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To: Catherine Holt  
cholt@sagegroup.bc.ca

Chris Trumpy Sr.  
cmtrumpy@shaw.ca

**Re: Identification of Key Performance Indicators (KPIs) for BC Environmental Assessment Office (EAO)**

Dear Ms. Holt and Mr. Trumpy:

Thank you for consulting us on what would constitute appropriate and meaningful KPIs of the BC environmental assessment (EA) process. The West Coast Environmental Law Association (West Coast) is BC's legal champion for the environment. Since the EAO's inception, we have worked with it, the BC government, and the public to improve the BC EA process. As per our discussion by telephone on October 23<sup>rd</sup>, we write to suggest specific KPIs to measure the performance of EA in BC.

However, before we begin we must reiterate that the most important tool for assessing the efficacy of the BC EA process would be a substantive purpose of the *Environmental Assessment Act* linked to sustainability in BC. Put another way, it would be desirable to legally clarify that our environmental decision-making processes are directed at achieving substantive goals such as maintaining both ecological integrity and high levels of human well-being, upholding Aboriginal title and rights, and ensuring meaningful citizen participation.

A substantive purpose, along with guiding principles, help guide decision-makers throughout the EA process. They also allow stakeholders, the public, First Nations, and other government agencies understand how interim and final decisions are reached. Without these integral elements of the governing legislation, there is a significant risk of real or perceived arbitrariness in both the outcomes of EA processes and in the measuring of EA performance. Additionally, environmental assessments need, at a minimum, to link project siting to existing and future land use plans, and those plans and cumulative studies should form at least a minimum bar of accountability in environmental decision-making.

That said, we do believe there are specific performance indicators that could help the EAO measure its performance and the performance of BC's EA process. In particular, we note that

the measures established in the EAO 2014/155 – 2017/18 Service Plan are inward-looking, pertaining not to EA outcomes but rather to the EAO’s performance as an agency.

We also note that mandating a sustainability focus for EA is consistent with existing BC EA law and policy. For example, section 6 of the BC *Environmental Assessment Act*<sup>1</sup> authorizes the Minister to designate projects as reviewable if, *inter alia*, she is satisfied that the project may have significant adverse environmental, economic, social, heritage or health effects. Similarly, section 10 authorizes the EAO Executive Director to determine that an EA of a designated project is or is not required, depending on whether he considers that it may have a significant adverse environmental, economic, social, heritage or health effect. Section 20(1) permits the ED to undertake and approve class assessments that assess specified potential adverse environmental, economic, social, heritage or health effects of projects or categories of projects. And the EAO’s policy document *Guideline for the Selection of Valued Components and Assessment of Potential Effects* states, “[e]nvironmental assessment in BC provides an integrated process for identifying and evaluating the potential adverse environmental, economic, social, heritage, and health effects that may occur during the life of a reviewable project.”<sup>2</sup>

The EAO has identified environmental, economic, social, heritage and health effects as the “pillars” of assessment.<sup>3</sup> These pillars expand on the slightly broader social, economic and ecological pillars that are traditionally widely considered to be primary considerations of sustainability. And as the EAO’s *User Guide* confirms, “[c]omprehensive and efficient environmental assessments result in well-informed and timely decision-making that supports sustainable development.”<sup>4</sup> It is thus clear that sustainability is, at least in theory, a purpose of BC’s EA process.

However, a core feature of true sustainability-based assessment is the objective that each “pillar” achieve a net gain as a result of the project or activity being assessed.<sup>5</sup> Accordingly, measures for assessing substantive outcomes of the EAO’s EA process should consider the extent to which that process results in the achievement of net gains in each pillar for projects it assesses.

Below, we suggest some key performance areas (KPA), sub-KPAs and example KPIs to help assess the EAO’s performance in achieving net gains in each sustainability pillar. The list is

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<sup>1</sup> SBC 2002, c 43.

<sup>2</sup> Environmental Assessment Office, *Guideline for the Selection of Valued Components and Assessment of Potential Effects* (2013) at 2, online:

[http://www.eao.gov.bc.ca/pdf/EAO\\_Valued\\_Components\\_Guideline\\_2013\\_09\\_09.pdf](http://www.eao.gov.bc.ca/pdf/EAO_Valued_Components_Guideline_2013_09_09.pdf)

<sup>3</sup> Environmental Assessment Office, *Guideline for the Selection of Valued Components and Assessment of Potential Effects* (2013) at 4, online:

[http://www.eao.gov.bc.ca/pdf/EAO\\_Valued\\_Components\\_Guideline\\_2013\\_09\\_09.pdf](http://www.eao.gov.bc.ca/pdf/EAO_Valued_Components_Guideline_2013_09_09.pdf)

<sup>4</sup> Environmental Assessment Office, *User Guide* (2009, updated 2011) at 10, online:

[http://www.eao.gov.bc.ca/pdf/EAO\\_User\\_Guide%20Final-Mar2011.pdf](http://www.eao.gov.bc.ca/pdf/EAO_User_Guide%20Final-Mar2011.pdf).

<sup>5</sup> Bob Gibson, “Sustainability-based assessment criteria and associated frameworks for evaluations and decisions: theory, practice and implications for the Mackenzie Gas Project Review” (26 January 2006) at 16, online:

[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1663015](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1663015).

not intended to be comprehensive, but rather a starting point for measuring the substantive performance of EA in BC. It is also not given in any order of priority as among the indicators.

In compiling the list, we drew on our own research, as well as external sources.<sup>6</sup> Bob Gibson is an academic who has prepared sustainability assessment criteria for a number of joint review panels in Canada, such as the Kemess Mine North, Lower Churchill Hydroelectric Project and the Mackenzie Gas Project. We have attached the report he prepared for the Mackenzie Gas Project Joint Review Panel, which contains in Appendix 2 a list of generic indicators for measuring sustainability and in Appendix 3 a list of project-specific indicators, both of which could be modified to review the EAO's substantive performance in conducting EAs.

### ***Suggested Areas and Indicators***

1. **KPA:** Increased certainty and transparency

- **Sub-KPA:** Public participation

**Outcomes:**

- Input from the public has been demonstrably reflected in determinations made with respect to the project at all stages.
- EA certificates are not granted in the face of disputes of substantial magnitude involving a significant number of interests regarding whether the project should proceed.

**Process**

- Whether the public are invited to participate on scoping decisions.
- Whether the public are included in the formation of Working Groups.

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<sup>6</sup> West Coast Environmental Law, "Environmental Assessment Law for a Healthy, Secure and Sustainable Canada: A Checklist for Strong Environmental Laws" (February 2012), online: <http://wcel.org/sites/default/files/publications/A%20Checklist%20for%20Strong%20Environmental%20Laws%20February%202012.pdf>; Robert B. Gibson, "Sustainability assessment: basic components of a practical approach," 2006 Impact Assessment and Project Appraisal 24:3 170, online: <http://www.tandfonline.com/doi/abs/10.3152/147154606781765147#.VGRWovF-Rd>; Dwyer et al, "Developing Key Performance Indicators for the Effectiveness of Strategic Environmental Assessment in Ireland," IAIA14 Conference Proceedings, 34th Annual Conference of the International Association for Impact Assessment (8 - 11 April 2014), online: <http://www.iaia.org/conferences/iaia14/IAIA14-final-papers/Dwyer,%20Nicola.%20%20Developing%20key%20performance%20indicators.pdf?ApxAutoDetectCookieSupport=1>.

- Whether the public are included on other procedural aspects, and decisions on those procedural aspects (including reasons for decisions) are made public.
- Whether information is presented in a non-technical way that the general public can easily understand.
- Whether all supporting studies and technical information are also made available to the public.
- Whether the public has sufficient time to review and prepare feedback.
- Whether the public receives responses to their feedback, and has an opportunity to reply.
- Whether all public comments, and comments and expert evidence by relevant local, provincial, First Nations (where not sensitive or confidential) and federal (where appropriate) governments are made public.
- Whether the public has an opportunity to comment on conditions.
- **Sub-KPA: Decision-making**
  - Whether First Nations consent is obtained to both the process and outcomes of assessment.
  - Whether decision-making criteria are clear and publicly available.
  - Whether the purposes of the EA process clear and publicly available.
  - Whether reasons for decisions, including justification for any adverse effects, are clear, defensible and publicly available?
  - Whether all justifications for project approvals are subjected to public scrutiny.
  - Whether the nature and significance of uncertainties (e.g., about effect predictions, mitigation and the effectiveness of enhancements, if any) are identified and made public.
  - The precautionary approach has been demonstrably followed in the face of uncertainty.

## 2. **KPA: Ensuring projects' contributions to sustainability**

- **Sub-KPA: Biophysical, ecological and socio-ecological systems and traditional activities**
  - How approved projects strengthen or undermine the resilience of ecosystems, health, abundance and distribution of wildlife populations and their habitats, and the continue to support the exercise of Aboriginal title and rights activities in project areas.

- The removal of approved projects' residual components, equipment and waste and correction of adverse impacts upon decommissioning.
  - Compliance of approved projects with present and future land use planning, conservation initiatives and land and wildlife management plans.
  - Cumulative impacts of project-specific impacts in combination with those of other past, present and future human activities, as measured against a pre-industrial baseline.
  - Whether the ecological systems, conservation and traditional use areas in project areas and broader regions tend to be in better or worse shape at the conclusion of approved projects.
  - Effects of approved projects on the seasonal habitats and/or movement of migratory species, and the ecological relations and human activities that depend on them.
  - The contributions or detractions of approved projects and associated and induced undertakings on Canada's greenhouse gas emissions.
  - Impacts of climate change on approved projects and related activities, and on their effects on ecology and nearby communities.
- **Sub-Sub-KPA: Livelihoods and socio-economic well-being**
    - Effects on the maintenance and enhancement of available livelihood resources, skills, education and knowledge of the land within project areas and broader regions.
    - Effects on the maintenance of livelihood opportunities, diversity and security within project areas and broader regions.
    - Effects of approved projects (from construction through decommissioning) on community well-being and social determinants of health, such as livelihood security, diversity of opportunity, self-reliance, physical health, community solidarity and commitment, intergenerational relations, distribution of employment and influence, cultural preservation and evolution and social status.
    - Effects of approved projects on household solidarity, inter-household relationships, community cohesion and inter-community relationships.
    - Effects of approved projects on existing negative social, economic and cultural trends and means of reversing those trends.
    - Effects of approved projects on the continuation of traditional ways, cultural norms and supports, and social relationships.
    - Effects of approved projects on community and regional public infrastructure and programs.

- Whether projects and any resulting resources are most needed at the time of approval, or at some future time.
- **Sub-KPA: Equity**
  - The increases or decreases in the equity of the distribution of approved projects' benefits and risks.
  - Whether approved projects, following their decommissioning, have left future generations locally, regionally and nationally with better or worse prospects than without the project.
- **Sub-KPA: Resource access, use and efficiency**
  - The likelihood that access to and use of energy and materials in project areas and regions will be more or less sustainable upon decommissioning of approved projects.
  - The contribution of approved projects to the efficiency of the use of energy and materials in local areas, regions and nationally.
  - The contribution of approved projects to increases or decreases in access to a diversity of energy sources and materials for people living in project areas, regions and nationally.
- **Sub-KPA: Boom and bust**
  - The contributions of approved projects to boom and bust cycles in project areas and regions, and the EAO's consideration of those contributions.
  - The effects and uses of rises in revenue flows resulting from approved projects, and the EAO's consideration of those effects.
  - The impact on boom and bust cycles of induced and other additional regional resource exploration, extraction and transportation activities, and the EAO's consideration of those impacts.
  - The local and regional risks of dependence on temporary resource-based economies in approved project areas, and the EAO's consideration of those risks.
  - Whether approved projects have triggered major consequential changes in project areas and if so, their implications, and the EAO's consideration of those triggers.
  - The effects of any boom and bust cycles as a result of approved projects, and the EAO's consideration of those effects.
- **Sub-KPA: Bridging**
  - Consideration of plans likely to ensure lasting gains from approved projects.

- Consideration of longer term possibilities for sustainable livelihoods and plans and programs to establish bridges to such livelihoods.
- **Sub-KPA: Capacity building**
  - Consideration of whether, and extent to which approved projects would create or strengthen social, cultural and ecological awareness and build community capacity for effective participation in decisions relating to future livelihoods and well-being.
  - Extent to which approved projects encourage or discourage the maintenance, renewal and intergenerational transfer of traditional knowledge.
  - Extent to which approved projects help or hinder building capacity in individuals, communities and institutions.
  - Extent to which approved projects contribute to the capable dealing with the needs, problems and aspirations of local communities, individuals and regions.
  - Consideration of the need for new capacities arising as a result of approved projects, and the ability of those capacities to address issues.
  - Consideration of the adequacy of current community, provincial and federal government and other service providers' plans to deal with project-related needs.
- **Sub-KPA: Preparedness in the face of uncertainties**
  - Capability of approved projects and their implementation plans to cope with and adjust in the face of unanticipated problems.
  - Degree of consensus, confidence and certainty regarding future probable and possible development scenarios and related effects in project areas.
  - Consideration of the requirements of projects on the preparedness of community, provincial and national government and service institutions to address unexpected effects during and after projects.
  - The contribution of approved projects to the ability of community, regional and national resilience and preparedness for dealing with new situations, pressures and opportunities.
- **Sub-KPA: Trade-offs**
  - Extent to which approved projects result in adverse effects that could not be avoided without accepting more adverse effects elsewhere.
  - Acceptance of trade-offs where stronger mitigation efforts or avoidance would have been feasible.
  - Displacement of significant effects from now into the future.

- Extent to which trade-offs have been discussed and accepted through open participation processes.
- **Sub-KPA: Alternatives**
  - EAO comparison of the overall long term advantages and disadvantages for project areas, region and nation of proceeding now with the currently proposed project versus delaying it, or proceeding with other possible timing, scale, pace and/or components.
  - EAO consideration of impacts of alternatives, including the alternative of no project or activity.
  - EAO comparison of the equity of distribution of alternatives' benefits and risks now and to future generations.
  - EAO consideration of the longer term possibilities for sustainable livelihoods that would occur as a result of alternatives.

## ***Conclusion***

As we state above, a substantive, legislated purpose of EA, as well as a requirement for EA processes to consider the compliance of projects with land use planning and cumulative effects studies, are prerequisites to proper understanding of the EAO's performance in conducting EAs.

That said, we hope the above suggestions provide helpful examples of specific indicators of the performance of it – and of EA generally – in British Columbia. Please feel free to contact us with any questions or for further information.

Regards,

Anna Johnston



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