To the Right Honourable Prime Minister Stephen Harper and Honourable Members of Parliament,

We are lawyers and legal scholars of Canada and we write as those who serve the many businesses, organizations, and above all people of Canada who are affected by the decisions made in Parliament from day to day.

We read the 2012 budget with grave concern due its focus on "streamlining" a number of basic environmental planning measures. Nevertheless, many changes introduced in Bill C-38 go well beyond anything suggested by the budget itself. Over one-third of the 400+ page budget bill is dedicated to dismantling Canada`s environmental laws. This represents a massive shift towards deregulation of Canada's energy and natural resource sectors.

There is no defensible rationale for this attack on Canadian environmental law and policy. The world's leading business magazine, Forbes, recently rated Canada the best country in the entire world to invest in. One of the major reasons was the lack of red tape. In contrast, recent studies by Simon Fraser University and the Conference Board of Canada ranked Canada's environmental performance as 24th out of 25 and 15th out of 17 industrialized nations. Even Prime Minister Harper, in 2006, acknowledged, "Canada's environmental performance is, by most measures, the worst in the developed world. We've got big problems." Enacting this budget bill would worsen Canada's environmental record, while solving a problem that doesn't exist.

Many lakes, rivers and streams that provide habitat to fish would be at greater risk of destruction because of changes to the Fisheries Act contained in Bill C-38. None of these changes were mentioned in the budget document. Healthy fish habitat is important for fish and for the many Canadians and businesses that depend on them. Bill C-38 significantly weakens the pivotal section of the Fisheries Act, s.35, and would allow delegating fish habitat protection, pollution prevention, and fisheries management to the provinces and territories.

The Canadian Environmental Assessment Act (CEAA) is repealed and replaced with a new Act. Under the new Act the scope of environmental effects considered is greatly narrowed, fewer assessments are required, there is more discretion to exempt projects, and timelines are very short. Public participation rights are narrowed and no longer described in detail, leaving the public with no clear legally enforceable right to participate in environmental reviews.

The new CEAA also allows for weaker provincial assessments to replace federal assessments in many cases. This will make it much easier to get approvals for mines, which will seriously impact all Canadians, but particularly First Nations.

The budget gives the National Energy Board the power to permit the destruction of endangered species or their habitat under the Species at Risk Act, wherever a pipeline is involved. At the same time, Cabinet is given the power to override a decision of the supposedly arms-length National Energy Board when that Board concludes that a pipeline is not in the public interest.

Permits allowing harm to species at risk and their habitat will no longer have time limits under changes proposed in Bill C-38, meaning these permits could still be in effect even if there is a dramatic decline in the species.

Regulatory oversight in the field of environmental assessment is reduced from 40 agencies to three. The Kyoto Protocol Implementation Act is repealed and no action is taken on climate change, despite overwhelming evidence about climate change and its future impact on the natural resource sectors of the Canadian economy (e.g. farms, fish and forests).

The budget terminates the National Round Table on the Environment and the Economy by repealing its Act, and attacks environmental groups and other registered charities that the government believes are too overtly political with $8 million in targeted funding for audits by the Canada Revenue Agency.

Including these changes in the budget bill is an underhanded way to circumvent Parliamentary and public debate. The public and their democratically elected representatives deserve a chance to debate and discuss these major changes to laws which are totally unrelated to the budget. We would like these environmental law changes removed from the budget and debated separately. Alternatively, we would like an independent panel to conduct a clause by clause analysis of the bill to help Canadians make informed choices about their future.

Canada's natural resource, energy, and environmental legal regime should be strengthened, not weakened. We feel it is our duty, given the outstanding natural resources, unparalleled beauty, and democratic traditions of this great nation, to "stand on guard for thee."

Sincerely,

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