**Government of Canada Response to the Joint Review Panel Recommendations for the Grassy Mountain Coal Project**

The Joint Review Panel (the Panel) for the Grassy Mountain Coal Project (the Project) made six (6) recommendations to the federal and provincial governments relating to the effects of the Project. These recommendations address limitations that the Panel observed during the review process associated with: (1) the guidance available for the environmental assessment (or impact assessment) process, or (2) the regulatory framework as it relates to areas of federal authority. The Panel indicated that implementation of the recommendations may improve the effectiveness of the review process and/or provide helpful direction to future decision makers, proponents, and members of the public.

The Government of Canada’s response to the recommendations directed at the federal government are outlined below.

# Panel Recommendations

| **Rec.**  **Number** | **Recommendation** | **Government Response** |
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| **1** | The Panel recommends that the Impact Assessment Agency of Canada (the Agency) direct proponents to provide a pre-industrial (historical) baseline in their environmental impact assessment (EIA) report. This should be incorporated into the Tailored Impact Statement Guidelines for future impact assessments. A pre-industrial baseline would have improved the Panel’s ability to consider the effects of previous activities in an area when assessing cumulative effects. | The Government of Canada agrees with the intent of this recommendation and remains committed to providing proponents with clear requirements regarding the information and studies required for assessing potential cumulative effects during impact assessments.  The *Impact Assessment Act* (IAA) requires all impact assessments to consider “any cumulative effects that are likely to result from the designated project in combination with other physical activities that have been or will be carried out”. This can include pre-industrial activities, where appropriate. This requirement is reflected in the Tailored Impact Statement Guidelines (TISG) developed for each assessment, which require proponents to provide an assessment of the cumulative effects of the project with other past, existing and reasonably foreseeable projects and physical activities. In developing project-specific TISG, the Agency will consider whether it is appropriate to direct proponents to provide a pre-industrial (historical) baseline in the Impact Statement. |
| **2** | The Panel recommends that the Impact Assessment Agency of Canada and the Alberta Energy Regulator consider modifying their EIA requirements to require proponents provide a consolidated impact assessment that incorporates all project modifications and information updates into a single package prior to public hearings and decisions by regulators and responsible authorities. A number of participants reported that the format of Benga’s application information was confusing because information was spread over an original application package submitted in 2016 and 12 addenda submitted between 2017 and 2020. In these addenda, Benga updated or revised some information presented in the original application package. | The Government of Canada agrees with the intent of this recommendation. The Government of Canada supports an impact assessment process that is open and transparent and the Canadian Impact Assessment Registry Internet Site is intended to facilitate convenient public access to records associated with impact assessments.  The IAA requires proponents to submit an Impact Statement that contains all the required information and studies as detailed in the TISG. The Agency expects that proponents will provide the information to support their Impact Statement in a consolidated package. If an Impact Statement has deficiencies, the Agency will require the proponent to provide the missing information or revisions. While this information would be submitted separately to the Agency, it will appear on the Impact Assessment Registry as a distinct record that is publicly accessible.  In addition, when necessary, in order to assist the public in finding key information associated with an impact assessment, the Agency commits to developing a resource document with links to key documents and making that document readily available on the Impact Assessment Registry. |
| **3** | The Panel recommends that the Government of Canada finalize and implement *Coal Mining Effluent Regulations* under the *Fisheries Act* as soon as possible. The Panel recognizes that there was uncertainty about whether the project as proposed could satisfy the requirements of these regulations. The Panel also recognized that the proponent did not have clear regulated effluent limits (such as those proposed in the draft regulation) to incorporate into its project design and planning. Finalizing the *Coal Mining Effluent Regulations* would help proponents and decision makers evaluate the acceptability of proposed discharges from coal mines. | The Government of Canada agrees with this recommendation.  Environment and Climate Change Canada (ECCC) plans to release a consultation paper outlining the proposed approach for the *Coal Mining Effluent Regulations* (the Regulations) under the *Fisheries Act* in fall 2021. The proposed approach for the Regulations will include the establishment of effluent quality standards for deleterious substances of concern including selenium, nitrate and suspended solids. In addition to an effluent quality standard, ECCC will consult on a proposal to include in the Regulations a requirement to provide a status report on the selenium effluent quality standard five years after promulgation, and a requirement for a review of the Regulations as a whole ten years after promulgation. The ten-year review will take into account the results provided by environmental effects monitoring and will also consider advances in selenium removal technologies. The goal will be to consider the results of those reviews and then propose amendments to the Regulations as needed. The proposed Regulations would be published in Canada Gazette, Part I in summer 2022, and should be made final in 2023.  In addition to the Regulations, the proposed approach for coal mining will also ensure that when new or expansion coal mining projects are subject to a federal environmental or impact assessment, the assessment will include consideration of the site-specific receiving environment in order to consider the environmental impacts that might be associated with the proposed mine; assuming it adheres to the proposed selenium effluent quality standard.  For updates on the status of the proposed regulations, please consult: [Proposed Coal Mining Effluent Regulations: overview - Canada.ca](https://www.canada.ca/en/environment-climate-change/services/managing-pollution/sources-industry/proposed-coal-mining-effluent-regulations.html). |
| **4** | The Panel recommends that the Government of Canada finalize and implement the federal recovery strategy for whitebark pine under the *Species at Risk Act* (SARA) as soon as possible. Several participants noted that this strategy is overdue. Finalizing the recovery strategy and providing further clarity around the definition and location of critical habitat for whitebark pine would provide clarity for industry, decision makers, and the public. | The Government of Canada agrees with this recommendation.  ECCC is in agreement with the Panel that the Recovery Strategy for Whitebark Pine (*Pinus albicaulis*) should be finalized as soon as possible. ECCC continues to work on the Strategy in accordance with section 37 of the *Species at Risk Act* (SARA) and recognizes the importance of finalizing the Recovery Strategy to support protection of the species, and ongoing implementation efforts. Due to operational delays and capacity constraints, particularly those resulting from COVID-19, progress on finalization of the Recovery Strategy has been delayed.  In cooperation with federal and jurisdictional partners, ECCC is currently considering and addressing the large number of comments that were received during the public comment period. The aim is to provide improved clarity for industry, decision makers, and the public, to the extent possible, particularly with regards to the definition and location of critical habitat. ECCC anticipates that the final document will be released within the next year, after which time the Minister of Environment and Climate Change may at any time amend the recovery strategy to reflect new knowledge. |
| **5** | The Panel recommends the Impact Assessment Agency of Canada develop regulatory guidance for proponents conducting wildlife health risk assessments on how to address the cumulative effects of multiple stressors. The Panel also recommended that the analysis be required in the tailored impact statement guidelines for future impact assessments. The proponent provided limited evidence regarding the potential combined effects of chemicals and habitat loss or degradation in its evaluation of project impacts on wildlife health. Such information would improve the quality of information available to decision makers. | The Government of Canada agrees with the intent of this recommendation.  The IAA requires impact assessment to consider “the changes to the environment […] and the positive and negative consequences of these changes that are likely to be caused by the carrying out of the designated project, including the result of any interaction between those effects”. To implement this requirement, the TISG developed for each assessment require proponents to consider the interaction between effects on wildlife valued components. In developing TISG for each assessment, the Agency will consider whether it is appropriate to direct proponents to provide a wildlife health risk assessment. The Government of Canada recognizes that understanding and managing cumulative effects is challenging, particularly in a project-specific context. As cumulative effects methodologies develop, these will be incorporated into the project-specific TISG. |
| **6** | The Panel recommends that the federal and provincial governments clarify the requirements for economic analysis for future provincial EIAs or federal impact assessments. Proponents should be required by the terms of reference to provide both an economic impact analysis and a cost-benefit analysis that allows decision makers to make informed decisions based on both types of economic information. The Panel also suggests that governments develop guidelines on the methodologies and assumptions that should be followed by proponents in producing these future analyses. Governments may wish to review the *Canadian Cost-Benefit Analysis Guide* produced by the Treasury Board of Canada.  Different economists expressed varied views about what type of economic analysis should be conducted in a review. The Panel agrees that different types of economic analyses yield different kinds of information. The Panel believes that decision makers in future impact assessments would benefit from access to these different kinds of information. | The Government of Canada agrees with the intent of this recommendation, and remains committed to providing proponents with clear requirements for the economic information, studies and analysis to be included in a proponent’s Impact Statement.  A key element for the impact assessment regime is the development of TISG for each assessment. The TISG provide direction to the proponent on the factors to be considered for impact assessments, including the project’s economic benefits and risks. The Agency tailors the TISG for each assessment and provides direction to the proponent of the project on the methods to be followed and information requirements, including economic information, in order to guide preparation of the proponent’s Impact Statement. The tailoring of the TISG, including requirements for economic analysis, is based on the nature, complexity and context of the project, and is informed and guided by consultation and engagement that occurs with the public, Indigenous groups, lifecycle regulators, jurisdictions, federal authorities and other interested parties during early planning.  Natural Resources Canada (NRCan) will continue to support the Agency in developing project-specific TISG. NRCan will also support the impact assessment process by undertaking economic analysis of natural resource projects for the sustainable and inclusive development of Canada’s natural resources. |

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