

**DRAFT AGREEMENT  
To Establish a Joint Panel  
for the Pierre River Mine Project**

**Between  
The Minister of the Environment, Canada**

**- and -**

**The Energy Resources Conservation Board, Alberta**

**PREAMBLE**

**WHEREAS** the Energy Resources Conservation Board (the ERCB) has statutory responsibilities pursuant to the *Energy Resources Conservation Act*; and

**WHEREAS** the Minister of the Environment, Canada (the Federal Minister of the Environment) has statutory responsibilities pursuant to the *Canadian Environmental Assessment Act*; and

**WHEREAS** the Pierre River Mine Project (the project) requires a public hearing and approvals from the ERCB pursuant to the *Energy Resources Conservation Act*, and the *Oil Sands Conservation Act*, and is subject to an assessment under the *Canadian Environmental Assessment Act*; and

**WHEREAS** the Canadian Environmental Assessment Agency has requested, in accordance with section 25 of the *Canadian Environmental Assessment Act*, that the Federal Minister of the Environment refer the project to a review panel; and

**WHEREAS** the Federal Minister of the Environment has referred the project to a review panel in accordance with section 29 of the *Canadian Environmental Assessment Act*; and

**WHEREAS** the Government of the Province of Alberta and the Government of Canada established a framework for conducting joint panels through the *Canada-Alberta Agreement on Environmental Assessment Cooperation (2005)* signed on May 17, 2005; and

**WHEREAS** the ERCB and the Federal Minister of the Environment have determined that a joint review of the project will ensure that the project is evaluated according to the spirit and requirements of their respective authorities while avoiding unnecessary duplication, delays and confusion that could arise from individual reviews by each government or the ERCB; and

**WHEREAS** the ERCB and the Federal Minister of the Environment have determined that a joint review of the project should be conducted in a manner consistent with the provisions of Appendix 2 of the *Canada-Alberta Agreement on Environmental Assessment Cooperation (2005)*; and

**WHEREAS** the Federal Minister of the Environment has determined that pursuant to paragraph 40(2) of the *Canadian Environmental Assessment Act* a joint panel should be established to consider the project; and

**WHEREAS** the ERCB has determined that pursuant to section 22 of the *Energy Resources Conservation Act* a joint panel cooperative proceeding should be established and that the project should be considered in a cooperative proceeding by the ERCB and the Agency;

**THEREFORE**, the ERCB and the Federal Minister of the Environment hereby establish a joint panel for the project in accordance with the provisions of this Agreement and the Terms of Reference attached as an Appendix to this Agreement.

## **1. Definitions**

For the purpose of this Agreement and of the Appendix attached to it,

**"Agency"** means the Canadian Environmental Assessment Agency established by the *Canadian Environmental Assessment Act*.

**"EIA Report"** means an environmental impact assessment report prepared in accordance with the Terms of Reference issued for the project by the Director of Environmental Assessment, Alberta Environment.

**"Environment"** means the components of the Earth, and includes

- a. land, water and air, including all layers of the atmosphere;
- b. all organic and inorganic matter and living organisms; and
- c. the interacting natural systems that include components referred to in (a) and (b).

**"Environmental Effect"** means, in respect of the project,

- a. any change that the project may cause in the environment, including any change it may cause to a listed wildlife species, its critical habitat or the residence of individuals of that species, as those terms are defined in subsection 2(1) of the *Species at Risk Act*,
- b. any effect of any change referred to in paragraph (a) on
  - i. health and socio-economic conditions
  - ii. physical and cultural heritage
  - iii. the current use of lands and resources for traditional purposes by aboriginal persons, or
  - iv. any structure, site or thing that is of historical, archaeological, paleontological or architectural significance, or
- c. any change to the project that may be caused by the environment

whether any such change or effect occurs within or outside Canada.

**"Federal Authority"** refers to such an authority as defined in the *Canadian Environmental Assessment Act*.

**"Report"** means the document produced by the Joint Panel, which contains decisions pursuant to the *Energy Resources Conservation Act* or the *Oil Sands Conservation Act*, and the Joint Panel's rationale, conclusions and recommendations, including any mitigation measures and follow-up program pursuant to the *Canadian Environmental Assessment Act* with respect to the environmental assessment of the project.

**"Follow-up Program"** means a program for

- a. verifying the accuracy of the environmental assessment of the project, and
- b. determining the effectiveness of any measures taken to mitigate the adverse environmental effects of the project.

**"Joint Panel"** refers to the Joint Review Panel established by the ERCB and the Federal Minister of the Environment through this Agreement.

**"Mitigation"** means, in respect of the project, the elimination, reduction or control of the adverse environmental effects of the project, and includes restitution for any damage to the environment caused by such effects through replacement, restoration, compensation or any other means.

**"Parties"** means the signatories to this Agreement.

**"Proponent"** has the meaning provided in section 2 of the *Canadian Environmental Assessment Act*

**"Public Registry"** means a repository to facilitate public access to the records relating to the environmental assessment of the project in accordance with section 55 of the *Canadian Environmental Assessment Act*, and that will be maintained by the Agency until the submission of the Panel report.

**"Responsible Authority"** refers to such an authority as defined in the *Canadian Environmental Assessment Act*.

## **2. Establishment of the Panel**

- 2.1 A process is hereby established to create a Joint Panel, pursuant to section 22 of the *Energy Resources Conservation Act* with the authorization of the Lieutenant Governor in Council of Alberta, and Sections 40, 41 and 42 of the *Canadian Environmental Assessment Act*, for the purposes of the review of the project.
- 2.2 The ERCB and the Agency will make arrangements to coordinate the announcements of a joint review of the project by both Alberta and Canada.

## **3. Constitution of the Panel**

- 3.1 The Joint Panel will consist of three members. Two members, including the Joint Panel Chair, will be appointed by the Chair of the ERCB with the approval of the Federal Minister of the Environment. The third Joint Panel member will be appointed by the Federal Minister of the Environment in accordance with article 3.2 of this Agreement.

- 3.2** The Federal Minister of the Environment will select the third Joint Panel member and recommend the selected candidate as an individual who may serve as a potential acting member of the ERCB. If acceptable to the Lieutenant Governor in Council of Alberta and the Chairman of the ERCB, the Lieutenant Governor in Council of Alberta will nominate this candidate to serve as an acting member of the ERCB and the Chairman of the ERCB will appoint this candidate as a member of the Joint Panel. The selected candidate will also be appointed by the Federal Minister of the Environment as a member of the Joint Panel.
- 3.3** The Joint Panel members shall be unbiased and free from any conflict of interest relative to the project and are to have knowledge or experience relevant to the anticipated environmental effects of the project.

#### **4. Conduct of Assessment by the Panel**

- 4.1** The Joint Panel shall conduct its review in a manner that discharges the responsibilities of the ERCB under the *Energy Resources Conservation Act*.
- 4.2** The Joint Panel shall conduct its review in a manner that discharges the requirements set out in the *Canadian Environmental Assessment Act* and in the Terms of Reference attached as an Appendix to this Agreement and that were fixed and approved by the Federal Minister of the Environment and the ERCB.
- 4.3** The Joint Panel shall have all the powers and duties of a panel described in Section 35 of the *Canadian Environmental Assessment Act* and of a division of the ERCB described in Section 8 of the *Energy Resources Conservation Act*.
- 4.4** The Joint Panel hearing shall be public and the review will provide opportunities for timely and meaningful public participation. Hearing participants will not be required to satisfy the test under subsection 26(2) of the *Energy Resources Conservation Act*. The Joint Panel shall conduct its hearing in accordance with the ERCB's *Rules of Practice*. The Joint Panel will, however, attempt to make the review process as accessible as reasonably possible for individuals or groups who are not represented by legal counsel or who may lack experience with the quasi-judicial nature of the hearing process.
- 4.5** A majority of the Joint Panel members constitutes a quorum for the purposes of the environmental assessment to be conducted by the Joint Panel. When a hearing, public meeting, or other activity is conducted by the Joint Panel and a member of the Joint Panel for any reason does not attend on any day or part of a day, the other members who are sitting at the hearing, public meeting or other activity may continue as fully and effectively as though the absent member was present.

#### **5. Secretariat**

- 5.1** Administrative, technical, and procedural support requested by the Joint Panel shall be provided by a Secretariat, which shall be the joint responsibility of the ERCB and the Agency.
- 5.2** The Secretariat will report to the Joint Panel and will be structured so as to allow the Joint Panel to conduct its review in an efficient and cost-effective manner.

- 5.3 The ERCB will provide its offices for the conduct of the activities of the Joint Panel and the Secretariat.

## 6. Aboriginal Rights and Interests

- 6.1 The Joint Panel may receive information from Aboriginal groups related to the nature and scope of potential or established Aboriginal and treaty rights or title in the area of the project, as well as information on the potential adverse environmental effects that the project may have on potential or established Aboriginal and treaty rights or title. The Joint Panel may also receive information provided in this regard by other participants, federal authorities or government, and provincial departments or government.
- 6.2 The Joint Panel shall reference in its report:
- a. the information provided by participants regarding the manner in which the project may adversely affect potential or established Aboriginal and treaty rights or title; and
  - b. the information provided by participants regarding the strength of claim in respect of Aboriginal and treaty rights or title asserted by a participant, including information about the location, extent, bases and exercise of those asserted Aboriginal and treaty rights in the area of the project.

The Joint Panel may use this information to make recommendations that relate to the manner in which the project may adversely affect the Aboriginal and treaty rights or title asserted by participants, and to inform the Joint Panel's assessment of the potential environmental effects of the project.

- 6.3 Notwithstanding sections 6.1 and 6.2, the Joint Panel is not required by this agreement to make any determinations as to:
- a. the validity of potential Aboriginal or treaty rights or title asserted by a participant or the strength of such claims;
  - b. the scope of the Crown's duty to consult an Aboriginal group; or
  - c. whether the Crown has met its respective duties to consult or accommodate in respect of rights recognized and affirmed by section 35 of the *Constitution Act, 1982*.

For the purposes of its Report, the Joint Panel shall document claims of Aboriginal and treaty rights or title as presented by participants and consider the effects of the project on the Aboriginal and treaty rights or title so presented.

- 6.4 Nothing in this Section 6 limits the application of Part 2 of the *Administrative Procedures and Jurisdiction Act* to the ERCB, and the Joint Panel (in its capacity as a division of the ERCB) remains at all times subject to the requirements of, and entitled to exercise the powers under Part 2 of the *Administrative Procedures and Jurisdiction Act*, including but not limited to section 13 thereof.

## **7. Record of Joint Review and Report**

- 7.1 A public registry will be maintained by the Secretariat during the course of the review in a manner that provides for convenient public access, and for the purposes of compliance with section 55 to 55.5 of the *Canadian Environmental Assessment Act*.
- 7.2 Subject to subsections 35(4), and 35(4.1) and section 55.5, of the *Canadian Environmental Assessment Act*, the public registry will include all submissions, correspondence, hearing transcripts, exhibits and other information received by the Joint Panel and all public information produced by the Joint Panel relating to the review of the project.
- 7.3 On completion of the assessment of the project, the Joint Panel will prepare a report. The report will be conveyed to the Government of Alberta and the Federal Minister of the Environment within 90 days of the close of hearing. Simultaneously, the report will be published and made available to the public by the Joint Panel.
- 7.4 After the report is submitted, the responsibility for the maintenance of the public registry will be transferred to the responsible authority. The ERCB will continue to maintain records of the proceedings and the report in accordance with its normal practices and procedures.
- 7.5 The Agency will be responsible for the translation of key documents prepared by the Joint Panel, including public notifications and releases and the report, into both of the official languages of Canada. The Agency will use all reasonable efforts to expedite the translation of the report.

## **8. Other Government Departments**

- 8.1 The Joint Panel may request federal authorities and provincial authorities having specialized information or knowledge with respect to the project to make that information or knowledge available to the Joint Panel in an acceptable manner.
- 8.2 Nothing in this Agreement will restrict the participation by way of submission to the Joint Panel by other federal or provincial government departments or bodies, subject to article 8.1, above, section 12(3) of the *Canadian Environmental Assessment Act* and the ERCB Rules of Practice.

## **9. Participant Funding**

- 9.1 Decisions regarding participant funding by the Agency under the federal Participant Funding Program, and decisions on local intervener funding by the ERCB as provided for in the *Energy Resources Conservation Act*, ERCB Rules of Practice and the ERCB's Directive 31: Guidelines for Energy Proceeding Cost Claims will, to the extent practicable, take into account decisions of the other party.

## **10. Cost Sharing**

- 10.1** The ERCB, as lead party, will develop a budget estimate of expenses agreeable to both parties prior to initiation of the Joint Panel activities.
- 10.2** The costs of the review will be apportioned between the ERCB and the Agency in the manner set out in articles 10.3, 10.4 and 10.5.
- 10.3** The ERCB will be solely responsible for the following costs:
- salaries and benefits of the Joint Panel Chairman and the member of the Joint Panel not appointed in accordance with article 3.2; and
  - salaries and benefits of ERCB staff involved in the joint review.
- 10.4** The Agency will be solely responsible for the following costs:
- per diems of the Joint Panel member appointed in accordance with article 3.2;
  - salaries and benefits of Agency staff involved in the joint review;
  - all costs associated with the Agency's legal counsel for the proceeding;
  - all costs associated with the federal Participant Funding Program;
  - translation of records and documents into the official languages of Canada other than translation required as outlined in article 10.5 of this Agreement; and
  - costs associated with the public registry established pursuant to section 55.1 of the *Canadian Environmental Assessment Act*.
- 10.5** The ERCB and the Agency agree to share equally all those costs listed below, incurred as part of the joint review from the signing of this Agreement to the date the report is issued by the Joint Panel. The shareable costs are as follow:
- travel-related expenses associated with the review incurred by Joint Panel members and Panel Secretariat staff;
  - per diems and associated expenses of independent/non-government expert consultants, analysts and communications specialists retained by the Secretariat;
  - language translation and interpretation services and facilities related to the evidence of applicants, participants and local interveners as required by the Joint Panel, but not including translation service referred to in article 7.5 of this Agreement;
  - printing of any reports and documents distributed by the Joint Panel necessary for the Panel's work;
  - the publication of notices and releases;
  - photocopying, including the reproduction of documents contained in the public registry, and postage related to the review;
  - court reporting and transcripts as required by the Joint Panel;
  - rental of hearing, public meeting and public information office facilities and equipment;

- audio and audio-visual services at the hearing and public meetings; and
  - miscellaneous expenditures up to a maximum of five percent (5%) of the total budget for the review.
- 10.6** The Agency may only be responsible for contributing to shareable costs within the allowable limits of Treasury Board Secretariat directives.
- 10.7** Shareable costs of the joint review as detailed in article 10.5 will be incurred at the sole discretion of the Joint Panel with due regard to economy and efficiency.
- 10.8** All expenses not listed above will need prior approval of both parties if they are to be equally shared.

## **11. Invoicing**

- 11.1** The ERCB will be responsible for advancing funds for the payment of the shareable costs and will invoice the Agency for the amounts owed under this Agreement, except for travel-related expenses of the Agency's staff which will be advanced by the Agency. In the event that the Agency is required to advance shareable funds directly, it will advance funds for payment and will invoice the ERCB as determined under this Agreement.
- 11.2** The invoicing will be done either at the end of each month or quarterly at the discretion of the ERCB. The invoice will cover all shareable costs paid by the ERCB.
- 11.3** Each invoice will be accompanied by a summary description of the shareable costs actually incurred and paid for the period covered by the invoice, in a form satisfactory to both Parties and will be approved by an official acceptable to both Parties. Detailed information about incurred costs will be retained and made available to either Party upon request.
- 11.4** Subject to compliance with the above requirements the Agency will pay to the ERCB the amount stated as being owed to it in the invoice within sixty (60) days of having received such invoice.
- 11.5** With respect to invoices covering the last period of any fiscal year (ending March 31), and the last invoice to be produced for the joint review panel, each Party may review and deduct from the invoice, any incurred shareable costs that have not been previously recovered, so as to determine a net transfer of shared costs from one Party to another. The payment will be made within thirty (30) days of having received such invoice. An accounting of the shared expenses incurred by the Agency will be sent with the year-end and final payments, or earlier as may be requested by the ERCB.

## **12. Audit**

- 12.1** Subject to this Agreement, both Parties will keep open to audit and inspection by the Agency or the ERCB, or their duly authorized representative, all invoices, receipts, vouchers and documents of any nature or kind whatsoever that have been relied on by either of the two Parties to calculate the shared cost of conducting the public review.
- 12.2** The Party exercising its option to audit will be responsible for the cost of the audit.

**12.3** Where an audit conducted by either Party in connection with this Agreement reveals discrepancies regarding the amount billed to the Agency, and where prompt resolution between the Parties is unattainable, an independent auditor acceptable to both Parties will resolve the issue.

**13. Amending this Agreement**

**13.1** The terms and provisions of this Agreement may be amended by written memorandum executed by both the Federal Minister of the Environment and the Chairman of the ERCB. Subject to section 27 of the *Canadian Environmental Assessment Act*, upon completion of the joint review, this Agreement may be terminated at any time by an exchange of letters signed by both parties.

**14. Signatures**

**WHEREAS** the parties hereto have put their signatures

\_\_\_\_\_  
The Honourable Peter Kent  
Minister of the Environment

\_\_\_\_\_  
Dan McFadyen, P.Eng.  
Chairman  
Energy Resources Conservation Board

Date

Date

\_\_\_\_\_

## **Appendix Terms of Reference**

### **Part I - Scope of Project**

The Pierre River Mine Project proposed by Shell Canada Limited includes the construction, operation, and reclamation of an oil sands surface mine and bitumen extraction facilities in the Fort McMurray area. The proposed mining project is to be located approximately 90 kilometres north of Fort McMurray on Oil Sands Leases on the west side of the Athabasca River. The proposed development includes an open pit, truck and shovel mine, ore handling facility, bitumen extraction facilities, tailings processing facilities, support infrastructure, water and tailings management plans, and an integrated reclamation plan, as well as the construction of a bridge across the Athabasca River. The Pierre River Mine Project is designed to produce a total of 31,800 cubic metres per day (200,000 barrels per day) of bitumen.

The project components which are part of the scope of this assessment include:

- Open pit, truck and shovel mine;
- Ore preparation and handling facility;
- Bitumen extraction facilities;
- Bitumen froth treatment plan;
- Bitumen products storage facilities;
- Tailings management and processing facilities;
- Fish habitat compensation and any required infrastructures;
- Co-generation facility;
- All related works and activities including all temporary facilities required for the construction and operation of the above-mentioned facilities, namely
  - permanent and temporary access roads (new or modified);
  - construction or modification of any airstrip;
  - permanent and temporary work camps;
  - all temporary or permanent electrical power supply lines;
  - drinking water supply for camps;
  - water supply for the project, including water storage facilities
  - all temporary or permanent power supply for camps and worksites;
  - temporary control structures and diversion works;
  - treatment of wastewaters and waste management as well as the infrastructure required for this management;
  - any bridges and watercourse crossings (new or modified);

- borrow pits and quarries;
- construction worksites and storage areas;
- management of excavation material;
- handling and storage of petroleum products and hazardous materials

## **Part II - Scope of the Environmental Assessment**

1. The Joint Panel will conduct an assessment of the Environmental Effects of the project based on the Scope of Project (Part I).
2. The assessment will include a consideration of the factors listed in subsection 16(1)(a) to (d) and 16(2) of the *Canadian Environmental Assessment Act*, namely:
  - a. the environmental effects of the project, including the environmental effects of malfunctions or accidents that may occur in connection with the project and any cumulative environmental effects that are likely to result from the project in combination with other projects or activities that have been or will be carried out;
  - b. the significance of the effects referred to in paragraph a);
  - c. comments from the public including First Nations, Métis and Aboriginal persons that are received during the review;
  - d. measures that are technically and economically feasible and that would mitigate any significant adverse environmental effects of the project;
  - e. the purpose of the project;
  - f. alternative means of carrying out the project that are technically and economically feasible and the environmental effects of any such alternative means;
  - g. the need for, and the requirements of, any follow-up program in respect of the project; and
  - h. the capacity of renewable resources that are likely to be significantly affected by the project to meet the needs of the present and those of the future.
3. Pursuant to subsection 16(1)(e) of the *Canadian Environmental Assessment Act*, the assessment by the Joint Panel will also include a consideration of the additional following matters:
  - a. the need for the project; and
  - b. alternatives to the project received during the review;
4. Pursuant to subsection 16.1 of the *Canadian Environmental Assessment Act*, the assessment by the Joint Panel may also include a consideration of the community knowledge and aboriginal traditional knowledge received during the review.

## **Part III – Scope of the factors**

The scope of the factors include those specified in the “Final Terms of Reference” for the preparation of the Environmental Impact Assessment Report for the Shell Canada Limited Jackpine Mine Expansion & Pierre River Mine issued by Alberta Environment on November 28, 2007. The document is available on the Public Registry (document # 5).

In addition in accordance with section 16(3) of the *Canadian Environmental Assessment Act*, the Panel in conducting its consideration of the factors outlined in Part II should have regard for the following:

#### Cumulative Effects Assessment

The Panel shall identify and assess the project's cumulative effects. Cumulative effects are those changes to the environment due to the project combined with the existence of other works or other past, present and reasonably foreseeable future projects.

The cumulative effects assessment should take into consideration the approach described in the Canadian Environmental Assessment Agency's *Cumulative Effects Assessment Practitioners Guide* (1999) and in the Agency's Operation Policy Statement entitled "Addressing Cumulative Environmental Effects under the *Canadian Environmental Assessment Act*" updated in November 2007.

The Panel should focus its consideration of cumulative effects on key valued environmental components. Without limiting itself thereto, the following components may be considered:

- Water quality and quantity;
- Air quality and greenhouse gas emissions;
- Current use of lands and resources for traditional purposes by aboriginal persons;
- Wildlife and wildlife habitat for key species;

#### Accidents & Malfunctions

The environmental assessment will consider the probability of potential accidents and malfunctions related to the project, including the potential consequences and environmental effects related to such events.

Potential accidents and malfunctions may include those associated with the following components:

- tailings management;
- waste management and disposal;
- use, handling or spills of chemicals and hazardous materials on-site;
- the increase in road traffic, and the risk of road accidents; and
- any other project components or systems that have the potential, through accident or malfunction, to adversely affect the natural environment.

The environmental assessment should consider the sensitive elements of the environment (e.g. communities, homes, natural sites of interest, areas of major use) that may be affected in the event of an accident or a major malfunction. The environmental assessment should consider the likelihood of occurrence of the accidents and malfunctions.

Plans, measures and systems to reduce the potential occurrence of an accident or malfunction should be considered in the assessment and should indicate how they will reduce the effects or consequences of an accident or malfunction.

#### Effects of changes to the environment

To take into account the “environmental effects” defined by the *Canadian Environmental Assessment Act*, the environmental assessment will consider the effects of any changes to the environment caused by the project on the following factors:

- Health and Socio-Economic Conditions
- Physical and Cultural Heritage
- Current use of lands and resources for traditional purposes by aboriginal persons
- Any structure, site or thing that is of historical, archaeological or architectural significance

#### Change to the project caused by the environment

The environmental effects that may occur as a result of the environment acting on the project should be assessed.

The environmental effects that may occur as a result of the environment acting on the project should be assessed. Environmental changes and hazards that may occur and may affect the project shall be described. The assessment should also take into account the potential influence of climate change scenarios. The influence that these environmental changes and hazards may have on the project should be predicted and described.

#### Renewable Resources

The environmental assessment should consider whether the project is likely to cause significant environmental effects on renewable resources and therefore compromise their capacity to meet present and future needs.

The environmental assessment should describe the renewable resources that may be affected by the project and it shall clearly establish, taking into account the result of the assessment, whether these renewable resources are likely to be significantly affected following the implementation of proposed mitigation measures (residual significant environmental effects).

Should this be the case, the following points should be addressed:

- a brief description of the project’s environmental effects on the renewable resource;
- an indication as to the way in which the capacity of this resource was measured or evaluated;
- an indication of the temporal and geographic boundaries used to assess the capacity of the affected resource;

- a determination of the capacity of the resource to meet current needs;
- a determination of the capacity of the resource to meet future needs;
- a description of any other appropriate mitigation measures;
- a determination of the significance of the residual effects on the renewable resource and its capacity to meet the need of current and future generations;
- an identification of the risks and uncertainties that remain and the description of the next steps, if any, that will be required to address this effect.

## **Part IV – Review Process**

The main steps of the joint review by the Panel will be as follows:

### **Review of the documentation**

1. Within 15 days following its appointment, the Joint Panel will initiate a public comment period on whether the information available on the public registry is sufficient to allow a review that complies with the Panel's Terms of Reference and to proceed to the public hearing phase of the process. The public will be provided with a minimum of 60 days to provide comments.
2. Comments received during the comment period shall be immediately made available to the public through the public registry.
3. After the public comment period has closed, the Joint Panel shall decide if it has adequate information to proceed to hearing. In so doing, the Joint Panel shall consider its own review of the information, and any written comments from the public including Aboriginal groups, government departments, other governments or technical experts, and any written exchanges between interested parties.
4. Should the Joint Panel identify information deficiencies after reviewing the available information and considering any comments received, the Joint Panel may require additional information from the proponent. Any request for additional information shall be issued by the Joint Panel as soon as is reasonably practicable following the close of the public comment period.
5. If the Joint Panel concludes that it has adequate information to proceed to hearing, it shall announce the hearing as soon as is reasonably practicable following the close of the public comment period, providing for a minimum of 60 days notice prior to the commencement of the hearing.
6. Notwithstanding paragraph 4 above, if the Joint Panel is of the view that it requires additional information from the proponent but the information deficiency is minor in nature, and the Joint Panel receives a commitment from the proponent to provide the outstanding information, the Joint Panel shall announce the hearing, providing for a minimum of 60 days notice prior to the commencement of the hearing.

## **Determination of Adequacy of Additional Information Requested by the Panel**

7. Upon receipt of additional information provided by the proponent pursuant to a request under paragraph 4 above, the Joint Panel will ensure that the information is made available to the public for review and comment for a period of at least 30 days.
8. If, after reviewing the additional information and any written comments from the public, the Joint Panel concludes that it has adequate information to proceed to hearing, it shall announce the hearing, providing for a minimum of 60 days notice prior to the commencement of the hearing.
9. If, after reviewing the additional information and any written comments from the public, the Joint Panel is still of the view that it does not have adequate information to proceed to hearing, it shall inform the proponent of the outstanding information requirements and indicate that the hearing will not be scheduled until that information has been provided by the proponent. Any additional information thereafter provided by the proponent will be subject to public comment in the manner described in paragraph 7 above.
10. Notwithstanding paragraph 9 above, if after reviewing the additional information and any written comments from the public the Joint Panel is of the view that the lack of information is minor in nature and the Joint Panel receives a commitment from the proponent to provide the outstanding information prior to the hearing, the Joint Panel shall announce the hearing, providing for a minimum of 60 days notice prior to the commencement of the hearing.
11. If at any time during the review process the Joint Panel requests additional information from the proponent, the Joint Panel may specify the date by which the proponent must provide the information.

## **Public Hearings**

12. The Joint Panel will hold the hearing in a location or locations selected by the Joint Panel, and will endeavour to hold at least a portion of the hearing in, or as near to as is practicable, one or more communities that:
  - the Joint Panel believes may be affected by the project; or
  - are nearest to the location where the project is proposed to be carried out.

## **Panel Report**

13. The Joint Panel will deliver its report to the Federal Minister of the Environment within 90 days following the close of the hearing. The report will take into account and reflect the views of all Panel members.