

## **The Unification of the Environmental Assessment Process**

Misalignment and lack of unification between federal and provincial/territorial requirements for environmental assessments (EAs), continues to discourage business development in many areas of Canada. The current process has cost the Canadian economy millions of dollars in lost productivity and investments. A truly unified single process would reduce duplication, reduce costs for all concerned, and reduce the period of uncertainty associated with decisions that are pending.

The 2009 Federal Budget committed 40 billion dollars of stimulus funding, a large portion of which is devoted to identifiable infrastructure projects, such as roads, bridges, and other projects requiring environmental assessments. Infrastructure spending invests directly into the Canadian economy through providing local employment and stimulating spending.

Every province and every territory throughout the country has a number of “shovel ready” projects that already have Provincial Environmental Assessment Certificates but are still caught up in the Federal Environmental Assessment process. With approvals in place they could proceed without costing taxpayers extra money for incentive packages; they would provide jobs and hope for a more stable future and would contribute millions of tax dollars to government coffers.

In this critical time of infrastructure development and government-supported economic recovery, it is paramount that federal and provincial/territorial environment assessments are unified. An efficient, coordinated federal and provincial/territorial EA process is necessary to fully, and timely, reap the intended economic benefits of stimulus spending.

EAs are often conducted by multiple responsible or regulated authorities. Throughout the country, both levels of government have varied organizations to conduct and coordinate EAs. In Canada, British Columbia and Ontario, for example, there exists:

- the Canadian Environmental Assessment Agency office ([www.ceaa.gc.ca](http://www.ceaa.gc.ca)),
- the British Columbia Environmental Assessment Office ([www.eao.gov.bc.ca](http://www.eao.gov.bc.ca)),  
and
- the Ministry of the Environment  
(<http://www.ene.gov.on.ca/en/eaab/index.php>).

The Canadian Environmental Assessment Agency (CEAA) was established in 1994 and holds the responsibility to review projects to ensure the continued sustainable development of Canada as per the Canadian Environmental Assessment Act. Each year, approximately 6000 environmental assessments are conducted under the Act. Since the Act came into effect in 1995, over 70,000 projects have been assessed.

One of the purposes of the act as stated is to promote sustainable development and thereby achieve or maintain a healthy environment and a healthy economy (section 4, sub b) and to promote cooperation and coordinated action between the federal and provincial governments with respect to environmental assessment processes for projects (section 4, sub b.2).

In January 1998, the Canadian Council of the Ministers of the Environment, with the exception of Quebec, signed the “Canada Wide Accord on Environmental Harmonization” to lead to improved cooperation across the country. To date, Canada-Provincial/Territorial Environmental Agreements on Environmental Assessment Coordination have been developed for six provinces and one territory.

Recognizing a need for greater efficiency in the Act, Bill C-9 came into effect on October 30, 2003, and created the position of the Federal Environment Assessment Advisor: a position authorized to set timelines and ensure the proponent and public are advised of the scope of the assessment.

In October 2007, the Cabinet Directive on Improving the Performance of the Regulatory System for Major Resource Projects established the Major Projects Management Office (MPMO), a Natural Resources Canada streamlining initiative for major natural resource projects only, through collaboration with other federal departments and agencies, including CEAA. The initiative includes the development of a project agreement between pertinent federal departments, committing to timelines with the intent to improve the effectiveness and efficiency of the regulatory system for major resource projects.

Although additional resources in the form of the Major Projects Management Office are dedicated to improving process, the federal approach to Aboriginal consultation still requires coordination and clear roles and responsibilities that are needed to make them efficient and effective.

Within the context of federal and provincial/territorial EAs, we are aware of a few specific issues:

- insufficient resources applied to management of the process at the federal level
- basic incompatibility of federal and provincial processes (varying from self-assessment to very structured processes) makes harmonization especially challenging
- the federal government has created a parallel group (MPMO) in a separate ministry (Natural Resources Canada) rather than resolving the problems within CEAA

Canada’s EA system has been said to be “in crisis” due to inefficiency, inconsistent standards and duplication. The federal government’s “Smart Regulation: Report on Actions and Plans” (March 2005) identified environmental assessment consolidation as a priority. The report found, through consultation with industry, that although the environmental assessment was viewed as highly important, the process was found to be slow, lacking in clarity and occasionally of uncertain benefit to the environment.

Based on information available on the Canadian Environmental Registry internet site, 369 out of the 6531 screenings commenced in 2004 (less than 6%) still had Notices of Decision pending at the end of 2006. For screenings commenced in 2005, the number was 1057 out of 6320 (17%), and for those commenced in 2006, it was 2172 out of 5205 (42%). [<http://www.ceaa-acee.gc.ca>] Despite the cabinet directives and federal department coordination to date, wait times for environmental assessments, caused by a

lack of information sharing, bureaucratic red tape and duplicative federal/provincial requirements continue to discourage business development in many areas of Canada. Present efforts to improve the process, (e.g. MPMO) do not address or eliminate the duplications between federal and provincial assessments.

The harmonization problem is sufficiently widely recognized that the Canadian Council of Ministers of Environment has struck a task group to deal specifically with environmental assessment. Furthermore, we understand that the CEAA is undergoing a mandated 5 year review process, an opportunity that should be used to consult with stakeholders experienced in environmental assessments, eliminate duplication and unify environmental assessment processes.

### **Recommendations**

That the federal and provincial governments work together to:

1. Finalize Canada-provincial/territorial agreements with every province/territory by fall 2010. Set a target that 80% of all harmonized reviews (both provincial/territorial and federal assessment) meet the timelines as set out by the province/territory in which the project occurs;
2. Continue to review the implementation of the Canadian Environmental Assessment Act to ensure the efficient and transparent processing of all Federal Environmental Assessments;
3. Urgently examine how to expedite provincially-certified projects through the federal EA process, whether covered by the Major Projects Management Office or not;
4. Ensure Federal officials responsible for the CEAA 5-year review engage in open consultation with stakeholders to support elimination of duplicative review;
5. When they become available, review the recommendations of the CCME Environmental Assessment Task Group with critical stakeholders to identify promising approaches;
6. Use information from the above to inform a redraft of the legislation and regulation in both jurisdictions to permit a unified process led by the province with technical participation by federal regulators in areas of federal jurisdiction and interest by 2010;
7. Develop framework supporting a “one project – one assessment” approach to environmental assessments;
8. Coordinate a clear process for inclusion of First Nations early in the process that allows for clarity and mutual benefit by defining roles and responsibilities for Aboriginal consultation.