February 14, 2019

Standing Committee on Energy, the Environment and Natural Resources
The Senate of Canada
Ottawa, ON K1A 0A4
enev@sen.parl.gc.ca

Dear Senators,

Re: Bill C-69

Black Swan Energy is submitting this letter to the Senate Standing Committee on Energy, the Environment and Natural Resources as part of its study on Bill C-69 which has been referred to your Committee for review.

The following is some background on Black Swan Energy:

- Calgary based private energy company with assets and operations in NE British Columbia
- Full time staff of 25 individuals of which 45% are women, including women in senior professional roles in finance, engineering and geology
- Founded in 2011 and has raised over $800 million of equity and deployed more than $1 billion investing in Canada’s liquids rich natural gas sector
- Supported by three main equity investors - Warburg Pincus (a United States based private equity firm), Canada Pension Plan Investment Board and Azimuth Capital Management (a Calgary based private equity firm) – and has employee and independent director shareholders
- Production grown from zero in 2011 to a recent high of 30,000 boe/d; currently constructing a second gas plant which will support growth to over 42,000 boe/d by the end of 2019
- 2019 revenues expected to be almost $200 million; will invest $200 million in 2019 through capital programs, putting people to work in Canada
- Second largest subscriber for pipeline capacity on the TransCanada North Montney Mainline Expansion currently under construction in NE British Columbia
- Positioned for further growth with an asset capable of supporting long term LNG export; however, to achieve that, will require access to new capital
- Responsible operator that embraces sustainability initiatives such as land reclamation, water use reduction and recycling and emissions reduction where possible in order to deliver clean burning natural gas to markets in Canada and the United States
- Actively developing our resources alongside First Nations rights holders, providing jobs for families in Alberta and BC
- Pipeline expansions to move both oil and natural gas along with access to new markets are critical for our future growth.
We believe that Bill C-69, if enacted in its current form, will have severe negative consequences for our company, our investors, the communities we work in, our employees and their families and for all of the companies with whom we do business and their employees and families.

While we applaud the government’s efforts to build on the success that industry has had in reducing its environmental footprint and establishing continuous improvements in sustainability and consultation practices, we are opposed to this legislation as written. The National Energy Board (NEB) has a long history of successfully approving and overseeing responsible natural resource development and infrastructure projects which have enabled Canada to establish itself as a global leader in socially and environmentally responsible development, transportation and use of energy. We acknowledge that the NEB process could benefit from updating but believe that Canadians would be better served through improvements to the existing process rather than the wholesale restructuring which Bill C-69 contemplates. In analyzing Bill C-69, we would encourage the Senate to carefully consider the decades of success demonstrated by Canada’s resource sector under the existing process.

Should the Senate choose to move forward with Bill C-69, we believe that substantive amendments must be made in order to secure the future success of all of Canada’s resource sectors, including oil and natural gas, agriculture, forestry, mining and power, which underpin Canada’s economy. We have highlighted below some key issues that we believe must be addressed prior to Bill C-69 proceeding.

**Economic Benefits**

We were encouraged by the Fall Economic Statement released at the end of 2018 which included the Government’s intention “to enact, as quickly as possible, regulatory and policy changes that will result in a simpler, clearer and more modern regulatory system” while “materially improve(ing) Canada’s ability to attract investment and growth-oriented businesses”. Any change to either the NEB process or implementation of a new process must consider economic benefits as part of a balanced approach to the development, transportation and export of Canada’s resources. Bill C-69’s purpose statements as they relate to the Impact Assessment Act and the Canadian Energy Regulator Act all but ignore the economic benefits of what is being proposed and, more importantly, give no consideration to how the Bill can be used to “materially improve Canada’s ability to attract investment in growth-oriented businesses”.

**Ministerial Discretion**

If a new process is intended to reduce the politicization of decision making then the matter of Ministerial discretion must be resolved. The proposed degree of Ministerial discretion introduces significant uncertainty, with limited accountability, which is a key factor for new investment. Our Canadian economy relies on capital investment from domestic and foreign investors to foster growth, contributing to the high standard of living which we have established and which is envied around the world. Investors in turn rely on a stable and predictable regulatory environment to minimize political risk and ensure that the underlying fundamentals of a business are able to be realized. We believe that Bill C-69 will further erode investor confidence given the many areas of Ministerial discretion within the Bill which relate to broad public interest decisions. The existing NEB process provides a framework whereby a committee is able to evaluate and assess the unique circumstances of each project and make recommendations. An opportunity exists to enhance the public policy framework under which a committee or agency approves the project. To assign that responsibility to one individual severely weakens the process and deters investment.
Enhanced Public Consultation

Improving the public consultation process is imperative in order to ensure that those directly or adversely impacted are provided with the opportunity to participate and voice their concerns. However, a process which lacks guidance on prioritization of input from affected parties leaves an unfettered and potentially endless process that risks both the minimization of important facts affecting the majority and over attention to strong opinions from a small minority. For example, Section 22(n) of the proposed Impact Assessment Act requires consideration of comments received from the public without determining if those from the public providing comments would have standing in a review. At a minimum we believe that the legislation should be amended to reflect a “standing test” or define those that are “directly affected” and that the point at which public consultation be considered closed be clearly outlined to eliminate open ended timelines.

Many others in the business community have commented on the unintended consequences of Bill C-69 and the specific flaws in the Bill which would adversely impact the prospects of any major project being proposed, let alone approved, in the future. We echo the concerns that have been expressed. The country, and in particular the energy sector, has already seen a dramatic drop in investor interest, due in large part to the uncertainties (and risks) associated with regulatory processes. Our concern, like that of many others, is with the ability of the country to harness its resources to contribute to a thriving economy, and in turn the ability of our company to continue to grow and contribute to the well-being of the many people with which we are associated. We have grave concerns that Bill C-69 will exacerbate the lack of investor interest in Canada and will have a severe negative impact on the Canadian economy and the ability of companies such as ours to continue to grow.

Canada is a nation of builders and we are proud to say that Black Swan has been a part of that. As a nation we have established multiple sectors within our economy that capture the value of the available resources with increasing environmental efficiency, endeavoring to retain and reclaim the natural beauty and health of the environment around us. For decades industry and government have worked together to ensure access to markets and to provide the best opportunities for all Canadians, in every province. We believe that Bill C-69, as proposed, severely jeopardizes the ability to continue to do that.

The Senate has an opportunity to recognize the value in improvements to our existing process but also a responsibility to recognize that, as written, Bill C-69 does not achieve improvements in a way that preserves the economic well-being of Canadians. We believe that it is incumbent on the Senate to either stop Bill C-69 or enact substantive amendments to ensure a regulatory review process that works for all stakeholders and will ensure a better future for all Canadians.

Respectfully submitted,

Black Swan Energy Ltd.

M. Jacqueline Sheppard
Lead Director