

Presentation to Expert Panel

Fredericton, October 11, 2016

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I would like to thank the Expert Panel for taking on the difficult challenge of listening to Canadians from all across the country in a very compressed timetable. I also want to thank you for the opportunity to present on behalf of the Environmental Coalition of Prince Edward Island. The organization began working on environmental issues in 1989, and has seen a lot of changes, both good and bad, since then.

Before the Harper government began slashing environmental funding and policies, I co-chaired the Canadian Environmental Network's Environmental Planning and Assessment Caucus. I also served on CEAA's Regulatory Advisory Committee and on subcommittees developing guidelines for Meaningful Public Participation in Screenings, and participated in the Five Year Review of the Canadian Environmental Assessment Act in 1999-2000.

Experience has shown that we know how to do things right. For example, in Prince Edward Island I have been working with a community-based water coalition that has been a major contributor to the development of a new Water Act. The process used to gather public input has been exemplary. The Environment Minister attended every public meeting. There were many opportunities and ways for the public to participate. The full text and audio recording of each presentation was posted on-line within days. And most importantly, the Minister promised that if the public needed more meetings, they would get them. That was such a critical message, that we would take the time to get this right. At least to this point government has listened to people and promised that the new Act will reflect the input that has been provided.

Unfortunately, we have witnessed and continue to witness the damage that occurs when there is little to no environmental assessment of projects, and especially when there is no strategic environmental assessment of policies.

It is this area that I would like to focus on. What happens when we don't think strategically about the consequences of developing policies which do not take the environment into consideration?

Climate change isn't an academic issue on Prince Edward Island. We are already facing the impacts of rising sea levels, a reduction in ice in the surrounding waters and more severe weather events. Lighthouses are being moved farther back from the shorelines, heavy armouring is taking place to try to protect the shore.

In a recent Toronto Star article, Adam Fenech, director of the climate research lab at UPEI, said "there has been a 10 to 20 per cent increase in the number and magnitude

of storms. And there has been a loss of ice cover, primarily in the months where we do seem to have some storm surges, which is in December and January."

He also pointed out the specific problems that the Lennox Island First Nation faces, calling the amount of land loss "significant". He said that the Meachams Atlas of 1880 reported the area of Lennox Island at 1,520 acres. By 2010, it was reduced to 1,240 acres.

But these problems are really just the tip of the iceberg. We have no idea what warmer temperatures and higher storm surges will do to two of our primary industries – agriculture and fisheries. We also have little real knowledge as to what rising temperatures will do to our forests and wildlife.

Instead of addressing the issue of climate change decades ago, governments for the most part took baby steps or even made the problems worse. On Prince Edward Island, we have many things to be proud of. We are moving towards reducing our dependence on fossil fuels with the use of windfarms. The City of Summerside has taken a leadership role in the area of energy conservation. And the UPEI has been doing some fantastic research on mapping the potential impacts of climate change. Unfortunately, the lack of a comprehensive climate change policy, and specifically the absence of strategic environmental assessment for federal policies and funding programs, continues to plague Prince Edward Islanders and all Canadians.

At a recent public meeting, Charlottetown riding MP Sean Casey was asked about the federal infrastructure funding program and why, if the federal government was actually going to live up to its Paris commitments, would they keep funding roadwork that would in all likelihood increase traffic on Island highways? It was a great question, one that there really was no answer for. And that got me thinking about strategic environmental assessment and why it is so important. If we are really serious, and we have to be, about meeting our Paris commitments, then we need to link the issue of climate change to all our public policies and programs.

Instead of spending money on infrastructure programs that benefit truckers and roadbuilders but have detrimental effects on the environment, we should be investing in energy conservation, in research into how we can turn PEI into a haven for electric vehicles, in supporting municipal initiatives to become carbon-neutral.

The lack of strategic environmental assessment still haunts our province when we look at issues such as the expansion of the potato industry. The federal and provincial governments helped fund the creation of the now defunct McCain's processing plant in Borden and the expansion of the Cavendish Farms plant in New Annan in the early 1990's. I spoke with provincial politicians at the time and they said they would only be assessing stack emissions and effluent discharge. Everyone knew the subsidies would create a huge demand for Island potatoes and questions were repeatedly asked about what the expanded acreage would do to the environment. But that was beyond the scope of the assessment.

Of course, the potato acreage quickly rose to unsustainable levels. While the two plants created jobs, the damage been done to waterways, wildlife, recreational fisheries, shellfishers, and our reputation as a “pristine” environment has been immeasurable. Fish kills, anoxic estuaries, pesticide drift, nitrates in groundwater and soil erosion at unsustainable rates continue to this day.

Strategic environmental assessment is a way of taking a high-level look at potential environmental impacts, both good and bad. It ensures that important policies – such as a strong response to climate change – are reflected in all planning and programming. That doesn’t mean that you won’t be constructing new roads, just that you will view the need for those roads through the lens of your climate change policy.

Trade agreements that conflict with our environmental vision continue to create problems. Trade policy should reflect our climate change policy, not the other way around. The 2015 NAFTA ruling on the Whites Point Quarry environmental assessment is a clear example of what is to come unless Canada ensures that its environmental commitments are not trumped by trade agreements. In that instance, a proposed 150-hectare basalt quarry and deep water marine terminal in Nova Scotia’s Bay of Fundy was subjected to a joint federal-provincial assessment. The federal and provincial governments ruled that the project was in a sensitive area and likely to cause significant environmental effects that could not be justified in the circumstances.

In this case, our system worked. But the company took issue with the ruling, sued under NAFTA, and it was left to an unelected three-person panel to decide if the assessment met our NAFTA commitments. Two of the three panel members ruled in favour of Bilcon, and the company is now suing the Canadian government for \$133 million.

There is a real fear that this will put a chill on the ability of governments to set policies that protect the environment. The Globe and Mail reported that “A dissenting member of the panel – University of Ottawa law professor Donald McRae – warned that the ruling represents a “significant intrusion” into domestic jurisdiction and will “create a chill” among environmental review panels that will be reluctant to rule against projects that would cause undue harm to the environment or human health.”

Clearly, we need to fix things at high levels, which is where strategic environmental assessment comes in. But there are many other components of a good assessment process that also need to come into play. These include:

An open and transparent process

Full recognition of Indigenous rights

Cultural sensitivity

Early and timely notification

Repeated opportunities for public involvement

Participant funding

A genuine ability to influence the outcome

An assortment of public involvement tools

An accounting of how the public input was used

A thorough follow-up and monitoring program

This is a complex subject and one that has drawn a lot of thinking and writing from some of the best minds in Canada. In a recent paper entitled **Fulfilling the Promise: Basic Components of Next Generation Environmental Assessment**, Robert Gibson, John Sinclair and Meinhard Doelle noted some things that must change in order to get where we need to be.

Two things in particular struck me as critical in moving towards an environmental assessment process that Canadians trust in and are proud of.

The authors found that: “In contrast to the common notion that economic, ecological and social objectives are inherently in conflict, can be addressed separately and will be accommodated through trade-offs that are “acceptable in the circumstances,” next generation environmental assessment would recognize that sustainability-enhancing economic, ecological and social objectives are interdependent. While some trade-offs will be unavoidable, they will be acceptable only in the last resort and under clearly delineated rules.”

They also noted that: “In contrast to treating assessment as hoops for proponents to jump through to gain project approval, next generation environmental assessment would be centred on learning, building a culture of sustainability and serving the long as well as short term public interest.”

I am sure this won't be the only time you hear these points, but they struck me as especially worth repeating. The idea that economic, ecological and social objectives are interdependent is not new, but one that too often gets overlooked. And thinking of environmental assessment as a learning process instead of a confrontation is crucial to moving forward. We have done a poor job of using our experience to create better policies, programs and projects that will really bring the greatest values to Canadians.

Good luck with your work, and again, thank you for the opportunity to participate.