

April 18, 2018

The Honourable Catherine McKenna
Minister of Environment and Climate Change
House of Commons
Parliament Buildings
Ottawa ON K1A 0H6

Dear Minister McKenna,

The undersigned are writing to express our collective concern about the public consultation process to revise the *Regulations Designating Physical Activities* (“the Project List”) under the proposed *Impact Assessment Act* (“IAA”), as well as to propose improvements to that process.

To begin, we are disappointed that the Project List is the principal vehicle under the IAA for triggering assessments of projects, as it likely means that a wide variety of federal decisions that adversely affect the natural environment or sustainability will not be assessed in advance for their impacts. The undersigned start from the position—as did the *Canadian Environmental Assessment Act* 1995 -- that the government should have good information about adverse environmental impacts of all projects over which it has decision-making responsibility before

decisions are made. The 2017 Report of the Expert Panel on Environmental Review Processes also supports our view declaring that “Federal IAs should only be conducted on a project, plan or policy that has clear links to matters of federal interest. These federal interests include, at a minimum, federal lands, federal funding and federal government as proponent, as well as species at risk; fish; marine plants; migratory birds; Indigenous Peoples and lands; greenhouse gas emissions of national significance” etc.

The exceedingly narrow application of CEAA 2012 has meant that numerous federal decisions have been made concerning important projects likely to have significant adverse environmental or sustainability impacts in areas of federal interest without good information about these impacts.

Given that the Project List is of critical importance to the utility of the IAA as proposed in Bill C-69, we are further disappointed by the *Consultation Paper on Approach to Revising the Project List*. The Consultation Paper indicates that the Project List would “focus federal impact assessment on projects that would have the most potential for adverse environmental effects in areas of federal jurisdiction”. In essence, the Consultation Paper is saying that only the worst of the worst projects will be included on the Project List for possible impact assessment. So even bad projects with serious adverse impacts in areas of federal jurisdiction may not be listed so long as there are other projects that have more serious adverse impacts. This exceedingly narrow approach to project listing taken in the Consultation Paper is nowhere reflected in the text of Bill C-69.

We urge you to abandon this “only the worst of the worst” approach to the Project List and instead adopt an approach that lists projects based on a test of likely significant adverse environmental or sustainability impacts in areas of federal interest.

Second, the undersigned support an approach to listing projects and determining thresholds that depends on science-based environmental criteria to the extent possible. The expected number of projects in a given project category that may be subject to impact assessment in any given year should not be a criterion either for listing or for the determination of a threshold.

Unfortunately, the expected number of projects in a project category was indeed the most important criterion in developing project categories and thresholds for the 1995 Comprehensive Study List and the CEAA 2012 Project List (which was almost entirely cribbed from this 1995 list). Thresholds for individual project categories (e.g., production capacity of a mine measured in tonnes per day) were determined largely based on the number of federal project assessments that would be triggered by that threshold, and not by any science-based analysis of environmental or sustainability impacts associated with that threshold. We are confident in this assertion given that several of the undersigned were either federal officials or deeply engaged stakeholders in both of these earlier regulatory processes.

The undersigned conclude that an effective, robust criteria-based approach to developing the Project List needs scientific, engineering, and local and Indigenous community input for most if

not all project categories. The Consultation Paper claims that the federal government holds relevant “experience to date” with respect to project listings, and, presumably, related project thresholds. In addition, we are aware that the Canadian Environmental Assessment Agency, as well as Environment and Climate Change Canada and possibly other departments have carried out some research and analysis on these matters in relation to the CEEA 2012 Project list and as part of the planning for Bill C-69.

Therefore, we request that this “experience to date”, together with supporting research and analysis relating to environmental impacts and possible thresholds, be shared publicly as soon as possible so that the consultation process may be as well informed as possible.

Finally, we would urge you to ensure that a draft Project List is publicly released prior to enactment of Bill C-69. The Parliamentary debates on Bill C-69 will be much better informed once Parliamentarians have some knowledge as to the categories of projects likely to be designated under the Project List Regulations, and thus that require impact assessment.

We look forward to your early response.

Sincerely,



Stephen Hazell
Nature Canada



Jamie Kneen
MiningWatch Canada



Tracy Hucul
Green Action Centre



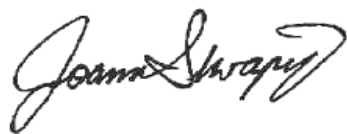
Karine Peloffy
Centre québécois du droit de l'environnement



Justina Ray
Wildlife Conservation Society Canada



Sidney Ribaux
Equiterre



Joanna Skrajny
Alberta Wilderness Association



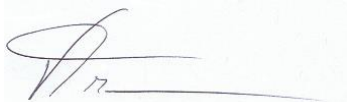
Simon Dyer
Pembina Institute



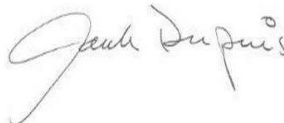
Rick Lindgren
Canadian Environmental Law Association



Lindsay Telfer
Canadian Freshwater Alliance



Isabelle Poyau
Regroupement national des conseils
régionaux de l'environnement



Carole Dupuis
Regroupement vigilance hydrocarbures Québec



Alison Ronson
Canadian Park and Wilderness Society

- cc. Hon. James Carr, Minister of Natural Resources
Hon. Dominic LeBlanc, Minister of Fisheries and Oceans
Hon. Marc Garneau, Minister of Transport
Hon. Ed Fast MP
Elizabeth May MP, Leader of Green Party of Canada
Deborah Schulte MP
Linda Duncan MP
Ron Hallman, President, Canadian Environmental Assessment Agency