

September 29, 2022

Honourable Steven Guilbeault
Minister, Environment and
Climate Change Canada
200 boul. Sacre-Cœur
Gatineau, Quebec, K1A 0H3
Email: Steven.Guilbeault@parl.gc.ca

Honourable Jonathan Wilkinson
Minister,
Natural Resources Canada
580 Booth Street, 21st Floor, Room C7-1
Ottawa, Ontario, K1A 0E4
Email: HonJonathan.Wilkinson@nrcan-rncan.gc.ca

RE: Proposed Oil and Gas Cap Discussion Paper: Options to Cap and Cut Oil and Gas Sector Greenhouse Gas Emissions to Achieve 2030 Goals and Net Zero by 2050

Dear Ministers,

The Business Council of British Columbia (the Business Council) appreciates the opportunity to provide input to the noted federal government discussion paper.

It is important to know and convey that our members are keenly aware of federal government policymakers' aspirations to make progress on reducing greenhouse gas (GHG) emissions. We also share a future vision of a more secure, efficient, and cleaner energy system for Canada and the world. To this end, oil and gas are and will for decades remain key strategic resources. Canada has a critical global role to play in the ongoing energy system evolution, a role we cannot fulfill if we shutter the country's number one export sector. In this spirit, and through substantive action, the Canadian oil and gas industry is trying to do the right thing, evident in the public commitments made by numerous oil and gas companies and through the voices of industry associations to work towards net zero by 2050.¹ Underpinning this is a focus on reasonableness, cost effectiveness, achievability within the bounds of technology, increased investments in innovation, and collaboration with governments.

As the discussion paper rightly points out, the energy sector is a major driver of prosperity in Canada. We have a global comparative advantage and, indeed, are the envy of many countries not endowed with an abundance of energy resources and other materials wanted and needed by the world. Ironically in a world that needs to reduce GHG emissions, B.C. is able to offer energy and other natural resource-based exports that, on average, have approximately half the GHG intensity of competing jurisdictions' goods. These B.C. exports combined are required to meet global and national targets through clean energy infrastructure and transportation. In other words, in the short term, not only can B.C. (and Canada) be a stable supplier of natural resource-based goods to help meet global demand for oil and gas and other raw material inputs, but we can also reduce global emissions in the process. By enhancing the competitiveness of Canadian exports, we can also create the conditions to accelerate investment in innovation and infrastructure that will facilitate the

¹ For example, we could point to the fact that Woodfibre LNG and Shell have both signed onto ECCC's Net Zero Challenge, committing to develop substantiated plans to be net zero by 2050.

very solutions to move to net zero. The key insight for federal policymakers is that climate change is a global problem that cannot be addressed by ramping down Canadian production of energy and other resource-based goods.

Domestically, the Canadian oil and gas sector is one of the most productive industries in terms of real GDP per hour of labour.² The importance of productivity cannot be overlooked: it is critical for growing the economy and maintaining our standard of living (e.g., by creating jobs and revenues required for government to reinvest in important services that Canadians depend on – health care, education, childcare, etc.) Moreover, despite a difficult and increasingly complex regulatory environment, in 2019 the oil and gas industry contributed about 13% of all capital investment in Canada.³ Oil and gas companies also invest heavily in research and development, with the cumulative total of such spending over 2019 and 2020 for just five large companies reaching \$2.6 billion.⁴ Of course the figure is much higher for the entire oil and gas sector.

However, the Canadian investment landscape is uncertain and getting more so with each passing day. Companies are making difficult decisions about whether to invest in Canada both to advance new projects and build new assets as well as to sustain those that already exist. Canada’s increasingly costly and constantly changing policy and regulatory framework for energy producers and shippers amplifies risk and is a deterrent to investment, particularly for the innovation needed to make material change and accelerate the evolution of Canada’s energy system to one with fewer GHGs. Adding yet more regulation and/or continuously changing what is currently in place (i.e., carbon pricing, methane management, clean fuels requirements, etc.) is counterproductive and will frustrate rather than enable positive change. Governments **must** allow time for existing measures to work rather than continuously altering the rules of the game over short time periods. This is critical.

Given the plethora of GHG emission-related policy and regulatory actions since 2015, it is our view that the federal government’s proposal, aside from being technically unachievable by 2030, is more likely to lead to deindustrialization rather than innovation, resulting in stranded assets. If implemented, the proposal will indeed result in GHG emissions reductions – but not for the reasons desired. Fundamentally, as a small open-trading economy Canada needs to ensure the vitality and competitiveness of its principal export industries, including oil and gas. This is the only way to finance the desired innovations as well as to pay for the imports of goods and services that Canadians demand. Oil and gas are, and for the foreseeable future will continue to be, high value products demanded by the world and necessary to address business and citizen concerns about energy security, reliability, and affordability. The government’s proposal is the wrong set of tools at the wrong time.

Importantly, in 2018 (only 4 years ago) Canada chose, argued for, and the Supreme Court confirmed the federal government’s approach to a backstop carbon tax. Canada implemented the *Greenhouse Gas Pollution Pricing Act* (GGPPA) focused on “national GHG pricing, **not**, more broadly, the reduction of GHG emissions” [para 58].⁵ The court’s decision was clear about “ensuring that the provinces and territories have the flexibility to design their own

² <https://bcbc.com/insights-and-opinions/which-industries-pay-canadas-bills>.

³ Data for 2019 used as a pre-pandemic reference year from Statistics Canada, Table 34-10-0035-01 Capital and repair expenditures, non-residential tangible assets, by industry and geography (x 1,000,000) and Statistics Canada, Table 25-10-0064-01 Oil and gas extraction capital expenditures and expenses (x 1,000,000).

⁴ <https://researchinfosource.com/cil/2021/top-100-corporate-r-d-spenders/list>,

<https://www.canadianenergycentre.ca/canadian-oil-and-gas-continues-world-leading-spend-on-cleantech-rd/>.

⁵ <https://decisions.scc-csc.ca/scc-csc/scc-csc/en/item/18781/index.do>.

policies and programs to meet emission-reductions targets”, adapted to each region’s specific circumstances [para 64, 72]. Moreover, “elected representatives and senior public servants consistently described the purpose of the GGPPA in terms of imposing a Canada-wide GHG pricing system, not of regulating GHG emissions generally.” The Supreme Court’s decision was also clear that “no aspect of the discretion provided for in Part 2 permits the Governor in Council to regulate GHG emissions broadly or to regulate specific industries in any way other than by setting GHG emissions limits and pricing excess emissions across the country [para 68, 76] ...”. Further, federal action in this area “is also limited by the statutory purpose of reducing GHG emissions through GHG pricing.” [para 76] Yet, the cap-and-trade option would result in direct regulation of only one industry, and not via the GGPPA but under the *Canadian Environmental Protection Act*. This is exactly what Justice Brown warned about in his dissenting opinion. His concern was clearly not “misplaced” [para 208] given the proposed option 1. The Business Council is concerned that the federal government is using CEPA in a manner that “effectively eviscerates provincial power” [para 49]. Such an approach also adds the possibility of criminal charges for non-compliance. This is not helpful for collaboration or constructive solution seeking.

For these reasons, the Business Council is opposed to both options, as presented in the discussion paper. We urge the federal government to defer the development and imposition of additional or a different regulatory framework and obligations. More time is needed to allow the current portfolio of initiatives adopted since 2015 to mature and produce results.

Instead, we suggest the federal government focus on the following:

- Understand and address competitiveness issues in collaboration with industry. The passage of the US *Inflation Reduction Act* and America’s use of large financial incentives to spur clean energy investment stands in stark contrast to Canada’s **regulatory punishment model** for managing GHG emissions. The discussion paper does acknowledge the interconnected nature of the Canada – US oil and gas sectors, but it fails to show how Canada will consider and address relevant competitiveness issues, including the real possibility of carbon and capital leakage to the United States – a development that will lead to higher global emissions than if similar oil and gas projects were developed in Canada.
- Undertake a review of model assumptions used by Environment and Climate Change Canada. This is a significant issue for industry as a whole and has been for many years. It is clear the models used to date feature some **wildly optimistic** assumptions not based on how markets work or how capital is actually allocated in a market-based economy. Our concern is that “complex models combining interactions of economic, social, technical, and environmental factors require more assumptions and open the way for greater errors.”⁶ We believe this is true in Canada today. The business community wants a frank, transparent, and open conversation about model assumptions, followed by adjustments to the model so that outputs can help build a better understanding of possible solutions. The climate and energy models in use across Canada currently tend to be black boxes, frustrating rather than enabling dialogue and a collaborative process.

⁶ Smil, Vaclav. *How the World Really Works. The Science Behind How We Got Here and Where We’re Going*. Viking. 2022.

- Work with industry to establish a realistic sector target based on known technology, investment already underway, and experimentation because when “problems are highly complex and poorly understood, it is important to create credible market design that can respond to the problem at hand.”⁷ A more dynamic setting for supporting rather than forcing innovation based on experimentation and new ideas is needed in Canada. Companies must have the flexibility to choose the least cost pathway to a desired outcome. The alternative — shuttering or curtailing activity in the country’s biggest export industry and fostering more carbon leakage — is unacceptable for a host of economic, social, and environmental reasons.
- Expand the scope and role of offsets. The current offset limitations and lack of market opportunities are also a barrier to investment. The Business Council would like to see more proactive development of the Paris Agreement Article 6.2. While it is a signatory to the agreement, Canada seems uninterested in engaging or implementing options in this regard. Yet, offsets are critical for achieving global GHG emissions reduction aspirations. If we fail to establish and enable a credible offsets system linked to Article 6, we will be left with importing higher cost offsets from other jurisdictions and foregoing the benefits of associated project development in Canada. Offsets also offer opportunities to partner with Indigenous communities at no cost to government. Further, Canada’s offset system must have an option for overcompliance and banking to incentivize experimentation and push the innovation/solutions frontier.
- Address regulatory alignment and process issues. As we laid out in our submission on the Clean Electricity Standard, one of the most important things Canada can do is streamline the federal regulatory approval process for large projects, especially those representing innovation. Current processes are complex, costly, and uncertain, acting as deterrents to investment and prompting capital flight in the affected industry sectors. Changes to regulatory processes, including partnerships with Indigenous people,⁸ can accelerate much-needed investment in the pursuit of GHG emissions reductions. At present, approval processes in Canada for even modest sized industrial and infrastructure projects can take many years — often more than a decade. Canada (and the provinces) can and should make substantial contributions to speeding the evolution of our energy system by adjusting regulatory processes to align better with the country’s increasingly aggressive GHG policy goals. We believe Australia offers a helpful model in this area.
- Collaboration and experimentation are key to progress on climate and energy issues. Governments are not skilled at administrative interventions, nor do they possess the knowledge to advance command and control prescriptions around technology. The enormous uncertainty of developing and deploying innovative technologies requires governments to enable learning and tailoring based on new information from experimentation, not penalties. Canada must remain technology and solution-agnostic to avoid picking winners and losers. Instead, smart policy should enable the sector to find least cost pathways and adapt to solutions as new information is revealed.

In summary, the current federal proposal for the oil and gas sector is not helpful and we believe it will generate more uncertainty, not less. The increased complexity of the policy and regulatory environment in Canada is already driving investment away, with the risk of this

⁷ Sable, F. Charles. Victor, G. David. *Fixing the Climate Problem. Strategies for an Uncertain World*. Princeton University Press. 2022.

⁸ For example, Woodfibre LNG’s relationship with Squamish Nation and their independent environmental assessment and approval of the project.

trend gaining further force with the adoption of the US *Inflation Reduction Act*. Canada must allow sufficient time for current measures to work. As such, we strongly recommend that you discard the current proposal in favour of the more measured actions noted above.

We believe Canada can contribute positively to the global reduction of GHG emissions, ensuring access to secure energy resources for our allies, and reap domestic economic benefits from the evolution of our energy system, including sustained employment, high wages, and more opportunities for Indigenous people — who have said clearly, they want to develop natural resources, in particular oil and gas — while also generating much needed revenues for public services. Business Council members are prepared to work with you and your colleagues towards a more integrated and sensible approach to GHG management in Canada.

Yours sincerely,



Greg D'Avignon
President and Chief Executive Officer



Denise Mullen
Director, Environment, Sustainability
& Indigenous Relations

DM/vjc

cc: Honourable Chrystia Freeland, Deputy Prime Minister and Minister of Finance
(chrystia.freeland@parl.gc.ca)
Senator Paul J. Massicotte, Chair, Energy, the Environment and Natural Resources Standing Committee
(paul.massicotte@sen.parl.gc.ca)
Honourable George Heyman, B.C. Minister of Environment and Climate Change Strategy
(ENV.minister@gov.bc.ca)
Honourable Bruce Ralston, B.C. Minister of Energy, Mines and Low Carbon Innovation
(EMPR.Minister@gov.bc.ca)