

Operational Procedures to Assist in the Implementation of the Environmental Assessment of Projects Subject to the Canada-British Columbia Agreement for Environmental Assessment Cooperation

Parties:

Canadian Environmental Assessment Agency
("Agency")

And

Environmental Assessment Office of British Columbia
("EAO")

WHEREAS Canada and British Columbia signed an *Agreement for Environmental Assessment Cooperation* on March 11, 2004 (2004 Bilateral Agreement);

WHEREAS the Agency and the EAO are committed to the principles and objectives of cooperation embodied in the 2004 Bilateral Agreement;

WHEREAS clause 36 of the 2004 Bilateral Agreement provides that the Agreement is in force for a period of five years and that it may be renewed by mutual agreement, with or without revisions;

WHEREAS the Agency and the EAO wish to confirm their desire to renew the 2004 Bilateral Agreement;

WHEREAS the Agency and the EAO are committed to explore opportunities for collaboration beyond the mechanisms set out in the 2004 Bilateral Agreement;

WHEREAS clause 38 of the 2004 Bilateral Agreement provides that the Agency and the EAO may develop operational procedures to assist in the interpretation and implementation of this Agreement;

WHEREAS section 62 of the *Canadian Environmental Assessment Act* provides that one of the objects of the Agency is to promote harmonization in the assessment of environmental effects at all levels of government;

NOW THEREFORE:

1. (1) The Agency and the EAO agree to maintain a robust joint approach to continuous improvement in the delivery of cooperative environmental assessments, and to have in place appropriate work planning, monitoring and performance management tools to identify, track and evaluate our joint actions.

(2) In that context, the Agency and the EAO will maintain and implement on an ongoing basis a detailed joint work plan to strengthen the delivery of cooperative environmental assessments in British Columbia.

2. The Agency and the EAO will support and promote activities intended to ensure effective and integrated delivery of cooperative environmental assessments, including:

- a. report on performance consistently through the mandatory use of a standardised joint project work planning tool that predicts and measures timelines;
- b. establishment and use of a joint stakeholder advisory committee;
- c. joint staff training sessions;
- d. joint meetings with proponents; and
- e. consideration of opportunities for co-location of offices and staff exchanges, where practical.

3. (1) The Agency and the EAO are committed to using the tools that are available under the *Canadian Environmental Assessment Act* and its regulations, and under the British Columbia *Environmental Assessment Act* and its regulations, in a creative and ambitious manner to minimize duplication.

(2) The Agency will also promote and support the use of the tools that are available to responsible authorities to enhance the administration of the *Canadian Environmental Assessment Act* and its regulations in a similarly creative and ambitious manner to minimize duplication.

(3) In particular, the Agency and the EAO will explore and encourage the use of tools and mechanisms that are available to better integrate their respective environmental assessment requirements into a single process, including those established under section 17 of the *Canadian Environmental Assessment Act* and section 27 of the British Columbia *Environmental Assessment Act*.

(4) The Agency will work with relevant federal authorities and with the EAO to identify within the next 6 months at least one project in relation to which the delegation mechanism established under section 17 of the *Canadian Environmental Assessment Act* could be used on a pilot basis to explore the extent to which it can support an appropriate integration of the requirements of the *Canadian Environmental Assessment Act* into the provincial environmental assessment process. An evaluation of the pilot(s) will be undertaken, with a view of examining no later than in 24 months the opportunities for future application of this mechanism.

(5) The EAO will work with the Agency and relevant federal authorities to identify within the next 6 months at least one project in relation to which the mechanism established under section 27 of the British Columbia *Environmental Assessment Act* could be used on a pilot basis to explore the extent to which it can support an appropriate integration of the requirements of the British Columbia *Environmental Assessment Act* into the federal environmental assessment process. An evaluation of the pilot will be

undertaken, with a view of examining no later than in 24 months the opportunities for future application of this mechanism.

4. The Agency and the EAO agree that in renewing the 2004 Bilateral Agreement, some revisions should be recommended, including:

- a. new clauses committing the parties to coordinate their respective environmental assessment processes in circumstances where one party determines that a project is to be assessed by a review panel under its environmental assessment legislation, and the other party determines that for the purpose of its own environmental assessment legislation, a different level of assessment is appropriate;
- b. description of the key coordination steps and mechanisms in circumstances described in paragraph a) above; and
- c. new clauses in the Aboriginal Interests section (clauses 25 to 29) to:
 - i. promote and facilitate the exchange of information between the parties with a view to helping each other in their efforts to meet their respective constitutional or common law duties to consult and accommodate Aboriginal peoples in the most efficient and effective manner possible; and
 - ii. confirm that the parties will inform Aboriginal peoples of their intent to exchange information for the purpose described in subparagraph (i) above.

5. Any Party may terminate this Memorandum of Understanding upon giving 30 days written notice to terminate to the other Party.

This memorandum of understanding is dated for reference the _____ day of December, 2008.

(Original signed on December 19, 2008)

Signed:

(Signed on behalf of Canada by Peter Sylvester)

Peter Sylvester
President
Canadian Environmental Assessment Agency

(Signed on behalf of British Columbia by Robin Junger)

Robin Junger
Associate Deputy Minister and Executive Director
Environmental Assessment Office
Province of British Columbia