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Japan Bank for International Cooperation (JBIC)
Tokyo, Japan
(Via Email)

We write with regard to JBIC consideration of financing for the Sakhalin I project, which is being undertaken by Exxon Neftegas Ltd. (ENL) onshore and offshore Sakhalin Island in the Russian Far East. Past and present damage to the environment of the critically endangered population of Western Gray Whales and the company's disregard for scientific environmental experts demonstrate violations of JBIC policy which must compel your agency to refrain from financing the project.

Our preliminary concerns cover two topics:

- Failure to Cooperate with the Western Gray Whale Advisory Panel
- Failed Pipeline Across Piltun Lagoon

Failure to Cooperate with the Western Gray Whale Advisory Panel: JBIC's financing of the Sakhalin II project was predicated on project sponsor, Sakhalin Energy Investment Company, Ltd, (SEIC) taking action to establish, maintain and adhere to the recommendations of the Western Gray Whale Advisory Panel (WGWAP), an independent international scientific body convened to assess Sakhalin oil and gas project impacts on this critically endangered population. In conducting its analysis of these projects, the WGWAP has become quite concerned that Sakhalin I poses equally severe environmental threats as Sakhalin II. For example, the WGWAP-6 report expressed strong concerns about potential acoustic impacts from Sakhalin I on the Western Gray Whale, stating:

[In] its report from WGWAP-5, the Panel had taken note of the preliminary information presented on gray whale numbers and distribution off Sakhalin in 2008. That information 'suggested that the number of whales was exceptionally low (as compared to previous years) in the near-shore feeding area in July and August of 2008' and 'this scarcity may have been related to underwater noise produced during onshore pile-driving activities undertaken by ENL on the northern Piltun barrier spit adjacent to the Odoptu block'. Therefore, the Panel had concluded the following: 'A precautionary response to the present situation would be to establish a moratorium on all industrial activities, both maritime and

terrestrial, that have the potential to disturb gray whales in summer and autumn on and near their main feeding areas.¹

As you know, SEIC honored the moratorium, yet ENL did not. This is not an anomalous concern, but rather reflects an ongoing problem which is reflected throughout WGWAP reports, including the WGWAP-5 report, which stated:

The Panel recognises the unfortunate situation whereby ENL does not see any advantage to its participation in the Panel process...[and that ENL's approach] certainly impedes the cause of western gray whale conservation.²

This clearly indicates ENL's severe disregard for the role of science in the guidance of industry conduct and in JBIC's position that the WGWAP recommendations must be honored. This demonstrates a violation of JBIC's environmental policy, which requires:

- For projects that have particularly large potential adverse impact or are highly contentious, a committee of experts may be formed to seek their opinions, in order to increase accountability.

Under these circumstances, JBIC financing for Sakhalin I will violate the agency's environmental policy and will send a message to SEIC that JBIC is not serious about its requirement that the WGWAP recommendations be followed.

Failed Pipeline Across Piltun Lagoon: Environmental organizations and the WGWAP have repeatedly noted the importance of the Piltun Lagoon to the survival of the Western Gray Whales. Russian and international environmental organizations are calling for the establishment of a marine protected area which will encompass Piltun Lagoon and the nearby near-shore Western Gray Whale feeding area. Environmental groups and the WGWAP have documented the importance of Piltun Lagoon for the survival of the Western Gray Whales. For example, the (WGWAP) stated in May, 2008:

To summarize, as a result of tidal fluctuation and estuarine circulation, effluent waters from Piltun Lagoon enter the ocean near the southern end of the near-shore (Piltun) feeding area used preferentially by females and calves. A broadly based technical literature on coastal marine lagoon ecology in locations around the world indicates the potential for subsidies to benthic productivity from lagoon outflow. The scientific literature implies that subsidies originating from the Piltun Lagoon to whale feeding areas on the Sakhalin Shelf could take one of the following forms:

1. Addition of significant quantities of organic detritus in particulate or dissolved form, originating from aquatic or terrestrial processes in the Lagoon's watershed;

¹ WGWAP reports are available at <http://www.iucn.org/wgwap/wgwap/>

² Ibid #1

2. Addition of significant quantities of organic detritus in particulate or dissolved form, resulting from phytoplankton production occurring in the Lagoon;
3. Addition of significant quantities of living phytoplankton produced in the Lagoon;
4. Addition of significant quantities of inorganic nutrients such as nitrate or phosphate that are known to stimulate primary productivity in nearshore ocean waters, resulting from organic decompositional processes within the Lagoon.³

Also, environmental groups and the WGWAP have expressed experts' concern that ENL's pipeline across Piltun Bay could negatively impact the Western Gray Whale and that an alternative pipeline route is needed:

The WGWAP and its predecessor panels have repeatedly expressed concern that Piltun Lagoon may be crucial to the productivity of feeding areas for western gray whales, and that the Lagoon must, as a consequence, be carefully monitored and effectively protected from disturbance.⁴

And:

Given the precarious state of the western gray whale population, a precautionary approach is essential. We suggest that it would be preferable to develop an alternative option, such as rerouting of the pipeline, to eliminate the potential for disruption of key processes of biological productivity within the Lagoon.

Yet, the Sakhalin I EIA fails to respect the recommendations of an expert panel that JBIC concurrently requires Sakhalin II to adhere to. Although the EIA recognizes the importance of Piltun Bay to marine mammals including Western Gray Whales, in its conclusion of assessment of impacts, after taking into account the project's mitigation measures it states, without substantiation, that there will be "no impact but there may be short-time and insignificant impacts during the operational phase," and that construction impact is only to benthos and it will be recovered after 3-5 years.

The WGWAP has repeatedly expressed concerns about ENL's unwillingness to cooperate and respect its expertise, and to provide complete and timely information on the company's proposed activities. For example, the WGWAP-3 report states:

The problem of obtaining timely information on the activities of other companies operating in the region has long been recognised and discussed by WGW panels...The Panel was equally concerned about the lack of reliable information

³ Comments by the Western Gray Whale Advisory Panel (WGWAP) regarding plans to construct an oil pipeline across Piltun Lagoon, Sakhalin Island, and to construct an ice bridge across the Lagoon in order to support pipeline installation. Available at:

http://cmsdata.iucn.org/downloads/02_app_2_letter_on_piltun_lagoon_final_02_may_3.pdf

⁴ *Ibid* #3

*on the plans and activities of ENL associated with Sakhalin I. Other than vague reports of onshore drilling and of pipelaying across Piltun Lagoon, soon to begin or already begun, the Panel had no authoritative information on these large-scale activities, either or both of which could have significant impacts on gray whales and their habitat.*⁵

Despite environmental group and GWAP concerns, ENL constructed the pipeline crossing of the Piltun lagoon during all the winter 2008 – 2009, digging an underwater trench and laying pipes from lagoon ice using a specifically designed and constructed "ice road".

This method is different from the pipeline on the Chaivo lagoon which was constructed under the bottom of the lagoon by the horizontal direction drilling. ENL drilled a horizontal hole under the lagoon and then pulled the pipeline through the hole. In this case they didn't disturb the lagoon itself and the impact on the lagoon was minimal. On the other hand, on Piltun, ENL dug up a trench in the lagoon bottom across the lagoon, then put the pipeline into the trench, then covered it by sea bottom ground. This method resulted in the serious damage to benthos and the whole lagoon ecosystem, impacted fish migration and reduced the lagoon's productivity of biomass. This biomass is being delivered by daily water exchange (currents) into the coastal waters of Okhotsk sea and critically important for WGW population, because this biomass serves as a basis for coastal benthonic underwater communities existence. And those benthonic communities are the food base for Western Gray Whales.

What's more, despite the GWAP recommendation for an alternative rerouting of the pipeline, ENL did not consider alternatives in the EIA which was submitted to public consultations and State Environment Expert Review (SEER) as well as the Public Environment Expert Review (PEER) in Russia.

Three to four months after construction was completed, Russian environmental organizations learned that during the pipeline testing the pipeline rose up (buckled up) from its trench in some places. It is understood that the pipeline remains in the trench, but the longitudinal shape is undulating (wavy). We have heard that ENL could not conduct pipeline tests using a robotic device known as a "pipeline pig" because this device can become stuck where the pipeline buckled. It is now understood that Exxon has been re-constructing the pipeline crossing across Piltun Bay. This means ENL will have to re-excavated the pipeline up onto the ice surface and then re-bury it down again into a trench.

It is clear that whatever potential negative impacts the original pipeline construction had, and which led to the GWAP's and environmental group's initial concerns, the unanticipated excavation and reconstruction of the pipeline will likely cause far worse impacts than originally estimated in the project's environmental impact assessment (EIA). Indeed, the EIA, which we believe was published prior to the pipeline failure,

⁵ Ibid #1

stated that impacts are “single and short-term,” and therefore did not consider the multiple long-term impacts of the pipeline failure and consequent reconstruction.

Moreover, Russian State Ministry of Natural Resources has recently provided to ENL a permission for reconstruction works without an EIA carried out specifically regarding this reconstruction work. Russian environmental organizations believe this is the violation of Russian legislation.

ENL’s use of the obsolete EIA misrepresents project impacts to JBIC, which violates JBIC’s environmental policy, which states that:

- The project proponents are responsible for environmental and social considerations for the project.
- It is desirable that, after a project begins, the project proponents monitor: (i) whether any situations that were unforeseeable before the project began have arisen, (ii) the implementation situation and the effectiveness of the mitigation measures prepared in advance, and that they then take appropriate measures based on the results of such monitoring;
- When third parties point out, in concrete terms, that environmental and social considerations are not being fully undertaken, it is desirable that a forum for discussion and examination of countermeasures be established based on sufficient information disclosure and include the participation of stakeholders in the relevant project. It is also desirable that an agreement be reached on procedures to be adopted with a view to resolving the problem.
- The EIA report should include the following items:
 - Environmental Impacts: predicts and assesses the project’s likely positive and negative impacts, in quantitative terms to the extent possible. Identifies mitigation measures and any negative environmental impacts that cannot be mitigated. Explores opportunities for environmental enhancement. Identifies and estimates the extent and quality of available data, essential data gaps and uncertainties associated with predictions, and specifies topics that do not require further attention.
 - Analysis of alternatives: systematically compares feasible alternatives to the proposed project site, technology, design and operation including the “without project” situation in terms of their potential environmental impacts; the feasibility of mitigating these impacts; their capital and recurrent costs; their suitability under local conditions; and their institutional, training and monitoring requirements. For each of the alternatives, quantifies the environmental impacts to the extent possible, and attaches economic values where feasible. States the basis for selecting the particular project design proposed and offers justification for recommended emission levels and approaches to pollution prevention and abatement.

Also, ENL's use of an obsolete EIA precludes JBIC from complying with its own environmental policy, because it prevents JBIC from fulfilling the following policy requirements:

- JBIC in principle conducts environmental reviews to confirm that projects meet the requirements for environmental and social considerations stated in the Guidelines
- JBIC conducts screening and environmental reviews based principally on information provided by borrowers and related parties (in the case of export finance, including exporters).
- JBIC conducts screening and environmental reviews of projects for which it intends to provide funding before it makes decisions on funding.
- From the standpoint that confirmation of environmental and social considerations is an important aspect in the risk assessment for the funding, JBIC carries out environmental reviews in strict conjunction with its financial, economic and technical review of projects.
- JBIC takes the results of environmental reviews into account for its decision-making on funding.

Under such circumstances, JBIC cannot finance Sakhalin I without ENL and JBIC acting in violation of JBIC's environmental policy.

Conclusion: JBIC support for Sakhalin II project was predicated on the project sponsor, Sakhalin Energy Investment Company, Ltd, (SEIC) taking actions to establish, maintain and adhere to the recommendations of the independent international scientific body, the Western Gray Whale Advisory Panel (WGWAP). However, Sakhalin I project sponsor, ENL, has refused to cooperate with the WGWAP, and has withheld timely and complete information from the WGWAP. ENL has also violated key WGWAP recommendations, including the WGWAP recommendation to re-route the on-land pipeline around Piltun Lagoon and the call for a moratorium on all industrial activities, both maritime and terrestrial, that have the potential to disturb gray whales in summer and autumn on and near their main feeding areas. In so doing, ENL has taken actions which conflict with Russian and international environmental organizations' pending marine protected area in the project vicinity.

Given these circumstances, JBIC financing for Sakhalin I will create a double-standard with Sakhalin II, sending a message that SEIC also does not need to take JBIC's requirements seriously. What's worse, the Sakhalin I pipeline across Piltun Lagoon has experienced structural failure, leading ENL to have to reconstruct sections, thus worsening project impacts. We do not believe that this structural failure and subsequent reconstruction work was considered in project environmental assessment documents upon which JBIC may make its financing decision. Under these circumstances, JBIC

cannot finance Sakhalin-I without both ENL and JBIC committing severe violations of JBIC's environmental policies. If that were to occur, Russian environmental organizations will investigate filing an official Objection under JBIC procedures. The undersigned Russian and international organizations would like to have a consultation with JBIC on this matter. And, we urge JBIC to refrain from financing Sakhalin I.

We respectfully request a letter of response from JBIC addressing these concerns. Please direct your response to the email addresses below.

Sincerely,

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