Secretariat of the Commission for Environmental Cooperation

Notification to the Submitters and to Council regarding proceedings notified by Canada under Article 24.27(2) and (3) of the *Canada–United States–Mexico Agreement*

Submitter:	William Guindon
Party:	Canada
Date of Submission:	4 May 2026
Date of Notification:	25 November 2026
Submission No:	SEM-26-003 (*Hazardous Waste Disposal in Blainville*)

I. EXECUTIVE SUMMARY

1. On 4 May 2026, William Guindon (the "Submitter"), a Canadian teenager, filed Submission SEM-26-003 (*Hazardous Waste Disposal in Blainville*) (the "Submission")[1] with the Secretariat of the Commission for Environmental Cooperation (the "Secretariat") pursuant to Article 24.27(1) of the *Canada–United States–Mexico Agreement* (CUSMA).[2] The Submission alleges that Canada (the "Party") is failing to effectively enforce its environmental law with respect to a hazardous waste landfill project carried out by the company Stablex in the Great Bog of Blainville area.[3] More specifically, the Submitter asserts the foregoing with respect to Cell 6 of said landfill project.[4]

2. On 3 June 2026, the Secretariat determined that the Submission did not meet certain eligibility requirements of CUSMA Article 24.27(2) and (3) and so informed the Submitter (First Determination).[5] On 16 July 2026, the Secretariat received a revised submission containing additional information from the Submitter.[6] On 17 August 2026, after reviewing the revised submission, the Secretariat determined that it was admissible and requested a response from the Party (Second Determination).[7]

3. On 16 October 2026, the Secretariat received notification from the Party informing it of the existence of a "domestic process" that, according to the Party, addresses the same issues raised in the Submission.[8] The process in question is an Environmental Petition filed by the Submitter

---

[1] SEM-26-003 (*Hazardous Waste Disposal in Blainville*), Submission under CUSMA Article 24.27(1) (4 May 2026), at: <https://bit.ly/4dLceHU> [Submission].

[2] Canada–United States–Mexico Agreement (2020), c. 24, at Article 24.27(1), at: <https://bit.ly/4itON6R> [CUSMA].

[3] Submission, Statement of facts, at 1.

[4] Id.

[5] SEM-26-003 (*Hazardous Waste Disposal in Blainville*), Determination under CUSMA Articles 24.27(2) and (3) (3 June 2026), at: <https://bit.ly/4la5qIR> [First Determination].

[6] SEM-26-003 (*Hazardous Waste Disposal in Blainville*), Revised submission under CUSMA Article 24.27(1) (16 July 2026), at: <https://bit.ly/4wThukY> [Revised Submission].

[7] SEM-26-003 (*Hazardous Waste Disposal in Blainville*), Determination under CUSMA Articles 24.27(2) and (3) (17 August 2026), at: <https://bit.ly/3X5qxCe> [Second Determination].

[8] SEM-26-003 (*Hazardous Waste Disposal in Blainville*), Canada's Response under CUSMA Article 24.27(4) (16 October 2026), at: <https://bit.ly/4tgYhsv> [Response].

with the Office of the Auditor General of Canada (the "AGC Petition").[9] The Secretariat recognizes that the Party's response is limited to a notification of a pending judicial or administrative proceeding under CUSMA Article 24.27(4)(a), and does not provide information with respect to CUSMA Article 24.27(4)(b). The Secretariat therefore limits its analysis solely to the issue of pending proceedings.

4. The Secretariat notes that the CUSMA Parties' practice in filing a response to a submission is to address both paragraphs (a) and (b) of CUSMA Article 24.27(4) and not solely paragraph (a). The Secretariat also notes that the submissions process does not provide for a notification of a pending judicial or administrative proceeding to be filed separately and that the 60-day deadline in CUSMA Article 24.27(4) applies for paragraphs (a) and (b).

5. Upon review, the Secretariat finds that the AGC Petition does not constitute a pending legal proceeding as it is not judicial or administrative in nature. Further, it is not being pursued by the Party, not wholly duplicative of the issues raised in the Submission and the environmental law in question, and it is unlikely that it has the potential to resolve the issues raised by the Submitters.

6. Because the 60-day deadline under CUSMA Article 24.27(4) to file a response to a submission has already passed, the Secretariat therefore respectfully requests the Party to proceed with the remainder of its official response as soon as practicable.

II. ANALYSIS

7. The transparency and credibility of the SEM process require thorough and independent scrutiny of potential pending proceedings under CUSMA Article 24.27(4). CUSMA does not authorize the termination of a submission solely on the basis of a notification from the Party.[10] This is corroborated by the Secretariat's record of practice since its inception in 1994 with regard to submissions that, in most cases, have resulted in a Council vote in favour of the preparation of a factual record.[11]

---

[9] Id. at 1.

[10] SEM-01-001 (*Cytrar II*), Determination under NAAEC Article 14(3) (13 June 2001), at 5, at: <https://bit.ly/3nNzzSR> "[O]nly in the specific case where the matter that is the subject to a submission is the subject of a pending proceeding is the Secretariat authorized to proceed no further with its".

[11] *See, e.g.* SEM-97-001 (*BC Hydro*), Council Resolution 98-07 (24 June 1998), at: <https://bit.ly/4tkJWeH>; SEM-98-004 (*BC Mining*), Council Resolution 01-11 (16 November 2001), at: <https://bit.ly/4lfafR8>; SEM-00-004 (*BC Logging*), Council Resolution 01-12 (16 November 2001), at: <https://bit.ly/49hXYUQ>; SEM-00-006 (*Tarahumara*), Council Resolution 03-04 (22 April 2003), at: <https://bit.ly/49j6DGB>; SEM-02-003 (*Pulp and Paper*), Council Resolution 03-16 (11 December 2003), at: <https://bit.ly/4zENzxs>; SEM- 03-003 (*Lake Chapala II*), Council Resolution 08-01 (30 May 2008), at: <https://bit.ly/3WORtGq>; SEM-04-005 (*Coal-fired Power Plants*), Council Resolution 08-03 (23 June 2008), at: <https://bit.ly/4CmHHLJ>; SEM-05-003 (*Environmental Pollution in Hermosillo II*), Council Resolution 12-04 (15 June 2012), at: <https://bit.ly/49efglS>; SEM-06-003 and SEM-06-004 (*Ex Hacienda El Hospital II* and *Ex Hacienda El Hospital III*), Council Resolution 12-03 (15 June 2012), at: <https://bit.ly/4fcFrNt>; SEM- 09-002 (*Wetlands in Manzanillo*), Council Resolution 14-06 (8 July 2014), at: <https://bit.ly/4j2kGos>; SEM-11-002 (*Sumidero Canyon II*), Council Resolution 14-05 (10 June 2014), at: <https://bit.ly/4jamig9>; SEM-19-002 (*City Park Project*), Council Resolution 21-05 (19 November 2021), at: <https://bit.ly/4CmoObU>; SEM-21-003 (*North Atlantic right whale*), Council Resolution 25-01 (17 January 2025), at: <https://bit.ly/4lad31V>.

8. The Secretariat has previously clarified that it is not a court; its determinations "are not binding on the Parties or submitters", and factual records "are not rulings or judicial opinions on an asserted failure of effective enforcement of environmental law".[12] Thus, the Secretariat considers that factual records cannot interfere with ongoing domestic proceedings as a judicial proceeding might.[13]

9. The threshold for considering whether there are pending judicial or administrative proceedings must be construed narrowly in order to give full effect to the object and purpose of the SEM process with regards to predictability and fairness. The ability of the Secretariat to determine whether pending proceedings reported by a Party require termination of the submission rests on the principle that a treaty cannot advance its object and purpose if it is not effective.[14] Accordingly, it is necessary to implement the SEM process under the umbrella of institutional effectiveness and interpret the provisions of CUSMA in a constructive manner.[15]

10. The Secretariat is only authorized to apply this exceptional method of terminating a submission after examining whether the preparation of a factual record could duplicate efforts or interfere in judicial or administrative proceedings reported by the Party. In doing so, it considers: **i)** whether the proceeding in question was initiated by and is being pursued by the Party; **ii)** whether the proceeding is timely and in accordance with the Party's law; **iii)** whether it deals with the same subject matter, including the same environmental law cited by the submitters; and **iv)** whether there is a reasonable expectation that the pending proceedings invoked by the Party will address and potentially resolve the matters raised in the submission.[16] The analysis of each of the factors is presented below.

i. Whether the proceedings in question are being pursued by the Party

11. The AGC Petition was initiated by the Submitter pursuant to Section 22 of the *Auditor General Act*.[17] Environmental Petitions are a mechanism by which Canadian residents may bring concerns and questions regarding environmental and sustainable development issues to the

---

[12] SEM-07-001 (*Minera San Xavier*), Determination under NAAEC Article 15(1) (15 July 2009), § 44, at: <https://bit.ly/3ZF4rCg>.

[13] Id.

[14] *See, e.g.* A-M. Slaughter and A. Wiersema (2009), "The Scope of the Secretariat's Powers Regarding the Submissions Procedure of the North American Agreement on Environmental Cooperation under General Principles of International Law", in CEC (2010), *North American Environmental Law and Policy*, *Citizen Submissions on Enforcement Matters*, vol. 27, Commission for Environmental Cooperation, Montreal, at 6, § 6, at: <https://bit.ly/3PLrwBr>.

[15] *See* United Nations Security Council (2006), *Special Report of the Secretary-General on Ethiopia and Eritrea*, no. S/2006/992, Statement by the Commission, § 17, at: <https://bit.ly/486xLXJ>. "Even though the governing text may not explicitly empower the organisation to act in a particular manner, international law authorises, indeed requires, the organisation, should it find it necessary, if it is to discharge all its functions effectively, to interpret its procedures in a constructive manner directed towards achieving the objective the Parties are deemed to have had in mind".

[16] SEM-01-001 (*Cytrar II*), Notification under NAAEC Article 15(1) (29 July 2002), at 5-6, at: <https://bit.ly/01-001_NOTen>. *See also* SEM-22-002 (*Tren Maya*), Notification under CUSMA Article 24.28(1) (17 April 2023), § 16: <https://bit.ly/4CnpVIa > [Notification, *Tren Maya*].

[17] *Auditor General Act*, RSC 1985, c A-17, s. 22, at: <https://bit.ly/4ti5kRq> [AGA]; Response, at 1.

attention of the federal government and receive a guaranteed response.[18] They are similar in this regard to citizen complaint or information request procedures.

12. The threshold for a pending proceeding is whether a government is actively pursuing measures provided by law in relation to the same matter raised by the Submitter(s).[19] The Party's response makes clear that the AGC Petition was filed, initiated, and pursued by the Submitter to bring the matter to the federal government's attention. The relevant Ministers' reply to the AGC Petition is therefore a mere consequence of the proceeding initiated by the Submitter and cannot constitute active pursuit of a measure. A similar conclusion has been reached by the Secretariat in past submissions and the Secretariat considers this a guiding factor.[20]

ii. Whether the proceedings are being pursued in a timely fashion and in accordance with law

13. The Environmental Petition mechanism is governed by Section 22 of the *Auditor General Act*, which commits the relevant Minister(s) to responding within one hundred and twenty days of receipt of the AGC Petition.[21] In the alternative, the Minister(s) must notify the petitioner of a delay within one hundred and twenty days.[22]
14. The AGC Petition was filed by the Submitter on 29 June 2026. The Party's notification provides that it was received by the Minister of Environment, Climate Change and Nature and the Minister of Fisheries, who had until 10 November 2026 to respond.[23]
15. The Secretariat was made aware that the relevant Ministers responded to the Petition on 10 November 2026 and thus considers this criterion fulfilled.

iii. Is the subject of the pending proceedings the same matter and environmental law(s) at issue in the submission?

A. Nature of the proceeding

16. The Secretariat, in its Second Determination, deemed that although the AGC Petition is distinguishable from an access to information request, it is not a "traditional judicial remedy".[24] The Secretariat held the AGC Petition to meet the criteria of CUSMA Article 24.27(3)(c) in consideration of the Submitter's reduced capability to bring such a remedy as a minor.[25]

---

[18] AGA, s. 22.

[19] *See* Notification, *Tren Maya*, § 21.

[20] Id. § 22.

[21] AGA, s. 22(3)(a).

[22] Id. s. 22(3)(b).

[23] Response, at 1.

[24] Second Determination, § 78.

[25] Id. §§ 76-79.

17. To reiterate, Environmental Petitions are a procedural mechanism by which Canadian residents may pose questions regarding environmental and sustainable development issues to the relevant federal ministers. They are not judicial or administrative proceedings in and of themselves, being not in any sense a legal process and having no adjudicative element. It is therefore not evident that a factual record could interfere with the AGC Petition despite both nominally concerning the same subject, that being the enforcement of environmental laws at the Stablex site in Blainville.

B. Matter and Environmental Laws

18. The Secretariat is mindful that the Party was nevertheless concerned regarding potential duplication of efforts between the Submission and the AGC Petition as envisioned in Guideline 7.5 of the former *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation* (NAAEC Guidelines).[26] Article 2(3) of the *Agreement on Environmental Cooperation* (ECA) allows the Commission to continue its operations under the modalities in place as of the ECA's entry into force on 1 July 2020, "including its rules, policies, guidelines, procedures, and resolutions, to the extent these modalities are consistent with this Agreement".[27] The former NAAEC Guideline 7.5 directs the Secretariat to consider in its determinations whether "continuing with the submission process could duplicate or interfere with private remedies being pursued…and in such cases the Secretariat should consider terminating the process in whole or in part".[28]

19. The Secretariat notes that former NAAEC Guideline 7.5 limits the consideration of "whether private remedies…have been pursued" to the Secretariat's determination of whether a submission merits a response, and not when assessing a pending proceeding notified by a Party in said response. The Secretariat also observed that the Party did not undertake to apply the definition of "pending proceeding" under Article 45(3) of the former *North American Agreement on Environmental Cooperation* (NAAEC).[29] This definition was expressly applicable to NAAEC Article 14(3) (i.e. the notification of a pending judicial or administrative proceeding) as well as any past determination or Party response addressing a pending proceeding.

20. While, for the reasons above, Environmental Petitions do not constitute "private remedies" as envisioned by NAAEC Guideline 7.5, the Secretariat nevertheless acknowledges that the AGC Petition does pertain to the same topic as the SEM Submission.

---

[26] Response, at 2.

[27] Agreement on Environmental Cooperation (2020), Article 2(3), at: <https://bit.ly/4j650AI> [ECA].

[28] Commission for Environmental Cooperation, *Guidelines for Submissions on Enforcement Matters under Articles 14 and 15 of the North American Agreement on Environmental Cooperation*, 1 February 2013, at 7-8, guideline 7.5, at: <https://bit.ly/4qlFCu3> [Guidelines].

[29] For the purposes of NAAEC Articles 45(3) and 14(3), "judicial or administrative proceeding" means:
(a) a domestic judicial, quasi-judicial or administrative action pursued by the Party in a timely fashion and in accordance with its law. Such actions comprise: mediation; arbitration; the process of issuing a license, permit, or authorization; seeking an assurance of voluntary compliance or a compliance agreement; seeking sanctions or remedies in an administrative or judicial forum; and the process of issuing an administrative order; and
(b) an international dispute resolution proceeding to which the Party is party.

21. However, this does not result in a duplication of the Submission: the AGC Petition confines the relevant Ministers to answer the questions posed by the Submitter, whereas a factual record would not be so limited, considering instead the larger context of the Submission and the environmental laws in question. The Ministers' responses of 10 November 2026 may serve to inform the factual record but do not necessarily lead to a fulsome conclusion with respect to the Submission. Moreover, as the AGC Petition process was concluded with the Ministers' responses, there is now no risk of duplication by a concurrent factual record.

22. Table 1 below presents the environmental provisions regarding which the Secretariat requested a response from the Party; Table 2 presents the questions posed by the Submitter in his AGC Petition.

Table 1. Environmental Law in Question[30]

Environmental Provisions	Summarized Content of Provisions
Migratory Birds Conventions Act, 1994, Section 5.1(1)	Prohibits persons or vessels from depositing, or permitting to be deposited, a substance that is harmful to migratory birds, in waters or an area frequented by migratory birds, or in a place from which the substance may enter such waters or such an area.
Migratory Birds Regulations, 2022, Section 5(1)	Prohibits the: a) capture, killing, taking, injuring or harassing of a migratory bird or attempt to do so; b) destroying, taking or disturbing of an egg; and c) damaging, destroying, removing or disturbing of a nest, nest shelter, eider duck shelter or duck box without a permit or authorization by other provisions in the Regulations to do so.
Species at Risk Act, 2002, Section 32(1)	Prohibits the killing, harming, harassing, capturing or taking of an individual of a listed endangered, extirpated, or threatened species.
Species at Risk Act, 2002, Section 33	Prohibits the damage or destruction of the residence of one or more individuals of a listed endangered, extirpated, or threatened species.
Species at Risk Act, 2002, Section 58	(1) Prohibits the destruction of any part of the critical habitat of a listed endangered, extirpated, or threatened species if: a) the critical habitat is on federal land, b) the listed species is an aquatic species; or c) the listed species is a species of migratory birds protected by the *Migratory Birds Convention Act, 1994*. (2) Subject to certain conditions, obliges the competent Minister to publish and describe the critical habitat of a species within a timeframe. (3, 4) Further elaborate subsection (2). (5) Obliges the Minister to make an order or issue a statement where the critical habitat or a portion of the critical habitat of a species is not legally protected. (5.1) Circumscribes the application of subsection (1) with respect to certain critical habitats of migratory bird species protected by the *Migratory Birds Convention Act, 1994*. (5.2) Sets out the obligation of the Minister to issue a recommendation or a statement a species whose critical habitat falls within the scope of the *Migratory Birds Convention Act, 1994*.

[30] Second Determination, § 80.

	(6, 7, 8, 9) Provide for specific consultation arrangements regarding respectively lands not under the authority of the Minister or Parks Canada, lands situated on a First Nations Reserve, lands for which a wildlife management board is authorized to perform functions in respect of wildlife species, and lands under the authority of another federal minister.
Species at Risk Act, 2002, Section 73	(1) Permits the competent Minister to enter into an agreement with or issue a permit to a person authorizing them to engage in an activity affecting a listed wildlife species, any part of its critical habitat or the residences of its individuals. (2) Obliges the Minister to enter into such an agreement or issue such a permit only if the activity: a) is scientific research relating to the conservation of the species and conducted by qualified persons; b) benefits the species or is required to enhance its chance of survival in the wild; or c) affects the species only incidentally. (3) Provides that the agreement may be entered into, or the permit issued, only where all other options have been considered, all measures to minimize the adverse effects on the species will be taken, and the activity will not jeopardize the survival or recovery of the species. (3.1) Obliges the Minister to record in the public registry a reasoned explanation of the agreement or permit. (4, 5) Respectively oblige the Minister to consult in respect of areas where a wildlife management board is authorized to perform functions in respect of wildlife species and First Nation reserves on which the species is found. (6) Allows the Minister to attach conditions to an agreement or permit. (6.1) Provides that the agreement or permit must set out the date of its expiry. (7) Obliges the Minister to review the agreement or permit in event of an emergency order. (8) Allows the Minister to revoke or amend an agreement or a permit. (10, 11) Empowers the Minister to make regulations governing agreements or permits, including with regards to time limits.
Species at Risk Act, 2002, Section 79	(1) Obliges every person required to ensure that an environmental assessment is conducted, and every authority who makes a determination under paragraphs 82(a) and (b) of the *Impact Assessment Act* to, notify the competent Minister(s) if the project is likely to affect a listed wildlife species or its critical habitat. (2) Obliges said persons to identify the adverse effects of the project on the species and its critical habitat and, if the project is carried out, ensure that mitigation measures consistent any with any recovery strategy or action plan are put in place. (3) Defines the terms “person” and “project”.
Fisheries Act, 1985, Section 34.4	(1) Prohibits any work, undertaking or activity, other than fishing, that results in the death of fish. (2) Excepts such work, undertaking, or activity in a variety of circumstances, including where it is authorized by the Minister or by law. (3) Allows conditions to be attached to authorizations. (4) Empowers the Minister to make regulations regarding authorizations. (5, 6) Allow the Minister or a prescribed person or prescribed entity to amend, suspend or cancel an authorization.
Fisheries Act, 1985, Section 35	Similar to the provisions of section 34.4, with regards to prohibition of the harmful alteration, disruption, or destruction of fish habitat.

Fisheries Act, 1985, Sections 36(3), 36(4)	(3) Prohibits the deposition or permitting the deposition of any deleterious substances in waters frequented by fish, or in any place from which deleterious substances may enter waters frequented by fish. (4) Provides exceptions to subsection (3) if authorized by and in accordance with regulations.
Fisheries Act, 1985, Section 37	(1) Requires a person who conducts or proposes to conduct any work, undertaking or activity that may result in the death of fish, the alteration of fish habitat, or the deposit or discharge of a deleterious substance to provide the Minister with relevant documents to determine the risk posed by the activity and possible mitigation measures. (2) Empowers the Minister to require modifications, restrict, or put an end to work after reviewing the documents provided under subsection (1). (3) Empowers the Governor in Council to make regulations that mandate the provision of documents. (4, 5) Respectively require the Minister to offer to consult with provinces and other federal bodies if making an order under subsection (2), and permits the Minister to make an interim order under subsection (2). (6) Provides that orders made under this section are not statutory instruments.
Fisheries Act, 1985, Section 38	(1) Permits the Minister to designate persons or classes of persons as inspectors to administer and enforce the *Fisheries Act*. (2, 3, 3.1) Prescribe the certification and powers of inspectors. (4, 4.1, 5) Provide for the duty to notify inspectors or other authorities regarding death or fish, harmful alteration of fish habitat, and deposit of deleterious substances respectively. (6, 7) Provide respectively that a person must take reasonable measures to prevent or mitigate the occurrence of the events detailed in subsections (4), (4.1), and (5) and to produce a report. (7.1, 7.2, 8) Respectively empower inspectors or fisheries officers to take the measures detailed in subsection (6); relieves the effect of any inconsistencies in their directions with those of the *Canada Shipping Act, 2001*; and permit inspectors or other persons to access property in carrying out their duties. (9) Empowers the Governor in Council to make regulations prescribing the authorities in subsections (4) to (7.1). (10) Outlines an obligation to assist inspectors.
Canadian Environmental Protection Act, 1999, Sections 2(1)(a.2), 2(1)(a.3)	Respectively provide that the federal government shall protect the right of every individual to a healthy environment, subject to reasonable limits, and uphold principles such as the principles of environmental justice, non-regression, and intergenerational equity.
Canadian Environmental Protection Act, 1999, Section 68	Permits the relevant Ministers to collect or generate data regarding the characterization and control of potentially toxic substances or products, and to evaluate such data, publish investigative results, and make recommendations in relation to such substances or products.
Canadian Environmental Protection Act, 1999, Section 71	Sets out the measures that may be taken by the Minister to determine the effects and the nature of the listed toxic substances, as well as the control measures in respect of those substances, by way of a notice requiring the provision of samples and the results of toxicological tests.
Canadian Environmental Protection Act, 1999, Sections	(1.1) Provides that the relevant Ministers shall give priority to pollution prevention actions and, in relation to toxic substances listed in Part 1, Schedule I, to the prohibition of activities involving or releases of toxic substances in the environment.

90(1.1), 90(1.2), 90(3)	(1.2) Provides that the Ministers shall consider whether the activity or release may be done in a manner that minimizes or eliminates harm to the environment or human health, as well as feasible alternatives. (3) Requires any board of review of a substance to provide the Ministers with a report prior to making an order.
Canadian Environmental Protection Act, 1999, Section 91	Provides that within two years after the publication of a statement concerning the addition of a toxic substance to Parts 1 and 2, Schedule I, the relevant Ministers must publish a proposed instrument on preventive or control actions regarding the substance.

Table 2. Questions posed by the Submitter in the AGC Petition.[31]

Organization Addressed	Questions Posed by Submitter [Translated to English]
Environment and Climate Change Canada	Has Environment and Climate Change Canada received complaints, reports, or information regarding discharges, spills, discolored water, turbid water, abnormal runoff or risks of discharge of harmful substance in the area surrounding the Stablex site in Blainville?
Environment and Climate Change Canada	Has Environment and Climate Change Canada conducted any inspections, audits, analyses, information requests, or investigations regarding the Stablex site pursuant to the pollution prevention provisions of the *Fisheries Act*, specifically subsection 36(3)?
Environment and Climate Change Canada	Has Environment and Climate Change Canada assessed whether substances originating from or likely to originate from the Stablex site could reach waters where fish live, including through ditches, Locke Head creek, the Mille Îles river or other receiving environments?
Environment and Climate Change Canada	Has Environment and Climate Change Canada received or reviewed test results regarding heavy metals or other potentially harmful substances in the area's water bodies, ditches, sediments or receiving environments?
Environment and Climate Change Canada	Has Environment and Climate Change Canada contacted the Quebec Ministry of the Environment, the City of Blainville, Fisheries and Oceans Canada, or Stablex regarding discharge, runoff, overflow, ditches, leachate, water bodies or discharge risks associated with the Stablex site?
Environment and Climate Change Canada	Has Environment and Climate Change Canada received or reviewed any information regarding dead fish, spills, overflows or reports from the public related to the Stablex site?
Environment and Climate Change Canada	Has Environment and Climate Change Canada taken, considered, or refused to take enforcement actions regarding the Stablex site? If so, which? If not, what are the reasons for the lack of enforcement actions?
Environment and Climate Change Canada	Has Environment and Climate Change Canada reviewed information regarding migratory birds or dead birds reported in or near the Stablex cells?

[31] Revised Submission, Annex 1, at 5-7 (13-15), at: <https://bit.ly/4tjlVoc>.|

Environment and Climate Change Canada	Has Environment and Climate Change Canada assessed the possible presence of species listed under the *Species at Risk Act* or habitats likely to be used by such species in Cell 6 area?
Environment and Climate Change Canada	Can Environment and Climate Change Canada indicate what public documents exist regarding inspections, intergovernmental exchanges, reports, analyses, communications or decisions related to the Stablex site?
Fisheries and Oceans Canada	Has Fisheries and Oceans Canada received a request for a project review from Stablex regarding the potential effects of Cell 6 on fish and fish habitat?
Fisheries and Oceans Canada	If no request for review was received, did Fisheries and Oceans Canada recommend that Stablex, the City of Blainville, the Government of Quebec, or another authority file such a request?
Fisheries and Oceans Canada	Has Fisheries and Oceans Canada assessed the presence of fish habitats in ditches, streams, wetlands or waters connected to the Stablex project area?
Fisheries and Oceans Canada	Has Fisheries and Oceans Canada examined the potential connectivity between the Stablex site, Locke Head creek, the Mille Îles river and fish-frequented waters?
Fisheries and Oceans Canada	Has Fisheries and Oceans Canada received any information regarding any alleged dead fish, discards, overflows or spills in the Stablex area?
Fisheries and Oceans Canada	Does Fisheries and Oceans Canada consider that the work or activities related to Cell 6 may require authorization, review or avoidance measures under the *Fisheries Act*?
Fisheries and Oceans Canada	Has Fisheries and Oceans Canada communicated with Environment and Climate Change Canada regarding the possible application of the *Fisheries Act* to the Stablex file?
Fisheries and Oceans Canada	Has Fisheries and Oceans Canada contacted Stablex regarding fish, fish habitat, or the need to file a Request for Review?
Fisheries and Oceans Canada	Does Fisheries and Oceans Canada have any maps, notices, correspondence, internal memos or documents related to aquatic habitats in the area of the Stablex site, Locke Head creek or the Mille Îles river?
Fisheries and Oceans Canada	Can Fisheries and Oceans Canada specify what follow-up, verification or avoidance measures are recommended when industrial work may affect ditches, streams, wetlands or environments connected to waters frequented by fish?
Other	Which federal departments, directorates or services are responsible for monitoring federal issues related to the Stablex site?
Other	Has the federal government received any information or requests from citizens, the City of Blainville, the Montreal Metropolitan Community, the Government of Quebec or organizations regarding the Stablex site?
Other	If no specific federal action has been taken regarding the facts described, what are the reasons for this lack of verification, intervention or enforcement action?

Other	Does the federal government intend to provide a full response to the Secretariat of the Commission for Environmental Cooperation if a response from the concerned Party is requested under SEM-26-003?

23. In light of the foregoing, the Secretariat finds that despite overlap between the subject matter of the AGC Petition and that of the Submission, continuing with the submissions process would not result in duplicated efforts given the difference in scope between the AGC petition and the SEM Submissions process. On this point, the Council has insisted that a factual record would "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".[32] Nothing in the AGC Petition leads to the conclusion that, if recommended by the Secretariat and instructed by the Council members, a factual record would duplicate the Ministers' response of 10 November 2026. Further, as the AGC Petition process has already been exhausted by the Ministers' response, there is no risk of interference by a factual record.

iv. Do the proceedings have the potential to resolve the matters raised in the submission?

24. The Party stated in its notification that a response to the AGC Petition is capable of addressing the concerns in the Submission, as the Submitter stated the subject of the Submission "is not to challenge a…decision already rendered, but precisely the apparent absence of any identifiable federal decision, inspection, investigation or authorization" [translation].[33]

25. It should be noted that this statement was made to support the inability of the Submitter to pursue an action for judicial review.[34] It does not necessarily alter the character of the Submitter's assertion, that being that the Party is failing to effectively enforce its environmental laws with regards to Cell 6 of the Stablex project. The Secretariat considers that while the relevant Ministers' response of 10 November 2026 may provide the Submitter with information regarding the Submission, it is unlikely to fully address or resolve the Submitter's concerns as to the effective enforcement of the law in question.

26. In summary, the proceedings notified by the Party are not being pursued by the Party but initiated and exhausted by the Submitter; while timely, the nature of the AGC Petition is to allow a resident to pose questions regarding environmental and sustainable development issues to the relevant federal ministries; if recommended and instructed by the Council members, a SEM factual record would not be duplicative of the AGC Petition due to their differentiated scope; and the AGC Petition has already been terminated and there is thus no potential for undue interference.

III. NOTIFICATION

27. In sum, the Secretariat considers that the AGC Petition filed by the Submitter does not qualify as a pending proceeding. The AGC Petition is not being pursued by the Party; does not give rise to administrative proceedings; and despite its similarity in subject to the Submission, does

[32] Guidelines, introduction, at 3.

[33] Revised Submission, section 9, *Argumentaire*, § 6, at 12.

[34] Id, § 5.

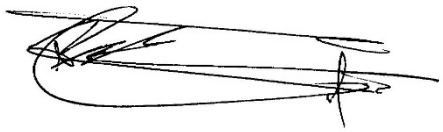
not have the potential to resolve the matters raised in the Submission. The Secretariat therefore determines to proceed with its analysis and respectfully requests that the Party proceed with the remainder of its response to the submission.

28. Noting that the period of 60 days for providing a response to the submission established under CUSMA Article 24.27(4) has already elapsed, the Secretariat hereby requests the Party to file a response in as timely a manner as possible.

29. The Secretariat will make the Party's response public. If the Party includes in it information that it considers confidential, it must clearly identify that information and indicate the applicable basis in accordance with ECA Article 16(1)(d), namely that disclosure would impede enforcement of the law, invade personal privacy, reveal confidential business information or proprietary information, or compromise the confidentiality of government decision-making. The Party must, where applicable, indicate the level of protection it affords to that information, so that the Secretariat may apply the same level of protection in accordance with ECA Article 16(3).[35]

Respectfully submitted for your consideration.

Secretariat of the Commission for Environmental Cooperation



By: Paolo Solano
Director, Legal Affairs and Submissions on Enforcement Matters

cc: Michael Bonser, Alternate Representative of Canada
Camila Isabel Zepeda Lizama, Alternate Representative of Mexico
Usha-Maria Turner, Alternate Representative of the United States
Environment Committee Points of Contact
Nathalie Daoust, Acting Executive Director
Submitter

[35] The Secretariat cannot presume the confidential nature of the information contained in the Party's response. In the absence of a clear, specific and reasoned designation on the grounds indicated, the Secretariat will not be able to infer the confidentiality of the information and will treat it in accordance with the principle of transparency that guides the SEM submissions process.