

Lake Ontario Waterkeeper - SEM-03-005 (MONTREAL TECHNOPARC)

Questions:

	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?	CEC	Gov	
How much time did the procedure take (in months)?			
How much money did you or your organization invest in preparing and following up your petition (in C\$, Mx pesos, US\$)?			\$50k - investigation and preparation
Did the Citizen Submission procedure seem to be useful?			

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

Through the Free Trade Agreement and CEC website and outreach

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?

Fairly clear from the CEC website

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?

Process and rules outlining application are clear and professional May not be as easy for a smaller organization

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 - always contacted CEC to ensure submission was in accordance with procedure CEC staff were always very helpful and professional.

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

SEM Process was last resort as they ran out of other alternatives to deal with environmental concerns.

Also, the Citizen Submission Process allows charitable organizations to participate in a quasi-judicial process to raise awareness of environmental concerns without lobbying (which they are not allowed to do).

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

The Factual Record is the only outcome from the SEM process and is a good mechanism to bring to light environmental concerns.

Wish CEC had more freedom to point fingers, assess fault and impose sanctions but clearly this is not part of their mandate.

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?

The submission process brought new attention to an environmental concern putting it “back on the front burner”. An excellent factual record was produced with the Tecnopark submission which subsequently was used as an election issue.

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?

The Factual Record provides a comprehensive review of an environmental issue, related legislation and action taken (if any). Anyone new to this environmental issue gets a thorough summary of all relevant material. The Factual Record provides an important step that could lead to improved environmental protection with better adherence to environmental laws.

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 - legal options are always pursued prior to a SEM submission as CEC requires all other options to be pursued first. The SEM submission process is considered a last resort.

In Canada, the Attorney General has the authority to stop legal action and further appeal leaving nowhere else to go but SEM Process.

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?

No, the Government response was not helpful. The responses were insulting ('we know best' and 'how dare you challenge our decision'). It appears the government engages in a standard response which consists of deny the problem, defer the response, diminish the environmental impact and applaud other environmental initiatives.

It appears the government views the SEM submission process as a bureaucratic process they wish they could get rid of. They fear the transparency that occurs with the factual record and the potential criticism.

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?

Yes - there was contact with government officials prior to SEM with dispute resolution attempts, court etc. The file is already dead when it goes to CEC. Government officials appear to be more focussed on issue management that compliance with environmental laws. Contact with these officials continues as issues have not been resolved.

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 length of time for the CEC process was fine while it took much too long for the Minister's to respond. The inclusion of a specific timeline for Ministers to respond would be helpful.

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?

The posting of the Factual Record by CEC is a useful education tool for the public. It would be good if CEC could do a periodic review of submissions to determine if any action has been taken to address environmental concerns raised in submissions - eg - every 2 years

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?

On average, it cost \$50,000 per submission including investigation, travel, samples, document search and preparation of the submission. While there is no specific return for a charity, the submission was still worth it in order to have the Factual Record produced.

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?

No assistance was provided. It would be great if countries provided some restitution for hard costs such as travel, gathering of samples, preparation of submissions and disbursements for submissions that proved to be helpful to the government and the public. This funding would allow charitable organizations to recover some of their costs.

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

A minimum of 500 hours for senior staff per submission went into preparation of submission.

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

Yes the process was useful. As a charity, it provides the only forum to raise environmental concerns. As such, it provides an essential and useful tool for charities to promote government enforcement of their environmental legislation.

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 mechanism needs to be revised to require governments to comply with specific time limits and not be able to stall the process.

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

No further comments