BRIEF TO THE STANDING SENATE COMMITTEE ON ENERGY, THE ENVIRONMENT AND NATURAL RESOURCES ON BILL C-69

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Honourable Senators,

Thank you for the opportunity to provide comments on Bill C-69, the Impact Assessment Act.

My background: Now semi-retired, I do work as a private consultant to the non-governmental sector in the areas of environment, community development and organizational development and am an active volunteer in these fields. During my career, I spent more than 20 years as Executive Director of the Manitoba Eco-Network, a regional node of the Canadian Environmental Network. In that role I became very familiar with processes of Environmental Assessment (EA) at both federal and provincial levels and participated in Advisory and Consultative processes on legislation in both jurisdictions. As a contractor and community volunteer, I have also participated in numerous EA processes, (including as far back as the EARP Guidelines order under the Federal Environmental Assessment and Review Office). Most recently, I have engaged in the ongoing Canadian Nuclear Safety Commission EA for the decommissioning of the WR-1 nuclear reactor in Pinawa, Manitoba, both as an individual and with the volunteer citizen group known as Concerned Citizens of Manitoba. It is in both of those capacities that I submit this brief to you today.

First though, I want to note that I am supporting the youth in Manitoba who are participating in the school climate strike movement. That group in this province has been growing month by month since it began in December 2018. At the most recent event there were more than 250 students, many of whom spoke articulately and with passion about climate change, their fears about the future and their frustration with the lack of action by the generations preceding theirs. It is with that group of young people, along with my own children and grandchildren in mind that I continue to work as a volunteer on climate issues and environmental issues in general. We, our generation, have the opportunity to contribute to giving youth a future, or, we may choose instead to take a status quo path which will end in certain climate catastrophe. As Senators of Canada, providing sober second thought to this Bill currently before you, you have a rare opportunity to influence the decision about which path our country takes.

General Comments: Without doubt, EA has undergone many changes in the past 40 years in Canada. In particular, changes enacted in 2012 (CEAA 2012) removed many important elements of the process, largely at the behest of industry stakeholders. Other legislative amendments – to the Navigable Waters Protection Act and the Fisheries act further eroded environmental protections in this country. EA became an election issue in 2015, and the Liberals campaigned on improvements to EA, which was supported by Canadians. Today’s elected government carried out detailed consultation with a complete range of stakeholders, and the resulting Bill C-69 reflects in a general way, the consensus of those
consultations. While it isn’t perfect, the Impact Assessment Act (IAA) is in fact a big improvement over the previous CEAA 2012.

For example, the Impact Assessment Act places greater emphasis on sustainability, removes the “directly affected” standing test, (which has led to so many drawn out legal battles and citizen unrest), calls for consideration of climate impacts, indigenous impacts, and gender based assessment, and restores some of the protection afforded to our lakes and waters, amongst other positive steps.

It bears repeating that Industry stakeholders were full participants in the consultations because it is apparent now that the loudest voices for amending the legislation to remove some significant improvements, are in fact, those of industry (including the oil and gas, hydropower and nuclear industries).

Yet, environmental (or impact) assessment is not meant to be a roadblock to progress, as some would have it. Rather, it is a tool for ensuring that development is as safe, clean and least damaging as it can be. As a precautionary approach, EA is meant to provide full information for decision makers, to anticipate disastrous mistakes and mitigate potential problems before they start, to examine the need for projects and potential alternatives. Polling shows that Canadians who have heard about C-69, support it. Youth speaking out for climate protection clearly support the provisions for consideration of climate impacts. For the most part, indigenous Canadians support the full consideration of indigenous rights. Insofar as strong EA is a tool for facilitating sustainability, future generations would support it. Yet those are not the voices currently being heard in the media and in the halls of power. I hope you will take those perspectives into consideration as you review this legislation.

Specific concerns: The remainder of my comments deal mainly with the demands for amendments made by representatives of the nuclear industry and its provincial government proponents.

CEAA 2012 left all reviews and assessments of nuclear projects in the hands of the Responsible Authority – the Canadian Nuclear Safety Commission. Unfortunately, this has served to undermine the credibility of those assessments since CNSC is also the industry’s life-cycle regulator. Fundamentally, impartial assessment is a separate and distinct process from regulation of a project once it has been approved, and the two should not be linked. The Impact Assessment Act attempts to address this situation, by bringing the assessment of designated nuclear projects back into the purview of the newly-created Impact Assessment Agency. Designated Projects would require a Panel review, and while the CNSC may provide a Panel member for the purpose of sharing expertise, the CNSC must not make up the majority of the Panel, nor Chair the Panel.

The Canadian Nuclear Association (CNA), however, along with the Government of Ontario, are now asking for most nuclear projects to be exempted from impact assessment under the provisions of Bill C-69, and that their assessment remain with the regulator, the CNSC. CNA makes the arguable claims that nuclear power is “non emitting”, that only it and hydropower are able to provide the baseload capacity required to meet Canada’s Paris targets, and that its requirement for vast capital investment to be deployed quickly makes full assessment a roadblock. (1)

None of these are accurate or legitimate reasons for exempting nuclear projects. Nuclear power is not non-emitting – the uranium mining and enrichment industry required to provide fuel is carbon intensive, also, nuclear power plants and related infrastructure emit radiation of various types, including the
extremely long-lived radionuclides which are present in nuclear waste and which will be available to the environment for millennia. Recent studies are showing that nuclear is not required to provide base load to energy systems transitioning to water, wind and solar in 139 nations (2). And finally, that vast capital investment required to build new nuclear infrastructure, including jump-starting the development of the so-called Small Modular Reactors, would be a massive lost opportunity cost against the fast implementation of already proven clean technology.

Also, CNSC does not have the mandate to consider broader issues such as socio-economic impact.

The Government of Ontario, in its brief to this committee specifically singles out the new so-called Small Modular Reactors (SMRs) to be exempted from IAA review (3)

As noted by the Canadian Environmental Law Association also before this committee: “...if nuclear energy projects in general (or SMRs in particular) are excluded from IAA coverage, then there will be no credible sustainability-based assessment of the environmental, health, economic or social impacts of new, expanded or refurbished nuclear energy projects before they proceed. In CELA’s view, giving the nuclear power industry a free pass under the IAA is the antithesis of sound and precautionary environmental planning, and should not be countenanced by Parliament. This is particularly true since the Ontario government does not apply its own Environmental Assessment Act to the provincial nuclear fleet or to long-term energy planning exercises”. (4)

The vision for SMRs in Canada was set out in the Canadian Nuclear Association’s report from November 2018, “A Call to Action: A Canadian Roadmap for Small Modular Reactors.” The SMR Roadmap calls for taxpayer funding from the federal government’s Department of Natural Resources Canada, to develop this untested technology, and makes the outrageous claim with no supporting evidence whatsoever that it will serve as a source of safe, clean, affordable energy. The Roadmap also recommends that governments engage in “risk sharing” in the costs of both development and radioactive waste management and that SMRs be exempt from review under IAA, suggesting that this could be an impediment to development and a risk to the future of SMR deployment in Canada (5), when we know that EA is in fact a precautionary and valuable tool for ensuring that development is as safe, clean and least damaging as it can be (as noted above).

In summary, Concerned Citizens of Manitoba, and I as an independent citizen, make the following recommendations to committee members:

1. Recognizing that Environmental assessment is a valuable tool for ensuring sustainability and for avoiding damage, do not weaken the provisions of the Impact Assessment Act.
2. Consider the concerns of youth, indigenous Canadians and future generations as you review this legislation, not just the short term interests of industries.
3. Require the Navigable Waters Protection Act provisions to consider environmental effects and remove the onus on communities and indigenous peoples to prove harm.
4. Ensure the consideration of effects of the upstream and downstream activities required to implement a project.
5. Seek to strengthen the requirement to uphold Indigenous Rights in consideration of projects.
6. Do not exempt nuclear developments, including Small Modular Reactors, from full, complete and independent assessment under IAA.
In conclusion, I would like to thank you again for providing an opportunity to voice these concerns and recommendations. Please do not hesitate to be in contact should you have questions.

Yours truly,

Anne Lindsey

NOTES

(1) Canadian Nuclear Association submission on Bill C-69 to the Standing Senate Committee on Energy, the Environment and Natural Resources, February 20, 2019

(2) Mark Z. Jacobson, Mark A. Delucchi, Mary A. Cameron, Brian V. Mathiesen, Matching demand with supply at low cost in 139 countries among 20 world regions with 100% intermittent wind, water, and sunlight (WWS) for all purposes. Renewable Energy 123 (2018) 236-248

(3) Appendix: Summary of Ontario Government Recommendations for the Senate Committee on Energy, the Environment and Natural Resources, Bill C-69, February 26, 2019
