

Environmental Assessment (EA) Revitalization Engagement Northwest Non-Governmental Organizations (NGOs)

Wednesday, April 6, 2018 / 1:00 – 5:00 PM
Terrace, BC

Meeting Participants

- Scott Bailey, Environmental Assessment Office (EAO)
- Fern Stockman, EAO
- Raluca Brix, EAO
- Kyla Warren, Skeena Fisheries Commission
- Cheryl Brown, Douglas Channel Watch/ Friends of Wild Salmon
- Pat Moss, Northwest Institute/Friends of Wild Salmon
- Richard Overstall, Northwest Institute/ lawyer with EA experience
- Jay Gilden, Friends of Morice Bulkley/Friends of Wild Salmon/Bulkley Valley Stewardship Coalition
- Dawn Remington, Friends of Morice Bulkley/Friends of Wild Salmon/ retired environmental consultant
- Luanne Roth, T Buck Suzuki Environmental Foundation/ Friends of Wild Salmon
- Laura Moore, Dodge Cove Improvement District
- Des Nobels, T Buck Suzuki Environmental Foundation/ Friends of Wild Salmon
- Dave Shannon, Douglas Channel Watch/ Friends of Wild Salmon
- Dave McRae, Douglas Channel Watch/ Friends of Wild Salmon
- Lucy McRae, Douglas Channel Watch/ Friends of Wild Salmon
- Greg Knox, Skeena Conservation Trust/ Friends of Wild Salmon

Summary Notes

Scott Bailey and Fern Stockman presented an overview of EA revitalization, including the proposed conceptual model. The following represents a summary of the discussion between the EAO and NGO members during the meeting.

Broad themes

- Need an office to conduct EAs that is independent of public service and political oversight.
- Fair, transparent process with clear legislated objectives as to what is and what is not an adverse effect and what is and what is not the public interest.
- Trust needs to be restored in the process (unbiased science is a big part of this)
- Cumulative effects, strategic EAs and sustainability must be incorporated in EA (scenarios such as when there are multiple sub-threshold projects on the same stressed watershed)
- Concern about projects being staged to stay just under threshold to avoid EA.
- Annual review of the new process (like the new federal act proposes)
- Data ownership is a huge barrier (view that proponents own and don't share data)
- Concern that deals are struck between First Nations and proponents or government and that non-First Nation communities that are affected do not have any input or even access to the information that informs these

- Input on projects should be done collaboratively among the various interested parties rather than in isolation. There should be cross-pollination of ideas and opportunities to develop relationship and reach agreement on options and solutions
- Concern with substitution – that federal interests (like fisheries through DFO) are not fully represented.

EAR Engagement process

- Concerns that there is no further public engagement (and other engagement) following the publication of the “what we heard” and intentions paper. The public want an opportunity to vet and confirm the summary of what we heard and interpretation are accurate.
- Concerns that the public comment period is taking place in the summer, when many people are on vacation and unable to participate. Request for more than a 30 day public comment period on the Discussion Paper.
- Concerns that the engagement streams are isolated from each other, preventing participants from hearing what others have to say. EAO is the only party that hears all the opinions and is the only party able to balance the competing views (which is a political decision eroding trust in the EAR process).

Public Engagement Generally

- Clarify how public comments influence, if at all, the EA decision
- The proponent should provide funding for the public to engage effectively.
- Lengthen time for public comment periods to enable understanding of issues and potential consequences and provide meaningful input.
- The process should have a place for everyone who is interested to engage.
- Like industry, the public is also looking for certainty.
 - Desire to be included in cross-functional groups to encourage competing interest groups to work together rather than in isolation (seek common ground and consensus rather than positioning).

Timelines

- 180 day review period is too tight, especially when project design changes are made within that timeframe.
- There should also be an opportunity for parties other than the proponent to request suspensions/extensions. The public and NGOs are not as well resourced as proponents and often need more time to review material.
- Support for the idea of having different timelines for different projects.

Role of EAO

- Concern about what EAO’s role should be – EAO seems to have two conflicting roles:
 - 1) to evaluate a project
 - 2) to help a proponent navigate the regulatory framework and receive their permits in a way that is appeal proof
- There is a perception that if a project changes as a result of the EA process this means that EAO is complicit in the proponent’s interests rather than acting as a neutral agency. Others believe that it is a good thing if a proponent responds to concerns and changes the project.

- If there are major project redesigns, then other interested parties need to be given time to review and assess the new information and provide input (timelines need to be adjusted).
- The process should be overseen by an independent agency like the BC Utilities Commission. If EAO were not an arm of government then it won't be influenced by the politics of the day and it would not have to balance government direction with public interests.

Review of Conceptual Model

Building Blocks:

- Strategic EAs must be developed in advance of project EAs
 - Strategic EAs for the regions should inform cumulative effects, thresholds, stressors, etc.
 - This information should be made available to proponents before they enter EA
 - In the absence of existing land use plans (LUPs), strategic EAs and other high level assessments, there could be triggers for a new strategic EA. E.g. 2013 LNG flood would have been such a time.
- Create public-private partnership that includes a local government person responsible for engagements in collaboration with a local entity that is familiar with interest groups and can help government disseminate information to the right people (funding for this can come directly from proponent) OR use an existing body (regional districts).

Early Engagement:

- Early public engagement to inform project design, siting and identify acceptable options (before project design has been set in stone).
- Role for EAO to identify who proponents must engage in the communities
 - Concerns about the ability for people, especially in northern communities, to be informed about projects in their area.
 - EAO can reach out to community members who have expressed an interest in being kept in the loop via some sort of mailing list.
 - Create an email list for environmental groups; or ability on our website for people to sign up for notifications relevant to them (with the assurance that this list will be used effectively and regularly) – design lists by region, subject matter, etc.
- EAO should set specific public consultation standards for proponents (e.g. there should be public notices in free newspapers not just the paid ones).
 - Concern that there are no consequences for proponents who present misleading information. There should be an obligation on proponents to respond to questions publicly to ensure there is accountability (project design questions).
 - Question on impacts should be answered by independent scientists.
- Each proposal should be presented as several (reasonable) alternatives, each with an assessment, to determine which is the best option, if any, in the public interest.
- With respect to how open houses are currently run, the public feels manipulated because they are led by the proponent and the proponent doesn't provide unbiased information and designs them in a way that isolates individuals. Often open houses are focused on presentations and photos rather than facilitating discussion.
 - EAO should lead open houses. Suggestion to provide objective scientific information at open houses to create a sense of accountability for proponents with respect to the information they publicize.

Process Planning:

- Build flexibility in the model to meet the needs of different project types and different regions (e.g. the needs of northern sparsely populated areas and more populated areas).

Impact Assessment:

- Impact assessment should be paid for by proponents but the individuals who do this should be hired by government
 - Clear steps regarding how environmental conflicts are addressed (and conflicting scientific results)
 - Funding should be available for independent scientific opinion
 - All studies should be peer reviewed
- Concern that there is over-reliance on models to determine adverse environmental effects (What data is input into these models? How easy are they to manipulate?). To help improve their usefulness there should be peer review of the models and model uncertainties should be incorporated into decision making.
- Comments on factors for assessment:
 - Human health and well-being should have a more prominent place in an EA, including a broader definition of health than is currently used
 - Consideration of upstream and downstream effects of a project proposal
 - Consideration of effects on climate change
 - Clear tests to define adverse environmental effect
 - Definitions for public interest and adverse effects
- Important issues should be dealt with in the EA, not deferred to permitting stage
- Develop a trust (trustees have fiduciary obligation to the beneficiaries) for the collection of information to ensure that there is trust in the process and then the final decision will be easier to accept regardless of what it is.
- Working group:
 - The term “expert” be redefined to include knowledgeable members of the local community and they should be given an opportunity to participate on the working group. This could be done by canvassing regional and local groups and regional district to seek recommendations for working group members. The best people will be identified through this process based on local renown and trust.
 - Ensure that there is fair and equal representation of various interest groups beyond the different levels of government and First Nations.

Decision:

- Include requirement that local knowledge be considered in the final decision (in addition to Indigenous traditional knowledge).
- Decision makers should be appointed rather than elected officials or public servants and they should be bound by precedent to provide certainty.
 - The fact that the same project receives approval from one level of government and is rejected by another level of government suggests to people that decisions are arbitrary rather than based on science, unbiased evidence and fair, objective decision-making.
 - Requiring decisions based on precedent and defining the factors that must go into the decision will lead to principled decisions.

Compliance and Enforcement and Regulatory Continuum:

- Current compliance and enforcement efforts are not effective.
- There should be a role for First Nations in the monitoring of projects.
- Concerns that many major issues are deferred to the permitting stage (e.g. methodology for addressing oil spills on a pipeline in seasons where it is inaccessible).