

CHEVIOT REVIEW PANEL ISSUES REPORT

Calgary, Alberta (September 12, 2000) The Joint Review Panel of the Alberta Energy and Utilities Board (EUB) and the Canadian Environmental Assessment Agency today issued its report entitled “Cheviot Coal Project, Mountain Park Area, Alberta (EUB Decision 2000-59)”. The Cheviot Coal Project is a surface coal mine proposed by Cardinal River Coals Ltd. for a location approximately 50 km south of Hinton, Alberta (see attached map).

As it did in 1997, the Panel recommended that the Cheviot Coal Project receive regulatory approval from the Government of Canada. The Panel concluded that most of the environmental effects of the Cheviot Coal Project, including cumulative effects, are insignificant. The Panel also made a number of recommendations to the Government of Canada designed to ensure that any adverse effects that might occur are effectively mitigated. In situations where significant adverse environmental effects could not be mitigated, the Panel recommended appropriate compensation or concluded that the impacts could be justified in terms of the project as a whole.

With respect to its provincial mandate, the Panel determined, after considering all of the evidence and views presented at both the 1997 and the 2000 public hearings, that approval of the Cheviot Coal Project continues to be in the public interest. Accordingly, the Panel upheld the previous EUB approvals. These approvals are conditional on commitments made by Cardinal River Coals Ltd. during both hearings being carried out, as well as the conditions stipulated by the Panel in both its 1997 and 2000 decisions being met.

The release of the Panel’s report follows the conclusion of the second round of public hearings, held in March and April 2000, for the Project. The original hearings were held in January and February 1997, and the Panel issued its first report in June of 1997. In April 1999, the Federal Court found that the Panel’s original report was not in compliance with the *Canadian Environmental Assessment Act*. The Court determined that more information should be considered, including information relating to underground mining, other regional mining and forestry activities, and their cumulative environmental effects. In response, the President of the Canadian Environmental Assessment Agency requested the Panel to reconvene and address the issues identified by the Federal Court. At the same time, the EUB determined that a review by the Panel of its original decision was also appropriate, since reopening the hearings could potentially generate significant new evidence.

A “Backgrounder” to this news release summarizes key events and activities of the Cheviot review process. It also identifies the conclusions reached by the Panel in its most recent review.

Page 2

September 12, 2000

CHEVIOT REVIEW PANEL ISSUES REPORT

This news release, Backgrounder, and the Panel's report (EUB Decision 2000-59) are available on the EUB Web site at <http://www.eub.gov.ab.ca>, and on the Canadian Environmental Assessment Agency's Web site at www.ceaa.gc.ca

For more information, please contact:

Dave Morris, Senior Advisor
EUB Communications
Tel. 403-297-7470
Fax 403-297-3757
E-mail: david.morris@gov.ab.ca

Dave Henderson, Staff Engineer
EUB Applications Branch
Tel. 403-297-8388
Fax 403-297-8122
E-mail: dave.henderson@gov.ab.ca

William McCullough
Canadian Environmental Assessment Agency
Communications
Tel. 819-997-3071
Fax 819-953-2891
E-mail: william.mccullough@ceaa.gc.ca

Steve Chapman
Canadian Environmental Assessment Agency Panel
Manager
Tel. 819-997-2937
Fax 819-953-9628
E-mail: steve.chapman@ceaa.gc.ca

BACKGROUND

Report of the Cheviot Joint Review Panel

September 12, 2000

The Cheviot Coal Project

The Cheviot Coal Project is a proposal by Cardinal River Coals Ltd. (CRC) for:

- the construction, operation, and decommissioning of a coal processing plant;
- the development, operation, and reclamation of an open-pit coal mine;
- the restoration of the Mountain Park subdivision rail line;
- the upgrading of the existing access road into the Cheviot mine area; and
- the installation of a new transmission line and substation to supply electrical power to the mine.

The project is located in the Rocky Mountains of west-central Alberta approximately 320 kilometres (km) west of the City of Edmonton and 70 km south of the Town of Hinton. The Cheviot mine permit area is approximately 23 km long and 3.5 km wide. Open pit mining would be carried out in a phased manner over 20 years, with reclamation being carried out as new pits are constructed.

Chronology

1996

- In March, applications for the Cheviot Coal Project were submitted to both the provincial and federal governments.
- The Alberta Energy and Utilities Board (EUB) and the Canadian Environmental Assessment Agency (Agency) agreed to establish a Joint Review Panel for the proposed Cheviot Coal Project.
- The Joint Review Panel agreement was signed in October by the EUB and the Agency. Notice of the project and notice for objections or concerns were provided to the public.
- Submissions were heard from participants at a November 5 pre-hearing meeting.

1997

- A public hearing was held from January 13 to February 20.
- Following the hearing, the Joint Review Panel requested an independent examination by a consultant of certain aspects of waste rock disposal related to the Cheviot mine plan.
- On April 10, the hearing was re-opened for one day to consider the consultant's report.
- On June 17, the Joint Review Panel released its report entitled "Report of the EUB-CEAA Joint Review Panel: Cheviot Coal Project, Mountain Park Area, Alberta" (EUB Decision 97-8) on the Cheviot Coal Project and related applications.

- The Panel concluded that, subject to a number of conditions, the Cheviot Coal Project met all provincial regulatory requirements and was in the public interest. The Panel also recommended that the Government of Canada approve the Cheviot Coal Project.
- On October 7, the federal government issued its response to the Panel's report. This response indicated that authorizations for the project would be issued under the federal *Fisheries Act*.
- On October 31, the Alberta Wilderness Society, Canadian Nature Federation, Canadian Parks and Wilderness Society, Jasper Environmental Association, and Pembina Institute for Appropriate Development (collectively known as the AWA Coalition) filed the first of a series of applications seeking a federal judicial review of the Panel's conclusions and recommendations.

1998

- On August 17 and September 29, the Department of Fisheries and Oceans (DFO) issued its Cheviot authorizations (the DFO Authorizations) pursuant to Section 35(2) of the *Fisheries Act*.

1999

- On April 8, Justice Douglas R. Campbell of the Federal Court of Canada—Trial Division, determined that the environmental assessment conducted by the Joint Review Panel was not in compliance with the *Canadian Environmental Assessment Act*, and that the DFO authorizations had been issued without jurisdiction.
- The Joint Review Panel was asked by the President of the Agency on June 22 to reconvene (see news release regarding subsequent hearing, and the following for the Joint Review Panel's conclusions).

Cheviot Joint Review Panel Conclusions

The Panel has carefully considered the new evidence it has obtained since the close of the 1997 hearings. In addition, the Panel has been mindful of the results of the 1997 public review and the views and evidence presented at that time. A summary of the Panel's conclusions based on its review of that evidence is set out below.

- 1) With respect to the need to consider alternative means (i.e., underground mining) to the open-pit mining proposed in the Project, the Panel believes that it has received all required information. Based on this information, the Panel concludes that the surface mining design of the Cheviot Coal Project is the only economically feasible method of coal extraction. The Panel also concludes that since the underground mining alternative does not meet CRC's long-term needs for coal, the company will in the foreseeable future still require a substantial surface mine at the Cheviot site. Therefore, the Panel concludes that there is no real reduction in the eventual cumulative adverse environmental effects associated with the underground mining alternative.
- 2) With regard to the consideration of the submissions of the Canadian Nature Federation, the Panel believes that the appropriate reports and evidence have now been entered into the record and fully considered. The Panel notes that representatives of the Canadian Nature Federation attended the hearing, presented information, responded to questioning from the other hearing participants, and provided final argument to the Panel. This information has been considered by the Panel and is described, where relevant to the Panel's mandate and its terms of reference, in the various sections of the report.

- 3) The Panel concludes that the primary sources of regional (cumulative) impacts are forestry, other mining, oil and gas, and recreational developments and that the Valued Environmental Components (VECs) and the temporal and spatial boundaries selected by CRC to assess any associated adverse effects are appropriate.
- 4) With regard to the need to acquire and consider all the available information on forestry activity in the vicinity of the Cheviot Coal Project, the Panel believes that it has now obtained this information. This information provides the most current and comprehensive basis for understanding the cumulative impacts of the Project in association with regional forestry development.
- 5) With regard to the need to acquire and consider all available information on mining activity in the vicinity of the Project, the Panel believes that it has obtained all available information on both approved and reasonably foreseeable plans for mining in the region. This information provides the most current and comprehensive basis for understanding the cumulative impacts of the Project in association with other mining development.
- 6) The Panel concludes that the information provided with respect to oil and gas development and recreational activity was complete and sufficient to address potential cumulative effects in the region.
- 7) With respect to impacts on surface water quantity, the Panel concludes that there will be no significant cumulative adverse effects on surface water flow but that some minor localized negative effects may occur with respect to short-term peak flow and annual flows. These effects can be effectively mitigated through appropriate water control designs, which include the management of storm flows and the filling of end-pit lakes in such a way as to avoid negatively affecting low flows.
- 8) With respect to water quality, the Panel is satisfied that the impacts of Project-related sediment and nitrogen inputs to surface waters will not cause significant adverse effects either on their own or in conjunction with other regional sources. A potentially significant adverse cumulative effect of sediment input could arise if a major storm event occurred while both CRC and regional oil and gas or forestry companies were engaged simultaneously in road or rail construction. This impact could be effectively mitigated through the coordination of CRC's construction schedules with those of other regional industries.
- 9) The Panel concludes that while the Project will have some significant adverse effects on fish and fish habitat, CRC's plan to enhance fish habitat in water bodies created on the site and other similar strategies provide reasonable compensation for the habitat that will be disturbed by the mine.
- 10) The Panel believes that increased angling pressure associated with improved access could adversely affect fish populations on a regional basis, but concludes that since fisheries managers can adapt local regulations to prevent overharvesting, the risk of this is insignificant.
- 11) The Panel concludes that its original findings regarding the risks of accidents and malfunctions and the impact of the environment on the Project remain relevant and any adverse effects are insignificant.

- 12) The Panel concludes that selenium levels in the aquatic environment, while warranting ongoing monitoring and research, do not currently represent a significant risk of adverse effects on regional water quality.
- 13) The Panel concludes that no significant cumulative adverse effect on the vegetative and botanical resources VEC will occur as a result of the Project. The Panel remains concerned with the efficacy of one mitigation measure, the identification and transplanting of rare and unique species, and will require that monitoring be continued and that other methods are also considered to protect this resource in order to ensure that mitigation remains effective.
- 14) With respect to elk, the Panel concludes that both Project-specific and cumulative adverse effects on this VEC will be of a minor nature and insignificant.
- 15) The Panel concludes that while cumulative impacts to various bird species through losses in habitat will occur in the region, these impacts will either not be significant or will be readily mitigable using existing techniques and planning processes, so that no significant adverse effect will occur.
- 16) In its initial report, the Panel concluded that some adverse effects on Harlequin duck populations would be experienced within the Cheviot mine site. The Panel also concluded, however, that the proposed mitigation measures, including ongoing monitoring, would be sufficient to mitigate these adverse effects and render them insignificant. The Panel believes that these conclusions continue to be well supported by the new data now available. The Panel does note that some cumulative effects due to increased recreation levels in the region are predicted but believes that, with appropriate mitigation, these will not be significant.
- 17) The Panel confirms its original conclusion that without mitigation the Cheviot Coal Project will result in significant adverse effects on grizzly bears. The Panel also concludes that without mitigation there is a significant risk of regional adverse effects, with or without the Project. Finally, the Panel concludes that the potential adverse effects of the Cheviot Coal Project on the grizzly bear can be effectively and adequately mitigated through regional planning and implementation of the February 10, 2000, "Grizzly Bear Conservation in the Yellowhead Ecosystem: A Strategic Framework" (Strategic Framework).
- 18) The Panel concludes that without additional measures there is a significant risk that the Cheviot Coal Project will have a significant impact on recreational uses of the area. The Panel also concludes that these effects can be effectively mitigated and suggests two specific steps to be considered. One is the creation of a new regionally based off-highway vehicle staging area. The second is the incorporation of the Cardinal River headwaters into the Whitehorse Wildland Park.
- 19) With regard to access management, the Panel concludes that road and other linear development densities are increasing in the region and without suitable mitigation will eventually result in adverse environmental effects. The Panel also concludes that a number of existing regulatory tools are available to address access. Within the context of clearly stated regional objectives for access management and an established process to achieve them, the Panel concludes that the above tools can effectively mitigate any future regional cumulative effects from human access. The Panel also concludes that the various planning initiatives in the region will play an important role in implementing these mitigative measures.
- 20) With respect to traditional use of lands by aboriginal people, the Panel concludes that despite the measures developed by CRC in collaboration with the Alexis First Nation and the Mountain Cree

Camp (formerly referred to as the Smallboy Camp) to reduce the impacts on traditional uses and traditional sites, some significant adverse effects may occur. The Panel concludes, however, that these adverse effects can be justified within the context of the Project as a whole.

- 21) The Panel concludes that CRC has, for the purposes of this review, carried out reasonable and adequate consultation with all of the various aboriginal groups that are or may be affected by the Cheviot Coal Project, including the Treaty 8 First Nations.
- 22) The Panel concludes that it is unlikely that the Project will adversely affect the health, socioeconomic conditions, physical heritage, cultural heritage, or current use of land resources by the Treaty 8 First Nations or by their members for traditional purposes and that if any adverse effects do occur they will not be significant.
- 23) With respect to social benefits and costs, the Panel concludes that the Project, when compared to other potential uses of the area, will generate the greatest economic benefits to the region. The Panel concludes that the regional economic benefits of the Cheviot Project significantly outweigh the value of optimizing its current uses for recreation or alternative uses for wildlands protection.
- 24) The Panel continues to be satisfied that CRC has demonstrated that the Cheviot Coal Project is economically viable into the foreseeable future.
- 25) The Panel concludes that the provincial regulatory process, which includes a number of ongoing and/or renewable permits and licences for the Project, will ensure that the various monitoring programs and mitigation strategies are successfully implemented.

See next page for map of proposed Cheviot Coal Project.

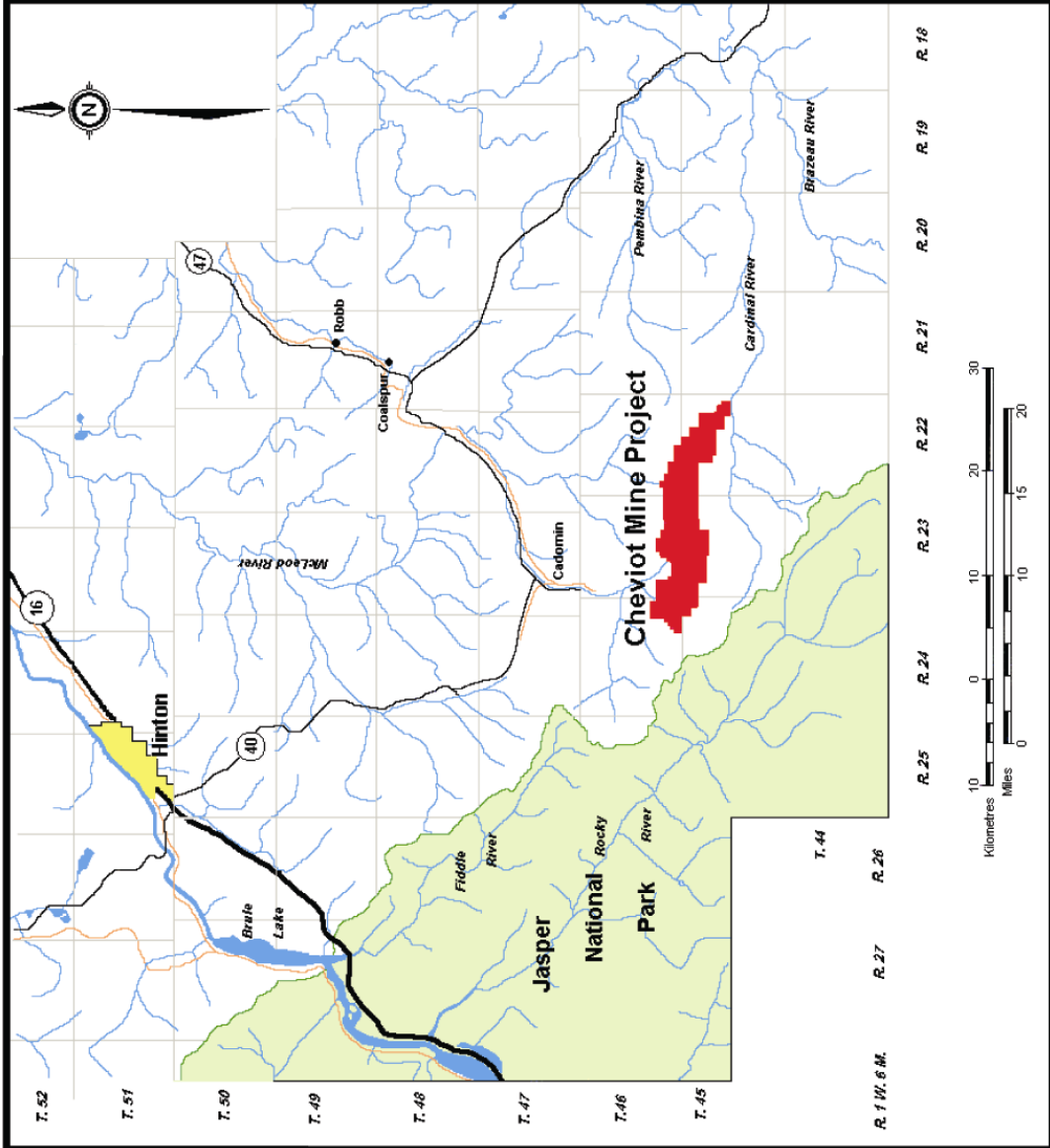


FIGURE 1
LOCATION PLAN OF THE
CHEVIOT MINE PROJECT

