

Game Council

INUVIALUIT GAME COUNCIL

October 28, 2013

National Energy Board

Attn: Katie Johnson

444 - 7th Ave SW

Calgary, AB T2P 0X8

Email: finrespguidelines@neb-one.gc.ca

Re: Comments on Draft Financial Viability and Financial Responsibility Guidelines

Dear Ms. Johnson,

The Inuvialuit Game Council (IGC) has reviewed the National Energy Board's (NEB) *Draft Financial Viability and Financial Responsibility Guidelines* ("the guidelines") and offers the following comments.

Overall, the draft guidelines were thought to be generally reasonable. By establishing some level of financial commitment in order to carry out work – particularly in the offshore – it could effectively prevent smaller companies from receiving authorizations when they might not have the financial resources to cover the expense of dealing with an incident where there is a loss of control. There were, however, a few areas of concern that warrant further comment.

There were some concerns among the IGC stemming from quotes in the media of comments made by NEB Chair, Gaétan Caron, during the Prospects North conference in Yellowknife that companies could appeal the decisions made by the NEB on security deposits and possibly get a lower amount set. By agreeing to lower a security deposit the NEB could potentially hamper its ability to immediately deal with a major incident. Regardless of how much is requested for a security deposit, proponents are likely to complain it is too high while others believe it will be too low. The NEB needs to make considered decisions that account for the expected impacts of a worst case scenario, as outlined in the guidelines. The IGC would like assurance that when a decision is made on a security deposit, it will not be re-negotiated at a later date to lower the amount available to deal with major incidents and any potential compensation claims that may arise as a result.

As alluded to in the guidelines, the Inuvialuit Final Agreement (IFA), in Section 13(11)(c), also has a provision for determining financial liability of developers in the Inuvialuit Settlement Region (ISR) for development activities. This potential liability is determined during the course of an environmental impact review – pursuant to the IFA processes – and is based on a worst case scenario.

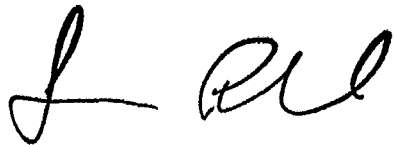
Furthermore, in Section 13(15) of the IFA it states:

“Where it is established that actual wildlife harvest loss or future harvest loss was caused by development, the liability of the developer shall be absolute and he shall be liable without proof of fault or negligence for compensation to the Inuvialuit and for the cost of mitigative and remedial measures....”

These wildlife impact assessment provisions in Section 13 of the IFA give the IGC a level of comfort, in addition to the NEB’s draft guidelines, that the interests of Inuvialuit to ensure safe and responsible development, and the protection of Inuvialuit harvesting are covered.

Thank you for your consideration of our comments.

Sincerely,

A handwritten signature in black ink, appearing to read 'F. Pokiak', written in a cursive style.

Frank Pokiak
Chair