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# Bill C-9: Senate Committee Stage

Briefing of the  
Minister of the Environment  
May 26, 2003

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Canada



# Overview of presentation

- Key messages for Senate Committee
- Potential issues, raised in the House of Commons
- Project-specific issues
- Impending second Standing Committee report



# Key messages for Senate Committee

- Bill C-9 will strengthen CEAA so that we have an environmental assessment process that is more certain, predictable and timely.
- The improved process will produce high-quality assessments, and provide for meaningful public participation.
- Your Report to Parliament also commits the government to further regulatory and policy changes to complement the Bill.



# Key messages for Senate Committee (cont'd)

- House of Commons review of Bill C-9 made further positive amendments to the legislation.
- Key changes include:
  - extension of EA obligations to Crown corporations
  - addition of precautionary principle
  - expansion of requirements for posting information on Registry Internet site
  - new authority for Minister of the Environment to issue prohibition orders



# Key messages for Senate Committee (cont'd)

- Special attention has been paid to national parks and their ecological integrity.
- Review of Bill C-9 was praised by environmental groups and industry as being open, timely, and comprehensive.
- HOC Committee chair characterized the Parliamentary review process as “a tremendous experience and a very worthwhile effort.”



# Potential issue:

## Federal/provincial cooperation

- Bill C-9 positively responds to 13 of 18 provincial recommendations arising out of the Five Year Review.
- The CEAA ensures consideration of environmental concerns in federal decision making.
- We favour cooperation where a project also requires a provincial assessment.
- Harmonization has occurred in all provinces but Quebec.



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# Potential issue: Crown corporations

- Three years after Royal Assent, a Crown corporation will be subject to either the requirements of the Act or a modified process set in regulations.
- This three-year time period provides time to determine which of the Crown corporations will need the process to be tailored because of unique situations.
- EDC and the Canada Pension Plan Investment Board have been exempted.



# Potential issue:

## Number of panel reviews

- Decision to appoint a review panel is taken on a case-by-case basis.
- Assessments conducted at screening or comprehensive study level should not be disregarded.
- More panel reviews may arise in the future.





# Potential issue: Scoping decisions

- The new Federal Environmental Assessment Coordinator will help ensure a more consistent application of the Act, including scoping decisions.
- The new quality Assurance Program should also have a positive influence in this area.



# Potential issue:

## Aboriginal non-derogation clause

- Such a clause would not be appropriate in CEAA.
- The Act creates a process designed to gather and analyze facts about a project's impact.
- Decisions to proceed with projects are taken under other federal statutes, such as the Fisheries Act, etc.
- Bill C-9 does include a new purpose clause to reflect the importance of cooperation with Aboriginal peoples, including band councils, self-governing and land claims bodies.



## Potential issue:

# Mandatory public participation

- Requiring mandatory public participation for small projects, such as dock repairs, would make no sense.
- It would divert resources from larger, more important projects like dams, mines and pipelines.
- Bill C-9 clarifies that opportunities for public participation may occur at any stage in the screening of a project.



# Project issue:

## Alberta Oil Sands Projects

- Northeastern Alberta currently has seven oil sands mine projects and nine in-situ projects at various stages of environmental assessment and regulatory approval processes.
- The requirement to conduct a federal environmental assessment is being determined for each project.
- Every effort will be made to harmonize the federal environmental assessment process with the Government of Alberta.



# Project issue: Environmental assessment of nuclear projects

- There were twelve review panels established under the environmental legislation preceding the Act for nuclear-related projects including nuclear generation and uranium mining activities.
- Since the promulgation of the Act, there have been no panels, but there have been four nuclear-related projects assessed through the comprehensive study process.
- Comprehensive studies are very thorough assessments that require public consultation.



# Project issue: Bruce Used Fuel Dry Storage Facility

- Project underwent a comprehensive study from 1997 to 1999. This included a 60-day public comment period.
- At the end of the study, AECL concluded that application of proven technology and environmental management practices will mitigate any potential significant environmental effects.
- The then Minister of the Environment shared this view.
- This conclusion was upheld by both the Federal Court and the Federal Court of Appeal.



# Project issue: Pickering Nuclear Station “A” Relicensing

- This project was subject to a screening because it was not on the *Comprehensive Study List Regulation*.
- The Canadian Nuclear Safety Commission undertook a “comprehensive study-like” screening for the project.
- The Canadian Nuclear Safety Commission determined that the project would not likely cause significant adverse environmental effects, taking into account the implementation of mitigation measures and consequently, there was no need for you to refer it to a review panel.



# Project issue: Manitoba Hydro's northern projects

- Canada and Manitoba have a formal agreement that ensures a comprehensive and cooperative EA process for all projects that require federal and provincial environmental assessment decision-making.
- Currently, the cooperative environmental assessment being conducted for the Wuskwatim Generation Project includes extensive public and First Nation's consultations, including public hearings scheduled to be conducted in the fall of 2003, by Manitoba's Clean Environment Commission.





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# Project issue: Tolko forest plan

- When this proposal came forward in 1996, there were initially no federal decisions required that would trigger CEAA.
- Later in the provincial assessment process, CEAA was triggered under the *Navigable Waters Protection Act* for the construction of a bridge, and a screening was completed.
- The Federal Court ruled that the assessment was completed in accordance with the Act.



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# Project issue: Sidney Tar Ponds

- A decision on whether to refer the Tar Ponds and Coke Ovens remediation projects to a panel will be made once the project or projects have been clearly identified.
- The environmental assessment will be carried out on the project proposal and possibly on appropriate alternatives.
- The public will have full and ample opportunity to participate in the environmental assessment.



## Second committee report

- The Standing Committee plans to table *Beyond Bill C-9: Toward a New Vision for Environmental Assessment*
- Perception that Five Year Review and Bill C-9 too narrow
- Draft report largely reflects views and priorities of environmental community
- Government will respond positively to recommendations where tools in the revised Act and policy initiatives can be used.