



ENVIRONMENTAL IMPACT REVIEW BOARD

By Email

March 8, 2012

Ms. Cheryl Baraniecki
Regional Director, EPO
Edmonton, AB

cheryl.baraniecki@ec.gc.ca

Dear Ms. Baraniecki,

Re: Information Requests related to the Proposed Inuvik to Tuktoyaktuk Highway Project

Please find attached Information Requests (IRs) that have been directed to Environment Canada from the Environmental Impact Review Board and the Department of Environment and Natural Resources, GNWT seeking information related to the proposed Inuvik to Tuktoyaktuk Highway project. These IRs have been generated as part of the environmental impact review of the proposed development being undertaken by the Environmental Impact Review Board (EIRB) to fulfill the requirements of the Inuvialuit Final Agreement and the *Canadian Environmental Assessment Act*.

Please complete a separate response to each IR, and clearly reference the IR number, topic and the Party that generated the IR (i.e., the source). Please complete your responses and submit them to the EIRB by March 30, 2012.

Please contact me if you have any questions or concerns regarding this letter.

Sincerely,

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

c.c. Stacey LeBlanc, EC, Yellowknife, NT
Mike Fournier, EC, Yellowknife, NT



INFORMATION REQUESTS

(Round 2)

DATE OF RELEASE: March 8, 2012

DISTRIBUTION: Environment Canada and the Electronic On-line Registry (EOR).

PURPOSE: Information Requests (IRs) issued by the EIRB and Parties to Environment Canada related to the Review of the proposed Inuvik to Tuktoyaktuk Highway Project.

**DEADLINE FOR SUBMISSION
OF RESPONSES:** March 30, 2012

Information Request (IR) Numbers: 77, 78, 80, 89,123

3.3 Cumulative Effects

IR Number: *Number is assigned by EIRB*

77

Source: MSES Inc.

To: Wildlife Management Advisory Council (WMAC)

FJMC

GNWT ENR

DFO

Environment Canada

Subject: Cumulative effects assessment - induced effects and increased access (EIS Section 5.3.1.2, p. 631; IR Responses Round 1, IR #51)

Preamble

The Developer acknowledges that it anticipates the completed Highway will make it easier for people to access the land for their various traditional, recreational and cultural pursuits. The Developer points out that to ensure that the environment of the area remains protected, it will be important for the users of the Highway to abide by any "management restrictions" that may need to be developed for the Highway by the resource management agencies and co-management bodies in consultation with the HTC's and other interested stakeholders. The Developer has not defined what those anticipated "management restrictions" might be in the EIS. It is not clear how these potential induced environmental impacts through increased access (i.e., increased harvesting of wildlife, potential damage to vegetation, increased random camping, etc.) were quantitatively factored into the cumulative effects assessment.

Request

1. Please describe and explain the anticipated "management restrictions" that may need to be developed for the Highway.
2. Please indicate when "management restrictions" will be developed, whether they will be in place prior to Highway completion and who will be responsible for implementation and enforcement.
3. Please explain and justify how "management restrictions" will be evaluated in terms of their relative success at minimizing or eliminating environmental impacts.

IR Number: *Number is assigned by EIRB*

Source: MSES Inc.

To: GNWT – ENR
Environment Canada
AANDC

78

Subject: Cumulative Effects Management – Regional Initiatives (EIS Section 5.4.1 p. 643 and Table 5.4.1-1, p. 644 and IR Responses Round 1, IR #53.1 and #53.2, p. 130)

Preamble

When asked in IR #53.1 to explain how the Developer's participation in regional initiatives will assist in the management of cumulative effects for the development, the Developer responded.

The GNWT Department of Transportation acknowledges that its departmental role in regional cumulative management is limited to its departmental mandate. The Developer is directly responsible for constructing public highways and maintaining these highways after completion. The department does engage with other agencies in research activities [for example, the effect of highways on permafrost] or vice versa that relate to management of these public assets. For this project, the role of the Developer will be to engage with other GNWT departments with mandates for effects management as requested. At this time, the Developer is committed to providing information collected in the planning and operations phases of this project to those departments or agencies or other developers that will aid them in their management activities (IR Responses, #53.1, p. 130).

Request

1. Please explain how AANDC, ENR and Environment Canada will engage the Developer with respect to cumulative effects management in the context of the proposed project.
2. Please provide examples of tangible results from other developments for cumulative effects regional initiatives in the ISR and/or the Northwest Territories.

3.4 Follow-up and Monitoring

IR Number: Number is assigned by EIRB

Source: MSES Inc.

To: WMAC
FJMC
GNWT ENR
DFO
Environment Canada

80

Subject: Environmental Management Plans and Effects Monitoring (IR Responses Round 1, IR #11, 16, 55, 61, 62, 63 and 66)

Preamble

In the response to IR #55, the developer presents its commitments (Table F) to a number of mitigation measures. However, the Developer does not respond to the question about how the mitigation would address the potential effects of the ITH. Only at the end of the Table F the Developer briefly refers to an "effects monitoring table". However, it is unclear how such a table would satisfy the requirement for the testing of impact predictions, developing significance thresholds, and determining adaptive measures. As per the Canadian Environmental Assessment Agency's (CEAA 2009) *Operational Policy Statement, Adaptive Management Measures* under the *Canadian Environmental Assessment Act*, it is imperative to understand how and when, in relation to the construction schedule, effects monitoring programs will be developed.

Under the Operational Policy of CEAA, compliance monitoring on its own does not satisfy the requirements for a follow-up program. Compliance monitoring also does not adhere to the GNWT's (2006a) position statement which requires that *monitoring and reporting programs* need to be designed to test impact predictions. Moreover, the CEAA operational policy states: "If project implementation is likely to begin shortly after approval, the follow-up program should be fully designed and a reliable baseline established during the environmental assessment phase of the project."

The Developer's response to IRs 11, 16, 61, 62, 63 and 66 are similarly deficient in clarifying how adaptive management measures will be developed in light of CEAA's policy.

Request

For each resource and regulatory agency, please clarify your agency's role in developing an effects monitoring and an adaptive management program. Please identify:

1. Which programs you anticipate to review and approve as part of your agency's mandate.
2. What regulatory tools are available to your agency, to ensure that both compliance and effects monitoring would be in place to ensure that the effects on any given valued component will be at or below the effects predicted in the EIS.
3. How your agency would ensure that the above programs would be designed and implemented prior to construction.

Worst Case Scenario

IR Number:

89
AAWOC, DFO, EC

To: Aboriginal Affairs and Northern Development Canada; Fisheries and Oceans; Environment Canada

Subject: Worst Case Scenario (EIS, Section 4.4.5 pages 614 to 622; IR 69 and response)

Preamble

The Inuvialuit Final Agreement (IFA) in paragraph 13(11)(b) requires that developers provide evidence to enable an estimate of "the potential liability of the developer, determined on a worst case scenario". This is *in addition* to evidence about both actual and future wildlife harvest loss which may result from a worst case scenario. Inuvialuit have a right to compensation for both actual and future harvest loss based on section 13(15) of the IFA. Further, the IFA specifies that where there is more than one developer they are jointly and severally liable. The IFA also sets out that future harvest loss includes damages to habitat and disruption of future harvesting activities.

The EIS did not provide an estimate total clean up costs of the proposed worst case scenario. The estimate of liability in the EIS is based only on losses (or replacement value) of fish and some fishing gear for one season and does not address impacts on fish habitat or the effects of a spill on future Inuvialuit harvesting in the affected area or future harvest losses if Inuvialuit harvesters avoid the affected area in the future. Answer IR 69.2 provides an estimate of costs for a 5 day and a 10 day spill response event and the costs of monitoring.

Request

1. Please review and comment on the Developer's explanation of the likely fate of diesel spilled in the worst case scenario as set out in the EIS.
2. Please evaluate the impact of the worst case scenario on the fish and migratory bird habitat and populations in the streams, water courses and Husky Lakes. Provide an estimate of the cost of remediating these affected habitats.
3. Please provide a critical evaluation of the estimated costs for cleaning up the fuel spilled under the worst case scenario.

IR Number: 123

To: Environment Canada

Subject: Adequacy of Commitments

References: IR Round 1 Response 55.1 Table F. Summary of Developer Commitments

Preamble

The EIRB requested a complete list of all general and specific mitigation measures and commitments which the Developer provided in its Response to IR 55.1. The GNWT agrees that mitigation measures are a crucial aspect of ensuring adverse effects are avoided or minimized. However, to be fully applicable in regulatory processes, environmental and topic specific management plans, these commitments should be specific, measurable, attainable, relevant and trackable. To ensure the most appropriate wording is on record for discussion in technical sessions or public hearings, it is important for expert departments to provide feedback on the adequacy of the wording of mitigations and commitments to improve and to identify missing mitigations or commitments early in the environmental assessment process.

Request

1. *Please review the relevant general and specific mitigation measures provided by the Developer in IR Response 55.1 Table F and identify and confirm the adequacy of the wording of the mitigation measures or provide editorial suggestions to improve the wording to ensure the commitments are specific, measurable, attainable, relevant and trackable.*
2. *Please identify and provide wording for additional mitigation measures required to ensure the avoidance or minimization of Project impacts.*