



CANADIAN ENVIRONMENTAL LAW ASSOCIATION
L'ASSOCIATION CANADIENNE DU DROIT DE L'ENVIRONNEMENT

**SPEAKING NOTES FOR PRESENTATION TO THE
STANDING COMMITTEE ON ENVIRONMENT
AND SUSTAINABLE DEVELOPMENT:
REVIEW OF THE *CANADIAN ENVIRONMENTAL ASSESSMENT ACT*
(OCTOBER 27, 2011)**

Prepared by:

**Richard D. Lindgren
Counsel**

(Check against delivery)

On behalf of the Canadian Environmental Law Association (“CELA”), I would like to thank the Committee for inviting us to participate in the review of the *Canadian Environmental Assessment Act* (“CEAA”). We believe that this review offers an important opportunity for the Committee to develop and consult upon reforms which strengthen CEAA and improve its implementation across Canada.

CELA is a public interest law group that was established in 1970, and our mandate is to use and improve laws to protect the environment and human health. We represent concerned citizens, low-income communities, and public interest groups in the courts and before tribunals in various environmental matters.

CELA has long advocated the need for federal environmental assessment legislation that is effective, efficient and equitable. For example, about 20 years ago I appeared before a Parliamentary Committee to make submissions on CEAA when it was first being debated. We also participated in the first Parliamentary review of CEAA that occurred in 2000 to 2003. Last year, I appeared before various Parliamentary Committees in order to speak against the Bill C-9 amendments to CEAA.

Over the years, CELA and our clients have been involved in screenings, comprehensive studies and panel reviews under CEAA. We have also intervened in the Supreme Court of Canada in cases involving the federal EA program. For example, I was counsel for the environmental groups which intervened in the *MiningWatch* case that was decided by the Supreme Court last year. In addition, we have been engaged in other litigation in the Federal Court in cases involving the interpretation and application of CEAA.

Based on our experience and public interest perspective, CELA would like to address two general topics during our presentation today.

A. Scope of the CEAA Review and Guiding Principles

The first general topic is the scope of the review and the principles which should be driving the review. In our submission, the Committee should carefully consider the findings and recommendations made in the Committee’s 2003 Report on CEAA, which attempted to set the stage for the current CEAA review. Therefore, in our submission, the current review should be comprehensive in nature, and should include CEAA, the relevant regulations, and implementation mechanisms. Furthermore, the Review should be guided by two fundamental principles:

1. Any proposed amendments to CEAA or the regulations must be developed in an open and accessible manner which includes meaningful review and comment opportunities for MPs, public officials, interested stakeholders, and the public at large; and

2. Any proposed amendments to CEAA or the regulations must be clearly consistent with the purposes and duties set out in section 4 of CEAA, and must enhance - not erode or rollback – existing public participation rights under CEAA.

B. Priority Issues for the CEAA Review

The second general topic that I'd like to address today is the substantive content of the CEAA review. In our submission, while there are various CEAA matters which warrant the Committee's attention, there are five high-priority issues which should be closely examined and reported upon by the Committee. These five issues are as follows:

1. The need for environment assessments under CEAA to evaluate whether – or to what extent – a project will make a positive net contribution to ecological and socio-economic sustainability;
2. The need to re-consider the “self-assessment” model in CEAA, and to ensure greater rigor in the identification and analysis of cumulative environmental effects at the local and regional scale;
3. The need to establish a robust legislative framework for strategic level environmental assessment of governmental plans, policies and programs;
4. The need to ensure meaningful public participation in all stages of project planning, particularly during the upfront determination of the purpose of the project and the consideration of alternatives to the project; and
5. The need to establish and enforce environmental assessment permits, with binding terms and conditions, under CEAA.

To assist the Committee on these and other key issues, we will undertake to provide the Committee with a more detailed brief on CEAA reform in the coming weeks.

In closing, we again thank the Committee for this opportunity to present our initial recommendations about the CEAA review, and we look forward to further participation in this process.

Subject to the Committee's questions, these are CELA's submissions at this time.



Richard D. Lindgren
Counsel

October 27, 2011