

Mérida, 24 June 1998

COUNCIL RESOLUTION 98-07

Instruction to the Secretariat of the Commission for Environmental Cooperation on the Preparation of a Factual Record Regarding the "Effective Enforcement of s. 35(1) of the *Fisheries Act* with respect to certain hydro-electric installations in British Columbia, Canada (SEM-97-001)"

THE COUNCIL:

SUPPORTIVE of the process provided for in Articles 14 and 15 of the *North American Agreement on Environmental Cooperation* (NAAEC) regarding submissions on enforcement matters and the preparation of factual records;

CONSIDERING the submission filed on the above-mentioned matter by the B.C. Aboriginal Fisheries Commission, British Columbia Wildlife Federation, Trail Wildlife Association, Steelhead Society, Trout Unlimited (Spokane Chapter), Sierra Club (U.S.), Pacific Coast Federation of Fishermen's Association and the Institute for Fisheries Resources, represented by Sierra Legal Defence Fund and the Sierra Club Legal Defense Fund, and in light of the response provided by the Government of Canada;

HAVING REVIEWED the recommendation from the Secretariat of 27 April 1998, to proceed with the development of a factual record;

HEREBY UNANIMOUSLY RESOLVES:

TO INSTRUCT the Secretariat to develop a factual record in accordance with Article 15 of the NAAEC and the *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* with respect to the submission referred to in the title of this resolution;

TO DIRECT the Secretariat, in developing the factual record, to consider whether the Party concerned "is failing to effectively enforce its environmental law" since the entry into force of the NAAEC on 1 January 1994. In considering such an alleged failure to effectively enforce, relevant facts that existed prior to 1 January 1994, may be included in the factual record;

TO FURTHER DIRECT the Secretariat, in developing the factual record, not to consider issues that are within the scope of the pending judicial proceeding before the British Columbia Court of Appeal in *R. v. British Columbia Hydro and Power Authority*, specifically those issues relating to the B.C. Hydro facilities in the Bridge River hydroelectric system, comprised of the Lajoie, Terzaghi, and Seton dams and their respective reservoirs.

APPROVED BY THE COUNCIL:

(S) Avrim Lazar

Government of Canada
by Avrim Lazar

(S) José Luis Samaniego

Government of the United Mexican States
by José Luis Samaniego

(S) William Nitze

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