

Review of Environmental Assessment Processes

Canadian Environmental Assessment Agency
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July 20, 2016

Re: Comments on Expert Panel's Draft Terms of Reference for the Federal Review of Environmental Assessment Processes

Dear CEA Agency,

Matawa First Nations Management would like to provide the following comments on the Expert Panel's Draft Terms of Reference for the federal government's review of their current Environmental Assessment processes (under CEAA 2012). These comments are submitted strictly from a technical perspective and are not intended to be construed as consultation with and/or on behalf of our member First Nations.

General Comments: It is encouraging that the current federal government has recognized the gap in environmental protection and Aboriginal consultation & engagement that the implementation of CEAA 2012 had imposed. It is hoped that the former level of protection can be reinstated and improved upon, with the goal of preserving our lands and waters for future generations of Canadians. It is also hoped that the federal government will look to the knowledge held by the Nation's Indigenous communities to lead and guide environmental review processes, and that true government-to-government decision-making will occur regarding future large-scale developments in Canada.

The Review Process, 'The Panel' Section: "The Minister will appoint individuals to the Panel that have knowledge or experience relevant to environmental assessment processes. The Panel will consist of at least three members, including one Chairperson."

Comment: How will the Minister be selecting individuals for the Panel, and what sectors/ demographic will the Panel members represent (academia, industry, public service, etc.)? At least one member of the Panel should be representative of Canada's Indigenous population, in order to ensure that the Panel is inclusive and well-versed surrounding the Indigenous Engagement and Consultation portions of the review, and that the Panel conclusions are relevant to Indigenous communities.



Conduct of the Review, 'Timeline': "The Panel shall complete its review and provide its report with recommendations to the Minister by January 31, 2017."

Comment: We are concerned that the timeline may be too aggressive to achieve the stated goals of the review process, and the required consultation and engagement requirements with Indigenous communities. Timelines would best be established through discussions with Indigenous communities, respecting their internal decision-making processes. At minimum, please consider an extended timeline that will allow for the in-depth conversations required to ensure the best possible future EA process for our country.

Alternately, it is concerning that the current, inadequate EA process is being applied to development projects until the review is completed. Will all current and past projects within the current federal EA system be 'grandfathered over' when an improved system is implemented? Perhaps interim measures can be implemented to improve the current EA processes prior to the completion of the review, and consideration can be made to enhancing all EAs (past, present and future) once the improved process is in-place.

Conduct of the Review, 'Indigenous Engagement and Consultation': "The Panel shall meet with the leadership of National Indigenous Organizations in the preparation of the Plan." "The Panel shall work with regional Indigenous organizations in the planning and hosting of Indigenous in-person consultation activities."

Comment: We encourage the federal government to at least look to regional Indigenous organizations (such as Nishnawbe Aski Nation and tribal councils) for guidance in the preparation of the Indigenous Engagement and Consultation Plan. Grassroots (i.e. community-level) feedback would be best in order to ensure the review process is inclusive of all Indigenous populations in the country.

Conduct of the Review, 'Indigenous Engagement and Consultation': "The Panel shall, where practicable, hold Indigenous in-person consultation activities in regions or communities where project environmental assessments have been recently conducted or where communities have expressed interest in the review."

Comment: We would like to take this opportunity to express an interest in hosting an 'Indigenous Engagement and Consultation' event within the traditional homelands of the Matawa member First Nations. The mineral development potential in the area referenced as the Ring of Fire (located in Northern Ontario within the traditional homelands of the Matawa member First Nations) may result in an area of development comparable to Alberta's oil sands, and thus a robust and truly comprehensive EA process is desired by the First Nations people who call these lands home. The Matawa member First Nation communities have been heavily involved in EA discussions over the past 5 years, both in the former EA regime and in the current CEAA 2012. There is significant desire for an improved EA process for all current and future Ring of Fire developments, as demonstrated through the Regional Framework Agreement and subsequent ongoing negotiations with the Province of Ontario. There has been a desire and need to incorporate the federal government into these discussions, and involvement in this review process would be a positive gesture towards an improved and inclusive EA relationship.





Conduct of the Review, 'Multi-Interest Advisory Committee': "A Multi-Interest Advisory Committee with representatives of Indigenous organizations, industry associations and environmental groups will be established by the Minister to provide advice to the Panel."

Comment: Beyond Indigenous organization representation, we would like to see representation by Indigenous Knowledge Keepers (Elders and Land Users) on the Advisory Committee to ensure the relevance of the final Panel recommendations to Indigenous peoples.

Conduct of the Review, 'Expert Advice': "Where expertise cannot be provided by the Multi-Interest Advisory Committee, the Panel may retain the services of independent non-government experts to provide advice on certain subjects within its mandate."

Comment: What will be the selection process for experts to provide advice on specific subject matters?

Conduct of the Review, 'Participant Funding': "The Canadian Environmental Assessment Agency will offer participant funding to Indigenous organizations, groups, communities and individuals to support their participation in the review."

Comment: It is encouraging that participant funding will be made available for participation in this process. We ask that the federal government be cognizant of the application process, timeline and amount of participant funding, and ask that the application process not be overly burdensome, not be reimbursement-based, and to be of an adequate amount that is reflective of the actual costs of meaningful participation by individuals and organizations. This will encourage the full participation of all Canadians, regardless of education, policy-fluency and financial status.

Please consider these comments as an expression of interest for Matawa First Nations Management to be included on the distribution list for information regarding this review process and associated activities. Meegwetch,

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Matawa First Nations Management
<contact information removed>

cc. Sarah Cockerton, Manager of Environmental Programs, MFNM
Paul Capon, Policy Analyst, MFNM

