



Marie-France Renaud, Clerk
House of Commons - Standing Committee on
Environment and Sustainable Development

November 22, 2011

Dear Clerk and Honorary Members of Parliament:

The Canadian Water and Wastewater Association (CWWA) is the national voice of Canada's water industry. Our members constitute small, medium and large municipalities and utilities across Canada that serve Canadians, provide drinking water and wastewater services through critical infrastructure, as well as the equipment suppliers and engineering firms that serve that sector.

As the national voice of this important industry – our primary goal is to represent the interest of municipal water and wastewater utilities and their private sector partners to the federal government. The Association is celebrating its 25th anniversary in 2011, as the respected and long standing voice for the sector. A short overview about our association, our mission, and upcoming events is attached for your information and review.

The water and wastewater industry has been estimated at providing a \$10B industry nation-wide, with our members being responsible for about \$7B. Our members provide essential services for both environmental protection and public health, while operating on limited municipal budgets, in a not-for-profit context. They are responsible for treating pollution produced by every person in their jurisdiction, as well as from storm water, discharges from industrial sources, and institutions within their jurisdictions. There are approximately 3,000 wastewater treatment facilities in Canada, serving populations ranging from just 1,000 residents to over 2 million. Because of the diversity of size and geographical location, each utility member faces unique challenges in balancing its environmental and public health needs and goals.

Many programs and initiatives of Environment Canada, Health Canada and other Federal Department and Agencies have a direct and indirect impact on our members. CWWA – as the national trade association - actively participates in working groups, submits comments when appropriate, and hosts several national events, where representatives from Federal Departments and Agencies update our membership on their activities and initiatives.

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Aspects of Environmental Assessment (EA) and Approval processes in Canada

CWWA municipal and utility member are in a unique position of both conducting and benefiting from effective environmental assessments. If others, usually upstream, conduct an EA and the projects results in negative water quality impacts, our water or wastewater operations may be directly impacted. Our members also routinely conduct EAs which may be carried out under provincial and/or federal EA legislation.

Canadian municipal water and wastewater projects may be captured under the jurisdiction of the Federal *Canadian Environmental Assessment Act (CEAA)*. Applicable triggers are federal fish habitat permits under the *Fisheries Act* and its regulations, projects affecting federal species protected under the *Species at Risk Act (SARA)* and *Migratory Birds Convention Act*, projects that impact federal lands, or receipt by municipalities of federal government infrastructure funding.

Construction of new plants or major expansions of existing water or wastewater treatment plants will generally trigger Provincial EA or equivalent permitting processes. More minor changes may trigger Provincial EAs, however, would depend on the extent of the proposed changes. For example, minor road construction associated with a water plant would not likely trigger a provincial EA. However, construction of a new power generating facility – due to potential environmental and economic impacts - associated with a plant would likely trigger a provincial or municipal Class EA process.

Harmonization

As CEAA, its provisions and process has evolved, there has been recognition from within the government, the CEAA agency and leading practitioner voices that there is significant overlap between the federal and provincial EA processes. Both promote meaningful public participation and evaluation of a project's potential negative adverse impacts on the environment.

In January 1998, the Federal Government and all provinces, except Quebec, signed the Canada-wide Accord on Environmental Harmonization. In 2009, most provinces and territories entered into a sub-agreement on EA and as of today signed by all provinces and territories, except Quebec.

In theory, EA processes at both levels should be planning processes used by proponents, whether that proponent is the Federal government, a municipality or a private sector.

Harmonization has laudable goals of achieving greater efficiency, using public and private resources in the most efficient manner and establishing accountability and predictability by delineating responsibilities between federal, provincial and territorial governments. In its purest sense, harmonization should lead to one project assessment, negotiated schedules between the parties, one consultation process, and, if necessary, one public hearing process.

In consultation with practitioners in the field, CWWA has been told that harmonization has had mixed results and has not had the desired impact. The reasons for this are varied and, in our view, are as follows:

- A. Provincial EA processes tend to be forward thinking processes which incorporate an assessment and analysis of needs and alternatives to the problem that is trying to be addressed. The Federal EA process does not specifically incorporate this at the application stage and as such, the Federal EA process usually is started and applied for later by the project proponent.
- B. The EA process must be distinguished from the regulatory decision that follows it. However, in practice these two items may become mixed. The questions to be answered and issues to be addressed relative as to whether there are actual Federal permitting triggers in the Federal EA process are sometimes more suited to the stage of detailed engineering design. At that point in time, decisions have already been made and a preferred alternative selected. Thus, many managers and practitioners in the field describe Federal EA as a “back-end process”, which requires more detailed work up-front and thus the implementation harmonization is somewhat awkward to accommodate within the provincial and territorial EA processes.

In at least one case (not involving a water or wastewater project), the CEAA Agency did agree to allow for Federal EA approval earlier in the process with the more detailed design work to be submitted after the fact to respond to the more detailed Federal permitting requirements. However, as far as we know, this process has not been standardized and implemented consistently by the Agency.

- C. The Federal EA process, the CEAA Agency and the relatively recent *RedChris* mining decision by the Supreme Court of Canada has provided much more guidance to proponents on the need for and the requirement to perform cumulative impact effects analysis. Until recently, this has not been emphasized to the same degree in provincial EA process.

As such, there is room for improvements in the harmonization process.

CWWA recommends the following:

- 1. The Federal EA process should specifically incorporate an assessment of need and alternatives to the proposed project and this be implemented consistently by all potential proponents –whether they be government, private or non-profit. In doing so, the CEAA Agency and the federal government departments recognize that they may not obtain answers to all of their initial questions or receive detailed answers more suited to issuance of regulatory permits or detailed design until reaching those stages. This may require the Agency and Departments to become more comfortable with some uncertainty upfront in the project and realize that, due to cost, project proponents will not agree to do detailed design work associated with more than one alternative.**

- 2. The Canadian Council of Ministers of the Environment bring to the attention of the provincial Minister of Environment the need to include assessment of cumulative impacts analysis work in the guidelines, practices, processes and perhaps even the legislation and regulations associated with provincial EAs.**
- 3. The CEAA Agency continue to work as a clearing house of information and act as a coordinator role in all cases where there are actual and multiple potential Federal Responsible authorities for a proposed project.**
- 4. The CEAA Agency be staffed adequately and continue to play a lead coordinating role on the consultation with aboriginal communities on behalf of both harmonized federal and provincial EAs.**

EA timelines and processes

Federal EA process and approval is just one approval in a series of required permitting approvals required for complex municipal projects. The Federal regulating departments will not entertain applications and issue regulatory permits until the Federal EA is obtained.

Our members were clear in the fact that there are frustrations and increased time in dealing with projects that involve both federal and provincial EA processes. Generally they have reported that involvement of the federal EA process in their projects tends to add considerable time (and as a result) considerable costs. In case of harmonized assessments, our members recognize that the negotiated timelines provide flexibility but that the very inclusion of flexibility in negotiation also tends to slow down the processes. In the case of the Halifax Harbour Solutions Project – which involved creation of 3 new sewage treatment plants – it took 4 years to obtain the federal approval in 2003, which we are told accounted between \$1- 2M in additional costs, including the required follow-up monitoring programs.

On September 23, 2010, CWWA wrote to the CEAA agency and supported insertion of the establishment of set timelines in the Comprehensive Studies Regulations, which has now been implemented by *SOR 2011-139*.

At that same time, there does not appear to be vast appetite from our members for inserting set timelines in the screening project process – the classification affecting the vast majority of municipal water and wastewater projects. In a screening, environmental impacts can vary from project to project due to differing locations and sensitivity of that environment. In most cases, the identified mitigation measures tend to mean that Best Management practices are implemented. However, the advantages of a screening process are that in almost every project, it does help the proponent identify site-specific mitigation and adaptation practices that can and should be implemented. The work that this requires will vary depending on the locale and the type of proposal.

More work may need to be done to see whether or not some legislative timelines can be inserted and effectively implemented into the screening process. CWWA is willing to work with the CEA Agency and the Minister of the Environment to see if there is a way to insert legislative timeframes into the process that balances the needs of our members in managing project certainty with the needs of the Federal Departments who provide valuable commentary on proposed projects.

In regards to introducing more certainty in the process, we also recommend that all decisions for scoping of projects be removed from the responsibility of the Minister of the Environment and be placed with the CEA Agency. This would still allow for judicial review, if required, and “depoliticize” potential application of the Act.

Our recommendations in these matters are:

- 5. The CEA Agency and the Minister of Environment work together to introduce legislation that provides for binding timeframes for both proponents and Federal government participants.**
- 6. The Minister’s authority for scoping of projects in section 15 of the Act, be removed and placed with the Head of the CEA Agency. All decisions in these matters would be subject to judicial review.**

One Project, One Process and One Permit

There are no effective penalties at the Federal level should a project commence without obtaining a Federal EA. The reason for this is that the usual regulatory “teeth” associated with the ultimate completion of a project resides with the permitting approval or “Responsible Authority” Federal Department or Agencies. Due to our concerns over process and timing previously expressed in this letter, we support integrating the permitting approvals and EA approval, wherever possible. We also recommend that project proponents be allowed to provide both the positive and negative potential environmental effects associated with their proposal. This would allow for recognition of the triple-bottom line approach currently employed by our members in the planning of their infrastructure projects and the positive outcomes associated with the enhancement of water and wastewater services to the Canadian public. As such, our recommendation in this matter is:

- 7. The CEA Agency and the Minister of the Environment explore potential revision to the Act that will allow for the integration of a one project, one enforceable permit approach. As well, that the Act be amended to expand to allow proponents to consider and weigh all social, economic and environmental factors (both positive and negative) associated potential effects of a project proposal.**

Conclusion

CWWA members support further harmonization between the federal and provincial/territorial EA processes. Our members will continue to implement good EA practices in all of their projects. Many of them are already models of good EA practice such as transparency by publishing monitoring data on existing water projects and practicing pro-active public consultation. They maintain high levels of expertise on environmental and social issues and employ consultants who also demonstrate such expertise.

In conclusion and in summary, our recommendations are:

- 1. The Federal EA process should specifically incorporate an assessment of need and alternatives to the proposed project and this be implemented consistently by all potential proponents –whether they be government, private or non-profit. In doing so, the CEAA Agency and the federal government departments recognize that they may not obtain answers to all of their initial questions or receive detailed answers more suited to issuance of regulatory permits or detailed design until reaching those stages. This may require the Agency and Departments to become more comfortable with some uncertainty upfront in the project and realize that, due to cost, project proponents will not agree to do detailed design work associated with more than one alternative.**
- 2. The Canadian Council of Ministers of the Environment bring to the attention of the provincial Minister of Environment the need to include assessment of cumulative impacts analysis work in the guidelines, practices, processes and perhaps even the legislation and regulations associated with provincial EAs.**
- 3. The CEAA Agency continue to work as a clearing house of information and act as a coordinator role in all cases where there are actual and multiple potential Federal Responsible authorities for a proposed project.**
- 4. The CEAA Agency be staffed adequately and continue to play a lead coordinating role on the consultation with aboriginal communities on behalf of both harmonized federal and provincial EAs.**
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- 6. The Minister’s authority for scoping of projects in section XXX of the Act, be removed and placed with the Head of the CEA Agency. All decisions in these matters would be subject to judicial review.**
- 7. The CEA Agency and the Minister of the Environment explore potential revision to the Act that will allow for the integration of a one project, one enforceable permit approach. As well, that the Act be amended to expand to allow proponents to**

consider and weigh all social, economic and environmental factors (both positive and negative) associated potential effects of a project proposal.

Municipalities are partners in the achievement of environmental goals in Canada and we look forward to a positive collaborative relationship with you on this review of CEAA, and any future work tasked to the Minister of the Environment and with the CEA Agency.

Should you have further questions or concerns about our comments, please do not hesitate to contact me at the number listed above or at jjackson@cwwa.ca.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jennifer Jackson".

Jennifer Jackson,
Executive Director
Canadian Water and Wastewater Association

Encl. (1)

JJJ/kp

cc: Adrian Toth, Manager, Technical Services
Kara Parisien, Policy Analyst

Canadian Water and Wastewater Association



FACT SHEET

History

The Canadian Water and Wastewater Association was founded in 1986 by a group of Canadian water and wastewater utilities and regional Associations, with assistance from the Federation of Canadian Municipalities (FCM), Health Canada and Environment Canada. CWWA is celebrating its 25th anniversary in 2011.

Over the years it has grown from a small information sharing collective to a strong and respected voice for its members, the host of several important national events, and a major source of Canada-wide information sharing and exchange.

Goals

CWWA exists so that Canadians have sustainable water services. Our members are municipalities, utility commissions, equipment suppliers, consulting engineering firms and non-government agencies.

Our primary goals are:

- to ensure that members are informed of national issues, have a rational, integrated and positive national policy and legislative environment;
- are provided with appropriate, effective and efficient national policies, standards, codes of practices, certification practices and research; and that
- members' interests and views on national issues and topics should be communicated to the media and the general public.

Industry developments and investment

The water and wastewater industry has been estimated at providing a \$10B industry nation-wide, with our members being responsible for about \$7B annually.

CWWA aims to facilitate business for our private sector members. By joining CWWA, they gain access to our municipal members, giving them opportunities to network and dialogue with the key

decision makers in the sector. We also facilitate international development by encouraging participation in international tradeshow and conferences. Recently CWWA arranged for a Canadian delegation to participate in Singapore International Water Week.

Current legislation

As the voice of the municipal water and wastewater industry, one of our primary responsibilities is to monitor legislation and initiatives on the federal level. Major initiatives of concern include the CCME national strategy on the management of municipal wastewater, the management of biosolids, the federal Wastewater Systems Effluent Regulation, and the activities of the Federal-Provincial-Territorial Committee on Drinking Water.

Upcoming Events

CWWA hosts several biennial and annual national events throughout the year. In 2012, we will be hosting the

- **15th Canadian National Conference and 6th Policy Forum on Drinking Water** in Kelowna, British Columbia, as well as the
- annual **Window on Ottawa**, December 2012.

In 2013, we will be hosting our biannual Wastewater Management and Water Efficiency Conferences.

Benefits of Membership

CWWA offers our members a strong and effective voice on federal issues for the sector. Through participation in technical committees, and attendance at events, members are given a direct means of sharing concerns with federal officials. Our members enjoy premium access to all CWWA events, receive CWWA publications and communication tools and are part of the only Canada-wide network of water and wastewater experts!

Latest News

CWWA recently launched our new Utility Excellence Awards – offering recognition in Community Outreach and the Implementation of New Technologies.

http://www.cwwa.ca/recognition_e.asp

Registration is now open for our Annual Window on Ottawa, scheduled from November 22-25 at the Delta Ottawa City Centre.

http://www.cwwa.ca/windowonottawa_e.asp