

November 18, 1975

Mr. David Morin
Environmental Assessment Group
Ministry of the Environment
10th Floor
135 St. Clair Avenue West
Toronto, Ontario

Dear David:

Thank you for offering CELA the opportunity to make suggestions on the implementation of the Environmental Assessment Act. A publication providing information about the assessment process would undoubtedly be very useful to citizen groups and individuals affected by undertakings.

We would hope that in addition to any direct notice given to affected and interested parties, your publication would give kindly notice to all subscribers of every stage of the progress of an environmental assessment. At a minimum, the publication should include an "early notice system" to inform the public of the decision of the Minister to request an environmental assessment of an undertaking or of the decision of a proponent to submit to the Minister an assessment as soon as possible after this decision has been taken together with the name of the proponent, subject matter of the assessment, and the locality or localities that may be affected; the receipt of the assessment by the Ministry; the completion of the preparation of the review; the place or places where the assessment and review might be inspected; notice of the Minister's decision pursuant to Section 14; notice of any appeal from a decision of the Minister or of any hearing before the Environmental Assessment Board; notice of the result of any such appeal and of any decision of the Environmental Hearing Board; notice of any request to the Minister pursuant to Section 24 to vary or rescind any decision of the Board or to require the Board to hold a new hearing; and notice of any action taken by the Minister pursuant to such a request together with written reasons pursuant to Section 28 (4).

In addition to these notices, other information might be very useful: for example, an on-going list of all persons who have made comments or submissions on an assessment. Individual concerned citizens who have made submissions might not be named, so as to protect

privacy and avoid unnecessary work, but citizen groups and public interest groups might be listed by name. A brief description of the proposed undertaking should be given at the earliest possible time, a brief description of any anticipated significant environmental impacts, a brief summary of the conclusions of the assessment, when available, and a brief summary of the conclusions of the review, when available. All this information should be given, where possible in language understandable to the general public. Where possible, notice should be given of decisions made and actions taken pursuant to Sections 10, 11 and 12 of the Act, such as the Minister's proposal to amend the assessment, the actual amendment, the acceptance of the amended assessment, research, investigations, studies, and monitoring programs ordered by the Minister, and revisions of the Minister's review. Notice of the withdrawal or amendment of an assessment pursuant to Section 7 might be given. Wherever the act provides that the Minister must give reasons or the Board must give reasons for a decision, a summary of the reasons might be published. Experience will undoubtedly show what notices and information are essential to the public to ensure its participation and are practical within publication deadlines and economic capabilities.

In addition to this kind of basic information, there are many other matters which a publication might usefully include. A section might be devoted to "statutory and administrative materials" -- that is, all regulations, rules of practice and procedure, guidelines, and orders made pursuant to the Environmental Assessment Act, and any amendments to the Act. These might include any exemptions, suspensions or revocations of exemptions, or alterations or revocations of terms or conditions of an exemption pursuant to Section 30 of the Act. Another section might inform the general public in summary form and in simple language of its rights to information, to make submissions, to require hearings, to appear at hearings, etc. under the Act. Another section might deal with past, current and pending litigation arising from the Assessment Act, including appeals and judicial review.

Another section might list studies completed by the Ministry of the Environment, publications of the Ministry of the Environment, and a bibliography of material on environmental assessment in general and the Environmental Assessment Act in particular from sources other than the Ministry. In addition to lists of completed studies, reports, and publications, the Ministry might consider listing current research being done within the Ministry and research contracts given to outside consultants in a manner similar to the Research and Development bulletin published by the Government of Canada, Department of Supply and Services. The Ministry might also consider publishing periodically short articles and notes related to the assessment process in general or the Act in particular, in particular, policy statements and policy decisions of the Ministry and related policy decisions of other Ministries, and practice notes on the procedures, and criteria applied by the Ministry and the Assessment Board in dealing with assessments and

November 18, 1975

public hearings. A newspaper clipping service dealing with environmental assessments in Ontario similar to the clipping service provided by the Federal Department of the Environment is an option which might be considered.

The publication might also fill the function of an annual report by providing the kinds of fiscal and statistical information from time to time that one might expect to find in an annual report. In regard to this suggestion, you might consider contacting Prof. Reg Lang, at the Faculty of Environmental Studies, York University, 4700 Keele Street, Downsview, Ontario. Prof. Lang made representations before the Standing Committee during the passage of the Environmental Assessment Act, which stressed the need for an annual report, and I know that he has some ideas in this regard.

The publication should serve the purpose of informing anyone who might be affected or interested of undertakings and assessments that they might want to monitor, as well as the time deadlines they would have to meet to do this, and when, where and how to get the relevant information. Therefore, the publication must be readily accessible to such people. This suggests that the publication should be available to the general public at the lowest possible cost. Two ways to ensure that the public who might be affected by an undertaking are made aware of it would be to index undertakings and assessments by County or other geographic location, and to specifically send issues of the publication which contain information about undertakings in a geographical location to the main ratepayer and citizen groups in that area.

We have two suggestions on ways to keep the cost low to groups and individuals who should receive the publication but cannot afford a costly service. The first is to have a differential rate structure as CELA has for its Canadian Environmental Law News. Students, other individuals, public interest groups, corporations, libraries and other entities might all be given different subscription rates, intended to generally reflect their financial capabilities. Secondly, the subject matter of the publication might be subdivided into a number of different services, each of which is optional and separately priced. For example, the Ontario Government now provides copies of current bills, order papers and proceedings of the Legislature and Hansard, all separately at lower prices, or cumulatively as one package. Similarly, the Canada Gazette has three parts, dealing with three different subject matters, parts 1 and 2 can be acquired, and part 3 can be acquired separately for additional money. The Ministry might consider the format of the Environmental Law Reporter in the United States. This is a loose leaf service, divided into several different subject matters. The Reporter is divided into one, summary and contents, two, litigation, three, administrative proceedings, four, statutory and administrative materials, five, articles and notes, six, bibliography, and seven, indexes. The Ministry might consider publishing as many as possible of these

Mr. David Morin

- 4 -

November 18, 1975

various materials, and making each one of them available individually at a lower price than it would charge for the whole package.

If we can be of any further assistance, please do not hesitate to contact us.

Sincerely,

CANADIAN ENVIRONMENTAL LAW ASSOCIATION

John Swaijen
Counsel

:by