

Canadian Environmental Network, Environmental Planning and Assessment Caucus

Minutes of Fall Caucus Meeting
September 18-20, 2009
Belcourt Center, South Rustico, PEI

Present:

1. **Doug Badger**, Regional Environmental Action Committee, AB
2. **Roberta Frampton Benefiel**, Grand Riverkeeper Labrador, Inc, NL
3. **John Burcombe**, Mouvement Au Courant, QE
4. **Neil Gardner**, Sierra Club Atlantic Canada Chapter, NB
5. **Stephen Hazell**, Sierra Club Canada, ON
6. **Jamie Kneen**, MiningWatch Canada, ON
7. **Oscar Koren**, Slovenian Sports Federation Environmental Group, ON
8. **Pat Moss**, Northwest Institute, BC
9. **Michael Poellet**, Inter-Church Uranium Committee Educational Cooperative, SK
10. **Gary Schneider**, Environmental Coalition of Prince Edward Island, PE
11. **Robert Sharkie**, Trout River Environmental Committee Inc., Environmental Coalition of PEI, PE
12. **John Sinclair**, Resource Conservation Manitoba, MB
13. **Irene Novaczek**, Institute of Island Studies, UPEI, PE
14. **Holly Vear**, BC Sustainable Energy Association, BC
15. **Michael Willcock**, Student Climate Change Coalition, PE
16. **Deborah Carver**, East Coast Environmental Law, NS
17. **Gretchen Fitzgerald**, Sierra Club Atlantic Chapter, NS
18. **Jacinta Gallant**, East Coast Environmental Law, PE

Invited:

Yves LeBoeuf, VP Policy Development, Canadian Environmental Assessment Agency

John Smith, Director, Legislative and Regulatory Affairs, Canadian Environmental Assessment Agency

Mike Atkinson, Director Atlantic Regional Office, Canadian Environmental Assessment Agency

Minutes: Dan Casselman, EPA Caucus Coordinator, Canadian Environmental Network

Action Items

1. John Sinclair will forward to Dan the piece that he recently wrote with Meinhard on the history of RAC
2. Stephen will give Dan copies of his book for Doug, Roberta, and Michael and will bring more copies to the next meeting
3. Conferences Priorities Committee is to make a proposal to the Caucus Steering Committee for what they intend to do the second time around for the SEA conference and how much of Dan's time they want dedicated to fundraising, etc. The Steering Committee will then decide how much of Dan's time will be allocated
4. Dan to take descriptor of the Strategic Legal Actions Committee on the caucus website and send around to the caucus to recruit for the committee and seek champion(s)
5. Dan to follow-up with Stephen Hazell on November 1 in regards to Stephen heading up the Strategic Legal Actions Committee
6. Dan and Gary will write a letter to the MPMO to respectfully decline their offer to select delegates to the October 1 MPMO workshop and describe our wishes for a future relationship
7. Gary will help John Sinclair and Lisa Mitchell in reviewing the CEAA substitution report

8. Dan and Gary to get out an e-mail quickly to the caucus expressing the 7-year review proposal ideas brought forth at the caucus meeting and asking for help and any other ideas with a 2 week reply deadline
9. Dan to distribute an electronic copy of the financial statement to all at the fall meeting attendees and to all the Steering Committee
10. Dan to ask Emile to separate out the line item for teleconferences from meetings in the financial reports
11. Dan and Gary and Pat to write letter to DFAIT expressing our concerns and wishes for a successful relationship with the department in relation to their invitation to the RCEN to select delegates for their EAAG
12. Dan to send Bruno, EPA Caucus National Council rep an e-mail asking him to report back to the Steering Committee on the RCEN National Council – reminding him of his responsibilities to the caucus
13. Michael Poellet to contact Eleanor Knight in regards to her desired level of involvement with the Public Participation Committee
14. Pat will contact Lara in regards to her desired level of involvement with the Strategic EA Committee
15. March 6-7 weekend set for March caucus meeting, Dan to talk with John Smith, let him know that we would like these dates so that there can be input on draft papers and time to revise them before they are submitted March 30th.
16. Roberta will submit an idea for the 7-year review proposal pertaining to public participation

Friday, September 18, 2009

1. Hotspots go-around

SEE EPA Caucus 2009 Fall Meeting Hot Spots Go-Around document

2. Planning for meeting with the Canadian Environmental Assessment Agency (CEAA)

Members discussed the questions to ask the Agency.

Saturday, September 19, 2008

1. Welcome and introductions

2. Planning for meeting with the Canadian Environmental Assessment Agency (CEAA) cont'd

Members discussed the questions to ask the Agency.

3. Meeting with CEAA representatives:

Yves LeBoeuf, VP Policy Development; John Smith, Director Legislative and Regulatory Affairs; Mike Atkinson, Director Atlantic Regional Office

CEAA opening remarks:

Sincerely disappointed that CEAA had to pass on attending the spring meeting

- Appreciates the opportunity to meet with the EPA caucus now at the fall meeting
- Would like to join us at the upcoming spring meeting

When CEAA last met with the caucus:

- Government was just starting to implement the MPMO – internal reorganization, transfer of responsibilities
- Most important reorganization took effect beginning of April – reorganization of regional responsibilities under the MPMO
- Working relatively well now over the last 1 1/2 years
- 2 new regional directors – Mike Atkinson began in mid May – Atlantic Region, Shauna Sigurdson out in AB
- Peter Sylvester is new president
- New VP operations – Pham Thao
- MPMO has been huge for the agency - staff in agency almost doubled – many regional positions
- Due to the economic slow-down there are not as many resource projects in the system
- When the MPMO was under development, the estimates were that there would be 100 projects in the system at any one time
- Currently there are 42 projects in the system, 20 – 25 since April
- Gave CEAA opportunity to focus on these projects
- Extreme pressure on agency due to 150 million investment
- MPMO has not delivered as expected
- Lots of pressure from political masters, pressure to deliver over the next 12 months
- Structure has not necessarily been the most efficient and will be improved
- Training and guidance – 12 to 18 months have focused most of energy on the MPMO initiative, will now be offering training to other departments

Policy side – last spring, new CEAA policy passed, which has resulted in lots of work for the agency

- Agency recognized the controversy then and still now
- Day after Bill c19 in 2003, started seeing pressure to make drastic changes
- Pressure to consolidate EA, consolidate it nationally
- Tension is still there, changes are required: tension to wait for parliamentary review and tension to make changes required now
- Focused on preparing for 2010 review – but no guarantee that pressures on system won't force to make things move faster
- Parliamentary Committee will start the review June 2010 and may ask for an extension, once report is complete, then has to go through parliament – legislative changes by 2013 – this is why the pressure exists, may be too long for some/many
- Agency needs to figure out exactly how to prepare themselves for parliamentary review
- Sometime between now and June 2010 there will likely be elections and changes to Committees – agency does not know at this point what the right Committee will be and what the Committee will look like and what exactly to discuss with the Committee
- Would like to meet with RAC before this happens

Questions & Discussion:

1. EPA Caucus: 5-year review was an incredible opportunity to involve the public

- Still feel that there is a strong public role for the 7-year review
- Standing Committee does not engage the public – invites in a few people
- How can the caucus ensure that public participation is involved? How can we help?

CEAA:

- Work with EPA Caucus to inform the agency, use the caucus to engage Canadians
- Sees a lot of value in that
- Unclear of what resources they will have

- Treasury Board Management Reserve will be approached for funding
- May be more challenging to access resources this time around
- Would like to be able to offer more than what was offered for the workshops we held

EPA Caucus: Danger is that industry will have tons of money to engage, but public has nothing and the risk is the public simply won't be involved

CEAA:

- We do need the direct input from civil society: It must take place to bring other perspectives
- May be some experience within the RCEN, with other caucuses that have undergone parliamentary review – gather the experience from the network on how to engage in parliamentary review, put the information together to support that effort
- Regions of CEAA will be consulted, regions are open to input at any time
- Internally have not done a good job in seeking the input of the regions, the mandate is there to bring in all partners: federal, First Nations, public, etc
- Perhaps the parliamentary committee should travel to the regions

EPA Caucus: Success of 5-year review was that there was money for people to be able to talk to each other, not just show up to meetings

EPA Caucus: Timing? Who and When?

CEAA

- Will touch base with the Committee as soon as they know who the right Committee is through Minister Prentice or will be sure to find the right Committee
- There will have to be strong direction from parliament to the Committee
- Will have a better idea some time in the fall

EPA Caucus: The caucus/ENGOS can have some effect on the Standing Committee

- Looking at experiences under other parliamentary reviews, what worked, what didn't work?
- There is the perception that the original hostility from this gov to public consultation is shifting with Minister Prentice due to the multi-stakeholder success on the Air Management Framework

2. EPA Caucus: How do we make RAC more effective? Timing? When?

CEAA:

- Will likely reconvene RAC in second half of November
- CEAA still has RAC members to meet with in the meantime
- RAC has not been as focused as it could and should be
- Would like more discipline from RAC members, what's the added value?, why do we come together?
- Added value has to be more than just collecting individual perspectives
- Added value is to ensure that all members come to the table and come with an open mind and listen to everyone around the table
- A lot of monologuing happening, views and positions are being expressed and then some parties sit back with no interest in participating
- Need to clarify role of RAC
- Need for CEAA to work with facilitator to impose more rigor on the RAC
- Historically RAC has worked on consensus – not convinced that consensus give and take trade-offs is the correct approach, if consensus opportunities exist then take them, but we are still thinking about what approach to take

3. EPA Caucus: Substitution – Polling company polled the NEB substitution, please provide an update.

CEAA:

- Would like to be able to make the report public in the next couple of weeks
- In meeting the requirements of the Minister – report concludes that requirements were met, however participants were concerned with the rigidity of the process, people did not like the quasi-judicial approach
- Joint panel process is essentially the same type of process
- No substitution requirement has been put in place
- Much energy and resources have been put into projects that are ready to go
- Other reason tool has not been used up to now is likely due to Sierra Club's litigation – likely scaring away the provinces
- Third reason, in discussions with provinces who have expressed interest there is no intention on their part to dilute the requirement, want to take cumulative impact assessment very seriously – concern is diluting to the lowest common denominator but provinces aren't showing that they want that at all, the provinces want to raise the bar and want the feds to raise it to
- CEAA has been having these discussions with CCME counterparts, has not been extremely successful. Yves would like to have the dialogue on national conditions to establish requirements that are consistent, may be having to develop national standards, but currently provs are happy with their processes and feel that the feds are getting in the way
- Need to be clear in the legislation as to where the requirements need to be

4. EPA Caucus: How do projects get designated as MPMO projects? Example of a road building project in Manitoba where CEAA was simply bypassed and proponent went straight to the MPMO

CEAA:

- MPMO jurisdiction is defined as resource sector projects subject to comprehensive studies or panel reviews or multi-jurisdictional screenings... (extraction, processing, transmission)
- Internally in MPMO they fine tune the definition
- CEAA and MPMO do not always come together on the exact definition but it is the MPMO's decision
- Not unusual for proponents to go first to the MPMO to get their proposal in order
- If project falls under MPMO, the MPMO acts as a coordinator across the whole bureaucracy, coordinating work plans across the whole system and tracking progress
- Projects enter a more rigorous coordinating process, but all agencies still have the regulating requirements
- CEAA is still typically the entry point into the system
- Proponents will assess where they want to engage

EPA Caucus: Would like to see how CEAA's role has been enhanced by the MPMO, would like to see a specific case.

CEAA:

- MPMO does not take over the EA, just coordinates and tracks progress, MPMO is not EA
- Agencies role is enhanced with respect to the conduct of the EA process itself, resource influx has helped in that

EPA Caucus: Follow-up on MPMO: What's the relationship like between CEAA and MPMO?

CEAA:

- It's a two-way street - one of the key benefits is the collaboration
- Committee of Deputy Ministers meets once a month – that's a big commitment
- Took a bit of time to fully brief the Ministers on EA
- Shift at the table, DMs / departments are being challenged and are forced to improve
- Now seeing that every DM around the table has been briefed by staff, they are taking it seriously
- Many RAC members say that the Act is fine and that it's the lack of senior level engagement, which is starting to happen

5. EPA Caucus: Multi-jurisdictional initiatives / CCME: Who decides who will take responsibility for which aspect of a project? Eg. St. John refinery – feds took the warf, prov took the rest, which resulted in no funding for public participation

CEAA:

- Interdepartmental Committee Chair - Interdepartmental approach to scoping
- Have to consider what factors implicate different jurisdictions; provincial approach was implicated in many facets
- Does it result in good or bad environmental outcomes is yet to be seen

EPA Caucus: Does this some times result in the feds opting out of their responsibility?

CEAA:

- Not certain if there are good environmental outcomes with the narrow scoping of federal responsibility, likely not
- Recognizes that the MiningWatch Supreme Court case will be highlighting the narrow scoping aspect – will await this decision
- There is another case where the scoping has gone to the Supreme Court

EPA Caucus: What is happening with the CCME initiative?

CEAA:

- Looking at 4 specific types of issues
- Aboriginal consultation – better coordination
- Wanted to collectively improve
- Provs said to feds, we have it right, it's you who have it wrong
- Focus on working on development for national framework for regional EA – some options were developed, in line with public consultation report, meeting October 29
- Some uncertainty about the 1 project 1 EA report
 - Many provs feel this is the way to go, strategically they are saying if our Minister wants it then we lose the opportunity if it goes to a federal EA

6. EPA Caucus: Project Splitting: Transmission lines, roads, etc. being addressed as unique projects. Is also an issue internationally

CEAA:

- There is nothing that doesn't allow it

7. EPA Caucus: Strategic EA Update

CEAA:

- Have completed their work, ready to report back to RAC
- Timely for preparation for parliamentary review
- An option for the parliamentary committee could be to assess what should be the federal role with EA? Step back to look at it from a higher level. What is the role of the process? What are we trying to achieve? Where does it fit into the overall framework?
- Not being processed obsessed
- Agency is very happy with the quality of the report

EPA Caucus: What does CEAA think of the Strategic Environmental Assessment being done by QC on the St. Lawrence?

CEAA:

- CEAA has been discussing it with QC

- EA will remain provincial but feds are implicated in the Gulf – to what level is still under discussion

8. EPA Caucus: Public Participation: Lower Churchill – when it was released as a project, groups came together to demand a federal process because the province is the proponent

- None of the small groups knew at the time that there would be federal triggers
- Very concerned about consultations – has not been adequate or even appropriate
- NALCOR have invited guests to technical sessions with as little as 3 days notice, no agenda, no way to prepare
- Have asked to participate and have been refused in some cases
- Public does not have the expertise or the resources to participate
- Eg. Hired a journalism student to do some interviews because people will not get up in front of a judicial panel – video will be submitted to the panel
- Most people said that they wouldn't be able to do it
- The effort of volunteers is not being considered when it comes to public consultation/engagement
- Now the transmission route is going to be another EA
- Every day Roberta asks people to get involved in the EA, people feel defeated before they begin
- Grassroots people are left out of the process, major frustrations
- CEAA exists because of citizens, agency needs to be there for the public first and foremost

CEAA:

- recognizes the frustrations
- Finishing report on screenings – shows that public participation is very very limited
- Higher percentage of public participation is starting to show up
- Is there a need to investigate why when public participation is initiated, is there not more participation?
- Need to rethink when and where and how public participation needs to happen
- EA can not be the one size fits all, has a very specific purpose, need to ensure that public participation is meaningful in relation to a specific purpose
- Often the public participation is not focused because the public is not given enough opportunities and the right opportunities

EPA Caucus: How can ordinary citizens feel like they're going to be heard and respected?

CEAA:

- Recently had 2 independent panels find separate projects unacceptable
- Public participation is a key component, have developed a big report with many recommendations, nothing new is being used
- Regions are saying that some of the reason there is not enough public engagement is because there is not enough guidance, however there is plenty of guidance and there is even more recently, which resulted in less public engagement

9. EPA Caucus: Mining and Milling the Midwest Project: None of materials submitted have been posted, no definitive answers to any questions

- Being told that things have changed, McClean Lake has now been brought into the proposal
- How can we regulate process when decisions seem to be made arbitrarily?
- How can McClean Lake be brought into the scoping of this project, why did this just happen?
- How can the whole project be arbitrarily redefined after 2 years, after 18 months of preliminary hearings?

CEAA:

- To clarify question: why did Mining and Milling the Midwest Project get re-scoped to include McClean Lake and now rumours of Caribou Mine?

***Mike Atkinson will follow-up with Regional Director as to why Midwest proposal was re-scoped to include McClean Lake. Now there are rumours it may include Caribou Mine. Response is to go to Michael Poellet

10. EPA Caucus: What advice does the Nuclear Safety Commission seek from CEAA with respect to CEAA triggers?

CEAA:

- Jamie should get back to Yves in writing as it might be an element of current litigation – could therefore not respond

11. EPA Caucus: CP Rail planning a big intermodal complex, comes under the office of transportation, federal EA – Canada Transportation Agency

- Can not get a hold of documents only a notice of screening
- Is there any way to ensure that documents are made available in due time?

CEAA:

- Recommendation is to follow up with registry staff

EPA Caucus: Is there guidelines for regional staff as far as what has to go up and when?

CEAA:

- There are general requirements but they are fairly minimal for screenings
- If there are documents that are unavailable, then make request to registry or directly to John Smith

***Mike Atkinson will send Roberta Frampton Benefiel a large amount of work done on public participation related to screenings i.e. the screenings reports

CEAA Final Comments:

- Focus of recent conference was on how we work as federations
- Also spent 2 days this week at the agency with EPA counterparts
- We may feel that EA is under attack in Canada, but we are hearing from many nations that there is a big push internationally to streamline EA, all western European countries are being faced with this pressure
- Why are we there? What are our desired outcomes?
- Have not done a good job of monitoring environmental outcomes
- A lot of pressure on focusing, improving, streamlining EA
- Question will be whether ENGOs want to be at the table, be part of the debate or sit on the sidelines – CEAA would like to see us at the table
- Big push on efficiency but there is also a lot to do around effectiveness that we can help with
- Always appreciative of the interest, sincerity and passion of everyone around this table
- Very appreciative of the dialogue
- Atlantic Region wants to encourage people to get in contact, always available and willing to receive input and discuss issues
- Very important with regional offices playing a much more significant role to engage more with the regional offices

Resulting Action Items from Meeting with CEAA:

***Mike Atkinson will follow-up with Regional Director as to why Midwest proposal was re-scoped to include Maclean Lake. Now there are rumours it may include Caribou Mine. Response is to go to Michael Poellet

***Mike Atkinson will send Roberta Frampton Benefiel a large amount of work done on public participation related to screenings i.e. the screenings reports

5. **Approval of the agenda**

- Agenda approved

6. **Debriefing from meeting with CEAA**

How was the lunch meeting with CEAA concerning funding opportunities for 7-year review?

- Discussed possible work that could be useful, but indicated we did not want to start the discussion unless we know there is funding available
- CEAA indicated that There will be funding for a spring meeting
- Financial review is happening at CEAA – Treasury Board will be reviewing their discretionary fund

Other observations from caucus members:

- CEAA made it clear that we have to be clear about how we are going to get effectiveness and fairness on the efficiency agenda
- Heard signals concerning whether we will see the 7-year review through to its end
- Fewer centralized EAs is the agenda
- There is a lot of interest in going the way that Australia has gone

Discussion for 7-year review:

- How can we make EA strategic? How do we use EA as a tool to: emit fewer greenhouse gases, meet obligations on climate, biodiversity, atmospheric pollutants – how do we use EA to help the feds meet their obligations?
- After Copenhagen, the current federal government will feel a huge obligation to catch up
- We could propose that here are some ways that you can use the EA to meet those obligations
- Kearl Tar Sands mine example – panel sent the proponent to assess GHG emissions
- RAC will be a good place to have the trial run on finding out which proposals will emerge – if we have the RAC, use it
- Caucus has a role in gathering all the work on public participation and bringing it forward to CEAA and help the RCEN create standards on public consultation
- Roberta would like to work with the caucus to pick up all the pieces and put it together
- There are really big screening EAs going on. We have to be ready to discuss how to address screenings and how to involve the public
- CEAA did mention they hoped to be invited in March, they will have much better sense of how the review is going to go at that juncture

7. **Review of action items from last meeting (March 13 – 15, 2009)**

SEE Review of Action Items from Caucus Meeting March 13-15 2009 document

8. **Update on RAC – Gary, John**

- RAC folks should be able to dictate the agenda
- May want to go back to get a commitment from the Minister to RAC
- May need to do a bit of a lobbying effort
- Go back and look at original set of principles document
- May be moving away from a consensus model gives concerns
- We would prefer to hammer things out together with the stakeholders
- There is concern with facilitator for RAC – everyone knows it around table including facilitator
- Concern that industry has the ear of the Minister, how is this affecting industry's behaviour at the table?
- If industry is going to block advancement, then there will never be consensus
- Give CEAA a chance to react to the criticisms

- If industry thinks they can do what they want through political deals and local governments then they're not going to care
- If people think they can get their way, they are unlikely to go for consensus

***Stephen will give Dan copies of his book for Doug, Roberta, and Michael and will bring more copies to the next meeting

9. Update on RAC subcommittee on Strategic EA

Report is done, work is good

- Papers have been waiting for public release for a year
- Analyzes various approaches that have been taken, from City of Victoria planning to...
- What makes EA work? For concrete planning and decision-making
- There were some things that the Committee did not look at

10. Caucus Committees Updates

a) Conferences Priorities Steering Committee (Oscar)

Strategic EA conference at Mt. A was scheduled to take place last June

- Speakers identified, advertising prepared, but were waiting for funding approval
- Then last May no funding and had to cancel the meeting
- Minister in NB more or less promised significant funding
- Minister then told them to apply to the environmental trust fund
- ETF does not announce funding until end of March well after the conference was to take place - may give it another shot

Recommendation: try to get funding to host the conference

- Theme: Strategic Environmental Assessment
- The Committee would like some of Dan's time to write funding proposals
- Looking for 50K with registration on top of that – included will be funding for EPA caucus to attend
- A Call for Papers would allow academics to fund themselves to come
- Translation costs
- Must be cognizant of the deadlines for trying to find money this time around
- Should first look for support of provincial and federal departments, without that there may be no use in proceeding

***Conferences Priorities Committee is to make a proposal to the Caucus Steering Committee for what they intend to do the second time around for the SEA conference and how much of Dan's time they want dedicated to fundraising, etc. The Steering Committee will then decide how much of Dan's time will be allocated

b) Public Participation Committee

***To send e-mail to Eleanor Knight to see if she wants to kick start or re-kick start the Public Participation Committee

c) Strategic Environmental Assessment (SEA) Committee

- Currently waiting on the release of the CEAA report

d) Strategic Legal Actions Committee

Purpose of the Committee - To support anyone considering litigation around EA and to be strategic with litigation

***Dan to take descriptor of the Strategic Legal Actions Committee on the caucus website and send around to the caucus to recruit for the committee and seek champion(s)

Update on actual litigation:

1. Red Chris Copper Gold Mine Project

- Open pit in NW BC in Sacred Headwaters: Skenna, Nass and Stikine Rivers
- The Tahltan First Nations people have hunted and trapped in the Sacred Headwaters for millennia
- Concerns around tailings in headwaters
- Was going through a provincial environmental assessment that triggered a federal assessment
- No public participation in the scoping
- The focus of federal interest was narrowed to be explosives and fisheries
- Screening did not involve the public
- MiningWatch took the feds to court with Ecojustice – took them to court around public participation in section 21 of the Act related to comprehensive study and capricious scoping change
- Ecojustice won in provincial court
- Federal court of appeal overturned the decision
- MiningWatch filed and got leave to the Supreme Court of Canada – going on Oct 17 – Lara and Dave from Ecojustice will be presenting their case
- Basic process is: make presentation, Justices ask the questions, looking for clarification or confirmations, approximately ½ hour each
- Mining Association of BC and Mineral Rights Association are intervening
- Interveners represented by CELA: WEL, Sierra Club, Friends of the Earth, Inter-American Environmental Law Group, Quebec Environmental Law Centre
- Each intervener has particular points of interest
- CELA has intervened on behalf of various environmental groups beyond the actual facts in this case
- A few of the Supreme Court Justice's obviously think it is important or it wouldn't be where it is
- Citation of case is on miningwatch.ca

2. Gov of Quebec and Grand Council of Crees in QC

- Federal government brought forward list of regulations expanding the exclusion list at time of economic stimulus
- Argument that fed EAs are duplicating what the provs are doing, there are other triggers
- No gazette 1, no consultation with RAC, straight to gazette 2
- Ecojustice on behalf of Sierra Club is challenging the exclusionist regs and the adaptation regs
- Gov has exceeded its regulatory authority under CEAA
- Under adaptation regs you can not do these substitutions
- No federal authority to substitute province for federal authority
- Federal gov has filed a response
- Stephen will be cross-examined on his affidavit – shows they take it seriously
- CEAA also brought it up in our discussions, which further shows they take it seriously
- Justin Duncan is the lead for Ecojustice

3. Mine Waste and NPRI

- CEPA included the NPRI
- Large industrial operations have to report their waste releases on the NPRI
- Mining industry has never been subject to this
- Some sort of gentleman's agreement that mine tailings would not have to be included

- Great Lakes United (GLU) and MiningWatch took it to court to ask the court to order the Minister to force the reporting of mine waste on the NPRI
- Up to the Minister to enforce the law
- MAC intervened and objected strongly, government not as strongly
- Rod Northy represented MAC
- Federal court judge ruled in favour of GLU and MW and it actually includes tar sands, not just metal mines, etc.
- Has not been appealed by the federal government
- Minister's response was that they would abide by the decision
- Early next year, March/April they will start reporting the numbers
- Justin was brilliant, low key
- What the industry is concerned with is that they don't want to be in the top 10 polluters
- Very likely that the top 10 will become all mining companies

Other cases

- Useful for caucus to have a handle on what is happening legally and to coordinate and support those efforts

Moving forward: Caucus would like to get a report from the Strategic Legal Actions Committee at every caucus meeting

Stephen Hazell might be able to head up this Committee post October 31st

***Dan to follow-up with Stephen on November 1 in regards to Stephen heading up the Strategic Legal Actions Committee

e) MPMO / Multi-jurisdictional / Harmonization (Jamie)

Major Projects Management Office

- Set up under NRCAN to track and coordinate the assessment and permitting of major resource projects, can include highways, transmission lines, power plants, nuclear plants...
- Part of federal agenda is to make the MPMO effective
- Argument was if you don't have the resources to do the job efficiently then here are the resources to do it
- DM level appointment is in charge, comes with a Committee of DMs who meet monthly
- For public information they have a website project tracker - projects in the queue can be seen on the website
- Purpose is to identify delays and inefficiencies and look at who is responsible and fix it and coordinate it
- Most of the delays found were post environmental assessment in the permitting phase
- Industry wanted to identify early where permitting would be required and who the responsible authorities were and who would be leading on the EA
- Feeling is that a more centralized but limited federal role will show up more clearly within the MPMO
- Concerns over streamlining of project assessments and permitting also that it's at the DM level and what the implications could be, political or otherwise
- MPMO was originally supposed to be analyzing and proposing solutions

Conference last Monday and Tuesday (on working in federations)

- Bob Connelly did background paper, Bob will be revising his document based on input he has received and it will be circulated
- Pros and Cons and structural differences, to what extent things are centralized or decentralized
- Jamie did point out that citizens and aboriginals were left out of the conference

October 1 MPMO Workshop

- Arlene was going to go but not as a caucus rep
- John Sinclair would like to know if the caucus will be represented
- Issue: MPMO has said that we can send a delegate and that they will pay the delegate's way but no per diem
- MPMO did not provide a breakdown of who's coming let alone the ENGOs invited
- We'd like to be involved in the future, we'd like the follow-up but for these reasons, we will not participate

- Someone can go but they would not be representing the caucus - anyone in Ottawa who wanted to participate could
- How do we plug into the information coming out of this meeting?

***Dan and Gary will write a letter to the MPMO to respectfully decline their offer to select delegates to the October 1 MPMO workshop and describe our wishes for a future relationship

Substitution:

- CEAA substitution report is going to conclude that things are pretty rosy except for the rigidity of the process
- May want to prepare for a response as a caucus
- Provinces are coming to some decisions – One project one EA...

***Gary will help John Sinclair and Lisa Mitchell in reviewing the CEAA substitution report

- Also track reports from the CCME
- RAC was supposed to be doing these reviews but RAC has been inactive

f) 7-Year Review

1. Look at what other jurisdictions have done around national significance

What can a Canadian federal government do under Section 91 of the Constitution Act (Stephen H. will lead with John S. support)

- Effectiveness and fairness – how could this be accomplished within a new Act? How to improve the process?

2. Triggering – If you don't have a triggering permit system, how would it be configured to be comprehensive, make sense from a public or environmental stand point?

- Triggers could be removed – do we look at alternative triggers?
- We want legal requirements not all decisions under the discretion of the Minister

3. Caucus should look at how can we deliver on public participation? Workshops? Communication Tools? Get ahead of CEAA and the Standing Committee and preempt move to a consultant

- Could do something outside of the Standing Committee
- We should set ourselves up as advising CEAA on their submission to the parliamentary committee and/or also host some sort of engagement with Canadians around the review
- Could we design at least part of the process?
- Outline a framework for how to engage the public – either we will carry this out or here are ways to carry this out?
- Step 1 Best practice for this review
- Step 2 Here's how we will deliver
- -look at previous parliamentary reviews to assess best practices
- First part is engaging the public, second is our role in engaging the public
- Gary S and John S will lead on writing a few paragraphs to describe how the caucus can lead on public participation

- Propose that there are other ways of doing this
- Make sure they know that the 7-year review is important to the caucus

4. Do a caucus paper on the position of the ENGO community on the other options

- Substitution
 - National Standard
 - Harmonization
 - Equivalency
 - Bilateral Agreements
- Gary, John, Arlene and... have written papers on these options, which will help to hash out a position
 - Could host a workshop with a report at the end
 - Could do an extra day to bring in expertise to help us at the spring meeting
 - Summarize what we are looking for, very quick brainstorming session via e-mail to sort out which papers are very important to the caucus and which ones aren't
 - Proposal to be submitted soon, start with a 2 page letter of interest outlining our ideas (timeline: 2 weeks for paragraphs of interest to be submitted to Pat and Gary)
 - Also put together budget for an extra day of meetings

***Dan and Gary to get out an e-mail quickly to the caucus expressing the 7-year review proposal ideas brought forth at the caucus meeting and asking for help and any other ideas with a 2 week reply deadline

Proposed Papers:

1. Review of public participation in other parliamentary reviews and assessment of Best Practices
2. How can we make EA more strategic?
3. Projects of national significance/How do we define national significance?
4. Measuring tools for effectiveness, fairness, and efficiency
5. Alternative triggers for EA
6. Workshop on Multi-jurisdictional EA

Suggestion made to continue with CEAA 101

- Level of public knowledge/participation is so low
- Eg. Do the Digby Neck Road Show

Sunday, September 20, 2009

1. Approval of the agenda

- Agenda approved

2. Caucus activities – Pat, Gary

a) RCEN-CEAA 2009-10 Contribution Agreement

- Contribution Agreement was approved in July

b) Budget/financial statement

***Dan to distribute an electronic copy of the financial statement to all at the fall meeting attendees and to all the Steering Committee

- Caucus will continue to replenish the carry over money unless it decides to spend it on something specific

3. Coordinator's report – Dan

1. Caucus Transfer from Philana became official on June 1

- Participated in several knowledge transfer meetings with Philana leading up to June 1

2. RCEN AGA June 14 -16 in Edmonton

- EPA/WFO cross-caucus meeting on June 16, main discussion centered on NWPA amendment impacts to EA, discussion lead mainly by Peter Karwacki, Les Amis de la rivière Kipawa, WFO Caucus Steering Committee, meeting chaired by Joseph Hnatiuk
- Nuclear / Uranium Working Group initiated by the Atmosphere and Energy Caucus at AGA – EPA Caucus members are engaged

3. Contribution Agreement with CEAA signed in July

4. Organization of fall caucus meeting began in July with the Call for Delegates

5. RCEN Financial Administrator is on parental leave until December 2009, responsibilities will be contracted out until Jude returns as RCEN was unsuccessful in attempts to find a temporary replacement

6. RCEN office is moving from current location to OXFAM offices at 39 McArthur Avenue in Vanier area of Ottawa on November 1, 2009

7. Consultation Requests / Negotiations:

Major Projects Management Office (MPMO) at Natural Resources Canada one-day work shop (October 1, 2009) to discuss the Government of Canada's draft whole-of-government strategy for regulatory improvement

- Contact was made with the RCEN in early August 2009
- Decision made for Gary and Dan to write a letter to express our wishes for a successful relationship with the department and to respectfully decline
- Discussion on this topic is described under the MPMO / Multi-jurisdictional / Harmonization Committee update in these minutes

Department of Foreign Affairs and International Trade Environmental Assessment Advisory Group

Contact was made with the RCEN in May 2009

- Negotiations last ended off with DFAIT Consultations and Liaison Division insisting on an internal approval process of RCEN selected delegates and no per diems to ENGO participants

***Dan and Gary and Pat to write letter to DFAIT expressing our concerns and wishes for a successful relationship with the department in relation to their invitation to the RCEN to select delegates for their EAAG

8. Challenges and Opportunities

- Size and level of engagement of the Caucus and the Steering Committee
- Amount of work taken on by the caucus
- System for communicating with and assessing priorities of the Caucus Coordinator
- Process for vetting requests for consultation – should the EPA caucus publish standards or a policy on terms of engagement

- Tremendous pressures / workload placed on the Co-chairs – may be alleviated as the coordinator gets to know the Steering Committee and Caucus better, so that requests are shared better amongst the broader group

Discussion:

- Is there a policy on paying co-chairs honoraria?
- Is there a potential mechanism for paying the co-chairs honoraria through the agency?
- Pat was paid when she took over the coordinating role, but this was the only time
- Last year issues were coming from everywhere , internal and external
- If people are putting in tons of time for something, then they will want to be compensated otherwise it will be voluntary

4. Elections

a) Caucus Co-chairs

Pat and Gary voted in as caucus co-chairs

SEE 2009-10 EPA Caucus Steering Committee & Sub-Committees Listing document

b) Steering Committee

All nominated and moved

SEE 2009-10 EPA Caucus Steering Committee & Sub-Committees Listing document

c) RAC and subcommittee(s)

SEE 2009-10 EPA Caucus Steering Committee & Sub-Committees Listing document

d) Caucus rep to National Council

***Dan to send Bruno, EPA Caucus National Council rep an e-mail asking him to report back to the Steering Committee on the RCEN National Council – reminding him of his responsibilities to the caucus

e) Caucus internal committees

SEE 2009-10 EPA Caucus Steering Committee & Sub-Committees Listing document

***Michael Poellet to contact Eleanor Knight in regards to her desired level of involvement with the Public Participation Committee

***Pat will contact Lara in regards to her desired level of involvement with the Strategic EA Committee

5. Other business

11:15 am

a) Next meeting (Spring 2010)

March in Ottawa

***March 6-7 weekend set for March caucus meeting, Dan to talk with John Smith, let him know that we would like these dates so that there can be input on draft papers and time to revise them before they are submitted March 30th.

b) Proposal funding

- Roberta B suggested a project that would follow-up on last February's workshops and will write up the idea for the 7-year review proposal

***Roberta will submit an idea for the 7-year review proposal pertaining to public participation

6. Closing circle and meeting adjourned