



File: 30050-20/CLET-10

Reference: 348122

September 17, 2019

SENT VIA EMAIL

David McGovern
President
Impact Assessment Agency of Canada
22nd Floor, Place Bell
160 Elgin Street
Ottawa ON K1A 0H3
David.McGovern@canada.ca

Dear David McGovern:

I am writing to request substitution pursuant to the *Impact Assessment Act* (IAA) and in accordance with the Canada-British Columbia Impact Assessment Cooperation Agreement (the Cooperation Agreement).

The Environmental Assessment Office (EAO) looks forward to working with the Impact Assessment Agency of Canada (the Agency) on the assessment of the Cedar LNG Project in the spirit and intent of the Cooperation Agreement. The EAO has been working with the Agency on the development of an Assessment Plan for the early engagement stage of the impact assessment to define how the EAO will be addressing the substitution requirements of the IAA. The EAO is committed to this cooperative approach with the Agency in the review of the Cedar LNG Project.

The Cedar LNG Project is reviewable under the British Columbia Reviewable Projects Regulation (BC Reg. 720/02) and a Section 10 Order was issued on August 30, 2019 requiring the proponent to undergo a provincial environmental assessment under British Columbia's *Environmental Assessment Act*, SBC 2002, c.43 (the Act).

In accordance with the IAA and Cooperation Agreement, British Columbia requests that Canada's Minister of Environment and Climate Change (Minister) approve the

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substitution of British Columbia's assessment process for the proposed Cedar LNG Project, should an assessment be required under the IAA.

I understand that the Agency received an initial Project Description for the Cedar LNG Project on August 30, 2019 and intends to conduct a comment period for the public and Indigenous peoples shortly. In accordance with the Cooperation Agreement, therefore, I am submitting this request for substitution to allow the Agency to consult the public and Indigenous groups on the request as part of your planned comment period. I am aware that the Agency must first determine whether an impact assessment is required before the Minister can respond to this request for substitution.

If substitution is approved by the Minister, British Columbia commits to meet the legislative requirements of both Canada and British Columbia and fulfil the conditions for substitution under IAA in the spirit and intent of Section 7 of the Cooperation Agreement and conditions the Minister may establish. The EAO will take into account the factors set out under Subsection 22(1) of IAA when conducting the assessment and providing an Assessment Report with findings and conclusions.

In addition, if the Minister approves the substitution request, consultation and engagement with Indigenous peoples and the public will be carried out in accordance with the spirit and intent of the Cooperation Agreement and British Columbia's Act. The EAO will work with the Agency to coordinate communications with Indigenous peoples in order to explore with them the potential of entering into agreements or arrangements pertaining to the impact assessment, where those Indigenous peoples have powers or duties in relation to or have interests in collaborating with the parties on impact assessments. The EAO will work with the Agency to coordinate funding for participation in the impact assessment, to the extent practicable, including the provision of funding to Indigenous peoples to support their participation in the impact assessment.

Any legal orders issued by the EAO under Section 11 of British Columbia's Act for Cedar LNG Project, if the Minister approves the substitution request, pursuant to Section 31 through 35 of the IAA, will contain the following requirements. Under Section 33(1), conditions for substitution include that the request and the scope of the environmental assessment addresses:

- Factors to be considered under Section 22(1) of the IAA, including effects within federal jurisdiction as defined in Section 1 of that Act;
- Federal authorities with relevant specialist or expert knowledge will be given an opportunity to participate;
- The ability exists to enter into arrangements with provincial authorities, a body established by land claim, or an Indigenous governing body;

- The opportunity for the Agency to participate in consultation and engagement with Indigenous groups that may be affected by carrying out the Cedar LNG Project;
- The Public is given an opportunity to meaningfully participate and to provide comment on a draft assessment report;
- The Public will have access to assessment records, including the final report (subject to Section 13 of the Cooperation Agreement);
- At the end of the assessment, a report will be submitted to the federal Minister including reports under Subsections 33(2) and 33(2.1) of the IAA;
- Where necessary, any other condition that the federal Minister establishes to address federal jurisdiction interests (Note: the Agency will discuss proposed conditions with the EAO prior to making the recommendation to the Minister); and
- If substitution is approved the scope of the environmental assessment must take into account the factors under Subsection 22(1) of *Impact Assessment Act*, 2019, including, but not limited to, any environmental effects as defined by Section 2 of the IAA.

I look forward to hearing from you as soon as possible regarding the Minister's decision on this request for substitution.

With best regards,

<Original signed by>

Kevin Jardine
Associate Deputy Minister

cc: Scott Bailey, Assistant Deputy Minister
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