

## **Comments on Submissions History - Lessons Learned: Submitted by**

### **Center for International Environmental Law**

Lessons we have learned from the citizen submissions process stem from the following observations:

- In response to over 30 submissions detailing harms to public health and the environment, the Council has only twice directed the Secretariat to examine, and inform the public about, facts associated with these harms.
- By June 2000, over half of the active submissions (about seventeen) were approximately two or more years old.
- Parties have attempted to seek blanket prohibitions on release of documents submitted to the Secretariat, thwarting the original objectives of the confidentiality provisions under the agreement.
- Party efforts to clarify the citizen submissions process would have resulted in more onerous requirements for citizens making submissions.
- The Council has often discounted comments submitted by JPAC, NAC, GAC and other members of the public.
- A submission CIEL filed in collaboration with Alliance for the Wild Rockies has been delayed. The US response was filed over six months ago, but no determination has been made on the issue of whether a factual record is warranted.

These results do not achieve original promises made by the Parties to give the public an opportunity to voice concerns about, and understand the facts associated with, Party efforts to implement existing environmental regulations. Instead they suggest a process mired in politics and Party efforts to avoid accountability.

Some of the lessons we have learned from these observations include the following:

- To be credible, a citizen submissions process must be walled-off from the influence of Parties who, when faced with the prospect of being held accountable for actions or inactions, might try to weaken or change the process.
- To be effective, the Secretariat must be walled-off from the influence of Parties and given discretion to act. Unlike the Parties, the Secretariat has no vested interest in the outcome of the submissions.
- Given public interest in recent actions by the Parties to revise the citizen submission process, a short-term gain by Parties to weaken the process would likely lead to long-term loss of Party credibility and support for future trade agreements.

- Opportunities to assert confidentiality must be well-defined and limited.
- Timeframes for action must be well-defined.

Thank you for the opportunity to comment.

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