



May 9, 2014

Natural Resources Canada
580 Booth Street
Ottawa, Canada
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Sent by email to: Resource2812@nrcan-rncan.gc.ca

Re: Establishing Mandatory Reporting Standards for the Extractive Sector: Spring 2014 Consultation

We are writing in response to Natural Resources Canada's request for stakeholder feedback on its proposed approach to mandatory transparency reporting standards for the extractive industries.¹ We commend the Government of Canada for proactively seeking to align Canadian reporting standards with other international processes, and strongly support the commitment that has been made to extractive industries transparency.

With approximately C\$6 billion in assets under management, NEI Investments' approach to investing incorporates the thesis that companies integrating best environmental, social and governance (ESG) practices into their strategy and operations will build long-term sustainable value for all stakeholders, and provide higher risk-adjusted returns to shareholders. The company evaluations, corporate engagement and research activities that we conduct to fulfill our responsible investment commitments give us insight into Canadian companies' progress in responding to ESG risks, the obstacles they face, and how appropriate policy could support their efforts.

We have submitted detailed written comments on the mandatory reporting framework during previous iterations of this consultation.² As well, we attended the July 2013 and March 2014 consultations held in Vancouver and provided feedback during those sessions. Overall, we are very pleased with the proposed mandatory reporting framework and strongly support the Government of Canada in following through with its commitment to implement mandatory reporting for the extractive industries.

Adoption of the Recommendations of the Resource Revenue Transparency Working Group

We are pleased to see the excellent work of the Resource Revenue Transparency Working Group (RRTWG) reflected in the final draft of the proposed framework. We have been impressed by the work of the RRTWG and believe the success of the

¹ <http://data.gc.ca/eng/forms/consultation-mandatory-reporting-standards-extractive-sector>

²

http://www.neiinvestments.com/Documents/PublicPolicyAndStandards/2013/Extractives%20Transparency_NEI%20Comments_final_website.pdf

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multi-stakeholder group should serve as an example to be emulated in other areas. Acknowledging this work through the adoption of many of the RRTWG recommendations sends a strong message about the value of multi-stakeholder collaborations.

Review Period

While we support much of what has been proposed for the framework and believe that in its current form it will be beneficial to companies and investors in the long-term, potential remains for unintended consequences from the framework's implementation. As such, we would recommend that the Government of Canada include a mandatory review of the legislation after a prescribed period, similar to what was done for *Building the Canadian Advantage: a Corporate Social Responsibility (CSR) Strategy for the Canadian International Extractive Sector*. This would allow flexibility to adjust the framework to close unforeseen loopholes or to remove requirements that prove to have unintended and negative impacts on companies, communities or host governments.

Phase in the Expectation for Transparency on Payments to Aboriginal and Indigenous Governments

We believe that ultimately all payments made by extractive sector companies to all levels of government should be made transparent. This includes payments to Aboriginal governments through various bilateral agreements and other vehicles. However, we strongly believe that the framework and the timeline for how these payments will be made transparent must be developed in consultation with Aboriginal communities. We do *not* support the current expectation of transparency on payments to Aboriginal and Indigenous governments as we are concerned that consultation may not have been adequate.

We have particular concern in regard to the mandated transparency on payments to international (ex-Canada) Indigenous communities. Some of these communities reside in jurisdictions where the rule of law and the protection of Indigenous rights are weak. We would caution moving on this requirement without understanding the potential impacts of mandatory transparency. The Government of Canada should be certain that it is not placing vulnerable Indigenous communities at risk relative to potentially hostile host governments or other neighbouring communities. We recommend that the Government of Canada undertake due diligence with experts in Indigenous rights in various jurisdictions to ensure that this transparency expectation does not have unforeseen negative impacts.

Moreover, we are concerned that moving too quickly with transparency requirements for payments to Aboriginal communities in Canada will create material risks for companies that are currently negotiating with communities. It may also threaten the timely implementation of the transparency framework itself. This would be a highly undesirable outcome. Instead, we recommend that the Government of Canada phase in the expectation of transparency on payments to Aboriginal and Indigenous governments at a later date after appropriate consultation and due diligence has occurred.

In conclusion, we once again commend the Government of Canada for its proactive effort to create mandatory reporting guidelines for extractive sector companies and for the opportunity to provide feedback. We see significant value in this mandatory reporting framework. If you have any questions regarding this letter or our previously submitted comments please contact Jamie Bonham, Manager Extractives Research & Engagement, NEI Investments (jbaham@neiinvestments.com; 604-742-8328).



Sincerely,

NEI Investments

A handwritten signature in black ink, appearing to read "Bob Walker", followed by a long horizontal flourish.

Bob Walker
Vice President, ESG Services & NEI Ethical Funds

cc:

Board of Directors, NEI Investments

Michelle de Cordova, Director, Corporate Engagement & Public Policy, NEI Investments