



FIRST NATIONS FISHERIES COUNCIL

July 20, 2016

The Honourable Jim Carr
Minister of Natural Resources
580 Booth Street, 21st Floor, Room: C7-1
Ottawa, Ontario K1A 0E4

Via email: NRCan.NEBModernization-ModernisationONE.RNCan@Canada.ca

Dear Minister Carr:

Re: Draft Terms of Reference for the National Energy Board (NEB) Modernization Expert Panel

I am writing to you on behalf of the First Nations Fisheries Council of British Columbia (FNFC). The FNFC was established in 2007 to convene First Nations in BC on fisheries and aquatic resource management. The organization is comprised of 14 First Nations delegates from the diverse geographic regions of the province. It is not a holder of Aboriginal rights but works to identify and address issues of common interest to First Nations.

The FNFC welcomes this review and looks forward to engaging in this process to ensure that the interests of First Nations in BC as they relate to fisheries and aquatic resources are adequately incorporated. Our organization has a strong track record of working to convene BC First Nations and regional fisheries organizations as well as engaging with the federal government at various scales on a wide range of initiatives. We expect to engage directly with the Panel as its work proceeds to ensure the rights and interests of BC First Nations as they relate to aquatic resources receive the attention they require and that BC First Nations' expectations of meaningful government-to-government engagement are met. However, we also wanted to take the opportunity at this early stage to highlight several issues that we see as fundamental to the success of this review:

- Indigenous perspectives should be incorporated at all levels of the review process. Ideally, this would include Indigenous representation on the Review Panel itself. It should also include explicit recognition and inclusion of Indigenous and traditional knowledge as part of the review.

- Modernizing the NEB must include a review of the 2013 Memorandum of Understanding between the NEB and Fisheries and Oceans Canada. This MOU created significant problems in relation to consultation with First Nations on projects requiring authorizations under the *Fisheries Act* and the *Species at Risk Act*.
- Regional differences will need to be respected. It is understood that Canada intends to work with National Indigenous Organizations in the development of the Indigenous Engagement Plan. We want to ensure, however, that there will be meaningful government-to-government engagement at the regional level that reflects the United Nations Declaration on the Rights of Indigenous Peoples and the principle of free, prior and informed consent. These principles are particularly important in British Columbia – not only is much of the province not subject to an existing Treaty, but First Nations’ rights to fisheries and aquatic resources here are unique and well-established. These rights and interests are at stake in many environmental assessments in this province, and BC First Nations expect that the constitutional nature of these rights will be reflected both in this review process as well as in any subsequent legislative and regulatory changes.

Thank you for your consideration of our initial feedback. We look forward to working with you and our colleagues at the national level to ensure that this review process is a success.

Sincerely,



Kristen Point
Executive Director

First Nations Fisheries Council

