

For Immediate Release – November 5, 2018

West Coast welcomes BC's new assessment law

But lawyers say more must be done to ensure independent evidence and safeguard climate

VANCOUVER, BC, Coast Salish Territories – West Coast Environmental Law Association welcomes the BC government's introduction of Bill 51, which contains important improvements to provincial environmental assessments (EA). However, environmental lawyers warn that without stronger requirements to ensure trustworthy evidence and sustainable outcomes, the new law does not go far enough to protect the environment and build public confidence.

"When it comes to environmental assessments in BC, one of the most common complaints is that project reviews rely primarily on evidence generated by the proponent," said Gavin Smith, Staff Lawyer. "If the company proposing the project is presenting the bulk of the evidence, and there are no requirements for independent studies, expert peer reviews or panel hearings to test evidence, how can British Columbians have faith that all the concerns and potential impacts have been addressed?"

By continuing to rely too heavily on proponent companies for the information on which assessments are based, the bill fails to address one of the most significant flaws in BC's current assessment regime, says Smith.

The bill, tabled today by Environment Minister George Heyman, results from the Minister's mandate letter commitment to revitalize the environmental assessment process "to ensure the legal right of First Nations are respected, and the public's expectation of a strong transparent process is met."

West Coast lawyers are encouraged by several positive aspects of Bill 51. For instance, the EA bill includes sustainability and reconciliation as explicit purposes, provides for Indigenous-led assessments and studies, incorporates Community Advisory Committees as a default part of the EA process, and includes improved follow-up measures such as independent audits and reports on whether approved projects are effectively mitigating their impacts. The Province has also committed to introduce a funding program to support public participation in assessments, although this is not explicitly addressed in the new bill.

Unfortunately, the new EA law still contains no climate test, or any other evidence-based, legislative test for approval or rejection of projects after an assessment. Despite new requirements about matters that must be assessed and considered – like greenhouse gas emissions – at the end of the day, the ministers may base project approval decisions on "any other matters that they consider relevant to the public interest."

"This new bill has the potential to improve the way environmental assessments are done in BC, but in order to truly restore public confidence in the process, a few major concerns must be addressed," said Smith, adding that there is still a chance to make changes in the Legislature.

Other key concerns with the bill include the continuation of BC's power to exempt projects from assessment, and the absence of any requirement for public hearings.

West Coast lawyers are encouraged that the BC government is taking its commitment seriously when it comes to EA reform that achieves sustainability and reconciliation goals, and will be watching out for opportunities to address outstanding concerns as Bill 51 moves through the Legislature.

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