Submission on Bill C-69 to the Senate Standing Committee on Energy, the Environment and Natural Resources

April 11, 2019

Honourable Senators,

Thank you so much for this opportunity to provide comments on Bill C-69. The chance for members of the public to communicate their views directly to legislators considering important bills such as this is a key part of our democratic governance framework, and is a role that you clearly take seriously.

I am a research associate at the University of Manitoba’s Natural Resources Institute, where my PhD and subsequent research has focussed on natural resources and environmental governance. From this basis, my interest is in governance processes and institutions that foster and ensure resource development projects that are genuinely sustainable – economically, socially, and ecologically. In particular, my work with Indigenous communities has highlighted the importance of resource development, and that we must do better than we generally have in ensuring that such development supports social justice, reconciliation, healthy ecosystems, and a sound economic base for local communities and the nation as a whole. This is a complex task, but I believe these objectives are in fact inter-dependent and each is best achieved in concert with the others. Clearly, governance that accomplishes this must be underwritten by a network of strong and carefully considered environmental laws, and the legislative changes contemplated in Bill C-69 represent some of the most key of these.

During the election campaign that brought the current majority Liberal government to power, a clear and prominent part of their platform was to reform Canada’s environmental laws, in particular regaining public confidence in environmental governance processes, restoring protections lost during the prior government’s term, and creating greater certainty for communities and industry when it comes to assessing and permitting development projects. I think the majority mandate the government received from Canadian voters speaks to widespread general support for this.

The Expert Panel held extensive consultations across the country with a wide variety of Canadians, and their report was generally supportive of the directions taken in Bill C-69. A Multi-Interest Advisory Committee (MIAC) was also struck, inclusive of academics, environmental groups, Indigenous organizations, and business and industry. The advice given by the MIAC was also supportive of the directions taken in the bill, in fact in several key instances they argued for stronger provisions. It is important to consider that given the makeup of the MIAC, their recommendations represent a compromise position arrived at by negotiating among diverse interests and perspectives. The bill has of course since passed through the committee stage and was passed by the House of Commons, who, in being elected, bear the responsibility of representing the interests and wishes of Canadians.
My principle point is that this bill has already undergone extensive consultation and the directions it puts forth represent the input of a wide diversity of stakeholders – it represents the legitimate political will of the majority of the Canadian public.

This does not mean that I am fully supportive of everything in Bill C-69. As stated earlier, I believe it represents a compromise position. Contrary to some prominent voices in public discourse, who chose to voice their positions late in the game, this is far from a give-away to environmental and Indigenous interests, nor is it a project or job killer. I would also point out that failing to pass this bill would leave us in the same position we have been in since 2012, and under the current regime some major projects have failed to move forward, and many, including politicians of diverse stripes, agree that the current environmental review process is clearly ineffective and provides no certainty for anyone.

I will make just a few specific comments on the bill’s contents. The proposed Navigable Waters Act still fails to apply to the majority of water bodies and rivers that were previously afforded protection, a serious shortcoming due to employing a “schedule” and narrow definition of “navigable waters”. Getting this right is particularly important to Indigenous people in Manitoba and Canada more generally, especially given the impacts of past projects on the water systems they rely on. In addition, the Act should include consideration of environmental effects in addition to effects on navigation.

Regarding the proposed Impact Assessment Act, I applaud the introduction of the early planning phase, which, if implemented appropriately, should greatly enrich the quality of consultation and streamline assessment processes by bringing focus to key issues and concerns early on. I am concerned about the “project list” approach, as this lacks the flexibility and agility to ensure that all projects under federal jurisdiction or with federal involvement and that pose potential significant sustainability risks will be assessed. And finally, while I am pleased to see the emphasis on supporting reconciliation with Indigenous people, sustainability, and addressing climate change in the Act’s purposes, there is no bottom line guarantee that projects that will undermine any or all of these will not still be approved. The “public interest test” should be explicitly tied to these commitments, clarifying that such undermining is not in the public interest, and requiring the Minister or Cabinet to outline in their reasons for decisions exactly how the decision upholds these commitments.

We are, locally and globally, at a key point in history where we can continue business-as-usual and watch the ecosystems that our very existence depends on continue to be degraded, our climate system inexorably pushed towards a state that increasingly threatens the stability of our world’s social structures and economies – or we can seize this opportunity to begin to chart a course towards social, environmental, and economic sustainability. I believe that Bill C-69 represents small, and far from radical, steps towards the latter choice.

So while there are ways that I think this bill could be improved by strengthening environmental protections and climate considerations, I urge you to pass it in its current form and certainly not
to weaken it, as I believe it is clear that it represents important new directions in environmental governance that are supported by a majority of Canadians.

Respectfully,

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