June 14, 2013

Sustainable Development Office
Environment Canada
10 Wellington Street, 4th Floor
Gatineau QC K1A 0H3

Sent by email to: SDO-BDD@ec.gc.ca

Re: Planning for a Sustainable Future: A Federal Sustainable Development Strategy for Canada

We are writing in response to the request for comments on the public consultation draft of the second Federal Sustainable Development Strategy (FSDS) 2013-16.[1]

As a Canadian investment management company with over $5 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 sustainability risks, the obstacles they face, and how appropriate policy could support their efforts.

As of June 6, 2013, NEI Investments' assets under management included over $415 million in Canadian Federal fixed income instruments, so we also offer our perspective as a financial stakeholder in Canada's own investment offerings. In this context, we note that the responsible investment community globally is exploring the potential to enhance engagement on ESG questions with bond issuers, both corporate and non-corporate. NEI Investments currently participates in the Principles for Responsible Investment (PRI) Fixed Income Working Group, which focuses on this topic. Over one thousand investment institutions representing almost $35 trillion in assets under management are signatories to PRI, a global collaboration to advance the practice of responsible investment.

Chapter 1 – The Government of Canada's Sustainable Development Approach

The continued importance of sustainable development

The draft states that *"the FSDS is helping to advance Canada's international trade agenda by providing a comprehensive expression of Canada's commitments to the environment and sustainable development to our trading partners"* (p7).

We strongly endorse the idea that demonstrating Canada's commitment to environmental protection and sustainable development is important to the economy, on several levels: ensuring market access for Canadian products; securing social license for Canadian companies operating internationally; and attracting responsible long-term investment in Canadian

[1] Federal Sustainable Development Strategy http://www.ec.gc.ca/dd-sd/default.asp?lang=En&n=CD30F295-1

companies by international investors. We believe this is especially important for our natural resource companies, which make up an important part of the Canadian investment universe. Like most institutions in the responsible investment space in Canada, we have holdings in selected oil and gas, forestry and mining companies, and therefore have a strong interest in their long-term value. We also recognize that the projects they undertake can have significant environmental and social impacts and risks.

NEI Ethical Funds is a Sustaining Member of the Social Investment Organization (SIO), the national organization for socially-responsible investment in Canada, and sits on its Policy and Advocacy Committee. In June 2012 SIO wrote to the Government of Canada to express concerns about changes to the Federal environmental regulatory system that were introduced within Bill C-38. These included changes to the Canadian Environmental Assessment Act (CEAA), the National Energy Board Act, the Fisheries Act, the Canadian Environmental Protection Act (CEPA) and the Species at Risk Act (SARA). Several points raised in SIO's letter are also relevant in the context of the FSDS.

We believe that strong, effective and efficient environmental regulation supports the efforts of responsible companies to create long-term sustainable value for shareholders and other corporate stakeholders. Natural resource projects in particular often have long investment horizons, with planning, construction, operation, decommissioning and reclamation taking place over several decades. If the environmental and social impacts of development are not understood, acknowledged and mitigated in a timely fashion, over the long term the companies involved may be exposed to risks and a resulting increase in their cost of capital. Potential risks can include operating restrictions, reputational damage, erosion of the social license to operate, and litigation on health impacts or breach of Aboriginal rights.

It is not in the interest of responsible long-term investors – the type of investors that we believe the Government of Canada would prefer to invest in the country - that the regulatory system should allow or encourage companies to take risks with environmental management. It is, however, in the interest of those investors that the regulatory system should reduce uncertainty about the environmental impacts of projects, and reward companies that demonstrate leadership in reducing impacts and incorporating best practices.

In public statements last year, Natural Resources Minister Oliver suggested that the objective of streamlining the environmental review process was to attract investment to Canada. We welcome efforts to eliminate duplication and unnecessary delay in the assessment of projects. However, we would caution that if streamlining efforts are perceived (rightly or wrongly) to weaken environmental protection, they could damage Canada's reputation in the investment community, and have the opposite effect to that intended. Institutional investors may have holdings in hundreds of companies from dozens of home jurisdictions involved in thousands of resource projects in countries worldwide. Country risk is a key consideration for many responsible investors, with part of that analysis relating to whether a country's regulatory system reduces uncertainty and contributes to the mitigation of long-term risks. Canadian and international investors have expressed concern about the quality of environmental regulation, for example in the context of the oil sands.[2] International oil companies are being pushed by some investors to divest of oil sands assets.[3] Major international investors have also chosen to avoid investment in Canadian companies that they perceive to be damaging the environment.[4] This trend in

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[2] NEI Investments (2012). *Re: Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring.* https://www.neiinvestments.com/neifiles/PDFs/5.5%20Public%20Policy%20and%20Standards/Oil%20Sands%20Monitoring%20Plan%20-%20Investor%20Letter.pdf

[3] In recent years Statoil, BP and Royal Dutch Shell have all faced calls to divest of oil sands assets, including shareholder proposals at their AGMs.

[4] The Norwegian Government Pension Fund - Global has excluded a number of companies based on environmental criteria, including Barrick Gold based on concerns about the environmental impacts of its operations in Papua New Guinea http://www.regjeringen.no/en/dep/fin/press-center/Press-releases/2009/mining-company-excluded-from-the-governm.html?id=543107. In 2012 the Fund's Ethical Council carried out an assessment of the environmental impact of companies that operate in the Alberta oil sands http://www.regjeringen.no/pages/1957930/aarsmelding_2012_engelsk.pdf.

investment decision-making is likely to become more pronounced as an increasing number of institutions adopt responsible investment mandates.

We supported the stated principles of the Federal Government's 2012 *Plan for Responsible Resource Development*:[5] to make project reviews more predictable and timely; to reduce duplication; to strengthen environmental protection; and to enhance Aboriginal consultation. But we questioned the statement in the plan documentation that *"no benefits flow when major projects languish in an unwieldy regulatory process. We need the energy and the jobs and other economic and social benefits that these projects will provide. We need them now — not 10 years from now, or never."* We see merit in efforts to streamline decision-making timeframes and regulatory effort on lower risk projects, but would also suggest that the best outcome for some high-risk projects is that they should not happen at all. In those cases, it is desirable that the decision to reject the project should be made in a relatively short timeframe so that capital can be freed up for investment in alternatives that create value and jobs with less risk.

It was unclear to us why it was necessary to rush the changes under Bill C-38 through Parliament. Environmental regulation is such an important and contentious area that we felt more time should have been devoted to exploring the implications and collecting stakeholder and expert input, to ensure that the legislative changes would truly deliver the desired results - and also that the changes would be understood and accepted, so that Canada's reputation would be enhanced rather than threatened. The process in 2012 left investment institutions confused. On the one hand, we were told that the regulatory system was being improved, and on the other, that it was being undermined. We note that stakeholder input is now being invited on regulations emerging from the legislative changes, but feel that it would have been better to launch consultation before those changes were enacted.

The value of collaboration

The draft recognizes that Federal actions are, and should be, complemented by the work of other actors, including other levels of government and private sector initiatives (p8). Each of the thematic sections in Chapter 2 includes a section entitled "*What others are doing*". However, these sections do not consistently highlight activities by the full range of actors, including other jurisdictional levels, companies, industry associations and civil society organizations. To this list we would also add the potential contribution of the investment and banking community through responsible investment and lending policies – an aspect which is often overlooked.

We are delighted that, as an example of collaboration, the draft (p26) highlights the Boreal Leadership Council (BLC),[6] although it is incorrectly referenced as the Canadian Boreal Initiative, which is the civil society organisation that acts as secretariat to the BLC. NEI Investments is a member of BLC, and our Vice-President for ESG Services, Robert Walker, currently chairs this multi-stakeholder group, bringing together First Nations, industry, finance and environmental organisations behind a shared vision of conservation and sustainable development in Canada's Boreal. We feel there could be more emphasis throughout the draft on the value of cross-jurisdictional and cross-sectoral initiatives to address problems that transcend political and sectoral boundaries. Debate on key sustainability questions all too often becomes polarized in a way that can obstruct workable solutions. We believe the Federal Government has an important role to play as a convenor and participant in multi-stakeholder initiatives on sustainability questions.

[5] Responsible Resource Development http://www.actionplan.gc.ca/en/content/r2d-dr2
[6] Boreal Leadership Council http://www.borealcanada.ca/lead-council-e.php

The FSDS focuses on activities to be undertaken specifically by the Federal Government, but we believe there is also a need for a comprehensive Canadian sustainable development strategy that identifies common goals across the jurisdictional divides, reflects the activities being undertaken by all actors, identifies synergies, and exposes contradictions and overlaps.

Indicators and integration

The universal investor theory posits that when large investment institutions are broadly invested across the economy, they benefit from the overall health of the economy and society. If costs are externalized by one investee company in order to deliver higher returns, the universal investor may suffer lower returns elsewhere through the impact of these externalities on other investments. Thus developments in one sector should be assessed based impacts to the economy as a whole. Against this background, we note that the draft refers to plans to integrate environmental indicators with social and economic impacts (p9). We believe this integration is appropriate not only for the FSDS but also in the wider context of assessing the sustainability of Canada's economic performance. We would encourage the Federal Government to integrate environmental and social considerations in its economic assessments, and not to consider traditional financial indicators such as GDP in isolation.

Chapter 2 - Priorities for Environmental Sustainability

Regional Strategic Environmental Assessment

Clearly, the draft's priority themes of climate and air quality, water and nature protection are vital issues for Canada's sustainability. We note that agricultural sustainability does not appear to be addressed directly under these themes, although agricultural issues are mentioned in the implementation strategies under various themes.

We are concerned that the draft does not appear to address the Federal Government's role in promoting cross-cutting, "big picture" sustainability approaches that address multiple sustainability themes and the cumulative impacts of development, such as regional strategic environmental assessment (RSEA).

It is difficult to see how the cumulative impacts of development on a region can be addressed effectively through project-by-project environmental impact assessment (EIA) relating to the individual projects proposed by individual companies, and then only targeting projects for which EIA is required. In regions where many development projects are operating and planned, sustainability requires that they be considered in context so that efforts can be made to optimize environmental, social and economic outcomes.

The Canadian Council of Ministers of the Environment (CCME) defines RSEA as *"a process designed to systematically assess the potential environmental effects, including cumulative effects, of alternative strategic initiatives, policies, plans, or programs for a particular region."*[7] RSEA differs from EIA in that it considers a range of future development scenarios in order to ensure that current and future planning leads to the most desired outcomes, rather than the most likely ones. A defining feature of RSEA is that it places the assessment of cumulative effects at the centre of the process, with key decisions resting on the analysis of cumulative effects. The results of RSEA are then used to inform subsequent project-specific EIAs, leading to a more effective and efficient process for project proponents and other stakeholders. RSEA provides this strategic

[7] Canadian Council of Ministers of the Environment (2012). *Regional Strategic Environmental Assessment in Canada: Principles and Guidance.* http://www.ccme.ca/assets/pdf/rsea_in_canada_principles_and_guidance_1428.pdf

assessment of development options. Ultimately, RSEA can lead to increased certainty for companies developing projects, and for their investors.

An example of an area for which RSEA is relevant is the Peace Region of north-east British Columbia, which is at the nexus of numerous resource-focused economic development activities, current and proposed, including coal mines, conventional and unconventional oil and gas and development of liquefied natural gas (LNG) for export, hydro-electric development, wind energy, and ongoing forestry and agriculture development. Close to 45,000 km of existing roads and 28,000 km of pipelines connect all this development. The Peace region is clearly a lynchpin in the economic development of BC, but at the same time, the pace and scale of development poses real risks relating to cumulative environmental and social impacts. All of these activities involve trade-offs that can affect water availability, water quality, biodiversity, carbon emissions, critical habitat and community health – creating potential to impact Aboriginal and treaty rights of local First Nations, which can in turn lead to legal challenges and delays to projects.

Monitoring environmental impacts

As well as playing a role in region-level assessments, the Federal Government also has an important role to play in encouraging region-level monitoring of environmental impacts. In this context we would highlight the important role played by the Federal Government in the establishment of the environmental monitoring system for the oil sands region.

Over the past two years we led initiatives by Canadian and international investors in support of enhanced oil sands environmental monitoring, submitting comments to the 2011 public consultation held by the Alberta Environmental Monitoring Panel (AEMP),[8] and later writing to both the Federal and Alberta Governments to call for timely implementation of the recommendations of the AEMP recommendations and the Environment Canada Integrated Oil Sands Monitoring Plan.[9] We once again commend both levels of government on the progress made in implementation of an expanded and scientifically credible monitoring system. We hope the monitoring system will provide a model for monitoring cumulative impacts in other areas of intensive resource development.

Enhancing corporate disclosure on ESG issues

The draft does not address the potential for the Federal Government to mandate enhancements in corporate disclosure on environmental, social and governance (ESG) issues. As well as encouraging companies to pay more attention to sustainability issues, this would facilitate the work of responsible investment institutions, which require ESG information for decision-making. Although the development of corporate disclosure requirements often falls within the domain of the provincial securities regulators and stock exchanges, we note that the Federal Government has intervened in certain areas, such as announcements this week on mandatory extractives transparency disclosure.[10] The Federal Government could also explore opportunities to advance sustainability by enhancing expectations under Federal legislation such as the Canada Business Corporations Act and the Banks Act.

[8] NEI Investments (2011). *Re: World Class Environmental Monitoring for the Oil Sands Region.* https://www.neiinvestments.com/neifiles/PDFs/5.5%20Public%20Policy%20and%20Standards/Investors%20Oil%20Sands%20Monitoring.pdf

[9] NEI Investments (2011). *Re: Implementation of a World-Class Monitoring System for the Oil sands Region.* https://www.neiinvestments.com/neifiles/PDFs/5.5%20Public%20Policy%20and%20Standards/Oil%20Sands%20Monitoring%20Implementation_Investor%20Letter.pdf. *NEI Investments (2012) Re: Joint Canada-Alberta Implementation Plan for Oil Sands Monitoring.* https://www.neiinvestments.com/neifiles/PDFs/5.5%20Public%20Policy%20and%20Standards/Oil%20Sands%20Monitoring%20Plan%20-%20Investor%20Letter.pdf

[10] Prime Minister of Canada. *Press Release: Canada Commits to Enhancing Transparency in the Extractive Sector.* 12 June, 2013. http://www.pm.gc.ca/eng/media.asp?category=1&featureId=6&pageId=26&id=5525

Theme I – Addressing Climate Change and Air Quality

Carbon pricing

We believe climate change poses significant financial risk to institutional investors that have a responsibility to generate financial returns far into the future. We also believe investors can play an important role in addressing climate change through investment decision-making and corporate engagement. At present investors are constrained by a policy environment that can make it difficult to balance the imperative of lower-carbon investment with the duty to generate financial returns. To create the certainty investors require and leverage the power of financial markets for positive change, we need a stable, long-term climate policy framework.

One key issue not addressed directly in the FSDS draft is carbon pricing. We believe Canada needs to implement meaningful, economy-wide carbon pricing that will make low-carbon investments more attractive over time.

As an investment institution with exposure to Canadian energy companies, the topic of carbon pricing is highly relevant to us. We believe that implementation of a fair, robust and credible price on carbon is critical for the long-term value and performance of energy companies. Although it may be counter-intuitive, we believe that the oil sands industry in particular could reap benefits from a meaningful price on carbon.

Increasingly, fossil fuels will be judged by the market taking into account their impact on climate. This impact will be defined not only by the actual greenhouse gas emissions from the production and use of the fuel, but also by whether the producers have compensated for the negative externalities associated with production – for example, through a price on carbon. In the case of the Alberta oil sands, this scenario is not hypothetical. Oil sands producers are already facing market access issues based in part on the carbon footprint of the resource, as evidenced by the debate over the Keystone XL pipeline. We see these pressures only increasing.

We note the significant price discount on Western Canadian Select, which was around $20/barrel at the writing of this letter. There is no single reason for this discount, but the role of pipeline capacity constraints and market access must be considered. Arguably, the additional costs incurred by oil sands producers through an increased carbon price could be more than offset by a reduction in the bitumen discount, if that carbon price is a factor in securing improved market access.[11]

We do not advocate for a particular price on carbon, but we do have a perspective on carbon pricing levels in general. For several years we have been asking energy companies in our funds to perform shadow carbon pricing on their projects to ensure that these investments will be safe in a future with a significant price on carbon. This practice has spread to become an industry norm among major oil and gas companies. A recent study by Sustainable Prosperity found that energy companies operating in Canada were utilizing an average shadow carbon price range of C$15-68/tonne.[12] While this was a study of just ten companies, the findings are in line with our own experience.

In our engagement dialogues, the message from both conventional and unconventional oil and gas companies that have undertaken shadow pricing analysis has been consistent: not one has pointed to a material impact on profitability that would

[11] The argument that increased pipeline capacity and market access will lead to substantial price increases for Canadian crude is illustrated in the following paper from the University of Calgary's School of Public Policy: Moore et al (2011). *Catching the Brass Ring: Oil Market Diversification Potential for Canada.* http://policyschool.ucalgary.ca/sites/default/files/research/mmoore-oilmarket.pdf

[12] Sustainable Prosperity (2012). *Towards a Green Economy for Canada.* http://www.sustainableprosperity.ca/dl864%26display

endanger the viability of their projects. This suggests there is scope to increase the carbon price while still allowing for responsible fossil fuel development. In fact, we believe that the future success of Canadian energy companies depends in part on the implementation of a price on carbon that can withstand international scrutiny. Not only must it be meaningful, it must be seen as meaningful by key stakeholders.

We agree with the International Monetary Fund's assessment that carbon pricing policies should be credible, flexible, broad-based and equitable.[13] We would stress that "equitable" does not necessarily mean that the same rules or objectives should apply regardless of sector. In this context we suggest that a sector-by-sector approach to regulation (p18) may also be appropriate in carbon pricing, recognising that the unique characteristics and challenges of the natural gas industry and the oil sands industry could warrant different approaches.

Adaptation to climate change

We agree with the new focus in the FSDS on climate change adaptation (p19), as it seems increasingly clear that change is now locked in to the climate system. Adaptation concerns are already impacting companies in our holdings: from insurance companies experiencing increased losses from weather-related events, to mining companies making additional investments to engineer tailings containment to handle increased frequency and intensity of flooding events. Responsible companies are taking steps to adapt, but there are significant costs in the short term. Enhancing regulation and standards with adaptation in mind can create a level playing field.

We encourage the Federal Government to play a role in developing and mandating climate adaptation standards for projects and activities exposed to physical risk from climate change. The adaptation strategies in the draft do not address revising infrastructure standards and permitting to take into account climate adaptation risks, and there is no specific mention of key sectors such as the resource industries or real estate in the adaptation context. Theme II (water) does not take into account water-related climate adaptation needs, relating to risks of both water scarcity and flooding. These aspects have implications for planning, permitting and retrofitting of infrastructure and indirectly for risk reduction in the insurance industry.

Theme III: Protecting Nature

As noted earlier, we value the positive reference to collaboration under the auspices of the multi-stakeholder Boreal Leadership Council (BLC). We would further suggest that the Federal Government could lend its support to the Boreal Forest Conservation Framework (BFCF), with which BLC is aligned. The BFCF calls for conservation of at least half the Boreal in large interconnected protected areas, with leading-edge sustainable development practices to be adopted in the remainder, within a context of respect for Aboriginal rights.[14]

Regarding species conservation, we would draw particular attention to protection of caribou. Aside from the inherent value of this iconic species, from our investor perspective, given the special significance of caribou for many Aboriginal communities in the Boreal, failure to put in place an adequate protection regime could lead to treaty rights-based legal challenges with potential to impact projects by resource companies.

[13] International Monetary Fund (2013). *Climate, Environment and the IMF.* http://www.imf.org/external/np/exr/facts/enviro.htm
[14] Boreal Forest Conservation Framework http://www.borealcanada.ca/framework-e.php

Conclusion

In conclusion, we would like to commend the Government of Canada for seeking input on the Federal Sustainable Development Strategy. Among our suggestions for enhancing the FSDS, we would highlight the following:

- We believe perceptions about the rigour of the environmental regulatory regime are important in attracting responsible investment to Canada.
- More attention could be devoted to the analysis of activity by other actors and opportunities for collaboration, and there is a need for a comprehensive Canadian sustainable development strategy.
- The draft does not address "big picture" approaches to sustainability, such as regional strategic environmental assessment, which could help to streamline environmental decision-making as well as enhancing the management of cumulative environmental and social impacts.
- Action on carbon pricing could potentially enhance market access prospects for the Canadian oil and gas industry.
- The draft should address infrastructure standards and permitting in the context of climate adaptation.
- We encourage the Federal Government to endorse the Boreal Forest Conservation Framework, and to give special attention to caribou protection.

If you have any questions regarding this letter, **please contact Michelle de Cordova, Director of Corporate Engagement & Public Policy, NEI Investments (**mdecordova@neiinvestments.com **604-742-8319).**

Sincerely,

NEI Investments

Robert Walker
Vice President, ESG Services & NEI Ethical Funds

CC:
Board of Directors, NEI Investments