15 February 2019

TO: Clerk of the Senate Standing Committee on Energy, the Environment and Natural Resources
via e-mail: enev@sen.parl.gc.ca

RE: Individual Submission on Bill C-69, the Impact Assessment Act to the Senate Standing Committee on Energy, the Environment and Natural Resources

I would like to bring to the Committee's attention an analysis that I recently published on the version of Bill C-69 currently being considered:

DOI: 10.18584/iipj.2018.9.3.4

The goal of this analysis was to evaluate the extent to which Canada’s EA Expert Panel Review and proposed C-69 legislation actually addressed the Crown’s Duty to Consult and Accommodate Indigenous Nations' knowledge systems in federal Science-based EAs. The reviewed information clearly showed that Canada failed to explicitly recognize and effectively respond to its Duty to Consult requirement, in both the review of federal EA regulatory processes and the proposed C-69 legislation.

On the basis of this detailed analysis, I offer the following specific recommendations to the Senate Committee on Energy, the Environment and Natural Resources for redress of this crucial issue:

1. Canada should not pass Bill C-69 into law, as currently drafted;
2. Canada should revise its legislation to incorporate the Crown's Duty to Consult in order to ensure reciprocal and meaningful consultation of Indigenous Nations' knowledge systems in federal EAs as an explicit requirement that must be demonstrated to have been fulfilled;
3. Canada should work with expert Indigenous, Local, and Science knowledge holders to develop a clearly-defined and pragmatic framework for fundamental concepts regarding the structure, function, and engagement of these knowledge systems in federal EAs. Once defined, this framework should be included in the legislation as an explicit requirement that must be demonstrated to have been appropriately implemented;
4. Canada should undertake a comprehensive review and removal of implicit and explicit cultural dominance regarding the role of Indigenous, Local, and Science knowledge systems in all aspects of federal EA decision making.

If the Government of Canada were to accept and fully execute these recommendations, it would save the people of Canada from countless preventable EA conflicts, and allow the country to truly progress toward satisfying its constitutional, national, and international commitments.
If the Senate Committee on Energy, the Environment and Natural Resources has any questions regarding details of the published analysis or the explicit recommendations identified in this brief, please do not hesitate to contact me.

Sincerely,

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