

From: rafe sunshine <contact information removed>
Sent: July 19, 2016 10:40 AM
To: EA Review / Examen EE (CEAA)
Subject: Re: draft Terms of Reference for Environmental Assessment

To Whom It May Concern

I am in agreement with the West Coast Environmental Law's comments on the Terms of Reference (TOR) for the environmental assessment process in that:

1. Ensuring that the Scope of Review is broad enough to identify strategic-level solutions to strengthening EA, and not merely incremental improvements to project-level assessment;
2. Recognition in the TOR of the need for the Panel to explore and define the goals and purpose of modern-day EA to set the context for the new process;
3. The commissioning of discussion papers on the best available information on leading-edge assessment approaches;
4. A requirement in the TOR that the Panel report on how it considers comments received; and
5. Designation in the TOR of a public review and comment period on the draft Panel report.
6. Direction in the TOR for the Panel report to include specific and detailed recommendations for legislative changes, as well as where changes should occur in policy or guidance.

As the Terms of Reference acknowledge, the Minister has been mandated with introducing new, fair processes that, among other things, serve the public's interest. For the Panel to effectively and fulsomely examine and recommend what those processes should be, it needs to be empowered to first examine what should be the overarching and fundamental purposes and goals of federal EA. While as currently worded the Terms of Reference do not preclude such an examination, I expect that the Terms of Reference explicitly task the Panel with undertaking it, and including recommendations in this regard. Furthermore, I believe that the TOR enable the Panel to conduct an initial round of Indigenous, public and stakeholder engagement to canvass perspectives on: a) major issues or challenges associated with EA today; and, b) what goals environmental assessment should be seeking to achieve.

It would be a mistake to isolate the review of northern environmental assessment regimes completely from the Panel's process. Lessons learned from northern review processes, often conducted by Indigenous co-management bodies and under legislative regimes that mandate the consideration of Indigenous knowledge, have the potential to offer important lessons learned for the evolution of EA in the rest of Canada.

To be credible, environmental decision-making must be transparent and accountable. It is necessary the requirement in the Terms of Reference that the Panel report include a summary of comments received, and I recommend that this requirement be extended to include a) a summary of the results of any other methods of engagement and dialogue with the public, Indigenous peoples and stakeholders; and b) a demonstration of how those comments and other forms of dialogue are reflected in the Panel's conclusions, recommendations and rationale.

Finally, to facilitate the post-report phase of reforming EA processes, it would be helpful for the Panel's report to be as specific as possible regarding what legislative changes are necessary to implement its recommendations. I recommend that the "EA Review Report" section be amended to include a direction that wherever applicable and to the extent possible, the Panel's recommendations contain specific and detailed legislative changes needed to implement the Panel's conclusions and recommendations. The TOR could also include a direction to specify where EA reforms might also best occur through policy or guidance.

Thank you for your consideration of these recommendations that have been garnered from the West Coast Environmental Law's submission.

Sincerely – Mr. Rafe Sunshine, <contact information removed>