



ENVIRONMENTAL IMPACT REVIEW BOARD

October 4, 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: Developer Responses to EIRB 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 September 23, 2011 the Environmental Impact Review Board (EIRB or Review Board) met to consider the Developer's responses, received on August 22, 2011, to the conformity statement issued by the EIRB on July 15, 2011. The Review Board considered the Developer's responses to the external reviewer's submitted Conformity Review comments and the Developer's response to the EIRB during the preparation of this letter.

After careful consideration of your submissions and the specific requirements and direction provided in the EIS Terms of Reference (issued by the EIRB on November 3, 2010), the Review Board has concluded that some of the information requested is still outstanding. Overall, it appears to the EIRB that the Developer's Draft EIS and follow-up responses provide information more suitable for a screening level of assessment. The information provided to date is not a suitable basis for the assessment required by the EIS Terms of Reference. As a result, the Review Board is unable to complete the review and reach a decision.

The sections of the EIS Terms of Reference where critical information needs have not been satisfied by the Developer are:

- **Section 7.1** – an assessment of the proposed route alternatives
- **Section 9.1** – biophysical baseline information
- **Section 10.1** – impact assessment of biophysical components
- **Section 10.2** – impact assessment of human environment components
- **Section 13.1** – effects monitoring

The Review Board requires this information to complete this review and fulfill its responsibilities under the Inuvialuit Final Agreement (IFA) and the *Canadian Environmental Assessment Act* (CEAA).

The specific roles and responsibilities of the Review Board are set out in sections 8, 11, 12 and 13 of the IFA, and include 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.

For this review, the Review Board is also responsible for meeting the following *Canadian Environmental Assessment Act* requirements:

- The factors listed in subsection 16(1)(a) to (d) and 16(2) of the CEAA.
- Pursuant to subsection 16(1)(e), the need for the Project, and alternatives to the Project received during the review.
- Pursuant to subsection 16.1, the review may also include a consideration of the community knowledge and aboriginal traditional knowledge received during the review.

To assist in meeting these IFA and CEAA requirements, the Review Board has structured its review on standard and well-known environmental assessment best practices, which are based on essentially three hierarchical steps for preparing an environmental impact statement:

1. The quantification of the existing biophysical and human environments prior to the construction of the proposed development in order to understand these conditions prior to disturbance.
2. The prediction and assessment of potential impacts based on the understanding of how the proposed development interacts with the existing baseline conditions.
3. The development of mitigation measures to reduce or eliminate potential impacts. Mitigation measures are typically formulated such that their effectiveness can be measured and evaluated in post-development follow-up and monitoring programs.

The adequacy of the information provided by the Developer is the primary factor controlling the time required to conduct the review of the EIS.

Explanation of Identified Areas of Deficiency

Section 7.1 – Proposed Route Options

There remains a lack of comparative biophysical information between the various alignment options, and the preferred option, identified in the Draft EIS. The Review Board considers this information to be necessary to fulfill its IFA and CEAA responsibilities and to continue this review. The Review Board notes that route options which were initially included in the Developer's community consultations and the Draft EIS are no longer being considered. A clear rationale and supporting evidence for the decision to eliminate these options is required, particularly when community feedback supported a particular route option.

Section 9.1 – Biophysical Baseline Information

In order for the Review Board to properly assess the predicted impacts (e.g., direct, indirect and cumulative effects) of the proposed development, a clear understanding of the existing biophysical environment (e.g., land, air, water, vegetation, wildlife, fish and harvesting of potentially affected elements) at the regional and local study area levels is required. Typically, this understanding is based on

existing publicly available biophysical information (where this information exists) and on current field data collected to corroborate and/or to add to (i.e., fill in gaps) this baseline information for all biophysical disciplines. The Review Board is not satisfied that there is sufficient information provided by the Developer for the development area or along the preferred and alternative routes for the Review Board to determine the currently existing biophysical environmental conditions.

Section 10.1 – Impact Assessment of Biophysical Components

Building on a clear understanding of the existing biophysical environment in the development area and along the preferred and alternative routes, the Review Board would then be able to accurately assess the Developer's environmental assessment of predicted impacts and assess the measures proposed to mitigate potential effects. The Review Board is not satisfied there is enough information or analysis provided for many of the biophysical components to complete this environmental impact review. The assessment of impacts needs to be based on robust, quantitative data that is not heavily weighted with professional judgement, so that impact predictions can be formulated and mitigation measures proposed that can effectively reduce or eliminate impacts. Follow-up and monitoring programs are then developed to test impact predictions and the effectiveness of mitigation measures, where there is uncertainty about the impact predictions or the proposed mitigation.

Section 10.2 – Impact Assessment of Human Environment Components

The Review Board is not satisfied that there is sufficient information or analysis to predict and assess potential economic and social impacts of the development, or to be able to identify linkages between economic, social, and cultural impacts. The Review Board is also not satisfied that mitigation measures have been identified that would address impacts, including those mitigation measures that are the responsibility of other departments, agencies, and organizations to implement. The Review Board recognizes that data for some communities is not available by age group, gender, and ethnicity; however, the Review Board expects there to be an indication of how mitigation would address impacts experienced by residents, and a description of how Inuvialuit organizations would be involved in the development, application and ongoing evaluation of these measures. The Review Board expects that issues identified by communities, including Traditional Land Use issues and concerns will be included in the assessment.

Section 13.1 – Environmental and Socio-Economic Effects Monitoring

The Review Board is not satisfied that there is sufficient baseline information or an adequate assessment of impacts to be able to assess the appropriateness or effectiveness of any proposed follow-up or monitoring programs at this time.

Direction to the Developer

The EIRB requires that the Developer provide a timetable for addressing the identified deficiencies in response to this deficiency statement on or before 5:00 pm MT on Wednesday, October 19, 2011. 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.

Meeting with Developer

The Review Board has directed its staff, advisors and Counsel to meet with the Developer to determine the Developer's progress on preparing a complete Draft EIS and to discuss the steps necessary to move the review forward. It is proposed this meeting take place on Friday, October 14, 2011 in Yellowknife. Eli Nasogaluak will contact you to confirm this meeting.

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.

cc. CEAA