

# Joint Review Panel

## Established to review the Pierre River Mine Project

Canadian Environmental Assessment Agency, 160 Elgin Street, 22<sup>nd</sup> Floor, Place Bell Canada, Ottawa, ON, K1A 0H3, 613-948-2674  
Alberta Energy Regulator, 9915 Franklin Avenue, Provincial Building, 2<sup>nd</sup> Floor, Fort McMurray, AB, T9H 2K4, 780-742-7473

November 18, 2014

Athabasca Chipewyan First Nation, Industrial Relations Corporation  
220 Tiaganova Crescent  
Fort McMurray, AB  
Attention: Lisa King, Director

Shell Canada Energy  
400 – 4<sup>th</sup> Avenue SW  
P.O. Box 100, Station M  
Calgary, Alberta T2P 2H5  
Attention: Andrew Rosser, VP, Heavy Oil Sustainable Development and Regulatory

Dear Ms. King and Mr. Rosser:

The Panel received Ms. King's letter on behalf of the Athabasca Chipewyan First Nation's Industrial Relations Corporation (ACFN), dated September 9, 2014, in which she suggested that the Panel consider endorsing alternative approaches for Shell's cultural assessment for the Pierre River Mine Project (Project). The Panel also received, through its counsel, a copy of Ms. King's letter of the same date to the Alberta Energy Regulator, the Canadian Environmental Assessment Agency, and Environment Canada, in which the ACFN expressed concerns about letters from Shell to the Panel dated May 13 and August 13, 2014, which the ACFN believe proposed a form of consultation on the methodology for Shell's environmental assessment.

In its May 13, 2014 letter to the Panel, Shell addressed two methodology issues, as follows:

*To address the issue of RSA sizing Shell intends to collaborate with, and solicit feedback from, relevant federal and provincial regulators to determine appropriate methodologies. Shell expects to begin these engagements in June 2014, subject to the availability of the relevant regulators. Once Shell has obtained feedback from appropriate federal and provincial regulators, and has developed what it believes to be a defensible methodology, Shell will present the methodology to the JRP for consideration. At that point, Shell expects the JRP may wish to involve interested stakeholders in the consideration of the methodology, and provide a ruling as to the appropriateness of the methodology. A ruling on this issue would establish useful guidance for Shell to develop responses to the R2 SIRs, as well as other proponents and interested parties involved in the federal environmental assessment process. Once Shell receives a ruling from the*

*JRP, it will then proceed to respond to relevant R2 SIRs based on the approved or revised methodology, as the case may be.*

*With respect to the issue of assessment of effects on Aboriginal culture and heritage, Shell intends to engage appropriate federal and provincial regulators and follow the same process outlined in the above paragraph. In addition, Shell intends to engage in the process Aboriginal groups impacted by PRM to solicit their feedback on an appropriate methodology for assessing effects on Aboriginal culture and heritage. Shell is currently developing its plans for these engagements and will provide the JRP an update on the timing in its next quarterly report.*

Shell provided an update of its progress on these initiatives in its August 13, 2014 letter, stating:

*In regards to obtaining feedback from regulators on the appropriate methodology to develop an RSA, and assess effects to Aboriginal culture and heritage, Shell has met with representatives from the Canadian Environmental Assessment Agency (“CEAA”) on the assessment of effects to Aboriginal culture and heritage. Based on this meeting with CEAA, Shell is now developing its plans to obtain feedback from Aboriginal groups potentially impacted by PRM on an appropriate methodology to assess effects to Aboriginal culture and heritage. Shell is seeking to hold these meetings before the end of 2014. In addition, Shell will continue to pursue engagement with the Alberta Energy Regulator (“AER”) and Environment Canada to discuss RSA sizing methods to assist Shell in responding appropriately to the JRP’s Round 2 SIRs. Once Shell has met with the AER and Environment Canada, Shell intends to obtain feedback from potentially affected Aboriginal groups on this topic.*

ACFN’s concerns relate to the process by which the methodological issues identified by Shell (for which Shell stated it had no or only limited guidance or direction from regulators) were to be considered and resolved prior to the Project hearing. ACFN stated that Aboriginal communities need assurance they would be “in the driver’s seat, so to speak” for any assessments of their cultures and rights. ACFN proposed that the JRP consider endorsing an approach whereby culture assessments would be based on cultural-specific terms of reference established by each affected Aboriginal group and that each group would have to be satisfied with Shell’s assessment before it was submitted to the Panel.

The Panel received a letter from Shell on November 13, 2014 indicating that Shell is planning a workshop on November 20, 2014 with Aboriginal groups, the Canadian Environmental Assessment Agency, Teck Resources Limited (proponent of the Frontier Oil Sands Mine) and the Alberta Consultation Office, to discuss how best to address PRM’s project effects on Aboriginal culture and heritage. The Panel also notes that Shell indicated that it has met with Environment Canada and the Canadian Environmental Assessment Agency to discuss Regional Study Area (RSA) sizing and that the information provided was valuable. Shell has also indicated it plans to meet with Aboriginal stakeholders regarding the methodology of RSA sizing and hopes to meet with ESRD as well.

The Panel has an independent mandate and authority to conduct an environmental assessment of the Project. In that context, the Panel is inviting Shell, ACFN and other parties to provide comments on issues raised in Shell’s correspondence as well as the recommendation by Shell in its letter of May 13, 2014, that the Panel should provide a ruling as to the appropriateness of the methodologies in order to

give guidance to Shell in the development of responses to the Round 2 Supplemental Information Requests (R2 SIRs).

Based on the responses received, the Panel may consider conducting a pre-hearing process if it appears there is an interest or a need for such a process. The Panel requests that written comments responding to this letter be provided to the Panel Secretariat, no later than December 15, 2014. All responses will be posted on the Project public registry at [ceaa.gc.ca](http://ceaa.gc.ca) registry number 59539.

If you have any questions in relation to this letter, please contact Jill Adams at 613-948-2674, or Steven Van Lingen at 780-743-7259, or send an email to [Shell.Reviews@ceaa-acee.gc.ca](mailto:Shell.Reviews@ceaa-acee.gc.ca). You can also contact the Panel's counsel, Gary Perkins, at 403-355-4292 or via email to [gary.perkins@aer.ca](mailto:gary.perkins@aer.ca).

Yours truly,

<original signed by>

Alex Bolton  
Joint Review Panel Chair