



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

March 27, 2012

BY EMAIL

The Right Hon. Stephen Harper
Prime Minister
House of Commons
Ottawa, ON K1A 0A6

Dear Prime Minister Harper:

RE: PARLIAMENTARY REVIEW OF THE *CANADIAN ENVIRONMENTAL ASSESSMENT ACT*: PROPOSALS FOR REFORM

On behalf of the Canadian Environmental Law Association (“CELA”), I am writing to raise CELA’s serious concerns about the wholly unsatisfactory manner in which the statutory review of the *Canadian Environmental Assessment Act* (“CEAA”) has been undertaken to date.

In addition, please be advised that CELA strongly objects to the 20 recommendations recently made in relation to the CEAA by the Standing Committee on Environment and Sustainable Development (“Standing Committee”).

CELA’s various concerns about the inadequacy of the CEAA Review, and the unacceptability of the Standing Committee’s recommendations, are more fully described in the attached legal analysis.

CELA’s analysis concludes that while the Standing Committee’s statutory mandate required a “comprehensive” review of the CEAA, the Standing Committee undertook a hasty, narrowly focused and essentially incomplete review of the Act.

CELA’s analysis further concludes that the flawed Review process resulted in a number of ill-conceived, fragmented and somewhat inconsistent recommendations which are primarily aimed at eliminating federal EA requirements for most projects currently caught by the CEAA.

From a public interest perspective, the most objectionable recommendations from the Standing Committee are as follows:

- significantly reducing the number of projects subject to federal EA requirements by eliminating current “triggers” and using an undefined projects list (Recommendations 10 and 11);
- removing federal EA requirements where a project is subject to allegedly “equivalent” provincial EA requirements (Recommendations 7 and 8);

- reducing the number of key EA considerations that are currently required in comprehensive studies and review panels (Recommendations 3 and 4); and
- imposing unspecified “binding timelines” for the conduct of EAs under the CEAA and related steps (Recommendation 5);

If implemented, these and other recommendations would seriously impair the ability of the CEAA to effectively assess environmental effects, safeguard ecosystem and public health, and promote sustainable development across Canada. The Standing Committee’s recommendations would also result in fewer opportunities for the public to participate in EA planning and decision-making processes in relation to projects currently caught by the CEAA.

Accordingly, CELA recommends that the federal government should not accept or act upon any of the Standing Committee’s 20 recommendations. Instead, the federal government should undertake the following steps in relation to the CEAA Review:

1. Direct the Standing Committee to reconvene and continue its public hearings on the CEAA Review, and ensure that the Standing Committee hears from all interested agencies and departments, and all stakeholders who request an opportunity to participate in the hearings.
2. Ensure that the Minister of the Environment appears before the Standing Committee to provide the government’s perspective on CEAA reform, and, more importantly, to fully describe the rationale for, and detailed content of, all CEAA reforms that the federal government is currently considering or will be proposing in the near future.
3. Direct the Standing Committee to prepare a supplementary report summarizing the views, opinions and recommendations provided by stakeholders and governmental officials in relation to the CEAA Review, and to provide a proper rationale for any specific CEAA changes which may be recommended by the Standing Committee’s supplementary report.
4. Delay the introduction of any new bill to amend the CEAA until the Standing Committee’s supplementary report has been filed and duly responded to by the federal government. If the federal government ultimately introduces a bill to amend the CEAA, then the bill should be referred back to the Standing Committee for further public hearings and clause-by-clause review, and the Standing Committee should report back to the House of Commons on whether the proposed bill should be enacted, amended and enacted, or withdrawn.
5. Ensure that any statutory amendments to the CEAA proposed by the federal government are not contained within a larger budget bill since such amendments would not receive proper public or parliamentary consideration in the context of budget issues, and should be considered by the Standing Committee on Environment and Sustainable Development rather than the Standing Committee on Finance.

We look forward to your timely response to these requested actions. Please contact the undersigned if you have any questions or comments about this matter.

Yours truly,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION



Richard D. Lindgren
Counsel

Encl.

cc. The Hon. Peter Kent, Minister of the Environment
Mark Warawa, Chair, Standing Committee on Environment & Sustainable Development
Thomas Mulcair, Leader of the Official Opposition
Bob Rae, Liberal Leader
Elizabeth May, Green Party Leader
Daniel Paille, BQ Leader