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Honourable George Heyman

Minister of Environment and Climate Change Strategy

Room 112, Legislative Buildings

Victoria, British Columbia V8V 1X4

Dear Honourable Heyman:

Ecofish Research Ltd. (Ecofish) is pleased to provide this submission to contribute to the Government of British Columbia's review of professional reliance in the natural resources sector in BC. Professional reliance is an important feature of the governance of natural resource use in our province. Our economy and social values reflect BC's rich natural resources, and it is imperative that society adequately protects environmental values and supports effective oversight of natural resource developments. Ecofish was founded with the explicit intent of providing impartial, complete and accurate information to help resource managers (regulators, Indigenous groups, non-Government organizations, and industry) make good decisions with confidence and to effectively manage the risks of environmental impacts. Ecofish supports professional reliance as a component of natural resource management in BC and we believe it can work well, though we recognize there are real challenges. Qualified professionals serve a key role in providing information and analysis in support of governments, Indigenous groups, industry and other parties; and in some cases, qualified professionals make decisions directly when decision making authority is explicitly delegated to them (e.g. Riparian Areas Regulation and under certain environmental assessment certificate conditions). We appreciate the opportunity to provide our input into how the Government of British Columbia may consider strengthening professional reliance.

Ecofish's work contributes to the professional reliance system every day. We have extensive experience in planning, assessing, constructing, operating, and regulating the full spectrum of resource development in the province. Our observation is that overall the system is effective, despite consistent challenges. Beginning with what is working well, the professional reliance system in BC is comprised of a wide range of dedicated professionals who are in most cases motivated to provide high quality information that supports durable decision making. A strength of BC's professional reliance system is that the qualified professionals are governed by professional associations established under legislation, including professional ethics and discipline procedures. While the overall structure and approach is valid and appropriate, there is room for improvement.

Consistently high-quality information and analysis is foundational to the professional reliance system. As in any profession, there are differences in the competence and experience of the qualified

professionals in scope of the Government's review¹. Recognizing the variance in experience, it is important that less-experienced qualified professionals receive support, mentorship and guidance from seasoned professionals. Mechanisms must be in place to ensure that information is complete, high quality, clear and methodologically defensible. Further development of guidelines would support consistency in practice and transparency of process. At Ecofish, we conduct thorough quality assurance/quality control, peer review, mentorship and senior review to enable us to consistently provide robust information and analysis to support durable decision making. We adhere to the hallmarks of good science, which are appropriate methods of investigation, accuracy, repeatability, transparency, and peer review. Good science is critical, and qualified professionals should seek to foster a culture of continuous improvement that strongly embraces the principles of good science.

Professional reliance decision making must be transparent, balanced, and based on the merits of the case, both in 'decision making reliance' (decisions made directly by qualified professionals) and 'information/design reliance' (decisions made by Government decision makers relying on information and analysis by qualified professionals)². 'Decision making reliance' is appropriate in select situations, such as those with minor potential impacts and when there is no necessity to balance potentially competing values and objectives. More complex resource management decisions that require trade-offs between economic development, environmental protection, Indigenous interests, community values, etc. must be reserved for Government decision-makers, supported by qualified professionals through 'information/design reliance.'

Through this submission, Ecofish provides Government the following recommendations for consideration. The recommendations are grouped under three headings relating to qualified professionals and their activities, greater consequences for unethical activity and poor decision-making, and Government and its role in the professional reliance system in BC.

Ecofish recommends that the Government consider the following for *qualified professionals and their activities*:

- **Mentorship**: Qualified professionals would benefit from increased mentorship from experienced, skilled and principled peers. This would increase the quality of information/analysis as well as the resulting decision making. The experience, perspective and lessons learned gained through years of being a qualified professional must be better transferred to individuals new to their professions and roles.
- **Conflicts of Interest**: Additional safeguards to prevent real and perceived conflicts of interest are warranted. Regulators, Indigenous groups and the public frequently raise concerns about qualified professionals potentially being swayed by the party who is paying for their services.

¹ The Government's review of professional reliance includes: engineers, geoscientists, foresters, biologists, agronomists and applied science technologists.

² 'Information/design reliance' and 'decision making reliance' are terms described in *Professional Reliance and Environmental Regulation in BC*, UVic Environmental Law Centre, 2015.

Greater oversight and peer review should be provided to address potential conflicts of interest.

- Oversight, monitoring and enforcement: Government, professional associations and peers should have an enhanced role in overseeing, auditing, monitoring and enforcing requirements relating to professional reliance. The ramifications of poor information, analysis and decisions can have significant implications for the environment, human health and other factors. The increased use of independent professionals (e.g. Independent Environmental Monitors required under certain environmental assessment certificates and conditional water licenses) would support Government in providing further ‘on the ground’ oversight and advice.
- Pre-qualified lists: With rigorous pre-approval and oversight requirements, professional reliance could be enhanced with increased use of pre-qualified lists with clear guidance on requirements for sign-off by the qualified professional. Under ‘decision making reliance’, qualified professionals on the pre-approved lists would be authorized to make certain decisions directly. Under ‘information/design reliance’, it may be appropriate for Government to fast-track consideration of authorizations when proponents use pre-approved qualified professionals. This would encourage industry to rely on experienced professionals, reducing regulatory timelines and public-sector resources needed to review applications.

There must be greater ramifications for unethical activity as defined by the codes of conduct for each profession. Decisions must be made based on principle, pragmatically and based on the merits of the case. When that does not occur, there must be timely and significant consequences. Ecofish recommends that Government consider the following regarding *consequences*:

- Government and professional associations should provide greater oversight of qualified professionals and their work products, and be prepared to take action when needed.
- A mechanism should be developed to provide consistent review of complaints, including the ability to report concerns anonymously.
- Guidance should be developed for qualified professionals on the duty to report non-compliance and unethical activity.
- An effective review and disciplinary process is critical to ensure a robust professional reliance system and to increase public trust.
- The consequences should be borne by the qualified professional, but also the individuals retaining them. This will help support qualified professionals in maintaining strong adherence to scientific principles and professional ethics.



Ecofish recommends that Government consider the following for *Government and its role*:

- **Transparency:** Increased transparency is required in relation to the decision making processes and information requirements to increase consistency for all parties and certainty for industry. Government should be transparent about how decisions under different legislation are made, and provide clear accountabilities defined for each step and party. In particular for high profile, high risk or complex resource development, public trust would be supported by increasing the range of decisions for which the results of the decision making process and monitoring results are posted online.
- **Sufficient resourcing:** Effective decision making requires sufficient resourcing of staff, in numbers and expertise. Currently there are challenges with Government decision makers having insufficient resources to provide guidance, review and oversight of qualified professionals' information and analysis to support Government's decision making under 'information/design reliance.' There must be sufficient resources to conduct audits and timely follow up when there are exceedances or non-compliances. When Government has insufficient resources to effectively play its part in the professional reliance system, the overall system falters.

Ecofish appreciates the opportunity to provide this submission for consideration by the Government of British Columbia in the review of professional reliance, and we would be pleased to discuss any aspect of this submission with those working on this file. We support the professional reliance model and believe that it can work well, subject to improvements as identified above. An effective structure to support and regulate professionals will allow Government to rely on professionals to make some decisions and directly and to support Government decision making; such a structure will allow society to have confidence in the information and decisions provided by qualified professionals. We are proud to contribute to the professional reliance system and look forward to improvements to the system through this review.

Yours truly,

Ecofish Research Ltd

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