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Our ref: 00388

*Sent via email*

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Dear Mr. Morin,

**Re: Frontier and Offshore Regulatory Renewal Initiative Consultations**

We write on behalf of Ecojustice to express concern about the Frontier and Offshore Regulatory Renewal Initiative's (**FORRI**) stakeholder consultation process for proposed Framework Regulations. Although Ecojustice participated in a previous round of FORRI consultations, we were not invited to participate in the development of the Framework Regulations. It has recently come to our attention that the FORRI Framework Regulations process has continued without the input of important stakeholder groups, including aboriginal groups and non-governmental organizations. It appears that many of these groups were not even informed that the FORRI Framework Regulations process was taking place.

Ecojustice is a national charitable environmental law organization that uses the power of law to defend nature, combat climate change and fight for a healthy environment for all. For the past decade, Ecojustice has worked extensively on legal matters relating to the frontier oil and gas regulatory regime. In addition to representing clients in frontier and offshore oil and gas litigation, Ecojustice lawyers have participated or represented clients in the following proceedings:

- the National Energy Board’s Arctic Offshore Drilling Review;
- the National Energy Board and Inuvialuit Environmental Impact Screening Committee and Review Board environmental reviews of proposed exploratory drilling projects in the Beaufort Sea, including preliminary proceedings to address industry requests for exemptions from the same-season relief well safety requirement;
- Parliamentary committees considering legislative changes to frontier and offshore oil and gas statutes, including testifying before such committees about Bills C-22 (*Energy Safety and Security Act*) and C-46 (*Pipeline Safety Act*);
- the Minister’s Special Review of the *Canada Petroleum Resources Act*;
- on August 7, 2015 and January 5, 2016, Ecojustice submitted comments on drafts of the *Canada Oil and Gas Financial Requirements Regulations*, *Canada-Newfoundland and Labrador Offshore Petroleum Financial Requirements Regulations*, *Canada-Nova Scotia Offshore Petroleum Financial Requirements Regulations*, *Guidelines Respecting Financial Requirements and Administrative Monetary Penalty Guidelines*. Ecojustice lawyers also attended a stakeholder teleconference call on December 1, 2015, at which government representatives presented the draft *Guidelines Respecting Financial Requirements and Administrative Monetary Penalty Guidelines*. Ecojustice was the only non-government and non-industry stakeholder on that call. Notably, FORRI led the development of these regulations and guidelines.

Given our extensive history of work on this file, including participation at several instances at the invitation of the Government of Canada and during previous rounds of FORRI consultations, we were dismayed to learn that the FORRI Framework Regulations process has been nearly completed without the knowledge of or significant input from representatives outside of industry and government, including aboriginal groups and non-governmental organizations. We question why Ecojustice was not invited to participate in this process, given our expertise and history of working on frontier and offshore oil and gas issues, including regulatory development through the FORRI.

We believe our experience is one that is shared by numerous other interested non-governmental stakeholders and aboriginal groups. In our view, the near-complete exclusion of certain stakeholder groups from the FORRI Framework Regulations process has irrevocably undermined the legitimacy of that process.

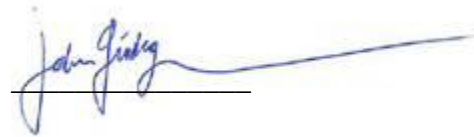
We share the concerns raised by WWF-Canada in their September 20, 2017 letter to your office. In that letter, they question the Framework Regulation process’ reliance on the untested assumption that performance-based approaches to regulation are more appropriate or desirable than more prescriptive approaches. They also note the widespread incorporation of the “as low as reasonably practicable” risk reduction principle in the Phase 3 draft regulations, despite the absence of any substantive debate on whether Canada should adopt this principle.

When coupled with the flaws in the consultation process, the unquestioning adoption of these substantive principles creates an appearance that the Framework Regulations are designed to cut red tape for industry rather than to modernize Canada’s frontier and offshore regulatory regime with a view to establishing high standards for safety, environmental protection and resource management.

We also note that this effort is being undertaken entirely independent of the environmental law review processes underway, notably the federal government's commitment to review to the *Canadian Environmental Assessment Act, 2012* and the *National Energy Board Act*, both of which may have implications for the reforms contemplated by the FORRI. In our view these higher level reforms should inform the more operational reforms considered in the FORRI consultations.

We therefore support WWF-Canada's request that the government undertake a broader, more inclusive regulatory renewal process that addresses these concerns.

Sincerely,



Josh Ginsberg  
Barrister and Solicitor  
Director of Legislative Affairs



Ian Miron  
Barrister and Solicitor

cc: The Honourable Carolyn Bennett, Minister of Crown-Indigenous Relations and Northern Affairs  
The Honourable Jim Carr, Minister of Natural Resources  
Paul Crowley, Vice President Arctic, WWF-Canada