

Eric Reder of the Wilderness Committee, oral presentation to the federal Expert Panel reviewing Environmental Assessment
Winnipeg, Nov 16/16

I'd like to thank the signatories of Treaty 1 for an opportunity to meet here, and recognize that we are in the heart of the Metis Nation.

I grew up in Manitoba, spending my time in the bush in Treaty 3 territory, on the East Side of Lake Winnipeg. After I grew up I was to learn that this is the greatest intact forest left on the planet. I work to preserve the bush.

I am the Manitoba Campaign Director for the Wilderness Committee, and am a member of the national management team of the organization. In addition to Ontario and Manitoba campaigns, I work on federal endangered species campaigns. I've been working as a professional environmentalist for 12 years, all with the Wilderness Committee.

The Wilderness Committee has been on the ground advocating for legal protection of lands and waters for over 35 years, preserving wild spaces and species, and supporting healthy communities.

Federally, currently I am participating in the Roberts Bank Terminal 2 Environmental Assessment (EA), as well as observing the Energy East proceedings with the National Energy Board (NEB).

In my opinion, after decades of EA in Canada, our natural world is in decline. Canadian Environmental Assessment Act (CEAA) is failing in Canada, and CEAA 2012 is much worse.

One of my areas of expertise involves analyzing provincial environmental assessments in Manitoba, often at behest of community members who have asked me to review a project. I have worked on about 2 dozen provincial environment act proposals.

Our world requires that we only act in ways that are ecological sustainability. Sustainability must always refer to ecological sustainability. The next generation of EA must have ecological sustainability as its largest and most critical tenet.

Building the next generation of EA must include the implementation of United Nations Declaration on the Rights of Indigenous Peoples. Specifically, Article 19, stating that governments must consult and cooperate in good faith to obtain free, prior, and informed consent for activities that will affect indigenous peoples. It also requires the application of the Calls To Action from the Truth And Reconciliation Commission, specifically points 43 to 47. Point 45 i) calls for Canada to repudiate concepts used to justify European sovereignty over Indigenous lands and peoples such as the Doctrine of Discovery and terra nullius.

One of the biggest benefit we derive from environmental assessment is to publicize activities that will affect the commons, and allow people to have a say.

There are four Acts being reviewed right now. The three other critical pieces of legislation are the Navigation Protection Act and the protections lost after the dismantling of its predecessor the Navigable Waters Protection Act (NWPA), The Fisheries Act, and the NEB Act. The largest roadshow is about CEAA 2012. While you are undertaking a dutiful review of EA, we can not write the next generation EA without inclusion of the lost fish habitat protection from the Fisheries Act, shoreline protection which was partially provided under NWPA, and the removal of EA from the NEB along with the reinstated requirement for all major projects—including pipelines—to require federal EA. Finally, the Species At Risk Act (SARA) is one of Canada's strongest remaining environmental laws, and it needs to be included in the formation of the next gen EA. The major point I'm making here is that these 5 Acts are all intertwined in the

protection of our world, and a new CEAA process can not be written without the inclusion of the new protections and revisions which are needed under the other 4 Acts.

Further, the Species At Risk Act needs to be properly funded, and properly resourced and implemented. We can not have meaningful EA without this. SARA is usable, and useful.

Every project has an effect on our climate. Every EA needs to take into account how the project and its production will affect climate here and elsewhere, and now and for the future.

I'd like to get down to pointing out some specific problems:

Here are reasons why we need federal and provincial EA:

- the Environment Act issues development licences in Manitoba. The branch of the government that reviews developments is called Environmental Approvals—not Environmental Assessment, but approval. They will make it happen for development, rather than focus on protecting our environment first.
- provinces have a vested interest in rural economic development, which means they are more likely to green light a project. A federal review is also often needed to ensure that good and full ecological analysis of a project is occurring. Or, more appropriately for larger projects, a joint panel of federal, provincial, and aboriginal governments
- Manitoba is downstream from everything. Things that happen in Saskatchewan, Alberta, and parts of Ontario end up in Manitoba. We need federal reviews so we have a say in what happens on the ground in those provinces, so we aren't unduly affected by developments with lax ecological oversight. Trans-boundary considerations do trigger federal EA, but some projects, while they don't cross a boundary, affect people downstream.

Another problem with EA process right now is that we allow proponents to self-assess their projects. They fill out their Environmental Impact Statement (EIS), and we review their data--

which in reality is proponent propaganda. Proponents can present data, and leave out data in a way that best sells their project as acceptable. We need project data, analysis from outside sources that don't have self-interest in success of the project. A solution for this will be mentioned in the cumulative effects section.

One specific problem related to CEAA 2012 is that not enough projects are being assessed federally anymore. An example in Manitoba is Hudbay's new Reed Mine in Grass River Provincial Park. The mine is in the calving region and migration corridor of woodland caribou, a species protected under SARA. It is also in the vicinity of high quality waterways and a new all-weather logging road. The presence of a species listed under SARA should have triggered federal involvement. The federal government response was that due to CEAA 2012 changes to focus only on larger projects, federal EA would not occur.

A Fresh Start for the Next Gen EA:

Next gen EA starts with cumulative impacts assessment for a region. We need to know what a region looks like before development.

The beginning stage for a development is a preliminary strategic proposal for a project. This project will be assessed in the region it will be located in. That region will be delineated by traditional territory and/or treaty area and/or ecoregion.

Federally chartered agency will exist for each of the regions in Canada, and it will be jointly governed by aboriginal, federal, provincial, and territorial government representatives. At their disposal will be a cumulative assessment of their region, which will indicate the state of their region in regards to lands, waters, animals, plants, and carbon storage capacity of the region, along with the pre-existing projects and communities. How the new proposal will fit into this region will be strategically examined.

The strategic proposal stage will stop some projects in their tracks. It will allow for u to spend less time on proposals. It will involve aboriginal peoples in the beginning, before a project is even a project. This is an important point to recognize. The strategic proposal stage will likely eliminate all new fossil fuel projects.

It is at this stage, if the project fits into the general scheme of cumulative impacts, that adequate and timely funding for participants of the upcoming EA be made available. And a full EA will begin.

Tinkering with the EA process

Here are some short points required as the new EA process is being built.

Open houses do not replace public hearings. Public hearings are needed, where proponent and/or government are required to answer questions on record, without limitations on public participation.

Hearings on major projects that financially will impact entire province or country need to occur across the entirety of a province or country, rather than just in a project region.

EA panel must use their power of subpoena to ensure government and/or the proponent testifies under oath when information is not forthcoming.

Forestry operations are largely operating without EA review. Yet the cumulative impacts are astonishingly high, especially in the boreal. All forestry needs environmental assessment.

The new federally chartered agency for each region will supply the data which is needed to assemble an EIS. The scientists working for various governments, as well as independent scientists and experts, need to be the Technical Advisory Committee (TAC) for an EA. The

TAC will review and report on what the proponent is filing. After the TAC has publicly reported their findings, a public comment period of no less than 60 days is required, so the public can evaluate what the TAC found with a project, and voice an informed opinion of a project. This late public comment period with expert analysis available will be a big part of getting EA decisions supported by the public.

EA needs a place free of the judgments on socioeconomic impacts. We need to know what is ecologically going to occur with a development. A portion needs to look at western science and aboriginal ecological knowledge without it being blurred by human consideration. A secondary portion of an EA can discuss socioeconomic, but it can't be mixed throughout.

We support the 12 pillars of next-gen EA which have been presented by West Coast Environmental Law and others.

Wrapping Up:

A major trigger for the birth of the Idle No More movement in Canada was the dismantling of environmental protections, and changes to environmental assessment. Thinking people in Canada want to get this right. We want a healthy environment, and respectful interaction with the First Peoples of this land.