



July 20, 2016

The Honourable Catherine McKenna, P.C., M.P.  
c/o Canadian Environmental Assessment Agency  
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**Environmental Assessment Processes Expert Panel:  
Draft Terms of Reference**

Dear Minister:

Thank you for the opportunity to provide comments on the Draft Terms of Reference for the Environmental Assessment Processes Expert Panel. The review of environmental assessment processes announced on June 20 is of critical importance to Canadian municipalities, and the Federation of Canadian Municipalities (FCM) is pleased to see the federal government taking steps to consult with the public and ensure that federal environmental assessment processes serve the public interest.

As you know, FCM is the national voice for Canada's local governments. Our members include nearly 2,000 municipalities—urban, rural, northern and remote—representing 90 per cent of Canada's population. FCM works on behalf of local governments to shape the national agenda, help solve national challenges and empower municipalities to build stronger communities—and a better Canada.

FCM has a long history of working with the Government of Canada to help ensure that the public interest is served in federally-regulated sectors. This has been demonstrated most recently by the collaboration between Transport Canada, the rail industry and FCM's Rail Safety Working Group, which seeks to guide federal policy, legislation and review processes so that they are reflective of local concerns and best serve the needs of Canadians.

Municipalities are uniquely impacted by federal environmental assessments, sometimes as proponents, but always as a level of government.

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As proponents for projects like landfills, cogeneration energy facilities and water control structures, municipal governments are directly affected by federal environmental assessments. Municipalities also regularly participate in these assessments where the outcomes have a local impact on areas of municipal responsibility, such as environmental sustainability, emergency response planning, land-use planning, and the construction and maintenance of municipal infrastructure. At the same time, many projects, especially within the resource development sector, are important to the economic prosperity and quality of life in local communities, especially in rural and northern Canada.

For these reasons, in March 2014, FCM's National Board of Directors adopted three Principles to Protect Municipal Interests in Federal Assessment Processes:

1. Protect and strengthen local economies, quality of life and the health and integrity of the local environment as top priorities in federal assessment and review processes.
2. Equip and support municipal first responders to respond to emergencies related to proposed projects.
3. Prevent downloading of project-related safety, emergency response and other costs to municipal taxpayers.

The complete Principles to Protect Municipal Interests in Federal Assessment Processes are attached (Appendix 1).

Equally, FCM has adopted various resolutions focused on ensuring local considerations are reflected in environmental review processes and decisions.

In September 2015, FCM adopted two resolutions that reflect some of the environmental concerns raised by municipalities. The first calls on the federal government to conduct a comprehensive environmental and health impact assessment for the shipment of thermal coal by rail and over coastal waters, given the toxicity of the substance; and that an appropriate federal agency be named to monitor its transport. The second calls on the National Energy Board to compel all pipeline operators shipping diluted bitumen to provide site specific consequence analyses and response plans and tactics for submerged and sunken oil to be available for public review, for the purpose of protecting communities and ecosystems reliant on the health of watersheds. These resolutions are attached (Appendix 2 and 3).

Municipalities also have an interest in efficient federal environmental assessment processes that support sustainable development while enabling important infrastructure and resource-extraction projects to get underway in a timely manner. One such resolution calls on the federal government to review their process of permitting for resource-based industries and how the federal and provincial governments can streamline their processes to reduce duplication. This resolution is attached (Appendix 4).

In consideration of the unique impact that federal environmental assessments have on municipal governments, FCM requests that the Terms of Reference be expanded to reflect the need for meaningful municipal participation and consultation during public hearings conducted by the Canadian Environmental Assessment Agency, the National Energy Board, and the Canadian Nuclear Safety Commission in their respective roles. FCM believes this will better enable these agencies to take into consideration the responsibility that municipal governments have to protect their residents and the environment; the local expertise that municipalities can offer regarding major infrastructure and resource development projects; and the key role that certain projects play in the economic prosperity of communities.

FCM is pleased to see that as part of the public consultation process the federal government will be receiving feedback through an online portal until August 30, 2016. In consideration of the importance of this review, and given the challenges posed by summer work schedules, FCM requests that the period for public comment through the online portal to be extended to September 30.

FCM welcomes the commitment in the Terms of Reference to stakeholder consultation as part of the mandate of the Panel. In addition to stakeholder consultations, FCM believes it will be essential for the Panel to meet directly with municipal representatives, and we look forward to participating in the review this fall.

I wish the Panel the best of success in carrying out its mandate. FCM looks forward to assisting the Government of Canada in undertaking this important and timely review.

Sincerely,



Clark Somerville  
Councillor, Regional Municipality of Halton  
FCM President

## **PRINCIPLES TO PROTECT MUNICIPAL INTERESTS IN FEDERAL ASSESSMENT PROCESSES**

Municipalities regularly participate in federal, provincial or territorial assessment and review processes for larger projects, where the outcomes have local impact on areas of municipal responsibility. Major new projects subject to these review processes, especially resource development projects, are essential to the economic prosperity and quality of life of local communities, particularly for rural, remote and northern communities.

The following three principles, adopted by the FCM Board of Directors, speak to those areas where local governments have a legitimate interest to ensure their rights and responsibilities are protected:

- 4. Protect and strengthen local economies, quality of life and the health and integrity of the local environment as top priorities in federal assessment and review processes:**
  - A project's contribution towards local economies must be a priority in federal review and assessment processes, and must also be balanced with the environmental and social priorities of local communities.
  - Municipal interests must be respected and reflected in federal assessment and review process.
  - Federal review and assessment processes must be efficient and ensure effective "smart government" coordination between government and departments.
  
- 5. Equip and support municipal first responders to respond to emergencies related to proposed projects:**
  - Municipalities need to know what dangerous goods are being transported through, stored or used in their communities so local services can plan and respond effectively to emergencies.
  - Private sector project operators and federal, provincial and territorial oversight agencies cannot plan for emergencies alone. Local governments and authorities must be involved as partners in emergency planning.
  
- 6. Prevent downloading of project-related safety, emergency response and other costs to municipal taxpayers:**
  - Third-party liability insurance systems must be sufficient to prevent the downloading of liability costs on municipal taxpayers, even in the event of the bankruptcy of the original insurance holder.
  - Municipal first responders must be equipped and supported to effectively respond to an emergency arising from a new federally-regulated project.
  - Up-front costs associated with participation in a federal review process and back end costs resulting from any unrecoverable burden placed on municipal services and infrastructure by a federally-regulated project must not be unfairly imposed on local governments.

**Environmental Assessments for Coal Transport**

**WHEREAS**, Assessment studies provided to Port Metro Vancouver have not assessed the environmental or health impacts related to the release of coal dust during barge transfer and transport over coastal waters between the Port of Metro Vancouver and Texada Island; and

**WHEREAS**, There is currently no mechanism that provides oversight or ensures the implementation of mitigation measures to minimize environmental and health impacts of coal transport over coastal waters; therefore be it

**RESOLVED**, That the Federation of Canadian Municipalities (FCM) call on the Government of Canada to conduct a comprehensive environmental and health impact assessment for the shipment of thermal coal by rail and over coastal waters; and be it further

**RESOLVED**, That an appropriate federal and/or provincial agency be named to monitor rail transport, barge transfer and transport of thermal coal over coastal waters to ensure oversight and implementation of environmental and health protection measures.

*Union of BC Municipalities:  
Sunshine Coast Regional District, BC*

*September 2015*

### Appendix 3

#### **Requiring Consequence & Response Capacity Assessment for Sunken or Submerged Diluted Bitumen**

**WHEREAS**, On December 16, 2013, Kinder Morgan submitted an application to the National Energy Board (NEB) for the Trans Mountain Pipeline Expansion Project to increase the transportation of diluted bitumen via pipeline through British Columbian communities, across more than 700 streams and water-crossings in 12 BC watersheds; and

**WHEREAS**, Diluted bitumen has been shown to submerge and/or sink when spilled into freshwater environments, resulting in prolonged and costly response operations with limited success and negative impacts to local ecosystems, public and environmental health, local economies, and cultural and recreational resources; and

**WHEREAS**, As per Kinder Morgan's response on July 11, 2014 to interveners in the NEB hearing, Trans Mountain maintains that in the event of a diluted bitumen spill sunken or submerged oil "would be treated as a post-emergency response function" and declined to provide any specific information about how response plans or equipment stockpiling for the project would address submerged or sunken diluted bitumen, thereby raising serious concerns about the capacity to respond to the risk currently posed to local communities and watersheds by the existing Trans Mountain pipeline; therefore be it

**RESOLVED**, That, for the protection of communities and ecosystems reliant on the health of watersheds, the Federation of Canadian Municipalities (FCM) call on the National Energy Board to compel all pipeline operators shipping diluted bitumen, to provide site specific consequence analyses and response plans and tactics for submerged and sunken oil to be available for public and impacted communities review.

*City of Vancouver;  
Union of British Columbia Municipalities*

*September 2015*

## Time Delays for Environmental Assessments

**WHEREAS** The Corporation of the City of Timmins is concerned about the length of time that Federal/Provincial Governments take to agree upon the scoping of Projects, determining Environmental Assessment requirements and ultimately permitting for resource-based industries; and

**WHEREAS** The time delay is because of a lack of coordination, overlap, and decision-making between the two levels of governments to allow for a speedy processing of permitting application for resource-based industries; and

**WHEREAS** Resource-based industries have a profound impact on the economic well-being of Northern Communities by providing long-term jobs, continual investment, new growth and the overall sustainability of Northern Communities; therefore, be it

**RESOLVED** That the Federation of Canadian Municipalities strongly urges the federal government to complete a review of how they process permitting for resource-based industries and how the Federal/Provincial governments can streamline their processes in order to make them compatible with each other and set firm timelines to reduce significantly the time from making a permitting application to receiving final approvals;

*Federation of Northern Ontario Municipalities:  
City of Timmins, Ontario  
City of Cochrane, Ontario  
Municipality of Whitestone, Ontario*

*September 2010*