

21 June 1999

Mr Ed Willett
Executive Director
National Competition Council
Level 12
Casselden Place
MELBOURNE VIC 3000

Dear Mr Willett

**Application for Revocation of Coverage of Pipeline
National Gas Access Code
MLV 7 Outlet of DBNGP to Cape Lambert Power Station**

1. APPLICATION

Robe River Mining Co Pty Ltd ("**RRM**"), on behalf of the Participants in the Robe River Iron Associates Joint Venture applies for the revocation of coverage of the pipeline described below ("**Pipeline**"), pursuant to sections 1.24 and 1.25 of the Third Party Access Code for Natural Gas Pipeline Systems ("**Code**").

The Pipeline is described in Schedule A of the Code as follows:

Pipeline Licence	Location/Route	Operator	Length (km)	Pipe diameter (mm)	Regulator
WA:PL8	Karratha to Cape Lambert Pipeline	Alinta Gas	57	273	A WA Independent Regulator

RRM's cheque for \$7,500 in payment of the application fee is enclosed.

The Pipeline is a dedicated use lateral pipeline, used to transport gas from main line valve number 7 ("**MLV 7**") on the Dampier to Bunbury Natural Gas Pipeline ("**DBNGP**") to the Participant's Cape Lambert power station. Although stipulated as the Karratha to Cape Lambert Pipeline in the Code, the Pipeline does not actually pass through the town of Karratha, it passes approximately five kilometres south of the town site. The Pipeline commences at the MLV 7 and broadly follows the North West Coastal Highway for approximately 30kms. The Pipeline deviates from the North West Coastal Highway at this point (approximately 14kms before Roebourne) and proceeds towards Cape Lambert. The route is shown on the attached map.

The Pipeline is owned by the Participants and operated by RRM as Manager. AlintaGas is not the present operator as recorded by the Code.

Certain maintenance work in respect of the Pipeline is provided by Epic Energy Transmission Pty Ltd (“**Epic**”) pursuant to a maintenance contract initially made between RRM and AlintaGas in 1995, but taken on by Epic in 1998, following the sale of the DBNGP to Epic.

It is RRM’s understanding that upon receiving an application for revocation of coverage, the National Competition Council (“**NCC**”) is required to forward a recommendation to the relevant minister for a final decision upon whether coverage will be revoked.

RRM also understands that the relevant minister in relation to coverage of all intra-state transmission pipelines in Western Australia is The Hon. Colin J Barnett MLA, Minister for Energy, Resources Development and Education. The NCC’s revocation recommendation would therefore be forwarded in due course to:

Hon. Colin J Barnett MLA
Minister for Energy, Resources Development and Education
19Th Floor, 197 St Georges Terrace
Perth WA 6000

2. OVERVIEW OF ROBE RIVER IRON ASSOCIATES

RRM is the manager of the Robe River Iron Associates Joint Venture, an unincorporated joint venture which owns and operates the Robe River Iron Ore project in the Pilbara region of Western Australia.

The Participants in the joint venture are:

- (a) RRM;
- (b) Mitsui Iron Ore Development Pty Ltd;
- (c) North Mining Limited;
- (d) Cape Lambert Iron Associates (a business carried on under that name by Nippon Steel Australia Pty Limited, Sumitomo Metal Australia Pty Ltd, and Mitsui Iron Ore Development Pty Ltd); and
- (e) Pannawonica Iron Associates (a business carried on under that name by Nippon Steel Australia Pty Limited, and Sumitomo Metal Australia Pty Ltd).

The Participants are associated together as a joint venture for the purpose of mining, overland transportation, processing, pelletising, and loading for shipment of iron ore.

The Cape Lambert power station generates power for use in the Participant's processing and port loading operations at Cape Lambert, for the joint venture's township at Wickham and for sale.

The joint venture does not currently undertake pelletising operations. The plant was mothballed in 1980. There are reasonable prospects that the plant will be recommissioned, subject to various studies currently being undertaken.

3. BACKGROUND

The Cape Lambert power station was commissioned by the Participants in the early 1970s. The power station was initially oil fired, and supplied the electricity requirements for the Participants' operations at Cape Lambert, for the township of Wickham, and for the Participants' pellet plant which operated between 1972 and 1980.

The pellet plant was mothballed in 1980 principally due to the high cost of oil to generate the pellet process.

In 1983, the Pipeline was conceived as an option to reduce the cost of power generation by using natural gas supplied by the State Energy Commission of WA ("**SECWA**") via a lateral from the DBNGP.

In 1983, a series of agreements between SECWA and the Participants provided that:

- (a) the Participants would convert the Cape Lambert power station into a dual gas/oil firing power station, and to construct a 250 mm diameter pipeline from the DBNGP at the offtake at MLV 7 to the Cape Lambert power station;
- (b) SECWA would operate and maintain the Pipeline;
- (c) SECWA would sell natural gas (ex North West Shelf) to the Participants for the Cape Lambert power station; and
- (d) the Participants would sell electricity generated from the Cape Lambert power station to SECWA.

(These agreements are no longer current.)

A pipeline licence for the Pipeline was granted under the Petroleum Pipelines Act 1969 (Western Australia) on 14 October 1983 for a period of 21 years.

The Pipeline was completed in 1984.

4. THE PIPELINE'S CAPACITY

The Pipeline's capacity is approximately 95 Tj/day.

The uses for which the lateral was constructed, ie supply sufficient gas to the Cape Lambert power station to generate electricity for the township of Wickham, the Participant's

operations at Cape Lambert and pellet plant when recommissioned, at maximum capacity, will require a gas supply of approximately 57 - 66 Tj/day.

The uncommitted capacity of the Pipeline is approximately 29 - 38 Tj/day.

Until the pellet plant is recommissioned, some of the capacity allowed for the dedicated purposes is surplus to RRM's requirements but has been contractually committed to a third party.

A study is currently being conducted by the Participants to determine the future viability of the pellet plant. There is a reasonable possibility that the pellet plant may be recommissioned in the future.

5. GAS ACCESS LAW

The Gas Pipeline Gas Access (Western Australia) Act 1998 (Western Australia) was proclaimed on 8 February 1999. This Act gives statutory force to the Code (as varied by the Act) and also provides that the Pipeline is a covered pipeline for the purpose of the Code.

Accordingly, the Participants are obliged under section 2.2 of the Code to submit a proposed Access Arrangement together with the applicable Access Arrangement Information to the Western Australian Independent Gas Pipelines Access Regulator ("**Regulator**") within 90 days of the date of proclamation (ie, by 7 May 1999). However, in response to an application by RRM, the Regulator has extended the time for the lodgement of those documents until 26 November 1999, pending a decision on this application for revocation.

6. GROUNDS FOR APPLICATION

RRM submits that in respect of the Pipeline there are sufficient and compelling grounds for the NCC and the relevant Honourable Minister to be satisfied that one or more of the matters set out in section 1.9 of the Code is not met.

The grounds for the application are that any one or more of the following matters is not satisfied:

- (a) that access (or increased access) to services provided by the means of the Pipeline would promote competition in at least one market (whether or not in Australia), other than the market for the services provided by means of the Pipeline; and
- (b) that access (or increased access) to the services provided by means of the Pipeline would not be contrary to the public interest.

These grounds are submitted in the alternative. The reasons and evidence in support of these grounds are set out below.

Representatives of RRM have met with the Office of Energy concerning this Application. The Office of Energy indicated that it considered this Application and the bases on which it is made to be reasonable and suitable to be considered under the revocation process provided by the Code.

7. PROMOTION OF COMPETITION IN ANOTHER MARKET

It is submitted that access or increased access to services provided by means of the Pipeline would not promote competition in at least one market (whether or not in Australia), other than the market for the services provided by means of the Pipeline.

The location of the Pipeline means that at present regulated access is unlikely to promote competition in any upstream or downstream markets.

RRM is not aware of any energy user (other than one with whom it has concluded an access arrangement), gas provider (other than the North West Shelf producers), potential energy users or potential gas producers which have an energy requirement to warrant a gas intake or off-take to the Pipeline and operate or intend to operate within economic proximity of the Pipeline.

Although the Pipeline passes south of the Karratha industrial area (as does the Karratha to Port Hedland Pipeline), RRM is not aware of any industry in that area which have an energy requirement which would warrant an off-take.

The gas contained in the DBNGP at MLV 7 is predominantly supplied by the North West Shelf producers. Practically, access to the Pipeline is unlikely to increase the number of suppliers at the MLV 7 (unless suppliers south of MLV 7 are able to conclude haulback arrangements with the DBNGP owner and the NorthWest Shelf producers).

Further, due to the location of the Pipeline, in RRM's submission, it is unlikely that any third party upstream or downstream will require access to the Pipeline in the foreseeable future, hence access is unlikely to promote competition in any market in the future.

Finally, it is noted that the Pipeline is partially duplicated by the Karratha to Port Hedland pipeline which runs parallel to the Pipeline for approximately the first 30kms from the MLV 7 off-take. The average capacity of this pipeline is referred to as 178 Tj/day (Office of Energy, "Energy Western Australia", April, 1998) approximately twice the capacity of the Pipeline. It is submitted that this indicates that the Pipeline is not a natural monopoly (economies of scale do not prevent the construction of a duplication), hence there are no benefits of a natural monopoly to unlock and capture, which could enhance competition.

Given the above and that to date no one (other than the above-mentioned energy user which currently now has an access arrangement) has sought access to the Pipeline, it is unlikely that regulated access will promote competition in at least one market.

8. CONTRARY TO THE PUBLIC INTEREST

It is submitted that regulating access (or increased access) to the services provided by means of the Pipeline under the Code would be contrary to the public interest.

The Pipeline is a dedicated use pipeline.

Regulated access to the Pipeline is not likely to promote competition in any upstream or downstream markets, at the present time or in the foreseeable future, and there are no foreseeable barriers to entry in the gas transmission industry in the region.

To date, the Participants have only once been approached for access by a third party and in that case, an access arrangement was agreed. It is unlikely that there would be any further requests by a third party. If a request is made, it would be an opportunity for RRM to recover portion of its outgoings in respect of the Pipeline. However, the imposition of the regulatory regime prescribed by the Code in circumstances of little or no likelihood of any such requests being made, would create unnecessary regulatory and compliance costs.

Given the above and the time and resources that are involved in preparing, submitting, reviewing and administering an access arrangement, RRM believes that the public interest would be best served by revoking coverage of the Pipeline at this time.

Submission of an access arrangement would impose unnecessary regulatory and compliance costs on the State, Regulator and the Participants and will have no material effect on access given the situation described above.

9. CONCLUSION

We look forward to receiving your decision as soon as possible. If you require any further information regarding this application please contact the undersigned.

Yours faithfully

Gregory Heath
Secretary
Robe River Mining Company Pty Ltd

1. *map*
2. *duplicate signed application letter*
3. *electronic copy of application (Word 7)*
4. *cheque for \$7,500*