

The Honourable Mr. Denis Lebel
Minister of Transport,
Infrastructure and Communities
HOUSE OF COMMONS
OTTAWA ON K1A 0A6

The Honourable James Moore
Minister of Aboriginal Affairs and
Northern Development
HOUSE OF COMMONS
OTTAWA ON K1A 0A6

The Honourable Keith Ashfield
Minister of Fisheries and Oceans
HOUSE OF COMMONS
OTTAWA ON K1A 0A6

The Honourable Peter Kent
Minister of Environment
HOUSE OF COMMONS
OTTAWA ON K1A 0A

FEB 15 2013

Dear Minister:

GNWT Response to Inuvik to Tuktoyaktuk Highway Project Review Panel Report

On January 25, 2012, the Review Panel for the Inuvik to Tuktoyaktuk Highway Project released its "*FINAL REPORT of the Panel for the Substituted Environmental Impact Review of the Hamlet of Tuktoyaktuk, Town of Inuvik and GNWT Proposal to Construct the Inuvik to Tuktoyaktuk Highway*". As you are aware, the Panel concluded that the Inuvik to Tuktoyaktuk Highway Project can proceed without significant adverse environmental impacts if its recommendations are implemented in combination with the commitments made throughout the review.

This letter provides the response of the Government of the Northwest Territories (GNWT) to each of the recommendations of the Review Panel. Accepting the GNWT's positions on the Panel's recommendations would still permit the Project to proceed without significant adverse effects.

The GNWT Department of Transportation, the Hamlet of Tuktoyaktuk, and the Town of Inuvik express appreciation for the efforts of the Review Panel. We appreciate the time and effort all parties, including federal departments, spent reviewing the project.

The GNWT shares Canada's view that this critical piece of northern and national infrastructure is among our most important shared priorities. The completion of the environmental impact review marks a major milestone towards the highway's completion.

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As a responsible public government with socio-economic and environmental mandates, we are committed to the sustainability of the environment and our people. The GNWT has invested almost \$12 million to date in environmental studies, hydrological assessments, terrain assessments, engineering, and baseline data collection to fulfill the requirements of the environmental review. The GNWT will continue to implement our commitments, including the continued coordination of our planning and monitoring efforts with Inuvialuit parties, all regulators, and stakeholders.

We have identified specific concerns with regard to several Panel recommendations. The GNWT's complete response to all of the recommendations is attached to this letter.

The following paragraphs detail our concerns with regard to two key recommendations.

Security

The Panel recommended an environmental security deposit of \$1 million. Once constructed, the Inuvik to Tuktoyaktuk Highway will be a public highway under the *NWT Public Highways Act* and is clearly a government project. Under the Inuvialuit Final Agreement Section 13(13), a government project is exempt from a requirement for an environmental security deposit.

The GNWT believes existing environmental protection planning and requirements will adequately protect the environment during construction. We will ensure the safety of the public and the environment during the operations of the highway. Public users will be required to meet the legislation and regulations under the *NWT Public Highways Act* and the federal and territorial *Transportation of Dangerous Goods Acts*.

The GNWT recommends this recommendation (#49) be rejected.

Oversight Body

The Government of Northwest Territories is a responsible public government. It does not accept the need for an Independent Environmental Monitoring and Oversight Committee (IEMOC) as recommended by the Panel. This has always been Canada's position as well. The GNWT notes that the Panel recognized the need to avoid duplication of existing regulatory mechanisms, but an IEMOC would create duplication and confound existing regulatory decision-making.

During the environmental review, the GNWT Department of Transportation (GNWT DOT) made it clear that Inuvialuit parties, federal departments and federal boards will maintain significant control of the project activities including final approval of site plans, monitoring, reporting and inspections. As with most linear projects, detailed planning for the Inuvik to Tuktoyaktuk Highway will occur after the completion of the environmental review and will apply the requirements of Canada's final decision on the Review Panel's report. Many of the future project decisions will fall under federal regulators and regulatory boards including the NWT Water Board and Inuvialuit Land Administration. The developer's applications and the decisions of the regulators are grounded in federal legislation and regulations.

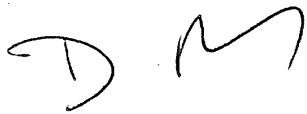
The GNWT believes the combination of a follow-up program with the federal responsible authorities and environmental programs that will be overseen by independent regulators will adequately meet the concerns of the Panel without creating legal and procedural conflicts with regulators, particularly independent regulatory boards.

To ensure collaboration among Inuvialuit organizations and federal departments, the GNWT will facilitate an Inuvik to Tuktoyaktuk Highway Corridor Working Group comprised of Inuvialuit and federal/territorial representatives, with advisory responsibilities. The GNWT will continue to host regular meetings with Inuvialuit communities and federal / territorial departments to review the results of studies and monitoring activities.

The GNWT is confident our government's commitment to ensure adequate consultation and support of key working groups will meet the intent of the Panel recommendations.

The GNWT is confident that the Inuvik to Tuktoyaktuk Highway project can proceed without significant environmental impacts. The GNWT requests an early decision on these matters. The GNWT also requests the federal government be mindful of our government's environmental and socio-economic mandate when reviewing our position on the Panel's recommendations.

Sincerely,



Honourable David Ramsay
Minister of Transportation



Honourable Michael Miltenberger
Minister of Environment and Natural Resources

Attachment

c: His Worship Mr. Floyd Roland
Mayor, Town of Inuvik
Inuvik, NT

His Worship Mr. Mervin Gruben
Mayor, Hamlet of Tuktoyaktuk
Tuktoyaktuk, NT

**GOVERNMENT OF THE NORTHWEST TERRITORIES RESPONSE TO THE
RECOMMENDATIONS IN THE 'FINAL REPORT OF THE PANEL FOR THE
SUBSTITUTED ENVIRONMENTAL IMPACT REVIEW OF THE
HAMLET OF TUKTOYAKTUK, TOWN OF INUVIK AND GNWT PROPOSAL
TO CONSTRUCT THE INUVIK TO TUKTOYAKTUK HIGHWAY'**

Follow-Up Program

R01: The Responsible Authorities shall establish a follow-up program for the ITH project, the results of which can be integrated with both project-oriented and regional, government-led cumulative effects monitoring, mitigation, and adaptive management programs for the ISR.

GNWT Response

This recommendation is directed at federal responsible authorities under the requirements of the Canadian Environmental Assessment Act (1992). The GNWT Department of Transportation (DOT) recognizes it will be required to confer with federal regulators as it completes required mitigation recommendations of the panel and/or to meet regulatory legislation or policy requirements of federal regulators. The GNWT DOT has committed to providing the results of its baseline studies and appropriate monitoring data to federal and/or territorial authorities responsible for conducting regional cumulative effects management.

R02: An oversight body, the Independent Environmental Monitoring and Oversight Committee (IEMOC), independent of the Developer, shall be established to coordinate the monitoring, mitigation and adaptive management of the ITH project's construction and operation.

GNWT Response

The GNWT recommends Canada reject this recommendation in favour of commitments made by the GNWT during the environmental impact review process.

The GNWT recognizes the existing co-management processes established under the Inuvialuit Final Agreement as well as the independence of federal departments and regulatory bodies to determine their participation in the consultation and review process for the Inuvik to Tuktoyaktuk Highway (ITH).

As outlined in the commitments table (#218), the GNWT will invite interested agencies, organizations, and co-management groups to participate in an Inuvik to Tuktoyaktuk Highway Corridor Working Group facilitated by the GNWT DOT and guided by a collaboratively developed Terms of Reference. The Panel's recommendations will be

considered in the drafting of the Terms of Reference. It is envisioned that this working group will fulfill a number of the roles the Panel has recommended be the responsibility of the IEMOC.

The GNWT DOT agrees with the concept of technical working groups focused on geotechnical topics as recommended by Natural Resources Canada.

The GNWT recognizes the importance of meeting federal and territorial wildlife legislation and understands the need to work on specific issues with the most knowledgeable department or beneficiary experts. Federal departments and co-management bodies are will have representation on these working groups. This combination of participants is expected to ensure management plans include appropriate monitoring, mitigation and adaptive management.

Independent regulatory boards may provide observers to participate in the described working groups as they deem appropriate.

R03: Membership on the IEMOC shall include the Developer (2 members) including a representative from ENR, AANDC, NWT Water Board, DFO, EC, NRCan, INFC, WMAC, FJMC, ILA and the HTC's from Inuvik and Tuktoyaktuk. It should be co-chaired by the Developer and one of the Inuvialuit comanagement committees.

The IEMOC may establish subcommittees in order to make its operations more efficient.

GNWT Response

The GNWT recommends Canada reject this recommendation in favour of commitments made by the GNWT during the environmental impact review process.

The GNWT will invite representatives to participate on a corridor working group as discussed in R02.

R04: The IEMOC shall be established as soon as possible and before major construction activities begin and shall operate for the construction period and no more than 10 years of highway operations, unless an extension is agreed to by its parties. The level of IEMOC activity shall be scalable in relation to the level of construction and operational activities and impacts related to the ITH project.

GNWT Response

The GNWT recommends Canada reject this recommendation. The GNWT does not agree with the establishment of an IEMOC.

The GNWT has initiated drafting of Terms of Reference for a Corridor Working Group. The GNWT will undertake discussion with Inuvialuit and federal departments to determine an efficient consultation process. Panel comments will be considered in the drafting of these consultation processes. Final terms of reference will be developed in consultation with Inuvialuit and government representatives.

R05: Government participation on the IEMOC shall be paid for by the departments involved. The cost for comanagement bodies and Inuvialuit institutions such as HTC's to participate shall be paid for by the Developer. Any studies and analyses required to monitor, manage and respond to ITH project effects shall be paid for by the Developer. Basic secretariat costs for IEMOC shall be paid for by the Developer. A budget shall be developed in advance of each year's operations.

GNWT Response

The GNWT recommends Canada reject this recommendation. The GNWT is committed to provide reasonable financial support for co-management bodies and Inuvialuit institutions in the corridor working groups and topic specific working groups.

The GNWT recognizes the independence of federal departments in the process and agrees with the requirement for departments to participate at their own cost in review and consultation processes.

The GNWT commitments further acknowledge its responsibility to undertake specific studies and analyses to monitor, manage, and respond to ITH project effects.

R06: The IEMOC shall be established by its Parties, including representatives of the Developer, Canada, the Joint Secretariat (for WMAC and FJMC), the HTC's and ILA by way of a collaboratively developed legal agreement which sets out the purpose, membership, funding and governance arrangements amongst these parties, consistent with the Panel's recommendations.

GNWT Response

The GNWT recommends Canada reject this recommendation.

See response to R02.

R07: Development of the IEMOC agreement shall begin within 30 days of Ministerial approval of the Panel's report. This agreement must be in place before major construction activities begin. The Developer shall pay the negotiation costs of the Joint Secretariat and HTC's.

GNWT Response

The GNWT recommends Canada reject this recommendation.

See Response to R02.

Monitoring and Adaptive Management

R08: A project specific monitoring, mitigation and adaptive management program shall be developed for the ITH project by the IEMOC (the ITH Adaptive Management Program).

GNWT Response

The GNWT recommends Canada reject this recommendation.

The GNWT DOT committed to develop an Environmental Management Plan (EMP). The individual plans within the EMP will contain adaptive management requirements as appropriate. The GNWT DOT's commitments outline the individual plans it will prepare which will detail monitoring and mitigation.

In addition, plans must adhere to the requirements of federal legislation, and may include direction from independent boards such as the Inuvialuit Land Administration and Northwest Territories Water Board.

R09: The ITH Adaptive Management Program shall be in place before major construction activities are initiated for the project.

GNWT Response

The GNWT recommends Canada reject this recommendation.

The GNWT is committed to completing an EMP prior to initiation of major construction activities.

R10: The IEMOC shall ensure that its Adaptive Management Program includes:

- **the integration of science and Traditional Knowledge into programs to monitor ITH project performance relative to the Developers' impact assessment predictions;**
- **provision for modification of any monitoring and mitigation programs based on observed VEC responses; and**
- **the publication and periodic distribution of monitoring and adaptive management results to keep Inuvialuit communities and the public**

apprised of the adaptive management activities related to highway construction and operation, and to ensure that ITH monitoring and mitigation results are integrated with and contribute to regional cumulative effects monitoring programs.

GNWT Response

The GNWT recommends Canada reject this recommendation.

The working group process outlined in R02 is intended to ensure timely reviews and the sharing of information and updates prior to each year of construction.

The GNWT recognizes regional cumulative effects monitoring and management is the responsibility of federal or territorial departments based on their legislated responsibilities. The GNWT has committed to sharing its data with those departments. The GNWT understands those departments have a responsibility for combining data from other sources including past, current and future projects as well as the activities of those departments. This will achieve the objective of regional cumulative effects monitoring and management.

R11: Any follow-up program established by Responsible Authorities shall recognize the role of the IEMOC and provide for collaboration and cooperation between these groups and their programs.

GNWT Response

This recommendation is directed at federal Responsible Authorities. The GNWT does not agree with the establishment of an IEMOC.

The GNWT is committed to appropriate consultation with Inuvialuit parties and federal departments. Consultation with these parties will occur during regulatory processes.

R12: The IEMOC's Adaptive Management Program shall consider the need to address monitoring of permafrost and granular resources, surface hydrology, vegetation, fish, wildlife, and harvesting impacts to address concerns raised in this proceeding. The final scope of this program and any future changes to it shall be an IEMOC decision.

GNWT Response

The GNWT recommends Canada reject this recommendation.

The GNWT is committed to appropriate consultation with Inuvialuit parties and federal departments. Consultation with these parties will occur during regulatory processes.

R13: The IEMOC shall consider the Panel's Recommended Activities in the development of the agreement referred to in Recommendation R06.

GNWT Response

The GNWT recommends Canada reject this recommendation.

Economic

R14: The Developer shall work with local academic institutions in the design of short duration, skill-based training courses for Inuvialuit beneficiaries and other northern residents to improve job readiness, expand the available labour pool, and enhance local skill capacity. To the extent possible these courses shall be available before the initiation of major construction activities.

GNWT Response

The GNWT accepts this recommendation.

The GNWT acknowledges the importance of advanced planning based on firm schedules. The GNWT will continue to work with the existing Regional Training Partnership to determine the appropriate training required and timing of courses.

R15: The Developer shall require its contractors to report on training, including the types of training provided and the number of employees trained, and make the information public.

GNWT Response

The GNWT accepts this recommendation and will include the requirement in its contracts. The GNWT will make the information public to the extent it respects individual privacy rights and accords with the Access to Information and Protection of Privacy Act (ATIPP).

R16: The Developer shall publish updates on the numbers of Inuvialuit and northern businesses that have received project-related contracts, as well as relevant details regarding the contracts.

GNWT Response

The GNWT accepts the intent of the recommendation. The GNWT annually publishes a report on contracts over \$5,000 in accordance with both the Financial Administration Act (FAM) and ATIPP.

R17: The Developer and its contractors shall provide updates to the public regarding the numbers of individuals from Tuktoyaktuk and Inuvik who have been hired, the types of positions they have been hired for, and total wages paid.

GNWT Response

The GNWT accepts the recommendation. The GNWT will require the provision of this information in all construction-related contracts.

R18: Responsible parties (ITI, IRC, IDC) shall examine changes in tourism as a result of the project, and

- **identify potential or additional economic opportunities that could be filled by Inuvialuit businesses; and**
- **assist Inuvialuit businesses, both existing and potential, to take advantage of opportunities related to increased tourism.**

GNWT Response

The GNWT accepts this recommendation. The Department of Industry, Tourism and Investment (ITI) will contact the Inuvialuit Regional Corporation and Inuvialuit Development Corporation to examine the potential for tourism development related to the Project. The implementation of this recommendation is within ITI's ongoing tourism and business support programming, and builds upon a recent community development plan for Tuktoyaktuk that identifies a number of tourism business opportunities.

Community

R19: The Developer, GNWT departments and service agencies shall make use of the Inuvialuit Indicators Project to assist in monitoring the potential impacts of the project on individuals and the communities of Inuvik and Tuktoyaktuk.

GNWT Response

The GNWT accepts the intent of this recommendation. The GNWT will make use of the best available data, including the Inuvialuit Indicators Project, to monitor the potential impacts of the Project on individuals and the communities of Inuvik and Tuktoyaktuk.

Land Use, Access and Harvesting

R20: The Developer shall work with the Parties (DFO, EC, ENR) and comanagement bodies (FJMC, WMAC) and HTCs to ensure that the Developer's mitigation, monitoring and management commitments related to wildlife, fish and

harvesting are met and reported on annually through IEMOC or through the specific comanagement bodies responsible for resource management in the ISR.

GNWT Response

The GNWT accepts the intent of this recommendation. The GNWT recognizes the need to work with the parties and will be responsible for monitoring and reporting requirements required by regulators. The GNWT does not agree with the establishment of an IEMOC.

Existing Inuvialuit co-management processes ensure responsible departments provide advice and information to appropriate Inuvialuit organizations or individuals.

[Barren-ground] Caribou

R21: The Developer shall monitor project-specific effects on caribou and work in collaboration with existing or planned regional caribou monitoring programs by government including the following:

- **compare baseline caribou habitat amount to Project construction and operations phase habitat amounts (verify prediction for amount of caribou habitat lost to Highway);**
- **complete statistical power analyses to determine appropriate sample size for caribou collaring program;**
- **compare baseline caribou movement to Project construction and operations phase movements using radio collar data;**
- **compare baseline caribou distribution to Project construction and operations phase distributions using radio collar data (verify predicted ZOI of 1 km);**
- **compare baseline caribou habitat use to Project construction and operations phase habitat use using radio-collar data (verify prediction for habitat degradation);**
- **compare baseline caribou harvest rates to Project construction and operations phase harvest rates; and**
- **compare baseline caribou collision-based mortality rates to pre-defined thresholds.**

GNWT Response

The GNWT accepts the intent of this recommendation subject to annual approval of the Legislative Assembly.

The GNWT will continue to work closely with the Wildlife Management Advisory Council (NWT) and appropriate Hunter and Trapper Committees (HTCs) to develop and implement a Wildlife Effects Monitoring Program including barren-ground caribou herds

to fulfill the requirements of this recommendation. The GNWT notes that its ability to deploy radio-collars will rely on support from the HTCs.

The GNWT does not know what is meant by a “pre-defined threshold”.

Grizzly Bear

R22: The Developer shall complete the development of a WEMP in collaboration with the parties to the IEMOC as part of an adaptive management process.

GNWT Response

The GNWT accepts the intent of this recommendation subject to annual approval of the Legislative Assembly. The GNWT does not agree with the establishment of an IEMOC.

The GNWT will continue to work closely with the Wildlife Management Advisory Council (NWT) and appropriate Hunter and Trapper Committees (HTCs) to develop and implement a Wildlife Effects Monitoring Program including grizzly bears. The GNWT notes that its ability to deploy radio-collars will rely on support from the HTCs.

R23: The Developer shall determine presence or absence of bear dens in construction areas with pre-construction surveys.

GNWT Response

The GNWT accepts this recommendation.

The GNWT conducted bear den surveys in October 2011 and 2012 and will continue to do so prior to each winter season of construction.

R24: The Developer shall monitor project-specific effects on grizzly bear and collaborate with existing or planned regional grizzly bear monitoring programs by government including the following:

- **compare baseline grizzly bear movement to Project construction and operations phase movements using radio collar data;**
- **compare baseline grizzly bear habitat use to Project construction and operations phase habitat use using radio-collar data (verify prediction for habitat degradation);**
- **compare baseline grizzly bear harvest rates to Project construction and operations phase harvest rates;**
- **compare baseline grizzly bear collision-based mortality rates to pre-defined thresholds; and**
- **compare baseline grizzly bear denning frequency within or near the road corridor to Project construction and operations phase denning frequency (verify predicted ZOI of 500 m).**

GNWT Response

The GNWT accepts the intent of this recommendation subject to annual approval of the Legislative Assembly.

The GNWT will continue to work closely with the Wildlife Management Advisory Council (NWT) and appropriate Hunter and Trapper Committees (HTCs) to develop and implement a Wildlife Effects Monitoring Program including grizzly bears. The GNWT notes that its ability to deploy radio-collars will rely on support from the HTCs.

The GNWT does not know what is meant by a “pre-defined threshold”.

Muskrat

R25: The Developer shall complete pre-construction surveys for muskrat push-ups on lakes where winter snow removal and/or winter water withdrawal will take place.

GNWT Response

The GNWT accepts this recommendation.

R26: The Developer shall follow mitigation measures set out in permits issued under the *Wildlife Act* and monitor mitigation success, if muskrats are present.

GNWT Response

The GNWT accepts the intent of this recommendation. GNWT DOT will obtain a permit if it is necessary to destroy muskrat pushups and adhere to any terms and conditions on the permit. The GNWT will consider mitigations in its Wildlife and Wildlife Habitat Protection Plan.

Reindeer

R27: AANDC shall address and resolve any potential land use conflicts before issuing land tenures for the highway.

GNWT Response

This recommendation is directed at Aboriginal Affairs and Northern Development. The GNWT will continue to meet with the Kunnek Resource Development Corporation to discuss concerns.

The GNWT recognizes this recommendation is limited to the portion of the Highway on Crown Land and applies to the construction phase. Once constructed the Highway alignment will become Commissioner's Land and will be subject to territorial legislation including the Public Highways Act and regulations. Crown land outside the right-of-way will remain as federal Crown land until devolution.

R28: With respect to private lands, the ILA shall initiate dialogue between the reindeer herd owner and the Developer and assist with conflict resolution as necessary.

GNWT Response

This recommendation is directed at the Inuvialuit Land Administration (ILA). The GNWT will continue to meet with the Kunnek Resource Development Corporation to discuss concerns.

The GNWT will participate in ILA-led discussions with the reindeer herd owner.

The GNWT recognizes this recommendation is limited to the portion of the Highway private land and applies to the construction phase. Once constructed the Highway alignment will become Commissioner's Land and will be subject to Territorial Legislation including the Public Highways Act and regulations. Crown land outside the right-of-way will remain as federal Crown land until devolution.

Fish and Fish Habitat

R29: The Developer shall consult with both DFO and AANDC to determine appropriate mitigation measures before using a chemical dust suppressant technique on the ITH.

GNWT Response

The GNWT accepts this recommendation. The GNWT will ensure adherence to the NWT Environmental Protection Act.

R30: The Developer shall, prior to construction, develop management plans for the protection of fish and fish habitat in any areas affected by construction in collaboration with DFO, and the Tuktoyaktuk and Inuvik HTCs and FJMC.

GNWT Response

The GNWT accepts this recommendation. The GNWT is currently working with the Inuvik and Tuktoyaktuk Fisheries Working Group, HTC's, and DFO in the development of a fisheries management plan.

R31: The Developer shall develop a long-term maintenance plan for the Hans and Zed Creek crossings to protect fish habitat.

GNWT Response

The GNWT accepts the intent of this recommendation. The GNWT is currently working with the Inuvik and Tuktoyaktuk Fisheries Working Group, HTC's, and DFO in the development of a long-term fisheries management plan which will address this issue.

Species at Risk

R32: The IEMOC shall determine appropriate setback distances for bear denning areas and critical habitat of SAR, waterfowl and tundra-nesting bird species.

GNWT Response

The GNWT recommends Canada reject this recommendation. The GNWT does not agree with the establishment of an IEMOC.

The GNWT will continue to work with HTC's, Environment Canada and WMAC during preparation of the Wildlife and Wildlife Habitat Protection Plan for the construction phase.

R33: The Developer shall monitor project-specific effects and collaborate in the monitoring of regional effects on all identified SAR, such as boreal woodland caribou, grizzly bears, and wolverines, with existing or planned regional monitoring programs by government including:

- **compare baseline species habitat amount to Project construction and operations phase habitat amounts (verify predictions for habitat loss);**
- **compare baseline species habitat use to Project construction and operations phase habitat use (verify predictions for habitat degradation);**
- **compare baseline species distribution to Project construction and operations phase distributions (verify predictions for disturbance);**
- **compare baseline species harvest rates to Project construction and operations phase harvest rates (verify predictions for mortality); and**
- **compare baseline caribou collision-based mortality rates to pre-defined thresholds (verify prediction for mortality).**

GNWT Response

The GNWT accepts the intent of this recommendation to the extent possible for the listed species. The GNWT notes Bullets 2 and 3 are redundant. The GNWT does not know what is meant by a “pre-defined threshold”. The GNWT notes its ability to deploy radio collars will rely on support from the HTC’s.

Water Use and Winter Access Roads

Total Water Requirements

R34: The 10 per cent water withdrawal limit contained in the *DFO Protocol for Winter Water Withdrawal from Ice-covered Waterbodies in the Northwest Territories and Nunavut (2010)* shall be applied to every lake and water body used as a water source over the lifetime of the project.

GNWT Response

This recommendation is directed to the Northwest Territories Water Board. The GNWT does not accept the application of the DFO Protocol for winter water withdrawal to all waterbodies in the territories.

Winter Access Roads

R35: Monitoring of the effects of long term water use for the construction of these roads shall be included in the regulatory approvals granted by DFO, AANDC and the NWT Water Board, as appropriate, and the results of this monitoring shall be integrated into the cumulative effects and adaptive management programs to be established by the IEMOC.

GNWT Response

This recommendation is directed primarily to the Northwest Territories Water Board and Fisheries and Oceans and Aboriginal Affairs and Northern Development as appropriate. The GNWT does not agree with the establishment of an IEMOC.

The GNWT does not accept the need for this recommendation because there is no substantial long term water use contemplated for construction.

Terrestrial Impacts of Winter Access Roads

R36: AANDC and the NWT Water Board shall ensure that the same road alignments are not used to access aggregate sources every year in order to avoid the vegetation and terrain damage caused by repeated use.

GNWT Response

This recommendation is directed primarily to Aboriginal Affairs and Northern Development and the Northwest Territories Water Board. The GNWT notes the Inuvialuit Land Administration is not included in the parties the Panel has listed.

The GNWT recommends Canada clarify this recommendation as it appears to limit the authority of the independent decision making of the NWT Water Board and Aboriginal Affairs and Northern Development. The recommendation may not be warranted for each gravel source access and the regulators should consider each application on a case by case basis.

R37: The Developer shall develop a monitoring program with respect to vegetation and terrain that includes active layer and near-surface permafrost impacts from winter road construction to the aggregate sources. Monitoring reports should be filed with the appropriate regulators, including AANDC, on a regular basis and not less that (sic) every two years, with particular emphasis on cumulative impacts of the roads on these terrain characteristics. This monitoring program and its results shall be integrated into the cumulative effects and adaptive management programs to be established by the IEMOC.

GNWT Response

The GNWT recommends that Canada reject this recommendation. The GNWT does not agree with the establishment of an IEMOC.

The GNWT is aware that regulators may stipulate specific requirements as terms and conditions in regulatory authorizations for construction phase. The GNWT recognizes that land management authorities may conduct additional monitoring during the operations phase to support their land management decisions. Federal departments will need to confirm the cumulative effects monitoring programs they have established.

Aggregate Resources

R38: AANDC, ILA and the NWT Water Board shall require the filing of draft pit development plans with the Developer's applications for gravel extraction. These plans shall include conceptual closure and reclamation plans. These regulators shall require final pit development plans from the Developer before gravel extraction from the sites listed in Table 5 begins.

GNWT Response

This recommendation is directed primarily to Aboriginal Affairs and Northern Development, Inuvialuit Land Administration, and the Northwest Territories Water Board. The GNWT notes that each of these regulators requires developers to conform to regulations and policy requirements which include the specific details in this recommendation.

R39: The pit development plans shall address the effects of quarrying operations on vegetation, surface water, permafrost, wildlife and terrain features, and include specific mitigation measures for consideration by the regulators. The Developer shall consult the HTC's of Inuvik and Tuktoyaktuk about these plans before they are approved by the regulators.

GNWT Response

The GNWT accepts this recommendation.

R40: Pit development licences or permits shall be based on and limited by the schedule of aggregate requirements provided by the Developer and presented in Table 5 of this report. After construction, further development of the pits should only be permitted once progressive reclamation of the original disturbance has been initiated and the ground surface is shown to be stable.

GNWT Response

This recommendation is directed primarily to Aboriginal Affairs and Northern Development, Inuvialuit Land Administration, and the Northwest Territories Water Board. New source locations not included in the scope of the review will be reviewed by the Environmental Impact Screening Committee.

R41: Any extra requirement for aggregate over and above the requirements forecast for specific time intervals in Table 5 of this report shall be considered as a new application and be subject to screening by the EISC.

GNWT Response

This recommendation is directed to the Environmental Impact Screening Committee.

R42: AANDC and ILA shall require evidence of permafrost stabilization as part of the conditions for reclamation and closure of borrow pits, and until it is clear that permafrost has been re-established in the pit floors and slopes, the liability for the pits shall remain the responsibility of the Developer.

GNWT Response

This recommendation is directed to Aboriginal Affairs and Northern Development and Inuvialuit Land Administration. The GNWT is aware that regulators may stipulate specific requirements as terms and conditions in regulatory authorizations and will adhere to these conditions.

Climate Change

R43: As part of its applications for pit and quarry licences, the Developer shall provide to AANDC and ILA a rigorous and transparent quantitative assessment of the potential impacts of climate change on the aggregate needs for the project including estimates of aggregate needs 25 and 50 years after construction.

GNWT Response

The GNWT recommends that Canada reject this recommendation. The GNWT is uncertain that this recommendation is technically feasible. If feasible, the GNWT commits to consult with Natural Resources Canada and Environment Canada to determine whether and how to implement the recommendation.

R44: The Developer shall develop preliminary pit management plans, including a preliminary closure and reclamation plan, for all borrow sites and quarries listed in Table 5 and file them with AANDC, ILA and the NWT Water Board at the time applications are made for use of these areas. Approval of final pit management plans by regulators before aggregate extraction begins shall be a condition of any licences or permits when issued.

GNWT Response

The GNWT accepts the first part of this recommendation, which is directed at the GNWT. The GNWT will file preliminary pit management plans as discussed in R38 and R39.

The second part is directed at AANDC, ILA, and the NWT Water Board. The GNWT will adhere to terms and conditions set out in authorizations issued by Aboriginal Affairs and Northern Development and Inuvialuit Land Administration.

R45: The Developer's estimates of future quarry size (areal extent and volumes), based on its projected need for aggregate, and AANDC's independent opinion on the estimates shall be presented to the NWT Water Board during its water licensing process to enable the development of water management plans and reclamation plans for quarries and borrow pits.

GNWT Response

This recommendation is directed to the GNWT and AANDC. The GNWT accepts its portion of the recommendation.

Effects Assessment

R46: The Developer, in collaboration with GNWT-ENR, EC and wildlife comanagement organizations, working through the IEMOC, shall further develop and implement the proposed WEMP to ensure that it addresses both direct and cumulative effects from highway construction and operations on wildlife distribution and abundance within the regional cumulative effects study area.

GNWT Response

The GNWT recommends Canada reject this recommendation. The GNWT does not agree with the establishment of an IEMOC.

The GNWT notes the WEMP is not intended to address this recommendation. The GNWT notes that Cumulative Effects Assessment should be developed from a Valued Ecosystem Component (VEC)-centric or regional-centric standpoint, not a project-centric one.

The GNWT's management planning for each barren-ground caribou herd is range-based. The GNWT also must recognize the established role and interests of others in the management planning for wildlife, for example the Advisory Committee for the Cooperation on Wildlife Management which is preparing a plan for barren-ground caribou herds. Grizzly bear management planning is the responsibility of a number of federal departments and co-management groups in the Inuvialuit Settlement Region. As a result ongoing monitoring and management already considers cumulative effects planning and is not limited to a regional study area.

R47: The results of WEMP monitoring of cumulative effects on wildlife, vegetation and land use shall be integrated into the IEMOC's adaptive management framework, and, to the extent possible, into any government regional cumulative effects monitoring programs.

GNWT Response

The GNWT recommends Canada reject this recommendation as it is beyond the scope of a single project. The GNWT does not agree with the establishment of an IEMOC.

The GNWT notes the WEMP is not intended to address this recommendation. The GNWT also notes that Cumulative Effects Assessment should be developed from a VEC-centric or regional-centric standpoint, not a project-centric one.

The GNWT will include adaptive management as appropriate in its Environmental Management Plan. The GNWT notes the WEMP does not include the range of topics listed in this recommendation and is focused on the Project. The GNWT is taking a leading role in developing collaborative cumulative effects programs for multiple species but this is a shared responsibility among governments, co-management partners, and land users.

Worst-Case Scenario

R48: The Panel finds that a worst-case scenario based on a fuel truck roll over on the highway as described in the EIS to be the appropriate scenario for this development. The Panel also finds that a total cost or value for this worst-case scenario is \$1.05 Million dollars.

GNWT Response

The GNWT notes this statement is not a recommendation directed at any party but rather confirms the Panel's view on the worst-case scenario.

R49: The Panel recommends that consideration be given to requiring security from the Developer in this amount in order to protect Inuvialuit harvester's rights pursuant to section 13 of the IFA.

GNWT Response

The GNWT recommends Canada reject this recommendation.

As acknowledged by the Panel, the Inuvik to Tuktoyaktuk Highway will be a public highway and users will operate under territorial and federal legislation. The Inuvialuit Final Agreement Section 13(13) provides the authority/requirement for environmental security but specifically excludes government from this requirement

As is the case for provincial and federal highways across Canada, the GNWT is not liable for accidents incurred by public users; the GNWT therefore does not agree a security is required. Under legislation the carrier causing a fuel spill is liable for cleanup costs rather than the GNWT.

Under the NWT Nunavut Spills Agreement federal and territorial departments are responsible for ensuring carriers report and cleanup spills. In addition, federal departments have specific legislation to recover damages or fine polluters under the Fisheries Act.

Husky Lakes

R50: The Inuvialuit Land Administration shall work with the Developer, HTC's, FJMC and WMAC (NWT) to ensure proper signage and guidelines are established to monitor access to the Husky Lakes area.

GNWT Response

This recommendation is directed to the Inuvialuit Land Administration. The GNWT will participate in discussions as requested by the ILA.

Land Use and Management Category E Lands

R51: Developer shall consult with the communities, HTC's and ISR comanagement boards on the development and content of the Project's environmental management plans in relation to Category E lands.

GNWT Response

The GNWT accepts the intent of this recommendation. The GNWT will ensure consideration of Category E lands as it consults on its environmental management plans.