Canada-British Columbia Environmental Assessment Delegation Agreement

BETWEEN British Columbia Environmental Assessment Office (EAO)

AND Canadian Environmental Assessment Agency (the Agency)
Infrastructure Canada (INFC)
Fisheries and Oceans Canada (DFO)
Canadian Transport Agency (CTA)

IN REGARDS TO THE: Proposed Northwest Transmission Line Project

WHEREAS:

A. Canada and British Columbia respect each other's constitutional responsibilities, including a shared responsibility for the environment;

B. Canada and British Columbia are committed to the principles of cooperative environmental assessment as set forth in the *Agreement for Environmental Assessment Cooperation* signed on March 11, 2004;

C. Section 62 of the *Canadian Environmental Assessment Act* (the Act) provides that one of the objectives of the Agency is to promote harmonization in the assessment of environmental effects at all levels of government;

D. Subsection 17(1) of the *Canadian Environmental Assessment Act* enables the conduct of screenings or comprehensive studies to be delegated to a person, body or province;

E. Canada and British Columbia signed *Operation Procedures to Assist in the Implementation of the Environmental Assessment of Projects Subject to the Canada-British Columbia Agreement for Environmental Assessment Cooperation* on December 19, 2008 which describes a shared objective of testing the delegation mechanism established under section 17 of the Act; and

F. British Columbia Transmission Corporation (the Proponent) has submitted a project description in support of its proposal to construct a 287 kilovolt (kV) transmission line in northwest British Columbia. The proposed Northwest Transmission Line Project (hereinafter "the proposed Project") would be about 335 kilometres long, starting at Skeena Substation (near Terrace), and terminating at a new substation near Bob Quinn Lake, British Columbia.

G. The proposed Project is subject to both a screening level environmental assessment under the Act and to an environmental assessment under the *British Columbia Environmental Assessment Act*.

H. INFC, and possibly other Federal Authorities, are Responsible Authorities in relation to the proposed Project.

THE PARTIES AGREE AS FOLLOWS:

1.0 DEFINITIONS

The following terms used in this agreement have the following meanings:

"Assessment Report" is a report prepared on completion of the project environmental assessment that presents the findings of the assessment, including how the party that conducted the assessment arrived at its conclusion and any proposed mitigation measures, and that meets the requirements of section 16 of the Act.

"Federal Authority" means a federal department that is identified as potentially having a responsibility to conduct an environmental assessment and/or that is in possession of specialist or expert information or knowledge with respect to the proposed project.

"Responsible Authority" means a Federal Authority that has identified a responsibility to conduct an environmental assessment in relation to the Project pursuant to section 5 of the Act.

"Federal Coordination Regulations" means the *Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*.

"Working Group" refers to the review team organized and chaired by the EAO to provide input to the review process, including technical specialists and stakeholders from municipal, regional, provincial and federal governments and potentially affected First Nations.

2.0 PURPOSE

The purpose of this agreement is to delegate the screening of the proposed Project and the preparation of the screening report to the EAO pursuant to subsection 17(1) of the Act.

The agreement sets out the roles and responsibilities of the parties with respect to the delegation of the federal environmental assessment process.

The Assessment Report to be prepared through the delegated process will be used by any Responsible Authority to take the appropriate course of action pursuant to paragraph 20(1)(a), (b), or (c).

The parties recognise that more detailed information or analysis may be required at the permitting stage to inform necessary regulatory decisions by federal and provincial agencies.

3.0 DETERMINATION OF SIGNIFICANCE

All parties recognise that the Responsible Authorities retain the authority to take a course of action decision pursuant to subsection 20(1). This includes the authority for the Responsible Authority to refer the project to the Minister for a referral to a mediator or a review panel in accordance with section 29 of the Act as described in subsection 20(1).

4.0 BRITISH COLUMBIA ENVIRONMENTAL ASSESSMENT OFFICE (EAO)

4.1 The EAO will ensure that the environmental assessment is conducted in a manner that addresses the scoping determination made in accordance with subsection 7.1 of this Agreement.

4.2 The EAO will ensure the Proponent provides the information required to determine whether any Federal Authority, in addition to INFC, is a Responsible Authority.

4.3 The EAO will establish and maintain a project file that is accessible to the public, and is consistent with the requirements of section 55.4 of the Act. At the conclusion of the environmental assessment, the EAO will provide a copy of the project file to the Responsible Authority.

4.4 Opportunities will be provided to Federal Authorities to contribute to the environmental assessment through participation on a Working Group established and chaired by the EAO.

4.5 The EAO will prepare an Assessment Report that meets the requirements of a screening report under the Act.

4.6 The EAO will provide Responsible Authorities and Federal Authorities with the opportunity to review and comment on the draft Assessment Report prior to the document being finalized by the EAO.

4.7 The EAO will maintain a record of information gathered from First Nations during the environmental assessment, and provide a copy of the record to the Responsible Authorities at the conclusion of the environmental assessment.

5.0 CANADIAN ENVIRONMENTAL ASSESSMENT AGENCY (THE AGENCY)

5.1 The Agency will provide guidance and advice in interpreting and implementing this Agreement and on the requirements of the Act.

5.2 The Agency will monitor and report on the delegation process and support the parties in resolving any issues or differences of opinion that may arise during the delivery of the delegated process.

5.3 Upon completion of the environmental assessment, the Agency will conduct an evaluation including: the results of the environmental assessment, the effectiveness of the delegation process in meeting the federal government's obligations under the Act, and any efficiencies achieved in terms of process timelines and federal resources.

6.0 FEDERAL AUTHORITIES

6.1 Federal Authorities will determine what information they require to determine whether they are likely to be Responsible Authorities and request such information as well as confirm their status within the timelines set out in the Federal Coordination Regulations.

7.0 RESPONSIBLE AUTHORITIES

7.1 Responsible Authorities retain the responsibility to scope the project pursuant to section 15 of the Act, and approve any determinations made with respect to 16(1)(e) and 16(3).

7.2 Responsible Authorities will post project specific information on the internet site component of the Canadian Environmental Assessment Registry, so that the requirements of section 55.3 are met. Responsible Authorities will provide advice to the EAO concerning which documents are to be contained in the project file referred to in section 4.3 of this Agreement.

7.3 The Responsible Authorities shall make best efforts to make their course of action decisions pursuant to subsection 20(1) of the Act within 45 days of receipt of the Assessment Report from the EAO.

7.4 The Responsible Authorities will provide assistance, within their jurisdiction, to the EAO to ensure that mitigation, monitoring or follow-up measures identified through the environmental assessment are appropriately addressed.

8.0 ABORIGINAL ENGAGEMENT AND CONSULTATION

8.1 Information gathered from First Nations will inform consultations with respect to existing and potential Aboriginal and treaty rights undertaken by Responsible Authorities in relation to any contemplated permitting and funding decisions.

9.0 AGREEMENT ADMINISTRATION

9.1 If a conflict arises in which a resolution is not obtained at the Working Group level, the unresolved issues will be referred to the appropriate senior officials of the parties involved.

9.2 Amendments to this agreement can be made with the mutual consent of the parties identified herein.

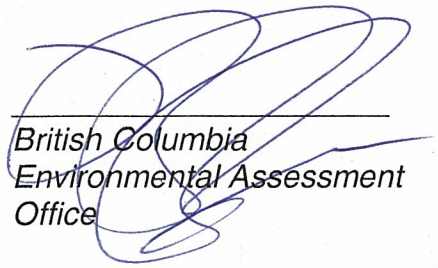
9.3 This agreement may be terminated with mutual consent or 60 days' notification of the parties.

9.4 This agreement is considered complete and fulfilled once Responsible Authorities have taken their course of action under subsection 20(1) of the Act.

9.5 The termination of this agreement does not abrogate the Federal Authorities' ability to continue to participate in the BC *Environmental Assessment Act* review in accordance with the provisions of the *Canada-British Columbia Agreement for Environmental Assessment Cooperation*.

9.6 This agreement may be signed in counterparts.

10.0 SIGNATURES



_____ Signed this 6th day of November, 2009.

British Columbia Environmental Assessment Office

_____ Signed this _____ day of _____, 200___.

Canadian Environmental Assessment Agency

_____ Signed this _____ day of _____, 200___.

Transport Canada

_____ Signed this _____ day of _____, 200___.

Fisheries and Oceans Canada

_____ Signed this _____ day of _____, 200___.

Infrastructure Canada

_____ Signed this _____ day of _____, 200___.

Canadian Transportation Agency

10.0 SIGNATURES

_____ Signed this _____ day of _____, 200___.

Robin Junger
Associate Deputy Minister
British Columbia
Environmental Assessment
Office

_____ Signed this 9 day of NOVEMBER, 2009.

Thao Pham
Vice-President
Operations Sector
Canadian Environmental
Assessment Agency

_____ Signed this _____ day of _____, 200___.

Ian Matheson
A/Assistant Deputy Minister
Species at Risk Sector
Fisheries and Oceans
Canada

_____ Signed this _____ day of _____, 200___.

Bryce Conrad
Assistant Deputy Minister
Program Operations Branch
Infrastructure Canada

_____ Signed this _____ day of _____, 200___.

Joan McDonald
Director General
Dispute Resolution Branch
Canadian Transportation
Agency

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Robin Junger
Associate Deputy Minister
British Columbia
Environmental Assessment
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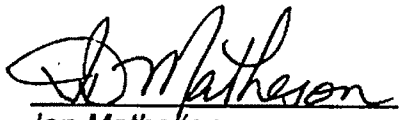
Canadian Environmental
Assessment Agency



Signed this 9 day of November, 2009.

Ian Matheson
A/Assistant Deputy Minister
Species at Risk Sector
Fisheries and Oceans
Canada

_____ Signed this _____ day of _____, 200___.

Bryce Conrad
Assistant Deputy Minister
Program Operations Branch
Infrastructure Canada

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Joan McDonald
Director General
Dispute Resolution Branch
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Thao Pham
Vice-President
Operations Sector
Canadian Environmental
Assessment Agency

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Ian Matheson
A/Assistant Deputy Minister
Species at Risk Sector
Fisheries and Oceans
Canada

_____ Signed this 9 day of November, 2009.

Bryce Conrad
Assistant Deputy Minister
Program Operations Branch
Infrastructure Canada

_____ Signed this _____ day of _____, 200___.

Joan McDonald
Director General
Dispute Resolution Branch
Canadian Transportation
Agency

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Robin Junger
Associate Deputy Minister
British Columbia
Environmental Assessment
Office

_____ Signed this _____ day of _____, 200___.

Thao Pham
Vice-President
Operations Sector
Canadian Environmental
Assessment Agency

_____ Signed this _____ day of _____, 200___.

Ian Matheson
A/Assistant Deputy Minister
Species at Risk Sector
Fisheries and Oceans
Canada

_____ Signed this _____ day of _____, 200___.

Bryce Conrad
Assistant Deputy Minister
Program Operations Branch
Infrastructure Canada

Joan MacDonald Signed this 12 day of November, 2009.

Joan McDonald
Director General
Dispute Resolution Branch
Canadian Transportation
Agency