

Joint Review Panel

Established to review the Jackpine Mine Expansion Project

Canadian Environmental Assessment Agency, 160 Elgin Street, 22nd Floor, Place Bell Canada, Ottawa, ON, K1A 0H3, 613-948-2674
Energy Resources Conservation Board, 9915 Franklin Avenue, Provincial Building, 2nd Floor, Fort McMurray, AB, T9H 2K4, 780-743-7473

November 16, 2012

TO SHELL CANADA ENERGY

**AND TO ALL PARTIES PARTICIPATING IN THE HEARING FOR THE SHELL
JACKPINE MINE EXPANSION PROJECT**

Re: List of Issues for Final Argument

The Joint Review Panel (Panel) has noted that the evidentiary record in this proceeding (both written and oral submissions) is extensive, and the issues presented are numerous and diverse. The Panel believes that parties can assist it to better manage this very large record if they are able to provide final argument in a consistent format. The Panel recognizes, however, that counsel and unrepresented parties are likely to have begun the process of preparing final argument and some may even have completed that task. In any event, the Panel has developed the attached List of Issues in which it has identified most of the issues the Panel believes have been presented in this proceeding. The Panel provides this list as a possible framework for parties to structure their arguments.

The Panel wishes to be clear that it is not suggesting there are no other issues arising in the proceeding; rather, parties are free to address any other issues that relate to the Panel's mandate to consider the JPME Project. In addition, using the List of Issues as a framework for argument is a suggestion only and no participant is required to provide argument in accordance with the suggested format. The Panel believes though, that if parties are able to use the framework presented by the list, that may assist the Panel to manage the extensive record in this proceeding.

Finally, I would like to remind parties that their arguments must comply with subsection 42(3) of the ERCB's Rules of Practice, which states "no argument may be received by the Board unless it is based on the evidence before the Board".

Yours truly,

Original signed by

Gary Perkins
Counsel to the Joint Review Panel

Attachment: List of Issues for Final Argument

Shell Jackpine Mine Expansion Project
ERCB Application No. 1554388
CEAR #59540
Final Argument Issues List

A. General Issues

1. Adequacy of Shell's assessment methodology:
 - Managing uncertainty associated with methodology, models and data used to determine significance
 - Implications of new policies, standards, thresholds
 - Contingencies
2. Significance of Project effects on:
 - the environment
 - socio-economic conditions
 - Aboriginal rights and traditional land uses.
3. Significance of cumulative effects resulting from the Project and from regional oil sands activities on:
 - the environment
 - socio-economic conditions
 - Aboriginal rights and traditional land uses.

B. Specific Issues

4. Operational Issues:
 - a. Groundwater
 - Overburden dewatering and basal McMurray depressurization
 - Potential impacts on ground water from process affected water from tailings
 - b. Compliance with Mining and Process Requirements
 - Bitumen recovery
 - Asphaltene rejection
 - Release of Untreated Froth Treatment Tailings
 - Solvent Losses
 - Lease boundary issues, mining the Pleistocene Channel and development outside lease boundary
 - Need to assess Devonian Geohazard
 - c. Tailings
 - Sand Cell 2 ETDA expansion
 - MFT at closure - end pit lakes

- Potential impacts of tailings impoundment failure
- TSRU placement
- Fines capture and thickener performance

d. Air Emissions

- Mine fleet emissions, NO_x, SO₂, particular matters, trace metals, dust
- VOCs from tailings ponds
- Airborne polycyclic aromatic compounds
- Greenhouse gas emissions
- Potential Acid Input (PAI) levels and acid deposition management framework guidelines

e. End Pit Lakes

- Risk/uncertainty of the strategy, Syncrude demonstration lake
- Contingency options
- Liability management
- CEMA Guidelines - applicability and suitability
- Water quality and discharge criteria

f. Reclamation and Closure

- Preferred Landscape, landform and watershed design, end pit lake footprint at closure
- Timelines and Progressive Reclamation
- Directive 074 requirements for trafficable landscape
- Mitigation for other project effects
- Reclamation material direct placement and stockpiling
- Planting prescriptions and natural ingress of vegetation diversity
- Changes to ecosites, from pre-disturbance to closure
- Wetland reclamation, including non-peatland wetland reclamation

5. Environmental Issues:

a. Water Withdrawals from the Athabasca River

- Low flow thresholds and management during low flow periods (IFN, EBF, AT)
- Phase 2 Water Management Framework
- Off-site water storage

b. Fish and Fish Habitat

- No Net Loss Plan
- Aquatic health/conditions
- Compensation Lake and Aboriginal concerns relating to the lake

c. Wildlife

- Loss of wildlife habitat
- Migratory birds and tailings ponds
- Impacts to species at risk and their habitat

- d. Vegetation
 - Impacts to Peatlands and Old-growth forests

- e. Muskeg River Watershed Management Framework
 - Status and completion date
 - Key policies
 - Alternatives to the proposed Muskeg River diversion
 - ACFN concerns about affect of diversion on culture and beliefs

- f. LARP
 - Schedule for completion of biodiversity framework and additional thresholds

- g. Climate Change
 - Impacts on water flows
 - Management plan
 - QUEST

- h. Navigation

- i. Cumulative Effects
 - Status in relation to threshold levels or standards
 - Integrated monitoring programs
 - PAD
 - Cumulative terrestrial effects

- 6. Socio-economic Issues:
 - a. Developable Land Availability
 - 20 year land bank
 - Land release
 - Land valuation

 - b. Transportation and Traffic
 - Traffic volumes and driving conditions
 - Eastern by-pass route
 - Highway 63
 - Municipal/provincial/industry coordination
 - Access needs for new housing developments

 - c. Work Camps
 - Proliferation of fly-in/fly-out camps strains municipal resources without providing resources to the community
 - Growth of camp populations
 - Enforcement within camps: safety and social concerns

7. Aboriginal Groups and Individuals:

a. Impacts on Aboriginal Groups and Individuals

- Adequacy of TLU, TEK and cultural studies used to assess impacts
- Evidence of impacts on Traditional Land Use, rights and treaty rights and interests
- Severity of potential impacts
- Mitigation
- TRUMP

b. Aboriginal Consultation with Shell

- Processes
- Capacity funding
- Consultation undertaken by Shell
- Métis consultation framework, policies or guidelines
- Process to incorporate TLU, TEK and cultural assessments