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Observations on Measure 6: Evaluation of Long-Term Funding Options

In its Report of Environmental Assessment (EA) on the proposed Giant Mine Remediation Project, the Mackenzie Valley Environmental Impact Review Board (MVEIRB) indicated there was significant public concern regarding the availability of funding during the Long-Term Care Phase of the project. Specifically, MVEIRB concluded that an adequate source of stable and secure funding is necessary to mitigate against future environmental impacts and significant public concern. At the time, such funding was not available for the Long-Term Care Phase of the project and potential funding mechanisms had not been considered by the Project Team. Measure 6 of the Report of EA therefore required that the Project Team undertake the following:

1. *Investigate long-term funding options for the ongoing maintenance of this Project and for contingencies, including a trust fund with multi-year up front funding,*
2. *Involve stakeholders and the public in discussions on funding options; and,*
3. *Make public a detailed report within three years that describes its consideration of funding options, providing stakeholders with the opportunity to comment on the report.*

In May, 2017, the Project Team issued a preliminary report on long-term funding options. The preliminary report provided an overview of the federal government's funding mechanisms and a cursory review of potential long-term funding options. While the report established useful context, it was GMOB's opinion that it did not fulfill the spirit and intent of Measure 6.

After receiving feedback on the draft report, the Project Team initiated a consultative process with GMOB and the parties to the Environmental Agreement to advance the

development of the required funding evaluation. The most recent teleconference meeting to discuss the initiative was held on April 12th, 2019.

GMOB reviewed the following report which was commissioned by CIRNAC to comply with the requirements of Measure 6: *Draft Report: Development of Options for Consideration for Long Term Funding for Giant Mine (February 2019)*

Based on our review of the report and our prior involvement in the Measure 6 process, GMOB has reached the following conclusions;

1. Definition of Long-Term Site Management Requirements and Budget

GMOB previously emphasized that the scope of post-closure care requirements needed to be defined prior to evaluating long-term funding requirements and options. In particular, GMOB recommended that the Project Team develop a conceptual scope for the Long-Term Care Phase. Elements of the phase were assumed to include but are not necessarily limited to:

1. Water treatment and discharge;
2. Maintenance of earthworks (covers, channels, dams, roads, etc.);
3. Periodic replacement of infrastructure, as required (e.g., thermosyphons, pumps and the water treatment plant at the end of their design life)
4. Monitoring and inspections;
5. Regulatory and community affairs;
6. Site security;
7. Contingencies for unplanned events/emergencies;
8. Project management and administration.

GMOB indicated this information was necessary to define the scope of the post-closure activities and the associated budgetary requirements. By extension, such information is relevant when assessing long-term funding models.

While Section 4.3 of the draft report provides high level estimates of the anticipated expenditures, no information is available to substantiate the post closure care requirements or cost estimates. It is also significant to note that, based on the information presented in the draft report, CIRNAC now predicts that the annual post-closure cost for the first 25 years will be approximately \$6M per year. In contrast, the Project Team consistently indicated that long-term costs would be \$2M per year (as stated in Section 1.2 of the same report). CIRNAC emphasized that the revised value is only a rough estimate and that costs may increase in the future. This suggests that the Federal Government's long-term liabilities for the management of the Giant Mine are likely to be significantly greater than previously assumed.

In summary, it appears that the scope and budget of long-term care requirements for the Giant Mine have yet to be fully defined. GMOB considers this to be a deficiency with the current report.

2. Project Delivery Model

The effectiveness of a given long-term funding option is directly linked to the organization that will be responsible for project delivery; a funding option that is best suited for one delivery model may not be appropriate for other models. On this basis, GMOB previously recommended that CIRNAC consider alternative delivery models when fulfilling the requirements of Measure 6. CIRNAC declined to act on GMOB's recommendation. Instead, the draft states "...the liability and management of the Giant Mine site will fall under the jurisdiction of the Federal Government for the duration of the remediation project." CIRNAC's analysis of funding options, as presented in the draft report, is based on that assumption.

GMOB agrees that the Federal Government is likely to retain the primary responsibility for liabilities at the Giant Mine. However, it may be desirable to transfer the active management of the site to an organization that is external to the Federal Government. There are many examples where such an approach has been used to effectively manage contaminated sites. We therefore disagree with CIRNAC's decision to exclude alternative delivery models from the Measure 6 analysis. Doing so greatly limited the range of viable funding options and, by extension, significantly reduces the value of the draft Measure 6 report.

3. Case Studies

The Measure 6 report focuses on the evaluation of long-term funding models for a broad variety of case studies. An initial set of case studies was proposed by CIRNAC's consultant (Deloitte) and supplemented by suggestions by members of the Measure 6 Working Group. In one respect, the case studies serve as a useful resource that may be applicable when designing funding options that could be applied to the Giant Mine.

However, several members of the Working Group expressed significant frustration that the analysis of case studies lacked transparency and consistency. It was also suggested that the logic of the analysis was not defensible. To illustrate, a key criterion in the analysis titled "Public Sector Funded" assumed that case studies involving projects funded by governments were inherently superior because the Giant Mine is also government funded. This bias is evident in the following conclusion from the draft report:

As Federal Government funding, at least for the foreseeable future, remains the only source of monies for the Giant Mine Remediation Project, government

appropriation is likely the most efficient and reliable source of major project funding.

In summary, contrary to MVEIRB's determination that the current appropriations-based funding model was inadequate, CIRNAC's draft report indicates that the model is preferable. Notably, an independent assessment of funding options conducted by the Pembina Institute concluded that establishing a trust fund for the perpetual care of the Giant Mine site would be the most appropriate option. CIRNAC's draft report makes no effort to reconcile these diametrically opposed conclusions.

This and similar input was provided to CIRNAC throughout the Measure 6 process. Members of the Working Group made multiple requests for additional information to mitigate a perceived lack of transparency, consistency and traceable logic. While CIRNAC took steps to respond to some requests (e.g., evaluation of additional case studies and consideration of enablers/inhibitors), insufficient action was taken to address other concerns. This has undermined the confidence of the Working Group members in the findings of the report.

4. Options Analysis

As indicated in Section 1, Measure 6 is required to *"...investigate long-term funding options for the ongoing maintenance of this Project."* The draft report attempts to meet this requirement by determining the extent to which the case studies might apply to the Giant Mine. While such an approach is acceptable as an initial screen of funding models, it fails to develop and assess options that are directly applicable to the Giant Mine. In this regard, we expected that the report would draw on the case studies to develop a series of customized funding options that address the specific needs of the current project and that those options would then be subjected to a performance assessment.

While a brief reference to a "Hybrid Funding Approach" is provided in Section 3.4, the draft report limits its analysis to the pre-existing case studies without developing or evaluating any new options. This is a significant shortcoming of the draft report which, based on its title claims to involve the "Development of Options for Consideration for Long Term Funding for Giant Mine". GMOB believes there is no reason to limit the options for the Giant Mine to pre-existing case studies. To the contrary, there is a need to develop customized options that meet the unique requirements of the project and the range of significant concerns that Measure 6 was intended to address.

5. Comparative Analysis

The draft report uses the current appropriations-based funding model as a benchmark for assessing the performance of other options. While this is appropriate in principle, care is required to ensure that all options, including the appropriations model, are

evaluated using the same criteria without bias. Based on our review of the draft report, the strengths of the appropriations model appear to have been highlighted and the negative attributes have been down-played. For example, the administrative costs of trust funds are reported to be a major disadvantage but no reference is given to the very significant financial overheads of the appropriations model. By discounting those embedded costs, it is impossible to perform a balanced comparative analysis.

6. Timing

Measure 6 required that a detailed report be provided within three years. The Ministerial decision regarding the EA was issued in August, 2014. On this basis, the detailed report specified by Measure 6 should have been available by August, 2017. The report remains in draft form and the members of the Measure 6 Working Group have expressed significant concerns over its content. CIRNAC has yet to clarify whether any additional changes will be made to the report and when it will be finalized.

GMOB Overall Assessment

In its Reasons for Decision MVEIRB indicated:

“Without a suitably reliable long-term funding mechanism, there is a likelihood of significant adverse impacts over the 100 year duration of the Project. Funding shortfalls have been a problem at many other long-term care sites, and have resulted in impacts on the ground, and the Board expects this to be no less likely for this Project. The developer has presented no compelling evidence to contrary.”

Further, MVEIRB stated:

“... there remains a likelihood of significant impacts from the Project from risks related to funding. If funding were not available, the Board is of the opinion that it is likely that serious problems would lead to significant adverse environmental impacts related to the release of contaminants.”

In summary, MVEIRB concluded that the Federal Government’s appropriations-based model for project funding was not adequate to provide assurances that potentially significant environmental impacts would be avoided. On that basis, the fundamental purpose of Measure 6 was to identify long-term funding options that were superior to that model.

When assessing the effectiveness of the draft Measure 6 report, GMOB has considered the extent to which MVEIRB’s concern has been addressed. Fundamentally, CIRNAC has concluded that its base-case funding model (i.e., appropriations) is superior to other options. If the Department proceeds with the implementation of that option, the concerns cited by MVEIRB will continue to exist.

Specifically, there are no assurances that sufficient funding will be available in the future to mitigate significant adverse environmental impacts. In that regard, the current draft of the Measure 6 report does not appear to address the concerns expressed by MVEIRB.

GMOB also notes the requirement that Measure 6 involve stakeholders and the public in discussions on funding options. The Measure 6 Working Group is the primary vehicle through which this has occurred. The members of the Working Group have expressed significant frustration with the process and are concerned their input has not been adequately considered. This has undermined their confidence in the findings of the Measure 6 report. Their concerns regarding long-term funding certainty appear to be unresolved and, by extension, it can be inferred that the motivation behind MVEIRB's requirement that stakeholders be involved in the Measure 6 process has not been met.

GMOB appreciates the opportunity to provide feedback on CIRNAC's efforts to fulfill Measure 6. We would be happy to elaborate on the content of this submission on request.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathleen Racher". The signature is fluid and cursive, with a long horizontal stroke at the end.

Dr. Kathleen Racher
Chair, Giant Mine Oversight Board

cc. Parties to the Environmental Agreement