

Ecojustice - SEM-04-005 (Coal-Fired Power Plants) - SEM-04-006 (Ontario Logging II) - SEM-02-001 (Ontario Logging)

Questions:

Ontario Logging

	Yes	No	I don't know
Did the Citizen Submission procedure seem to be useful?	X		
Were you satisfied with the CEC's handling of your petition?		X	
Did the CEC's resolution of your petition seem technically and legally appropriate?	X		
Did the CEC's resolution seem just?	X		
Did the CEC's response time seem appropriate?		X	
How much time did the procedure take (in months)?			60 months
How much money did you or your organization invest in preparing and following up your petition (in C\$, Mx pesos, US\$)?			Approx 20,000.
Did the Citizen Submission procedure seem to be useful?	Yes		

US Coal Fired Power Plants

	Yes	No	I don't know
Did the Citizen Submission procedure seem to be useful?		X	
Were you satisfied with the CEC's handling of your petition?		X	
Did the CEC's resolution of your petition seem technically and legally appropriate?			X
Did the CEC's resolution seem just?		X	
Did the CEC's response time seem appropriate?		X	
How much time did the procedure take (in months)?			80 months and counting
How much money did you or your organization invest in preparing and following up your petition (in C\$, Mx pesos, US\$)?			Approx 25,000.
Did the Citizen Submission procedure seem to be useful?	No		

1. When and how did you learn about the citizen submission process?

Workplace Education

2. How difficult was it to gather information on how to use the SEM process? What institutions, organizations, resources, or establishments did you consult, if any, to learn about the SEM process and how to use it?

The website is very helpful

3. Did you know about the “Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the [NAAEC]” (the “Guidelines”) published in the CEC booklet “Bringing the Facts to Light”? If so, did you consult them? How helpful was it? Was there any information not included in the Guidelines that might have helped you in preparing your submission?

Very helpful

4. Did you contact the CEC Secretariat prior to preparing a submission, and if so, for what reason (i.e. information gathering, questions about procedure, etc)? Was the response of the Secretariat, if any, helpful? Why or why not?

Yes, to gain help about procedural matters etc. Yes, staff are very helpful – although less so now than previously.

5. Why did you choose the SEM process for addressing the matters you raised in your submission?

Because is seemed to be an appropriate forum for addressing citizen concerns on such a matter.

6. What outcome did you expect from the SEM process at the time of your submission? Sanctions? Recommendations? Conclusions?

We expected a concise description of the issue and clear factual information about the state of enforcement.

7. Did the processing of your submission in any way affect or impact the situation you were addressing, and if so, how? Was this impact consistent with your hopes and expectations?

Ontario Logging was a concise report that became a strong advocacy tool. US coal fired power plants – the delay has undermined the relevance of the factual record.

8. Has the outcome of the SEM process with respect to your submission helped you to understand the relevant environmental law(s) and the government’s decisions with respect to enforcing those laws? If so, in what way?

Ontario Logging – yes, the report was very thorough in explaining the government’s rationale.

9. Did you pursue any domestic legal options regarding the matters raised in your submission? If not, why not? If so, why did you also file a submission?

Ontario Logging – yes we continue to use other advocacy tools.

10. If the government Party filed a response to your submission, was the response helpful in understanding the Party's positions and decisions with regard to the matters you raised, and if not, why? Did the response provide information that you were seeking?

Ontario Logging and US coal fired power plants – yes although it seemed more geared to denying the allegations and trying to avoid a factual record.

11. Did you have any contact with the government Party regarding the matters raised in your submission during or after conclusion of the SEM process, and if so, was this contact helpful? If not, would such contact have been helpful?

Ontario Logging – yes, and it helped us understand the govt position.

12. How long did it take for your submission to be processed? Include the time from the point that you submitted the petition to the factual record or other final decision. Do you believe that this is a reasonable amount of time for processing of submissions? If not, what recommendations would you make for improving the timeliness of the process?

The delays in each case were the result of the government's attitude in wishing to interfere with the process set out in the NAAEC. The delays were completely unacceptable.

13. What action have you undertaken with regard to the matters raised in your submission after the conclusion of the SEM process? Do you expect or wish that the CEC continued to be involved following the conclusion of the process, and if so, how?

In the case of Ontario Logging it would have been helpful if the CEC continued to monitor government conduct to see whether it would begin to enforce the MBCA. We used the CEC fr as an advocacy tool to push for change.

14. How costly was it for you to use the citizen submission process? Were the costs in line with the benefits you received from the process?

Very costly in terms of staff time although we benefitted from volunteer help. In the case of Ontario Logging this was money well spent. In terms of the US coal fired power case, the process has been extremely frustrating. Without changes to the process, we are unlikely to participate again.

15. What kind of assistance, if any, did you receive in preparing your submission? If you did not receive assistance, what kind of assistance do you wish you had received, if any?

General advice that was helpful.

16. Approximately how much time went into the preparation of your submission?

Ontario Logging: 250 hours

US coal fired power plants: 350 hours

17. Overall, was the citizen submission process a useful forum to raise the matters you highlighted in your submission? Why or why not?

Ontario Logging – yes because it clearly set out the issues and the government’s conduct. US coal fired power plants – the delays have totally undermined the possibility of a useful result.

18. Bearing in mind your experience with the article 14 and 15 process, do you think this mechanism needs to be revised and amended?

THE SEM PROCESS IS BROKEN. IT IS A SOURCE OF FRUSTRATION TO CITIZEN GROUPS AND IT OUGHT TO BE AN EMBARRASSMENT TO THE COUNCIL. THE CEC STAFF IS GENERALLY QUITE USEFUL AND HELPFUL – ALTHOUGH IT APPEARS THAT THE STAFF ARE BECOMING MORE COMPLIANT WITH THE COUNCIL ATTITUDE, WHICH HAS UNDERMINED THE SEM PROCESS.

THE SEM PROCESS IS BROKEN BECAUSE OF THE CONSISTENT PATTERN OF INTERFERENCE BY THE COUNCIL. THIS UNDERMINES VALUES OF ACCOUNTABILITY AND COMPLIANCE WITH THE LAW. THE COUNCIL IS CLEARLY INTENT ON THWARTING CITIZEN REQUESTS TO BRING GOVERNMENTS TO ACCOUNT FOR THEIR FAILURES TO EFFECTIVELY ENFORCE LAWS. THE ATTITUDE OF MINISTERS SEEMS TO BE ONE OF SCRATCHING EACH OTHERS BACKS. I WOULD NOT RECOMMEND TO ANYONE TO USE THIS PROCESS IF THEY HOPE TO GET A TIMELY RESPONSE FROM THE CEC.

WHY DO CITIZENS FEEL THAT MULTILATERAL ORGANIZATIONS DO NOT LISTEN TO THEM? THE CEC AND ITS SEM PROCESS IS A SHINING EXAMPLE.

Do you have any other comment or recommendations regarding the citizen submission process?

FIX IT. PUT STRICT TIME LIMITS ON COUNCIL ACTION. TAKE POWERS OF PUBLICATION OUT OF COUNCIL’S HANDS. FORCE THE COUNCIL TO MAKE DECISIONS BASED ON STRICT ENVIRONMENTAL PROTECTION CRITERIA. LEAVE MORE OF THE DECISION MAKING POWER IN THE HANDS OF CEC STAFF. STRICTLY LIMIT COUNCIL CONDUCT THAT UNDERMINES THE EFFECTIVENESS OF THE PROCESS. FORCE COUNCIL TO MAKE ITS DECISIONS IN THE OPEN AND TO EXPLAIN THEM.