

## Ecojustice (formerly Sierra Legal Defence Fund) - SEM-06-005 (Species at Risk)

Questions:

	Yes	No	I don't know
Did the Citizen Submission procedure seem to be useful?		<b>X</b>	
Were you satisfied with the CEC's handling of your petition?		<b>X</b>	
Did the CEC's resolution of your petition seem technically and legally appropriate?		<b>X</b>	
Did the CEC's resolution seem just?		<b>X</b>	
Did the CEC's response time seem appropriate?		<b>X</b>	
How much time did the procedure take (in months)?		<b>Greater than 48</b>	
How much money did you or your organization invest in preparing and following up your petition (in C\$, Mx pesos, US\$)?			
Did the Citizen Submission procedure seem to be useful?		<b>No</b>	

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

**At inception of agreement.**

**Note, these comments are informed most recently by our experience with SEM-06-005 (Species at Risk). Please refer to our request for withdrawal of our complaint for detailed information which informs the summary responses below.**

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?

**CEC documents describe it in a straightforward manner.**

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?

**Yes. 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?

**No.**

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

**Wanted to ensure we addressed all viable avenues for scrutinizing government non-compliance.**

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

**Confirmation, conclusions and recommendations.**

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?

**No.**

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?

**No. See the attached letter. In summary, the process exhibited:**

**Extreme prejudicial delay (in terms of both the secretariat and council);**

**Error in interpreting constating documents in that Council interpreted the existence of active litigation against Canada as precluding their review when it is clear that the bar exists only if the litigation is brought by Canada; and,**

**Council arbitrarily narrowing the factual record to portray Canada in the best light, resulting in the submitters believing that the process would materially prejudice intended outcomes.**

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?

**Yes, we filed successful specific legal actions that found failure to enforce on the part of Canada. The reason we filed was that there was systemic failure to enforce that individual court actions cannot address.**

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?

**The government Party filed a submission that was at most obstructive and intended to obfuscate. For example, Canada objected to our asserting not only past non-compliance**

**but also anticipated future non-compliance with statutory deadlines. They did so notwithstanding their submissions, arguing that positions on anticipated actions were inappropriate, came after they had already breached statutory deadlines. This verged on nonsensical. It appeared that Canada did not take the process seriously.**

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?

**No.**

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?

**So long that I can't remember, to the extent that the merit of the submission process was prejudiced.**

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?

**Continued federal court actions (successful).**

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?

**Preparation of the submission was time consuming. We received no benefit from the process.**

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?

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

**60 hours.**

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

**No. Reasons stated above.**

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

**Article 14 and 15 are honoured more in breach than observance. The process is hollow and effects a form over substance process that, as currently manipulated by Canada, is not credible.**

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