

SUBMISSION

PUBLIC CONSULTATIONS ON PROPOSED REFORM OF THE FEDERAL
ENVIRONMENTAL ASSESSMENT AND REVIEW PROCESS

KATIVIK REGIONAL GOVERNMENT

MAKIVIK CORPORATION

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INTRODUCTION

Kativik Regional Government and Makivik Corporation welcome this opportunity to meet with FEARO officials and to express our views and concerns as part of the public consultation process related to possible improvements to the federal environmental assessment and review process.

In his introductory comments to the federal Discussion Paper the Minister of the Environment notes that the current federal environmental assessment and review process is flawed in a number of ways. We share this belief and agree that reform of this process is now essential.

The objective of these public consultations should therefore be twofold. First of all, it will be necessary to develop an understanding of the limitations and problems of the current process. Secondly, we can then turn to consideration of effective and administratively feasible proposals for reform of the environmental assessment and review process.

In this paper, comments on the current system will be made from the perspective of native organizations dealing with and participating in this process and with respect to the importance of environmental concerns in the northern regions of Canada.

Proposals for reform will also be suggested with regard to FEARO's policy

of self-assessment, the scope of federal environmental assessments, new mechanisms for providing additional federal support for the public consultation process, better coordination amongst federal and provincial governments and institutions of aboriginal self-government, and for more effective post-development monitoring and compliance procedures.

The overall effect of these proposals would be to make the federal environmental assessment and review process more thorough, fair and consistent with stated federal environmental quality objectives.

SELF-ASSESSMENT POLICY

In the Discussion Paper the issue of self-assessment is considered and the alternative approach of a centralized federal environmental planning agency is rejected in favour of the current policy. However, the issue appears to us to be less one of the merits of centralization versus decentralization but rather how to ensure that either approach can be effectively implemented so as to ensure that environmental considerations are fully incorporated in decision making by federal departments, Crown Corporations and agencies and that environmental factors are integrated into the development planning process at as early a stage as possible.

The advantages of self-assessment may indeed outweigh the drawbacks but it then becomes incumbent on the federal government to demonstrate that

this approach can be effectively administered. Unfortunately, studies undertaken by FEARO have shown that departmental screening procedures are often inconsistent and lacking in policy direction and that the FEARO Guidelines have often been ignored by federal agencies and Crown Corporations.

If the principle of self-assessment is to be retained it therefore is essential that FEARO must be given adequate powers to closely monitor this process and for the Minister to be given powers to intervene whenever there appears to be a lack of compliance. In addition, information must be provided to the public at all stages of this process and resources must be provided where necessary to ensure effective public participation in the decision making process. In order to ensure that the Minister of the Environment has a level of authority in the federal decision making process sufficient to carry out these responsibilities we would recommend that this mandate be enshrined in legislation together with accompanying regulations.

COMPREHENSIVENESS IN APPROACH

It has been observed that all environmental impact assessment "is centered on the effects of human activities and ultimately involves a value judgement by society of the significance or importance of these effects." At the decision making level the degree of significance to society is interpreted through social and economic values. Criteria are then developed to quantify impacts on these values and to determine thresholds of concern.

The most fundamental questions asked during the environmental assessment process are therefore related to the values associated with different types of human activities. Who's values are to be used in the decision making process? How much weight is to be given to biological, social or economic factors?

Several considerations flow from this observation and are of particular concern to organizations representing aboriginal people. The first of these is to ensure that federal officials are informed, during all stages of the environmental review process, of aboriginal values and concerns as well of more general public attitudes. Of particular importance will be the closeness of aboriginal communities to their natural environment, the social and cultural importance of traditional activities, and the strong bonds between native people and their homelands. Cash compensations for lost wages or for damage to various assets such as boats or traplines cannot be equaled in the eyes of many aboriginal people with the destruction of a way of life or with major disruptions to the social life of their communities.

The concerns of aboriginal people are often eloquently and forcefully expressed during the public review stages of the federal environmental assessment and review process. There are, however, concerns that the same attention to aboriginal concerns may not be included in the initial assessment phase of the process.

Two specific comments can be made in this regard. First of all, in defining

the scope of the environmental assessments to be undertaken by initiating departments, the Guidelines issued in 1984 state that potential environmental effects are to be studied "and the social effects directly related to those environmental effects" (emphasis added). Furthermore, in considering such development proposals the initiating department "may include such matters as the general socio-economic effects of the proposal" subject to the approval of the Minister of the Environment and the Minister of the initiating department.

A second concern is with the Initial Assessment Guide produced by FEARO that is to be referred to by federal departments in carrying out their initial assessments. In this Guideline a "General Value Criteria" is set out which is said to characterize public perception of environmental values. Values such as threats to livelihood and life-style modifications are set out in these criteria and addition information is set out in Appendix 1 in relation to socio-economic effects. However, it is fair to say that potential impacts on aboriginal communities are not highlighted in these guidelines as an area that departments should review and the impression is given that there is one set of values generally held by the public on environmental matters. As these documents are the basis for the self-assessment process it means that aboriginal people often are put in the position of having to justify their interest in the earlier stages of the review process and then trying to get federal departments and agencies to respond to their concerns. As a minimum, it is recommended that FEARO work with aboriginal organizations to develop a stronger reference to native concerns within the self-assessment guidelines.

As a final comment on the scope of federal environmental assessments we would also like to associate ourselves with the observations made by Beanlands and Duinker (1983) on environmental impact assessments in an Arctic environment. The fragility of these environments in terms of development impacts, the length of time necessary for recovery from environmental impacts, and the importance of long-term and cumulative effects are important considerations in this regard. The need for developing our research capacities and data bases in relation to the northern environment is also a related issue in this context.

INITIAL ASSESSMENT PHASE

The improvements to the initial assessment phase outlined in the Discussion Paper would all be supported by Makivik and KRG. The result of these improvements should be a more disciplined and enforced screening process throughout the federal government. As well, the social impact assessment component of the screening guidelines should be significantly strengthened and specific mention should be made of the importance of reviewing the potential impacts of development projects on aboriginal communities.

PUBLIC REVIEW PHASE

The various improvements to the public review phase of the environmental assessment and review process, as set out in the Discussion Paper, would generally be welcomed by us.

The proposals are also moving in the right direction with respect to assisting public participation in this process. In this regard we agree with the conclusion by Wallace (FEARO Occasional Paper #13) that the public review process has "worked to enhance the co-ordination and delivery of government services while providing a neutral forum with significant public access."

Two comments on the administration of funding to groups participating in the public review phase might, however, be mentioned. First, it will be important that the administration of these funds be as independent and neutral as possible, and secondly, it will be necessary to ensure that the levels of funding provided take into account the costs of reviewing the often voluminous material provided and for preparing the position papers or statements that are needed to effectively participate in this process as well as providing for travel and accommodation if this is necessary.

With respect to procedural issues related to the public review process it should be noted that the objective should not be more or less flexibility but rather to ensure that there is fairness, thoroughness, and accessibility built into the process.

POST-PROJECT MONITORING AND AUDIT

The importance of monitoring actual environmental effects from development activities is mentioned in the Discussion Paper. It is noted that

this is necessary in order to confirm whether environmental predictions were accurate and whether mitigatory measures were effective. This would appear to be a very limited view of the role of FEARO in the post-approval phase of project implementation and of the role of the Minister of the Environment in ensuring compliance with panel recommendations and with regard to ensuring that environmental quality standards are met by proponents at all stages of construction and implementation of projects.

We would like to see a much greater attention to this aspect of environmental impact assessment. In the guidelines issued to public panels, for example, the members should be instructed to include environmental monitoring standards that are to be met during and after project construction. This would enable FEARO or another federal agency to undertake environmental audits on the project at later stages to ensure that environmental standards had been met. Sanctions or penalties for failure to meet these standards could become part of the approval process.

The area of project management and implementation is another concern in this regard. Again, FEARO on behalf of the Minister should be empowered to closely monitor the extent to which environmental impacts are being considered by project management and whether environmental guidelines and standards are being respected. The Minister should have independent authority to re-panel such projects or in exceptional circumstances to even halt projects until improvements are made. In addition, if new information becomes available concerning environmental problems related to projects the Minister should have similar powers.