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ENVIRONMENTAL IMPACT ASSESSMENT:

GOVERNMENT DECISION-MAKING IN PUBLIC

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APCA/FACE

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This paper is directed to public servants, industry representatives, and the public who have or may be involved or interested in environmental impact assessment during planning.

The right to be heard and the right to be informed are well established. A prudent government decision-maker ignores these at his peril. Government decision-making involves "trade-offs" and the federal environmental assessment and review process is one public way of deciding what these should be. The process helps determine, early planning, the environmental acceptability of proposals that require federal lands, property, or money. This may include a public review by an independent panel that reports directly to the Minister of the Environment, giving advice about the proposal. Public participation is an essential feature of each review and helps ensure that the broadest spread of interests is considered in the decision-making process.

Times are changing and we are changing with them. And these changing times require governments to listen to a much broader constituency on any given issue than they have had to in the past. The public is not as trusting as it used to be and it is much riskier today than in earlier times to ignore the demand - some would say the right-of the public to participate in government decision-making.

The right to be heard and the right to be informed are well established today. The prudent planner ignores them at his peril. The Canadian public is among the best informed in the world and their

capacity to provide cogent and useful comment is at an unprecedented height. Only a foolish decision-maker would wish to deny himself the benefit of their views.

The word "trade-off" has a pejorative meaning in the minds of some. In the contect of government decision-making it should not. Government is properly in the business of making trade-offs. What I will be describing today is one very public way of deciding what these trade-offs should be. I refer to the federal Environmental Assessment and Review Process, known as EARP.

Before World War 1 there was a generally accepted principle of laissez-faire in economics and social planning. But the twin shocks of the war and the depression of the 1930'S forced governments to re-evaluate their social responsibilities and to intervene in citizens' lives on scales that would have been inconceivable a generation earlier. People learned to look to their governments to protect them from the worst aspects of economic cycles and other disasters.

By the 1950'S, when I was at university, students, myself included, generally accepted the idea that governments and other institutions had learned to cope; that is, they could be counted on to manage change while taking reasonable account of the needs of individuals and groups. I'm not sure if we were particularly naive but today few students or others would take that view.

During the 1960'S, in Canada as elsewhere, there was increasing apprehension about the direction in which our governments were taking us. In the environmental field, the results of such large-scale impacts as oil tanker spills and the revelations that emerged from Canadian-American studies on the Great Lakes caused much concern. Attempts by governments to reassure their publics often added to a growing credibility gap. There were demands for a greater say in the rules designed to protect society, particularly where public health and environmental integrity were involved.

Initial efforts to curb or roll back gross pollution were followed by a recognition that we should not repeat in the future mistakes of the past. Thus the determination to build environmental parameters into planning and design was born. This resolve was strengthened in Canada during the Berger inquiry on a proposed pipeline through the Mackenzie Valley. That inquiry brought out clearly the hidden costs, primarily environmental and social in nature, entailed in the proposal and it also helped create expectations about what public consultation could and should be. Today, the Federal Government and virtually all the provincial governments have environmental impact assessment processes which ensure ample opportunity for open discussion and public input.

There is another characteristic of today's society which warrants comment. I prefer to the complexity of modern decision-making, particularly the extraordinary degree of interrelationship between goals and activities in one sector and impacts in other sectors of society. If I may paraphrase the old adage - no proposal is an island unto itself.

This complexity, reflected in vast amounts of detailed information, has dramatically affected the working of governments particularly the capacity of the political process to control decision-making. Stated simplistically, because of this deluge, those elected to office are increasingly obliged to rely on experts for advice. What is potentially disturbing about this is that in formulating that advice, the experts necessarily engage in subjective value judgments while seeking to undertake objective technical analysis.

Of course, their values reflect their individual backgrounds and the professional milieu in which they work. I know from my personal experience in managing experts that technical judgments needed to help formulate policy are often not as clear-cut as one might expect or hope. Once the jargon is penetrated, one often discovers a number of subjective value judgments that could be sincerely contested. Faced with recommendations based on extensive technical analysis, most politicians have great difficulty identifying those hidden elements of subjective judgments, even though these may have been crucial in determining final recommendations.

These judgments need to be tested earlier in the decision-making process if we are to be confident that they are well based and that they reflect, to a reasonable degree, the values of our society. One good way of doing this is to expose these judgments to a reasonably focussed and structured, but fair, public discussion.

And that is part of what happened when the Federal Government introduced its Environmental Assessment and Review Process (EARP) in 1973.

Basically, the process is designed to help determine the environmental acceptability of proposals that either require federal money or use federal lands or property. In so doing it also helps ensure that environmental matters are given appropriate weight in planning along with economic and technical factors. To be most effective, it should be applied early in planning before irrevocable commitments are made or unalterable changes occur.

There are three principal features that, taken together, set EARP apart from similar processes within other jurisdictions.

First, the process is not statutory. It was established by Cabinet directive. Procedures are not rigidly prescribed and there is considerable scope to allow for adjustment of the process to fit the context. For that reason it is still evolving. We are learning from experience.

Second, it embodies the principle of self-assessment. Government departments are expected to carry out their own initial assessment of a proposed activity, seeking technical expertise from other departments or the private sector, as necessary, and to decide whether the activity entails a potentially significant environmental impact. They may also involve the affected and interested public at this

point. If they conclude that the potential impact is significant - and this can include their judgment of probable public concern - they should recommend that their minister refer the proposal to the Minister of the Environment for a full public review by an independent panel.

Third, the Cabinet decision, setting out the process, specifically indicated that the public be informed and consulted during the review process, normally through a sepcially appointed panel.

Less than one *per* cent of all proposals assessed are referred for formal public review. The others are deemed to have insufficient impact, in some cases after incorporating mitigating measures. Usually the referrals are major enterprises, such as airport and harbour expansion, oil and gas production and transport, nuclear and hydroelectric projects, and some rail and highway projects.

Each referred proposal is reviewed by a panel which is appointed for that purpose and which reports to the Environment Minister. Each panel provides advice; it does not give approval or make decisions. That is left in the hands of the political process or regulatory board. Panel members come from all walks of life, inside and outside the federal public service, and are chosen for their knowledge, experience, or expertise and for lack of involvement in the proposal. Usually there are four to six members.

After the process was brought into being, the Federal Environmental Assessment Review Office, called FEARO for short, was established to administer the process. Its Executive Chairman, currently myself, reports directly to the Environment Minister. Its staff are responsible for advice on process and serve variously as chairmen and secretariat staff for panels. They co-ordinate the review of technical material provided by the proposal's proponent, encourage public participation, and act as the point of contact for government departments, industry, environmental organizations, and other governments.

The first review was held in 1976 with one meeting lasting one day. It was, as all have been, a learning experience. With hindsight one can see the procedural deficiencies but the major problem was that the review did not begin early enough. From that experience we learned to prepare better and we also learned that public credibility is essential for a successful assessment process. The second review was held in 1977. It was still far from present standards but it also led to more improvements. In sum, we learned to ask for a better environmental impact statement from the proponent when the first one was judged deficient; to make the impact statement - the EIS - widely available for a reasonable period before public meetings; to advertise locally and to make documents easily and widely available; and to hold meetings in several centres if potential effects could cover a broader area.

We learned, are still learning and the process is evolving accordingly. Let me illustrate with our biggest challenge yet; the review of the proposal to produce oil and gas in the Beaufort Sea and transport these southward by pipeline, ice-breaking tanker or by both means.

This proposal is one of the most remarkable ever considered in Canada and the review is by far the most encompassing ever held under EARP. The panel will be looking at all activities related to the proposal north of 60°, considering not only the potential biological and physical impacts but the social ones as well. Because of the magnitude of the review, several new elements have been introduced to improve the ability of the public to participate.

There is funding of intervenors, as a pilot program; the panel is made up entirely of persons outside the public service (including two northern natives); and policy position papers will be submitted by a large number of government sources (the territorial governments and 12 federal departments and agencies) showing how the proposal will affect and be affected by their programs, policies, and activities. The information from the governments, the public and the proponents - Dome, Esso, Gulf - through their environmental impact statement, will reveal a picture of Canada north of 60° that has never been seen in such breadth or detail before.

To ensure that northerners haveagood understanding of the review and have an opportunity to participate, secretariat members have visited

26 communities from the western to eastern Arctic and two in northern Labrador in preparation for full panel meetings in most of these locations. This is a far cry from a one day meeting in one location six years ago.

While we have worked to improve the panel review process we have also turned our attention to building a sounder, more effective scientific base for environmental impact assessment. In essence, the purpose is to determine scientific and ecological short-comings of assessments and indicate what improvements can be made by more rigorous application of scientific methods and ecological concepts. Dr. Gordon Beanlands, on today's discussion panel, who has been leading this effort, is, of course, the one to tell you about that.

FEARO has edited and published a summary of environmental assessment practice in Canada under the auspices of the Council of Canadian Resource and Environment Ministers; all the provinces and the Federal Government co-operated to make this possible.

FEARO is also preparing to publish an annula directory of environmental and social impact assessment research activities in Canadian universities and other institutions. It will list courses, programs, research, and publications and is meant to promote understanding of environmental and social impact assessment and to help teachers, students, industry, governments and FEARO itself stay abreast of developments in these fields.

Often it has been difficult to separate environmental and social issues; review participants in some instances have insisted that the one should not be considered without the other. Because social impact assessment is becoming increasingly important, FEARO is preparing a set of guidelines to improve the social impact assessment aspect of environmental reviews.

I would like to think that as a result of our experience and our research Canada, in the next few years, will become a world leader in impact assessment.

The changes to which I have referred have placed new demands on planners and managers; nowhere is this truer than for environmental and related social issues. Nonetheless, if these issues are given prominence at the earliest stages of a proposal; if there is public consultation and participation at appropriate points; if managers sit down with environmental and social planners just as they do with design engineers and accountants, then problems in securing approval or support for development decisions can be greatly reduced. More important, the quality -the long-term viability- of the decisions should be enhanced to a considerable degree.

When a broad range of interests is well represented and ample opportunity is provided to influence government decision-making, the results can be very good. On some occasions, under pressure to move fast and make use of a strong mandate on a given issue, officials are unable to engage in a broad consultative process. Speed and

efficiency are the watchwords. I have nothing against speed in the decision-making process but if it is achieved at the expense of giving insufficient weight to other legitimate values and, perhaps, ignoring, for example, long-term environmental damage, then such decision-making is not really efficient. A well structured public consultation process can go a long way towards ensuring that the appropriate spread of interests is considered and that the trade-offs are made in a "up-front" fashion.

The alternative is simply unacceptable - a growth in the government/ public credibility gap existing in many nations today. I need scarcely add that such growth could have serious implications for our democratic institutions in the unsettled years that lie ahead. What in fact we need in these difficult times is just the opposite - a growth in confidence in our basic institutions. I believe that open decision-making and full public consultation can contribute in a major way to that goal and I am determined that EARP should play its part in this wider objective.