

Community Engagement in Environmental Assessment for Resource Development: Benefits, Enduring Concerns, Opportunities for Improvement

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Abstract: This paper discusses contemporary issues surrounding the efficiency of environmental assessment (EA) and the effectiveness of community engagement with focus on Canadian practice in the last two decades. Based on a review of the EA literature, we provide a brief overview of the benefits of effective engagement in EA processes. We then identify and discuss three enduring challenges to effective engagement amidst increasing pressures for a more efficient EA process, namely capacity, streamlining of EA processes, and the timing of EA and engagement in the resource development process. The paper concludes with key recommendations to ensure community engagement as a platform for enhancing increased inclusivity in environmental decision making. The paper is part of a special collection of brief discussion papers presented at the 2014 Walleye Seminar held in Northern Saskatchewan, which explored consultation and engagement with northern communities and stakeholders in resource development.

Introduction

Environmental assessment (EA) is among the most widely practiced environmental management tools in the world. Required federally under the *Canadian Environmental Assessment Act, 2012*, under the various laws and regulations of the provinces and territories, and under several land claims agreements, EA is designed to identify and evaluate the potentially significant environmental and social impacts of development projects, and

propose impact management strategies in the best interests of the public and stakeholders (Wood, 2008).

First introduced in the early 1970s, in recent years EA has come under increasing pressure from affected communities and interests, particularly Indigenous communities, to be more *effective*—that is, a participatory, comprehensive, and transparent process resulting in development that delivers benefits to local communities whilst ensuring environmental protection and the preservation of traditional uses (Lajoie and Bouchard, 2006; Carrier Sekani Tribal Council, 2007; Booth and Skelton, 2011a). At the same time, in the present era of economic change coupled with rapid resource development in the Circumpolar North, particularly in the energy sector, EA is also under pressure to be more *efficient*—process and cost efficient, and responsive to the needs of industry and decision makers to generate results and ensure project approvals in a timely manner (McCrank, 2008; Bond et al., 2014). Voutier et al. (2008), for example, argue that EA in Canada, particularly in Canada’s North, has become increasingly complex and there is concern amongst industry that a cumbersome regulatory regime will undermine the attractiveness of Canada’s resource-rich regions for development.

Nevertheless, whether an effective EA is necessarily an efficient one, or vice versa, largely depends on the views of the different stakeholders involved; their roles, interests, and power positions; and their overall influence on the environmental decisions that emerge (Hilding-Rydevik and Bjarnadóttir, 2007; Krønøv and Thissen, 2000). Public participation, including the provision for community engagement, is a necessary component of an effective EA system (Stewart and Sinclair, 2007; O’Faircheallaigh, 2010), and a required component under federal, provincial, and territorial laws, as well as under land claims agreements across Canada. O’Faircheallaigh (2010: 20) defines public participation as “any form of interaction between government, corporate actors, environmental interest groups and the public that occurs as part of the EA process.” Community engagement refers specifically to the voluntary interaction between industry proponents, government agencies, and communities, typically Indigenous communities whose rights and interests may be affected by any given project (Huttunen, 1999; Usher, 2000; Whitelaw, 2009), to identify the benefits and impacts of proposed projects prior to the permit issuance and throughout the project life cycle. The insights and concerns identified through early community engagement can be used by government regulators to determine if a proposed project may have negative impacts on Aboriginal or treaty rights—thus triggering the

government's legal duty to consult (Booth and Skelton, 2011b: 371)—and by proponents to better manage the impacts of their projects.

Though engagement processes serve to improve the legitimacy of environmental decision making regarding natural resource planning and development, a major challenge facing EA practitioners, regulators, industry, and affected communities is how to ensure meaningful engagement in EA so as to maintain the integrity and credibility of the EA process, while at the same time realize a degree of efficiency and timeliness to support decisions about resource development. In this short discussion paper, we address contemporary issues surrounding the efficiency of EA and the effectiveness of community engagement for resource development, and explore a number of enduring constraints to more effective and meaningful engagement. Our purpose is not to provide an extensive representation of all benefits and challenges to effective engagement since the inception of EA, as such coverage is beyond the scope of this paper. Rather, we focus on a particular set of enduring challenges in EA community engagement over the last two decades of Canadian EA practice, and offer suggestions on how to begin improving the process.

In the sections that follow, we first provide a brief overview of the benefits of effective engagement in EA processes. This is followed by an introduction of the three enduring challenges to effective engagement in EA, namely capacity, streamlining of EA processes, and the timing of EA and engagement in the resource development process. We conclude with a discussion of potential opportunities for further research and policy analyses that could help to ensure both an effective and efficient EA process for resource development.

Benefits of Community Engagement in EA for Resource Development: A Brief Overview

Improving community engagement in EA has been a major focus of the EA scholarly community as well as of practitioners, regulators, and resource developers globally (Del Furia and Wallace-Jones, 2000; Doelle and Sinclair, 2006; Hartley and Wood, 2005; O'Faircheallaigh, 2010). The reoccurring standpoint within the vast literature on EA is that effective community engagement is essential for effective EA. As Wood (2003) states, "EA is not EA without consultation and participation, guided by the proper conduct of democratic government in the public decision making" (275). Momtaz and Gladstone (2008: 223) indicate that "sharing information, involving the community at an early stage of decision making, taking community aspirations into considerations and giving the community the ability

to influence the outcome of decision making” are key values governing community engagement. Plate et al. (2009) similarly report, based on their work in the mining sector, that early engagement with Indigenous communities during the mineral exploration stage helps ensure “appropriate input in the identification of valued ecosystem components, the scoping of geographic and temporal bounds, and the planning of baseline studies” (25).

Much of the literature on the benefits of community engagement in EA suggests that the process promotes broadly-based individual and social learning, thus enabling a transition toward sustainability (Fitzpatrick and Sinclair, 2003; Diduck and Mitchell, 2003; Palerm, 2000; Sinclair and Diduck, 2001; Webler et al., 1995). For instance, in his analysis of the Sierilä hydropower station in northern Finland, Huttunen (1999) reports that community engagement in EA increased mutual learning and understanding, which resulted in “a significant awakening to their own empowerment and self-management” (34). Similarly, Fidler (2010) describes a successful case in British Columbia in which the Tahltan Nation were supportive of EA as the mining proponent had taken the initiative to negotiate, early on, with the Nation to work co-operatively to find mutually acceptable development options. Other authors similarly report that effective engagement in EA can lead to more legitimate decision outcomes (Jay et al., 2007; Polonen et al., 2011).

There are also many reported benefits to industry. Stewart and Sinclair (2007), for example, report “access to local knowledge; broadening the range of solutions considered; and avoiding costly litigation” (162). Fitzpatrick and Sinclair (2003) similarly maintain that community engagement “accentuates the effectiveness” of EA and “ensures that the project meets the needs of the public, assigns legitimacy to a project, provides awareness for conflict resolution for stakeholders, provides a forum for the submission and inclusion of local knowledge in the EA decision, and provides for a more comprehensive consideration of factors on which decisions are made” (162).

Although the need for engagement in EA has been widely reported in the scholarly literature, and the requirements for consultations espoused in various jurisdictions’ legislation, practice often falls short of principle (O’Faircheallaigh and Corbett, 2005). Stewart and Sinclair (2007), for example, state: “though the benefits of citizen engagement have been clearly described in both theoretical and practical terms ... the design and implementation of specific engagement programs remain rather contentious” (161). Hartley and Wood (2005) echo this claim, calling for the need to ensure the effectiveness of this valuable component of the EA process.

Enduring Challenges to Effective Engagement in EA for Resource Development

The challenges to effective engagement in EA have been a dominant theme in the scholarly literature and an issue of concern voiced by many public interest groups. Since the 1970s, various studies on issues and challenges surrounding Indigenous peoples' engagement and consultation in EA have been reported, including those challenges especially faced in Canada (CARC, 1996; Armitage, 2005; Baker and McLelland, 2003; Carrier Sekani Tribal Council, 2007; Galbraith et al., 2007). Commonly reported issues include poor public knowledge of planning; legal and licensing issues, which greatly impact the effectiveness of community engagement for resource development (Hartley and Wood, 2005); poor government-industry-community relations resulting in late inclusion of communities in consultation processes; and the frequent downplay of the relevance and value of Indigenous knowledge and interests (Stewart and Sinclair, 2007; O'Faircheallaigh, 2007). Based on a scan of peer-reviewed EA studies published within the past two decades (e.g., in *Environmental Impact Assessment Review*, *Journal of Environmental Assessment Policy and Management*, *The Northern Review*, *Impact Assessment and Project Appraisal*, and *Arctic*), we identify three enduring challenges to effective engagement in EA, and thus effective EA—challenges that are, and will continue to be, of importance as EA in Canada continues to undergo reform, and interests in resource development continue to grow, particularly in western and northern Canada.

Capacity for Engagement

The first challenge concerns community capacity for engagement in EA processes. Several authors have identified participants' insufficient financial resources, such as to carry out their own studies and to hire experts and lawyers, as a major challenge to effective engagement, arguing that funding must be substantially increased (Baker and McLelland, 2003; CARC, 1996; Carrier Sekani Tribal Council, 2007). For example, in Spectra Energy's EA application for the Westcoast Connector Gas Transmission Project with regards to a proposal submitted under the British Columbia *Environmental Assessment Act* to transport LNG from northeastern BC to the northwest coast, seventeen of the twenty-four potentially affected First Nations identified lack of financial, organizational, and technical resources as the major constraint to their ability to effectively participate in the EA process (Spectra Energy, 2014). A general lack of capacity to participate, and a community's lack of knowledge about the project or EA process, have also been identified as key procedural barriers to effective EA (Armitage, 2005; O'Faircheallaigh,

2007; Carrier Sekani Tribal Council, 2007; Plate et al., 2009). Capacity issues affect timelines, staffing, and the ability to develop or assess data, which can then impact poorly on proponents, cause conflict between proponents and communities, and result in significant delays in project approval (Huttenen, 1999).

Another dimension of capacity, and one that has received little attention in the literature, is the increasing demands being placed on local communities to become engaged in EA in order to meet regulatory requirements for consultations. This is particularly the case in resource rich regions that have a history, and projected future, of intensive resource development. Proponents, and regulators, are obligated to consult with local communities; however, there are emerging concerns about participation fatigue. In their analysis of EA offshore in Canada's western Arctic, for example, Noble et al. (2013) identified concerns about strain on local companies and communities regarding consultation requirements for what were regarded as relatively routine project undertakings. More financial resources to enable *more participation* in more EAs for an increasing number of development projects is not a sufficient solution. Rather, emphasis needs to be placed on differentiating between more engagement and better engagement, and ensuring that when communities are engaged in EA, it isn't simply for the purpose of meeting the regulatory requirements of the developer.

Streamlining EA to Achieve Greater Efficiencies

A second challenge to ensuring effective engagement in EA concerns recent streamlining efforts to achieve greater efficiencies. The main efficiency concerns in any EA process are the time and cost involved (Sinclair and Doelle, 2010). Industry proponents are expressing concerns about needless delays, often caused by consultation requirements, echoing the need to ensure efficiency in EA processes (Olsen and Hansen, 2014). In an attempt to address these perceived challenges, there has been considerable streamlining of EA laws to reduce the costs and potential for delays to economic developments (Bond et al., 2014), and to limit the scope of EA application to only major projects.

In 2007, a call for change in the northern regulatory regime led the Canadian government's federal cabinet to issue a directive on streamlining regulations. The directive was developed to ensure that efficiency is a key consideration in the development and implementation of regulations, specifically to improve the timeliness of the EA review process and create opportunities for orderly and responsible resource management (McCrank, 2008). Recent changes to the federal *Canadian Environmental Assessment*

Act have imposed limits on engagement to those who are either “directly affected” or have “relevant information” (Parliament of Canada, 2012a). The intent was to realize process efficiencies and cost effectiveness, but also to ensure more focused engagement on identified “interested parties,” given the evolving and increasing legal duty to consult and accommodate Aboriginal peoples (Gibson, 2012). At the same time, however, there are persistent demands from Indigenous communities and interest groups for a more effective EA process, driven in part by increased demands for more *meaningful* engagement (Booth and Skelton, 2011; Lajoie and Bouchard, 2006; O’Faircheallaigh, 2007). These demands for effectiveness and efficiency highlight the tension between those who wish to streamline EA to reduce the perceived burdens on economic growth, and those who wish to extend the capacity of EA to promote more meaningful inclusion.

Some researchers argue that recent restrictions to the scope of engagement may severely compromise EA effectiveness and invariably present significant challenges for community engagement, thus compromising the legitimacy and benefits of EA (Morgan, 2012; Gibson, 2012). Pope et al. (2013) suggest that the EA community “is increasingly faced with serious and potentially fatal threats to its existence from governments and others to whom impact assessment is nothing but an expensive and time-consuming regulatory hurdle” (7); the authors call for the design of EA processes that could be more efficient in delivering timely decisions, but without compromising effectiveness and meaningful engagement. To ensure the credibility of the EA process, there is a need for research, policy, and case analyses, conducted by EA scholars but in partnership with regulators, industry, and communities, to explore how EA can deliver information efficiently to meet the needs of industry and decision makers and at the same time not ignore the importance of broadly scoped and carefully informed community engagement.

Timing of EA and Engagement in the Resource Development Process

A third, and overarching, concern relates to the timing and influence of engagement in resource development, given the timing of EA in the policy and planning process. Even when community engagement in EA for a resource development project is early, it is late in terms of influencing the nature and path of regional resource development. Many of the decisions that are made about the nature and direction of resource development are made long before the EA process is triggered and consultation initiated (Noble and Gunn, 2009). As such, community engagement in EA is typically limited to influencing decisions about the design of specific development

projects and managing their impacts, as opposed to influencing decisions about whether resource development is even appropriate for the region, or determining the most desirable development future.

There are opportunities for earlier, and arguably more influential, engagement in resource development through regional and strategic assessment processes (CCME, 2009). In the case of offshore Newfoundland, for example, the Nunatsiavut Aboriginal government jointly determined with industry regulators what mitigation measures and restrictions should be applied to future offshore energy exploration on the Labrador Shelf prior to issuing licences for individual development activities (Fidler and Noble, 2012). Regional strategic EA has also been recently recommended by representatives from the Wildlife Conservation Society and Ecojustice as a preferred process for shared development and decision making in Ontario's Ring of Fire, a mineral rich yet relatively undisturbed region of northern Ontario (Chetkiewicz and Lintner, 2014). Similar frameworks have also been proposed for Canada's Western Arctic offshore (cf. Noble et al., 2013) and in British Columbia's Elk Valley (see <http://www.elkvalleycemf.com>).

Opportunities for Improvement

The importance of effective community engagement to efficient EA cannot be overstated. There have been volumes of scholarly articles, policy reports, and position papers on the state of participation and engagement in EA, particularly with respect to Indigenous community engagement and the potential benefits and enduring concerns. However, in the face of growing demands for resource exploitation and industrial development in Canada's western and northern regions, coupled with increasing pressures from government and industry for a more efficient EA process, there is need to consider a different approach to participation and engagement in EA.

Based on the concerns identified in this paper, there is a need to focus attention on the development and implementation of a more coordinated and effective approach to community engagement in EA amidst demands for an efficient and timely EA process. To improve a community's capacity for meaningful engagement prior to EA and throughout the project life cycle, governments and project proponents need to prioritize and establish an ongoing source of financial support so communities can better engage by addressing key technical and logistical issues. We also suggest that adopting a more strategic approach to community engagement, through regional strategic assessment processes (Noble et al., 2013; Chetkiewicz and Lintner, 2014), could potentially allow communities greater opportunities to influence the nature and path of regional resource development decisions

versus reacting to project proposals (Gibson et al., 2010). However, notwithstanding the recognized potential, regional strategic assessment processes are currently outside the scope of legislation in most jurisdictions, and mechanisms to ensure that engagement at the strategic levels will influence regulatory-based resource development decisions require further development.

In conclusion, as McCrank (2008) highlights in his report, governments need to have an ongoing dialogue with community leaders and industry about implementing lasting improvements to the scope, role, timing, and amount of consultation and engagement for resource development. To this end, we suggest the need for further research designed to examine the perspectives and experiences of government, industry proponents, and communities to identify reoccurring failings with, and expectations for, engagement processes in EA. Such effort will provide practical insights to improve current practice, and is a necessary step to ensuring both an effective and efficient EA process for resource development.

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