



Transport Canada Transports  
Canada Canada

Programs Branch  
Pacific Region  
Suite 820 - 800 Burrard Street  
Vancouver, BC V6Z 2J8

Groupe des programmes  
Region du Pacific  
800, rue Burrard, Bureau 820  
Vancouver, C-B V6Z 2J8

June 24, 2016

Jocelyne Beaudet, Panel Chair;  
David Levy, Panel Member;  
Diana Valiela, Panel Member  
c/o Debra Myles, Panel Manager  
Canadian Environmental Assessment Agency  
160 Elgin Street  
Ottawa, ON K1A 0H3  
Sent by email to: [Panel.RBT2@ceaa.gc.ca](mailto:Panel.RBT2@ceaa.gc.ca)

Dear Ms. Beaudet:

**Subject: Participation of Transport Canada in the Roberts Bank Terminal 2 Project Review Panel Process**

Thank you for your letter of June 9, 2016 requesting confirmation of the nature of information or advice that Transport Canada may contribute to the review of the Roberts Bank Terminal 2 Project (the Project), marine shipping associated with the Project, or the potential environmental effects.

Transport Canada is responsible for federal transportation policies and programs. It seeks to ensure that air, marine, road and rail transportation are safe, secure, efficient, and environmentally responsible. To that end, we can provide information for the panel's consideration in relation to marine safety and security, Canada Port Authorities, navigation protection, transportation of dangerous goods, rail safety, and civil aviation.

The information requested is outlined below:

**1. *The details of the legislative, policy or other directives under the responsibility of Transport Canada that may relate to the Project, marine shipping associated with the Project, or environmental assessment***

#### Marine Safety and Security

The *Constitution Act, 1867* grants the federal government exclusive legislative jurisdiction over navigation and shipping.

Canada's marine safety and security system is comprehensive, with international and domestic components. The international governance framework is formed by several organizations, including the United Nations and the International Maritime Organization, that provide the fora for Canada and other member countries to meet to discuss issues of international interest including safety, certification and training of people who work at sea, pollution, as well as oil spill preparedness response and cooperation. The agreements reached at these fora are reflected in international conventions including:

- *International Convention for the Safety of Life At Sea (SOLAS);*

**Canada**

- *International Convention on Standards of Training, Certification and Watchkeeping for Seafarers (STCW);*
- *International Convention for the Prevention of Pollution from Ships (MARPOL);*
- *International Convention on Oil Pollution Preparedness, Response and Co-operation (OPRC);*  
and
- *Maritime Labour Convention, 2006.*

As a member nation, Canada adopts the principles of these international agreements into domestic legislation and regulations. Our primary legislation is the *Canada Shipping Act, 2001*. The Act protects the health and well being of people and the environment, regulates marine transportation and provides authority to investigate and, if necessary, to prosecute. Other important legislation includes: the *Pilotage Act*; the *Canada Marine Act*; the *Marine Liability Act*; and the *Marine Transportation and Security Act*.

The international nature of shipping requires member countries to work together through Memoranda of Understanding to share responsibilities. Together, international programs such as Flag State and Port State Control as well as domestic safety and security programs enable Canada, and other member countries to inspect foreign vessels for safety and security and enforce legislation.

For example, in Canada there are specific domestic regulations and oversight programs that uphold the international conventions governing ballast water management, biofouling of vessels' hulls, air emissions from vessel engines and other discharges including garbage, sewage, and bilge water.

#### Navigation Protection

Transport Canada's Navigation Protection Program administers the *Navigation Protection Act*, through the review and authorization of works in navigable waters. The majority of this work involves evaluating impacts to navigation and acting to minimize risks to navigation. As such, the *Navigation Protection Act* is designed to protect the safety of navigation by regulating the:

- Construction, placement, etc. of works in, on, over, under, through or across navigable waters in Canada that interfere with navigation;
- Removal of certain obstructions and other things in navigable waters; and
- Depositing or throwing of material such as gravel, mine tailings in navigable waterways.

#### Canada Port Authorities

The *Canada Marine Act* is the principal legislation governing federal ports in Canada, including Canada Port Authorities. Under the authority of *Canada Marine Act*, Canada Port Authorities maintain safe navigation and environmental protection within port boundaries, including directing and controlling vessel traffic.

#### Transportation of Dangerous Goods

Transport Canada develops safety standards and regulations, provides oversight and gives expert advice on the transportation of dangerous goods, in order to promote public safety by all modes of transport in Canada. Dangerous goods must be handled, offered for transport and transported in accordance with the *Transportation of Dangerous Goods Act, 1992*.

#### Rail Safety

Under the authority of the *Rail Safety Act*, Transport Canada is responsible for overseeing the continued safety of federally-regulated rail line systems through regulations, outreach and oversight. Transport Canada also has regulatory powers under the *Rail Safety Act* over federally-regulated railway company operating crews and equipment. As well, through a Memorandum of Understanding with the Department of Employment and Social Development Canada, Transport Canada has

jurisdiction for *Operational Health and Safety Regulation* issues pertaining to operating crews of federally regulated railway companies.

Proposed *Locomotive Emissions Regulations* under the *Railway Safety Act* would control criteria air contaminant emissions from locomotives operated by railway companies under federal jurisdiction.

### Civil Aviation

Transport Canada is responsible for advancing the safety of all aspects of civil aviation in Canada (civil aviation is distinguished from military aviation) by ensuring compliance with the *Canadian Aviation Regulations* and the *Aeronautics Act*. As part of the regulatory framework, we develop policies, guidelines, regulations, standards and educational materials to advance civil aviation safety.

## **2. A description of Transport Canada's interest or expertise as it relates to the Project, marine shipping associated with the Project, or the environmental assessment**

### Marine Safety and Security

Marine shipping associated with the Project is governed by Canada's marine safety and security system. Vessels must comply with the *Canada Shipping Act, 2001* to transit in Canadian waters; no special permits or approvals are required for the Project.

### Navigation Protection

The *Navigation Protection Act* does **not** apply where a Canada Port Authority, listed on Schedule 2 of the *Port Authority Operating Regulation*, is a proponent of a project. As highlighted on page 2, an approval under the *Navigation Protection Act* will not be required as the Project is within the jurisdiction of the Vancouver Fraser Port Authority and the Port Authority is the proponent of the Project.

### Transportation of Dangerous Goods

In the context of the Project, the *Transportation of Dangerous Goods Act, 1992* and its regulations apply to dangerous goods that may be transported for the construction of the Project. The *Transportation of Dangerous Goods Act, 1992* excludes dangerous goods confined only by the permanent structure of a vessel as these dangerous goods are regulated by the *Canada Shipping Act, 2001* and the regulations thereunder.

### Rail Safety

Under the authority of the *Rail Safety Act*, Transport Canada is responsible for overseeing the continued safety of federally-regulated rail line systems; however, Transport Canada notes that the Project rail infrastructure may be provincially regulated. We understand that provincial rail safety authorities have chosen to adopt the federal *Rail Safety Act* and associated rules and regulations (cited in the Environmental Impact Statement as Transport Canada's Rules Respecting Track Safety requirements), which will also apply should the project rail infrastructure be provincially regulated.

Transport Canada understands that the proposed project railway infrastructure will be used by Canadian National Railway and Canadian Pacific Railway, which are federally regulated railway companies. As such, Transport Canada will have regulatory powers under the *Rail Safety Act* over these railway company operating crews and equipment. As well, through a Memorandum of Understanding with the Department of Employment and Social Development Canada, Transport Canada will have jurisdiction for *Operational Health and Safety Regulation* pertaining to the operating crews of these railway companies regardless of where they operate.

Proposed *Locomotive Emissions Regulations* under the *Railway Safety Act* would regulate air pollutant emissions from locomotives. Federally regulated railway companies operating on the

proposed project rail infrastructure would also be subject to criteria air contaminant emissions standards.

#### Civil Aviation

In the context of civil aviation, Transport Canada will review the Project prior to construction for potential obstacles to air navigation requiring aviation obstruction marking or lighting as per Canadian *Aviation Regulations 601 - Division III - Marking and Lighting of Obstacles to Air Navigation and Standard 621 - Obstruction Marking and Lighting*.

### **3. *The details of when and how Transport Canada interacts with other organizations in the course of fulfilling its legislative, policy or other directives as responded to above***

#### Marine Safety and Security

While Transport Canada is the federal lead in regulating shipping in Canada, many parties are directly involved in upholding marine safety and security in Canada.

Other federal departments and agencies, including Fisheries and Oceans Canada, Canadian Coast Guard, Environment and Climate Change Canada, Canada Port Authorities, and Pilotage Authorities, have key roles that enhance marine safety and security, influence marine shipping activities, and help protect the marine environment. The Canadian Coast Guard plays an important role in the operational aspects of the marine safety and security system. Under the Pilotage Authority, highly skilled marine pilots use their local waterway expertise to safely navigate a vessel through our coastal waters.

Transport Canada also works with stakeholders, including, industry associations, Indigenous groups, labour unions, and federal and provincial governments, through engagement bodies such as the Canadian Marine Advisory Council and the Regional Advisory Councils.

#### Transportation of Dangerous Goods

Transport Canada works closely with departments and agencies such as the Canadian Nuclear Safety Commission, Environment Canada, the Explosives Branch of Natural Resources Canada, and Health Canada. These groups provide specialized advice on their respective regulations. They also participate in compliance inspection and accident response activities within their own area of responsibility.

#### Rail Safety

Under a Memorandum of Understanding, Transport Canada and the Canadian Transportation Agency coordinate activities that are related to railway infrastructure and operations.

#### Vancouver Fraser Port Authority

Canada Port Authorities are statutory, not-for-profit corporations without share capital, incorporated by the Minister of Transport by the issuance of letters patent. Typically, Canada Port Authorities manage federal real property and property owned in their own name by leasing the land to terminal operators. Canada Port Authorities are intended to operate commercially, in a financially self-sufficient manner and independently of the federal government within the confines of the legislative and regulatory framework and their letters patent. They are managed by a board of directors composed of individuals nominated by the Minister of Transport in consultation with port user groups and appointed by the federal government and individuals appointed directly by the federal, provincial and municipal governments as set out their letters patent. Under the CMA, Port Authorities can only undertake activities set out in their respective letters patent. Amending a Port Authority's letters patent requires Governor in Council approval. Once Governor in Council approval is received, the Minister of Transport may issue supplementary letters patent.

## Federal Environmental Assessment

Transport Canada, as Project Issues Coordinator for this Project, facilitates a coordinated approach throughout the review process while also ensuring adherence to the service standards and roles and responsibilities of all Parties as described in the Project Agreement (enclosed). Additionally, an Assistant Deputy Minister Major Port Projects Review Steering Committee has been established to provide an oversight role throughout the project.

Transport Canada participates in the federal review team, which coordinates communication among the federal participants during the review panel process. Transport Canada also participates in whole-of-government consultations with Indigenous peoples in its role as an expert federal authority.

In conclusion, thank you for the opportunity to confirm the nature of information Transport Canada may contribute during the Review Panel process for the Roberts Bank Terminal 2 Project. We are also looking forward to providing information at the June 28, 2016 orientation session.

To supplement this information, Transport Canada, Canadian Coast Guard and Pacific Pilotage Authority would be pleased to offer the *Voyage of a Vessel* presentation, a narrative that explains how a ship is regulated in practice. The presentation is a concise and practical portrayal of a typical inbound voyage of a vessel. The presentation would require 1-2 hours; please don't hesitate to let us know if you would like to schedule a time for this presentation.

Please feel free to contact Gina Aitchison, Senior Environmental Officer, at [gina.aitchison@tc.gc.ca](mailto:gina.aitchison@tc.gc.ca) if you have any questions.

Sincerely,

<Original signed by>

Lori Young, /   
Regional Director, Programs - Pacific  
Transport Canada

*Enclosed.*

*c.c.: by email:*

Michael Keenan, Deputy Minister, Transport Canada  
Helena Borges, Associate Deputy Minister, Transport Canada  
Gina Aitchison, Transport Canada

# PROJECT AGREEMENT FOR THE ROBERTS BANK TERMINAL 2 PROJECT IN BRITISH COLUMBIA

## PREAMBLE

5

The Canadian Environmental Assessment Agency (CEA Agency) has commenced an environmental assessment (EA) pursuant to the *Canadian Environmental Assessment Act, 2012* (CEAA 2012) for Port Metro Vancouver's (the Proponent) Roberts Bank Terminal 2 Project (the Project).

10

The proposed project consists of the construction and operation of a new three-berth marine container terminal located at Roberts Bank in Delta, British Columbia, approximately 35 kilometres south of Vancouver. Located next to the existing Deltaport and Westshore Terminals, the Project would provide an additional 2.4 million units of container capacity per year at Roberts Bank

15

The CEA Agency and the BC Environmental Assessment Office (BC EAO) have agreed to coordinate the federal and provincial EAs to the extent possible pursuant to the [\*Canada - British Columbia Agreement for Environmental Assessment Cooperation\*](#).

20

Nothing in this Project Agreement (the Agreement) fetters the powers, statutory authorities and functions of federal departments/agencies and their respective Ministers.

25

The signatories to this Agreement (the Parties) commit to work together to facilitate an effective, accountable, transparent, timely and predictable federal review in relation to the proposed project and to contribute to fulfilling the Crown's duty to consult Aboriginal groups.

## 1.0 PURPOSE

30

The purpose of this document is to provide detailed information pertaining to the federal review process where the CEA Agency is the responsible authority and where the environmental assessment is conducted by a Review Panel pursuant to CEAA 2012.

## 2.0 ROLES AND RESPONSIBILITIES

35

The following federal departments and agencies have identified an interest in the Project, and will participate in the federal review:

40

- Responsible authority: The CEA Agency will ensure that an EA by Review Panel is conducted, an EA Report is prepared and that an EA Decision Statement is issued;
- Federal authorities (FAs): Natural Resources Canada (NRCan), the Department of Fisheries and Oceans (DFO), Environment Canada (EC), Transport Canada (TC), Aboriginal Affairs and Northern Development Canada (AANDC), Canadian Transportation Agency (CTA) and Health Canada (HC) may be in possession of specialist or expert information or knowledge with respect to the Project;

45

- Regulatory departments, TC, DFO and EC, may have regulatory and statutory duties in relation to the Project;
- 5 • AANDC has advisory responsibilities in relation to the Project to support consistency with the Government of Canada's Whole of Government approach to Aboriginal consultation activities; and,
- 10 • Transport Canada is the Project Issues Coordinator (PIC) during the review process. TC will play a facilitator role in issues coordination, and in ensuring an efficient, effective process. The PIC role will include tracking issues that cut across departments, facilitating resolution of issues that may arise amongst federal departments or with the proponent, coordinating an interdepartmental Communications working group, and coordinating cross-cutting legal issues with the Department of Justice, for issues that arise under the scope of the federal  
15 environmental assessment.

### **3.0 ABORIGINAL CONSULTATION**

20 The Parties are committed to a Whole of Government approach to Aboriginal consultation that is integrated with the EA and regulatory processes, to the extent possible. For more information on the Whole of Government approach, including roles and responsibilities of departments and agencies, as well as coordination during the project review refer to Annex IV below.

25 Where applicable, the terms and conditions of all existing agreements or protocols and/or Memoranda of Understanding (MOUs) between the Crown and Aboriginal groups will be respected.

### **4.0 TIMELINES**

30 Timelines identified in the Agreement represent the time expected to be taken by the federal Review Panel and federal departments and agencies in carrying out their respective tasks, for further details please refer to Annex I, II and III below. The timelines do not account for time taken by the Proponent to collect information or undertake a study at the request of the CEA Agency, the federal Review Panel or the Minister of the Environment during the EA or  
35 regulatory departments during the regulatory phase. The Governor in Council may, on recommendation of the Minister of the Environment, extend the time limit of the EA. The CEA Agency must post a notice of any extension granted on the Canadian Environmental Assessment Registry Internet site (CEARIS).

40 The target timelines for the federal review are as follows:

- a) Completion of the EA, as per CEAA 2012 – 24 months from the referral of the designated Project to a Review Panel to the Minister of the Environment's (the Minister) EA Decision Statement about whether the Project is likely to cause significant adverse  
45 environmental effects. The Minister has set timelines for the environmental assessment of the Roberts Bank Terminal 2 Project as follows:

- 5
- i. The timeline for the Review Panel to be established (pre-panel phase) is 150 days (5 months) from the date of referral of the Project up to the establishment of the Review Panel.
  - ii. The timeline for the Review Panel to submit its report (panel phase) is 430 days (14 months) from the date of establishment of the Review Panel.
  - iii. The timeline for the federal Minister of Environment’s decision statement (post-panel phase) is 150 days (5 months) from the date of submission of the Review Panel's report.
- 10
- b) Regulatory decision pursuant to the *Canadian Environmental Protection Act* (CEPA) – 90 days from the receipt of a complete Application and after the Minister’s EA Decision Statement posted on the Canadian Environmental Assessment Registry Internet Site (CEARIS). The 90-day period does not include any period during which consultations, additional analysis or additional information from the Applicant are required to meet
- 15
- Disposal at Sea requirements. Note: This timeline is therefore contingent on receiving a complete application during the EA process, in order to adequately undertake consultation.
- 20
- c) Regulatory decisions pursuant to the *Fisheries Act* – 90 days from receipt of a complete application submitted in accordance with, and subject to, the requirements of the *Applications for Authorization under Paragraph 35(2)(b) of the Fisheries Act Regulations*, assuming the GiC decision has been made and no additional consultation is required.
- 25
- d) Regulatory decisions pursuant to the *Species at Risk Act* – 90 days from receipt of a complete application submitted in accordance with the *Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations*, including financial security and offsetting plan if required by DFO, and assuming no further consultation is required.
- 30
- During the EA process, regulatory departments and agencies will confirm whether regulatory decisions are required in relation to a project as appropriate. Submission of the regulatory and technical information necessary for regulatory departments and agencies to make their regulatory decision within the proposed timeframe is at the discretion of the proponent and will not affect the timelines set for the EA process.
- 35

## 5.0 COMPLIANCE AND ENFORCEMENT

40

The Minister of the Environment’s EA Decision Statement informs the proponent whether the designated project, after taking into account mitigation measures, will result in significant adverse environmental effects. It includes conditions associated with mitigation measures and follow-up with which the proponent must comply.

45

The CEA Agency provides an oversight and coordination role to ensure a coherent approach to compliance and enforcement of CEAA 2012.



## **6.0 ADMINISTRATION**

### *Issues Resolution*

5 The Parties will use their best efforts to resolve any differences of opinion in the interpretation or application of the Project Agreement in an effective and timely manner.

10 Issues relating to the federal review (that are not related to the panel process during the EA by Review Panel) for a project will be resolved through direct discussions and collaboration between the involved Parties, supported by Transport Canada as the PIC.

### *Amendments*

15 During the regulatory phase, the CEA Agency or, regulatory departments and agencies, may recommend to the PIC whether a change to the federal review or to the project warrants an amendment to the Project Agreement. Where there is agreement that an amendment is warranted, and where such amendment is considered significant, the PIC will provide the proposed amendment to the signatories for consideration.

**7.0 SIGNATORIES**

The Parties hereto have signed the Agreement, in counterpart, on the dates indicated below.

5 <Original signed by>

**Natasha Rascanin**  
Assistant Deputy Minister, Programs  
Transport Canada

AUG 19 2014  
Date

10 <Original signed by>

15 **Heather Smith**  
Vice President, Operations  
Canadian Environmental Assessment Agency

Aug 22, 2014  
Date

20 <Original signed by>

**Mike Beale**  
Assistant Deputy Minister,  
Environmental Stewardship  
Environment Canada

22-8-14  
Date

25 <Original signed by>

30 **Kevin Stringer**  
Assistant Deputy Minister,  
Ecosystem and Fisheries Management  
Fisheries and Oceans Canada

AUG 21 2014  
Date

35 <Original signed by>

40 **for Sheilagh Murphy**  
Assistant Deputy Minister,  
Lands and Economic Development  
Aboriginal Affairs and Northern Development Canada  
<Original signed by>

28 Aug/14  
Date

45 **Anil Arora**  
Assistant Deputy Minister,  
Science and Policy Integration  
Natural Resources Canada

Aug 21/14  
Date

50 <Original signed by>

55 **for Geoffrey C. Hare**  
Chair and CEO  
Canadian Transportation Agency

Aug. 26, 2014  
Date

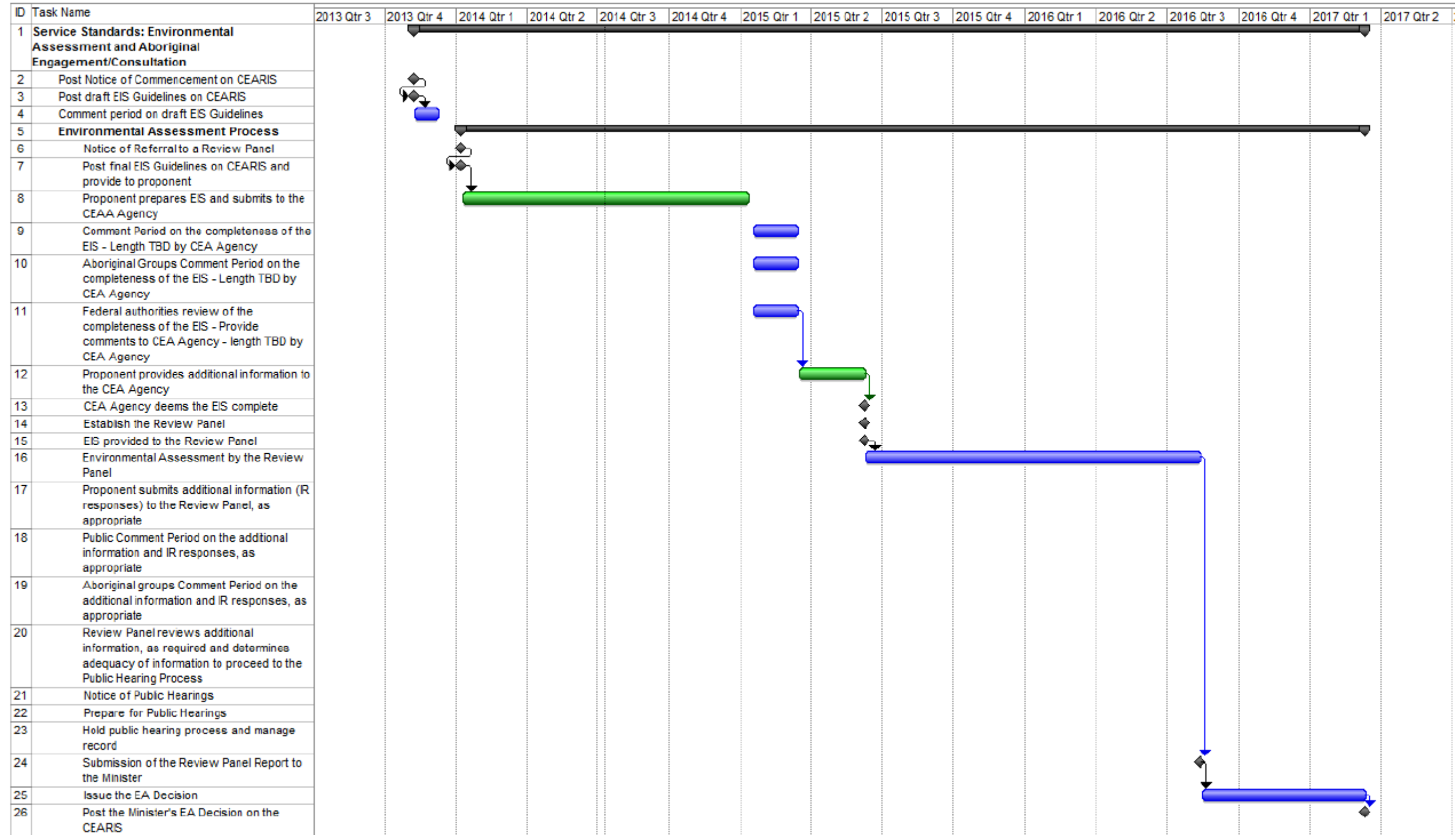
## Annexes

5	Annex I	Key Milestones and Service Standards for the Environmental Assessment and Aboriginal Consultation
	Annex II	Gantt Chart – Target Timelines for the Environmental Assessment
10	Annex III	Gantt Chart – Target Timelines for the Regulatory Phase
	Annex IV	Aboriginal Consultation Approach and Associated Roles and Responsibilities
	Annex V	Responsible Authority: CEA Agency – Roles, Responsibilities
15	Annex VI	Regulatory Federal Authorities: Roles, Responsibilities, Key Milestones and Timelines
	Annex VII	Other Departments and Agencies: Roles and Responsibilities
20		
25		
30		
35		
40		

**Annex I**  
**Key Milestones and Service Standards**  
**for the Environmental Assessment and Aboriginal Consultation**

	Milestone	Lead	Support As Needed	Timeline / Completion Date
1	<i>Post Notice of Commencement on CEARIS</i>	CEA Agency		<i>November 8, 2013</i>
2	<i>Post draft EIS Guidelines on CEARIS</i>	CEA Agency		<i>November 8, 2013</i>
3	<i>Comment period on draft EIS Guidelines</i>	CEA Agency	FAs	<i>November 8 to December 8, 2013</i>
4	<i>Communicate preliminary depth of consultation assessment to Aboriginal groups</i>	CEA Agency		<i>January 7, 2014</i>
5	<i>Post final EIS Guidelines on CEARIS</i>	CEA Agency		<i>January 7, 2014</i>
6	<i>Award Participant and Aboriginal Funding</i>	CEA Agency		<i>June 16, 2014</i>
7	Comment period on draft Panel Terms of Reference	CEA Agency	FAs	Summer-Fall 2014
8	Post final Panel Terms of Reference on CEARIS	CEA Agency		Fall 2014
9	Workshop for interested Aboriginal groups on panel process and their interests/issues	CEA Agency	Relevant FAs	Fall 2014
10	Submit EIS	Proponent	CEA Agency, FAs	To be determined by Proponent; anticipated January 2015
11	Aboriginal consultation on completeness of the EIS	CEA Agency	FAs	Process & schedule to be determined
12	Comment period on completeness of the EIS	CEA Agency	FAs	Length TBD; anticipate starting within 7 days of posting EIS on CEARIS.
13	CEA Agency deems EIS complete.	CEA Agency		Anticipate within 120 days of receipt of EIS (proponent time excluded).
14	Review Panel established	Minister	CEA Agency	Within 150 days of referral of Project (proponent time excluded).
15	Environmental assessment by Review Panel	Panel		To be determined by Panel in compliance with Panel Terms of Reference
16	Submit Panel Report to Minister of Environment	Panel		Within 430 days of establishment of Review Panel (proponent time excluded)
17	Award Aboriginal Funding	CEA Agency		TBD
18	Aboriginal consultation on Panel Report, draft Decision Statement and outstanding consultation issues	CEA Agency and FAs		Begin meetings 30 days post release of Panel Report, after receiving written comments from Aboriginal groups on the report
19	Issue Minister of Environment's EA Decision Statement	CEA Agency	FAs	Within 150 days of receipt of Panel Report

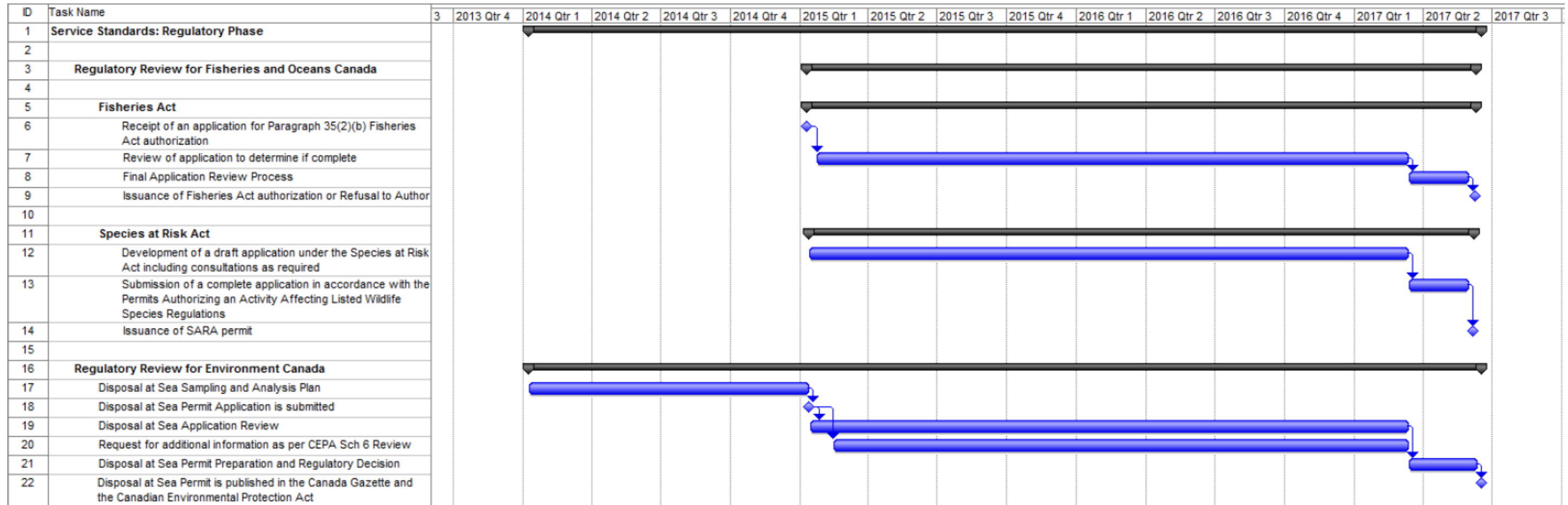
**Annex II  
Gantt Chart: Target Timelines for the EA<sup>1</sup>**



5

<sup>1</sup> The Gantt chart is a baseline against which the timelines, identified in the Agreement expected to be taken by federal departments and agencies in carrying out their respective tasks for the EA will be tracked. The timelines do not account for time taken by participants who are not signatories to this Agreement, such as the Proponent, Province, Aboriginal groups, the public or other stakeholders.

**Annex III  
Gantt Chart: Target Timelines for the Regulatory Phase<sup>2</sup>**



5

<sup>2</sup> The Gantt chart is a baseline against which the timelines, identified in the Agreement expected to be taken by federal departments and agencies in carrying out their respective tasks for the Regulatory Phase will be tracked. The timelines do not account for time taken by participants who are not signatories to this Agreement, such as the Proponent, Province, Aboriginal groups, the public or other stakeholders.

## Annex IV

### Aboriginal Consultation Approach and Associated Roles and Responsibilities

#### 5 1.0 Context

The Government of Canada consults with Aboriginal people for reasons of good governance, sound policy development and decision-making as well as for legal reasons. Canada has statutory, contractual and common law obligations to consult with Aboriginal groups. The Government of Canada will take a Whole of Government approach to Aboriginal consultation in the context of major projects to ensure that Aboriginal groups are sufficiently consulted, and where appropriate accommodated, when it contemplates actions that may adversely affect established or potential Aboriginal or Treaty rights. These rights are recognized and affirmed in Section 35 of the *Constitution Act, 1982*.

15 This approach will follow the principles expressed in the *Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects* and the associated MOU. The *Directive* states that Parties will work together towards a coordinated approach for Aboriginal consultation that is integrated with the EA, to the extent possible. The approach for federal consultation of Aboriginal groups for major projects was created in accordance with *Aboriginal Consultation and Accommodation: Updated Guidelines for Federal Officials to Fulfill the Duty to Consult* (AANDC; March 2011).

#### 25 2.0 Identifying Aboriginal Groups

The CEA Agency, along with FAs and regulatory departments and agencies and the Province, where applicable, will:

- Work with the Proponent to identify Aboriginal groups for consultation that may be affected by the Project; and,
- Undertake a preliminary assessment of the identified Aboriginal groups, including the nature, location and exercise of potential or established Aboriginal or Treaty rights that may be affected by the Project. This assessment, together with the severity of potential adverse impacts of the Project, will inform the scope of the consultation process.

35 Aboriginal groups consulted may change over time based on information received during the course of the review and information received from Aboriginal groups, as may the level of consultation activities undertaken by the Crown.

40 Where applicable, the terms and conditions of all existing agreements or protocols between the Crown and Aboriginal groups will be respected and followed.

#### 3.0 The Crown Consultation Process

45 The Whole of Government approach for Aboriginal consultation activities will be implemented throughout the entire federal review.

Where accommodation is appropriate, the Crown, coordinated by the CEA Agency during the EA phase or a regulatory department or agency during the regulatory phase, will monitor and determine whether identified mitigation measures reasonably address concerns regarding potential adverse impacts on established or potential Aboriginal or Treaty rights. The Crown may also examine the role of third parties in addressing adverse impacts on established or potential Aboriginal or Treaty rights. The Crown will work with Aboriginal groups and attempt to identify options or solutions that balance the interests of those groups with other societal interests. The Crown will take into account the consultation efforts of the Province and the Proponent<sup>3</sup>, to the extent possible, to meet its duty to consult.

Following the EA phase, the CEA Agency will transfer the role of the Crown Consultation Coordinator (CCC) to an assigned regulatory department or agency for the regulatory review phase.

#### **4.0 Roles and Responsibilities of Parties**

##### **The CEA Agency will:**

- Act as the CCC for the EA phase of the federal review in relation to the Project, coordinate and facilitate the Crown's consultation activities before and during the EA, and ensure a smooth transition to the regulatory review if required. As the CCC, the CEA Agency will:
  - Develop and implement a Crown consultation plan that is consistent with a Whole of Government approach to Crown consultation by the federal Crown through close collaboration with regulatory departments and agencies and with support from FAs as appropriate;
  - Coordinate Crown consultation activities with those of the Province, to the extent possible;
  - Invite Aboriginal groups to participate in the EA process and make their concerns known about EA matters, as well as project impacts on their established or potential Aboriginal or Treaty rights;
  - Coordinate the involvement and provide updates to regulatory departments and agencies and FAs regarding federal Crown consultation activities with Aboriginal groups as it relates to the EA;
  - Represent the Crown with regulatory departments and agencies during consultation activities, and work with those authorities to appropriately consider and address issues raised by Aboriginal groups;
  - Compile the Crown consultation record, including a tracking table for those issues that may require a response from the regulatory departments and agencies and FAs;
  - House and maintain the official Record of Crown Consultation Activities for the EA phase of this review;
  - Provide funding for consultation activities in support of the EA process through the CEA Agency's Participant Funding Program;

---

<sup>3</sup> And the review panel process during an EA by Review Panel.



- Lead and coordinate the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts, with input from the DOJ, AANDC and regulatory departments and agencies;
- 5 • Coordinate the response, with input from AANDC, FAs and the regulatory departments and agencies, on behalf of the Government of Canada to Aboriginal Groups on how concerns were addressed during the EA;
- 10 • Coordinate discussions amongst the regulatory departments and agencies, with support from TC as the Project Issues Coordinator (PIC), for the purposes of identifying a lead CCC for Aboriginal consultation activities related to the regulatory phase, if required;
- 15 • Coordinate the ongoing assessment of the identified Aboriginal groups' potential or established Aboriginal or Treaty rights, with input from the expert FAs, regulatory departments and agencies, AANDC and DOJ. This will enable the necessary adjustments to the consultation process, as required; and,
- Document lessons learned.

**TC will:**

- Assist the CEA Agency to ensure a smooth transition from the EA phase to the regulatory phase.

20

**Regulatory departments and agencies will:**

- Contribute to the Whole of Government approach by participating in consultation activities throughout the entire federal review (including before, during and after the EA) in areas relevant/appropriate to their mandates and areas of statutory and policy responsibility;
- 25 • Represent the Crown in concert with the CCC and the Province, and work with the Proponent and other Parties to address Aboriginal issues, as appropriate/required;
- Take on the role of the CCC from the CEA Agency following the Minister of the Environment's Decision Statement, if required;
- 30 • Report on consultation activities to the CEA Agency during the EA Phase;
- Provide input into the response to Aboriginal groups on how concerns were addressed;
- Support issues analysis work, where required;
- Contribute to the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts, in concert with the CEA Agency, the DOJ and AANDC;
- 35 • Contribute to the ongoing assessment of the identified Aboriginal groups' potential or established Aboriginal or Treaty rights, with input from other regulatory departments and agencies, AANDC and DOJ. This will enable the necessary adjustments to the consultation process, as required; and,
- 40 • Develop, review and approve the Aboriginal consultation work plan for the regulatory phase if required.

**FAs will:**

- Support any of the above activities upon request of the CCC and/or regulatory departments and agencies, as appropriate.

45

**DOJ will:**

- Provide legal services, information and advice to the CEA Agency, the PIC and regulatory departments and agencies as appropriate and required throughout the federal review; and,
- 5     • Assist in the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts.

**AANDC will:**

- 10     • As appropriate and required throughout the federal review, provide information and advice to the CEA Agency, the PIC and regulatory departments and agencies;
- As required, provide advice and support to the evaluation of the scope, nature, and sufficiency of the Crown's consultation efforts; and,
- 15     • As required, provide information, advice and support to contribute to the ongoing assessment of the identified Aboriginal groups' potential or established Aboriginal or Treaty rights. Where appropriate, this will also include advice on modern treaties. This will support the necessary adjustments to the consultation process, as required

## Annex V

### Responsible Authority: The CEA Agency Roles and Responsibilities

5

#### EA

- Ensure that an EA is conducted, an EA Report is prepared and that an EA decision statement is issued;
- Provide advice in regard to the application of the CEAA 2012;
- 10 • Draft and finalize the EA and Aboriginal consultation work plan;
- Act as the CCC for the EA;
- Coordinate EA and Aboriginal consultation activities with other jurisdictions during the EA;
- House and maintain the official Record of Crown Consultation Activities for the Project;
- 15 • Manage the Registry Project File and CEARIS;
- Make participant funding available and maintain funding program (as per section 57) of CEAA 2012;
- Work in cooperation with regulatory departments and agencies, FAs, the Province and the Proponent to identify and evaluate means by which regulatory departments and agencies
- 20 will either ensure or be satisfied mitigation measures and follow-up programs are implemented;
- Prepare and coordinate the review of documents including the EA Report, EIS Guidelines and other EA documents as appropriate; and
- Following the completion of the EA, provide an oversight and coordination role to ensure
- 25 a coherent approach to compliance and enforcement of CEAA 2012.

#### Panel Secretariat

- Conduct orientation sessions on the review panel process, if required;
- 30 • On behalf of the Review Panel, communicate to the proponent the information requirements for the preparation of EA documents;
- Maintain the public registry including comments related to the EA;
- Provide regular updates to federal departments and other participants on the review panel process; and,
- 35 • Document lessons learned.

#### Federal Participation Coordinator

- Coordinate the delivery of training and guidance for effective participation in the public hearing;
- 40 • Coordinate communication among the federal participants during the review panel process through the establishment and management of a federal working group. The federal working group would have as part of its mandate to:
  - Provide a forum for discussions between FAs to identify any technical issues and any conflicting or overlapping perspectives; and,
  - 45 ○ Promote a consistent approach amongst departments for federal submissions and presentations to the Review Panel;

- When the federal and provincial governments are applying different approaches to conducting an EA, work with federal departments to apply administrative procedures that will encourage consistency in the information being presented to the provincial and federal processes;
- 5
- Promote provincial input into a federal review panel, and where appropriate, encourage dialogue between provincial and federal departments on common issues; and,
  - Document lessons learned.

## Annex VI

### Regulatory Departments and Agencies Roles, Responsibilities, Key Milestones and Timelines

5

#### EA

- Participate in meetings with other federal/provincial authorities, where appropriate;
- Review and comment on the EA and Aboriginal consultation work plan;
- Review and comment on appropriate federal EA documents (e.g., draft EIS Guidelines, and the EIS);
- Provide expert advice with respect to its mandate, regulatory responsibilities and areas of interest, when requested by the CEA Agency;
- Participate in consultations with affected/potentially affected Aboriginal groups as described in Annex IV;
- Work with other regulatory departments and agencies, FAs, the Proponent and the Province to ensure implementation of mitigation measures and the design and implementation of a follow-up program;
- Where appropriate, work with other regulatory departments and agencies, FAs, the Proponent and the Province to identify measures or means to accommodate adverse impacts on potential or established Aboriginal and treaty rights under Section 35 of the *Constitution Act, 1982*; and,
- Following the completion of the EA, work with the CEA Agency to ensure a coherent approach to compliance and enforcement of CEAA 2012.
- Review and comment on the Panel's Terms of Reference;
- Provide expert advice with respect to its mandate, regulatory responsibilities and areas of interest, when requested by the Review Panel;
- Participate in the public hearing as an FA with respect to its mandate, regulatory responsibilities and areas of interest, where appropriate
- Identify a lead who will be accountable for the development of the Government Response to the Review Panel Report, if applicable; and,
- Review and provide input into the Government Response to the Review Panel Report, if applicable.

#### 35 Regulatory

- Prepare regulatory work plan;
- Participate in meetings with other federal/provincial authorities as appropriate;
- Participate in public comment periods, public notice and possible public consultations, as appropriate;
- Provide expert advice with respect to its mandate, regulatory responsibilities and areas of interest, where appropriate;
- If appropriate, take regulatory decision following the Minister of the Environment's Decision Statement;

40

- Undertake any required activities related to its mandate, regulatory responsibilities and areas of interest, including consulting with affected/potentially affected Aboriginal groups as appropriate, to support regulatory decisions; and,
- Conduct site visits to support regulatory decisions, as required.

5

## Fisheries and Oceans Canada

- 5 *Note: The following milestones represent the key activities associated with the regulatory process for a project and are not intended to reflect the entire work plan schedule associated with a project. Furthermore, these milestones may need to be adjusted as additional information is made available.*

MILESTONE	ACTIVITIES / DESCRIPTION	LEAD	TIMELINES
<p>The following milestones occur after a determination that an authorization under Subsection 35(2)(b) of the <i>Fisheries Act</i> and/or a permit under Section 73 the <i>Species at Risk Act</i> (SARA) is/are likely to be required.* If such an authorization and/or permit is/are likely to be required, DFO will advise the Proponent to submit an application for authorization and/or permit for review.</p> <p>Submission of the information associated with the assessment of effects on fish and fish habitat and/or species at risk and mitigation (including offsetting**) necessary for DFO to make its regulatory decisions within the proposed timeframe is at the discretion of the Proponent and will not affect the timelines set for the EA process.</p> <p>Aboriginal consultation activities related to the EA are captured in <i>Key Milestones and Timelines for the Environmental Assessment and Aboriginal Consultation</i> in individual Project Agreements.</p> <p><i>*In certain circumstances a SARA-compliant Fisheries Act authorization may be issued under the authority of section 74 of SARA.</i></p> <p><i>** Offsetting may also be required in connection with a SARA permit.</i></p>			
<p><b>Receipt of an application for a Subsection 35(2)(b) Fisheries Act authorization and/or receipt of an application for a permit under Section 73 of SARA</b></p>	<p>DFO receives an application from the Proponent for the authorization of impacts to fish and fish habitat under Subsection 35(2)(b) of the <i>Fisheries Act</i>. and/or for the permitting of an activity affecting a species at risk and/or its critical habitat or residence.</p> <p>The application must meet the information requirements pursuant to <i>Applications for Authorization under Paragraph 35(2)(b) of the Fisheries Act Regulations</i> and/or section 2 of the <i>Permits Authorizing an Activity Affecting Listed Wildlife Species Regulations</i>, including:</p> <p>Proposed mitigation (as part of the authorization or in the EIS) to</p>	<p>Proponent</p>	<p>Dependent upon timing of the submission of the application by the Proponent.</p>

MILESTONE	ACTIVITIES / DESCRIPTION	LEAD	TIMELINES
	<p>minimize impacts on fish and fish habitat and a proposed fish offsetting plan (OP) associated with a Subsection 35(2)(b) authorization (if it is determined that one is appropriate).</p> <p>This information will be used to support the <i>Fisheries Act</i> review and EA<sup>4</sup>.</p>		
<p><b>Review and response regarding impacts to fish and fish habitat and/or species at risk, and adequacy of information</b></p>	<p>DFO reviews the application package/EIS (including proposed mitigation, proposed OP and associated estimate of financial security, if provided, and other related information) for adequacy and responds to the Proponent as part of DFO comments on the EIS.</p> <p>If the OP is provided separately from the EIS, DFO will ensure that the OP is provided to Transport Canada and Canadian Coast Guard for review of potential impacts to navigation (14-day comment period).</p> <p>Should the information be incomplete, DFO will request the required information from the Proponent in order to be able to proceed with the review.</p>	<p>DFO</p>	<p>As per <i>Key Milestones and Timelines for the Environmental Assessment and Aboriginal Consultation</i> in the associated Project Agreement.</p>
<p><b>Receipt of additional information related to Fish, Fish Habitat and/or species at risk and the OP</b></p>	<p>DFO receives additional information from the Proponent.</p>	<p>Proponent</p>	<p>Determined by the Proponent.</p>



MILESTONE	ACTIVITIES / DESCRIPTION	LEAD	TIMELINES
<b>Review response and request for additional information, if required</b>	<p>DFO reviews the revised or accepted EIS including any additional information related to fish, fish habitat and/or species at risk and the OP.</p> <p>DFO requests further information, if required, to proceed with the review of the application(s). This may include information on offsetting since it will form part of the mitigation plan for the EA.</p>	DFO	As per <i>Key Milestones and Timelines for the Environmental Assessment and Aboriginal Consultation</i> in the associated Project Agreement.
<b>Submission of Final EIS or EIS addendum information</b>	DFO receives Final EIS or EIS addendum information, including OP, from the Proponent.	Proponent	Determined by the Proponent.
<b>Determination of adequacy of information for EA and Fisheries Act authorization and/or SARA permitting requirements</b>	<p>DFO determines that information of appropriate detail on fish and fish habitat and/or species at risk, mitigation measures, including OP.</p> <p>DFO informs the Proponent of any additional information requirements that may be necessary to make the regulatory decision, including the requirement for financial security in relation to offsetting.</p> <p>DFO will also, as appropriate, undertake or participate in coordinated Aboriginal consultation activities relative to fish and fish habitat issues and/or species at risk.</p>	DFO	As per <i>Key Milestones and Timelines for the Environmental Assessment and Aboriginal Consultation</i> in the associated Project Agreement.
<b>Aboriginal consultation</b>	Through coordinated Aboriginal consultation activities, DFO will undertake additional consultation, as appropriate, based upon results of consultation undertaken during the EA. Activities and timelines will be identified in Aboriginal	DFO	As per Aboriginal Consultation work plan developed after analysis of results of consultation activities undertaken during the EA.

MILESTONE	ACTIVITIES / DESCRIPTION	LEAD	TIMELINES
	Consultation work plan after analysis of results of consultation activities undertaken during the EA.		
<b>Receipt of detailed information for Fisheries Act authorization and/or SARA permit</b>	DFO receives detailed OP, including information on financial security (if required) in a level of detail necessary to make a regulatory decision or decisions.  Upon receipt, DFO will ensure that a copy of the detailed OP is provided to Transport Canada for a 14-day comment period.	Proponent	Dependent on timing of the submission by the Proponent.
<b>Review and response regarding detailed information for Fisheries Act authorization and/or SARA permit</b>	DFO notifies the Proponent that the OP is acceptable or if additional information is required to allow for the regulatory decision(s) to be made.  Sufficient information is required before the next step can be undertaken.	DFO	Within 60 days of receipt of the information  If multiple information requests are required DFO will respond within 60 days of the Proponent responding to the previous request.
<b>Issuance of Subsection 35(2) and/or Section 32 Fisheries Act authorization and/or SARA permit</b>	If appropriate, DFO issues a <i>Fisheries Act</i> authorization <sup>5</sup> to the Proponent for works, undertakings or activities likely to result in <i>serious harm to fish that are part of a commercial, recreational or Aboriginal fishery, or to fish that support such a fishery</i> and/or issues SARA a permit for activities affecting a species at risk and/or its critical habitat or residence.	DFO	DFO issues the authorization and/or permit 90 days following the determination that the OP is acceptable, the application(s) is/are complete (including financial security), and the discharge of any Aboriginal consultation responsibilities with respect to the <i>Fisheries Act</i> authorization

<sup>5</sup> *Fisheries Act* authorization may be issued based upon policy guidance in “*Fisheries Protection Policy Statement*”, October 2013 and “*Fisheries Productivity Investment Policy: A Proponent’s Guide to Offsetting*”, November 2013.

MILESTONE	ACTIVITIES / DESCRIPTION	LEAD	TIMELINES
			<p>and/or SARA permit.</p> <p>Issuance of the authorization(s) and/or permit(s) may also consider the Proponent's timing needs for the authorization(s)/ permit(s) in that, should an authorization or permit not be required until much later than the timeline above, DFO will issue when appropriate.</p>

## Environment Canada

5 *Note: The following milestones represent the key activities associated with the regulatory process for a designated project and are not intended to reflect the entire work plan schedule associated with a project. Furthermore, these milestones may need to be adjusted as additional information is made available.*

MILESTONE	ACTIVITIES/DESCRIPTION	LEAD	TIMELINES
The following milestones occur after a determination that Disposal at Sea Permit under the <i>Canadian Environmental Protection Act</i> is required.			
<b>Disposal at Sea Sampling and Analysis Plan</b>	A sampling and analysis plan should be prepared and implemented in advance of the EIS.	Proponent	Determined by the Proponent.
	The Proponent submits sampling and analysis plan to EC.  EC reviews sampling and analysis plan and advises on adequacy.	EC	
<b>Disposal at Sea sediment characterization report and information to support a Disposal at Sea Permit Application</b>	The proponent submits a characterization report (the results of the sediment sampling and analysis plan), a waste prevention audit, an assessment of alternative disposal options, and an effects assessment (including short-term and long-term fate modelling of disposal activities) as part of the EIS.	Proponent	Determined by the proponent
<b>Disposal at Sea Permit Application is submitted</b>	The Proponent publishes Notice of Intent in a newspaper of general circulation, consults with other users of the sea, and submits permit application.	Proponent	Determined by the Proponent.
<b>Disposal at Sea Application review</b>	EC conducts a preliminary review of the permit application to ensure it is complete.  EC distributes the application to the appropriate agencies for review.	EC	30 days from receipt of the application.
<b>Request for additional information</b>	If necessary, EC advises the proponent of any outstanding information requirements	EC	Following review of the application.
<b>Review of additional information</b>	EC reviews the sufficiency of the information received from the Proponent and advises the proponent	EC	30 days from receipt of additional information.

	if the permit application is considered complete. If necessary, EC will request additional information.		
<b>Disposal at Sea Permit Preparation and Regulatory Decision</b>	Disposal at Sea Permit terms and conditions are drafted. Permits include conditions necessary for the protection of marine life, any legitimate uses of the sea or human life.  EC makes a decision on issuing permit(s).	EC	Within 90 days from receipt of a complete permit application and after the Minister of the Environment's Decision Statement.
<b>Disposal at Sea Permit is published in the <i>Canadian Environmental Protection Act</i> Environmental Registry</b>	EC submits a copy of the permit and its conditions or the varied conditions for publication in the Notices section of the <i>Canadian Environmental Protection Act</i> (CEPA) Registry at least seven days in advance of the publication date.  The permit is published in the Notices section of the CEPA Registry ( <a href="http://ec.gc.ca/lcpe-cepa/eng/notices/default.cfm?n=1B0E63A4-1">http://ec.gc.ca/lcpe-cepa/eng/notices/default.cfm?n=1B0E63A4-1</a> )	EC	A minimum of 7 days following the permit decision.
<b>Disposal at Sea Activities</b>	The Proponent may begin disposal activities on the permit start date which can be no earlier than the publication date on the CEPA Registry.  A disposal at sea permit is valid for a particular period that does not exceed one year.	Proponent	Following publication in the CEPA Registry.

## Annex VII

### Other Departments and Agencies Roles and Responsibilities

5

PARTY	ROLES / RESPONSIBILITIES
Federal Authorities	<p>Upon request from the CEA Agency<sup>6</sup> or during the regulatory phase, a regulatory department and agency, FAs will perform and fulfill the following roles and responsibilities:</p> <ul style="list-style-type: none"> <li>• Review and submit comments on the EA and Aboriginal consultation work plan;</li> <li>• Participate in federal project review committee meetings for provision of relevant expertise that is available. Advice will be provided within the timelines identified by the CEA Agency or the Review Panel;</li> <li>• Review and submit comments on EA documents as directed or appropriate;</li> <li>• Participate in meetings of other federal/provincial authorities as appropriate;</li> <li>• Support Aboriginal consultation activities as appropriate;</li> <li>• Provide advice with respect to their respective mandate and area(s) of expertise when requested by the regulatory departments and agencies, the Review Panel and/or the CEA Agency. Advice will be provided within timelines requested by a regulatory department and agency, the Review Panel and/or the CEA Agency; and</li> <li>• Following the completion of the EA, work with the CEA Agency and regulatory departments and agencies to ensure a coherent approach to compliance and enforcement of CEAA 2012.</li> </ul>
HC	<ul style="list-style-type: none"> <li>• Effects on air quality;</li> <li>• Contamination of country foods (e.g. fish, game animals, garden produce, berries, etc.);</li> <li>• Drinking and recreational water quality;</li> <li>• Radiological effects;</li> <li>• Electric and magnetic fields effects;</li> <li>• Noise effects;</li> <li>• Human health risk assessment (HHRA) and risk management;</li> <li>• Federal air, water and soil quality guidelines and standards used in HHRA's;</li> <li>• Toxicology (multimedia - air, water, soil); and,</li> <li>• First Nations and Inuit health.</li> </ul>
EC	<ul style="list-style-type: none"> <li>• Migratory Birds;</li> <li>• Non-aquatic Species at Risk;</li> <li>• Wetlands;</li> <li>• Water Quality;</li> <li>• Air Quality;</li> </ul>

<sup>6</sup> Or the Review Panel during an EA by Review Panel.

PARTY	ROLES / RESPONSIBILITIES
	<ul style="list-style-type: none"> <li>• Environmental Emergencies;</li> <li>• Climate and Meteorological Conditions; and</li> <li>• Disposal at Sea</li> </ul>
NRCan	<ul style="list-style-type: none"> <li>• Coastal geomorphology</li> <li>• Geohazards</li> </ul>
DFO	<ul style="list-style-type: none"> <li>• Fish and fish habitat</li> <li>• Species at risk</li> </ul>
PCA	<ul style="list-style-type: none"> <li>• Ecological integrity and cultural resources of National Parks</li> <li>• Species at risk</li> </ul>
TC	<ul style="list-style-type: none"> <li>• Coordinate the development and approval of Project Agreement</li> <li>• Track and coordinate the resolution of interdepartmental (cross-cutting) federal issues, as required</li> <li>• Coordinate a Legal Working Group and federal Department of Justice requests for advice on interdepartmental issues</li> <li>• Coordinating a federal external Communications Committee throughout the environmental assessment</li> <li>• Monitor and report on the progress of the Project through the federal review;</li> <li>• Promote adherence to timelines and roles and responsibilities as detailed in the project agreement</li> <li>• Develop and maintain the governance structure for the senior management Ports Committees</li> <li>• Navigable Waters</li> <li>• Marine Safety and Security</li> <li>• Rail Safety and Security</li> <li>• Air Navigation; and</li> <li>• Transportation of Dangerous Goods</li> </ul>
AANDC	<ul style="list-style-type: none"> <li>• Provide advice in regard to Aboriginal consultation.</li> </ul>