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Resource Municipalities Coalition
c/o City of Fort St. John
10631 – 100th Street
Fort St John, BC
V1J 3Z5

July 30, 2018

Honourable George Heyman

RE: Environmental Assessment Revitalization

Minister George Heyman,

Fort St John is a key member of the Resource Municipalities Coalition and has had considerable experience with the BC Environmental Assessment process and we, applaud the Province for reviewing the current Environmental Assessment process.

The City and Coalition support the principles upon which the review is based as resource development is an important part of British Columbia's economy, contributing to the foundation of economic stability and development of all communities – now and for future generations.

In reviewing the Discussion Paper, we submit the following attachment as input to the Environmental Assessment Revitalization Discussion Paper circulated by the Province in June 2018 and welcome the opportunity to expand further on any of the comments provided in our submission.

Sincerely,

Mayor Lori Ackerman	Mayor Rob Fraser	Mayor Don McPherson	Mayor Pat Crook
City of Fort St John	District of Taylor	District of Tumbler Ridge	District of Mackenzie

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1.0 INTRODUCTION

The Resource Municipalities Coalition and its individual members have had considerable experience with the B.C. Environmental Assessment (EA) process. Hydroelectric energy, natural gas transmission and mining projects are all examples of resource developments where Coalition members have interfaced with proponents, Provincial and Federal agencies and First Nations in working through the EA process.

The Coalition applauds the Province for revitalizing the current EA process. We agree that this effort was required, and support the principles upon which it is based. These include:

- Enhancing public confidence, transparency and meaningful participation;
- Advancing reconciliation with First Nations; and
- Protecting the environment while offering clear pathways to sustainable project approvals.

The Coalition also acknowledges the Province's commitment to implementation of the United Nations Declaration on the Rights of Indigenous Peoples, including through revitalization of the EA process.

We appreciate the opportunity to provide input to the 'Environmental Assessment Revitalization – Discussion Paper' circulated by the Province in June 2018. We have organized our comments by key themes which were seen as important to bring to your attention. The Discussion Paper invites responses to the 'thought bubbles' which are portrayed on a number of pages in the document. We have linked our comments below to the 'thought bubbles' which are most relevant.

2.0 COMMENTS FROM RESOURCE MUNICIPALITIES COALITION

2.1 Interpretation of Environment

We appreciate the broad definition of the term 'environment' contained in the Discussion Paper. Various references, including for example the first bullet on p. 11, characterize protection of the environment and fostering of sustainability across five pillars – environmental, economic, social, cultural and health. We believe that there is an opportunity to clarify this interpretation in two ways. First, the environmental pillar could be more specifically defined to include the key topics addressed under this dimension of environmental assessments – biophysical and climate. Second, the economic pillar should include the word 'fiscal' in recognition of the fiscal effects on all levels of government from a proposed project being considered by the Environmental Assessment (EA) process. This express recognition would support inclusion of these fiscal effects along with job creation, income and economic development opportunities typically addressed through the EA process.

2.2 Project Effects

The Discussion Paper includes a number of references to the potential for 'adverse effects' from projects being considered under the EA process. Page 14 contains an example of this within the discussion of reviewable projects, where it notes *'Move away from being assessed strictly on production capacity-based outputs, to criteria that more accurately reflects the potential for a given project to result in adverse effects.'* We acknowledge that there is certainly the potential for adverse environmental (biophysical and

Resource Municipalities COALITION

climate), social, cultural and other effects arising from advancement of a proposed project. However, it should also be noted that positive effects can also result from a project moving forward. Economic and fiscal benefits arising from a new mine, natural gas transmission project or other initiative can generate employment and build local and regional economic capacity – positive effects which are sought after in many B.C. communities. These positive effects should be considered along with potential adverse effects to determine if, in the broad context, a project warrants approval through the EA process. In this regard we suggest that the Province consider the definition of sustainable development formulated by the United Nations-appointed World Commission on Environment and Development (Brundtland Commission) and published in their report 'Our Common Future', which supports *"development that meets the needs of the present without compromising the ability of future generations to meet their own needs."*

2.3 Cumulative Effects and Regional / Strategic Assessments

We are thankful that the Province has embedded the concepts of cumulative effects and regional / strategic assessments in the EA Revitalization proposal. These are highly relevant to northeast B.C. where many of the current Resource Municipalities Coalition members are located. Three recent examples drawn from our region come quickly to mind. First is the continued exploration, development and conveyance of natural gas resources to fuel both domestic demands, as well as international needs through initiatives such as the active LNG Canada project. Second is B.C. Hydro's Site C Clean Energy Project, which is adding a third major dam / generating station / storage reservoir project to the Peace River system. In these first two examples, cumulative effects are resulting from adding new resource development projects to a regional environment where many have come before. A third example involved cumulative effects from the synergies of multiple types of resource projects such as those occurring in northeast B.C. – several major energy developments (hydroelectric, carbon-based, renewable), coal mining, and industrial processing (forest and hydrocarbon) are all active in this region. Overlaying these resource development examples is the varied jurisdictional environment in northeast B.C., comprising multiple First Nation, Provincial and Federal interests, and extensive services delivered by municipal and regional district governments.

With respect to testing of cumulative effects and regional / strategic assessments, we understand recommendation R30 of the EA Advisory Committee which notes that the concept *'may be tested in areas of limited controversy or areas where natural disasters have had major impacts on biophysical carrying capacity, economic, social, health and cultural conditions.'* While we acknowledge the logic of this recommendation given the potential complexity of this undertaking, we strongly encourage the Province and First Nations leading the revitalized EA process to consider the circumstances of northeast B.C., and the application of these approaches here at the earliest opportunity.

2.4 Criteria to Enter Revitalized Environmental Assessment (EA) Process

The current approach to determining whether a proposed project enters an EA process presents challenges of which we are aware. This is particularly the case with respect to thresholds set in the *Reviewable Projects Regulation.* We understand why this quantitative-based approach was developed, but feel it resulted in some projects which should have been reviewed being excluded (i.e. designed to fall just below thresholds), and others subject to review when not warranted. We feel that a new series of

Resource Municipalities COALITION

criteria based upon the five sustainability pillars – biophysical and climate environment, economic and fiscal, social, cultural and health – could be developed for application by the key Provincial and First Nation decision-makers involved. If these decision-makers feel that, on balance, a proposed project will result in adverse effects, then it should be entered into the revitalized EA process. We would also like to note that the potential for adverse impact avoidance or mitigation (or compensation where these would not be effective) should be woven throughout the revitalized EA process.

2.5 First Nation Engagement as Environmental Assessment (EA) Process Leaders / Co-Leaders

We acknowledge that enhanced engagement of First Nations in the EA process as leaders or co-leaders advances the Province's commitment to reconciliation. Resource Municipality Coalition members have become familiar with the capacity which an institution must possess in order to lead an EA process. There are many dimensions of this required capacity – scientific and other technical expertise, public and stakeholder engagement, process facilitation and document management are some examples. As noted in the Discussion Paper, this capacity must carry on beyond a decision to issue an EA certificate through monitoring, compliance inspections and (if necessary) enforcement actions. With respect, we wonder if a number of the First Nations in B.C. have the capacity to lead or co-lead an EA process which requires this type and magnitude of effort. Where a Nation does not have this capacity, considerable effort will have to be dedicated to determining the best approach to building the Nation's capacity and providing resources to do so. This in turn leads to a number of further considerations which occur to the Coalition. Will the additional resources be provided in the form of persons appointed by the Province or proponent to act as advisors to the Nation, funding, or both? If funding is provided, by whom (Province, proponent or both)? If the proponent is providing funding, will full flexibility be provided to the Nations to select their own advisors?

2.6 Consensus Decision-Making

The Discussion Paper and the Final Report of the Environmental Assessment (EA) Advisory Committee (May 2, 2018) both recognize that there may be situations where the proposed approach to decision-making at various key phases in the EA process may not result in consensus. We also envision these situations arising, including challenges in the Province – First Nation reaching consensus, and/or two or more Nations agreeing where projects are proposed within overlapping territories. An effective alternative dispute resolution mechanism is therefore critical to employ where consensus cannot be achieved. We support the concept of two levels of alternative dispute resolution proposed by the EA Advisory Committee – one for day-to-day issues, and a second Reconciliation Commission for more substantive disputes. We also recognize that much additional work is required to frame these alternative dispute resolution mechanisms – who are its members, how are they appointed, what technical expertise is available for them to draw upon, what are their operational timeframes, are the decisions binding, and under what circumstances do issues proceed to judicial review are all critical questions that must be addressed in formulating these mechanisms.

Resource Municipalities COALITION

2.7 Integration of Canadian Environmental Assessment (EA) Process

There are many projects which involve the interests of Canada, as well as those which fall more squarely within the jurisdictional purview of First Nations and the Province. A recent example in northeast B.C. is Hydro's Site C Clean Energy Project. The Discussion Paper does contain, on p. 12, limited mention of the integration of Federal / Provincial / First Nation governments into one EA process. We are very supportive of this 'one project, one assessment' objective, and believe that considerable effort should be dedicated to determining how this objective can be achieved in a clear, predictable and efficient fashion.

2.8 Fiscal Transparency

As noted earlier in this submission, the Resource Municipalities Coalition believe firmly that fiscal considerations must be included as part of the economic pillar of sustainability. These considerations include taxes, royalties, revenue-sharing, permit fees, community / impact / benefits agreements and other forms of revenue which would be forthcoming to all levels of government who receive these from project proponents. From an historic perspective, all non-First Nation governments fully disclose into the public realm these fiscal benefits received from proponents and incorporate them into expenditures made for the services they deliver. This is also true of other beneficiaries of proponent funding such as community non-government organizations and charities (such as the United Way). To date, this level of public disclosure has not occurred where proponents have provided fiscal benefits to First Nations. We believe that, as equal participants in the EA decision-making process, First Nations should be required to reveal fiscal benefits resulting from projects approved through this process. This would include identification of any specific services being provided by the Nation to the project in question. This suggestion is not intended to fetter the discretion of First Nation or other government elected members to make decisions regarding the distribution or expenditure of revenues received.

2.9 Exposure to Trade Agreements

Many resource and other development projects in Canada are funded, in whole or in part, by foreign investors. Canada has bi-lateral and multi-lateral trade agreements in place with a number of the countries where this foreign investment originates. We understand that there can be exposure to compensation under these trade agreements if Canadian governments move forward with project approvals under a process such as an Environmental Assessment, and then that approval is subsequently challenged or disapproved. In the spirit of one of the fundamental principles of the Province's EA Revitalization – enhanced transparency – we believe that any proposed project which could be subject to trade agreements with foreign countries, and therefore exposed to potential compensation, must be identified.

2.10 Engagement of Local Governments in the Revitalized Environmental Assessment Process

We appreciate the special roles accorded to municipalities and regional districts in the revitalized environmental assessment (EA) process, as noted on p.20 of the Discussion Paper. Governments at every level have recognized the vital role played by local governments in providing key services relied upon by

resource development projects and other economic development initiatives. The United Nations Sustainable Development Goal #11 acknowledges the importance of human settlements and targets the sustainability of many dimensions of these settlements – housing, infrastructure services such as water supply and sanitation, transportation networks, and safeguarding of people and property are some examples. This Goal also encourages inclusivity as a hallmark of planning for human settlement. At the National level, the 2016 Canadian Infrastructure Report Card – Informing the Future (founded by the Federation of Canadian Municipalities and three other national partners) revealed that *"Municipalities own the core infrastructure assets that are critical to the quality of life of Canadians and the competitiveness of our country. Almost 60% of Canada's core public infrastructure is owned and maintained by municipal governments."* (p. 10 of above-noted Report Card). The Province has also recognized the fundamental role played by local governments in the Peace Region in supporting industrial development. The Peace River Agreement between the Province and local governments of the Peace River Regional District notes that *"The Parties recognize that the Region's municipalities are the service centres to industry and its workers and that industry growth will continue to place additional demands on municipal infrastructure and services."* (p. 3, Article #3 of Agreement).

Against this backdrop, the Resource Municipalities Coalition respectfully requests that additional resources be made available to local governments to participate in all stages of the revitalized EA process. There are two key reasons for this request. First, local governments often do not have the time or expertise to participate in an EA process in a meaningful way. This requires the retention of additional in-house staff and/or consulting expertise in order to join other key stakeholders and decision-makers in a process vital to the community. Second, the costs for this additional staff and/or consulting expertise are incurred before any potential fiscal revenues (such as municipal property taxation) may result if a project is approved and is added to the local government's tax roll. Fulfilment of this request would be in keeping with Recommendation R11 of the EA Advisory Committee, which states (in part) *"funding for local governments .....should be scaled to promote increased confidence and trust in the objectivity by seeking informed public input at all stages of the EA process."*

We would also like to respectfully request consideration by any proponent moving through the revitalized EA process of the potential to leave a community's infrastructure 'better off' if their project is approved. Examples could include provision of a supplementary water supply used during the project and then no longer needed, addition to a community's recreation facility used by workers during the project, or building of affordable housing used by employees during the project and then turned over to the community.

2.11 Linking of Comments to Discussion Paper 'Thought Bubbles'

The following matrix links the comments provided above to the 'thought bubbles' set out in the Environmental Assessment Revitalization Discussion Paper.

LINKING OF COMMENTS TO DISCUSSION PAPER 'THOUGHT BUBBLES'										
Discussion Paper Thought Bubbles	RELEVANCE OF COMMENTS TO 'THOUGHT BUBBLES'									
	Interpretation of Environment	Project Effects	Cumulative Effects and Assessments	Criteria to Enter EA Process	Indigenous Nation Engagement	Consensus Decision Making	Integration of Canadian EA Process	Fiscal Transparency	Exposure to Trade Agreement	Engagement of Local Governments
Support Public Confidence in EA (P.8)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Ensure Meaningful Public Participation (p.8)					✓					✓
Agreements with Indigenous Nations for Consensus (p.9)					✓	✓				
Support Environmental Protection and Sustainable Projects (p.11)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Apply Sustainability Criteria (p.11)	✓	✓	✓	✓	✓	✓	✓	✓	✓	✓
Key Topics for Reviewable Projects Regulation (p.14)	✓	✓						✓	✓	
Criteria for Non-Reviewable Projects (p.14)				✓						
Building Blocks for EA Process (p.16)			✓		✓	✓				
Features to Support Early Understanding (p.17)	✓	✓			✓			✓	✓	✓
Criteria for Readiness Gate Decision (P.18)	✓	✓			✓	✓		✓	✓	
Components of Assessment Plan (p.19)					✓					✓
Confidence in EA Data and Studies (p.21)	✓	✓	✓		✓		✓	✓	✓	✓
Confidence in EA Decision (p.22)`	✓	✓	✓		✓		✓	✓	✓	✓
Criteria Applied to EA Decision (p.23)	✓	✓	✓		✓		✓	✓	✓	✓

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3.0 CLOSING

The Resource Municipalities Coalition appreciates the opportunity to provide these comments for consideration as part of the environmental assessment (EA) process revitalization.

While the objectives of the current EA process are noble, there are certainly opportunities to make improvements through enhanced public confidence, transparency and meaningful participation, as well as to advance reconciliation with First Nations. We agree fully with protecting B.C.'s environment while concurrently offering clear paths forward to projects which are sustainable and can benefit our Provincial economy and the health, social and other systems it supports.

We would welcome the opportunity to expand upon any of the comments provided in this document. Please contact Mike Whalley, Executive Director, Resource Municipalities Coalition at 250.793.6754 if you would like us to do so.