



The Honourable Stéphane Dion
Minister of the Environment
By FAX: (613) 996-6562
3 pages including this one

September 15, 2005

Re: Public Access to Information on Greenhouse Gas Emissions

Dear Minister Dion,

We are writing to draw your attention to the importance of providing the fullest possible public access to information on greenhouse gas (GHG) emissions reported to the Government.

On March 13, 2004 Environment Canada published a notice in the Canada Gazette¹ requiring large emitters to report detailed information on GHG emissions at the facility level. The deadline for reporting 2004 emissions was June 1, 2005. The Gazette notice stated that “The Minister of the Environment intends to publish the information collected on 2004 emissions,” and Environment Canada’s accompanying media backgrounder stated that “Reporting will... entail public disclosure of reports on facility-level emissions.”²

Environment Canada has not yet published any of this information. Moreover, we are aware that representatives of approximately one-fifth of the facilities reporting have submitted requests that reported information be kept confidential.³ This they are entitled to do under Sections 51–53 of the Canadian Environmental Protection Act (CEPA).

The undersigned organizations request that Environment Canada publish, in full and as soon as possible, all the reports received on facility-level GHG emissions for 2004.

We note that Sections 51–53 of CEPA allow you to withhold information from publication only if the emitter can demonstrate that it “constitutes a trade secret”, or that disclosure “would likely cause material financial loss to, or prejudice to the competitive position of” or “likely interfere with contractual or other negotiations being conducted by” the emitter. However, even where these conditions are satisfied, CEPA Section 53 nonetheless empowers you to disclose the information if the “public interest... outweighs in importance” any material financial loss or prejudice to the competitive position of the emitter.

We urge you to use your discretionary power to publish all reported information in full, taking into account the following considerations:

- Canada has made a commitment to reduce its emissions under the Kyoto Protocol, and expects to achieve a major share of the required reductions through regulations imposed on large final emitters (LFEs). Public accountability in the realization of that commitment requires maximum transparency regarding the actions of LFEs to reduce GHG emissions over time, starting now.

¹ <http://canadagazette.gc.ca/partI/2004/20040313/html/notice-e.html#i3>

² http://www.ec.gc.ca/press/2004/040312_b_e.htm

³ Environment Canada provided this information at the June 2005 joint meeting of the National Steering Committee on Reporting and the Stakeholder Advisory Committee on Reporting.

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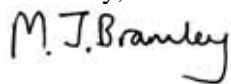
Maximum possible transparency is especially important for the credibility of the LFE system in light of the shaky confidence of opinion leaders and the public in emissions trading. Granting requests for confidentiality now, in the absence of any but the most compelling reasons, would create a precedent that would set Canada on a path towards poor transparency in the future LFE system.

- In the past, facility-level GHG emissions data, often quite detailed, was published voluntarily by approximately half of the industrial emitters reporting under the Voluntary Challenge and Registry (VCR) initiative.⁴
- Ontario's facility-level mandatory reporting regulation (Regulation 127), which includes GHGs, includes no provision for confidentiality, and this does not appear to have posed any significant problems. Facility-level data from Quebec's GHG emissions database is also available to members of the public on request, as required by provincial law.
- Some emitters argue that GHG emissions data is revealing of energy use, and that the latter is commercially sensitive. However, this argument could also be made for data on criteria air contaminant (CAC) emissions, which Environment Canada nonetheless reports publicly at a facility level under the National Pollutant Release Inventory (NPRI). Under the NPRI, the principle was previously established that requests for confidentiality are only very rarely granted. For year 2002 reporting, which included CACs, only 10 facilities out of 3191 reporting were granted confidential status.⁵
- Some emitters argue that GHG emissions data is commercially sensitive because GHG emissions will in future be subject to emissions trading, and thereby translate into a financial liability. This argument must be rejected both because (i) its logical consequence would be a non-transparent LFE system in which it would be very difficult for the public to have confidence (see above) and (ii) public quantification of future financial liability for GHG emissions is important for the proper operation of financial markets, as argued by the 143 institutional investors with combined assets of \$US20 trillion working through the Carbon Disclosure Project.⁶
- Although the effects of GHGs are global, responsibility for emissions is local, and management of emissions has substantially to do with decisions taken at the facility level. Public access to facility-level information is therefore critical to holding emitters accountable, and will create a powerful incentive for encouraging emitters to adopt strategies for emissions reduction. The importance of climate change makes the public interest in the publication of, and right to know facility-level GHG emissions and related information particularly compelling.
- Public access to emissions disaggregated by type of gas is a well-established principle in public emissions reporting systems and is necessary to allow recalculation of total emissions when Global Warming Potentials are revised.

In light of the above considerations, we are doubtful that emitters can convincingly demonstrate that any of CEPA's criteria for withholding information from publication are met. In any case, we believe that the elements of public interest enumerated above clearly outweigh any of the concerns raised so far by emitters.

We would be happy to meet with you or your staff to discuss these issues further. In any case we look forward to your response.

Sincerely,



Matthew Bramley, Pembina Institute

⁴ This was a finding of detailed analysis by the Pembina Institute of VCR submissions for year 2000 emissions.

⁵ http://www.ec.gc.ca/pdb/npri/2004N_Overview/2002Summary/2002Summary_p6_e.cfm.

⁶ See <http://www.cdproject.net>.

Also on behalf of:

Rohini Peris, Allergy and Environmental Health Association of Quebec

Judy Huntley, Bert Riggall Foundation

Tom Hackney, BC Sustainable Energy Association

Dave Bennett, Canadian Labour Congress

Linda Sheppard Whalen, Centre for Long-term Environmental Action in Nfld

Sandra Madray, Chemical Sensitivities Manitoba

Dave Stevens, CHOKED

Derek Coronado, Citizens Environment Alliance of Southwestern Ontario

Rohini Peris, Coalition for Alternatives to Pesticides

Peter Shepherd, Coalition for a Green Economy

David Coon, Conservation Council of New Brunswick

Janet L. Sumner, CPAWS Wildlands League

Morag Carter, David Suzuki Foundation

Stephanie Sodero, Ecology Action Centre

David J. Parker, Edmonton Friends of the North Environmental Society

Jennifer Foulds, Environmental Defence

Hugo Séguin, Équiterre

Jean Arnold, Falls Brook Centre

Beatrice Olivastri, Friends of the Earth

Jim Elliott, Gaia Group

Laurie MacBride, Georgia Strait Alliance

Mike Hudema, Global Exchange

François Meloche, Groupe Investissement Responsable

Gary A. Hawton, Meritas Mutual Funds

John Burcombe, Mouvement Au Courant

Margaret Skeel, Nature Saskatchewan

Mary Pattenden, Pollution Probe

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Ann Coxworth, Saskatchewan Environmental Society

Elizabeth May, Sierra Club of Canada

Mike Nickerson, Sustainability Project / 7th Generation Initiative

Keith Stewart, Toronto Environmental Alliance

Nashina Shariff, Toxics Watch Society of Alberta

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Julia Langer, World Wildlife Fund Canada

Lewis Rifkind, Yukon Conservation Society