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Sent: January 7, 2022 3:04 PM
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Subject: RE: DP4: Draft Joint Guidelines for Popkum First Nation Review

Hi Mabel,

I am writing to provide some comments with respect to the below on behalf of Popkum First Nation.

As indicated in section 13.15 of the Joint Guidelines, Popkum has previously identified the following concerns with respect to the Deltaport Expansion Project:

- Harvesting and subsistence activities: effects on fish and fish habitat; and adverse environmental impacts (including but not limited to impacts to fish and fish habitat)
- Cultural use sites and areas: adverse impacts of accidents and malfunctions on water, land, environment (wildlife), cultural heritage sites, etc.; and increased traffic
- Social and economic conditions: requirement for Indigenous monitors for during and after construction of the project
- Indigenous health and well-being: cumulative effects as they relate to climate change; and cumulative effects of the project taking place around the Fraser River
- Indigenous governance systems: adverse impacts to Popkum's ability to exercise its Aboriginal rights, including harvesting rights

With respect to the proposed list of subcomponents for the Marine Fish and Habitat Valued Component (VC), as summarized in Table A1.1 of the Joint Guidelines, Popkum recommends that the proponent add pink salmon, coho salmon and steelhead to the list. We note that the Joint Guidelines state that the proponent must, at a minimum, assess the potential effects of the project on chinook salmon, chum salmon, sockeye salmon, green sturgeon, white sturgeon, and eulachon (among other species) as outlined in the Section 9.9 of the Joint Guidelines and support this requirement. All of the species mentioned above are culturally important fishes that Popkum community members harvest (historically, in the case of sturgeon due to conservation concerns) along the Lower Fraser River, and also have the potential to occur in proximity to the proposed project. Any adverse impacts to these species stemming from the proposed project (e.g. exposure to pollutants from accidents or malfunctions) would also adversely impact Popkum's Aboriginal rights, including to fish within their traditional waters and therefore warrants discussion and assessment in the assessment process. In addition to this, Popkum recommends that the proponent extend the Regional Assessment Area (RAA) for the Marine Fish and Habitat VC to include the entire Lower Fraser River, so these potential adverse effects to Popkum's rights can be adequately assessed.

Popkum supports the request for road and rail activities to be included in the scope of this assessment through a regional-scale study modeling traffic-related impacts (e.g. congestion, noise, air quality, and associated human, ecosystem health and economic impacts). This study should include explicit and targeted consideration of Indigenous interests. The density of transportation corridors and easements that bi-sect Popkum's Traditional Territory have already caused significant and un-mitigatable effects to Popkum's exercise of Aboriginal rights, and the increased traffic that this proposed project will produce will only add to this.

Overall, Popkum First Nation is pleased that the Impact Assessment Agency of Canada (IAAC) and the British Columbia Environmental Assessment Office (EAO) has included many requirements to meaningfully engage Indigenous Nations and incorporate their Indigenous knowledge throughout many sections of the Joint Guidelines. However, Popkum remains concerned that these requirements will be challenging to implement and regulate as the proposed project moves forward. Despite the new and improved Impact Assessment Act (2019), many Indigenous Nations, including Popkum, are overwhelmed with referral requests and lack the resources (especially relative to IAAC, EAO, and the proponent) to meaningfully engage in them all. Popkum would also like to note that IAAC recently rejected their recent application to the Indigenous Capacity Support Program (Stream 3 - Strategic Partnerships), which could have helped minimized the burden of consultation and supported on-the-ground documentation of Indigenous knowledge required in these Joint Guidelines. Considering this, in our view, the Crown should make all reasonable efforts to support Popkum with participating in the many requirements of the Joint Guidelines by: encouraging the proponent to provide ample capacity funding, reviewing Impact Statement findings with a highly precautionary lens in instances where Indigenous knowledge data from Popkum is absent, and making all possible efforts to avoid duplication of efforts in the joint assessment process.

Best regards,

Nisha Sikka (she/her)

Lawyer

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