

IRVING OIL – PROJECT EIDER ROCK New Brunswick

ISSUE

Status of the environmental assessment (EA) of the Eider Rock project proposed by Irving Oil Company Limited (Irving).

SUMMARY / KEY POINTS

- Irving is proposing to construct a refinery complex in Saint John, New Brunswick (NB) which will produce up to 300,000 barrels of petroleum products per day.
- The project is subject to a comprehensive study type EA under the *Canadian Environmental Assessment Act* (the Act), with Fisheries and Oceans Canada (DFO), Transport Canada (TC) and Environment Canada (EC), as responsible authorities (RAs).
- The RAs consulted the public on their proposed scope of project, i.e., the marine components of the development proposal, including a marine terminal, monobouy, breakwater and a barge landing facility. Neither the refinery nor shipping are included in the federal scope of the project. The Honourable Loyola Hearn, Minister of Fisheries and Oceans, submitted a report and recommendation to you on October 12, 2007.
- Environmental non-government organizations, such as the Conservation Council of New Brunswick and the Sierra Club of Canada, are threatening legal action if the RAs do not include the refinery and matters such as transboundary air pollution, greenhouse gases, and effects on Atlantic salmon and the North Atlantic Right Whale, in the scope of their EA.
- The proposal, including the refinery and shipping activities, will be assessed at the highest level of the NB EA process. The RAs have discussed with NB how they can best participate in the provincial process so as to ensure that issues related to the refinery and shipping are fully addressed.
- On a related matter, Premier Graham may call for substitution/delegation of federal EA and decision making to the province, in light of Premier Campbell's recent letter to the Prime Minister on behalf of the Council of the Federation (see attached). Substitution to provincial jurisdictions is not permitted under the Act or supported by federal authorities with decision-making responsibilities. While RAs may delegate the conduct of EA to a province, this would not include the decision-making responsibility.

Date: October 19, 2007

Approved by: Peter Sylvester, Vice-President, Program Delivery-CEAA, 613-948-2665

NEXT STEP

The Canadian Environmental Assessment Agency (the Agency) will provide a memorandum to you shortly in regard to your next decision point in the process, the EA track decision.

BACKGROUND

Irving is proposing to construct and operate an oil refinery complex, which will produce up to 300,000 barrels of petroleum products per day, in Saint John, NB. The development proposal will consist of an oil refinery, fuel storage, pipelines, a rail spur and a marine terminal. The marine terminal will consist of several structures including piers, a breakwater and a barge landing structure. This will be Irving's second oil refinery in Saint John and amongst the largest in Canada.

The development proposal will increase ship traffic in the Bay of Fundy and Saint John Harbour: on average, up to one "ultra-large" crude carrier or "very-large" crude carrier is anticipated to arrive at the marine terminal each week to support the refinery production. Up to one product tanker and one petroleum coke vessel is anticipated to transport products to markets each day, on a 7-day per week basis.

New Brunswick's Minister of Environment issued final guidelines for the provincial EA on June 5, 2007, following a period of public review. Federal departments provided comments which were addressed in the finalized guidelines.

DFO, TC and EC are RAs; Health Canada and Natural Resources Canada can provide specialist advice if requested to do so by RAs.

This project has generated substantial public concern over air quality, greenhouse gases, human health, ship traffic in the Bay of Fundy and navigation safety.

Since Irving announced the development proposal in January, a high level of correspondence has been received by the Agency asking you to refer the development proposal to a review panel and to include all components of the development proposal in the scope of the review.

The RAs prepared a "Comprehensive Study Scoping Document" (Scoping Document), which was made available to the public for review and comment, as per subsection 21(1) of the Act, from May 23 to June 30, 2007.

Consistent with the requirements of subsection 21(2) of the Act, the RAs have submitted a report and recommendations to you on the scope of the project; the factors to be considered, and the scope of those factors; public concerns in relation to the project; the potential of the project to cause adverse environmental effects; and the ability of the comprehensive study to address issues related to the project. The Act now requires you to make a track decision as to whether to continue the comprehensive study, or refer the project to a review panel.

Other proposed refineries in Sarnia, Ontario and Southern Head, NL are also

currently at various stages of federal and provincial EA.

POINTS TO REGISTER

- **The Canadian Environmental Assessment Agency will ensure the federal environmental assessment process is conducted in a timely and efficient manner.**
- **The responsible authorities and New Brunswick will coordinate their respective environmental assessment processes to the extent possible.**
- **I have received the environmental assessment track report from the responsible authorities and I will make a decision on the track report in a timely manner.**

RESPONSIVE POINT (IF THE COUNCIL OF THE FEDERATION QUESTION OF SUBSTITUTION/DELEGATION ARISES)

- **I look forward to the work of our officials under the CCME Action plan to improve the timeliness and coordination of environmental assessments.**

POINTS TO AVOID

- **Any comments or commitments to have the federal environmental assessment process completed by a certain date.**
- **Any speculation on the scope of the federal environmental assessment or your track decision (panel or comprehensive study), or outcomes of the federal or provincial environmental assessment processes.**
- **Speculation on which petroleum refinery projects are economically feasible.**