

**Review of Mineral Activities  
in the  
Inuvialuit Settlement Region  
1997 – 2000**

**Report Prepared By:**

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## **Review of Mineral Activities in the Inuvialuit Settlement Region: 1997 – 2000**

### **1.0 Introduction**

In November of 1995 the Inuvialuit Regional Corporation (IRC) and the Department of Indian Affairs and Northern Development (DIAND) entered into an agreement regarding the “Issuance of Prospecting Permits and Licences in the Inuvialuit Settlement Region.” Under this agreement both parties committed to carry out a number of responsibilities. Among other things, DIAND was to participate annually in a review of its mineral prospecting permitting and licensing by the Environmental Impact Screening Committee (EISC).

Section 9 of the agreement obliges DIAND to:

“...participate in an annual review of its permitting/licensing process by the Environmental Impact Screening Committee. DIAND will submit to the screening committee, the results of the consultation process and Environmental Sensitivity Map conducted and prepared in accordance with this agreement. The Review by the screening committee will include:

- i) assessment of the potential effects of mineral exploration below the Land Use Permit threshold;
- ii) the cumulative effects of the prospecting and exploration activities;
- iii) past performances of developers, a general review;
- iv) the preparation of an environmental sensitivity map;
- v) the results of consultations with IGC [Inuvialuit Game Council] and HTC's [Hunters and Trappers Committees] and a description of the consultation process;
- vi) generic mitigation practices; and
- vii) the environmental implications of the results of monitoring by DIAND of exploration and prospecting activities within the ISR [Inuvialuit Settlement Region].”

For several years following the completion of DIAND's initial community consultation and the EISC's issuance of its 1996 report as required by the agreement, there was a delay in the provision of DIAND's consultation information to the EISC. In July of 2000 the Chair of the EISC met with DIAND's Director of Mineral and Petroleum Resources to discuss the situation and the agreement obligations. Subsequently, the EISC wrote to the Chair of the IRC and to the Assistant Deputy Minister of DIAND asking them to reconsider the agreement and consider the need for completing the annual review. The EISC had been unable to conduct the review since 1996 due to DIAND's inability to carry out its responsibilities under the agreement, which it believes are at odds with the Department's legislation. As yet no responses have been received.

In December of 2001 the EISC received from DIAND its consultation reports for the years 1997-98, 1998-99, and 1999-2000, and a projection of mineral prospecting activity for 2000-01; the report was prepared in July 2001. No consultation report was prepared for the year 1996-97, nor for the year 2000-2001. The original DIAND report prepared for 1997-98 had gone astray. No report for 1998-99 was prepared in the spring of 1999 because the community consultation tour was not completed due to bad weather, no comments were received from the communities contacted and DIAND Mineral and Petroleum Resources (MPR) concluded there was nothing substantive to report to the EISC. With the information in these consultation reports on exploration and prospecting activities in the ISR now in hand, however, the EISC is providing this report of its review of the mineral prospecting, exploration and development that has taken place within the ISR over the past five years, three of which DIAND MDD has reported on.

## 2.0 Background

This review covers all mineral-related activity known to the EISC to have occurred within the ISR during the fiscal years 1997-98 through 2000-2001, including non-licensed/non-permitted activity and licensed/permitted activity. During the years under review, mineral prospecting, exploration and development activities were taking place within the ISR on Banks Island, Victoria Island, Melville Island and the mainland N.W.T. near Paulatuk as represented by prospecting permits, mineral leases and mineral claims.

During 1996-97 the EISC screened the following developments:

- WMC International Ltd., *Victoria Island Revised 1996 Exploration Program* [01/96-04]
- Monopros Ltd., *Reconnaissance Mineral Exploration, Banks, Proposed Summer Field Project 1996* [04/96-02]
- Aber Resources, *Proposed Mineral Exploration Program, Kuujjua Nickel Project, Victoria Island* [04/96-05]

[Note: No DIAND MPR Annual Report was received for this year.]

During 1997-98 the EISC screened the following developments:

- Monopros Ltd., *Exploratory Drilling Project 1997* [03/97-01]
- Darnley Bay Resources Ltd., *Phase I (airborne magnetic survey)* [03/97-05]
- Cominco Ltd., *LUP Application N97C751 Mineral Exploration/Campsite - Melville Island* [05/97-04]
- Darnley Bay Resources Ltd., *Darnley Bay Project Phase I (airborne survey)* [07/97-01]
- Darnley Bay Resources Ltd., *Darnley Bay Project Phase II (ground geophysical survey)* [08/97-01]

During 1998-99 the EISC screened one mineral-related development:

- Darnley Bay Resources Ltd., *Darnley Bay Project Phase II* [03/99-01]

During 1999-2000 the EISC did not screen any mineral-related development.

During 2000-2001 the EISC screened three mineral-related developments:

- Darnley Bay Resources Ltd., *Darnley Bay Exploration Program Phase III - Diamond Drilling* [02/00-04]
- Darnley Bay Resources Ltd., *Diamond Exploration Program-Drilling Program-Southern Parry Peninsula* [06/00-08]
- Darnley Bay Resources Ltd., *ILA00pc49-Land Use Permit Class A-Minibulk Kimberlite Sampling* [11/00-01]

As is apparent from the foregoing, there has been a noticeable decrease in the number of companies working within the ISR and amount of mineral-related development taking place – at least of a type that meets the definition of “development” in the IFA and therefore is subject to screening by the EISC – over the years covered by this report.

### **3.0 Seven Point Review**

The following review by the EISC is based on EISC file information on relevant Land Use Permits, Environmental Impact Reports as well as the information provided by DIAND in the three annual reports and one forecast report. The review follows the format established in the DIAND – IRC agreement, touching on each of the seven points quoted in the Introduction section of this report.

#### **3.1 Point i) assessment of the potential effects of mineral exploration activities *below* the Land Use Permit threshold:**

As DIAND has pointed out in the past and as was reported in the EISC’s 1996 Annual Review of Mineral Activities, DIAND has no formal method for tracking mineral exploration activities below the Land Use Permit threshold within the ISR. Mentioned briefly in the DIAND reports and alluded to in the MPR Director’s covering letter is the difficulty – if not the impossibility – of tabulating activity of this nature. DIAND has taken some steps towards more effectively informing mineral companies working within the ISR through production of its “A Developer’s Guide to the Inuvialuit Settlement Region For Mineral Prospectors and Developers”.

EISC Comments:

Without any substantive or even anecdotal information concerning this type of activity, it is impossible for the EISC to conduct an assessment of these activities, even assuming they continue to take place. EISC members have not received any reports or complaints of this type of “below LUP threshold” mineral-related activities during the term of this report, perhaps because there has been such a decrease of prospecting as indicated in the DIAND reports. There has been a correspondingly significant increase in natural gas exploration activity, which would have also overshadowed any mineral prospecting activity. The EISC can therefore only repeat the recommendation made in its December, 1996 report, which does not as yet appear to have been fully implemented by DIAND.

### **Recommended Action:**

- I. That in order to fulfill its obligation under the agreement, DIAND take the lead role in establishing a voluntary process to ensure that below land use permit threshold activities are registered and monitored.**
- II. That DIAND initiate issuance of prospecting permits for specific geographic areas, in this case for the express purpose of prospecting within the ISR, as a means of facilitating the monitoring of below threshold activities.**
- III. That DIAND more effectively inform mineral companies about Inuvialuit private lands, harvesting rights, and special renewable resources licensing requirements in the Inuvialuit Settlement Region.**
- IV. That DIAND consult with the Hunters' and Trappers' Committees, Inuvialuit Game Council, Wildlife Management Advisory Committee (Northwest Territories), and Fisheries Joint Management Committee to consider and seek methods whereby low-level flying may be controlled, particularly with regard to sensitive times, areas, and species. (See attached recommended flight levels from EISC Operating Guidelines and Procedures.)**
- V. That DIAND continue its efforts with respect to ensuring mining proponents consult with, and implement recommendations of, the appropriate Hunters' and Trappers' Committees, particularly with regard to low-level flying.**

### **3.2 Point ii) the cumulative effects of the prospecting and exploration activities:**

The three DIAND reports do not discuss field inspections that might have been carried out by Land Use Inspectors, nor what the results of such inspections might have been. Our own examination of field inspection reports made available by the DIAND North Mackenzie District office indicate that final inspections were completed on all of the developments occurring on Crown lands within the ISR, with the exception of Cominco Ltd.'s site on Melville Island, and that all sites were found in acceptable condition with only minor recommendations for improvements. With the exception of Aber Resources Ltd.'s development, we are unaware if interim inspections were completed or whether any infractions were reported. The Inuvialuit Land Administration is responsible for conducting inspections on developments on Inuvialuit private lands.

The DIAND reports also do not address the cumulative effects of prospecting and exploration activities. Cumulative effects assessment should include an examination of potential impacts caused by all activities, whether they are above or below the threshold requiring a permit, since numerous below-threshold activities could cumulatively result in an undesirable significant impact.

The Inuvialuit have a representative, appointed by the Inuvialuit Game Council, on the N.W.T. Cumulative Effects Assessment and Management Framework Steering Committee (CEAMF). The Committee's April 2001 status report called for further

examination of the role of traditional knowledge, elders and communities in cumulative effects assessment. This focus lends itself to an examination of all activities, those both above and below the threshold requiring permits.

**EISC Comments:**

As a consequence of the noted lack of information, it is not possible for the EISC to comment specifically on what the cumulative effects of mineral prospecting and exploration activities in the ISR may have been. The EISC does, however, acknowledge the considerable effort on the part of DIAND to establish a process to determine, assess and manage the cumulative effects of a range of developmental activity in the Northwest Territories, including within the ISR. Since early 2000, DIAND has led the establishment and implementation of the CEAMF.

**3.3 Point iii) past performances of developers, a general review:**

DIAND's reports indicate that over the period of years under consideration, in some of the ISR communities' "[r]esidents are very aware of where industry was active and the range of environmental and socio-economic impacts that may/did occur. Residents have a good and beneficial relationship with industry and are generally focussed (sic) on how to maintain and improve those benefits through more and higher levels of mineral activity and greater participation in the future." The reports do not, however, indicate what the "environmental and socio-economic impacts," positive or negative, were. Nor do the reports indicate the level of land use inspections carried out. The EISC obtained from the DIAND North Mackenzie District office the environmental inspection reports for land use permits related to mineral activity within the ISR. Mineral development activity inspection reports provided by the district office indicate that three inspections were carried out in 1997, two in 1998 and five in 2000. This low level of inspection may influence the performance of developers. In a presentation made to the EISC during its meeting in May 1996, the District Manager of the DIAND North Mackenzie District office indicated that inspections occurred more frequently than the files provided to the EISC would indicate.

**EISC Comments:**

The Joint Secretariat, on behalf of the EISC, has taken a proactive approach and as of 2001 has been gathering environmental inspection and wildlife monitor reports for all developments occurring within the ISR. The EISC will consider these reports during the screening of subsequent developments in order to evaluate the effectiveness of the proposed mitigation.

During the April 1998 meeting, the EISC noted that DIAND's internal audit, titled *An Environmental Management Audit of the Northern Affairs Program, Land & Water Management Activities Associated with Mining* reflected some of the EISC's concerns, i.e., that the mineral legislation is out of date and fails to recognize the land claims legislation.

DIAND's Sustainable Development Strategy (*Towards Sustainable Development, A Strategy for the Department of Indian Affairs and Northern Development*) from 1998 did not mention the IRC/DIAND mineral agreement but did recognize DIAND's review of mineral regulations.

**Recommended Action:**

- VI. That DIAND, as the responsible federal agency, upgrade and formalize its efforts with respect to tracking industrial performance including; proactive evaluation; performance monitoring; risk assessment; prosecutorial action.**
- VII. That such information be readily available.**

**3.4 Point iv) the preparation of an environmental sensitivity map:**

DIAND's reports emphasize the point, also made by the Director of MPR, DIAND, in her meeting with the Chair of the EISC in 2000, that the Mineral Development Directorate is not the appropriate body to be responsible for the preparation of an environmental sensitivity map. This is particularly the case now that second editions, with revisions, of the six Community Conservation Plans and their included maps of the several types of management zones are available. The Inuvialuit are in a better position to determine which areas are environmentally sensitive than is the MPR.

**EISC Comments:**

The EISC concurs with MPR's views about the preparation of an environmental sensitivity map. The EISC would support this obligation being replaced with reliance on the most recent version of the Community Conservation Plans (CCP) on file at the Joint Secretariat. DIAND and the mineral industry should commit to respecting the restrictions on the levels of activities permitted in the different management zones as set out in the CCPs.

**Recommended Action:**

- VIII. In a review of the 1995 agreement between DIAND and the IRC, DIAND should be released from the obligation to produce an environmental sensitivity map. This obligation should be replaced by the most recent version of the Community Conservation Plans. DIAND should commit to restricting the level of exploration and development activities to those allowed in a given management zone.**
- IX. DIAND MPR should maintain a supply of Community Conservation Plans in hard copy or CD Rom for distribution to mineral developers, or advise mineral developers of the availability of the Community Conservation Plans on the Internet [Beaufort Mackenzie Mineral Development Area website: [www.bmmda.nt.ca](http://www.bmmda.nt.ca)].**

### **3.5 Point v) the results of consultations with IGC and HTC's and a description of the consultation process:**

The DIAND reports provide an overview of the MPR's efforts at consultation with the HTCs of Sachs Harbour, Holman and Paulatuk, as well as with Joint Secretariat staff. Presumably these three communities were selected because mineral exploration and development took place within their planning areas during the three years covered by the MPR reports. These reports were prepared some time after the consultations actually took place. In some instances no consultations took place owing to weather, due to conflicts in scheduling of meetings, or due to a limited budget for the consultation process, which was the reason given for not revisiting communities when meetings had to be cancelled.

Briefly, in March, 1998, a team of MPR staff visited all three communities and met with the HTCs. Meetings were reasonably well attended and minor concerns were raised. The main general concern was "the need to ensure that mineral and all other activities do not harm the caribou populations or affect the Inuvialuit caribou harvest." A follow-up meeting was held March 28, 1998 with the EISC and Joint Secretariat staff. A report prepared by the MPR, but not provided to the EISC, apparently noted "that some issues such as below threshold activities proved impossible to address because they continue to be beyond the scope of DIAND's program."

In February and March, 1999 MPR staff endeavored to set up consultation meetings with the same three HTCs. Because of a blizzard of several days' duration the consultation tour was cancelled. However, the MPR staff met in Inuvik with the Chair of the Sachs Harbour HTC and by telephone with the Chair of the Holman Joint Land Use Committee. They offered to hold a telephone conference with the other HTCs, but these conferences did not take place. MPR staff also sent maps and background material to the HTCs. A meeting was held on March 26, 1999 with EISC and Joint Secretariat staff. DIAND reports that MPR made several unsuccessful attempts to set up a meeting with the IRC to revisit the 1995 agreement. No consultation report was prepared for the 1998-99 season until this recent report was prepared in 2000.

During March 2000 MPR staff arranged and confirmed consultation meetings with the three HTCs already mentioned. They met in advance of these meetings with IRC, EISC and other Joint Secretariat staff. Conflicting meetings for HTC representatives had been scheduled by the IRC. The Sachs Harbour meeting had to be cancelled because a blizzard prevented the flight from taking place on the date set for the meetings. The meeting in Holman was rescheduled for earlier in the day and a brief meeting was held with 9 to 13 members of the HTC and the community. In addition to mineral exploration information, the GNWT Resources, Wildlife and Economic Development biologist presented results of a multi-year caribou study. No meeting took place with the Paulatuk HTC (due apparently to some organizational difficulty in the HTC office); rather, the MPR team provided a briefing to the HTC Resource Person and left him with a complete set of maps and information with which to brief the Paulatuk HTC. An invitation was also extended for a conference call with the HTC to review this material. No such conference call meeting was requested by the HTC. The MPR staff met on March 29, 2000 with Joint



Secretariat staff and expressed their concern over the scheduling of conflicting meetings by the IRC when meetings had earlier been scheduled with the HTCs. The message coming out of the consultation which did take place was that “[c]ommunities want access to the direct and indirect opportunities from mineral activity and are worried about the slowdown in mineral permitting, staking and on-ground activity ... which seems to promise even less activity...” The DIAND consultation report was prepared in March 2000 and received by the EISC in December 2001 along with the reports for the two preceding years.

DIAND MPR prepared an “Outlook for the Future” of mineral industry activity in the ISR which was provided to the EISC in December 2001. Essentially, it indicates that as at February 2001 no new Mineral Permits were issued in the ISR, that existing permits are lapsing, that smaller staked claims are being filed and that little mineral activity is anticipated in 2001/2002 “other than the work done by Darnley Bay Resources” near Paulutuk. MPR’s report suggests that “because of the low activity levels the need, rationale and overall requirement for and community/HTC interest in the Joint Agreement appears to have evaporated.” The report also suggests that DIAND and IRC should “refocus the consultation requirement/DIAND program activity to improve ISR community preparations for another exploration cycle ...”

#### EISC Comments:

The EISC appreciates the consultation reports provided by MPR. While the reports are brief they provide the EISC with some understanding of the effort that went into arranging and carrying out the HTC and Joint Secretariat consultation as required by the Joint Agreement. There is no indication, however, that any attempt was made to meet with the IGC as required by the agreement and as was done in 1996. As an overall observation, it would appear that late March is a period when blizzards regularly occur and alternate dates and flights should be built into the consultation schedule and budget. In the report of the third set of consultations there is an indication that alternate dates were set but there is no indication that there was any second attempt to visit the communities. While the EISC is sympathetic to the exigencies of western arctic weather, this is something with which we all must cope. The scheduling of conflicting meetings is unfortunate and perhaps could be addressed by advance contact with the IRC and other IFA bodies to achieve coordination of meeting schedules.

The results of the consultation would be of greater value to the EISC if the reports included more specific comments and had been received in a timely manner. The comments that EISC members and staff have heard from the communities about mineral development are similar to those reported by DIAND. Given that the reports were received several years after the consultation was completed, it is difficult now to verify the satisfaction of the HTCs and IGC with the consultation that took place.

As noted in the EISC’s 1996 report, DIAND failed to clearly identify possible effects associated with mineral prospecting activities. Full disclosure of these effects would have permitted the communities to make more informed comments and decisions regarding the identification of local areas of environmental sensitivity. This could lead to a

modification of the types and boundaries of management zones. As far as the EISC is aware, there was no response from DIAND to this recommendation in our committee's 1996 report.

Despite the reduction in the level of mineral activity within the ISR, the EISC is of the view that the consultation meetings with the HTC's and the IGC should continue so that the communities through the HTC's are aware of the mineral activity that is taking place immediately outside of their planning areas. The EISC believes that it would be of benefit for the HTC's to know why there has been a reduction of mineral activity within their respective areas. Additionally, during this relatively slow period in mineral exploration, it seems to the EISC that the suggestion made by MPR to use this time to prepare for the next cycle of exploration activity makes sense. It should be cost effective to combine the suggested training with the consultation tour.

**Recommended Action:**

- X. That DIAND carry out its obligation to identify the effects associated with mineral prospecting activities for presentation to the IGC and HTC's during the 2002 consultation period.**
- XI. That DIAND assist the HTC's in preparing for the next cycle of mineral exploration activity by discussing with these bodies the training needed to assist the communities in being able to take advantage of opportunities associated with such activity and in carrying out such training.**

**3.6 Point vi) generic mitigation practices:**

The following comments are mainly a repetition of comments offered under this heading in the EISC's 1996 report because we have not been informed by DIAND nor seen evidence that our earlier comments have been implemented. We note that DIAND routinely attaches a number of conditions to land use permits issued under the authority of the *Territorial Lands Act*. Some of these may be generally applicable to the mineral industry and could result in mitigation of negative impacts.

The EISC continues to have several concerns in this regard. One stems from the fact that below-threshold activities are presently outside the regulatory control of DIAND and therefore may be conducted without consideration of environmental impacts. The longstanding concerns and complaints about low-level flying and its potential negative impacts on wildlife are one example of this concern.

An equally important concern results from a lack of adequate inspection and monitoring of licensed activities (ten inspections of five projects over four years of which four were of one project). Without a certain level of surveillance, no assurance can be given that mitigation is occurring or has occurred during a given activity.

On a further point, EISC is limited in that its determinations may not include conditions when it finds that a proposed development will have not significant negative

environmental impact or significant negative effect on Inuvialuit harvesting. With respect to some such determinations, the EISC may suggest to DIAND and other regulatory bodies factors it considers worthy of attaching as conditions to permits. Broadly, these suggestions relate to mitigative measures. The EISC would like confirmation that these suggestions are being given serious consideration and that proposed mitigation will not only be carried out but will be monitored by DIAND Land Use Inspectors as to its effectiveness. One of the determinants of potentially significant negative environmental impact is the EISC's lack of confidence of proposed mitigation (Appendix D, *Operating Guidelines and Procedures*). Such a finding results in referral of the development for public review.

In April 1998, EISC staff compared the comments or suggestions forwarded by the EISC in their decision letters to the contents of DIAND's letters and permits forwarded to the developers. The EISC was disappointed to discover that in the majority of cases, DIAND did not mention the comments or attach an applicable land use condition to the permits. This finding was relayed to DIAND, and it was noted afterwards that some effort was taken to include applicable statements, e.g., about working in areas with bears.

One of the EISC's concerns was DIAND's persistence in issuing two-year licences for projects for which the EISC only received a description of the first year's activities.

**Recommended Action:**

- XII. That DIAND, the Federal signatory to the IFA, accurately and completely reflects the results of screening under the IFA in all permits issued by the department.**
- XIII. That DIAND document and circulate to the HTC's the full range of generic mitigation practices expected of industry when conducting mineral exploration activities both above and below the threshold requiring a Land Use Permit.**

**3.7 Point vii) the environmental implications of the results of monitoring by DIAND of exploration and prospecting activities within the ISR:**

The reports provided by DIAND fail to discuss the monitoring of mineral exploration and prospecting activities within the ISR that took place over the three years covered by the reports. The EISC took the initiative to obtain the environmental inspection reports from the DIAND North Mackenzie District office. In the absence of a discussion of the monitoring the EISC is not in a position to conduct a thorough review the environmental implications of such activity. However, the inspection reports examined by the EISC indicate that the condition of the mineral operations was deemed acceptable by DIAND inspectors. The reports fail to indicate the level to which mitigative measures were implemented.

## **Recommended Action:**

- XIV. That DIAND take the necessary steps to comply with this and other aspects of the IRC/DIAND Joint Agreement as noted previously, particularly before the issuance of additional mineral rights and prior to commencement of planning for the 2002 exploration season.**

## **4.0 Conclusion**

The EISC has based this report on the reports of DIAND's three years' (1997-98, 1998-99, 1999-2000) efforts at consultation with three ISR communities' HTC's. The EISC concludes that DIAND is not fully complying with its obligations under the 1995 IRC/DIAND Joint Agreement. As a result, the EISC is not able to fulfill its obligations under the same agreement. The EISC has made some recommendations as to how these shortcomings may be corrected and trusts that these recommendations will be well received and acted on by DIAND. The EISC looks forward to a positive response from DIAND to these recommendations. The EISC believes that the current comparatively low level of mineral prospecting and exploration in the ISR provides an excellent opportunity for DIAND to address the deficiencies mentioned in this review.