



Canada Energy  
Regulator

Régie de l'énergie  
du Canada

Suite 210  
517 Tenth Avenue SW  
Calgary, Alberta  
T2R 0A8

517, Dixième Avenue S.-O.  
bureau 210  
Calgary (Alberta)  
T2R 0A8

File OF-EP-OA-I184-1414 01  
8 August 2023

Travis Balaski  
President  
Inuvialuit Energy Security Project Ltd.  
Suite 1100, 110 – 9<sup>th</sup> Avenue SW  
Calgary, AB T2P 0T1  
Email [tbalaski@inuvaluit.com](mailto:tbalaski@inuvaluit.com)

Shawn Petrie  
Manager of Legal Services  
Inuvialuit Corporate Group  
Suite 1100, 110 – 9<sup>th</sup> Avenue SW  
Calgary, AB T2P 0T1  
Email [spetrie@inuvaluit.com](mailto:spetrie@inuvaluit.com)

Dear Travis Balaski and Shawn Petrie:

**Inuvialuit Energy Security Project Ltd. (IESPL)  
Inuvialuit Energy Security Project – Application for Authorization for Early Site  
Works, pursuant to paragraph 10(1)(b) of the Northwest Territories' *Oil and Gas  
Operations Act* – Hearing Order MH-002-2022  
Early Site Works Authorization Approval: OA-1414-001  
Reasons for decision**

**Before: M. Watton, Presiding Commissioner; K. Penney, Commissioner;  
W. Jackknife, Commissioner**

On [24 June 2022](#), Inuvialuit Energy Security Project Ltd. (IESPL) filed with the Canada Energy Regulator (CER) an application for an authorization for early site works (ESW Application) for the Inuvialuit Energy Security Project (IESP), pursuant to paragraph 10(1)(b) of the Northwest Territories' *Oil and Gas Operations Act*<sup>1</sup>(OGOA).

## **1. Commission's Decision**

By [Letter Decision](#) dated 28 June 2023, the Commission of the CER approved IESPL's ESW Application, subject to certain conditions with reasons to follow. These are the Commission's reasons for decision.

In reaching its decision, the Commission considered IESPL's ESW Application and all submissions relevant to early site works filed on the [MH-002-2022](#) hearing record, including letters of support for the IESP from potentially affected Indigenous Peoples and organizations; relevant submissions from the technical conference held on 24 May 2023; and the submissions made by the CER Crown Consultation Coordinator (CCC).

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<sup>1</sup> SNWT 2014, c 14

## 2. Background

The IESP is located on Inuvialuit private lands, approximately 16 kilometres (**km**) south of Tuktoyaktuk and 4 km west of the Inuvik-to-Tuktoyaktuk highway in the Northwest Territories, within the Inuvialuit Settlement Region. The Inuvialuit own and administer the surface and subsurface interests in these Inuvialuit private lands pursuant to the *Inuvialuit Final Agreement*.<sup>2</sup>

IESPL intends for the IESP to replace the Town of Inuvik's gas supply from the nearby Ikhil field and the supplies of liquid natural gas and propane that are trucked from southern Canada. The IESP consists of:

- developing the suspended TUK M-18 gas well to support the IESP;
- installation and operation of a prefabricated modular gas processing facility (the **Energy Centre**) to produce compressed natural gas (**CNG**), propane and synthetic diesel;
- construction of an all-season road to access the facility from the Inuvik-to-Tuktoyaktuk highway;
- construction of gravel pads for the wellsite and the Energy Centre;
- installation of storage tanks for the propane and synthetic diesel; and
- trucking of the CNG, propane and synthetic diesel to commercial and residential consumers from the communities of Inuvik and Tuktoyaktuk.

Pursuant to the *Inuvialuit Final Agreement*, the Environmental Impact Screening Committee (**EISC**) reviewed the development plan for the IESP and determined that the development may proceed without an environmental impact assessment and review on the basis that it will have no significant negative impact on the environment, if authorized subject to environmental terms and conditions recommended by the EISC.

The Commission approved a development plan for the IESP on 8 March 2022, which was submitted by the Inuvialuit Petroleum Corporation (**IPC**). On 25 March 2022, IESPL filed a [letter](#) with the CER explaining that IPC had created IESPL as a subsidiary corporation to become the proponent for the IESP. IESPL subsequently applied for amendments to the development plan, which the Commission approved on [22 June 2023](#).

IESPL stated that the EISC had been updated through the process and is aware of the amendments to the development plan. The EISC did not request any additional information, alter any terms or conditions it previously recommended, or otherwise indicate that it had any concerns with the proposed amendment.

On 30 November 2021, the Government of the Northwest Territories' Minister of Industry, Tourism and Investment confirmed that she waived the requirement for approval of a benefits plan for the IESP, in accordance with subsection 17(2) of the OGOA<sup>3</sup>. As a result, a benefits plan is not required before the Commission may issue an authorization for early site works for the IESP.

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<sup>2</sup> The *Inuvialuit Final Agreement* is a land claim agreement between the Inuvialuit and the Government of Canada, signed 5 June 1984. The *Inuvialuit Final Agreement* was approved, given effect, and declared valid by the *Western Arctic (Inuvialuit) Claims Settlement Act*, SC 1984, c 24, which came into force on 25 July 1984.

<sup>3</sup> OGOA, subsection 17(2): "No approval of a development plan may be granted under subsection 14(1) and no authorization of any work or activity may be issued under paragraph 10(1)(b) until the Minister has approved, or waived the requirement for approval of, a benefits plan in respect of the work or activity."

In the ESW Application, IESPL requested an authorization to construct the necessary civil foundations for the IESP. The ESW Application includes the following components:

- construction of a 4 km all-weather gravel access road;
- placement of a 33.5 metre (m) (110 feet) long bridge to cross a creek;
- construction of the Energy Centre pad; and
- installation of adfreeze piles for some of the Energy Centre structures or modules.

IESPL has also applied for two other authorizations for the IESP, one for a well workover and the other for the installation and operation of the Energy Centre.

By [Letter Decision](#) dated 28 June 2023, the Commission approved IESPL's Well Workover Application, subject to certain conditions with reasons to follow. The Commission will issue its decision for the installation and operation of the Energy Centre at a later date.

### **3. The Hearing Process**

On 1 September 2022, the Commission issued a Hearing Order (MH-002-2022) for the ESW Application, as well as the related application for an authorization for a well workover. The Notice of Hearing, attached to the Hearing Order, included information regarding the availability of participant funding for Indigenous Peoples and organizations who wished to participate in the public hearing. The Hearing Order also contained information regarding process support, for anyone that required assistance to facilitate their participation.

The Commission directed IESPL to post the Notice of Hearing on its IESP webpage as well as on the Inuvialuit Regional Corporation's Facebook page; publish the Notice of Hearing in a minimum of three newspapers; and distribute the Notice of Hearing to specified persons, including Indigenous Peoples and organizations potentially affected in the project area. The Commission further directed IESPL to make copies of both applications available to the public at its office. The CER also posted the Notice of Hearing on its project webpage for the IESP. The process to register to participate as an intervenor in the hearing was open from 1 September to 30 September 2022. No one registered to participate.

IESPL applied for a third authorization, to install and operate the Energy Centre, on [30 September 2022](#). The Commission added the Energy Centre application to the hearing process for the other two authorization applications (MH-002-2022) to maximize regulatory efficiency. The Commission re-opened the registration to participate process, from 7 October to 25 October 2022, to provide an opportunity for any persons interested in the Energy Centre application to register to participate in the hearing. No one registered to participate.

On 24 March 2023, the Commission held a technical conference to obtain additional information it required on certain amendments IESPL proposed for the IESP development plan. During the technical conference, the Commission also asked for, and IESPL provided, further information about the ESW Application and the Well Workover Application. The Tuktoyaktuk Community Corporation provided oral comments during the technical conference, reiterating their support for the IESP and associated authorizations applications.

### **4. CER Crown Consultation Coordinator's Activities**

On 18 October 2022, the CCC filed a [letter](#) on the hearing record for all three authorization applications. In the letter, the CCC summarized its actions in relation to the original development plan application for the IESP. The CCC stated that it would not be conducting

further engagement or supplemental Crown consultation activities with potentially affected Indigenous Peoples and organizations in relation to the IESP (including the three authorizations applications) based on previous feedback received and evidence filed on the record for the original development plan application. The CCC specifically highlighted that, through its engagement activities, it learned that Indigenous Peoples and organizations were satisfied that their concerns and comments were or will be addressed by the applicant, and that the applicant will continue to work with them. Further, Indigenous Peoples and organizations in the project area had engaged minimally with the CCC, and no specific project-related concerns were raised with the CCC.

As a result, the CCC indicated that the CER would rely entirely on the Commission's regulatory process to meet the Crown's duty to consult. The CCC encouraged interested Indigenous Peoples and organizations to participate in the Commission's hearing process should they have any concerns with any of the authorization applications in relation to the IESP.

The CCC did not file any additional submissions on the hearing record for the ESW Application.

## **5. Assessment of the ESW Application**

### **5.1. Effects of the Early Site Works on the Rights of Indigenous Peoples**

#### *5.1.1. Applicant's Engagement Activities*

IESPL submitted that the Traditional Knowledge Guide for the Inuvialuit Settlement Region encourages developers and traditional knowledge holders to work extensively together prior to an environmental impact assessment to gain the full value of traditional knowledge during project planning. IESPL stated that IPC used this philosophy to improve its environmental assessment for the IESP development plan.

IESPL stated that IPC initiated community engagement in early 2016, during the project design, and continued throughout the development of numerous studies and project plans. Formal community presentations and consultations about the proposed IESP began in early 2020, as soon as most of the feasibility studies were completed and conceptual plans and information on potential impacts were available for discussion. IESPL submitted that at that time, specific meetings with communities and community organizations were initiated and IPC reached out to the co-management bodies established under the *Inuvialuit Final Agreement* to provide information and answer any questions. Engagement activities for the IESP included a range of communication methods and opportunities, including presentations followed by written correspondence, meetings, question and answer, brochures, and telephone calls.

IESPL further submitted that IPC held meetings with government leaders and co-management bodies to problem-solve specific issues and determine the overall level of support for the IESP. Input from local communities, harvesters, and other stakeholders, including traditional knowledge, has been documented and considered, and informed the IESP. The input received also helped to shape mitigation and management plans, and engineering designs.

IESPL noted that engaging early and comprehensively, including with elders, harvesters, youth, local leaders, community members, and co-management bodies, resulted in letters of support for the IESP from the following organizations:

- Aklavik Community Corporation;
- Aklavik Hunters and Trappers Committee;
- Hamlet of Tuktoyaktuk;
- Inuvialuit Game Council;
- Inuvialuit Regional Corporation;
- Inuvik Community Corporation;
- Inuvik Hunters and Trappers Committee;
- Olokhaktomiut Hunters and Trappers Committee;
- Paulatuk Community Corporation;
- Paulatuk Hunters and Trappers Committee;
- Sachs Harbour Community Corporation;
- Sachs Harbour Hunters and Trappers Committee;
- Town of Inuvik;
- Tuktoyaktuk Community Corporation;
- Tuktoyaktuk Hunters and Trappers Committee; and
- Ulukhaktok Community Corporation.

IESPL also submitted that it has received verbal support from numerous organizations, including the Inuvik Native Band and the Gwich'in Tribal Council. The Commission notes that two letters were also filed on the record for the authorization applications demonstrating support for the project, from the [Hamlet of Tuktoyaktuk and Tuktoyaktuk Community Corporation](#), and from the [Tuktoyaktuk Community Corporation](#).

On 18 November 2022 and 5 June 2023, IESPL provided its community engagement and meetings logs to the Commission, which outline engagement activities undertaken for the IESP including details about concerns and/or comments raised, and how IESP responded. The Commission notes that, as documented in IESPL's logs, IESPL responded to each of the comments or concerns raised. Further, no interested persons or organizations have raised outstanding concerns to the Commission regarding the IESP or IESPL's engagement activities.

IESPL submitted that it is committed to continuing to engage with all those potentially impacted throughout the CER regulatory processes, as well as through the planning, construction, commissioning, operation, and decommissioning phases of the IESP.

#### *5.1.2. CER's Consultation with Indigenous Peoples*

Regulatory tribunals, such as the Commission, must perform the duties and exercise the powers assigned to them in their governing legislation, not only in accordance with their legislative mandates, but also in accordance with section 35 of the *Constitution Act, 1982* and other applicable laws.

The framework within which the CER operates (and under which its decisions are made), including the requirement that a project assessment process be conducted in a procedurally fair manner, can provide a practical, effective, and efficient way for Indigenous Peoples to raise concerns and seek resolution from the applicant or the Commission regarding project-related impacts on their rights and interests.

The Commission's hearing process provided several opportunities for impacted Indigenous Peoples and organizations to learn about the IESP and bring forward any comments or project-related concerns to the Commission. The CER offered funding and process support to facilitate Indigenous Peoples' participation in the Commission's hearing process.

Additionally, the CCC did not engage or consult with Indigenous Peoples for the ESW Application. This decision not to conduct further engagement or supplemental Crown consultation activities for the ESW Application was based on feedback received and evidence filed on the hearing record in relation to IESPL's application for a development plan, suggesting that Indigenous Peoples and organizations were satisfied that their concerns in relation to the IESP were, or would be, addressed by IESPL. The CCC advised that the CER would rely entirely on the Commission's hearing process to satisfy the Crown's duty to consult.

### *5.1.3. Assessment of the Effects of the Early Site Works on the Rights of Indigenous Peoples*

IESPL submitted that the Inuvialuit Regional Corporation is mandated under the *Inuvialuit Final Agreement* to represent the rights and interests of the Inuvialuit, and that the Inuvialuit Regional Corporation supports the requested authorizations. IESPL is an Inuvialuit corporation, which is wholly owned by the Inuvialuit Regional Corporation and its subsidiary, the IPC, which was established under the *Inuvialuit Final Agreement*. IESPL submitted that it shares the Inuvialuit Regional Corporation's mandate to act in the interests of the Inuvialuit.

IESPL submitted that the early site works, the well workover, and the installation and operation of the IESP Energy Centre will have a positive effect on the existing rights of Indigenous Peoples with an interest in the project area, and particularly on the Inuvialuit. IESPL highlighted that the IESP is located entirely within Inuvialuit lands and the Inuvialuit Settlement Region, as defined under the *Inuvialuit Final Agreement*.

IESPL submitted that the IESP will support the energy security of the Inuvialuit Settlement Region and directly benefit the Inuvialuit, while also respecting Inuvialuit values related to the land, and principles of sustainable development established under the *Inuvialuit Final Agreement*. IESPL asserted that the availability of a reliable, regional source of energy will reduce the environmental footprint of the current energy infrastructure used to supply the Inuvialuit Settlement Region, and reduce the economic burden associated with providing energy to the region.

Further, IESPL submitted that delaying the authorizations and the project would continue to have a negative effect on the rights and interests of the Inuvialuit, including their ability to preserve the environment on Inuvialuit lands and their ability to be equal and meaningful participants in the northern and national economy and society.

### ***Commission analysis and findings***

#### *Applicant's Engagement Activities*

The Commission finds that IESPL appropriately identified and engaged those potentially impacted by the early site works, including Indigenous Peoples, landowners, communities, organizations, co-management boards, and other stakeholders. The Commission is satisfied with IESPL's approach to engagement and engagement activities, based on the small physical footprint of the IESP, the potential for the IESP to positively affect energy security in the region, IESPL's responses to comments or concerns raised to date, the evidence of community support for the project, and IESPL's commitment to continued engagement throughout the lifecycle of the IESP.

The Commission is also satisfied that sufficient notice was provided of the ESW Application and the Commission's assessment process, and that all those who are potentially impacted by the early site works had sufficient opportunity to participate in the Commission's hearing process.

IESPL's community engagement and meeting logs demonstrate that IESPL has been engaging, and continues to engage, with interested community members and organizations potentially affected by the IESP, and that IESPL has appropriately responded to comments or concerns raised to date. The Commission is satisfied with IESPL's commitment to continue to engage with Indigenous Peoples and organizations to resolve any project-related concerns, including any potential impacts on the rights and interests of Indigenous Peoples associated with the early site works for the IESP.

Throughout its review of the ESW Application, the Commission carefully considered all commitments made by IESPL. The Commission imposes **Condition 11** (Commitment Tracking Table), requiring IESPL to track and fulfil all the commitments it made in the ESW Application and related submissions, including an update on the status of each commitment. This condition also requires IESPL to file with the CER a list of its commitments and post the list on its IESP website, at least 45 days prior to commencing early site works activities and then on a quarterly basis.

#### *CER's Consultation with Indigenous Peoples*

The Commission is satisfied that the engagement and consultation that has taken place has been adequate for the purpose of the Commission's decision on the ESW Application and that its decision is consistent with subsection 35 of the *Constitution Act, 1982*. In reaching this conclusion, the Commission considered its hearing process, which included sufficient opportunities for Indigenous Peoples to obtain information about the IESP and share any information or concerns with the Commission about the potential impacts of the early site works to their rights or interests; as well as opportunities to intervene in the hearing process, obtain participant funding, and access process support.

The Commission notes that no Indigenous Peoples participated in the hearing process as intervenors. As such, the Commission relied on IESPL's submissions about its engagement activities to assess potential impacts of the ESW Application on the rights and interests of Indigenous Peoples. The Commission also considered the evidence of community support for the IESP filed or referenced on the hearing record ([MH-002-2022](#)) for IESPL's three authorization applications (and as further detailed in [MH-002-2021](#), for the approved development plan).

#### *Assessment of the Effects of the Early Site Works on the rights of Indigenous Peoples*

The Commission finds that the early site works are unlikely to adversely affect the rights of Indigenous Peoples because of the small size and scope of the infrastructure to be constructed and the low potential for negative impacts on the environment and socio-economic factors during and after construction, as described in these reasons for decision. In fact, as discussed in greater detail these reasons for decision, the Commission accepts that the proposed IESP is likely to have a positive impact on the rights and interests of Indigenous Peoples and organizations in the region, due to the focus of the project on enhancing energy security and reducing energy costs, as well as reducing the environmental footprint of the current energy infrastructure in the region.



## 5.2. Environment Matters

IESPL submitted an Environmental Protection Plan (**EPP**) comprised of six environmental management plans, including the following: Archaeological Site Management Plan, Wildlife Management and Monitoring Plan (**WMMP**), Permafrost Protection and Management Plan, Fish and Fish Habitat Protection Plan, Waste Management Plan, and Erosion and Sediment Control Management Plan. The Archaeological Site Management Plan is discussed in section 5.3 Socio-economic Matters of these reasons for decision. The remaining five environmental management plans are discussed in more detail below.

IESPL stated that the early site works will occur in the winter months (September – April). The applied for components will include the following activities:

- excavation and transportation of borrow materials to the site from local borrow sources;
- ground preparatory work, such as laying down willows and brush;
- installation of temporary construction trailers;
- construction of a gravel pad for the Energy Centre, including installation of ad-freeze piles;
- construction of a four-km all-weather access road, including the placement of drainage and equalization culverts, from km 128.7 on the Inuvik-Tuktoyaktuk Highway to the wellsite and the Energy Centre pad; and
- installation of a prefabricated bridge on the all-weather access road to cross an unnamed creek 2.2 km from the road entrance.

IESPL stated that construction activities and clean-up activities will be in accordance with the Northern Land Use Guidelines for Access Roads and Trails (Indian and Northern Affairs Canada, 2010).

Section 9 of the Northwest Territories' *Oil and Gas Drilling and Production Regulations*<sup>4</sup> sets out certain specific requirements for an EPP that must accompany any authorization application. IESPL submitted that the EPP contains the required information and provided a concordance table to indicate where in the EPP the information is located.

In each plan within the EPP, IESPL provided an overview of the IESP and a discussion, including potential impacts, mitigation, monitoring, adaptive management, and reporting specific to each plan. Information regarding roles and responsibilities, record keeping, and training are also included. The content of each plan is summarized below in the relevant subsections of the Environment Matters section of these reasons for decision.

IESPL included an adaptive management plan for each of the plans within the EPP. At least annually, or following an environmental incident, IESPL will review monitoring results and mitigation outcomes and allow for discussions of adaptive management actions related to the project. IESPL will use the outcomes of the review to identify where mitigation or reclamation measures are not adequate and to identify additional mitigative, monitoring, or reclamation measures to be applied. In addition, IESPL committed to incorporating continual improvement into each of the plans. Each plan will be reviewed on an annual basis and updated as required based on observations and monitoring results gathered throughout the year. The plans may also be updated due to legislative changes and/or consultation with Indigenous communities and organizations as required.

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<sup>4</sup> R-027-2014.



In the EPP, IESPL refers to a number of procedures that it was still developing at the time the Commission was considering the ESW Application. These procedures include the Ambient Air (Dust) Monitoring Procedure, Noise Monitoring Procedure, Digital Light Intensity Monitoring Procedure, Wildlife Sighting Reporting Procedure, Bear Den Screening Procedure, Ground Temperature Monitoring Procedure, Driver Monitoring Procedure, and Land User Interaction Procedure. IESPL stated that the ground temperature monitoring procedure is already in place and has been used for three years. IESPL further stated that for the construction of the early site works and the well workover, the driver monitoring and land user interaction monitoring procedures will be established through the sole contract and; formal procedures in these areas will be established during the operations phase. IESPL submitted that the remaining procedures would be available in June 2023.

#### 5.2.1. *Wildlife Management and Monitoring Plan*

IESPL engaged with the following five organizations in the development of the WMMP: the Government of the Northwest Territories Environment and Natural Resources, Inuvialuit Game Council, Tuktoyaktuk Hunters and Trappers Committee, Inuvik Hunters and Trappers Committee, and the Wildlife Management Advisory Council of the Northwest Territories. IESPL stated that these organizations will continue to be involved in the annual reviews and continual improvement of the WMMP and therefore have formed the IESP WMMP Review Committee.

IESPL stated that the project area includes habitat for barren-ground caribou, grizzly bears, wolverines, horned grebe, red-necked phalarope, short-eared owl, Harris's sparrow, and rusty blackbird. All of these species, except for the barren-ground caribou are listed as special concern on Schedule 1 of the federal *Species at Risk Act*.<sup>5</sup>

IESPL identified that potential effects of the IESP on wildlife include loss of habitat due to vegetation clearing and gravel fill for the road and Energy Centre pad; risk of injury or mortality due to accidental destruction of bird nests, eggs, or young during operations; localized minor degradation of wildlife habitat due to possible soil erosion; impacts to wildlife habitat due to possible particulate matter (dust) emissions from traffic; wildlife habitat pollution due to fuel and/or chemicals spills; and wildlife disruption or habitat degradation due to fire, explosion, or blowout. Wildlife may experience sensory disturbance due to lighting, noise, traffic, physical barriers, and vibration; or be attracted to the project site due to light, noise, and/or domestic waste. The project may result in direct interactions with wildlife through vehicle collisions; wildlife attempting to nest in equipment; and disturbance of winter dens; and may result in injury or mortality of bears, wolverine, or foxes attracted to the facility; and increased access to the local area for harvesters.

IESPL stated that, during the design of the project, IESPL chose design elements to help minimize the potential effects of the early site works on wildlife, including the routing and design of the access road. IESPL stated that the initial 2.5 km of the access road follows an area that was previously disturbed and allows for long views. The route of the access road also avoids waterbodies and maintains natural drainage where possible. IESPL further stated that the design of the access road will ensure that embankments and drainage culverts are properly located to prevent soil erosion and permafrost degradation, and that the access road will be identified as a private road with a gate and signed for private use only. To minimize dust from traffic, IESPL stated that it will restrict traffic to project vehicles only,

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<sup>5</sup> SC 2002, c 29. The Commission notes that Schedule 1 lists all of the species identified by IESPL as special concern, including Harris's sparrow which was listed in February 2023.

put speed limits in place, and implement dust suppression measures during construction and summer operation activities.

IESPL committed to site-specific mitigation measures for the early site works phase of the IESP with respect to migratory birds and species at risk. These measures include scheduling the early site works activities over two winter seasons to ensure that there is no overlap between the migratory bird windows and early site works activities within the project area. IESPL stated that there are currently no early site works activities planned during the bird nesting and breeding season. IESPL committed that, if it needs to conduct an activity during the breeding season, then it will conduct pre-disturbance surveys no more than four days before the start of the activity to identify any active nests and implement setbacks until the nests are no longer active.

IESPL stated that it will conduct annual surveys to identify critical habitat, nesting or denning locations, and other habitat features (e.g., overwintering habitat) of species at risk within the local study area. Due to the local study area containing areas of higher suitability grizzly bear den habitat, IESPL committed to conducting bear den surveys in the fall (starting in September prior to snowfall) prior to starting IESP activities for both winter construction seasons. For caribou, IESPL committed to having wildlife monitors scout ahead of the equipment to avoid disturbing caribou, and not starting work until caribou are more than 500 m away. IESPL also set out further mitigation measures to follow if caribou approach the site while work is underway.

IESPL committed to immediately clean up any spills and dispose of any impacted snow or gravel according to regulations.

IESPL further stated that it will manage wildlife attractants by containing all food, garbage, grease oils, and/or fuels in bear proof areas or bear proof containers. To minimize sensory disturbance to wildlife, IESPL stated that the noise will be restricted to the immediate vicinity of the work in progress. Equipment will be maintained in good repair with the provision of appropriate mufflers for all internal combustion engines. The lighting will be sufficient to meet the demands of the construction activity with minimal light spillage, reflectivity or spread to areas outside of the requirement zone or to the night sky.

IESPL stated that it will focus wildlife effects monitoring on the project footprint and the local study area. IESPL explained that the mitigation monitoring program will identify, document, and report on proper implementation of mitigation procedures and equipment, the presence of wildlife onsite, risks to wildlife or habitat and human safety, and other wildlife incidents (injury, mortality, wildlife-human interactions) that require a management response. IESPL committed to having a trained wildlife monitor onsite during all project phases. IESPL committed that it will, during the implementation of the IESP's activities, document and report to the appropriate authorities all significant wildlife features (e.g., nests and dens), wildlife sightings, human/wildlife conflicts, and wildlife incidents. In addition, the site will be monitored on an ongoing basis and may include assessment of potential disturbance to nests and dens, and monitoring of nests and dens during the spring for emergence, if required. IESPL will also monitor the sides of the access road annually for invasive vegetation species and, if discovered, control them immediately to eliminate seed production and long-term establishment.

IESPL stated that it will conduct an annual review of its IESP Integrated Management System, including the WMMP, to evaluate the system's continuing suitability, adequacy, and effectiveness. IESPL stated that it and the IESP WMMP Review Committee will review the

results of the monitoring and mitigation outcomes to discuss wildlife-related adaptive management actions related to the project.

IESPL stated that, during early site works construction, the wildlife monitor will complete a daily wildlife sighting form and a weekly report summarizing the information collected during the week. During operations, the wildlife monitor will complete a weekly report. IESPL further stated that contractors are required to submit a report on any findings, non-compliances, and non-conformances, and self-created action plans to the wildlife monitor.

### *5.2.2. Permafrost Protection and Management Plan*

IESPL stated that a geotechnical site investigation conducted in 2020 confirmed permafrost conditions, as well as soils comprising lacustrine, and glacial deposited silts and clays containing excess ice underlying the project area. These soils were found to contain excess ground ice and are considered thaw sensitive. The IESP is in an area of continuous permafrost, with measured ground temperatures of -3.6 to -5.5 °C. The relatively cold ground temperatures reduce the sensitivity to permafrost warming, but the consequence of permafrost thaw is high.

IESPL stated that to some degree, thermal erosion of permafrost following construction on permafrost terrain is inevitable due to the change in thermal regime resulting from construction. The degree of thermal erosion and permafrost thaw can be mitigated by employing appropriate measures during construction. It becomes impractical to restore permafrost once thermal erosion has occurred, and the permafrost will naturally need to establish a new equilibrium.

IESPL stated that the design of the IESP includes measures to protect the permafrost. The access road and gravel pad are designed to insulate the underlying permafrost to keep the subsoil frozen, prevent ponding, and move the frozen layer of soil upwards into the pad or road. To do this, the active layer of soil and organics will be left intact where possible and gravel for the access road, Energy Centre pad, and piles will be placed directly on the tundra without disturbing it. Culverts will be placed throughout the access road to ensure that drainage is not impeded and that thermal degradation from ponding does not occur. Ground temperature cables were installed at four locations within the project area and IESPL committed to install instrumentation at the bridge abutments to record ground temperature at various depths.

IESPL stated that proper surface water drainage is essential for preserving permafrost stability. IESPL proposed general protection measures to ensure proper drainage, including commitments to not excavate drainage ditches in permafrost with excess ground ice, grading the area within four metres of a structure at a four per cent slope to facilitate rapid drainage of surface water away from the structure, and placing additional fill at select locations to promote positive drainage and avoid water ponding under or next to a structure or foundation during spring thaw.

IESPL stated that snowbanks and snow drifts alongside roads and Energy Centre pad and around structures can reduce ventilation and insulate the ground, which can impede the cooling of the active layer and the underlying permafrost in winter. To mitigate this risk, IESPL committed to implementing a snow management/maintenance program to keep snow cleared and stored in a designated location during the winter. IESPL stated that if it is not practical to remove the snow drifts, a snow study will be undertaken to determine if other snow management mitigation measures can be implemented.

IESPL stated that it will inspect and monitor the performance of the access road, culverts, and the bridge during construction and operation. Inspections and monitoring will include observations of damage to vegetation, alteration of drainage patterns, or other disturbances during construction that could alter the thermal balance and result in permafrost degradation and unintended consequences for the access road and Energy Centre pad. IESPL will monitor the bridge crossing to ensure that there is no significant degradation of the underlying permafrost crossing structures and will visually inspect the bridge abutments on an ongoing basis. In addition, IESPL will monitor ground temperature throughout the project lifecycle, including at the bridge abutments and other locations where ground temperature cables were installed in and adjacent to the access road and the Energy Centre pad. Monitoring of the Energy Centre pad and foundations will include documenting observations of settlement and distress of the pad embankment, progression of cracks and deformations in the foundation structure, ground surface deformation, and climatic and ground temperature data.

IESPL stated that it will use adaptive management, through a permafrost response framework, to respond to conditions potentially resulting in degradation of permafrost. The permafrost response framework identifies low, moderate, and high action level responses to specific kinds of observations, such as tension cracks on the access road and ponding of water around buildings.

IESPL stated that regular permafrost observation and monitoring reports will be prepared during construction, and an annual report of all permafrost monitoring activities will be prepared for the construction period. Reports will include the results of monitoring activities, any identified issues, and corrective actions required.

### *5.2.3. Fish and Fish Habitat Protection Plan*

IESPL committed to conducting all civil work that is near water during the winter months to avoid impacts to fish and fish habitat. IESPL stated that it does not intend to conduct in-stream work at any phase of the IESP and it expects that the watercourses within the project area will freeze to the bed during the winter. IESPL identified potential effects of the IESP to include disturbances or harm to fish and fish habitat through water quality degradation, release of deleterious substances, sediment release during bridge construction, hydrology changes, removal of riparian vegetation, increased dust particulate in the watercourse and on riparian vegetation, and changes in structure and cover for terrestrial and aquatic habitats.

IESPL listed a number of actions that it will take to address concerns raised by the Fisheries Joint Management Committee. Some of these actions include collaborating with the Imaryuk Monitoring Program to communicate to Inuvialuit and members of the public that the IESP access road cannot be used to access fishing locations; and collaborating and facilitating the coordination of monitoring activities with the Imaryuk Monitoring Program, Fisheries Joint Management Committee, Inuvik Hunters and Trappers Committee, Tuktoyaktuk Hunters and Trappers Committee, and, where relevant, the Community Based Monitoring Program. IESPL also committed to not disturbing the stream channel and bed of the unnamed tributary to Gunghi Creek during bridge construction and operations, and to conduct daily monitoring of drainage channels and culverts during the spring freshet/melt to limit soil erosion.

In addition, IESPL listed a number of mitigation measures that it will implement to avoid harm to fish and fish habitat. These measures include scheduling work in the winter and outside of sensitive timing windows, no fuelling or maintenance of machinery within 100 m of a watercourse, clearly marking the active work area, constructing a bridge over the unnamed

tributary to Gunghi Creek and limiting use of the access road to the project only. IESPL also listed best management practices that it will follow for work near water to minimize harmful disruption or destruction of fish habitat, in relation to erosion and sediment control, riparian vegetation, disturbance or harm to fish, use and refuelling of machinery onsite, spill management, water quality, dewatering, culvert installation and maintenance, dust suppression, and the use of concrete during bridge construction.

IESPL stated that it received a letter of advice from Fisheries and Oceans Canada on 30 October 2020 indicating that the IESP will not require an authorization under the federal *Fisheries Act*<sup>6</sup> or *Species at Risk Act*, provided that certain measures are incorporated into the IESP. IESPL confirmed that it has incorporated these measures into the Fish and Fish Habitat Protection Plan (**FFHPP**). IESPL also committed to having an environmental monitor on site prior to the start of construction, operations, and decommissioning works to ensure that all project personnel are aware of the environmental sensitivities and the requirements of the FFHPP, as well as to ensure that these requirements are effectively implemented.

IESPL committed to specific monitoring activities to aid in the proper implementation of the mitigation measures and best management practices identified in the FFHPP. One of these commitments is ensuring that an environmental monitor is onsite during construction of the bridge over the unnamed tributary to Gunghi Creek to identify any signs of erosion or sediment release. The environmental monitor will also be onsite during any concrete works to watch for uncured concrete spills or releases into the watercourse. IESPL will take appropriate spill response actions in the event of a release. IESPL will also monitor water quality annually as part of the long-term surface water sampling procedure and will compare the results with the baseline water quality samples taken in the IESP 2021 Baseline Environmental Report completed by Kiggiak-EBA. For the duration of the project, IESPL will conduct visual monitoring of the watercourse weekly during the annual freshet, and immediately mitigate any sediment plumes observed due to construction-related activities.

During operation of the IESP, IESPL will conduct routine bridge monitoring to ensure that no impacts to fish and fish passage have developed. Bridge monitoring will occur during snowfall and icing events during all seasons to ensure the safety of crews as well as to inspect the conditions of the bridge. An ambient dust monitoring program will be in place during summer months to provide timely information on the effectiveness of dust management along the access road.

IESPL will install culverts along the access road during the winter to minimize any impacts to fish. IESPL committed to having an environmental monitor present during all instream works, including the installation of the culverts, to ensure that they are installed under dry, isolated conditions. IESPL will monitor the culverts daily during spring freshet/melt to identify potential soil erosion and sedimentation of nearby aquatic habitat. IESPL committed to routinely monitor all culverts for debris buildup and to maintain them according to Fisheries and Oceans Canada's interim Code of Practice for Culvert Maintenance (2020).

IESPL stated that it will prepare and retain weekly environmental monitoring reports. These weekly reports will include a description, photos, and the status of construction by area, including within environmentally sensitive areas; environmental meetings and key issues discussed; key communications with environmental authorities; and any outstanding environmental issues and/or non-compliances and the required corrective actions.

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<sup>6</sup> RSC, 1985, c F-14.

IESPL concluded that if the mitigation measures outlined in the FFHPP are implemented, then it does not anticipate any residual harmful effects to fish and fish habitat as a result of the IESP.

#### 5.2.4. Waste Management Plan

IESPL stated that the early site works phase of the IESP will not generate significant waste. The waste streams include domestic waste, non-hazardous industrial waste, and natural organic material. The Waste Management Plan incorporates the basic principles of the waste hierarchy, which are source reduction, reuse, recycle or recover, treatment, and disposal.

IESPL stated that domestic waste includes food scraps, paper, and bottles, and may also include fabric; empty glass, metal, or plastic containers; plastics; or other non-hazardous wastes. IESPL will gather these wastes daily and store them in an airtight bear-proof container before transporting them to the landfill in Tuktoyaktuk for disposal at least once per week.

Plastic and aluminum beverage containers will be stored securely until donated to a charity or transported to a recycling depot in Tuktoyaktuk or Inuvik. Raw sewage and domestic wastewater will be collected into heated and insulated holding tanks. A vacuum truck will transport sewage off-site to the Tuktoyaktuk sewage lagoon on a weekly basis. However, the heated and insulated storage tanks will have capacity to hold two weeks of effluent to allow for contingency in the event severe weather hampers the travel of mobile equipment. The Hamlet of Tuktoyaktuk has confirmed its approval for the disposal of domestic waste and raw sewage. IESPL stated that there will never be a landfill on-site.

Industrial waste, such as oily rags, absorbent materials from spill pans, waste clothes and personal protective equipment, will be packaged and stored onsite in sealed containers or a hazardous materials drum until transported daily to an approved disposal facility. IESPL anticipates very small volumes of hazardous waste during the project. All hazardous waste generated at the project will be classified, collected in appropriately labeled containers, segregated into compatible groups, securely stored, transported, and disposed of, in an appropriate and approved manner. IESPL will obtain a waste generator number under the *Transportation of Dangerous Goods Act*.<sup>7</sup> IESPL stated that on-site storage of hazardous waste will be short-term (i.e., less than 180 days) and within the allowable limits. IESPL will dispose of hazardous waste generated during the IESP in British Columbia or Alberta at an approved and licensed hazardous waste disposal facility.

IESPL stated that it may need to remove the tundra organic layer to prepare the site and that it will store this material and reuse it for reclamation purposes. IESPL stated that there may also be some woody debris waste, and that it will not dispose of peat, brush, or shrub cuttings in or near water bodies. In some cases, IESPL may salvage brush and use it to control erosion at the site (e.g., stacked brush on the downhill side of a slope can slow and trap sediment). IESPL will collect, mulch, and truck away extra brush for use off-site or will dispose of it in a landfill. IESPL will not dispose of brush by burning it onsite.

IESPL committed to tracking and keeping detailed information about waste, such as dates and quantities of waste in storage, being transported, treated, and disposed of. IESPL will track all waste from cradle to grave and keep records for a period of at least five years. IESPL will keep an accurate record of all hazardous waste materials generated on-site and all materials transported off site. A waste manifest form will be completed and accompany

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<sup>7</sup> SC 1992, c 43, or RSNWT 1988, c 81 (supp), as applicable.

the shipment of hazardous waste in accordance with the Government of the Northwest Territories' Guideline for Hazardous Waste Management and other provincial hazardous waste regulations.

As an adaptive management measure, IESPL committed to reviewing incidents related to waste management and/or changing site conditions to identify any lessons learned. IESPL will apply new measures in order to improve its environmental performance related to waste management.

#### *5.2.5. Erosion and Sediment Control Management Plan*

IESPL identified the potential effects of early site works to include erosion and the release of sediment into watercourses and waterbodies. Erosion can lead to permafrost degradation, ground instability, and unsafe conditions. Potential causes or sources of erosion and sedimentation include the disturbance of vegetation and the removal of roots along watercourse banks, soil stockpiles, access road construction, installation of culverts, culvert blockages and ditch overflow, bridge construction and bridge deck maintenance, the use of machinery in or near water, and the use of dust suppressants on the access road.

IESPL provided a list of its project commitments, mitigation measures, and best management practices to prevent or minimize erosion and sedimentation, as well as to prevent ponding of surface water around the IESP site, to minimize effects on fish and fish habitat and permafrost. These commitments include completing early site works construction in the winter months, using a single span bridge over the entire bank width of the watercourse, laying down or cutting shrubs instead of blading, not placing soil or debris piles within 100 m of a watercourse, applying dust suppression measures in the summer months to minimize dust from truck traffic, limiting vehicle speed to 30 km/hour over the bridge, and using erosion and sediment control structures at the bridge site. IESPL also committed to regularly monitoring for erosion and sedimentation at the road, drainage culverts, gravel pad, and remediated sump cap, and monitoring for ponding due to plugged or obstructed culverts.

Additional mitigation measures and best management practices IESPL plans to implement for the IESP include minimizing exposed soils, minimizing work in wet soil or wet weather conditions, preserving and using existing drainage patterns and systems, maintaining site grading and drainage to facilitate drainage of surface water away from infrastructure, stabilizing soil stockpiles with seeding or a tarp cover to limit wind and water erosion, providing clear signage at sensitive zones (e.g., watercourses), reducing slope erosion using slope protection (e.g., vegetative cover, matting, riprap) or slope texturing (i.e., roughening the surface soils through contouring to promote water infiltration, trap seeds and reduce water velocity and rill development), and installing silt fencing to intercept runoff, reduce velocity and allow water to temporarily pond and settle out sediments. IESPL stated that at approximately km 2+460 to 2+600, the access road route has a steep grade of up to 15 per cent, which will need to be filled to achieve an acceptable 6 per cent grade for trucks. Energy dissipation berms, riprap, and diversion berms are necessary as erosion protection in this area.

IESPL committed to regularly monitor the work areas during construction and operation to evaluate the effectiveness of the erosion and sediment control measures in place and to identify any areas where the erosion and sediment control measures are failing, damaged, or degrading; and identify any scouring at the culvert installations. IESPL stated that any minor deficiencies with the erosion and sediment control measures should be corrected within 24 hours from when the problem was first identified. Major deficiencies must be corrected immediately, which can require halting construction activities in the specific area until the



concerned areas have been satisfactorily protected. During construction, IESPL committed to inspecting the erosion and sediment control measures at least once every seven days and after significant rain or snowmelt events. During operation, IESPL will inspect the erosion and sediment control measures once per week prior to spring freshet. Prior to spring freshet and winter freeze up, the inspections should verify that the erosion and sediment control measures are properly installed and that the drainage culverts are not blocked with debris. The routine inspections should be completed again after spring freshet to ensure that erosion and sediment control measures withstood the seasonal flows, which are typically the highest of the year.

IESPL committed to having an ambient dust monitoring program in place during the summer months to provide timely feedback to reduce dust levels along the access road. The monitoring plan may include regular monitoring of dust levels using ambient air monitoring equipment and includes trucking in clean water for water-controlled dust suppression or using approved dust suppressants on the access road throughout the life of the IESP.

IESPL stated that it will prepare weekly erosion and sediment control summary reports that identify any minor or major deficiencies in the erosion and sediment control measures, and include photos, issues, incidents, non-conformances and non-compliances, corrective actions taken, any anticipated issues from observed concerns, and ongoing issues that have not been addressed.

IESPL concluded that the potential effects from the type of work being carried out at the site are well understood and the environmental effects can be mitigated using proven techniques from road and site development in the area. As a result, IESPL expects that residual effects will be minimal. This expectation will be confirmed through construction and operations monitoring, as well as adaptive management should impacts be observed.

### ***Commission analysis and findings***

The Commission finds that IESPL has, in the EPP and in responses to information requests, identified and committed to implementing appropriate mitigation and avoidance measures to protect the environment during early site works. The Commission finds that, with the implementation of IESPL's mitigation measures and commitments, as well as the Commission's imposed conditions, the environment will be adequately protected during construction and operation of the early site works.

The Commission notes that no parties potentially impacted by the IESP identified any environmental concerns with the IESP. The Commission also notes that IESPL incorporated a number of avoidance and mitigation measures into both the design and the construction schedule for the IESP. Further, the EPP contains both general and site-specific mitigation measures, as well as best management practices, to be implemented during construction and operation of the early site works.

At the time that the Commission was considering the ESW Application, IESPL indicated that a number of procedures were not yet available. The Commission released a potential draft condition for comment that requires IESPL to submit these procedures at least 90 days prior to commencing early site works construction (draft Condition 7 – Environmental Procedures). IESPL requested that the Commission amend this draft condition to exclude the Ambient Air Monitoring Procedure, Noise Monitoring Procedure, and Digital Light Intensity Monitoring Procedure. IESPL stated that early site works construction will occur in the winter months with day shift operations only. Dust, noise, and light will not be a concern based on the planned work schedule for early site works and, as a result, monitoring these aspects is

unnecessary for the early site works activities and will add cost and effort with no meaningful benefit. The Commission clarifies that draft Condition 7 did not include a requirement that the monitoring is conducted for the early site works phase; rather, IESPL must only file the monitoring procedures. The Commission notes that IESPL has stated that the air monitoring procedure, noise monitoring procedure, digital light Intensity monitoring, procedure wildlife sighting reporting procedure, bear den screening procedure, and ground temperature monitoring procedure were either available or will be available in June 2023. Based on IESPL's confirmation that it would complete all outstanding procedures by June 2023, the Commission imposes **Condition 9** (Environmental Procedures) requiring IESPL to file the noted procedures, including the procedures for air, noise, and light monitoring, at least 45 days prior to commencing early site works activities. Where formal procedures are not being developed at this stage of the project (i.e., driver monitoring and land user interaction monitoring procedures), IESPL is to provide key elements of those informal procedures since they are being undertaken through contracts.

The Commission is of the view that a robust post-construction monitoring program is a fundamental tool to verify that potential adverse effects have been effectively mitigated. To be satisfied that post-construction environmental monitoring is thorough and effective, the Commission imposes **Condition 18** (Post-Construction Environmental Monitoring Report), which sets out the requirements for IESPL's post-construction environmental monitoring program for the IESP.

The Commission notes that in response to the draft conditions it issued for comment on 3 March 2023, IESPL requested that this condition be amended to allow IESPL to combine reporting of the requested information for early site works with reporting for the well workover and the Energy Centre, where efficient and appropriate. The Commission is of the view that the timing outlined in the condition is important in order to identify early any environmental issues that are not advancing as expected after completion of construction of each phase, including early site works. The Commission has decided not to adjust the timing of the condition as requested; however, the Commission is not opposed to IESPL filing information for the different phases of the project (e.g. well workover, early site works) in the same filing if the timing aligns.

### **5.3. Socio-Economic Matters**

In the ESW Application, IESPL described the potential impacts of the early site works on socio-economic valued components, as well as a number of proposed mitigation measures. These socio-economic valued components include heritage resources, traditional land and resource use, social and cultural well-being, water quality and quantity, infrastructure and services, human health and aesthetics, human occupancy and resource use, acoustic environment, and public safety.

IESPL submitted that there are no significant social or environmental impacts anticipated from the IESP. IESPL submitted that, in fact, there are several significant positive economic and social benefits expected from the project, including energy security; a reduction in local energy costs; extensive training; school visits; capacity building of local community services, such as the fire department and ambulance services; long-term employment opportunities; gender equal opportunities; and local business opportunities.

As noted in the Background section above, pursuant to the *Inuvialuit Final Agreement*, the Environmental Impact Screening Committee (**EISC**) reviewed IPC's proposal for the IESP and determined that the development may proceed without an environmental impact assessment and review on the basis that it will have no significant negative impact on the

environment, if authorized subject to environmental terms and conditions recommended by the EISC.

### *5.3.1. Heritage Resources*

IESPL advised that qualified archeologists licensed by the Prince of Wales Northern Heritage Centre investigated historical land use within the regional area of the IESP (i.e., within a 10 km radius of the Energy Centre). In 2021, all areas of archeological potential were investigated through field assessment and no surface or subsurface cultural material or features warranting protection were found. IESPL confirmed that it has met all requirements and received all necessary clearances and permits relating to archaeology and heritage resources for the IESP.

IESPL indicated that it will follow, throughout the life of the IESP, the Archaeological Site Management Plan and the procedure for chance discoveries of heritage resources included in the EPP submitted with the ESW Application.

### *5.3.2. Traditional Land and Resource Use*

IESPL submitted that there are no traditional land users within the project area, with the closest cabin to the project being 7.62 km to the east, on the other side of the Inuvik-to-Tuktoyaktuk highway. IESPL reviewed traditional land use information from a number of existing studies, including the Summary of Existing Traditional Knowledge for the Inuvik to Tuktoyaktuk Highway Study Area, and has had multiple discussions and meetings with the Inuvialuit Game Council, Tuktoyaktuk Hunters and Trappers Committee, and the Inuvik Hunters and Trappers Committee since 2018.

### *5.3.3. Health, social and economic effects*

IESPL stated that, as part of the application to the EISC, an assessment was conducted on the health, social, and economic effects of the project. The assessment concluded that once mitigation measures were applied, residual effects from the IESP are predicted to be positive regarding energy security, local business and employment opportunities, local infrastructure, training and capacity building, reduction in local diesel fuel and gas costs, and health (sump remediation). IESPL stated that there are no significant negative effects predicted for the project. IESPL advised that the EISC agreed with the IESPL impact assessment, that the project would have no significant negative impacts.

IESPL submitted that the IESP is an important foundation to the economic development of the Inuvialuit region and is critical to a secure and affordable energy supply for local communities. With local gas reserves anticipated to last more than 50 years, the IESP represents the most reliable and viable replacement for the dwindling Ikhil gas well. The IESP would also provide a more affordable supply of natural gas, propane, and synthetic diesel to the residents of Tuktoyaktuk, which would improve access to energy and improve quality of life overall. In addition, the IESP will also displace natural gas and propane that are currently trucked in from southern Canada, reducing the costs that local residents and businesses must pay for energy. The IESP will be located entirely on Inuvialuit Private Lands and aligns with core objectives of various relevant governance and policy documents for the economic and energy development for the Inuvialuit Private Lands and the broader region.

## ***Commission analysis and findings***

The Commission finds that the early site works for the IESP will have no or negligible negative effects on socio-economic matters and, in fact, will likely result in overall positive social and economic impacts. In reaching this conclusion, the Commission considered the small size and scope of the early site works and their location on Inuvialuit private lands, and the low potential for impacts on socio-economic valued components, as well as IESPL's proposed mitigation measures to address any potential negative residual effects of the early site works.

The Commission also considered EISC's conclusions on the project and the letters of support from potentially affected Indigenous Peoples and organizations filed or referenced on the record, outlining the necessity of the project for their communities.

The Commission notes that there is no evidence of traditional land use in the project area; and that it received no submissions from those potentially impacted by the IESP, identifying socio-economic concerns with the proposed early site works.

The Commission acknowledges IESPL's submission that it has obtained all clearances and permits relating to archaeology and heritage resources for the IESP, and is satisfied with IESPL's commitment to follow its Archaeological Site Management Plan and related procedures in the event of a chance find or discovery.

The Commission is also satisfied with IESPL's submission that it has addressed all concerns raised to date to the satisfaction of interested parties, and with its commitment to continued engagement throughout the CER regulatory processes and the lifecycle of the IESP.

### **5.4. Financial Matters**

IESPL stated that it is capable of and committed to meeting its financial obligations in respect of the project, as required under the OGOA, including any unforeseen events that may arise from its operations. IESPL further submitted that it is a member of the Inuvialuit Corporate Group of Companies. The Inuvialuit Corporate Group manages over \$1 billion worth of assets, is fully insured for its operations, and has a long-standing working relationship with both the federal and territorial governments.

IESPL submitted evidence of insurance that it holds, including a certificate of insurance, that details the liability limits for three separate policies held (namely Commercial General Liability; Umbrella Liability; and Contractors Environmental Liability). In terms of the availability of readily accessible funds, IESPL stated that IPC can provide funds as required by IESPL on short notice, and that most of IPC's marketable securities can be converted to cash within 48 hours.

To assess its potential financial responsibility, IESPL submitted its analysis and quantification of the risks with the greatest potential to cause loss or damage associated with the ESW Application and the authorization application for the well workover. IESPL stated that the largest financial risk it identified for the well workover application was a transport-related spill into a flowing water course in the amount of 1.3 million dollars. IESPL submitted that the largest financial risk associated with the early site works would also involve an environmental spill, and the assumptions and the analysis underpinning the worst-case scenario of 1.3 million dollars would be accurate for all phases of the project. IESPL is proposing the same amount of financial security in the form of a parental guarantee from IPC

in the amount of 1.3 million dollars for both the ESW Application and the authorization application for the well workover.

IESPL submitted financial statements for IPC for 2021 in support of the parental guarantee and stated that the 2022 financial statements for IPC would be available at the end of April 2023.

### ***Commission analysis and findings***

The Commission is satisfied that IESPL has submitted sufficient evidence to support, and therefore approves, the use of a parental guarantee from IPC as proof of financial responsibility for the ESW Application. In accepting a parental guarantee as proof of financial responsibility, the Commission considered evidence of IESPL's corporate insurance programs, IPC's financial statements, and IESPL's analysis in respect of readily accessible funds.

The Commission further accepts IESPL's financial risk analysis, which identified 1.3 million dollars as the appropriate amount of financial responsibility to be posted through the parental guarantee. In reaching this conclusion, the Commission considered and accepts as reasonable IESPL's analysis that a transport-related spill into a flowing water course would represent the risk with the greatest potential to cause loss or damage associated with the ESW Application.

To ensure the continued and ongoing financial position of IPC, as the entity to provide the parental guarantee to the IESPL, Commission has imposed two conditions. **Condition 5** (Financial Statements) requires IESPL to file, no later than 10 days after the authorization for early site works is issued, the signed and audited 2022 financial statements and notes for IPC, as well as confirmation that no material financial changes have occurred from the end date of the financial statements. **Condition 7** (Financial Material Changes) requires IESPL to update the CER if there are any material changes in the financial position of the guarantor or its proof of financial responsibility.

During its assessment of the ESW Application, IESPL provided a draft form of parental guarantee for the Commission's consideration. The Commission has also imposed **Condition 6** (Parental Guarantee and Insurance), which requires IESPL to submit a final, signed, executed copy of the parental guarantee **for approval**, at least 45 days before early site works construction.

## **5.5. Engineering Matters**

### ***Access Road***

IESPL stated that the load restrictions on the four-km all-weather IESP access road and bridge will be the same as for the Inuvialuit-to-Tuktoyaktuk Highway. IESPL submitted that the access road will be constructed by grade fill method, using a minimum of 1.4 m of gravel, and that no disturbance to the subgrade will occur.

### ***Prefabricated Bridge***

IESPL submitted that the 33.5-m (110-foot) long, prefabricated timber bridge that will be placed across a creek located at approximately km 2.6 of the access road will meet the requirements of the CSA-S6 Canadian Highway Bridge Design Code and that the bridge loading will handle a CL-800 classification. The design life of the bridge is 75 years. IESPL

anticipates that the timber components of the bridge will need to be replaced one or two times, and potentially more frequently for the top deck planks (running boards) and timber guard rails, depending on the amount of wear. The steel plate girders and steel pile caps will be made of corrosion-resistant steel to improve the long-term performance of the bridge.

### *Energy Centre and Bridge Foundations*

The proposed early site works include the installation of adfreeze piles for some of the IESP Energy Centre structures. IESPL stated that the bridge structure will also be supported on adfreeze piles and provided a conceptual design of the bridge. Adfreeze piles are constructed by installing a steel pile in an oversized hole drilled into permafrost and then backfilling the annulus between the soil and the pile with a slurry composed of soil and water. The slurry freezes and forms an adfreeze bond between the pile and the permafrost. IESPL stated that it has designed a performance monitoring program for the bridge to monitor and assess the stability of the adfreeze piles and whether intervention is needed.

IESPL stated that the design of the Energy Centre facilities including the associated infrastructure pad are ongoing. A monitoring program specific to the Energy Centre including the infrastructure pad will be based on the final design. The monitoring program will include ground temperatures to provide information on the changes in permafrost conditions. IESPL also stated that all critical pieces of Energy Centre equipment will be located on adfreeze piles. IESPL stated that, in addition to adfreeze piles, it considered other types of foundations for equipment, including:

- precast concrete slabs set down on the gravel pad to provide vibration dampening;
- a spatial frame underneath the multi-unit office complex to allow it to level out while maintaining an air gap underneath for any heat flow; and
- placing the structure directly on the gravel pad if thermal transfer is not a concern.

IESPL stated that it considered dynamic loading for structure foundations through a combination of structural steel design and/or lateral bracing within the foundation system.

IESPL stated that the Energy Centre site plan, including the detailed foundation layout plan, is 98 per cent complete.

In the context of the bridge, IESPL stated that it based climate change considerations on CSA PLUS 4011-19. IESPL also stated that the likelihood of permafrost degradation at the bridge location as a result of climate change is high, but the consequences of permafrost degradation is minor if the bridge is constructed on properly designed adfreeze pile foundations. IESPL noted that, in accordance with CSA PLUS 4011-19, this analysis results in a risk level "B," which requires a qualitative analysis and the use of expert judgement in developing a foundation design.

IESPL stated that intervention may be necessary to stabilize piles in the future and that monitoring is a proactive approach that allows for early detection of any potential issues. As such, IESPL proposed a long-term performance monitoring plan for the adfreeze pile foundations and some possible mitigation methods. IESPL has also indicated that Kiggiak-EBA Consulting Ltd. will provide construction quality control services for the early site works scope of work.

## **Commission analysis and findings**

The Commission acknowledges that northern infrastructure is subject to the effects of unique land attributes, harsh environments, and climate change. The Commission is of the view that projects located in permafrost regions must be designed and maintained in a way that reduces the impact of the development on permafrost and recognizes that permafrost can contribute to the stability and capacity of the designed foundation.

The Commission is satisfied that IESPL has demonstrated that it has appropriately considered permafrost conditions and has applied permafrost engineering design considerations and elements to the IESP where needed for the early site works, including through IESPL's consideration of CSA PLUS 4011-19. To obtain updates on how IESPL monitors, documents, reports, and mitigates the permafrost conditions within the IESP area on an annual basis and throughout the life of the project, the Commission imposes **Condition 19** (Permafrost Monitoring and Protection Report).

The Commission acknowledges that IESPL stated that the Energy Centre site plan, including the detailed foundation layout plans for it, are almost complete. IESPL has not yet submitted these documents to the CER. Therefore, the Commission imposes **Condition 14** (Energy Centre Pad and Foundation Design Drawings), requiring IESPL to file the site plan and the detailed foundation layout plans for the Energy Centre at least 60 days prior to commencing construction of the Energy Centre pad and the installation of civil foundation and adfreeze piles for the Energy Centre structures and modules.

The Commission finds that IESPL has developed an acceptable approach to the engineering of the all-season access road, bridge, and foundation system required for future phases of the IESP.

To understand how IESPL will ensure that the early site works are constructed as planned and that any changes required are properly designed and implemented, the Commission imposes **Condition 10** (Quality Assurance / Quality Control Plan), requiring IESPL to file a Quality Assurance/Quality Control Plan at least 45 days prior to commencing early site works construction.

To make sure that any changes that are required to the design and construction of the early site works were properly implemented, the Commission imposes **Condition 15** (Post-Construction Report), requiring IESPL to file a post-construction report within 270 days after completing early site works construction.

## **5.6. Safety and Emergency Response Matters**

### *5.6.1. Safety*

IESPL stated that it has developed a safety management program in alignment with the Northwest Territories' *Oil and Gas Drilling and Production Regulations*, ISO 45001:2018, ANSI/ASSE Z10-2012 (R2017), and the Northwest Territories' *Safety Act* and regulations. The safety management program includes a health, safety, environment, and quality integrated management system; a Health and Safety Plan; and health and safety procedures. In the Health and Safety Plan, IESPL identified a number of processes and procedures that are under development and will be available either six weeks prior to commencement of early site works or six weeks prior to commencement of facility operations.



In the Health and Safety Plan, IESPL identified potential hazards and mitigation measures related to early site works, including risks associated with driving, extreme weather, and working near heavy equipment. In the ESW Application, IESPL also identified wildlife as potential hazards for workers, along with proposed mitigation measures.

IESPL stated that it will act as principal contractor and hire contractors to complete the early site works. IESPL submitted that it is developing a list of preferred vendors and that contractors must meet the IESP contractor management process, which IESPL will complete six weeks prior to commencement of early site works. IESPL submitted that the on-site construction manager's responsibilities included overseeing the contractor's work including stopping unsafe work and ensuring that all incidents are reported and investigated.

### ***Commission analysis and findings***

The Commission finds that the information in IESPL's ESW Application and related submissions, including the Health and Safety Plan, demonstrates that IESPL will sufficiently manage the safety of the early site works. The hazards identified, evaluation of risks, and proposed mitigation measures are logical and appropriate for the proposed work activities.

Because IESPL will rely on contractors to complete the early site works, prudent selection and oversight of contractors provide the most significant opportunities for IESPL to ensure that the work will be executed safely. For this reason, the Commission finds appropriate IESPL's commitment to having an on-site construction manager oversee the work performed by contractors.

To provide confidence and transparency that IESPL will complete the necessary processes and procedures to protect the health and safety of workers before early site works construction begins, the Commission imposes **Condition 8** (Safety and Emergency Management Documents), requiring IESPL to file updated copies of its Contractor Management Procedure, and its Incident Accident Reporting and Management Procedure at least 45 days prior to commencing early site works construction, specifically reflecting early site works.

#### ***5.6.2. Emergency Management***

IESPL stated that the Emergency Management Program is a key component of the Health, Safety, Environment and Quality Management System and that the Emergency Management Program establishes a framework that ensures that appropriate levels of emergency response and support capabilities are in place across all levels of IESPL's business practices.

IESPL indicated that each element of its emergency response plan is based on the outcome of a detailed hazard, risk, vulnerabilities, and capabilities assessment and that this assessment process will be completed at the outset of each major project phase and refreshed as needed at various stages of the IESP lifecycle. IESPL identified hazards and risks related to early site works, along with proposed controls and mitigation measures. IESPL also submitted an Emergency Response Plan specific to early site works. In the Incident Accident Reporting and Management Procedure for the IESP, IESPL committed to reporting and reviewing all incidents, accidents, and non-conformities (i.e., failures to fulfill requirements) for various reasons, including compliance with regulatory reporting requirements and to identify causes and prevent reoccurrences. IESPL's Early Site Works Emergency Response Plan includes a unique hazards matrix that addresses potential emergency scenarios and planned mitigation measures.

## ***Commission analysis and findings***

The Commission finds that IESPL's commitment to adhere to applicable safety standards, combined with the emergency prevention, preparedness, and response practices described in the ESW Application and related submissions, correspond to the CER's emergency management expectations, which include the application of an all-hazard approach, the development of specific emergency response procedures, and links with public authorities.

The Commission notes that the CER aims to prevent any accidents and malfunctions associated with CER-regulated projects. In the event of an accident or malfunction, the CER will hold IESPL accountable for an appropriate response under IESPL's Emergency Management Program.

In assessing IESPL's submissions regarding its preparedness for response to an emergency resulting from the early site works, the Commission considered the requirements of the Northwest Territories' *Oil and Gas Drilling and Production Regulations*,<sup>8</sup> the Northwest Territories Office of the Regulator of Oil and Gas Operations' *Contingency Plan Guidelines and Interpretation Notes*,<sup>9</sup> and common core elements of emergency management programs.

Based on IESPL's submission that each element of its emergency response plan is based on the outcome of a detailed hazard, risk, vulnerabilities, and capabilities assessment, which will be completed at the outset of each major project phase and refreshed as needed at various stages of the IESP lifecycle, and considering that the elements of the Early Site Works Emergency Response Plan and supporting documentation depend on the results of any refreshed assessment, the Commission imposes **Condition 8** (Safety and Emergency Management Documents), which requires IESPL to file a revised Early Site Works Emergency Response Plan and related field operating guides for emergency response at least 45 days prior to commencing the early site works.

The Commission directs IESPL to serve a copy of these reasons for decision on all persons and organizations listed in Appendix II of the Commission's 28 June 2023 Letter Decision for the ESW Application.

For any questions regarding these reasons for decision, please contact Tony Epp, Process Advisor, by email at [IESP.ProcessHelp@cer-rec.gc.ca](mailto:IESP.ProcessHelp@cer-rec.gc.ca) or by telephone at 1-800-899-1265.

Yours sincerely,

*Signed for*

Ramona Sladic  
Secretary of the Commission

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<sup>8</sup> R-027-2014.

<sup>9</sup> Available on the Office of the Regulator of Oil and Gas Operations' website: [orogo.gov.nt.ca](http://orogo.gov.nt.ca).