



Comments to the Special Review Panel on the Environmental Assessment Act

The Thunder Bay Chapter of the Council of Canadians submits the following commentary for your consideration.

We are not offering any specific changes to the existing Act, partly due to lack of true expertise, but mostly due to the fact that we feel the entire tone of the existing Act is a contradiction to what we think Canada needs now. We feel that the present Act should be repealed and replaced.

Social justice and environmental justice go hand-in-hand, and the TBay Council of Canadians believes strongly that these are two ideals worth striving for, and that should be reflected in the Act under discussion. Implicit in this statement is the recognition of our concomitant responsibility to make every effort to ensure that our social, political and legal processes, systems and institutions are directed and operated in such a way as to allow justice to be served. Recent political developments in various countries around the world underscore this as imperative.

We believe that the EAA must strike a balance among environmental, social, and economic considerations. The trigger for a request for an environmental assessment should be recognized from any of these sectors, not just the economic (development) sector.

Environmental assessments must be conducted based on the best available evidence. As noted in a letter to PM Trudeau in November 7, 2016, signed by over 1500 Canadian scientists,(attached) the scientific community has concerns that EAs to date are not scientifically rigorous; this note of caution should be well-heeded in a new EA Act.

The other source of data should be traditional knowledge, both indigenous and non-indigenous. Folk/oral traditions remain strong in Canada, and a wealth of intimate knowledge of our land and the functioning of its ecosystems is there for those who would listen. Heeding this source of

knowledge will bring a much-needed values-based perspective which will provide balance to scientific evidence.

We support the five actions requested by the Canadian scientists:

- Seek and act on the best available evidence(from all available sources as above)
- Make all information from environmental assessments permanently and publicly available
- Assess cumulative environmental effects from past, present and future projects and activities across multiple scales
- Work to prevent and eliminate real, apparent, or potential conflicts-of-interest by requiring public disclosure
- Develop explicit decision-making criteria and provide full, transparent rationale of factors considered

The Thunder Bay Council of Canadians would like to particularly emphasize the following:

Public openness to all processes should be an emphasis: this will aid in transparency, making conflicts obvious and able to be avoided, increase public trust in government processes, and rid the process of any biases which might otherwise creep in.

It is also important to note, when an Environment Assessment is being conducted, the disparity between the resources available to industry and development proponents and other parts of our communities. This disparity must be recognized and every effort made to compensate for this often-unbridgeable gap. This gap is what often means that only the most well- funded and staffed voices get heard, and the rest are lost. The new EAA must incorporate a funding mechanism so that communities' voices are not disenfranchised. There must be a reflection of the communities in the area affected by an EA so that industry voice alone does not appear to have undue weight.

1. Intervenor Funding should be made available by the proponent but controlled by the intervenor to allow for consultants with a different perspective than industry, for example public health, safety, etc. While there is often a great say about the role of science, in reality the science is often an art with considerable interpretation depending on who pays for the evidence. He who pays the piper calls the tune

2. The communities and the regions should have an equal say over the process (terms of reference, scoping statements, hearing agendas, etc.) and the selection of who sits on the hearing body, board, committee, etc. In the case of NEB hearings where the proposed Energy East pipeline is passing through northern Ontario then it would be reasonable that the communities (native and non native) of northern Ontario have a say on who is representing their interests in an NEB review besides government appointees.

It is important that, when accessing indigenous knowledge, that consultation should likewise be open, and that the principle of Free Prior and Informed Consent should be used in all interactions with indigenous peoples.

Cumulative effects need to be seriously taken into account. This is an area hitherto mostly ignored, and these are the effects which are of much concern to people living in affected areas. One mine might well be considered as an economic and social advantage, but an additional mine as well as the forestry roads, mining exploration, water taking, and other impactful activities, might be too much for one area to absorb. The environment needs to be considered as a full partner in the discussion of environmental assessments.

Finally, we recognize that the implications of a number of different Acts comes into play in any discussion about the environment. Many other Acts, regulations, commission and agency mandates and so on will need to be amended, or repealed and replaced so as to avoid confusion, conflict, and loopholes which can arise when government processes are not all on the same page. The Mining Act, the Forestry Act, the former Navigable Waters Act are just a few which will require attention. Neither the public nor the government can act purposefully and efficiently in any processes until the legal framework is consistent, timely, and transparent.

Inter-jurisdictional conflict must also be avoided: this is likely not part of the EAA itself, but rather the operations aspect which we addressed above. All EAs must be part of a coordinated system so that there are fewer bureaucratic and/or jurisdictional issues. A lengthy, complex, multi-jurisdictional, conflict-ridden Environmental Assessment benefits no one.

We also feel it is important, although, again, probably not within the scope of this one Act, that no proponent of a project or any government body responsible for review, implementation, or assessment of a project can have that project be exempted from the need for an EA. ALL projects must have a comprehensive environmental assessment, incorporating, among the essential information required of an EA, the needs we have outlined in this document.

Respectfully submitted

On behalf of the Thunder Bay Chapter of the Council of Canadians

Ruth Cook, Chair