



File: ARCS-00146-45/USTRIB

Reference: 410172

April 24, 2024

SENT VIA EMAIL

Esther Ashton
Chair
Southeast Indigenous Transboundary Commission
PO Box 20841
Juneau, AK 99802
Garch570@gmail.com in lieu of Esther Ashton

Dear Chair Esther Ashton,

I am writing to follow up on your letter of January 30, 2024, pertaining to your assertion of rights under Section 35 of the *Constitution Act, 1982* (Section 35 Rights) and your request that I reconsider my December 22, 2022, decision under Section 14(2) of the *Environmental Assessment Act* (2018) regarding SEITC's status as a participating Indigenous nation for the Eskay Creek Revitalization project (Eskay Creek).

I received a letter on April 23, 2024, from the Ministers of Environment and Climate Change Strategy, Indigenous Relations and Reconciliation, and Water, Land and Resource Stewardship (the Ministers' Letter) that I consider to be relevant to my consideration of your January 30th request. The Ministers' Letter has been publicly posted to the Environmental Assessment Office's (EAO) website and can be found [here](#).

The Ministers' Letter articulates the Province's intent to develop a Consultation Policy to support engagement with U.S. Tribes asserting Section 35 Rights in BC and that will clarify how the scope and manner of consultation with Aboriginal groups located outside of Canada is distinct from consultation with Canada-based First Nations.

...2

The Ministers' Letter indicates it is intended to inform how the EAO carries out any consultation obligations owed to Aboriginal groups outside of Canada in relation to reviewable projects. The letter also informs me that the Province intends to advance regulatory tools to provide certainty on how Province will meet constitutional obligations, and differentiate the approach to consultation in the EA process with Aboriginal groups outside of Canada from the approach taken with Aboriginal groups located in Canada.

The EAO will continue to engage with SEITC in accordance with the process that we have implemented since Early Engagement while we consider the application of the legal and policy context set out in the Ministers' Letter.

Given my receipt of the Ministers' Letter, I will continue to consider your submission in light of the provincial policy intent. I am intending to respond to your January 31st submission, once I receive further clarity on any interim regulatory tools that the Province intends to implement.

Best regards,



Elenore Arend

Chief Executive Assessment Officer and Associate Deputy Minister

cc: Chris Trumpy, Deputy Chief Executive Assessment Officer and Assistant Deputy Minister, Environmental Assessment Office

Chris.Trumpy@gov.bc.ca

Danielle Smyth, Executive Director, Environmental Assessment Office

Danielle.Smyth@gov.bc.ca

Tracy James, Executive Project Director, Environmental Assessment Office

Tracy.James@gov.bc.ca