

May 31, 2012

Ms. Elizabeth Snider  
Chair  
Environmental Impact Review Board  
INUVIK NT X0E 0T0

Dear Ms. Snider:

**EIRB's Reason for Decision in the Directives to the Developer regarding the Review of the HAMLET OF TUKTOYAKTUK, TOWN OF INUVIK AND GNWT- CONSTRUCTION OF THE INUVIK TO TUKTOYAKTUK HIGHWAY, NORTHWEST TERRITORIES [02/10/05]**

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Our letter of May 29, 2012 raises a number of issues and concerns related to the recent decision by the EIRB to delay Public Hearings for the Inuvik to Tuktoyaktuk Highway Project. Our letter also requests a meeting with the Board and technical staff/consultants. To assist the Board in their consideration of our request we have prepared the following detailed responses to each of the reasons given by the Board for their decision.

**Reasons for Decision - 1**

Information considered critical to the understanding and determination of impacts that may potentially be caused by the development, for designing and determining the effectiveness of proposed mitigation measures, and for designing any follow-up monitoring programs, is still outstanding. The Developer has acknowledged this by making a series of commitments to provide critical information about biophysical baseline conditions. This information is promised in the results of the studies set out in Table 1 (attached as Appendix 1).

**Developer Response**

With respect, it has been and remains the Developer's view that the additional baseline information that the Developer has committed to obtain during the spring/summer of 2012, as presented in Table 1, will be useful and important for refining and optimizing final Highway design and routing and associated environmental mitigation and monitoring efforts. However, as consistently stated, the Developer and its consultants do not consider any of this additional information to be of critical importance for the determination of the main types and magnitudes of environmental impacts that may potentially be caused by the Highway Project. It remains the Developer's view that this information is not needed to the understanding and determination of potential



environmental impacts and should not be used as an argument for holding up the EIRB review process.

This view is further substantiated by Environment Canada's letter submitted to the EIRB on March 9, 2012 which stated "EC is of the opinion that it is not necessary to delay the review process until the additional baseline information has been obtained."

### **Reasons for Decision - 2**

A number of important Plans have been identified by the Developer as being required to satisfy the regulatory process. Many of these Plans will include protocols and guidelines to be followed by the Developer and/or sub-contractors to reduce, eliminate, and avoid potential environmental impacts. Although the Review Board recognizes that for many of these Plans specific detail is only required at the regulatory stage, a general understanding of the purpose, intent and workings of the Plans is necessary for the Review Board to determine the contribution of the Plans to mitigation of the impacts of the proposed development. The Developer has promised that the mitigation of certain impacts would be detailed in these Plans, yet for the purposes of this Environmental Impact Review the details required to understand the implementation and workings of these mitigation measures are presently incomplete. Therefore, there is currently an unacceptably high degree of uncertainty associated with the mitigation measures associated with the Plans proposed by the Developer. The Developer's commitments for preparing Plans are outlined in Table 2 (attached as Appendix 2).

### **Developer Response**

As indicated by the EIRB, Table 2 which was generated by the Developer in Response to IR-67 (1 & 2) Round 1, summarizes the main types of plans that will be developed, primarily by the Contractors selected to construct the Highway (with direction provided by GNWT Transportation in contract documents), to effectively manage, mitigate and monitor as necessary, all potentially significant environmental, human safety and archaeological issues and concerns associated with the Highway construction project.

The plans to be developed are relatively standard but will be customized to reflect the site-specific cold climate conditions and environment of the Highway project area to which they will apply. In preparing the necessary plans, the Developer will be providing specifications in the contract documents regarding the purpose, nature and content of the plans that will be required. Such specifications are expected to include all of the applicable commitments and proposed mitigation and monitoring measures as outlined in the EIS and in the anticipated decision report of the EIRB.

In addition, the plans will be required to conform with the specifications of the respective regulatory agencies (e.g. AANDC/ILA Pit Development Plans, AANDC Guidelines for Spill Contingency Planning, etc.). Section 2.6.8.6 of the EIS described and provided an outline of the contents of a typical Pit Development Plan.

Appendix E-1 of the EIS presented a copy of AANDCs Guidelines for Spill Contingency Planning and the typical contents of a Spill Contingency Plan. Appendix E-2 of the EIS presented a copy of the Construction Phase Environmental Management Plan for the Tuk to Source 177 Access Road, which included a copy of the Contractor's spill response plan. Appendix E-3 of the EIS presented a copy of the Construction Phase Wildlife Management Plan for the Tuk to Source 177 Access Road construction program.

The Developer can assure the EIRB that all necessary environmental management, human health and safety and archaeological protection plans will be developed and implemented as appropriate in support of regulatory requirements and the Highway construction program as well as the long-term operation of the Highway.

It is the Developer's view that these are standard documents akin to regulatory procedures and policies and that a review of these documents or descriptions of them is not needed for an understanding and determination of potential environmental impacts and should not be used as an argument for delaying the EIRB review process

### **Reasons for Decision - 3**

With respect to Round 2 IRs (numbers 90 to 96) on permafrost, ground ice, climate change and the use of granular resources for the construction and long term maintenance of the ITH, the Developer provided some useful preliminary information. However, based on the Developers responses to these IRs, additional questions have been raised regarding the uncertainty associated with the estimated aggregate needs for construction, on-going regular and future maintenance, and uncertainty about where the granular resources will be obtained, including the location of pits to be developed, access roads, and how much resource will be extracted from each pit. Additional information is required as detailed in the attached IRs (attached as Appendix 3).

### **Developer Response**

The Developer is committed to providing responses to the six (6) new Information Requests (IRs 147 to 152) by June 15, 2012. Again there is no reason to either delay the community hearings or the review process for these Information Requests.

### **Reasons for Decision - 4**

Canadian census information for 2011 and recent information from the GNWT Bureau of Statistics and from the Inuvialuit Regional Corporation (IRC) is available, and should be used to update socio-economic baseline information, impact predictions and mitigation measures where applicable.

### **Developer Response**

The Developer has been advised by the GNWT Bureau of Statistics that the new data obtained in the 2011 Canadian Census and 2011 data generated by the Bureau of Statistics indicate that there have been no significant changes in the overall demographic statistics relative to the 2010 data generally provided in the EIS. It should also be noted that a full year has passed since the Developer submitted the EIS to the EIRB and with respect, the Developer believes that it is unreasonable for the EIRB to request the Developer to completely update all of the data to 2011, particularly since we do not anticipate any changes of consequence to the socioeconomic predictions presented in the EIS.

### **Reasons for Decision - 5**

Predicting the potential impacts on regional and local economies, traditional and subsistence economies, human health and community wellness, socio-cultural patterns, harvesting, and land-use requires an understanding of the changes in and potential development impacts on biological resources of interest to Inuvialuit and communities. Baseline information for many biological resources of interest will only become available in August 2012. Therefore, there is currently an unacceptably high degree of uncertainty associated with the impact predictions in the Draft EIS for Inuvialuit and local resource use.

### **Developer Response**

With respect, as previously indicated, the Developer simply does not agree with the EIRB that because some additional new information on the biological resources of interest to the Inuvialuit and communities will only become available in August 2012, there is currently an unacceptably high degree of uncertainty associated with the impact predictions in the EIS for Inuvialuit and local resource use.

As consistently indicated by the Developer, the environmental and socioeconomic assessment and predictions made in the EIS are based on the considerable amount of available scientific and Traditional Knowledge data for the Tuktoyaktuk Peninsula, the greater Mackenzie Delta and the Inuvialuit Settlement Region and the experience and professional judgement of the Developer and its consultants.

In addition, the Developer continues to maintain the view that the generally innocuous nature of the proposed highway project, combined with the comprehensive regulatory oversight and environmental management that will be associated with the project will help to ensure that potentially harmful environmental and socioeconomic effects can be effectively managed and mitigated and potential socioeconomic benefits to the communities and region can be maximized.

### **Reasons for Decision – 6**

A portion of the proposed ITH is located on Category E lands, as identified in the Community Conservation Plan (CCP) for Tuktoyaktuk. The Category E designation in the CCP affords the highest level of protection to those lands, and suggests that development should not occur in these areas. The Developer has not provided evidence demonstrating that the affected community and community organizations accept the use of these Category E lands for the ITH.

### **Developer Response**

The Developer appreciates the EIRB's concern pertaining to this important matter and is pleased to advise that the Developer has been in recent communications with the IRC to encourage dialogue between the IRC and its constituents that will result in the provision of the requested evidence that the affected community and community organizations accept the use of these Category E lands for the ITH. This matter has been discussed at length in community meetings and we are confident that any clarification requested by the EIRB can be provided within the next 30 days. Therefore, there should be no reason to delay community hearings and the review process for this issue.

In addition, as previously noted in Section 1.5.2.1 of the Developers Addendum to the EIS (August 2011), negotiations have been underway to transfer the portion of the Highway right-of-way on Inuvialuit owned lands to the authority of the GNWT as a public highway following the procedure set out in the *Inuvialuit Final Agreement*.

Once transferred, the public highway will fall under the *Public Highways Act* administered by the GNWT DOT. The Developer anticipates continuing dialogue with the ILA and other Inuvialuit organizations and authorities. These discussions will include interpretation of Project terms and conditions, and completion of agreements under negotiation.

We trust this additional information will help the Board in their deliberations. We are hopeful a meeting can be confirmed in the near future.

Sincerely,



Jim Stevens  
On Behalf of the Proponents

- c. Mayor Merven Gruben, Hamlet of Tuktoyaktuk  
Mayor Denny Rodgers, Town of Inuvik  
Russell Neudorf, Deputy Minister, Transportation