

# **Recommendations for Bill C-19: Canadian Environmental Assessment Act**

**Submitted to:  
Standing Committee on Environment  
and Sustainable Development  
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## **1. Introduction**

Organization Overview: The Canadian Nature Federation

The Canadian Nature Federation (CNF) is the national voice of naturalists with a united mission to protect nature, its diversity and the processes that sustain it.

With 40,000 individual supporters, CNF is one of the largest conservation organizations in the country. Our membership stretches from Vancouver Island to Newfoundland, from the shores of Lake Erie, north to Resolute Bay. We boast over 100 affiliated organizations and a diversity of partnerships ranging from Canada's Green Budget Coalition to Birdlife International.

Since 1971, the Canadian Nature Federation has helped protect the equivalent of three times the size of Nova Scotia from industrial development through the creation of new national parks and other forms of protected areas. In protecting these parklands, we have helped to conserve representative samples of some ecologically important and unique natural landscapes. These national parks include: Gwaii Haanas National Park Reserve in British Columbia; Grasslands National Park in Saskatchewan; Ivvavik National Park in the Yukon; Tuktut Nogait National Park in the Northwest Territories; and Wapusk National Park in Manitoba.

### Mandate to Expand and Protect Canada's National Parks System:

The membership of the CNF has passed many resolutions calling for the creation and protection of national parks in Canada. One such resolution was passed in 2000, and states (in part):

WHEREAS there are still 14 gaps in the national park system, and virtually every national park is reporting significant and increasing ecological stress on their natural resources and systems from human activities both inside and outside park boundaries;

WHEREAS in March 2000 a federal Panel on the Ecological Integrity of Canada's National Parks concluded that the threats to Canada's national parks constitutes an issue of national importance and that action must be taken immediately to save them from destruction;

WHEREAS since the release of this report, developments outside parks such as the Bruce Peninsula, Gros Morne, and Pacific Rim continue to threaten their ecological integrity as other governments continue to ignore the ecological needs of parks and surrounding landscapes;

BE IT RESOLVED that the CNF call on the federal, provincial and territorial governments to investigate means to ensure that land use decisions outside national parks do not impair national park ecosystems and regional wildlife populations that migrate through the park.

This submission calls on the Standing Committee on Environment and Sustainable Development to support steps required to protect national parks, as recommended by the Panel on Ecological Integrity, and accepted by the Honourable Minister of Canadian Heritage, Sheila Copps.

## **2. Understanding and Mitigating Ecological Stresses on Canada's National Parks**

Canada's National Parks contribute significantly to the protection of wilderness. Approaching the 10<sup>th</sup> anniversary of the Earth Summit /World Summit on Sustainable Development and the signing of the Convention on Biological Diversity, Canada will be judged by the world on our progress in protecting species and their habitat. Approximately 40 per cent of the wilderness that is protected in Canada is found within the boundaries of our national parks, making national parks a key component of our national and global contribution to environmental protection. Nine Canadian National Parks are World Heritage Sites, there are three Ramsar sites within national parks, and four national parks are part of UNESCO Biosphere Reserves<sup>1</sup>.

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<sup>1</sup> P. 1-4. Panel on Ecological Integrity of Canada's National Parks. Unimpaired for Future Generations? Volume II: Setting a New Direction for Canada's National Parks. Parks Canada Agency; 2000.

The Panel on Ecological Integrity of Canada's National Parks (EI Panel) confirmed the fear held by many Canadians about the state of our national parks. The first volume of the report states:

*Profound change is needed. It is time now to collectively write a different story for Canada's national parks, from a story of ecological integrity in decline to a story of ecological renewal and restoration. We must learn anew how to be responsible for our parks and for the broader landscape that surrounds them. We must shift our thinking toward a basic respect for life and natural systems, for their own sake<sup>2</sup>.*

The report revealed that the majority of national parks (all except Vuntut in the far northwest of the country) are suffering from significant stresses - internal and external to their boundaries. These stresses include habitat loss<sup>3</sup>; habitat fragmentation; the loss of large carnivores; air pollution; pesticides; exotic species, and over-use.

While the new *Canada National Parks Act*, mandates that ecological integrity is to be given the highest priority in park management decisions, the *Act* of course does not have jurisdiction over activities outside of park boundaries. These lands may be controlled or managed by territories, provinces, municipalities, individuals, or others. Coming together to make joint decisions has often been problematic and not in the spirit of cooperation.

The Panel on Ecological Integrity's recommendations to amend CEAA, which were accepted by the Minister of Canadian Heritage, are welcome. They would do much to bring key decision-makers together to resolve some of these issues. As it stands now this is one of the primary difficulties.

A recent example of the need to amend CEAA to the specifications of the EI Panel is on Prince Edward Island. CNF has ranked PEI National Park as the *Most Endangered National Park* in the past, and it will probably successfully defend that dubious honour this year. The 18 km<sup>2</sup> park receives close to 35,000 visitors per kilometre each year. Last year, a development was proposed for next to the park's new acquisition, the Greenwich Dunes Adjunct. Plans include a 150-room hotel and restaurant, 910 time-share units, 18-hole golf course and 8.5 km of hiking and cycling trails adjacent to the Greenwich dunes. The proposed resort is expected to attract 140,000 visitors per year to the fragile Greenwich Dunes area — almost double the 75,000 cap set by Parks Canada. This proposal would have potentially devastating impact on the park's piping plover population (a globally imperilled species) and the park's freshwater ponds. The groundwater drawdown anticipated from the water used to support the resort could mean contamination of the water table, from saltwater intrusion. While it is obvious that the proposal will have impacts on the park, there is no requirement for the province to incorporate examination of the particular issues or mitigation in their environmental assessment process. As it stands now, the CNF, represented by Sierra Legal Defence Fund, has asked the Federal Minister of Environment to designate an environmental assessment of the project. The amendments put forth by the EI Panel would shortcut this onerous process, by ensuring that this sort of project would immediately trigger CEAA. This is necessary to look at the issue in an ecosystem setting, and move to resolution quickly. It is Parks Canada's mandate to protect the park's integrity, but it is also in the interest of the developer to move to resolution quickly with a plan that is appropriate for its setting and thus sustainable over the long run.

The situation in PEI is only one of many such stories. Developments next to Pukaskwa, Bruce Peninsula, Waterton, and other national parks would have benefited from the EI Panel's amendments to CEAA that will set up a process to bring together information and parties to look at park and park ecosystem projects in a holistic manner. Even if the Federal Government is not the ultimate or only decision-maker for a project affecting a national park, the applicable municipal or provincial processes would benefit from the wisdom gained from a study on the effects of the project on the park in question.

It is not my intention to run through the list of the amendments put forward by the EI Panel, since Jerry DeMarco from Sierra Legal Defence Fund, has done so in detail, and suggested potential wording for the amendments (attached for your convenience).

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<sup>2</sup> P. 8. Panel on Ecological Integrity of Canada's National Parks. Unimpaired for Future Generations? Volume II: Setting a New Direction for Canada's National Parks. Parks Canada Agency; 2000.

<sup>3</sup> While many may be aware that southern habitats are in decline (e.g. 90% of Carolinian forest in Southern Ontario has disappeared), many might not know our northern ecosystems are also degraded (i.e. 65% of our northern boreal forest has been disturbed).

In conclusion, the CNF requests that the Standing Committee on Environment and Sustainable Development support the inclusion of the EI Panel's recommendations, already accepted by the Minister of Canadian Heritage, as an important step in "*collectively writ[ing] a different story for Canada's national parks*" to paraphrase the report of the EI Panel.

Thank you very much.

## Appendix 1.

**PROPOSED AMENDMENTS TO CANADIAN ENVIRONMENTAL  
ASSESSMENT ACT VIA BILL C-19  
ORIGINALLY SUBMITTED BY SIERRA LEGAL DEFENCE FUND**

### Issue IA. Mandatory federal environmental assessment

#### *Environmental Effects on Parks*

48.1(1) Where the minister designated as the responsible minister for the *Canada National Parks Act* is of the opinion that a project may cause an adverse environmental effect on a park or park reserve under the *Canada National Parks Act* or areas under consideration by that minister for designation as a park or park reserve under the *Canada National Parks Act*, or on wildlife that frequents such areas, or on air or water affecting such areas, the minister shall conduct a comprehensive study of the environmental effects of the project on these areas under section 21 regardless of whether the project is described in the comprehensive study list.

#### *Significant Effects on Parks*

48.1(2) Where the minister designated as the responsible minister for the *Canada National Parks Act* is of the opinion that a project may cause a significant adverse environmental effect on a park or park reserve under the *Canada National Parks Act* or areas under consideration by that minister for designation as a park or park reserve under the *Canada National Parks Act*, or on wildlife that frequents such areas, or on air or water affecting such areas, the minister shall refer the project to a mediator or a review panel in accordance with section 29 for an assessment of the environmental effects of the project on these areas.

#### *Initiative for reference*

48.1(3) The minister designated as the responsible minister for the *Canada National Parks Act* shall consider whether to make a reference pursuant to subsections (1) and (2)

- (a) on the request of the government of any interested province, territory, or municipality;
- (b) on his or her own initiative; or
- (c) on receipt of a petition that is
  - (i) signed by one or more persons, and
  - (ii) accompanied by a concise statement of the evidence supporting the contention of the petitioner that the project may cause adverse environmental effects in respect of which a reference may be made pursuant to subsection (1).

#### **NOTICE**

48.1(4) At least ten days before a reference is made pursuant to subsection (1) or (2), the minister designated as the responsible minister for the *Canada National Parks Act* shall give notice of the intention to do so to

- (a) the proponent of the project;
- (b) the governments of all interested provinces;
- (c) any person who has provided notice to that minister of his or her interest in the reference to that minister under subsections (1) or (2); and
- (d) any person who signed a petition considered by that minister pursuant to subsection (3).

***NO LIMITATION***

48.1(5) Nothing in this section limits the authority of the Minister to act under section 48 in respect of the areas referred to in subsection (1).

***Consequential powers apply***

48.1(6) Sections 49, 50, 51 and 53 apply *mutatis mutandis* to a reference made under this section by the minister designated as the responsible minister for the *Canada National Parks Act*.

**Issue IB. Mitigation of projects that will adversely affect national parks**

***COURSE OF ACTION AFFECTING PARKS***

20(4) / 37(4) In carrying out a course of action in respect of a project that is likely to cause adverse environmental effects on a park or park reserve under the *Canada National Parks Act*, or areas under consideration by that minister for designation as a park or park reserve under the *Canada National Parks Act*, or on wildlife that frequents such areas, or on air or water affecting such areas, the responsible authority shall ensure that the matter in question will not impair the ecological integrity, as defined in the *Canada National Parks Act*, of the park or proposed park in question.

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**Issue II. Petitioner Standing under CEAA**

***Initiative for Reference***

- 48(4) The Minister shall consider whether to make a reference pursuant to subsection (1) or (2)
- (a) on the request of the government of any interested province or the federal authority having the administration of federal lands referred to in paragraph (1)(b); or
  - (b) on receipt of a petition that is
    - (i) signed by one or more persons [~~DELETE: each of whom has an interest in lands on which the project may cause significant adverse environmental effects,~~] and
    - (ii) accompanied by a concise statement of the evidence supporting the contention of the petitioner that the project may cause significant adverse environmental effects in respect of which a reference may be made pursuant to subsection (1) or (2).

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**Issue III. Mediation**

***Condition on Reference to a Mediator***

29(2) Prior to commencing a mediation, a mediator shall identify the parties interested in an environmental assessment, determine whether they are interested in participating in a mediation, and report to the Minister where a mediator concludes that a mediation is not likely to succeed.

(2.1) On receipt of a mediator's report pursuant to subsection (2), the Minister may terminate a mediation.

