



17 November 2014

Honourable Ryan Leef,  
MP for Yukon  
House of Commons  
Ottawa, Ontario  
K1A 0A6

Dear Hon. Ryan Leef,

Re: Bill S-6, a Bill to amend the Yukon Environmental and Socioeconomic Assessment Act, and the Nunavut Waters and Nunavut Surface Rights Tribunal Act.

I am writing on behalf of Wildlife Conservation Society Canada (WCS Canada) to express opposition to Bill S-6, recently introduced through the Senate of Canada by the federal government.

WCS Canada is a non-profit organization which seeks science-based conservation of wildlife and wild lands. We have been active in Yukon since 2004, undertaking new science and interpreting scientific information for decision-making processes. I have witnessed the implementation of the Yukon Environmental and Socio-economic Assessment Act (YESAA) since its inception in 2005, and have been generally impressed by the record of its implementation body, - the Yukon Environmental and Socioeconomic Assessment Board (YESAB).

Bill S-6 proposes various amendments to the YESAA that will undermine the independence and integrity of the environmental impact assessment process currently administered by YESAB. Therefore the social licence for project approvals that YESAB has gained runs a strong risk of being compromised. Bill S-6 has substantial shortcomings, both in the process by which it has been drafted, and in its content.

The process for developing these amendments and compiling them in draft legislation has been flawed. The original YESAA derives from the Umbrella Final Agreement (UFA) under which Aboriginal claims for rights and title have been settled in Yukon. A review of YESAA was mandated to occur after 5 years of implementation, and that review began in 2008. The subsequent process has been long and ultimately produced Bill S-6. The major problems with the process have been: (i) a number of issues raised by First Nations up to June 2011 were ignored or overlooked without explanation in the Interim Draft Final Report of the review process released by the federal government (March 2012) and in the Final Review Report (October 2012); (ii) some of the stages of the review process were held *in camera* so there is a lack of transparency and accountability to all the

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negotiating parties and to the public; (iii) certain stakeholders, notably the non-renewable resource extraction industries, participated in the review process *in camera*; (iv) Bill S-6 has been introduced by your government without the endorsement of Yukon First Nations which makes it contrary to the spirit and intent of the UFA. In sum, the consultation process has lacked transparency, appears biased, and has not addressed First Nations' concerns which are of equal validity to those of Canada or Yukon in a government-to-government agreement such as the UFA.

There are also reasons for concern about the content of Bill S-6, and I highlight three. First, the Bill provides the option for the federal government (Canada), or by delegation the Yukon Territorial government, to impose policy direction on the Yukon Environmental and Socioeconomic Assessment Board (YESAB). This undermines a stated purpose of YESAA (5, 2(a)) which is to produce a "neutrally-conducted assessment process" at arm's length from government. The existing YESAA already allows the Yukon Territorial government, through the Executive Council Office, the power to accept or reject YESAB recommendations. There is no need, in practical or moral terms, to further remove power and influence from YESAB and place it unilaterally in the hands of one or other government. Doing so goes against the spirit and intent of the UFA and the First Nations' final agreements.

Second, Bill S-6 imposes specific timelines on YESAB for project review. As a result, complex projects will receive relatively cursory review because of a rushed process. It is unclear why this would be needed other than perhaps that the YESAB review process in operation before Bill S-6 has come under criticism from the mining industry when YESAB requests additional information during the process. Speaking from the perspective of a biologist who is aware of ecological impacts brought about by mining operations, this is not a reflection of a faulty review process, but a reflection of inadequate preparation by industry and its consultants. In other words, there is a strong argument to be made that YESAB's reviews have been working well by uncovering poor planning and preparation by project proponents.

Third, Bill S-6 removes the need for any YESAB review of project amendments or renewals, unless there are "significant changes". If this Bill is passed, Yukon Territorial Government will have the unilateral discretion to authorize amendments and renewals. The term "significant change" is not defined. Ample experience elsewhere in Canada suggests that government decisions will lack clarity and will be open to political interference. An independent body such as YESAB should be reviewing amendments and renewals because the environmental and socio-economic context for any project changes over time and often demands new licence conditions. Also, a project could become very different in scope and impact through successive incremental amendments and renewals. For example, new mineral deposits may be discovered necessitating different infrastructure or extraction methods, thereby far outreaching the scope and understanding within the original project proposal. Overall, it seems clear that this portion of Bill S-6 will lead to a lack of trust and certainty in the process on the part of the First Nations and the public, and to a higher risk of significant environmental impacts.

If passed, Bill S-6 runs the risk of undermining economic investment in Yukon. This is because much of the social licence for project approval, previously vested in YESAB, will be questioned in the new regime. Questions and suspicions undermining social licence will result from the greater chances of political interference, the exclusion of First Nations' interests, and the sub-standard technical procedures that Bill S-6 promotes.

In sum, I urge your government to withdraw Bill S-6, and to return to a more inclusive consultation process with Yukon First Nations regarding the YESAA review. If this Bill continues to be considered by the House of Commons, then I urge that it be reviewed by the Standing Committee on Aboriginal Affairs and Northern Development with hearings in Yukon Territory.

I have been brief by necessity, but am happy to provide further details about these issues.

Yours sincerely,



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CC: (via email)

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