



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

APR 05 2012

Office of
International and
Tribal Affairs

Mr. Jeffrey N. Wennberg
Chair, U.S. Governmental Advisory Committee
Commissioner
VT Department of Environmental Conservation
103 South Main Street, Building 1 South
Waterbury, VT 05641-0401

Dear Mr. Wennberg:

On behalf of Administrator Lisa P. Jackson, I would like to thank you for the U.S. Governmental Advisory Committee's (GAC) advice of December 9, 2011 reporting on its October 2011 meeting and providing valuable recommendations to the United States regarding the Commission on Environmental Cooperation (CEC), specifically with respect to the draft CEC Communications Strategy, the Submissions on Enforcement Matters (SEM) process, and the CEC's 2011 Work program.

Your recommendations on the draft CEC Communications Strategy provided very sound advice and they have been helpful to us as we have worked to improve the draft strategy. I trust that as the CEC Communications Strategy is finalized and fully implemented it will serve to elevate the CEC's visibility. Further along these lines, I am happy to report that we were recently notified by the CEC Secretariat that they have selected a candidate for the position of Communications Coordinator for the Secretariat. With a strong new Communications Plan in place and clearly set-out roles and responsibilities, we are confident that these new efforts will help to ensure that real progress is being made to increase awareness amongst relevant audiences. I also share the GAC's view regarding the important role that each member can play in improving awareness of the CEC and its programs. To that end, we will continue to look for opportunities to highlight successes in those geographical areas where NAC/GAC members reside.

We also appreciate your advice regarding Transboundary Environmental Impact Assessments (TEIA). The unique partnership created by the NAAEC provides an opportunity for the Parties to consider and develop recommendations with respect to proposed projects that are likely to cause significant adverse transboundary effects and are subject to decisions by a competent government authority. As you know, it has been difficult to reach consensus on this issue in the past, particularly because of the inherently different governance systems in the three countries. In your advice letter, you also recommend that the CEC undertake a study, including one of Border Environment Cooperation Commission (BECC) funded projects. Although the U.S. can raise the possibility of such a study with our relevant counterparts, it is not apparent that this will address the lack of consensus on this issue. It is important to note that the BECC does not conduct its own environmental assessment of projects. Rather, the BECC serves to review

and gather information and work in concert with project sponsors to ensure that relevant and applicable local, state and federal environmental reviews have been carried out, consistent with their project certification criteria. Thus, an extensive review of BECC projects may not provide a unique environmental assessment insight. Nevertheless, the United States will continue to advocate for broader trilateral discussion of this important matter through the CEC.

Regarding your request that a future meeting agenda include a briefing on the legal, historical, political and social dimensions of the difference in legal status of indigenous tribes in North America, we support this idea and are shaping a discussion to be presented at the upcoming April meeting of the GAC in Washington, DC. Our discussion will focus on the status of U.S. tribal nations, as we have no ability to report out on the status of indigenous communities within Canada or Mexico. However, we would like to suggest that information is publicly available related to aboriginal peoples and the environment in Canada, which can be found at the Environment Canada website (www.ec.gc.ca). We would also refer you to the Canadian Centre for Indigenous Environmental Resources (CIER) at www.cier.ca/about-us. With respect to information about indigenous communities and the environment in Mexico it can be found at: www.semarnat.gob.mx/programas/semarnat/paginas/indigenas.

As always, your guidance is highly valued and respected. Your feedback is very helpful to us throughout the year and we look forward to your support in planning the upcoming CEC Council Session that the U.S. will chair in New Orleans this summer. I look forward to meeting with you at your spring meeting in Washington.

Sincerely,

A handwritten signature in blue ink that reads "Michelle DePass". The signature is fluid and cursive, with the first name "Michelle" being more prominent than the last name "DePass".

Michelle DePass
Alternate Representative for the
United States

GAC Advice 2011-4: CEC Communication Strategy

We generally agree with the advice provided on the draft CEC Communications Strategy and have shared the points raised to the CEC Secretariat in the US position on the draft plan.

With respect to the advice on what NAC/GAC members and others might do to help improve awareness of the CEC and its programs among key audiences, EPA is very open to this suggestion and would like to explore how NAC/GAC members can become “champions” in raising CEC awareness in key geographical areas and with key stakeholders. We will confer with our colleagues in the Office of Federal Advisory Committee Management and Outreach and the Office of Public Affairs regarding your suggestion for future meetings held outside the Washington DC metropolitan area.

With regards to the recommendation that the Secretariat provide material of interest to domestic audiences in the U.S., the U.S. will discuss this with Mexico and Canada regarding the appropriateness of the Secretariat preparing material to be used by members of a Party’s domestic advisory committees. Similarly while the CEC’s communications staff is always present at the JPAC meetings, this has not been the case with respect to a Party’s domestic advisory committee meetings.

GAC Advice 2011-5: Transboundary Environmental Impact Assessments

We greatly appreciate your thoughtful input regarding the TEIA issue and share your view that the matter continues to warrant attention by the Parties. Regarding your recommendation that the CEC undertake a study of past-approved projects on both sides of the U.S.-Mexico border, the U.S. will raise this idea with our CEC counterparts in Mexico and Canada. EPA will continue to consider this and other potential options for addressing TEIA concerns. Nevertheless, it is important to point out that BECC procedures are unique to the BECC and they do not govern the operations of the CEC.

GAC Advice 2011-6: Briefing Request on Tribal Status

We support your suggestion that a future agenda item include a briefing on the legal, historical, political and social dimensions in legal status of indigenous tribes in North America, however, we will have to focus the discussion on the status of U.S. tribal nations as we have no ability to report out on the state of indigenous communities in Canada and Mexico. In that regard, however, we would suggest that information related to aboriginal peoples and the environment in Canada is generally available and can be found at such places as the Environment Canada website (www.ec.gc.ca). We would also refer you to, for example, the Canadian Centre for Indigenous Environmental Resources (CIER) at www.cier.ca/about-us. With respect to information about indigenous communities and the environment in Mexico, you may wish to visit the website of the Ministry of Environment and Natural Resources for Mexico (SEMARNAT) at www.semarnat.gob.mx/programas/semarnat/paginas/indigenas. In the meantime, rest assured that we are in the process of planning a discussion on U.S. tribal nations at your upcoming spring meeting, working together with EPA’s American Indian Environment Office (AIEO) and our Office of General Counsel.

GAC Advice 2011-7: Panel of Experts Review

With respect to the GAC's request that you be kept informed of the progress and/or the findings of the Panel of Experts review related to the CEC's Trade and Environment portfolio, we understand that this topic will be an agenda item for the spring meeting in Washington. Please know that the U.S. will make this information available to our advisory committee members and the general public as soon as it becomes available.