



MiningWatch Canada
Mines Alertes



School of Environment, Resources
and Sustainability



December 22nd, 2015

Hon. Catherine McKenna
Minister of the Environment and Climate Change
200 Sacré-Coeur, 2nd Floor
Fontaine Building
Hull, QC K1A 0H3
Via email and mail

Dear Minister McKenna:

Re: Public Review of Environmental Assessment Processes

The undersigned wish to congratulate you on your government’s commitment to improving federal environmental assessment. We are pleased to see that the Speech from the Throne states that the government “will introduce new environmental assessment processes” and that your Mandate Letter directs you to “immediately review Canada’s environmental assessment processes.” We completely agree that improvements are needed in order to restore the credibility of environmental assessment and regain public trust, but also to achieve your government’s objective of a clean environment and a sustainable economy.

At the outset, we wish to note that since the 1980s our organizations have gained tremendous experience as active participants in environmental assessments of development projects as well as processes to establish and reform federal environmental assessment laws and policies. In this letter, we propose that the government establish an independent panel to lead the promised public review, and that you revive the multi-party committee that advised the government on environmental assessment law, policy and procedure from 1992 to 2008.

First, we propose that an independent panel lead the public review, with the Canadian Environmental Assessment Agency providing secretariat support. We would also urge the government to invite Indigenous governments and organizations to “co-design” the public review process with the federal government. Such an approach is consistent with your government’s emphasis on developing a nation-to-nation approach with Indigenous people and underlines that your government is committed to meeting its legal obligations to Indigenous peoples such as the duty to consult and accommodate,

respect Aboriginal title rights, and implement Canada's obligations with respect to free, prior and informed consent of Indigenous peoples under the United Nations Declaration on the Rights of Indigenous People.

In our view, the panel should have a broad mandate to consider and propose innovative solutions to substantive challenges facing environmental assessment such as:

- Sustainability
- Cumulative effects
- Climate change effects of the project and on the project
- Alternatives and trade-offs
- Follow-up and monitoring of project effects
- Strategic and regional environmental assessment
- Engagement of civil society
- Relationships among environmental assessment regimes.

The members of such a panel would include individuals with experience and expertise in federal environmental assessment with qualifications to be refined in the co-design process. The panel also should have authority and adequate resources to commission expert papers to provide focus for the review.

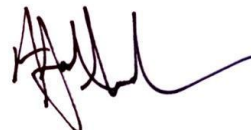
Second, we urge you to revive the multi-party advisory committee on environmental assessment along the lines of the Regulatory Advisory Committee (RAC) that operated with considerable success until 2008 (RAC has never been formally disbanded). Such an advisory committee would include representatives of industry, environmental groups, academe, and indigenous organizations. The advisory committee should have a mandate broader than CEAA 2012 and include other federal environmental assessment processes such as strategic environmental assessment. Similarly, the advisory committee's mandate should extend beyond advising on regulatory and legislative reforms and include advising on operational and policy reforms. The participation of environmental groups and Indigenous organizations should be supported financially by the Canadian Environmental Assessment Agency, as was the case for RAC. The revival of the advisory committee is proposed to complement and not replace direct engagement between the federal and Indigenous governments on these issues.

We would appreciate the opportunity to meet with you and your staff to explore how we can develop a new vision for environmental assessment laws that ensures that projects, policies and programs that bear on federal responsibilities are sustainable and climate-friendly, as well as respect the rights of Indigenous peoples.

Sincerely,



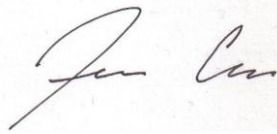
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Nature Canada



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West Coast Environmental Law



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CC: The Hon. Jim Carr, Minister of Natural Resources
The Hon. Hunter Tootoo, Minister of Fisheries, Oceans and the Canadian Coast Guard
The Hon. Carolyn Bennett, Minister of Indigenous and Northern Affairs