

**MEMORANDUM OF UNDERSTANDING  
BETWEEN THE WASHINGTON STATE DEPARTMENT OF ECOLOGY  
AND  
THE BRITISH COLUMBIA ENVIRONMENTAL ASSESSMENT OFFICE**

WHEREAS

- A. The Environmental Cooperation Agreement of May 7, 1992 between the Province of British Columbia and the State of Washington directed the parties to coordinated action and information sharing between the Province and the State on environmental matters of mutual concern;
- B. The Memorandum of Understanding of April 1996, between the Department of Ecology (Ecology) and the British Columbia Ministry of Environment Lands and Parks (MELP) committed the Province and the State to make efforts to share information, consult with one another, and coordinate their work on environmental issues that affect resources and residents in the border region, and to include the regional office of the other jurisdiction in the distribution of environmental assessments for certain major projects;
- C. The State of Washington and the Province of British Columbia recognize each other's authority and responsibilities to conduct or require, where appropriate, an environmental assessment/environmental review (EA/ER) of project proposals within their jurisdiction;
- D. The State of Washington and the Province of British Columbia each have established processes for the EA/ER of certain projects within their respective jurisdictions;
- E. The Province of British Columbia, as represented by the Environmental Assessment Office (EAO), and the State of Washington, as represented by Ecology, support a Memorandum of Understanding between the parties specific to inter-jurisdictional cooperation on information sharing about the practice of EA/ER in each jurisdiction, and notification and information exchange related to major project proposals in the vicinity of the other jurisdiction;
- F. In the State of Washington, Ecology is a lead agency for the EA/ER of some major projects; however, EAs/ERs may be led by another state agency or a local government authority, and Ecology does not coordinate EAs/ERs led by another agency or a local government authority;
- G. In the Province of British Columbia, the EAO directs the EA/ER of major projects.
- H. The Memorandum of Understanding was first signed off by the parties on June 20, 2001.
- I. On December 30, 2002 the new British Columbia *Environmental Assessment Act* came into force. Changes to the environmental assessment process due to the new legislation made it necessary to amend Section 3.1(ii) in the original Memorandum of Understanding and provide a new description of the British Columbia EA process.

THEREFORE, EAO AND ECOLOGY MUTUALLY UNDERTAKE AS FOLLOWS

IT IS THE PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING (MOU) TO:

1. Facilitate information sharing and mutual understanding of the EA/ER laws, policies and processes of each jurisdiction and facilitate full knowledge of changes; and
2. Facilitate notification and information exchange regarding major project proposals that are in the vicinity of the other jurisdiction.

THIS MOU APPLIES TO THE FOLLOWING MAJOR PROJECTS THAT ARE IN THE VICINITY OF THE OTHER JURISDICTION:

1. A major project proposal in British Columbia is considered to be in the vicinity of the State of Washington if it is located 100 kilometres or less from the border between the two jurisdictions;
2. A major project proposal in the State of Washington is considered to be in the vicinity of British Columbia if it is located in any of the following counties within the State of Washington: Clallam, Jefferson, San Juan, Island, Whatcom, Skagit, Chelan, Okanogan, Ferry, Stevens and Pend Oreille.

IT IS MUTUALLY AGREED THAT:

## **1. Definitions**

IN THIS MEMORANDUM OF UNDERSTANDING (MOU)

- 1.1 “major project” means, for a project located in British Columbia, a reviewable project as defined in section 1 of the British Columbia *Environmental Assessment Act* (EA Act), and for a project located in Washington State, a project subject to state jurisdiction under the *State Environmental Policy Act* (SEPA) for which a Determination of Significance has been made thereby requiring an environmental impact statement;
- 1.2 “parties” means the State of Washington represented by the Department of Ecology (Ecology) and the Province of British Columbia represented by the Environmental Assessment Office (EAO).

## **2. Mutual Understanding of the EA/ER Laws, Policies and Processes**

- 2.1 Each party will provide the other with information on its EA/ER process for major projects within its jurisdiction to facilitate mutual understanding of the EA/ER laws, policies and processes of each jurisdiction;
- 2.2 Each party will provide the other with information in a timely manner on any changes to the EA/ER laws, policies and processes of its jurisdiction that may affect the other jurisdiction.

### **3. Notification of Major Project Proposals and Information Exchange**

3.1 Each party will provide notification to the other party of major project proposals that are in the vicinity of the other jurisdiction as follows:

- (i) Ecology will provide notification about major project proposals that are in the vicinity of British Columbia by:
  - on a weekly basis, forwarding to the EAO a list of all project proposals that are located in the vicinity of British Columbia for which a Determination of Significance/Scoping Notice has been issued; and
  - posting information on the SEPA Register on Ecology's website in a form that is specifically sorted to identify projects that are located in the vicinity of British Columbia; and
  - when Ecology is the lead agency for the proposal, providing written notice to the EAO as early as possible but no later than the time when a Determination of Significance/Scoping Notice is issued;
- (ii) EAO will provide notification about major project proposals that are in the vicinity of the State of Washington by:
  - providing written notice to Ecology as early as possible in the EA/ER process following issuance of an order under Section 10 of the British Columbia *Environmental Assessment Act* specifying that an environmental assessment certificate is required for the project, and
  - ensuring information about major project proposals in the vicinity of Washington State is posted on the EAO website;

3.2 Each party will provide information on the EA/ER of a major project proposal in its jurisdiction, including information on opportunities to provide comment on the proposal, upon request from the other party;

3.3 The parties will work together to develop mechanisms for notifying and consulting with members of the public who may have an interest in a major project proposal.

### **4. Consideration of Comments**

4.1 Each party will consider any comments received from the other jurisdiction about the potential effects of a major project proposal that is in the vicinity of the other jurisdiction prior to making any decisions regarding project approval;

4.2 For a major project proposal located in Washington State, comments will be submitted directly to the designated lead agency for the EA/ER of that proposal;

4.3 For a major project proposal located in British Columbia, comments will be submitted directly to the EAO.

### **5. Coordination with Other Arrangements**

5.1 In implementing this MOU, existing bilateral arrangements related to joint management of the shared environment will be considered in order to support coordination and consistency with those other arrangements.

**6. Dispute Resolution**

- 6.1 In the spirit of cooperation and the efficient use of public resources, the parties will make reasonable efforts to resolve disputes arising in relation to this MOU at the lowest possible staff level through implementation planning, cooperation and consultation. Issues will be elevated to more senior management levels within each jurisdiction as needed to achieve timely resolution;
- 6.2 In the event of a dispute arising in relation to the technical aspects of the EA/ER of a specific major project, the parties will inform senior management levels in a timely manner and obtain direction on resolving the dispute.

**7. Administration**

- 7.1 The parties may continue existing administrative arrangements or enter into new administrative arrangements in order to implement their commitments under this MOU.

**8. Term of this MOU**

- 8.1 This MOU shall be effective when signed by both parties. It may be amended at any time by concurrence of the parties and may also be terminated by either party upon thirty (30) days written notice to the other.

Dated at Victoria, BC

Dated at Olympia, Washington

This 31 day of October, 2003    This 7 day of November, 2003

Original Signed by

Original Signed by

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**Joan Hesketh**  
 Deputy Minister and Executive Director  
 British Columbia Environmental Assessment  
 Office

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**Linda Hoffman**  
 Director  
 Washington State Department of Ecology