



ENVIRONMENTAL IMPACT REVIEW BOARD

July 15, 2011

GNWT
Department of Transportation
Lahm Ridge Tower
2nd Flr, 4501 - 50 Ave
P.O. Box 1320
Yellowknife, NWT X1A 2L9

Dear Mr. Jim Stevens,

Re: CONFORMITY STATEMENT AND BOARD DIRECTION REGARDING THE DRAFT ENVIRONMENTAL IMPACT STATEMENT FOR THE HAMLET OF TUKTOYAKTUK, TOWN OF INUVIK AND GNWT - CONSTRUCTION OF THE INUVIK TO TUKTOYAKTUK HIGHWAY, NORTHWEST TERRITORIES [02/10-05]

On July 7, 2011 the Environmental Impact Review Board (EIRB or Review Board) met to consider the conformity analysis conducted on the draft Environmental Impact Statement (EIS) for the "HAMLET OF TUKTOYAKTUK, TOWN OF INUVIK AND GNWT - CONSTRUCTION OF THE INUVIK TO TUKTOYAKTUK HIGHWAY, NORTHWEST TERRITORIES [02/10-05]" Development Proposal (development proposal) submitted by the Developer on May 24, 2011 in response to the EIS Terms of Reference issued by the Review Board on November 3, 2010.

EIRB Roles and Responsibilities in this Review

The Inuvialuit Final Agreement (IFA) establishes an environmental impact screening and review process (review process), in which the Review Board is responsible for the review of development proposals referred to it. The specific roles and responsibilities of the Review Board are set out in sections 8, 11, 12 and 13 of the IFA, and include protecting and fulfilling the goals of the IFA, which are to:

- Preserve Inuvialuit cultural identity and values within a changing northern society.
- Enable Inuvialuit to be equal and meaningful participants in the northern and national economy and society.
- Protect and preserve Arctic wildlife, environment and biological productivity.

This development proposal is also subject to the requirements of the *Canadian Environmental Assessment Act* (CEAA). As a result of the *Agreement to Establish a Substituted Panel for the Inuvik to Tuktoyaktuk Highway Project between the Government of Canada as represented by the Minister of the Environment and the Environmental Impact Review Board* (Agreement), the EIRB process was substituted for the CEAA process for this development proposal. Thus, only the EIRB review process must be completed.

The Review Board is conducting this review of the development proposal in accordance with the requirements of the IFA and the Agreement, which includes meeting and fulfilling the requirements of section 16 of the CEAA. The EIS Terms of Reference issued by the Review Board on November 3, 2010 is the specific direction given to the Developer for completing its Environmental Impact Statement. If the Developer provides all of the information requested in the EIS Terms of Reference, to the level of detail required, the EIS will meet the information requirements for completing an environmental impact statement in accordance with the requirements of both the IFA and the CEAA. Once the required information is in hand the environmental impact review can proceed to the technical review phase.

Conformity Analysis

The conformity analysis is a determination of whether the draft EIS submitted by the Developer includes all of the information, to an appropriate level of detail, requested in the EIS Terms of Reference. The conformity analysis does not determine the adequacy of the EIS for completing an impact review, this will be determined during the technical review phase.

The conformity analysis was conducted over a 24-day period with the assistance of Parties to this proceeding. The specific comments on conformity submitted by the Parties can be found on the EIRB's Electronic Online Registry (EOR) site for this review.

This conformity statement also provides specific direction from the EIRB to the Developer regarding the results of the conformity analysis.

Overall Conformity Results

The conformity analysis was based on an item by item comparison of the EIS contents to the requirements set out in the Terms of Reference. The EIRB's conclusions about conformity are set out in three categories below:

1. Where information on an item was provided in sufficient detail it was determined that the EIS Terms of Reference requirements had been met.
2. Where information deficiencies on items were identified, but were considered to be non-critical, the Review Board determined that these concerns could be addressed during the technical review phase and no further information is required at this time.
3. Where information deficiencies on items were identified, and were considered to be of a critical nature, the Review Board determined this information would be required prior to starting the technical review phase.

This conformity statement will specifically identify the Category 2 and 3 deficiencies in the tables below.

Category 3: Specific Critical Information Deficiencies

A critical information deficiency was identified when information the EIRB considered critical to inform the technical review phase has not been provided in the draft EIS. The nature of the critical deficiency may be either that information is lacking altogether, or has not been provided in sufficient detail for some or all of the identified components listed in the EIS Terms of Reference.

#	TOR Section	TOR Requirement	Identified Critical Information Deficiencies
1	5.5	Regulatory approvals and non-regulatory requirements, including land-tenure	Missing CEAA process, AANDC land tenure process and land use and quarry permits required for borrow sites.
2	5.6	Study strategy and methodology <ul style="list-style-type: none"> • Identified where guidelines and best practices have been used • Identification of any modifications to guidelines and best practices used 	The Best Management Practices and Guidelines that were and will be used are not clearly identified, and it is not identified whether any modifications were proposed. Some DFO Guidelines mentioned no longer apply or are out of date (see specific DFO comments).
3	5.6.5	Precautionary Principle <ul style="list-style-type: none"> • Has the Developer used the precautionary principle in its decision-making process? 	Instances where the Precautionary Principle was applied, and why it was applied, have not been identified or explained.
4	6.1	Route alignment alternatives <ul style="list-style-type: none"> • Information provided on the 	General information was provided; however, the Developer appears

#	TOR Section	TOR Requirement	Identified Critical Information Deficiencies
		<p>preferred alignment?</p> <ul style="list-style-type: none"> Information provided on any alternative alignments or portions of alignments? 	to support some of the new alignment options that were included, but does not provide specific biophysical information about them.
5	6.3	<p>Development phases and schedule</p> <ul style="list-style-type: none"> Workforce requirements for all phases Responsibilities of governments and other agencies for all phases Development costs for all phases Identification and description of any new work and additional field studies to be conducted 	Does not include a discussion of additional field work planned for 2011, how this information would apply to the EIS, or how the environmental impact review process would benefit.
6	6.4	<p>Life of the project</p> <ul style="list-style-type: none"> Information about the expected life of the project at all phases Other party information (see 6.3 as well) 	Does not discuss any long-term management responsibilities of the Hamlet of Tuktoyaktuk or the Town of Inuvik (if any), or how the overall objectives of the various levels of Government are met by developing this highway.
7	7.1	<p>Alternative means of carrying out the project</p> <ul style="list-style-type: none"> Description(s) Identification of environmental effects of alternatives Criteria and rationale for preferred option 	Discussion needs to include alternative means and methods.
8	7.2	<p>Alternative route options</p> <ul style="list-style-type: none"> Description of each option Criteria and rationale for selection of preferred option 	<p>General information was provided; however, the Developer appears to support some of the new alignment options that were included, but does not provide specific biophysical information about them.</p> <p>Also need to include comparison discussions about the geometric features of each considered option, including mitigation options (where required) and associated costs.</p>
9	8.2.2	Temporal boundaries identified	It is not clear whether the timeframe used to assess effects to biophysical and human environment components includes the anticipated long-term operation phase of the highway.
10	9.1	<p>Biophysical environment descriptions</p> <ul style="list-style-type: none"> Terrain, Geology, Soils and Permafrost Climate Air quality Noise Water quality and quantity Fish and fish habitat Wildlife and wildlife habitat Birds and bird habitat Vegetation 	<p>Most of the biophysical information provided in the EIS is applicable to an ecoregion level of description, and appears to have been gathered from literature reviews and may be suitable for describing the Regional Study Area, a 15km buffer on either side of the Primary 2009 Route option. Field verified, local study area biophysical information for most of the required biophysical components has not been provided. Very few field surveys appear to have been conducted in support of the EIS, and some appear to be partially or completely missing (i.e., water quality and quantity, none for vegetation communities, rare plants, harvested plants, wildlife). For those field surveys conducted, methods are not provided, with the exception of Fish and Fish Habitat, which is provided in Appendix C.</p> <p>The quantitative basis for any future monitoring programs is <u>not</u> apparent for most of the biophysical environment components.</p>
11	10.1	Assessment of potential impacts	Although potential impacts are identified in an overarching sense, the

#	TOR Section	TOR Requirement	Identified Critical Information Deficiencies
		<ul style="list-style-type: none"> • Terrain, Geology, Soils and Permafrost • Climate • Air quality • Noise • Water quality and quantity • Species of concern • Fish and fish habitat • Wildlife and wildlife habitat • Birds and bird habitat • Vegetation • Biodiversity • Country foods 	<p>EIS does not provide a quantification of impacts that would form a foundation for follow-up programs with testable questions. For example, there is no way to quantify how the road may impact wildlife locally as no field studies (i.e., winter wildlife tracking, avian surveys, etc.) have been conducted in the respective road option LSAs.</p> <p>The EIS does not provide commitments to when such quantification would be developed or provided. The EIS does not provide any description of confidence associated with impact predictions.</p> <p>Polar bears should be identified and discussed as a VEC.</p>
12	10.2	<p>Human environment components</p> <ul style="list-style-type: none"> • Demographics • Regional and local economies • Education, training and skills • Infrastructure and institutional capacity • Human health and community wellness • Socio-cultural patterns • Harvesting • Land use • Heritage resources 	<p>An economic analysis was provided in the EIS. However, for many other components (social and cultural), the discussion of potential effects lacks depth and analysis. Few links are made between the economic effects of the project, and the social and cultural effects that may result from (1) the project itself, and (2) the economic effects. Further, the absence of Traditional Knowledge (TK) and Traditional Land Use (TLU) studies presents a gap in the identification and mitigation of social and cultural effects.</p> <p>In many cases, parties/organizations responsible for implementing mitigation are identified, but <u>mitigation measures are not suggested, nor are impacts to the responsible organization identified.</u></p>
13	13.1	Environmental and socio-economic effects monitoring	<p>A table with effects monitoring requirements is not provided. No monitoring programs are provided that would test the effectiveness of mitigation measures which are listed in other parts of the EIS.</p> <p>A commitment is made to report on employment, income, and training (upon request). However, there are no plans to monitor socio-economic and cultural effects of the project. Agencies and organizations responsible for ongoing socio-economic monitoring are identified only. There is no information to suggest that discussions to monitor effects of the project have been initiated.</p>
14	13.2	Compliance monitoring	There is no tangible information on compliance monitoring in the EIS.

Category 2: Specific Non-Critical Information Deficiencies

A non-critical information deficiency was identified when information the EIRB considers to be required to inform the technical review phase has not been provided in the draft EIS. The nature of a non-critical deficiency may be either that information is lacking altogether, or has not been provided in sufficient detail for some or all of the identified biophysical and/or human environment components listed in the EIS Terms of Reference. The deficiency is considered non-critical because the EIRB considers that the deficiency can be adequately addressed during the technical review phase.

#	TOR Section	TOR Requirement	Identified Non-Critical Information Deficiencies
1	4	The Executive Summary shall be submitted in English, and in the following Inuvialuktun dialects: <ul style="list-style-type: none"> • Siglitun • Uummarmiutun 	Executive Summary to be provided in the indicated languages/dialects upon submission of the final EIS
2	5.4	Overview of biophysical and human environment settings for preferred and alternate options.	The general overview of the ecological setting is missing.
3	6.2	Scope of project components and activities <ul style="list-style-type: none"> • Detailed description of all proposed development components and associated activities for all phases of the development 	Information is missing for: other drainage and thermal erosion control structures; management of excavation material including stockpiles; and, the handling, storage and use of explosives.
4	8.1	Key issues identification	Would like to see inclusion of Polar Bears as a VEC.
5	8.2.1	Spatial boundaries identified	Does not include a discussion of the rationales for choosing the VECs used.
6	9.2	Human environment <ul style="list-style-type: none"> • Demographics • Regional and local economies • Education, training and skills • Infrastructure and institutional capacity • Human health and community wellness • Socio-cultural patterns • Harvesting • Land use • Heritage resources 	Some of the data presented requires further explanation, and additional data from other (identified) sources needs to be provided. There are also gaps in the presentation and discussion of baseline data for some of the Terms of Reference requirements. Presentation of the baseline data shows a lack of understanding as to how the data should inform the assessment. Only in some cases has data been confirmed through discussion with local community organization representatives.
7	10.3	Potential accidents and malfunctions description and analysis	Potential accidents and malfunctions description and analysis is inadequate for social, cultural and economic components.
8	10.5	Determination of significance <ul style="list-style-type: none"> • description and threshold justification 	The discussion of the level of consequence and magnitude should include an explicit discussion of significance.
9	11	Cumulative Effects Assessment <ul style="list-style-type: none"> • VEC and VSC selection 	The timeframe used for the cumulative effects assessment is inadequate for the life of the project. There is also a lack of any robust consideration of potential induced effects.

#	TOR Section	TOR Requirement	Identified Non-Critical Information Deficiencies
		<ul style="list-style-type: none"> • Potential cumulative effects identified • Evaluation • Discussion of potential induced effects 	
10	13.4	Socio-economic and cultural effects management, policies and commitments	Some commitments have been made to manage some economic effects (i.e. local procurement and employment). Agencies and organizations responsible for effects management are identified, but most often, no mitigation measures are suggested. In some cases, social, cultural and some economic effects are superficially identified, and will be difficult to manage and monitor with this superficial treatment.

Direction to the Developer

The EIRB requires that the Developer provide the following information in response to this conformity statement on or before 5:00 pm MDT on Monday, August 29, 2011:

1. Information sufficient to address the Category 3 deficiencies set out in the table to an acceptable level of detail.
2. A timetable for addressing the identified Category 3 information deficiencies, if this information is not currently available.
3. A timetable for addressing identified Category 2 non-critical information deficiencies.
4. An indication of how the required information will be provided. If the existing draft EIS is to be added to, please indicate which information is new by clearly differentiating between existing and new information.

Once the Developer has provided a response to this conformity statement, the Review Board will consider it and update the environmental impact review schedule accordingly.

If you have any questions regarding this conformity statement, please contact Eli Nasogaluak by email (eirb@jointsec.nt.ca) or by telephone (867) 777-2828.

Sincerely,



Eli Nasogaluak
 Environmental Assessment Coordinator
 Environmental Impact Review Board
 Phone: (867) 777-2828
 Fax: (867) 777-2610
eirb@jointsec.nt.ca

cc. CEAA