

EA Revitalization Overview

EA Revitalization and the Process

The Premier of British Columbia has mandated the Minister of Environment and Climate Change Strategy (Minister George Heyman) to:

“Revitalize the Environmental Assessment process ... to ensure the legal rights of First Nations are respected, and the public's expectation of a strong, transparent process is met.”

Objectives of Revitalization

The EA revitalization process will result in legislative change that:

- Enhances public confidence and meaningful participation
- Advances reconciliation by implementing the standards set out in UNDRIP, the TRC Calls to Actions, and the *Tsilhqot'in* decision in the context of EA
- Protects the environment and supports sustainable development

First Nations Energy and Mining Council (FNEMC): Role in EA Revitalization

- **2014: Mt Polley Principals Table**
- **2015 to 2017: Collaboration with EAO to identify EA improvements (within current legislation framework)**
 - series of regional workshops
 - joint recommendations paper
- **2017 to present: EA revitalization**
 - FNEMC delegated to work on behalf of FNLC
 - Regional Chief Terry Teegee delegated liaison
 - part of a joint technical team

ENGAGEMENT PHASE

February – April, 2018



Environmental Assessment Advisory Committee

An independent advisory committee is formed to provide recommendations



First Nations Engagement

Province-wide and four regional workshops gather First Nations input on EA revitalization.

Workshops are led by First Nations Energy and Mining Council, on behalf of the First Nations Leadership Council and supported by EAO



Direct Engagement

Engagements with key stakeholders experienced in environmental assessments ensures industry, community and environmental concerns are heard and understood.

Government -to-government meetings with First Nations as requested



May 2018 Discussion Paper

A Discussion Paper is developed, informed by the outcomes of engagements and recommendations of the Environmental Assessment Advisory Committee



June 2018 Comment Period on Discussion Paper

- Public invited to comment
- Additional Indigenous groups' submissions
- Additional stakeholders' submissions



Fall 2018 What We Heard & Intentions Paper

Documents are created to outline what we heard and the intended direction



Late Fall 2018 Revitalization

Reforms introduced to revitalize B.C.'s Environmental Assessment Process

EA Advisory Committee (EAAC)

Co-Chairs:

- Bruce Fraser
- Lydia Hwitsum

Committee:

- Aaron Bruce (lawyer and member of Squamish Nation)
- Arjun Singh (Kamloops city councillor)
- Colleen Giroux-Schmidt (Innergex and Clean Energy BC)
- Edie Thome (Association for Mineral Exploration of BC)
- Josh Towsley (International Union of Operating Engineers)
- Karen Campbell (Public interest lawyer)
- Kevin Hanna (UBC Centre for Environmental Assessment Research)
- Mark Freberg (Teck Resources Ltd. and Mining Association of BC)
- Marla Orenstein (International Association for Impact Assessment)
- Sunny LeBourdais (member of Secwepemc Nation)

EA Revitalization: Current EA Context

A Refresher: Current EA Process Roadmap

APPLICATION DEVELOPMENT ▶

1 DOES THE PROJECT NEED AN EA?

EAO WORKS with proponents to determine if the *Environmental Assessment Act* applies to their projects.



2 WHO WILL BE INVOLVED?

EAO INVITES Aboriginal groups and all levels of government to provide technical advice and identifies opportunities for public input.



3 WHAT NEEDS TO BE STUDIED?

CONSULTATION PERIOD (typically 30 days)

EAO SEEKS ADVICE from Aboriginal groups, all levels of government, and the public to decide what should be considered in the assessment.



NO LEGISLATED TIMELINE

APPLICATION EVALUATION ▶

4 IS ALL THE REQUIRED INFORMATION THERE?

EAO WORKS with Aboriginal groups and all levels of government to review the proponent's application and ensure it is ready to be reviewed in detail.



30 DAY REVIEW PERIOD

APPLICATION SUBMITTED

APPLICATION REVIEW ▶

5 COULD THE PROJECT HAVE ADVERSE EFFECTS?

CONSULTATION PERIOD (typically 30 days)

EAO REVIEWS all available information in detail and seeks advice from Aboriginal groups, all levels of government and the public to identify potential environmental, health, economic, social, or heritage effects.



180 DAY REVIEW PERIOD

6 WHAT ARE THE RESULTS OF THE EA?

EAO PREPARES a report for provincial ministers to consider when making their decision about whether to approve the project.



DECISION PERIOD ▶

7 SHOULD THE PROJECT PROCEED TO THE NEXT STEP?

PROVINCIAL MINISTERS decide whether to approve a project, reject it, or order further assessment.



45 DAY REVIEW PERIOD

POST-CERTIFICATE ACTIVITIES ▶

8 IS THE PROJECT BEING BUILT AND OPERATED AS APPROVED?

EAO WORKS with Aboriginal groups and all levels of government to promote compliance, conduct inspections, assess complaints and take enforcement action.



LIFE OF THE PROJECT

IF CERTIFICATE IS GRANTED

Canada's Proposed Impact Assessment Act



What's Working? Some Views on Current BC EAs

- Timeliness of process, including statutory timelines (process certainty)
- Iterative process allows issues to be resolved (solutions oriented)
- Focus on broad range of impacts (e.g. environment, social, economic, health, heritage)
- Flexibility of process allows tailoring to project and regional circumstances
- Cooperation with other jurisdictions (e.g. substitution, cooperation)
- Opportunity for deeper consultation with First Nations
- Transparent process, with most substantive material posted online
- Use of a broad working group that include government experts and regulators, as well as First Nations
- Binding conditions and compliance and enforcement

What's Broken? Some Criticisms of the Current EA

- Too proponent driven and lack of independent science
- Mistrust of government process and decisions
- Does not support respectful relationships with Indigenous groups, advancement of reconciliation, or implementation of UNDRIP
- Inadequate funding and role for Indigenous groups
- Inadequate funding and role for public interest groups
- Little to no meaningful traditional knowledge
- Unclear purpose of EA and “black box” decisions
- Inadequate consideration of project benefits
- Lack of non-project assessments
- Projects skirting thresholds
- Poor (or poorly understood) linkages with other regulatory processes
- Weak compliance and enforcement, including effectiveness monitoring

Indigenous Approaches to EA Processes

- Participate in provincially administered EA
- Co-managed or co-developed EA with proponent
- Collaborative EA with the EAO
- Independent EA

EAO's Collaboration Agreements

Stk'emlupsemc te Secwepemc Nation (Ajax Mine)

- Aligned EA process with SSN community-led process

Saik'uz, Stelat'en, Nadleh Whut'en First Nations (Blackwater Gold)

- Consensus decision-making in EA

Tse Keh Nay Nations (Kemess Underground)

- Based on Blackwater Gold Agreement

Lax Kw'alaams & Metlakatla First Nations (Prince Rupert area)

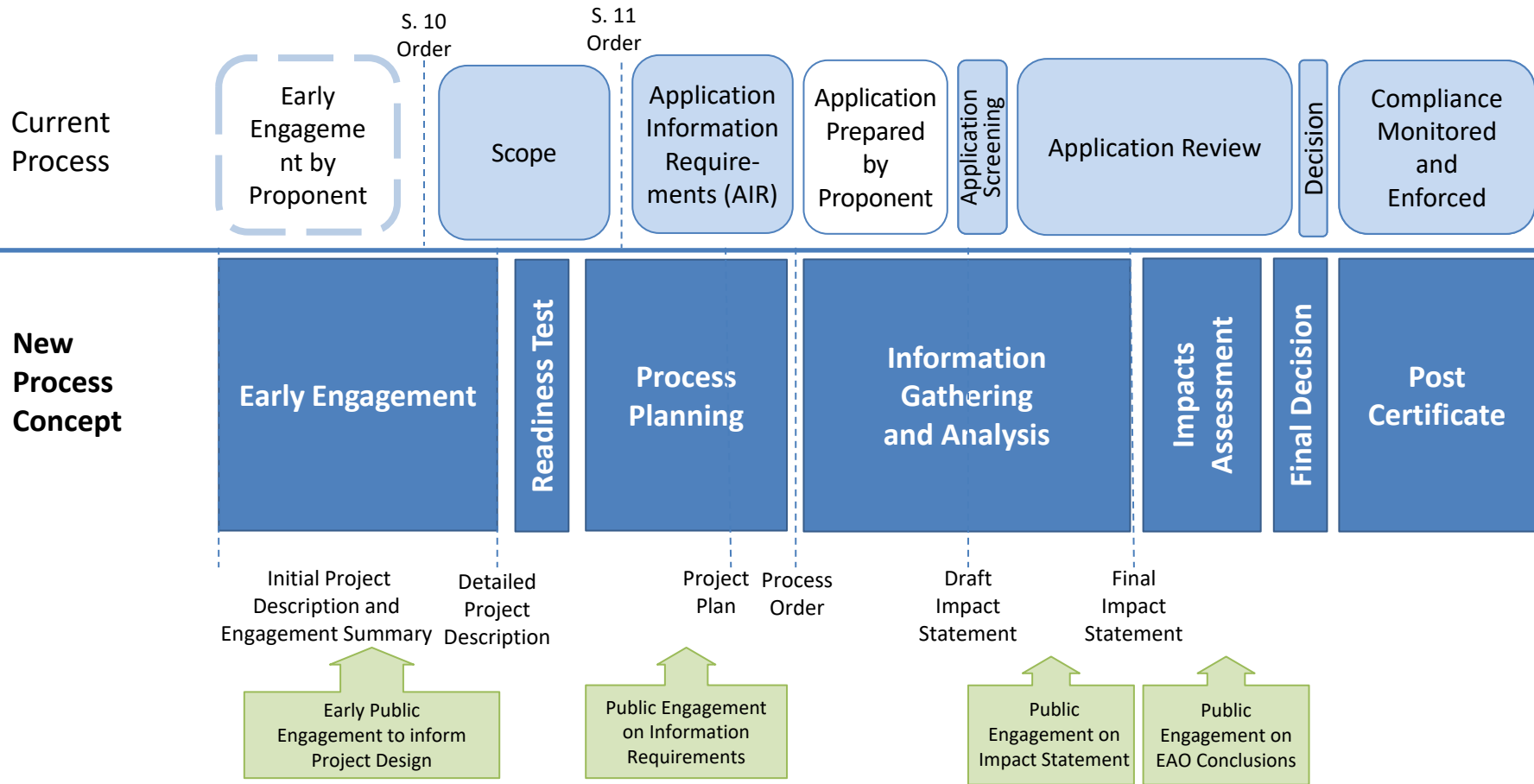
- Considers appropriate regional approaches to multiple projects

EA Revitalization: Conceptual Model for Project EAs

Conceptual Model Overview

- Focus on early engagement
- Enabling consensus decisions with First Nations
- First Nations have access to the necessary capacity funding available to fully participate
- Intend to have statutory timelines
- Focus on early indications of issues and the pathways or impediments to success

Proposed EA Process



Building Blocks: clarity on government processes and requirements external to EA

First Nations–EAO agreements for lifecycle of project + capacity funding to participate