



August 28, 2017
Government of Canada
Federal Review of Environmental and Regulatory Processes

Submitted to the Government of Canada online at: http://discussionpaper.ca.engagementhq.com/submission-upload/survey_tools/file-upload

Re: Request for comments on the *Environmental and Regulatory Reviews Discussion Paper*

We are writing in response to the request for input on the *Environmental and Regulatory Reviews Discussion Paper*.¹ We welcome the opportunity to provide comments and commend the Federal Government for seeking feedback on its proposed changes to environmental and regulatory review processes. As we have noted in previous submissions, we believe improving the environmental assessment process is fundamental to creating the conditions for growing long-term investment in Canada.²

With approximately C\$6 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies can mitigate risk and take advantage of emerging business opportunities by integrating best Environmental, Social and Governance (ESG) practices into their strategies and operations. We believe it is not in the interest of responsible long-term investors – the type of investors that we believe the Government of Canada would prefer to invest in this country - that the regulatory system should allow or encourage companies to take risks with environmental management. It is, however, in the interest of those investors that the regulatory system should reduce uncertainty about the environmental impacts of projects, and reward companies that demonstrate leadership in reducing impacts and incorporating best practices.

We share the following brief comments on the discussion paper, but note that in the main, the proposed changes, if implemented, would largely represent a positive change in the Canadian approach to environmental assessment processes.

Addressing Cumulative Effects

We welcome the Federal Government's focus on addressing cumulative effects and integrating strategic frameworks into the environmental assessment process. We believe that the ineffective treatment of cumulative impacts is one of the biggest shortcomings of the current system. We strongly support the proposal to conduct strategic assessments of national environmental frameworks and agree with prioritizing the Pan-Canadian Framework for Clean Growth and Climate Change. As noted in our previous submission, we feel that project-level environmental assessment is hampered by a lack of any integration with the country's climate change strategy.

¹ <https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/share-your-views/proposed-approach.html>

² Our previous submission to the Expert Panel can be found here: <https://www.neiinvestments.com/documents/PublicPolicyAndStandards/2016/Canadian%20Environmental%20Assessment%20Agency%20-%20Review%20of%20Environmental%20Assessment%20Processes%20Letter%202.pdf>



We also strongly agree with the proposal for regional assessments to guide the planning and management of cumulative effects and to identify the potential impacts on the rights of Indigenous peoples. We urge the Federal Government to follow the Canadian Council of Ministers of the Environment (CCME) guidance on Regional Strategic Environmental Assessment (RSEA).³ CCME defines RSEA as “a process designed to systematically assess the potential environmental effects, including cumulative effects, of alternative strategic initiatives, policies, plans, or programs for a particular region.” RSEA differs from our current project-level environmental assessment in that it considers a range of future development scenarios in order to ensure that current and future planning leads to the most desired outcomes, rather than the most likely ones. A defining feature of RSEA is that it places the assessment of cumulative effects at the centre of the process, with key decisions resting on the analysis of cumulative effects. We believe that incorporating this approach into the environmental assessment process would result in outcomes aligned with regional environmental objectives.

In regard to the Federal Government’s request for input into what regions should be prioritized for a regional assessment, we would point to the Northeast region of British Columbia (NEBC). NEBC is subject to significant development pressures, from natural gas and forestry operations to renewable energy and large hydro projects. Development in the region is happening at such a pace that there is little understanding of long-term cumulative impacts or of impacts to the rights of Indigenous communities. At the same time, development in the region is an important economic engine for the province, an important local employer and a key stimulus for investment. As such, it warrants early consideration for a regional assessment.

Early Engagement and Planning

We agree with the recommendation that project proponents be required to engage early in the process with impacted communities, in particular with Indigenous communities. Leading resource companies are aware that early engagement, with the goal of seeking consent, is a clear best practice and key risk mitigation tool. As such, there are already examples of projects where this early engagement has occurred. The Federal Government should reach out to the participants of these projects (corporate and Indigenous) to better understand how this has been done effectively in order to inform its guidelines.

We would also note that the Boreal Leadership Council (BLC) released a report in 2015 titled *Understanding Successful Approaches to Free, Prior, and Informed Consent in Canada. Part I*.⁴ The report seeks to “express multi-stakeholder support for the concept of Free, Prior, and Informed Consent (FPIC) and to promote the understanding of and progress towards its successful negotiation.” We believe the report contains some useful guidance on early engagement efforts.

We would highlight that while early engagement is a clear best practice in project development, implementing such an expectation will require significant capacity building and guidance for both communities and companies. Further, the recommendation for regional assessments is directly linked to, and can be considered an inseparable facet of, the need for direct (and early) engagement between Crown representatives and

³ Canadian Council of Ministers of the Environment (2012). *Regional Strategic Environmental Assessment in Canada: Principles and Guidance*. http://www.ccme.ca/assets/pdf/rsea_in_canada_principles_and_guidance_1428.pdf

⁴ http://borealcouncil.ca/wp-content/uploads/2015/09/BLC_FPIC_Successes_Report_Sept_2015_E.pdf

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Indigenous peoples. In order to facilitate the effective early engagement of industry, the Federal Government should ensure that regional assessments explicitly incorporate the objective of seeking consent for regional development plans.

In regard to the Federal Government's proposal for legislated timelines to ensure that good projects are allowed to proceed in a timely fashion, we are supportive in theory. We believe that projects that have met expectations around community consultation, environmental safeguards, and public benefit should be rewarded with some level of certainty and efficiency. However, we note that the successful imposition of hard timelines will depend on how well the early engagement and planning work is done. In our experience, we have seen that it can take significant time for companies and communities to build the level of trust and understanding that leads to agreements in line with the principles of FPIC. A hard timeline could come into conflict with the natural arc of relationship building. However, the suggestion that exceptions can be made to these timelines with ministerial approval could alleviate this concern.

Partnering with Indigenous Peoples

We strongly support the emphasis on reconciliation and the recognition that improving Indigenous involvement in the environmental assessment process is a crucial aspect of the Crown's responsibility for reconciliation. We believe there will be significant benefit for both Indigenous communities and project proponents if this can be achieved effectively. We would highlight the Federal Government's support of a National Indigenous Guardians Network as an excellent starting point to build upon.⁵ The Guardians program, if supported effectively, would be an excellent fit with the proposed approach to improving Indigenous involvement and we believe should be a strategic focus for the Federal Government.

Contact

In conclusion, we would like to commend the Government of Canada for seeking input on the proposed changes to federal environmental assessment processes. We would be glad to engage further on any of the issues covered in this submission. For follow-up, please do not hesitate to contact me at jbonham@neiinvestments.com, 604-742-8328.

Sincerely,

NEI Investments

A handwritten signature in black ink, appearing to read "Jamie Bonham", written over a white background.

Jamie Bonham
Manager, Corporate Engagement

⁵ <http://www.ilinationhood.ca/our-work/guardians/>

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