

September 19, 2007

Q & A's for the Recommendations Phase (Topic 17)

The purpose of the recommendations phase is to provide an opportunity for the Joint Review Panel (the Panel) and Parties to focus on and clarify, if the proposed Mackenzie Gas Project were to proceed, the detailed recommendations and conditions to be attached to the Project.

The following Questions and Answers are provided to participants to assist in better understanding the information the Panel is seeking and the process the Panel intends to follow during this phase and represent a refinement to the *Guidance Document for Hearings: Topics and Locations of Community, General and Technical Hearings* (revised July 13, 2007).

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General Matters

1. **Question: What is the purpose of the Recommendations Phase?**

Response: The purpose of the recommendations phase is to provide an opportunity for the Joint Review Panel (the Panel) and Parties to focus on and clarify, if the proposed Mackenzie Gas Project were to proceed, the detailed recommendations and conditions to be attached to the Project.

The following Questions and Answers are provided to participants to assist in better understanding the information the Panel is seeking and the process the Panel intends to follow during this phase and represent a refinement to the *Guidance Document for Hearings: Topics and Locations of Community, General and Technical Hearings* (revised July 13, 2007).

The recommendations phase is more than just a hearing, it is a three step process consisting of two distinct components - a written component and an oral hearing component.

Written Component – (Steps 1 and 2) The written component is the key component to the Recommendations phase. This component is divided into two steps which will provide an opportunity for a Registered Intervener or any other person to:

Step 1 - file written recommendations. This step will provide an opportunity to:

- update and consolidate recommendations it may have made earlier in the Panel's review;
- review the written recommendations made by others;

Step 2 - file a response to recommendations made at any time throughout the process that have been directed to it or will require it to take an action. This includes not only recommendations filed with the Panel pursuant to Step 1 above but, as well, those recommendations contained in prior submissions or presented at prior hearings. This step will provide an opportunity to:

- respond to recommendations (including setting out any relevant commitments) that have been directed to it or will require it to take an action;
- review the responses and commitments made by those to whom a recommendation has been made.

Oral Hearing Component – (Step 3) The oral hearing on recommendations will provide an opportunity to:

- comment on and ask the Party directing the recommendation questions relating to any residual and outstanding matters in relation to the written recommendations directed to it pursuant to Step 1 above;
- comment on and ask the Party to whom you directed the recommendation questions relating to any residual and outstanding matters in relation to the written response to recommendations (including commitments made) it filed pursuant to Step 2 above.

The oral hearing on recommendations is an opportunity for the Panel to ensure that it fully understands any residual or outstanding matters relating to recommendations, responses or commitments.

The oral hearing on recommendations is not a forum for negotiations between Parties or to restate or summarize the recommendations being put forward.

Written Component of the Recommendation Phase

2. Question: What do I have to file with the Panel for the oral hearing on recommendations?

Response: To participate in the oral hearing on recommendations, a completed registration form will have to be filed with the Panel Manager (the same one as for all other Topic-Specific hearings) by October 5, 2007.

In addition to the registration form, you are to file the recommendations you feel the Panel should make **if** the proposed Mackenzie Gas Project were to proceed (see Question 1, Step 1 above) and, should there be recommendations directed to you, you should also file responses to those recommendations (including any commitments) (see Question 1, Step 2). Please see, as well, page 37-38 of the Panel's *Guidance Document for Hearings: Topics and Locations of Community, General and Technical Hearings* (revised July 13, 2007) [JRP July 13, 2007 Hearing Schedule Update - Guidance Document for Hearings](#).

3. Question: If I have made recommendations in the past, do I have to file them again with the Panel? Do they have to be filed in the format requested?

Response: Recommendations are a very important part of the Panel's review. The Panel has received a great deal of information over the past two years. It is important that the Panel know whether your recommendations have been satisfied or whether they have changed in any way because of changes made to the Project; commitments made by the

Proponent or a Party; or changes in your own circumstances. If a recommendation is important to you, it will be in your best interest to ensure the Panel has your most recent and comprehensive recommendations. While you are not obliged to re-file your recommendations, **it would be helpful if you would.** As noted in Question 1 above, the written component is the key component to the Recommendations phase.

If you file in the format suggested by the Panel in its July 2007 Guidance document, it will be easier for the Panel and all participants to identify and track recommendations. The Guidance document requests that recommendations be filed in Microsoft ExcelTM. The recommendations should be organized under the following five column headings:

1	2	3	4	5
Party Making Recommendation	Recommendation Number	Party Recommendation is Directed To	Recommendation	Timing

1. Name of Party filing the recommendation
2. Recommendation number that includes the Party's identifier (e.g. INAC), the JRP Topic number (as per *Guidance Document for Hearings*), and the recommendation number (e.g. INAC_Rec_T7_01 may be a wildlife related recommendation). For those who have previously filed recommendations, please number your recommendations sequentially starting with 1, regardless of the numbering or lettering you may have used in earlier submissions to the Panel. If you have used an earlier form of identification, you may cross reference it by including in brackets the name and date of your earlier submission and the number or letter used to identify the recommendation.
3. Name of the Party the recommendation is directed to
4. Text of the recommendation
5. Timing for when the recommendation should occur

If you wish to organize your recommendations differently for the purpose of a written submission, you may do so. However, the Panel strongly encourages you to also file your recommendations in the format set out above.

4. Question: If I have already made recommendations to the Panel during the course of the hearings, will I be limited to making just those recommendations?

Response: No. You may make any recommendation that is within the mandate of the Panel. In order for your recommendations to be included for the purposes of the oral hearing on recommendations, they must be filed as set out in Question 1, Step 1 above.

5. **Question:** If I have made recommendations to the Panel during the course of the hearings but I do not participate in the Recommendations phase, will the Panel still consider my recommendations?

Response: Yes. The Panel will take into consideration all information that has been filed or presented to it during the course of the hearings and that is on the Public Registry. This includes recommendations made by Registered Interveners as well as other persons who are not Registered Interveners.

6. **Question:** If a person made a presentation that contained recommendations at a Community or General Hearing but does not file their recommendation in writing with the Panel in the Recommendations phase, does the Proponent or the Party to whom the recommendation is made have to respond to those recommendations?

Response: It is the Panel's expectation that all Parties will have kept track throughout the Panel's hearings phase of any recommendations that were either directed to them or would require them to take an action. The appropriate time to respond to recommendations that have been made at any time during the Panel's review is during the written component of the Recommendations phase as set out in Question 1, Step 2 above.

The Panel does not anticipate that a Party will have to respond to every recommendation that has ever been made during the hearings process. Recognizing that there will be some difficulty in distinguishing between a comment and a formal recommendation, and that there will be some similarity to a number of recommendations, especially those that are general in nature, the responding Party is requested to exercise its best judgment in deciding which recommendations it will respond to. The Panel anticipates that a Party will respond to those recommendations with which it does not agree or that it cannot fulfill, as well as to those recommendations that it does accept and for which it has a proposed response or commitment.

7. **Question:** What if I made a recommendation earlier in the Panel's review but the Proponent or another Party has satisfied it or addressed it to my satisfaction, should I include it in my list of recommendations anyway?

Response: The Panel would prefer that you include all of your recommendations and indicate whether the recommendation has been satisfied or changed. If it has been satisfied, it would be helpful to know how and by whom. If it has been changed, it would be helpful to know how and why it has changed.

8. Question: If, as a person who is not a Party to the review, I file a written recommendation (as set out in Question 1, Step 1) but a response to my recommendation is not filed (as provided for in Question 1, Step 2), what do I do?

Response: You may write a letter to bring to the Panel's attention your concern that your recommendation did not receive the benefit of a response.

9. Question: Can I comment on recommendations that have been made to others or on responses and commitments that have been made and, if so, when and how?

Response: Yes, you can comment on the recommendations made by others. You would do so in a written submission to the Panel pursuant to Question 1, Step 2 above. Following the oral hearing on recommendations, any residual comments on responses and commitments can be filed with the Panel prior to the close of the record.

10. Question: Will the Panel be providing a list of recommendations that have been made in the course of the review to date?

Response: No, the Panel will not be providing a list of recommendations made during the course of the review.

11. Question: Will the Panel be providing or requiring any other Party to provide a concordance table or chart that shows what commitments they are making in response to specific recommendations?

Response: No, the Panel will not be providing a concordance table. However, the Panel encourages Parties to provide their response to a recommendation (including any commitments made) by inserting it into the ExcelTM document in which the recommendation was originally made. If it was not filed with the Panel in this format, the Party is asked to also file with the Panel both the recommendation and the response in the ExcelTM format along with the response.

Attached as Appendix "A" is an example of what the Panel is seeking by way of filed responses (including any commitments made).

12. Question: How will I know if a Party to whom a recommendation has been directed has made commitments to address the recommendation?

Response: Pursuant to Question 1, Step 2, Parties are required to file a response to recommendations setting out any commitments made to address the recommendation.

Attached as Appendix “A” is an example of what the Panel is seeking by way of filed responses (including any commitments made).

- 13. Question: What if my community has filed a Traditional Knowledge Study Report that is confidential but important recommendations are enclosed in the TK Study Report? Should my community file recommendations separately?**

Response: Yes, the Panel would prefer that the recommendations the community wishes to make be extracted from the TK Study Report and filed pursuant to Question 1, Step 1. This way the Panel will know whether a recommendation has been met by a Party and whether that recommendation is still of concern to the community and still relevant. Because the Panel’s review is a public process, the Panel requests all recommendations be framed in such a way that they can be filed on the Public Registry.

- 14. Question: Who should I file my recommendations with?**

Response: All recommendations should be filed with the Panel via email (to pacholekp@jointreviewpanel.ca and hamelg@jointreviewpanel.ca) and in hardcopy (15 copies) (to the Joint Review Panel office) as well as copied to the Party to whom the recommendation is directed (as per their preferred method of contact on the JRP List of Parties).

If electronic filing is not possible, hardcopies will be accepted by fax or mail if received by the published deadline at the Joint Review Panel office at the following coordinates:

Joint Review Panel Office
Suite 302, 125 Mackenzie Road
P.O. Box 2412
Inuvik, NT X0E 0T0
Facsimile: (867) 777-3105

Oral Component of Recommendations Phase

- 15. Question: Who can participate in the oral hearing on recommendations?**

Response: As stated in Question 1 above, there are two distinct components to the Recommendations phase – the written component and the oral hearing component. The Proponent and Registered Interveners (Parties to the review) who have filed written recommendations pursuant to Question 1, Step 1 above as well as those Parties to whom a recommendation has been directed can participate in the oral hearing on recommendations.

Other persons who are not Parties to the review may file written recommendations with the Panel as set out in Question 1, Step 1 above. It is the expectation that written recommendations filed by persons who are not Parties to the review will be responded to by the Party to whom the recommendation is directed and that the response will be filed with the Panel pursuant to Question 1, Step 2 above. Time permitting, other persons who have filed written recommendations pursuant to Question 1, Step 1 may participate in the oral hearing on recommendations. If there is not enough time at the hearing to allow other persons to participate, any residual comments can be filed with the Panel by other persons prior to the close of the record.

16. Question: What can I expect at the oral hearing on recommendations?

Response: At the oral hearing on recommendations Registered Interveners will be called in alphabetical order to:

- comment on the responses filed to the recommendations put forward by them and to ask questions of the Party to whom they directed recommendations. Questions must be for the purpose of clarification only and must focus on the responses filed by the Party to whom their recommendation was directed;
- answer questions from the Panel and the Party to whom the recommendation was directed.

Time permitting, other persons who are not Parties to the review but who have filed recommendations will be called to participate in a manner that is similar to the procedure set out for Registered Interveners, as outlined above.

All Parties to the review as well as other persons are expected to refer to recommendations by the recommendation reference number as outlined in Question 3 above.

Following the oral hearing on recommendations, any residual comments can be filed with the Panel by Parties to the review as well as other persons who filed recommendations. All written comments must be filed with the Panel prior to the close of the record.

17. Question: At the oral hearing on recommendations, will I be able to comment on recommendations that were not directed to me but might require me to take an action?

Response: No. Recommendations that might require you to take an action but were not directed to you should be responded to in writing as set out in Question 1, Step 2.

18. **Question:** As a Party to the review, if I file a written recommendation (as set out in Question 1, Step 1) but a response to my recommendation is not filed (as provided for in Question 1, Step 2) will I be able to ask questions at the oral hearing on recommendations of the Party to whom my recommendation was directed?

Response: The oral hearing on recommendations is not the place for you to repeat or summarize your recommendations and you will not be able to ask questions of the Party about why they have not responded to your recommendation. However, you will be able to bring to the attention of the Panel the fact that your recommendation did not receive the benefit of a response.

19. **Question:** What if I respond to a recommendation directed to me (in Question 1, Step 1), then at the oral hearing, the party that made the recommendation changes the recommendation?

Response: You are only expected to respond to information that is already on the Public Registry. If a recommendation is changed, it is up to that party to bring forward any change to their recommendation. If you are unable to respond to the change at the oral hearing, you can request that the Panel provide you with an appropriate amount of time to provide the response.

20. **Question:** What if I am part of a team that made recommendations based on technical reviews and a question is asked that only the individual who conducted the technical review can answer but that person is not in the hearing room?

Response: If a Party is not able to answer a question posed at the oral hearing, it may ask the Joint Review Panel Chair if it could provide the information at a later point in time – either orally during the hearing (after you have conferred with your colleague) or by way of a written undertaking filed with the Panel on or before a mutually agreed date.

Appendix “A”

Party Making Recommendation	Recommendation Number	Party Recommendation is Directed To	Recommendation	Timing	Response	Commitment Number	Commitment
Pehdzeh Ki First Nation	PKFN_Rec_T12_01	IORVL	A platform for the perpetuation and promotion of community-based arts and crafts initiatives		Agree/Disagree /Agree with variation See commitment	IORVL 12-22	Provide, if requested, the opportunity for Aboriginal artisans to display and sell their handicrafts in the camps.
Fisheries Joint Management Committee	FJMC_Rec_T12_03	IORVL	The FJMC recommends that the JRP require that MGP workers should be generally prohibited from recreational fishing while on the job site		See commitment	IORVL 12-33, 7-31	Ensure that no project workers harvest, harass, harm or feed wildlife. Prohibit all workers from hunting and fishing on any project sites.
Fort Providence Resource Management Board	FPRMB_Rec_T12_06	IORVL	The FPRMB recommends that IORVL not allow their workers to hunt while on the Job or in Camp when working for IORVL. The FPRMB suggest that failure to adhere to a “no hunting policy” adopted by IORVL would result in disciplinary action		See commitment	IORVL 12-33, 7-31	Ensure that no project workers harvest, harass, harm or feed wildlife. Prohibit all workers from hunting and fishing on any project sites.