

Secretariat of the Commission for Environmental Cooperation

REQUEST FOR INFORMATION for preparation of a factual record concerning submission SEM-09-002 (*Wetlands in Manzanillo*)

I. The factual record process

The Commission for Environmental Cooperation of North America (CEC) is an international organization created under the North American Agreement on Environmental Cooperation (NAAEC), signed by Canada, Mexico and the United States in 1994. The CEC operates through three organs: a Council, made up of the highest-level environmental official in each member country; a Joint Public Advisory Committee (JPAC), composed of five citizens from each country, and a Secretariat located in Montreal, Canada.¹

Articles 14 and 15 of the North American Agreement on Environmental Cooperation (the “NAAEC” or the “Agreement”) provide for a process allowing any person or nongovernmental organization to file a submission asserting that a Party to the NAAEC is failing to effectively enforce its environmental law. The Secretariat of the CEC (the “Secretariat”) initially considers submissions to determine whether they meet the criteria contained in NAAEC Article 14(1). When the Secretariat finds that a submission meets these criteria, it then determines, pursuant to the provisions of NAAEC Article 14(2), whether the submission merits a response from the concerned Party. In light of any response from the concerned Party, and in accordance with the NAAEC, the Secretariat may notify the Council of the CEC (the “Council”) that the matter warrants the development of a factual record, providing its reasons for such recommendation in accordance with NAAEC Article 15(1). Where the Secretariat decides to the contrary, or where certain circumstances obtain, it then proceeds no further with the submission.

The introduction to the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (the “Guidelines”) gives guidance as to the contents of a factual record:

The purpose of a factual record is to provide an objective presentation of the facts relevant to the assertion set forth in a submission and to allow the readers to draw their own conclusions regarding a Party’s environmental law enforcement. Although a factual record is not to contain conclusions or recommendations, it is expected to generally outline the history of the environmental enforcement issue raised in the submission, the relevant legal obligations of the Party, and the actions of the Party in fulfilling those obligations; as such, it is another valuable outcome of this information sharing-process...²

Pursuant to NAAEC Article 15(4) and section 11.1 of the Guidelines, in preparing factual records, the Secretariat will consider any relevant technical, scientific or other information that is publicly available; submitted by the Joint Public Advisory Committee (JPAC) or by

¹ Full details regarding the various stages of the process, as well as previous Secretariat determinations and factual records can be found on the CEC website at <www.cec.org/submissions>.

² *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (the “Guidelines”), p. 1.

interested non-governmental organizations or persons, or developed by the Secretariat or independent experts.³

On 8 July 2014, in Council Resolution 14-06, the Council instructed the Secretariat to prepare a factual record in regard to some assertions in submission SEM-09-002 (*Wetlands in Manzanillo*). The Secretariat is hereby requesting relevant information relating to the matters to be addressed in the factual record.

II. Request for information

Pursuant to NAAEC Article 15(4), the Secretariat requests relevant factual information on the effective enforcement of the following provisions:

- a) Article 35 of the General Ecological Balance and Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente—LGEEPA*) and Article 13, paragraph III, of the Regulation to the LGEEPA Respecting Environmental Impact Assessment (*Reglamento de la LGEEPA en Materia de Evaluación del Impacto Ambiental—REIA*), with respect to the alleged failure to establish the relationship between the Manzanillo LPG Project and the environmental land-use plan;
- b) LGEEPA Article 35 and REIA Article 13, paragraph III, with respect to the alleged failure to establish the relationship between the Manzanillo LNG Project and the environmental land-use plan; and
- c) LGEEPA Article 30 and LGVS Article 60 *ter*, as well as NOM-022, with respect to the environmental impact assessment for the Manzanillo LNG Project, and with specific reference to the hydrodynamic flow in the coastal wetland of the Cuyutlán Lagoon.

III. Examples of relevant factual information

Examples of information of a technical, scientific or other nature that may be relevant to the preparation of a factual record are given below. You are kindly requested to deliver this information in electronic format to facilitate its management and integration.

1. Cartographic information on the area in question (in pdf format), such as:
 - a. Maps of Cuyutlán Lagoon with information on its hydrology, mangrove structure and existing natural resources;
 - b. Current land use maps;
 - c. Location map indicating the principal components of the installations of the Manzanillo LNG and LPG projects;
 - d. Location map of the population centers in proximity to Cuyutlán Lagoon; and
 - e. Aerial photographs of the site where the projects in question are located and of Cuyutlán Lagoon.

³ Guideline 11.1.

2. Up-to-date information on the relationship between the Manzanillo LPG project and the environmental land-use plan, such as:
 - a. Reports, studies and information filed with the environmental authority on the relationship between the project and the environmental land-use plan prior to obtaining the project's environmental impact approval;
 - b. Reports, studies and information filed with the environmental authority on the relationship between the project and the environmental land-use plan after obtaining the project's environmental impact approval; and
 - c. Enforcement actions such as inspection visits, report requests or corrective actions requests in relation to the enforcement of LGEEPA Article 35 and REIA Article 13, paragraph III.
3. Up-to-date information on the relationship between the Manzanillo LNG project and the environmental land-use plan, such as:
 - a. Reports, studies and information filed with the environmental authority on the relationship between the project and the environmental land-use plan prior to obtaining the project's environmental impact approval;
 - b. Reports, studies and information filed with the environmental authority on the relationship between the project and the environmental land-use plan after obtaining the project's environmental impact approval; and
 - c. Enforcement actions such as inspection visits, report requests or corrective actions requests in relation to the enforcement of LGEEPA Article 35 and REIA Article 13, paragraph III.
4. Information on the enforcement of LGEEPA Article 30 and LGVS Article 60 *ter*, as well as NOM-022, with respect to the environmental impact assessment of the Manzanillo LNG project, and with specific reference to the hydrodynamic flow in the coastal wetland of the Cuyutlán Lagoon, for example:
 - a. Studies, reports or technical research that may provide information on the project and the mangrove ecosystem's integrity; and
 - b. Information of a technical and/or scientific character on the hydrodynamics of Cuyutlán Lagoon that provides evidence on the extent to which the Manzanillo LNG project's installations ensure the water flow volumes required to maintain or improve the hydrodynamic flow in the coastal wetland of the Cuyutlán Lagoon.
5. Any other information of a technical, scientific or other character, which may be relevant to the preparation of this factual record.

IV. Additional background information

The submission, Mexico's response, the Secretariat's determinations, Council Resolution 14-06 and other information are available in the Registry of Submissions in the Submissions on Enforcement Matters section of the CEC website at <<http://www.cec.org/SEMregistry>>. These documents may also be requested from the Secretariat at the following address <sem@cec.org>.

V. Where to send information

Information relevant to the development of the factual record may be sent to the Secretariat via email at the following address<sem@cec.org>.

If the information is not available in electronic form, please send it to either of the following addresses:

Secretariat of the CEC
Submissions on Enforcement Matters
Unit (SEM Unit)
393, rue St-Jacques Ouest, bureau 200
Montreal QC H2Y 1N9
Canada
Tel. (514) 350-4300

CEC/Mexico Liaison Office
Atención: Unidad sobre Peticiones
Relativas a la Aplicación Efectiva de
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Progreso núm. 3
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Please refer to submission SEM-09-002 (*Wetlands in Manzanillo*) in your correspondence.