



May 5, 2020

The Honourable Jonathan Wilkinson  
Minister of Environment and Climate Change Canada  
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Gatineau, Quebec  
K1A 0H3  
via email: [ec.ministre-minister.ec@canada.ca](mailto:ec.ministre-minister.ec@canada.ca)

Minister Wilkinson:

**Re: Suspension of timelines under the *Impact Assessment Act***

We are writing to recommend an urgent amendment to the Information and Management of Time Limits Regulations (IMTL Regulations) to give the Impact Assessment Agency of Canada (Agency) discretion to suspend time limits under the *Impact Assessment Act* (IAA).

We greatly appreciate the tremendous efforts the Prime Minister and his Cabinet, you included, are making to safeguard Canadians from the health, social and economic effects of Covid-19. We also appreciate the hard work your office continues to do towards achieving your mandates, such as the introduction of climate accountability (net-zero) legislation and Pathway to Canada Target One.

At the same time, we are gravely concerned that assessments may proceed despite the significant barriers posed by the pandemic. While our immediate concerns relate to Covid-19, future unanticipated events may also require Agency discretion to suspend timelines.

Such unforeseen circumstances could be a barrier to meaningful public engagement, and as a result, to the Agency meeting its obligations, for example under sections 11, 14(1) and 16(2)(d).

They could also constrain experts, such as independent scientists and gender equity specialists, in their engagement. Additionally, we worry about the Agency's ability to administer assessments and federal departments' ability to engage, given technological, time and capacity constraints resulting from emergencies or other surprises.

Moreover, IA processes should respect Indigenous peoples' right to determine whether, how and at what pace assessments within their territories proceed. This right is undermined by inflexible timelines, especially during such unprecedented times.

As a result of these constraints, there is a significant risk that proceeding with planning and post-planning processes in unforeseen situations will result in deficient bases for impact assessments (IAs). The Crown's ability to meaningfully consult and accommodate Indigenous peoples at such times is doubtful, a robust gender-based analysis would be challenging to conduct, and the scientific evidence for IAs would almost certainly be compromised. Accordingly, public buy-in for projects could be in jeopardy if IAA processes were to proceed. The Agency has recognized these constraints in the regional assessment for the Ring of Fire by suspending engagement; it should likewise have that authority for project IAs in any exigent circumstances.

While project proponents have the power to request suspensions of time limits, for various reasons they may not exercise it. Covid-19 is illuminating the risk of imposing statutory timelines without providing you or the Agency discretion to extend or suspend where deemed necessary.

As such, we urge you to amend the IMTL Regulations to provide the Agency with broad discretion to suspend timelines under the IAA where it determines a suspension is necessary in order to achieve the purposes of the Act, or where requested by an Indigenous group or members of the public. Having the ability to suspend timelines is crucial for credible, rigorous IAs that respect Indigenous rights and sovereignty, advance reconciliation, are consistent with international human rights laws and standards, and help ensure sustainability. We are confident that the Agency will exercise this power carefully and only when strictly necessary.

We thank you for your attention to this matter and will follow up with your office shortly to discuss it further.

Sincerely,

Jessica Clogg  
Executive Director and Senior Counsel,  
West Coast Environmental Law Association

Justina Ray  
President & Senior Scientist,  
Wildlife Conservation Society Canada

Alex Neve  
Secretary General,  
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cc: David McGovern, President  
Impact Assessment Agency of Canada