



Canadian Environmental
Assessment Agency

Agence canadienne
d'évaluation environnementale

410 - 701 West Georgia St
Vancouver BC V7Y 1C6

410 - 701 rue Georgia ouest
Vancouver (C-B) V7Y 1C6

July 13, 2016

Chief Councillor Arnold Clifton
Gitga'at Nation
445 Hayimiisaxaa Way
Hartley Bay BC V0V 1A0

Dear Chief Councillor Clifton:

Subject: Notification that a Federal Environmental Assessment is Required for the Proposed Kitimat Clean Refinery Project and Request for Comments on the Draft Environmental Impact Statement Guidelines

The purpose of this letter is to:

- (1) notify you of the Canadian Environmental Assessment Agency's (the Agency) decision on whether a federal environmental assessment (EA) is required for the Kitimat Clean Refinery Project (the Project);
- (2) request comments on the Draft Environmental Impact Statement (EIS) Guidelines; and
- (3) provide information on the next steps in the environmental assessment process, including how Crown consultation activities will be integrated into the process.

Determination of Whether a Federal EA is Required

On May 17, 2016, the Agency provided notice to the Gitga'at Nation that the Agency had received a complete project description from Kitimat Clean Ltd. (the proponent) for the Project. In that letter, the Agency requested comments on the Project's potential impacts to the environment and on your potential or established Aboriginal or treaty rights, protected under section 35 of the *Constitution Act, 1982* ("section 35 rights"). The Agency received comments from the Gitga'at Nation outlining concerns related to air and water quality, and habitat loss or alteration, and potential Project impacts to health, socio-economics, and land or water use for traditional, recreational, hunting, fishing, or harvesting purposes.

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Based on a review of the project description, comments received from the public and Indigenous communities, and the Agency's review of the potential for the Project to cause adverse environmental effects in areas within federal jurisdiction, the Agency has determined that a federal EA is required under the *Canadian Environmental Assessment Act, 2012*.

Request for Comments on Draft EIS Guidelines

Following a 45-day screening period, on June 30, 2016, the Agency determined that an EA is required for this Project. The federal EA started on July 12, 2016. The next step of the process is to finalize the EIS Guidelines. The purpose of the EIS Guidelines is to identify the information the proponent will be required to provide in its EIS, and the nature, scope and extent of the information required. The Agency invites the Gitga'at Nation to share any knowledge or perspectives from your community that would benefit the finalization of the Draft EIS Guidelines (attached) or consideration of environmental effects.

The Agency will be conducting a 30-day comment period on the Draft EIS Guidelines. Please note that the deadline for submitting comments for consideration in the finalization of this document is August 12, 2016.

IMPORTANT NOTE: Information that you provide to the Agency is considered to be part of the public record and can only be kept confidential in specific circumstances. Should you have any documents that contain sensitive information that you believe should be protected from release to the public, please contact Quincy Leung before you provide the documents to us to discuss whether, and if so how, the information can be protected.

Next Steps in the Federal EA Process & Integration of Crown Consultation Activities

After the comment period on the Draft EIS Guidelines, the Agency will finalize the document and provide it to the proponent. Within 60 days of the start of the environmental assessment, the Minister of Environment and Climate Change may decide to refer the Project to a review panel. A referral to review panel is considered if the Project is likely to cause significant adverse environmental effects, or if Indigenous communities or the public have raised concerns related to the potential for significant adverse environmental effects. Additional information on the environmental assessment process is available at www.ceaa-acee.gc.ca.

The Agency is responsible for coordinating Crown consultations related to section 35 rights that could be adversely impacted by the proposed project. As such, Crown consultation activities will be integrated into the environmental assessment to the greatest extent possible. Once the EIS Guidelines are finalized, the Agency will propose a consultation plan for discussion with the Gitga'at Nation. The Agency understands that relevant correspondence should be directed to Erin Mutrie, and copied to Dan Cardinall and Chris Picard for the duration of the EA.

Federal funding will be made available to potentially affected Indigenous communities to support the participation of those groups during later phases of the environmental assessment. The Agency will advise you of any opportunities to apply for funding under the Agency's Participant Funding Program approximately 30 days after the close of the comment period on the draft EIS Guidelines. Information on this program is available at www.ceaa-acee.gc.ca.

Provincial Review

The Project is also subject to provincial review. I refer you to Scott Bailey at the British Columbia Environmental Assessment Office for additional information. Scott may be reached at 250-356-1763 or Scott.Bailey@gov.bc.ca. Consultation activities associated with the federal and provincial reviews will be coordinated to the extent possible in order to ensure effective consultation takes place with the Gitga'at Nation.

Contacting the Agency

Quincy Leung will be managing the environmental assessment and conducting Crown consultation activities for the Project on behalf of the Agency. Please do not hesitate to contact Quincy at 604-666-8940 or Quincy.Leung@ceaa-acee.gc.ca if you have any questions or wish to provide the Agency with information described above relating to the Project and any potential impacts it may have on your section 35 rights.

Sincerely,

<Original signed by>


Lisa Walls
Director
Pacific and Yukon Region

Attachment: Draft Environmental Impact Statement Guidelines

c.c.: Quincy Leung, Canadian Environmental Assessment Agency
Scott Bailey, British Columbia Environmental Assessment Office
Anna Bailie, Major Projects Management Office
David Black, Kitimat Clean Ltd.
Mellissa Winfield-Lesk, Hatch Ltd.
Erin Mutrie, Gitga'at Environmental Assessment Coordinator
Dan Cardinall, Gitga'at Lands and Major Projects Advisor
Michael Lee Ross, Peter Grant & Associates