



## TESLIN TLINGIT COUNCIL

### EXECUTIVE OFFICE

September 19, 2014

Honourable Senator Richard Neufeld  
c/o Marcy Slotnick  
The Senate of Canada  
Ottawa, ON K1A 0A4

Dear Senator Neufeld:

**Re: Bill S-6 An Act to Amend the Yukon Environmental and Socio-Economic Assessment Act and the Nunavut Waters and Nunavut Surface Rights Tribunal Act**

On behalf of the Teslin Tlingit Council, I am sending you, in your capacity as the Chairperson of the Senate Standing Committee on Energy, the Environment and Natural Resources, a submission regarding Bill S-6.

Teslin Tlingit Council is a Self-Governing First Nation owning traditional and settlement lands in southern Yukon and Northern British Columbia and represents the inland Tlingit people within that traditional territory. Its current seat of government is in Teslin, Yukon.

Beginning in 1973, Teslin Tlingit Council negotiated with Canada and Yukon Government for approximately 22 years and entered into a Final Agreement and Self Government Agreement effective February 14, 1995. Teslin Tlingit Council asserts ownership and sovereignty in its BC traditional territory, and is active in protecting its rights and title throughout its traditional territory.

Since the effective date, Teslin Tlingit Council has worked to implement its Final and Self Government agreements and in doing so has developed a modern form of government based on Tlingit traditional customs, laws, and distinct ways in which we have governed ourselves for centuries. It has also fostered an active business and investment arm that is valued in the tens of millions and generates significant annual revenue and employment. TTC owns profitable businesses operating in several economic sectors in Yukon, BC, NWT, and Alberta. This successful,

enthusiastic, and direct involvement in the main stream economy is also representative of Tlingit history and culture.

It is in this context and with this history that Teslin Tlingit Council makes its submissions in respect of a very serious legal, constitutional, and governance matter in and to the Canadian federation and which adversely affects the relationship between Teslin Tlingit Council, Canada and the Yukon Government. Teslin Tlingit Council cannot and will not stand idly by and allow Canada, with the apparent support of the Yukon Government, to amend the Yukon Environment and Socio-Economic Assessment Act ("YESAA") in ways which:

1. Amount to breaches of the TTC's constitutionally protected Final Agreement rights (including unsurrendered aboriginal rights and title);
2. Constitute breaches of the Crown's fiduciary duties owed to TTC and its citizens;
3. Undermine the spirit and intent of the Final Agreement and constitute breaches of the honour of the Crown;
4. Fail to fulfill Canada's duty to consult and accommodate Teslin Tlingit Council in respect of its ownership rights, treaty rights and asserted rights and titles in the Yukon and British Columbia;
5. Do not accurately identify and address the additional impacts of several other recent and intended legislative changes by Canada and the Yukon Government with the stated and obvious intention of promoting resource development while purposely diminishing Final Agreement and Aboriginal rights and title; and
6. Will harm the economy in the Yukon by undermining an assessment process agreed to by the Yukon First Nations in exchange for certainty by surrendering aboriginal rights and title to large areas of the Yukon.

Canada's actions and proposed amendments will quickly have the effect of undermining the very certainty Canada and Yukon bargained for and will translate into a negative investment climate and decreased economic activity.

The title of Teslin Tlingit Council's report to this Senate of Canada Standing Committee is, "Paddling in the Wrong Direction." This title illustrates the central problem with Canada's overall approach to improving the YESAA. The title borrows from former Supreme Court Justice Ian Binnie's metaphor in the *Beckman/Little Salmon* SCC decision: "Thoughtful administration of the treaty will help manage, even if it fails to eliminate, some of the misunderstandings and grievances that have characterized the past ... the treaty will not accomplish its purpose if it is interpreted... in an ungenerous manner or as if it were an everyday commercial contract... A canoeist who hopes to make progress faces forwards, not backwards." That decision informs us how treaties are to be interpreted and implemented in order to achieve reconciliation.

With all of these considerations in mind, Teslin Tlingit Council requests that the Committee advise rejection of Bill S-6 with a recommendation to have revisions and improvements to the YESAA proceed only on a basis of consensus and cooperation among Yukon First Nations, Yukon Government, and Canada so as to point the canoe in the right and proper direction and paddle together. That singular direction was laid out in the Umbrella Final Agreement for all parties to follow; review and amend the YESAA to insure that law properly enables the fulfillment of the related promises of that agreement.

Respectfully submitted,



Chief Carl Sidney  
Teslin Tlingit Council