



advocates for the environment

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March 1, 2005

Mr. Murray Clamen
Secretary, Canadian Section
International Joint Commission
234 Laurier Avenue West, 22nd Floor
Ottawa, Ontario
K1P 6K6

Sent electronically to Commission@ottawa.ijc.org and to Clamenm@ottawa.ijc.org

Dear Mr. Clamen,

Re: Comments on Canada-U.S. Air Quality Agreement: Progress Report 2004

We are writing to provide our comments on the *Canada-United States Air Quality Agreement* and the International Joint Commission's call for comments on Progress Report 2004 (the "Report").

Sierra Legal is a Canadian non-profit organization that strives to enforce and strengthen laws for the protection and preservation of our environment, public health, and wildlife. The organization was established in 1992.

We have also had an opportunity to review the comments submitted to you by the Ontario Medical Association dated February 28, 2005. We support the OMA's concerns and criticisms. In particular, we note the very serious uncertainty that the U.S. Administration's Clear Skies initiative puts on future progress given this legislation's attempt to weaken existing environmental laws.

One concern we wish to highlight is the Report's failure to establish any useful context in which members of the public can assess the impacts of reductions in contaminants in relation to continuing risks to human health and the environment.¹ We recognize that the IJC's mandate is to report on the progress of each country in meeting specific requirements. The Report does, however, go further by providing opinions on whether the countries will comply with their obligations in the future. For instance, the Report predicts at p. 11 that "Canada will comply with its commitment to cap NO_x emissions from large fossil fuel power plants in Ontario and Quebec ... at 39 kt and 5kt,

¹ And there is no evaluation of the impact of climate change on existing levels of contaminants ie what do rising temperatures mean in terms of existing levels of ozone?

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respectively.”² We suggest, given the authors’ willingness to make such future assessments, that it would be more useful for the Report to evaluate the changes in emissions in the context of continuing impacts on human health and the environment.

For instance, the Canadian government recently reported³ that:

Canada still has a large acid rain problem in eastern Canada despite almost halving its SO₂ emissions since 1980. Recent atmospheric modelling results [1] suggest that without further significant reductions of SO₂ emissions from the United States, the acid rain problem in Canada will not be resolved. This information builds upon previous emission scenario modelling [2] that formed the basis of the commitment in *The Strategy* that the federal government will aggressively pursue further SO₂ emission reduction commitments in key areas of the United States (US).

The need for further reductions in transboundary acid rain-causing emissions was presented again at the 2002 Canada –US Air Quality Committee (AQC) meeting. As indicated in the 2001 annual progress report on *The Strategy*, Canada will be seeking further reductions from the US through the AQC and its subcommittees. Future discussions of the committees will focus on SO₂ and NO_x emission reductions required to deal with the problem of ambient particulate matter (PM)[3]

This problem, namely of the continuing environmental degradation caused by acid rain --- in the context of reductions in emissions ---- is, however, virtually⁴ glossed over in the Report thus potentially leaving the public with the impression that the problem has been solved.

Thank you in advance for your consideration of our comments.

² At the same time the Report notes at p. 11 that emissions in Ontario were 78 kt in 1990 and approximately 79 kt in 2002. At p. 3 the Report also declares that “Ontario has fully met the Ozone Annex commitments with the following regulations and guidelines ...” One might suggest, however, that fully meeting one’s commitments involves an analysis of actual emission reductions rather than putting in place legal mechanisms to achieve those goals. The laws may be adequate but will there, for instance, be adequate enforcement?

³ See the 2002 Annual Progress Report on The Canada-Wide Acid Rain Strategy for Post-2000 at http://dev.sites1.miupdate.com/1/assets/pdf/2002_ar_annual_rpt_e.pdf

⁴ See page 2.



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We would be pleased to discuss these matters with you personally at your convenience.

Sincerely,

Albert Koehl
Staff Lawyer