Rouyn-Noranda, April 24, 2019

Maxime Fortin
Clerk of the Standing Senate Committee on Energy, the Environment and Natural Resources
Senate of Canada
40 Elgin Street
Ottawa, Canada
K1A 0A4

Dear Ms. Fortin:

Subject: An Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts (C-69)

The Quebec Mineral Exploration Association (QMEA) wishes to thank you for this opportunity to share our position on Bill C-69. Our comments are specifically focused on the amendments that affect the day-to-day project development of natural resource exploration companies.

Our comments relate to the Impact Assessment Act and the key provisions regarding the Impact Assessment Agency of Canada (IAAC), which are essential to ensuring an effective federal assessment process.

We are convinced that regulations should aim to make things easier for companies, without compromising the other pillars of sustainable development. Certain changes must be made to the draft regulations in order to achieve this objective.

Thank you for considering our comments.

Yours sincerely,

Valérie Fillion, Executive Director, QMEA

cc. Nathalie Camden, Associate Deputy Minister for Mines, Department of Natural Resources and Energy, Government of Quebec
Mathieu Savard, Chairman of the Board, QMEA
INTRODUCTION

The QMEA is a professional and industry association that represents those involved in mineral exploration. It was founded in 1975 by professionals in the exploration sector (prospectors, geologists, geophysicists, entrepreneurs, proponents and exploration directors) to expand the scope of our activities and support mining entrepreneurship in Quebec.

The QMEA includes close to 1,100 individual members (prospectors, geologists, geophysicists, brokers, tax specialists, lawyers, etc.) and some 200 corporate members (junior mining exploration and production companies, engineering consultant firms specializing in geology and geophysics, drilling companies, service and equipment suppliers, etc.)

QMEA GOVERNANCE PRINCIPLES AND STRATEGIC OBJECTIVES

The QMEA’s mission is to advocate for its members and contribute to the sustainable and responsible development of Quebec’s mineral resources. To accomplish this, the QMEA follows a set of principles, which guide its directions, positions and initiatives.

Our analysis of the context and the bill was guided by these principles:

- The QMEA believes that the government, while maintaining its primary responsibility of managing our natural resources, our public land and particularly our mineral resources, must continuously provide an environment conducive to the responsible development of these resources, in order to maximize wealth for the people and operators who take on the risks of this development.

- Quebec’s mining sector, especially the mineral exploration sector, must continue to play a pivotal role in the local and regional economy.

- The QMEA fundamentally supports sustainable and responsible development in the Quebec mineral sector.

- We believe that all regulatory and legislative amendments to the current mineral tenure system must be drafted and implemented in a transparent, predictable, fair and stable way across Quebec.

- We believe that government interventions must always respect acquired rights.

- The Association believes that the government has a duty to implement an effective, competitive legislative and regulatory framework for the Quebec mineral sector, as well as establish measures that will promote responsible mineral resource development.
GENERAL COMMENTS ON THE BILL

The legislative change requiring previous applications for assessment to be processed under the new procedure will confuse proponents, as well as destabilize investors and the communities where the projects are proposed. Transitional provisions must be written to alleviate—not create—confusion and uncertainty.

Under Bill C-69, current and future projects submitted for assessment by the Agency, pursuant to the Canadian Environmental Assessment Act, 2012 (CEAA), will now be evaluated under the Impact Assessment Act (IAA) when it comes into force, unless they are in the final assessment stage. However, the date the bill comes into force, its final wording and its supporting regulations, policies and guidelines remain unknown. It is also impossible to predict whether an assessment under CEAA 2012 will have reached the final assessment phase when the IAA comes into force. The transitional provisions adversely affect the work done by proponents, communities and the public for upcoming assessment processes. This uncertainty is problematic for proponents who plan on submitting projects for assessment in the next two years.

Recommendation:
The QMEA recommends that the new process be implemented when the bill and its supporting regulations are adopted, and that CEAA 2012 remain in force until then.
SPECIFIC COMMENTS ON THE BILL

Relationship with the provinces

Mining operations and natural resources fall under the jurisdiction of the provinces, which already have their own environmental regulations and assessment processes. Incidentally, Quebec recently reformed its Environment Quality Act (EQA) and its environmental impact assessment and review procedure.

One of our industry’s main challenges is the tendency of governments to increase the regulatory burden on businesses—especially on SMEs in Canada. At the very least, lawmakers should work together and create consistent regulations known in advance that only require companies to submit projects for assessment once. Interjurisdictional co-operation is essential for the assessment of mining projects, as well as the development and implementation of follow-up and oversight programs.

The conditions in clause 64 should be limited to issues not addressed by the provincial and federal regulatory bodies and should be written in a way that does not encroach on their role. It is not realistic to expect that an assessment made at one stage of a project be relevant throughout its life cycle, given the evolution of science, technology and society. The objective should be to ensure a seamless transition of the responsibility to the regulatory body, which, for the mining industry, is the province. The federal government has other legislative ways of protecting its interests that do not depend on impact assessment.

Recommendation:
The QMEA recommends that a clearly defined approach to work with the provinces be developed to avoid duplication.

The contribution of Indigenous communities

The QMEA supports better communication and co-operation with Canada’s Indigenous peoples regarding impact assessment processes.

However, the Agency should clarify the process and the factors to consider before a ministerial decision is taken regarding the delegation and substitution of powers.

Revealing the content (the role of each decision-making body) of agreements would allow project proponents to understand the assessment process for each project, which we believe is essential in terms of predictability.
Recommendation:
The QMEA recommends that the content of the agreements be revealed to proponents.

Factors to consider during assessments

Subclause 22(1) considerably increases the number of factors, some of which are not required for all projects, to be considered during impact assessments. Though subclause 22(2) allows the Agency or the Minister to determine the scope of the factors to consider in order to assess their relevance for specific projects, the factors relevant to each project should certainly be revealed in the initial planning phase. Otherwise, companies, especially smaller ones, will be faced with a fastidiously complex assessment process.

Recommendation:
The QMEA recommends that the factors relevant to each project be revealed from the outset of the planning phase.

The cumulative environmental effects approach

Land is not solely used for mineral exploration, which has localized impacts and well-established environmental regulations. Even when exploration leads to mining projects, the impacts are regularly dwarfed by other operations. The CEAA is enforced disproportionately on mining projects, overlooking the other sources that cause most of the environmental impacts. A project-by-project approach to assess all the cumulative effects included in the CEAA penalizes responsible project proponents while ignoring the real, cumulative effects of other operations.

Though the new process appears more flexible, we are concerned about the effects the cumulative approach and the delays potentially stemming from it could have on proponents’ applications.

Recommendation:
The QMEA recommends that the entire cumulative approach be reconsidered. If it is maintained, it should be made more specific and less burdensome.
**Business costs**

Mining project proponents are required to pay fees for provincial assessments and permits, as well as fees to the Canadian Nuclear Safety Commission for uranium projects. Requiring them to pay separate fees for the federal assessment process represents significant additional costs.

We have previously suggested that a single impact assessment process is best. Provincial and federal fees should be consolidated to limit costs and optimize time.

**Recommendation:**
The QMEA recommends that the costs of assessment processes be consolidated across all relevant jurisdictions.

**Conclusion**

The QMEA stresses the importance of working with the provinces, Indigenous organizations and federal departments. We believe that our recommendations would facilitate access to the process, give companies more flexibility and save time for everyone involved—without harming the environment.