

**Transportation Association of Canada
FALL 2010 Technical Conference**

Environmental Advisory and Legislation Standing Committee (EALSC)

MEETING MINUTES

Date: Friday, September 24th, 2010
Location: Halifax, Nova Scotia
Chair: Linda McAusland, Ministry of Transportation Ontario - regrets
Vice Chair: Ron Gerbrandt, Saskatchewan Ministry of Highways and Infrastructure
Secretary: Clark Gunter, Ecoplans Limited

Members Attending:

Allan Widger	University of Regina
Bill Pacholka	Saskatchewan Ministry of Highways and Infrastructure
Bob Pett	Nova Scotia Infrastructure and Transportation Renewal
Bob Hodgins	Independent Consultant
Brian Thompson	Prince Edward Island Transportation and Public Works
Cathy Hainsworth	Transport Canada
Clark Gunter	Ecoplans Ltd.
Dick Hanneman	Salt Institute
Don Snider	Alberta Transportation
Greg Czernick	British Columbia Ministry of Transportation
Heather Crewe	Ontario Good Roads Association
Ian MacCallum	Nova Scotia Infrastructure and Transportation Renewal
Kimber Osiowy	Manitoba Infrastructure and Transportation
Leonard Ng	York Region
Linda McAusland	Ontario Ministry of Transportation
Maya Caron	Stantec Consulting
Mort Satin	Salt Institute
Oliver Laser	AMEC
Rico Fung	Cement Association of Canada
Rob Walker	Yukon Highways and Public Works
Romualdo D'Ippolito	City of Brampton
Ron Gerbrandt	Saskatchewan Ministry of Highways and Infrastructure
Roger Pottle	Newfoundland, Dept. of Transportation and Works
Russ Smith	Transport Canada
Scott Hanna	Hatch Ltd.
Shelley Tapp	Ontario Ministry of Transportation
Sylvie Colomb	Nova Scotia Infrastructure and Transportation Renewal
Thérèse Trépanier	Ministere Transports Quebec

SUMMARY OF ACTIONS

ACTIONS FOR ITEM 3
1. Changes to Fall minutes
ACTIONS FOR ITEM 4
1. Confirm attendance for EC with respect to MBCA
2. Ask Nav. Waters if they have a draft of the bridge maintenance policy and supporting analysis document.
3. Letter of coordinating comments to Nav Water.
ACTIONS FOR ITEM 5
1. Provide revised approach for Tracking Table committee Linda McAusland / Clark Gunter

1. Welcome and Introductions

Ron Gerbrandt welcomed everyone to the meeting. Introductions were held.

ACTIONS FOR ITEM 1	
No actions	

2. Review and Approve Agenda

To add to “Other Business”

- D. Snider
 - Red Chris
- Ron Gerbrandt
 - Recommendation to take to Env. Council
 - Theme for 2011 Annual Conference, anything we want to see

ACTIONS FOR ITEM 2	
No actions –part of discussion below.	

3. Minutes from April, 2010 Spring EALSC Meeting

The minutes were approved - moved by Scott Hanna and seconded by Rodger Pottle.

ACTIONS FOR ITEM 3	
1. Change to “Recommending a CEAA presentation”	• Katarina Cvetkovic

4. Review and Updates of Federal Environmental Legislation

Russ Smith (Transport Canada) provided the Standing Committee an update on

CEAA

New amendments to CEAA exclusion under the Build Canada fund continues. The amendments (exclusions) may become permanent but this is not certain at this point in time. The government is not moving forward on the substitution proposal. The new amendments under the Act are not directly tied to transportation and are mostly related to Comprehensive Studies and not Screenings. Under Section 15 “Scope of project”, the Minister can limit scope of Comprehensive Studies under certain conditions. It appears that CEAA will take almost has RA role as CEAA can trigger CEAA early (Section 21 and 22). Also, New Regulations for establishing timelines – before the comment period is over the agencies have to have comments in.

Discussion items raised:

- There seems to be some confusion of the application of the exclusion list and if exclusion was granted is it still applicable. For example temporary works (2 years) for a stream with no permanent work.
- There seems to be a desire for the province of BC to undertake the CEAA screening / comprehensive study on behalf of the federal government. However, such a study may be open to challenge by aboriginal groups under constitutional grounds
- RA seems inconsistent in terms of requirements and what is excluded.
- People have been named in litigation. This has put a chill on decision making and providing advice.
- Transport Canada has an EA guidance document Transport Canada Proponent's Guide for Environmental Assessment Pursuant to the Canadian Environmental Assessment Act (http://www.tc.gc.ca/eng/programs/environmentalassessment-recent_publications-666.htm)

Navigable Waters Protection Act

In January 2010, there was consultation and feedback was initiated on the conversion of the various ministerial Orders into proposed Regulations. TAC members teleconferenced to provide aligned comments. In October 2010, pre-publication in Part 1 of the Canada Gazette, which is followed by a 30-day comment period. In March, 2011, the regulation will be published in Part II of the Gazette. Nav Waters has a draft Bridge Maintenance Policy (and a supporting analysis document) for which the comment period is still open.

Coordinating comments to Nav Water was undertaken by Kimber Osioy who arranged a conference call and coordinated individual comments and drafted the response. A copy of this correspondence will accompany these minutes.

Species at Risk Act

- Parliamentary Five Year Review coming up

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- Legal Challenges are essentially from those who see DFO/EC not living up to the spirit of the Act. No challenges from proponents.
- Bilateral Agreements with some provinces (BC, SK, QC, ON [almost]) to blend federal and provincial interests. For fish and birds, the federal authorities see, to mostly defer to provinces. DFO and EC do have some recovery strategies but it seems to take a long time to develop to ensure scientifically defensible. Once an area is designated as critical habitat, nothing can happen there.
- Caribou Woodlands – Aboriginal launched a lawsuit against the federal government due to their failure to protect Caribou. They are trying to get an injunction to stop all activity.

Fisheries Act

- Some provinces have noted large inconsistency in the applicable by DFO. It seems to be mostly an experience issue. Shelley Tapp noted that MTO has an implementation protocol with DFO and an implementation team that meets regularly to iron out issues.

Migratory Birds Convention Act

- Update proposed for spring 2011, and EC said they are willing to attend.

Canadian Environmental Protection Act

- Key item of attention – Road Salts
- EC forthcoming “Status Report” on the environmental management of road salts. Latest draft has been circulated to stakeholders groups. Progress has been made in a number of areas.
- October 2010 target date for revised draft that goes to the Minister for signature and eventual release.

ACTIONS FOR ITEM 4	
4. Confirm attendance for EC with respect to MBCA	• Katarina Cvetkovic
5. Ask Nav. Waters if they have a draft of the bridge maintenance policy and supporting analysis document.	• Russ Smith
6. Letter of coordinating comments to Nav Water.	• Kimber Osiowy

5. Review and Discussion of Proposed Chart to Capture Federal/Provincial Legislation

A draft of a legislative issue tracking table was provided for the committee’s review and comment. The following are the comments provided:

- Federal legislation tracking was supported but not provincial
- Don’t track legislation, track issues (e.g., court decisions)
- The table is too long and should be as short as possible

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- Maintenance of the table is the key to its success –
 - Russ Smith noted that TC can provide the environmental updates (as above) as such the minutes of this meeting can be used to feed the table however, TC has reservations about obtaining updates on other federal legislation (e.g., Indian Act)
 - Don Snider noted that once a year, Alberta has a law firm provide an update of all legislation – this can be used to update table.

As such, the consensus was that the table needs retooling with respect to what is being tracked and how it will be updated.

ACTIONS FOR ITEM 5	
1. Provide revised approach for Tracking Table committee	<ul style="list-style-type: none">• Linda McAusland / Clark Gunter

6. Round Table Discussion

Dick Hanneman

- Canadian Council of Ministers of the Environment (CCME) has undertaken a review of for the Canadian Water Quality Guidelines for the Protection of Aquatic Life – Chloride. US EPA looking into chloride toxicity in context of background water chemistry. Hardness has effect on aquatic toxicity and had a range values based on hardness. CCME has produced a draft paper – which after comments it has withdrawn it for further study. Contact Dick for additional details.
- Ontario Source Water Protection Committee (SWPC) – these citizens’ committees wield a lot of power to control activities including salt use and fuel storage within designated areas. As such, MOE is to develop a catalogue of Best Practices. If a SWPC does not use a best practice, then they have to justify it.

Heather Crewe (ON)

- 19 SWPC and she is meeting with each one.
- For Volatile Organic Compounds (VOC), limits to be set on producers and the prohibition of sale / resale in effect in 2012.
- Endangered Species Act (ON) funding for training for municipal road authorities working together (OGRA and MNR) to train members on how an activity may interfere with species.
- Brownfield sites- excess material from construction sites being held to Brownfields regulations by municipal and financial regulation to all sites (including ROW) and municipalities insisting on including it in a plan of sub-division.

Ron Gerbrandt (Saskatchewan)

- High level review of provincial EA. They are looking at more proponent responsibility in EA with codes of practices and auditing against the codes.

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Thérèse Trépanier

- Incurring a charge to for obtaining an authorization.
- Thanks to Kimber Osiowy for organizing teleconference and organizing results. It was seen as very useful and or value to MTQ.

Bob Hodgins

- Ontario: Smart about salt is moving forward under a non-profit council
- OGRA is part of that council

Shelley Tapp (Ontario)

- The provincial wetland policy is being updated.

Kimber Osiowy (Manitoba)

- Habitat impacts are under a no net loss policy for whole province.

ACTIONS FOR ITEM 5	
1. None	

7. Other Business

None

Minutes prepared September 25th, 2010 by Clark Gunter
Modified:

Additional Documents Circulated with the Minutes

<i>Document Description</i>	<i>Responsible to Provide or Link</i>
<ul style="list-style-type: none"> • Presentation for Review and Updates of Federal Environmental Legislation 	Russ Smith: Attached to email accompanying these minutes
<ul style="list-style-type: none"> • Proponent's Guide for Environmental Assessment Pursuant to the Canadian Environmental Assessment Act 	http://www.tc.gc.ca/eng/programs/environmen-t-environmentalassessment-recent_publications-666.htm
<ul style="list-style-type: none"> • EALSC Presentation to the Environment Council 	Linda McAusland: Attached to email accompanying these minutes
<ul style="list-style-type: none"> • Letter of coordinating comments to Nav Water. 	Kimber Osiowy; Attached to email accompanying these minutes