

Albert J. Lafferty, President  
Fort Providence Metis Council  
Fort Providence NT  
X0E 0L0

July 11, 2006

Dear Mr. Lafferty

**Re: Motion for a Ruling by the Joint Review Panel**

On June 12, 2006, the Fort Providence Metis Council (FPMC) filed a submission with the Joint Review Panel (Panel or JRP) entitled "Presentation to the Joint Review Panel by the Fort Providence Metis Council". The FPMC submission, which was presented at the June 12, 2006 hearing in Fort Providence, included a motion that requested the Panel to make a ruling as follows:

*The Metis of the Dehcho First Nations hereby request the Joint Review Panel (JRP) to direct the Proponent to prepare a Regional EA before the closing of the public registry and to allow a fair amount of time for the public and parties to the JRP to comment on the Regional EA.*

On June 22, 2006, the Panel circulated a letter to the Parties to the Review being conducted by the Panel on the Environmental Impact Review of the proposed Mackenzie Gas Project (MGP) advising of the Motion, enclosing a copy of the FPMC submission and setting out the procedures by which Parties who wished to could respond to the Motion. A response was received from Imperial Oil Resources Ventures Limited (IORVL) on June 28, 2006. The FPMC was provided an opportunity to reply by July 7, 2006, to any responses filed. No reply was received. The Panel has considered the original Motion and the response in reaching its determination.

The mandate of the Panel is set out in the Agreement for an Environmental Impact Review of the Mackenzie Gas Project (JRP Agreement) that was signed by the Mackenzie Valley Environmental Impact Review Board, the Inuvialuit and the Minister of Environment. Under section 4. b) of the JRP Agreement, the Panel is to carry out its duties and conduct the Environmental Impact Review according to the mandate set out in the Schedule to the Agreement. The Schedule in turn sets out the scope of the Environmental Impact Review to be conducted by the Panel: section 2.0 requires the Panel to address the factors outlined in the Annex 2 to the Schedule and to "have regard to the protection of the environment from the significant adverse impacts of the proposed developments, and to the protection of the existing and future social, cultural and economic well-being of residents and communities."

The parties to the JRP Agreement also issued instructions to the Proponents of the MGP in the form of Terms of Reference (TOR) for the preparation of an Environmental Impact Statement (EIS) to be submitted to the Panel for review. Although the TOR require certain information to be presented and analyzed on a regional basis, the TOR do not consistently require information to be collected or analyzed on the basis of regions that correspond to the administrative or traditional boundaries in the Northwest Territories. For example: section 11.2 of the TOR requires the Proponent to address ecoregions and ecozones; section 11.5.3 requires examination of the National, Regional and Community Economies; and section 15.2 requires analysis of Local, Regional, Provincial, Territorial and National Economies. Annex 2 to the Schedule that sets out factors to be considered in the review, lists as the first factor "The impact of the Project on the environment ... and any cumulative impact that is likely to

result from the Project in combination with other projects or activities that have been or will be carried out”. The TOR do not require impact assessment to be conducted on a regional level. Neither do they require cumulative impacts to be assessed at a regional level. They do, however, require “the potential cumulative impact of the Project [to] be placed in a relevant and appropriate regional context” and suggest (at page 59) that

regional plans, community conservation plans, recovery plans, management plans, thresholds, objectives an/or guidelines etc may be helpful in conveying an integrated sense of the aspirations of people and communities in the Project area with respect to the sustainability of the land, wildlife, culture, social structure and economy.

IORVL on behalf of the Proponents of the MGP responded that it had provided in the EIS that it had filed with the Panel in October 2004, “information regarding possible biophysical and cumulative effects on a regional perspective, focusing on matters which may potentially affect the Deh Cho region as well as other areas.” IORVL also pointed out that additional information that addressed regional concerns had been filed with the Panel through responses to various Information Requests (some of which has been initiated by Parties in the Deh Cho Region), community based assessments and community-based Traditional Knowledge studies commissioned by Imperial that had been or are “being examined within the context of the regional assessment found in the EIS”. With respect to provision of a cumulative impact assessment, IORVL pointed out that one had been included in Volume 5 of the EIS, a hypothetical development scenario and assessment had been provided in Volume 2 of the EIS Additional Information, and “the exploration aspects of the hypothetical development scenario are given in the response to Information Request JRP 2.23.”

Moreover, IORVL stated that supplemental information would be “made available through the course of the community hearings, and the general and technical hearings”.


On July 18, 2005 the Panel determined that there was sufficient information in the EIS to proceed to public hearings subject to receipt of responses from the Proponent of information that was requested at that time. This information was subsequently received by the Panel.

The Panel notes that in the course of the hearings, the FPMC was asked for clarification on whether the focus of its request was related to a geographic region or to different content of the information that had been filed by the Proponent to date. At pages 3677 through 3681 of the Panel’s transcript the FPMC indicated it was the latter – that it wanted to see a “more comprehensive treatment on the longer-term cumulative impacts that would result as a result of the project which is being brought forward by the Proponent”.

In the Panel’s view, the Proponent has provided information that assesses impacts predicted to occur in communities, in regions and cumulatively.

Based on the foregoing, the Panel denies the Motion.

Sincerely,



Robert Hornal  
Joint Review Panel Chair