WILDERNESS COMMITTEE

NATIONAL OFFICE
46 E. 6th Avenue,
Vancouver, BC V5T 1J4

Toll Free: 1-800-661-9453
In Vancouver: (604) 683-8220
WildernessCommittee.org

VANCOUVER • VICTORIA • WINNIPEG • TORONTO

Prepared by Lucero Gonzalez (Conservation and Policy Campaigner) and Isabel Siu-Zmuidzinas (Climate Campaigner) from the Wilderness Committee

Brief to the Legislative Committee on Bill C-39, Building Canada Strong Act

RE: Reject Bill C-39 on the basis of environmental, labour and Indigenous Rights protections.

Dear Prime Minister Carney, Minister of Transportation Steven MacKinnon and Committee Chair James Maloney

We write to you on behalf of the Wilderness Committee, an environmental non-profit organization that has been operating for more than 45 years, and the tens of thousands of our supporters from all across Canada, to oppose the passing of Bill C-39.

The bill has been presented as a way to make it faster and easier to build major projects in Canada and attract investment. But there is nothing inherently efficient about removing rules that require project proponents to account for the damage their projects may cause to local and Indigenous communities, species at risk, ecosystems, workers and our shared climate.

The federal government's proposed solution, which began with Bill C-5 and now continues to an even greater extent with Bill C-39, to make major projects faster and cheaper is, in significant part, to weaken or bypass the very safeguards designed to protect people and the environment. Environmental assessments, Species at Risk Act permitting requirements and Indigenous consultation processes are not unnecessary red tape. They exist because major projects can — and have — caused serious and irreversible harm. If addressing that harm has proven expensive and time-consuming, it is because the harm is real. Until now, these processes have required project proponents to at least account for some of the environmental and social costs their projects create.

Making environmental assessments and permitting processes faster, weakening them or bypassing them altogether does not make the harms those processes are designed to identify

disappear. It simply makes it easier for proponents to proceed without fully addressing the consequences of their projects and shifts those consequences onto everyone else.

The same is true of the bill's proposed restrictions on workers' rights. Taking away workers' ability to strike or weakening their ability to negotiate with employers in good faith does not make workplace disputes disappear or make workplaces safer. It simply makes it easier for employers to avoid addressing workers' demands, with the reassurance that the federal government will intervene and side with employers before labour disruptions become too costly for the employer. As a unionized workplace, we fiercely reject these changes and support all the submissions from unions and organizations that have spoken up against it, like the International Longshore and Warehouse Union (ILWU), the Canadian Union of Public Employees (CUPE) and the Canadian Labour Congress (CLC), among others.

This is not "streamlining." It is shifting the costs and risks of major projects away from the companies that profit from them and onto workers, communities, Indigenous Peoples and the environment. The environment

al and social consequences of major projects do not disappear when governments remove or weaken the rules designed to address them. They remain in our communities, in the lands, in the waters and in those who have stewarded them for millennia. Bill C-39 risks creating a system in which project proponents benefit from faster and less costly approvals while the public and species at risk are left to bear a greater share of the environmental, social and economic consequences.

On the west coast of Canada, we fear this Bill will help drive the remaining 76 endangered Southern Resident orcas to extinction. We fear that the dollars saved by proponents of the Pacific Link Pipeline and the Roberts Bank Terminal 2 expansion project will only translate into the loss of our lives with these endangered orcas in them, a price so outrageously high that so many of us are not willing to bear it. The fast-tracking of fossil fuel projects like the Pacific Link pipeline or LNG terminals will worsen climate change at a time when people in living Canada are already suffering the consequences — losing their homes, communities and their lives in extreme heat, floods and wildfires.

WILDERNESS COMMITTEE
NATIONAL OFFICE
46 E. 6th Avenue,
Vancouver, BC V5T 1J4
Toll Free: 1-800-661-9453
In Vancouver: (604) 683-8220
WildernessCommittee.org
VANCOUVER • VICTORIA • WINNIPEG • TORONTO

We reject Bill C-39 in its entirety and urge all Members of Parliament to do the same. The following examples of provisions and changes within the bill illustrate our above argument.

Proposed changes to environmental statutes in Bill C-39:

Impact Assessment Act

- The Minister is now expected to issue a single approval document and grant permits under other federal laws listed in Schedule 5, such as the Species at Risk Act, the Environmental Protection Act, the Navigable Waters Act and the Fisheries Act. This would include giving out permits to Projects of National Interest and Regions of National Interest, allowing impacts on SARA-protected species and activities allowing the destruction of fish and fish habitat.
    - Notably, the Minister "may" decide to grant those permits and authorization even when the proponent has not provided all information required. This appears to be in contradiction to s 64.2(4) and (6) that mandate that all requirements of laws in Schedule 5 be met before issuing permits.
    - A proponent can also begin work before the assessment is complete when deemed to be in the "public interest." As with many other parts of the Act, it fails to define "public interest." Moreover, it opens the possibility of environmental damage occurring before they are understood and, again, in the case of projects known to be in the critical habitat of a SARA-listed species, it begs the critical question of how requirements under the act are able to be fully met.
    - We find it incredibly unrealistic that the requirements for all necessary permits could be assessed and determined to have been met within the Acts' proposed one-year timeline, particularly when that timeline is expected to encompass assessments, consultations and permitting processes taking place simultaneously.
        - Under SARA, this process is conducted independently, with its own environmental assessment process that includes consideration of cumulative effects on the affected listed species. It would simply be impossible for this process to be conducted to the full extent and rigour required by the Act within a tight,

pre-imposed timeline, especially if the proponent is not required to submit all the information necessary to properly assess the project's impacts.

- When approving projects under section 60, the Minister may no longer consider adverse environmental effects that are "direct or incidental." We reject any change to the definition of "effects" under the Act. Changing this crucial definition could have a serious impact on how adverse effects are interpreted, limiting the scope of the environmental damages of the projects.
- Projects regulated by the Canada Energy Regulator (pipelines, some oil and gas projects, among others) can no longer be subject to an impact assessment.
    - We reject the bypassing of environmental impact assessment by any major project in the country.
    - The Canada Energy Regulator has a long history of being intertwined with the fossil fuel industry, compromising the public's faith that any review done by this body will not be compromised by industry interests.
- Decision statements and project conditions can be amended post-decision even if this would "increase the extent to which the effects … are significant" so long as the decision maker considers it "in the public interest".
    - This change is unacceptable and would open the door to an extreme lack of public trust and accountability. The ability to amend project conditions under the broadly defined and insufficiently clear standard of what is "in the public interest" could allow conditions to be weakened simply because they have become too expensive, difficult or unrealistic for the proponent to meet. In fact, we know that even when environmental conditions imposed on projects are insufficient to mitigate their adverse environmental impacts, they are still routinely used by federal and provincial governments to justify project approval. Removing even this bare-minimum safety net would give the public even less confidence that major projects are being held to meaningful environmental standards and that the conditions imposed on them will actually protect people and the environment.
- From shortening timelines for panels on impacts assessments to allowing construction to begin if deemed in the "national interest" even before full assessment is complete, these

moves rush the assessment process and undermine the assessment process and undermine meaningful environmental scrutiny, public participation and Indigenous rights.

Fisheries Act:

- Significant changes in the Act introduce a pay-to-harm framework for permit holders, in which proponents may pay a fee into the Environmental Damages Fund to offset harm to fish or fish habitat. Naome Librach, a spokesperson for Fisheries and Oceans Canada, has stated that these funds would not be required to be used on the specific species or habitats where the damage has occurred. Notably, we know that some damage cannot be offset even with specialized restoration processes. Therefore, allowing proponents to simply pay for the damage monetarily and publicly claim robust protections when, in reality, the environmental damage would likely not be addressed on the ground. This could eventually be a form of greenwashing projects and misleading the public into thinking species and habitats are being protected to higher standards than they truly are.

Building Canada Act impacts:

- The proposed amendment would further expand the powers in Bill C-5 to allow the government to designate Regions of National Interest. Instead of just designating individual projects in the “national interest” and giving the government broad sweeping powers to expedite them, this amendment would create geographic areas for special regulatory treatment. This move would dramatically expand the scope of these powers, with the potential to fast-track multiple projects across an area.
- Cabinet would have the power to pre-approve categories of projects within these areas without any review of their specific impacts, opening the door for approval without adequate and project-specific analysis of the environmental impacts.
- The sunset clause for Projects in the National Interest has been removed which eliminates an expiry mechanism, cementing the extraordinary powers of this legislation.

Canada Energy Regulator Act impacts:

- The proposed amendments would change processes for pipelines depending on whether the new right of way is less than or greater than 300 kilometres. Regardless of the length of a pipeline, any major industrial project must be subject to full and comprehensive assessments.
- The proposed amendments shorten the timelines on decision making processes for all pipelines, regardless of length. The shortening of timelines further risks the ability of the government to adequately evaluate pipeline projects and respect Indigenous rights.

Labour rights impacts:

- Section 107 of the Bill would amend to give the federal government the power to force an end to a legal strike, whenever it deems the dispute contrary to the undefined "national interest." This is a sweeping and dangerous expansion of government power that threatens workers' fundamental right to strike.
    - Undermining the right to strike fundamentally weakens the rights of workers — millions of people living in Canada — as it is one of the few tools workers have to challenge unfair treatment, demand better wages and working conditions and negotiate fair contracts. The undefined "national interest" allows the government to sidestep workers rights whenever a strike is not politically or economically convenient for them. Workers' labour rights should not be conditional on whether a government finds them convenient.
    - Furthermore, this change to the labour code would disincentivize employers from negotiating in good faith. If employers know that the federal government would step in to end a work stoppage, they have no incentive to negotiate fairly. These changes once again prioritize the profits of major corporations and employers at the expense of the people who keep our communities and economy running: workers.
    - This provision has been opposed by unions and the labour movement, including the CLC, CUPE and many others. We stand in solidarity with organized labour in support of the complete repeal of section 107.

Indigenous Rights:

WILDERNESS COMMITTEE
NATIONAL OFFICE
46 E. 6th Avenue,
Vancouver, BC V5T 1J4
Toll Free: 1-800-661-9453
In Vancouver: (604) 683-8220
WildernessCommittee.org
VANCOUVER • VICTORIA • WINNIPEG • TORONTO

- While the Bill claims to respect the Crown's obligation to consult Indigenous Peoples, changes intended to expedite permitting and assessment timelines would not only reduce the time available to properly consult Indigenous Nations, but also raise serious questions about how meaningful consultation can take place when it is happening simultaneously with environmental assessments and, in some cases, when proponents are not required to provide full information about their projects.
- Bill C-39 takes us further away from what should be the standard of Free, Prior and Informed Consent, as outlined in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). Simply put, it is impossible to obtain prior consent when projects and regions deemed to be in the "national interest" can receive pre-approval before full Indigenous consultation has taken place. It is impossible to obtain informed consent when Nations do not have access to the full information about the potential impacts and scope of the projects they are being consulted on. And it is impossible for consent to be free if the decision to proceed has effectively already been made and Indigenous participation is reduced to a procedural step rather than being taken seriously as part of the decision-making process.
- Canada has an obligation to uphold UNDRIP to its highest standards, even when doing so is inconvenient or costly for project proponents. Canada has a responsibility to the Indigenous Nations in this country that must take precedence over the interests of private proponents and billionaires.

We urge all Members of Parliament and committee to reject this destructive bill and to prioritize the people, places and species in Canada over corporate interests and profits.

Thank you for taking into consideration our submission,

Lucero Gonzalez, Conservation and Policy Campaigner at the Wilderness Committee

Isabel Siu-Zmuidzinas, Climate Campaigner at the Wilderness Committee

The Wilderness Committee is an environmental charity dedicated to protecting biodiversity and wildlife and fighting climate change. The organization has been operating for nearly 50 years in Canada, with offices in Victoria, Vancouver, Winnipeg and Toronto.