

## ANNEX "F"

### INTERIM ENVIRONMENTAL ASSESSMENT PROCESS

- (1) In this Annex,
  - (a) "CEAA (1992)" means the *Canadian Environmental Assessment Act, S.C. 1992, c. 37* [repealed, 2012, c. 19, s. 66], as it read immediately prior to its repeal;
  - (b) "CEAA 2012" means the *Canadian Environmental Assessment Act, 2012, S.C. 2012, c. 19, s. 52*, as amended from time to time.
- (2) This Annex sets out the environmental assessment process that will apply to projects on First Nation Land until the enactment and coming into force of First Nation Laws on that subject.
- (3) The First Nation shall conduct an assessment process in respect of every project on First Nation Land consistent with:
  - (a) CEAA (1992), or
  - (b) CEAA 2012.
- (4) Notwithstanding clause (3), the First Nation is not required to conduct an additional environmental assessment if the First Nation decides to adopt an environmental assessment that Canada conducts in respect of that project.
- (5) If the First Nation elects to use a process consistent with CEAA (1992), the following applies:
  - (a) When the First Nation is considering the approval, regulation, funding or undertaking of a project on First Nation Land that is not described in the exclusion list as defined in CEAA (1992), the Council of the First Nation shall ensure that an environmental assessment of the project is carried out in accordance with a process that is consistent with that of CEAA (1992). Such assessment shall be carried out as early as practicable in the planning stages of the project before an irrevocable decision is made.
  - (b) The First Nation shall not approve, regulate, fund, or undertake the project unless the Council has concluded, taking into consideration the results of the environmental assessment, any economically and technically feasible mitigation measures identified as necessary during the assessment, and any public comments received during the assessment, that the project is unlikely to cause any significant adverse environmental effects or that any such effects are justifiable under the circumstances.

- (c) If the First Nation approves, regulates, funds, or undertakes the project, the First Nation shall ensure that all mitigation measures referred to paragraph (b) above are implemented at its expense or it is satisfied that another person or body will ensure their implementation. The Council shall also consider whether a follow-up program, as defined in CEAA (1992), is appropriate in the circumstances and if so, shall design a follow-up program and ensure its implementation.
- (6) If the First Nation elects to use a process that is consistent with CEAA 2012, the following applies unless it is inconsistent with any amendments made to CEAA 2012 in the future or any legislation that replaces CEAA 2012:
- (a) If the project is a "designated project" as defined in CEAA 2012, the First Nation shall conduct an environmental assessment of that project in accordance with a process that is consistent with that of CEAA 2012.
- (b) If the project is a "project" as defined in section 66 of CEAA 2012, the First Nation shall not carry out the project on First Nation Land, or exercise any power or perform any duty or function conferred on it under the Land Code or a First Nation law that would permit the project to be carried out, in whole or in part, on First Nation Land, unless the Council of the First Nation determines that the carrying out of the project
- (i) is not likely to cause significant adverse environmental effects as defined in CEAA 2012; or
  - (ii) is likely to cause significant adverse environmental effects and the Council decides that those effects are justified in the circumstances.
- (7) All processes shall be conducted at the expense of the First Nation or of the proponent of the project.
- (8) The provisions in this Annex are without prejudice to any environmental assessment process that the First Nation may develop in accordance with the Act and the Framework Agreement for incorporation in First Nation laws respecting environmental assessment.