

**Canada-British Columbia Environmental Assessment
Delegation Agreement**

BETWEEN British Columbia Environmental Assessment Office (EAO)

AND Canadian Environmental Assessment Agency (CEA Agency)
Fisheries and Oceans Canada (DFO)

IN REGARDS TO THE: Proposed Line Creek Operations Phase II Project

WHEREAS:

- A. Canada and British Columbia respect each other's constitutional responsibilities, including a shared responsibility for the environment;
- B. Canada and British Columbia are committed to the principles of cooperative environmental assessment as set forth in the *Agreement for Environmental Assessment Cooperation* signed on March 11, 2004;
- C. Section 62 of the *Canadian Environmental Assessment Act* (the "Act") provides that one of the objectives of the CEA Agency is to promote harmonization in the assessment of environmental effects at all levels of government;
- D. Subsection 17(1) of the Act enables the conduct of screenings or comprehensive studies to be delegated to a person, body or province;
- E. Canada and British Columbia signed *Operational Procedures to Assist in the Implementation of the Environmental Assessment of Projects Subject to the Canada-British Columbia Agreement for Environmental Assessment Cooperation* on December 19, 2008 which describes a shared objective of testing the delegation mechanism established under section 17 of the Act;
- F. Teck Coal Limited (the "Proponent") has submitted a project description in support of its proposal to develop two new coal mining operating areas known as Line Creek Operations Phase II (hereinafter "the proposed Project") adjacent to the north boundary of the existing Line Creek Operation approximately 22 kilometres northeast of Sparwood in southeastern British Columbia. The proposed Project would expand the existing Line Creek Operation by about 1,100 hectares in order to mine an additional 52 million metric tonnes of clean coal, and extend the life of the existing mine -by about 20 years at the current capacity of approximately 10,700 tonnes per day. The proposed Project would use existing mine infrastructure to process and load the coal, and would generate approximately 600 million cubic metres of waste rock.

- G. The proposed Project is subject to both a screening level environmental assessment under the Act and to an environmental assessment under the British Columbia *Environmental Assessment Act*; and,
- H. DFO is the sole Responsible Authority in relation to the proposed Project.

THE PARTIES AGREE AS FOLLOWS:

1.0 DEFINITIONS

The following terms used in this agreement have the following meanings:

“Assessment Report” is a report prepared on completion of the environmental assessment that presents the findings of the assessment, including how the party that conducted the assessment arrived at its conclusion and any proposed mitigation measures, and that meets the requirements of sections 16 and 18 of the Act.

“Federal Authority” means a federal department that is in possession of specialist or expert information or knowledge with respect to the proposed Project.

“Responsible Authority” means a Federal Authority that has identified a responsibility to conduct an environmental assessment of the proposed Project pursuant to section 5 of the Act; for the purposes of this proposed Project, the Responsible Authority is DFO.

“Federal Coordination Regulations” means the *Regulations Respecting the Coordination by Federal Authorities of Environmental Assessment Procedures and Requirements*.

“Working Group” refers to the review team organized and chaired by the EAO to provide input to the environmental assessment process, including technical specialists and representatives from municipal, regional, provincial and federal governments and potentially affected Aboriginal groups.

2.0 PURPOSE

The purpose of this agreement is to delegate the screening level environmental assessment of the proposed Project and the preparation of the screening report to the EAO pursuant to subsection 17(1) of the Act.

The agreement sets out the roles and responsibilities of the parties with respect to the delegation of the federal environmental assessment process.

The Assessment Report to be prepared by EAO through the delegated process will be used by the Responsible Authority to take the appropriate course of action pursuant to paragraph 20(1)(a), (b), or (c) of the *Canadian Environmental Assessment Act*.

Although the parties recognise that more detailed information or analysis may be required at the permitting stage to inform necessary regulatory decisions by federal and provincial agencies, the EAO agrees to assist the Responsible Authority in obtaining this detailed information or analysis to the extent possible during the environmental assessment of the proposed Project.

3.0 DETERMINATION OF SIGNIFICANCE

All parties recognise that the Responsible Authority retains the authority to take a course of action decision pursuant to subsection 20(1) of the Act. This includes the authority, under section 20(1) of the Act, for the Responsible Authority to refer the proposed Project to the Minister for a referral to a mediator or a review panel in accordance with section 29 of the Act.

4.0 EAO

- 4.1 The EAO will ensure that the environmental assessment is conducted in a manner that addresses the scoping determination made in accordance with subsection 7.1 of this Agreement.
- 4.2 If necessary, the EAO will ensure the Proponent provides the information required to determine whether any federal department, in addition to DFO, is a Responsible Authority.
- 4.3 The EAO will establish and maintain a project file that is consistent with the requirements of section 55.4 of the Act. At the conclusion of the environmental assessment, the EAO will provide a copy of the project file to the Responsible Authority.
- 4.4 Opportunities will be provided to Federal Authorities to contribute to the environmental assessment through participation on a Working Group established and chaired by the EAO.
- 4.5 The EAO will prepare an Assessment Report that meets the requirements of a screening report under the Act.
- 4.6 The EAO will provide the Responsible Authority and Federal Authorities with the opportunity to review and comment on the draft Assessment Report prior to the document being finalized by the EAO.

- 4.7 The EAO will provide the finalized Assessment Report to the Responsible Authority for sign-off and course of action decision at the conclusion of the delegated environmental assessment process.
- 4.8 The EAO will maintain a record of information gathered from Aboriginal groups during the environmental assessment, and provide ongoing updates of the record to the Responsible Authority and CEA Agency throughout the environmental assessment, and a complete copy of the record at the conclusion of the environmental assessment.

5.0 CEA AGENCY

- 5.1 The CEA Agency will provide guidance and advice in interpreting and implementing this agreement and on the requirements of the Act.
- 5.2 The CEA Agency will monitor and report on the delegation process and support the parties in resolving any issues or differences of opinion that may arise during the delivery of the delegated process.
- 5.3 The CEA Agency will conduct an evaluation of the delegation including: the results of the environmental assessment and subsequent federal permitting/authorization processes, the effectiveness of the delegated process in meeting the federal government's obligations under the Act, and any efficiencies achieved in terms of process timelines and federal resources.
- 5.4 The CEA Agency will act as Federal Crown consultation coordinator for the duration of the delegated environmental assessment process, including notifying potentially affected Aboriginal groups of the delegation agreement, coordinating the Responsible Authorities' consultation efforts with the EAO, obtaining information from the EAO's consultation activities to inform and assist in fulfillment of the federal duty to consult, and maintaining the federal Crown consultation record.

6.0 FEDERAL AUTHORITIES

- 6.1 Federal Authorities will provide, pursuant to their area(s) of jurisdiction, input as necessary to the delegated environmental assessment process, and to the preparation of the Assessment Report through involvement in the Working Group.

7.0 RESPONSIBLE AUTHORITY

- 7.1 The Responsible Authority retains the responsibility to scope the proposed Project pursuant to section 15 of the Act, and approve any determinations made with respect to sections 16(1)(e) and 16(3) of the Act.
- 7.2 The Responsible Authority will post project specific information on the internet site component of the Canadian Environmental Assessment Registry, so that the requirements of section 55.3 of the Act are met. The Responsible Authority will provide advice to the EAO concerning which documents are to be contained in the project file referred to in section 4.3 of this Agreement
- 7.3 The Responsible Authority shall make best efforts to make its course of action decision pursuant to subsection 20(1) of the Act within 45 days of receipt of the finalized Assessment Report from the EAO.
- 7.4 The Responsible Authority will provide assistance within its jurisdiction to the EAO to ensure that mitigation, monitoring or follow-up measures identified through the environmental assessment are appropriately undertaken.

8.0 ABORIGINAL ENGAGEMENT AND CONSULTATION

- 8.1 Information gathered during the delegated environmental assessment process from potentially affected Aboriginal groups will inform consultations with respect to existing and potential Aboriginal and treaty rights undertaken by the Responsible Authority in relation to any contemplated permitting/authorization decisions.

9.0 AGREEMENT ADMINISTRATION

- 9.1 If a conflict arises in which a resolution is not obtained at the Working Group level, the unresolved issues will be referred to the appropriate senior officials of the parties involved.
- 9.2 Amendments to this agreement can be made with the mutual consent of the parties identified herein.
- 9.3 This agreement may be terminated with mutual consent of all signatory parties, or any one of the parties may terminate this agreement by providing 60 days' prior notification to all other parties.

- 9.4 This agreement is considered complete and fulfilled once the Responsible Authority has taken its course of action decision under subsection 20(1) of the Act.
- 9.5 The termination of this agreement does not abrogate the Responsible Authority's and Federal Authorities' ability to continue to participate in the BC *Environmental Assessment Act* review in accordance with the provisions of the *Canada-British Columbia Agreement for Environmental Assessment Cooperation*.
- 9.6 This agreement may be signed in counterparts.

10.0 SIGNATURES

ORIGINAL SIGNED BY:

Robin Junger

*Associate Deputy Minister
BC Environmental
Assessment Office*

Signed this 2 day of March , 2010.

ORIGINAL SIGNED BY:

Jason Quigley

*Regional Director
Pacific and Yukon Region
Canadian Environmental
Assessment Agency*

Signed this 2 day of March , 2010.

ORIGINAL SIGNED BY:

Paul Sprout

*Regional Director General
Fisheries and Oceans
Canada Pacific Region*

Signed this 26 day of February , 2010.