



December 16, 2016

Via email: EAreview_participation@canada.ca

Johanne Gélinas
Chair, Expert Panel
Review of Environmental Assessment Process
160 Elgin Street, 8th Floor
Ottawa, ON K1A 0H3

Dear Ms. Gélinas:

Re: Environmental Assessment Process Review

I am writing on behalf of the Environment, Energy and Resources Law Section and Aboriginal Law Section of the Canadian Bar Association (CBA Sections) to follow up to our submission to the Expert Panel on December 9, and my appearance before the panel in Vancouver on December 12, 2016.

In this letter, we respond to three questions posed by the Panel during the appearance. We appreciate the opportunity to further address the Expert Panel on ways to strengthen and improve the federal environmental assessment (EA) process.

1. How could Aboriginal EAs work in conjunction with federal and provincial EAs?

In principle, one EA could satisfy Indigenous, federal and provincial EA requirements, if the Indigenous community or Indigenous EA body exercising jurisdiction over the project agreed. This might require members of the Indigenous EA body to participate in deciding on the conclusions and recommendations of the final EA report.

2. How could regional studies be identified and completed?

The CBA Sections suggest that the public, Indigenous communities and other levels of government be given the opportunity to make recommendations to the Canadian Environmental Assessment Agency for areas that could be the subject of regional studies. In turn, the Agency could recommend to the Minister those regional studies that should proceed. Where the Minister decided to proceed with a regional study, a Joint Review Panel could be selected with the relevant provinces or territories. Terms of Reference would govern the scope of the regional study.

3. How could funding work with a suggested streamlining of the EA hearing process?

The CBA Sections recognize that more funding is required to ensure that the best evidence is presented to EA review panels, and see no contradiction between increased funding and streamlining the EA hearing process. In fact, increased funding from one source could better

coordinate resources to ensure that funds were provided in a timely manner and in accordance with the other deadlines in the process. One model worth studying is Ontario's former *Intervenor Funding Project Act*, RSO 1990, c. I.13.

The CBA Sections continue to underscore the importance of CEAA 2012 and an adequately funded federal EA process that incorporates scientific evidence, protects the environment, respects the rights of Indigenous peoples and supports socio-economic growth. We appreciate the opportunity to recommend further ways to strengthen and improve this process, and trust that our comments will assist the Expert Panel.

Yours truly,

(original letter signed by Kate Terroux for Anthony J. Crossman)

Anthony J. Crossman
CBA Environment, Energy and Resources Law Section