



**VIA EMAIL and ONLINE SUBMISSION**

Christine Loth-Brown  
Vice-President, Policy Development Sector  
Canadian Environmental Assessment Agency  
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OTTAWA ON K1A 0H3

Dear Ms. Loth-Brown:

**GNWT Comments on the Draft Terms of Reference for the Expert Panel  
Reviewing Federal Environmental Assessment Processes**

In January 2016 the federal government announced an initiative to restore trust in environmental assessment. On June 20, 2016, the federal government announced a public review of environmental assessment (EA) and regulatory processes. The Canadian Environmental Assessment Agency (CEAA) is establishing an independent expert panel to review federal environmental assessment processes, consult Aboriginal peoples and the public, and produce a report by January 31, 2017.

The Government of the Northwest Territories (GNWT) is pleased to provide the following comments on the draft Terms of Reference (ToR) for the panel.

1. The GNWT notes the draft Terms of Reference (ToR) states that the Minister of Indigenous and Northern Affairs (INAC) has launched a process to amend northern environmental regimes. The ToR states that, “As the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) has limited application in the north, matters related to northern environmental assessment regimes will be redirected as appropriate to the process launched by the Minister of INAC to amend northern regimes.” The draft ToR then states that “matters relating to northern environmental assessment regimes are outside the mandate of this Panel.”

It is unclear whether the northern EA regimes review will be conducted at the same time as the CEAA 2012 review. Given that CEAA 2012 applies to

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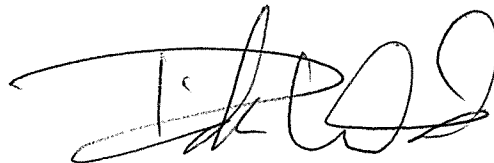
the Inuvialuit Settlement Region (ISR) and transboundary projects affecting the Northwest Territories (NWT), it would seem more efficient to conduct these reviews concurrently. Conducting concurrent reviews of CEAA 2012 and *Mackenzie Valley Resource Management Act* would ensure that the EA process applied throughout the NWT is as consistent and efficient as possible.

2. The GNWT and NWT Aboriginal governments and organizations (AGOs) have an interest in projects outside the NWT which may have impacts within the NWT. GNWT and AGOs participate in environmental assessments of projects in southern Canada under CEAA 2012 when there are potential transboundary effects (e.g., Amisk and Site C assessments). GNWT's participation in the Panel's process would be in part informed by these experiences.
3. CEAA 2012 applies in the ISR, as does the Inuvialuit Final Agreement. This dual environmental assessment regime creates legislative process gaps and overlaps. The GNWT recommends that the Panel actively review the application of CEAA 2012 in the ISR. The GNWT further recommends that the Panel engage and consult with Inuvialuit organizations and residents of the ISR, including travelling to the region to hold in-person consultation activities. The GNWT would participate in any such activities as appropriate.
4. The draft ToR does not seem to capture Traditional Knowledge in the scope of this federal EA review. Given that Traditional Knowledge is an important aspect of EA reviews throughout the NWT, GNWT recommends Traditional Knowledge be included in item #2 under 'Scope of Review' in the draft ToR (wording for item #2 is currently "*2. How to ensure decisions are based on science, facts and evidence and serve the public's interest?*").
5. The GNWT notes the Panel is directed to complete its review and provide its report with recommendations to the Minister by January 31, 2017. Given consultation requirements, the GNWT notes that this is an ambitious timeline.
6. The GNWT recommends the ToR be explicit that the Panel will be broadly representative of affected jurisdictions, public government mandates, and private sector interests. The Panel composition should include individuals

from all sides of the EA process, including proponents, Aboriginal peoples, and stakeholders.

7. The GNWT recommends the relationship of the various review processes (i.e., the review of the *Fisheries Act*, the modernization of the National Energy Board, and the review of the *Navigation Protection Act*) be made clearer in this ToR.
8. Regarding the reference to best technologies available (#4 under Scope of Review), the GNWT recommends the Panel consider in its review how “the best technologies” will be determined.
9. Regarding public engagement, the GNWT recommends the ToR clarify how the submissions will be considered and dealt with and suggests that the Panel explicitly respond to submissions.
10. The GNWT recommends the ToR describe how the representatives of the Multi-Interest Advisory Committee will be selected. As well, the GNWT recommends that the identification of a select number of issues by the Multi-Interest Advisory Committee not preclude discussion on any topics.
11. The GNWT recommends the EA Review Report also discuss the implications of the Panel’s findings and provide an Implementation Plan.

Sincerely,

A handwritten signature in black ink, appearing to read 'Rick Wind', with a stylized, cursive script.

Rick Wind  
A/Assistant Deputy Minister,  
Planning and Coordination  
Department of Lands

- c. Stephen Van Dine, Assistant Deputy Minister, Northern Affairs,  
Indigenous and Northern Affairs Canada