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February 21, 2008

The Honourable Raymond E. Wyant
Chief Judge
Provincial Court of Manitoba
5th Floor - 408 York Avenue
Winnipeg, MB R3C 0P9

Inquest into the death of Calvin Sean Wood
Department: Manitoba Infrastructure and Transportation
Our File 2005 - OOI Calvin Sean Wood

Dear Chief Judge Wyant:

I am writing to advise you of the results of my office's inquiries concerning the inquest report dated, November 23, 2005 issued by the Honourable Judge Murray W. Howell into the death of Mr. Calvin Sean Wood.

Mr. Wood died on January 23, 2002 on an ice road between Wasagamack and St. Theresa's Point. He was operating a five-ton truck on the ice of Island Lake. He was working on the initial stages of the construction of a portion of the winter road on the lake near his home community of Wasagamack when the truck went through the ice. The cause of death was asphyxiation.

The Chief Medical Examiner called for an inquest pursuant to subsections 19(1) and 19(2) of *The Fatalities Inquiries Act*. The inquest report was released on November 28, 2005.

As you are aware, it is the practice of this office to follow up on inquest recommendations when they relate to a provincial department, agency or municipality. The inquest report contained eleven recommendations about policy and procedures for the construction of winter roads. These recommendations were directed to Manitoba Infrastructure and Transportation, formerly Manitoba Transportation and Government Services. The following are the recommendations and Manitoba Infrastructure and Transportation's response.

RECOMMENDATION ONE:

Formal training of all workers involved in the construction and maintenance of winter ice roads be provided.

THE DEPARTMENT'S RESPONSE:

The Department advised that it has implemented many training programs for their inspectors. In addition, it was required that by 2007/2008 season, all winter road contractors must have a Certificate of Recognition (COR) safety accreditation or third party audited safety accreditation

acceptable to the department. The Department offered and provided training to each of the winter road communities through a Transportation and Government Services Winter Roads Safety and Health Workshop.

The Department advised that COR is certified by the Manitoba Heavy Construction Association and that it is a nationally recognized audit system. The program consists of 14 elements namely:

- I. Company Safety and Health Policy
- II. Hazard Assessment
- III. Safe Work Practices
- IV. Job Procedures
- V. Company Rules
- VI. Personal Protective Equipment
- VII. Preventative Maintenance
- VIII. Training and Communication
- IX. Inspections
- X. Investigations
- XI. Emergency Preparedness
- XII. Statistics and Records
- XIII. Legislation
- XIV. Environment

In addition, the Department advised that new workers require training under the contractors COR safety program and that it is each contractor's responsibility to ensure their workers are properly trained.

RECOMMENDATION TWO:

Contractors involved in the construction and maintenance of winter roads be required to establish a safety program that meets a required designated level.

THE DEPARTMENT'S RESPONSE:

The Department advised that by 2007 all winter road contractors must have a certified safety program in place. The required designated level is a Certificate of Recognition accreditation.

RECOMMENDATION THREE:

A committee be established to review and update the winter road guidelines with a view to making recommendations to the government for mandatory regulations applicable to the construction and maintenance of winter roads. This committee should meet regularly and consider safety issues, construction and maintenance methods, the type of equipment being used and recommendations regarding any new equipment available, including modification to existing equipment. This committee should be given the resources to retain experts to report to it on safety and engineering issues related to winter road construction and maintenance.

THE DEPARTMENT'S RESPONSE:

The Department advised that they had moved forward in establishing a committee made up of internal and external members from many agencies that have experience in constructing, maintaining and using the winter roads. The mandate of this committee is to research, review and develop a Code of Practice for the safe construction and maintenance of winter roads over land, ice

and muskeg. The committee is divided into sub-committees to concentrate on the following areas, namely;

- Construction of Winter Ice Roads over Streams, Rivers and Lakes:
- Construction of Winter Ice Roads over Muskeg:
- Maintenance of Winter Roads:
- Safe Work Practices:
- Ice Testing.

Further, the Department confirmed that the committee has access to resources to fulfill the mandate and that a draft Request for Proposals is currently being developed to hire a consultant to provide additional expertise.

RECOMMENDATION FOUR:

This committee to be established should specifically consider whether the current Gold Formula A factor of seven is adequate and make specific recommendations that would either maintain or reduce it to a greater level of safety.

THE DEPARTMENT'S RESPONSE:

The Department advised that it has moved to meet with winter road consultants who have years of experience in other jurisdictions outside of Manitoba and has decided to increase the Manitoba Gold Formula Safety Factor from 7 to 4. This means that more ice will be required to open the system. In addition, the Department advised that several safety issues have already been addressed including allowable ice thickness, safety certification and regulations from Workplace Safety and Health in regards to floatation suits, communication equipment, training and pilot vehicles.

RECOMMENDATION FIVE:

That all personnel involved in the construction phase of winter roads be required to wear personal floatation devices of a type recommended by the winter road committee.

THE DEPARTMENT'S RESPONSE:

The Department advised that by virtue of Manitoba Workplace Safety and Health Regulation 217/2006, all personnel in the construction phase of winter roads are required to wear floatation devices. We understand that along with the Federal Government, the Province purchased two-piece floatation suits to supply to each contractor at their request. The contractors were made aware of the floatation devices. Also, we are advised that funding was made available to communities that work on ice, to purchase the approved floatation devices for their workers.

Further, the department advised that the prime responsibility falls on the "worker/contractor/employer" for enforcing the requirement to wear floatation devices. However, we are advised that Manitoba Workplace Safety and Health would have responsibility to enforce their regulations. Also, the Department will take action if workers are observed without floatation devices while constructing an ice road.

RECOMMENDATION SIX:

That in the construction of winter roads, all snow removal equipment be accompanied by properly-equipped pilot vehicles during the entire time the snow removal equipment is on the ice during the construction phase.

THE DEPARTMENT'S RESPONSE:

We are advised that this is a policy that the Department has enforced over the past few years and is now a requirement within the specification for constructing and maintaining a winter road.

RECOMMENDATION SEVEN:

That refueling of snow clearing equipment on the ice be prohibited.

THE DEPARTMENT'S RESPONSE:

The Department advised that re-fueling of snow clearing equipment is prohibited on ice roads and that the Province has enforced this over the past few years.

RECOMMENDATION EIGHT:

That snow removal equipment operators or accompanying pilot vehicles be equipped with satellite telephones or equipment of equivalent capabilities.

THE DEPARTMENT'S RESPONSE:

The Department indicated that this policy was implemented in 2005. We are advised that, along with the Federal Government, the Province purchased one satellite phone per contractor/community and that they were made aware of the availability of the satellite phones.

In addition, the Department indicated that by virtue of subsections 9.3(1) and 9.3(2), of Manitoba Workplace Safety and Health Regulation, all snow removal equipment operators and accompanying pilot vehicles are required to have sufficient means of communication as specified by the Regulation.

RECOMMENDATION NINE:

That all equipment used in the construction and maintenance of winter roads have the gross vehicle weight (including fuel and attached equipment) with the amount of clear blue ice required to support such a vehicle and its equipment displayed prominently in the cab or on the outside door of each vehicle.

THE DEPARTMENT'S RESPONSE:

The Department indicated that it has been enforcing this requirement on all contractors' equipment over the past two years and that their compliance officers have been used to assist in weighing the equipment.

RECOMMENDATION TEN:

That official highway traffic signs displaying warnings be prominently displayed at all entry points to winter roads under construction advising of the danger of travel before the official opening of the road.

THE DEPARTMENT'S RESPONSE:

The Department indicated that the Province is working toward better signing along the winter roads. In January of 2006 the Traffic Branch met with the Highway Traffic Board to obtain approval on this issue. Effective January 1, 2006, a Signing Standards for Winter Roads System

(WRS) policy was developed. We are advised that updated signage is being finalized for the 2007/2008 season to provide improved safety information for winter road users.

RECOMMENDATION ELEVEN:

That the contractor's senior foreman or superintendent notify the Department in writing prior to initially commencing snow clearing in the construction of any designated section of a winter road.

THE DEPARTMENT'S RESPONSE:

The Department has ensured that staff is in regular weekly contact with the contractor, all correspondence is journalized, and that the Department is to be notified when construction operations commence.

In addition to the above noted recommendations, the Inquest Judge Howell made the following closing comments:

An important factor to be kept in mind concerning the purpose of the winter roads was pointed out by counsel for the Wasagamack First Nation, and that is their community regards the building of the winter road to be of prime importance for its well-being. It is most important for this community to have the winter road and the current arrangement whereby the community is involved in its construction is of only secondary importance. The main issue for them is to get the winter road built and the community is only interested in the brief employment benefits provided to the community as a result of the road construction if the construction can be performed safely with proper equipment. Having a winter access road to re-supply the community is the most important factor, not the few weeks of employment that it provides during the construction phase.

In responding to these comments, the Department advised that it has ensured that the roadway into Island Lake will be constructed safely by teaming Wasagamack First Nation with a knowledgeable local Island Lake Winter Roads contractor.

From reviewing the inquest report and the response to inquiries made by my office, it would appear that the Manitoba Infrastructure and Transportation has given reasonable consideration to the recommendations of the Inquest Judge. As such, our file concerning the Calvin Sean Wood Inquest has been closed.

Yours truly,

Original Signed By

Irene A. Hamilton
Manitoba Ombudsman

c: Mr. Andrew T. Horosko
Deputy Minister
Manitoba Infrastructure and Transportation

Dr. Thambirajah Balachandra
Chief Medical Examiner