



ENVIRONMENTAL IMPACT REVIEW BOARD

RULES OF PROCEDURE FOR THE ENVIRONMENTAL REVIEW PROCESS OF THE INUVIALUIT FINAL AGREEMENT

(Revised April 2015)

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1 GENERAL

This part applies to all parts of all Proceedings of the Environmental Impact Review Board (“EIRB” or “Review Board”) established by section 11(22) of the IFA as amended in 2005. All references to EIRB or the Review Board include the Review Board Panel.

1.1 DEFINITIONS

“Chair” means Chairperson of the EIRB.

“Clarification” means the process by which the Review Board seeks an explanation of any document or information which is on the Record without seeking new evidence or information in a Proceeding.

“Community hearing” means an informal oral hearing held by the EIRB in a community under Part 2.7 of these Rules.

“Competent Authority” means any government agency which provides funding, and any department, agency, or private land owner that has the authority to issue a licence, permit or other authorization that would authorize in any way the carrying out of a development.

“Developer” means a person, the government or any other legal entity owning, operating or causing to be operated any Development as defined in the IFA and includes any co-contractant of such owner or operator. For greater certainty, “Developer” includes any Inuvialuit developer.

“Development” means

- a) Any commercial or industrial undertaking or venture, including support and transportation facilities relating to the extraction of non-renewable resources from the Beaufort Sea, other than commercial wildlife harvesting; or
- b) Any government project, undertaking or construction whether federal, territorial, provincial, municipal, local or by any Crown agency or corporation, except government projects within the limits of communities not directly affecting wildlife resources outside those limits and except government wildlife enhancement projects.

“Direction on Procedure” means a direction issued by the Review Board at any time in a Proceeding.

“Environmental effect” means in respect of a development:

- a) Any change that the development may cause on the environment, and includes
 - i. any change in the bio-physical environment on the current use of lands and resources for traditional purposes by Inuvialuit;
 - ii. any change it may cause to wildlife species, its critical habitat or the residences of individuals of that species;
 - iii. any change to present or future wildlife harvesting;
- b) Any change to the development that may be caused by the environment;
- c) Any change that the development may cause to the socio-economic and cultural environments.

“Environmental Review Proceeding” means a process or proceeding, or any part thereof, including a written or oral Hearing, conducted by the Review Board, from the time the Screening Committee refers a proposed Development to the Review Board until the Competent Authority issues a decision respecting the proposed Development. An Environmental Review Proceeding does not include a business meeting of the Review Board.

“Environmental Screening” means an examination of a Project Description submission undertaken by a panel of the Environmental Impact Screening Committee under section 11(1) of the IFA.

“Formal hearing” means an oral hearing conducted by the EIRB under Part 2.6 of these Rules.

“Hearing” means a written hearing, a formal hearing or a community hearing forming part of an Environmental Review Proceeding where the Review Board receives information or evidence, either orally or in writing, from the Parties and Members of the public.

“Information Request” or “IR” means a written request for information or particulars issued to a party to a proceeding issued under the authority of the EIRB in the course of an Environmental Review Proceeding.

“Inuvialuit” means those people known as Inuvialuit, Inuit or Eskimo who are beneficiaries under the IFA by reason of the settlement of their claim to traditional use and occupancy of the land in the Inuvialuit Settlement Region and who are represented by the Committee for Original Peoples’ Entitlement (COPE) and, where the context requires, includes the Inuvialuit Regional Corporation, the Inuvialuit Land Corporation, the Inuvialuit Development Corporation, the Inuvialuit Investment Corporation, the Inuvialuit community corporations and any other corporation, trust or organization controlled by the Inuvialuit that may be established by or pursuant to the IFA.

“Inuvialuit community” means any of the communities of Aklavik, Inuvik, Paulatuk, Sachs Harbour, Tuktoyaktuk, or Ulukhaktok.

“IFA” means the Inuvialuit Final Agreement as amended from time to time.

“Inuvialuit organization” means the Inuvialuit corporations, trusts or organizations controlled by Inuvialuit set out in section 2 of the IFA

“Member of the public” means a person or organization other than a Party, who is permitted to participate in an Environmental Review Proceeding subject to these Rules.

“Party” means those entities described in Rules 2.2.1 and 2.2.2.

“Project Description” means the submission that a Developer provides to the Environmental Impact Screening Committee in support of a proposed development that is to be screened by the Environmental Impact Screening Committee, and includes a description of the proposed development, the environmental impact and cumulative effects analysis, the report on engagement and consultation and, proposed mitigation measures and commitments made by the Developer.

“Record” means all admissible and relevant documents submitted to the Review Board during an Environmental Review Proceeding from the time a Development proposal is referred until a review decision is made.

“Registry” means the paper copy or the electronic copy of the Record of documents established by the EIRB which contains all of the documents on the Record for an Environmental Review Proceeding.

“Request for Ruling” means a written request by a Party to the EIRB for a ruling or order in an Environmental Review Proceeding.

“Rules” means these Rules of Procedure for the Review Board.

“Ruling” means a decision or order made by the Review Board in response to a Request for Ruling or during an Environmental Review Proceeding.

“Screening Committee” or “EISC” means the Environmental Impact Screening Committee established by subsection 11(5) of the IFA, and includes a Screening Panel thereof.

“Traditional Knowledge” means the collective knowledge of traditions used by the Inuvialuit to sustain and adapt themselves to their environment over time. This information is passed on from one generation to the next within the Inuvialuit communities. Such Traditional Knowledge is unique to Inuvialuit communities and is rooted in the rich culture of its peoples.

1.2 APPLICATION OF THE RULES

1.2.1 These Rules apply to all Environmental Review Proceedings pursuant to sections 11, 12, and 13 of the IFA.

1.3 INTERPRETATION AND VARIATION OF RULES

1.3.1 Consistent with the IFA and the principles of natural justice and procedural fairness, the Review Board may liberally construe and vary these Rules in order to provide a just, expeditious and fair decision on any matter before the EIRB.

1.3.2 Where any matter of procedure is not provided for by these Rules, the Review Board may, at any time, issue such direction on procedure to supplement these Rules as it considers necessary for the fair determination of an issue.

1.3.3 The Review Board may on its own motion dispense with or vary any part of these Rules that it considers necessary for the fair determination of an issue.

1.3.4 The Review Board may, on a request from a Party, issue a Direction on Procedure that it considers necessary for the fair determination of an issue.

1.3.5 Where there is a conflict between any Rule and any Direction on Procedure issued by the Review Board, the direction on procedure prevails over the Rule.

1.3.6 The IFA prevails over any Rule or Direction on Procedure.

1.3.7 Where reference is made in any Direction on Procedure to a number of days, it will mean calendar days. Where a time fixed falls on a statutory holiday or a Saturday or a Sunday, the time fixed shall extend to the following business day.

1.3.8 The Review Board may, in its discretion, vary any time period prescribed for any action to be taken in an Environmental Review Proceeding, subject to any conditions the Review Board may impose.

1.3.9 No Environmental Review Proceeding is invalid by reason only of a defect or other irregularity in form.

1.3.10 In conducting an Environmental Review Proceeding, the EIRB is not bound by the strict rules of evidence.

1.3.11 To the extent consistent with its duty of procedural fairness, the EIRB will emphasize flexibility and informality in the conduct of its Environmental Review Proceedings.

1.4 TRADITIONAL AND LOCAL KNOWLEDGE

1.4.1 In the application of these rules to its Environmental Review Proceedings, the EIRB shall, to the extent consistent with the principles of natural justice and procedural fairness, emphasize flexibility and informality, and, specifically:

- a) Allow, where appropriate, the admission of evidence that would not normally be admissible under the strict rules of evidence;
- b) Give due regard and weight to the traditions of Inuvialuit and of other aboriginal peoples' oral communication and decision-making;
- c) Ensure that local knowledge is considered; and
- d) Ensure that Traditional Knowledge is considered and given weight equal to other sources of information in Environmental Review Proceedings.

1.5 COMMUNICATION DURING AN ENVIRONMENTAL REVIEW PROCEEDING

1.5.1 Unless the Review Board directs otherwise, all procedural steps and requests by a Party to be dealt with during an Environmental Review Proceeding, shall be dealt with in writing. Such documents may be sent attached to an e-mail or by facsimile directed to the EIR Coordinator for the Review Board.

1.6 THE RECORD AND PRIVACY MATTERS

1.6.1 The Record in an Environmental Review Proceeding is opened when a proposed Development is referred to the EIRB for an Environmental Review Proceeding. The Record is closed at the time set by the Review Board in its Direction on Procedure but after all Information Requests and undertakings are answered to the satisfaction of the Review Board and before a decision is made.

1.6.2 No new information will be accepted for consideration in an Environmental Review Proceeding after the Record has been closed. However, the Review Board may reopen the Record on its own motion or in response to a Request for Ruling.

1.6.3 The Review Board may, upon notice to the Parties, make appropriate arrangements to seek Clarification of any evidence or information on the Record prior to the Record being closed.

1.6.4 All admissible and relevant documents received during an Environmental Review Proceeding shall be placed on the Record unless a Request for Ruling to protect the confidentiality of information is filed with and approved by the Review Board under Rule 1.6.7.

1.6.5 If a Party wants to protect confidential information contained in its submissions, the Party must submit a Request for Ruling to the EIRB pursuant to Rule 1.7.3.

1.6.6 The Review Board shall notify Parties of a Request for Ruling under Rule 1.6.5 involving the filing of confidential information and shall deal with any issues that arise as the Review Board deems appropriate.

1.6.7 The Review Board may protect information of a confidential or sensitive nature, including matters involving security, business, personal or proprietary interests, archaeological or Traditional Knowledge. The Review Board may make a Ruling to limit the introduction of or to prevent the disclosure of such information.

1.6.8 All admissible and relevant information received by the Review Board from the time the Record is opened until the closing of the Record by the Review Board shall be considered in the decision of the Review Board. The Review Board may also consider information received pursuant to Clarification under Rule 1.6.3.

1.6.9 If, after an Environmental Impact Screening Proceeding, further examination of a proposed development by way of an Environmental Review Proceeding is ordered, the Review Board shall receive a copy of the Record from the Environmental Impact Screening Proceeding for the purpose of conducting its Environmental Review Proceeding.

1.7 REQUESTS FOR RULINGS

1.7.1 Requests for Rulings may be made for legal or procedural issues.

1.7.2 Any legal or procedural issue raised by a Party to an Environmental Review Proceeding that requires a Ruling from the Review Board must be brought to the EIRB's attention by way of a written Request for Ruling. The Request must include a clear, concise statement of the relevant facts, an indication of the Ruling being sought from the EIRB and the reasons why the Ruling should be granted. The Request for Ruling should be filed according to the instructions on making a Request for Ruling in Appendix "A".

1.7.3 All Requests for Rulings must be filed with the Review Board's Environmental Impact Review Coordinator ("EIR Coordinator") for Environmental Reviews. The EIR Coordinator shall ensure that a copy of the Request for Ruling is placed on the Registry and shall notify the Parties of the Request for Ruling.

1.7.4 A Party wishing to respond to a Request for Ruling must provide a written response and supporting documents to the EIR Coordinator before the Request for Ruling is scheduled to be heard or considered by the Review Board. The EIR Coordinator shall ensure that copies of all responses are placed on the Registry. The Party making the Request for Ruling shall have an opportunity to file a written reply to any responses from the other Parties before the Review Board considers the Request for Ruling.

1.7.5 The foregoing process and associated timelines leading to a decision respecting a Request for a Ruling shall be at the Review Board's discretion and provided to the Parties by way of a Direction on Procedure.

1.8 BURDEN OF PROOF AND QUESTIONING OF PARTIES IN PROCEEDINGS

1.8.1 Any Party or Member of the public seeking to establish any point or position in an Environmental Review Proceeding before the EIRB bears the burden of proof and the responsibility to introduce information or evidence to support their position.

1.8.2 Any Party who provides evidence in an Environmental Review Proceeding may be subject to questioning in the Environmental Review Proceeding. In a written

Environmental Review Proceeding before the Review Board, questions will be presented to the Parties in writing in the form of Information Requests.

1.9 INFORMATION REQUESTS

1.9.1 The EIRB may seek information from any Party at any time during the Environmental Review Proceeding by way of a written IR.

1.9.2 A Party may seek information within the scope of the Environmental Review Proceeding from another Party by way of a written IR.

1.9.3 A Party putting forward an IR must submit the IR to the EIRB for approval using the Information Request instructions in Appendix "C". The IR instructions may also be accessed on the website of the EIRB.

1.9.4 If an IR is approved, the EIRB shall transmit the IR to the Party from which information is being requested. Copies of approved IRs will be placed on the Registry.

1.9.5 The Party to whom the IR is directed must respond to the EIRB in writing within the time limit imposed by the EIRB.

1.9.6 Upon receipt, the EIRB shall place the Party's response to the IR on the Registry. All Parties shall either be provided with the response by the EIRB or shall be notified that it can be found on the Registry.

1.9.7 The EIRB may vary the timelines in an Environmental Review Proceeding to allow the Parties to consider and respond to any new information submitted in a response to an IR.

1.10 NON-COMPLIANCE WITH THESE RULES

1.10.1 Where a Party fails to comply with these Rules or a Direction on Procedure issued by the Review Board, the Review Board may:

- a) Adjourn the Environmental Review until satisfied that the Rule or Direction on Procedure has been complied with; or
- b) Take such other steps as it considers just and reasonable.

2 ENVIRONMENTAL IMPACT REVIEW BOARD PROCEEDINGS

This part applies to all parts of all Proceedings of the Review Board.

2.1 NOTICE OF REFERRAL FOR ENVIRONMENTAL REVIEW

2.1.1 The Review Board shall, upon receipt of a referral for Environmental Review, publish a public notice of referral for the Environmental Review Proceeding. The notice of referral shall include a brief description of the proposed Development.

2.2 PARTIES TO EIRB ENVIRONMENTAL REVIEW PROCEEDINGS

2.2.1 The following entities are automatically granted Party status to an Environmental Review Proceeding:

- a) The Developer proposing the Development
- b) Government agencies, government departments and other Inuvialuit co-management organizations
- c) Inuvialuit organizations
- d) Inuvialuit communities
- e) Any authority competent to authorize the Development in the Inuvialuit Settlement Region.

In order to participate in an Environmental Review Proceeding, these Parties must provide written notice of their intention to participate to the Review Board.

2.2.2 Any entity not automatically considered as a Party under Rule 2.2.1 that wishes to be a Party to the Environmental Review Proceeding must apply to the Review Board for Party status. The entity must complete and submit a Request for Party Status based on the instructions in Appendix "B". A Request for Party status must be filed with the Review Board EIR Coordinator within the time specified by the Review Board in the notice of referral in Rule 2.1.1.

2.2.3 Upon receipt of Requests for Party Status, the Review Board shall, in its discretion, make a determination of who should receive Party status, shall place the decision on the Registry and notify the Parties in writing.

2.2.4 The Review Board may request additional information from any person or organization before making a determination on Party status.

2.3 EIRB ENVIRONMENTAL REVIEW PROCEEDINGS

2.3.1 The Review Board shall issue a Direction on Procedure respecting the amount of time the Developer has to prepare and submit an Environmental Impact Statement ("EIS"). The Developer may make a written request, supported by adequate evidence and reasons, for an extension to the response period. The Review Board will consider the request and, if accepted, publically announce any changes to the response period and the Environmental Impact Review Schedule on the Registry.

2.3.2 The submitted EIS can only be amended in exceptional circumstances and must be made through the Requests for Rulings process described in Part 1.7. Any request for an amendment to the EIS by the Developer must also be accompanied by supporting evidence and reasons for making the amendment(s), and an indication of how the proposed Development will benefit from the amendments.

2.3.3 Any amendments the Developer wishes to make to the EIS must be requested following completion of the Technical Review by the Review Board and prior to the Pre-Hearing Conference, if one is held, or prior to the posting of the public hearing notice on the Registry. If the Request for Ruling to amend the EIS is accepted, the Review Panel will determine whether to re-open the Technical Review and IR processes, and if so, for how long. The decision of the Review Panel will be posted on the Registry and circulated to all Parties, along with a revised Environmental Impact Review Schedule

2.3.4 Any Member of the public may provide written information or comments to the Review Board at any time during an Environmental Review Proceeding. Such written information or comments shall be placed on the Registry. Parties shall be given the opportunity to respond in writing to such information or comments before the conclusion of the Environmental Review Proceeding.

2.3.5 If there is a change in a Party's contact person or legal counsel, the Party must notify the EIR Coordinator of the change as soon as practicable and in any case before a Hearing.

2.3.6 All Environmental Review Proceedings are public unless otherwise ordered by the Review Board.

2.4 PROCEEDINGS OF THE EIRB

Specialists, Experts & Consultants

2.4.1 The Review Board may engage specialists, experts or consultants (collectively referred to as "specialist" or "specialists") to provide evidence relevant to the issues raised in any Environmental Review Proceeding. Any evidence received from a specialist shall be placed on the Registry and disclosed to all Parties. The IR process set out under Part 1.9 applies to the evidence provided by the specialist. In addition, the specialist may be questioned by any Party to the Environmental Review Proceeding during the Hearing.

2.4.2 The Review Board may hire specialists to advise the Board and assist the Board in the interpretation of the information and evidence submitted by the Parties.

Documents and Oral Presentations in Environmental Review Proceedings

2.4.2 Copies of documents filed in an Environmental Review Proceeding shall be placed on the Registry and made available to all Parties and the Parties shall be given an opportunity to respond to the documents. This Rule applies to all information in a Proceeding that does not fall under Rule 1.6.7.

2.4.3 In the case of an oral presentation made during an Environmental Review Proceeding, the Parties shall be allowed to ask questions of the person who made the presentation.

2.4.4 The Review Board may, in its discretion, arrange for any Hearing to be electronically recorded or for transcripts of the Proceeding to be produced.

Filing and Exchanging Information or Documents

2.4.5 All documents and information filed with the EIRB during an Environmental Review Proceeding must be provided in accordance with any timelines set by the Review Board and must be filed with the EIR Coordinator. The information and documents shall be placed on the Registry and all Parties shall be notified of such placement. This Rule applies to all information in an Environmental Review Proceeding that does not fall under Rule 1.6.7.

2.4.6 Failure to disclose information or documents as required by a Direction on Procedure or these Rules will be dealt with in accordance with Part 1.10.

2.4.7 The Review Board may direct an exchange of information or documents among the Parties to an Environmental Review Proceeding to ensure that the Proceeding, including a Hearing, is focused, efficient and fair.

Copies of Documents and Service

2.4.8 Any Party wishing to file documents during an Environmental Review Proceeding may be directed by the Review Board to provide sufficient copies for distribution to the other Parties.

2.4.9 The Review Board may, in its discretion, direct that documents be filed in printed and/or electronic format.

2.4.10 The Review Board may direct that certain information or documents be provided to the Parties by way of personal delivery, mail, electronic transmission or any other way directed by the Review Board.

2.4.11 When proof of delivery of information or documents is required, it may be provided by affidavit, by document showing electronic transmission and receipt by another Party or by any other reasonable means acceptable to the Review Board.

Technical Sessions

2.4.12 The Review Board may at any time during an Environmental Review Proceeding and upon such terms as it deems appropriate, organize technical sessions or workshops or take such other steps as are necessary to encourage the Parties to communicate and/or attempt to resolve technical issues and other questions.

Site Visits

2.4.13 At any time during an Environmental Review Proceeding, the Review Board may schedule a site visit to the proposed site of the Development.

2.5 RULES FOR ALL HEARINGS

This Part sets out provisions that apply to all Hearings held in Environmental Review Proceedings.

Call for a Hearing

2.5.1 The Review Board may direct that a Hearing be held as part of an Environmental Review Proceeding.

2.5.2 The Review Board may cancel a Hearing at any time with written reasons provided.

Proceedings with a Written Hearing

This Part applies to all Environmental Review Proceedings that are conducted by written submissions.

2.5.3 The Review Board may, in its discretion, issue a Direction on Procedure specifying that an Environmental Review Proceeding be conducted by way of written submissions.

2.5.4 The Parties and Members of the public may provide information, documents or submissions to the Review Board in an Environmental Review Proceeding conducted by written submissions. The information, documents and submissions must be provided to the EIR Coordinator in a manner consistent with the Direction on Procedure issued by the Review Board.

2.5.5 The Parties and Members of the public may respond to written information, documents or submissions received by the Review Board pursuant to Part 2.6 before a Review Board decision is made.

Hearing Notice for Formal or Community Hearings

2.5.6 When an Environmental Review Proceeding is to include a formal or community Hearing, the Review Board shall, at least 30-days in advance of that Hearing, ensure that public notice of the date of a Hearing is given to the Developer, the Parties and to the public.

2.5.7 The Hearing notice shall include the following information:

- a) The date, time, place and nature of the Hearing, whether a formal or a community Hearing;
- b) The matters to be considered at the Hearing;
- c) The opportunity for Members of the public to participate;
- d) The date by which interventions to be presented in the Hearing must be filed; and
- e) Any other information relevant to the conduct of the Hearing;

2.5.8 Notice of any preliminary, legal or jurisdictional issue in a Hearing must be raised with the Review Board at or before the Pre-Hearing Conference as a Request for Ruling and filed using the instructions in Appendix "A". The Review Board may rely on Part 1.7 respecting the Request for Ruling process.

2.6 PROCEEDINGS WITH A FORMAL HEARING

This Part applies to all Environmental Review Proceedings with formal Hearings.

Participants in a Hearing

2.6.1 A Party may appear in a Hearing on its own behalf. A Party represented by a contact person or legal counsel must notify the EIS Coordinator of that representation. The Party must inform the EIS Coordinator of any change in that representation in accordance with Rule 2.3.5.

2.6.2 The Review Board may in its discretion direct Parties with similar interests to make a joint presentation at a Hearing.

2.6.3 The Review Board shall maintain a list of Parties registered for a Proceeding under Rule 2.2.3.

2.6.4 Any Member of the public who wishes to participate in a Proceeding may:

- a) Provide his or her views, in writing, to the Review Board in advance of the Hearing;
or
- b) Make an oral presentation during that portion of the Hearing that has been set aside by the Review Board to hear the views of the public.

Pre-hearing Conferences

2.6.5 The Review Board may call a Pre-Hearing conference among the Parties to:

- a) Finalize the list of issues to be discussed at the Hearing;
- b) Seek a Clarification or amplification of the issues in a Hearing;
- c) Encourage the resolution of an issue by alternative means;
- d) Set a timetable for the exchange of information and for preparations for the Hearing;
- e) Adopt procedures to be used at the Hearing; and
- f) Consider any matter that may aid in the simplification and disposition of the Hearing.

2.6.6 The Review Board shall provide notice of a Pre-Hearing conference to the Parties and the public in an Environmental Review Proceeding. The notice shall include the date, time and place of the Pre-Hearing conference and a brief description of the agenda and shall identify the individual who is the point of contact within the Review Board for the Pre-Hearing conference.

Conduct of a Formal Hearing

2.6.7 The Chair of the Review Board or his/her designate will preside at all Hearings.

2.6.8 Hearings shall be conducted in an orderly and professional manner.

2.6.9 Hearings may be conducted with one or several of the Parties participating in person, by way of video-conference or by telephone conference call.

2.6.10 Parties, Members of the public and specialists presenting information at Hearings shall be subject to such questioning as the Review Board may allow.

2.6.11 The Review Board may set time limits for oral submissions and questions by any Party or participant at an Environmental Review Hearing.

2.6.12 The Review Board may address any issue raised by a Party during the course of a formal Hearing and dispose of it by way of a Ruling.

Witnesses and Documents

2.6.13 The Review Board may, where it considers that information or technical data are required to carry out an environmental assessment and review of a Development:

- a) Request the attendance of the Developer whose proposed Development is under review, its directors, officers, servants and agents and all other persons participating in the review, their directors, officers, servants and agents, for the purpose of examination and taking the testimony of such persons; and
- b) Request the production of books, plans, specifications, drawings and other documents from such persons.

2.6.14 In the event that the Developer or any other person referred to in Rule 1.6.13 fails to comply with requirements of Rule 1.6.13 in a timely fashion, the Review Board may deal with the matter in accordance with Part 1.10.

Adjournment of a Hearing

2.6.15 Any Party may apply for an adjournment of a Hearing. If made in advance of a Hearing, such an application must be made by way of Request for Ruling in accordance with these Rules.

2.6.16 The Review Board may on its own motion adjourn or reschedule a Hearing at any time.

2.7 PROCEEDINGS WITH A COMMUNITY HEARING

This part applies to all Environmental Review Proceedings with community Hearings.

Community Hearings or Sessions

2.7.1 The Review Board may hold informal community Hearings to hear the views of any community potentially affected by a proposed Development.

2.7.2 When it decides to hold a community Hearing, the Review Board shall give written Directions for Procedure at the community Hearing at least fourteen (14) days in advance of the community Hearing. The Developer must be present at a community Hearing.

2.7.3 The Chair of the Review Board shall preside at community Hearings.

2.8 CLOSURE OF THE RECORD

2.8.1 The conclusion of the Hearings brings to an end the public portion of the Environmental Review Proceeding, and the Record will be closed once all Information Requests and undertakings by the Parties have been answered and filed with the Review Panel. The Review Panel will then convene in private to render a decision and complete its decision report.

2.9 REVIEW PANEL DECISION

2.9.1 The Review Board shall expeditiously review all projects referred to it and on the basis of the evidence and information before it shall recommend whether or not the Development should proceed and, if it should, on what terms and conditions, including mitigative and remedial measures. The Review Board may also recommend that the Development should be subject to further assessment and review and, if so, the data or information required.

APPENDIX A

INSTRUCTIONS FOR MAKING A REQUEST FOR RULING

These instructions are to be used when a Party wishes to make a legal or procedural Request for Ruling by the EIRB (pursuant to Part 1.7). A Request for a Ruling is made during an Environmental Review Proceeding when a legal, procedural or a jurisdictional issue arises that needs resolution so the Proceeding can move on and be completed. The Review Board will make the decision as a Ruling that all Parties shall abide by. The Review Board may also make Rulings at any time without an application from a Party.

The following information is requested when making a Request for Ruling:

- a) Name of Party
- b) Name of Proceeding
- c) Explanation of the Ruling requested (state the relief sought as clearly as possible)
- d) Facts or information relevant to the request for a Ruling
- e) Authority or grounds for the Ruling (e.g., any rules or law)
- f) List of supporting documents
- g) Dated and signed application

When a Request for Ruling has been received by the EIR Coordinator or by the Review Board, the Request for Ruling shall be placed on the Registry. Once the Ruling has been made, a copy of the Ruling will be placed on the Registry.

APPENDIX B

INSTRUCTIONS ON MAKING A REQUEST FOR PARTY STATUS

These instructions must be followed when making a Request for Party Status to the EIRB for all participants who want to register as a Party to an Environmental Review Proceeding, other than those entities already identified as Parties under Rule 2.2.1.

The following information is required when making a Request for Party Status:

- a) Name of the Environmental Review Proceeding
- b) Name of the individual or organization seeking Party status
- c) Brief explanation of the relevance of the Development to the applicant; the applicant's specific connection with the Development area or activities; and how the Development might affect the applicant's interests
- d) Description of how the individual or organization plans to participate (e.g., what information, witnesses, or presentations), and who will participate on the applicant's behalf if relevant (e.g., legal counsel, third party)
- e) Summary of the relevant information or expertise that the applicant could provide to assist the Review Panel
- f) Explanation of how the applicant might collaborate with other persons or groups whose interests or perspectives might overlap with those of the applicant
- g) Address and other contact information
- h) Dated and signed application

When a Request for Party status has been received by the EIR Coordinator or the EIRB, Notice of the Request will be placed on the Registry. Once a decision respecting Party Status has been made, a formal Notice of Party Status will be placed on the Registry.

APPENDIX C

INSTRUCTIONS FOR MAKING AN INFORMATION REQUEST

The purpose of an Information Request is to provide the EIRB with the information it needs to decide whether the proposed Development is likely to have a significant adverse environmental effect. An Information Request is a tool for the Review Board and the Parties to obtain additional information and/or Clarification on issues, and to answer questions that arise during an Environmental Review Proceeding.

Information Requests can originate from and be directed to any of the Parties to the Proceeding. A Party can request information that is necessary for its technical analysis of the Development's potential environmental effects. All IRs are subject to the Review Board's approval. The Review Board will generally not accept any Information Requests outside the scope of the Environmental Review Proceeding.

Please provide the following information when making an Information Request:

IR Number: Number is assigned by EIRB.

Source: Organization proposing the request (your organization).

To: Who the request is directed at, or the organization(s) expected to answer or provide information (e.g., the Developer or a government department).

Subject: What is the general subject of the request (e.g., fish, water, cultural impacts, permafrost)?

Preamble: Provide background information and a rationale for your request. The preamble should identify any shortcomings of available information and how the requested information will be relevant. For example: "The Developer's correspondence to date describes various mitigation measures to minimize impacts on wildlife, but does not specify which measure is aimed at which species. To determine the effectiveness of proposed mitigation measures the species they are aimed at should be known".

Request: The question the Party is directed to answer. For example: "Please identify which mitigation measures are aimed at minimizing impacts on moose". A question may consist of several parts. Please make your questions as specific as possible.