

ENVIRONMENTAL ASSESSMENT IN THE CLIMATE CENTURY

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The logo for Ecovision Law, featuring the text "Ecovision Law" in white, sans-serif font, centered within a green, brush-stroke-like shape that tapers at both ends.

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Environmental Assessment

– The Basics

- Provide information on environmental effects so that better decisions can be made by proponents and governments
- Generate good will and social licence
- Legal entrenchment of EA needed:
 - Decision-making is biased toward short-term
 - Environmental effects usually are longer term
 - EA is always inconvenient
- Politicians will never give up right to make ecologically bad decisions

Canadian Environmental Assessment Act: Modest successes

- Thousands of good and bad projects improved through mitigation
- Occasionally, bad projects rejected
- Proponents earn social licence to proceed from communities and civil society groups

. . .And significant shortcomings

- Bad projects often approved
- Follow-up on mitigation implementation weak
- Too little sweating of the big stuff (GHG emissions, catastrophe avoidance)
- Too much sweating of small stuff (legal requirements for small projects)
- Recent statutory and regulatory changes have created incoherent mess

CEAA Seven-year Review

- “... comprehensive review of the provisions and operation of CEAA shall be undertaken by Parliament”
- Standing Committee on Environment mandated to undertake Review by the House of Commons in June 2010
- Review delayed by federal election

Sweat the Big Stuff

- Achieve federal environmental priorities such as GHG emissions reduction
- Avoid catastrophes such as BP and Enbridge oil spills, Fukushima, Kolontar, and Ocean Ranger
- Contribute to sustainability, not just mitigate adverse environmental effects

Reduce GHG emissions

- Recent joint panel reviews (Kearl, Joslyn North) have not assessed GHG emissions seriously
- No tar sands or pipeline project, even 10 times bigger than Kearl (800,000 cars on the road) will significantly affect global climate
- Mackenzie Gas Project used sustainability assessment approach to ask how to green the pipeline by displacing downstream GHG emissions
- CEAA should target projects for panel review that have GHG emissions above prescribed level

Catastrophes Waiting to Happen



Suncor's Tar Island Tailings Dam

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Avoid Catastrophes

- CEAA requires assessment of the environmental effects of “malfunctions and accidents”
- Assessment of malfunctions and accidents usually doesn’t apply to worst-case scenario
- Worst-case scenario analysis required under Inuvialuit Final Agreement and strengthened in U.S. law after BP spill

Avoid Catastrophes

- Neither proponents nor governments want to talk about worst-case scenarios (“that will never happen”) (“just scare-mongering”)
- Mackenzie Gas Project Panel Review undertook such an analysis for Beaufort Sea, Mackenzie Delta
- Key success factor: multistakeholder session to identify possible worst-case scenarios, however improbable

Sustainability Assessment (EA 2.0)

- Focuses on economic, social and environmental sustainability, not just determining significance of adverse environmental effects
- Asks the question: Does this project advance our economy and society toward a desirable, durable future? and not just: How can this project be made less bad?
- Seeks to improve positive elements of a project as well as mitigate negative elements
- Asks questions about intergenerational as well as intragenerational equity

Sustainability Assessment (not just Environmental Assessment)

- Emerged as key approach in recent panel reviews (e.g., Mackenzie Gas Project)
- Embedded at least partially in federal laws implementing northern aboriginal claims agreements (*Yukon Environmental and Socio-economic Assessment Act, Mackenzie Valley Resource Management Act*).
- Gibson, R. et al. *Sustainability Assessment: Criteria and Processes* 2005, Earthscan.

Towards Sustainability in CEAA

- Require worst-case scenario analysis in panel reviews/comprehensive studies
- Require assessment of economic, social and environmental sustainability (not just significant adverse environmental effects)
- Focus on using EA as tool to achieve federal environmental priorities
- Use non-regulatory approaches (sustainable development strategies?) to ensure small project sustainability

One Earth, One Chance



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