



Impact Assessment
Agency of Canada

Agence d'évaluation
d'impact du Canada

160 Elgin St., 22nd floor
Ottawa, ON K1A 0H3

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Ottawa, ON K1A 0H3

July 16, 2024

Sent via Email

David Black
President
Kitimat Clean Limited
818 Broughton St.
Victoria BC V8W 1E4
<contact information removed>

Dear David Black:

**RE: Amendments to the *Impact Assessment Act* and Implications
for the
Kitimat Clean Energy Project**

On June 20, 2024, the *Budget Implementation Act*, received Royal Assent and brought into force amendments to the *Impact Assessment Act* (IAA). The amendments include a change to the transitional provisions of the IAA with respect to projects undergoing an environmental assessment (EA) under the *Canadian Environmental Assessment Act, 2012* (CEAA 2012). This letter is to inform you of the transitional provisions relevant to the Kitimat Clean Energy Project (the Project), and next steps.

When the IAA first came into force on August 28, 2019, the environmental assessment for the Project was allowed to continue under CEAA 2012, as if it had not been repealed, pursuant to the transitional provision in subsection 183(1) of the IAA. On August 12, 2019, the Agency informed you that you could request that the Minister continue the assessment of the Project under the new legislation. The Agency did not receive a response from you to this letter, therefore the assessment remained subject to an environmental assessment under CEAA 2012.

We would like to arrange to meet with you in the near future to discuss the transitional provisions and next steps outlined below, the status of the Project and to seek your perspective on the path forward for the Project.

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Next steps

The following paragraphs outline the next steps and specific requirements and timelines for provision of information under the IAA.

Subsection 183(2.1) of the IAA states that if the required information or studies are not provided within one year after the day on which this subsection comes into force, the Agency may decide that the environmental assessment of the Project is to be continued as an impact assessment under the IAA, as if the impact assessment had been referred by the Minister to a review panel under subsection 36(1) of the IAA. If the Agency does not receive a response to the Agency's September 9, 2016 [request](#) for additional information before June 20, 2025, this provision will be applied.

Should a year lapse without receipt of the response to the Agency's request for additional information, continuing the environmental assessment as an impact assessment under the IAA will require updating or drafting the documents listed below:

- Finalizing the EIS Guidelines by including any additional information or studies required (where applicable) to meet the requirements of the IAA;
- Cooperation Plan with other jurisdictions;
- Engagement and Partnership Plan with Indigenous peoples;
- Public Participation Plan; and
- Permitting Plan.

This work would be subject to cost-recovery. In addition, the Agency would consult the public and Indigenous groups on these documents.

Following the issuance of the above guidelines and plans, Kitimat Clean Limited would have to provide the Agency with the required information or studies, described in the final EIS guidelines, within three years after the day on which the documents outlined above and a copy of the Notice of Commencement is posted on the Agency's website. If the information is not provided within this time limit, the impact assessment would be terminated, pursuant to paragraph 20 of the IAA.

Project Status

The Agency notes that you requested a temporary suspension of the environmental assessment of the Project on October 2, 2016, and the Project has not advanced since that time. If Kitimat Clean Limited does not

intend to carry out the Project within the timeframe noted above, you are encouraged to advise the Agency and Minister in writing.

Note that, if the environmental assessment is terminated, in accordance with subsection 7(1) of the IAA, a proponent of a designated project is prohibited from carrying out any act related to the project that may cause one of the effects listed therein. If a proponent wishes to continue with the Project after the termination of the assessment, it must submit an Initial Project Description to the Agency in accordance with section 10 of the IAA.

As noted above, we would like to arrange to meet with you to discuss the status of the Project and the content of this letter. Please do not hesitate to contact me at <contact information removed> at your earliest convenience.

Sincerely,

<signature removed>

Kate Witherly
Panel Manager

c.c.: Kelly Wintemute, Executive Project Director,
Oil, Gas and Industrials - Northeast and Skeena Region,
British Columbia Environmental Assessment Office