



ENVIRONMENTAL ASSESSMENT PROJECT

The Environmental Law Centre is carrying out a legal research and law reform project on British Columbia's environmental assessment (EA) process. Provincial EA legislation applies broadly across British Columbia to industrial, mine, energy, water management, waste disposal, food processing, waste disposal, transportation and tourist destination resort projects. It applies equally to urban projects like the RAV line construction and Gateway program in Vancouver, and remote northern mines and hydroelectric developments.

As a key sustainability-planning tool, the EA process must balance a range of competing environmental, social and economic values and interests. To be credible, it must strive for inclusiveness, transparency, accountability, scientific rigour, and cost effectiveness. Good assessment practice proactively avoids or mitigates environmental harm. Designing and administering a legal regime that strikes an appropriate balance between these competing values is an ongoing challenge.

Although BC has had EA legislation for more than a decade, it has not been reviewed for its effectiveness in meeting these goals. The overall objective of this project is to identify ways to improve the environmental assessment legislation and process, and propose options for law and policy reform, drawing on best practices in other Canadian jurisdictions and internationally. Our research project will focus on the following five issues:

- 1. Triggers and Scoping:** When should an EA be required and not required? Does the EA process apply to the activities that are most likely to have environmental impacts? Are all aspects of a project assessed, and do they consider the cumulative impacts of other activities in the area? Are assessments complete and the standards consistent?
- 2. Public Participation and Engagement:** What is the nature and extent of the public participation process in BC? Are assessments transparent and is adequate notice and information provided to interested parties throughout the process, including First Nations? Are there any barriers to public participation in EA?
- 3. Oversight and Decision-making:** How is relevant information obtained and evaluated? What decision-making process determines whether a project's environmental impacts are acceptable, and what conditions might be necessary to mitigate environmental impacts?
- 4. Compliance Monitoring, Reviews and Appeals:** What happens once the EA is approved and the project begun? Are there checks and balances in place to ensure decision-making has integrity? How are environmental impacts monitored, and who ensures that conditions are complied with? How is new information incorporated following project approval?

- 5. Innovations to Improve Efficiency and Effectiveness:** Is the current EA process an efficient and effective way to address potential environmental impacts? Are the rules and goal posts clear? Are there ways to improve environmental outcomes, either within or outside the EA process?

In carrying out this project we intend to:

- a) consult broadly among legal practitioners, other professionals, government agencies, environmental assessment agencies (i.e. provincial and federal), First Nations and public interest environmental organizations concerning their experiences with the environmental assessment process in British Columbia – their concerns, points of appreciation and ideas for improvement;
- b) research environmental assessment legislation, practice and related case law in British Columbia, Canada and other jurisdictions;
- c) prepare a discussion paper that summarizes the issues identified in our consultations and research;
- d) host a workshop or focus group sessions with First Nations, government, business, environmental organizations and community stakeholders;
- e) publish a final report that evaluates the environmental assessment process in BC and proposes recommendations for reform;
- f) carry out education and extension activities with government agencies, professional bodies, legal practitioners, environmental organizations and possibly elected officials.

For further information, please contact Mark Haddock, Project Coordinator, or Chris Tollefson, ELC Executive Director, as provided below:

Mark Haddock
604-882-0264
mhaddock@shaw.ca

Chris Tollefson
250-721-8170
ctollef@uvic.ca

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