

Squamish Nation

Written Submission to the CEAA Review Expert Panel

December 23, 2016

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INTRODUCTION

An environmental assessment (“EA”) is a decision-making tool used to support sustainable development of lands and natural resources. The EA is to identify opportunities to avoid, eliminate or reduce a project’s potential adverse impact on the environment before the project is undertaken, and if approved by the decision-maker, ensuring that that mitigation measures are applied when a project is constructed, operated and decommissioned.

From the perspective of First Nations, Canadian EA legislation, policy and process may be attempting to address potential adverse impacts on the environment, but falls well short of addressing the impacts a project may have on Aboriginal rights and title. First Nations have not been included in decision-making nor has the federal environmental assessment process met the standards of the federal government’s legal duty to consult and accommodate First Nations. Furthermore, the federal government has fully endorsed the *United Nations Declaration on the Rights of Indigenous People*, which includes the standard of free, prior, and informed consent, but this standard has not been included in the *Canadian Environmental Assessment Act* (“CEAA” or the “Act”) or the CEAA process.

In reaction to a number of unresolved concerns the Squamish Nation has with CEAA and the CEAA process, the Squamish Nation has developed and implemented its own EA process (“Squamish Process”) independent of the CEAA process.

The Squamish Process provides the Squamish Nation with the ability to make an informed decision on a proposed project, based on its own laws and policies, on information it finds necessary and important to make such a decision and creates an opportunity to have government to government discussions to make a shared decision with the Crown on a proposed project.

Currently, the federal government is reviewing CEAA and to determine whether reform of CEAA is required. The Minister has established an expert panel (the “Expert Panel”) to conduct a review of the Act and the CEAA process. The Expert Panel will engage and consult with Canadians, Indigenous peoples and key stakeholders and develop recommendations on ways to improve federal EA processes.

Our submission to the Panel will point out some of the issues the Squamish Nation has with the CEAA process, will describe the Squamish Process and how the Squamish Process has addressed the concerns it has with the CEAA process, and through our recommendations we demonstrate how the Squamish Process, and other First Nation led Environmental Assessment processes, could be coordinated or harmonized with the CEAA process.

CONTEXT

At the outset, we want to make clear to the Expert Panel what this review of CEAA is about for the Squamish Nation, and we believe for all First Nations in Canada. It is about consent. Our submission is not to advocate for the tweaking of a flawed EA process to allow for the better inclusion of traditional knowledge. We know that the Expert Panel has heard it many times already in this review process: Indigenous Consent. But what does that really mean? We have seen the case law – Haida, Williams - and internationally with UNDRIP. Does consent mean that

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a First Nation has a veto? In some cases, maybe. In other cases, maybe not.¹ It has not been made clear in Canadian law yet.

But what is clear is that First Nations have a right, an inherent and constitutional right, to make a decision on a project. So we think what we are really talking about, when we look at consent in the context of reconciliation, is building a true government to government relationship where First Nations and other levels of government collaboratively develop governance structures and processes to make consensus based decisions on natural resource projects. This consensus based decision making must be built into the legislation. But before you can build such structures and processes you need to find out from First Nations what consent means to them. The federal government cannot make that determination unilaterally. We hope that our submission helps you understand what consent means to the Squamish Nation in the context of environmental assessment.

DEFICIENCIES IN THE CEAA PROCESS

The Squamish Nation has found many deficiencies in the current CEAA process that impact on our Aboriginal rights and title and our inherent right to govern the use of our lands and resources in our Territory. We have attempted to place our concerns with the CEAA process within the themes set out by the Expert Panel.

Expert Panel Theme: Environmental Assessment in Context & Planning Environmental Assessment

Issue: First Nations are not engaged early enough in the process to have their interests included in decision-making on a project.

EAs begin with proponents proposing a project in an area often without considering First Nation land management objectives or designations for the lands in question or particular values that a project may put at risk. In failing to consult with an affected First Nation prior to submitting a project proposal to be assessed in an EA, a project proponent takes the risk of a First Nation taking an immediate adversarial position against the proposal. With the EA authorities accepting a proposal without such consultation being conducted first, the EA process is not viewed by a First Nation as a legitimate process that meaningfully considers its Aboriginal interests.

First Nations want to make decisions on major resource projects at a government-to-government level. This requires the federal government to engage with a First Nation before a project begins the EA process. During this early engagement, the First Nation and the federal government should be discussing whether a proposed project should proceed to a formal assessment or not based on information produced by the First Nation, such as land and marine use plans, traditional use studies, socio-economic studies, and cumulative effects assessments. If a First Nation has not done the work to create such plans, studies and assessments, the federal government and/or the project proponent should be fully funding the work to be done in order to obtain information for

¹ Roshan Danesh wrote an interesting article in the Globe and Mail on this issue. "Rhetoric matters when discussing First Nations' role in resource decisions": https://beta.theglobeandmail.com/news/british-columbia/rhetoric-matters-when-discussing-first-nations-role-in-resource-decisions/article33293082/?ref=http://www.theglobeandmail.com&cmpid=rss1&utm_source=dlvr.it&utm_medium=twitter&service=mobile

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the First Nation to make a prior and informed decision on the project. This strategic level planning work should be done prior to a project entering into the EA process and if this is not possible stoppages in the EA process should be built in to allow for this information to be considered in the assessment.

Expert Panel Theme: Conduct of Environmental Assessment

Issue: First Nations are not involved in assessing impacts on their Aboriginal interests.

First Nations want to be involved in assessing the information important to their communities in order to determine the significance of the impacts on their Aboriginal rights and title. This involves First Nations developing values to be assessed, gathering information specific to those values, and methodology that reflects a First Nations perspective in order to come to conclusions on the significance of impacts.

The CEAA process does not provide a meaningful account of impacts on a spatial scale or temporal scale relevant to First Nations communities. This may be another way to say that an CEAA does not adequately address cumulative impacts of a project in a First Nation's territory. For example, EAs assess impacts on a specific project area determined by the provincial or federal government without consultation with an affected First Nation. A First Nation perspective may view its territory in a more holistic way and potential impacts may occur beyond the designated project area. Further, CEAA only considers project impacts on the current environment, rather than on a pre-industrial baseline that acknowledges that a First Nation's territory and resources have been subject to exploration and degradation since the assertion of British sovereignty. CEAA also fails to explicitly consider the impacts of projects on future generations.

The focus of CEAA is overly narrow, favouring biophysical components that can be readily measured without input of the affected First Nation communities and often ignoring cultural values that are harder to measure.

Aboriginal rights and title are poorly assessed in the CEAA process. In part, this is because of a habitual practice by proponents and government to use a reductionist approach that considers rights and title to be the sum of biophysical measurements; e.g. "there are still lots of fish in the territory as a whole; therefore, the right to fish is not significantly impacted". This approach is a gross over-simplification. For example, it ignores the fact that additional shipping traffic, noise, and navigational barriers may make access to harvesting fish more difficult. First Nation's historical experiences with impacts on community health from contamination of traditional foods may mean First Nations members will no longer harvest fish within the vicinity of a major industrial project, even if they are considered "safe". These impacts are ignored in a typical CEAA process.

Information in a CEAA process is often unilaterally gathered by proponents from other project applications or from studies conducted for projects in different locations, which impact different rights and resources. The information in a CEAA process is also presented in such a way that makes it impossible to accurately understand, let alone mitigate or accommodate, the nature of impacts on Aboriginal rights and title. This is typically the result of the wrong information being

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collected or the right information being packaged in an irrelevant fashion for First Nations rights and interests.

The total reliance on western-based science in the CEEA process and decision-making is highly disturbing to First Nations. The Crown's complete and unfettered reliance on proponents' staff and consultants' science is a structural flaw in current environmental assessment processes.

CEEA processes are run on tight, legislated timelines and because of these short timelines First Nations are only expected to comment on information gathered by the project proponents. There are few two-way discussions and First Nations often feel they have invested significant time and resources into commenting on a flawed process where their concerns are rarely addressed or substantially integrated into the EA. Mitigation measures tend to be generic, and not at all specific to First Nations' concerns. This level of engagement is not at all commensurate with a duty to consult at the deep end of the *Haida* spectrum, and unlikely to result in First Nations consent to a project.

Expert Panel Theme: Decision Making

Issue: First Nations are not recognized as a decision maker.

The decision to approve a project is ultimately made by responsible Ministers, from a provincial and/or federal perspective, rather from a First Nations perspective. The EAs that inform these decisions allow for First Nations participation in commenting on potential project impacts, but do not provide First Nations with the ability to make substantive decisions about a project regarding potential impacts a project on their rights and interests and whether a project is acceptable, or not, to the First Nation. The EA process certainly does not allow for shared decision making where the Nation gets to make a decision about whether or not a project is acceptable in accordance with Indigenous laws.

First Nations require a greater decision-making role for if, and how, a project may proceed. Both domestic and international law are pointing toward Indigenous consent for projects that have the potential to impact on their interests. There are two levels of decision-making for projects through the CEEA process: decision on recommendations to be made to the Minister of Environment or Cabinet and whether adverse effects are justifiable. In both instances, decisions should be based on consensus and if the parties are not able to achieve consensus a mutually agreed upon dispute resolution process should be in place to resolve the issues.

Expert Panel Theme: Follow Up

Issue: First Nations are not included in monitoring and enforcement of conditions.

First Nations communities are often sceptical of environmental commitments made before a project is built. The federal government's authorizing document, the Decision Statement, is not the end of the project: conditions of approval must be monitored and enforced and the proponent should be required to carry-out follow-up environmental effects monitoring to verify predictions in the environmental assessment. From our perspective, this has not been done or not done well and First Nations lack trust in the process.

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Expert Panel Theme: Coordination

Issue: The CEAA process can be replaced by a provincial or other responsible authority to be equivalent to a CEAA process without First Nation consultation and consent.

The substitution process permits other jurisdictions that may not have the expertise required to assess projects that the Canadian Environmental Assessment Agency, and other responsible federal agencies, has the expertise in assessing. In addition to duplication on some aspects of the substituted assessment, there is also confusion for First Nations in who is doing what in the substituted assessment. In a substituted EA, or under an equivalency agreement, there is potential for a weak assessment of potential impacts on aboriginal rights and title, which from our perspective is an infringement on those interests in itself.

Funding

Although not explicitly mentioned in the Expert Panel themes, **lack of funding to participate in the CEAA process is a major limiting factor to meaningful participation.** Current CEAA funding of \$10,000 - \$15,000 to participate in a CEAA process is not sufficient for a First Nation to fully participate in all aspects of an EA as contemplated in this section. Also, although some proponents provide capacity funds, a proponent is not legally obligated to provide capacity funds or to meet any standard of funding to allow a First Nation to fully participate in the CEAA process.

Based on such concerns with EAs, the Squamish Nation has generally taken an adversarial position against the federal and provincial governments regarding its participation in EAs and the ability of the Crown to discharge its duty to consult the Squamish Nation through EAs, including going to court.

As a final note to this section, two Expert Panel themes that we have not fully addressed in this section are the *Overarching Indigenous Considerations* and *Coordination*. We will come back to those themes in our recommendations.

SQUAMISH PROCESS

As discussed above, the Squamish Process is a reaction to unresolved concerns the Squamish Nation has with both the federal and provincial EA processes, which are outlined above. More specifically, a tipping point was reached on the Woodfibre LNG project, which is proposed to be developed at the mouth of the Squamish River in the heart of Squamish Territory, as the BC Environmental Assessment Office, the lead government agency in the substituted process, and Canadian Environmental Assessment Agency, were not open to developing a mutually agreeable EA process to review the Woodfibre proposal. From the Squamish Nation's perspective, this project had the potential to significantly impact on a very important part of its Territory and on the Squamish Nations way of life. The Squamish Nation made clear to the EAO that only way this project was going to proceed was with Squamish Nation consent and that this was not achievable in the current provincial and federal EA process.

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The Squamish Nation then engaged in discussions with the project proponent about our concerns with the provincial and federal EA processes and the significance of the potential impacts the project may have on it. The Nation explained that from our perspective the only way the project will proceed is with our consent and we were willing to look at all options to get us to that place, including going to court. The Nation notified the proponent that it would be conducting its own EA and the proponent agreed to participate in the Squamish Process.

The following section is an overview of the Squamish Process. There are 5 key components of the process: Framework Agreement, Coordination with Crown, Assessment of Project, Environmental Assessment Agreement/ Certificate, and Reconciliation/Harmonization .

Framework Agreement

The Framework Agreement is an agreement between the Squamish Nation and a proponent that sets out the terms of participation in the Squamish Process. It is a legally binding contractual arrangement that includes as key terms of participation:

- that the Squamish Process will be separate from the Crown EA, but will to the extent possible parallel the timing of the Crown EA process and Ministerial decisions in order to coordinate decision-making;
- that Squamish will have different & additional information requests of proponents;
- a requirement of confidentiality to allow for open discussion; and,
- the proponent is obligated to fully fund the EA process based on an agreed to budget.

The Framework Agreement provides for a clear and certain process for the proponent. As the Squamish Process is not authorized by legislation, contractual remedies and other forms of dispute resolution apply to any perceived procedural unfairness.

Coordination with Federal and Provincial Governments

As mentioned, under the Framework Agreement the Squamish Nation is attempting to coordinate the decision-making processes of the Nation and the Crown.

Under the Woodfibre LNG Framework Agreement, the proponent notified the EAO that it would be participating in the Squamish Process and the EAO acknowledged the proponents participation in the separate Squamish Process through an amendment to its Section 11 Order.

In an attempt to make the Squamish Process more efficient and less costly to the proponent in terms of duplicating information, the Squamish Nation participated in the Crown EA process on a technical basis to collect information that could be used in its process.

Beyond coordinating with the EAO, and CEEA, the Squamish Nation entered into Government to Government discussions with the provincial Ministry of Aboriginal Relations and Reconciliation to address issues that were beyond the scope of the EA process.

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Assessment of Project

In terms of components, the assessment of the project under the Squamish Process is similar to the Crown EA process: information gathering; application of methodology; and, a report setting out conclusions and recommendations to the Squamish Nation Council. However, where the Squamish Process differs is in practice.

Information Gathering

The base of information to inform a Squamish Nation decision is from the Squamish Nation community members. Initial engagement with community members is to get an understanding of the scope of the assessment, what the values to be assessed are, and the preliminary community concerns with the project.

Generally, community engagement includes:

- Community meetings
- Focus groups
- Direct dialogue with individual members and knowledge holders.

Stages of community engagement include: pre-assessment; assessment; and, post-assessment.

Other sources of information include:

- Existing Squamish Nation driven studies and plans such as Xay Temixw Land Use Plan & Land Use Agreement, Occupation and Use Study
- Independent research
- Discipline specific experts
- Confidential dialogue with proponents
- Technical participation in Crown EA
- Submissions from NGOs, stewardship groups, other stakeholders
- Legal counsel

Applying methodology

The focus of CEAA is overly narrow, favouring biophysical components that can be readily measured without input of the affected First Nation communities and often ignoring cultural values that are harder to measure. To address this, the Squamish Nation developed its own valued component (Squamish VC”) that focuses on the interconnectedness of Squamish Nation values. The Squamish VC includes as its component parts the interconnection among the land, waters, governance, use, occupancy, transmission of culture/history and growth/revitalization of language as one valued component to be assessed. Significance of an impact is measured in this context rather than on a single biophysical component such as a fish. The fish is one part of a whole.

It is important to add that the Squamish Nation also considers western based scientific studies to understand potential impacts on our Squamish VC in order to come to conclusions based on both

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Squamish knowledge and western based scientific knowledge. As mentioned in the section on deficiencies in the CEAA process, we retain our own environmental consultants to assess the technical studies prepared by the proponent to verify whether the study has information gaps or incorrect conclusions.

Assessment Report

The Assessment Report sets out the community specific environmental, cultural and safety concerns with the project; the methodology used to determine impacts and significance of impacts; and, the conclusions including potential mitigation measures and conditions of approval. Most importantly, all information collected from or submitted by community members was included as appendices to the Report, including comments from members who are opposed to the project. To protect the integrity of the information, methodology and conclusions, the Assessment Report is confidential and its sole intent is to be used as a tool for the Squamish Nation to make a decision for our community.

The conclusions of the Report are presented to the community members and then the Squamish Nation Council makes a decision on whether to approve or reject the project. If the Council approves the project, the list of conditions is sent to the proponent with directions that if the proponent is agreeable to the conditions of approval it must enter into a legally binding agreement in order for the Squamish Nation to enforce compliance with the conditions (“EA Agreement”).

EA Agreement/Certificate

In a typical Crown EA process, a First Nation may develop mitigation measures and conditions, but these are not always considered by the EAO or CEAA and rarely if ever are included in the EA Certificate or Decision Statement as legally binding conditions. Under contract law, the Squamish Nation is able to make its conditions of approval legally binding and enforceable with legal and equitable remedies such as injunctions, specific performance and damages. It is also able to develop a clear and certain process for the proponent to follow in order to satisfy the conditions, leaving the proponent contractual remedies if the process is breached by Squamish. It is essentially a quasi-regulatory process done contractually.

The EA Certificate issued by the Squamish Nation merely evidences the EA Agreement, but is an instrument that can be revoked upon breach of certain conditions under the EA Agreement and the EA Agreement is repudiated.

Of note, a condition to be satisfied beyond those associated with environmental and cultural impacts is an agreement on economic benefits. In the Woodfibre context, that condition applies to the two proponents and the provincial government.

The EA Agreement provides the Squamish Nation with significant decision-making ability regarding the project at the pre-construction, construction, operations and decommissioning stage of the project. Examples are:

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- On the Woodfibre project, seawater cooling had the greatest potential to significantly impact on the Squamish VC and was unfortunately approved under the Crown EA process. A pre-construction condition was that the proponent had to provide further evidence to prove out its conclusions that seawater cooling would not impact significantly on the Squamish VC and it had to also provide studies on the alternatives to this technology. The Squamish Nation would then have final decision on what technology would least impact on its valued component. The result of this was that Squamish directed Woodfibre to use air cooling as the technology on the project. The EAO is now considering an amendment to its EA Certificate and CEAA has the flexibility to accept his change in project due to how the Decision Statement conditions are drafted.
- The pipeline for the Woodfibre project was originally planned to go part way underneath a Wildlife Management Area (“WMA”) in the Squamish River estuary, but resurface within the WMA. A preconstruction condition is that the proponent must tunnel the pipeline completely underneath the WMA, which it is currently complying with.
- The Squamish Nation will take on a governance role by approving certain management plans as well as monitoring and enforcing compliance with of the plans.

Of note, the costs of implementing the EA Agreement are fully covered by the proponent, including monitoring and compliance.

Reconciliation/Harmonization

Reconciliation or harmonization of the Squamish Nation and Crown decisions did not fully materialize on the Woodfibre project. The objective on the Squamish Nations part was to discuss:

- coordination of similar and different conditions with Crown;
- whether the Crown wanted to adopt some Squamish mitigation measures and conditions in EA Certificate and Decision Statement;
- making implementation of the decisions as practical and efficient as possible in terms of monitoring and enforcement; and
- at a government to government level discuss other issues that the EAO/CEAA did not have a mandate to discuss or resolve, such as revenue sharing, replacement lands, a commitment to enter into further government to government discussions on other issues, etc.

Although reconciling and harmonizing the decisions and the practical aspects of implementing the decisions such as reducing duplication and enforcement did not happen, there was some attempt on the Squamish Nation’s part to develop conditions that complemented the EAO and CEAA conditions. Also, the provincial government has entered into discussions with the Squamish Nation regarding revenue sharing and other benefits on the project. The federal government has not.

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How did the Squamish Process address our concerns with CEAA?

The basis for Squamish Process is our inherent right to govern the lands and resources within our Territory and the emerging law regarding Indigenous consent. The project proponent in the Woodfibre case accepted and recognized these rights and is complying with the conditions of approval determined through the Squamish Process. The Squamish Process has made the Woodfibre Project a better project in terms of reducing the potential impacts of the project on the environment and Squamish values and interests through design change. Further, the Squamish Process:

- Allows the Squamish Nation to collect information it finds relevant and necessary to make an informed decision, including assessing a project and coming to conclusions based on our unique Squamish perspective.
- Creates an opportunity for the Squamish Nation to manage its title lands in a way consistent with its laws and community aspirations
- Provides an opportunity for the Crown and Squamish Nation to engage in meaningful consultation that leads to consent and reconciliation, including the provision of economic and other benefit related to the project.
- In the absence of legislation, provides a creative way for the Squamish Nation to develop a project review process that has legally binding terms of participation and mechanisms to enforce compliance.

From the Squamish Nation's perspective, most, if not all, of the deficiencies we find with the CEAA process have been addressed through conducting our own EA process. However, we are the first to explain that conducting an independent EA process is a challenge both in terms of capacity and in coordinating with other levels of government. Based on these two issues, we do see benefits in integrating our EA process with the federal and provincial EA processes in some way.

In a general sense, the Squamish Nation is recommending that under CEAA there is a collaborative EA process developed with First Nations that includes consensus based decision making as well as an opt in provision that allows for a First Nation to conduct its own EA that is coordinated or harmonized with the CEAA process.

The following more detailed recommendations are based on our experience in conducting an independent EA process and from our perspective may answer some of the questions found under the Expert Panel themes *Overarching Indigenous Considerations* and *Coordination*. The recommendations below are not in any particular order of priority.

Recommendations

1. The federal government must recognize the existence of First Nations inherent and constitutional right to govern the lands and resources in its Territory. This has to be the base of any CEAA process.
2. Amend the *Canadian Environmental Assessment Act* to include a broader definition of jurisdiction under section 2(1) to allow for First Nations such as Squamish to conduct

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their own EA under section 18 of the *Act* in cooperation with CEEA, and the province of BC if required. CEEA already has cooperative arrangements with British Columbia through substituted processes, coordinated processes, and equivalency agreements, which should also be done with First Nations that have the capacity and desire to conduct an independent EA. Under these arrangements, which may include the province in some circumstances, CEEA and the Squamish Nation can work out what is best assessed by a First Nation such as Squamish and what is best assessed by other governments and how to coordinate decisions made by each government. Coordinating EA processes under the *Act* provides guidance to project proponents to enter into the First Nation EA process rather than the First Nation using the threat of litigation to leverage participation.

3. Not all First Nations will have the capacity or desire to conduct an independent EA process as described in recommendation number 2. A collaborative EA process should be developed that includes a consensus based decision-making model for those First Nations that do not want to conduct an independent EA. The collaborative EA process should not be rigid and rather should be developed with a First Nation on a project by project basis. However, general principles should be developed and used as a guideline for all First Nation collaborative EA processes. This would be the standard EA process and a First Nation interested in conducting an independent EA could opt in under Section 18 of the *Act*.
4. Even with a cooperative and collaborative approach to environmental assessment, there will be circumstances where First Nations and CEEA will not agree. A consensus based decision-making model with a dispute resolution mechanism in place should be developed as part of the collaborative, harmonized, and coordinated First Nations EA.
5. Approach the development of natural resource projects from the perspective of relationship building between First Nations governments, provincial and federal governments and project proponents. This relationship requires an interests-based approach to reconciliation rather than an analysis of what rights are held at law and the degree of engagement that is required as a result. What this means is changing the conversation from the legal standards of consultation to that of a partnership. This is not to dismiss Canadian and First Nations laws, but to use these laws as a backdrop to form the process and the outcomes sought.
6. Make mandatory a government to government process outside of the EA process to address higher level issues that CEEA does not have a mandate to discuss or resolve. The Squamish Nation has entered into government to government agreements with the province of BC, which has included agreement on revenue sharing and other benefits related to the project. The federal government should follow suit and negotiate with First Nations a fair share of the revenue the federal government will receive from the development of a project among other benefits specific to a project.
7. Provide First Nations with funding and other resources to develop proper planning tools to undertake an EA such as First Nations land use planning, marine use planning, and cumulative effects assessments. With these tools in place, it makes an EA more efficient

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in terms of identifying interests and values and what design changes may be required to avoid or reduce impacts on these interests and values at the earliest stages of the EA process.

8. To address the lack of capacity to fully participate in a collaborative CEAA process, or to conduct a harmonized or coordinated First Nation led process, the federal government should provide a First Nation sufficient funding to cover all costs of such participation and create an obligation under legislation or regulation to create a similar obligation on project proponents. As every project and every First Nation are different, developing a budget based on reasonable costs for a specific project should be developed rather than based on an arbitrary amount in order to create certainty for all. For certainty, funding should be covering costs through the EA including the participation of First Nations in monitoring and enforcement.
9. As mentioned, in the Squamish Process the Squamish Nation also relied on western based science to inform its decision on impacts to its Aboriginal rights and title. And as also mentioned, the Squamish Nation takes issue with biased proponent driven studies being used in the CEAA process. Therefore, independent scientific studies should be used in the EA process whether through consulting firms appointed by consensus or a roster of independent consulting firms to be chosen by the proponents.
10. Stronger involvement in compliance verification may improve First Nation participation and trust in the CEAA process. A framework for cooperative monitoring, training and employment should be developed to ensure the proponent's conditions are met and to strengthen the network for compliance and enforcement from construction through the life of a project. Sufficient funding must also be provided to First Nations to fully participate in compliance and enforcement activities.