



## WILDLIFE MANAGEMENT ADVISORY COUNCIL (NWT)

30 March 2012

Mr. Eli Nasogaluak  
Environmental Assessment Coordinator  
Environmental Impact Review Board  
P.O. Box 2120  
Inuvik, NT X0E 0T0

**Re: WMAC (NWT) response to EIRB's Round 2 Information Requests**

Dear Eli:

With respect to your letter of 08 March 2012: the WMAC (NWT) (the Council) is pleased to submit their responses to the Environmental Impact Review Board's (the EIRB) Round 2 information requests (IRs) for the technical review of the proposal to construct the Inuvik to Tuktoyaktuk Highway.

In their consideration of these IRs, the Council predicated their responses, and the adequacy of these responses, on two assumptions: 1) that the Proponent's erroneous choice of spatial and temporal boundaries in their Environmental Impact Statement (EIS) will be addressed (please refer the Council's letter and submission of 28 March 2012 to the EIRB); and 2) that outstanding information requirements from the Proponent (as detailed in the 09 March 2012 letter from Environment Canada to the EIRB) are provided to the EIRB so that all parties will have the necessary time to review and comment on that information within the requirements of this review.

Thank you for this opportunity to provide comments on the Round 2 IRs. We look forward to further participation in the upcoming technical meetings and hearing and public review.

Yours truly

Larry Carpenter  
Chair, WMAC (NWT)

Attachment:

-WMAC (NWT)'s response to EIRB's Round 2 IRs: #s 77, 80, 87, 88, and 124

# IR# 77

Requests:

*1. Please describe and explain the anticipated management restrictions that may need to be developed for the highway*

On the basis of the Developer's EIS there are no management restrictions required as the developer has stated that there are no anticipated significant impacts on VECs and VSCs and hence no restrictions can be deducted as required based on the EIS.

Based on the technical review of the Developer's EIS undertaken by the WMAC (NWT); the developer has grossly underestimated the cumulative impacts of the highway – resulting from direct and induced effects as well as increased access – on selected VECs (i.e., caribou, grizzly bears, and the environment of the Husky Lakes) (WMAC technical review of the EIS).

With respect to anticipated “management restrictions” that may be required: it is difficult for the WMAC (NWT) to determine, from the EIS, what restrictions may be necessary due to the failure of the EIS to address the EIRB's ToRs on life of the project and cumulative effects assessment (EIRB Registry Site file # [02/10-05]-075-3); the limited scope of the EIS in defining the temporal and spatial boundaries of impacts resulting from the road (WMAC technical review of the EIS); and the insufficiency of baseline data and monitoring criteria. However; it can be deduced from the WMAC's technical review of the EIS that disturbance from: 1) human access for recreation and harvesting; and 2) vehicular movement on the road; are two key factors that have to be mitigated. Unfortunately, it will be very difficult to mitigate the cumulative impacts of this disturbance given: the public nature of the road; the open access provisions, in the Inuvialuit Final Agreement (IFA section 7.14) governing public access onto Inuvialuit lands, the lack of specific monitoring and mitigation plans in the EIS.

*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.*

“Management Restrictions” are a response to mitigate an impact on a VEC or VSC. The WMAC (NWT) supports CEAA operational policy requiring, in advance of any project commencement, that: 1) reliable baseline information on VECs and VSCs be collected and available; and 2) a fully designed follow-up program for monitoring mitigation and remediation be ready for immediate implementation

The mandate of the WMAC (NWT) is to advise the competent government authority (through the appropriate Ministers) “*on all matters relating to wildlife policy and the management regulation and administration of wildlife habitat and harvesting for the Western Arctic Region*”. This mandate encompasses the development of “Management Restrictions” for the Inuvik-Tuk Highway. However, in fulfilling this responsibility to advise the WMAC (NWT) needs the information from baseline studies and the subsequent follow up program of monitoring and assessment for mitigation/remediation. In the absence of this information and programs from the Developer; the WMAC (NWT) can only say that they do not expect any meaningful “Management Restrictions” to be in place prior to the highway completion.

With respect to who will be responsible for implementation and enforcement of “Management Restrictions”: This is not the responsibility of the WMAC (NWT). It is the responsibility of ENR and other GNWT and Federal government departments. However, the WMAC (NWT) is greatly concerned that with the level of information and planning provided by the Developer - in their

EIS and subsequent submissions - the potential for long delays in the implementation of baseline data collection and follow-up programs is a reality that will render any advice that the WMAC (NWT) can bring to the application of “Management Restrictions” into the category of “far-to-little-and-to-late” for any effective mitigation of impacts.

*3. Please explain and justify how “management restrictions” will be evaluated in terms of their relative success at minimizing or eliminating environmental impacts.*

“Management Restrictions” are applied based on the analysis of the results of a monitoring plan. They may subsequently be adjusted based on the evaluation of information from further monitoring. This iterative process is known as adaptive management. The role of the WMAC (NWT) is to review and advise on the results of the analyses and the evaluation of subsequent monitoring information.

A critical prerequisite to determine the success of “management restrictions” in minimizing or eliminating environmental impacts - assuming that there is an adequate follow-up program, to monitor and evaluate, the impact of the highway – is the need for adequate baseline data to compare any results against. The fact that the developer’s plans to collect baseline data will not be completed until the autumn of 2012 puts into question the ability to successfully evaluate the success on any “Management Restrictions”

# IR# 80

## Requests

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

*1. Which programs you anticipate to review and approve as part of your agency's mandate?*

As stated in the response to IR # 72: The WMAC (NWT) anticipates that it will be reviewing and advising on any program affecting its mandate. Without limiting the forgoing, this would include programs to: 1) collect baseline data on the environment; 2) monitor and evaluate impact, of disturbance, including increased harvesting disturbance, on the habitat and populations of key harvested species (i.e., caribou, wolves, grizzly bears, and wolverines); and the application and further adjustment of management restrictions to address these disturbances.

*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 by the EIS?*

The WMAC (NWT) does not have regulatory tools to ensure compliance and effects monitoring. The WMAC (NWT) only has the responsibility under the IFA (section has the ability to advise appropriate Ministers as to how, or whether, they are effectively carrying out their statute responsibilities to protect and conserve the environment through a process known as cooperative management. This advice, provided to Ministers, through the cooperative management process occurs in two ways: 1) informally through discussions between Inuvialuit and government members at regular quarterly meetings of the WMAC (NWT); 2) formally through letters from the WMAC (NWT) Chair to the appropriate Minister; and 3) also formally, through face-to-face meetings between the WMAC (NWT) Chair and the appropriate Minister.

In carrying out its responsibility to provide advice to an appropriate minister on an issue the WMAC (NWT) is dependent on its members to bring to the table the perspectives for discussion and a consensus decision. It relies on its Inuvialuit members to bring the perspective of traditional knowledge. It relies on its Government members to bring the perspectives of researchers, managers, regulators, and the public. However, if the WMAC (NWT) decides, for whatever reason, that it needs additional information to what its members bring to the table on a given issue, it also has the authority to conduct public hearings (section 14.(56)) to obtain that information.

*3. How would your agency ensure that the above programs would be designed and implemented prior to construction?*

The WMAC (NWT) would ensure that the above programs are designed and implemented prior to construction by providing its advice to the EIRB review process of: 1) the need for their implementation, prior to construction, to protect the environment; and 2) of the consequences if they are not. The WMAC (NWT) can also provide direct advice to the appropriate Minister of the necessity that the above programs be implemented prior to any construction.

The WMAC (NWT) has provided this advice to the EIRB through its submission of comments to their Compliance Review of the Developer's EIS (EIRB Registry Site file # [02/10-05]-075-3). The WMAC (NWT) will also be providing advice to the EIRB's Technical Review of the Developer's EIS through a formal written submission and through participation in the EIRB's technical Hearings and Public Review.

Key concerns of the WMAC (NWT) for the effective design and implementation of these programs, prior to construction, highlighted in its submission to the EIRB's Compliance Review and further elaborated on, in detail, in its submission to the EIRB's Technical Review include: 1) the failure of the Developer to adequately define the life of the project; and 2) the insufficiency in the design and scope of spatial and temporal boundaries for the anticipated impacts of the highway.

# IR# 87

## Request

*1. Please describe the role of your organization in monitoring and mitigating project-related effects on harvesting.*

The WMAC (NWT) role, as previously stated is does not have a role in monitoring the mitigation of project related effects. The WMAC (NWT) assesses information brought to it by its government and Inuvialuit members and provides consensus based advice to the appropriate Ministers and to the Inuvialuit.

*2. Please describe any measures that could be taken by your organization to encourage voluntary compliance from the users of the proposed Highway.*

The WMAC (NWT) has the ability to advise Government and Inuvialuit – through the Inuvialuit Game Council – to and to facilitate communications between government and Inuvialuit to support voluntary compliance.

# IR# 88

*1. Please describe the position of your organization with respect to the proposed Highway and its use of Management Category E.*

The WMAC (NWT) is responsible under the IFA (section 14.(60)(B)) “to prepare a wildlife and conservation management plan for the Western Arctic Region for recommendation to the appropriate authorities as a means for achieving and maintaining the principles set out in subsections (1) to (5)”.

These subsections (1) to (5) of the Inuvialuit Final Agreement are as follows:

14.(1) A basic goal of the Inuvialuit Land Rights Settlement is to protect and preserve the Arctic wildlife environment and biological productivity through the application of conservation principles and practices.

14.(2) In order to achieve effective protection of the ecosystems in the Inuvialuit Settlement Region, there should be an integrated wildlife and land management regime, to be attained through various means, including the coordination of legislative authorities.

14.(3) It is recognized that in the future it may be desirable to apply special protective measures under laws, from time to time in force, to lands determined to be important from the standpoint of wildlife, research or harvesting. The appropriate ministers shall consult with the Inuvialuit Game Council from time to time on the application of such legislation.

14.(4) It is recognized that one of the means of protecting and preserving the Arctic wildlife, environment and biological productivity is to ensure the effective integration of the Inuvialuit into all bodies, functions and decisions pertaining to wildlife and land management in the Inuvialuit Settlement Region.

14.(5) The relevant knowledge and experience of both the Inuvialuit and the scientific communities should be employed in order to achieve conservation

The conclusion reached by the WMAC (NWT) their Conservation Management plan for the Western Arctic Region was that the most effective way to integrate the Traditional Knowledge of the Inuvialuit with scientific knowledge to achieve conservation was to develop community conservation plans. These plans are the vehicle that assessed and documented this traditional knowledge. The plans are especially relevant to the issue of the Inuvik-Tuktoyaktuk Highway because they were created in a impartial and non-biased setting prior to any proposal for a the construction of the highway and the related issues of short-term economic gains that can cloud judgments of what environmental impacts can and cannot be mitigated.

The WMAC (NWT) implicitly supports the Traditional Knowledge based position of the CCPs with respect to the designation of Category E for the land that the Developer proposes to be used for the Inuvik-Tuktoyaktuk Highway. For-greater-certainty, the WMAC (NWT) supports the position of the CCPs that impacts of development cannot be mitigated in Category E lands. This position substantiated by the science based information as submitted by the WMAC (NWT) in its submissions to the EIRB's Compliance and Technical Reviews.

*2. Please describe what efforts must be taken by the Developer to reconcile the project's proposed use of Management Category E.*

It is the firm belief of the WMAC (NWT) that all of the impacts of this highway cannot be mitigated and this is contrary to the Developer's statement in their EIS, that there are no

significant impacts to VECs and VSCs. On this basis the developer cannot reconcile the project's proposed use of Management Category E lands. What the Developer can do to address this question is to make the effort to adequately and fully address all of the EIRB's ToRs for the EIS for this proposal. This will allow the EIRB to make their decision as to whether the construction of this highway should proceed based on a full knowledge of its environmental impacts and what impacts can and cannot be mitigated.



# IR# 124

1. *Please review the relevant general and specific mitigation measures provided by the Developer in 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, measureable, attainable, relevant and trackable.*
2. *Please identify and provide wording for additional mitigation measures required to ensure the avoidance or minimization of Project impacts.*

TABLE F: SUMMARY OF DEVELOPER COMMITMENTS				
Commitments	Project phase	EIS	Addendum to EIS	Developer Response to 2b/c
<b>SOCIO-ECONOMIC</b>				
The Developer will install educational signage related to harvesting, fishing, hunting, and responsible use of the Highway at appropriate and highly visible locations.	Operations	4.2.5.1; 4.2.7.2; 4.2.7.4; 4.3.7; 4.3.8.1; 5.4.1 (Table 5.4.1-1); 6.0 (Table 6-1)		11.5; 15.1-15.2

The developer's responses do not meet the EIRB's ToRs. This commitment is only a small part of the requirements of the EIRB's ToRs to mitigate impacts

TABLE F: SUMMARY OF DEVELOPER COMMITMENTS				
Commitments	Project phase	EIS	Addendum to EIS	Developer Response to 2b/c
<b>PLANNING AND DESIGN</b>				
The Developer is responsible for the design and construction of the Highway, including field studies and data collection during Highway design and construction, and future operations funding, similar to other NWT highways.	Design, Construction, Operations	2.6.11; 2.7.5		

We are awaiting the data collection and field studies requested of the developer. The information in the reference is insufficient to comment on.

The Developer will conform to the IFA and the Tuktoyaktuk and Inuvik Inuvialuit Community Conservation Plans (CCPs) and will integrate the goals of these documents into the Project's environmental management.	Design, Construction	1.6.3		16.1-16.2; 17.1-17.2
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With respect to the CCPs the – position of the CCPs on category E lands – are irreconcilable with the proposed road construction. The developer states that they will look at indicators that will determine the effectiveness of mitigation efforts but the necessary baseline information to do this is not identified to enable monitoring. It is recommended that the developer focus baseline

data collection on key harvested species (caribou grizzly bears and wolverine), which will likely entail collaring of animals at a high enough level of collars to enable movement studies to determine a baseline to compare post construction impact monitoring.

The Developer will undertake further engineering, environmental and archaeological studies in areas scheduled for construction during that same year.	Design	ES, 7.0		
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The statements made in reference to EIS 7 focus, once again, on the “what” rather than “how” and “when”. It is insufficient to determine the effectiveness of the proponent’s commitment.

The Developer is committed to addressing the performance criteria and management goals identified in the ILA’s draft Husky Lakes Special Cultural Area Criteria, pending approval.	Design	4.3.8.1; 5.3.2.4; 6.0 (Table 6-1)		16.1-16.2
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This section and its references do not address the stated requirement to address performance criteria and management goals. It simply says in a general way that they will comply. It is anticipated that the Proponent’s responses may provide further specific information requested. Further comment for now from the WMAC (NWT) is that the Proponent should be considering the specific requirements of ILA and the EIRB for Husky Lakes. In particular any mitigation plans for this area needs to include sufficient baseline information, for harvested species and cultural use, to a level of detail that would allow comparison of any changes to indicators (VECs VSCs and others). It is consistent with the EIRB’s ToRs to say or imply that because the anticipated disturbance for VECs and VSCs is below a threshold no monitoring is required.

On approval of the Highway, the Developer commits to further consider Alternative 3 (2010 Minor Realignment) as the final alignment for the Highway.	Design	2.1.2; 2.2		
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The information provided does not speak to impacts from this route on wildlife and the environment except in a general manner. If it is an option to be considered for the routing of the road then sufficient baseline information needs to be provided for assessment.

**TABLE F: SUMMARY OF DEVELOPER COMMITMENTS**

Commitments	Project phase	EIS	Addendum to EIS	Developer Response to 2b/c
<b>CONSTRUCTION</b>				
The Developer and its contractors will adhere to all applicable legislation, regulations, guidelines, and terms and conditions.	Construction	4.0		1.1-1.2; 3.1-3.3; 16.1-16.2; 17.1-17.2

The references provided state to some extent what will be done to adhere, but it does not state how or when to any level that could enable a determination of monitoring and mitigation at any level that is measurable attainable relevant or trackable.

The Developer and on-site Project contractors will implement the mitigation measures identified in this EIS.	Construction	4.0	p. 58	1.1-1.2; 3.1-3.3
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It is difficult to comment on this commitment other than to say the references provided show that mitigation measures are insufficient or yet undefined due to the limitations imposed on spatial and temporal boundaries and the lack available plans (wildlife monitoring and mitigation plan and environmental monitoring plan) at this stage of the review process.

The Developer is committed to constructing the proposed Inuvik to Tuktoyaktuk Highway, borrow sources, and associated winter access roads in a safe and environmentally responsible manner.	Design, Construction	4.0	p. 32	1.1-1.2; 11.7
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The references provided state to some extent what will be done to adhere, but it does not state how or when to any level that could enable a determination of monitoring and mitigation at any level that is measurable, attainable, relevant, or trackable.

The Developer commits to working towards achieving the Environmental Impact Review Board's goal statements for all phases of the proposed development.	Design, Construction, Operations	4.0		1.1-1.2; 16.1-16.2
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The references provided state to some extent what will be done to adhere, but it does not state how or when to any level that could enable a determination of monitoring and mitigation at any level that is measurable, attainable, relevant, or trackable.

The Developer is committed to performing the majority of the construction activities during the winter months.	Construction	2.6.2	p. 26	1.1-1.2
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To be able to properly comment on this commitment – from the point of view of baseline data collection, impact assessment, monitoring, mitigation/remediation – what activities will be carried out in the summer must be identified in the planning stage. The references provided do not identify what, where or when these summer construction activities the developer has alluded to, will be carried out. This lack of information coupled with the lack of available plans (wildlife monitoring and mitigation plan and environmental monitoring plan) to review makes comment impossible other than the ToRs must be followed.

**TABLE F: SUMMARY OF DEVELOPER COMMITMENTS**

Commitments	Project phase	EIS	Addendum to EIS	Developer Response to 2b/c
<b>BORROW SOURCES</b>				
The Developer commits to ensuring that borrow source development is monitored by environmental monitors.	Construction	4.2.5.1		1.1-1.2; 4.1-4.2; 5.1-5.3; 11.7

The references speak to commitments to participate and to work with others with a focus on the “what” but with minimal detail on the “how” and “when”. It is recommended here that environmental monitors have a separate reporting route that goes directly to regulators as a means to ensure compliance.

**TABLE F: SUMMARY OF DEVELOPER COMMITMENTS**

Commitments	Project phase	EIS	Addendum to EIS	Developer Response to 2b/c
<b>OPERATIONS</b>				
Should the Mackenzie Gas Project proceed, the Developer will work with the Mackenzie Gas Developers to ensure that increasing traffic on the Highway is effectively managed.	Operations	2.8		

This commitment seems to suggest that the Developer acknowledges that the MGP is a possible development that falls within the spatial and temporal boundaries of its proposed road construction. Comments on the implications of this not only for mitigation for all aspects of the

EIRB's review are numerous and will be dealt with after the scope of the spatial and temporal boundaries for the proposal are clarified.

TABLE F: SUMMARY OF DEVELOPER COMMITMENTS				
Commitments	Project phase	EIS	Addendum to EIS	Developer Response to 2b/c
<b>MANAGEMENT PLANS</b>				
An Environmental Management Plan (EMP) will be prepared prior to construction, and will be submitted for regulatory approval prior to use. The EMP will clearly define expectations for compliance monitoring, responsibilities, requirements for training, and reporting.	Construction	4.2.4.2; 7.0		1.1-1.2; 5.1-5.3; 6.1-6.2; 11.2; 11.3; 13.1-13.2
The EMP will contain the following types of plans: -Environmental management; -Spill contingency; -Erosion and sediment control; -Pit development for borrow sources; -Fish and fish habitat protection; -Wildlife management; -Health and safety; -Waste management; -Hazardous waste management; and -Archaeological site(s) protection. Where necessary, the Developer and its contractor(s) will seek approval for the plans prior to use.	Design, Construction	2.7.7	p.23	1.1-1.2; 5.1-5.3; 6.1-6.2; 11.2; 11.3; 11.5; 11.7; 13.1-13.2

There is nothing in the references provided to evaluate the mitigative measures to be contained in this plan as they describe “what” rather than “how” and “when” with respect to mitigation. It is observed that as the EIRB is required to make recommendations on terms and conditions for regulatory permits that will shape this plan: it is paradoxical that it appears the Developer's information to the EIRB will not be forthcoming until after the EIRB's recommendations, for permits, have been made.

WMAC (NWT) comments on the Developer's subsequent commitments on Table F relating to mitigation of impact to wildlife and vegetation , birds, Peregrine falcons and species at risk

The WMAC (NWT) notes that the information in the references provided in this table articulate some specific obligations of the Developer's relevant to the mitigation of impacts of their proposed road construction; however, overall the references primarily focus on “what” activities need to be done, in a general sense, at a level more appropriate to a screening exercise. The information in the references does not focus on the “how” and “when” and in the amount of detail necessary to make specific comments on the adequacy with respect to mitigation requirements.

It is possible, as requested by the EIRB, to make very considerable comments on what the Developer should consider for mitigation; however, it is felt that such comments would be more appropriate at the technical workshops and the technical hearing.