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July 30, 2018

Environmental Assessment Office
2nd Floor 836 Yates St
PO Box 9426 Stn Prov Govt
Victoria BC V8W 9V1

Dear Madam or Sir,

Reference: Comments on the Environmental Assessment Revitalization Discussion Paper

Stantec Consulting Ltd. (Stantec) is pleased to submit the following comments as part of the public consultation on the Environmental Assessment Office's "Environmental Assessment Revitalization Discussion Paper" (henceforth referred to as the "Discussion Paper").

ABOUT STANTEC

Headquartered in Edmonton, Alberta, Stantec is a global multi-disciplinary consultancy of approximately 22,500 employees providing professional services ranging from engineering and architecture to environmental services. Our Environmental Services business unit includes approximately 2,700 staff in 20 environmental specialties. Environmental assessment is a core practice area and we have more than four decades of experience preparing environmental and socio-economic assessments across the Canada. This includes environmental assessment and regulatory support to more than 55 projects subject to the British Columbia *Environmental Assessment Act* (BCEAA) since 1996.

Senior environmental practitioners in Stantec have provided advice on environmental assessment methodologies and regulatory processes for decades. This has included providing training in environmental assessment and cumulative effects assessment on behalf of the Canadian Environmental Assessment Agency; providing advice to northern regulatory bodies; preparing guidance of specific aspects of environmental assessment (e.g., use of traditional knowledge, cumulative effects, scoping); assisting federal and provincial agencies in environmental assessment; and providing technical support and training to agencies in foreign jurisdictions in the practice of environmental assessment.

COMMENTS

As environmental assessment specialists with a long history of professional practice in British Columbia and across Canada, Stantec takes pride in our contribution to the environmental assessment profession. Our comments on the Discussion Paper largely focus on the goal of clarity of process and are made from the perspective of environmental assessment practitioners. Achieving clarity of process through transparency, scientific rigour, and regulatory predictability will provide multiple benefits including: public confidence, Indigenous support, and investor confidence.

Clear Government Policies: Stantec understands that the Discussion Paper is a starting point for the revisions to BCEAA. However, many of the proposed changes to the process raise numerous questions and add uncertainty to the process. Before bringing any regulatory changes into effect, Stantec recommends the EAO develop a series of policy documents to clarify the intent and interpretation of key process steps and

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requirements. For example, a policy articulating the Province of British Columbia's interpretation and approach to applying the articles of the United Nations Declaration on the Rights of Indigenous Peoples. In particular, how British Columbia interprets "free, prior, and informed consent" within the context of First Nations and Metis peoples in British Columbia and section 35 of the *Constitution Act* 1982 would be very useful to all participants in the BCEAA process. Other recommended policy topics include funding responsibilities (i.e., proponent and government funding responsibilities for regulatory process costs and Indigenous capacity funding) and factors to be considered in determining whether an environmental assessment certificate should be issued.

Readiness Gate Factors: The third stage of the proposed environmental assessment process is the Readiness Gate—Stantec understands that the Ministers responsible for the assessment would have the ability to turn down a project at this stage of the process. The factors to be considered by the Minister in this decision process should be incorporated into the legislation. They must be meaningful, set a high standard of care, and not be influenced by ideology. Some suggested factors for consideration in the Readiness Gate decision include:

- Conflicts with existing laws of British Columbia or Canada. For example, the provincial *Clean Energy Act* prohibits development of nuclear power sources in British Columbia and the federal *Oil Tanker Moratorium Act* prohibits oil tankers carrying more than 12,500 metric tons of crude oil from stopping at ports or marine installations along British Columbia's north coast. These would be reasonable factors for denying a project entry into the assessment process.
- Potential for catastrophic environmental, health, social, economic, or heritage effects. For effects to be a factor, the bar must be very high. Potential for significant effects is not a sufficient rationale for preventing a project from entering the environmental assessment process. Projects with significant effects have been approved and turned down in the past. This decision requires the detailed information and analysis resulting from the environmental assessment process. It is not necessarily available early in the process to support informed decision-making.
- Responsibilities of other decision makers. In deciding to prevent a project from entering the environmental assessment process, the Minister(s) should not base her/his decision on a matter that falls within the regulatory jurisdiction of another government body.

Clear definition of roles and responsibilities: The Discussion Paper outlines expanded roles for Indigenous peoples in the environmental assessment process and Stantec believes greater Indigenous participation will improve the process on many levels. However, the Discussion Paper suggests this may include:

- Decision making at the Readiness Gate
- Input to the Assessment Plan
- Contributions to baseline data collection
- Contribution to, or preparation of, the EAC application
- Review of proponent submissions
- Participation in drafting of the effects assessment and recommendations developed by the EAO
- Decision making on whether an EAC should be issued

The proposed changes to the process put Indigenous groups into roles in all aspects of the assessment process, on all sides of the table. This does not provide clarity, and rather muddies the waters of whether they are acting

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as participants, contributors, reviewers, decision makers, or all of the above. Stantec fully supports expanding the roles of Indigenous groups in environmental assessment; however, there needs to be clarity on the division of responsibilities between the proponent, Indigenous groups, the EAO, regulators, and the public.

An area where Indigenous nations could take a larger role in the assessment process is in the assessment of effects on Indigenous interests. Currently, proponents are responsible for assessing, mitigating and accommodating potential project-related effects on Indigenous interests. And government is responsible to assess the adequacy of such measures. A more collaborative approach would be to allow the Indigenous nations to identify the effects of a project on their community and Aboriginal rights and title, with the proponent identifying how their project can mitigate and accommodate for these effects. As with the current process, government would maintain its responsibility to assess the adequacy of such measures.

Professional reliance: The EAO has been promoting professional reliance in the environmental assessment process. This has included identification of the qualified professionals who contribute to an application, and requirements for qualified professionals to hold responsibilities in implementing conditions. Stantec believes that environmental assessment is a profession and fully supports these efforts.

However, we also believe that federal and provincial employees participating in the environmental assessment process should also be qualified professionals registered in professional organizations with requirements to conduct reviews following a code of ethics and only in the areas in which they are competent. This will ensure that review and evaluation of materials submitted during the process is conducted by individuals with the appropriate expertise, and additional resources are added to the review as appropriate.

Further, Stantec recognizes that information is submitted into the process from various sources, including the public and environmental non-governmental organizations. We believe that all submissions should be reviewed with the same level of scrutiny. Government technical reviewers should evaluate the standards of all western data collection and consider whether the data was collected under the supervision of a qualified professional and ensuring an equal standard of care for information used in the assessment.

Traditional knowledge and traditional land use studies: We see opportunity in the revitalization process for the province to bring clarity of scope, framework, and costs associated with completion of traditional knowledge and traditional land use studies. Currently there is a wide range of capacities and competencies in the collection and reporting of traditional knowledge and traditional land use information. Stantec acknowledges the importance and value that traditional knowledge brings to the environmental assessment process. We believe there is a significant opportunity to standardize data collection methods and reporting under the guidance of the EAO. This would bring consistent high value information to the effects assessment of projects.

Assessment Plan: Stantec appreciate the additional clarity of process that an expanded Assessment Plan will bring and support this idea. Of particular interest to our practitioners is the ability to get formal alignment with participating regulatory agencies and Indigenous groups on the scope and methods for baseline data collection. Stantec believes this will reduce costs and timelines for complex projects if the EAO is able to get federal agencies to agree to this approach. Some items for consideration in development of the framework for the Assessment Plan include:

Design with community in mind

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- The level of information required to prepare a defensible environmental assessment differs between industries and scale of project. The process for development of the Assessment Plan must have a strong framework but remain flexible.
- There is a significant difference in the level of data needed to undertake an informed effects assessment versus what is needed for permit applications. Where concurrent permitting is not being undertaken, the Assessment Plan must allow for the data requirements to be scaled down.
- Timelines for the publication of baseline data and associated analyses once the field programs are completed. Early sharing of baseline information will assist all participants in developing a fulsome understanding of the environment before the EAC application is submitted.

EAC Conditions: Stantec recognizes that the EAO puts significant effort into development of certificate conditions. We recommend that the approach to candidate conditions put greater consideration on issues that can be addressed through permit requirements and enabling permitting bodies to implement those, rather than tying them to the EAC in a manner that duplicates responsibilities. This would allow the EAC conditions to focus on matters not addressed in permitting. If the objective of a condition is to validate predicted effects rather than reduce effects, it may not be necessary to place that condition on multiple projects, but rather have a means of sharing information regarding the validation process.

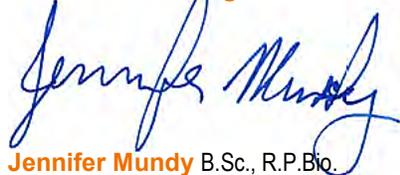
Timelines: We support moving the timelines into the Act itself from the regulations but are not supportive of expanding the overall timeline of the process.

CLOSURE

We appreciate the opportunity to provide input on this process and look forward to ongoing dialogue on the revitalization of the environmental assessment process in British Columbia.

Regards,

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