performed by March 31 of the year following that in which the permit was issued. Section 14 of the Nunavut Archaeological and Palaeontological Sites Regulations provides details of reporting requirements for both Class 1 and Class 2 permits, and identifies the agencies to which copies of the report must be submitted.

This report should document the baseline archaeological or palaeontological information recovered in the course of the project, in the context of the proposed developments with which they are associated. If possible, anticipated impacts of the development on heritage resources should be addressed. This information must be forthcoming in time for mitigation studies and

programs to be implemented.

The Department of Culture, Language, Elders and Youth must receive permit applications a minimum of 90 days in advance of the proposed start date for the study. In some cases, additional time may be required to complete the permit review process. The Department of Culture, Language, Elders and Youth sends copies of the application to appropriate organizations for comment. Under the provisions of Article 33 of the Nunavut Land Claims Agreement, copies of archaeology permit applications are sent to the Inuit Heritage Trust for review.

Archaeological and palaeontological fieldwork in Nunavut can normally only take place between late June and early September, depending on weather conditions, and it is important that project planning take this fact into consideration. Field reconnaissance, inventories, and testing or excavation programs can only be undertaken under snow-free conditions.

### Summary of Legislation Protecting Heritage Resources in Nunavut

The *Nunavut Archaeological and Palaeontological Sites Regulations*, pursuant to the *Nunavut Act*, apply throughout Nunavut and state:

*Archaeology:*

4. No person shall search for archaeological sites or archaeological artifacts, or survey an archaeological site, without a Class 1 or Class 2 permit.

5(1). No person shall excavate, alter or otherwise disturb an archaeological site, or remove an archaeological artifact from an archaeological site, without a Class 2 permit.

*Palaeontology:*

6. No person shall search for palaeontological sites or fossils, or survey a palaeontological site, without a Class 1 or Class 2 permit.





7. No person shall excavate, alter or otherwise disturb a palaeontological site, or remove a fossil from a palaeontological site, without a Class 2 permit.

On federal Crown Land, the **Territorial Land Use Regulations**, pursuant to the *Territorial Lands Act*, also apply. Two sections are relevant to archaeological sites:

10(a). No permittee shall, unless expressly authorized in his permit or expressly authorized in writing by an inspector conduct a land use operation within 30 metres of a known monument or a known or suspected archaeological site or burial ground; and

16. Where, in the course of a land use operation, a suspected archaeological site or burial ground is unearthed or otherwise discovered, the permittee shall immediately:

- suspend the land use operation on the site; and
- notify the engineer or an inspector of the location of the site and the nature of any unearthed materials, structures or artifacts.

Development activities near archaeological sites are also regulated by the **Canada Oil and Gas Geophysical Operations Regulations** of the *Canada Oil and Gas Operations Act*.

27. (1) Where an archaeological site or a burial ground is discovered during an onshore geophysical operation, the operator shall so inform a conservation officer and suspend the operation in the immediate area of the discovery until permitted by the conservation officer to resume the operation in that area.

(2) A conservation officer shall permit the resumption of a geophysical operation that was suspended under subsection (1) if the conservation officer, after consultation with the Minister of Communications, is satisfied that the operation will not disturb the archaeological site or the burial ground and will not affect the archaeological or other special characteristics or the nature of the site or ground.

The **Historical Resources Act** (Territorial) pertains to Commissioner's Land. Protection of sites in these areas is afforded by:

9(1). Whenever, in the opinion of the Commissioner, any prehistoric or historic remains, whether or not designated as an historic place under this ordinance or under the Historic Sites and Monuments Act of Canada is threatened with destruction by reason of commercial, industrial, mining, mineral exploration or other activity, the Commissioner may order the persons undertaking the activity to provide for adequate investigation, recording and salvage of prehistoric or historic objects threatened with destruction.





## 22 Appendix I

### *Article 21 Nunavut Land Claims Agreement*



D. Stenton



## **Introduction**

*Article 21 of the Nunavut Land Claims Agreement deals with entry and access to Inuit Owned Lands (IOL) as described and defined in Articles 17 to 19 of the Agreement. For ease of reference, Article 21 has been included in the Guidelines in its entirety. Applicants for Nunavut archaeology or palaeontology research permits are required to comply with relevant provisions of the NLCA and, for research projects occurring on Inuit Owned Lands, must obtain authorization to access Inuit lands from the appropriate Regional Inuit Organization. Applicants should familiarize themselves with all provisions of Article 21, in particular, Parts 1, 2, 3 and 5.*

## **ARTICLE 21 ENTRY AND ACCESS**

### **PART 1: DEFINITIONS**

#### 21.1.1

In this Article:

“foreshore” means that stretch of land between the edge of the water and the ordinary high water mark;

“navigable” means capable of navigation by boat or other craft for commercial or non-commercial purposes;

“surface rights” means, for the purpose of Section 21.7.11,

(a) rights relating to land other than an interest in minerals, or

(b) rights in respect of specified substances;

“third party interest” means, for the purpose of Sections 21.7.1 to 21.7.6, a right granted under the *Territorial Lands Act* or *Public Lands Grants Act* that is enforceable against the Crown, but does not include a prospecting license in respect of Inuit Owned Lands held in the form referred to in Sub-section 19.2.1(a). For greater certainty, "third party interest" includes a land use permit and a

permit to prospect;

“use of water” includes the use of water power.

### **PART 2: ACCESS ONLY WITH CONSENT**

#### 21.2.1

Except where otherwise provided in the Agreement persons other than Inuit may not enter, cross or remain on Inuit Owned Lands without the consent of the DIO.

### **PART 3: PUBLIC ACCESS**

#### 21.3.1

There shall be a public right of access for the purpose of travel by water, including travel associated with development activity making use of the strip incidental to travel by water, and for recreation to a 100 foot (approximately 30.5 metre) strip of Inuit Owned Lands bounding the sea coast, navigable rivers, navigable lakes that can be entered from the said rivers. The said strip shall be measured from the ordinary high water mark of the sea coast and the said navigable rivers, lakes and water bodies. The right of access includes access to the foreshore adjacent to the said strip.

#### 21.3.2

A member of the public exercising the right of access referred to in Section 21.3.1 may harvest wildlife other than for commercial purposes, but subject always to laws of general application and Article 5.

#### 21.3.3

A member of the public may harvest wildlife in the waters referred to in Section 21.3.1, but subject always to laws of general application and Article 5.



#### 21.3.4

No person

- (a) exercising the right of access referred to in Section 21.3.1; or
- (b) harvesting wildlife pursuant to Section 21.3.2,

shall engage in any development activity, or establish camps or structures other than for merely casual or temporary purposes, on the said strip.

#### 21.3.5

Where the DIO requires exclusive possession, the right of access referred to in Section 21.3.1, the right to harvest referred to in Section 21.3.2, and the right to cross Inuit Owned Lands referred to in Section 21.3.9 may be removed with the agreement of the DIO and Government.

#### 21.3.6

Where the DIO and Government agree, the right to harvest referred to in Section 21.3.3 may be removed.

#### 21.3.7

A member of Parliament, the Legislative Assembly, or any municipal council or regional government, or a candidate for election to such bodies, or a person accompanying and assisting any such member or candidate, may enter on Inuit Owned Lands for the purpose of campaigning for an election.

#### 21.3.8

A member of the public may enter and remain on Inuit Owned Lands for emergency purposes.

#### 21.3.9

Members of the public may cross Inuit Owned Lands for the purpose of personal or casual travel, such as to go to or from their

place of work or to or from a place of recreation. Whenever possible, crossings shall take place on routes designated by the DIO. The right to cross shall include the right to make any necessary stops.

#### 21.3.10

There shall be a public right of access, as described in Schedule 21-1, on the Inuit Owned Lands described in that Schedule.

#### 21.3.11

With the consent of the DIO, persons conducting research for public knowledge shall:

- (a) have the same right of access to Inuit Owned Lands as agents, employees and contractors of Government; or
- (b) have a right of access to Inuit Owned Lands in accordance with terms and conditions imposed by the DIO, other than the payment of fees.

#### 21.3.12

The right of access to Inuit Owned Lands set out in this Part is subject to the conditions that there be:

- (a) no significant damage caused;
- (b) no mischief committed; and
- (c) no significant interference with Inuit use and quiet enjoyment of the lands.

#### 21.3.13

Persons exercising rights under this Part shall be:

- (a) liable for damages caused to the lands; and
- (b) deemed to be trespassers and may be removed from the land, if they fail to comply with the conditions of this Article.



#### 21.3.14

The rights of access to Inuit Owned Lands under this Part are not subject to the payment of any fee, or any term or condition, except as provided in this Part.

### **PART 4: MILNE INLET TOTE ROAD PUBLIC ACCESS EASEMENT**

#### 21.4.1

There shall be a public right of access, as described in Schedule 21-2, on the Inuit Owned Lands described in that Schedule.

### **PART 5: GOVERNMENT ACCESS**

#### 21.5.1

Agents, employees and contractors of Government and members of the Canadian Forces and members of the R.C.M.P. shall have the right, in accordance with this Article, to enter, to cross and to remain on Inuit Owned Lands and water on Inuit Owned Lands to carry out legitimate government purposes relating to the lawful delivery and management of their programs and enforcement of laws.

#### 21.5.2

Should Government, the Canadian Forces or the R.C.M.P. require continuing use or occupancy of Inuit Owned Lands for more than two years, including use for unmanned facilities, the DIO may require Government to obtain an interest in the land.

#### 21.5.3

Agents, employees and contractors of the user described in an item in Schedule 21-3 shall have a right to enter, cross and remain on the area identified in the property description in respect of the parcels of Inuit Owned Lands listed in that item, for the purpose specified in that item, including the right to do what is necessary for that purpose.

#### 21.5.4

The right in Sections 21.5.1 and 21.5.3 shall be subject to Sub-section 21.3.12(b) and Section 21.3.13.

#### 21.5.5

In a case where more than insignificant damage may be caused to the land, or where there may be more than insignificant interference with Inuit use and quiet enjoyment of the land, Government shall consult the DIO and seek its agreement regarding the procedures for exercising government access under Sections 21.5.1 and 21.5.3. Where agreement cannot be achieved, the matter shall be referred to the Arbitration Board for the determination of such procedures pursuant to Article 38. Activities identified in Schedule 21-4 shall not be subject to the requirements of this Section.

#### 21.5.6

Without limiting the generality of this Section, procedures required under Section 21.5.5 for exercising government access shall ensure that:

- (a) environmental protection measures are consistent with the provisions of the Agreement;
- (b) information is provided; and
- (c) location, time and duration of access is addressed.

#### 21.5.7

Government personnel need access to Inuit Owned Lands for the purpose of wildlife management and research. Notwithstanding Section 21.5.1, access to Inuit Owned Lands by Government personnel for the purposes of wildlife management and wildlife research shall be subject to the approval of the NWMB subsequent to consultation with the appropriate RWO.



21.5.8

The exercise of the right in Section 21.5.1 shall not be subject to the provision of a security bond, but may be subject to a fee if provided for in legislation.

21.5.9

In the event that any person exercising access under Section 21.5.1 causes damage to Inuit Owned Lands, and Government and the DIO are unable to agree on compensation for damages, the matter shall be referred to the Arbitration Board, for the determination of liability and fixing of appropriate compensation pursuant to Article 38.

21.5.10

The Department of National Defence (DND) shall have no greater rights to conduct military manoeuvres, including exercises and movements, on Inuit Owned Lands than it has with respect to other non-public lands under generally applicable legislation. For greater certainty, this section shall prevail over Sections 21.5.11 and 21.5.12.

21.5.11

The Minister of National Defence may authorize access to Inuit Owned Lands and water on Inuit Owned Lands for the execution of manoeuvres by the Canadian Forces pursuant to Section 257 of the *National Defence Act* and with the exception of Section 21.5.10 nothing in this Article applies to or affects such access authorized by the Minister of National Defence.

21.5.12

Other than access for those manoeuvres referred to in Section 21.5.11, access onto and across Inuit Owned Lands and water on Inuit Owned Lands for each manoeuvre shall only occur after the negotiation and conclusion of an agreement with the DIO dealing with contact persons, consultation mechanisms and timing thereof and compensation for damages, which agreement may be amended from time to time. Land use fees shall not be

charged.

21.5.13

Reasonable advance notice, in Inuktitut, of military manoeuvres shall be given by DND to the inhabitants of any area affected.

21.5.14

The rights of access to Inuit Owned Lands under this Part, except under Section 21.5.2, are not subject to the payment of any fee, or any term or condition, except as provided in this Part.

21.5.15

In this Part, "Government" includes municipal corporations.

## PART 6: SAND AND GRAVEL

21.6.1

Notwithstanding anything in Sub-section 19.2.1(b), if Government requires sand and gravel and other like construction materials from Inuit Owned Lands for public purposes, but the DIO refuses to permit Government to take the said materials, Government may apply to the Tribunal for an entry order enabling the removal of such material.

21.6.2

The Tribunal shall grant an entry order if, and only if, it determines that:

- (a) the materials are required for public purposes; and
- (b) no alternative supply is reasonably available.

21.6.3

If an entry order is granted, Government shall pay the DIO, for the materials removed, the greater of:

- (a) \$1.00 per cubic metre, valued at the date of ratification of the Agreement and indexed by the Final Domestic Demand





Implicit Price Index; or

- (b) the royalty rate imposed by the Crown, as amended from time to time, on the extraction of such materials from Crown lands.

21.6.4

The Tribunal shall determine the terms and conditions for access and compensation for access, and such compensation shall be determined in accordance with Section 21.8.3. The calculation of compensation shall not take into account any amount mentioned in Section 21.6.3, or the payment of any entry fee required by legislation.

21.6.5

An entry order shall include terms and conditions to minimize the damage and interference with Inuit use, and shall also provide that Government rehabilitate the site.

**PART 7: THIRD PARTY ACCESS**

*Existing Interests*

21.7.1

Where Inuit Owned Lands are subject to,

- (a) a third party interest other than an interest in minerals, or
- (b) a third party interest in respect of specified substances, in existence immediately before the vesting of the Inuit Owned Lands in the DIO, the third party interest shall continue in accordance with its terms and conditions, but the DIO shall assume the rights and obligations of the Crown in relation to any such interest. The DIO shall receive whatever consideration is paid or payable by the interest holder for the use or exploitation of these lands and specified substances in respect of any period following the date of vesting.

21.7.2

Where Inuit Owned Lands held in the form referred to in Sub-section 19.2.1(a) are subject to a third party interest in minerals other than specified substances, in existence immediately before the vesting of the Inuit Owned Lands in the DIO, that interest shall continue in accordance with its terms and conditions, including rights granted to the interest holder under the legislation in force at the date of vesting pursuant to which the interest is held, or from any successor legislation applicable to similar interests on Crown lands. Any provisions of such successor legislation that would have the effect of diminishing the rights of the DIO shall only apply to Inuit Owned Lands with the consent of the DIO. The DIO shall receive whatever consideration is paid or payable by the interest holder for the use or exploitation of the minerals other than specified substances in respect of any period following the date of vesting.

21.7.3

Every third party interest referred to in Section 21.7.2 shall continue to be administered by Government in accordance with legislation applicable to similar interests in Crown lands. Subject to any consent from the DIO required by Section 21.7.2, such legislation, including any successor legislation, shall be deemed to apply to the third party interest unless the holder of that interest and the DIO agree to the administration of that interest by the DIO. Upon notification by the interest holder and the DIO of such an agreement, the legislation shall no longer be deemed to apply to that interest and Government shall do whatever is required to transfer administration to the DIO.

21.7.4

Subject to Section 21.7.5, all powers, discretions and authorities in relation to third party interests referred to in Section 21.7.2, affecting the interest of the DIO as title holder, shall be exercised by Government in consultation with the DIO.





#### 21.7.5

Where Government has the discretion to reduce or waive a royalty payable by a third party interest holder referred to in Section 21.7.2, such discretion shall not be exercised without the written consent of the DIO.

#### 21.7.6

Government shall share with the DIO any information received from a third party interest holder referred to in Section 21.7.2 which that party is required to provide by legislation, where such information is required to permit the DIO:

- (a) to verify the consideration paid or payable to Government by the interest holder for the use or exploitation of the minerals other than specified substances; or
- (b) to participate in consultation with Government regarding third party interests as provided for in this Article.

#### 21.7.7

A DIO receiving any information or documentation pursuant to Section 21.7.6 shall not disclose that information or documentation.

### ***Exercise of Rights Respecting Minerals***

#### 21.7.8

An operator may exercise rights to explore, develop, produce or transport minerals, in, on or under Inuit Owned Lands only in accordance with the Agreement.

#### 21.7.9

A person having a right to prospect for minerals and whose activities are of a nature that would not require a land use permit under the *Territorial Land Use Regulations* (SOR/77-210, March 4, 1977) if they were conducted on Crown lands, shall have a right of access to Inuit Owned Lands, for the purpose of conducting those activities, with

the consent of the DIO, and the DIO shall grant its consent if the activities are conducted in a manner consistent with the code for expedited prospecting access approved pursuant to Section 21.7.10.

#### 21.7.10

For the purpose of Section 21.7.9, the DIO shall propose, for review with Government and relevant industry organizations, a code to provide expedited prospecting access to Inuit Owned Lands, which code shall come into effect upon approval by Government and the DIO. The code shall reflect the need to provide confidentiality for prospectors.

#### 21.7.11

Except where the operator is exercising a right of access under Section 21.7.1 or 21.7.9, no operator may exercise the rights referred to in Section 21.7.8 until it has obtained the consent of the DIO for the exercise of surface rights to Inuit Owned Lands. If the operator is unable to obtain the consent of the DIO, it may apply to the Tribunal for an entry order for its required purpose.

#### 21.7.12

A person having a right to prospect for minerals shall, when applying to the Tribunal, make a separate application in respect of each parcel of Inuit Owned Lands, as indicated by the parcel designator, on which that person intends to exercise a right of access. The Tribunal shall take into account the need to provide confidentiality for prospectors.

#### 21.7.13

Where a person who has no other right of access under this Agreement, requires access to Inuit Owned Lands to exercise a right under legislation to explore, develop, produce or transport minerals on lands other than Inuit Owned Lands, the provisions of Part 8 shall apply where it is established before the Tribunal that such access is reasonably required.



***Other Commercial Purposes***

21.7.14

Where the DIO has consented to permit a third party to cross Inuit Owned Lands for commercial purposes but they are unable to agree on appropriate compensation, the matter shall be referred to the Tribunal for resolution.

21.7.15

Where a person requires access across Inuit Owned Lands for commercial purposes, and is not otherwise covered in this Article, that person shall be permitted access, including on a seasonal basis where appropriate, with the consent of the DIO or, if such consent is not forthcoming after an arbitration panel, pursuant to Article 38, within 30 days of being presented with a request,

- (a) has established that the person attempted for a period of not less than 60 days, to negotiate the access in good faith,
- (b) has determined that the access is essential to the commercial purpose and access by any other means is physically or financially impractical, and
- (c) has determined the route such access will follow so as to minimize the damage and interference with Inuit use,

and, based on the arbitration panel's findings, the Tribunal, in keeping with Part 8, has issued an entry order. The entry order shall include terms and conditions to minimize damage and interference with Inuit use.

**PART 8: SURFACE RIGHTS TRIBUNAL**

***Establishment and Authority***

21.8.1

A DIO has the right to require Government to establish and maintain an independent Surface Rights Tribunal ("Tribunal"), which shall, within the Nunavut Settlement Area:

- (a) issue entry orders to operators to use and occupy lands to the extent necessary for their operations and subject to the payment of an entry fee to the owner or occupant in recognition of the forced nature of the taking, which fee shall be fixed by the appropriate legislation;
- (b) hold hearings to determine compensation payable to the surface rights holders;
- (c) periodically review the level of compensation payable under an entry order;
- (d) terminate an entry order, after a hearing, where lands are no longer being used for the purpose authorized; and
- (e) such other functions as may be provided for in the Agreement or legislation.

21.8.2

Where the DIO is the surface title holder, it shall not be required to cover any of the costs of establishing or operating the Tribunal. Government may establish and maintain the Tribunal notwithstanding the absence of a demand from a DIO, provided that the Tribunal fulfills the functions described in Section 21.8.1.

21.8.3

In determining the amount of compensation payable to the DIO in respect of Inuit Owned Lands, the Tribunal shall consider,

- (a) the market value of the land,
- (b) loss of use to the DIO and Inuit,
- (c) the effect on wildlife harvesting by Inuit,
- (d) the adverse effect of the use or occupancy, upon other Inuit Owned Lands not so used or occupied,
- (e) damage which may be caused to the land used or occupied,
- (f) nuisance, inconvenience and noise to the



- DIO and Inuit,
- (g) the cultural attachment of Inuit to the land,
  - (h) the peculiar and special value of the land to Inuit,
  - (i) an amount to cover reasonable costs associated with DIO inspections as deemed appropriate by the Tribunal,
  - (j) an amount to cover reasonable costs to the DIO associated with the application for an entry order and its processing, and
  - (k) such other factors as may be provided for in legislation,

but shall not consider the reversionary value or any entry fee payable.

#### 21.8.4

Prior to exercising an entry order on Inuit Owned Lands, the applicant shall be required to pay the DIO the entry fee and 80% of its last compensation offer made to the DIO before it submitted the matter to the Tribunal.

#### 21.8.5

The term DIO as used in Sections 21.8.3 and 21.8.4 shall include, where appropriate, any occupier of the land in question, and the Tribunal may apportion compensation between the DIO and the occupier.

#### 21.8.6

With regard to Inuit Owned Lands, the period for review under Sub-section 21.8.1(c) shall be the lesser of five years or whatever period is provided in legislation. The DIO and the applicant may jointly waive the requirement for review.

#### 21.8.7

The legislation shall provide that at least half of the members of any panel in any case dealing with Inuit Owned Lands shall be residents of the Nunavut Settlement Area.

#### 21.8.8

The Tribunal shall conduct its business in Canada's official languages as required by legislation or policy, and upon request of any DIO, also in Inuktitut.

### PART 9: EXPROPRIATION

#### 21.9.1

Any person or authorized representative of any person, who has power of expropriation under federal or territorial legislation (expropriating authority), may exercise that power of expropriation in accordance with laws of general application as qualified by the Agreement.

#### 21.9.2

Nothing in this Part shall be construed to give the Territorial Government more extensive powers of expropriation than are given to the legislatures of the Provinces.

#### 21.9.3

An expropriation other than an expropriation referred to in Section 21.9.14, shall be approved by a specific order of the Governor in Council.

#### 21.9.4

Any expropriation legislation coming into force after the date of ratification of the Agreement shall, insofar as it applies to Inuit Owned Lands, provide for the following minimum procedures:

- (a) notice of intention to expropriate served on the DIO;
- (b) an opportunity for the DIO to object to the expropriation on the basis that the expropriating authority has not complied with the expropriation legislation, and an opportunity to be heard on that objection; and
- (c) the determination of compensation by negotiation and mediation and, failing



that, by reference to an arbitration panel or committee referred to in Section 21.9.8.

#### 21.9.5

Where the expropriating authority acquires an estate in fee simple, those lands shall no longer be Inuit Owned Lands. Lands acquired as compensation for expropriation shall be Inuit Owned Lands. Where lands which have been expropriated are no longer required, the DIO shall have an option for six months following such a determination to re-acquire those lands as Inuit Owned Lands. If the parties are unable to agree on a price, the matter shall be referred to the arbitration panel or committee referred to in Section 21.9.8.

#### 21.9.6

Where Inuit Owned Lands are expropriated, the expropriating authority shall, if reasonably possible, offer compensation in the form of alternate lands of equivalent utility and value in the Nunavut Settlement Area, or in combination of lands and money.

#### 21.9.7

The DIO shall not be required to take compensation in the form of alternate lands.

#### 21.9.8

Where the DIO and the expropriating authority continue to disagree on compensation, and mediation, if provided for, fails, the final determination of any compensation payable shall be by arbitration:

- (a) as set out in Article 38, other than for expropriation under the *National Energy Board Act*; or
- (b) for expropriation under the *National Energy Board Act*, by an arbitration committee appointed under the Act that shall include at least one nominee of the DIO. The Minister in establishing the arbitration committee shall choose members who have special knowledge of,

and experience related to, the criteria set out in Section 21.9.9.

#### 21.9.9

In determining the amount of compensation payable to the DIO the arbitration panel or committee shall be guided by:

- (a) the market value of the land;
- (b) loss of use to the DIO and Inuit;
- (c) the effect on wildlife harvesting by Inuit;
- (d) the adverse effect of the taking, upon lands retained by the DIO;
- (e) damage which may be caused to the land taken;
- (f) nuisance, inconvenience and noise to the DIO and Inuit;
- (g) the cultural attachment of Inuit to the land;
- (h) the peculiar and special value of the land to Inuit;
- (i) an amount to cover reasonable costs associated with DIO inspections as deemed appropriate by the arbitration panel or committee;
- (j) an amount to cover reasonable costs to the DIO associated with the arbitration; and
- (k) any other factors as may be provided for in legislation.

#### 21.9.10

Where an expropriating authority would have a power of expropriation of Inuit Owned Lands, or an interest therein under Section 21.9.1, that power may not be executed if:

- (a) 12% of all Inuit Owned Lands vesting on the date of ratification of the Agreement or an interest therein has already been and remains expropriated; or



- (b) within a Land Use Region referred to in any of Schedules 19-2 to 19-7, 12% of Inuit Owned Lands in that region vesting on the date of ratification of the Agreement or an interest therein has already been and remains expropriated.

#### 21.9.11

In calculating the areas expropriated in Section 21.9.10, no account shall be taken of those situations in which the DIO accepted alternative lands pursuant to Section 21.9.6.

#### 21.9.12

Where Government has a right under Section 21.9.1, as qualified by this Article, to expropriate Inuit Owned Lands which it requires for its public transportation purposes, Government need not pay compensation for the lands taken, except for improvements, up to an amount not exceeding,

- (a) in respect of each Inuit Owned Lands Parcel, five percent (5%) of that Parcel, or
- (b) two percent (2%) of Inuit Owned Lands in the Land Use Region, referred to in any of Schedules 19-2 to 19-7, where the lands taken are located.

Where lands taken under this Section are no longer required for the purpose for which they were taken, they shall revert to the DIO at no cost.

#### 21.9.13

In calculating the areas expropriated under Section 21.9.10, lands taken pursuant to Section 21.9.12 shall be taken into account.

#### 21.9.14

An expropriation of Inuit Owned Lands within municipal boundaries for municipal purposes must be approved by a specific order of the Commissioner-in-Executive Council. Inuit Owned Lands expropriated for municipal purposes shall be taken into account in calculating areas under Sections

21.9.10 and 21.9.12.

## **PART 10: APPLICATION AND SAVING**

### *Management*

#### 21.10.1

For greater certainty, any person exercising access rights referred to under this Article, except rights referred to under Part 3 and Sections 21.5.10 to 21.5.12, shall, where required, acquire the appropriate authorization as required under Article 12 and 13 prior to the exercise of those rights.

### *Other*

#### 21.10.2

No person may acquire by prescription an estate or interest in Inuit Owned Lands.

#### 21.10.3

Persons exercising rights under this Article have no right of action against the DIO for alleged loss or damage arising from the exercise of those rights.

#### 21.10.4

For greater certainty an Inuk may be the holder of a third party interest.

## **PART 11: ACCESS ON CROWN LANDS**

#### 21.11.1

Where there is no adequate public route available, Government shall not, through the enactment or administration of laws of general application, or through the management or alienation of Crown lands, deprive Inuit of reasonable access to Inuit Owned Lands through Crown lands for the beneficial use and enjoyment of those Inuit Owned Lands. The manner of exercising that access shall be subject to laws of general application.





## 23 Appendix J

### *Article 33 Nunavut Land Claims Agreement*



D. Stenton





## Introduction

Article 33 of the Nunavut Land Claims Agreement provides essential information for applicants and holders of archaeology permits. For ease of reference, Article 33 has been included in the Guidelines in its entirety. Applicants for Nunavut archaeology research permits are required to comply with relevant provisions of the NLCA, and all applicants should carefully review Article 33.

## ARTICLE 33 ARCHAEOLOGY

### PART 1: DEFINITIONS AND INTERPRETATION

#### 33.1.1

In this Article:

“archaeological site” means a site or work within the Nunavut Settlement Area of archaeological, ethnographical or historical importance, interest or significance or a place where an archaeological specimen is found, and includes explorers' cairns;

“archaeological specimen” means an object or specimen found in an archaeological site of archaeological, ethnological or historical importance, interest or significance and includes explorers' documents;

“areas administered by the Canadian Parks Service” means National Parks, National Marine Parks, National Historic Parks, Canadian Landmarks, and National Historic Sites administered by the Canadian Parks Service under the *Historic Sites and Monuments Act*;

“Designated Agency” means the government agencies, and departments, or their successors, described in Schedule 33-1;  
“long-term alienation” means

- (a) any sale or gift, or
- (b) loan or other transfer of possession or rights to an archaeological specimen,

- (i) for an indefinite duration, or
- (ii) for a period, including any extension by way of renewal, for three years or longer;

“private property” means moveable property to which a person can demonstrate ownership in law other than by discovery or through title to or interest in land;

“public records” means records held by any department or agency or public office of any level of government including records which were formerly held by any such department, agency or public office.

#### 33.1.2

This Article shall apply to marine areas of the Nunavut Settlement Area.

### PART 2: GENERAL PRINCIPLES

#### 33.2.1

The archaeological record of the Inuit of the Nunavut Settlement Area is a record of Inuit use and occupancy of lands and resources through time. The evidence associated with their use and occupancy represents a cultural, historical and ethnographic heritage of Inuit society and, as such, Government recognizes that Inuit have a special relationship with such evidence which shall be expressed in terms of special rights and responsibilities.

#### 33.2.2

The archaeological record of the Nunavut Settlement Area is of spiritual, cultural, religious and educational importance to Inuit. Accordingly, the identification, protection and conservation of archaeological sites and specimens and the interpretation of the archaeological record is of primary importance to Inuit and their involvement is both desirable and necessary.





33.2.3

Government responsibilities for the management and conservation of archaeological sites and specimens shall be balanced with Inuit responsibilities for the same.

33.2.4

There is an urgent need to establish facilities in the Nunavut Settlement Area for the conservation and management of a representative portion of the archaeological record. It is desirable that the proportion of the Nunavut Settlement Area archaeological record finding a permanent home in the Nunavut Settlement Area increase over time.

33.2.5

In recognition of the spiritual, cultural and religious importance of certain areas in the Nunavut Settlement Area to Inuit, Inuit have special rights and interests in these areas as defined by this Article.

### **PART 3: INUIT PARTICIPATION**

33.3.1

The Trust shall be invited to participate in developing government policy and legislation on archaeology in the Nunavut Settlement Area.

### **PART 4: INUIT HERITAGE TRUST**

33.4.1

The Tungavik Federation of Nunavut or its successor, shall cause to be established by trust deed an Inuit Heritage Trust ("Trust") within one year of the date of ratification of the Agreement.

33.4.2

shall be subject to control by its trustees who shall be nominated by the DIO. The trustees collectively shall have an appropriate balance of cultural awareness and technical expertise.

33.4.3

The Trust shall assume increasing responsibilities for supporting, encouraging, and facilitating the conservation, maintenance, restoration and display of archaeological sites and specimens in the Nunavut Settlement Area, in addition to any other functions set out in the Agreement.

33.4.4

The terms of the Trust shall ensure the safekeeping and safe use of property entrusted to it.

33.4.5

The Designated Agency shall allow the Trust access to information in its possession regarding archaeological work in the Nunavut Settlement Area, subject to reasonable restrictions on access intended to safeguard the confidentiality of sensitive information.

### **PART 5: PERMIT SYSTEM**

33.5.1

The legislation and policy referred to in Part 3 shall establish a permit system with respect to the protection, excavation and restoration, recording and reporting of archaeological sites. Appropriate sanctions against unauthorized disturbance of archaeological sites and specimens and unauthorized dealing in archaeological specimens shall be contained in appropriate legislation.

33.5.2

The legislation and policy referred to in Part 3 shall provide that a permit holder shall not survey, investigate, excavate or alter an archaeological site without the consent of the title holder to the land. Such consent shall not be unreasonably withheld.

33.5.3

Upon receipt of any application for a permit for archaeological activity, including investigation of archaeological sites, or the



removal of archaeological specimens, the Designated Agency shall, except in cases of emergency, forward a copy of such application forthwith to the Trust.

#### 33.5.4

Upon receipt of the copy, the Trust shall have a reasonable number of calendar days, as determined by the Designated Agency in consultation with the Trust, to object to the application in writing.

#### 33.5.5

If the Designated Agency is in receipt of such written objections within the specified number of calendar days, it shall:

- (a) withhold the issuance of any permit;
- (b) investigate the objections; and
- (c) provide the Trust with a copy of the report prepared on the basis of the investigation.

#### 33.5.6

Where the objections referred to in Section 33.5.5 are reasonably founded on

- (a) inadequate efforts to secure Inuit participation and benefits or inadequate performance of commitments to provide such participation and benefits under permits issued at an earlier date, or
- (b) disturbance of a site of Inuit religious or spiritual significance, as such significance is defined by the Trust in consultation with the Designated Agency,

the Designated Agency shall reject the application for the permit.

#### 33.5.7

The Designated Agency shall, upon reasonable request by the Trust, attach as a condition to the grant of a permit, a requirement that upon completion of each season's field work, the permit holder shall, to

the extent practicable:

- (a) attend at a location identified by the Trust, in the community closest to the site, to explain and discuss the work carried out; and
- (b) provide an opportunity for residents of the community to examine any specimen removed from the site.

#### 33.5.8

Notwithstanding Section 33.5.6, where the application before the Designated Agency is associated with a proposed land use requiring a land use permit, the Designated Agency may, instead of rejecting the application, issue a permit with terms and conditions that adequately deal with the reasonably founded objections.

#### 33.5.9

The legislation and policy referred to in Part 3 shall provide that every permit holder shall submit a report to the Designated Agency and the Trust. Upon reasonable request, the Agency shall provide the Trust with an Inuktitut summary of the report.

#### 33.5.10

The Designated Agency shall make available Inuktitut translations of its publications that are aimed at informing the Canadian public about archaeology in the Nunavut Settlement Area.

#### 33.5.11

Except where a permit specifically requires a permit holder to leave a specimen in situ for purposes of scientific or historic interest, all specimens collected by a permit holder shall be submitted to the Designated Agency or the Trust at a place and time specified by the permit.

#### 33.5.12

Where an application is made for a land use permit in the Nunavut Settlement Area, and



there are reasonable grounds to believe there could be sites of archaeological importance on the lands affected, no land use permit shall be issued without the written consent of the Designated Agency. Such consent shall not be unreasonably withheld.

#### 33.5.13

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

### **PART 6: EMPLOYMENT AND CONTRACTING**

#### 33.6.1

Where any agency of the Government intends to contract for carrying out of archaeological work in the Nunavut Settlement Area, the agency shall:

- (a) give preferential treatment to qualified Inuit contractors where the agency proposes to tender such contract; and
- (b) ensure that all contractors give preferential treatment to qualified Inuit.

#### 33.6.2

Any archaeological programs in the Nunavut Settlement Area that are administered by Government shall conform, at a minimum, to the employment and training provisions set out in Article 23.

### **PART 7: TITLE IN SPECIMENS**

#### 33.7.1

Government and the Trust shall jointly own all archaeological specimens that are found within the Nunavut Settlement Area and that are not:

- (a) public records;

(b) the private property of any person; or

(c) within areas administered by the Canadian Parks Service.

#### 33.7.2

Specimens found within areas of the Nunavut Settlement Area administered by the Canadian Parks Service shall be managed in accordance with the provisions of the Agreement.

#### 33.7.3

Any disturbance or disposition of specimens shall be managed in accordance with this Article.

#### 33.7.4

The Designated Agency and the Trust must jointly consent, in writing, prior to any long-term alienation of any archaeological specimen found in the Nunavut Settlement Area.

#### 33.7.5

Where the Designated Agency and the Trust cannot reach an agreement on a proposal for a long-term alienation, as outlined in Section 33.7.4, the matter shall be referred for resolution by arbitration under Article 38 by the Designated Agency or the Trust. In arriving at a decision, an arbitration panel shall take into account the overall intent of the Agreement, the provisions of this Article, and any other relevant consideration.

#### 33.7.6

The Trust shall determine the disposition of all specimens found on Inuit Owned Lands.

#### 33.7.7

Designated Agencies shall determine the disposition of all specimens found in the Nunavut Settlement Area other than on Inuit Owned Lands subject to the rights of the Trust to acquire possession as set out in this Article.



### 33.7.8

Public records wherever they are found shall be owned and managed by the government by which they were created or held.

## **PART 8: USE OF ARCHAEOLOGICAL SPECIMENS**

### 33.8.1

The Designated Agency shall endeavor at all times to dispose of a maximum number of specimens to institutions in the Nunavut Settlement Area such as the Trust.

### 33.8.2

The Trust may request possession of any specimens found within the Nunavut Settlement Area or from any federal or territorial government agency, including the Canadian Museum of Civilization, and any territorial archaeological agency. Such requests shall not be refused by the agency unless:

- (a) the Trust is unable to maintain the specimen without risk;
- (b) the Trust is unable to provide access to the specimen commensurate with scientific or public interests;
- (c) the agency is unable to give up possession because of some term or condition of its original acquisition from a non-governmental source;
- (d) the Canadian Museum of Civilization, the National Archives of Canada, the Canadian Parks Service or a territorial government agency currently requires the specimen,
  - (i) for its own active display or research, or
  - (ii) on account of the unique characteristics of the specimen;
- (e) the condition of the specimen prohibits its movement; or

- (f) the specimen has previously been made available to, and is in the possession of, a party other than a federal or territorial government agency.

### 33.8.3

Where the agency referred to in Section 33.8.2 complies with a request by the Trust, the agency may attach any terms and conditions consistent with professional and institutional practice, including terms or conditions dealing with duration or termination of possession.

### 33.8.4

Where the Trust requests possession of a specimen mentioned in Section 33.8.2, but such specimen is currently on loan to a party other than a federal or territorial government agency, the Trust shall have priority over all other persons to obtain possession of the said specimen, subject to compliance with any conditions outlined in Sections 33.8.2 and 33.8.3.

### 33.8.5

A Designated Agency may request possession of any specimen in the possession of the Trust and the Trust may grant possession on a basis to be negotiated between the Designated Agency and the Trust.

## **PART 9: PLACE NAMES**

### 33.9.1

The Inuit of the Nunavut Settlement Area have traditionally referred to various locations, geographic features and landmarks by their traditional Inuit place names. The official names of such places shall be reviewed by the Trust and may be changed to traditional Inuit place names in accordance with the process described in Section 33.9.2.

### 33.9.2

The process for review of place names within the Nunavut Settlement Area shall be comparable to that set out in the Territorials.



Government Directive 17.03 on  
*Geographical And Community Names*, dated  
May 28, 1990, subject to the requirement that  
the Trust be consulted on any place name  
decisions.





## 24 AppendixK

### *Territorial Land Use Regulations*



R.W. Park



## REGULATIONS RESPECTING LAND USE OPERATIONS IN THE YUKON TERRITORY AND THE NORTHWEST TERRITORIES

### SHORT TITLE

1. These Regulations may be cited as the Territorial Land Use Regulations.

### INTERPRETATION

2. In these Regulations,

“**Act**” means the Territorial Lands Act;

“**Class A Permit**” means a permit issued pursuant to section 25;

“**Class B Permit**” means a permit issued pursuant to section 27;

“**crossing**” means any bridge, causeway or structure or any embankment, cutting, excavation, land clearing or other works used or intended to be used to enable persons, vehicles or machinery to cross any stream, highway or road;

“**district oil and gas conservation engineer**” means a conservation engineer appointed pursuant to the Oil and Gas Production and Conservation Act;

“**Dominion Geodesist**” means the Dominion Geodesist and Director of the Geodetic Survey, in the Department of Energy, Mines and Resources;

“**engineer**” means, with respect to particular lands, the engineer designated by the Minister pursuant to section 4 to serve the area in which the lands are located;

“**geophysical survey**” means any investigation carried out on the surface of the ground to determine the nature and structure of the subsurface;

“**inspector**” means an inspector designated by the Minister pursuant to section 5;

“**land use operation**” means any work or

undertaking on territorial lands that requires a permit;

“**letter of clearance**” means a letter issued by the engineer pursuant to section 37;

“**line**” means a route used to give surface access to any land for the purpose of carrying out a geophysical, geological or engineering survey;

“**man-day**”, with respect to the use of a campsite, means the use of that campsite by one person for 24 hours;

“**Minister**” means the Minister of Indian Affairs and Northern Development;

“**monument**” means any post, stake, peg, mound, pit, trench or any other object, thing or device used to officially mark the boundary of any surveyed lands, or placed or established for any topographic, geodetic or cadastral purpose;

“**permit**” means a Class A Permit or a Class B Permit;

“**permittee**” means the holder of a permit and includes a person engaged in a land use operation or anyone employed by a permittee to conduct a land use operation;

“**rig release date**” means the date on which, in the opinion of a district oil and gas conservation engineer, a well drilled for the purpose of discovering or producing oil and gas has been properly terminated;

“**rock trenching**” means any excavation carried out on a mineral claim for the purpose of obtaining geological information;

“**spud-in**” means the initial penetration of the ground for the purpose of drilling an oil or gas well;

“**stream**” means any lake, river, pond, swamp, marsh, channel, gully, coulee or draw that continuously or intermittently contains water;

“**Surveyor General**” means the Surveyor General as defined in the Canada Lands Surveys Act;





**"territorial lands"** means lands in the Yukon Territory or in the Northwest Territories

- (a) that are vested in the Crown or of which the Government of Canada has power to dispose, and
  - (b) that are under the control, management and administration of the Minister. (terres territoriales)
- SOR/88-169, s. 1; 1998, c. 14, s. 101(F).

### **ESTABLISHMENT OF LAND MANAGEMENT ZONES**

3. The Yukon Territory and the Northwest Territories are hereby set apart and appropriated as land management zones.

### **DESIGNATION OF ENGINEERS [SOR/82-217, s. 1]**

4. The Minister may designate any officer of the Department of Indian Affairs and Northern Development as an engineer for the purposes of these Regulations. SOR/82-217, s. 1; SOR/88-169, s. 2.

### **DESIGNATION OF INSPECTORS**

5. The Minister may designate any person as an inspector for the purposes of these Regulations.

### **EXEMPTION FROM REGULATIONS**

6. These Regulations do not apply to
- (a) anything done by a resident of the Yukon Territory or the Northwest Territories in the normal course of hunting, fishing or trapping;
  - (b) anything done in the course of prospecting, staking or locating a mineral claim unless it requires a use of equipment or material that normally requires a permit;
  - (c) lands whose surface rights have all been disposed of by the Minister;
  - (d) a timber cutting operation conducted pursuant to paragraph 8(a) or (b) of the Yukon Timber Regulations;
  - (e) a timber cutting operation conducted under authority of a permit issued under section 4 or 5 of the Yukon Timber Regulations; and

- (f) land-use operations in the Mackenzie Valley, as that area is defined in section 2 of the Mackenzie Valley Resource Management Act, other than
  - (i) a land-use operation authorized by a permit issued under these Regulations prior to the coming into force of Part 3 of that Act,
  - (ii) a land-use operation for which an application for a permit under these Regulations was pending on the coming into force of Part 3 of that Act, and
  - (iii) a land-use operation in respect of which an application is made under section 156 of that Act.

7. No person shall engage in a land use operation except in accordance with these Regulations and the Northern Inland Waters Act and regulations made thereunder. SOR/88-169, s. 3; SOR/98-430, s. 1.

### **PROHIBITIONS**

8. No person shall, without a Class A Permit, carry on any work or undertaking on territorial lands that involves
- (a) the use, in any 30-day period, of more than 150 kg of explosives;
  - (b) the use, except on a public road or trail maintained wholly or in part by federal funds, of any vehicle that exceeds 10 t net vehicle weight;
  - (c) the use of any power driven machinery for earth drilling purposes whose operating weight, excluding the weight of drill rods or stems, bits, pumps and other ancillary equipment, exceeds 2.5 t;
  - (d) the establishment of any campsite that is to be used for more than 400 man-days;
  - (e) the establishment of any petroleum fuel storage facility exceeding 80000 L capacity or the use of a single container for the storage of petroleum fuel that has a capacity exceeding 4 000 L;
  - (f) the use of any self-propelled power driven machine for moving earth or clearing land of vegetation;
  - (g) the use of any stationary power driven machine for hydraulic prospecting, moving earth or clearing land, other than a power saw; or



- (h) the leveling, grading, clearing, cutting or snow ploughing of any line, trail or right-of-way exceeding 1.5 m in width and exceeding 4 ha in area.

9. No person shall, without a Class B Permit, carry on any work or undertaking on territorial lands that involves:

- (a) the use, in any 30-day period, of more than 50 kg but less than 150 kg of explosives;
- (b) the use, except on a public road or trail maintained wholly or in part by federal funds, of any vehicle that is more than 5 t but less than 10 t net vehicle weight, or the use of any vehicle of any weight that exerts pressure on the ground in excess of 35 k pa;
- (c) the use of any power driven machinery for earth drilling purposes whose operating weight, excluding the weight of drill rods or stems and bits, pumps and other ancillary equipment, is more than 500 kg but less than 2.5 t;
- (d) the establishment of any campsite that is to be used by more than two people for more than 100 but less than 400 man-days;
- (e) the establishment of any petroleum fuel storage facility that has a capacity of more than 4000 L but less than 80 000 L or the use of a single container for the storage of petroleum fuel that has a capacity of more than 2 000 L but less than 4 000 L or
- (f) the leveling, grading, clearing, cutting or snow ploughing of any line, trail or right-of-way exceeding 1.5 m in width but not exceeding 4 ha in area.

10. No permittee shall, unless expressly authorized in his permit or expressly authorized in writing by an inspector ,

- (a) conduct a land use operation within 30 m of a known monument or a known or suspected archaeological site or burial ground;
- (b) when excavating territorial land within 100 m of any stream, excavate at a point that is below the normal high water mark of that stream;
- (c) deposit on the bed of any stream any excavated material; or

- (d) when placing a fuel or supply cache within 100 m of any stream, place the fuel or supply cache below the normal high water mark of that stream.

### SMALL FUEL CACHES

11. Every person who establishes a fuel cache of more than 400 L and less than 4000 L on territorial land for which a permit is not required shall, within 30 days of the establishment thereof, notify the engineer in writing, giving details of the cache including the amount and type of fuel, size of containers and method of storage and proposed date of removal of the cache. SOR/88-169, s. 6(E).

### EXCAVATION

12. Subject to the terms and conditions of his permit or the express written authority of an inspector, every permittee shall replace all materials removed by him in the course of excavating, other than rock trenching, and shall level and compact the area of the excavation.

### WATER CROSSINGS

13. (1) Subject to the terms and conditions of his permit or the express written authority of an inspector, every permittee shall

- (a) remove any material or debris deposited in any stream in the course of a land use operation, whether for the purpose of constructing a crossing or otherwise, and
- (b) restore the channel and bed of the stream to their original alignment and cross-section, prior to the completion of the land use operation or prior to the commencement of spring break-up, whichever occurs first.

(2) Subsection (1) shall not be deemed to permit any person to deposit any material or debris in a stream contrary to the Northern Inland Waters Act or the Fisheries Act or any regulations made under those Acts.



### **CLEARING OF LINES, TRAILS OR RIGHTS-OF-WAY**

14. (1) Unless expressly authorized in a permit, no permittee shall

- (a) clear a new line, trail or right-of-way where there is an existing line, trail or right-of-way that he can use;
- (b) clear a line, trail or right-of-way wider than 10 m; or
- (c) while clearing a line, trail or right-of-way, leave leaners or debris in standing timber.

(2) Where, in the opinion of an inspector, serious erosion may result from a land use operation, the permittee shall adopt such measures to control erosion as may be required by the inspector.

### **MONUMENTS**

15. (1) Where a boundary monument is damaged, destroyed, moved or altered in the course of a land use operation, the permittee shall

- (a) report the fact immediately to the Surveyor General and pay to the Surveyor General the costs of
  - (i) investigating such damage, destruction, movement or alteration, and
  - (ii) restoring or re-establishing the monument to its original condition or its original place; or
- (b) with the prior written consent of the Surveyor General, cause the monument to be restored or re-established at his own expense.

(2) Where a topographic or geodetic monument is damaged, destroyed or altered in the course of a land use operation, the permittee shall

- (a) report the fact immediately to the Dominion Geodesist, and pay to the Dominion Geodesist the costs described in subparagraphs (1)(a)(i) and (ii); or
- (b) with the prior written consent of the Dominion Geodesist, cause the monument to be restored or re-established at his own expense.

(3) The restoration or re-establishment of a monument pursuant to subsection (1) or (2) shall

be carried out in accordance with instructions from the Surveyor General or Dominion Geodesist, as the case may be. 1998, c. 14, s. 101(F).

### **ARCHAEOLOGICAL SITES**

16. Where, in the course of a land use operation, a suspected archaeological site or burial ground is unearthed or otherwise discovered, the permittee shall immediately

- (a) suspend the land use operation on the site; and
- (b) notify the engineer or an inspector of the location of the site and the nature of any unearthed materials, structures or artifacts. SOR/88-169, s. 6(E).

### **CAMPSITES**

17. (1) Subject to the terms and conditions of his permit, every permittee shall dispose of all garbage, waste and debris from any campsite used in connection with a land use operation by removal, burning or burial or by such other method as may be directed by an inspector.

(2) Sanitary sewage produced in connection with land use operations shall be disposed of in accordance with the Public Health Ordinance of the Northwest Territories or the Public Health Ordinance of the Yukon Territory, whichever is applicable, and any regulations made under the applicable Ordinance.

### **RESTORATION OF PERMIT AREA**

18. Subject to the terms and conditions of his permit, every permittee shall, after completion of a land use operation, restore the permit area as nearly as possible to the same condition as it was prior to the commencement of the land use operation.

### **REMOVAL OF BUILDINGS AND EQUIPMENT**

19. (1) Subject to subsections (2) and (3), every permittee shall, on completion of a land use operation, remove all buildings, machinery, equipment, materials and fuel drums or other



storage containers used in connection with the land use operation.

(2) A permittee may, with the prior written approval of the engineer, leave on territorial lands such buildings, equipment machinery and materials as the permittee deems may be required for future land use operations or other operations in the area, but any equipment, machinery or materials so left shall be stored in a manner, at a location and for a duration approved by the engineer.

(3) Subject to any applicable mining legislation, a permittee may, without the prior approval of the engineer, leave diamond drill cores at a drill site on territorial lands. SOR/88-169, s. 6(E).

### EMERGENCIES

20. Any person may, in an emergency that threatens life, property or natural environment, carry out such operation as he deems necessary to cope with the emergency, whether or not the operation is carried out in accordance with these Regulations or any permit that he may have and such person shall immediately thereafter send a written report to the engineer describing the duration, nature and extent of the operation. SOR/88-169, s. 6(E).

### ELIGIBILITY FOR A PERMIT

21. In order to be eligible for a permit, a person shall

- (a) where a right to search for, win or exploit minerals or natural resources is to be exercised by the carrying out of the land use operation authorized by the permit, be
  - (i) the holder of that right,
  - (ii) the manager of operations, where there is more than one holder of that right and such holders have entered into an exploration or operating agreement designating one of them as manager of operations, or
  - (iii) the person who contracts to have the land use operations carried out, where there is more than one holder of that right and they have not entered into an exploration or

operating agreement designating one of them as manager of operations;

- (b) where no right to search for, win or exploit minerals or natural resources is to be exercised by the carrying out of the land use operation authorized by the permit, be the person who contracts to have the land use operation carried out; or
- (c) in any case not provided for in paragraph (a) or (b), be the person who is to carry out the land use operation.

### APPLICATION FOR A PERMIT

22. (1) Any person who, in accordance with section 21, is eligible for a permit may submit to the engineer, in duplicate, an application for a permit in a form approved by the Minister.

(2) Every permit application submitted pursuant to subsection (1) shall be accompanied by the application fee set out in Schedule I, the land use fee set out in Schedule II and a preliminary plan showing

- (a) the lands proposed to be used and an estimate of their area; and
- (b) the approximate location of all
  - (i) existing lines, trails, rights-of-way and cleared areas proposed to be used in the land use operation,
  - (ii) new lines, trails, rights-of-way and cleared areas proposed to be used in the land use operation,
  - (iii) buildings, campsites, air landing strips, air navigation aids, fuel and supply storage sites, waste disposal sites, excavations and other works and places proposed to be constructed or used during the land use operation, and
  - (iv) bridges, dams, ditches, railroads, highways and roads, transmission lines, pipelines, survey lines and monuments, air landing strips, streams and all other features, structures or works that, in the opinion of the applicant, may be affected by the land use operation.

(3) For the purpose of calculating the land use fee payable where territorial lands are



proposed to be used for a line, trail or right-of-way, the width of the line, trail or right-of-way shall, unless otherwise specified by the engineer in the permit, be deemed to be 10 m. SOR/88-169, s. 6(E); SOR/96-113, s. 1.

23. (1) The engineer may, before issuing a permit,
- (a) order an inspection of the lands proposed to be used thereunder; and
  - (b) require an applicant for a permit to provide him with such information and data concerning the proposed use of the lands and the physical and biological characteristics thereof as will enable the engineer to evaluate any quantitative and qualitative effects of the proposed land use operation.

(2) Where an inspector makes an inspection pursuant to an order of the engineer under paragraph (1)(a), he shall investigate and report to the engineer particulars of

- (a) the existing biological and physical characteristics of the lands proposed to be used and the surrounding lands;
- (b) any disturbance that the proposed land use operation may cause on the lands proposed to be used and the surrounding lands and the biological characteristics thereof; and
- (c) the manner in which the disturbance referred to in paragraph (b) may be minimized and controlled.

(3) The engineer may, where he deems it necessary or when requested to do so by an applicant, inform the applicant of the nature of an inspector's report referred to in subsection (2). SOR/88-169, s. 6(E).

24. Where the engineer receives an application for a Class A Permit that is not made in accordance with these Regulations, he shall, within 10 days thereafter, notify the applicant in writing that his application cannot be accepted and give the reasons therefor. SOR/88-169, s. 6(E).

25. (1) The engineer shall, within 10 days after receipt of an application for a Class A Permit made in accordance with these Regulations,

- (a) issue a Class A Permit subject to any

- terms and conditions he may include therein pursuant to subsection 31 (1);
- (b) notify the applicant that further time is required to issue a permit and give the reasons therefor;
- (c) notify the applicant in writing that he has ordered further studies or investigations to be made respecting the lands proposed to be used and state the reasons therefor; or
- (d) refuse to issue a permit and notify the applicant in writing of his refusal and the reasons therefor.

(2) Where the engineer has notified an applicant that further time is required to issue a permit pursuant to paragraph (1)(b), he shall, within 42 days after the date of receipt of the application, comply with paragraph (1)(a), (c) or (d).

(3) Where the engineer has notified an applicant that he has ordered further studies or investigations to be made pursuant to paragraph (1)(c), he shall, within 12 months after the date of receipt of the application, comply with paragraph (1)(a) or (d). SOR/88-169, So 6(E).

26. Where the engineer receives an application for a Class B Permit that is not made in accordance with these Regulations, he shall, within three days thereafter, notify the applicant in writing that his application cannot be accepted and give the reasons therefor. SOR/88-169, s. 6(E).

27. The engineer shall, within 10 days after receipt of an application for a Class B Permit made in accordance with these Regulations,

- (a) issue a Class B Permit subject to any terms and conditions he may include therein pursuant to subsection 31 (1); or
- (b) refuse to issue a permit and notify the applicant in writing of his refusal and the reasons therefor. SOR/88-169, s. 6(E).

28. The engineer may, where he deems it necessary, notify an applicant in writing that his application for a Class B Permit will be considered as an application for a Class A Permit. SOR/88-169, S.6(E).





29. The engineer shall assign a number to each permit that he issues. SOR/88-169, S.4.

### DISPLAY OF PERMIT

30. Every permittee engaged in a work or an undertaking authorized by a permit shall display
- (a) an exact copy of the permit, including the conditions thereof, in such manner and at such places as the engineer may require; and
  - (b) the number assigned to the permit on such articles and equipment, in such manner and at such places as the engineer may require. SOR/88-169, s. 6(E).

### TERMS AND CONDITIONS OF PERMITS

31. (1) The engineer may include in any permit terms and conditions respecting
- (a) the location and the area of territorial lands that may be used;
  - (b) the times at which any work or undertaking may be carried on;
  - (c) the type and size of equipment that may be used in the land use operation;
  - (d) the methods and techniques to be employed by the permittee in carrying out the land use operation;
  - (e) the type, location, capacity and operation of all facilities to be used by the permittee in the land use operation;
  - (f) the methods of controlling or preventing ponding of water, flooding, erosion, slides and subsidences of land;
  - (g) the use, storage, handling and ultimate disposal of any chemical or toxic material to be used in the land use operation
  - (h) the protection of wildlife and fisheries habitat;
  - (i) the protection of objects and places of recreational, scenic and ecological value;
  - (j) the deposit of security in accordance with section 36;
  - (k) the establishment of petroleum fuel storage facilities;
  - (l) the methods and techniques for debris and brush disposal; and
  - (m) such other matters not inconsistent with these Regulations as the engineer thinks necessary for the protection of the

biological or physical characteristics of the land management zone.

- (2) The engineer may modify any of the terms or conditions included in a permit on receipt of a written request from the permittee that sets out
- (a) the terms or conditions in the permit that the permittee wishes modified; and
  - (b) the nature of the modification proposed and the reasons therefor.

(3) Where the engineer receives a written request from a permittee pursuant to subsection (2), he shall notify the permittee of his decision and the reasons therefor within 10 days of receipt of the request.

(4) Every permit shall set out the period for which it is valid and such period shall be based on the estimated dates of commencement and completion as set out by the permittee in his application, but in no case shall a permit be valid for a period exceeding two years.

(5) On receipt of a written request from a permittee for an extension of the duration of his permit, the engineer may extend the duration of the permit subject to such conditions not inconsistent with these Regulations as he thinks fit, for such period, not exceeding one year, as he thinks necessary to enable the permittee to complete the land use operation authorized by the permit. SOR/88-169, s. 6(E).

### REPORTS

32. Every permittee shall submit to the inspector or engineer, in a form and on a date satisfactory to the inspector or engineer, such reports as are requested by the inspector or engineer, in order to ascertain the progress of the land use operation. SOR/88-169, s. 6(E).

### FINAL PLAN

33. (1) Every permittee shall, within 60 days after the completion of a land use operation or the expiry of his permit, whichever occurs first, submit a final plan in duplicate to the engineer showing
- (a) the lands actually subjected to the land use operation;



- (b) the location of
    - (i) lines, trails, rights-of-way and cleared areas that were used by the permittee during the land use operation, specifying those that were cleared by the permittee and those that existed before the land use operation began,
    - (ii) buildings, campsites, air landing strips, air navigation aids, fuel and supply storage sites, waste disposal sites, excavations and other works and places that were constructed or used by the permittee during the land use operation, and
    - (iii) bridges, dams, ditches, railroads, highways and roads, transmission lines, pipelines, survey lines and monuments, air landing strips, streams and all other features, structures or works that were affected by the land use operation; and
  - (c) the calculations of the area of territorial lands used in the operation.
- (2) The final plan submitted to the engineer pursuant to subsection (1) shall be
- (a) certified by the permittee or his agent authorized for the purpose as to the accuracy of
    - (i) locations, distances and areas, and
    - (ii) the representation of the land use operation; or
  - (b) drawn from and accompanied by positive prints of vertical aerial photographs or aerial photomosaics showing the lands subjected to the land use operation.

(3) On receipt of a written request from a permittee for an extension of the time for filing a final plan, the engineer may extend the time for filing the final plan by not more than 60 days.

(4) The engineer shall reject the final plan if it does not comply with this section and section 35 and the permittee shall, within three weeks after receipt of written notice from the engineer of rejection of the plan, submit to the engineer another final plan that complies with this section and section 35.

(5) Notwithstanding the expiry of a permit or the submission of a final plan, every permittee remains responsible for his obligations arising under the terms and conditions of the permit or under these Regulations until such time as the engineer issues a letter of clearance for the land use operation. SOR/88-169, s. 6(E).

#### **DETERMINATION OF LAND USE FEE**

34. (1) Within 30 days after the engineer has issued a letter of clearance, the permittee shall calculate the land use fee payable based on the actual area of land used in the operation and the engineer shall,

- (a) where the land use fee submitted with the application is greater than the fee so calculated, refund the excess to the permittee; or
- (b) where the land use fee submitted with the application is less than the fee so calculated, demand, by notice in writing to the permittee, payment of the deficiency.

(2) Where an application for a permit is refused, the land use fee submitted with the application shall be refunded to the applicant.

(3) No application fee shall be refunded. SOR/88-169, s. 6(E).

#### **LAND DIVISION AND PLANS**

35. Every preliminary plan or final plan submitted under these Regulations shall

- (a) be drawn to a scale that clearly shows the lands that the applicant for a permit proposes to use or the permittee has used;
- (b) show the scale to which the plan is drawn; and
- (c) show locations
  - (i) in accordance with sections 5 to 9 of the Canada Oil and Gas Land Regulations, or
  - (ii) by giving the geographic coordinates thereof.



## SECURITY DEPOSIT

36. (1) In order to ensure that a permittee complies with the terms and conditions of his permit and with these Regulations, the engineer may include in the permit a condition that the permittee deposit with the Minister a security deposit not exceeding \$100,000.

(2) Where a permit includes a condition requiring a security deposit, the permittee shall not begin the land use operation until a security deposit has been deposited with the Minister.

- (3) A security deposit shall be in the form of
- (a) a promissory note guaranteed by a chartered bank and payable to the Receiver General;
  - (b) a certified cheque drawn on a chartered bank in Canada and payable to the Receiver General;
  - (c) bearer bonds issued or guaranteed by the Government of Canada; or
  - (d) a combination of the securities described in paragraphs (a) to (c).

(4) A security deposit shall be returned by the Minister when the engineer has issued a letter of clearance in respect of the land use operation.

(5) Where a permittee has not complied with all the terms and conditions of his permit or with these Regulations and the land use operation of the permittee results in damage to the lands, the Minister may retain the whole of the security deposit or such portion of the security deposit as is required to restore the lands to their former condition.

(6) Where the Minister retains a portion of a security deposit pursuant to subsection (5), the Minister shall return the remainder of the security deposit to the permittee.

(7) Where the whole of a security deposit retained by the Minister pursuant to subsection (5) is insufficient to cover the cost of restoring the lands to their former condition, the deficiency shall be collectable as a debt due to the Crown. SOR/88-169, ss. 5 and 6(E).

## LETTER OF CLEARANCE

37. When the engineer is satisfied that a permittee has complied with all the terms and conditions of his permit and with the provisions of these Regulations, he shall issue a letter of clearance to the permittee. SOR/88-169, s. 6(E).

## DUTIES AND POWERS OF INSPECTORS

38. (1) It shall be a condition of every permit that the permittee shall permit an inspector, at any reasonable time, to enter any place or premises on territorial lands under the permittee's ownership or occupation, other than a private dwelling, and make such inspections as he thinks necessary to determine whether the terms and conditions of the permit or the provisions of these Regulations are being complied with.

(2) An inspector shall be furnished with a certificate of his appointment as an inspector and on entering any place or premises under subsection (1) shall, if so requested, produce the certificate.

(3) Every person in any place or premises entered by an inspector under subsection (1) shall give the inspector such assistance and furnish him with such information as the inspector may, for the purpose of carrying out his duties under these Regulations, reasonably require.

39. No person shall willfully obstruct or hinder an inspector in carrying out his duties under these Regulations.

40. No person shall knowingly make a false or misleading statement either orally or in writing to an inspector engaged in carrying out his duties under these Regulations.

## SUSPENSION OF A LAND USE OPERATION

41. (1) Where an inspector is of the opinion that a permittee has failed to comply with any term or condition of his permit or any provision of these Regulations, he shall so inform the permittee and, if the default continues, the inspector may give notice to the permittee that if the default is not corrected within the time specified in the notice the inspector may order the suspension of the





land use operation or any part thereof.

(2) If a permittee does not correct a default within the time specified in a notice given by an inspector under subsection (1), the inspector may order the permittee to suspend the land use operation or any part thereof and the permittee shall thereupon suspend the land use operation or part thereof until the inspector authorizes the permittee to resume the land use operation.

(3) An inspector shall authorize a permittee to resume a land use operation or part thereof suspended under subsection (2) when the inspector or the engineer is satisfied that the default has been corrected, unless the permit has in the meantime been cancelled pursuant to section 42.

(4) Where a permittee has been informed of a default pursuant to subsection (1) or an order has been made in respect thereof pursuant to subsection (2), the engineer may, if the permittee fails to correct the default, take such action as he deems necessary to correct the default.

(5) The costs of any action taken by the engineer pursuant to subsection (4) may be recovered from the permittee as a debt due to the Crown.

(6) Nothing in this section relieves a permittee from prosecution for any violation of these Regulations.

(7) No order pursuant to subsection (2) shall be made in respect of an oil or gas drilling site between the time of spud-in and the rig release date without the concurrence of the district oil and gas conservation engineer. SOR/88-169, s. 6(E).

#### **CANCELLATION OF PERMIT**

42. (1) Where a land use operation has been suspended pursuant to section 41 and the permittee fails or refuses to correct his default in complying with any terms and conditions of a permit or of any provision of these Regulations, the engineer may cancel the permit.

(2) The cancellation of a permit under

subsection (1) shall not relieve the permittee from any obligation arising under the terms and conditions of the permit or under these Regulations, or from complying with any notice, direction or order given by an inspector or by the engineer. SOR/88-169, s. 6(E).

#### **DISCONTINUANCE OF A LAND USE OPERATION**

43. (1) Subject to subsection (2), where a permittee wishes to discontinue a land use operation at any time prior to the date of completion set out in the permit, he shall give notice of discontinuance in writing to the engineer indicating the date upon which he proposes to discontinue the land use operation.

(2) A notice of discontinuance given pursuant to subsection (1) shall be given to the engineer at least 10 days prior to the proposed date of the discontinuance.

(3) On receipt of a notice of discontinuance, the engineer shall amend a copy of the permit accordingly and shall forward the amended copy of the permit to the permittee.

(4) The discontinuance of a land use operation pursuant to this section does not relieve the permittee from any obligations arising under the terms and conditions of the permit or under these Regulations up to the time of discontinuance or from complying with any notice, direction or order given by an inspector or by the engineer. SOR/88-169, s. 6(E).

#### **ASSIGNMENT**

44. (1) On receipt of an application in writing for approval of an assignment of a permit and of the fee set out in Schedule I, the engineer may approve the assignment in whole or in part.

(2) An application for approval of an assignment shall be forwarded to the engineer at least 10 days prior to the proposed effective date of the assignment and shall include the permit number of the assignor, the name and address of the proposed assignee and particulars of the interests or rights of the assignee to be benefited by the assignment of the permit. SOR/88-169, s. 6(E); SOR/96-113, s. 2.



## APPEALS

45. (1) An applicant for a permit or a permittee may, within 30 days after any decision, direction or order made by the engineer or an inspector, appeal therefrom to the Minister.

(2) An appeal referred to in subsection (1) shall be by notice in writing setting forth

- (a) the decision, direction or order appealed from;
- (b) the relevant circumstances surrounding the giving of the decision, direction or order; and
- (c) the grounds of the appeal.

(3) A person appealing to the Minister pursuant to subsection (1) shall provide the Minister with such further particulars with respect to the appeal as the Minister may require.

(4) The Minister may, after receipt of an appeal pursuant to subsection (1), set aside, confirm or vary the decision, direction or order appealed from or may remit it to the engineer for reconsideration with such instructions as the Minister deems proper.

(5) A decision, direction or order appealed from remains in full force and effect pending the decision of the Minister or an officer appointed by him pursuant to subsection (6).

(6) The Minister may authorize a senior officer of the Department of Indian Affairs and Northern Development, other than the engineer, to exercise the Minister's powers in respect of any appeal pursuant to this section. SOR/88-169, s. 6(E).

## NOTICE

46. (1) Any direction, notice or order given to a permittee under these Regulations shall be sufficiently given if sent by registered mail to, or left at, the permittee's address as stated in his application for the permit and shall be deemed to have been given to the permittee on the date it was so mailed or left.

(2) Where a direction, notice or order is given to a permittee other than in writing, it shall forthwith be confirmed in writing.

## FEES

47. The fee set out in column II of an item of Schedule I is payable for the service set out in column I of that item. SOR/96-113, s. 3.

### SCHEDULE I (Sections 22, 44 and 47) SERVICE FEES

Column I Item Service	Column II Fee
1. Permit application	\$150
2. Assignment of permit	\$50
3. Copies of documents SOR/96-113, s. 4.	\$1.00 per page

### SCHEDULE II (Section 22) LAND USE FEES

Column I Item Description	Column II Fee
1. Where area of lands proposed to be used as shown on the preliminary plan is less than or equal to 2 ha	\$50
2. Where area of lands proposed to be used as shown on hectare or the preliminary plan is greater than 2 ha portion of a hectare in excess of 2 ha SOR/96-113, s. 4.	\$50 plus \$50/ha for each