

Great Lakes United  
Testimony on Public Participation in the Canadian Environmental Protection Act  
House of Commons Standing Committee (Environment and Sustainable Development)  
November, 27, 2006

Greetings & Salutations,

The Canadian public's interest in environmental stewardship polls relatively high on voters' priority lists but is rarely reflected by way of broad public participation in CEPA consultation. While committed public interest groups continue to consult, it is clear measures are needed to broaden the interest of Canadians at large in Canada's cornerstone pollution statute.

Great Lakes United has long-been an active stakeholder in CEPA consultation frequently advocating for a stronger public role in operationalization. Two backgrounders, prepared by GLU Board Member Mr. John Jackson for the Canadian Environmental Network, reflect GLU's experience over the years and detail measures for improving public participation in CEPA. Both documents are provided as an appendix to these speaking notes.

While situations surely vary among stakeholders, GLU's experience may offer some insight into the strengths and weaknesses of CEPA's public participation provisions. For the purposes of analysis, GLU's following comments are loosely grouped as public access and outreach, the mechanics of consultation and the absence of a departmental champion for the environment.

#### 1. Public Access & Outreach

Whereas comprehensive State of the Environment reporting should serve to generate public interest in CEPA, the National Pollutant Release Inventory (NPRI) is the primary CEPA reporting database that currently garners the most public interest in CEPA. Progress on NPRI has largely stalled since 2002. As of August 2006, PCBs, thallium, beryllium, barium, and radionuclides were still not included on the inventory despite years of tabled discussion. Likewise, recommendations to reduce reporting thresholds have gone unheeded, revisions to mining exemptions have not been addressed, and the credibility of NPRI data is undermined by a lack of auditing polluter reports. Other CEPA databases should be tightened to report on actual pollution levels rather than the volume of pollution permitted (e.g. ocean dumping requirements). The use of other statutes and pollution reporting mechanisms (GHGs) outside of CEPA further undermines efforts to draw public attention to CEPA as a one-stop-shop for pollution information (e.g. GHGs).

State of the Environment reporting has been poor and insufficient for promoting the Act and government efforts at pollution control generally. State of the Environment reporting needs to be enhanced and should include reporting on specific CEPA provisions including efforts to meet international agreements impacted by the Act (i.e. international emissions to air, land and water).

With no public profile for the Act, a lack of ministerial reporting, and precious few cuts to pollution to report, the value of the CEPA Registry is challenged not by the website architecture, but rather by disinterest in reporting on progress and promotion of public participation options. For the reasons detailed above, a concerted promotional campaign for highlighting CEPA as Canada's cornerstone pollution statute and for the release of the State of the Environment report is needed.

## 2. Mechanics of Consultation

Environment Canada has an established history of public consultation. Supported in part by the Canadian Environmental Network whose members nominate ENGO representatives on various issues, Environment Canada does a much better job than most federal departments (including notably Health Canada) at ensuring stakeholder balance at consultation and at avoiding undue influence in the selection of ENGO representatives. That said, treatment of First Nations' representatives has been inconsistent under CEPA – at times First Nations delegates are counted to provide 'balance' between NGO and industry stakeholders. Departmental leads need to acknowledge that First Nations interests more frequently revolve around issues of governance, representation and treaty rights than around broad civic interest in operationalization of the Act. First Nations are neither regulated by the Act (as is industry) nor do they represent the public at large in health or environmental matters (as do Non-Governmental Organizations). It is therefore entirely unfair to dilute representation of non-governmental organizations with representation from Canada's First Nations and it is equally unfair to characterize First Nations as stakeholders on par with environmental groups and private industry. First Nations, in so much as they represent governments or ambitions of self-governance, must be consulted outside of CEPA's delicate stakeholder balance between industry and the NGO sector.

## 3. Departmental Champion for the Environment

Stakeholder balance alone is insufficient to guarantee credible outputs from consultation. Exactly how and the extent to which participants engage largely determines final recommendations coming out of consultation. Whereas departmental participation is necessary and encouraged, it is not at the moment balanced in so much as no department champions the environment. By way of example, at consultation Natural Resources Canada routinely identifies with recommendations that reflect mining and forestry interests (e.g. Green House Gas Reporting) and Health Canada ensures its pharmaceutical 'clients' are not undermined by proposed action (e.g. DSL) but Environment Canada remains steadfastly focussed on consultation process rather than promotion of environmental protection. Rarely at consultation does Environment Canada table its recommendations for discussion or provide critiques to consultants' reports. More routine, as recently reported to GLU from CCME meetings, is the stakeholder review of Discussion Documents (prepared by a consulting firm) without the benefit of EC's critique or indication of what the department plans to do with the report. The public is more frequently consulted on consultant's reports than on any proposed policy direction intended to realize CEPA objectives.

Environment Canada needs to step beyond the current role of coordinating input toward one that also shows leadership in environmental protection so as to balance the input of other departments who adequately champion the commercial interests of their clients. At consultation stakeholders should be reacting to EC's draft recommendations – not to the recommendations of a private consulting firm who may or may not reflect where the department is heading.

In the view of Great Lakes United, dedication to State of the Environment Reporting, an enhanced National Pollutant Release Inventory (NPRI), stakeholder balance, a special track for consultation with First Nations, and departmental leadership in championing environmental protection will all improve CEPA's capacity to engage the public. I regret that timelines did not allow for specific language recommendations. Great Lakes United will submit proposed text for the above recommendations later this month.