

Minister of Energy
and Natural Resources



Ministre de l'Énergie et
des Ressources naturelles

Ottawa, Canada K1A 0E4

Senator Paul Massicotte
Chair, Standing Senate Committee on Energy, the Environment and Natural Resources
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CC: Members of the Standing Senate Committee on Energy, the Environment and Natural Resources

Dear Senator Massicotte,

I am writing further to the testimony provided by Chief Sidney Peters, Co-Chair of the Assembly of Nova Scotia Mi'kmaw Chiefs (ANSMC) and staff members of the Kwilmu'kw Maw-klusuaqn (KMK) on September 17, 2024, to the Standing Senate Committee on Energy, the Environment and Natural Resources (the Committee).

First and foremost, I would like to acknowledge the frustration expressed by Chief Peters and Senators with regards to the consultation and engagement process that led to the development of Bill C-49. I want to reiterate both my personal commitment and the Government of Canada's commitment to a meaningful and lasting relationship with the Mi'kmaq people, based on the recognition of rights, respect, cooperation and partnership. We are steadfast in our commitment to uphold the honour of the Crown in fulfilling the duty to consult with Indigenous peoples on matters that may affect their rights and interests.

As indicated in my letter of June 10, 2024, Natural Resources Canada and the Nova Scotia Department of Natural Resources and Renewables acted in good faith to engage with Indigenous communities throughout Atlantic Canada in developing Bill C-49. As part of this effort, officials sent letters to each of the Chiefs of First Nations throughout Nova Scotia informing them of the Government's intent to amend the Atlantic Accord Acts, the scope of the proposed changes and offered to engage

The first letters were sent in the fall of 2022, prior to the introduction of any legislation in Parliament. The second were sent in May 2023, prior to the Bill's referral to the House of Commons Standing Committee on Natural Resources. In that letter, Chiefs were informed about the status of the Bill, invited to continue to engage with the Government and encouraged to provide their perspectives during the Parliamentary review process. Some communities responded, others did not.

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After hearing the recent Committee testimony and perspective of Chief Sidney Peters, I agree that Natural Resources Canada could have done more to ensure Mi'kmaq communities had more opportunity and information to participate in the engagement process in developing Bill C-49.

Presently, Indigenous groups, the public and various stakeholders are heavily engaged in this legislation's sister process, the Regional Assessments for Offshore Wind, and Natural Resources Canada is providing \$1.8 million over three years to help bring together Mi'kmaq and other communities to ensure an inclusive approach for offshore wind development in Nova Scotia. However, it is also clear from this testimony that more work must be done to ensure meaningful and ongoing dialogue with Mi'kmaq communities.

I would like to reiterate to the Committee that The Government of Canada is committed to ensuring ongoing and meaningful dialogue with Indigenous people as we move forward with implementation of the framework of Bill C-49, in partnership with the provinces of Nova Scotia and Newfoundland and Labrador. Whether this involves consultation under the umbrella of the established tri-partite *Terms of Reference for a Mi'kmaq-Nova Scotia-Canada Consultation Process*, or engagement without prejudice outside of, and permitted by, the Terms of Reference, we take our relationship with the Mi'kmaq seriously.

The duty to consult exists independent of Bill C-49 and we are committed to consulting on any matter that affects the rights and interests of Indigenous peoples throughout the full lifecycle of offshore renewable energy development, a practice that is already well established within the existing petroleum regime set out in the Accord Acts. To be clear, some of the steps at which consultation and engagement will be required include:

- Regional Assessments, which are currently underway under the *Impact Assessment Act* and will identify optimal areas for development, based on the input provided by stakeholders and Indigenous groups;
- Wind Energy Area identification processes, which will be led by governments and will occur following, and take into consideration, the findings of the Regional Assessments;
- Call for information processes to seek input from stakeholders and Indigenous groups on potential parcel(s) to be recommended, terms and conditions of licences and other matters;
- Impact Assessments and Accord Act assessments for specific projects;
- Regulatory Authorizations and permitting decisions; and
- The development of regulations and other tools.

I want to be clear, Bill C-49 also provides new tools for the Regulators to ensure that from early planning processes through to authorizations of specific proposed offshore projects and activities, there is effective participation of the public and Indigenous groups. Going forward, the Offshore Energy Regulators will be able to establish a Participant Funding Program to facilitate participation in the regulatory process, in addition to the funding and other supports provided under the *Impact Assessment Act*.

I am personally committed to ensuring fulsome consultation and engagement occurs in the implementation of this legislation and all subsequent projects related to this legislation. I am also very personally committed to seeing ongoing economic benefits flow to indigenous communities for the development of a wind and hydrogen industry.

Furthermore, I would like to offer both my personal commitment and that of the Government of Canada, that we will dutifully address any observations with the appropriate action, response, and accountability owing such measures and will respond in writing.

This legislation, as currently presented, presents an enormous economic opportunity to Nova Scotia, Newfoundland and Labrador, Indigenous Communities, and Canada as a whole. It is also a rare example of cooperative federalism, where three Governments have come together to draft, and agree upon the urgency and importance of every measure contained within. I regret that amendments, particularly those that go against the joint management principles enshrined under the Accord Acts, can present serious danger to the operability of this legislation and the economic future of this country.

In closing, I hope this letter provides some clarity around the Government's approach to consultation moving forward and welcome the opportunity to report back to this Committee on any measures, implementation, or observations you may wish to make.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Jonathan Wilkinson". The signature is fluid and cursive, with a long horizontal stroke at the end.

The Honourable Jonathan Wilkinson, P.C., M.P.
(he/him/il)
Minister of Energy and Natural Resources Canada

