

Secretariat of the Commission for Environmental Cooperation

REQUEST FOR INFORMATION for preparation of a factual record concerning submission SEM-11-002 (*Sumidero Canyon II*)

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.

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...¹

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 *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.²

On 10 June 2014, in Council Resolution 14-05, the Council instructed the Secretariat to prepare a factual record in regard to several assertions in submission SEM-11-002 (*Sumidero Canyon II*). The Secretariat is hereby requesting relevant information relating to the matters to be addressed in the factual record.

II. Request for information

In accordance with NAAEC Article 15(4), the Secretariat hereby requests relevant factual information from the Party in relation to the effective enforcement of the following provisions:

- a) Article 155 of the Mexican Environmental Protection Act (*Ley General del Equilibrio Ecológico y la Protección al Ambiente*—LGEEPA) and Mexican Official Standard NOM-081-SEMARNAT-1994 in relation to noise emissions caused by the activities of the company Cales y Morteros del Grijalva, S.A. de C.V.;
- b) Article 80 of the Protected Natural Areas Regulation to the LGEEPA (*Reglamento de la LGEEPA en Materia de Áreas Naturales Protegidas*—RANP), only in regard to the definition of acceptable rates of change or limits and corresponding carrying capacities with respect to the use and exploitation of natural resources in Sumidero Canyon National Park, and
- c) The opening paragraph of RANP Article 81, only as regards the extent to which the production activities of the company Cales y Morteros del Grijalva, S.A. de C.V. are generating benefits for the local residents and whether these activities are compatible with the declaration of the site as a protected natural area as well as with the corresponding management program, environmental land use plans, applicable Mexican official standards (NOM) and other legal instruments.

III. Examples of relevant factual information

The following are examples of technical, scientific, or other information necessary for the preparation of the factual record. To facilitate the management and compilation of this information, it is requested that this information be submitted in electronic form.

1. Cartographic information about the area in question (Acrobat format):
 - a. cartography of Sumidero Canyon National Park;
 - b. location, extent and, if possible, evolution of the activities of the company Cales y Morteros del Grijalva, S.A. de C.V., including maps in electronic format;
 - c. locator map of the settlements near Sumidero Canyon National Park and the company Cales y Morteros del Grijalva, S.A. de C.V., and

² Guideline 11.1.

- d. location of the main sources of noise from the company Cales y Morteros del Grijalva, S.A. de C.V.
2. Up-to-date information about noise emissions from the company Cales y Morteros del Grijalva, S.A. de C.V., including, if possible:
 - a. noise emission modeling;
 - b. information about permanent, semi-permanent, or occasional noise monitoring campaigns;
 - c. inventory of principal sources of noise generation, including data on location, equipment operation frequency and schedule, noise range in which the equipment operates, etc.;
 - d. reports or studies on noise generated by the company Cales y Morteros del Grijalva, S.A. de C.V.;
 - e. inspection and surveillance measures taken by the environmental authority in relation to noise emissions control, and
 - f. information on any noise mitigation measures ordered by the environmental authority or implemented by the company in question.
3. Up-to-date information on the definition of the acceptable rates of change or limits and corresponding carrying capacities with respect to the use and exploitation of natural resources in Sumidero Canyon National Park, including, inasmuch as possible, the methodology used, qualitative and quantitative estimates, levels of natural resource use, and restrictions; in addition, information on any legal and/or administrative instruments into which the acceptable rates of change or limits and the corresponding carrying capacities contemplated in RANP Article 80 may have been incorporated.
4. Information on any benefits that may have been derived by the community from the activities of the company Cales y Morteros del Grijalva, S.A. de C.V.
5. Any other information of a technical, scientific, or other nature that may be relevant for the preparation of this factual record.

IV. Additional background information

The submission, Mexico's response, the Secretariat's determinations, Council Resolution 14-05 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
la Legislación Ambiental
Progreso núm. 3
Viveros de Coyoacán
México, D.F., 04110,
México
Tel. (5255) 5659-5021

Please refer to submission SEM-11-002 (*Sumidero Canyon II*) in your correspondence.