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October 24th 2007

To: Mr. Robert Horal
Chair, Joint Review Panel
Suite 302, 125 Mackenzie Road
PO Box 2412, Inuvik NT X0E 0T0

By e-mail, and courier.

From: Pete Ewins, WWF-Canada

Re: WWF response to other parties' Topic 17 Final Recommendations.

Following the JRP's September 19th 2007 clarification on Topic 17 steps that intervenors should follow, I am here providing a few comments and observations regarding Final Recommendations that have now been made by other parties. I hope that these are helpful to both the hearings in November, and to your subsequent writing of a final report.

General

While the context for the Topic 17 Hearing has been clearly set for the scenario in which the proposed MGP were to proceed, WWF recognises that the JRP will also be evaluating very thoroughly, as required by the JRP Agreement, all the evidence available on the Public Registry pertaining to the overall current state of regional, national and continental preparedness for such a significant new basin-opening hydrocarbon project, in an increasingly carbon-constrained world.

It is clear from the Final Recommendations filed by the parties to the JRP Hearings that there are some very fundamental and highly significant gaps, especially in the final recommendations provided by government departments. The transcripts and materials filed for various JRP hearings indicate governments' recognition of significant issues, challenges and shortcomings in current states of preparedness to avoid, manage or mitigate project-specific and cumulative impacts of a basin-opening MGP and further hydrocarbon developments it would induce. For example, various audits and reviews and commentaries have demonstrated major shortages of adequate funding for key regional preparation programs, very slow progress on basic steps like completion of comprehensive land use plans, withdrawals of community-identified candidate protected areas, and establishment of ecological thresholds.

Yet, these very important aspects of regional preparedness for dealing with such a new industrial era are largely absent from the government departments' final recommendations. Given how much the governments are relying on future plans in their filed final recommendations, simply recommending that a plan be prepared by the proponents and then submitted to regulators for approval does not replace the basic need to consider government preparedness in this JRP process. Nor does it relieve the



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JRP from fulfilling its entire mandate. So, for now, we may have to assume that the JRP will recognise this, and indeed take the full Public Registry materials into account in the writing of a final report.

WWF's other main general response to the Final Recommendations provided by INAC, EC, DFO and GNWT in particular, concerns the lead role held by these government departments especially in the planning and decision-making in the Mackenzie Valley as it relates to the conservation of natural ecosystems and renewable and non-renewable resources. A number of project-specific final recommendations have been provided by these government parties, mostly directed at the proponents. In many cases it is notable how general the government recommendations are, often referring to the need to produce a plan at some point in the future, for approval by regulators, yet usually with few specifics as to what should be in that plan and which timeframes are especially critical.

In the NWT, INAC, EC, DFO and GNWT are responsible for playing lead roles for many components of CEAMF (e.g., CIMP, NWT PAS Action Plan, Land Use Plans, thresholds, etc). But, past JRP Hearings (especially Topics 7, 8, 15 and 16) have highlighted the lack of evidence that such preparation measures have been prioritised or implemented to this point, based on multiple reviews and audits of environmental or even social preparedness programs and past commitments to this region. Sustained and adequate long-term funding for such key preparation measures has been very elusive to this point.

Yet these same governments are asking the Panel and the general public to believe that VECs will be safeguarded in the long-term once an approval is made for a basin-opening MGP, via a series of measures that are either untested, inactive or incomplete at this point. Currently, we are lacking demonstrated effective implementation and completion of essential regional preparation programs. We also are lacking Final Recommendations from lead government departments, as pre-approval conditions for an MGP, relating to most of these fundamental gaps. Therefore it is difficult to conclude objectively and with confidence at this point that the broad spectrum of anticipated adverse cumulative impacts foreseeable from opening of this new hydrocarbon basin, can be managed satisfactorily.

WWF notes the similarity between conclusions at JRP Hearings (especially Topics 15 and 16) regarding the current very inadequate state of, and government priority afforded to, regional environmental preparedness measures, and the concerns expressed by both the Gwich'in Tribal Council (J-GTC-00031) and the Inuvialuit Regional Corporation (J-IRC-00020). WWF agrees that the MGP Impact Fund preparation measures for communities need to be prioritised and implemented immediately, and sufficiently far in advance of any approval or MGP construction (2 years as a minimum was suggested by the GTC and IRC) as to be truly effective. These very tough and serious questions about the overall current state of preparedness will clearly test the ability of our nation's decision-makers to properly sequence and prioritise critical measures and plans, so that future generations may experience net benefits.

Naturally, given the now highly foreseeable acceleration of further induced hydrocarbon development in the Mackenzie Valley and Canadian Beaufort Sea, the weight of evidence suggests that very



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significant changes to priorities and regional preparation measures must be made in advance of any decisions to open this natural gas and oil basin to southern markets. The recent record-setting \$585 Million Exxon-Imperial new bid and lease in the Beaufort Sea provides yet another major signal of huge new interest in opening this hydrocarbon basin to markets: – the most recent INAC Oil and Gas Branch allocations map for the Mackenzie Delta and Beaufort Sea is attached here, as a pdf file, for the JRP's Public Registry as a clear illustration of significant induced hydrocarbon development interest and fresh activity in the region, and it can be located at the following web-site: http://www.aincinac.gc.ca/oil/Pdf/BeauWinningBids2007_page.pdf).

In order to achieve adequate preparations for managing adverse impacts and maximising net benefits in this region (including safeguarding the identified VECs), WWF believes it is fundamental that the NEB certificate for any approved first gas/oil basin-opening energy corridor project (i.e., the MGP) reflect the necessary conditions that must be in place prior to any construction or further major industrial activity. After that critical point (the issuance of NEB certificates), there is decreasing likelihood that adequate environmental conditions via regulatory decisions, permits etc could be applied to satisfactorily address these VEC and sustainability issues. Therefore, it is clear that a high quality suite of time-sensitive, correctly sequenced Final Recommendations from all parties, including responsible governments, be captured well in the final JRP Report, and thereafter in any NEB certificates and final regulatory decisions and permits.

In almost every case worldwide to this point, including in Alaska and Alberta, once an energy transportation corridor has been approved and constructed, industrial exploration and development activity and associated infrastructure has accelerated significantly (see, for example: J-WWF-00020; J-WWF-00058; J-WWF-00112-00114). In a frontier, relatively little developed region such as the NWT, this means that the opportunities to plan ahead of such decisions is still relatively intact. Therefore, VEC sustainability and maximised northern benefits seem to require that such firm preparation measures be put in place before, not after, the all-important basin-opening project approval stage.

Cumulative Effects Assessment and Management Framework (CEAMF)

WWF recalls the very significant discussions at Topic 15 and 16 hearings regarding CEAMF and its many components (Vision, Land Use Plans, PAS, thresholds, CIMP etc), but notes that none of the government intervenors make any recommendations for binding funding to implement the CEAMF Blueprint and whole framework.

Such critical regional preparation measures as completed land use plans, completed networks of benchmark protected areas, and proven and sustained monitoring mechanisms, are fundamental to any quality assessment of the probability of the region being able to avoid and/or mitigate anticipated cumulative impacts. So, it is quite remarkable how little attention these measures have been afforded in the final recommendations from the government departments who hold the lead responsibility for these initiatives and public values.



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In order to satisfactorily capture the Topic 15 JRP discussions and the government panel's assurances and optimism that CEAMF if implemented fully would be able to satisfactorily deal with VEC sustainability, the JRP will clearly have to generate their own recommendations now. WWF regards the completion and approval of high quality Land Use Plans and the full implementation of the NWT Protected Areas Strategy five-year Action Plan as essential, highly time-sensitive pre-conditions to any approval and construction decisions regarding the MGP.

WWF supports a suite of final recommendations made by other parties concerning various elements of CEAMF, but anchors all of these by our own final recommendation WWF_RecT17_06 (for example, see: GTC/GRRB_Rec_T7 and 14a_09; CPAWS-NWT_Rec_T17_25; INAC T14A-11; SCC_Rec_T17_02A; FJMC_Rec_T14a_13).

NWT Protected Areas

WWF notes that in the government parties' final recommendations, there are no references to full implementation of the NWT PAS Five-year Action Plan to 2009, despite multiple government public commitments to do so, and despite general recognition of the accelerated foreclosing of such habitat conservation opportunities that would arise from basin-opening MGP approval.

We can only presume, given very substantial treatment of this topic at past JRP Hearings (e.g., Topics 7, 8, 15, 16), that governments must for some reason be trying to avoid making any final recommendations to the JRP on such matters since they will have to provide comment on the JRP report at a later stage. However, we remain confused, and very disappointed, that this and many other fundamental issues have been avoided in the government parties' final recommendations.

We support the INAC T8-10 final recommendation that the Proponent should submit biophysical information to the PAS Steering Committee, but obviously the PAS Action Plan goal requires many other parties to do many things, including lead government departments in the PAS process, while the conservation opportunity still remains intact.

WWF generally supports Environment Canada's Topic 5 final recommendation on the marine environment, targeting the MGP Proponents (see EC_Rec_T5_03):

“Proactively managing the potential impacts of exploration and induced development is essential for achieving the sustainability of the ecological resources of the Beaufort Sea. The proactive management approach should ensure:

- protection of key marine and coastal habitat used by polar bears (denning and key feeding areas) and marine birds (critical feeding, nesting, and moulting areas);*
- measures such as timing and/or location restrictions for specific activities to prevent hydrocarbon spills in key areas used by polar bears and concentrations of birds;*
- the use of best available technology to prevent the introduction of aquatic invasive alien species;*
- the monitoring and ongoing assessment of the effects of development activities on polar bears and marine birds; and*



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- *consideration of the interactions of development activities with other factors such as Inuvialuit hunting and long-term climate change.”*

However, we note that fully implementing such measures to truly safeguard these marine VECs and Inuvialuit traditional values requires many other parties beyond the MGP proponents to do many significant things. Notable in that list would be multiple federal government departments (including INAC, DFO, EC, DND, NRCan), and various Inuvialuit regional organisations and co-management bodies – without whose full commitment, prioritisation and implementation in the right sequencing, the goals can not be achieved. We believe that the JRP should capture these aspects in their formulation of recommendations for their final report.

Of specific note in the marine realm, is the reality that continuation of INAC’s current approach to industrial allocations in the offshore is incompatible with any successful implementation of this EC recommendation, especially for the first two points. The recent record-setting new \$585 Million lease to Exxon and Imperial is a significant example of just this (see attachment).

The government of Canada must address this point immediately, in the absence of completed yet fundamental planning instruments such as scenarios-based CEA, strategic environmental assessment, long-term regional plans of action, or climate change adaptation plans. Also of note is that the Beaufort Sea ecosystem (both in Canada and the USA) hosts a number of listed species at risk, and others (such as the polar bear) that are anticipated will soon be added to such lists, given climate change and other cumulative pressures.

Scenarios-based Cumulative Effects Assessment

WWF’s final comment on the Final Recommendations submitted by other parties concerns one of the most fundamental issues for the JRP, that was discussed at Topic 15 Hearing on Cumulative Impacts, and the subject of the SCC-WWF Motion in June 2007 (J-WWF-00085-91) - scenarios-based Cumulative Effects Assessment (CEA).

WWF notes that despite the advice provided for the JRP by CEA experts Greig and Duinker, the Topic 15 materials at hand, the overwhelming evidence that this basin-opening project will (and already is) inducing significant and highly foreseeable and anticipated new industrial development, and the MVRMA, CEAA and JRP Agreement requirements and guidance materials, not one of the government intervenors has made a final recommendation regarding completion of a scenarios-based CEA.

WWF believes that in order to thoroughly evaluate anticipated cumulative effects of this basin-opening project, and hence arrive at a meaningful and credible conclusion on net benefits overall for the 21st Century in this region, such an assessment must be completed before, not after, making public-interest decisions on opening of such a new hydrocarbon basin. This would apply to all decisions that might be taken regarding opening of this gas-oil basin, including and following the issuance of NEB certificates for an MGP, and including regulatory permits, and of course all decisions regarding subsequent



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induced hydrocarbon development projects. This is especially important in a large region such as the NWT, which presently lacks comprehensive coverage by high quality completed and approved regional land use plans, and a completed network of representative protected areas.

WWF generally supports the Gwich'in Tribal Council / GRRB Final Recommendation (T7 and T15_10) directed at IORVL and GNWT. However, we recognise that a number of federal government departments would also have to be fully involved:

“ The GTC/GRRB recommends that the proponent be required to collaborate with government, the GRRB and other co-management boards to conduct a scenario-based cumulative impact assessment for the project area and the resultant information be used to develop strategies to manage and mitigate any cumulative impacts that may occur as a result of induced development. Biodiversity conservation should be considered a major component of the cumulative impact assessment; in particular the maintenance of the existing level of biodiversity should be a priority.”

However, WWF believes that to be both useful and effective, this recommendation must be implemented before any basin-opening project approvals or further industrial allocations are made.

I hope that these comments and observations are helpful to the Panel and all Parties. Please don't hesitate to contact either myself or Dr. Rob Powell if you have any questions.

Yours sincerely

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encl. INAC northern Oil and Gas Branch allocations map for Beaufort Sea and Mackenzie Delta.

cc. Dr. Robert Powell, WWF-Canada
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Stephen Kakfwi, consultant to WWF-Canada
Dr. Keith Ferguson, legal counsel for WWF-Canada