

## **JACKPINE MINE EXPANSION PROJECT JOINT REVIEW PANEL**

---

**Calgary, Alberta**

**SHELL CANADA ENERGY  
APPLICATION TO AMEND APPROVAL 9756  
JACKPINE MINE EXPANSION PROJECT  
FORT MCMURRAY AREA**

**2013 ABAER 011 Errata  
AER Application No. 1554388  
CEAA Reference No. 59540**

---

[1] In the report of the Joint Review Panel *2013 ABAER 011* - CEAA Reference No. 59540, the Panel has noted errata that it would like to correct.

[2] The Panel has noted that the word “certain” should be replaced with the word “some” in the first sentence in paragraph 1114. The sentence should read “The Panel notes that although Shell did not update some of its estimates to reflect changing timelines for the Project...”

[3] The Panel has noted that the words “in a” and “of” should be deleted from the first sentence of paragraph 1148. The sentence should read “The Panel believes that Alberta Transportation, RMWB, and the industry should work collaboratively on developing the eastern bypass route.”

[4] The Panel has noted a missing word in paragraph 1376. The first bullet under this paragraph was missing the word “reorganization” in the second sentence. The sentence should read “Further development is almost certain to push the ecosystem into a substantial and long-term reorganization that would constitute an ecosystem or regime shift.”

[5] The Panel has noted that the number “14” was incorrectly stated in paragraph 1395. The sentence should read “In its *Athabasca River Use, Knowledge and Change Study*, ACFN documented specific instances of lost use due to concerns regarding water quality downstream from the Firebag River.”

[6] The Panel has noted an error in the title of a person listed in appendix 1. Dr. Larcombe should be changed to Ms. Larcombe.

[7] The Panel has noted an error in the spelling of a person listed in appendix 1. Steven van Lingen should be Steven Van Lingen.

[8] The Panel has noted the omission, from appendix 1, of two Canadian Environmental Assessment Agency staff names, Joanne Smith and Lucille Jamault and two Energy Resource Conservation Board staff names, Bob Curran and Cara Tobin.

[9] The Panel intended to include in appendix 3 “Amendment #2 to the Agreement to Establish a Joint Review Panel for the Jackpine Mine Expansion Project” (copy attached). However, the document was inadvertently omitted in the final assembly of the report.

[10] The Panel has noted a missing word in its recommendation #5 in appendix 6. The recommendation should have included “Alberta” as it does in the main body of the report. The recommendation should read as follows: “The Panel recommends that the Governments of Canada and Alberta consider the precautionary cut-off flow approach to address impacts of water

withdrawals during extreme low-flow conditions, and potential impacts on navigation. (Water Withdrawal from the Athabasca River).”

[11] The Panel intended to include appendix 11 “Sections that include findings and mitigation measures related to section 5 of *CEAA, 2012*” (copy attached). However, the appendix was inadvertently omitted in the final assembly of the report. Paragraph 105 under “Issues” should also have the sentence “The sections where there are findings and mitigation measures related to section 5 of *CEAA, 2012* are listed in appendix 11.”

[12] The Panel is of the view that the changes are minor corrections and directs that the Joint Review Panel Report Decision *2013 ABAER 011* – CEEA Reference No. 59540 be amended as indicated.

Dated in Calgary, Alberta, on August 9, 2013.

**ALBERTA ENERGY REGULATOR**

**CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY**

<original signed by>

J. D. Dilay, P.Eng  
Panel Chair

**Amendment #2 to the Agreement  
To Establish a Joint Review Panel  
for the Jackpine Mine Expansion Project**

**Between**

**The Minister of the Environment, Canada**

**- and -**

**Energy Resources Conservation Board, Alberta**

**WHEREAS** each of the Parties signed the Agreement To Establish a Joint Review Panel for the Jackpine Mine Expansion Project (hereinafter referred to as the Agreement); and

**WHEREAS** each of the Parties signed an Amendment to the Agreement to Establish a Joint Review Panel for the Jackpine Mine Expansion Project; and

**WHEREAS** section 13 of the Agreement allows it to be amended by written memorandum executed by both the Federal Minister of the Environment and the Chairman of the Energy Resources Conservation Board (ERCB); and

**WHEREAS** section 126(1) of the *Canadian Environmental Assessment Act, 2012* provides that the environmental assessment of the Project is continued under the process established under that Act and the Agreement is considered to have been entered into by the Federal Minister of the Environment under section 40 of that Act; and

**WHEREAS** the Parties wish to amend the Agreement to reflect the provisions of *Canadian Environmental Assessment Act, 2012*.

Now Therefore, the Parties hereby amend the Agreement as follows:

- 1. The Preamble is amended replacing the second paragraph with the following:**

**WHEREAS** the Minister of the Environment, Canada (the Federal Minister of the Environment) has statutory responsibilities pursuant to the *Canadian Environmental Assessment Act, 2012*; and

- 2. The Preamble is amended by adding the following paragraphs after the ninth paragraph:**

**WHEREAS** the *Canadian Environmental Assessment Act* has been repealed and the *Canadian Environmental Assessment Act, 2012* has come into force; and

**WHEREAS** pursuant to section 126 of the *Canadian Environmental Assessment Act, 2012*, the assessment by the joint review panel is continued under the process established under the *Canadian Environmental Assessment Act, 2012* as if it had been referred to a review panel under section 38 of the *Canadian Environmental Assessment Act, 2012*; and

**3. Article 1 is amended by**

**a) replacing the definition of “Agency” with the following definition:**

“**Agency**” means the Canadian Environmental Assessment Agency established by the *Canadian Environmental Assessment Act* and continued under the *Canadian Environmental Assessment Act, 2012*.

**b) replacing the definition of “federal authority” with the following definition:**

“**federal authority**” refers to such an authority as defined in the *Canadian Environmental Assessment Act, 2012*.

**c) replacing the definition of “report” with the following definition:**

“**report**” means the document produced by the Joint Review Panel, which contains decisions pursuant to the *Energy Resources Conservation Act* or the *Oil Sands Conservation Act*, and the Joint Review Panel’s rationale, conclusions, and recommendations relating to the environmental assessment of the project including any mitigation measures and follow-up program pursuant to the *Canadian Environmental Assessment Act, 2012*.

**d) replacing part b. of the definition of “follow-up program” with the following:**

b. determining the effectiveness of any mitigation measures.

**e) replacing the definition “public registry” with the following definition:**

“**public registry**” means the Canadian Environmental Assessment Registry established under section 78 of the *Canadian Environmental Assessment Act, 2012*.

**f) replacing the definition of “proponent” with the following definition:**

“**proponent**” has the meaning provided in section 2 of the *Canadian Environmental Assessment Act, 2012*.

**g) replacing the definition of “responsible authority” with the following definition:**

“**responsible authority**” refers to such an authority as defined in the *Canadian Environmental Assessment Act, 2012*.

**4. Articles 4.2 and 4.3 are amended as follows:**

4.2 The Joint Review Panel shall conduct its review in a manner that discharges the requirements set out in the *Canadian Environmental Assessment Act, 2012* and in the Terms of Reference attached as an Appendix to this Agreement and that were fixed and approved by the Federal Minister of the Environment and the ERCB.

4.3 The Joint Review Panel shall have all the powers and duties of a panel described in section 45 of the *Canadian Environmental Assessment Act, 2012* and of a division of the ERCB described in section 8 of the *Energy Resources Conservation Act*.

**5. Article 7.1 is amended by replacing Article 7.1 with the following:**

7.1 A public registry will be maintained by the Secretariat during the course of the joint review in a manner that provides for convenient public access, and for the purposes of compliance with sections 79 to 81 of the *Canadian Environmental Assessment Act, 2012*.

**6. Article 7.2 is amended by replacing Article 7.2 with the following:**

7.2 Subject to subsections 45(3), (4) and (5) and 79(3) of the *Canadian Environmental Assessment Act, 2012*, the public registry will include all submissions, correspondence, hearing transcripts, exhibits and other information received by the Joint Review Panel and all public information produced by the Joint Review Panel relating to the review of the project.

**7. Article 7.3 is amended by replacing Article 7.3 with the following:**

7.3 On completion of the assessment of the project, the Joint Review Panel shall prepare a report. The report shall include an executive summary in both official languages. The report will set out the rationale, conclusions and recommendations of the Joint Review Panel relating to the environmental assessment of the project, including any mitigation measures and follow-up

program, and a summary of comments received from the public, including Aboriginal persons and groups. The report will be conveyed to the Government of Alberta and the Federal Minister of the Environment within 90 days of the close of the record if the public hearing is not coordinated with the Pierre River Mine Project's public hearing, or within 120 days of the close of the record if the public hearing is coordinated with the Pierre River Mine Project's public hearing. Simultaneously, the report will be published and made available to the public by the Joint Review Panel. The report will include

- An identification of those conclusions that relate to the environmental effects to be taken into account under section 5 of the *Canadian Environmental Assessment Act, 2012*; and
- An identification of recommended mitigation measures that relate to the environmental effects to be taken into account under section 5 of the *Canadian Environmental Assessment Act, 2012*.

**8. Article 7.4 is amended by replacing Article 7.4 with the following:**

7.4 After the report is submitted, the Agency will maintain the public registry. The ERCB will continue to maintain records of the proceedings and the report in accordance with its normal practices and procedures.

**9. Article 8.2 is amended by replacing article 8.2 with the following:**

8.2 Nothing in this Agreement will restrict the participation by way of submission to the Joint Review Panel by other federal or provincial government departments or bodies, subject to article 8.1, above, section 20 of the *Canadian Environmental Assessment Act, 2012* and the ERCB Rules of Practice.

**10. Article 10.4 is amended by replacing Article 10.4 with the following:**

10.4 The Agency will be solely responsible for the following costs:

- per diems of the Joint Review Panel member appointed in accordance with article 3.2;
- salaries and benefits of Agency staff involved in the joint review;
- all costs associated with the Agency's legal counsel for the proceeding;
- all costs associated with the federal Participant Funding Program;
- translation of records and documents into the official languages of Canada other than translation required as outlined in article 10.5 of this Agreement; and
- costs associated with the public registry established pursuant to section 78 (1) of the *Canadian Environmental Assessment Act, 2012*.

**11. Article 13.1 is amended by replacing Article 13.1 with the following:**

13.1 The terms and provisions of this Agreement may be amended by written memorandum executed by both the Federal Minister of the Environment and the Chairman of the ERCB. Subject to section 64 of the *Canadian Environmental Assessment Act, 2012*, upon completion of the joint review, this Agreement may be terminated at any time by an exchange of letters signed by both parties.

**12. The Appendix – Terms of Reference Part II- Scope of the Environmental Assessment is amended as follows:**

The existing paragraph 2 is amended by replacing it with the following:

2. The assessment shall include a consideration of the following factors:
  - a. the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
  - b. the significance of the effects referred to in paragraph a.;
  - c. comments from the public, including Aboriginal persons and groups, that are received during the joint review;
  - d. measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project;
  - e. the purpose of the project;
  - f. alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;
  - g. the need for, and the requirements of, any follow-up program in respect of the project; and
  - h. the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future.

**13. The Appendix – Terms of Reference Part III – Scope of the Factors is amended as follows:**

**a) The existing section “Effects of Changes to the Environment” is amended by replacing it with the following:**

The Joint Review Panel shall consider the effects of any changes to the environment caused by the project on the following factors:

- Health and Socio-Economic Conditions, including effects on navigation

- Physical and Cultural Heritage
- Current use of lands and resources for traditional purposes by Aboriginal persons
- Any structure, site or thing that is of historical, archaeological or architectural significance

**b) The existing section “Change to the Project Caused by the Environment” is amended by replacing it with the following:**

The Joint Review Panel will also consider any change to the project that may be caused by the environment.

Environmental changes and hazards that may occur and may affect the project shall be described. The Joint Review Panel should also take into account the potential influence of climate change scenarios presented by the proponent and interveners on climate parameters (e.g. precipitation, temperature), and physical environmental processes. The influence that these environmental changes and hazards may have on the project should be predicted and described. The environmental assessment should describe how these changes and hazards are accounted for in the project design.

**14. The Appendix – Terms of Reference Part IV – Review Process is amended as follows:**

**a) The existing paragraph 3 is amended by replacing paragraph 3 with the following:**

3. After the public comment period has closed, the Joint Review Panel will decide if it has adequate information to proceed to hearing. In so doing, The Joint Review Panel will consider its own review of the information, and any written comments from the public, including Aboriginal persons and groups, government departments, other governments or technical experts, and any written exchanges between the participants and the participants and the proponent.

**b) The following section is added as follows:**

**Timelines**

15. Subject to paragraph 16, the Panel shall complete its mandate and submit its final report to the federal Minister of the Environment and the Chairman of the Energy Resources Conservation Board within 350 days from the coming into force of the *Canadian Environmental Assessment Act, 2012*.



16. The time period between the issuance by the Panel of any request for information and the submission of the requested information by the proponent is not included in the timeline referred to in paragraph 15.

**15. The Agreement and its previous amendment, as hereby amended in accordance with the terms thereof, remain in full force and effect.**

**ORIGINAL SIGNED BY**

---

The Honourable Peter Kent  
Minister of the Environment

**ORIGINAL SIGNED BY**

---

Dan McFadyen, Chairman  
Energy Resources Conservation  
Board

**APPENDIX 11 SECTIONS THAT INCLUDE FINDINGS AND MITIGATION MEASURES RELATED TO SECTION 5 OF *CEAA, 2012*.**

<b>Issue/section</b>	<b><i>CEAA, 2012</i> section 5</b>
Water Withdrawal from the Athabasca River	<i>CEAA, 2012</i> s 5(2)(a)
Diversion of the Muskeg River	<i>CEAA, 2012</i> ss. 5(1)(a)(i) and 5(2)(a)
No Net Loss Plan	<i>CEAA, 2012</i> ss. 5(1)(a)(i) and 5(2)(a)
Effects of Tailings Ponds on Migratory Birds	<i>CEAA, 2012</i> s. 5(1)(a)(iii)
Effects on Wetlands	<i>CEAA, 2012</i> s. 5(1)(a)(iii) & 5(1)(c)(iii)
Effects on Old-Growth Forests	<i>CEAA, 2012</i> s. 5(1)(a)(iii)
Effects on Traditional Plant Potential Areas	<i>CEAA, 2012</i> s. 5(1)(c)(iii)
Effects on Wildlife and Their Habitat	<i>CEAA, 2012</i> ss. 5(1)(a)(iii), 5(1)(c)(iii)
Human Health	<i>CEAA, 2012</i> s. 5(1)(c)(i)
Physical and Cultural Heritage Resources	<i>CEAA, 2012</i> ss. 5(1)(c)(ii), (iii) & (iv)
Capacity of Renewable Resources	<i>CEAA, 2012</i> s. 5(1)(c)
Effects on Aboriginal Traditional Land Use, Rights, and Culture	<i>CEAA, 2012</i> ss. 5(1)(c)(ii) & (iii)