

August 9, 2023

Ms. Elenore Arend  
Associate Deputy Minister and Chief Executive Assessment Officer  
Environmental Assessment Office  
Victoria BC V8W 9V1

Submitted via email: [Elenore.Arend@gov.bc.ca](mailto:Elenore.Arend@gov.bc.ca); [EAO.DisputeResolution@gov.bc.ca](mailto:EAO.DisputeResolution@gov.bc.ca)

Dear Ms. Arend:

**Re: Response to Environmental Assessment Act Dispute Resolution Regulation Discussion Paper**

The Mining Association of British Columbia (MABC) appreciates the opportunity to provide comments on the Environmental Assessment Office's (EAO) Dispute Resolution Regulation Discussion Paper.

By way of background, MABC is the voice of British Columbia's steelmaking coal, metal, and mineral producers, smelters, and advanced development companies. For generations, mining and smelting has supported high-paying jobs and economic activity in every region of our province. Today, mining continues to be vital to our provincial economy, supporting more than 35,000 jobs and over 3,700 small, medium, and Indigenous-affiliated businesses through an annual spend of nearly \$3 billion on goods and services. Importantly, our members' products have among the lowest carbon footprints globally and are helping the world transition to a cleaner, low-carbon future; safely and responsibly.

The EAO is seeking input on a new dispute resolution regulation and accompanying policy framework. The Discussion Paper notes that changes are intended to align dispute resolution as a collaborative and principled process consistent with the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). It also hopes to further define the dispute resolution process and clarify the powers and duties of facilitators and proponents' role in the new framework. The Discussion Paper notes that the new regulation and policy will aim to:

- Be consistent with the UN Declaration on the Rights of Indigenous Peoples.
- Support collaborative and principled resolution of disputes.
- Create clarity, consistency, and predictability in dispute resolution processes.

MABC believes it is critically important that proponents, regulators, and Indigenous nations have clarity, transparency, and confidence in a timely and efficient dispute resolution process.

MABC fully supports the Declaration on the Rights of Indigenous Peoples Act (DRIPA) and is committed to Indigenous economic reconciliation. Our members are engaging in partnerships with Indigenous nations in existing and planned operations located throughout the province near Indigenous communities. We believe that consensus-seeking and less rigid dispute resolution can help increase collaboration between proponents and Indigenous partners.

We agree with the Discussion Paper's view that capacity funding is essential to ensure Indigenous nations' full participation in the dispute resolution process. A key pillar of MABC's ongoing advocacy with federal and provincial authorities is that the Crown must provide much greater assistance to Indigenous governing bodies to build the governance, administrative and technical capacity – on their terms – required to fully participate in government-to-government processes, including EAO dispute resolution.

We have some concerns with the duration and transparency of the facilitation process, and role of project proponents. It is important for the EAO to increase participation in the dispute resolution process with a clear line-of-sight to improving project review timelines. MABC understands this is not an easy task, yet striking a balance should be the primary focus of new regulations.

MABC offers the following overarching summary observations on the EAO Dispute Resolution Discussion Paper:

- 1) The dispute resolution process must support timely project assessment and resolution of issues under consideration in accordance with principles of administrative fairness.
- 2) The dispute resolution process is facilitative and must not influence ultimate statutory decision-making.
- 3) The regulation must include a policy and/or protocol for informing proponents given they are not party to the dispute resolution process.
- 4) Proponent participation in the process could support timely provision of project information and more efficient decision making.
- 5) Facilitators should be given reasonably broad powers to determine a process that has a reasonable chance of success and is tailored to individual circumstances.
- 6) We strongly recommend the provincial government provide MABC and other key natural resource industry stakeholders with the opportunity to review any proposed regulations prior to implementation, under non-disclosure agreement if necessary.

Thank you again for the opportunity to provide our input on the EAO Dispute Resolution Discussion Paper. We would welcome the opportunity to provide further input over the course of fall 2023 as the Regulation is developed.

If you or your officials have any questions or would like to discuss this submission, please do not hesitate to contact me or Tim McEwan, MABC's Senior Vice President, Corporate Affairs.

Sincerely,



Michael Goehring  
President and CEO