

National Environmental Assessment Meeting

Hotspots and Issues

Nov 98

by Yuill Herbert

The Environmental Assessment Caucus of the CEN met in Ottawa on the weekend of November 13-15, 1998.

Some Current Hotspots

- ò Oil Sands in Alberta, 18 developments underway in which no cumulative assessment is taking place
- ò Trans Quebec Maritime Pipeline - accepted one route even though the other one was of a lesser impact.(no clause in EA for least impact solution)
- ò Provincial EA in British Columbia is being rescaled as the Industry believes it is too much of a hindrance.
- ò Cheviot Mine, which threatened Jasper National Park, may have collapsed due to a limited demand for coal in the market.
- ò The Center for Long Term Environmental Action in Newfoundland has appealed the Voisey Bay EA on the basis that it did not include the Smelter in the EA of the nickel mine; however the Judge is not proceeding with a decision and there appears to be no way to force him.
- ò There is a proposal in Newfoundland to export bulk water from a freshwater lake. This has Canada-wide implications as bulk water would then become a raw material under NAFTA. In BC, it has been legislated that bulk water cannot be exported for this reason

ò A major concern in the Maritimes is the Maritime and North East Pipeline that will carry natural gas from Sable Offshore Energy Project to the US via NB and NS. Both will be assessed with Federal EAs

ò Precedent-setting court case called Sunpine in NE Alberta (* more below)

ò Question as to why the Trans Canada highway in NB did not trigger a Federal EA

Other Issues

D Federal Legislation on EA is up for the five year review in 1999 and there will be pressure by industries to minimize its power. However, the act does not go far enough in many areas and the caucus is preparing a strategy to increase its effectiveness.

D The EA caucus will be distributing a form which will ask questions to provide insight on how federal EA are performing across the country. It will ultimately result in a report card on Federal EAs. If you can help with this one, please contact Yuill at yhrbrt@mta.ca.

D A committee composed of industry, government and environmentalists (who have remained at the table for this one) are working on developing a Canadian Standards Association (CSA) standard for EA which will then be adopted by CEAA.

*The Sunpine Court case in Alberta is presently being appealed by the federal government. The Gibson decision stated that all interested parties must have access to all documents collected for an EA regardless of whether or not they were used in the decision. Two questions asked by environmentalists were about Scope and Cumulative affects. Firstly, the scope of the assessment must include all the elements of the project, not just the bridges, but also the road and probably the harvesting that was going to take place (the judge did not rule on this one). Secondly, the cumulative effects must be considered (for example the bridges upstream as well as those downstream, as the cumulative effect of two bridges is important). In the process they uncovered an inconsistency in the legislation. The water and navigation act was transferred from the Department of Transport to the Department of Fisheries and Oceans by an order of council which may be illegal. This potentially means that all permits that have been given by DFO in the past may be illegitimate. Government is appealing this case and is hopping mad.

Jargon:

D EA-Environmental Assessment

D Trigger- how EAS occur, federal ones are triggered by involving federal

D funding, federal lands, federal jurisdiction (waterways, fisheries, etc,)

D CEAA- Canadian Environmental Assessment Agency, government agency that runs

D federal EAs

D CSA- Canadian Standards Association

Long and Hard Fight

by Marilyn Powell

Please note: "CEAA" refers to The Canadian Environmental Assessment Act. "The Agency" refers to the Canadian Environmental Assessment Agency.

It is always a privilege for me to attend the Environmental Assessment Caucus of the CEN which was held in Ottawa, November 13 to November 15, 1998. It was great to have Yuill Herbert representing New Brunswick as well and he has provided you with an excellent detailed report. Presently the Caucus is working on a contract which we hope to have completed in February when we will meet once again with the Canadian Environmental Assessment Agency. If anyone has a story of federal assessment or the lack of it, please contact us and we will gladly include it in the report which will be prepared early in the new year.

Certainly CEAA will come under a great deal of scrutiny in its five year review and it is time to show how lacking the process really is. Within this Caucus we have fought long and hard to maintain essential triggers, only to find in such cases as the highway through Grand Lake Meadows in New Brunswick that they do not kick in, Instead, we are expected to take legal action ourselves, when clearly an assessment on a federal level would be an additional safety net to help ensure protection of the environment. As Yuill has stated, report cards on EA (environmental assessment) will be issued and our Caucus plans to go on the offensive. The political will to implement CEAA is non-existent and this must be addressed.