

**From:** Grant, Kathy  
**Sent:** Wednesday, February 24, 2010 2:34 PM  
**To:** Andrew Gage  
**Cc:** Wallace, Brian  
**Subject:** Your Letter to Commissioner Cohen concerning standing

Dear Mr. Gage,

Thank you for your letter, addressed to Commissioner Cohen, asking questions about standing before the Cohen Commission and what constitutes a “substantial and direct interest”. Brian Wallace, Q.C. has asked me to send you the following information on behalf of senior commission counsel. The “Terms of Reference” and “Notice of Standing” referenced below may be found on the Commission’s website: [www.cohencommission.ca](http://www.cohencommission.ca).

### **What is standing?**

The Commission’s [Terms of Reference](#) authorize the Commissioner “to grant, to any person who satisfies him that they have a substantial and direct interest in the subject matter of the Inquiry, an opportunity for appropriate participation in it.”

A person granted standing is a “participant” in the formal public hearings. A participant may be represented by counsel or be self-represented. To the extent considered appropriate by the Commissioner, a participant may,

- propose witnesses to be called by commission counsel,
- cross-examine witnesses, and
- make oral submissions during the hearings.

A person not granted standing may get involved in several ways, for example by,

- submitting written comments to the Commissioner about any matter relevant to the Terms of Reference,
- submitting written comments or suggestions to the Commission in response to scientific or policy reports posted on the Commission’s website, and
- attending the formal public hearings, and any informal public meetings that the Commissioner might hold.

Opportunities for involvement of persons without standing will be posted on the Commission’s website when they become available.

### **Who may be granted standing?**

The Commissioner will decide each application for standing on its merits in the context of the Commission’s Terms of Reference. Importantly, the Commissioner will consider the particular facts of each applicant when determining whether an applicant should be granted standing.

“Relevant considerations” for the exercise of the Commissioner’s discretion are set out in the [Notice of Standing](#). These considerations are an open-ended list intended to provide guidance to applicants concerning the bases upon which the Commissioner will exercise his discretion to

grant standing. It is not necessary for an applicant to demonstrate the applicability of every relevant consideration in order to be granted standing.

In advance of an application for standing, the Commissioner will not issue rulings on what constitutes a “substantial and direct interest”.

Kind regards,

Kathy Grant

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