



RCE
SASKATCHEWAN

REGIONAL CENTRE
OF EXPERTISE
ON EDUCATION
FOR SUSTAINABLE
DEVELOPMENT



June 29, 2016

The Honourable Herb Cox
Minister of Environment
Room 38, Legislative Building
2405 Legislative Drive
Regina, SK, Canada, S4S 0B3
env.minister@gov.sk.ca

Dear Minister Cox:

**RE: Letter from Minister of June 21, 2016, replying to RCE Saskatchewan
Correspondence on Yancoal Southey Project (Letter 2016-155)**

Thank you for your letter dated June 21, 2016, in response to the submission of the Regional Centre of Expertise on Education for Sustainable Development in Saskatchewan (RCE Saskatchewan) regarding the proposed Yancoal Southey Potash Project.

We are concerned by the content of your letter that a number of the issues raised by RCE Saskatchewan are potentially not being addressed by your Ministry. In your letter you state *“The purpose of the EIA process is to ensure economic development proceeds with appropriate environmental safeguards and in a manner broadly understood and acceptable to the public”*. Yet, as you will recall from our submission, RCE Saskatchewan specifically raised concerns about the narrow understanding of development being employed in the EIS that focused primarily on minimizing harm to the natural environment. This was despite our citing the considerable body of sustainability scholarship that challenges this restrictive view of what should be expected of development initiatives. Our letter noted that RCE Saskatchewan, as one of 146 RCEs acknowledged by the UN University, was created to help advance *sustainable* development as set out in commitments of the United Nations and agreed to by Canadians through the Government of Canada. These specific commitments were cited at the start of our letter (see page 1 of the RCE Saskatchewan letter dated June 6, 2016, and resubmitted with this letter). Not only is *sustainable development* a concept “broadly understood and acceptable to the public” (as evidenced by its endorsement through successive federal governments and now setting the global development agenda until 2030

through the *Sustainable Development Goals* (SDGs), our letter specifically noted the failure of the current far-more limited development paradigm that seeks only to meet minimal environmental safeguards (even here, we noted a number of cases where even these minimal environmental requirements are not adequately met in the EIS). In our letter of June 6 we stated that:

[i]nstead of conducting environmental assessments based on the idea of trying to reduce destructive elements, the RCE puts forward the view now adopted by many jurisdictions around the world that sustainability assessments of development are preferable. A sustainability assessment examines the ways in which projects can make a positive contribution to both ecological systems and to communities simultaneously.

We also noted the failure of the EIS to take into account the *precautionary principle* and also a failure to analyze *opportunity costs* with the proposed development, especially related to *best use* of water resources. On page 2 of our letter we specifically noted:

The philosophical stance of the project and its understanding of what constitutes appropriate development is outdated in light of: (a) substantive scholarly literature on sustainable development (including a duty to consider a wide range of options and opportunity costs when considering wise resource use [such as water in this case] along with the precautionary principle) and the Canadian Government's commitments to sustainable development.

If the Ministry of Environment is choosing not to follow these recommendations to employ a *sustainability assessment* of the project and choosing not to follow Canada's commitments to sustainable development, we expect to see some evidence that a more limited approach to our natural resources is preferable to a sustainability approach. This evidence is not provided nor cited in your letter of June 21.

Secondly in your letter you state: "*Public Participation is a key component of the EIA process and will be taken into consideration when making a decision under The Environmental Assessment Act*". The comment was surprising given the extent to which our letter of June 6 indicated that "[a] project of such magnitude warranted a far more complex EIS". We specifically noted that "[a]n appropriate level of scrutiny and public participation would follow the stricter Federal Government standards, which this project would have been subject to prior to 2012" (p.2). We noted (Appendix A.1, p. 4) how:

[i]n 2012, under pressure from industry, the Government of Canada replaced the Canadian Environmental Assessment Act (CEAA) with the less stringent CEAA 2012 that seriously reduced the capacity to conduct thorough environmental impact assessments necessary to avoid potentially disastrous effects on environment, communities and the long-term economy.

We further noted:

A much greater degree of public participation and oversight would have been available under the previous federal Environmental Assessment Act for this type of project and this public participation has not seemingly yet been incorporated into provincial legislation (though presumably it will be forthcoming given what has occurred in this and likely future cases)

Furthermore, in Appendix A.3 we documented how the failure of the consultative and public participation processes to date had led to specific hardships for the communities involved:

The high levels of community discord and breakdown of social cohesion are indicative of the lack of public participation in discussion.... The introduction of strife in the community has wearied Havelock residents who care deeply about their land and livelihood and are concerned that it may be damaged by the mine proposal. (A.3.2, p. 7).

Ultimately, the concern we were raising in our letter was that the existing public participation process was inadequate. **Your letter of June 21 provides no response to the concerns raised related to the inadequacy of the public participation process to date nor any evidence to counter the evidence gathered by RCE Saskatchewan related to this inadequacy.**

Lastly, your letter notes that “*All individuals who submit comments during the public review of the EIA process will be notified once a decision has been made*”. While this is a good and expected practice between a government and its citizenry, again the letter seemed not to respond at all to the key recommendation of the letter namely, that “**the Government of Saskatchewan commission a comprehensive independent Yancoale Southey Project environmental impact study that would be in accordance with Section 14(1) of the Saskatchewan Environmental Assessment Act**”. Specifically this section of the Act related to “Inquiries” reads:

14 (1) At any time prior to making his decision whether to approve a development, the minister may appoint persons to conduct an inquiry or inquiries with respect to all, or any aspect of, the development, and shall set the terms of reference for the inquiry.

The concern of RCE Saskatchewan is that Government of Saskatchewan **should not be making a decision until a more comprehensive study has been completed** as allowed by the “inquiries” section of the *Saskatchewan Environmental Assessment Act*. Given the absence of any reference to an inquiry or Section 14(1) in your letter, this suggests that an inquiry by the Ministry to gather additional, much needed data will not be taking place before a decision is made. If this is the case, **the Ministry has an obligation to provide the additional information in its possession that responds to the questions raised by RCE Saskatchewan since this information and analysis was not part of the EIS. If this information is currently held by the Ministry, we formally request a copy of it.**

In conclusion we have 2 specific questions to which we would like a formal response:

1. Will the Ministry of Environment be conducting an Inquiry under section 14(1) of the *Environmental Assessment Act* of the *Yancoal Southey Potash Project* to gather the needed additional information to render an informed decision regarding whether the Yancoal Project should proceed and whether any specific additional requirements should be placed on the company as a result of this inquiry?
2. What is the expected date the Government plans to render a decision on the *Yancoal Southey Potash Project* in the event that it is choosing not to hold an Inquiry?

We would request a reply to these two questions at your earliest convenience, but certainly prior to any decision being made by your Ministry. If the Ministry would like assistance in framing terms of reference for an Inquiry under section 14(1) of the Act, we would be happy to assist.

We thank you for your time in reviewing the details of this letter and your anticipated response to these two questions. We have included those originally cc'd on our first letter and will continue to keep our members, as well as global partners of RCE Saskatchewan informed of this correspondence as well. Thank you for the opportunity to participate in this process.

Sincerely,



Dr. Garth Pickard, Co-coordinator
RCE SK Sustainable Infrastructure
Working Group
Garth.pickard@uregina.ca
306-533-9487



Dr. Ray Ambrosi, Co-coordinator
RCE SK Sustainable Infrastructure
Working Group
rayambrosi@gmail.com
306-519-7762

Cc:

The Honourable Brad Wall, Premier of the Province of Saskatchewan
The Honourable Don McMorris, Deputy Premier of the Province of Saskatchewan
The Honourable Bill Boyd, Minister of the Economy, Minister of Energy and Resources
The Honourable Catherine McKenna, Minister of Environment and Climate Change
The Honourable Ralph Edward Goodale, Minister of Public Safety