

**IN THE MATTER OF THE ENVIRONMENTAL ASSESSMENT ACT S.B.C. 2002, c.43  
(the "ACT")  
AND  
AN ENVIRONMENTAL ASSESSMENT OF THE  
SOUTH FRASER PERIMETER ROAD PROJECT (the "PROJECT")**

**ORDER UNDER SECTION 11**

**WHEREAS:**

- A. The Project is one of a number of highway improvements proposed by the Ministry of Transportation (MOT) for the Lower Mainland of British Columbia. The Project is a reviewable public highway project under Table 14 of the *Reviewable Projects Regulation*, BC Reg. 370/2002;
- B. On February 3, 2003, a shorter version of the Project was designated as reviewable by an Order under Section 10 of the Act;
- C. On January 8, 2004, the Executive Director of the Environmental Assessment Office (EAO), in accordance with section 4(1)(b) of the Act, delegated certain statutory and regulatory powers and duties in relation to the Project, defined in an assignment contract, to the undersigned Project Director;
- D. On February 2, 2004, MOT (the Proponent) wrote the EAO Executive Director and provided an update of the Project to include a western portion of the alignment, comprising a section from the intersection of Highway 17 at Deltaport Way to the Nordel Interchange on Highway #91. The letter also asked the EAO to re-activate previously organized working groups for the review of the 40 km of contiguous highway improvements under the Act;
- E. The Executive Director of EAO acknowledged the above referenced MOT letter and informed by letter of February 16, 2004 that there was no need to amend the existing Section 10 Order;
- F. The Project is subject to the *Canadian Environmental Assessment Act* S.C. 1992, c. 37; and
- G. Pursuant to section 14.1 of the Canada-British Columbia Agreement for Environmental Assessment Cooperation, British Columbia and Canada will develop a project-specific work plan for a cooperative environmental assessment of the Project.

**NOW THEREFORE:**

Pursuant to section 11 of the Act, I order that the environmental assessment of the Project be conducted according to the scope, procedures and methods set out in Schedule A enclosed.



Jan E. Hagen  
Project Director  
South Fraser Perimeter Road Project  
Dated October 21, 2004 at Victoria, British Columbia

Enclosure: Schedule A

# **SCHEDULE A TO ORDER UNDER SECTION 11 OF THE ACT**

## **SCOPE, PROCEDURES AND METHODS FOR THE ENVIRONMENTAL ASSESSMENT OF THE SOUTH FRASER PERIMETER ROAD PROJECT**

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# Part A

## General Provisions

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### 1. DEFINITIONS FOR SCHEDULE A

“**Act**” has the same meaning as on page 1 of this Order;

“**Agency**” or “**Agencies**” means an organizational entity or entities of the federal, provincial or municipal governments;

“**Application**” means the Proponent’s application for an environmental assessment certificate for the Project, made under section 16 of the Act;

“**Application Review Stage**” means the stage of the assessment process referred to in section 5 of this Order;

“**Application Supplement**” means any information supplementary to the Application required for the assessment and referred to in section 15.2 of this Order;

“**Application Terms of Reference**” means the information which the Project Director requires in the Application, pursuant to section 16(2) of the Act and section 11.4 of this Order;

“**Assessment Report**” means the report referred to in section 21 of this Order;

“**First Nations Consultation Assessment**” means the review conducted in accordance with section 17 of this Order;

“**Environmental Assessment Office**” means the office set up under section 2 of the Act;

“**Order**” includes all pages of this Order, including this Schedule (Schedule A);

“**Pre-application Stage**” means the stage of the assessment process referred to in section 5 of this Order;

“**Project**” has the same meaning as on page 1 of this Order;

“**Project Director**” has the same meaning as on page 1 of this Order;

“**Project Information Centre**” means the project information centre set up under section 25 of the Act;

“**Proponent**” has the same meaning as on page 1 of this Order;

“**Public Consultation Assessment**” means the review conducted in accordance with section 17 of this Order;

“**Review Participants**” means any or all of the parties to the assessment of the Project, including the public, First Nations, government agencies and/or the Proponent; and

“**Working Groups**” means an advisory body referred to in section 6 of this Order.

### 2. REVIEWABILITY OF THE PROJECT

The Project constitutes a reviewable project pursuant to section 10(1)(c) of the Act.

## **Part B**

### **Scope of the Project and the Assessment**

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#### **3. SCOPE OF THE PROJECT**

##### **3.1 General:**

The South Fraser Perimeter Road (SFPR or Project) is one of three strategic road and bridge projects being considered by the British Columbia Ministry of Transportation (MOT or Proponent) that comprises the proposed Gateway Program. The other two projects are:

- Port Mann/Highway 1 improvements; and
- North Fraser Perimeter Road.

The proposed projects are located along and across the Fraser River. The overall purpose of the Gateway Program is to improve economic competitiveness and liveability by addressing impacts of growing congestion in the Lower Mainland region. More information on the Gateway Program is available at [www.gatewayprogram.bc.ca](http://www.gatewayprogram.bc.ca).

##### **3.2 Project Description:**

The SFPR is planned as a primarily new high standard (80 km/h) four-lane facility along the south side of the Fraser River in the municipalities of Delta and Surrey. During the initial pre-application project description for SFPR, the proposed route along the south bank of the Fraser River would link the Port Kells area in Surrey, to the Nordel Interchange at the south end of the Alex Fraser Bridge (Highway 91). The proposed route connects the Fraser River Crossing (approximately 184th Street in Surrey), west to Deltaport Way near Tsawwassen. The SFPR would link the Port Kells Industrial Area, CN Intermodal Yard, the Vancouver Port Authority's Fraser Surrey Docks, Tilbury Industrial area and Bridgeview with the Provincial highway system and indirectly through the existing road network with key activity centers, such as the Vancouver International Airport, Tsawwassen Ferry Terminal, Canada/U.S. border crossings, and the Vancouver Port Authority's facility at Deltaport. Key objectives of the project are to provide improved mobility for commercial vehicle and commuter traffic.

##### **3.3 Project Scoping:**

The joint federal/provincial review of the Project shall include, but not necessarily be limited to:

- The highway, as proposed, between the Highway 17 and Deltaport Way interchange and the Fraser River Crossing at about 184<sup>th</sup> Street, including all associated structures and infrastructure essential to construct and operate the highway. This will include fabrication of associated structures, such as – but not limited to – bridges; pilings; structural fills; works in a water body; material handling and laydown areas; fuel storage facilities; sewage disposal; construction platforms; storage sites and all equipment and machinery. For the purpose of “project scoping” and until the final road alignment has been agreed to, the Project can be divided into land use sections as follows:
  - Highway 17 at Deltaport Way to 80<sup>th</sup> Street, with 3 options for this section at Ladner – land use is a mix of residential, civic institutional, recreational and agricultural.
  - 80<sup>th</sup> Street to the Alex Fraser Bridge – land use is light industrial.
  - Alex Fraser Bridge to Bridgeview – land use is primarily light industrial and residential.

- Bridgeview to the Port Mann Bridge and 176<sup>th</sup> Street – land use is primarily light industrial, residential, undeveloped land and rural residential.

Project construction and operational activities will likely include:

- New pre-cast and fabrication facility for concrete structural components, if required.
- All highway-related construction activities including clearing and grubbing, grading, excavation and fill, drainage works, and re-cycling of project construction material.
- Construction, decommissioning and reclamation/revegetation related to any temporary structures, work areas and haul roads.
- Modifications of existing infrastructure, such as roads that may need to be widened or relocated as a result of the Project.
- Maintenance work.
- Any off-site or on-site compensation and/or mitigation works, if required.

#### **4. SCOPE OF THE ASSESSMENT**

- 4.1 The assessment of the Project will include consideration of those potential environmental, economic, social, heritage and health effects as determined by the Project Director, and as reflected in the federal/provincial work plan for the joint review (see section 7 of this Order). Such effects are determined on or before the date of issuing the Approved Application Terms of Reference specified in section 11.4 of this Order. The assessment will take into account practical means to prevent or reduce to an acceptable level any potential significant adverse effects.
- 4.2 Pursuant to section 11(3) of the Act, the assessment of the potential effects must take into account and reflect government policy identified for the Project Director by a government agency or organization responsible for the identified policy area.

## **Part C**

### **Assessment Procedures – General Provisions**

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#### **5. STAGING OF THE ASSESSMENT PROCESS**

- 5.1 The assessment process will consist of two review stages – the pre-application stage and the Application review stage.
- 5.2 The pre-application stage:
- (i) focuses on identifying Project-related issues to be assessed, based on consultations conducted by the Proponent or the Environmental Assessment Office with interested and potentially affected parties, including the public, First Nations and federal, provincial and local government agencies;
  - (ii) will include finalizing of the Application Terms of Reference, as provided for in section 11.4 of this Order; and
  - (iii) will conclude with submission of the Application by the Proponent to the EAO.
- 5.3 The Application review stage will focus on review of the Application, and will conclude with a decision by Ministers on the Application under section 17(3) of the Act.
- 5.4 The pre-application stage commenced prior to the date on which this Order takes effect and as outlined in the Section 10 Order issued on February 3, 2003. By issuing this Section 11 Order, the Project Director accepts previous activities undertaken by the Proponent, the Environmental Assessment Office (the “EAO”) and other review participants as supporting consultation, distribution of Project review material and technical information needs of the pre-application stage.

#### **6. ADVISORY WORKING GROUPS**

- 6.1 Prior to the date on which this Order takes effect, the Project Director established two advisory working groups (the “Working Groups”):
- (i) the Biophysical/Technical Working Group (BTWG) , which provides advice with respect to biophysical and technical design issues raised by the Project; and
  - (ii) the Socio-economic/Community Working Group (SEWG), which provides advice with respect to the socio-economic and community issues raised by the Project.
- 6.2 The Working Groups have been established to act as a sounding board, advising the EAO on various aspects of the assessment of the Project pursuant to the Act.
- 6.3 Membership in the Working Groups may change over the duration of the review, but will be posted on the Project Information Centre of the EAO, pursuant to section 8.7 of this Order.
- 6.4 As of the date on which this Order takes effect, both of the Working Groups include participation by representatives of federal, provincial and local government agencies, and opportunities are being provided for participation by identified First Nations assessed to have a potential interest in the Project and identified in section 13.1 of this Order.

- 6.5 Prior to the date on which this Order takes effect, the Project Director has consulted government agencies which are not members of the Working Groups and may continue to do so with respect to specific issues relevant to their mandates.
- 6.6 During the future course of the assessment, the Project Director may establish other advisory mechanisms to assist with the assessment.
- 6.7 Members of the Working Groups, when requested by the Project Director, undertake the following specific tasks from the perspective of the interests and/or program responsibilities of the organizations which they represent:
- (i) reviewing and commenting on draft work plans for background technical studies and reports, commissioned by the Proponent to support the Application;
  - (ii) reviewing and commenting on such background technical studies and draft reports;
  - (iii) providing advice on consultation activities;
  - (iv) developing, reviewing and commenting on the Application Terms of Reference;
  - (v) screening, reviewing and commenting on the Application;
  - (vi) providing advice on issues raised during the course of the assessment; and
  - (vii) providing advice on the assessment findings to be reported to Ministers at the conclusion of the assessment and project review.
- 6.8 The Working Groups are continued under this Order.

## **7. JOINT FEDERAL/PROVINCIAL ENVIRONMENTAL ASSESSMENT OF THE PROJECT**

- 7.1 Pursuant to section 14.1 of the *Canada-British Columbia Agreement for Environmental Assessment Cooperation*, the Project Director is developing with federal government officials a project-specific work plan for a cooperative environmental assessment of the Project.
- 7.2 Such a project-specific work plan shall be in compliance with the review process agreed to in "Operational Procedures for Typical BCEAA Process under Section 10(1)c and CEAA Screening", dated June 3, 2004.

## **8. CONSULTATION AND ACCESS TO INFORMATION**

- 8.1 The Proponent and the EAO will undertake consultation during the review of the Project pursuant to the Act and in compliance with the *Public Consultation Policy Regulation* (B.C. Reg. 373/02).
- 8.2 Prior to the date on which this Order takes effect, the Project Director has referred the Proponent to consultation guidance in the following documents published by the Environmental Assessment Office:
- (i) "Public Consultation Strategy/Framework for Lower Mainland Infrastructure Project, April 2003"; and
  - (ii) "Guide to the British Columbia Environmental Assessment Process, March 2003".
- 8.3 While the First Nations may choose to participate in public consultation activities, a separate First Nations consultation initiative is always required for projects subject to reviews pursuant to the Act. Prior to the date on which this Order takes effect, the Project Director has advised the Proponent to seek First Nations consultation

guidance from the documents referenced in section 8.2 of this Order as well as from "Provincial Policy for Consultation with First Nations, October 2002".

- 8.4 During the future course of the assessment, the Project Director may provide further written instructions to the Proponent on public and First Nations consultation.
- 8.5 Prior to the date on which this Order takes effect, the Project Director, through the Environmental Assessment Office's Project Information Centre, has made available to Review Participants certain records generated for the purposes of this assessment.
- 8.6 Through the Project Information Centre, and in accordance with section 6 of the *Public Consultation Policy Regulation* (B.C. Reg. 373/02), the Project Director will continue to make records generated for the purposes of the assessment available to Review Participants.
- 8.7 The Project Director will also make available, through the Project Information Centre, the following records within 7 days of being received or made final by the Project Director:
- (i) a list of names of the members of any advisory mechanism established for the review and as defined under section 6 of this Order;
  - (ii) minutes of or notes from meetings of any advisory mechanism established under section 6 of this Order;
  - (iii) summaries or minutes of meetings with government officials, First Nations and the public provided by the Proponent to the Project Director; and
  - (iv) applications for approvals requested to be reviewed concurrently pursuant to section 4 of the *Concurrent Approval Regulation* (B.C. Reg. 371).

## **9. PUBLIC NOTICE**

- 9.1 The Proponent, by means of newspaper advertisements, open letters, or any other manner satisfactory to the Project Director, must provide public notice of:
- (i) the Project being reviewed pursuant to the Act;
  - (ii) the availability of the Application for public review and comment, and the time limits for the formal public comment period referred to in section 19.2 of this Order;
  - (iii) if scheduled, the purpose of, and the time limits for, the formal public comment period provided for the review of an Application Supplement; and
  - (iv) the date, time and location of any open houses or general public meetings held in respect of the assessment, whether organized by the Proponent or the EAO.
- 9.2 The Project Director must approve the content, format and publication schedule for newspaper advertisements required under section 9.1 of this Order.
- 9.3 Public notice of the availability of the Application for review must also include reference to any concurrent review of approval applications pursuant to the *Concurrent Approval Regulation* (B.C. Reg. 371/2002).
- 9.4 The Proponent will be required to complete any additional measures for notification specified by the Project Director.



## **Part D**

### **Assessment Procedures – Pre-application Stage**

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#### **10. REVIEW AND ENDORSEMENT OF PROPONENT'S WORK PLANS**

- 10.1 Prior to the date on which this Order takes effect, the Project Director consulted on draft work plans, referenced in section 6.7 of this Order, with established Working Groups and identified First Nations. Review Participants having expressed an interest in review participation pursuant to the Act discussed these work plans at telephone conference meetings prior to the date on which this Order takes effect. Notes from such meetings are posted on the Project Information Centre pursuant to section 8.7(ii) of this Order.
- 10.2 The Project Director may establish any advisory mechanism determined necessary to assist with the review and endorsement of the Proponent's existing and new draft work plans, studies and impact assessments leading up to the development of the Application Terms of Reference, referred to in section 11 of this Order. One such advisory mechanism is the establishment of the Working Groups referred to in section 6 of this Order.

#### **11. APPLICATION TERMS OF REFERENCE**

- 11.1 Pursuant to section 16(1) of the Act, the Proponent of a reviewable project for which an environmental assessment certificate is required, may apply in writing to the EAO for such a certificate.
- 11.2 Pursuant to section 16(2) of the Act, an application for an environmental assessment certificate must contain the information the Project Director, in a delegated authority, requires.
- 11.3 Such information requirements will be described in the terms of reference for the Application (the "Application Terms of Reference"). By policy the Project Director will solicit such draft Application Terms of Reference from the Proponent. This document shall comply with the general guidance included in EAO's "A Guide to Preparing Terms of Reference for an Application for an Environmental Assessment Certificate in British Columbia", July 2004.
- 11.4 Prior to the date on which this Order takes effect, such draft Application Terms of Reference were submitted by the Proponent to the EAO, and the Project Director has taken and will take the following steps:
- (i) Distribute this document, when found acceptable by the EAO, to the Working Groups and First Nations identified in section 13.1 for comments;
  - (ii) Collect and assess all comments received on this document; and
  - (iii) Consult with the Proponent and the Review Participants on the amended document referred to in section 11.4(ii) of this Order and issue to the Proponent the final and approved Application Terms of Reference (the "Approved Application Terms of Reference");
- 11.5 The Project Director may set any timeline required to finalize the Approved Application Terms of Reference, following a process outlined in section 11.4 of this Order.

- 11.6 The Project Director may establish any advisory mechanism determined necessary to assist with the development of the Application Terms of Reference.
- 11.7 Where requested by the Project Director, the Proponent must provide the Project Director with summaries or minutes of meetings conducted by the Proponent with government agencies, First Nations, special interest groups and the public during the development of the Application Terms of Reference.

## **12. PUBLIC CONSULTATION**

- 12.1 The Project Director acknowledges the public consultation undertaken by the Proponent during an earlier Project definition phase, taking place between December 1998 and December 2001 (and reported on by Karyo Communications Inc. on February 2003).
- 12.2 The Project Director is therefore satisfied that the previous public consultation, referred to in section 12.1 of this Order, on the eastern section of the alignment, has formed an adequate basis for identifying public views, issues and concerns with respect to the Project for the purposes of developing the draft Application Terms of Reference.
- 12.3 The Proponent is required, prior to filing an Application, to conduct public consultation by the following means, based on a written program acceptable to the Project Director, and in general compliance with section 8 of this Order:
- (i) by holding open houses or general public meetings and various stakeholder meetings in the communities in the vicinity of the Project; and
  - (ii) by informing the public on the Project and its environmental assessment through appropriate media coverage.
- 12.4 Other than as provided for in section 12.3 of this Order, and as guided by general consultation mechanisms referenced in section 8 of this Order, the Project Director does not require the Proponent to conduct further public consultation during the pre-application stage. However, if the Proponent opts to do so, details of any additional pre-application public consultation initiatives and the public views elicited through these additional initiatives must be reported in the Application.

## **13. FIRST NATIONS CONSULTATION**

- 13.1 Prior to the date on which this Order takes effect, the Proponent has contacted and/or held meetings with the following First Nations for discussions with respect to their interests in, and the assessment of, the Project:
- (i) the Musqueam Indian Band;
  - (ii) the Kwantlen First Nation;
  - (iii) the Katzie First Nation;
  - (iv) the Sto:Lo Nation;
  - (v) the Tsawwassen First Nation;
  - (vi) the Semiahmoo Nation;
  - (vii) the New Westminster Indian Band; and
  - (viii) the Kwayhquiltlum First Nation
- 13.2 As of the date on which this Order takes effect, the Proponent must continue to make reasonable efforts to obtain from First Nations listed in section 13.1 of this Order an indication of the extent of their respective interests, if any, in the assessment of the Project and advise the Project Director accordingly.

- 13.3 For the remainder of the pre-application stage, the Proponent must make reasonable efforts to consult with First Nations in accordance with (i) general First Nations consultation principles, (ii) any existing agreement or Memorandum of Understanding reached with any First Nations listed in section 13.1 of this Order, and/or (iii) with any future agreements or Memoranda of Understanding with the First Nations listed in section 13.1 of this Order with respect to the assessment of the Project, and must advise the Project Director as early as practicable if circumstances arise which, in the Proponent's view, prevent the Proponent from completing the pre-application stage in accordance with general First Nations consultation principles and said agreements, in which case, the Project Director may specify measures to be implemented by the Proponent and/or the EAO for First Nations consultation.
- 13.4 Prior to the date on which this Order takes effect, the Project Director has:
- (i) written to the Chiefs and Councils of the First Nations listed in section 13.1 of this Order, inviting their participation in the assessment of the Project;
  - (ii) more specifically, offered to meet with them, and invited them to become members of the Working Groups;
  - (iii) provided them with the same information with respect to the assessment of the Project as distributed to the Working Groups; and
  - (iv) met with selected leaders of the First Nations listed in section 13.1. of this Order, soliciting their interest in participating in the assessment of the Project pursuant to the Act.
- 13.5 In the absence of any agreement between the Proponent or the EAO and the First Nations referenced in section 13.1 of this Order, on their participation, if any, in the assessment of the Project, the Project Director will continue to provide the First Nations with information on the Project on an ongoing basis.
- 13.6 For the purposes of completing the pre-application stage of the assessment process, the First Nations referenced in section 13.1 of this Order will continue to be consulted, both as Review Participants, as potential members of the Working Groups and individually, until the Application Terms of Reference, referenced in section 11 of this Order, are finalized.
- 13.7 If the referenced First Nations decide that they wish to participate in the work of the Working Groups, or to participate in the assessment of the Project in other ways, the Project Director will facilitate arrangements for their participation.

#### **14. GOVERNMENT AGENCY CONSULTATION**

- 14.1 Prior to the date on which this Order takes effect, the Proponent consulted federal, provincial and local government agencies on an individual basis, and the EAO consulted them through the work of the Working Groups identified in section 6 of this Order.
- 14.2 As of the date on which this Order takes effect, government agencies have been given the opportunity to review and comment on draft study work plans proposed for technical and socio-economic studies to support the Application.
- 14.3 Pursuant to section 6.7 of this Order, for the purposes of completing the pre-application stage of the assessment process, these government agencies will continue to be consulted, both through the Working Groups and individually, until the Application Terms of Reference, referenced in section 11 of this Order, are finalized.

## Part E

### Assessment Procedures – Application Review Stage

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#### 15. PREPARING AND SUBMITTING THE APPLICATION

- 15.1 Pursuant to section 16(2) of the Act, the Proponent must prepare the Application to meet all information requirements identified by the Project Director. The Approved Application Terms of Reference defined in section 11.4 of this Order constitutes the required information.
- 15.2 With the prior agreement of the Project Director, and only in special circumstances, the Proponent may submit some of the information required by the Approved Application Terms of Reference or any other supplementary review material as agreed to or directed by the Project Director, in a single supplementary document (the “Application Supplement”), filed separately from, and after, the Application has been filed for screening under section 16 of this Order. Such submissions shall form part of the same review process as defined in this Order.
- 15.3 The Proponent is to supply to the Project Director, pursuant to section 5 of the *Prescribed Time Limits Regulation* (B.C. Reg. 372/2002), an electronic version of the Application and any Application Supplement, in an acceptable format, and the number of hard copies to be requested by the Project Director for screening pursuant to section 16 of this Order.

#### 16. SCREENING THE APPLICATION

- 16.1 The Project Director will screen the Application to determine if it meets the requirements identified in the Approved Application Terms of Reference. The screening will be completed within 30 days of receipt of specified copies, as provided for in section 2 of the *Prescribed Time Limits Regulation* (B.C. Reg. 372/2002) and will reflect a federal/provincial harmonized review process referred to in section 7 of this Order.
- 16.2 Based on the screening under section 16.1 of this Order, the Project Director will either:
- (i) accept the Application for formal detailed review, if it satisfies the information requirements set out in the Approved Application Terms of Reference, subject to any prior agreement under section 15.2 of this Order that specified information will be filed later, in an Application Supplement; or
  - (ii) advise the Proponent that deficiencies exist which must be rectified in further supplements, such as in an Application Supplement; or
  - (iii) advise the Proponent that deficiencies exist which must be rectified before the Application can be accepted for formal detailed review, in which case, a revised Application must be resubmitted for further screening.
- 16.3 If by prior agreement under section 15.2 of this Order, the Proponent intends to provide some of the required review information in an Application Supplement, the Proponent should confirm which required information is to be filed in the Application Supplement when submitting the Application for screening. The Project Director will define the process and the timelines for screening any Application Supplement.

- 16.4 The Project Director may establish any advisory mechanism determined necessary to assist with the screening of the Application and any Application Supplement. One such advisory mechanism is the Working Groups referred to in section 6 of this Order.

## **17. PUBLIC AND FIRST NATIONS CONSULTATION ASSESSMENT**

- 17.1 Pursuant to section 4(1)(b) of the *Public Consultation Policy Regulation* (B.C. Reg. 373/02), the Application must include:
- (i) a summary and evaluation of any consultation activities that the Proponent has already carried out, prior to submitting an Application, in relation to the Project; and
  - (ii) a proposal for a consultation program the Proponent will carry out for purposes of the review of the Application.
- 17.2 In accordance with section 4(2) of the *Public Consultation Policy Regulation* (B.C. Reg. 373/02), the Project Director will assess the adequacy of the Proponent's past and proposed consultation programs, as reported by the Proponent pursuant to section 17.1 of this Order, and provide the results of that assessment (the "Public Consultation Assessment") to the Proponent within 30 days of receiving the Application for screening pursuant to section 16 of this Order.
- 17.3 The Public Consultation Assessment will be provided in writing and will specify any further consultation activities that the Project Director considers necessary to ensure adequate consultation, including time limits and responsibilities for carrying out consultation activities specified pursuant to section 4(3) of the *Public Consultation Policy Regulation* (B.C. Reg. 373/02).
- 17.4 A separate evaluation and reporting on First Nations consultation will also be undertaken on a basis similar to that described in section 17.1 through 17.3 of this Order and will result in a First Nations Consultation Assessment.

## **18. REVIEWING THE APPLICATION**

- 18.1 Upon acceptance of the Application for review under section 16.1 of this Order and upon acceptance of any Application Supplement under section 16.2 of this Order, the Proponent will submit to the Project Director an electronic version of the Application and any Application Supplement, in an acceptable format, and the number of hard copies to be requested by the Project Director. The Project Director may instruct the Proponent to distribute hard copies of the Application and any Application Supplement directly to identified reviewers.
- 18.2 The Project Director will establish an advisory mechanism determined necessary to assist with the review of the Application.
- 18.3 Where requested by the Project Director, the Proponent must provide the Project Director with summaries or minutes of meetings conducted by the Proponent with government officials, First Nations and the public during the review of the Application.

## 19. PUBLIC, AGENCY AND FIRST NATIONS CONSULTATION DURING THE APPLICATION REVIEW STAGE

- 19.1 The review of the Application and any Application Supplement shall be conducted in a manner specified by the Project Director and in general compliance with the consultation and access to information procedures pursuant to section 8 of this Order.
- 19.2 The Project Director will hold a formal public comment period on the Application and any Application Supplement pursuant to section 7 of the *Public Consultation Policy Regulation* (B.C. Reg. 373/02). The dates and duration of the formal public comment period will be determined by the Project Director within 7 days of accepting the Application for review under section 16 of this Order.
- 19.3 The Proponent will be required to complete the public consultation program for the Application review stage, including any additional measures for consultation specified by the Project Director under section 17.3 of this Order, by the end of the formal public comment period set by the Project Director.
- 19.4 The Project Director will invite government agencies, either as part of the Working Groups – or as part of any other advisory mechanism determined by the Project Director – or individually, to submit comments on the Application and any Application Supplement within time frames determined by the Project Director, as follows:
- (i) for the Application, by the last day of the formal public comment period on the Application; and
  - (ii) for any Application Supplement, by the last day of any public comment period on the Application Supplement, if organized and at a date to be determined by the Project Director.
- 19.5 In addition, for the purpose of reviewing the Application and any Application Supplement, the Project Director may consult individual government agencies to assist with the review of the assessment material.
- 19.6 During the Application review stage, the Proponent, with the involvement of the EAO where appropriate, must make reasonable efforts to consult with First Nations listed in section 13.1 in accordance with:
- (i) general First Nations consultation principles;
  - (ii) any existing agreement and/or Memorandum of Understanding, and/or
  - (iii) any future agreements or Memoranda of Understanding with First Nations, concluded after the date on which this order is issued, with respect to the assessment of the Project; and
  - (iv) the consultation program proposed in the Application, subject to any modification of that program ordered by the Project Director under section 17.3 of this Order,
- and must advise the Project Director as early as practicable if circumstances arise which, in the Proponent's view, prevent the Proponent from completing application-stage First Nations consultation measures in accordance with paragraphs (i) and/or (ii) and (iii), above, in which case the Project Director may require the Proponent to undertake alternative or additional measures.
- 19.7 Consultation meetings will be arranged by mutual agreement with potentially affected First Nations listed in section 13.1 of this Order, and consultations under section 19.6 of this Order will include consideration of:

- (i) any aboriginal interests which may be potentially affected by the Project, as identified through on-going consultations with the First Nations, or in other studies or Project background material developed during the pre-application stage; and
  - (ii) measures to avoid, mitigate or, where appropriate, otherwise accommodate for them.
- 19.8 The Proponent must report to the Project Director the results of any consultations with First Nations which it conducts for the purposes of section 19.6 of this Order.
- 19.9 Based on the Proponent's reports received under section 19.8 of this Order, if any, the Project Director may require the Proponent or the EAO to implement additional measures for First Nations consultation.
- 19.10 Time frames for consultation with First Nations during the Application review stage will be determined during the Application review stage, and will depend on such factors as the provisions contained in any agreements with First Nations with respect to their participation in the assessment and the nature of the First Nations interests and issues identified as a result of consultation referred to in section 19.7 of this Order.

## **20. PROPONENT RESPONSES TO COMMENTS RECEIVED**

- 20.1 Where requested by, and within any time limits set by the Project Director, the Proponent will have the opportunity to respond to issues that are identified in Agency, First Nations and public comments received during the review of the Application and any Application Supplement, and that the Project Director considers being within the scope of the assessment.
- 20.2 Where requested by, and within any time limits set by the Project Director, the Proponent must provide specified additional information in relation to, or to supplement, the information provided in the Application and any Application Supplement to address issues identified during the course of the review of this documentation.

## **21. PREPARING THE ASSESSMENT REPORT**

- 21.1 Pursuant to section 17(1) of the Act, the Project Director will prepare a report on the assessment of the Project (the "Assessment Report") for submission to the Minister of Sustainable Resource Management; the Minister of Water, Land and Air Protection; and the Minister of Community, Aboriginal and Women's Services (the "Ministers") for their consideration in making a decision on the Application under section 17(3) of the Act.
- 21.2 For the purposes of completing the Assessment Report, the Project Director may consult, as necessary:
- (i) Review Participants in general;
  - (ii) First Nations;
  - (iii) Working Groups; and
  - (iv) any other advisory mechanism deemed necessary to advise on the drafting of the Assessment Report.

## REFERRAL TO THE MINISTERS

- 22.1 Pursuant to section 3 of the *Prescribed Time Limits Regulation* (B.C. Reg. 372/2002), the Project Director will refer the Application to the Ministers for a decision within 180 days of either:
- (i) the date on which the Project Director notifies the Proponent under section 16(4)(a) of the Act that the Application has been accepted for formal detailed review following a screening; or
  - (ii) if the Project Director requires additional copies of the Application under section 16(4)(b) of the Act and section 18.1 of this Order, the date on which the Project Director receives those copies.