

*"cultivating a sustainable future from a sustainable environment"*

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July 26, 2018

## **Revitalization of BC Environmental Assessment Process**

### **Introduction**

Skeena Watershed Conservation Coalition (SWCC) submits these comments with pleasure in regard to the BC Environmental Assessment Revitalization. Since 2003, SWCC has been working in west central BC on conservation, sustainable development, and local economic development issues, including involvement in or support of activities focused on EA project reviews. As such, SWCC has working knowledge of the BC EA process and is qualified to speak to revitalization concerns.

We work with local communities and local Indigenous groups to help manage and support initiatives such as land and water conservation and management, sustainable governance approaches, and community economic development. We have twice earned recognition (in 2010 and 2012) as one of the top ten most effective and innovative organizations in Canada as a result of our community-based work.

SWCC involvement and concerns in BC EA project reviews notes two major challenging areas: legislation revolving around relatively quick approval of development typically utilizing proponent baseline data that is either limiting or inadequate and the general attitude that EA decision-making does not need to involve local communities, that transparency of the process is not a concern, and that Aboriginal interests are not valid unless there is a modicum of support for the project. These two concerns; legislation that does not protect the environment and community interests and a working attitude that is not inclusive, needs to be brought to light and changed into a relevant process that conserves land, water, and celebrates Indigenous and community perspectives.

### **Indigenizing Our Future**

A revitalized EA process presents opportunities to manage climate change, actually deal with Indigenous issues by utilizing and implementing UNDRIP, the TRC Calls to Action, and Canada laws, well promoting local economic stability and development in BC, which ensures sustainability for future generations.

Indigenous Nations and peoples pre-existed and continue to exist today and have their own laws, governments, political structures, social orders, territories and rights inherited from their ancestors. This inherent right of self-government is an Aboriginal right recognized and affirmed under the Constitution. The Supreme Court of Canada in *Delgamuukw* (1997) affirmed that constitutionally protected Aboriginal title is a legal right in the land itself, including the right to exclusive use, the right to proactively use and manage the land, and the right to benefit from its inescapable economic component. This needs to be implemented by the BC EA Office on the ground, in reality. SWCC recommends that new legislation and policies are safe-guarded by third-party oversight in order to

ensure compliance. Over the 15 years of SWCC's observations, we note that EA revitalization needs accordance with whole of BC government; BC EAO's decision-making need to include the majority of BC government's ministries if decision-making is to effectively implement reconciliation measures.

SWCC concurs with the EA Advisory Committee recommendations regarding the creation of a "Reconciliation Commission" as a time bound alternative dispute resolution process to:

- [ provide constructive direction and support for reconciliation initiatives within the EA process;
- [ address disputes arising from the implementation of the UN Declaration in a new EA process;
- [ apply Indigenous laws and legal processes to address disputes among Indigenous nations in areas of shared territories in relation to EAs when requested to do so.

#### **Providing Pathways to Sustainable Development**

Recognition that in reviewing proposed projects, protecting the environment and fostering sustainability across the five pillars: environmental, economic, social, cultural and health, is a central purpose of EA is important and desirable moving forward. SWCC recommends that as a minimum, the following need to be provided with strong legislation and policies:

- [ Making resources available to communities and Indigenous groups to allow for regional and strategic level assessments for individual project assessments;
- [ All project EAs include assessment of cumulative effects informed by the province's Cumulative Effects Framework, and guided by higher level plans and assessments, including regional and strategic assessments as they become available;
- [ Assessments include consideration of risk and uncertainty, and apply the precautionary principle to seek to avoid significant adverse effects;
- [ Identify effective and feasible mitigation measures and conditions;
- [ Requirements for social impact assessment are strengthened and include consideration of how different populations could be affected, with particular attention to gender analysis and impacts on Indigenous women and girls, as appropriate;
- [ EA process results in independent conclusions on the effects on a project, including clearly identifying any significant adverse effects, based on scientific and Indigenous knowledge, and informed by public engagement and expert advice;
- [ Legislated decision criteria require consideration related to Indigenous perspectives as noted above, cross-ministerial mandates such as sustainable development objectives, BC and Canada's climate targets and strategies, and current cumulative effects including current status and conditions regarding water, fish, aquatic life, wildlife, forest and plants affected by insect and disease, and people's health and wellness.

#### **BC EA Revitalization - Implementation**

SWCC has noted in the past how many "stupid projects" are accepted by government for review by the EA process or a regional mines committee process. There needs to be regional EA review offices that can be staffed by competent people with a pre-review process taking into consideration criteria that "weeds out" stupid projects utilizing the framework parts and pieces alluded to above. The regional EA review office concept cannot be overstated; this local involvement with the people, health, wellness, and economic development is foundational for a sustainable future.

#### **Closure**

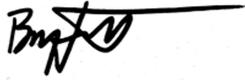
Thank you for the opportunity to provide comments and do not hesitate to contact SWCC if you have questions, comments, or concerns.

Respectfully,

Shannon McPhail, Executive Director

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Brian Huntington, Associate Director

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