

Stakeholder Implementation Committee Meeting - SFU Harbour Centre June 26, 2019, 8:30 am

Members: Meera Bawa, Bob Bocking, Greg Knox, Carmen Holschuh, Geoff Morrison, Ward Prystay, Gavin Smith, Rob Stevens, Karen Campbell, Denise Mullen, Hannah Askew, Ron Poole, Kim Haakstad (for Kai Horsefield)

EAO Attendees: Scott Bailey, Nathan Braun, Paul Craven, Sheldon Foote, Heather Noble, Fern Stockman

Regrets: Marla Orenstein, Scott Lunny, Karen Elliott, Kevin Hanna, Matt Kennedy, Kai Horsfield

Update on Engagement

- The Indigenous Implementation Committee (IIC) had their first meeting via conference call. A separate meeting is being held without the EAO to collectively select a co-chair. Their first in-person meeting will be July 10.
- The EAO is also continuing its direct engagement with Indigenous nations in addition to the IIC.

Reviewable Projects Regulation (RPR)

- Since presenting this topic at an earlier meeting, the EAO has continued its consultation with industry associations, non-governmental organizations and Indigenous nations.

Effects Thresholds

Linear Disturbance

- The effects thresholds only apply across the 8 project categories. Therefore, forestry still would not trigger under the linear disturbance threshold.
- Need to decide how many kilometres of linear disturbance would constitute a major project with the potential for significant effects. This number will be somewhere between 20-60km; need a rationale for how the number brings in projects with the effects we are hoping to capture with this threshold. The lack of accessible data from regulatory agencies makes it difficult to use real-world examples to inform what the exact number should be.
- The threshold only accounts for new and permanent linear disturbance. The “new” might encourage proponents to limit impacts by using existing infrastructure. Whether it is “permanent” is specified in the authorizations.
- As this is a proponent driven determination, there will be guidance on how to interpret the thresholds for consistency and transparency. If a proponent attempts to project-split to come under threshold, the Minister can designate them reviewable to bring them into the process. The notification thresholds (discussed below) will help reduce the number of projects that might be close to the threshold that the EAO doesn’t hear about.
- The EAO will propose a review schedule of the RPR, to allow for adjustments of thresholds if needed. This could be informed by data collected in regional assessments.

- The EAO welcomes any input or rationales for which number should be chosen for the thresholds.

Land Disturbance

- Land disturbance and linear disturbance have different effects, which is why both are included as thresholds. The EAO is proposing 400ha for the land disturbance threshold.
- The EAO believes having three layers of thresholds should not be overly complicated or confusing for the proponent. This should help restore public trust in the process and catch projects that haven't been captured in the past that should have been. It also incentivizes proponents to reduce their footprint and impacts.
- The EAO will need to consider how to present this information to the public when it goes to comment, i.e. use examples to help visualize the area being proposed. Should also provide information on what happens when a project doesn't trigger an environmental assessment (EA), so that the public is aware that other permitting and regulatory processes exist.

Greenhouse Gas (GHG) Emissions

- It is not the responsibility of the EAO to set limits on GHGs in the province and ensure provincial targets are met. The numbers proposed here are simply to determine if a project should undergo an EA. Including GHGs as a trigger signals that it is a priority for government and it should encourage proponents to reduce their emissions. GHGs are also being covered by other regulators as well.
- The EAO will look at past projects and see which would have been triggered by this new threshold. This will be carried forward to the July 11 meeting.

Production Output and Project Design Thresholds

- The EA process was designed to review major projects with unique activities, that are not repeatedly replicated; for this reason, gas wells are not included in the EA process and are covered by the Oil and Gas Commission. This regulatory process includes consultation as well.
- The EAO will consider if the water management threshold would unintentionally bring in smaller hydro projects.
- The suggested water diversion threshold number may be too high, wouldn't bring in any additional projects not already covered under a different trigger.
- Request for examples to help visualize the numbers being suggested.

Modifications

- Modification thresholds only apply to projects previously determined subthreshold or projects built pre-EA Act. Any modifications to a project holding an EA certification must apply for an amendment.
- An unintended consequence of this may be proponents building many small, subthreshold projects, instead of modifying an existing facility.

Notification Thresholds

- The EAO intends on releasing information gathered from the notifications to the public; it hasn't been decided yet if this will be set out in a regulation, or some other mechanism.

- Suggestion to have a mechanism for the public to provide comments on notification-level projects that may be of public interest. The public also has the ability to request a sub-threshold project be designated reviewable under section 11 of the new Act.
- The threshold for notification will be somewhere between 10-20% below reviewable project thresholds.

Electronic Project Information Centre (Epic) Refresh

- This is a data focused project based on how to best provide information. Accessibility to documents will continue to improve. An advanced search filter will be available in a couple weeks that will make it easier to search projects by stage in the process.
- Suggestion to include layers on the map with First Nations territory, existing land uses etc.

Prescribed Protected Areas

- The purpose of this discussion guide is to seek feedback on the prescribed protected areas. Extraordinarily adverse effects to prescribed protected areas is one potential reason the Minister may choose to terminate a project at the readiness gate. The list is created to be upfront and transparent about what might qualify a project for termination before a proponent spends too much time and money on it.
- Suggestion that it would be helpful to map these areas to make it easy for proponents to see where it may be acceptable to plan a project.
- The EAO will not be including Indigenous protected areas in this list.

Expertise and Impartiality in the EA Process

- There have been examples in the past of EAs where studies were manipulated to obtain desired results. Committee members drafted recommendations to increase public confidence and reliability of information provided by industry experts. These recommendations are included as an appendix at the end of this document.
- The role of the Community Advisory Committee in ensuring impartiality needs to be clearly articulated. This could include recommending trusted individuals be included in the review process in some way. This involvement might be more process oriented and the process order will be a key tool to put this in practice.
- The Technical Advisory Committee can do multiple rounds of review on an issue, and the EAO can request experts be made available to provide missing expertise.
- Two parts to this discussion
 - 1) Need to have good, scientific information coming in. Typically, the proponent provides this, and they receive it from accredited professionals. Need to find a process of doing this that will be broadly accepted.
 - 2) Next, there is the analysis of this information that comes in, and this process is opaque. The public doesn't see how that information leads to decisions and conclusions.
- There are elements in the new Act that build in safeguards and opportunities to broadly increase accuracy, trust, and effectiveness of the process. We are now trying to identify what

the approaches might be to do that while staying within the realistic constraints of a time-bound process.

- Expertise in the EA process needs to extend into post-certificate monitoring.

Closing

Action Items

- EAO to share thresholds decision tree document.

Appendix

Recommendations for Improving Public Trust, Integrity and Accountability of Science

- 1) An **independent peer review** process, similar to a review of an academic journal article, where 3 or 4 independent, anonymous reviewers with proper credentials. This review would not necessarily happen in every EA, but would if the EAO, PIN, TAC or CAC requests it. These groups should also have the opportunity to recommend who does the review and what is reviewed, including:
 - a. Impact assessment reports key findings / issues
 - b. Key issues identified during the EA
- 2) Explicit **duty of scientific integrity** similar to that contained in Bill C-69, and that in place in US for past 30 years and around the world:
 - a. Scientists sign a statement of commitment to scientific integrity: Scientists will (government, industry, consultants, academics, indigenous, others) act in a manner that “adheres to the principles of scientific integrity, honesty, objectivity, thoroughness and accuracy” when conducting work under an EA, permitting or monitoring process.
 - b. Require explicit language outlining what statistics, what analysis, over what period of time, what geographic area, etc. professionals used in their assessment work.
 - c. Information about the reports authors and their expertise is made public.
- 3) Mandatory that **all reports are distributed** to EAO & proponent at the same time when in draft form. All reports go to the PIN, TAC, CAC and public.
- 4) **Data sharing is mandatory**
 - a. All data used in significance determinations are shared during the process (during impact assessment report review / comment period) with EAO, PIN, TAC, CAC, industry and public.
 - b. All data (with a few exceptions for sensitive, culturally, environmental information) collected during EA, permitting, monitoring shared through public database.

- c. A Public registry containing all data used in the EA is created by EAO that's easily accessible.
- 5) **CAC is provided opportunity to recommend what goes in the process order**