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Hon. George Heyman
Minister of Environment and Climate Change Strategy
Parliament Buildings
Victoria, British Columbia
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Re: Review of Professional Reliance in Natural Resources

Dear Minister Heyman,

We appreciate the opportunity to provide input on how qualified professionals (QPs) are engaged in the management of BC's natural resources. We hope that this review will result in a far-reaching overhaul for how BC's natural resources will be stewarded in the future to mitigate further negative impacts on the environment, human health and our climate.

Background

Sierra Club BC works to defend BC's wild places and species, within the urgent context of climate change. We advocate for a rapid shift away from fossil fuels to a low carbon, equitable economy. We work to inspire British Columbians to value nature and to defend it. In particular, we focus on children and youth to foster environmental literacy and to encourage the environmental leaders of tomorrow. Sierra Club BC relies on science-based research and peaceful, democratic means to advocate for change.

The impacts of the professional reliance model are felt in all of our campaign areas (Site C dam, old-growth logging, forest management, tarsands pipeline and LNG terminal proposals, mining pollution and lack of protection in the Flathead Valley and adjacent regions, to name a few). This issue is among the most frequent topics of complaint we receive from our supporters and members of the public calling on us for action.

A challenge in the context of the terms of reference and approach

The public interest is served well when governments solicit input and various perspectives on management practices and government initiatives. However, it is disappointing that in a fashion similar to its outsourcing of the management of the public interest to professionals, the government is outsourcing the onus of providing critique and critical feedback to civil society, watchdog citizens and non-governmental organizations. The responsibility to protect the public interest lies with the

government. Due diligence requires a formal review and solicitation of feedback from the public and stakeholder groups.

To be clear: countless examples of threatened species, degraded ecosystems, unfulfilled climate goals and Indigenous communities facing dire socioeconomic conditions and environmental impacts of resource extraction show that the professional reliance model and the Results-Based Code have constituted an overwhelming failure to protect the public interest, the environment, Indigenous rights and sovereignty, climate obligations, biodiversity, public involvement, and transparency.

This review ought to call into question the privatization or quasi-privatization of Indigenous and public resources through deregulation and the charging of the private sector with the responsibility to conduct public input processes. We look forward to seeing the tangible changes needed in management, the restoration of public access and trust in the sustainable development of resources, and the swift restitution needed for the impacts to Indigenous peoples' territorial lands and waters.

British Columbia's back door privatization of Indigenous and public resources

The professional reliance model of regulatory management and vetting of professional practices transcends many ministerial mandates. It has 12-15 years of negative outcomes for communities, the environment, the atmosphere, and terrestrial and aquatic ecosystems. It has eroded indigenous rights, ethical investing and public trust in government and the resource sector.

The regulatory framework is structured in such a way that it negatively affects professionals seeking to uphold a high standard of public trust, and positively rewards the few professionals willing to acquiesce to corporate pressures and compromised accountability. We aim to help the provincial government reverse this effect on corporate and professional culture in BC and restore public trust in government and the resource sector.

Current examples

From BC's Elk Valley, where coal mining activities have completely contaminated the Elk River and put BC at risk of international legal action by Montana and the US, to Kinder Morgan's installation of illegal salmon spawning deterrent nets along the Trans Mountain Pipeline, to the lack of protection for fragile karst ecosystems near Nimpkish Lake ([see article](#)), to the clearcutting of highly endangered remnants of productive old-growth rainforest ecosystems in landscapes like the unprotected Walbran Valley and East Creek on Vancouver Island, the inadequacy of professional reliance and the Results-Based Code is apparent.

Even the regional progress in the Great Bear Rainforest has been undermined in recent years by the lack of clear definitions in legal orders combined with a lack of oversight, resulting in logging company TimberWest clearcutting remnants of highly endangered old-growth rainforest stands while arguing that their in-house definition for old-growth didn't allow for the categorization of these stands as old-growth ([see article](#)).

First Nations leadership

Our federal and provincial governments have a mandate to implement the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) and respect the principle of Free, Prior and Informed Consent (FPIC). The problems of a professional reliance model could receive a regulatory prescription of respecting FPIC, thereby restoring Indigenous trust and confidence in resource sector activities at the ground level in their territorial lands and waters.

Showing leadership and restoring confidence

The announcement of this review is good news, especially as Mark Haddock has been hired to conduct it and make recommendations. However, there is great concern from the public, First Nations, civil society, and unions that resource extraction proponents and professional associations will challenge the tangible outcomes of the ensuing report and use their government access to stifle it or have Haddock's recommendations watered down.

The disproportionate level of access that lobbyists and the corporate sector have in influencing government decisions has been challenging and concerning to public interest groups. It will be critical that the review process and its outcomes retain transparency and independence from private sector influence. The success of this review will not be in the ensuing recommendations, but in the proven success of tangible changes made as a result of the recommendations.

In this review, the BC government has requested recommendations on:

- 1. Whether professional associations that oversee qualified professionals (QPs) employ best practices to protect the public interest;*
- 2. Whether government oversight of professional associations is adequate; and*
- 3. Conditions governing the involvement of QPs in government's resource management decisions and the appropriate level of government oversight to assure the public their interests are protected.*

In Sierra Club BC's experience, the answer to the first two questions is no.

Saving the province money

The restoration of public trust can be synonymous with the restoration of private sector certainty in making final investment decisions on projects. Expediting investment projects with a higher level of government oversight and public trust in professionals' ability to conduct their work increases revenue potential for the government. Public certainty equals investment certainty for companies.

In addition, increased government involvement in oversight and management accountability reduces the likelihood of costly legal battles with First Nations, local residents, non-governmental organizations, and the international community.

Sierra Club BC's recommendations (recommendations 1-4 from West Coast Environmental Law)

1. Government (not industry) should select professionals from a pre-approved list of qualified professionals. Professionals who deliver biased or poor quality work could be removed from the list. A similar system is already used for professionals working with contaminated sites.
2. Except where specialized expertise is required, the selection process should be randomized so that industry cannot influence government staff in the selection.
3. Chosen professionals should sign a retainer agreement with government, not the proponent, and government should have the ability to dismiss poorly performing professionals and/or remove them from the pre-approved roster. Conflict of interest rules would prevent professionals from working for the company whose project is under consideration (although professionals may still work for clients within the same industry).
4. All documents prepared by professionals should be owned by the government. This would make them available to the public under Freedom of Information laws (under the current professional reliance model, key documents are sometimes kept from the public).
5. Provincial commitments on UNDRIP & FPIC should be integrated into the new framework for accountability, into permit processes, and into tools for First Nations' management and oversight.
6. Literacy around climate impacts and climate-related objectives should be integrated into the framework.
7. Legislative tools and the authority of Regional District Managers and staff to deny pending permits or development proposals should be restored.
8. A comprehensive funding program should restore staffing levels in compliance and enforcement to Forest Practices Code levels or higher.
9. The new framework should include stronger penalties for non-compliance with demonstrated impacts on corporate compliance.
10. Land use planning, regulation and regional landscape objectives that professionals work to achieve should be modernized, regularly re-evaluated, and established using peer-reviewed science. Standards should be adapted to address increasingly severe climate impacts such as droughts, flooding, and other extreme weather events, and should not be limited within what the private sector deems economically acceptable.

Sincerely,

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