



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

SPEAKING NOTES FOR PRESENTATION TO THE
STANDING COMMITTEE ON FINANCE
RE BILL C-9 PROPOSALS TO AMEND THE
CANADIAN ENVIRONMENTAL ASSESSMENT ACT
(MAY 11, 2010)

Prepared by:

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(Check against delivery)

On behalf of the Canadian Environmental Law Association (“CELA”), I would like to thank the Committee for inviting us to speak to the Bill C-9 proposals to amend the *Canadian Environmental Assessment Act* (“CEAA”).

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. In addition, we represent citizens 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.

We have also intervened in the Supreme Court of Canada in cases involving the federal EA program. For example, I was counsel for the six environmental groups which intervened in the *MiningWatch* case that was decided by the Supreme Court earlier this year.

Based on our experience and public interest perspective, CELA has several fundamental concerns about Bill C-9’s proposed amendments to CEAA. These concerns were outlined in a letter that CELA sent to Prime Minister Harper in April, before Bill C-9 was referred to this Committee. I have provided copies of this letter to the Committee Clerk, and I would note that the CELA letter raises three key objections to Bill C-9.

First, CELA objects to the **process** being used to enact the amendments. In our opinion, proposed changes to CEAA should not be buried in a budget bill. Instead, proposed CEAA changes should only proceed as stand-alone legislation subject to rigorous Parliamentary debate and meaningful public consultation.

Second, CELA objects to the **timing** of the proposed amendments, which have been introduced just as the mandatory 7 year review of CEAA is about to commence. In our opinion, the 2010 Review is the preferable forum for developing appropriate changes to the federal EA program.

Third, and most importantly, CELA objects to the **content** of the proposed amendments. In our opinion, the Bill C-9 proposals to amend CEAA do not reflect sound public policy. To the contrary, the proposed amendments seriously weaken or rollback existing EA safeguards under CEAA. In addition, the proposed amendments do not adequately address the priority matters that require strengthening or improvement under CEAA.

We are especially concerned about the proposal to empower the Environment Minister to re-define the scope of projects to be assessed under CEAA. In our opinion, this proposal will likely result in more delay, uncertainty and litigation, as the Minister attempts, on a case-by-case basis, to exclude the most environmentally significant aspects of projects from federal EA review. In addition, this proposal represents the very type of project-splitting that the Supreme Court recently disallowed in the *MiningWatch* case. Moreover, this proposal is inconsistent with the overall purposes of CEAA, particularly those relating to public participation, environmental sustainability, and the precautionary principle.

For these reasons, CELA does not support the Bill C-9 amendments to CEAA, and we would respectfully request that Committee members to do everything in their power to delete, defer or defeat the proposed amendments.

Subject to the Committee's questions, those are CELA's submissions.



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