



David
Suzuki
Foundation

■ Vancouver (Head Office)
219-2211 West 4th Avenue
Vancouver BC, V6K 4S2
604 732 4228 tel
604 732 0752 fax

■ Toronto
421-215 Spadina Avenue
Toronto ON, M5T 2C7
416-644-1032 tel
416-644-0116 fax

■ Ottawa
606-251 Bank Street
Ottawa ON, K2P 1X3
613 594 5845 tel

August 24, 2012

Mr. John McCauley
Legislative and Regulatory Affairs
Canadian Environmental Assessment Agency

Dear Mr. McCauley:

We are writing in response to your government's July 6, 2012 invitation to comment on potential amendments to the Project List Regulations (PLR) under the new *Canadian Environmental Assessment Act* (CEAA 2012). We are commenting under protest because we do not believe that a meaningful process is in place to allow the David Suzuki Foundation, or many other key stakeholders, to be consulted on this or any other regulation or policy instrument governing environmental protection that is being developed by the current federal administration.

Under CEAA 2012, three new regulations have already been developed and brought into force, and we understand that new *Fisheries Act* regulations and key policies governing fish-habitat protection in Canada are in the process of being developed. All of this is in the absence of any meaningful consultation with key stakeholders other than industry. We are only being invited to provide input after the fact. This is troublesome.

Resource-industry user groups – including the Canadian Association of Petroleum Producers (CAPP), the Canadian Electricity Association (CEA), the Canadian Energy Pipeline Association (CEPA), the Canadian Gas Association (CGA), the Forest Products Association of Canada (FPAC), the Mining Association of Canada (MAC), and the Prospectors and Developers Association of Canada (PDAC), among others – have been pressuring government for years to amend these key pieces of legislation. They argue the changes are needed to streamline project approval processes and eliminate what they view as “red tape” as a means of stimulating economic development. It is clear their concerns have been heard.

Over the past two decades we, along with many other non-government organizations and user groups (like anglers and hunters), have repeatedly appealed to government, including yours, to be included in the discussion about how to best move forward with amending these key pieces of legislation to make them more effective.

With regards to the CEAA we, along with other groups, have developed and brought forth reasonable principles and ideas for effective Environmental Assessment that have included, among other things:

- Adopting sustainability as the core objective;
- Strengthening public participation;
- Meaningfully involving Aboriginal governments as decision-makers;

- Establishing a legal framework for regional environmental assessments;
- Requiring comprehensive, regional cumulative effects assessments;
- Employing multijurisdictional assessment and avoiding substitution;
- Ensuring transparency and access to information; and,
- Making EA procedures more fair, predictable, and accessible.

We have also been active for years in trying to engage government in meaningful consultation on changes to the federal *Fisheries Act*.

We now have Environmental Assessment legislation (CEAA 2012) that represents a major weakening of federal environmental assessment law by dramatically reducing the number of required EAs (entire categories of projects that are known to have harmful impacts on the environment have been omitted/excluded under the new legislation), reducing the overall scope of EAs generally to exclude project-specific impacts on things like air quality and local and regional health and socio-economic conditions (except where the latter relates to aboriginal peoples), placing unrealistic time limits on both the public and the Canadian Environmental Assessment Agency to determine whether a federal environmental assessment is needed, constraining overall public participation, hurrying EAs through compressed timelines leading to hasty and inadequate reviews, and weakening of the process overall by substituting less rigorous provincial EAs for federal EAs.

We also have new fisheries legislation pending that threatens to undermine the protection of fish and fish habitat across Canada. This protection has, at times, been a proxy for environmental protection broadly in Canada for decades given the lack of comprehensive ecosystem protection.

To make matters worse, downsizing and attempts to realize cost-efficiencies have led to a situation whereby governments at the federal and provincial levels are now ill-equipped to conduct environmental assessments or to monitor projects to ensure compliance with conditions that might accompany project approval. Thus, we feel that there will no longer be any meaningful government oversight of industrial development projects in Canada.

We would like to state for the public record that this is not the direction Canada should be going in with respect to environmental protection. The current direction represents a significant step backwards. Instead, we should be moving forward and either meeting or exceeding global best practices for environmental assessment. To that end we feel that environmental regulation in Canada should be re-written to take the concepts of sustainable development, the value of ecosystems goods and services, contributions to greenhouse gas production and its reduction, and protection of Canada's outstanding and unique biodiversity into account. The process in doing so should engage stakeholders at all levels.

Given the nature of the change process that your government seems to be following we submit these comments only to ensure that our concerns are on the record. We do not wish to be considered as having been "consulted" or "active participants" in this change process. The current process is too one-sided to be meaningful.

We look forward to hearing from you about how government will demonstrate that ENGO and other stakeholder participation in the regulatory and policy-development processes associated with these

significant changes in environmental law, and the resulting feedback, are actually incorporated into regulatory amendments.

In the meantime, please understand that we find it difficult to justify formal engagement with your government on regulatory and policy reform and implementation in the manner in which it is taking place. We would rather take part in a process that allows for meaningful multi-stakeholder dialogue.

Sincerely,

A handwritten signature in black ink, appearing to read 'M. Kerry', with a stylized, cursive script.

Mara Kerry
Director, Science and Policy
David Suzuki Foundation

Cc: The Right Honourable Stephen Harper, Prime Minister of Canada

The Environmental Planning and Assessment Caucus, Canadian Environmental Network