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Avoiding The Traffic Jam

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AVOIDING THE TRAFFIC JAM

I have titled this paper "Avoiding the Traffic Jam". What it is really about is the need for effective and timely public consultation in the development of governmental decisions, including project approvals, transportation-related or otherwise.

Transportation planning is one of the most complex of fields. Most of you are experts in it. I am not. I am talking to you from the perspective of a manager of an environmental assessment process with a responsibility to ensure, first, that when decisions are made about major transportation proposals or other developments, the important facts and perceptions about the possible environmental consequences of these decisions are out in the open for all to see and, second, that those affected or interested have an opportunity to influence these same decisions.

Changes have been and are occurring in the decision-making processes of government. These changes can place new demands on planners and corporate managers and sometimes they give environmental issues a central role. I want to pass on to you my experience that if environmental and related social issues are given prominence at the earliest stages of project planning or major decision-making, if the public is informed and consulted at appropriate points and if corporate managers sit down, in their own boardrooms, with environmental and social planners just as they sit with design engineers and accountants, traffic jams in securing project approvals or support for development decisions can be greatly reduced. More important, the quality - the long-term viability - of the decisions taken should be considerably enhanced.

I am not here suggesting that Canadian transportation planning is at present generally characterized by corporate or government insensitivity to environmental and social issues or reluctance to involve the public. There may be instances of this but most governments and corporations are now working to secure public input into their plans and to obtain good information about environmental and related social effects of particular proposals. I know the CTC makes impressive efforts in this regard. My point is that willingness to involve the public has substantial benefits for all concerned.

There are many reasons for this. Times are changing, and we are changing with them. The changing times require governments to listen to a much broader constituency on any given issue than they ever 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 generations to ignore the demand - some would say the right - of the public to participate in government decision-making.

Indeed efforts to bypass public discussion of environmental or social impacts normally lead to future problems down the road. A project promoter may appear to be on a clear expressway but just over the next rise, or perhaps the one after that, are persons with a different set of values and priorities chipping away at the pavement - usually with hand-tools. Sometimes it is possible to race by before they get organized. But more frequently, these days, they are looking for and finding friends with bulldozers. Stated more positively and more seriously, the right to be heard and the right to understand are well established today. The prudent planner ignores them at his peril. The Canadian public may well be the best informed public in the world, and their capacity to provide cogent and useful comment and suggestions is at an unprecedented height. Only a foolish decision-maker would wish to deny himself the benefit of these views.

Let us consider what has led us to where we are today. Twenty-five years ago I was a student at the University of British Columbia. At that time university students, myself included, generally accepted the idea that their governments, their institutions, could "cope", that is 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 few students or others would take that view today.

Fifteen years ago, towards the end of the 60's, many values were under challenge. A large group of people in North America, principally the "youth group" - 15 to 25, felt that their view of the world was being ignored by all of the institutions of power. And they were not alone. A fair number of "older people" - 25 to 40, supported both their views and their often amusing and sometimes more disturbing tactics of protest.

Today, while protest is still voiced, the decibel count has weakened. No doubt there are many reasons for this, including a greater degree of cynicism if not realism about the way in which power is exercised in western societies. A more positive reason could be that our institutions are changing in response to these pressures. They have become more open although many argue that they need to be more open yet.

Some two years ago, at a conference in Quebec City, a very senior official of the Government of France, speaking on the topic "the challenges of the public administrator in the 1980's" expressed the view that the public administrator would increasingly have to play the role of arbiter or referee between competing well organized interests in society. He contrasted this with the more traditional role of seeking to embody public consensus and to implement it in a

somewhat paternalistic fashion. On January 27 last, a Gallup poll was released which tends to support this view. The poll showed that 25% of Canadians believe that giving people a greater say in government decisions should be the highest priority of government over the next 10-15 years. Only inflation was given a higher rating (48%).

A key characteristic of this societal change is the complexity of modern decision-making, particularly the extraordinary degree of interrelationship between goals and activities in one sector and impacts in other sectors - some of which have competing goals. If I may paraphrase the old adage, "no project or proposal is an island". This complexity - with its accompanying bombardment of vast amounts of detailed information - has dramatically affected the workings of government, particularly the capacity of the political process to control decision-making. Stated simplistically, those elected to office are increasingly obliged to rely on "experts" for advice. What is disturbing about this development and what makes it relevant to my theme today is that in formulating their advice, the experts must make many subjective value judgements under the umbrella of technical analysis.

The values reflected usually come from the individual backgrounds of these experts and from the professional milieu in which they function. I know from years of managing experts that technical judgements needed to influence policy decisions are often not clear-cut. Once the jargon is penetrated, one often discovers a number of subjective value judgements that could be sincerely contested. Faced with recommendations based on extensive technical analysis most politicians have great difficulty identifying those hidden elements of subjective judgement even though they may have been crucial in determining the final recommendations. Those judgements - those values - need to be tested much

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 very good way of doing this is to expose these value judgements to a reasonably focused and structured, but fair, public discussion.

There is another reality of government which can be usefully addressed, at least in part, through appropriately timed public discussion. In theory, governments are designed to reflect, as far as is practicable, a wide range of interests in society. Thus such disparate groups as consumers, farmers, forestry interests, fishermen, industrialists, scientists, health experts, environmentalists, energy source developers, transportation system managers, miners, union leaders and lawyers have parts of government to which they can relate in a particularly close and often sympathetic way. These parts of government are supposed to bring the perspectives of their "clients" to bear, at least in part, on government decisions of concern to them. This can lead, and sometimes should lead, to sharp differences of view within government.

Such dichotomy is healthy and when the various interests are well represented and ample opportunity is provided to influence decision-making, the results can be very good. On other occasions, under pressure to move fast and to make use of the strong mandate on a given issue possessed by a particular department, officials are not able to engage in the broad consultative process that might be ideal. Decisions reflecting much narrower interests can result. Speed and efficiency are the watchwords. I have nothing against speed in decision-making but if it is achieved at the expense of giving insufficient weight to other legitimate values and, perhaps, of ignoring, for example, long-term environmental damage, then such decision-making is not really efficient. A 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 an up-front fashion.

That word "trade-offs" in the minds of some has a pejorative sound. It should not have. Government is properly in the business of making trade-offs. What we are discussing here is the manner in which this should be done. I recall a Minister, some years ago, telling a group of us, when I was in Environment Canada, that we officials should not be making trade-offs - that was the business of ministers. In a democratic government such as ours that is certainly true. The problem, as I noted earlier, is the complexity of the issues to be addressed. The exercise of value judgements often entails some kind of trade-off and the need, because of limited ministerial time, to simplify issues through interdepartmental consultation, sometimes necessarily adds further trade-offs. I believe that officials would benefit greatly from the opportunity to have at least some of the more important issues calling for trade-off discussed publicly. The burden of judgement carried by such officials would be placed where it should be - in the political arena. Ministers would also benefit because they would be able to see very clearly the different perspectives which exist in our society on given issues - different perspectives which are not always reflected in as clear a fashion inside the government structure.

There is another aspect of this matter which deserves emphasis, particularly if one is concerned, as I am, about the credibility of our institutions.

Trade-offs inside government are not always visible. Those among the public who espouse a particular point of view cannot always be certain that that point of view was given proper attention. Let me illustrate from my own experience. For some years I headed Environment Canada's Environmental Protection Service (EPS).

EPS, when developing pollution control regulations, has long followed the practice of consulting, through task forces or symposia, affected industry and provincial officials. I know from being inside the system that those task forces were pretty lively, that EPS officials sincerely sought to reflect an environmental perspective. Yet that was often not the perception of those in the private sector who were outside of this consultative process. I remember vividly an "encounter" session over two days between EPS officials and interested persons from the public discussing our processes. My staff were genuinely shocked by the extent to which they were perceived as "being in bed with industry", as it was put. It is not enough for me to say that those perceptions were wrong; the public has a right to know what is going on. At a more subtle level perhaps, and harking back to my comments about value judgements, there is also the very real possibility that the personal value systems of those involved in such task forces would benefit from dialogue with those outside the professional expert brotherhood. Certainly the values reflected in the task forces as a whole would be influenced by such dialogue. It was in recognition of these factors that the Environment Minister has directed that, as part of Environment Canada's new public consultation policy, broader consultation should in future be the norm in developing regulations.

Another important issue is what might be called the reality of consultation and here I should sound a warning note. The public must be treated with respect. To use public consultation to "legitimize" decisions already taken while appearing to have an open mind is essentially dishonest. The net result can only be a reduction in the credibility of government. Going through the motions is simply not good enough. The central implication of that dictum is very clear. Public consultation must occur early in the decision-making process before minds are made up. Government institutions in many democratic societies

are already dangerously lacking in credibility in the minds of many and we must not make that serious problem worse through sham consultative processes.

As you may know, both federal and provincial governments in Canada have a variety of means of securing public comment on various kinds of projects or proposals. I would like to use the one I know best - the Federal Government's Environmental Assessment and Review Process or EARP for short - as an example of an evolving system which can, I believe, go a long way towards meeting some of the concerns I have outlined today.

EARP applies on a mandatory basis to all federal departments and on a voluntary basis to Proprietary Crown Corporations and certain regulatory agencies. It applies both to federal programs and activities and also to developments in the private sector where federal lands, properties or monies are required for an undertaking.

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

The first of these is that it is based upon the principle of self-assessment. Government departments are expected to carry out their own initial evaluation of the 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. Should they conclude that the potential impact is significant, (and this insufficiently well defined term can include their judgement of likely public concern) they will recommend that their Minister refer the project to the Minister of the Environment for the

institution of a full public review by my office, the Federal Environmental Assessment Review Office (known as FEARO). This approach keeps the decision authority, and the responsibility for it in the hands of the manager primarily concerned. The purpose is to develop environmental consciousness among those who otherwise might not consider environmental concerns to be their responsibility. I might add that FEARO sits outside the normal departmental structure - it is not a part of Environment Canada - although it reports directly to the same minister, John Roberts.

The second feature is that the Cabinet decisions setting out the process specifically instructed that the public be informed and consulted during the review process, normally through the mechanism of a specially appointed panel, drawn from within or outside the public service.

The Panel, as its first step, prepares and publishes a set of guidelines for the preparation, by the project's proponent, of an Environmental Impact Statement. Depending on the nature, scale, and sensitivity of the activity, a series of public meetings may be held to hear comments about these guidelines before they are made final. In fact, as the process continues to evolve, such "guidelines meetings" are becoming the norm

After the Environmental Impact Statement is submitted and if the panel finds that it has generally met the requirements of the guidelines, it is made public and forms the basis for an extensive set of public meetings. The public is then able to comment on the statement's deficiencies or offer additional information. The proponent is expected to participate fully in these meetings to explain the Environmental Impact Statement and to answer specific questions or requests for additional information from the panel. The public meetings are informal,

witnesses are not under oath and legal cross-examination does not occur. The process is designed to stimulate participation and avoid any sense of intimidation.

Following these public meetings, the panel reaches the conclusions it deems appropriate and makes its recommendations in a report to the Minister of the Environment, who normally releases it to the public immediately thereafter. These recommendations are of course not binding but past experience has shown that they are usually accepted and respected.

The third feature is that the Assessment and Review Process is not statutory. It was established by a Cabinet directive. Procedures are not rigidly prescribed and there is considerable scope to allow the adjustment of the process to fit the context. It is for that reason that I have spoken of it as evolving. We are learning from experience.

The list of projects in the transportation sector which have been or are being addressed by EARP panels is extensive. Past ones include: Shikwak Highway Project, Northern B.C. and Yukon; Roberts Bank Port Expansion, near Vancouver, B.C.; Banff Highway Project; Boundary Bay Airport Reactivation, near Vancouver, B.C.; and the Arctic Pilot Project involving the Marine Transport of Liquefied Natural Gas (both Northern Component and Southern Terminals Component).

Those now being addressed are: the Alaska Highway Gas Pipeline Proposal, Yukon Territory Section (which I will be chairing personally); Beaufort Sea Hydrocarbon Production Proposal (which includes the possibility of either or both Marine Transport and Pipeline) a second phase of Banff Highway Project; Fraser River Shipping Channel, in B.C.; Quebec Port Expansion, Quebec City; and

Vancouver International Airport Expansion, Vancouver, B.C., another project for which I have personally taken on the task of panel chairmanship.

Most recently, the Minister of the Environment has referred to us for review, C.P. Rail's proposal for twin-tracking through Rogers Pass in Glacier National Park. The CTC has made a basic decision that the project should go ahead. Our review is intended to help it go ahead in an environmentally acceptable way.

In addition to conducting environmental assessment reviews, and administering other elements of the EARP, one of the more important functions of my office is to seek to improve the effectiveness of environmental assessment in Canada. We try to advance the state of the art, both scientifically and procedurally. We are concerned with the costs and effectiveness of the process. We are trying to make it more efficient for everyone - not only for ourselves in government and for the public, but for the nation's entrepreneurs whose initiatives need not wither and die under the regulatory microscope. I would like to give you examples of our activity in this area.

One of the more chronic potential shortcomings of environmental assessment in the regulatory context is duplication. Project proposals should not be subjected to waves of environmental reviews. If properly done, one should be enough. We have not fully achieved this, but we are working towards it. We are talking to our provincial counterparts to ensure that in those instances where both provincial and federal assessment procedures apply, we apply them cooperatively so that information needs only to be gathered, presented and discussed once. We find that our process and most of the provincial processes are sufficiently flexible to permit this. The will is certainly there and where it has been tried, it has worked well. A relatively recent illustration in the

transportation field is the examination of alternative southern terminals of the Arctic Pilot Project - one in Quebec and one in Nova Scotia - where we worked with the provincial processes in both instances. Beyond this, we not only talk bilaterally with our provincial colleagues in this field but also meet annually with all of them to exchange ideas and address common problems.

With respect to regulatory authorities such as the CTC and NEB who must also deal with environmental issues, we ought to work in a complementary fashion. We see ourselves as being in a good position to draw out the environmental and related social issues in a way that can be used by such authorities in making their judgements. We see environmental assessment preceeding regulation. We see environmental assessment being brought along from the conceptual stages of a project and being dealt with continuously throughout project planning so that when a project is sufficiently advanced to submit to a regulatory board or commission, the environmental problems and solutions have already been addressed as well as publicly aired.

The approach I have just outlined reflects the Cabinet decisions establishing EARP in that environmental assessment is supposed to occur well before development decisions are made and to be seen as an input to such decisions. EARP exists to generate information in a timely succinct way, not to make decisions. Our assessment panels should not appear to be competing with duly established decision-making bodies.

On the scientific side, we are trying to advance national understanding of the application of ecological principles to environmental assessment. I am sure any of you who have had much to do with the preparation of an environmental impact statement which ultimately would be judged by government, have been frustrated

by the "do everything" approach often taken. Frequently, an air of uncertain conservatism results in a great long shopping list of every ecological factor that could be related, however remotely, to the proposal. Instead of complaining about this being irrational, wasteful and scientifically dangerous, we often find proponents willing to go along because arguing about it would be even more time-consuming and costly.

Under our sponsorship, as well as that of Environment Canada, Dalhousie University and industry, the Institute for Resource and Environmental Studies at Dalhousie has been examining this whole question for almost two years. We expect their final report to be out this Summer. They are delving into such issues as what is ecologically significant, what ecological principles apply and what ecological parameters really need to be studied in order to arrive at a scientifically defensible conclusion.

Under the direction of Gordon Beanlands, the technique used to get at these questions has been a series of 10 invitational workshops held in various parts of the country. This has been enormously successful. One of the reasons it has been successful is the cooperative spirit with which it has been carried out. Each workshop has had about 15 participants drawn from all of the ecological sciences, and equally importantly, drawn from universities, consulting companies, industry and the provincial and federal governments.

These practitioners of diverse disciplines and responsibilities talked to each other for almost three days at each of the workshops about issues on which they had never before taken the time to focus. Even without a final report, a great deal of good has already been done through these exchanges. Hopefully, the

report will become an authority on the subject, to be applied and refined by those involved in environmental assessment in years to come.

Finally I want to mention another of our process experiments, the advance funding of those intervening at our public meetings. The Beaufort Sea assessment review is being used as a pilot project for providing money in advance to those who apply for it and meet certain criteria. As much as one million dollars may be distributed for this purpose. A group at Queen's University will be evaluating this pilot project and government will no doubt be making judgements in due course about whether such funding should be extended to other reviews.

If there is a subject which warrants public discussion, it must surely be the adequacy, efficiency and techniques of public consultation in government decision-making. We do not want traffic jams - we want ever better decisions. I said earlier that the federal EARP is flexible and evolving. I would welcome discussion aimed at ensuring that that evolution goes in a direction that the public wants and which serves our country's needs.

Thank you.