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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee

December 19, 2016

The Honourable Catherine McKenna
Minister of Environment and Climate
Change Canada
200 Sacré-Cœur, 2nd Floor
Gatineau QC
K1A 0H3

Subject: KEAC Recommendations for Environmental Assessment under the CEAA (2012)

Dear Madam:

The Kativik Environmental Advisory Committee (KEAC) was established in 1975 pursuant to Section 23 of the *James Bay and Northern Québec Agreement (JBNQA)*¹. Recognized in the *Environment Quality Act (CQLR, c. Q-2)* and the *James Bay and Northern Québec Native Claims Settlement Act (S.C. 1976-1979, c. 32)*, the KEAC is a consultative body to responsible governments in matters relating to environmental and social protection in Nunavik. It is the preferential and official forum of the governments of Canada and Québec, the Kativik Regional Government and the northern villages.

In accordance with its mandate relating to the application and administration of the environmental and social protection regime established under Section 23 of the JBNQA, the KEAC has on a few occasions in the past studied the application of the *Canadian Environmental Assessment Act (CEAA)* in Nunavik.

In March 2002, the KEAC transmitted its concerns to the Federal Administrator of the JBNQA concerning the application of the CEAA in the territory covered by Section 23 of the JBNQA. More specifically, the KEAC set out its opinions and recommendations concerning the overlapping federal environmental assessment procedures applicable in Nunavik². In February 2011, the KEAC presented to the Standing Committee on Environment and Sustainable Development its observations and recommendations during the Standing Committee's review of the CEAA³. In particular, the KEAC recommended that the federal

¹ JBNQA, para. 23.5.1: An Environmental Advisory Committee (hereinafter referred to as the "Advisory Committee"), a body made up of members appointed by the Regional Government, Canada and Québec is established.

² KEAC, *Opinion and Recommendations of the KEAC regarding Double Environmental Assessment of Nunavik Projects by the Federal Government Submitted to the Federal Administrator*, March 21, 2002. Online at: http://keac-cceq.ca/medias/2016/03/LCEE-Avis-recommandations-03-2002_en.pdf.

³ *KEAC Position Paper on the Review of the Canadian Environmental Assessment Act*, February 2, 2011.

government stipulate in the CEAA the primacy of the JBNQA and the environmental and social impact assessment and review procedure contained in Section 23, and that it apply the substitution mechanism under the CEAA for the jurisdictions already having environmental and social assessment duties, responsibilities and functions, i.e. the Kativik Environmental Quality Commission, the Screening Committee, and the Environmental and Social Impact Review Panel (COFEX-North). Notwithstanding, these recommendations were not taken into account in the revised versions of the CEAA.

The continued parallel implementation of the environmental assessment regime under the CEAA in Nunavik runs counter to the provisions of the JBNQA applicable to Inuit. In this context, the opinions and recommendations of the KEAC in 2002 and 2011 continue to be relevant and timely.

The KEAC believes that the review of the federal environmental assessment procedure under the CEAA, 2012 undertaken by the Minister of Environment and Climate Change is a new opportunity to reiterate KEAC concerns regarding the application of the CEAA in Nunavik and to recommend: i) that the primacy of the JBNQA and its environmental and social impact assessment and review procedure be clearly stipulated in the future CEAA; and ii) that the substitution mechanism provided for under the CEAA, 2012 (section 32. (2)) be applied for the jurisdictions already having environmental and social assessment duties, responsibilities and functions in Nunavik, specifically the Kativik Environmental Quality Commission, the Screening Committee, and the Environmental and Social Impact Review Panel (COFEX-North). In this respect, the substitution mechanism should be revised in order to make it adequately flexible so that the federal government is not solely responsible for setting the rules applicable to its implementation.

The position papers produced by the KEAC in 2002 and 2011 (enclosed) provide justifications for the above KEAC recommendations.

Yours Sincerely,



Julie Samson
Chairperson

c.c. Johanne G elinas, Chair, Expert Panel – Review of Environmental Assessment Processes
Ron Hallman, President, Canadian Environmental Assessment Agency

Encl.