



December 12, 2011

Honorable Peter Kent
Minister
Environment Canada
Les Terrasses de la Chaudière
10 Wellington Street, 28th Floor
Gatineau, Quebec K1A 0H3

Honorable Joe Oliver
Minister
Natural Resources Canada
580 Booth Street, 21st Floor, Room C7-1
Ottawa, Ontario K1A 0E4

Dear Ministers Kent and Oliver:

We are writing to you today on behalf of the Energy Framework Initiative (EFI) which represents Canada's energy sector value chain. The purpose of our letter is to express our shared views on the near-term opportunities before the Government to address regulatory reform for major energy industries in Canada. The objective of regulatory reform is very clear: to enable economic growth and job creation while continuing to ensure responsible environmental and social outcomes.

Throughout the world today, governments are facing the need for fiscal restraint and careful allocation and management of scarce human and financial resources. The focus is increasingly on job creation and economic health. Canada is in a more favourable position than many countries, in part because the government has chosen to proceed prudently to ensure our economic recovery, and in part because natural resource industries – like Canada's energy sector - have sustained the Canadian economy through this very challenging period.

The Canadian energy industry has a significant role to play in shaping Canada's future. Realignment of approaches to regulation, environmental protection and conservation, and public interest decision-making can support the Government's efforts to maximize the benefits of strong fiscal management. Today the major resource projects awaiting Federal government decisions amount to \$120 Billion of shovel ready investments. That constitutes a huge stimulus and job creation opportunity with no government monies; this is all private investment.

We do not advocate cutting corners, eliminating careful consideration of impacts, or focusing solely on the economic benefits of energy development. Rather, we support change that advances both economic growth and environmental performance, reduces process duplication and overlap within and among governments, focuses regulatory attention on key issues from a risk-based perspective, sets and keeps appropriate timelines, and encourages and enables responsible environmental outcomes.

In the coming months, the government has the opportunity to achieve these objectives with adjustments to several pieces of legislation along with a cohesive approach to overall regulatory and policy changes. Planned and taken together, these changes can create a more modern, integrated, efficient framework of environmental legislation.

The context is important. Canada's existing laws and regulations¹ related to energy regulation, environmental assessment, and environmental protection have each been developed and implemented largely in isolation of one another, with the objective being to address specific issues. In recent years, efforts to knit processes together have included the Cabinet Directive of "one project, one assessment", and administrative project agreements facilitated by the Major Projects Management Office (MPMO). Under the Minister of Natural Resources, but explicitly engaging a range of departments, that effort reflects the much needed systematic, whole-of-government approach. Government should be commended for its efforts to increase effectiveness and improve timelines, while continuing to protect the environment and foster economic development. However, the outcome of the past few years has been relatively modest improvements in processes without addressing the more fundamental underlying issues.

In addition to process issues, we believe that the basic approach embodied in existing legislation is out-dated. At the heart of most existing legislation is a philosophy of prohibiting harm; 'environmental' legislation is almost entirely focused on preventing bad things from happening rather than enabling responsible outcomes. This results in a position of adversarial prohibition, rather than enabling collaborative conservation to achieve agreed common goals.

This approach we advocate is based on a whole-of-government consideration of several pieces of legislation that are currently planned for review in the coming months (for example, the Canadian Environmental Assessment Act, the Species-At-Risk Act, and others). Clearly, each Act has specific issues that need to be addressed, but if framed appropriately from the outset, broader improvements can be achieved that allow the various acts to rely upon each other and function in an integrated manner from project assessment through to permitting and ongoing monitoring. The Parliamentary Review of CEAA has provided an opportunity to set the scene for a broader review of environmental legislation and regulation as a system.

An ideal outcome through regulatory reform could have the following high level elements:

- An approach that enables economic growth and job creation and responsible environmental outcomes;
- Risk-based, place-based planning frameworks;
- A demonstrable commitment to 'one project – one review by the best placed regulator';
- Coordinated and timely licensing and permitting that relies upon reviews already undertaken, reducing duplication and overlap between federal and provincial processes, along with improved coordination within the responsible governments;
- Clear compliance mechanisms that include options that enable conservation through habitat banking, conservation agreements, habitat offsets and enhancement or other mechanisms;
- Science-based monitoring and third party verification that enables adaptive management and simpler, better informed and less expensive planning and reviews for future projects.

¹ *National Energy Board Act (NEB Act), Canadian Environmental Assessment Act (CEAA), Species at Risk Act (SARA), Fisheries Act, Migratory Birds Convention Act (MBCA), Navigable Water Protection Act (NWPA), and others.*

In addition to considering regulatory reform in the context of environmental legislation and regulation, in parallel progress must be made on issues associated with Aboriginal consultation. Regulatory reform efforts will be enabled by improved understanding of the roles, responsibilities and obligations of governments, industry and Aboriginal peoples in regard to consultation regarding natural resource development projects.

Our industry associations have been working together for several years through a joint project called The Energy Framework Initiative (EFI) to advance a sound framework for energy in Canada. EFI engaged a range of participants to understand the specific challenges that exist around the entire energy system and to develop options for addressing them. Regulatory reform was one of the principal challenges identified, and has been an ongoing priority for the sector as a whole. We would be pleased to meet with you or your officials to elaborate on some of our ideas for addressing this challenge through pragmatic and specific actions.

Please contact any of the undersigned should you require any further information or to arrange a meeting at your convenience.

In closing, we wish you and your staff a safe and happy holiday season.

Regards,

Signed Electronically

Brenda Kenny
President
CEPA

Timothy M. Egan
President
CGA

Peter Boag
President
CPPI

David Collyer
President
CAPP

cc: Paul Boothe, Deputy Minister, Environment Canada
Serge Dupont, Deputy Minister, Natural Resources Canada