Teck Resources Limited: Brief to the Standing Senate Committee on Energy, the Environment and Natural Resources on its study of Bill C-69 (Impact Assessment Act)

Overview

As the Standing Senate Committee on Energy, the Environment and Natural Resources undertakes its study of Bill C-69 (Impact Assessment Act), Teck is pleased to submit the enclosed comments and considerations.

Proudly Canadian, Teck is a diversified natural resource company and global sustainability leader with business units focused on steelmaking coal, copper, zinc and energy. Headquartered in Vancouver, we own, or have an interest in, 13 mines in Canada, the United States, Chile and Peru. In Canada, we own six steelmaking coal operations; the country’s largest open-pit copper mine; an integrated zinc and lead smelting and refining complex; steelmaking coal and copper development projects; metallurgical, technology and innovation complexes; and interests in a port and several oil sands projects. Teck directly employs over 10,000 people around the world, including 8,000 people across Canada.

Operating in Canada for more than 100 years, Teck has substantive experience with federal environmental assessment (EA) processes, including with the Canadian Environmental Assessment Act, 2012. As nearly all our mining activities are and will be impacted by EA and regulatory processes, the current design of Bill C-69 and its implementation are critically important to us. As both a current and future project proponent, we know that EA processes must be as clear and predictable as possible in order to ensure environmental protection and sustainable natural resource development in Canada. We also know that public confidence and respect for the rights of Indigenous Peoples are the foundation for advancing major projects in this country. Overall, it is our view that the current version of Bill C-69 has potential to sufficiently meet these and other important principles – but only if it is implemented well.

To that end, Teck believes Bill C-69 can offer some critical improvements over the current EA processes at a time when regulatory certainty is more important than ever. We also believe this version of Bill C-69 can strike a reasonable balance between environmental protection and economic growth while ensuring meaningful consultation with Indigenous Peoples, local communities and other stakeholders. Ultimately, we believe this version of Bill C-69 can potentially provide a clearer way forward for mining projects in Canada by striking an acceptable balance between various societal interests.

However, while we welcome the intentions of Bill C-69, we are concerned about the bill’s implementation. The coming into force of the legislation requires supporting regulations and guidance. If the intent is for Bill C-69 to be fully in force before Parliament dissolves for the 2019 federal election, we do not believe
there is sufficient time for thorough analysis and consultation on the associated regulations and guidance. Sound implementation of the legislation is critical otherwise there is risk that the bill’s core intentions could be completely undermined.

We urge this Committee, the Senate of Canada and the Government of Canada to ensure this legislation comes into force only after an appropriate amount of analysis and consultation has been undertaken on developing the accompanying regulations and guidance material. We also encourage this Committee to consider the comments and recommendations from the Mining Association of Canada, all of which Teck supports. We appreciate Parliament’s and the Government of Canada’s extensive stakeholder consultations – beginning in 2016 – that informed the development of this bill. We were pleased to participate in every stage of the federal government’s review of EA and regulatory processes, including presenting our positions to the EA Review Expert Panel. We were also pleased to speak to our Bill C-69 positions last year before the House of Commons Standing Committee on Environment and Sustainable Development.

In summary, we must emphasize that regulatory processes in Canada must be rigorous, predictable and timely. Succeeding at all three elements would be beneficial for our natural environment and for Canadian jobs and quality of life. However, failing to act – or not implementing Bill C-69 effectively – would not help protect our environment, could potentially decrease our competitiveness further and result in lost economic opportunities for Canada at a time when we need those opportunities the most. We thank the Standing Senate Committee on Energy, the Environment and Natural Resources for considering our comments and we look forward to continuing to engage on this critical legislation to ensure that its final design improves Canada’s regulatory certainty and mining sector competitiveness.

**Contextual background**

Increasing regulatory timelines, frustration from key stakeholders, and growing compliance costs are the job-and-investment-killing effects of uncertain and inefficient EA processes. This is particularly true for Canada’s mining sector as we continue to see an erosion of global market share in some key areas when compared to competing jurisdictions. Mining companies operate in a highly competitive, open trade environment where business and regulatory conditions differ significantly across jurisdictions, ultimately impacting investment decision-making. While Canada has many appealing elements for mining investment, the overlay of regulatory challenges has contributed to Canada’s diminishing position as a global mining leader.

It is also important to note that declining mining investment in Canada is not part of an overall investment decline around the world. Other mining jurisdictions – such as Australia, Chile and the United States – are attracting higher investment levels at Canada’s expense. This is due, in part, to relatively high business costs in Canada, but largely due to uncertainty generated by our regulatory processes. To illustrate this:

- Canada ranks 34th out of 35 OECD countries in the time required to obtain a permit for a new general construction project (average 249 days). By comparison, The World Bank ranked the United States 4th (81 days) and Australia 14th (roughly 120 days).¹
- Capital investment in Canada’s mining sector has declined each year since 2012.
- Only four new mining projects were submitted for environmental assessments in 2017, representing a near-historic low.

¹ World Bank: “Ease of Doing Business Index 2018”.
Canada has lost ground in mining production over the past five years, losing its ranking for seven out of 13 commodities for which it had been a top five global producer. Mining innovation dollars are steadily flowing out of Canada to competing jurisdictions, such as Australia, South America and South Africa.²

The sound implementation of Bill C-69 is an opportunity to introduce greater certainty into federal EA processes – addressing new challenges and helping to restore Canada as a leading global mining jurisdiction when it comes to regulatory requirements. Failing to act puts Canada at risk of falling further behind our global competitors whose regulatory systems and attractiveness as investment destinations have become much greater than in Canada. The legislation – in tandem with the 2018 Budget commitment to provide $1 billion over five years to the proposed Impact Assessment Agency for adequate resources, staffing and expertise – can potentially help close some of the current regulatory challenges and ultimately contribute to repositioning Canada as a global mining leader in this area.

**Teck’s comments on the direction of Bill C-69**

As stated in our submissions to the Government of Canada in its review of EA processes and to the House of Commons Standing Committee on Environment and Sustainable Development, we welcome the overall intent of Bill C-69. In our view, the bill intends to strikes an appropriate balance between environmental protection and economic growth; enable greater cooperation between federal, provincial and Indigenous governing bodies on project assessments; enhance the “one project, one review” intention; and take a more holistic approach to assessing cumulative effects. These are all industry best practices that Teck adheres to, and we support these practices being enshrined into law.

More specifically, we see the introduction of an early planning phase as an improvement over the current EA process because it would result in clearer direction to proponents and greater coordination with provincial and Indigenous governments. For example, in British Columbia, the new Environmental Assessment Act mirrors many of the elements found in Bill C-69. As a proponent with future development plans in this province, improved coordination between federal and provincial jurisdictions to avoid unnecessary duplication is crucial.

While there are outstanding issues relating to clarity around timelines and the overall impact assessment process, we believe this version of Bill C-69 is an acceptable way forward. Further clarity could be achieved through future regulations in areas including embedding milestones in the early planning phase and outlining how the Government of Canada will align its approach to implementing the United Nations Declaration of the Rights of Indigenous Peoples (UNDRIP) with the approaches of the provinces. Teck, like many other mining companies, has projects in Canada being evaluated for future development. But the uncertainty around how regulatory decisions are made and under what conditions can continue to affect our industry’s long-term investment decisions.

We appreciate that Bill C-69 is not perfect and that some Senators and stakeholders – from industry, environmental groups and Indigenous communities – want the legislation amended for a wide range of reasons. While Teck does not propose any specific amendments, we urge this Committee and the Senate of Canada to be thoughtful in adopting amendments to ensure that the improvements we see in Bill C-69 from a mining perspective do not get lost.

As referenced already, we are also concerned that the implementation of Bill C-69 may not be practical if an appropriate amount of analysis and consultation is not undertaken for developing the associated regulations. If the intent is for Bill C-69 to come fully into force – with regulations and guidance enacted – before Parliament dissolves later this year, we urge this Committee, the Senate and the Government of Canada to introduce provisions into the legislation that guarantees that it can only come into force after an appropriate amount of stakeholder consultation is undertaken on developing the regulations. It is critical that affected parties be given the opportunity to continue working with the Government of Canada in a comprehensive manner during this regulatory development phase.

Conclusion

In conclusion, we continue to broadly support the Government of Canada’s intent to improve environmental and regulatory processes for increasing project and investment certainty. We understand the importance of ensuring Indigenous communities’ rights and title interests are fully reflected in new processes and that the Canadian public’s confidence in how projects are reviewed and ultimately decided upon is improved. With the introduction of an early planning phase, legislated timelines and greater coordination among jurisdictions, we believe Bill C-69 can improve confidence in EA processes while enhancing environmental protection and economic growth. However, without these key additions – and the improved certainty and predictability they would introduce for all parties involved – it would be significantly more difficult for the bill’s main intentions to be achieved.

While encouraged that the views of Teck and the Mining Association of Canada are reflected in the current version of Bill C-69, we welcome this opportunity to comment further on the direction that we think this bill should take. We appreciate the extensive efforts the federal government and the Parliament of Canada have made so far, and we look forward to continued engagement to ensure that Bill C-69 helps restore Canada’s position as a global leading mining jurisdiction where investment flows in and where good projects get assessed, approved and developed in a manner that benefits all parties involved. We continue to believe that the right regulatory processes in Canada must be rigorous, predictable and timely. Succeeding at all three elements would be beneficial for our natural environment and Canadian jobs and quality of life. However, once more, failing to act – or not implementing Bill C-69 effectively – would not help protect our environment but could potentially decrease our competitiveness further and lose economic opportunities from Canada at a time when we need those opportunities the most.

We thank you once again for the opportunity to submit these comments and considerations.