

Submission to the Expert Panel Review on National Energy Board Modernization

The Independent Contractors and Businesses Association (ICBA) represents more than 2,000 member companies and clients in British Columbia's construction and responsible resource development sectors.

Today, more than 200,000 British Columbians went to work in the construction industry. They are working and building the roads, bridges, hospital, schools and infrastructure that we need to enjoy this diverse and expansive province. These are good jobs that make up 9 per cent of B.C.'s economy.

Another 63,000 people went to work on pipelines, in mills, in the forests, in the mines, on the water, and in the oil and gas sector – responsibly developing and adding value to B.C.'s abundant natural resources.

So much of our economic prosperity in B.C. depends on these workers and what they do, every single day, in towns and cities across the province.

This is why ICBA appreciates the effort to position the National Energy Board (NEB) as a modern, efficient, and effective energy regulator but is concerned that some of the changes to the NEB contemplated in *Forward, Together – Enabling Canada's Clean, Safe and Secure Energy Future* by the expert panel on the modernization of the NEB, would have the opposite effect.

Too much investment hangs in the balance across Canada and there are simply too many jobs at stake to create a process that adds more delays to responsible resource development and stops companies from moving forward with the important infrastructure our province needs to create jobs and build a stronger British Columbia.

Under the current regulatory regime, it took the Trans Mountain Expansion Project (TMEP), five years including both application development (2 years) and regulatory review and approval (3 years), and cost \$600 million to secure approval for its \$7.4 billion project.

After reviewing the report, we have a number of comments:

- **CONSULTATION PROCESS**

Interviewing fewer than 200 individuals and stakeholders, many of who are critical of the NEB simply because they disagree with its past decisions on high profile projects, is not sufficient consultation. Meaningful consultation has to be more broad-based and reflect more accurately the views of the NEB's stakeholders.

- **PROJECT ALIGNMENT WITH THE NATIONAL INTEREST**

We are not convinced that asking proponents to submit to a one-year review to ensure their project aligns with the national interest before being subjected to an environmental assessment makes sense.

The NEB already has a process that is extremely robust and rigorous. Canadian companies are some of the best in the world at developing natural resources in a sustainable and responsible way and adhere to the highest standards of any jurisdiction in the world. However, they

compete in a global marketplace – there is competition for natural resources, for investment capital, and for the people who have the experience and expertise in very specialized fields.

The focus of the expert panel needs to be on making our regulatory processes more efficient while maintaining the high standards that Canadians expect from its regulatory agencies. The solution to removing barriers to investment and reducing bureaucracy and red tape is not to create more bureaucracy and red tape. The imperative is how to ensure that project review timelines can be made more efficient while maintaining the integrity of the process, not to extend the process and add layers of complexity.

NEB reviews and environmental assessments must be science and fact-based, rely on sound evidence, and free from political considerations. It is important that the process be transparent and undertaken in reasonable timeframes with a clear objective – good projects that meet all the regulatory requirements are approved and move forward, while bad projects that fall short of regulatory standards are rejected.

While the USA and China sign a historic Liquefied Natural Gas (LNG) deal, we are busy navel-gazing and slowing down our responsible resource industry by adding more red tape to please people who will never be satisfied unless all resource extraction in Canada ceases.

Further, all NEB operations must remain in the west, specifically Calgary. The vast majority of applications are from companies based in western Canada and it is here where the expertise and the experience resides. Taxpayers save money by having the NEB in close proximity to the companies it regulates.

Removing the EA process from the NEB would require additional regulatory authorities and processes for project proponents. This is inefficient, costlier in both time and money, and may result in fragmented consultations and condition compliance. Furthermore, involving additional agencies can create confusion and conflict with stakeholders and Indigenous communities. With more agencies involved the risk for poor coordination between agencies or processes increases and typically results in significant delays in decision making.

One of the improvements in the regulatory review and environmental assessment process in recent years has been the move by Victoria and Ottawa to adopt the principle of “one-project-one-review”. This approach is key to an effective and efficient regulatory process and ensures consistency in approach between levels of government.

- **RELATIONSHIPS WITH INDIGENOUS PEOPLES**

We agree with the expert panel’s view that the current processes for consultation must be improved with clearer guidelines and a clear understanding that this is responsibility of the Crown and should not be delegated to project proponents or industry broadly defined.

It is important that all stakeholders and interested parties, including Indigenous people, be heard. But comments should be limited to the specific proposals involved, not be allowed to venture into areas that are not related to project approval.

Significant projects will often touch several, if not dozens, of Indigenous communities. It is important for the NEB and government to realize that unanimity among these various nations is not always achievable. Proponents must have flexibility in how they approach various groups.

As for “duty to consult,” the federal government should provide specific guidelines as to how it interprets that legal requirement. The more clarity from policy makers, the better for everyone involved.

- **PUBLIC PARTICIPATION**

We agree that the review and hearing processes should encourage public engagement but we caution that the process should not be designed so that the timelines required for consultation are so lengthy that the viability of projects are at risk.

The global economy is speeding up, not slowing down. By putting hurdles in the way of significant energy projects, Canada risks being outmaneuvered on the development of its LNG, oil and gas and other natural resources by other countries, costing Canadians jobs and investment.

By way of example, approximately five years ago, both Canada (British Columbia) and the United States started looking at opportunities related to the establishment of a domestic LNG industry. Today, Canada has yet to export LNG to any market while the USA is now exporting LNG from recently built terminals and the USA and China recently signed an historic LNG trade agreement.

The ICBA calls on the expert panel on the modernization of the NEB to make the environmental assessment and regulatory review process more efficient and more effective for Canada by streamlining and clarifying processes and ensuring that reviews are depoliticized.

More bureaucracy, more delays, more red tape, and more of Canada missing out on the economic benefits of responsible resource development will cost Canada jobs and investment and hurt the long-term viability of our regional and national economies.

Sincerely,



Chris Gardner
President
Independent Contractors and Businesses Association (ICBA)