

## PRESENTATION TO THE EXPERT PANEL FOR THE REVIEW OF EA PROCESSES

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### CHECK AGAINST DELIVERY

My name is Celesa Horvath. I am an environmental assessment practitioner. For over 26 years, I have been involved in writing, reviewing, and managing EAs, from issues scoping through to monitoring and follow-up, including Aboriginal engagement and public consultation, from small screenings to large panel reviews. I have conducted EAs in most provinces and in the North, and under every iteration of CEAA and its predecessor, the Environmental Assessment Review Process Guidelines Order. My comments today are grounded in that experience and my keen desire to improve the practice of EA in Canada.

There are many aspects of the federal EA legislation and process that warrant improvement, but in the interest of time, I will focus on what I consider to be three key points that are fundamental to strengthening the process, improving its outcomes, and enhancing meaningful participation.

The first of these is **Capacity-Building**. In particular, there is a pressing need for training of all EA participants to ensure they understand the governing regulatory framework, the purpose and scope of EA, the standard methods used in EA, and the process by which EA is administered. In my experience, inadequate capacity in these areas has frequently led to shoddy EA that undermines public confidence in both the process and its outcomes.

First let me focus on the need for training and capacity-building among those who administer the EA process. Many civil servants who are tasked with administering the EA process often receive little or no training, either in the regulatory framework and process or in the methods by which EA is conducted, and/or have little or no experience in either administering or conducting EAs. This has a number of negative consequences.

First, incomplete or methodologically flawed EAs are accepted into the process. What I most often see, as I review EAs, are errors in the setting of temporal and spatial boundaries, incomplete assessment of identified potential effects (that is, they are not properly carried all the way through the assessment), inadequate documentation and justification of the determination of significance, and errors in cumulative effects assessment. When the EA process administrator is not adequately versed in EA methods, such errors can be overlooked. This can lead to effects not being adequately assessed and mitigated, and a consequent loss of public confidence.

Another outcome of inadequate training and experience of administrators is inefficient management of the EA process; this manifests, for example, as requests for information that are inconsistent with the requirements of the legislation and existing guidance material, or duplicative information requests, or information requests that are not relevant to

understanding the environmental effects of a project or to the decision to be made at the end of the process. These inappropriate requests draw considerable effort to address, effort that would be better spent on the material issues of importance in an EA.

The final outcome of inadequate capacity on the part of EA process administrators I wish to highlight is the use of a generic standard template or guidelines for EIS. These have led to broadly scoped, poorly focused EAs that over-tax the limited resources available to all participants in the EA process by requiring the examination of so-called issues that are often not material to the project or the EA decision at hand. [Example: on one project I worked on in Saskatchewan, the draft guidelines required the proponent to assess marine algae. Such inappropriate requests take time and resources to address, and distract from the real issues.]

Capacity-building is also required for other participants in the EA process. Part of the reason there is so much disappointment in the federal EA process stems from a lack of understanding of the purpose and scope of EA, and how it relates to the broader federal public interest decision-making process that takes other factors into consideration. Project-specific EA cannot meet the expectations people have for regional planning or cumulative effects management, nor should it. Effective communication of and education regarding the purpose and scope of project-specific EA, as well as the methods by which EA is conducted, would help to better equip the public to effectively and meaningfully participate in EA.

Training of practitioners is being addressed through a number of initiatives by professional associations, so I won't go into that now, except to acknowledge that it, too, is necessary to improve the quality of EA.

My second key point pertains to **Scoping**. Scoping is absolutely critical to getting EA right. Good scoping focuses the EA on those things that matter most, to people and to the sustainability of the natural and human environment. It is widely understood that it is impractical to assess every effect of every project, and tools have been developed over decades to effectively focus EA on key issues. Yet many EAs suffer from poor scoping that makes the process inefficient, wastes resources, and reduces the relevance of EA to participants and decision-makers. EIS guidelines should be customized to the project to which they pertain, drawing on project-specific information about project-environment interactions that is typically included in the Project Description. This will enhance the quality of EAs and make the process more efficient.

Scoping is perhaps the stage of EA when it is most critical to get input from Aboriginal groups, other stakeholders, and the public about what concerns them. And it is critical that that input be demonstratively considered in a meaningful way, so participants in the EA process have confidence that the EA will address the concerns they have raised (at least those concerns that are within the purview of project-specific EA). Recognizing this, some jurisdictions, notably BC, are shifting Aboriginal engagement and public consultation earlier in the process, on the selection of Valued Components upon which EA is focused. They are demanding strengthened

rationale for VC selection and a clear documentation of how Aboriginal and public input was considered in that process. This would be valuable in the federal EA process as well.

The previous iteration of CEAA, prior to CEAA 2012, explicitly addressed scoping and there were several very important court decisions that further clarified the need for, purpose of, and responsibility for scoping. I encourage the panel to consider the need for greater emphasis on good scoping in their recommendations to government.

My third key point pertains to **Follow-up**. This is perhaps one of the most important yet most overlooked elements of EA. We collectively consistently fail to learn from past EAs. Monitoring and follow-up are supposed to verify whether the actual effects are better or worse than were predicted in an EA, and to assess whether the mitigation is effective. It tells us, were we right? Or did things turn out differently, do we need to make changes in how adverse effects are managed going forward? When we're conducting EAs, the information from monitoring and follow-up from previous EAs is usually not available publicly, so it is difficult to know if what was said would happen actually did. So almost every EA is like starting from scratch, unable to build on the learning of what went before. In my view, monitoring and follow-up data from EAs *must* be made available publicly, preferably on the registry, so that EA process administrators, regulators, practitioners, and the public all can determine what the actual outcomes were and apply this learning in future EA and decision-making going forward. This would also inform better management of cumulative effects at the regional level.

I have additional views on other important aspects of the federal EA legislation and process, such as mandatory timelines and cumulative effects, among other things, and, if I may, I will commit to addressing those in a written submission for your consideration.

Thank you for your attention.

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