

ENVIRONMENTAL ASSESSMENT OFFICE

Section 10(1)(B) Exemption Order template

Version #	Date (yyyy-mm-dd)	Modifications
1	2016-12-01	N/A

IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT
S.B.C. 2002, c.43
(Act)

IN THE MATTER OF A REQUEST FOR A DETERMINATION PURSUANT TO SECTION
10(1)(b) of the Act

by

[PROPONENT NAME]

for the

[PROJECT NAME]
(Project)

ORDER UNDER SECTION 10(1)(b)

Whereas:

- A. The **[Proponent name]** proposes to develop the **[Project Name]** as described in Schedule A to this Order;
- B. The proposed Project constitutes a reviewable project pursuant to Part **[#]** of the Reviewable Projects Regulation (B.C. Reg 370/02), since it meets **[or exceeds]** the **[threshold]** for a **[project category]**;
- C. On **[day, month, year]**, **[Proponent name]** submitted a request for a determination by the Executive Director, pursuant to s. 10(1)(b) of the Act that an environmental assessment certificate is not required for the Project and that **[Proponent name]** be allowed to proceed with the Project without an assessment on the basis that the project would not result in any significant adverse effects;
- D. The Environmental Assessment Office (EAO) established an advisory working group (Working Group) consisting of **[list Aboriginal groups and provincial, local and federal agencies, including US state and federal agencies, if applicable]** to inform the EAO's review of the request, and referred **[Proponent name's]** request and supporting information to the Working Group;
- E. The EAO evaluated the request between **[dates]** in consultation with the Working Group;
- F. Based on the information provided in the *EAO's Summary Evaluation Report on a Request for Exemption from a Requirement for Environmental Assessment Certificate*, the undersigned considers that the Project will not result in significant adverse environmental, economic, social, heritage or health effects, taking into account practical means of preventing or reducing to an acceptable level, any potential adverse effects; and,
- G. The project is subject to future **[federal and]** provincial approvals under **[list statutes]** **[and applicable regional and municipal requirements]**;

NOW THEREFORE,

Pursuant to section 10(1)(b) of the Act, I order that:

1. an environmental assessment certificate is not required for [Project name]; and
2. [Proponent name] may proceed with the Project, as described in Schedule A (Certified Exempted Project Description) to this order, without an assessment, provided the project is constructed, operated and decommissioned in accordance with Schedule A and Schedule B (Table of Conditions).

[Name]

Associate Deputy Minister and Executive Director
Environmental Assessment Office

Dated _____, 20[XX]

SCHEDULE A

Certified Exempted Project Description

<NAME OF PROJECT>

(PROJECT)

INTERPRETATION

In this Certified Exempted Project Description, terms that are capitalized but not defined have the same meaning as those terms defined elsewhere in this Order, including in the Table of Conditions.

This Certified Exempted Project Description describes the Project authorized by this Order, but does not obligate the Holder to construct or operate any aspect of the Project unless otherwise stated.

DEFINITIONS

Holder	The Proponent or, if this Order has been transferred in accordance with the conditions below, the person to whom this Order has been transferred in accordance with such conditions.
--------	--

ADD OTHER DEFINITIONS AS APPROPRIATE

Acronyms

[Note: add other acroynms as relevant for the specific Order.]

Order	Section 10(1)(b) order
EAO	Environmental Assessment Office

SCHEDULE B

[NOTE: This section is only required if conditions are being included with the section 10(1)(b) exemption order. Refer to the EAC policy for guidance to help determine if a Schedule B is required. If no, delete this schedule.]

TABLE OF CONDITIONS FOR A SECTION 10(1)(B) EXEMPTION ORDER

INTERPRETATION

In this Schedule, Column 3 (Project Phase), in the table below is for convenience of reference only, and does not form a part of the condition.

DEFINITIONS

[Note: include other definitions as needed to ensure clarity in the Order. At a minimum, define Application and the various phases of the Project referenced in the conditions (i.e.. Construction, Operations, Decommissioning, etc).]

Aboriginal Groups	<IF APPLICABLE, ADD NAMES OF ABORIGINAL GROUPS >
Aboriginal Interests	<IF APPLICABLE ADD DEFINITION Asserted or determined Aboriginal rights, including title.>
Application	Application from <PROPONENT>, dated <X>, to the Environmental Assessment Office applying for an Exemption Order, pursuant to Section 10(1)(b) of the <i>Environmental Assessment Act</i> , accepted for review on <DATE>.
Construction	The phase of the Project during which physical alteration of land, vegetation or any other aspect of the natural environment, occurs. For the purposes of this Schedule B, Construction: (i) does not include any activities conducted solely for investigative purposes under a valid permit or authorization, and (ii) includes upgrading, repairing, replacing, or removing, any existing work or infrastructure.
Decommissioning	<IF APPLICABLE, ADD DEFINITION The phase of the Project during which....>
Holder	The Proponent or, if this Order has been transferred in accordance with the conditions below, the person to whom this Order has been transferred in accordance with such conditions.

Operations

<ADD DEFINITION The phase of the Project during which....>

Qualified
Professional

A person who has training, experience and expertise in a discipline relevant to the field of practice set out in the condition, and who is registered with the appropriate professional organization in British Columbia, is acting under that organization's code of ethics and is subject to disciplinary action by that organization.

Acronyms

[Note: add other acroynms as relevant for the specific Order.]

Order
EAO

Section 10(1)(b) Order
Environmental Assessment Office

[Note: conditions 1-5 should be included in schedule B. Conditions 6-9 are template conditions but should only be used if triggered by the Order.]

No.	Condition	Project Phase
1.	<p>Compliance Notification</p> <p>The Holder must notify the EAO:</p> <ul style="list-style-type: none"> a) as soon as practical; and b) In any event, no more than 72 hours, <p>after the Holder determines that the Holder has not, or may not have, fully complied with this Order.</p>	
2.	<p>Compliance Verification</p> <p>The Holder must provide any document, data or information requested by the EAO for the purposes of compliance inspection and verification.</p>	
3.	<p>Project Status Notification</p> <p>The Holder must notify the EAO, in writing, within 30 days of the Project [ENTERING INTO CONSTRUCTION/BECOMING OPERATIONAL <CHOOSE APPLICABLE PHASE]</p>	
4.	<p>Transfer of Order</p> <ul style="list-style-type: none"> a) Except as provided below, neither this Order nor any interest in it may be transferred to any person. This Order will be effectively transferred if the proposed Holder acknowledges that, upon transfer, it will be responsible for complying with the conditions of the Order, and both the proposed Holder and the Holder <ul style="list-style-type: none"> i) obtain consent for the transfer from the Executive Director; and, ii) confirm by written notice to the Executive Director, within 14 days of the completion of all aspects of the transfer transaction other than this notice, that the transfer has been completed. b) An interest in this Order may be transferred by way of a grant of security to lenders or financiers without consent. c) A transfer of this Order to a trustee in bankruptcy, by a receiver or a trustee in bankruptcy pursuant to a court approved sale, or as part of a court approved arrangement under the <i>Company Creditors Arrangement Act</i> may occur without consent. <p>If this Order is transferred without consent, the new and former Holder must notify the Executive Director within 30 days of the transfer and apply within the time specified by the Executive Director for any Orders to this Order that the Executive Director deems necessary to ensure compliance with and enforceability of this</p>	

No.	Condition	Project Phase
	Order and to otherwise reflect the proposed transfer.	
5.	<p>Transfer of Interest in Project</p> <p>a) Except in connection with the granting of security to Project lenders or financiers, prior to the Holder transferring a significant interest in the Project, the Holder and proposed transferee must:</p> <p style="padding-left: 40px;">i) obtain consent for the transfer from the Executive Director.</p> <p>b) A transfer to a trustee in bankruptcy, by a receiver or a trustee in bankruptcy pursuant to a court approved sale or as part of a court approved arrangement under the <i>Company Creditors Arrangement Act</i> may occur without consent.</p> <p>If a significant interest in the Project is transferred without consent, the Holder must notify the Executive Director within 30 days of the transfer and apply within the time specified by the Executive Director for any Orders to this Order that the Executive Director deems necessary to ensure compliance with and enforceability of this Order and to otherwise reflect the proposed transfer.</p>	
6.	<p>Document Review and Implementation</p> <p><NOTE: This condition is only required in certain circumstances. If a condition requiring submission of a document is included in the Order this condition is applicable. If no, delete this condition.></p> <p>Where a condition of this Order requires the Holder to provide a plan, program or other document, the Holder must provide the plan, program or other document to the EAO in the timeframe referenced in such condition, unless otherwise approved by the EAO. The EAO may, within 45 days of receiving a copy of such plan, program or other document, advise that:</p> <p>a) the Holder may proceed to implement the plan, program or other document with or without revisions; or</p> <p>b) a revised plan, program, or other document must be provided for approval of the EAO prior to a specified activity or milestone.</p> <p>If the EAO advises pursuant to paragraphs (a) or (b) that changes are required to a plan, program, or other document, then the Holder must follow the instructions of the EAO in that regard.</p> <p>If the EAO does not advise on a) or b) within 45 days of the EAO receiving a plan, program, or other document, the Holder may proceed to implement the plan, program or other document.</p> <p>The Holder may, or the EAO may require the Holder to, revise any plan, program or other document if the Holder or the EAO determines that the implementation of the plan, program or other document is not:</p>	

No.	Condition	Project Phase
	<ul style="list-style-type: none"> c) meeting one or more objectives of the plan, program or other document set out in the relevant condition of this Order; d) having the effects contemplated or intended, as set out in the plan, program or other document itself; e) consistent with the Order; f) consistent with changes in industry best practices or technology 	
7.	<p>Plan Development</p> <p>[NOTE: This condition is only required in certain circumstances. If a condition requiring the development of a plan, program or document is included in the Order this condition is applicable. If no, delete this condition.]</p> <ul style="list-style-type: none"> a) Where a condition of this Order requires the Holder to develop a plan, program or other document, any such plan, program or other document must, at a minimum, include the following information: <ul style="list-style-type: none"> i) purpose and objectives of the plan, program or other document; ii) roles and responsibilities of the Holder, project personnel and contractors; iii) names and, if applicable, professional certifications and professional stamps/seals, of those responsible for the preparation of the plan, program, or other document; iv) schedule for implementing the plan, program or other document throughout the relevant Project phases; v) means by which the effectiveness of the mitigation measures will be evaluated including the schedule for evaluating effectiveness; vi) adaptive management plan to address effects of the Project if the monitoring conducted under section B of this condition shows that those effects: <ul style="list-style-type: none"> i. are not mitigated to the extent contemplated in the Application; or ii. are not predicted in the Application; vii) schedules and methods for the submission of reporting to specific agencies, Aboriginal Group(s) and the public and the required form and content of those reports; and, viii) process and timing for updating and revising the plan, program or other document, including any consultation with agencies and Aboriginal Groups that would occur in connection with such updates and revisions. b) Where a plan, program or other document includes monitoring requirements, the plan, program or other document must include: <ul style="list-style-type: none"> i) Description of baseline information that will be used to support monitoring of the effectiveness of mitigation; ii) Methodology, location, frequency, timing and duration of monitoring; and, iii) Scope, content and frequency of reporting of the monitoring results. 	

No.	Condition	Project Phase
8.	<p>Consultation</p> <p>[NOTE: This condition is only required in certain circumstances. If a condition requiring consultation is being included in the Order this condition is applicable. If no, delete this condition.]</p> <p>Where a condition of this Order requires the Holder to consult a particular party or parties regarding the content of a plan, program or other document, the Holder must:</p> <ul style="list-style-type: none"> a) provide written notice to each such party that: <ul style="list-style-type: none"> i) includes a copy of the plan, program or other document; ii) invites the party to provide its views on the content of such plan, program or other document; and iii) indicates: <ul style="list-style-type: none"> i. if a timeframe providing such views to the Holder is specified in the relevant condition of this Order, that the party may provide such views to the Holder within such time frame; or ii. if a timeframe providing such views to the Holder is not specified in the relevant condition of this Order, specifies a reasonable period during which the party may submit such views to the Holder; b) undertake a full and impartial consideration of any views and other information provided by a party in accordance with the timelines specified in a notice given pursuant to paragraph (a); c) provide a written explanation to each such party that provided comments in accordance with a notice given pursuant to paragraph (a) as to: <ul style="list-style-type: none"> i) how the views and information provided by such party to the Holder have been considered and addressed in a revised version of the plan, program or other document; or ii) why such views and information have not been addressed in a revised version of the plan, program or other document; d) maintain a record of consultation with each such party regarding the plan, program or other document; and e) provide a copy of such consultation record to the EAO, the relevant party, or both, promptly upon the written request of the EAO or such party. 	
9.	<p>[NOTE: This condition is only required in certain circumstances. If a condition requiring a management plan is included in the order, this condition is applicable. If no, delete this condition.]</p> <p>The Holder must <u>retain a Qualified Professional to</u> develop a plan for <u>TOPIC</u>. The plan must be developed in consultation with <u><ADDAGENCIES/FNs/OTHER PARTIES></u>.</p> <p>The plan must include at least the following: <u><specify below the requirements for the plan. Consider objectives that the mitigation must achieve, as well as any specific key mitigation measures to be included.></u></p>	

No.	Condition	Project Phase
	<p>a) <u><List required mitigation measures as a bulleted list></u>;</p> <p>b) the means by which the mitigation measures in <ADD SPECIFIC REFERENCE TO A DOCUMENT OR SECTION OF THE APPLICATION> will be implemented;</p> <p>c) <ADD ANY OTHER RELEVANT MITIGATION MEASURES OR DOCUMENTS SUMMARIZING MITIATION MEASURES AS DETERMINED THROUGH THE EA></p> <p>The Holder must provide this draft plan to <ADD AGENCIES/FNs/OTHER PARTIES INCLUDING, AT A MINIMUM, the EAO> for review a minimum of <X days >[NOTE: this must not be less than 45 days unless the plan review/implementation condition is amended] <u>prior to the planned commencement of Construction</u>. [NOTE: this sentence can be removed if no review of the plan is required, for example if the plan was submitted with EA Application and only requires minor edits post-Order to ensure consistency with the Order and clarity/measurability]</p> <p><u>The Holder must not commence Construction until the plan has been approved by the EAO, unless otherwise authorized by the EAO. [NOTE this sentence should only be included when the Plan requires the EAO's approval. Refer to the EAC policy for additional guidance re: if approval is appropriate for a specific plan.]</u></p> <p>The plan, and any amendments thereto, must be implemented to the satisfaction of a Qualified Professional throughout construction, operations and closure <u><amend as needed></u> and to the satisfaction of the EAO.</p>	