



16 September 2003

Attention: Manon Pepin - mpepin@ccemtl.org

Joint Public Advisory Committee
North American Commission for Environmental Cooperation
393, rue St-Jacques Ouest, Bureau 200
Montréal, Québec H2Y 1N9

Dear Committee members:

Re: JPAC Review of Citizen Submission Process

I am writing on behalf of the Transboundary Watershed Alliance (TWA), an alliance of 23 conservation and environmental organizations from both sides of the border working to promote healthy watersheds and healthy communities in the large contiguous region shared between northwestern British Columbia and Southeast Alaska. We have been involved in the Article 14 citizen submission process in the BC Mining file, specifically with respect to the Tulsequah Chief Mine, an abandoned copper mine located on the Tulsequah River in northwest British Columbia. I trust that our reflections on our experiences in the citizen submission process will be useful to you as you review and work to improve that process.

One of our member organizations, the Taku Wilderness Association, was a Submitter on the original BC Mining submission to the Secretariat of the CEC. Our alliance supported that submission because we view the Article 14 process as an essential mechanism for scrutinizing non-enforcement of North American environmental laws and the ramifications of such non-enforcement. Our experience with the Article 14 process has unfortunately eroded our confidence in its utility, since we have witnessed how the process can be undermined by overly narrow investigations or by Council interference in areas within the Secretariat's expertise.

The BC Mining process was certainly a valuable exercise in that it brought attention to the long-standing and long overlooked environmental problems at the abandoned Britannia mine site. We are very concerned, however, that the Council instructed the Secretariat not to consider the Tulsequah Chief mine, which remains a major concern for our Alliance, or the Mount Washington mine. We can comment in detail only on the Tulsequah Chief, where non-compliance with Canadian law relating to environmental protection and the protection of salmon and salmon habitat continues to be a concern. Five years after Canadian federal scientists first confirmed a serious acid mine drainage problem at the Tulsequah site (reconfirmed on two subsequent visits), there has been no progress made toward addressing it. A factual record including the Tulsequah Chief mine site would have been valuable in highlighting non-enforcement of Canadian

Rivers Without Borders

555 West Georgia, Suite 610, Vancouver, B.C. V6B 1Z6 ~ Phone 604-648-2428 Fax 604-685-6449
302 Hawkins Street, Whitehorse, Yukon V1A 1X6 ~ Phone 867-668-5098 Fax 867-668-6637
419 Sixth Street, Room 225, Juneau, Alaska 99801 ~ Phone 907-586-4905 Fax 907-463-3312

environmental law there, but also in drawing attention to what appears to be a problem of systemic non-enforcement related to abandoned mine sites in British Columbia.

For North American publics as well as non-governmental organizations to retain their confidence in the process, we strongly recommend that it be reaffirmed that it can examine both narrow and broad issues of non-enforcement. We also recommend that the process be improved so that the Secretariat's decisions on the scope of investigations and the sufficiency of information will be supported and respected. If there is continued evidence that the process is subject to interference or undue constraints on the latitude of investigations, it will cease to be an accountability mechanism of any importance in addressing critical issues of non-enforcement.

Thank you for your efforts in relation to this matter.

Sincerely,

A handwritten signature in black ink that reads "David MacKinnon". The signature is written in a cursive style with a long horizontal flourish extending to the right.

David MacKinnon
Canadian Field Coordinator

The logo for "Rivers Without Borders" is located at the bottom of the page. It consists of a blue horizontal bar on the left and a green horizontal bar on the right. The text "Rivers Without Borders" is written in a blue serif font across the green bar.

Rivers Without Borders

555 West Georgia, Suite 610, Vancouver, B.C. V6B 1Z6 ~ Phone 604-648-2428 Fax 604-685-6449
302 Hawkins Street, Whitehorse, Yukon V1A 1X6 ~ Phone 867-668-5098 Fax 867-668-6637
419 Sixth Street, Room 225, Juneau, Alaska 99801 ~ Phone 907-586-4905 Fax 907-463-3312