

# **Joint Review Panel**

## **Direction on Procedures for Hearings**

### **(“Procedures”)**

This document outlines procedures for the public hearings phase of the environmental impact review being conducted by the Joint Review Panel for the Mackenzie Gas Project. These Procedures supplement the Rules of Procedure issued by the Joint Review Panel on September 14, 2004 (the “Rules”). For ease of use, the provisions of the Rules that pertain to hearings have been incorporated here for the purpose of having a single stand-alone document for the hearings phase of the Joint Panel’s review.

#### **INTRODUCTION**

1. This document outlines procedures for the public hearings to be conducted by the Joint Review Panel appointed to review the proposed Mackenzie Gas Project (MGP) as defined in the Joint Review Panel Agreement signed by the Minister of Environment, the Mackenzie Valley Environmental Impact Review Board and the Inuvialuit Game Council effective the 3<sup>rd</sup> day of August, 2004 (the “Agreement”).
2. The Joint Review Panel will conduct the public hearings in a manner that ensures examination of matters relevant to the Joint Review Panel’s mandate while at the same time encouraging public input as directed by the Agreement.
3. The objective of the public hearings is to provide opportunities for:
  - individuals, organizations and government representatives to provide their views on the implications of the proposed Project,
  - the proponent of the MGP (the “Proponent”) to explain the project and respond to concerns and questions raised by other Parties during the hearings, and
  - the Joint Review Panel to receive information that will help it address "The Factors To Be Considered During Review" defined in Annex 2 to the Schedule of the Agreement, a copy of which is attached to this document.
4. These Procedures are intended to ensure that the public hearings take place in a fair and equitable manner, with maximum co-operation and courtesy. The Chair of the Joint Review Panel (the “Chairperson”) will maintain order and efficiency in a structured but informal atmosphere as indicated by the procedures outlined in this document. However, the hearings will not follow the strict rules of procedure and evidence required by a court. As a general rule, witnesses will not be sworn in. The Joint Review Panel encourages groups and individuals to speak on their own behalf and ask their own questions at the public hearings. Representation by legal counsel is not encouraged.
5. The Chairperson shall preside at the hearings and has the discretion to modify or waive specific procedures where the objectives of the hearings can be better achieved by taking a different approach.

## **Scheduling of Hearings**

6. The Joint Review Panel will schedule hearings by means of a public notice given in accordance with the Agreement.
7. Subject to the provisions of the Agreement, the Joint Review Panel reserves the right to cancel or change the date of a hearing at any time.

## **Types of Hearings**

8. Three types of hearings will be conducted by the Panel: Community, General and Technical. The Panel considers each type of hearing session to be an essential part of the review process, and will give careful consideration to all submissions, whether oral or written. General Hearings will be designated by the Panel as Open General or Topic-Specific Hearings. As the procedures for each are slightly different, please see Procedure 19 herein.

## **HEARING SPECIFIC PROCEDURES**

### **Community Hearings**

9. Community Hearings are held to encourage the participation of people living nearest the location of the proposed project. At these hearings, priority will be given to people and organizations from the community.
10. As a general rule, presentations at Community Hearings will be limited to a maximum of fifteen minutes (not including the question and answer period). The Joint Review Panel recognizes the need to respect the customs of individual communities, and is therefore prepared to accommodate a more flexible approach to the community hearings if necessary, while still ensuring maximum public input and a thorough examination of the issues. The Chairperson may restrict presentations that are outside the mandate of the Joint Review Panel review, needlessly repetitive, or irrelevant.
11. More than one individual may participate in a presentation by an organized group. When a presentation is made by several persons, the collective presentation must take place within the maximum 15 minute time period. Additional time may be provided at the discretion of the Chairperson.
12. Written submissions are not required at Community Hearings but will be welcomed by the Joint Review Panel and placed on the public registry. Copies of written submissions, presented just prior to speaking, will assist in the preparation of verbatim transcripts of the hearings and in the language interpretation.
13. Persons wishing to make a presentation at a Community Hearing are asked to contact the Panel Manager at the address or phone number found at the end of this document. Alternatively, presenters may register with the Panel Manager at the beginning of the Community Hearing at which they want to speak. Registered Interveners who want to make recommendations to the Panel at a Community Hearing must provide 15 copies of

their written submissions to the Panel Manager 15 days in advance of the Community Hearing. These will be posted to the Public Registry. This will allow the Joint Review Panel and others to review recommendations prior to the hearings.

14. For the purpose of maintaining the record at a Community Hearing, the Chairperson will require any person or organization wishing to make a presentation to identify themselves before they give their oral presentation or written submission.
15. The format of the Community Hearings will be as follows:
  - Opening remarks by the Chairperson.
  - Proponent's presentation. At the beginning of the hearing in each community the Proponent will give a presentation. The focus of the presentation will be on the proposed Project's activities and the predicted impacts in relation to that particular community.
  - Presentations by community members who have given notification to the Panel Manager that they wish to make a presentation. Each person's presentation will be limited to 15 minutes and may be followed by a question and answer period.
  - If time remains, there will then be an opportunity for others that wish to address the Panel to do so. The Chairperson reserves the right to give priority to persons appearing before the Joint Review Panel for the first time.

### **General Hearings**

16. General Hearings will provide the opportunity for organizations, businesses or individuals to make presentations to the Joint Review Panel on any aspect within the scope of the review.
17. Presentations at General Hearings should be limited to a maximum of 15 minutes (not including the question and answer period). A longer period may be granted at the discretion of the Chairperson upon prior request. More than one individual may participate in a presentation by an organized group. When a presentation is made by several persons, the collective presentation must take place within the maximum 15 minute time period. The Chairperson may restrict presentations that are outside the mandate of the Joint Review Panel review, needlessly repetitive or irrelevant.
18. Registration with the Panel Manager is requested at least 30 days before the particular scheduled General Hearing session. Persons who have registered in advance will be given priority to speak. The opportunity for persons who have not registered to present will be at the discretion of the Chairperson. The Chairperson reserves the right to give priority to persons appearing before the Panel for the first time.
19. Persons registered to present at a General Hearing must provide 15 copies of their written submissions or slide presentation (including Power Point™ presentations) to the Panel Manager 15 days in advance of their scheduled presentation. These will be posted to the Public Registry. This will allow the Joint Review Panel and others to review submissions prior to the hearings.
  - a. Submissions for Open General Hearings must be filed 15 days in advance of the scheduled hearing.
  - b. Submissions for Topic-Specific General Hearings must be filed 20 days in advance of the scheduled hearing.

20. Copies of speaking notes provided just prior to speaking will be used to assist in preparation of the verbatim transcript of the hearings and in the language interpretation. These will not be posted on the public registry and will not form part of the Joint Review Panel record.
21. The format of a General Hearing will be as follows:
  - Opening remarks by the Chairperson.
  - Proponent's presentation.
  - Presentations by registered participants (Interveners and persons who have given notification to the Panel Manager). Each presentation will be limited to 15 minutes and may be followed by a question and answer period.
  - If time remains, those who have registered just prior to or during the session will have the opportunity to address the Joint Review Panel.
22. At the Joint Review Panel's discretion, a General Hearing may be devoted to specific topics. Any such General Hearings will be identified in the hearing schedule.

### **Technical Hearings**

23. Technical Hearings provide an opportunity for Interveners to give a presentation on specific topics chosen by the Joint Review Panel in advance.
24. Participation in Technical Hearings is restricted to the Proponent and Interveners, including their technical experts, and specialist advisors called by the Joint Review Panel. Registration with the Panel Manager is required 30 days in advance.
25. Persons making presentations at Technical Hearings must submit a written version of their presentation 20 days in advance and will be subject to detailed questioning. The written submissions must include a brief statement regarding the presenter's experience related to the subject. Persons intending to present a summary of their written submission by way of a slide presentation (including Power Point™ presentations) must file a copy of the slide presentation with the Panel Manager 20 days in advance of the hearing at which the presentation is scheduled to be made.
26. All technical submissions will be placed on the public registry.
27. The format of the technical hearings will be as follows:
  - Opening remarks by the Chairperson.
  - Proponent's technical presentation. This will be limited to 45 minutes and will focus on the issue designated for that particular session. It will be followed by a question and answer period by the Joint Review Panel and Interveners.
  - Presentations by Interveners. Each Intervener's presentation will be limited to 30 minutes and may be followed by a question and answer period by the Joint Review Panel, the Proponent and other Interveners.
28. More than one individual may participate in a presentation by an organized group. When a presentation is made by several persons, the collective presentation must take place within the time period assigned for that presentation. As Parties are required to submit a written

presentation, the Joint Review Panel encourages Parties to focus on the highlights of their technical papers in their oral presentation. The Chairperson may restrict presentations that are outside the mandate of the Joint Review Panel review, needlessly repetitive, or irrelevant.

29. Presentations at Technical Hearings will focus on the issue designated for that particular session. A longer period may be granted at the discretion of the Chairperson provided that a request is made to Panel Manager at least 10 days in advance of that particular session.

### **Experts**

30. A written curriculum vitae for each specialist advisor and for each person having technical or special knowledge who is providing specialized knowledge to the Joint Review Panel on behalf of a Party must be filed with the Joint Review Panel 20 days prior to the Hearing and must be referenced orally at the hearing prior to the person's presentation.
31. The curriculum vitae must set out the qualifications and experience of the expert or specialist advisor and must reference the special knowledge provided to the Party or the Joint Review Panel.
32. Any report received from a specialist advisor shall be disclosed to all Parties when it is received. The specialist advisor may be questioned by any Party to the proceeding.
33. If a Party's submission is based in whole or in part on the advice of an expert, it is the responsibility of that Party to make the expert available to answer questions by any Party at the hearing where the Party's submission is being presented to the Joint Review Panel.

## **GENERAL PROCEDURES**

### **Preliminary Legal Issues**

34. Any preliminary legal issue to be raised at a hearing must be filed by way of Motion with the Joint Review Panel at least 30 days prior to the commencement of the Hearings Phase of the Joint Panel's review.

### **Motions for Rulings By the Joint Review Panel**

35. Any issue that arises in the course of the review that requires a decision from the Joint Review Panel shall be brought to the Joint Review Panel's attention by way of a written Motion.
36. A Motion shall include a clear, concise statement of the relevant facts, an indication of the decision being sought from the Joint Review Panel and the reasons why the decision should be made.
37. All Motions shall be filed with the Panel Manager and provided to all other Parties.
38. The Joint Review Panel will schedule a date for the Motion to be considered. This date shall be no less than five (5) business days after the Motion is filed.
39. A Party wishing to respond to a Motion shall provide a written response and supporting documents to the Panel Manager no later than two (2) business days before the Motion is scheduled to be considered by the Joint Review Panel. The Panel Manager shall ensure that

all Parties are provided with any responses filed with the Joint Review Panel at least one (1) business day before the Joint Review Panel considers the Motion.

40. The Joint Review Panel may, in its discretion, vary any time period prescribed for the filing and considering of a Motion or a response and set the procedures by which it will consider and make a determination on a Motion.

### **Motions for Rulings Made During a Hearing**

41. Notwithstanding Rules 34 and 35 herein, the Joint Review Panel may agree to accept a Motion made orally in the course of hearings.
42. Motions made by a Party during a hearing will be dealt with in a timely way by the Joint Review Panel.

### **Panel Discretion**

43. Where any issue arises during the course of the review, the Joint Review Panel may take any action necessary consistent with the Rules and these Procedures, or permitted by law, in order to enable it to fairly and effectively decide on the issue.

### **Confidential and Sensitive Information**

44. Unless a Motion for a ruling to protect the confidentiality of information is filed with and approved by the Joint Review Panel, all information and documents received during the review proceeding will be placed on the public registry.
45. The Joint Review Panel may make a ruling or issue a direction on procedure to limit the introduction of or to prevent the disclosure of information or documents in order to protect information of a confidential or sensitive nature, including but not limited to matters involving security, business, personal or proprietary interests.
46. The Joint Review Panel will notify Parties of any Motion for a ruling involving the filing of confidential information and will follow the procedures set out in Rules 34 through 42 herein.

### **Opening Remarks**

47. At the commencement of the Hearings phase, the Parties will have an opportunity to provide opening remarks. Opening remarks will be limited to 15 minutes and will allow the Party to introduce themselves and, if they so choose, a brief summary of their proposed participation in the hearings.
48. Parties wishing to make opening remarks shall advise the Panel Manager 20 days prior to commencement of the Hearings phase.

### **Admissibility and Exchange of Information**

49. To the extent possible, the Joint Review Panel will emphasize flexibility and informality in its proceeding.

50. The Joint Review Panel will encourage submission of traditional knowledge relevant to the Project including oral history in its proceedings, and will fully consider any such information provided in accordance with the Rules or these Procedures.
51. The Joint Review Panel may make appropriate arrangements to obtain information from or hear the testimony of an elder or the holder of traditional knowledge at any time prior to the close of hearings.
52. In conducting its proceedings, the Joint Review Panel may admit information that would not normally be admissible under the strict rules of evidence.
53. All Parties must disclose any information to be relied on in accordance with the timeframes included in these Procedures or any schedule issued by the Joint Review Panel.
54. Any person seeking to persuade the Joint Review Panel to accept any point or position advanced during the Hearings is responsible for introducing supporting information.
55. Participants will be allowed to make one presentation to the Panel per hearing session. If participants wish to make additional presentations at other hearing sessions, they must be prepared to present information not covered in their previous presentation. In scheduling the public hearings, the Panel reserves the right to give priority to participants who have not yet appeared before the Panel.
56. Failure to disclose information as required by any request or direction on procedure issued by the Joint Review Panel, the Rules or these Procedures may result in the Joint Review Panel ruling that the information is inadmissible in the proceeding.
57. The Joint Review Panel may order an exchange of information among the Parties in order to ensure that the proceedings are focused, efficient and fair.
58. The Joint Review Panel may request information from any Party at any time during the proceedings orally or by way of a written Information Request.
59. The Joint Review Panel may, as it sees fit, exercise the powers granted to it under the Agreement to compel the attendance and examination of witnesses and the production and inspection of documents as provided for in section 35 of the *Canadian Environmental Assessment Act* and section 25 and subsection 133(1) of the *Mackenzie Valley Resource Management Act*.
60. Where proof of delivery of information is required, proof may be provided by affidavit, receipt for double registered mail or by a document showing electronic transmission and receipt by the other Party, or by any other reasonable means filed with the Panel Manager.
61. Documents submitted at the hearings and accepted by the Chairperson will be placed on the Public Registry.
62. Electronic aids to oral presentations, such as Power Point™ presentations, must be provided to the Panel Manager prior to the Hearing for which the presentation is scheduled. Presentations will be made on the Joint Review Panel computer therefore it must be provided in a format such as a memory stick or CD ROM for use on the Joint Review Panel computer.

63. Electronic presentations will be placed on the Public Registry. Please refer to the Joint Review Panel Protocol for Filing Submissions.

### **Questioning**

64. The Proponent and Interveners should pose their questions in a tone and style that are courteous to and respectful of others. Clarity and brevity are encouraged. The purpose of the questions should always be to elicit information that will help the Joint Review Panel understand more fully the issues which relate directly to its mandate. Each presenter may be questioned immediately following his or her presentation. The order of questioning will be at the discretion of the Chairperson but typically will be: the Proponent, Interveners, members of the public where applicable, and members of the Joint Review Panel. Joint Review Panel members may ask questions at any time during the hearings.
65. Questions should be directed through the Chairperson who may allow a Party to put questions directly to the presenter.
66. The Chairperson may limit or exclude questions or comments that fall outside the mandate of the Joint Review Panel, are needlessly repetitive, irrelevant, or immaterial.
67. The Chairperson may limit discussion that exceeds the time limit.
68. Where a person does not abide by the Rules, these Procedures or the direction of the Chairperson, the Chairperson has the authority to refuse to permit further questioning from that individual.

### **Closing Remarks**

69. The last session of the public hearings will be reserved for the Parties' closing remarks. Persons wishing to make closing remarks must register 30 days in advance with the Panel Manager. Closing remarks will be limited to the Proponent and Interveners and must be filed in writing 20 days in advance of the date scheduled for the Hearing. The Chairperson may limit the time available for oral closing remarks.
70. Closing remarks shall be included as part of the record.

### **Written Comments**

71. Persons may present their views or information directly to the Joint Review Panel at the hearings, or may file written comments. All written comments must be sent to the Joint Review Panel at least 20 days prior to the date scheduled for Closing Remarks so that the Joint Review Panel and Parties may consider the written comments within the hearings process.
72. Written comments filed pursuant to section 71 will be placed on the Public Registry.

### **Closing of the Record**

73. At the conclusion of the hearing, the record for the purpose of the Joint Review Panel's deliberations shall be closed unless the Joint Review Panel directs otherwise. Once the record is closed, no additional information will be accepted unless the Joint Review Panel decides

the information is material and that there was good cause for failure to produce it in a timely fashion.

74. In the event the Joint Review Panel allows additional information to be filed after the record has been closed, the Joint Review Panel will provide a copy of the newly filed additional information to the Parties and allow the Parties a reasonable period of time to review the information and file their response, if any, with the Panel Manager.

75. The Chairperson shall ensure that any additional information filed under clause 73 above and any responses to same as approved by the Panel, and any correction to the transcript are included in the record.

### **Interpretation**

76. Aboriginal language interpretation services will be provided at the hearings as appropriate following consultation with the representative aboriginal organizations in each region.

77. The Panel Manager will make every effort to accommodate requests for interpretation at a public hearing provided the request is received by the Panel Manager at least 30 days prior to the start of the hearings and where interpretation is required for the proper conduct of the hearing.

### **Audio Visual Equipment**

78. If audio-visual equipment is required for a presentation, the presenter must inform the Panel Manager not less than 10 days before the presentation.

### **Posted Schedule**

79. The Joint Review Panel will make available at the beginning of each hearing a list of the speaking order of participants who have notified the Panel Manager that they wish to make a presentation at that hearing.

### **Media Requests**

80. Media requests regarding the Panel's activities must be directed to the Panel Manager.

81. Upon request, audio and visual recording equipment may be allowed at the discretion of the Chairperson.

### **Transcripts**

82. Written transcripts will be made of all hearings and will be posted on the Public Registry.

### **Costs**

83. The Joint Review Panel has no authority to award costs to those Parties participating in the environmental review. Any costs incurred by a Party to the proceedings are the responsibility of the Party.

**Conflict**

84. Where there is a conflict between these Procedures issued by the Joint Review Panel and the Rules, these Procedures prevail.

For further information please contact the Panel Manager for the Joint Review Panel

Paula Pacholek  
Joint Review Panel Manager  
Suite 302, Professional Building  
125 Mackenzie Road  
PO Box 2412, Inuvik, NT X0E 0T0

Tel: (867) 678-8604  
Fax: (867) 777-3105

Email: [pacholekp@jointreviewpanel.ca](mailto:pacholekp@jointreviewpanel.ca)

## Definitions

- “Agreement” means the Agreement establishing the Joint Review Panel signed by the Mackenzie Valley Environmental Impact Review Board, the Minister of the Environment and the Inuvialuit as represented by the Inuvialuit Game Council.
- "clarification" means the process by which the Joint Review Panel requests an explanation of any document or information on the public registry without seeking new information.
- "direction on procedure" means a direction issued by the Joint Review Panel at any time to clarify or supplement the Rules or these procedures.
- “day” means a calendar day unless specifically designated in these Procedures as a business day. Where a time fixed falls on a holiday or a Saturday or a Sunday, the time fixed shall extend to the next business day.
- "environmental impact review" means the examination of the Project referred to in the Agreement and includes submission of the joint review panel report in accord with the Agreement.
- "Environmental Impact Statement" means the Environmental Impact Statement referred to in the Agreement.
- "hearing" means that phase of the environmental impact review where the Joint Review Panel receives information orally.
- "Intervener" means any person who has been granted Intervener status by the Joint Review Panel in the environmental impact review.
- "Joint Review Panel" means the panel appointed pursuant to the Agreement.
- "Party" or “Parties” means the Proponent, an Intervener participating in the environmental impact review proceeding, or any one of them.
- "proceeding" or “proceedings” refers to the environmental impact review, or any part thereof.
- “Project” means the Mackenzie Gas Project as defined in the Agreement.
- "Proponent" includes, in respect of the Project or any part of it, Imperial Oil Resources Ventures Limited, the Aboriginal Pipeline Group, ConocoPhillips Canada (North) Limited, ExxonMobil Canada Properties, Shell Canada Limited and any other entity proposing to carry out a portion of the Project.
- "public notice" means an announcement made through newspaper, radio, community poster or other public means deemed appropriate by the Joint Review Panel;
- "specialist advisor" means any expert engaged at the request of the Joint Review Panel to prepare a report for the public record on a technical issue before the Joint Review Panel.

## **ANNEX 2 TO THE SCHEDULE: FACTORS TO BE CONSIDERED DURING REVIEW**

The Environmental Impact Review will have regard to the protection of the existing and future social, cultural and economic well-being of residents and communities and will include a consideration of the following factors:

1. The impact of the Project on the environment, including the impact of malfunctions or accidents that may occur in connection with the Project 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;
2. The significance of any such impact;
3. Any comments from the public that are received during the Environmental Impact Review;
4. Measures that are technically and economically feasible and that would mitigate any significant adverse impact of the Project on the environment;
5. The purpose of the Project;
6. The need for the Project;
7. Alternatives to the Project;
8. Alternative means of carrying out the Project that are technically and economically feasible and the impact on the environment of any such alternative means;
9. The need for any follow-up program in respect of the Project, and the requirements of such a program;
10. The capacity of renewable resources that are likely to be significantly affected by the Project to meet existing and future needs;

In respect of the Inuvialuit Settlement Region, the Joint Review Panel will recommend:

- a) Terms and conditions relating to mitigation measures that would be necessary to minimize any negative impact on wildlife harvesting, as referred to in paragraph 13(11)(a) of the IFA, including, as far as is practicable, measures to restore wildlife and its habitat to its original state and to compensate Inuvialuit hunters, trappers and fishermen for the loss of their subsistence or commercial harvesting opportunities;
- b) An estimate of the potential liability of the Proponents, determined on a worst case scenario, taking into consideration the balance between economic factors, including the ability of the Proponents to pay, and environmental factors, as referred to in paragraph 13(11)(b) of the IFA.