



April 23, 2018

The Honourable Catherine McKenna  
 Minister  
 Environment and Climate Change Canada  
 200 Sacré-Coeur Blvd.  
 Gatineau QC  
 K1A 0H3

**Subject: KEAC feedback on Bill C-69**

Dear Madam:

The Kativik Environmental Advisory Committee (KEAC) was established in 1975 pursuant to Section 23 of the *James Bay and Northern Québec Agreement* (JBNQA). Recognized under the *Environment Quality Act* (CQLR, c. Q-2) and the *James Bay and Northern Québec Native Claims Settlement Act* (S.C. 1976-1979, c. 32), the KEAC is a consultative body to responsible governments in matters relating to environmental and social protection in Nunavik. It is the preferential and official forum of the governments of Canada and Québec, the Kativik Regional Government and the northern villages.

In accordance with its mandate relating to the application and administration of the environmental and social protection regime established under Section 23 of the JBNQA, the KEAC has on a few occasions in the past studied the application of the assessment and authorization procedure under the *Canadian Environmental Assessment Act, 2012* (CEAA) in Nunavik. This letter contains the KEAC's main observations on Bill C-69, an *Act to enact the Impact Assessment Act and the Canadian Energy Regulator Act, to amend the Navigation Protection Act and to make consequential amendments to other Acts*, which was published on February 8, 2018.

On April 4, 2018, the KEAC learned by chance that the deadline for written comments on Bill C-69 was April 6, 2018. The KEAC had only a short time to analyze the Bill in its entirety and produce detailed comments. Consequently, the preliminary observations of the KEAC have been restricted to the *Impact Assessment Act*. The KEAC intends to provide more feedback on the proposed *Impact Assessment Act*, when given the opportunity to appear before the Standing Committee during the anticipated parliamentary hearings.

First, it is important to bring to your attention that the northern territory covered by Nunavik represents a special and fragile ecosystem affected by the growing impacts of climate change and economic development. In 1975, the JBNQA introduced a special environmental and social protection regime under Section 23. The regime acknowledges special rights for the Indigenous people of the region with

respect to matters involving development of the territory. Since the signing of the JBNQA, development projects and their potential impacts on the region's natural and social environments are assessed under the regime before authorization is granted. This regime takes precedence over any other environmental assessment process and is protected under the *Constitution Act, 1982*.

The KEAC has previously recommended that the federal government take into consideration the primacy of the JBNQA and the environmental and social impact assessment and review procedure under Section 23. In 2002, the KEAC transmitted its concerns to the Federal Administrator of Section 23 of the JBNQA concerning the application of the CEAA in the territory covered by the JBNQA, specifically in cases where several federal assessment procedures may apply<sup>1</sup>. In 2011, the KEAC reiterated its observations and recommendations to the Standing Committee on the Environment and Sustainable Development during the latter's review of the CEAA<sup>2</sup>. The two briefs, which are pertinent to the review of Bill C-69, are enclosed.

The KEAC welcomes that, pursuant to the provisions of section 4, the Governor in Council may determine that, in the case of overlap, the *Impact Assessment Act* would not apply for lands subject to a specific land claim agreement and that this may be the case for Nunavik. In this context, it is important that the KEAC be consulted regarding steps already taken or to be taken to develop Schedule 2.

The KEAC would like to take advantage of the review of Bill C-69 to reiterate the importance of a substitution to the *Impact Assessment Act* for entities already having duties, responsibilities and functions under Section 23 of the JBNQA, i.e. the Kativik Environmental Quality Commission, the Screening Committee, and the Environmental and Social Impact Review Panel (COFEX-North).

The KEAC acknowledges the federal government's efforts to address the need to better understand the cumulative effects of development projects. The KEAC understands that regional assessments would be undertaken to guide the planning and management of cumulative effects, identify potential impacts on the rights of Indigenous people and inform project proponents, while strategic assessments would be conducted to explain the application of environmental frameworks to activities subject to federal oversight and regulation. Given that the Québec government recently introduced a strategic environmental assessment procedure under the *Environment Quality Act*, the KEAC suggests it be specified that these types of assessment do not represent a double assessment for Nunavik and that they will be undertaken consistently and in collaboration with provincial and Nunavik entities. To this effect, it is important to stress that regional and strategic assessments must be structured to accommodate the JBNQA context, as well as the special status and involvement of Inuit and Naskapi.

Furthermore, the KEAC understands the importance placed by Bill C-69 on impacts that can be generated by development projects on Indigenous people insofar as they take into account their cultural, environmental, health, economic and social concerns. The KEAC has also noted that the Bill provides a transparent decision-making process by requiring both scientific and Indigenous traditional knowledge to be taken into account.

---

<sup>1</sup> *Opinion and Recommendations of the KEAC regarding Double Environmental Assessment of Nunavik Projects by the Federal Government submitted to the Federal Administrator, March 2002.*

<sup>2</sup> *KEAC Position Paper on the Review of the Canadian Environmental Assessment Act, February 2011.*

Finally, the KEAC considers that Bill C-69 represents a major legislative reform that will have significant impacts in the years to come. It would therefore like to be kept informed of any amendments effected during the legislative process that are important for Nunavik. Notwithstanding, the KEAC takes strong exception to the very short period it was allowed to review and comment on Bill C-69 and to the omission of a formal invitation to do so.

Respectfully yours,



Alexandre-Guy Côté  
Chairperson

Att.

c.c. Ron Hallman, President, Canadian Environmental Assessment Agency