
Grassy Mountain Coal Project Joint Review Panel

October 16, 2020

By e-mail only

The Honourable Jonathan Wilkinson
Minister of Environment and Climate Change
Via Email: <email address removed>

Mr. Laurie Pushor
President and Chief Executive Officer, Alberta Energy Regulator
Via Email: <email address removed>

Subject: Request for an extension to the regulatory timeline for submission of the Joint Review Panel report for the proposed Grassy Mountain Coal Project

Dear Minister Wilkinson and Mr. Pushor:

I am writing on behalf of the Joint Review Panel (the Panel) established to review the proposed Grassy Mountain Coal Project (the Project) to request an extension of the regulatory timeline under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) for the Panel to prepare and submit its report.

When the Panel was appointed in August 2018, it was given a timeline of 430 days (approximately 14 months) to submit its report to the Minister of Environment (the Minister). On April 3, 2020, the Minister extended the regulatory timeline to 520 days (approximately 17 months) in recognition of the extenuating circumstances arising from the COVID-19 pandemic and its impacts to communities, businesses, and stakeholders. The Panel has allocated this additional time for participants to provide comments on responses to information requests, to submit requests to participate at the public hearing, to provide their views on the dates, locations, and format of the hearing, and to prepare submissions for the public hearing.

On June 29, 2020, the Panel issued a notice of hearing for the Project. On September 9, 2020 the Panel issued a notice of scheduling, announcing the hearing will be held online, using electronic means (Zoom), starting on October 27, 2020, at 9:00 a.m. (MDT).

As of today's date, there are 110 days remaining on the regulatory timeline. This is insufficient time for the Panel to fulfill its terms of reference and carry out the remaining tasks, including the oral portion of the public hearing and drafting and submission of a report to the Minister, and a decision report to the Alberta Energy Regulator. The Panel does not expect to meet its 90-day timeline for issuance of the Alberta Energy Regulator decision report.

Several reasons support the Panel's determination that an extension is necessary.

The proposed Project is complex and would be a major development. The proponent estimates that, if approved and constructed, the Project would have a mine-life of 24 years, which excludes final closure and reclamation. To date, there are over 25,000 pages of material on the record for the environmental assessment and Alberta Energy Regulator proceeding. This material includes the environmental impact assessment and twelve addenda, as well as hundreds of submissions from participants. Over the past month, extensive additional information has been filed for the hearing.

In addition to including the Panel's rationale, conclusions and recommendations relating to the environmental assessment of the Project pursuant to CEAA 2012, the Panel's report will also contain the Alberta Energy Regulator's decisions pursuant to the *Responsible Energy Development Act*, the *Environmental Protection and Enhancement Act*, the *Water Act*, the *Coal Conservation Act* and the *Public Lands Act* and its reasons for those decisions. At the time the Panel was established, the provincial environmental impact assessment under Alberta's *Environmental Protection and Enhancement Act* had not yet been deemed complete by the Alberta Energy Regulator. This necessitated additional information requests by the Panel to satisfy provincial information requirements before the environmental impact assessment and applications could be deemed complete. For each round of information requests, a public comment period was held, as required by the Panel's Terms of Reference. This added additional time to the review process which has added to the need for additional time in the process.

Although a 90-day extension was granted in April due to the COVID-19 pandemic, the pandemic continues and social distancing requirements are anticipated to remain in effect for the foreseeable future, including during the hearing. In planning the public hearing, the Panel has followed the recommendations of public health authorities due to COVID-19. The planning and preparation required to conduct a public hearing during a pandemic has required considerable time and resources.

The Panel has carefully considered all reasonable options to ensure that the hearing is accessible to all participants and has determined that the public hearing will be held online, using electronic means (Zoom) starting on October 27, 2020. The Panel recognizes that an electronic hearing will require shorter days for an extended period of time to accommodate participants in different time zones, to avoid "Zoom fatigue" in participants and Panel members, and to problem-solve challenges with technology. The Panel heard from the federal government that, as witnesses would likely attend from multiple time zones, the start and end times of any hearing day involving those witnesses may have to be adjusted to accommodate their attendance. As a result, the Panel anticipates the hearing will take longer than a more traditional in-person hearing.

In addition, although the Panel's Terms of Reference specify that the Panel shall make best efforts to conduct a public hearing and close the hearing record within 45 days of commencing

the public hearing, the Panel must also receive the Alberta Consultation Office's hearing report before the Panel can receive closing argument and close the hearing record. It is expected that this report, relating to the adequacy of Crown consultation, will not be provided any sooner than thirty days following the close of the evidentiary portion of the hearing. Accordingly, this necessary step is expected to extend the time required for the hearing process by at least 30 days.

Finally, several participants in the review process wrote to the Panel requesting that the Panel provide for more than the minimum time required by the Panel's Terms of Reference between the notice of hearing and the start of the hearing given the volume and complexity of materials on the Registry and the COVID-19 situation. The Panel has accommodated these requests to ensure a fair process and adequate time for the participants to prepare for the hearing.

As a result of the above, the Panel requests 135 additional days to complete its review. The Panel is committed to fulfilling its mandate in as thorough and efficient a manner as possible and submitting its report to the Minister by no later than Friday, June 18, 2021.

The Panel thanks you for your consideration of this request and looks forward to your response.

If you have any questions regarding this letter, you are encouraged to contact Tracy Utting, Acting Panel Manager at IAAC.GrassyMountain.AEIC@canada.ca.

Yours truly,

<Original signed by>

Alex Bolton
Chair, Joint Review Panel

cc: David McGovern, President, Impact Assessment Agency of Canada
Terry Hubbard, Vice President, Operations, Impact Assessment Agency of Canada
Colette Spagnuolo, Director, Review Panels Division, Impact Assessment Agency of Canada
Tyson Flynn, Chief of Staff, Alberta Energy Regulator
Mike Bartlett, Senior Project Manager, Millennium EMS Solutions Ltd.
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