

FNEMC-BC EAO
Concept Paper:
Dialogue of Environmental Assessment Process and First Nations
March 11, 2016

CONCEPT (GOAL):

To modify the BC Environmental Assessment (EA) process to make it more effective, transparent, inclusive of and responsive to First Nations' interests. The Province and First Nations are committed to a EA process that:

- (a) meaningfully advances reconciliation between First Nations and the Province,
- (b) is based on mutual trust and responsibility,
- (c) is robust, rigorous, predictable, and credible for all British Columbians,
- (d) is co-administered and provides sufficient resources to impacted First Nations,
- (e) ensures respectful inclusion of First Nations' traditional, cultural, economic and scientific knowledge, and
- (f) strives to ensure that First Nations, Canada and BC develop processes that complement each other and work together.

CONTEXT:

The Province and First Nations support responsible development that appropriately balances the cultural, social, health, environmental and economic values related to proposed projects. The current environmental assessment process does not fully consider important First Nations' values and has limited their involvement in recommending the proper balance between these values. In order to rebuild trust, a partnership approach to environmental assessment is proposed that is co-administered by affected First Nations and the Province, adequately funded, and allows for co-authoring of legally enforceable conditions.

SHARED PRINCIPLES:

In furtherance of this goal, the Province and First Nations agree that the following shared principles should inform the BC EA process.

1. Meaningful, collaborative and fully resourced engagement between BC EAO and potentially affected First Nations from the initial application to the EAO for a project EAC that includes and considers the project-specific interests of First Nations.

2. All First Nation costs of involvement in EA processes are proponent funded based on a transparent and predictable schedule of fees.
3. Neutrally administered, transparent and predictable assessment processes.
4. Providing comprehensive, reliable and objective information and analysis for environmental assessment decision-making designed to meet the needs of First Nations and the Province and that includes traditional, cultural and scientific knowledge, including spirituality, language, cultural transmission and identity.
5. Effective and meaningful ongoing participation of First Nations within EA decision-making and in the on-going post-EA regulatory processes, including compliance monitoring, adaptive management and enforcement throughout the life of a project. Participation in an EA by a First Nation should not be construed as endorsing or supporting the proposed project.
6. Creation of processes that are responsive to both First Nations interests and statutory environmental assessment obligations and that will result in well-defined, rigorous, coordinated and timely processes that support administrative fairness requirements.
7. Jointly authored assessments and coordinated decisions by the affected parties (Ministers and First Nations) within the regulated timelines.
8. Mutually develop and implement effective and appropriate dispute resolution processes for resolving conflicts. In the absence of consensus, Ministers will provide a post-decision explanation of how the FN views were considered and included or excluded as the case may be from the assessment.

Disclaimer: This document was prepared by the BC First Nations Energy and Mining Council and the BC Environmental Assessment Office. These proposed solutions are not a final product and the intent of the draft goals, principles and recommendations for an enhanced EA is to share them broadly to First Nations communities for comment and suggested improvements. Following a community engagement process the results will be taken back to the leadership and Cabinet for a decision.