



# ENVIRONMENTAL IMPACT REVIEW BOARD

By Email

March 8, 2012

Vic Gillman  
Fisheries Joint Management Committee  
Inuvik, NT

Dear Mr. Vic Gillman

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

Please find attached Information Requests (IRs) that have been directed to the Fisheries Joint Management Committee 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  
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c.c. Kayla Hansen-Craik



# **INFORMATION REQUESTS**

## **(Round 2)**

**DATE OF RELEASE:** March 8, 2012

**DISTRIBUTION:** FJMC and the Electronic On-line Registry (EOR).

**PURPOSE:** Information Requests (IRs) issued by the EIRB and other Parties to the Fisheries Joint Management Committee (FJMC) 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, 80, 87, 88,124,126**

### 3.3 Cumulative Effects

**IR Number:** *Number is assigned by EIRB*

77

**Source:** EIRB

**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 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.

### 3.4 Follow-up and Monitoring

**IR Number:** *Number is assigned by EIRB*

**Source:** EIRB

**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.

**IR Number:** *Number is assigned by EIRB*

**Source:** *EIRB*

**To: WMAC  
FJMC  
Inuvialuit Game Council (IGC)  
Inuvik HTC  
Tuktoyaktuk HTC**

87

**Subject:** **Harvesting** (EIS, Section 4.3.5, p.593; EIS, Section 4.3.7, p. 595; Developer Response to 2b and 2c, Section 15.0, pp. 118-125)

**Preamble**

The EIS (Human Health and Community Wellness, Section 4.3.5, p. 593) states that “the presence of the highway may increase access to harvesting areas that were previously more difficult to access. The effects from increased access to harvesting areas include increased food security and reduced reliance on store-bought food.” The EIS (Harvesting, Section 4.3.7, p. 595) repeats the statement that “increased access could result in increased harvesting activities, which may provide increased access to country foods, increased food security, and reduced cost of living through less reliance on store-bought food.”

In describing the residual effects of the project, the Developer notes, again, that the Highway will increase access to harvesting areas, and states that while harvesting patterns may be disturbed during Highway construction, harvesting patterns are expected “...to return to normal upon Project completion, except in the vicinity of the Highway, where hunting may be discouraged. With effective Highway user practices, residual indirect effects related to harvesting wildlife and fish populations are expected to be minimal” (Developer Response to 2b and 2c, p. 120).

The Developer acknowledges that residents of Tuktoyaktuk have expressed concerns that the Highway may directly result in hunting pressure on caribou and other wildlife, and states that “responsible management organizations and government agencies will continue to work together to develop strategies for sustainable harvesting in the region, after the Highway is constructed. The success of this approach will require a high level of voluntary compliance from the users of the proposed Highway,” (Developer Response to 2b and 2c, p.119).

**Request**

1. Please describe the role of your organization in monitoring and mitigating project-related effects on harvesting.
2. Please describe any measures that could be taken by your organization to encourage voluntary compliance from the users of the proposed Highway.

**IR Number:** *Number is assigned by EIRB*

**Source:** EIRB

**To: WMAC  
FJMC  
IGC  
Inuvik HTC  
Tuktoyaktuk HTC**

88

**Subject: IFA and Community Conservation Plan (CCP) Goals – Land Use** (EIS Section 4.3, p. 568, 598; IR Responses Round 1, IR #46)

**Preamble**

The EIS describes the effects of the Highway on “Land Designation Areas (as per the IFA and CCPs)” as adverse (EIS, p. 568), given that the Highway is located within lands that are designated by the CCPs as Management Category E, and therefore “...where cultural or renewable resources are of extreme significance and sensitivity. There shall be no development on these areas...” (EIS, p. 598).

In IR #46, the Developer was asked to indicate whether any meetings had been held, or will be held, with the Inuvialuit organizations that drafted and approved the CCPs in order to discuss and reconcile the Project’s proposed use of Management Category E. The Developer responded that during previous meetings (some of which occurred prior to the 2008 CCPs in which Management Category E was designated), there were no references to Management Category E, but that there were repeated requests to respect the 1 km setback from Husky Lakes.

**Request**

1. Please describe the position of your organization with respect to the proposed Highway and its use of Management Category E.
2. Please describe what efforts must taken by the Developer to reconcile the Project’s proposed use of Management Category E.

**IR Number:** 124

**To:** Joint Secretariat FJMC, WMAA(NWT)

**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.*

**IR Number:** 126

**To:** Joint Secretariat – Fisheries Joint Management Committee

**Subject:** Increased access to fisheries resources during Project operations

**References:** EIS, Table 3.2.5-1, Section 4.2.5.1 - 4.2.5.3, p. 503-504, Round One IR 32.

### **Preamble**

EIS Table 3.2.5-1 [p. 336] states the Fisheries Joint Management Committee:

- Assists DFO in the management of fisheries
- Responsible for collecting harvest information and making recommendations on subsistence quotas for fish and harvestable quotas for marine mammals
- Implemented and manages a system to monitor sports fishing on both Crown and Inuvialuit owned lands
- Developed and manages a student mentoring program

In its November 17, 2006 presentation to the Joint Review Panel on the Mackenzie Gas Project, the Fisheries Joint Management Committee stated its responsibilities were:

### **Decision making**

- Allocating subsistence quotas among communities
- Restricting and regulating fishing on Inuvialuit Private Lands
- Setting conservation limits on total catch

### **Advising**

- Sport and commercial fishing
- Research priorities, habitat management and environmental protection

### **Operational roles**

- Coordinating interaction between government agencies and Inuvialuit communities
- Monitoring of harvest levels and conducting stock assessments

In Round 1 Information Request 32, the Environmental Impact Review Board requested information from the Developer regarding the limitation of access to fisheries resources. In its response to IR 32, the Developer stated its commitment to prepare an "action plan" and indicated that an *"Action Plan is the key mitigation proposed to minimize indirect residual effects on fish and fish habitat."*

Given the rights assigned to the Inuvialuit under the Inuvialuit Final Agreement and the legislated mandate of the Department of Fisheries and Oceans, it is unclear whether the Developer's commitment is additional to the fish management planning processes and regulatory processes nor is it clear how the Developer's commitment relates to the regulatory decision process of the Fisheries Joint Management Committee.

## **Request**

1. *Please confirm the roles and responsibilities of the Fisheries Joint Management Committee in fisheries management in the LSA and RSA.*
2. *Please describe the processes used by the Fisheries Joint Management Committee to establish limits and restrictions on sport, subsistence and commercial fishing activities.*
3. *Please describe the status of any relevant fisheries management plans and studies underway and file copies of study results or management plans.*
4. *Please clarify and explain how the Developer's commitment to develop an "action plan" fits within the existing planning and regulatory processes to manage fish harvest by subsistence, sport or commercial harvesters as a mitigation to minimize residual impacts to fish. In particular, describe the expected the role of the Fisheries Join Management Committee in "coordinating interactions between government agencies and Inuvialuit communities" regarding this action plan.*