



# Reforming the National Energy Board

*Building environmental laws that work*

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# In 2012...



# Environmental assessment

- Made sole reviewer for projects within its jurisdiction, like pipelines and transmission lines – no longer can go to independent panel
- Can impose “directly affected” test on participation
- No longer needs to consider the potential impacts of a proposed pipeline on the critical habitat of Canada’s species at risk
- 15-month timeline imposed on NEB pipeline reviews

# Environmental assessment con't

- No longer can refuse CPCN for pipeline – can only recommend refusal to Cabinet (politicization of decision-making)
- Scope of review limited to only considerations directly related to the pipeline (previously, scope extended to any considerations the NEB considered relevant)
- No longer required to consider the environmental impacts of electricity exports

# Fisheries Act and NPA

A pipeline crossing is no longer considered a “work” to which the Navigation Protection Act applies.

NEB given sole responsibility for assessing effects of pipelines and powerlines on navigation and navigation safety

NEB made responsible for assessing impacts to fish and aquatic species at risk, and recommending authorization conditions to DFO (apparent reduction of DFO role)

# Tying it all together – how the four reviews relate

NEB may face a reduced role in environmental reviews and permitting:

- May no longer be a responsible authority for environmental assessments
- Environmental protections may increase under Fisheries Act and NPA
- NEB may have less power to recommend authorizations

# WCEL Recommendations

NEB should not be responsible authority for EAs

- EAs should be reviewed by one federal authority, with mandate to collaborate with Indigenous governments
- EAs should be conducted by feds, with NEB providing expert advice
- NEB should be one of multiple monitoring and enforcement bodies (along with ECCC, DFO and TC)
- NEB should provide follow-up information to EA authorities (federal, Indigenous, provincial)

# Recommendations con't

- Embed in laws triggers and criteria for nation-to-nation collaboration
- Embed in law triggers and criteria for regional and strategic EA, and links between levels of assessment
- Include climate test to reach Canada's climate goals in EA as well as regulatory processes
- Include statutory rights of appeal for processes and decisions

# 12 Pillars of Next-Gen EA

1. Sustainability as a core objective
2. Integrated, tiered assessments starting at the strategic and regional levels
3. Cumulative effects done regionally
4. Collaboration and harmonization
5. Co-governance with Indigenous nations
6. Climate assessments to achieve Canada's climate goals
7. Credibility, transparency and accountability throughout
8. Participation for the people
9. Transparent and accessible information flows
10. Ensuring sustainability after the assessment
11. Consideration of the best option from among a range of alternatives
12. Emphasis on learning

# Next Steps

- FA and NPA reports have been tabled
- EA report given to ECCC Minister March 31<sup>st</sup>, made public April 5<sup>th</sup> with 30 day comment period
- NEB report expected May 15
- “Deep engagement” likely until end of July
- Legislative drafting in fall
- Legislation tabled early 2018

# Thank you!

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