

Submission to the Expert Panel Review of Environmental Assessment Processes  
Luanne Roth  
and Prince Rupert Environmental Society  
December 23<sup>rd</sup>, 2016

Submitted to [eareview\\_participation@canada.ca](mailto:eareview_participation@canada.ca) or through [www.EAreview.ca/Submissions](http://www.EAreview.ca/Submissions)

We have been involved with several environmental assessments in the Prince Rupert area; recently the Prince Rupert Environmental Society with T. Buck Suzuki Environmental Foundation and the United Fishermen and Allied Fishermen's Union – UNIFOR coordinated comments and secured experts for comments on projects.

We would like to point out aspects of the current Canadian Environmental Assessment process which weaken trust in it, as well as some aspects which strengthen it.

Perceived problems are:

- lack of early public consultation about siting and general direction/goals of regional industrial development ,
- bias in scientific reports during the assessment,
- conflict of interest between the Port Authority's mandate and role in CEA,
- lack of real and viable alternatives being offered, and
- a flawed decision making process once the science is in.

We were appreciative of:

- funds for local stakeholders to participate in the CEA process
- CEAA staff being helpful sharing scientific and process information

## Lack of early public consultation about siting and general direction/goals of regional industrial development and need for Strategic/Regional Assessments

Something like a Strategic Environmental Assessment might have forestalled major errors and conflict by giving the public a chance to add environmental and quality of life values into the decision making process before they got to the project review stage.

Examples

- Allowing an LNG project, PNW LNG, to choose a site on probably the most critically risky spot for Skeena salmon
- Allowing an LNG project, Aurora, to choose a site so close to a small community, especially a community like Dodge Cove on Digby Island with no previous industrial development in close proximity to it

A Strategic/Regional Environmental Assessment would not obviate the need for project specific CEAs because many locally affected stakeholders with valuable input would likely be missed in such a broad review; Regional/Strategic Assessments would be valuable nevertheless.

## Bias in scientific reports during the assessment

Conflict of interest is generally understood to result in bias and therefore the existing system, which gives the project proponents control of contracting the majority of expert scientific reports, can be

expected to result in some degree of bias in those reports, no matter how much integrity the scientists have and how much effort is made by those involved to be objective.

#### Examples

- Environmental consulting firms and individuals with expertise in important aspects of the risks posed by LNG projects were difficult if not impossible to hire by organizations other than the LNG proponents. On numerous occasions experts who initially agreed to provide comment for us, called back to regretfully refuse the contract after consideration or being informed by others in their company that their business relationships (existing, previous or future contracts) with the LNG industry put them in a conflict of interest. This was despite our request for unbiased scientific expert comment on risk.
- Reports prepared for PNW LNG about the value of the marine habitat and the risk of erosion of that habitat resulting from marine structures were so flawed they were either withdrawn or redone. Also the original EIS used sediment sampling to characterize the first designs' dredge area in which the samples did not come from the dredge area and which grossly underestimated the actual level of contamination according to other samples nearby which were not included in the EIS. The flaws were so heavily weighted on the side of minimizing the risk and thus favoring the proponent's interest that there was a perceived bias. When one considers that such flawed reports could actually encourage the LNG industry to look favourably on the experts who presented them, the perception of bias in the existing CEA contracting process (where the proponent does the contracting) is increased.
- It should be noted that the examples of flawed science above and other examples required time, energy and expense on the part of the public, First Nations or ENGOs to uncover out of their very limited resources.

Any means of changing the contracting of environmental assessment work whereby the reporting of environmental risk posed by the project does not lessen the contractors' chances of future work would be very helpful. Possibly the CEA should control the contracting.

## Conflict of interest between the Port Authority's mandate and role in CEA

Port Authority mandates stress increasing trade and do not, according to our understanding, include maintaining local quality of life or environmental values except as a hypothetical outcome of increasing trade. Port Authorities therefore cannot be involved in any aspect of the environmental process which requires objectivity and consideration of environmental risk without damaging the public trust in the process.

#### Example

- The Prince Rupert Port Authority submitted comment to the PNW LNG CEA to argue that the risk posed to harbour porpoises was less than the assessment had so far considered (a view that was not without controversy), whereas we did not come across comment offered by them on any of the aspects of the project where there was evidence to suggest the risk was greater. PRPA had no role which required it to comment on porpoises except in so far as an assessment of lesser risk would help get the project through and therefore increase trade.
- The PRPA did have a responsibility to ensure that wetland function was maintained if the PNW LNG project went ahead and yet their comment to the CEA on this aspect was so brief and poorly written as to undermine trust that the PRPA considered wetland function sufficiently and suggested to us that any concern for wetland function was overwhelmed by PRPA's overriding mandate to increase trade.

## Lack of real and viable alternatives being offered

The existing environmental assessment legislation does require that alternatives to projects be considered and offered for public review but this requirement must be strengthened.

Example

- Despite extensive disapproval of the PNW project site location no real viable alternative site was ever offered to the public. The proponent, in all public consultations we are aware of, refused to even consider an alternate location.

In cases where it is obvious that viable alternatives to a risky project exist but are not offered, the public has good reason to question the process; this absolutely has to change if we are to have decisions which serve the public interest.

## Flawed decision making process once the science is in

The decision making process purports to serve the public interest but it appears to miss that goal by weighing the benefits of the project against the risk of the project; this seems at first to meet the public interest but it doesn't because it leaves out the possibility of having project alternatives which would have a far greater overall benefit to risk ratio.

Example

- It may or may not be the case that the benefits outweigh the risks if the PNW LNG project is sited at Lelu Island however the public good would have been better served if the decision was made on the basis of weighing the net benefits of the PNW LNG project sited at Lelu Island against the net benefits of the PNW LNG project at an alternative site. This decision strategy would not be necessary for most projects where there isn't a great deal of controversy because we do not need to find the best solution in every case, only acceptable solutions, but in cases such as PNW LNG, where a very significant part of the public finds the project unacceptable, considering alternatives is necessary in order to make the right decision.
- Another example of where alternatives should be considered when determining the net benefit is where a small group of individuals or even one individual is greatly negatively impacted. In the case of Aurora LNG on Digby Island a small, wonderful unique community will have its quality of life and intrinsic character destroyed. While the benefits of the project may be so great that an assessment would decide they outweigh the loss of this community, there is a need, in the cause of fairness and to address the public good, to seriously consider and weigh the even greater benefit of the project if it were located elsewhere.

## Two aspects of the existing process we are appreciative of

Two aspects of the existing process we are appreciative of are:

- funds being made available for local stakeholders to participate in the CEA process (in the case when the assessment is handled by Canada and not BC)
- CEAA staff being helpful sharing scientific and process information and doing their best for the public interest within their constraints.