

+Secretariat of the Commission for Environmental Cooperation

Overall Plan to Develop a Factual Record

Submitters: Environmental Defence Canada, Natural Resources
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Party: Canada
Date of this Plan: 28 August 2018
Submission I.D.: SEM-17-001 (*Alberta Tailings Ponds II*)

On 20 August 2018, by means of Council Resolution 18-01, the Council of the Commission for Environmental Cooperation (CEC) unanimously decided to instruct the CEC Secretariat to prepare a factual record in accordance with NAAEC Article 15(2) with regard to issues relating to matters arising in the context of Submission 17-001 related to the effective enforcement of subsection 36(3) of the *Fisheries Act* concerning the alleged leakage of deleterious substances from oil sands tailings ponds into surface waters frequented by fish in northeastern Alberta, Canada.

The Council also directed the Secretariat to provide the Parties with an overall work plan for gathering relevant facts, as well as to keep the Council informed of any future changes or adjustments to that plan. In the following, the Secretariat sets out the overall plan for developing the draft factual record.

Overall Plan

This estimate to develop a draft factual record is consistent with timeframes established in Guidelines 19.5, 19.6, 19.7 and 19.8 of the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (“*Guidelines*”).

The Secretariat will proceed with the immediate implementation of the overall plan. The overall plan is as follows:

1. The Secretariat will request information relevant to the factual record from federal and provincial government authorities of Canada, as appropriate, and shall consider any information furnished by a Party as per NAAEC Articles 15(4) and 21(1)(a). **[This will take place between August and November 2018].**
2. The Secretariat will gather relevant technical, scientific or other information that is publicly available, including from existing databases, public files, information centers, libraries, research centers and academic institutions as per NAAEC Article 15(4)(a). **[This will take place between August and November 2018]**
3. The Secretariat, as appropriate, will collect relevant technical, scientific or other information for the preparation of the factual record, from interested nongovernmental organizations or persons, JPAC and/or independent experts as per NAAEC Article 15(4)(b) and (c). **[This will take place between August and November 2018].**
4. The Secretariat, as appropriate, will develop, through independent experts, technical, scientific or other information relevant to the factual record as per NAAEC Article 15(4)(d). **[This will take place between August and November 2018].**

5. In accordance with NAAEC Article 15(4), the Secretariat will prepare the draft factual record based on the information gathered and developed, including any information obtained during this period. The Secretariat will edit, translate and finalize the draft factual record into the other official languages of the CEC [**This will take place between November 2018 and April 2019**].
6. The Secretariat will submit a draft factual record to Council in accordance with NAAEC Article 15(5). [**This will take place in May 2019**]. Any Party may provide comments on the accuracy of the draft within 45 working days thereafter, in accordance with NAAEC Article 15(5). [**This will take place between May and July 2019**].
7. As provided by Article 15(6), the Secretariat will incorporate, as appropriate, any such comments in the final factual record and submit it to Council. [**This will take place between July and September 2019**].
8. The Council may, by a two-thirds vote, make the final factual record publicly available, normally within 60 working days following its submission, according to NAAEC Article 15(7). [**This will take place between September and December 2019**].

Additional Information

The submission, the Party's response, the Secretariat's determinations, the Council Resolution, and a summary of the foregoing are available in the Registry of Submissions on the CEC home page <www.cec.org/sem-submissions/sem>, via e-mail at <sem@cec.org> or upon written request to the Secretariat at the following address:

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