

**Submission to the Commission for Environmental Cooperation
pursuant to Article 14 of the *North American Agreement on
Environmental Cooperation***

Submitted by

Waterkeeper Alliance
Lake Ontario Waterkeeper

In Partnership with

Société pour Vaincre la Pollution
Environmental Bureau of Investigation
Upper St. Lawrence Riverkeeper
Save the River!

August 18, 2003

I. SUMMARY OF THE SUBMISSION

1. The Submitting Parties present this submission pursuant to Article 14 of the North American Agreement on Environmental Cooperation (“NAAEC”) requesting that the Commission on Environmental Cooperation (“CEC”) develop a factual record pursuant to Article 15 of NAAEC demonstrating that the federal government of Canada has failed to enforce its environmental laws with respect to various pollutants, most significantly polychlorinated biphenyls (“PCBs”) and polycyclic aromatic hydrocarbons (“PAHs”), being discharged into the St. Lawrence River from the Technoparc site located in Montreal, Quebec. The City of Montreal is the current owner of Technoparc, the site of an historic landfill for both industrial and municipal wastes. Few, if any, efforts have been made by the Canadian government or the City of Montreal to control the discharges of these deleterious substances into the St. Lawrence. PCBs are widely recognized as a persistent toxic substance, while PAHs have been classified by the Canadian government as "Probably Carcinogenic to Humans" (i.e., substances for which there is believed to be some chance of adverse effects at any level of exposure). These deleterious substances contribute to water pollution in the St. Lawrence River, significantly affecting both aquatic and human health and safety.
2. Canada has failed to enforce the prohibition contained in the Canadian Fisheries Act § 36(3) against the deposition of substances deleterious to fish or fish habitat into water frequented by fish.

II. STATUTORY BACKGROUND - Canadian Fisheries Act

1. The federal government of Canada has exclusive legislative authority over “Sea Coast and Inland Fisheries” pursuant to section 91.12 of the Constitution Act, 1867. The Fisheries Act was enacted pursuant to this authority to regulate and protect Canada’s fisheries.
2. Under the pollution provisions of the Fisheries Act, it is an offense to “deposit or permit the deposit of a deleterious substance of any type in water frequented by fish or in any place under any conditions where the deleterious substance or any other

deleterious substance that results from the deposit of the deleterious may enter any such water” (Sec. 36(3)), unless the deposit is authorized by regulation. *See Regina v. MacMillan Bloedel (Alberni) Limited*, 47 C.C.C.2d 118, *affirming*, 42 C.C.C.2d 70 (British Columbia Court of Appeals 1979).

3. “Deleterious substance” is defined, in part, as “any substance that, if added to any water, would degrade or alter or form part of a process of degradation or alteration of the quality of the water so that it is rendered or is likely to be rendered deleterious to fish or fish habitat or the use by man of fish that frequent that water.” Sec. 34(1)(a).
4. “Water frequented by fish” is defined as Canadian fisheries water. Sec. 34(1).
5. “Fish habitat” is defined as “spawning grounds and nursery, rearing, food supply and migration areas on which fish depend directly or indirectly in order to carry out their life processes.” Sec. 34(1).
6. “Deposit” is defined as “any discharging, spraying, releasing, spilling, leaking, seeping, pouring, emitting, emptying, throwing, dumping or placing.” Sec.34(1).
7. The federal Minister of Fisheries and Oceans has the responsibility for the administration and enforcement of the Fisheries Act. However, in 1978 the Minister of the Environment was assigned responsibility for administration and enforcement of the pollution prevention provisions of the Fisheries Act. In 1985, the Department of Fisheries and Oceans and the Department of the Environment entered into a memorandum of understanding and subsequently developed a Fisheries Act Habitat Protection and Pollution Prevention Provisions, Compliance and Enforcement Policy (the “Compliance and Enforcement Policy”), for general guidance and not as a substitute for the Fisheries Act.
8. The Compliance and Enforcement Policy guides government officials in the proper application of the Act. A stated principle is that “fair, predictable, and consistent enforcement govern application of the law, and responses by enforcement personnel to alleged violations.” The Compliance and Enforcement Policy is intended to ensure that violators will comply with the Fisheries Act within the shortest possible time, that violations are not repeated and that all available enforcement tools are used. The range of responses to alleged violations is: warnings, directions by Fishery Inspectors, orders by the Minister, injunctions and prosecutions.

III. THE TECHNOPARC SITE CONTINUES TO DISCHARGE DELETERIOUS SUBSTANCES INTO THE ST. LAWRENCE RIVER

A. The Techoparc Site in Montreal, Quebec

1. The Montreal Technoparc site is one of Quebec's largest hazardous waste sites. It is situated on the St. Lawrence River between the Champlain and Victoria Street bridges - eight city blocks from Notre Dame Cathedral in Old Montreal. It can be reached via the Montreal Port Authority parking lot and a walk to the river, less than 100 metres away.
2. Historically, the site was used as a dump for city wastes in the 1870s. By the 1960s, industrial waste constituted a major portion of all the wastes being dumped at the site. The area was then paved to create parking lots for Expo '67. In 1988, the Montreal Technoparc was established and the hazardous waste site on the St. Lawrence River was turned into an industrial park, with two high-tech companies - Teleglobe and Bell Mobility - operating there. Other development projects have also been proposed for this site.
3. The City of Montreal, as the current owner of the Technoparc site, is responsible for the discharges of deleterious substances at the site. Since October 1995 and possibly before, the City has been aware of the PCB contamination of the site. The governments of Quebec and Canada, as past owners of the site, have also been aware of the contamination risks linked to Technoparc.
4. In the contract of sale to the City of Montreal, the province of Quebec stated that "The City obliges itself to do or to get a study of characterization done on the dangerous substances that the grounds and underground of this site may contain... The price of this study, for the maximum amount of \$300 000, will be deducted from the price of sale."
5. Similarly, in the federal sales contract, it states that, "The City of Montreal accepts the property as it presently stands and expressly discharges Her Majesty in right of Canada of all responsibilities relative to the title of the property and to the condition of the grounds and undergrounds of the property and it will exonerate completely all

claims, demands, actions, procedures, losses, finds or expenses related to the condition of the grounds and underground of the property.”

B. Documented Discharges of Deleterious Substances at the Technoparc Site

6. The discharge of deleterious substances into the St. Lawrence River was documented by environmental lawyer Mark Mattson, aided by Krystyn Tully and Eric Mattson.¹ The investigators began to collect evidence at the request of Daniel Green of the Montreal-based “Société pour Vaincre la Pollution” (SVP).
7. On October 4, 2000, October 26, 2000, and November 21, 2000, investigators took samples of discharges from the Technoparc site. These samples were taken to certified private laboratories.² Pictures and video of the site were recorded on each date. In February 2001, CBC Television's Fifth Estate aired a program that followed investigators to the site and showed toxins discharging from the Technoparc. A Quebec Ministry of Environment official also appeared on the show, noting complaints that lab analysis of the toxins revealed high levels of PCBs and PAHs. The Quebec ministry official took pictures of the discharges.
8. In January 2002, investigators again visited the Technoparc site to take more samples. After spotting a continuous 400-metre long oil slick discharging from the site, Daniel Green of SVP called Environment Canada. He spoke with Stephan Grelon, told him of the slick and of the fact that there was no effective containment in place. Mr. Grelon informed Mr. Green that he would make an incident report and call back with the report number. The investigators did not receive that number.
9. The City of Montreal has utilized booms in an effort to contain the discharge. André Campeau of the City’s Environment Department acknowledged that this was at best a

¹ Mark Mattson was formerly the Executive Director of the Environmental Bureau of Investigation (EBI) and currently the President and Keeper of Lake Ontario Waterkeeper (LOK). Mr. Mattson has served as co-counsel and investigator for Fisheries Act cases in Deloro and Kingston and as investigator for cases in Hamilton and Moncton. Krystyn Tully was formerly the Programs Director of EBI and is currently the Executive Director of LOK. Eric Mattson was an investigator for EBI.

² The water sample collected on October 3, 2000 at T-1 was analyzed at Philips Analytical Service Labs, 5555 North Service Road, Burlington, Ontario, L7L 5H7. All of the other water samples were analyzed at Environmental Technology Research Laboratories Inc., 133 Dalton Ave., Kingston, Ontario K7K 6C2. The toxicity testing was performed by Aquatic Sciences Inc., St. Catharines, Ontario L2R 7R8.

seasonal solution and that contamination was not being effectively contained, “[Investigators] say there is pollution flowing into the river... It’s true.” (Montreal Gazette, April 27, 2002) Sampling was done at three separate locations, inside and outside the booms as well as at the discharge point.

Sample Results:

| Date | Site | Total PCB (µg/L)* | Exceeds 0.001 µg/L (x times) |
|-------------|-------------|--------------------------|-------------------------------------|
| Oct. 4, '00 | T-1 | 31 | 31,000 |
| Oct.26, '00 | T-1 | 368 | 368,000 |
| Nov.21, '00 | T-1 | 941 | 941,000 |
| Jan.20, '02 | T-1 | 0.65 | 650 |
| | T-2 | 0.82 | 820 |
| | T-3 | 8530 | 8,530,000 |

[please see brief for complete results]

T-1 inside the boom
T-2 outside the boom
T-3 at discharge point
(Refer to Map in Brief)

*A Canadian Water Quality Guideline for the Protection of Freshwater Aquatic Life for Total PCBs was established at 0.001µg/L in 1987. This guideline was subsequently withdrawn, with the recommendation that : “This substance meets the criteria for Track 1 substances under the national CCME Policy for the Management Toxic Substances... and should be subject to virtual elimination strategies. Guidelines can serve as action levels or interim management objectives towards virtual elimination.”

C. Offence under s.36(3) of the Fisheries Act

10. Biologist David Dillenbeck visited the site on February 20, 2002. Mr. Dillenbeck was an Ontario Ministry of Environment Regional Biologist for more than 20 years and has conducted numerous scientific investigations and testified in many trials as an expert witness, including cases in Deloro, Kingston and Hamilton, Ontario and Moncton, New Brunswick. Mr. Dillenbeck prepared a report dated April 4, 2002 based on his visit to the site and the sample analyses, photos, videos and notes.
[Please see entire report included in brief.]
11. Mr. Dillenbeck reviewed the evidence provided by investigators using a determined standard of analysis:

In my assessment of the concentrations of PCBs reported for the water samples collected at this site, I have used the widely accepted concentration of 0.001 µg/L as a general guideline. I have done this with the understanding that the guideline established by the Province of Quebec is more stringent, and that a substance whose concentration is reported at the guideline concentration of 0.001 µg/L has exceeded the Quebec guideline by approximately 6 times...

12. Mr. Dillenbeck came to the following conclusions:

In conclusion, it is my opinion that numerous hazardous substances, including PCBs, PAHs and petroleum hydrocarbons, are being discharged to the St. Lawrence River adjacent to the Montreal Technoparc (a former landfill site), which is water that is frequented by fish. These hazardous substances are present in the water and sediments of the St. Lawrence River at concentrations that are well in excess of established Provincial, Federal and International guidelines. These hazardous substances are deleterious to fish and other aquatic biota and will cause or are likely to cause the impairment of the quality of the natural environment for any use that can be made of it. Remedial measures must be taken to eliminate this discharge and to protect and upgrade the water quality of the St. Lawrence River

IV. THE TECHNOPARC DISCHARGES POSE A THREAT TO AQUATIC AND HUMAN HEALTH

A. PCBs

1. PCBs are a class of chemicals known as polychlorinated biphenyls. They are entirely man-made and do not occur naturally. They were used in many different types of products including hydraulic fluid, casting wax, pigments, carbonless copy paper, plasticizer, vacuum pumps, compressors, heat transfer systems and others. Their primary use, however, was as a dielectric fluid in electrical equipment. Because of their stability and resistance to thermal breakdown as well as their insulating properties they were the fluid of choice for transformers and capacitors.
2. PCBs are resistant to degradation and therefore persist for many years in the environment. Furthermore, they bioaccumulate in the foodchain and are stored in the body fat of animals and humans. Because of the health and environmental risks associated with PCBs the United States Environmental Protection Agency (EPA) banned the manufacture of PCBs and regulated their use and disposal in 1978.
3. An abundance of scientific studies have concluded that PCBs are highly toxic, persistent and bioaccumulative. Environment Canada identifies PCBs as a persistent

toxic substance that is “too dangerous to the ecosystem and to humans to permit their release in any quantity”. Appendix B of Water Management: Policies, Guidelines, Provincial Water Quality Objectives of the Ontario Ministry of Environment and Energy (July 1994) identifies PCBs as a banned hazardous substance.

4. The available data indicate that at concentrations above 0.001 ug/L (or 0.001 parts per billion) PCBs are both acutely toxic and chronically toxic to aquatic life. This is the concentration that both the International Joint Commission (IJC) for the Great Lakes and the province of Ontario have established as the water quality objective for PCBs. The Quebec Surface Water Criteria for the prevention of contamination of aquatic organisms for PCBs is 1.7×10^{-7} mg/L (or 1.7×10^{-7} parts per million). This is equivalent to 0.00017 ug/L (parts per billion), which is more than two orders of magnitude lower than either the IJC or the Ontario objective and is, therefore, more stringent.
5. PCB contamination from landfills such as Technoparc is widespread throughout North America. Disposal into waterways has caused contamination of rivers, oceans, soils and even the polar ice cap. As a result, many forms of wildlife have become contaminated with PCBs. There have been bans on fishing in various locations.
6. PCBs can be transmitted to humans through inhalation, skin contact or consumption of contaminated fish, meat or dairy. Infants can also be exposed to PCBs through their mothers' breast milk. PCBs are lipophilic (they concentrate in fatty tissue) which allows them to bioaccumulate. As a result PCB concentrations generally increase in higher trophic levels. People exposed to PCBs through the consumption of contaminated fish may be exposed to more toxic combinations than people who are accidentally exposed to PCBs before they are released into the environment.

B. Human Health Impacts of PCBs

7. PCBs are known to cause a number of serious health effects in humans, many of which have been documented since the 1930s. These health effects are both cancerous and non-cancerous. In addition to being a carcinogen, PCBs also cause reproductive effects and have been associated with neurological damage and increased vulnerability to disease through changes to the immune system.

8. A study of Montreal-area residents who fish the St. Lawrence found that high-level consumers of these fish had significantly higher plasma PCB levels than the lower-level consumers. Additionally 2 of the 25 people in the high-level consumption group suffered from PCB blood levels greater than recommended levels.
9. **Cancer** - In humans, exposure to high levels of PCBs have been associated with increased levels of melanoma skin cancer, liver, gall bladder and biliary tract cancers, non-Hodgkin's lymphoma, and pancreatic cancer. The International Agency for Research on Cancer has determined that PCBs are probably carcinogenic to humans, and the National Toxicology Program (U.S.) has stated that it is reasonable to conclude that PCBs are carcinogenic in humans. While studies on humans are often limited by the fact that people who are accidentally exposed to PCBs are often exposed to other contaminants, experiments on animals in laboratory settings have conclusively shown that PCBs cause cancer.
10. **Neurological Damage** - In humans, exposure to PCBs has been associated with short-term memory deficits, reduced IQ, attention deficits and hyperactivity, and damage to the peripheral nervous system. PCBs also affect production of dopamine and serotonin, which affect behavior and locomotor skills.
11. Several studies have been conducted that look specifically at people who have consumed PCB contaminated fish. Such studies have shown that children of mothers who consume PCB contaminated Lake Michigan sport fish experience visual recognition and short term memory deficits. In a follow-up study 11 years later, the children who experienced the highest prenatal PCB exposure showed a significant reduction in IQ.
12. Studies on infants whose mothers ate contaminated Lake Ontario fish performed worse on reflex tests than controls and a test that compared adult consumers of large amounts of Great Lakes fish to people who ate very little fish found that those who consumed large amounts had significantly higher levels of PCBs in their blood. The same study also found a clear inverse relationship between exposure to PCBs and performance on memory and learning tests.
13. **Immune System** - A study of children 42 months after their birth found that higher levels of PCBs in the blood were correlated with higher prevalence of chickenpox

and recurring middle ear infections. Tests conducted on rhesus monkeys, which have immune systems similar to those of humans, found that exposure to PCBs reduced response to the presence of sheep red blood cells, a common test to determine the ability of an animal to build an antibody response. In infant Rhesus monkeys exposure was also found to reduce the size of the thymus gland, which plays a major role in the immune system by producing T lymphocytes, white blood cells that play a major role in preventing infection from mold-like bacteria, yeast, viruses, fungi and parasites.

14. **Reproductive Effects** - Studies on both rhesus monkeys and human mothers exposed to PCBs have found that in utero exposure to PCBs is correlated with lighter birth weights and a lower gestational age. Additionally, children of mothers exposed to PCBs have experienced stunted growth. In tests conducted on monkeys and other animals, exposure to PCBs reduced sperm counts, conception rates and live birth rates, and tests conducted on rhesus monkeys showed that the reproductive effects of PCBs continued long after exposure to the toxin had ended.
15. **Endocrine System** - In both humans and animals PCBs have been found to have effects on the levels of thyroid hormones which play a major role in proper growth and development. Studies on rodents have found that reduced levels of thyroid hormones caused by exposure to PCBs resulted in serious developmental problems including reduced hearing ability.

C. Effects on Aquatic Life

16. Because PCBs are lipophilic, concentrations of the contaminant can be up to a million times higher in aquatic species than the water surrounding them, and will concentrate the most in animals higher up on the food chain. This places predatory fish, birds and beluga whales at the highest risk for PCB contamination in the St. Lawrence.
17. In birds PCBs have been found to have a number of effects including the weakening of egg shells which reduces the likelihood that the eggs will survive and hatch. PCB exposure is also associated with a number of deformities in birds such as twisted bills, backwards feet, extra toes and eye and skeletal abnormalities.

18. PCBs can reduce the ability of fish to reproduce, affect their hormones and reduce the likelihood that offspring will survive. PCBs can also cause serious heart defects and cause skeletal deformities in fish.
19. The beluga whale population in the St. Lawrence has dropped from about 5,000 in 1900 to less than 700 today, and the rate of pregnancy of Belugas in the St. Lawrence is only 3% compared to 35% in the Canadian arctic. Belugas in the St. Lawrence are suffering from very high rates of cancer as well as lesions and other infections that are suggestive of immunosuppression. This is likely the result of the carcinogenic and immune system effects of PCBs and other contaminants in the St. Lawrence.
20. Blubber in St. Lawrence belugas has been recorded at levels as high as 576 ppm (many countries consider fish to be unsafe to eat if they have PCB concentrations of only 2 ppm), and the milk in nursing females has been recorded at levels 3,400 times greater than is considered safe in drinking water.
21. Studies conducted by St. Lawrence Vision 2000, a coalition of groups including the Quebec and Canadian Government that works toward a cleaner and more accessible St. Lawrence River, concluded that, although "[c]ontaminant concentrations found in St. Lawrence wildfowl are generally low and often below detection limits . . . some samples have contained relatively high concentrations of mercury, selenium, lead and PCBs."³ A linked study regarding the consumption of freshwater fish and waterfowl from the St. Lawrence River found that "hunters who consume both waterfowl and large quantities of freshwater fish from the St. Lawrence could expose themselves to levels of chemical contaminants in waterfowl or fish higher than those deemed safe for health."⁴ Of 192 fishers tested, "Six high-level sport fish consumers and one low-level consumer showed PCB levels that exceeded Health Canada recommendations."⁵

² Newsletter, St. Lawrence Vision 2000, Vol. 10, Issue 8, Feb. 2000
http://www.slv2000.qc.ca/bibliotheque/lefleuve/vol10no8/volume10_8_accueil_a.htm

³ Newsletter, St. Lawrence Vision 2000, Vol. 12, Issue 8, Dec. 2001
http://www.slv2000.qc.ca/bibliotheque/lefleuve/vol12no6/sante_a.htm

⁴ "Risks and Benefits related to consumption of St. Lawrence River Sport Fish, Final Report" St. Lawrence Vision 2000, February 1999
http://www.slv2000.qc.ca/bibliotheque/centre_docum/consomma_poisson/resultats_a.htm

V. **SUBMITTING PARTIES HAVE PURSUED AVAILABLE ACTIONS TO HAVE THE CANADIAN GOVERNMENT ADDRESS THE ONGOING DISCHARGES OF DELETERIOUS SUBSTANCES AT TECHNOPARC**

1. On April 11, 2002 a brief, which is included as a supporting document for this submission, was presented to Environment Canada, the federal body responsible for enforcing s.36(3) of the Fisheries Act. The brief provided reasonable and probable grounds to start an investigation under the Act. A follow-up letter was sent, formally requesting an investigation. On April 18, 2002 a letter of concern was sent inquiring into the status of the brief - local media had reported disconcerting statements made by Environment Canada officials. A response was received on April 22, 2002 stating that an investigation under the Fisheries Act had begun. The brief was put together after a call to the Spill Hotline in January of the same year did not incite Environment Canada to work to prevent the discharge from continuing. [Please see letters included in brief.]
2. In its letter of April 24, 2003 Environment Canada states that the investigation was stopped because the source of the contamination could not be determined. Environment Canada's decision to close its investigation is puzzling in light of the evidence contained in the April 2002 brief, which included photos and maps of the discharge point. Further, it is the purpose of a criminal investigation to establish the identity of the accused where the evidence of an offence exists.
3. The deposition of PCBs and other toxic substances represents an extremely complex environmental issue that has potentially devastating impacts on a whole host of concerns, including water quality, aquatic health and human safety. The Submitters chose to present the enforcement branch Environment Canada with the brief because the Ministry has access to greater resources with which to conduct a more thorough and effective investigation.
4. Now that the Ministry has ended their investigation without denying or confirming that an offence is indeed being committed the Submitters' ability to bring forward a private prosecution is in question; both regarding the period of limitations, which s.82(1) of the Act indicates is two years for summary offences under the Fisheries

Act; and the strength of the brief before a Justice of the Peace given that the Ministry has not affirmed the severity of the situation.

5. Finally, the Submitters are limited in their ability to bring a private prosecution in the province of Quebec because the accused may choose the language in which court proceedings will take place and none of the Submitters are francophone or bilingual.

VI. CANADA HAS FAILED TO EFFECTIVELY CONTROL THE CONTINUING DISCHARGES OF THESE DELETERIOUS SUBSTANCE

1. Andre Campeau, a member of the Montreal's environment department in 2002, admitted that the city had known about the "leak" since 1991. He stated that it was taking time to find a solution. The city had put in place booms to trap the pollution but they are removed during the winter months.⁶ Campeau admitted that during those months the pollution is not contained and flows freely into the river; the booms are meant to serve as a temporary solution. (Montreal Gazette, April 27, 2002)
2. At the time when Environment Canada had initiated its investigation of the Technoparc site the City had awarded a \$183,000 contract to put the booms back in place and to pump out the toxins. From all eye-witness accounts the pump, which is already in place at the site, has not been working during the past year and the booms were once again taken out of the water during the 2002-2003 winter months and replaced at the beginning of May 2003.
3. Another ineffective method used by authorities to contain the discharges from the site were the absorbent pads. Mr. Dillenbeck noted:

Several absorbent pads were observed floating on the surface of the water within the upstream boomed area. All of these pads were totally soaked with black material. An oily sheen, very similar to that described previously, was observed to be emanating almost continuously from these pads.

⁶ With regard to the placement of booms in the St. Lawrence River Mr. Dillenbeck noted the following: "The purpose of the booms seems to have been to contain a black, tarry substance that we observed as variously sized blobs emerging from between and under the stones at the water's edge within the boomed areas. However, this purpose was being totally defeated by the velocity of the water flowing along the northerly shore of the St. Lawrence River at this location. I estimated the velocity to have been approximately 1 to 2 metres per second at the time. This velocity produced very turbulent and rough water adjacent to and within the boomed areas. The resultant wave action carried the blobs away from the water's edge, where they became suspended in the water column. The turbulent water was observed carrying the blobs over and under the surface of the water, it would typically flatten and quickly begin to give rise to the multi-coloured sheen observed on the surface of the river."

4. During the decade that the City was aware of the discharge at the Technoparc site, Environment Canada was “following the situation and [had] sent warnings to the City of Montreal asking them to provide... a plan to correct the situation. Prosecution is a ‘last resort.’” (Montreal Gazette January 22, 2002)

VII. CANADA’S FAILURE TO ENFORCE THE FISHERIES ACT WITH REGARDS TO THE TECHNOPARC DISCHARGES HAS RESULTED IN HARM TO THE SUBMITTING PARTIES

1. Lake Ontario Waterkeeper (LOK) and the Environmental Bureau of Investigation (EBI) are very concerned, as the groups that conducted the investigation and are familiar with the *Fisheries Act*, by the mixed messages sent by Environment Canada in refusing to address the Technoparc site: public education materials suggest that Environment Canada is making great strides in its efforts to eliminate PCBs. Yet, when faced with real evidence of the continuous discharge of PCBs in violation of federal law, Environment Canada has done nothing to bring an end to these discharges. Such an inconsistency seriously undermines the efficacy of federal environmental protection initiatives. Consistent enforcement and clearly articulated standards are required to effectively deter polluters in the region. When the credibility of a federal law is undermined, such as the *Fisheries Act* in this instance, it has ramifications for environmental protection across the country.
2. Daniel Green is president of the Montreal-based "Société pour Vaincre la Pollution" (SVP) and a citizen of Montreal. SVP has been actively protecting the St. Lawrence River for more than 30 years. As recently as June 8, 2003 Mr. Green has been out on the river and witnessed fisherman and boaters on the water downstream from the contaminated site. As a Submitter, Mr. Green represents the Montreal-area residents who rely on the river as a resource for subsistence, economic and recreational purposes. Studies, as documented above, have identified this community as particularly at-risk for PCB-related health impacts. No notices or signs from municipal, provincial or federal government warn of the water’s toxicity or potential health risks.

3. Stephanie Weiss, Executive Director of Save the River! and the Upper St. Lawrence Riverkeeper, has visited the Technoparc site and made the following statement, “It's still leaking. Right now as I write this. Right now as you read this. During breakfast, after work when you're fixing dinner. It's still leaking. This is a pollution problem that is constant, and our message should be just as constant.” Ms. Weiss represents an American community that relies on hunting and fishing for more than recreation. If Canadians contaminate the St. Lawrence River region, her community’s health is at risk.
4. The Waterkeeper Alliance represents 114 national and international Waterkeeper programs that depend upon meaningful laws to protect their water bodies. Each Waterkeeper program serves as voice for its water body and community, and Waterkeeper Alliance serves as an international voice for these programs. Inconsistent application of environmental standards on a local level extends to the national and international arena, especially when the affected area is an international water body. Waterkeeper communities cannot successfully protect their waterways if government inaction undermines their efforts.

IX. THIS PETITION IS CONSISTENT WITH THE GOALS OF THE NAAEC

1. This Submission raises matters whose further study in this process would advance the goals of the NAAEC. In particular, the preparation of a factual record would:
 - a. foster the protection and improvement of the environment for present and future generations (Preamble par.1, Article 1(a));
 - b. ensure that activities in Canada do not cause damage to the environment shared with the United States (Preamble, par. 2);
 - c. promote sustainable development based on cooperation and mutually supportive environmental and economic policies (Article 1(b));
 - d. increase cooperation between governments to better conserve, protect, and enhance the environment, particularly the shared fisheries (Articles 1(c), and 10(2)(i));
 - e. avoid trade distortions by Canada’s failure to enforce not only the Fisheries Act but also CEPA and the Migratory Birds Convention Act (Article 1(e))

- f. strengthen cooperation on the development and improvement of environmental laws, regulations, procedures, policies and practices (Article 1(f));
 - g. enhance compliance with, and enforcement of, environmental laws and regulations (Articles 1(g), and 10(2)(p)); and
 - h. promote pollution prevention policies, practices, techniques and strategies (Articles 1(j), and 10(2)(b)).
2. Further to the NAAEC itself, the CEC demonstrates its goals more specifically through projects and programs; these are divided into four areas, one of which is entitled Pollutants and Health and includes the Sound Management of Chemicals (SMOC) project. The SMOC project provides for the creation of North American Regional Action Plans (NARAP) meant to “facilitate cooperation on the conservation, protection and enhancement of the environment,” one of the purposes given to the CEC by the NAAEC. In December of 1996 a NARAP concerning the management of PCBs in Canada, the United States and Mexico was established. This RAP recognized the importance of the proper management of chemicals that are dangerous to environmental and human health and includes as one of its six strategies the proper treatment and disposal of PCB wastes. A factual record on the Technoparc site would acknowledge the significance of such international agreements and promote continued cooperation between the parties.

IX. REQUEST FOR DEVELOPMENT OF PUBLIC RECORD

1. Based on the above information, the submitters hereby request the CEC to document in a public record the failure of the Canadian government to adequately enforce its environmental laws against the City of Montreal, to the detriment of, among others, the Submitters.