

Nexwlelexwem/Bowen Island, January 28, 2023

The Honourable Steven Guilbeault, MP
Minister of the Environment and Climate Change
House of Commons
Ottawa ON K1A 0A6

Send by mail and email: ministre-minister@ec.gc.ca

Re: Proposed changes to Woodfibre LNG Project Decision Statement Conditions,
March 18, 2016 reissued March 7, 2018

Dear Minister:

We are aware of the Memorandum of Understanding between the Squamish Nation and BC Environmental Assessment Office and Impact Assessment Agency of Canada for the proposed changes by Woodfibre LNG Ltd. to Environmental Assessment Certificates.

We, the undersigned are writing to formally request that Section 184 of the Impact Assessment Act be nullified, and that under the terms of the Canadian Environmental Assessment Act (CEAA) 2012, Section 65, the proposed changes to the Woodfibre LNG Project Decision Statement Conditions 3.8 and 6.4, are declined as the CEAA 2012 doesn't accommodate adding, changing or removing conditions.

1) Rational for request

As Concerned Citizens Bowen, we stand on the position, that when the public is asked to trust an approval because of conditions, those conditions will not be changed after the fact.

This is exactly what we understood it to be on March 18, 2016, the day the federal Decision Statement for this project was issued. We understood this from:

The EAAC press release on March 18, 2016:

*"In her Environmental Assessment Decision Statement, the Minister established legally binding conditions, which include mitigation measures and follow-up requirements with which the proponent must comply throughout the life of the project."*¹

¹Woodfibre LNG Project — Environmental Assessment Decision: March 18, 2016 - EAAC <https://iaac-aeic.gc.ca/050/evaluations/document/120630>

The Minister's Decision Statement issued on March 18, 2016:

"In accordance with subsection 53(2) of the Canadian Environmental Assessment Act, 2012, I have established the conditions below in relation to the environmental effects referred to in subsection 5(2) of the Canadian Environmental Assessment Act, 2012, with which the Proponent must comply."

Then Parliamentary Secretary to the Minister of ECCC, Mr. Wilkinson, dated April 15, 2016, to Concerned Citizens Bowen and My Sea to Skyon the subject of WFLNG's cooling system and herring spawn:

"The Minister's environmental assessment Decision Statement establishes legally binding conditions, which include mitigation measures and follow-up requirement with which the proponent must comply throughout the life of the project."

And:

"The Minister's approval decision included 122 legally binding conditions, to which the proponent must adhere."

How were communities and the public to understand these statements to be any differently than how they are formulated in the above official documents?

Not anywhere in any of them it says, "unless the environmental assessment act is changed". In fact, it is very much the opposite; the wording is to convey the public to a place of trust. Trust in democracy and its laws. Trust in an environmental assessment process that has produced this outcome. Trust in the decision, because of its legally binding conditions.

Please note, that it was Prime Minister Trudeau, who on March 1, 2016, at a press conference about Quebec seeking an injunction against the Energy East pipeline, said: "Governments grant permits, communities grant permissions."

We were asked as communities around Átl'k a7tsem to put our trust in the decision, and "...grant a permission".

Trust is essential in a democracy. Without it, democracy cannot function. Communities should be able trust a decision and a government to follow through in legally binding conditions attached to the decision when they say they will.

During the time of this decision, public trust in the environmental assessment was at an all time low. The government said it would make an effort to restore that trust, and started a review of the environmental assessment process. The terms of reference stated:

The mandate letter of the Minister of Environment and Climate Change (the Minister) directs her, as a top priority, to "immediately review Canada's

environmental assessment processes to regain public trust and help get resources to market and introduce new, fair processes that will:

- *Restore robust oversight and thorough environmental assessments of areas under federal jurisdiction, while working with provinces and territories to avoid duplication;*
- *Ensure decisions are based on science, facts and evidence and serve the public's interest;*
- *Provide ways for Canadians to express their views and opportunities for experts to meaningfully participate; and*
- *Require project advocates to choose the best technologies available to reduce environmental impacts.”²*

As Concerned Citizens Bowen, we took part in the review, in good faith, trusting we were providing valuable feedback about our experiences with the EA process to assess suitability of the seawater cooling systems and herring spawn. We were genuinely trying to help to make the Environmental Assessment process better. Time away from family.

The results of that process did not indicate at any point what the consequences of an issued 2012 Act Decision Statement would be once a new Act would come into force.³ That became clear through the introduction of Bill C69, which included Section 184. All this we found out retroactively, after reading Section 184 in the Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions.

The 2019 Impact Assessment Act, Section 184 says:

“A decision statement issued by the Minister under subsection 54(1) of the 2012 Act is deemed to be a decision statement issued under subsection 65(1) of this Act [IAA 2019],...”

and, in combination with Section 68 point (2) of that same act :

“The Minister may add, remove or amend a condition only if he or she is of the opinion that doing so will not increase the extent to which the effects that are indicated in the report with respect to the impact assessment of the designated project are adverse.”,

it becomes a betrayal of public trust, a stab in the back that no one in our communities had ever anticipated.

The same Minister who gave her approval to the Woodfibre LNG project assuring that the proponent must meet all 122 conditions, was the same Minister who introduced the 2019 Environmental Assessment Act that would open the door to the possibility that these conditions could be changed, if a proponent wishes to do so, because as in this case it deems *“ construction [of the project] neither technically nor economically feasible.”⁴*

²<https://www.canada.ca/en/services/environment/conservation/assessments/environmental-reviews/environmental-assessment-processes/final-terms-reference-ea.html>

³<https://www.canada.ca/content/dam/themes/environment/conservation/environmental-reviews/certainty-confidence-competitiveness.pdf>

⁴ Draft Analysis of Proposed Changes to the Woodfibre LNG Project Decision Statement Conditions. IAAC, (2022, Nov)

We hoped for a better environmental assessment process, one we can put our trust in. But from this experience we must learn that we were simply too naïve to think that would be possible in Canada.

However, maybe there is still hope. It is within your power as a Minister to nullify Section 184 for the Woodfibre LNG project, which nullifies the proposed changes to the Decision Statement Conditions, or simply reject the changes proposed.

Awaiting your decision, we remain.

Kind regards,

J.H. Anton van Walraven

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Attached: Letter dated April 15, 2016, from the then Parliamentary Secretary to the Minister of ECCC, Mr. Wilkinson to Eoin Finn and Anton van Walraven on the subject of WFLNG's cooling system and herring spawn.

CC MOU:

- Nexwsxwníwntm ta Úxwumixw, Chiefs and Council Squamish Nation
- Impact Assessment Agency of Canada
- Environmental Assessment Office of British Columbia

CC:

- The Honourable George Heyman, Minister of Environment of British Columbia
- Patrick Weiler, MP West Vancouver - Sunshine Coast - Sea to Sky Country
- Jordan Sturdy, MLA West Vancouver - Sea to Sky
- Mayor and Council, District of Squamish
- Mayor and Council, District of West Vancouver
- Mayor and Council, Bowen Island
- Mayor and Council, Village of Lions Bay
- Ruth Simons, President and ED, Atl'Ka7tsem / Howe Sound Biosphere Region
- Tracey Saxby, My Sea to Sky