



20 July 2016

Canadian Environmental Assessment Agency
160 Elgin Street, 22nd Floor
Ottawa ON K1A 0H3

DELIVERED BY EMAIL

Dear Canadian Environmental Assessment Agency,

Subject: Gwich'in Tribal Council Comments re CEAA 2012 Expert Panel Draft TOR

The Gwich'in Tribal Council (GTC) welcomes the federal government's review of Canada's environmental assessment (EA) process and the opportunity to comment on the draft terms of reference (TOR) for the Expert Panel that will lead the review. As you would recognize, the GTC's primary focus is on implementing the Gwich'in Comprehensive Land Claim Agreement, which spans the Yukon-NWT border in the Mackenzie Valley and Western Arctic regions. Notwithstanding the limited application of the current Federal EA regime in the North, we take significant interest in the federal EA process and, accordingly, make the following comments:

- More detail should be included in the TOR with respect to the parallel "process to amend northern environmental assessment regimes" launched by the Minister of Indigenous and Northern Affairs (INAC), including how the two reviews will relate to and inform each other. At first blush, we are concerned by the TOR's statement that "matters related to northern environmental assessment regimes will be redirected as appropriate" to the INAC process. In our view, such firm parameters and such a "silo-ized" approach is not conducive to a meaningful review or substantial improvement in Canada's EA regime. In general, we do not appreciate being "redirected".
- The TOR should be amended to provide a more open mandate for the Expert Panel rather than the current relatively narrow and prescriptive approach. We note that the federal EA regime has a significant impact on design and implementation of other EA regimes in provincial, territorial and land claims contexts. As such, we suggest that the TOR provide space for the Expert Panel to address long-standing EA issues, including Aboriginal consultation, cumulative effects, scope of EA reviews, and EA of policy and program decisions. Further, to ensure incorporation of a full picture of Canada's EA processes, the TOR should provide for the Expert Panel to engage with northern Aboriginal groups and to do so at sessions located in the North.
- We suggest amending the TOR to provide a longer time horizon for participation of Aboriginal groups, if not all groups. The TOR sets out an extraordinarily short timeframe, with

completion by January 31, 2017. While this may be suitable to high-functioning private actors or government agencies, this time horizon will make it challenging for most Aboriginal groups to meaningfully engage.

Overall, we see this Expert Review as an opportunity for the “renewed nation-to-nation” process with Aboriginal peoples, contemplated by the Trudeau Government and stated in Ministerial mandate letters, to start off in a constructive and meaningful manner. We look forward to this new beginning and suggest that the government make the above changes to the TOR as part of the much needed work to repair relationships and move forward.

Mahsii Choo',



James Wilson
President
Gwich'in Tribal Council

cc:

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