

2001



Report of the
**Commissioner of the
Environment and
Sustainable Development**
to the House of Commons

Petitions

Chapter 7

Connecting With Canadians:
The Environmental Petitions Process

The 2001 Report of the Commissioner of the Environment and Sustainable Development comprises seven chapters, The Commissioner's Perspective—2001, and a Foreword. The main table of contents is found at the end of this publication.

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Chapter

7

Connecting With Canadians
The Environmental Petitions Process

If you have comments or questions about the environmental petitions process or want to submit a petition, please contact us at the following:

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Table of Contents

Main Points	1
Introduction	3
The Environmental Petitions Process Under the <i>Auditor General Act</i>	3
What is an environmental petition?	3
Environmental petitions—a better option	4
Who can participate in the environmental petitions process?	6
What kinds of requests can be made?	6
Our petitions report	7
Petitions retrospective (December 1995–15 July 2001)	7
What are Canadians concerned about?	7
Getting more mileage from the process	9
Our review	10
New initiatives	11
A guide to preparing environmental petitions	11
How can you participate?	11
Initial questions	12
What is meant by an “environmental matter in the context of sustainable development”?	12
Federal organizations subject to the environmental petitions process	13
What should a petition contain?	13
Conclusion	14
Appendices	
A. Summary of current petitions received or pending (1 January 2000–15 July 2001)	15
B. Petitions received prior to 2000 (1 January 1996–31 December 1999)	36



Connecting With Canadians

The Environmental Petitions Process

Main Points

7.1 The environmental petitions process under the *Auditor General Act* provides a formal means for Canadians to bring their concerns about environmental issues to the attention of federal ministers and departments and obtain a response to their concerns. For example, through the process, citizens and organizations can ask federal ministers to explain federal policy, investigate an environmental problem, or examine their enforcement of environmental legislation.

7.2 The Commissioner of the Environment and Sustainable Development is responsible for handling environmental petitions on behalf of the Auditor General of Canada. The Commissioner co-ordinates the process, monitors responses, and makes sure that the questions that Canadians pose and the issues that they raise are addressed by federal ministers and their departments.

7.3 Although the environmental petitions process was established back in December 1995, it is virtually unknown to Canadians. One of the key priorities for the Commissioner is to make the public more aware of the process and provide guidance on preparing and submitting environmental petitions. We are taking steps to try to ensure that the petitions process works as effectively as possible, such as following up on departmental commitments outlined in petition replies and considering the subject matter of petitions for future audits or studies.

7.4 If you have concerns about an environmental or sustainable development issue and would like some answers, you should consider using the environmental petitions process under the *Auditor General Act*.

Introduction

7.5 The petitions process was created almost six years ago as a result of an amendment to the federal *Auditor General Act*. It provides a formal means for Canadians to bring their concerns about environmental issues to the attention of federal ministers and obtain a response to their concerns. For example, through the process, citizens and organizations can ask federal ministers to explain federal policy, investigate an environmental problem, or examine their enforcement of environmental legislation.

7.6 This chapter is intended to make the environmental petitions process more understandable and accessible to Canadians. We hope that the chapter stimulates your interest and gives you some insight into the potential benefits of the process. This chapter presents the following:

- an introduction to the environmental petitions process under the *Auditor General Act*;
- an overview of petition issues and trends and summaries of recent petitions and replies;
- our review of the petitions process and new initiatives that have emerged as a result (page 10); and
- information that you need to develop and file your own environmental petition (page 12).

The Environmental Petitions Process Under the *Auditor General Act*

What is an environmental petition?

7.7 The environmental petitions process retains the idea behind a traditional petition—a formal request to an authority or governing body. However, there are important differences.

7.8 Numerous signatures are not required. An individual, organization, municipality, or corporation can initiate an environmental petition.

7.9 A simple letter is enough. Unlike the formalities of a traditional petition, an environmental petition can take any form as long as it is in writing.

7.10 Petitions are first sent to the Auditor General of Canada. The Commissioner, on behalf of the Auditor General, forwards petitions to the appropriate departments and monitors replies.

7.11 Environmental concerns must be at the root of a petition. Petitions must address an “environmental matter within the context of sustainable development” (see page 12 for further details).

7.12 Only certain federal departments and agencies are involved in the process. Exhibit 7.1 lists the 25 organizations subject to the process. Exhibit 7.2 provides a snapshot of the process.

Environmental petitions—a better option

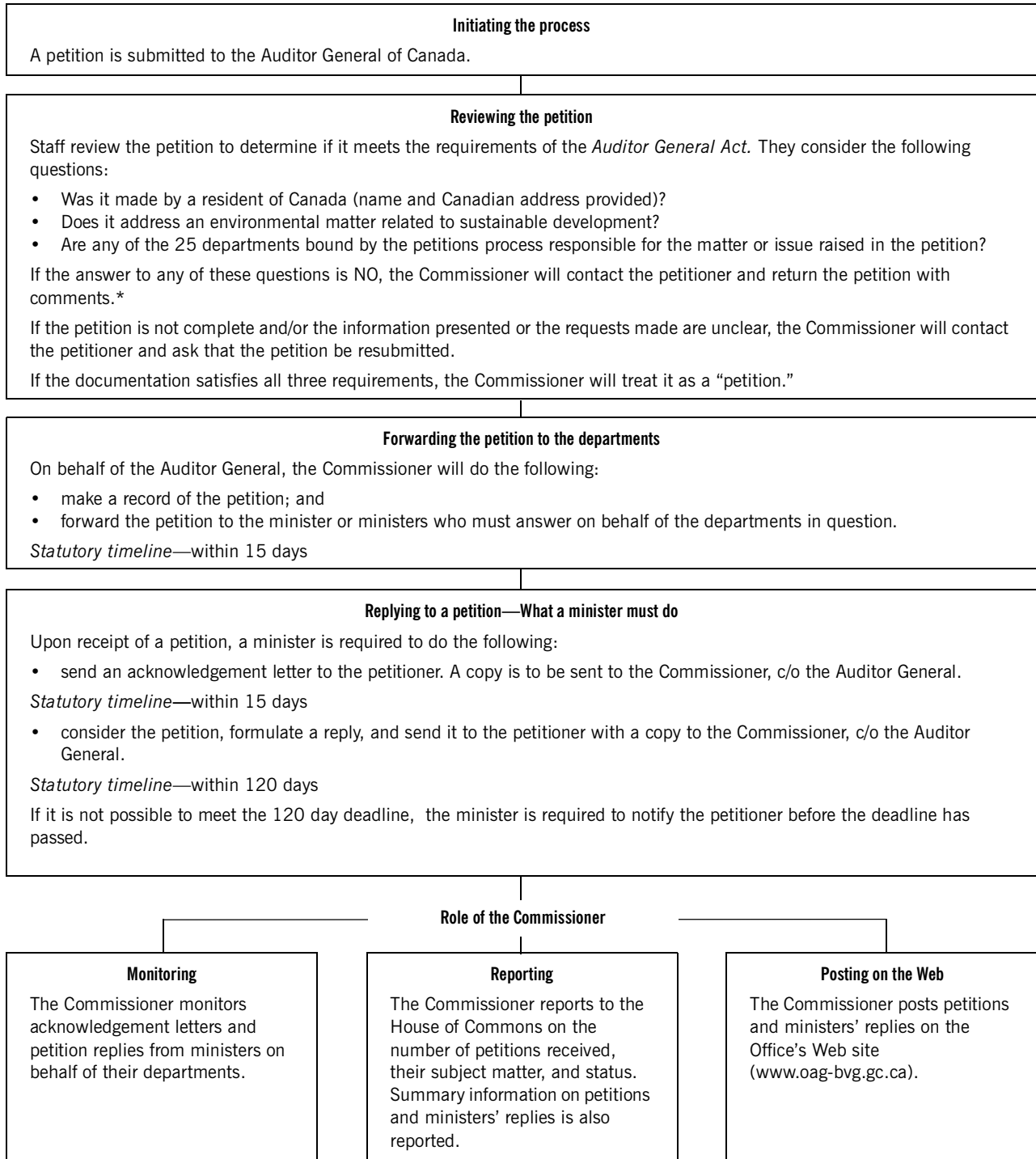
7.13 Canadians have always been able to write to federal ministers or departmental officials and get answers. However, the petitions process offers a formal mechanism for bringing environmental concerns to the government's attention. Federal ministers who receive petitions are compelled to provide a response within 120 days. The Commissioner monitors ministers' replies and reports on petitions in her annual report to the House of Commons.

Exhibit 7.1 Federal departments and agencies subject to the environmental petitions process

The petitions process applies to 25 federal departments and agencies:

Agriculture and Agri-Food Canada
 Atlantic Canada Opportunities Agency
 Canada Customs and Revenue Agency (formerly Revenue Canada)
 Canada Economic Development Agency for Quebec Regions
 Canadian Heritage, Department of
 Canadian International Development Agency
 Citizenship and Immigration Canada
 Environment Canada
 Finance Canada, Department of
 Fisheries and Oceans
 Foreign Affairs and International Trade, Department of
 Health Canada
 Human Resources Development Canada
 Indian and Northern Affairs Canada
 Industry Canada
 Justice Canada, Department of
 National Defence
 Natural Resources Canada
 Parks Canada Agency
 Public Works and Government Services Canada
 Solicitor General Canada
 Transport Canada
 Treasury Board of Canada, Secretariat
 Veterans Affairs Canada
 Western Economic Diversification Canada

Exhibit 7.2 Snapshot of the environmental petitions process



*The Commissioner can provide information about the process and the necessary elements of a petition but is not in a position to comment on the substance of the petition.

7.14 Environmental petitions are a way to raise the profile of particular issues with parliamentarians, the media, the general public, and the Commissioner. They can also be an effective way to obtain concrete responses from federal departments, as illustrated by one petition that has worked its way through the process (see page 8).

Who can participate in the environmental petitions process?

7.15 Any individual, organization, corporation, or municipality residing in Canada can submit an environmental petition. For example, a petitioner could be one of the following:

- a retailer who wants to know how the federal government is handling the risks associated with genetically modified food;
- a northerner who would like to be involved in consultations on harvesting of the forest resource north of 60° latitude;
- a municipality that would like to know what kind of federal regulations are going to be put in place to reduce smog and emissions of greenhouse gases; or
- an environmental organization that wants to know whether refineries are complying with new federal fuel regulations.

What kinds of requests can be made?

7.16 As a petitioner, you can approach environmental matters and concerns from various angles. Some examples follow:

- If you think that a federal law or regulation is being broken or is not being enforced, you can ask federal departments to investigate.
- If you are unclear about federal policy in a particular area, you can ask the government to explain it to you.
- If you have concerns about existing environmental laws, regulations, or policies, you can ask that they be reviewed. If you suggest improvements, you can request a response to your suggestions.
- If you are unclear about the involvement of a particular department in an issue, you can ask for clarification.
- If you want to know what action has been taken to fulfill a public commitment made by a minister, you can ask for details.
- If you want to know what a department is doing to reduce the environmental impacts of its operations and practices, you can ask the department to provide you with details.

7.17 A guide to preparing environmental petitions (see page 11) provides details on how you can participate in the process.

Our petitions report

7.18 We begin with a look at petitions dating back to December 1995. Appendix A provides details on current petitions—those that have been received or responded to since the last Commissioner's report in May 2000. Appendix B is a list of petitions received prior to 2000.

Petitions retrospective (December 1995–15 July 2001)

7.19 Few petitions have been submitted to date. Only 32 environmental petitions have been received since the process was established. Things started out slowly, with one petition received in 1996 and then seven in 1997. Use of the petition process peaked in 1998 with a total of 11 petitions. Since then, petition numbers decreased to seven in 1999 and then to six in 2000. Six petitions have been received in 2001 (by mid-July 2001).

7.20 Since the Commissioner's last report in early May 2000, a total of 11 petitions were received and forwarded to federal departments. Replies have been received for six of those petitions.

7.21 Departments engaged in the environmental petitions process. Roughly half of the 25 departments and agencies that are subject to the process have been asked to respond to petitions. As at 15 July 2001, ministers had replied to petitions on behalf of the following departments: Agriculture and Agri-Food Canada, Atlantic Canada Opportunities Agency, Department of Canadian Heritage, Department of Foreign Affairs and International Trade, Environment Canada, Fisheries and Oceans, Health Canada, Indian and Northern Affairs Canada, Industry Canada, Natural Resources Canada, Parks Canada Agency, Transport Canada, and the Treasury Board Secretariat. In several cases, petitions were forwarded to more than one department. Joint responses, provided on behalf of two or more departments, are becoming more common.

7.22 The Minister of Fisheries and Oceans has been asked to reply to the largest number of petitions (14). The Minister of the Environment has also received a large number (13).

7.23 Departments appear to be making a real effort to reply to petitions as required under the statute (within 120 days of receipt). This contrasts with earlier years, when some departments were not meeting the deadlines on a consistent basis.

What are Canadians concerned about?

7.24 Petitions demonstrate the range of environmental and, more broadly, sustainable development issues that Canadians care about. The scope of the issues also illustrates the extent to which the federal government, through its laws, policies, programs, and activities, exerts an influence on the environment and on sustainable development at all levels—local, regional, national, and international.

7.25 Many petitions have addressed concerns that are local in nature. In one case, a petitioner was concerned about discharges into air and water from a local paper mill. It was alleged that enforcement of federal pollution regulations was weak and that the community living downstream of the mill was suffering as a result. In other examples, petitions have centred around specific projects such as the construction of a dam, bridge, or golf course.

7.26 In some cases, local problems raise broader questions that are relevant to the national scene. For example, when the toxic substance trichloroethylene (TCE) contaminated the drinking water supply of a small rural community, petitioners from the community asked that the Canadian Drinking Water Guideline for TCE be made more stringent and action be taken to regulate TCE under the *Canadian Environmental Protection Act* (see insert, Petition on trichloroethylene).

7.27 Federal policy covering such issues as sustainable transportation and biotechnology has been highlighted through environmental petitions. For example, biotechnology policy was examined as part of a petition seeking clarification on the role of the federal government in the release of genetically modified organisms into the environment.

7.28 Few petitions have focussed on Canada's activities in the international sphere. In one case, petitioners expressed concern about the potential effect

Petition on trichloroethylene

The contamination of a community's drinking water supply was the subject of a petition launched by the Sierra Legal Defence Fund in the fall of 2000. Sierra Legal was acting on behalf of the Beckwith Water Contamination Committee. Beckwith residents depend on private groundwater wells for their drinking water. Many of these wells are contaminated with trichloroethylene (TCE), a substance that was declared "toxic" under the *Canadian Environmental Protection Act* in 1993. The petitioners made four specific requests in their petition. Two of the requests are profiled here as well as excerpts from the joint reply provided by the federal ministers of Health and the Environment.

Amend the Canadian Drinking Water Guideline for Trichloroethylene (TCE). The petitioners questioned the current Canadian guideline for TCE, arguing that it should be made more stringent based on recent scientific developments and similar guidelines in other jurisdictions. They asked the ministers to consider reviewing the Canadian Drinking Water Guideline for TCE, with a view to making it at least as stringent as the guideline set by the United States Environmental Protection Agency. The ministers acknowledged the seriousness of the concerns of the citizens of Beckwith Township and provided the following response to their request:

With respect to making the Canadian Drinking Water Quality Guidelines for TCE more stringent, Health Canada will expedite its review of the adequacy of the current Canadian Drinking Water Guideline for TCE. Health Canada will work through the existing federal/provincial mechanism to encourage the earliest possible implementation of any forthcoming recommendations relating to the revision of the TCE guideline. The Federal/Provincial Drinking Water Subcommittee decided at its May 2000 meeting to increase the priority for reassessment of the TCE guideline.

Take action to regulate TCE under the *Canadian Environmental Protection Act (CEPA)*. The petitioners pointed out that TCE was declared toxic under CEPA in 1993. They questioned why the government had not taken steps to control the use of TCE in Canada and they asked that the ministers take action in this regard.

The ministers described the progress that had been made since 1993 to develop a regulation to control TCE. Further, the ministers noted the following:

With respect to taking action under CEPA to protect the environment and Canadians, Environment Canada will move as expeditiously as possible to bring into force regulations for TCE under CEPA, 1999. It is expected that regulations for TCE will be published in Part 1 of the *Canada Gazette* by mid-2001 to control its use in solvent degreasing, the major use of TCE.

of the now defunct Multilateral Agreement on Investment on social equity, environmental protection, public health protection, and sustainable development. Only two petitions have addressed Canada's fulfillment of its commitments under international environmental conventions and agreements.

7.29 Fisheries and environmental assessment are important issues for Canadians. If numbers are any indication, fisheries and environmental assessment are important issues for Canadians. Fisheries-related matters were the subject of 14 petitions overall. Issues ranged from habitat destruction to conservation, aquaculture, and genetically modified fish. A large number of petitions focussed on federal departments as “responsible authorities” under the *Canadian Environmental Assessment Act*. Many of the specific projects or undertakings identified in the petitions were the subject of an environmental assessment under the Act.

7.30 Other significant issues. Other issues that received a fair amount of attention through the petitions process were the following:

- **Environmental and health concerns.** In addition to the petition on the toxic substance TCE, petitions have addressed ozone depletion, pesticide use, and fuel additives.
- **Sustainable development north of 60° latitude.** Petitions have focussed on the Canadian Mining Regulations and logging of the boreal forest in the Yukon Territory.
- **Sustainable transportation.** Petitioners want to see the federal government take a more active role in supporting public transit and other more “environmentally friendly” modes of transportation.

7.31 Several new issues have emerged since the Commissioner last reported in May 2000; these include biotechnology, wildlife protection, threats to parks located on federal lands, aquaculture, and the decommissioning of railway lines.

7.32 Exhibit 7.3 lists the issues covered by petitions and identifies each petition by number. The summaries provided in Appendices A and B provide more information on individual petitions and ministers' replies.

Getting more mileage from the process

7.33 Given that the petitions process has been in place for over five years, we decided that it was time to step back and consider what had been gained by the process over the years. What kind of impact has the petitions process had on federal departments, on parliamentarians, and the general public? Has the process improved protection of the environment by federal departments and led us further along the path toward an environmentally sound and sustainable future? Could we be doing more to realize the full potential of the process? These questions were very much on our minds when we started our petitions review project in the spring of 2001.

Exhibit 7.3 Issues canvassed by petitions

Aquaculture (petition No. 29)
Biotechnology (23)
Crown obligations to First Nations (11)
Enforcement (8 and 19)
Renewable and non-renewable resource development in Canada's north (6, 18, and 24)
Protection of watersheds and fisheries habitat (1, 12, 15, 17, 27, 30, and 31)
Emissions and discharges (5 and 19)
Fisheries conservation (7 and 14)
Federal infrastructure programs (1 and 3)
Federal divestment (7)
Environmental health (5, 8, 20, 25, and 32)
Environmental assessment (1, 4, 12, 13, 15, 16, 19, 28, 30, and 31)
Federal-provincial co-operation (10)
International agreements (8, 9, and 23)
Policy instruments to support sustainable development (29)
Sustainable transportation (2, 22, and 29)
National parks (4 and 21)
Federal lands (30 and 31)

Note: Some petitions cover more than a single topic or issue.

Our review

7.34 As part of our review, we spoke to several individuals and organizations that had launched petitions during the past few years. We also met with departments that had been involved in the process, and we compared our approach with other agencies that oversee similar public accountability processes.

7.35 Some petitioners suggested that the process was of limited value because their petitions and the replies that they elicited seemed to disappear into a “black box.” They saw little evidence that the Commissioner was taking notice of the issues in their petitions or of the quality of the responses provided by departments. Nor did they see the Commissioner drawing attention to the issues covered in petitions, aside from the brief summary provided in the Commissioner's annual report. Other petitioners remarked on the lack of information or guidance on the petitions process.

7.36 The overall message that we received from petitioners was loud and clear. While the Office has performed its basic petitions function as outlined in the *Auditor General Act*—acting like a petitions clearing house and

providing a brief status report on petitions to the House of Commons every year—it should change its approach in order to ensure that the process works as effectively as possible. Otherwise, the process will be of limited value.

New initiatives

7.37 We concluded that we can do more to fully realize the potential benefits of the process. Making the process more accessible and understandable to Canadians is a key priority. This chapter and the guide that it contains should move us forward in that direction. Our other new initiatives are described below:

- **Developing an online petitions catalogue.** The petitions catalogue is an electronic listing that will form part of our new “petitions corner” on the Office’s Web site (www.oag-bvg.gc.ca). Petitions and the replies that they elicit from federal ministers will be posted on our site. However, in order to comply with the *Privacy Act*, we will first seek the consent of petitioners.
- **Monitoring departmental replies more closely.** The Commissioner monitors petition replies to determine whether federal ministers and their departments are providing considered responses to the issues raised and the requests made through petitions. In doing so, the Commissioner will consider, at a minimum, whether the minister has provided a substantive (detailed and factual) response to the petitioner’s request(s).
- **Auditing.** The Commissioner will consider the subject matter of petitions for future audits or studies that she conducts as part of her ongoing responsibilities.
- **Following up on commitments.** On a selective basis, the Commissioner intends to track departments’ progress in carrying out commitments outlined in their petition replies.
- **Tracking trends.** If petitions become more numerous, the Commissioner hopes to monitor, track, and report on significant themes or issue areas and provide more substantive information on these issues to parliamentarians and the general public.

A guide to preparing environmental petitions

How can you participate?

7.38 This section of the chapter guides you through the steps required to prepare a petition document. We discuss the form the petition should take, the information that should be provided, how to prepare your petition request, and where to send the petition.

Initial questions

7.39 Before you begin to prepare your petition, you need to consider the following questions:

- Is the matter that you want to address covered by the petitions process? Is it an environmental matter in the context of sustainable development?
- Is the matter or subject of the petition a responsibility of one of the 25 departments and agencies subject to the process?

If the answer is “no” to any of these preliminary questions, then the petitions process will not work for you. You may want to consider other ways to get the answers that you need (see Exhibit 7.4).

Exhibit 7.4 Getting answers: Alternatives to the petitions process

- Obtain information through the federal *Access to Information Act*. The Act establishes a right of access to federal government information for Canadians, subject to a number of exceptions.
 - Use processes established through provincial or territorial environmental rights legislation. Examples include Applications for Review and Applications for Investigation established under the Ontario *Environmental Bill of Rights*. These requests are submitted to the Environmental Commissioner of Ontario and forwarded to certain provincial ministries for a response. The Yukon *Environment Act* also provides residents of the Yukon with a formal avenue for lodging complaints, petitions, and requests for investigation on environmental matters.
-

What is meant by an “environmental matter in the context of sustainable development”?

7.40 Although this question may seem quite daunting, it really is not. If you are concerned about an environmental matter, then the petitions process applies. The reference to “sustainable development” is not intended to restrict the kind of environmental matters that can be addressed through a petition. Rather, it is included to reinforce the idea that environmental concerns or issues do not exist in a vacuum. The concept of sustainable development recognizes the interconnections between human beings and the natural environment and the links between economic and social development and environmental protection. Reconciling and integrating all these aspects is at the core of sustainable development.

7.41 The emphasis on environmental matters recognizes that the environment is at the heart of the equation. A healthy environment is critical for a prosperous economy and for our social well-being. It is the source of the resources we consume and use to produce goods and services. Without the earth's natural support system, we, and all other species on the planet, would not survive.

7.42 Some of the ways that federal departments can help achieve the goal of sustainable development are described in the *Auditor General Act* as follows:

- integrating the environment and the economy;
- promoting equity;
- respecting nature and the needs of future generations;
- protecting the health of Canadians and ecosystems;
- meeting international obligations;
- preventing pollution; and
- adopting an integrated approach to planning and making decisions that takes into account the environment and natural resource costs of different economic options and the economic costs of different environmental and natural resource options.

Federal organizations subject to the environmental petitions process

7.43 Twenty-five departments and agencies are subject to the petitions process. They are listed in Exhibit 7.1.

7.44 You may suggest that we submit your petition to a particular minister, but note: the Commissioner makes the final determination on whether a department is a “responsible” department and therefore obliged to respond to a petition.

7.45 To find out more about the scope of environmental and sustainable development activities at the federal level, you may wish to review the sustainable development strategies that are prepared every three years by certain federal departments and agencies. They are the same federal organizations that are required to reply to petitions under the *Auditor General Act*. These strategies are available directly from departments, or they can be accessed through departmental Web sites or through links on our Office’s Web site.

7.46 Other sources of information on federal departmental roles and responsibilities include departmental reports on plans and priorities and performance reports.

What should a petition contain?

7.47 The following are some suggestions for developing a petition.

- **Prepare a covering letter.** Although not necessary, you may find it useful to prepare a covering letter for your petition. In that letter you would indicate that you are submitting a petition under the *Auditor General Act*, and you would enclose the petition document as an attachment.
- **Provide a background information section.** Setting out the facts and circumstances giving rise to the petition is important for a number of reasons. First, it provides the information necessary to satisfy the

Commissioner that the request should be treated as a petition under the *Auditor General Act*. Second, it provides the context for your petition request and provides the minister and department with enough information to enable them to formulate a response. It may also be useful to provide information, if available, on the involvement of federal departments in the issue of concern.

- **Articulate your petition request—a critical stage in the process.** Once you have laid out the background facts giving rise to your petition, you need to formulate your petition request. You may find it useful to consider the following questions.

What kind of information would you like to know?

What do you want federal departments to do?

Do you have any suggestions that you wish to put forward?

- **Provide supporting information.** If you have written reports or other material that support the issues raised in your petition, you may wish to reference them and provide a copy with your petition. We will ensure that the supporting material forms part of the package that is forwarded to a minister.
- **Sign and date your petition. Don't forget to include your address.** You need to provide an address in order to establish that you are a resident of Canada and are therefore eligible to submit a petition to us.
- **Send your petition to the Auditor General of Canada.** The address is provided at the beginning of this chapter.

7.48 The Commissioner's staff will assist you with any questions that you may have about the environmental petitions process.

Conclusion

7.49 Canadians need tools and mechanisms to help them determine whether governments are taking environmental and sustainable development concerns seriously. The *Auditor General Act* provides for such a mechanism—the environmental petitions process.

7.50 One of the Commissioner's key priorities is to make the public more aware of the process. We also intend to change the way we approach our petitions function so that we get more mileage from the process. This chapter is the first step toward realizing these objectives.

7.51 If you have concerns about an environmental or sustainable development issue and would like some answers, we invite you to use the petitions process under the *Auditor General Act*.

Appendix A—Summary of current petitions received or pending (1 January 2000–15 July 2001)

Crown obligations to First Nations (petition No. 11)

Petition

Petitioner: Athabasca Chipewyan First Nation

Date: 4 May 1998

Summary: The petitioners stated that they had been pursuing a claim for the past six years with Indian and Northern Affairs Canada. They alleged that the Crown was in breach of its common law, statutory, constitutional, and fiduciary obligations to the First Nation by enabling and permitting B.C. Hydro to construct and operate the W.A.C. Bennett Dam. They suggested that the dam was operating in a manner that permanently destroyed the environment of Indian Reserve 201 and a major source of economic opportunity for the First Nation. It was alleged that the damage to the reserve was continuing without any effort at remediation or compensation by Canada or B.C. Hydro.

Reply

Federal department responsible for reply: Indian and Northern Affairs Canada

Dates of reply: 10 August 1998 and 8 June 2001

Statutory deadline met? The Department requested an extension.

Summary of Minister's reply: In a letter dated 10 August 1998, the Minister requested an extension of time to respond to the petition, stating that a reply was not possible at that time as the matters raised in the petition were the subject of litigation involving the First Nation and the Government of Canada. In a further letter dated 8 June 2001, the Minister indicated that he could not comment further as litigation was ongoing.

Sustainable development in national parks (petition No. 21)

Petition

Petitioner: Pat Crowley

Date: 7 January 2000

Summary: The petitioner expressed concern that Parks Canada had not developed information on the three dimensions of sustainable development—economic, environmental, and social. The petitioner alleged that the Banff-Bow Valley Study, the Jasper Management Plan, and the Jasper Community Plan lacked social and economic data. The petitioner also alleged that the National Parks Revenue Policy, which states that science is to be funded only from appropriations, is ignored within Jasper National Park, with moneys being directed to science programs rather than the maintenance of capital assets and visitor services.

Reply

Federal department responsible for reply: Parks Canada Agency

Date of reply: 18 April 2000

Statutory deadline met? Yes

Summary of Minister's reply: The Minister acknowledged that the Banff-Bow Valley Study and the study entitled *Sustaining Our Heritage* suggest that Parks Canada must improve its economic, environmental, and social information for planning and decision-making. However, the Agency has focussed its resources on ecological issues in order to respect the requirements of the *National Parks Act*. The report of the Panel on the Ecological Integrity of Canada's National Parks confirmed the need for a better understanding of ecosystems and for quality visitor services. The Agency continues to gather ecological data on the human dimensions of ecosystem management.

With respect to the Jasper National Park Management Plan and the Jasper Community Plan, their information base included a series of studies and assessments such as an economic impact analysis of visitor expenditures. The Agency is also studying the impact of development controls in national park communities. Additional consultation with businesses and communities to research, collect, and analyze data will also be undertaken. In addition, the Agency is considering economic, social, and ecological considerations in its operations.

With respect to the National Park Revenue Policy and Jasper National Park, the Minister provided information on the Agency's budget. Revenues from all sources (\$67 million) represent 18 percent of the Agency's total budget (\$365 million). The Agency spends approximately 25 percent (\$85 million) of its total budget on science and programs to protect the natural and cultural resources under its stewardship. Approximately 50 percent (\$180 million) is spent on providing quality services and facilities to visitors, including camping at Jasper National Park. The Agency will continue to address its use of revenues by identifying opportunities where additional investments in recapitalizing facilities, such as campgrounds, might be realized. The February 2000 federal Budget provided the Agency with an additional \$12 million to support infrastructure recapitalization initiatives.

Sustainable development and transportation (petition No. 22)

Petition

Petitioner: The Society for Conservation Biology, Kingston Chapter

Date: 24 March 2000

Summary: The Society expressed concern about transportation policy in Canada. In particular, members of the organization are alarmed by the accelerating rate at which highways and urban sprawl are paving over natural habitats across the country. They suggest that although the federal government claims to support "sustainable development," the widespread subsidization of motor vehicle transportation has led to devastating ecological as well as economic and social costs. They assert that motor vehicles are far more damaging to the environment than any other form of transport. Our over-reliance on automobiles has led to the large-scale destruction and fragmentation of wildlife habitat, damage to ecosystems from acid rain and smog, and rising greenhouse gas emissions. These effects have occurred despite the federal government's international commitments to protect biodiversity and fight climate change. Canada must act now to curb the negative impacts of our current transportation policy if it is to live up to its international commitments and not lose its international credibility. The environmental costs associated with the "car culture" have already been recognized by many countries and they have invested in the development of economically efficient public transportation systems. In contrast, Canada has gradually dismantled infrastructure for rail travel in recent decades, while encouraging the expansion of highways and dependence on trucking as the primary mode of shipping goods. While the Society applauds Transport Canada's Moving on Sustainable Transportation Program, it strongly believes the government must take a more active role in shifting our transportation focus to actively promote and support alternative, more environmentally sound modes of transportation before further environmental, health, and economic damage occurs. The Society urged the federal government to initiate the following actions:

- Subsidize sustainable instead of unsustainable transportation (e.g., rail vs. truck for inter-city transport of goods, and public transit vs. private motor vehicle).
- Levy a gas tax for public transportation infrastructure.
- Establish a user-pay system for those using private instead of public transportation.
- Recognize employer-provided transit passes as non-taxable employee benefits.

- Strengthen rail and bus services between cities.
- Ban multiple trailer trucks from all highways and limit truck driver work hours to a maximum of 10 per 24 hours.
- Fund research into the maintenance of ecological connectivity in highway-dominated landscapes.

Reply

Federal department responsible for reply: Transport Canada

Date of reply: 18 October 2000

Statutory deadline met? Yes

Summary of Minister's reply: The Minister responded to each of the recommendations put forward by the Conservation Society (see below). In addition, the Minister assured the petitioners that sustainable transportation remains one of Transport Canada's top priorities. He stated that it is the Department's goal to achieve a transportation system that is safe, efficient, cost effective, and environmentally responsible. He outlined recent actions that the government has taken to realize this goal:

Sustainable development strategy. The Department's first sustainable development strategy was tabled in Parliament in December 1997. It contains eight challenges and 47 specific commitments and is currently being updated. As part of this process, stakeholder consultations were held across Canada in June 2000. (Commissioner's note: The new departmental strategy was tabled in February 2001.)

Climate change. Addressing climate change is an important component of Transport Canada's sustainable development strategy. The Department collaborated with the provinces and territories in sponsoring a Transportation Table as part of a national process to develop a climate change strategy in response to the Kyoto Protocol. The Table's November 1999 Options Paper assesses the costs, benefits, and impacts associated with over 100 measures to mitigate greenhouse gas emissions in the transportation sector. A companion document that summarizes stakeholder feedback on the Options Paper has also been prepared. The Options Paper and other related information is available on Transport Canada's Web site.

Other initiatives on climate change include the Government of Canada Action Plan 2000 for Climate Change (6 October 2000). There are five pillars of the transportation component of the plan. Federal, provincial, and territorial Energy and Environment ministers agreed on a national implementation strategy and a first national business plan during their meeting on 16-17 October 2000. The plan includes the actions described in the Government of Canada Action Plan 2000 as well as actions forwarded by individual provinces.

Responses to the recommendations put forward by the Conservation Society:

- **Subsidize sustainable instead of unsustainable transportation.** Transport Canada has been moving away from subsidizing the transportation sector and from operating transportation facilities to overseeing them. In doing so, it has been divesting ports and airports to local organizations and shifting costs to users.
- **Levy a gas tax to fund public transportation infrastructure.** Taxation issues fall within the purview of the Minister of Finance. In general, the federal government does not support dedicated taxes; all taxes are directed to a single revenue fund to be allocated by Parliament to the nation's priorities. For example, in the 2000 Budget, the government announced a \$2 billion municipal infrastructure program to be matched by the provinces and territories. The focus is on green infrastructure, and investments in public transit are eligible for support.
- **Establish a user-pay system for those using private instead of public transit.** As mentioned, Transport Canada has been divesting itself of major parts of its infrastructure. As a consequence, users pay the costs of these facilities, rather than the general taxpayers. For the most part, provincial fuel taxes paid by motorists go toward the costs of building and maintaining roads. A number of options to introduce pricing mechanisms, such as road and parking pricing, were studied by the Transportation Climate Change Table (see above). The Table concluded that while promising, further work is needed before widespread application of the options.
- **Recognize employer-provided transit passes as non-taxable employee benefits.** The Transportation Table studied a tax exemption for employer-provided transit passes as an early action to reduce emissions. Table members felt that the

measure would be a useful tool in marketing transit to large employers. However, as noted above, taxation issues are the responsibility of the Minister of Finance, who has been reviewing such a measure.

- **Strengthen rail and bus services between cities.** The Minister of Transport announced on 12 April 2000 that an additional \$400 million would be provided in capital funding to VIA Rail to address key pressures in its existing system. Funds are to be targeted to renewing the fleet, modernizing signaling on VIA-owned track, making strategic improvements in the Quebec-Windsor Corridor, refurbishing stations, and improving environmental waste management.
- The Minister also announced that VIA had been asked to prepare an “outer” commuter strategy for the Greater Toronto and Greater Montreal areas to complement the services offered by urban transit authorities. In the case of the Greater Toronto Area, this strategy will cover the following: examining the extension of existing services and increasing capacity in peak hours; exploring arrangements with Go Transit for offering seamless transfers, ticketing and pricing; assessing whether there is a business case for restoring services to Barrie and Peterborough and for summer and ski-season weekend peak services to relieve congestion on the highway system; and examining the possibility of partnerships with municipalities and the provinces to assist in the development of new services and enhancement of stations. This means that VIA Rail services into Toronto and Montreal could be expanded under a new initiative aimed at cutting pollution. VIA's commuter strategy is in its early stages. Further studies and discussions with agencies/corporations such as GO Transit are required before the strategy is implemented.
- **Ban multiple trailer trucks from all highways and limit truck driver work hours to a maximum of 10 per 24 hours.** Responsibility for commercial vehicle safety is shared between the federal and provincial/territorial governments. The federal government, under the *Motor Vehicle Transport Act*, has jurisdiction over the safe movement of carriers between provinces/territories. Each of the provinces and territories, along with municipalities, is responsible for highway design, construction, and maintenance as well as driver, vehicle, and traffic regulations and enforcement. A review of National Safety Code Standard # 9—Hours of Service is being conducted under the Canadian Council of Motor Transport Administrators (CCMTA), which serves as a forum to harmonize regulations and policies across Canadian jurisdictions. Proposals put forward by the CCMTA are aimed at reducing maximum on-duty time and increasing off-duty time. However, further consultation is required before Transport Canada and the provinces/territories consider revising their regulations. The intent is that all Canadian hours of service regulations will be based on a common standard and will, therefore, be consistent. As a final note, the use of multiple trailer trucks on highways falls exclusively within the jurisdiction of the provinces.
- **Fund research into maintenance of ecological connectivity in highway-dominated landscapes.** As noted, highways fall under provincial jurisdiction. However, where funding for highway construction is provided by the federal government, the *Canadian Environmental Assessment Act* is engaged. Such projects are required to undergo an environmental assessment to minimize the impacts on natural systems.

Genetically modified organisms (petition No. 23)

Petition

Petitioners: Sierra Legal Defence Fund on behalf of the Canadian Institute for Environmental Law and Policy (CIELAP), Council of Canadians, and two Canadian residents

Date: 9 May 2000

Summary: The subject matter of the petition concerns the release into the environment and/or the presence of genetically modified organisms (GMOs), which, in the petitioners' view, may have had, and in some instances already have had, adverse and/or unknown effects on the environment. Over the years, there has been a rapid commercialization of agricultural biotechnology in Canada. Modern biotechnology research is rapidly expanding into new areas, and the commercialization of genetically modified fish, animals, and trees is on the horizon.

The petitioners raised concerns and posed questions on federal laws, regulations, and policies concerning GMOs. They suggested that concern about the regulatory treatment of GMOs has been mounting worldwide, prompting many countries to endorse the precautionary principle and take action to ensure public health. The petitioners submitted that the Government of Canada has confirmed in its Guide to Green Government that there are three dimensions to sustainable development that must be integrated to ensure that this goal is met: social, economic, and environmental.

Such an integrated approach must be based on sound science, including recognition of the precautionary principle, which underscores the importance of taking early action in the face of scientific uncertainty. The petitioners further submitted that the Guide recognizes that in order to achieve an integrated approach, environmental policy can no longer be reactive, responding to problems after they have developed. In the petitioners' view, these principles lie at the very core of biotechnology regulation.

The petitioners discussed the risks associated with GMOs. In their view, the release of GMOs into the environment and the introduction of GMO foods into the global food chain have created a new generation of unprecedented environmental, health, ethical, and social concerns. The petitioners described in detail risks to the environment, human health, and sustainable development. They also discussed social and ethical concerns. In addition, the petition included an overview and assessment of Canada's federal regulatory regime for biotechnology and food safety.

The petitioners concluded that the regulation of biotechnology in Canada is deficient in a number of ways. They described six main areas of concern: conflicts of interest with regulatory agencies; inadequate legislative foundation; inadequate assessment process; gaps in the existing system; lack of accountability; and denial of the right to choose.

Petition requests

Review of laws, regulations, and policies. The petitioners asked the federal government to assess whether the existing regulatory system for GMOs is consistent with the principles of sustainable development. They asked that the existing regulatory system (laws, regulations, policies, and institutional arrangements) be reviewed, with an emphasis on the following questions:

- **Question 1:** Does the existing regulatory system provide for the evaluation and assessment of biotechnology products from a sustainable development perspective before they are introduced into Canada, including their potential immediate and long-term adverse social and economic impacts?
- **Question 2:** Does the existing regulatory system for biotechnology provide for the clear separation of regulatory and promotional roles among different agencies involved in the promotion and regulation of biotechnology?
- **Question 3:** Does the existing system meet the requirements as set out in Article 8(g) of the Convention on Biological Diversity? In other words, is the government adequately considering the impacts of biotechnology products on the conservation and sustainable use of biodiversity, while also taking into account effects on human health?
- **Question 4:** Does the existing system meet the requirements as set out by Parliament in Parts 5 and 6 of the *Canadian Environmental Protection Act* that all biotechnology products are subject to pre-manufacturing or import notification and assessment of their potential "toxicity," as defined by the Act, before their introduction into Canada?

Suggested measures. The petitioners believe that the following measures need to be adopted to protect Canadians' health, safety, and environment, and to ensure that the Government of Canada's policies and practices with respect to biotechnology are consistent with the principles of environmental, social, and economic sustainability.

- **Enact new legislation.** Given that much of the science surrounding GMOs is new, with accompanying new risks, legislation must be enacted that incorporates appropriate safeguards and measures. With the exception of the *Canadian Environmental Protection Act, 1999* (CEPA, 1999), the existing legislative frameworks are not specifically intended to deal with these products or the specific risks they pose.
- **Ensure independent, governmental evaluation and testing of all biotechnology products.** Assessments should take into account a range of growing environments and include post-release monitoring of performance to test the potential for instability across locations and seasons.
- **Establish clear evaluative criteria.** This includes an improved safety standard that takes into account the potential immediate and long-term direct or indirect harmful effects on human health, the environment, and the conservation and sustainable use of biological diversity of biotechnology products. This should include

consideration of impacts on sustainable agricultural practices, such as integrated pest management and organic farming.

- **Clearly separate regulatory and promotional functions among agencies.** In particular, the promotional activities of the Canadian Food Inspection Agency must be terminated, or its regulatory functions transferred to another agency with a clear and overriding mandate to protect human health, the environment, and biological diversity.
- **Make labelling of genetically modified products mandatory.** Mandatory labelling will not only ensure public and environmental health and safety, but will also allow food risks to be monitored in the long-term.
- **Adopt measures to ensure accountability and transparency.** Measures are required to provide for public participation in decision making. These include public notice and comment periods prior to approval for manufacture, use, import, or export of new biotechnology products; public access to industry submissions for approval; and public records of all government decisions on approval of genetically modified products.

Reply

Federal departments responsible for reply: Agriculture and Agri-Food Canada, Environment Canada, Fisheries and Oceans, Health Canada, Industry Canada, Natural Resources Canada

Date of reply: 7 September 2000

Statutory deadline met? Yes

Summary of ministers' reply: The ministers of the six departments collaborated to provide a joint response to the petition. The ministers stated at the outset that, overall, they believe that Canada's existing regulatory system provides for the risk assessment and management of biotechnology products from a sustainable development perspective. The response was structured to focus on the following:

- the sustainable development strategies of individual departments and agencies involved in the biotechnology regulatory system (paragraphs 10 to 14 and Annex B of the response);
- the 1993 Federal Regulatory Framework for Biotechnology (paragraphs 15 to 22); and
- the responses to the petitioners' questions and suggested measures (paragraphs 23 to 75).

Sustainable development strategies. A portion of the response described the amendments to the *Auditor General Act* that required Category 1 departments and agencies to table sustainable development strategies in the House of Commons in 1997 (and update them every three years). It is stated that the definition of sustainable development that arose from the World Commission on Environment and Development provides an important reference point for departments required to develop strategies, as does s. 21 of the *Auditor General Act*. The ministers stated that the response shows that many of the core concepts of sustainable development are already reflected in the federal approach to the regulation of biotechnology. They also noted that development of regulations for biotechnology products is only one of several approaches or elements identified in departmental strategies to meet Canada's sustainable development objectives. Further detail on these objectives is provided in Annex B of the response.

Federal Regulatory Framework for Biotechnology. The ministers began by noting that the framework resulted from an agreement among federal regulatory departments on principles for an efficient, effective approach for regulating biotechnology products. The six principles enunciated in the framework were approved on the basis that they would assure that the benefits of biotechnology products and processes would be balanced with the need to protect human health, animal health, and the environment. The framework maintains Canada's high standards for the protection of the health of workers, the general public, and the environment; uses existing legislation and regulatory institutions to clarify responsibilities and avoid duplication; continues to develop clear guidelines for evaluating biotechnology products that are in harmony with national priorities and international standards; provides a sound scientific database on which to assess risk and evaluate products; assures that both the development and enforcement of Canadian biotechnology regulations are open and include consultation; and contributes to the prosperity and well-being of Canadians by fostering a favourable climate for investment, development, innovation, and adoption of sustainable Canadian biotechnology products and

processes. The ministers suggested that these six principles reflect that the Government of Canada's approach to assuring safety in the use of biotechnology is a cautious and sustainable one.

With respect to the first principle, the ministers noted that the maintenance of Canada's high standards for protecting human health and the environment is carried out by federal regulatory departments and agencies without compromise. For new biotechnology products, this means that they will be assessed based on the established procedures for identification of relevant safety concerns. Novel products are thoroughly scrutinized for their safety before they are permitted to be released into the environment or allowed to be used in the marketplace.

The ministers described the advantages of using existing legislation and institutions to clarify responsibilities and avoid duplication (second principle). Departmental and agency responsibilities for regulated products as well as the pertinent legislation and regulations are set out in a table that forms part of the response (Table 1).

The response also outlines other biotechnology-related activities undertaken by the federal government and others. It indicates that Canada continues to evolve its strong knowledge base in this area by actively working within international fora to share information and consult with the specialists of other countries. This has resulted in an enhanced science-based regulatory system in Canada that complements and is consistent with the principles laid out by key international organizations. The ministers noted that Canada has served as a model for countries developing their national regulatory frameworks and has provided training in safety assessment in South American countries.

Reply to petition requests

Review of laws, regulations, and policies—answers to specific questions on the federal regulatory regime

Answer to Question 1: The Government of Canada agrees that biotechnology products should be regulated from a sustainable development perspective before they are introduced into Canada, including understanding their potential immediate and long-term impacts. The 1993 Federal Regulatory Framework For Biotechnology requires departments and agencies to consider “the prosperity and well-being of Canadians” in the development of regulations, including provisions for public input into the development of these regulations. As a result, decisions to establish regulations have been made with consideration of social and economic impacts, including an analysis of immediate and long-term impacts. This approach is considered in the development of regulatory proposals, including those addressing risk analysis of biotechnology products and is consistent with the Government of Canada Regulatory Policy. This policy indicates that when regulations address health, social, economic, or environmental risks, immediate and long-term socio-economic impacts, including impacts on the environment and sustainable development, are to be considered in detail. These considerations are clearly reflected in the Regulatory Impact Analysis Statements, a series of publicly available documents that must accompany regulatory proposals.

The ministers assert that the existing regulatory system for biotechnology provides for the necessary safeguards to effectively protect human health and the environment, including biodiversity. The government remains committed to the continuous improvement of the regulatory system within the context of the existing regulatory framework for biotechnology products and it will continue to seek and implement, as appropriate, advice from outside experts. It has announced a special initiative entitled The Regulation of Genetically Modified Foods. The government will also fund improvements to the regulatory system to keep ahead of the demands of this technology. It demonstrated this commitment in the most recent budget, by allocating \$90 million to these efforts.

Answer to Question 2: The ministers stated that the Government of Canada recognizes the importance of separating its regulatory and promotional functions. To this end, the government has assigned different and distinct mandates to its various departments and agencies. By way of example, the legislative and regulatory responsibility for health and environmental assessment of biotechnology products is divided among the Canadian Food Inspection Agency, Health Canada and its Pest Management Regulatory Agency, Fisheries and Oceans, and Environment Canada; promoting economic development of biotechnology, such as export market development, is the responsibility of Industry Canada, Agriculture and Agri-Food Canada, the Department of Foreign Affairs and International Trade, and Natural Resources Canada. These mandates are voted on by Parliament, and ministers are accountable back to Parliament. The response provides detailed information describing how the various roles and responsibilities of the departments and agencies named in the petition are kept separate and accountable to Parliament and Canadians.

Answer to Question 3: The Government of Canada feels that by protecting humans and the environment, under its existing regulatory system, it is also protecting and preserving biodiversity as intended in Article 8(g) of the Convention on Biological Diversity. After being one of the first countries to sign and ratify this international agreement, Canada has continued to commit itself to the conservation and sustainable use of biodiversity through the 1996 Canadian Biodiversity Strategy. According to the ministers, Canada's regulatory system reflects these commitments. Provisions of the *Canadian Environmental Protection Act, 1999* are described, and reference is made to other relevant pieces of federal legislation including the *Seeds Act*, *Feeds Act*, *Fertilizer Act*, the *Health of Animals Act*, *Pest Control Products Act* and the *Food and Drug Act*. The ministers also noted that Fisheries and Oceans is developing regulations on research and rearing of transgenic aquatic organisms, under the *Fisheries Act*.

Answer to Question 4: The *Canadian Environmental Protection Act, 1999* (CEPA, 1999) came into force on 31 March 2000, with the exception of the provision relevant to the regulation of biotechnology products (ss. 106(7)), which will come into force on 13 September 2001. This will complete the implementation of CEPA, 1999. Therefore, the question proposed by the petitioners addressed a government process that is still under way, and it would be premature to determine what the Governor in Council may conclude pursuant to ss. 106(7) of CEPA, 1999 prior to 13 September 2001.

Suggested measures. The detailed replies to each of the six suggested measures outlined in the petition are summarized below.

- **Enact new legislation.** The Government of Canada considers that the use of existing acts, which in some cases have effectively protected the environment and the health and safety of Canadians for over a century, has value and a number of advantages over redrafting legislation to address technological advances such as new biotechnology techniques. Canada has taken the approach of amending legislation to assure continuous improvement, particularly when dealing with dynamic technologies such as biotechnology. This is accomplished through statutory review clauses and the amendment of regulations. Accordingly, it has instituted regulatory assessment processes based on sound science and the generally accepted premise that it is the product itself, rather than the technology or process, that should trigger the need for regulation. Some recent and future initiatives are outlined in the response. Reference is made to the *Pest Control Products Act*, the Novel Foods Regulations under the *Food and Drug Act* as well as the 1996 amendments to the Feeds, Fertilizers, Health of Animals, and Seeds Regulations. Draft regulations on transgenic aquatic organisms will soon be published in the *Canada Gazette, Part 1*.
- **Ensure independent, governmental evaluation and testing of all biotechnology products.** The Government of Canada does conduct an independent evaluation of biotechnology products. During a safety assessment, regulators may determine that additional testing or verification is required. This additional work may be carried out by the government or by product proponents under the government's direction. Safety assessment based on the provision of information by product proponents is a standard approach supported by several international organizations.

As specified by standards or guiding principles set by those organizations, regulatory authorities also set out the data requirements and the manner in which these data are to be generated (including detailed documentation of testing). The U.S., the European Union, Japan, and Australia/New Zealand are examples of other jurisdictions that enforce these pre-market controls for products. It is the statutory responsibility of Canadian departments and agencies to carry out risk-based evaluations of these data prior to allowing a product to be manufactured, imported, or sold. Information provided is set out in regulations and guidelines. The data review and evaluation are extremely rigorous and include a scientific assessment of the results, as well as the protocols and methodologies used to derive the information. Furthermore, the provision of data by the applicant is only one component of the information used by regulatory scientists to evaluate new biotechnology products.

If a product gains market approval, it is the legal responsibility of the proponent to provide the Government of Canada with additional information on any untoward observations or effects. The government may carry out post-marking sampling, auditing, and testing or change its regulatory decisions, in response to additional information provided by the proponents, the public, or advances in scientific knowledge. Post-release

monitoring is ordinarily required for products in various ways; additional quality control, post-market surveillance, and compliance and enforcement measures are also in place.

The government is willing to consider ways in which independent data testing, or verification of information provided by product proponents, can be conducted more broadly than it is today. The advice of federal boards is anticipated in this matter.

- **Establish clear evaluative criteria.** According to the ministers, the regulatory departments and agencies use clear evaluative criteria. Information requirements set out in federal regulations are listed in Table 1 (referenced above). A list of corresponding federal guidelines that specify the detailed information requirements needed to conduct the various product safety assessments are also provided in another table that forms part of the response (Table 2).

According to the ministers, Health Canada already takes a comprehensive and rigorous approach to assessing the safety of all novel foods, including those derived from biotechnology. This approach is described in some detail.

The ministers also noted that new types of novel and biotechnology-derived products are expected to become available and the federal government is looking ahead. They pointed to the establishment of an Expert Scientific Panel. The Panel, which was established by the Royal Society of Canada on 17 February 2000, will provide advice to the ministers of Health, Agriculture and Agri-Food, and the Environment, on the scientific regulatory capacity and capabilities needed to meet the next generation of food biotechnology products. The recommendations of the Panel will provide critical guidance to ministers and the public on future evaluation criteria and information requirements needed to keep the regulatory system evolving with the pace of new biotechnology applications.

- **Clearly separate regulatory and promotional functions among agencies.** The ministers referred to the response provided to question 2 above, which addresses this matter in a broad federal context and provides detailed information describing how the various roles and responsibilities of the departments and agencies named in the petition are kept separate and accountable to Parliament and Canadians. They then elaborated on the role of the Canadian Food Inspection Agency (CFIA). They noted that the Agency reports administratively to the Minister of Agriculture and Agri-Food and is not involved in economic promotional activities related to biotechnology products. The ministers added that the Government of Canada recognizes the need to increase public awareness of the function and accountability of Canada's regulatory system.
- **Make labelling of genetically modified products mandatory.** The ministers stated that in developing labelling policy, the Government of Canada is committed to giving due consideration to the outcomes of the following initiatives:
 - a project launched by the Canadian Council of Grocery Distributors and the Canadian General Standards Board to develop a Canadian standard for the voluntary labelling of foods obtained or not obtained through genetic modification;
 - a study started by the Standing Committee on Agriculture and Agri-Food on mandatory labelling of genetically modified foods; and
 - deliberations under the Codex Committee on Food Labelling. This is the key international forum addressing this topic and Canada has been requested to continue in its role as chair of a working group on labelling of foods from biotechnology.

Information on the federal organizations that are responsible for food labelling policies is also provided. Health Canada and the CFIA share responsibility in this area under the *Food and Drugs Act*, the *Consumer Packaging and Labelling Act*, and other legislation.

- **Adopt measures to ensure accountability and transparency.** According to the ministers, by making the federal approach accountable and transparent, the Government of Canada has assured that the public has had the opportunity to fully participate in the development and implementation of the regulatory system for biotechnology products, including at the policy formulation level. The government has carried out consultations on biotechnology regulation, and input has been provided through a number of fora.

Regarding the communication of individual regulatory decisions to the public, federal regulatory authorities such as Health Canada (including its Pest Management Regulatory Agency) and the CFIA already prepare and publish decision documents on safety assessments of novel products, including those obtained through biotechnology. Furthermore, CEPA, 1999 requires that an “environmental registry” be created, which will be a comprehensive on-line source of public information relating to activities under CEPA. The ministers also discussed the level of public participation and governmental accountability in the regulatory system by reviewing some of the key points of the Government of Canada Regulatory Policy 1999.

In closing, the ministers noted that the suggested measure put forward by the petitioners raises a number of unresolved issues, including fundamental questions of privacy, international trade obligations, intellectual property rights, and regulatory policy. The Government of Canada recognizes that there is an ongoing debate on mechanisms that will improve transparency of all regulated products of new technologies, including biotechnology, beyond the current practices of Canada and other countries. The government is actively seeking ways of addressing these concerns in international fora and domestic research and study groups.

Sustainable forestry north of 60° latitude (petition No. 24)

Petition

Petitioners: The Yukon Conservation Society, The Southeast Yukon Proper Land Use Society

Date: 8 August 2000

Summary: The petitioners are concerned about a proposal put forward by Indian and Northern Affairs Canada that would allocate a significant amount of commercial timber resources of the southeast Yukon through Timber Harvest Agreements (THAs). The petitioners feel that the proposed allocation of long-term forestry tenures through THAs is being done in the absence of regional forest land-use planning. They emphasize that the southeast Yukon represents one of the last largely untouched boreal forests in Canada. According to the petitioners, the proposed plan, as it stands, is contrary to the goals outlined in the Department’s sustainable development strategy.

The petitioners suggested several actions that would, in their view, ensure that forestry development proceeds in a sustainable manner. Some of these actions relate to up-front planning and public participation. They emphasized that planning is the hallmark of sustainable development and that in order to meet this objective, planning must precede development. They suggested that strategic-level planning leading to a regional forest land-use plan must occur prior to the establishment of THAs in order for the proposal to be considered sustainable. In the absence of a regional forest land use plan, THAs, in the petitioners’ view, become templates for development. According to the petitioners, strategic-level planning would encompass planning in areas such as biodiversity management, protected areas management, wildlife habitat, watersheds, access, visual quality, and tourism. Furthermore, the petitioners feel that there is inadequate timber inventory data available for the region in question. As a consequence, there would be no way to ensure that logging will be sustainable in any THA.

The petitioners asked the Department to respect the Yukon Forest Strategy and the Yukon Protection Area Strategy. The former was developed in 1998 with the contribution of over 800 individuals representing various stakeholders from across the Yukon and makes a strong commitment to sustainable forest practices. Moreover, the petitioners feel that the public consultations that have been conducted so far are insufficient.

In conclusion, the petitioners made two substantive recommendations to the Department that they say will ensure sustainable forest development in the Yukon:

Action 1. Recognizing that there are economic and social considerations, the petitioners recommend interim Timber Harvest Agreements that are short-term (three to five years) and nonrenewable have *Canadian Environmental Assessment Act* Level II assessments, contain conservative annual allowable cuts, allow for landscape planning through consultation with governments, and be subject to land withdrawals.

At the same time, a regional forest land use planning committee for the southeast as well as a Yukon-wide Timber Harvest Agreement working committee should be established. Outcomes would include a regional forest land use plan and a THA policy for the Yukon.

Action 2. If action 1 were not to be carried out, then the petitioners recommend that the Minister consider a Strategic Environmental Assessment for the THA policy as per the 1999 Cabinet Directive on the Environmental Assessment of Policy, Plan and Program Proposals.

Reply

Federal department responsible for reply: Indian and Northern Affairs Canada

Date of reply: 18 December 2000

Statutory deadline met? Yes

Summary of Minister's reply: The Minister replied that Indian and Northern Affairs Canada has consulted with various stakeholders and a consultation package on Timber Harvest Agreements (THAs) has been released since the submission of the petition. Furthermore, the Minister emphasized that the Department must work in partnership with the Yukon Territorial Government, First Nations, and other federal agencies. While acknowledging the desirability of the planning initiatives outlined in the petition, the Minister noted that in reality they are dependent on many factors, including the availability of people and financial resources. The Minister also noted that a Yukon Land Use Planning Council has been established to direct regional planning processes.

Notwithstanding these limitations, the Minister stated that the Department is assessing the information provided by the petitioners and is prepared to consult further with the various parties involved. The petitioners are assured that all THAs will be subjected to an environmental assessment, under the *Canadian Environmental Assessment Act*. Under the proposed Timber Harvest Agreement process, the proponent would be required to develop a forest management plan, which would include such things as biodiversity management planning, watershed management planning, and access management planning, among others. It is evident that the THA system will require a much more in-depth planning process than is required from those individuals accessing timber through the timber permit regime currently in place. The Minister acknowledged the petitioners' concerns about this issue, but stated that the issue is open to public discussion and that, as of the date of the petition, no firm decisions have been made.

With respect to concerns about timber inventory, the Minister pointed to the existence of an Inventory Forester for the Yukon Region, who has undertaken a review of the Timber Supply Analysis work done prior to his arrival. This review, in conjunction with on-ground verification and photo analysis, indicates that the volumes proposed are indeed conservative when assigning annual allowable cuts to ensure sustainability of the forest.

The Minister added that the THA process fully supports the goals and objectives of the Department's sustainable development strategy. He suggested that it would be fundamentally wrong to focus solely on front-end planning at the expense of other considerations.

The Minister concluded by encouraging the petitioners to continue to participate in the ongoing consultation process.

Toxic substances/drinking water (petition No. 25)

Petition

Petitioners: Sierra Legal Defence Fund on behalf of The Beckwith Water Contamination Committee

Date: 11 October 2000

Summary: The petition concerns the federal government's failure to regulate trichloroethylene (TCE), a substance that was declared toxic under the *Canadian Environmental Protection Act* in 1993. It also concerns the need to revisit the Canadian Drinking Water Guideline for TCE in light of new scientific evidence.

The petitioners are all residents of Beckwith Township, a small Ontario community near Ottawa. At the date of the petition (11 October 2000), TCE and its degradation products had been detected in the water supply of 237 homes in Beckwith. TCE is a highly volatile liquid used primarily in metal degreasing operations, and can be dissolved in groundwater. The suspected source of the contamination is an abandoned landfill and scrap yard. The plume of dissolved TCE in the aquifer is estimated to be nine kilometres long and is growing in size. The following outlines why this matter is of urgent concern to Beckwith residents.

In 1993, TCE was assessed as a “priority substance” by Health Canada and Environment Canada. The assessment concluded that TCE should be classified as a “probable human carcinogen” and it was designated as a “toxic substance” under the *Canadian Environmental Protection Act* (CEPA) that same year. Following such a designation, the government then decides what steps to take (including regulation) to control the release and use of the substance. A report titled “Strategic Options for the Management of Toxic Substances Trichloroethylene and Tetrachloroethylene in Solvent Degreasing,” prepared by Environment Canada, recommended that regulations for the quantities of TCE used by industry be put in place before 1 January 1998. However, despite these findings and later recommendations, and seven years after the assessment, the federal government has taken no regulatory steps to control or limit the release of TCE into the environment.

Further, the Canadian Drinking Water Guideline for TCE (established in 1987) sets a non-enforceable objective of 0.05 mg of TCE per litre of water. This level far exceeds that set by the United States Environmental Protection Agency (U.S. EPA), which is 0.005 mg/L.

TCE has been detected in the water supply of 237 homes in Beckwith Township, some with levels as high as 0.1 mg/L, which is twice the level of the Canadian Guidelines and 20 times that of the U.S. EPA standard. However, only 24 homes are receiving treatment of their water (by a water treatment system provided by the Ontario Ministry of Environment). Treatment is being provided only in the homes where TCE levels in the drinking water have been detected in excess of the Ontario Drinking Water Objective and the Canadian Guidelines (at 0.05 mg/L). Although all homes that have tested positive are being provided with bottled water for drinking, this does not account for the multiple pathways for exposure to TCE. Approximately 200 homes are left to accomplish daily household tasks using TCE-contaminated water.

According to the petitioners, a recent analysis of over 80 publications and reports on the cancer epidemiology of TCE found a stronger association between TCE and cancer of the kidney and liver than previously thought, with some support for an association with non-Hodgkin’s lymphoma and possible association with cervical cancer.

In light of the situation, the petitioners made four requests of the federal government:

- Lower the Canadian Drinking Water Guideline for TCE to a level equal to or lower than that set by the U.S. EPA, to ensure protection of human health.
- Regulate Trichloroethylene under the *Canadian Environmental Protection Act*.
- Ensure a safe supply of water (for all household uses) for all affected Beckwith residents.
- Provide funding and assistance to ensure that Beckwith’s water supply is cleaned up as soon as possible.

Reply

Federal departments responsible for reply: Health Canada, Environment Canada

Date of reply: 27 February 2001

Statutory deadline met? Yes

Summary of ministers’ reply: The ministers of Health and the Environment collaborated to provide a joint response to this petition. They discuss each of the petitioners’ four requests in turn.

The Canadian Drinking Water Quality Guideline for TCE. This part of the response starts with a description of Health Canada’s role and responsibilities as reflected in the *Department of Health Act* and the division of powers under the Canadian constitution. It is noted that historically, drinking and recreational waters have been seen as natural resources, and that water quality programs have been implemented and maintained by the provinces/territories. Health Canada’s Water Quality Program is also described. The mandate of the program is the protection of public health from microbial pathogens and chemical and radiological contaminants found in drinking and recreational water supplies. Health Canada

has collaborated with the provinces and territories for over 30 years to develop safety guidelines for drinking water and recreational water. One result of this collaboration has been the Guidelines for Canadian Drinking Water Quality, established by the Federal/Provincial Subcommittee on Drinking Water. The Guidelines are used by the provinces/territories as a basis to establish their own enforceable drinking water regulations, objectives, or guidelines. This Health Canada program plays a key leadership role in this area. The Department uses the best available scientific evidence to develop risk assessment information and provide scientific advice and support on drinking water. Since the development of the Canadian Drinking Water Guideline for TCE in 1987, new published research has indicated that inhalation exposure to TCE from a drinking water source, such as showering or bathing, is also a significant pathway (in addition to ingestion). Based on this new research, the Federal/Provincial Drinking Water Subcommittee decided in May 2000 to increase the priority for reassessment of the TCE guideline, and Health Canada is now actively reviewing the Guideline for TCE. The Minister of Health states that the review of the adequacy of the Guideline will be expedited and the Department will work through existing federal/provincial mechanisms to encourage the earliest possible implementation of any forthcoming recommendations relating to revision of the TCE guideline.

Take action to control TCE as a toxic substance. Environment Canada will move as expeditiously as possible to bring into force regulations for TCE under the *Canadian Environmental Protection Act, 1999*. It is expected that regulations will be published in Part I of the *Canada Gazette* by mid-2001 to control its use in solvent degreasing, the major use of TCE. Outstanding issues are now nearing resolution. The ministers noted that TCE was declared toxic in 1993 under CEPA 1988, which did not stipulate a time frame for action to control a toxic substance.

The petition response describes in general terms the process for developing regulations at the federal level. According to the ministers, the time frame for developing regulations in the 1980s and 1990s varied considerably (four to seven years), depending on the input of stakeholders.

The response then goes on to provide a detailed summary of the history surrounding the regulation of TCE. In 1993, TCE was declared toxic and a "probable carcinogen." In 1994, a multi-stakeholder "Issue Table" was established comprised of representatives from industry, the provinces, Environment Canada, and environmental non-governmental organizations. This group was to provide recommendations to Environment Canada on suggested measures for addressing TCE releases from industrial sources. The group recommended that a regulation be developed under CEPA 1988 to control the quantities of TCE used in solvent degreasing operations, with first a freeze and then a 65 percent reduction in consumption. In February 1997, the Minister of Environment announced that Environment Canada would proceed with these recommendations, and the regulatory development process was subsequently initiated.

It is suggested that the nature of the federal regulatory policy, and the procedures that are to be applied to ensure full input and consultation, dictate a multi-year regulation development process.

The ministers note that TCE was declared toxic under CEPA 1988, which did not impose time constraints for regulation development. However, CEPA, 1999 does require that, within two years of a declaration of the toxicity of certain substances, a proposed regulation or other instrument "respecting preventive or control actions" for the substance must be proposed by the ministers of Health and of the Environment. The Minister of the Environment has 18 months following the date of publication of the proposed regulation or instrument in Part 1 of the *Canada Gazette* to publish the final regulation or instrument in Part II of the *Gazette*.

Provide Beckwith Township residents with a safe, TCE-free water supply. This is a provincial responsibility. It is the ministers' understanding that the Province of Ontario is providing drinking water treatment devices and bottled water to those deemed to be at risk and is also looking at longer-term solutions to this problem.

Provide funding to ensure that Beckwith's water supply is cleaned up as soon as possible. This is also a provincial issue. However, Beckwith Township may wish to apply for financial assistance under the National Municipal Infrastructure Program or under the Green Enabling/Investment Funds funded under Budget 2000 and managed by the Federation of Canadian Municipalities; these programs may have relevance to both the provision of a safe water supply and resolution of the long-term contamination problem. Upon request of the Government of Ontario, the federal government will assist by providing scientific expertise to address the TCE contamination of the water supply of Beckwith Township. The ministers share the petitioners' concern for the environment as well as the health and well-being of the citizens of Beckwith.

Administration of the Migratory Bird Regulations (petition No. 26)

Petition

Petitioners: Sierra Legal Defence Fund on behalf of The Animal Alliance of Canada, The Ontario Federation of Ornithologists, and a Canadian resident (on behalf of Friends of the Spit)

Date: 24 October 2000

Summary: The alleged destruction of several birds nests on the Leslie Street Spit on Toronto's waterfront is the environmental matter giving rise to this petition. According to the petitioners, on 1 June 1998, a bulldozer graded lands that hosted a substantial colony of common tern nests, thus destroying several active nests. Terns are migratory birds and are protected in Canada under the *Migratory Birds Convention Act* (MBCA). The Act and the Migratory Bird Regulations are administered by the Canadian Wildlife Service (CWS), the branch of Environment Canada that is responsible for the protection and management of migratory birds.

According to the petitioners, the Toronto Harbour Commissioners (THC) was responsible for the grading that was done on the Spit. The CWS was responsible for issuing the permit that authorized the THC to do the work. The purpose of the petition is to require the CWS to examine how the destruction that occurred on 1 June 1998 was "purported" to be authorized and how improvements can be made in the administration of the permits process so that problems like this do not reoccur.

Three separate issues of concern form the basis for this petition:

- It is alleged that the Canadian Wildlife Service knowingly allowed the grading of the site to proceed prior to granting any formal written approval, thereby violating the Migratory Bird Regulations.
- The permit was issued under s. 26.1(1) of the Regulations. The petitioners argued that this section does not permit the bulldozing of nests and destruction of eggs. It only applies to collecting, destroying, and disposing of eggs of migratory birds likely to cause damage or danger to health, safety, agricultural, or other interests in a community. Moreover, they argue that there is absolutely no evidence that the terns were causing any damage or danger.
- Finally, the petitioners took the position that the permit was issued for inappropriate reasons. According to the petitioners, the Canadian Wildlife Service placed the convenience of the Toronto Harbour Commissioners ahead of the protection of the nest site. They noted that the Service has defended the decision to issue the permit on a number of grounds. Among these was the need to conduct a survey in an emergency fashion. The petitioners disputed the assertion that there was an emergency and suggested that the need to complete a survey was not an "emergency" that could not have either been done earlier or later to accommodate the nesting terns.

The petitioners believe that in order to ensure better migratory bird conservation, and to ensure that the CWS policies and practices are consistent with principles of sustainable development, the following requests should be met:

- The Canadian Wildlife Service should be held accountable for the destruction of the active tern nests at the Leslie Street Spit. The CWS should acknowledge the errors of judgment and procedure that occurred and lay out a defined action plan and set of policies and standards to prevent similar errors from occurring in the future.
- Environment Canada should issue a clear statement to the effect that no work can be conducted that would otherwise violate the *Migratory Birds Convention Act* until the CWS has issued a formal, written permit. In addition, the CWS should not misuse its jurisdiction under the Act to permit activities that don't properly fall within the provision of permitting regulations (such as s. 26.1 of the Regulations).
- Environment Canada and the CWS should issue a clearer set of standards (beyond current policy) to better define the criteria required to obtain a permit under the Act, especially under s. 26.1 of the Regulations.
- The CWS should effectively monitor and enforce permits granted under the Regulations.
- Where requests for permits under the Regulations are made, the Canadian Wildlife Service should be required to work with the requester to resolve the situation in the least intrusive manner possible for migratory birds and nests.

Reply

Federal department responsible for reply: Environment Canada

Date: 13 March 2001

Statutory deadline met? Yes

Summary of Minister's reply: The Minister emphasized at the beginning of his reply that officials of the Canadian Wildlife Service (CWS) are concerned about the well-being of wildlife populations and their actions are motivated by this concern. They are faced with difficult decisions in the field. Although these decisions are made with the interest of wildlife as the paramount consideration, they may not satisfy all interested parties. In such situations, there may be different interpretations of actions taken.

It is the Minister's belief that in this case, CWS staff acted within the authority of the regulations under the *Migratory Birds Convention Act*, with the intent of protecting the common tern population at the Leslie Street Spit. The Minister emphasized that Environment Canada has made considerable efforts over the years to study and conserve colonial birds on the Spit. In the instance cited, CWS staff first approached the Toronto Harbour Commissioners (THC) to protect the nesting terns. A permit was subsequently issued, with conditions to minimize disturbance to the birds. The THC co-operated in the remainder of the 1998 season, changing their timing and methods. In 1999, all the work was done outside of the nesting season, and in 2000 no grading work was done.

The Minister stated that it would be conjecture on the part of Environment Canada to comment on how many tern nests there might have been in 1998 or how many might have been destroyed. The Department does know that the major part of the nesting area was protected. The Minister noted that the common tern is not a species at risk either nationally or provincially.

The responses to the petitioners' specific requests follow.

- **The Canadian Wildlife Service should acknowledge that errors of judgment and procedure were made, and an action plan and other measures should be laid out to prevent similar errors.** The Canadian Wildlife Service does not agree that errors of judgment were made in issuing a permit to the Toronto Harbour Commissioners. The consequences were carefully considered in light of the knowledge that the common terns would nest again in or near the area of nest destruction. Conditions of the permit were designed to minimize disruptions to the larger nesting colony on the Spit.
- **The Canadian Wildlife Service should issue a statement clarifying the requirement that a formal, written permit be issued before work is conducted. The CWS should not misuse its jurisdiction under the *Migratory Birds Convention Act*.** The Minister acknowledges that the scaring off and killing of migratory birds require the issuance of a permit; however, situations may arise where judgment and flexibility are needed, particularly when severe damage or safety is at issue. In these rare circumstances, the ability to give verbal approval of actions, with conditions, based on the judgment of staff in the field, and to be followed by a written permit, should not be precluded.
- **Environment Canada and the Canadian Wildlife Service should issue a clearer set of standards to better define the criteria required to obtain a permit under the Act (especially under s. 26.1 of the Regulations) to the effect that any permit granted under the Act is a measure of last resort.** In most circumstances, the Canadian Wildlife Service require applicants to demonstrate that simple scaring techniques, habitat modification, or other more benign management techniques have been attempted before permits to kill migratory birds are issued. Issuance of scare or kill permits for migratory birds are extremely rare. It should be noted that the habitat of migratory birds can be altered or destroyed when the birds are not present. In such circumstances, the CWS works with landowners to minimize habitat disruption.
- **The Canadian Wildlife Service should effectively monitor and enforce permits.** Within the scope of available resources, the CWS does monitor and enforce the conditions of permits. Permit holders are required to keep accurate records of actions taken under the permit and to supply a written report upon expiration of the permit. The CWS inspects permit holders and investigates any irregularities.
- **The Canadian Wildlife Service should be required to work with permit applicants to resolve situations in the least intrusive manner possible.** Further to the previous comments, all requests for scientific and scare/kill permits of an exceptional nature, such as the request by the Toronto Harbour Commissioners, are reviewed by CWS biologists in consultation with enforcement staff. Alternatives are considered and discussed with applicants, with benign management practices being encouraged and, in many circumstances, required.

Decommissioning of railway lines (petition No. 27)

Petition

Petitioners: Algonquin Eco Watch, Federation of Ontario Naturalists, The Wildlands League

Date: 28 May 2001

Summary: The petitioners alleged that the decommissioning of the Canadian National Railways (CNR) mainline through Algonquin Provincial Park, Ontario, was not carried out in an environmentally responsible or timely manner. Their assertions are based on personal observations made in the vicinity of Cauchon/Little Cauchon Lake in the park as well as sampling and independent testing. Photographs and laboratory analyses were submitted in support of the petition.

According to the petitioners, CNR arranged for a contractor to remove the tracks and ties as part of the decommissioning work in 1997. To facilitate this removal, a right-of-way was prepared by bulldozing a path so that trucks could drive along the roadbed to load and to transport rails and ties. Much of the ballast used to maintain the roadbed through the park consists of slag brought from smelters in the Sudbury basin, which the petitioners say is known to contain many heavy metal contaminants. According to the petitioners, bulldozing caused ballast from the roadbed to spill into a specific brook trout nursery creek that drains into Little Cauchon Lake as well as a specific lake trout spawning bed. This not only introduced deleterious materials into the water, but also physically impeded ingress of brook trout fry to the upper reaches of the creek. In the case of the lake, the petitioners alleged that the slag damaged a lake trout spawning bed. They also highlighted the inherent danger to mammals and birds of ingesting and inhaling heavy metal particles and dust.

While the petitioners described the problems that they had observed at one location in the park, they suggested that this example may be indicative of a much more widespread problem along the length of the line. According to the petitioners, CNR mainline passes through six different watersheds, runs immediately alongside nine lake trout lakes, and crosses more than 40 potential brook trout nursery creeks as it traverses Algonquin Park. After three and a half years of correspondence to rectify this concern, no significant progress toward mitigation is apparent.

The petitioners have submitted an Application for Investigation under the Ontario *Environmental Bill of Rights* in order to get a response to their concerns from provincial authorities. The questions outlined in their petition are directed to departments at the federal level, namely Transport Canada, Fisheries and Oceans, and the Canadian Wildlife Service, part of Environment Canada.

Transport Canada

- Are you aware of a plan in place with an auditable schedule regarding the decommissioning?
- Does a specific protocol exist for railway decommissioning in Canada?
- If such a protocol exists, are you satisfied that it is being strictly adhered to in this instance?
- If such a protocol exists, could you forward a copy?

Fisheries and Oceans

- Do you agree that the bulldozing of slag containing excessive amounts of heavy metals into known and potential brook trout nursery creeks and onto known and potential lake trout spawning beds constitutes a violation under the federal fisheries regulations, with regard to “the placing or releasing of deleterious substances into or onto fish habitat?”
- As a result of the recent cancelling of the agreement with the Province of Ontario, wherein federal fisheries regulations were enforced by Provincial Conservation Officers, would you please outline in detail how your Department has compensated for, or dealt with, the resulting decline in enforcement capability?
- Have you investigated or would you plan to investigate these allegations relating to the placing of deleterious substances in or on fisheries habitat within Algonquin Provincial Park?
- If so, could you advise on your findings and the actions that your Department plans to initiate as a result?

Canadian Wildlife Service of Environment Canada

- Are you aware of other such situations in which ingestion of heavy metal particles has put the health of migratory bird species at risk? If so, could you provide documentation of such situations?
- In view of the high levels of known carcinogenic and toxic heavy metals contained in the slag samples examined from the CNR right-of-way through Algonquin Provincial Park, do you intend to conduct or would you consider conducting additional extensive, independent testing for the presence of heavy metals, or do you feel that our results are sufficient proof of a widespread problem that requires immediate correction?

Reply

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans, Transport Canada

Status: Pending

Aquaculture and environmental assessment (petition No. 28)**Petition**

Petitioner: A Canadian resident

Date: 29 May 2001

Summary: The petitioner expressed concern about the proposal by the P.E.I. firm Bounty Bay (Mussel King) to locate a 1,200 acre mussel farm in St. Ann's Bay, Cape Breton, Nova Scotia. The petitioner opposes the project on two grounds—the environmental assessment process and lack of credible supporting scientific evidence.

Environmental assessment. The petitioner alleged that the environmental impact assessment was performed by a private company contracted by Bounty Bay and that public access to the report was limited in a variety of ways. The petitioner suggested that this is not conducive to public involvement and pointed to the need for an open, fair, and transparent environmental assessment process. The petitioner requested that an independent assessment be undertaken or, at the least, a public hearing be held on this issue.

Scientific evidence. The petitioner suggested that the environmental impact assessment purporting to support this project was based on a computer model that was flawed in several respects:

- The computer model assumed that biodeposits remain suspended and do not settle, fouling the bottom.
- The model assumed there are no other demands on the seston (plankton and pseudofaeces) by existing fisheries in the bay.
- The model also assumed that seston depletion will have no environmental impacts beyond reduced yields for the mussel farm itself.
- The model assumed that the large-scale operation won't further affect the hydrographic processes in the harbour.
- The model fails to consider the environmental consequences and risks to native mussel species.

Reply

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans

Status: Pending

Sustainable Transportation (petition No. 29)

Petition

Petitioners: Numerous Canadian residents

Date: 26 June 2001

Summary: The petitioners are residents of the National Capital Region and are employees of the Public Service of Canada. Their petition concerns an offer made by local transit authorities that would extend substantial savings to individuals in the National Capital Region if they purchase yearly transit passes through payroll deduction. The petitioners suggested that this program has the potential to realize significant environmental benefits through the increased use of public transportation and a reduced number of vehicles on congested roads and highways. According to the petitioners, the Treasury Board of Canada has refused to implement this program for federal public servants. They wish to draw this matter to the attention of the President of the Treasury Board Secretariat as well as the Commissioner, the Auditor General of Canada, parliamentarians, and the Minister of the Environment.

Reply

Federal departments responsible for reply: Environment Canada, Treasury Board Secretariat, Transport Canada

Status: Pending

Golf course development in an urban conservation park (petition No. 30)

Petition

Petitioner: Conseil régional de l'environnement et du développement durable de l'Outaouais (CREDDO)

Date: 30 May 2001

Summary: The petitioners expressed concern about a proposed golf course at the Hull Casino in Hull, Quebec. If developed, the golf course will extend into an urban conservation park that encompasses a small lake and is adjacent to the Gatineau River (Leamy Lake Park). According to the petitioners, part of the property is owned by the National Capital Commission. The project is currently undergoing an environmental assessment by Fisheries and Oceans pursuant to the *Canadian Environmental Assessment Act* (CEAA). The petitioners alleged that several of the inventories and surveys that have been conducted, most of which belong to the casino owner, Casiloc, are not available to the public. In this petition, CREDDO poses a series of questions to a number of federal departments about the golf course project:

Department of Canadian Heritage

- How does Canadian Heritage intend to reconcile its new policy respecting national parks with the threat posed by the Casino golf course to unique stands of trees and to an urban conservation park?
- Under what authority can the Minister permit the lease of federal land for a purpose that is not in the national interest and is not an national emergency?

Environment Canada

- How many components of the environment must be affected before a project is blocked? The present construction project poses a risk of serious adverse effects on wildlife species, plant species, a major river, and a lake.
 - Does the Minister intend to hold public hearings under the CEAA on the Leamy Lake golf course and, if so, when?
 - Can the Minister permit the disposition of federal lands when it is not in the national interest and when the environment is threatened?
 - Is part of the property affected by the construction not considered marshland or wetlands as defined by the Federal Policy on Wetland Conservation?
-

- How does the Minister intend to protect the Leamy Lake Park ecosystem, given that with each negotiation with Fisheries and Oceans and Casiloc, one or two golf holes threaten one element of the environment or another? How can the Department reconcile all of this with its sustainable development and species and habitat protection policy?

Fisheries and Oceans

- How far along in the process has the Casino golf course project come since the CEAA was triggered? Does the Department intend to hold public consultations? Is the Screening Report pursuant to the CEAA complete and will it be made available to the public?
- Is the Minister aware of the studies conducted by Professor François Chapleau of the University of Ottawa on the various species of fish living and spawning in the Gatineau River?
- How is it that, after several changes to the golf course were requested, after a number of serious concerns were raised, and after the project was rejected in the fall of 2000, the project is still on the table? Are there not limits to the number of requests that a proponent can make for a given project? Is the spirit behind section 35(1) of the *Fisheries Act* not enough?

Natural Resources Canada

- In departmental correspondence with the proponent, several concerns were raised about a particular stand of hackberry trees. How does the Department intend to protect this stand?

Reply

Federal departments responsible for reply: Department of Canadian Heritage, Parks Canada Agency, Environment Canada, Fisheries and Oceans, Natural Resources Canada

Status: Pending

Highway extension through a federal park (petition No. 31)

Petition

Petitioner: Conseil régional de l'environnement et du développement durable de l'Outaouais (CREDDO)

Date: 30 May 2001

Summary: The petitioners expressed concern about the proposed construction of a highway (autoroute McConnell-Laramée) in the city of Hull, Quebec that will extend approximately 1.4 kilometres into Gatineau Park, a federal park that is managed by the National Capital Commission, a federal Crown corporation. The petitioners noted that the Quebec Environmental Public Hearing Board held hearings on part of the proposal; however, a number of issues are unresolved. Questions were addressed to a number of federal departments in this petition.

Department of Canadian Heritage

- How can the Minister reconcile the new Parks Canada policy, for which she is responsible, with the fact that the National Capital Commission (NCC) is authorizing the construction of a highway in Gatineau Park, which is also under her jurisdiction?
- How can the Minister reconcile the fact that the NCC is requesting that ramps be added to the highway, which will cause further encroachment on Gatineau Park and give vehicles greater access?
- Were plant, animal, and ecosystem inventories conducted in the planning stages in compliance with the *Canadian Environmental Assessment Act* (CEAA)?
- Under what authority can the Minister allow the disposition of federal land for the purpose of constructing a highway in a park when it is only in the local interest to do so?

Natural Resources Canada

- How does the Minister intend to protect the large white pines (about 10 of which are more than 300 years old) that are located near the highway right-of-way?
- Were surveys of tree species conducted in the project planning stage?

Transport Canada

- Does the Minister intend to request that the CEAA be triggered?
- Is a progress report being prepared?

Environment Canada

- Is the Wolffia marsh considered a wetland within the meaning of the federal Wetland Conservation Policy? Were other marshland areas inventoried?
- Does the Minister intend to hold hearings on the McConnell-Laramée highway pursuant to the CEAA?
- Can the Minister allow the disposition of federal lands when it is not in the national interest and when the environment is threatened?
- Is the construction of a highway in a conservation area to facilitate truck traffic not in violation of the spirit of the Federal Climate Change policy?

Fisheries and Oceans

- Have surveys been conducted of the fish species living in the streams and marshes affected by the construction of the highway?

Reply

Federal departments responsible for reply: Department of Canadian Heritage, Parks Canada Agency, Natural Resources Canada, Transport Canada, Environment Canada, Fisheries and Oceans

Status: Pending

Environmental and health effects associated with the fuel additive MMT (petition No. 32)**Petition**

Petitioners: Numerous Canadian residents

Date: 1 July 2001

Summary: The petitioners requested information from Health Canada regarding the gasoline additive MMT (Methylcyclopentadienyl Manganese Tricarbonyl). In support of their petition, the petitioners made a number of assertions. They referred to the poor air quality experienced in Southwestern Ontario and throughout the Hamilton-Toronto region during the last half of June 2001. The petitioners suggested that it is a known fact that much of the air pollution comes from automotive and industrial emissions. They also suggested that Health Canada continues to support the use of MMT in Canadian gasoline, based on a review of existing information published on 6 December 1994. The petitioners pointed to a 1995 report, authored by two members of the Toronto District Health Council, that calls for a ban on MMT. Finally, the petitioners noted a report by the National Round Table on the Environment and the Economy that indicates that Environment Canada did not support the use of MMT.

The petitioners asked Health Canada to explain what steps had been taken with regard to the following:

- re-examining the use of MMT, using studies done by neuro-toxic scientists from across Canada that were not included in the December 1994 report;

- examining the work of a California researcher on the relationship between levels of manganese in violent offenders and the incidence of violence in society; and
- applying the precautionary principle to ban all neuro-toxic substances and carcinogens from gasoline and diesel fuels in Canada.

Reply

Federal departments responsible for reply: Health Canada, Environment Canada (Environment Canada was asked to respond to the third request for information)

Status: Pending

Appendix B—Petitions received prior to 2000 (1 January 1996–31 December 1999)

Petition	Reply
Environmental assessment (petition No. 1)	
Petitioner: The Ecoforestry School in the Maritimes Date: 2 October 1996	Federal department responsible for reply: Atlantic Canada Opportunities Agency (7 February 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner
Transportation policy (petition No. 2)	
Petitioner: Rail Ways to the Future Committee Date: 6 March 1997	Federal department responsible for reply: Transport Canada (3 July 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner
Canada Infrastructure Works Program (petition No. 3)	
Petitioner: Transport 2000 Ontario Inc. Date: 9 March 1997	Federal department responsible for reply: Treasury Board Secretariat (24 October 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner
Environmental assessment (petition No. 4)	
Petitioner: Graeme Pole Date: 3 March 1997	Federal department responsible for reply: Canadian Heritage (25 June 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner
Oil and gas leaks and emissions (petition No. 5)	
Petitioner: Reverend W.A. Ludwig Date: 9 April 1997	Federal department responsible for reply: Natural Resources Canada (8 May 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner
Canadian Mining Regulations (petition No. 6)	
Petitioner: Canadian Arctic Resources Committee Date: 16 April 1997	Federal department responsible for reply: Indian and Northern Affairs Canada (2 September 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner
Resource management (petition No. 7)	
Petitioner: Queen's County Fish and Game Association Date: 25 June 1997	Federal department responsible for reply: Fisheries and Oceans (1 October 1997) Summary: See Commissioner's Observations, Appendix C, 1998 Report of the Commissioner

Petition	Reply
Effects of ozone depletion (petition No. 8)	
<p>Petitioner: Friends of the Earth Date: 8 September 1997</p>	<p>Federal departments responsible for reply: Agriculture and Agri-Food Canada (23 March 1998), Environment Canada (21 May 1998), Fisheries and Oceans (19 January 1998), Health Canada (1 June 1998), Natural Resources Canada (8 June 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Multilateral Agreement on Investment (petition No. 9)	
<p>Petitioner: Canadian Association of Physicians for the Environment Date: 14 January 1998</p>	<p>Federal departments responsible for reply: Environment Canada (17 August 1998), Department of Foreign Affairs and International Trade (22 May 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Harmonization Accord (petition No. 10)	
<p>Petitioner: Canadian Environmental Law Association Date: 22 January 1998</p>	<p>Federal department responsible for reply: Environment Canada (19 May 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Crown obligations to First Nations (petition No. 11)	
<p>Petitioner: Athabasca Chipewyan First Nation Date: 4 May 1998</p>	<p>Federal department responsible for reply: Indian and Northern Affairs Canada (10 August 1998) Summary: See Appendix A of this report</p>
Environmental assessment (petition No. 12)	
<p>Petitioner: Lake Petittcodiac Preservation Association Date: 15 May 1998</p>	<p>Federal department responsible for reply: Fisheries and Oceans (11 December 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Environmental assessment (petition No. 13)	
<p>Petitioner: Scott Williamson Date: 29 June 1998</p>	<p>Federal department responsible for reply: Fisheries and Oceans (22 July 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Use of science (petition No. 14)	
<p>Petitioner: West Coast Sustainability Association Date: 15 July 1998</p>	<p>Federal department responsible for reply: Fisheries and Oceans (16 November 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Environmental assessment (petition No. 15)	
<p>Petitioner: Society for the Preservation of the Englishman River Estuary Date: 22 July 1998</p>	<p>Federal department responsible for reply: Fisheries and Oceans (27 November 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>

Petition	Reply
Environmental assessment (petition No. 16)	
<p>Petitioner: Lakewatch Society-Lake Simcoe Date: 11 August 1998</p>	<p>Federal department responsible for reply: Fisheries and Oceans (3 September 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Environmental assessment (petition No. 17)	
<p>Petitioner: Friends of the Farewell Date: 23 July 1998</p>	<p>Federal department responsible for reply: Fisheries and Oceans (23 November 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Sustainable forestry (petition No. 18)	
<p>Petitioners: Brenda and Richard Oziewicz Date: 1 September 1998</p>	<p>Federal department responsible for reply: Indian and Northern Affairs Canada (26 November 1998) Summary: See Commissioner's Observations, Appendix B, 1999 Report of the Commissioner</p>
Enforcement (petition No. 19)	
<p>Petitioner: Alice Chambers Date: 30 November 1998</p>	<p>Federal departments responsible for reply: Fisheries and Oceans (23 April 1999), Environment Canada (21 April 1999) Summary: See Commissioner's Observations, Appendix C, 2000 Report of the Commissioner</p>
Toxic substances (petition No. 20)	
<p>Petitioner: Nelson A. Riis, M.P. for Kamloops and Highland Valleys, British Columbia on behalf of residents of the region Date: 25 August 1999</p>	<p>Federal department responsible for reply: Health Canada (27 October 1999) Summary: See Commissioner's Observations, Appendix C, 2000 Report of the Commissioner</p>

Report of the Commissioner of the Environment and Sustainable Development to the House of Commons—2001

Main Table of Contents

The Commissioner's Perspective—2001

Foreword and Main Points

Great Lakes and St. Lawrence River Basin

- Chapter 1** A Legacy Worth Protecting: Charting a Sustainable Course in the Great Lakes and St. Lawrence River Basin

Managing for Sustainable Development

- Chapter 2** Sustainable Development Management Systems
Chapter 3 Reporting on Sustainable Development: Is the System Working?
Chapter 4 Assessing the First Sustainable Development Strategies
Chapter 5 Integrating the Social Dimension: A Critical Milestone

Follow-up

- Chapter 6** Climate Change and Energy Efficiency: A Progress Report

Petitions

- Chapter 7** Connecting With Canadians: The Environmental Petitions Process