



Environment Minister Releases CEAA 2012 Decision Statement on Jackpine Mine Expansion

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December 13, 2013

The Federal Environment Minister issued a Decision Statement – the first made under the new Canadian Environmental Assessment Act, 2012 (CEAA 2012) – on the proposed Jackpine Mine Expansion Project on December 6, 2013. Although a federal-provincial Review Panel determined that the proposed Jackpine Mine Expansion Project is likely to cause significant environmental effects, the federal government has concluded that those effects would be justified. The project can proceed in accordance with certain conditions set out in the Decision Statement issued by the federal Environment Minister.

Shell Canada Ltd. is proposing to expand the Jackpine Mine to increase bitumen production by 100,000 barrels per day. The expansion will include additional mining areas and associated processing facilities, utilities and infrastructure. The project is located about 70 km north of Fort McMurray on the east side of the Athabasca River.

While the federal Environment Minister, Leona Aglukkaq, agreed with the Review Panel's findings, she referred the matter to the Governor in Council (pursuant to section 52(2) of CEAA 2012) to determine whether those effects would be justified in the circumstances. The Governor in Council determined that the effects would be justified and that the project can proceed.

Conditions To Be Met by Shell Canada

In accordance with subsection 53(1) of CEAA 2012, the Minister has set out a number of conditions Shell Canada must comply with, including

- 1 prepare an Aquatic Ecosystem Monitoring Plan for a number of water bodies, including Kearl Lake and the Muskeg River
- 2 prepare and submit to the Canadian Environmental Assessment Agency (CEAA) an annual schedule identifying the location and timing of dewatering activities to avoid destruction of fish
- 3 conduct an analysis of feasible fish habitat compensation sites(s)
- 4 avoid impacting migratory birds, their nests and eggs when conducting vegetation clearing and removal activities
- 5 implement economically and technologically feasible measures to prevent drawdown on the lenticular patterned fen

- 6 notify Aboriginal groups of the process for accessing project lands not under construction, operation or restoration, including the Muskeg River and the Muskeg River Diversion when constructed, to practice traditional uses
- 7 implement a retrofit and replacement schedule demonstrating off-road equipment conversion to best available emissions technology with new engines meeting the *Off-Road Compression Ignition Engine Emission Regulations*
- 8 submit annual reports on a number of specified items, including those set out in (1) to (7) above
- 9 permit no release of water from the end pit lakes until the water quality criteria for the Lower Athabasca Regional Plan and the Muskeg River Water Quality and Quantity Management Framework are met, as prescribed by the Surface Water Quality Management Framework
- 10 prepare a Life of Mine Closure Plan for approval from the CEAA six months prior to initiating reclamation or closure activities.

Federal Response to Review Panel Recommendations

As part of its report, the Review Panel directed 88 recommendations to the Alberta and federal Governments to address broader issues associated with oil sands development, with a view to strengthening environmental protection in the oil sands region and promoting positive and long-term relationships with Aboriginal communities. Canada has responded to these recommendations by reiterating certain commitments previously made such as

- ◆ monitor the regional hydro-climatology and ecology of the Peace Athabasca Delta and the effects changes in climate might have on its productivity and biodiversity, in collaboration with local Aboriginal groups and governmental or non-governmental organizations
- ◆ finalize recovery documents (Recovery Strategies, Management Plans, Action Plans) on a priority basis for species at risk known to occur in the oil sands region, including but not necessarily limited to Wood Bison, Canada Warbler, Olive-sided Flycatcher, Common Nighthawk and Rusty Blackbird, as required under the *Species at Risk Act*
- ◆ maintain or achieve self-sustaining local populations in all boreal caribou ranges throughout Canada
- ◆ deliver effective monitoring mechanisms of downstream fish habitat
- ◆ conduct research and monitoring on the long-term effect on migratory bird reproductive success as a result of exposure to tailings ponds
- ◆ engage in the Joint Canada/Alberta Implementation Plan for Oil Sands Monitoring.
- ◆ Federal and Alberta Government Cooperation on Initiatives
- ◆ Canada has adopted a number of the Review Panel's recommendations by agreeing to work cooperatively with the Alberta Government on initiatives such as
- ◆ a community baseline health study in collaboration with Aboriginal groups
- ◆ the Water Quality Management Framework for the Lower Athabasca River under its Lower Athabasca Regional Plan
- ◆ water withdrawals from the Athabasca River
- ◆ the Surface Water Quantity Management Framework for the Lower Athabasca River under its Lower Athabasca Regional Plan

- ◆ monitor the impact of oil sands development on the regional environment through monitoring of substances of concern in air and water; fish and bird health and biodiversity, including some species at risk; and migratory birds
- ◆ conservation offsets in the context of Alberta's land use planning policies
- ◆ technical advice for the development by Alberta of a caribou range plan for the Richardson herd and other herds in the province
- ◆ technical or policy knowledge or expertise to improve reclamation and re-colonization of wildlife habitat in the oil sands region
- ◆ incorporation of Aboriginal traditional land use in regional planning and management activities in the Lower Athabasca region
- ◆ regional planning, stewardship of traditional resources and natural resource management, in collaboration with Aboriginal groups.

Reactions to the Federal Government's actions

Certain parties have lost little time in criticizing the federal government's decision and for failing to adopt key recommendation made by the Review Panel. For example, the Pembina Institute stated

“For the first time, the federal government has acknowledged that an oilsands project would have significant and unmitigated environmental impacts. Yet, the government has decided those effects are justified, and has approved the project to proceed... Despite global concern about the climate impacts of oilsands development, the decision statement makes no mention of – and provides no conditions to require – mitigating the greenhouse gas emissions associated with the project”.

The Athabasca Chipewyan First Nation has responded by announcing it will be pursuing legal action. Chief Allan Adam claims that the decision statement allowing the project to proceed was issued even as the government and the First Nation were engaged in talks about how the adverse effects of the project could be mitigated. The issue of adequacy of Crown consultation is sure to be raised.

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