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Comité consultatif de l'environnement Kativik
Kativik Environmental Advisory Committee

February 13, 2023

Ms. Maude Durand
Director by interim
Legislative and Regulatory Strategy Office
Ministry of the Environment, Climate Change, Wildlife and Parks
900 René-Lévesque Boulevard East, Suite 800
Quebec City, QC
G1R 2B5

SUBJECT: Request for legislative change regarding the environmental assessment public registry

Ms. Durand,

The Kativik Environmental Advisory Committee (KEAC) was created under Section 23 of the *James Bay and Northern Quebec Agreement* (JBNQA). The KEAC is an advisory body to responsible governments regarding the protection of the environmental and social milieus of Nunavik. In this regard, it is the preferential and official forum for the governments of Canada and Québec as well as the Kativik Regional Government (KRG) and the Northern Villages.

As part of our mandate to examine environmental and social impact assessment established under Section 23 of the JBNQA, the KEAC wishes to request an amendment to the *Environmental Quality Act* (EQA) to allow the systematic publication of documents in the Environmental Assessment Registry concerning projects located on territories subject to an agreement under section 213 of the EQA, such as Nunavik. As mentioned in our June 22, 2022 letter and in our response to the November 10, 2022 Regulatory Omnibus pre-consultation, there is currently an inconsistency in the publication of impact assessment documents for projects in the province of Quebec.

In Title I of the EQA, section 118.5 requires the Minister to maintain a public registry of all applications for certificates of authorization, authorizations or permits submitted under, among others, sections 160 and 196 of EQA. Section 118.5.0.1 requires the Minister to keep a register of projects subject to the environmental impact assessment and review procedure (EIARP) provided for in subdivision 4 of Division II of Chapter IV. Thus, the register provided for in section 118.5.0.1 cannot include documents and information relating to projects that are subject to the environmental and social impact assessment and review procedures provided for in Title II of the EQA, since the register kept under this section applies only to projects subject to the EIARP, which is nonapplicable to projects in territories subject to an agreement.

This being said, in the absence of provisions in Title II of the EQA concerning the public nature of the documents filed by project proponents and of a clear mention of the application or not of sections 118.5 and

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118.5.0.1 for projects located in territories subject to an agreement, an authorization from the proponents is required to publish their documents in the Environmental Assessment Registry. It should be noted that this authorization must be obtained following the receipt of any new document filed by a proponent. The current publication strategy, which most of the time relies on the good faith of the proponents, does not allow for a complete and adequate picture of the information available on upcoming or ongoing projects in the Nunavik territory.

In addition to complicating access to documents of public interest, this situation causes significant inconsistencies in the type of information accessible. As part of the environmental assessment process for projects above the 55th parallel, the Kativik Environmental Quality Commission (KEQC) is responsible for the assessment and review of projects in Nunavik. As part of its duties, it may conduct public consultations with stakeholders affected by a project and makes available on their website the documents required for these consultations. It would therefore be possible to find documents on the KEQC's website that were not published in the Environmental Assessment Registry, because of a refusal from the proponents or due to documents that are subject to different confidentiality constraints between the KEQC's website and the Environmental Assessment Registry.

The KEAC would like to point out that the issue of access and publication of documents was also raised in the early stages of the consultation regarding the modernization of the EQA. Already in September 2015, in its brief on the Green Paper, the KEAC mentioned the importance of ensuring better accessibility to information pertaining to environmental assessment for northern populations. The KEAC brief specifically mentioned the need for a public registry of environmental authorizations that apply to projects on the Nunavik territory. In November 2016, the KEAC was invited to comment on the draft *Act to amend the Environment Quality Act in order to modernize the environmental authorization regime and amend other legislative provisions, in particular to reform the governance of the Green Fund* (Bill 102). In its 2016 brief, the KEAC was pleased to see that Bill 102 had provided for the establishment of an environmental assessment registry, and asked that section 118.5 of the EQA be improved to include projects subject to the environmental and social impact assessment and review process applicable to Nunavik. Furthermore, discussions were then held between the KEAC and the Department in July 2017 regarding various elements of the upcoming modernization of the EQA. In these discussions, the KEAC members were under the impression that their previous comments on the registry had been integrated and that the documents would be treated equally for both southern and northern projects. It was therefore with surprise and disappointment that the KEAC observed, when the amendments to the EQA were published, that projects subject to the northern procedure were excluded from the public registry.

In addition to being inconsistent, this situation does not allow for equivalent transparency and accessibility of data between a project located in southern Quebec and in the territories under agreement. This lack of transparency leads to a disconnect between the public and a project as a whole and can interfere with their ability to provide relevant comments, if necessary. For example, during the recent KEAC exercise to document how social impacts were previously considered during environmental and social impact assessments of projects in Nunavik, the lack of access to certain documents and the difficulty of retrieving others greatly hindered the completion of this study. Any future work aimed at documenting cumulative impacts or at having a global picture of the activities on the territory would experience the same obstacles. Furthermore, access to relevant information regarding projects in the region is already an issue due to the language barrier and the technical nature of documentation.

Considering the issues presented in this letter and in order to allow greater access to documents pertaining to projects taking place on the territory, the KEAC proposes an amendment to sections 118.5 and 118.5.0.1 of the EQA so that the requirements concerning the publication of documentation in the Environmental Assessment Registry also apply to projects covered by the impact assessment process of Title II of the EQA, and this, in a systematic manner and without having to ask for authorization on a case-by-case basis for each and every one of the documents filed by the project proponents.

Sincerely,



Alexandre-Guy Côté
Chairperson, KEAC