

Via email

October 15, 2021

Hon. George Heyman
Minister of Environment and Climate Change Strategy
PO Box 9047 Stn Prov Govt
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ENV.minister@gov.bc.ca

Dear Minister Heyman,

RE: Meeting BC's Commitments to an EA Public Participation Funding Program and Meaningful Community Advisory Committees

As environmental organizations that engaged in the process to reform BC's *Environmental Assessment Act* (the "Act"), we are disappointed and concerned that BC is failing to deliver on two of its key commitments to enhance public confidence in the environmental assessment ("EA") process, namely implementing a public participant funding program and ensuring meaningful community advisory committees.

We write to make two requests:

- 1) We request a specific timeline for when the EA participant funding program will be brought into effect, including steps for meaningful public engagement with regard to its development; and
- 2) We ask for your commitment to communicate to the Chief Executive Assessment Officer that it is inconsistent with the spirit, intent and plain wording of the Act to set out in policy that an online mailing list constitutes the Community Advisory Committee required by default under the Act for an EA, and that all such policy statements should be deleted.

ESTABLISHING AN EA PARTICIPANT FUNDING PROGRAM

Your Commitment to Establish an EA Public Participant Funding Program

As you are aware, one of BC's three objectives for EA revitalization is to enhance public confidence, transparency and meaningful participation in EAs. A key plank of enhancing public confidence is meeting the commitment to a public participant funding program.

BC's 2018 [Intentions Paper](#) on EA revitalization states that: "A program for public participant funding is planned, with details subject to further engagement." In November 2018, you personally repeated this commitment during legislative debate on the Act, [stating](#) to the Legislature: "Our intentions paper sets out that a program for public participant funding is planned, with details subject to further engagement."

Lack of Progress Towards an EA Public Participant Funding Program

In the three years since these very clear commitments were made, there has been no tangible progress whatsoever towards establishing an EA participant funding program.

Our organizations wrote to you personally on February 22, 2019, with respect to establishing the promised EA participant funding program in regulation. We received no response. A number of our organizations have engaged in ongoing conversations with the Environmental Assessment Office (“EAO”) since that time, yet despite repeated inquiries the EAO has been consistently unable to provide any firm commitments or clarity regarding when and how an EA participant funding program will be established.

Negative Impact on the Public from Lack of Progress

In the meantime, EAs are proceeding with communities continuing to be left behind because they do not have the resources to meaningfully participate. This is true both for “transitional” projects, whose proponents chose to proceed under the previous legislation, as well as for EAs under the new Act.

For instance, the EAO recently declined two requests for public participant funding with respect to the EA of the Tenas Coal Project. One of those requests was made by a community group based in the town of Telkwa, while the other request was made by the Northwest Institute for Bioregional Research, a signatory to this letter. In declining the requests, the EAO stated that there is currently no program for public participation funding.

Request for a Clear Timeline and Engagement Process

The commitment to public participant funding was and remains crucial to delivering on BC’s EA revitalization objective of enhancing public confidence and meaningful participation in EAs. BC’s failure to follow through on this commitment so far is perpetuating the same problems of exclusion and under-resourcing that have caused communities to be distrustful of provincial EA processes. Further delay and broken promises will only deepen this problem.

We request a response outlining a clear process for implementation of the promised EA participant funding program, including steps for meaningful engagement in its development and a specific timeline for bringing the program into effect.

ENSURING MEANINGFUL COMMUNITY ADVISORY COMMITTEES

The Commitment and the Legal Requirement for Community Advisory Committees

As you are aware, section 22 of the Act requires by default the establishment of one or more Community Advisory Committees (a “CAC”) for each EA to advise the EAO, unless the EAO determines there is insufficient community interest. You acknowledged during [legislative debate](#) that this provision resulted from “significant public interest in the ability to engage” in EAs, and stated that “the guiding, overriding principle” for determining composition of CACs would be “to facilitate meaningful public participation throughout assessments.”

Furthermore, you provided an illustration to the Legislature of what the composition of a CAC might look like:

Let me give some examples, which I don't mean to be exhaustive. It could be local elected officials. It could be chambers of commerce. It could be parents groups. It could be physicians. It could be the chamber of commerce. It could be a tourism association. It could be a local environmental association.

I'm sure I haven't covered all the possibilities, but the idea would be to ensure that people who would have an opinion and an interest would have an opportunity to express that.

Your statements correspond with the common understanding of the role of the CAC in engagement leading up to the passing of the Act, namely a body of identifiable engaged community members who participate in meaningful dialogue and directly provide advice to the EAO. This is also consistent with the [recommendations](#) of the Province's EA Advisory Committee, which proposed roles for the CAC such as helping to set information-gathering standards and liaising with the broader public.

A Digital Subscription Service is not a Community Advisory Committee

We have been frustrated that, in the [CAC Guideline](#), the EAO has effectively sought to roll back this gain for public participation by attempting to portray an online mailing list as meeting its requirement to establish a CAC.

The CAC Guideline states that "the starting point for the CAC in every EA will be a digital subscription service" that anyone can automatically join, which will provide EA materials and notifications to subscribers. The CAC Guideline adds that: "At a minimum, CAC members will be invited to provide their input through four Public Comment Periods throughout the EA and informed of local open house opportunities." These participation opportunities are already required by law, or are standard as a matter of policy, for the general public as a whole.

The CAC Guideline states that the EAO "may" establish other engagement opportunities through which the CAC could participate. However, the CAC Guideline clearly sets an online mailing list as the default, with no minimum level of engagement for the CAC beyond what is already offered to the general public.

This is a fundamental departure from the intended role of the CAC. The EAO's "mailing list" approach fails to provide for meaningful dialogue, fails to enable meaningful advice to the EAO, and flies in the face of the intent and plain wording of the Act (which contemplates in section 22 individuals being "appointed" to the CAC and carrying out "duties of the committee"). Put simply, an online mailing list is not a committee.

The CAC Guideline must be Amended

By purporting to establish an online mailing list as the default, the CAC Guideline leaves communities to fight on a case-by-case basis for the minimum that is already required by the Act: an actual committee. This effectively negates the very purpose of section 22 of the Act, which is to require establishment of a meaningful committee of engaged community members as the default in every EA.

To be clear, we are not opposed to an online mailing list for a project undergoing EA. However, the notion that such a mailing list constitutes a Community Advisory Committee is thoroughly inappropriate.

We request a response indicating that you will communicate to the Chief Executive Assessment Officer that it is inconsistent with the spirit, intent and plain wording of the Act to set out in policy that an online mailing list constitutes the CAC, and that all such policy statements should be deleted. We would welcome engagement on improvements that could be made to the CAC Guideline regarding the composition and role of the CAC.

Thank you for your attention to these important matters and we look forward to your response regarding our requests.

Sincerely,

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