

WWF-Canada Final Written Recommendations to the Joint Review Panel for the proposed basin-opening Mackenzie Gas Project.

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The Agreement under which the JRP was constituted¹ enjoins the panel to ensure:

- “That the biophysical and social, cultural and economic effects of the Project will be thoroughly evaluated”, and
- “That development should occur in a manner that protects the environment from significant adverse environmental impacts unless justified; and protects the social, cultural, and economic well-being of affected residents and communities”.

These criteria establish a standard of performance for the work of the panel and reflect the joint mandate invested in the panel through the enabling statutes: IFA, MVRMA and CEAA.

The first of these criteria is a prerequisite to the other. Thorough evaluation of the biophysical and social, cultural and economic effects of the project is necessary in order to first understand, and then evaluate strategies to avoid significant adverse environmental effects and protect the wellbeing of residents and communities.

¹ Agreement for an Environmental Impact Review of the Mackenzie Gas Project
http://www.jointreviewpanel.ca/frpa_final_e.html

JRP Recommendations to the NEB and key Ministers.

The Joint Review Panel has directed Topic 17 hearing participants to offer advice with respect to “detailed recommendations and conditions that should be applied *if* the Project were to proceed.”

Therefore, we will assume for the purposes of these WWF Recommendations, that the JRP has, or will have, considered and rejected the alternatives available to them, i.e., recommending that approval be:

- a. denied;
- b. denied pending further proceedings at some fixed date;
- c. denied pending further proceedings contingent on fulfilment of additional requirements; or
- d. denied pending further proceedings contingent on fulfilment of additional requirements by a fixed date.

These options are, in effect, recommendations to deny or defer.

Now to the proposition we have been asked to consider, namely conditions for approval. There are only two generic alternatives to consider:

- a. Approval without condition;
- b. Approval with conditions.

It might be helpful to weigh the value of these alternatives in light of the criteria set out in the JRP Agreement.

At the recent Cumulative Impacts (Topic 15) hearing it became apparent that the proponents had failed to fully evaluate the cumulative effects of activities and projects that might foreseeably be induced by the MGP. Without an adequate cumulative effects assessment it is very difficult to know if significant adverse environmental impacts have been properly identified, much less avoided and/or mitigated. The proponent’s only counterargument to this conclusion was that they had provided some kind of response to each element of the terms of reference and had therefore done what was required of them. Even if we accept this argument, the proponent’s cursory assessment of cumulative effects falls far short of the thorough evaluation the panel needs to complete its mandate.

Also, at the Cumulative Impacts hearing, governments said they could not assure the JRP that elements of the Cumulative Effects Assessment and Management Framework (CEAMF; such as Land Use Plans, Protected Areas Strategy Action Plan, Cumulative Impacts Monitoring Program, etc.) would be fully implemented in time to satisfactorily avoid or mitigate the widely anticipated significant adverse impacts of the basin-opening MGP. Moreover, the government representatives said that funding to do so could not be assured.

On the social side, the recent letter from the IRC (September 2007) to the JRP left little doubt that the promised \$500M MGP Impact Fund may be deployed too late to prepare effectively for mitigation of adverse social impacts.

Therefore, it is hard to imagine that the Joint Review Panel could be sufficiently assured that the environment will be protected from widely anticipated significant adverse effects, or that the long-term wellbeing of residents and communities will also be safeguarded.

WWF believes that the proponent's failure to provide the panel with a thorough assessment of the direct and cumulative effects of its proposed basin-opening project, and the government's failure to establish the requisite preconditions to protect the environment and society (e.g., 'Conservation First' principle applied, completed Land Use Plans, fully resourced and implemented CEAMF) are ample grounds for the JRP to recommend the project not go ahead at this point. However, if the panel decides to recommend the project be approved, we submit that the panel can only fulfil its mandate if it can assure itself that these key deficiencies are first remedied.

As we see it, there are two major obstacles the panel would have to overcome if a project approval were to be granted:

1. Lack of scenarios-based Cumulative Effects Assessment.

The panel can and should direct the completion of an adequate cumulative effects assessment to ensure it has a much better understanding of the potential impacts of this basin-opening project. However, it is not enough for the panel to recommend that this work be completed after it reports to the NEB. The panel needs this assessment to inform its views before, not after, it makes its recommendations. Otherwise, the panel's recommendations 'regarding the significance of impacts on the environment' would be rendered without benefit of an adequate assessment, leaving the recommendations of limited substance and open to significant risks, criticism and challenge.

There are two ways around this obstacle:

- By far the best path is for the JRP to receive and test an adequate assessment before it makes recommendations to the NEB. The proponent has pointed out that this would entail a delay. Of course, the delay could have been avoided had the proponent sought to assist the panel with an adequate assessment in the first place.
- An inferior alternative is to commission the Cumulative Effects Assessment and conclude the JRP process with a request that the NEB receive and review the updated assessment. WWF does not recommend this approach, because the JRP has the mandate to complete this work. We believe the value of the JRP's work and its recommendations would be diminished if some part of that responsibility were delegated to another process, such as the NEB.

2. Inadequate current state of preparation measures.

The second main obstacle is that many of the preconditions needed to assure adequate preparations to protect the environment and communities from the adverse effects of this basin-opening project are not in place, and not within the primary control of the proponent.

The panel cannot, therefore, overcome these inadequate preparations by just recommending conditions be applied to the proponent in its project approval. Instead, we recommend the panel qualify its recommendation of any project approval, making it contingent upon the successful completion of specific preparations by specified dates. These fundamental preparation measures by responsible parties, such as government departments, would, if fully implemented before any development proceeds, clearly help maximise the net benefits arising to the region and the nation, from exploiting this new hydrocarbon basin.

WWF-Canada's Position

Throughout these hearings, WWF-Canada has sought to provide the JRP with constructive evidence to assist it in its deliberations. We have neither supported nor opposed the Mackenzie Gas Project, but have maintained our view that “Go or No-Go” on this critical basin-opening project should be decided by the people who live in this region. We also believe that certain additional key conditions must be met before the project is approved.

WWF has consistently championed the need for the JRP to have at its disposal an informative and adequate assessment of the potential effects of this project. We have urged all parties to make adequate preparations to minimize the potential adverse effects through what we have called ‘Conservation First’.

Our stance on these matters has not changed. What has changed as we draw to the end of the scheduled hearings is the general realisation that current preparation measures, to secure long-term environmental integrity and achieve truly ‘sustainable development’, in this region are very weak. There are diminishing prospects that ‘the biophysical and social, cultural and economic effects of the Project will be thoroughly evaluated’ (due to the proponent’s failure to provide the panel with an adequate environmental assessment). And, it does not yet appear that development will occur in a manner that protects the environment from significant adverse environmental impacts and assures the well-being of affected residents and communities (due to the uncertain fate of CEAMF, including the PAS Action Plan and Land Use Plans).

If the JRP chooses to recommend to the NEB and key Ministers that the MGP be approved under these circumstances, WWF-Canada urges the JRP to recommend in the strongest possible terms that the NEB qualify any project authorizations with the specific and concrete requirements we set out below to assure the overall best results.

WWF recommendations regarding Terms and Conditions the JRP should recommend in its final report:

The approval of a basin-opening MGP would come into effect if, and only if, the following six conditions have all been met:

PROTECTED AREAS.

1. That the **NWT Protected Areas Strategy five-year Action Plan (2004- 2009) is fully implemented** in the 16 ecoregions of the Mackenzie Valley, NWT, **before issuing any project authorizations**. This shall include interim 5-yr land withdrawals (at a minimum) for candidate areas and areas of interest identified by communities within the PAS process, including, but not limited to: The Ramparts, Wrigley, Edehzhie, Samba K'e, Kakisa, and the Tulita Conservation Areas complex.
2. That all the sites in Recommendation #1, plus others necessary to achieve **a network of culturally significant and ecologically-representative areas be protected** before issuing any project authorizations. This would help **provide sufficient benchmark natural areas** to utilise an adaptive management approach to further development, and to maximise the likelihood of natural systems **adapting to accelerating climate change and cumulative industrial developments** in the region.
3. That a **moratorium be imposed immediately** by the Government of Canada in consultation with key parties, on any new industrial allocations for exploration and development in the 16 ecoregions of the Mackenzie Valley, NWT, and remain in place **until such time as the NWT PAS Action Plan is fully implemented, and comprehensive long-term land use plans for the Mackenzie Valley and Canadian Beaufort Sea are completed and approved**. These ecosystem-based plans should be consistent with the goals of the Canadian Boreal Framework. This will allow adequate and effective preparations in the region, prior to further foreclosing of conservation opportunities by industrial development.

CARIBOU.

4. That the federal and territorial governments develop and implement **new regulations to protect caribou and their key habitats** by 2008 to help stem widespread major declines to NWT caribou herds in the face of anticipated further increases in industrial exploration and development pressure.

CUMULATIVE EFFECTS.

5. That a binding commitment be made by all parties that the **NWT Cumulative Effects Assessment and Management Framework (CEAMF), and all it's constituent tools, is fully resourced and implemented**, with irreversible funding sustained for at least the lifetime of the proposed MGP by a formal funding agreement.

6. That a comprehensive **Scenarios-Based Cumulative Effects Assessment be completed** for the Mackenzie Valley and Canadian Beaufort Sea, prior to any project authorizations, to be led by the federal and territorial governments and with full cooperation of all stakeholders. This assessment would both inform future planning and decision-making, and also make recommendations to protect the environment from significant adverse impacts and to ensure the long-term wellbeing of communities.

WWF also recommends the following be implemented before any MGP project authorizations, in an increasingly carbon-constrained world:

ENERGY AND CLIMATE CHANGE.

7. That the federal government in conjunction with all Provinces and Territories, develop and approve a **national sustainable energy strategy** and implementation system by 2009, including addressing conservation and state-of-the-art energy use efficiency, and utilisation of natural gas as a very valuable transition fuel.
8. That the JRP thoroughly consider in its final assessment and report the **Climate Change contributions** of the MGP and foreseeable induced developments in the NWT, including the natural gas transported to and combusted in southern markets.