

Fall 2013



Report of the Commissioner of the Environment and Sustainable Development

CHAPTER 9

Environmental Petitions



Office of the Auditor General of Canada

OAG

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Office of the Auditor General of Canada
Distribution Centre
240 Sparks Street
Ottawa, Ontario
K1A 0G6

Telephone: 613-952-0213, ext. 5000, or 1-888-761-5953

Fax: 613-943-5485

Hearing impaired only TTY: 613-954-8042

Email: distribution@oag-bvg.gc.ca

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CHAPTER 9

Environmental Petitions

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Introduction

Highlights

9.1 The highlights of this annual report include the following:

- **Issues raised by petitioners.** The report summarizes issues raised by Canadians in the 12 environmental petitions that were received between 1 July 2012 and 30 June 2013 and were forwarded to federal departments and agencies for response. These issues include federal research on hormone-disrupting substances, environmental risks related to the proposed increase in oil tanker traffic in waters off British Columbia, and long-term monitoring and management of federal contaminated sites.
- **Departmental performance.** Departments and agencies provided 86 percent of petition responses this year within the prescribed statutory deadline. The responses were relevant and complete.
- **Relevance to other work of the Commissioner.** The report also highlights recent petitions and responses related to biological diversity, national parks, and conservation—issues that are covered in greater detail in this year’s report of the Commissioner of the Environment and Sustainable Development.

Focus of the annual report

9.2 The Commissioner of the Environment and Sustainable Development administers the environmental petitions process on behalf of the Auditor General. In addition to a monitoring and reporting role, the Commissioner posts petitions and responses on the Internet, and carries out outreach activities. The purpose of this annual report is to inform Parliament and Canadians about the number, nature, and status of petitions and responses received between 1 July 2012 and 30 June 2013, as required by section 23 of the *Auditor General Act*. The report also explains how petitions and ministerial responses can inform the work of our Office.

9.3 More details are provided in **About the Annual Report and the Petitions Process** at the end of this chapter.

Petitions and Responses

Petitions received

Social media—A video on the environmental petitions process is available on the OAG YouTube channel (<http://www.youtube.com/user/OAGBVG>). In addition, you can follow us on Twitter at [CESD_CEDD](#).

Petitions catalogue—The petitions catalogue contains petitions received under Section 22 of the *Auditor General Act*, and the ministerial responses to those petitions. It is available on the Office of the Auditor General website (www.oag-bvg.gc.ca).

Follow-up petition—A petition submitted after receiving the response to an initial petition. It can be submitted immediately to ask additional questions or to seek clarification, or in the future to determine the status of the issue and progress made by departments and agencies against any commitments made.

9.4 During this year's reporting period (1 July 2012 to 30 June 2013), the Office of the Auditor General of Canada received 12 environmental petitions, compared with 23 last year and 25 the year before. In our view, the variation represents the normal ebb and flow in the use of this tool by Canadians. The Office's petitions team continues to use a number of outreach activities, including **social media**, to inform Canadians about the process. The Appendix presents an overview of petitions activity during the reporting period, including petition summaries. After presenting the petitions to Parliament and with the consent of the petitioners, the Office posts the petitions and responses in the **petitions catalogue** on our website.

9.5 Petitions deal with a wide range of environmental issues, including those of local concern and others of national interest. The issues raised in environmental petitions and the related departmental responses elicit interest, as indicated by the number of visits to the online petitions catalogue (over 70,000 visitors during the most recent reporting period). The petitions received this year had certain notable characteristics:

- About two thirds of the petitions (Exhibit 9.1) originated in Ontario (eight petitions). Accounting for the rest were residents of Quebec (two petitions), British Columbia (one petition), and the Northwest Territories (one petition).
- Community associations, environmental organizations, and other groups of Canadian residents submitted about two thirds of petitions this year. Individual Canadian residents submitted one third.
- Past petitioners submitted about half of this year's total, including one **follow-up petition**.

Exhibit 9.1 Petitions came from three provinces and one territory (1 July 2012 to 30 June 2013)



Petition No.	Topic
326B	Follow-up petition on the effectiveness of pollution prevention aspects of the St. Lawrence Action Plan
340	Federal research on hormone-disrupting substances, as required under the <i>Canadian Environmental Protection Act, 1999</i>
341	Social, economic, and environmental concerns related to a marina development in Nova Scotia
342	Potential gaps in the federal regulation of antibiotics in food-producing animals
343	Surveillance activities under the National Aquatic Animal Health Program and the potential health and trade impacts if infectious salmon anemia is detected in Canadian salmon
344	Environmental risks related to the proposed increase in oil tanker traffic in the waters near Kitimat, British Columbia

Petition No.	Topic
345	Long-term monitoring and management of federal contaminated sites such as the Giant Mine in the Northwest Territories
346	Federal policy on consultation with First Nations for environmental assessments of highway projects
347	Timeliness of federal approvals for the environmental assessment of a highway expansion project in Ontario
348	Expansion of the proposed Lancaster Sound National Marine Conservation Area near Baffin Island to protect a beluga whale breeding area in Cunningham Inlet
349	Applying the precautionary principle in relation to a number of Canada's international environmental commitments
350	Modernizing the <i>Nuclear Liability Act</i>

Source: Petitions submitted to the Auditor General of Canada. Summaries are in the Appendix.

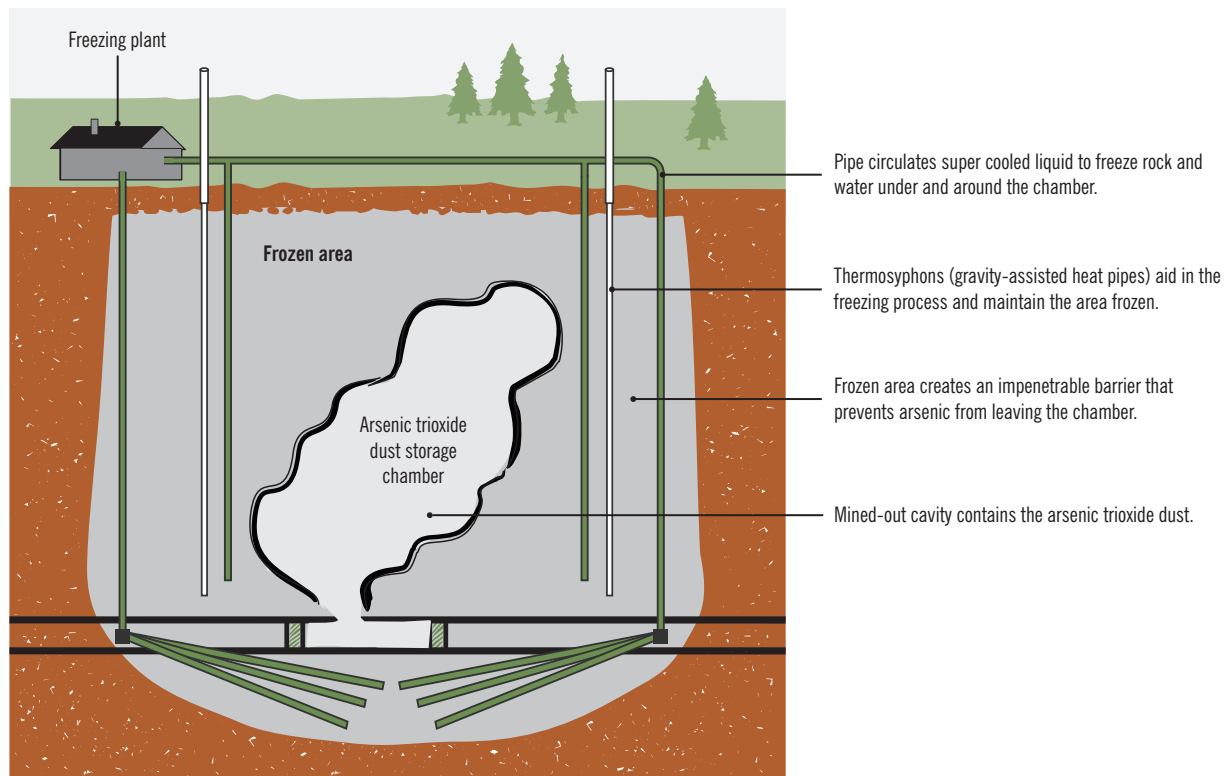
The most common issues were toxic substances, and human and environmental health

9.6 The Appendix contains summaries of this year's petitions. Petition topics included questions about the environmental risks related to the proposed increase in oil tanker traffic in the waters near Kitimat, British Columbia (Petition 344), the potential gaps in the federal regulation of antibiotics in food-producing animals (Petition 342), and the long-term monitoring and management of federal contaminated sites such as the Giant Mine in the Northwest Territories (Petition 345).

9.7 When petitions are received, we review them to identify the key issues. To help Web users with their searches, our online catalogue lists petitions by number, responding federal institution, and issue. Based on our review, the issues covered most frequently in petitions this year were toxic substances, and human and environmental health.

9.8 Toxic substances. One of the petitions that raised this issue concerned long-term monitoring and management of federal contaminated sites, such as the Giant Mine outside Yellowknife, Northwest Territories (Petition 345). This gold mine opened in 1948 and closed in 2004. The petitioner raised questions about the Frozen Block Method (Exhibit 9.2) chosen for dealing with arsenic-contaminated waste generated during the years that mine was operating.

Exhibit 9.2 The Frozen Block Method was chosen to prevent arsenic contamination at the Giant Mine



Source: Adapted from the Aboriginal Affairs and Northern Development Canada document Frozen Block Method: Giant Mine Remediation Project.

9.9 According to the petitioner

. . . the Giant Mine in Yellowknife, Northwest Territories is one of the largest and most contaminated sites in Canada. Since 1999, when the site became a public liability, the federal government with the Government of the Northwest Territories, has managed Giant Mine and developed a Remediation Plan . . . The Plan requires perpetual care of the site forever, especially with regard to freezing the 237,000 tonnes of arsenic trioxide underground.

The petitioner asked whether “the federal government [has] a policy framework for the perpetual care of federal contaminated sites such as the Giant Mine.” The petitioner also requested information about the federal government’s “justification for the trade-offs that were made in choosing the frozen block method for arsenic containment at the Giant Mine even though it requires perpetual care forever and how the needs of future generations were considered.”

9.10 In its response, the Treasury Board of Canada Secretariat (the Secretariat) stated that the

. . . Policy on Management of Real Property . . . is principles based. These principles provide departments with the flexibility to tailor technical solutions . . . to specific site requirements. This policy framework is supported, in the case of contaminated sites, by the . . . Federal Contaminated Sites Action Plan, which provides departments with technical advice and guidance on site assessment, remediation and long-term monitoring.

The Secretariat added that “there are many instances of ongoing government programs that operate under the annual appropriations regime” and that “funding of perpetual care at federal contaminated sites is well supported by annual appropriations . . .”

9.11 Aboriginal Affairs and Northern Development Canada said in its response that

. . . the frozen block method was selected by a thorough evaluation of all possible methods for dealing with the arsenic trioxide dust . . . The main reasons why the frozen block method was selected are that it will mitigate the current risks associated with the arsenic trioxide dust without creating any new risks for workers or the environment, and it will keep the dust safely contained over the very long term . . . Over the long term, the frozen block method was found to present a “low” risk of future arsenic release. Although some of the other methods were found

to provide a “very low” risk of arsenic release in the long term, they only did so at the cost of much higher short-term risks.

The Department added that “. . . the selected frozen block method requires a very significant expenditure by the current generation to minimize the environmental, human health, and financial risks to future generations.”

9.12 Human and environmental health. Among the petitions concerning this issue was one about potential gaps in the federal regulation of antibiotics in food-producing animals (Petition 342). The petitioner was concerned that “the emergence of resistance to antibiotics threatens the sustainability of modern medicine, including veterinary medicine.” The petitioner claimed that “this serious and evolving public health crisis is driven by both the appropriate and inappropriate use of antibiotics for human and animal health and for animal production.”

9.13 The petitioner noted that “antibiotics imported as ‘active pharmaceutical ingredients’ [APIs] are bulk chemicals that have not been evaluated for quality, safety or efficacy by Health Canada.” The petitioner stated that the “provinces and territories (through the professions they regulate) control the ‘use’ of antibiotics, whereas the Government of Canada approves the ‘sale’ of antibiotics and other drugs.” According to the petitioner, “this division of responsibilities creates a gap through which bulk chemicals with antimicrobial activity can be imported and used with the potential to adversely affect human and animal health.”

9.14 In addition, the petitioner claimed that “the ‘own use’ policy was established to support human health by allowing individuals to import a 3-month supply of a drug for their own personal use. It also has become a ‘loophole’ that is used by animal owners because of its ‘non-inclusionary’ wording.”

The petitioner asked,

. . . will the Minister of Agriculture and Agri-Food, Agriculture and Agri-Food Canada and the Canadian Food Inspection Agency, as a matter of urgency, actively encourage and assist Health Canada to effectively address these regulatory gaps in order to meet international standards for the use of antibiotics in animals and thereby ensure the sustainability of domestic and international markets for Canadian livestock and livestock products?

Extra-label use—The use or intended use of a drug approved by Health Canada in an animal in a manner not in accordance with the label or package insert.

9.15 In its response, Agriculture and Agri-Food Canada stated that “the Government of Canada recognizes antimicrobial use in any environment is a key driver in the development and spread of antimicrobial resistance (AMR). In particular, AMR associated with the use of antimicrobial drugs in food-animal production is noted worldwide as a public health concern.” The Department added that both it and the Canadian Food Inspection Agency “intend to continue working closely with Health Canada officials to explore options for addressing concerns related to ‘compounding,’ ‘**extra-label use**’ and ‘own use importation’ of veterinary drugs for use in food-producing animals.”

9.16 Health Canada noted in its joint response with the Public Health Agency of Canada that it “regulates the importation and sale of bulk Active Pharmaceutical Ingredients (APIs) for veterinary use.” It stated that “import for sale or sale of APIs to feed mills, retailers, farmers, or other end users is considered to be the sale of a drug in dosage form, requiring compliance with the *Food and Drug Regulations* . . .”

9.17 Health Canada also stated that it is “aware that livestock producers in Canada have been purchasing animal health products utilizing the current own use importation policy in order to give them access to less expensive drugs and generic products not available in Canada.” The Department said that it “intends to modernize the regulatory framework for veterinary drugs as part of the Health Products and Food Branch’s Regulatory Roadmap.” It added that “the initial step towards the modernization of the regulatory framework for veterinary drugs will involve a series of technical discussions with stakeholders in 2013.”

The most common theme this year was due process

9.18 Among petitions dealing with different topics and issues, there are often common themes. The most common theme again this year was due process, which here refers to the federal government’s proper application of its policies and procedures. Petitioners often raise this concern in petitions dealing with environmental assessments.

9.19 For example, in Petition 344, the petitioner expressed concern about the potential environmental risks associated with the proposed increase in oil tanker traffic in coastal straits and channels giving access to Kitimat, British Columbia, terminus of the proposed Northern Gateway pipeline. The petitioner identified as risks the condition of oil tankers, crew certification and operating procedures, and weather conditions in the area. The petitioner alleged that

computer simulations in the project proponent’s submissions for an environmental assessment process did not deal with the “individual and combined impacts of heavy weather in the Straits or inside the Channels under dense fog and radar failures, voice communications failures, ship propulsion and steering equipment failures, or human judgment failures.” The petitioner claimed that “Environment Canada’s Marine Weather Hazards Manual calls the Hecate Strait one of the four most dangerous bodies of water in the world.”

9.20 The petitioner sought information about the federal response to these risks. He stated that

. . . we are told that tugs will guide ships through the channels and will assist in the event of weather and equipment problems. An examination of tug operations shows that tugs cannot safely assist ships when the seas are at or above 3 to 4 meters in height . . . Given that the Straits and the Channels are often subject to waves of 3 meters and more, the tugs are unlikely to be able to relieve a situation where a VLCC [very large crude carrier] has suffered a propulsion or steering failure. In the Channels, if winds of 60 knots to 100 knots are encountered tug assistance is impossible.

The petitioner asked, “As the proposed escort tugs are unsuitable for many of the weather conditions that exist in the Straits and Channels, what is being done to address the rescue tug deficiency?”

9.21 In its response to that question, Transport Canada said that it “has certified approximately 30 tugs in Pacific Region under the Vessel Certificates Regulations as ‘near coastal voyage Class 1’, ‘near coastal voyage Class 2’ and ‘unlimited voyage’, which would allow these tugs to operate in Queen Charlotte Sound, Hecate Strait and Dixon Entrance.”

Petitions were evenly split between national and local issues

9.22 This year, five petitions focused on national issues, such as government policy, regulation, and the overall implementation of government programs. Examples include Petition 342, about potential gaps in the federal regulation of antibiotics in food-producing animals (see paragraphs 9.12 to 9.17), and Petition 340, about federal research on hormone-disrupting substances, as required under the *Canadian Environmental Protection Act, 1999*.

9.23 Petition 340 referred to section 44(4) of the *Canadian Environmental Protection Act, 1999*, which requires the federal government to

. . . conduct research or studies relating to hormone disrupting substances, methods related to their detection, methods to determine their actual or likely short-term or long-term effect on the environment and human health, and preventive, control and abatement measures to deal with those substances to protect the environment and human health.

The petitioners asked the federal government to “describe the research conducted, including literature review and laboratory work by, or on behalf of, Environment Canada and Health Canada . . . on hormone disrupting substances since 2001.”

9.24 In its reply, Health Canada stated that it

. . . maintains an active laboratory research program aimed at understanding the exposures to and effects of substances suspected of having effects on the endocrine system, and has conducted research projects in this area since at least 2001. The nature of this research ranges from exposure assessment and **biomonitoring**, to toxicological studies, to epidemiological investigations, all done in order to better understand the potential impacts of substances on human health.

Biomonitoring—The measurement, in people, of a chemical, the products it makes after it has broken down, or the products that might result from interactions in the body. These measurements are usually taken from blood and urine and sometimes from other tissues and fluids, such as hair, nails, and breast milk.

9.25 In its response to the same question, Environment Canada said that it

. . . has been investigating hormone-disrupting substances under subsection 44(4) of the *Canadian Environmental Protection Act, 1999* for over 15 years. Research has included numerous areas of investigation, including work on individual priority environmental substances, wildlife toxicity studies, methods development to improve detection of substances, targeted research on pulp mill effluents and at municipal wastewaters, as well as research in priority ecosystems such as Great Lakes Areas of Concern.

9.26 The two departments also provided detailed lists of projects and other reference material. For the full text of the petition and responses, see the petitions catalogue on the Office of the Auditor General of Canada’s website.

9.27 Five petitions were local or regional in scope; that is, they focused on environmental impacts of specific projects and events taking place in a particular area of the country. For example,

Petition 341 concerned a proposal to develop a marina in the Ben Eoin area of the Bras d'Or Lakes in Cape Breton, Nova Scotia. One of the petitioner's questions asked "how the proposal avoids disrupting and altering the flow of fresh water creeks into the unique localized ecosystems that provide a high nutrient value for the lake's aquatic life."

9.28 In its response, Fisheries and Oceans Canada stated:

Barachois pond—A coastal lagoon separated from the ocean by a sandbar or shingle bar.

An aquatic biodiversity assessment was conducted on the **barachois pond** and surrounding area over the course of a year to assess the site during all four seasons. Additionally, a specific assessment of the watercourse on the site of the marina was undertaken. The brook, known as Sawmill Creek, maintained flows only about two-thirds of the distance from the roadway to the shores of the lake before disappearing underground through the limestone underlying the site. As part of the project, an engineered channel was designed and built to accommodate flows at all times, resist erosion and maintain fish habitat features along its length. A second watercourse on the easterly end of the site had refuse and debris removed. The outlet was also enhanced with stabilized banks, pools and riparian vegetation plantings. During the construction of the marina, Sawmill Creek was redirected temporarily while the new channel was built. These changes will enhance the fish habitat in the two creeks, while maintaining the fresh water flows into this area of the Bras d'Or Lakes. This work was completed under a *Fisheries Act* authorization.

9.29 Two petitions drew attention to a specific local issue, but also raised broader questions about policy or program implementation at the national level. For example, Petition 343 referred to a request to suspend the status of a Canadian laboratory equipped to detect infectious salmon anemia. At the same time, the petition raised broader questions about surveillance activities under the National Aquatic Animal Health Program (NAAHP). The petitioner asked about the Canadian Food Inspection Agency's standard operating procedure for overseeing labs that deal with the program.

9.30 In its response, Agriculture and Agri-Food Canada explained that

. . . under a Memorandum of Understanding, Fisheries and Oceans Canada provides the diagnostic services for the NAAHP. [Expectations include the following:]

Aquatic animal pathogen biocontainment standards—The minimum acceptable physical and operational requirements for facilities working with imported aquatic animal pathogens. These standards may also be used as a resource for the design and operating requirements for any aquatic animal containment facility.

1. Establish a core group of [Fisheries and Oceans Canada] laboratories that can serve as national reference laboratories for the regulated aquatic animal diseases . . . ,
2. Ensure that the core group of laboratories operates under a quality management system . . . ,
3. Ensure that these laboratories are in compliance with the **aquatic animal pathogen biocontainment standards** . . . ,
4. Validate test methods according to international standards . . . , and
5. Establish a laboratory and surveillance information management system

Responses received

9.31 The previous section reported on the petitions received this year. This section reports on departmental responses to petitions where the responses were due this year. The *Auditor General Act* requires responsible ministers to consider each petition and reply in writing within 120 calendar days after a petition is received. As a result, some of the responses covered in this report were for petitions received in the previous reporting period. This accounts for the difference in the number of petitions submitted this year (12) and the number of petitions for which responses were due this year (18, including 8 petitions received last year—petitions 332 to 339). Responses for the 2 petitions received toward the end of this reporting period will be covered in next year’s report.

9.32 Most of the 18 petitions for which responses were due this year were directed to more than one responsible minister. As a result, 16 departments and agencies provided a total of 57 responses. Environment Canada ranked first, responding to 12 of the 18 petitions. Following it were Fisheries and Oceans Canada (10 petitions) and Health Canada (6 petitions).

The on-time response rate decreased from the previous year

9.33 Departments and agencies provided 86 percent of petition responses this year within the prescribed statutory period (Exhibit 9.3). This represents a decrease from last year’s on-time response rate of 100 percent. Although departments and agencies have a statutory obligation to respond within 120 days, the response is not considered to be late if the responsible minister sends a written notification of delay within that period. The on-time response rate was lower this year, in part, because Aboriginal Affairs and Northern Development

Canada sent a notification of delay to a petitioner beyond the required statutory period. As a result, the Department's joint response to Petition 346 on behalf of three other departments was late by seven days.

Responses were complete and relevant

9.34 The 18 petitions that departments responded to this year contained about 170 questions. Questions and responses varied considerably in length and level of detail. Examples are included throughout this chapter. For instance, paragraphs 9.43 to 9.63 describe some recent petitions and government responses concerning issues related to national parks, conservation areas, and biological diversity—topics addressed in other chapters of this year's Report of the Commissioner of the Environment and Sustainable Development.

Exhibit 9.3 Departments and agencies had a lower on-time response rate this year

Department or Agency	Number of responses due	Number of late responses	Percentage on time (%)	Notifications of delay*
Aboriginal Affairs and Northern Development Canada	2	2	0	0
Agriculture and Agri-Food Canada	3	0	100	0
Canada Border Services Agency	2	1	50	0
Environment Canada	12	1	92	0
Finance Canada, Department of	2	0	100	0
Fisheries and Oceans Canada	10	1	90	0
Foreign Affairs and International Trade Canada	1	0	100	0
Health Canada	6	0	100	0
National Defence	1	1	0	0
Natural Resources Canada	3	1	67	0
Parks Canada	1	0	100	0
Public Health Agency of Canada	3	0	100	0
Public Safety Canada	2	0	100	0
Public Works and Government Services Canada	2	0	100	0
Transport Canada	5	1	80	0
Treasury Board of Canada Secretariat	2	0	100	0
Total	57	8	86	0

* A response is not considered to be late if the petitioner is notified of an expected delay before the due date.

9.35 As part of its monitoring role, the Office’s petitions team routinely reviews each petition response for the following:

- Completeness: Is every question addressed?
- Relevance: Are the responses relevant to the questions?

9.36 We also look for clarity in responses. For example, if the responding department disagrees with information or views that are central to the petition, we consider whether its response includes a clear explanation of the reason for the disagreement. This is the type of observation we may raise with departments when we meet periodically to discuss the petitions process.

9.37 Once again this year, we found that responses were complete and relevant. Moreover, some petition responses included considerable depth and detail—for example, the responses to Petition 340 (see paragraphs 9.23 to 9.26) and Petition 332.

9.38 In Petition 332, the petitioner was concerned about high levels of a toxic substance found in waters near the Hamilton International Airport and the potential impact on the environment and human health. The petitioner believed that the contamination might be related to the prior use of firefighting foam that contained **perfluorooctane sulfonate** at the airport. The petitioner was seeking information about the historical use of this substance at the airport and also asked the government to identify other sites that might be contaminated with it.

Perfluorooctane sulfonate—A substance used in firefighting foam. It is a perfluorocarbon: that is, one of a group of human-made chemicals composed of carbon and fluorine only.

9.39 In its response, Transport Canada said that “from 1965 to 1996, the airport was leased to the City of Hamilton. In 1996, ownership of Hamilton International Airport was transferred to the Regional Municipality of Hamilton Wentworth. As such, Transport Canada has limited records for the Hamilton International Airport.”

9.40 Nevertheless, the Department provided information in its possession about the location and historical use of firefighting foam at the airport. The Department also said that it “is currently reviewing the situation at Hamilton International Airport and will make a decision on its involvement with any cleanup after completing its review.”

9.41 Both Transport Canada and National Defence provided lists of other sites with confirmed presence of the same substance.

Relevance to other work of the Commissioner

9.42 Transport Canada also provided information in response to additional questions emailed by the petitioner directly to the Department. We are pleased to recognize Transport Canada's voluntary action, which demonstrated openness and transparency. Questions submitted directly are not considered petitions under the *Auditor General Act*, and departments are not required to respond to them.

9.43 Recent work in the Office of the Auditor General has benefited from knowledge gained from petitions and petition responses. The Commissioner of the Environment and Sustainable Development's 2013 Fall Report to Parliament includes chapters on ecological integrity in national parks, biological diversity, assessing progress under the Federal Sustainable Development Strategy, and species at risk. Environmental petitions reflected many of these issues.

9.44 Chapter 3 of the 2013 Fall Report, Conservation of Migratory Birds, follows up on migratory bird-related issues raised in Petition 311, which the Office received in early 2011. In the 2012 Fall Report, Chapter 3—Marine Protected Areas referred to Petition 337 regarding a delay in the completion of a management plan for the Bowie Seamount Marine Protected Area, designated in April 2008. The response to the petition was received this year.

9.45 In its response to Petition 337, Fisheries and Oceans Canada indicated that the "Management Board [made up of representatives from the Council of the Haida Nation and the Department] has not yet reached agreement on a number of issues," but that in February 2011,

. . . the Department suggested that a management plan be finalized based on the numerous items which have been collaboratively developed (i.e., the management plan framework, purpose and scope of the management plan, a collaborative governance approach, management zoning, a process for reviewing proposed activity applications, etc.) and suggested the inclusion of a work plan to address the outstanding issues over the next five years.

According to the response, the Management Board agreed to this suggestion in June 2012 and the Department said that "drafting and finalizing the management plan remains a priority for this fiscal year [2012–13]."

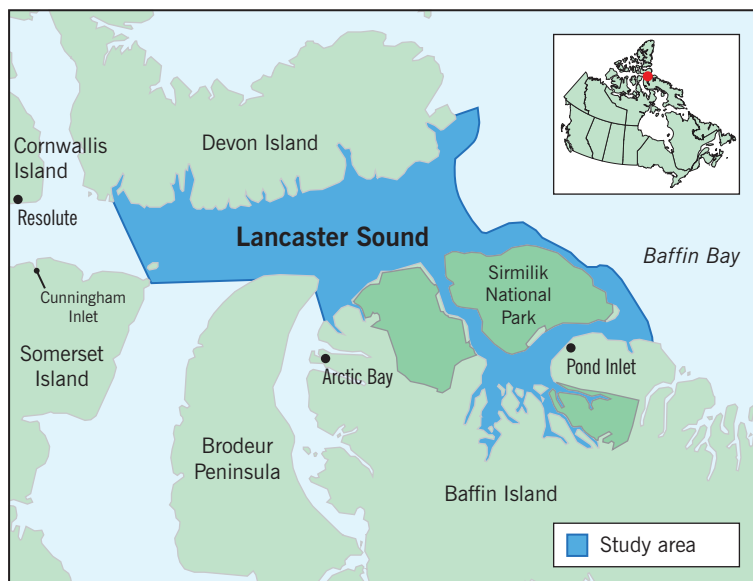
9.46 In response to the petitioner’s question about funding, Fisheries and Oceans Canada replied that

. . . there is currently no fixed long term determination of resources for the implementation of the Marine Protected Area management plan as budgets are allocated on an annual basis. Ongoing costs for the implementation of the Marine Protected Area Management Plan will be for Bowie Seamount Marine Protected Area Management Board meetings, Bowie Seamount Marine Protected Area Advisory Committee meetings, and monitoring. As the management plan is still being drafted, full monitoring costs have not yet been determined.

9.47 Other recent petitions also referred to national parks, conservation areas, and biological diversity.

9.48 Lancaster Sound National Marine Conservation Area. In Petition 348, received in January 2013, the petitioner expressed concern that the proposed Lancaster Sound National Marine Conservation Area did not include the entire migration route for beluga whales to their summer breeding area near Baffin Island in Canada’s North (Exhibit 9.4).

Exhibit 9.4 A study area has been designated for the proposed Lancaster Sound National Marine Conservation Area



Note: All boundaries are approximate.
Source: Adapted from a Parks Canada handout map.

9.49 In the background to the petition, the petitioner explained that “[the] warm water [in Cunningham Inlet on Somerset Island] attracts a population of about two thousand beluga whales. The whales come every summer for three to five weeks to moult, nurse their young and socialize. It is an important gathering place for this population of whales.”

9.50 The petitioner said that he had witnessed an increase in ship traffic and human activity (including tourism) in the passage, and was concerned that climate change might bring more disruption to the belugas as traffic continued to increase. The petitioner noted that “the proposed boundaries for the new Lancaster Sound Marine Conservation Area [do] not go as far west to include the area between Cornwallis Island and Somerset Island. . . . Every summer [the beluga whales] swim through the proposed Lancaster Sound Marine Conservation Area to reach Cunningham Inlet . . .”

9.51 Given this background, the petitioner asked Parks Canada whether there are plans to increase the size of the conservation area and to “justify protection of beluga whales environment when only part of their migration route is protected.”

9.52 In its response, Parks Canada stated:

The Ministers of the Environment, Health, Natural Resources and Aboriginal Affairs and Northern Development who made the [December 2010 announcement of the Government of Canada’s position on a potential future boundary for a national marine conservation area in Lancaster Sound] stipulated that final decisions regarding a boundary would be informed by consultations and by a thorough assessment of the area’s energy resources and ecological values. The clear intent of both the MOU [memorandum of understanding] and the federal boundary announcement was that the proposed NMCA [National Marine Conservation Area] boundary would be subject to further discussion between the parties to the MOU and to the results of consultations with Inuit, stakeholders and the public . . .

In addition, recommendations such as those expressed in this environmental petition will be considered when the boundaries are finalized.

Should the feasibility assessment conclude that an NMCA is both desirable and feasible, a final boundary will be determined, taking all the above information and concerns into consideration, and

will be made public. Precise timing will depend on when the feasibility assessment is completed, which is estimated to be sometime in 2014.

9.53 The Agency added:

There are also other means of protecting areas of importance to beluga and to Inuit, notably those resulting from the co-management arrangements pursuant to the Nunavut Land Claims Agreement and through the Nunavut Wildlife Management Board, as well as site specific measures which could be put in place by the mandated authorities to manage specific activities, such as over flights and vessel traffic. In addition, the emerging Nunavut Land Use Plan will provide guidance respecting sensitive areas and future development throughout Nunavut.

9.54 Buffer zones to protect Rocky Mountain wolf populations.

Petition 273, received in April 2009, concerned protection of wolves living in and around national parks in the Central Rocky Mountains. The petitioners claimed that

. . . science has shown us that these designated wilderness areas are not big enough to maintain a healthy population of wolves, and are too small to effectively conserve biodiversity. We wish to prevent a **trophic cascade** within our [National] Parks by increasing the protected areas of **keystone species** such as wolves. The Rocky Mountain Corridor is essential in maintaining a healthy gene flow among wolves between Canada and the United States, and a stretch of connected wilderness across North America. By expanding protected areas for wolves, the ecological integrity of these National Parks will be maintained. Top predators, such as wolves, are vital in maintaining the balance of a healthy ecosystem.

Trophic cascade—A series of ecological changes that occur when top-tier predators, such as wolves, are added or removed. Such events cause changes in predator and prey populations, as well as changes in the distribution of populations or in the behavior of other species, including non-prey animals or other large predators and plant species. The results can be dramatic changes in ecosystem structure, nutrients, and habitats.

Keystone species—A species whose presence and role within an ecosystem has a disproportionate effect on other organisms within the system.

The petitioners asked the federal government to “explain federal policy and involvement, as well as future plans for wolf management in and around the National Parks in the Central Rocky Mountains.”

9.55 In its joint response with Parks Canada, Environment Canada explained:

There is no specific wolf management plan for the mountain national parks. Each park management plan takes an ecological perspective for terrestrial ecosystems and makes numerous provisions for restoration or maintenance of characteristic conditions for carnivores, herbivores, vegetation, and associated interacting processes. Within the national parks, these plans have

led to numerous actions. As most wildlife populations occupy both provincial and national park lands, the national park plans also make numerous provisions for co-operation with provincial agencies on a wide range of issues including regional wildlife densities and movements, fire management, and forest insects and diseases. These negotiations routinely lead to co-operative management actions that are regional in perspective.

9.56 Proposed expansion of a ski area in Jasper National Park.

Petition 269, received in November 2008, concerned the Marmot Basin ski area, established in the 1960s within Jasper National Park. The petitioner claimed that “ski hills have far-reaching adverse effects on mountain ecosystems in national parks ... Location of the ski operations in alpine and subalpine ecoregions of the national parks means that vulnerable soils, vegetation and wildlife require very special management.”

The petitioner noted that

... somewhat more than 30% of Marmot’s lease lies over a ridge in Whistlers Creek valley to the north of the present developed footprint. The valley is home to three species at risk: woodland caribou—listed as ‘threatened’ under the *Species at Risk Act* (SARA), and wolverine and grizzly bear—both listed as of ‘special concern’ under the Committee on the Status of Endangered Wildlife in Canada (COSEWIC).

9.57 The petitioner asked,

[W]hat advantage is there for Parks Canada to accept this 119.6 ha in return for Marmot being allowed considerable increased development in an additional 222 ha—much of which would adversely affect this undeveloped wilderness ... [and] ... can Parks Canada explain how wildlife in the “surrendered” area would not be disturbed and inevitably displaced by two ski runs and two ski lifts within a hundred meters of their habitat?

9.58 In its response, Parks Canada included a backgrounder that provided a detailed description of the legal and policy framework, the development history, the planning process, and the strategic environmental assessment. The Agency concluded:

The approval of the *Marmot Basin Site Guidelines for Development and Use* in February 2008 represents a significant milestone for Jasper National Park. All commercial development has now been permanently capped in the park to help ensure ecological

integrity. In the long term this will be considered one of the most significant efforts in Parks Canada's history towards achieving its mandate and the *Canada National Parks Act*.

9.59 Responding to the petitioner's specific questions, Parks Canada said:

Removing the area from the lease would preclude the potential for future proposals from being brought forward or considered for the Whistlers Creek bed area and up-slopes. Thus the leasehold reduction establishes long-term certainty and improved protection for sensitive and important caribou habitat and goat features including caribou food sources and the goat mineral lick. Simply stated, the lands will have better certainty of long-term protection outside the lease than inside it.

Parks Canada added that it had

. . . made no decision as to whether it will consider potential development in Whistlers Creek because it lacks sufficient scientific information to make such a decision. The [strategic environmental assessment (SEA)] clearly identifies this knowledge deficiency. The SEA identifies additional studies and environmental assessment information requirements for each of the key wildlife species addressed in the assessment including grizzly bear, woodland caribou, mountain goat, wolverine and lynx that must be addressed prior to, or as part of, future development proposals. Of these, independent studies for woodland caribou and mountain goats are the most significant.

9.60 Consultation process for development of the Nahanni National Park Reserve. In Petition 239, received in January 2008, the petitioner expressed concern about the consultation process surrounding the development of the Nahanni National Park. In particular, the petitioner claimed that "understanding of the mineral potential is critical in a region that has high or very high mineral potential and few other economic opportunities other than the resource sector." The petitioner reminded "responsible ministers of their duty to provide for an impartial consultation process to ensure a balance between conservation and economic development objectives." The petitioner asked whether "this [that approximately 78 percent of the area of high mineral potential will end up off limits forever to exploration and development inside the park boundary] is reasonable in terms of the forgone economic opportunities that may accrue to Canada, the [Northwest Territories] and the people of the Dehcho."

9.61 In its response to that specific question, Natural Resources Canada stated:

The consequences of including areas possessing high mineral potential within an expanded Nahanni National Park Reserve is fully considered through the [Mineral and Energy Resource Assessment (MERA)] process in terms of the potential loss of future economic opportunities balanced with ecological and other objectives of reserve expansion that would be compromised by future mineral development activities in the areas of high mineral potential.

9.62 In response to other questions, Natural Resources Canada added that it had “developed the science work plan and budget to conduct the field work and analyses necessary to produce a sound and extensive assessment of the mineral and energy resource potential of the proposed Nahanni expansion area of interest.” The Department also said that “prior to publication, each of the 10 scientific papers in the [MERA] report went through a peer review using independent government and external geoscience experts and an overall peer review was completed on the compiled report.” Further, the Department said that “key technical results of the MERA were presented by NRCan [Natural Resources Canada] as part of public community consultations organized by Parks Canada on the Nahanni Park Reserve expansion process.”

9.63 These examples illustrate the importance that petitioners place on biological diversity, national parks and conservation areas, and sustainable development. They also demonstrate how petitions have been used to raise environmental concerns with federal departments and agencies.

Conclusion

9.64 The environmental petitions process remains a unique way for Canadian residents to obtain responses from federal ministers about their environmental concerns. Through the process, they can also request information and ask for commitments to action.

9.65 The Office of the Auditor General of Canada received 12 petitions this year, compared with 23 last year and 25 the year before. There continues to be a wide range of topics and issues raised in the petitions received.

9.66 Departments and agencies provided 86 percent of petition responses this year within the prescribed statutory deadline. This represents a decrease from last year's on-time response rate of 100 percent.

9.67 We will continue to work to promote high-quality petition responses. We will also continue to consider information from petitions and responses when we plan audits and studies. These actions, among others, are designed to help petitions play their part in informing the federal government's management of environmental issues.

About the Annual Report and the Petitions Process

Objective

The objective of this annual report is to inform Parliament and Canadians about the use of the environmental petitions process. In accordance with section 23 of the *Auditor General Act*, the report describes the number, nature, and status of petitions received, and the timeliness of responses from ministers.

Scope and approach

The annual report on environmental petitions summarizes the monitoring of the petitions process by the Commissioner of the Environment and Sustainable Development within the Office of the Auditor General of Canada.

Period covered by the report

This annual report on environmental petitions covers the period from 1 July 2012 to 30 June 2013. The Appendix includes summaries of the petitions received during the reporting period. The work for this report was completed on 15 July 2013.

The environmental petitions process

Created in 1995, the environmental petitions process is a formal yet simple way for Canadians to obtain responses from federal ministers to their questions, concerns, and requests related to environmental issues that are within the federal government's mandate. There were 27 departments and agencies subject to the process during the period covered by this report. Under the *Auditor General Act*, the Commissioner of the Environment and Sustainable Development administers the process on behalf of the Auditor General, and is required to present to Parliament an annual report on petitions and responses, covering the 12-month period from 1 July to 30 June of the following year.

Any Canadian resident may submit an environmental petition, acting alone or on behalf of an organization, business, or municipality. Since the launch of the process in 1995, the Office has received more than 410 petitions. Topics have varied widely, from the impact of a development on a local stream to the right of all Canadians to a healthy environment. Petitioners have used the petitions process to ask for information, investigations, specific actions, and policy changes.

When a petition is received by the Office, the petition is forwarded to the federal ministers responsible for the issues raised. The ministers must reply in writing to the petition within 120 calendar days. Ministers are required to notify the petitioner before the end of this period if they do not expect to be able to meet the timeline. These requirements are clearly specified in the *Auditor General Act*, which states that ministers must respond to each petition. While ministers must answer a petitioner's questions in a timely manner, they have discretion with respect to taking action on the issues raised. The following table outlines the petitions process.

The environmental petitions process and the role of the Commissioner of the Environment and Sustainable Development

Environmental petitions process			
Starting a petition	A Canadian resident submits a written petition to the Auditor General of Canada.		
Reviewing a petition	<p>The Commissioner reviews the petition to determine whether it meets the requirements of the <i>Auditor General Act</i>.</p> <table border="1"> <tr> <td> <p>If the petition meets the requirements of the <i>Auditor General Act</i>, the Commissioner will</p> <ul style="list-style-type: none"> determine the federal departments and agencies responsible for the issues addressed in the petition; send it to the responsible ministers; and send a letter to the petitioner, listing the ministers to whom the petition was sent. </td> <td> <p>If the petition does not meet the requirements of the <i>Auditor General Act</i>, the petitioner will be informed in writing.</p> <p>If the petition is incomplete or unclear, the petitioner will be asked to resubmit it.</p> </td> </tr> </table>	<p>If the petition meets the requirements of the <i>Auditor General Act</i>, the Commissioner will</p> <ul style="list-style-type: none"> determine the federal departments and agencies responsible for the issues addressed in the petition; send it to the responsible ministers; and send a letter to the petitioner, listing the ministers to whom the petition was sent. 	<p>If the petition does not meet the requirements of the <i>Auditor General Act</i>, the petitioner will be informed in writing.</p> <p>If the petition is incomplete or unclear, the petitioner will be asked to resubmit it.</p>
<p>If the petition meets the requirements of the <i>Auditor General Act</i>, the Commissioner will</p> <ul style="list-style-type: none"> determine the federal departments and agencies responsible for the issues addressed in the petition; send it to the responsible ministers; and send a letter to the petitioner, listing the ministers to whom the petition was sent. 	<p>If the petition does not meet the requirements of the <i>Auditor General Act</i>, the petitioner will be informed in writing.</p> <p>If the petition is incomplete or unclear, the petitioner will be asked to resubmit it.</p>		
Responding to a petition	<p>Once a minister receives a petition, he or she must</p> <ul style="list-style-type: none"> send a letter, within 15 days, to the petitioner and the Commissioner acknowledging receipt of the petition; and consider the petition and send a reply to the petitioner and the Commissioner within 120 days. 		

Ongoing petitions activities				
Monitoring	Reporting	Posting on the Internet	Auditing	Outreach
The Commissioner monitors acknowledgement letters and responses from ministers.	The Commissioner reports to Parliament on the petitions and responses received.	The Commissioner posts petitions, responses, and summary information on the Internet, in both official languages.	The Office of the Auditor General considers issues raised in petitions when planning future audits.	The Commissioner carries out a variety of outreach activities to inform Canadians about the petitions process.

Source: Adapted from the *Auditor General Act* and Getting Answers—A Guide to the Environmental Petitions Process.

To assist petitioners, the Office has produced Getting Answers—A Guide to the Environmental Petitions Process. The guide, available on the Office of the Auditor General website (www.oag-bvg.gc.ca), describes the process in more detail and includes information on

- what kinds of requests can be made,
- how to write and submit an environmental petition,
- what the role of the Commissioner is, and
- what petitioners can expect from departments and agencies.

We also suggest a maximum of 5,000 words and no more than 20 questions or requests. While petitions exceeding those limits are acceptable and will be sent to departments and agencies for response, the Office reserves the right not to publish petitions exceeding those limits on its website. Because petitions remain

the property of petitioners, they are free to publish their petitions and the government responses in any manner they see fit. However, we recommend that they wait until the petition has been formally accepted and sent to the departments and agencies for response.

Petitions team

Principal: Andrew Ferguson

Director: David Willey

Marianne Fraser

Mark Lawrence

Lyane Maisonneuve

Johanne Sanschagrin

Mary-Lynne Weightman

For information, please contact Communications at 613-995-3708 or 1-888-761-5953 (toll-free).

Appendix Petitions activity (1 July 2012 to 30 June 2013)

This appendix includes a summary of the petitions (follow-up and new issues) received during the activity period noted above. To access the full text of petitions and responses from the creation of the environmental petitions process in 1995 to 30 June 2013, go to the petitions catalogue on our website. If necessary, paper copies of the catalogue can be obtained on request.

Petition 326B: Follow-up petition on the effectiveness of pollution prevention aspects of the St. Lawrence Action Plan

Date received: 18 September 2012

Petitioner: A Canadian resident

Summary: In this follow-up petition, the petitioner seeks further information and clarification from Environment Canada on its response to the original petition. In particular, the petitioner asks whether mass balance studies of pollution discharges into the St. Lawrence River have been recently carried out, and inquires about the overall results achieved by the Action Plan in reducing pollution. The petitioner also requests further information about spending for research and development, as well as funding to companies to clean up their effluent discharges.

Issues: Fisheries, toxic substances, and water

Federal department responsible for reply: Environment Canada

Status: Completed

Petition 340: Federal research on hormone disrupting substances as required under the *Canadian Environmental Protection Act, 1999*

Date received: 17 July 2012

Petitioners: Ecojustice and Canadian Environmental Law Association

Summary: The petitioners seek information about federal research activities on the effects of hormone disrupting substances. They ask how Environment Canada and Health Canada use the research results for risk assessment and management. The petitioners ask the government about the data collected on substances that are considered new under the *Canadian Environmental Protection Act, 1999*. They also inquire about the budget allocated to research and the involvement of Canada in international research initiatives.

Issues: Human/environmental health, international cooperation, and toxic substances

Federal departments responsible for reply: Environment Canada, Health Canada

Status: Completed

Petition 341: Social, economic, and environmental concerns related to a marina development in Nova Scotia

Date received: 14 August 2012

Petitioner: Derek O'Neill

Summary: The petitioner is concerned about the environmental sustainability of the construction of the Ben Eoin Marina in Nova Scotia. The petitioner asks the federal government whether its decisions about the project were based on the integration of social, economic, and environmental concerns as defined in the *Auditor General Act*. The petitioner also seeks clarification about the federal government's decision to provide funding for this project, including how the funding decision aligns with socio-economic sustainability in the Cape Breton region.

Issues: Environmental assessment, water, and other

Federal departments responsible for reply: Environment Canada, Fisheries and Oceans Canada, Transport Canada

Status: Completed

Petition 342: Potential gaps in the federal regulation of antibiotics in food-producing animals

Date received: 19 September 2012

Petitioner: Ad Hoc Committee on Antimicrobial Stewardship in Canadian Agriculture and Veterinary Medicine

Summary: The petitioner is concerned about the health and environmental impact of potential gaps in federal regulations, specifically those governing the practice of off-label use of antibiotics in food-producing animals. The petitioner asks about the federal government's control of antibiotics imported as bulk pharmaceutical ingredients or as "own use importation." The petitioner requests that the government close the potential regulatory gaps to meet the international standards and to help ensure sustainability of domestic and international markets for Canadian livestock and livestock products.

Issues: Agriculture, human/environmental health, and federal-provincial relations

Federal departments and agencies responsible for reply: Agriculture and Agri-Food Canada, Canada Border Services Agency, Health Canada, Public Health Agency of Canada

Status: Completed

Petition 343: Surveillance activities under the National Aquatic Animal Health Program and the potential health and trade impacts if infectious salmon anemia is detected in Canadian salmon

Date received: 26 November 2012

Petitioner: Friends of the Earth Canada

Summary: The petitioner is concerned about a request to suspend the reference laboratory status of a Canadian laboratory that is equipped to detect infectious salmon anemia and that performs scientific activities under the National Aquatic Animal Health Program. The petitioner asks the government for information on its surveillance activities under the Program, including its oversight of laboratories. It also asks about the assessments of potential health and trade impacts if infectious salmon anemia or other salmon diseases are detected in Canadian salmon.

Issues: Compliance and enforcement, fisheries, human/environmental health, international cooperation, and other

Federal departments responsible for reply: Agriculture and Agri-Food Canada, Fisheries and Oceans Canada, Foreign Affairs and International Trade Canada, Health Canada

Status: Completed

Petition 344: Environmental risks related to the proposed increase in oil tanker traffic in the waters near Kitimat, British Columbia

Date received: 29 November 2012

Petitioner: A Canadian resident

Summary: The petitioner is concerned about the potential environmental risks associated with the proposed increase in oil tanker traffic in the waters near Kitimat, British Columbia. These risks include the condition of oil tankers, crew certification and operating procedures, and weather conditions in the area. The petitioner asks about the government's ship inspection standards, procedures, and enforcement activities. The petitioner also requests information on the government's emergency response preparedness in case of oil spills due to equipment failures and accidents.

Issues: Compliance and enforcement, transport, and water

Federal departments and agency responsible for reply: Canada Border Services Agency, Environment Canada, Fisheries and Oceans Canada, Public Safety Canada, Transport Canada

Status: Replies received but not yet posted

Petition 345: Long-term monitoring and management of federal contaminated sites such as the Giant Mine in the Northwest Territories

Date received: 9 January 2013

Petitioner: Alternatives North

Summary: The petitioner is concerned about the federal government's long-term monitoring and management of contaminated sites. The petitioner asks the government to explain its policy framework in this area, including long-term funding for perpetual care of contaminated sites. Referring to the remediation plan for the Giant Mine, located in the Northwest Territories, the petitioner raises questions about the frozen block method chosen for arsenic-contaminated waste arising from the mine's past operations.

Issues: Aboriginal affairs, human/environmental health, toxic substances, and waste management

Federal departments responsible for reply: Aboriginal Affairs and Northern Development Canada, Environment Canada, Health Canada, Treasury Board of Canada Secretariat

Status: Replies received but not yet posted

Petition 346: Federal policy on consultation with First Nations for environmental assessments of highway projects

Date received: 11 January 2013

Petitioner: Ryan Minor

Summary: The petitioner seeks information about federal policy on consultation with First Nations for environmental assessments of highway projects on or near First Nations reserves or traditional lands. In particular, the petitioner asks about project approval in situations where consultation between proponents and First Nations has not taken place for various reasons.

Issues: Aboriginal affairs, human/environmental health, and environmental assessment

Federal departments responsible for reply: Aboriginal Affairs and Northern Development Canada, Environment Canada, Fisheries and Oceans Canada, Transport Canada

Status: Replies received but not yet posted

Petition 347: Timeliness of federal approvals for the environmental assessment of a highway expansion project in Ontario

Date received: 21 January 2013

Petitioner: Ryan Minor

Summary: The petitioner is concerned about perceived delays in federal approvals for the environmental assessment of the Highway 69 expansion project in Ontario. He asks Fisheries and Oceans Canada, the federal responsible authority, about the issues preventing the Department from making a decision on the project. The petitioner also asks for information on the time frame for completing an environmental assessment based on the guidelines set out in the *Canadian Environmental Assessment Act, 2012*.

Issues: Compliance and enforcement, and environmental assessment

Federal department responsible for reply: Fisheries and Oceans Canada

Status: Completed

Petition 348: Expansion of the proposed Lancaster Sound National Marine Conservation Area near Baffin Island to protect a beluga whale breeding area in Cunningham Inlet

Date received: 29 January 2013

Petitioner: Arctic Watch Beluga Foundation

Summary: The petitioner is concerned that the proposed Lancaster Sound National Marine Conservation Area does not include the entire migration route for beluga whales to their summer breeding area in Cunningham Inlet. The petitioner is also concerned about the potential impact that an increasing level of human activity, including tourism, may have on beluga whales if the area is not protected. The petitioner asks Parks Canada and Fisheries and Oceans Canada if they plan to expand the conservation area to protect beluga whales and, if so, when this plan will be made public.

Issue: Biological diversity

Federal department and agency responsible for reply: Fisheries and Oceans Canada, Parks Canada

Status: Replies received but not yet posted

Petition 349: Applying the precautionary principle in relation to a number of Canada's international environmental commitments

Date received: 8 April 2013

Petitioner: Global Compliance Research Project

Summary: The petitioner alleges that Canada has failed to apply the precautionary principle related to a number of its international environmental commitments in the areas of biological diversity, climate change, and fish management. The petitioner questions the federal government about the impact on biological diversity of pesticides and genetically engineered crops, as well as the impact of oil sands operations on climate change, and the impact of potential oil spills from pipelines. The petitioner also asks about the impact of aquaculture on fish and fish habitat and raises some concerns about aquatic species at risk.

Issues: Biological diversity, climate change, human/environmental health, international cooperation, and toxic substances

Federal departments responsible for reply: Agriculture and Agri-Food Canada, Environment Canada, Fisheries and Oceans Canada, Health Canada, Natural Resources Canada

Status: Replies received but not yet posted

Petition 350: Modernizing the *Nuclear Liability Act*

Date received: 22 April 2013

Petitioners: Canadian Environmental Law Association and Greenpeace

Summary: The petitioners are concerned that the federal government is allegedly carrying out its consultations to modernize the *Nuclear Liability Act* with industry only, and they ask that public consultation also be carried out. In addition, they ask Natural Resources Canada to undertake studies and release information about the impact a major nuclear incident could have on human and environmental health. The petitioners also ask how the polluter-pay and precautionary principles are being considered in the modernization of the Act.

Issues: Governance, human/environmental health, and natural resources

Federal departments responsible for reply: Environment Canada, Natural Resources Canada

Status: Replies received but not yet posted