

**From:** Benjamin, Cheryl [CEAA]  
**Sent:** Friday, November 26, 2004 7:00 PM  
**To:** 'MacLean, Melanie A'  
**Cc:** Dean, Stuart; Freeman, Michael: TC; Zwicker, Stephen [Dartmouth]; Stewart, Andrew [CEAA]; Plante, Francois; Chaplan, Jonathan [CEAA]; Coulter, Bill [CEAA]  
**Subject:** RE: Keltic LNG - Next Steps  
I agree on another meeting, Melanie. Andrew will be setting up another call for everyone next week.

For clarification, what I understand from our conversation this afternoon is that in fact DFO doesn't feel appropriate to discuss S.25 and scope of project *concurrently* – in fact, quite the opposite – that only once scope of project is decided, should the RAs decide whether S.25 is appropriate. You had raised this point before our Nov. 10<sup>th</sup> call that you knew you couldn't attend, but when DFO reps at the meeting didn't bring the issue to the table, I assumed they had considered it and decided it wasn't an issue. Now that it is clear that this is DFO's position, that we can't discuss these issues concurrently as we decided at the meeting but that they need to be done in steps, we can have another meeting as you suggest.

Also, on our conversation this afternoon on EC & TC's "decisions" on scope of project - is this possibly where we weren't understanding each other: you feel each RA must make an official decision now on what their scope of project would be if they were a single RA because you believe the scope of project for a group of RAs, as in this case, would simply be the additive of all 3 scopes?

It's obvious that all the RAs involved in this project have different approaches to deciding scope of project. DFO has made it clear their policy is always to scope to the trigger. Based on the information provided by TC (including Mike's email from today) and EC, it appears to me that while they have general principles for how they scope, they then believe it necessary to examine the specifics of each case, including the perspectives of other RAs. I.e. they don't automatically decide that the scope of project is the sum of all RA triggers. (What's the expression – the whole is greater than the sum of the individual parts?) RAs may increase their initially preferred scope of a project based on points made by other RAs and an understanding of broader federal interests (not just those of their particular department). This shared approach to decision making is supported by the Act which states in S.12(1) "where there are two or more responsible authorities in relation to a project, they shall together determine the manner in which to perform their duties and functions under the Act and regulations"; and S.8 of the FCRegs which states (paraphrasing) the RAs after consulting with all federal authorities that respond they are in possession of expert advice, together determine scope of project, the factors to be considered, and scope of factors. A formula for decision making when more than one RA is involved is not provided.

Let me know if this is helpful, and if I'm on track.

Thanks  
Cheryl

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-----Original Message-----

**From:** MacLean, Melanie A

**Sent:** Friday, November 26, 2004 1:16 PM

**To:** Benjamin, Cheryl [CEAA]

**Cc:** Dean, Stuart; Freeman, Michael: TC; Zwicker, Stephen [Dartmouth]; Stewart, Andrew [CEAA]; Plante, Francois

**Subject:** FW: Keltic LNG - Next Steps

Now that we have the "scope of project" from the other RA's (attached below), DFO suggests that it is time for the RAs to meet with the Agency to discuss next steps. We need to discuss the consideration of the s.25 referral to a panel concurrently with a discussion on the RA's roles and responsibilities. We concur with Transport Canada's statement that with a broadly scoped EA all involved departments would have to agree who is responsible for what (i.e., lead role etc.). Thanks.

Melanie

**Melanie MacLean**

**Habitat Assessment Biologist**

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-----Original Message-----

**From:** Zwicker, Stephen [Dartmouth]

**Sent:** Friday, November 19, 2004 9:28 AM

**To:** Benjamin, Cheryl [CEAA]

**Cc:** Travers, Ian [Dartmouth]; Jeffrey, Barry [Dartmouth]; St-Louis, Robert [NCR]

**Subject:** Keltic Scoping

Cheryl,

As discussed, attached is EC's perspective on scoping for the Keltic Petrochemicals proposal. This is the second part of the document we sent to you on Tuesday. It is EC's position that all components of the project be included in the scope. This position is supported by the attached table which outlines several items of federal interest and responsibility for each component.

<<draft Keltic scoping rationale - EC.doc>>

*Steve Zwicker*

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#### TRANSPORT CANADA DRAFT SCOPE

For the purpose of scoping this project (Keltic LNG) or any other project Transport Canada would consider section 16 of the Act. However given the fact that Transport Canada's involvement in the EA process for this project is through a law list trigger (which brings with it its own distinctive scoping issues) it would be logical to limit our scope to "navigational requirements associated to all undertakings associated with the marginal wharf, marine terminal and watercrossings".

Transport Canada does however recognize that there are multiple responsible authorities involved in this project and that the scope of the project should then not reflect the requirements of individual federal government departments but should reflect the scope as mandated by the entire federal government as a whole. This being said, the scope of the project would then be broader than TC's responsibility related to its trigger as it would need to include the interest of the other participating federal departments. TC is, at this point, is in favour of a broader scope that encompasses the requirements of all federal departments with responsibilities for an EA and if feasible the completion of one EA (i.e. federal/provincial harmonization) for this project. Obviously a harmonized EA process would be scoped to include matters outside the federal government's mandate but in the interest of timing, public process, continuity, etc. Transport Canada would be willing to participate in a broadly scoped EA with the intent. All involved departments would have to agree on what they are responsible for... like the Bear head project each department would have a list of what they are taking responsibility for. All RAs would sign-off on the document with a pre-arranged agreement of who is responsible for what.

Given that this project will likely be referred to a review panel by means of Section 25 of the Act, Transport Canada would solicit from CEAA advice on scoping as it is ultimately the Minister of Environment that decides on scoping for panels.