CANADA-BRITISH COLUMBIA
AGREEMENT FOR
ENVIRONMENTAL ASSESSMENT COOPERATION

WHEREAS
Canada and British Columbia are committed to the concept of sustainable development as the foundation for the integration of environmental and economic activities;

WHEREAS
Environmental assessment provides for effective integration of environmental, social and economic considerations and public concerns into project planning and decision-making, thereby contributing to the goal of sustainable development;

WHEREAS
Canada and British Columbia recognize each other's jurisdiction and responsibilities to conduct or require environmental assessments of projects for which the other has decision-making responsibilities;

WHEREAS
Canada and British Columbia have established processes for environmental assessment of certain projects within their respective jurisdictions;

WHEREAS
Certain projects in British Columbia require environmental assessment by Canada pursuant to the Canadian Environmental Assessment Act and by British Columbia pursuant to the Environmental Assessment Act;

WHEREAS
Canada and British Columbia wish to ensure that such projects are evaluated according to the spirit and requirements of their respective authorities, by recognizing each other's strengths and capabilities, and avoiding unnecessary duplication, costs, delays and uncertainty that could arise from separate environmental assessments;
WHEREAS
Canada and British Columbia agree that coordination of environmental assessment processes is necessary to maximize efficiency and effectiveness;

WHEREAS
The Canadian Environmental Assessment Act and the British Columbia Environmental Assessment Act allow for interjurisdictional cooperation and coordination in environmental assessments;

WHEREAS
The Canadian Environmental Assessment Act enables the conduct of screenings or comprehensive studies to be delegated to a person, body or province;

WHEREAS
The British Columbia Environmental Assessment Act requires that the Government of Canada be invited to be a full participant in the provincial review process;

WHEREAS
Canada and British Columbia recognize that effective cooperation on all matters of environmental concern is a shared objective;

WHEREAS
Canada and British Columbia agree to respect each other's constitutional responsibilities; and

WHEREAS
Canada and British Columbia subscribe to those principles of cooperation embodied in the Statement of Interjurisdictional Cooperation on Environmental Matters; the Cooperative Principles for Environmental Assessment; and the Framework for Environmental Assessment Harmonization adopted by the Canadian Council of Ministers of the Environment;

THEREFORE, the parties agree to coordinate their respective environmental assessment processes to promote effective, efficient, consistent and cooperative environmental assessment by Canada and British Columbia and to avoid uncertainty and duplication.
DEFINITIONS

In this Agreement

(a) "cooperative environmental assessment" means the environmental assessment of a project where both Canada and British Columbia have an interest in the project and they cooperate to meet the legal and operational requirements of each government's environmental assessment process through a single environmental assessment;

(b) "environmental assessment" means the assessment of the environmental effects of a project conducted in accordance with the Canadian Environmental Assessment Act, or the assessment of the effects of a project conducted in accordance with the British Columbia Environmental Assessment Act;

(c) "environmental responsibility" means the environmental protection responsibilities of a party, the exercise of which does not require an environmental assessment by that party, but should be considered in the environmental assessment of a project being conducted by the other party;

(d) "Interest" means the powers, duties and functions, the exercise of which requires an environmental assessment in accordance with either the legislation of Canada or British Columbia;

(e) "joint review panel" means the public hearing body established by British Columbia pursuant to the Environmental Assessment Act, and by Canada pursuant to the Canadian Environmental Assessment Act whose members are appointed by Canada and British Columbia;

(f) "parties" means Canada and British Columbia; and

(g) "project" means a project as defined in section 2 of the Canadian Environmental Assessment Act or a reviewable project as defined in section 1 of the British Columbia Environmental Assessment Act.
PRINCIPLES

PRELIMINARY REVIEW CONSIDERATIONS

1. The parties recognize that the objectives of their respective environmental assessment processes are consistent in principle and intent.

2. The parties agree to consider the other's interest in, or environmental responsibility relating to, the environmental assessment of a project conducted or required by one or the other or both parties.

3. The parties will notify each other as early as possible of projects potentially subject to their respective environmental assessment processes.

4. The parties will work with potential applicants, as early as possible, to ensure that preliminary information requirements needed to identify their interests or environmental responsibilities are satisfied in any forthcoming application.

5. Following notification under Principle 3, the parties will confirm, to the extent possible at this stage of the review, their respective interest in, or environmental responsibilities regarding, the project to be assessed, determine whether they will participate in the environmental assessment and, if so, identify the extent of their involvement.

COOPERATIVE ENVIRONMENTAL ASSESSMENT

6. Where both parties have an interest in a project, a cooperative environmental assessment that meets the respective requirements of both parties' environmental assessment legislation will be undertaken. The conduct of the screening or comprehensive study and the preparation of the screening or comprehensive study reports under the Canadian Environmental Assessment Act will be undertaken and completed using the process established under the British Columbia Environmental Assessment Act. Project decisions by each party will be made using the results of the cooperative environmental assessment.
7. In accordance with the delegation provisions in Section 17 of the Canadian Environmental Assessment Act, where the federal responsible authority(ies) and the British Columbia Environmental Assessment Office are in agreement and where the quality, rigor and timeliness of the assessments to be conducted under both processes will not be compromised, the conduct of the screening or comprehensive study and the preparation of the screening or comprehensive study report under the Canadian Environmental Assessment Act may be delegated, on a project specific basis, to the Environmental Assessment Office established under the British Columbia Environmental Assessment Act.

8. For projects undergoing a cooperative environmental assessment and that require the preparation of a project report under the British Columbia Environmental Assessment Act and a comprehensive study report under the Canadian Environmental Assessment Act, Canada will use the project report prepared and submitted by the project proponent as its comprehensive study report providing the project report, in the opinion of the responsible authority, meets the requirements of a comprehensive study report under the Canadian Environmental Assessment Act. As provided in the process established under the British Columbia Environmental Assessment Act, the two parties, working together with the other participants in the assessment process, will provide project report specifications (terms of reference) to the proponent. These specifications will outline the information and analysis required to meet the requirements of Sections 15 and 16 of the Canadian Environmental Assessment Act and to respond to the requirements of Sections 21-24 of the British Columbia Environmental Assessment Act. The two parties will work with the project proponent during the preparation of the project report to help ensure that it meets the requirements of a comprehensive study report under the Canadian Environmental Assessment Act and meets the requirements of the British Columbia Environmental Assessment Act.

9. The party conducting an environmental assessment where only that one party has an interest will make every reasonable effort to take account of environmental responsibilities held by the other party, including providing opportunities for the other party's involvement in the environmental assessment.
10. In the case of cooperative environmental assessments, the parties will agree to the scope of the project to be assessed and the factors and the scope of the factors to be considered including those relating to policy and legislative requirements.

11. In the case of cooperative environmental assessments, the parties will follow the time limits for completing each stage of the assessment process, as described in the regulations accompanying the British Columbia Environmental Assessment Act, except where Canada must make decisions under the Canadian Environmental Assessment Act on project acceptability or the need for referral to a public review by a panel or mediator. Subject to these exceptions, where the British Columbia regulations establish a range of days from within which a deadline must be selected, British Columbia will agree with Canada with respect to the time required for that stage of the assessment within the aforementioned range, prior to setting the time limit.

12. For each cooperative environmental assessment, each party will designate a point of contact through which matters affecting the conduct of the assessment will be coordinated and communicated.

13. As soon as practicable in a cooperative environmental assessment process, each party will ensure disclosure of, and access to, relevant information to each other concerning the project to be assessed.

14. If a project subject to cooperative environmental assessment is in the vicinity of any municipality or regional district, another province, territory or other neighbouring jurisdiction, British Columbia will invite that body or jurisdiction to take part in the environmental assessment of the project.


16. In the case of a cooperative environmental assessment, where a project is located in the traditional territory of a First Nation or in the vicinity of the traditional territory, British Columbia will invite the affected First Nation(s) to take part in the environmental assessment.
17. In a cooperative environmental assessment, where the approval of a project is subject to certain conditions, the parties will coordinate their respective responsibilities for compliance monitoring and follow-up programs.

18. Each party will proceed with an environmental assessment in accordance with its environmental assessment legislation if, at any time, the cooperative environmental assessment fails to meet the screening or comprehensive study requirements of the Canadian Environmental Assessment Act and regulations. In this event, Canada would continue to participate in the review process being conducted under the British Columbia Environmental Assessment Act. Canada would meet those components of its screening or comprehensive study requirements not being met by the British Columbia process through additional studies or review procedures.

19. For projects subject to cooperative environmental assessment, the parties will cooperate in meeting their respective public registry requirements and public registries will be maintained by both parties in accordance with the requirements of their respective legislation.

20. Upon completion of a cooperative environmental assessment the findings of the assessment will be conveyed to the responsible authority for Canada, and to British Columbia Ministers. Neither party will make a decision that would allow a project to proceed prior to taking into account the results of the cooperative environmental assessment and discussing these results with the other party, with a view to reaching a mutually acceptable decision. Notwithstanding the foregoing, British Columbia must make a decision within the prescribed time limits of the British Columbia Environmental Assessment Act.

JOINT REVIEW PANELS

21. a) In the case of a joint review panel, both parties will agree, as early as possible, on the factors to be considered by the panel, the duties of each party, the procedures to be followed, the establishment of the panel and its membership and terms of reference, cost-sharing arrangements, and the expected time limit during which the work of the joint review panel is to be completed.
b) If an agreement cannot be reached on a joint review panel, each party will proceed in accordance with its environmental assessment legislation.

22. Terms of reference for joint review panels will reflect the legal requirements of both the Canadian Environmental Assessment Act and the British Columbia Environmental Assessment Act and will be agreed upon by both parties prior to their issuance.

23. Upon completion of a joint review panel, the recommendations of the joint review panel will be conveyed to the Federal Minister of Environment, and to the British Columbia Lieutenant Governor in Council. Neither party will make a decision that would allow a project to proceed prior to taking into account the results of the joint review panel recommendations and discussing these recommendations with the other party, with a view to reaching a mutually acceptable decision. Notwithstanding the foregoing, British Columbia must make a decision within the prescribed time limits of the British Columbia Environmental Assessment Act.

DESIGNATED OFFICES

This section provides guidelines for the establishment and operation by both parties of designated offices to provide for the coordination and communication of all matters relating to the federal and provincial environmental assessment processes.

24. The Government of British Columbia designated office will be the Environmental Assessment Office located in Victoria. The Government of Canada designated office will be the Canadian Environmental Assessment Agency located in Vancouver ("Agency Office").

25. Each party's designated office will serve as the main source of general information on that party's environmental assessment process and procedures, and will facilitate consultation and cooperation between Canada and British Columbia on projects potentially subject to cooperative environmental assessment.
26. The designated offices of both parties will assist in facilitating and coordinating federal-provincial contact and communication with potential proponents, other government ministries, departments and agencies, First Nations and the public on projects subject to cooperative environmental assessment. Proponents will be encouraged to deal directly with individual federal and provincial government ministries, departments and agencies in identifying and resolving issues as the cooperative environmental assessment progresses.

27. Except in the case of a joint review panel, the British Columbia Environmental Assessment Office will act as the point of contact with Canada on the review process at all stages of a cooperative environmental assessment.

28. In the case of a joint review panel, once a project has been referred to the British Columbia Environmental Assessment Board, the Environmental Assessment Board will become the point of contact with Canada. The British Columbia Environmental Assessment Office will monitor the progress of the review activities so as to be able to continue to serve as a source of general information on the review process. Following the submission of the joint review panel report and recommendations, the British Columbia Environmental Assessment Office will resume its role as point of contact for the review.

29. The Agency Office will act as the point of contact with British Columbia up to the time that a lead federal responsible authority is identified. Where necessary, the Agency Office will assist in the determination of a lead federal responsible authority.

30. a) Once a lead federal responsible authority has been identified, it will become the point of contact with British Columbia at all stages of a cooperative environmental assessment. For projects that must meet the comprehensive study requirements of the Canadian Environmental Assessment Act, the Agency Office will act as an additional point of contact on process related matters for the period following the submission of the comprehensive study report to the Agency Office and the federal Minister of the Environment by the federal responsible authority(ies). During stages of the cooperative environmental assessment where the lead responsible authority is
the point of contact with British Columbia, the Agency Office will
monitor the progress of the assessment activities so as to be able to
continue to serve as a source of general information on the
assessment process.

b) For projects subject to joint review panels, the federal point of
contact during the course of the panel review will be the Agency
Office. Following the submission of the joint review panel report and
recommendations, the lead federal responsible authority will resume
its role as point of contact for the review.

SUBSIDIARY AGREEMENTS

31. In addition to this Agreement, the parties may develop subsidiary
agreements consisting of general guidelines or operating procedures,
including, but not limited to the following:

(a) Notification of screening and comprehensive study procedures;

(b) Establishment of joint review panels, and their terms of reference
and operational procedures;

(c) Guidelines for determining the scope of the project and the factors
and the scope of the factors to be considered;

(d) Cooperative Environmental Assessment involving Crown
Corporations within the meaning of the Financial Administration Act
or harbour commissions referred to in section 9 of the Canadian
Environmental Assessment Act;

(e) Establishment and operation of public registries;

(f) Framework for project specific delegation of the conduct of
screenings or comprehensive studies and the preparation of the
screening or comprehensive study reports under the Canadian
Environmental Assessment Act to the British Columbia
Environmental Assessment Office; and

(g) Coordination of compliance monitoring and follow-up programs.
32. For the purposes of the subsidiary agreements referenced in section 31 of this Agreement:

(a) The Minister of the Environment for Canada hereby designates the President of the Canadian Environmental Assessment Agency as the signing authority.

(b) The Minister of Environment, Lands, and Parks for British Columbia hereby designates the Executive Director of the Environmental Assessment Office as the signing authority.

GENERAL

33. Neither Canada nor British Columbia gives up any jurisdiction, right, power, privilege, prerogative or immunity by virtue of this Agreement or subsidiary agreements arising therefrom.

34. This Agreement may be revised by mutual agreement should changes be required to reflect comprehensive land claim agreements or aboriginal self-government agreements that are entrenched in legislation.

35. Once project decisions are reached, the parties will coordinate, to the extent possible, the announcement of these decisions to proponents and to the public. The designated offices of both parties will provide assistance in achieving such coordination.

36. This Agreement must be read in a manner consistent with environmental assessment requirements contained in the British Columbia Environmental Assessment Act and the Canadian Environmental Assessment Act.

37. This Agreement is in force for a period of five years from the date of its execution. By mutual consent of the parties, this Agreement may also be evaluated, modified or terminated at any time during its five year term.
38. Prior to any renewal of the Agreement, an evaluation will be carried out on the implementation of the Agreement and its effectiveness in fostering cooperation between the environmental assessment requirements of the two levels of government and of maintaining the objectives of rigorous, high quality and timely project assessments. This evaluation will include opportunities for input from interested non-government stakeholders. These same stakeholders will also be afforded an opportunity for input to any renewal of the Agreement or significant modifications to the Agreement.

SIGNATURES

In witness thereof the Honourable Cathy McGregor has hereunto set her hand and seal on behalf of British Columbia, and the Honourable Sergio Marchi has hereunto set his hand and seal on behalf of Canada, to this Agreement this 16th day of April, 1997.

Signed on behalf of British Columbia by the Honourable Cathy McGregor, Minister of Environment, Lands and Parks

[Signature]

The Honourable Cathy McGregor

Signed on behalf of Canada by the Honourable Sergio Marchi, Minister of the Environment

[Signature]

The Honourable Sergio Marchi

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