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Presentation to the House of Commons Standing Committee on Environment and Sustainable Development—

CEPA and Governmental Co-operation with the Provinces and First Nations

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Thank you very much for the chance to present to the Committee on the question of government-to-government co-operation. To illustrate our conclusions, we will focus on the process in relation to the Canadian Council of Ministers of Environment Canada Wide Standard for Dioxin.

Similar stories could be told about other substances subject to the Canada Wide Standards – ozone, particulate, smog, mercury – or the CCME Guidelines for water quality or the risk assessments to determine if a substance is CEPA-Toxic. In other words, the problems are endemic to a baroque structure of committees and internecine power struggles which allows government to abdicate its responsibility to protect human health and the environment. .

We wish to bring to your attention the following conclusions based on our experience.

- ◆ CEPA 99 does not need substantive revision. We believe the law is capable of dealing with Canada's environmental problems.
- ◆ The problem lies not with CEPA 99 but in the relationship between the federal and provincial governments. Much time and money is being wasted in multistakeholder, interjurisdictional consultations that confuse the lines of accountability.
- ◆ There is a culture of inadequacy in the bureaucracy, among politicians and the Ministers, who do not have the will to make CEPA live up to its potential to protect the environment and Canadians' health.
- ◆ A mechanism is needed to reactivate the Canada Wide Standards system in the event of significant changes, such as technological improvements for pollution prevention, new industrial developments that will change pollution levels, or new science.

Reach for Unbleached is a national foundation and a Canadian registered charity with a focus on consumer education and pulp mill monitoring. We work for a sustainable pulp and paper industry by making pulp mills clean up and by promoting clean paper. Over the last decade and a half, we have worked in alliance with pulp unions, First Nations, international environmental organizations like Greenpeace and the International POPs Elimination Network, and numerous citizens' groups, primarily in the forest industry towns of British Columbia. We participated as a member of the Canadian delegation in the negotiation of the UN Persistent Organic Pollutant (POPs) Treaty and have worked on numerous Environment Canada and British Columbia toxics-related processes. Our work is cited by grassroots pollution campaigners around the world.

I am also the editor of the *Watershed Sentinel* environmental news magazine, founded in 1991, so I am in touch with dozens, if not hundreds, of other citizens' organizations working on issues impacted by CEPA and assorted government agencies.

It is a rare opportunity for a community-based activist to have this opportunity to present our comments on how we see the workings of government's structure for the control of toxics, as well as tell you how we ENGOs have to deal with it.

After 16 years working in this field, we offer a honed layperson's understanding of toxicology, bureaucracy, and the technology of pulp and paper production.

We suggest that the system is not broken but that the hands on the levers need to do a little heavy lifting. Considerable taxpayer money and even more volunteer time is being wasted in multistakeholder, interjurisdictional consultations that do not remain focused or that do not deliver the pollution prevention Canadians expect. Rather, these processes serve to confuse the lines of accountability. It is the same type of "negotiating" activity that we BC environmentalists have suffered through while at the same time, the trees are falling outside the window. We call it "Talk and log." The federal government's approach to toxic chemical control is most unhappily similar, but this is not mandated by CEPA 1999; we believe it is the political and bureaucratic culture that is creating this stasis.

Let me introduce myself and you will see how my entire working career as an environmentalist has been wound around the issue of dioxin and pulp mills, and the relations between governments, including, to some extent, First Nations.

My home is a small island on the coast of British Columbia, specifically in the north end of Georgia Strait between Vancouver Island and the mainland. My partner and I moved there in 1987 for a quiet, rural life, growing our food, working at whatever odd jobs were around. We became clam-diggers for a living. The island, having finished logging its old growth forest, was and is heavily concentrated on family operations growing oysters for the export market.

It was about 1989 that I began my relationship with poisons in paradise, and subsequently, the federal and provincial governments. Oh, and the pulp and paper and chemical industries.

Dioxin

At that time, fisheries closures were beginning to spread along the coast of British Columbia, as it was slowly discovered (I think Greenpeace independent testing hastened the day) that fish, crabs, and shellfish were contaminated with dioxin from kraft pulp mill bleaching with chlorine. Eventually, about 120,200 hectares of foreshore in Georgia Strait were closed to crab and shellfish harvesting, of which more than half remains closed to this day.

On our island, threatened with economic disaster, we sought a solution, hence the name, *Reach for Unbleached*. If consumers would buy unbleached or alternatively bleached paper products, the mills could stay in business and we could save our community.

I won't drag you through the whole long process of multi-stakeholder meetings, scientific twists and turns, market scares, job blackmail, and a Harmonization Agreement that was very discordant and not renewed, not to mention several BC elections, although those tend to be the fun part of the story. In summary, the federal government declared dioxin CEPA-toxic and subject to "virtual elimination." It then acted to stop the outpouring of dioxin by using a regulation under the *Fisheries Act* that prohibited the mills from using chips contaminated with dioxin precursors, or emitting effluent with a detectable level of the two most deadly forms of the chemical. This was a strict regulatory command and control regulation.

It worked. The industry quickly put in technological change and secondary treatment, although not without some complaints. Canada-wide, dioxin in kraft pulp mill effluent subsequently dropped from 450 grams a year in 1990 to about 5 grams now.

In the meantime, 2,3,7,8-TCDD and the similar furan are still slated for virtual elimination in Canada under CEPA and under CEPA 99; they are also one of the 12 POPs to be controlled internationally by the Stockholm Convention.

The US EPA Health Risk Assessment has finally been released and, overall, confirms dioxin's toxic nature – although the EPA is talking about dioxins and PCBs – about 3 dozen "dioxin-like compounds." The proven harmful health effects of dioxin are considered to be: skin disease; immunosuppression; respiratory, cardiovascular, and liver effects; reproductive toxicity; and it is a carcinogen. The association with Type II diabetes is getting stronger and stronger, and Viet Nam vets with diabetes are compensated due to their exposure to Agent Orange. In the womb, dioxin affects babies' subsequent learning behaviour and the development of their reproductive and immune systems. Dioxin affects male reproductive hormones, and it is associated with prostate and testicular cancer and lower testosterone. In females, one of the horrific consequences is endometriosis. Birth defects are found at high levels of exposure, such as those in sprayed areas of Viet Nam.

As for exposure limits, the World Health Organization (WHO) has set a Tolerable Daily Intake for humans of 1 to 4 pg (picograms) of dioxins of per kg of body weight per day. This includes not only the PCDD/Fs, but also the dioxin-like PCBs. Health Canada standards, set in the 1980s, are 10 times as high and do not include PCBs. People who eat meat or dairy products in the industrial world are already receiving dioxin doses at about between one third and one quarter of the WHO "tolerable" limit. It is

important to note that levels are declining in Canadian milk due to Canadian and global elimination actions, such as requiring changes in the pulp and paper industry and in chlorinated pesticides. Dioxin is normally measured in nanograms or picograms; one nanogram is a trillionth of a gram and one picogram is one quadrillionth of a gram. These are very small quantities, but hormones enact major changes in the human body at concentrations of 1 part per trillion.

Canada Wide Standard

It is not surprising that Canada continued with its dioxin elimination program by developing Canada Wide Standards. What is surprising, given the “elimination” mantra under which the CWS was justified, is that the process focussed only on airborne emissions of dioxin, not on the creation of dioxin. This was a directive of the National Advisory Committee that seemed impossible to change when we got down to discussing the nuts and bolts of our dioxin production.

British Columbia was given the lead as “champion” of the dioxin CWS. Six priority sectors accounting for about 80% of Canadian emissions in a 1999 inventory were identified as priorities for development of Canada Wide Standards: waste incineration (municipal solid waste, hazardous waste, sewage sludge, and medical waste); burning salt-laden wood in coastal pulp and paper boilers; residential wood combustion; iron sintering; electric arc furnace steel manufacturing; and conical municipal waste combustion.

Our organization, as well as many others from coastal communities, followed through on the process for pulp mills burning chips from wood (hog fuel) that had picked up salt from being towed in booms in the ocean. The most important point to grasp is that the vast majority of the dioxin from burning salt-laden wood winds up in the mill ash and thus was not actually part of the CWS process.

Since pollution prevention is supposed to be the heart of environmental protection, we were able, after about two years of committee infighting, to insert the requirement for an examination of pollution prevention into the CWS for salty hog fuel-burning pulp mills. Unfortunately, it turned into a bit of a bad joke. Many expensive and time-consuming meetings later, to which we coastal environmentalists donated our efforts, consultants’ reports proved to almost everyone’s satisfaction that it was far too expensive to consider taking the logs out of the salt water, that the salt could not be washed out of the wood chips, and that it was okay because the dioxin was sealed away “forever” in the pulp mills’ landfills. That many of these landfills have no liners, that in the cases where it was tested, dioxin frequently showed up in the leachate and the groundwater around the landfills, and that, in any event, the best of these landfills is only built for a 100-year weather event, were all incidental.

As for First Nations, who were supposed to be involved in this process, one First Nation did try to attend the working group meetings, but the relentless technicality of the discussion, as well as the insistence that whatever they had to say belonged in some other process, quickly discouraged them in their valiant efforts to speak to the contamination of their traditional territories.

Subsequently, the Canada Wide Standard evolved into a technical requirement for low dioxin emissions for existing boilers and even lower ones for new boilers, and it was arranged that some of the dioxin-laden ash that had been blowing off trucks in the mill towns as it was transferred to the landfills would be watered down before transport. Everyone went home, leaving the province of British Columbia to monitor the results at a regional level.

And BC had a change of government. It is fair to say that whatever enthusiasm the former government brought to the task was immediately lost in a flurry of budget cuts and ideological shifts.

Under any government, the monitoring is somewhat symbolic: a single reading in two years by the company’s own hired technical consultants at the time they choose. The reason this is clearly inadequate is reported in Paprican’s 2003 *Dioxin Projects Report*:

*Stack dioxin emissions test results for the coastal power boilers are still highly variable. The results from single tests on any of the coastal boilers vary by a **factor of between 5 and 45**, and four of the eight mills have measured emissions in the last three years that exceed the CWS for*

existing facilities. The large variations of individual test results present difficulties for many of the mills in ensuring compliance with the current. CWS limit.

.....most of the variation in emissions can be attributed to variations in combustion efficiency, particulate removal efficiency in the ESP or scrubber, hog fuel salt content, and the operating temperatures in the air heater and ESP.

In the intervening years, Catalyst Paper at Elk Falls discovered a way to use some of their waste water to wash the chips in order to lower salt content, thus decreasing dioxin creation. The company has no plans at present to move forward with this highly commendable pollution prevention because without government's direction, there is no justification for the several million dollar capital cost. In other words, the pollution prevention solution to this dioxin problem is at our fingertips, but because government has ended the process, there is no instrument to activate it.

Similarly, our organization and other coastal community activists have made contact with a European company that offers a better method of testing dioxin emissions so that we would know what the **real** outcome of that factor of variability is. We would like to get a better idea of what the real emissions are over time. Any mill operator will acknowledge the ongoing combustion variability, along with upset incidents and major interferences, such as mandatory or emergency shut down/start-up periods.

The company is willing to work on a demonstration project, the citizens actually have thousands of dollars to contribute to the cost of the testing, and a pulp mill is willing to at least host a meeting. That particular region of the province is faced with new garbage incineration proposals that will also create dioxin, so the province is interested in the demonstration. And the federal government, under whose jurisdiction dioxin falls, considers that its job is done and is unwilling to participate. We can't find the responsible people. It seems there's no one home.

There are mechanisms in CEPA that would allow the federal government to take control of almost any polluting emission in Canada it already has designated special regions of concern, such as the Great Lakes and the Fraser Basin). The federal government could require real pollution prevention under CEPA 1999 as it now stands. It could ban or restrict chemicals with toxic properties. CEPA has the potential, but it doesn't have enough politicians, ministers, and bureaucrats with the will to make it work for the environment and Canadians' health.

Your question asked: "What is the role of the National Advisory Committee, particularly in relation to the Canadian Council of Ministers of the Environment, and how can it be improved?" As citizens who have put a lot of effort into trying to protect our communities and trying to make the system work, we are sorry to answer: "We wish we knew." One simple suggestion would be to have a visible and accessible "watch function" so that when the situation changes, as has happened with Catalyst Paper discovering a pollution prevention method that will work, the Canada Wide Standard can be revisited. Changes in situations that require government to revisit its judgments include both the positive, as in the application of new technologies, and the negative, as when British Columbia now is embracing the burning of coal and garbage to create energy. Both actions will impact Canada Wide Standards for dioxin and mercury. Citizens need to be able to activate the mechanisms without going the route of filing a petition with the Commissioner of the Environment and Sustainable Development.

However, this will not ameliorate the deeper problem of the structure of the consensus-based "co-operation" between the federal government and the provinces and territories.

From this perspective, way down the bureaucratic lines of command, we submit that co-operation between federal and provincial governments functions as a way for the federal government to pawn off its jurisdictional responsibility for toxic chemicals to unwilling and incapable provincial "partners" who have no stomach for the job.

There is a lack of clear responsibility, which at best, produces bureaucrats not prevention.

If the intent is to ensure that polluting industries are never bothered by any responsible government returning them to accountability, the process works marvellously.

If the governments were interested in integrating aboriginal points of view, the first step would be to sit down with them, listen to them, and answer their questions with scientific honesty.

Scientific honesty requires, among other things, exact and independent identification and measurement of the pollutants or their products at the source. That sort of honesty requires stern government, not words of harmony only, but strict regulation.

Independent measurement. Strict regulation.

Anything less is to continue the poisoning of our only environment, and the harming of innocent Canadians.

Respectfully, and regretfully,
Delores Broten