

Towards Next Generation Environmental Assessment

*Outcomes of the Federal Environmental
Assessment Reform Summit*

Anna Johnston

Staff Counsel, West Coast Environmental Law

www.wcel.org
ajohnston@wcel.org



West Coast Environmental Law

“... immediately review Canada’s environmental assessment processes to regain public trust and help get resources to market and introduce new, fair processes...”

*– Prime Minister Trudeau, Mandate letter to ECCC Minister McKenna,
November 2015*

FEDERAL EA REFORM SUMMIT

Summit Overview

- **Over 30 participants** – civil society groups, practitioners, industry, academics, lawyers
- Preparation for mandated federal EA review
- **Structure:** Plenary + 8 workshops
- **Goal:** Consensus on key elements of next-generation federal EA

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

www.wcel.org/EASummit

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*We call upon federal, provincial, territorial, and municipal governments to **fully adopt and implement the United Nations Declaration on the Rights of Indigenous Peoples as the framework for reconciliation.***

Truth and Reconciliation Commission, Call to Action 43

*States shall **consult and cooperate** in good faith with the indigenous peoples... in order to obtain their **free, prior and informed consent**... Indigenous peoples have the **right to own, use, develop and control the lands, territories and resources** that they possess by reason of **traditional ownership** or other **traditional occupation or use**, as well as those which they have otherwise acquired.*

Articles 19, 26(2), UNDRIP

CO-GOVERNANCE WITH INDIGENOUS NATIONS

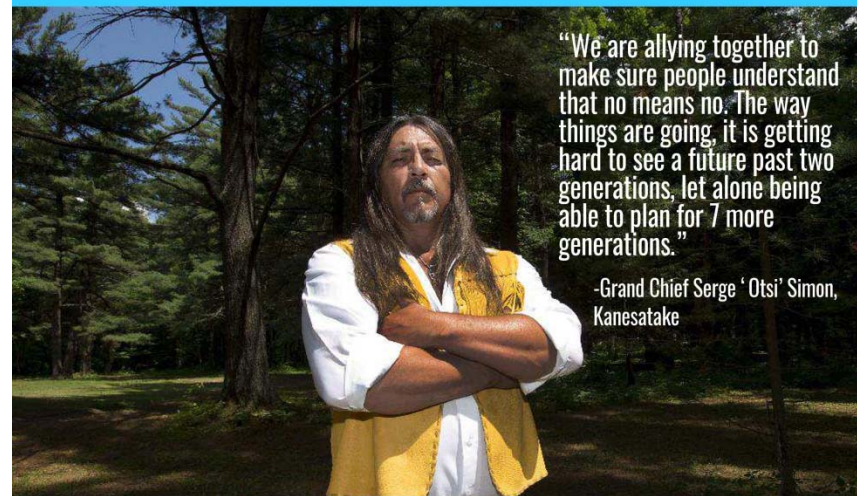
Collaborative Consent

- Collaborative assessment and decision-making processes are based on **nation-to-nation relationships, reconciliation** and the obligation to secure the **free, prior and informed consent** of Indigenous peoples.

50 + FIRST NATIONS AND TRIBES

SIGN HISTORIC TREATY TO CHALLENGE AND RESIST

TAR SANDS EXPANSION BY PIPELINE, OIL TRAIN & TANKER



“We are allying together to make sure people understand that no means no. The way things are going, it is getting hard to see a future past two generations, let alone being able to plan for 7 more generations.”

-Grand Chief Serge 'Otsi' Simon,
Kanesatake

FOR THE LAND, FOR THE WATER, FOR THE CLIMATE.

NO NEW PIPELINES | NO NEW OIL TRAINS

NO KINDER MORGAN, NO ENERGY EAST, NO NORTHERN GATEWAY, NO LINE 3

Collaborative Consent

- Process is **iterative**
- Legislation and agreements set out **frameworks**
- **Flexibility** to adjust to groups and cases, and for nation-to-nation **dialogue**
- Processes and decisions comply with **UNDRIP**
- **Reconciliation** and **climate change** are guiding principles

... Parties aim to reach global peaking of greenhouse gas emissions as soon as possible... and to undertake rapid reductions thereafter in accordance with best available science, so as to achieve a balance between anthropogenic emissions by sources and removals by sinks of greenhouse gases in the second half of this century...

Paris Agreement, Article 4(1)

CLIMATE ASSESSMENTS TO ACHIEVE CANADA'S CLIMATE GOALS

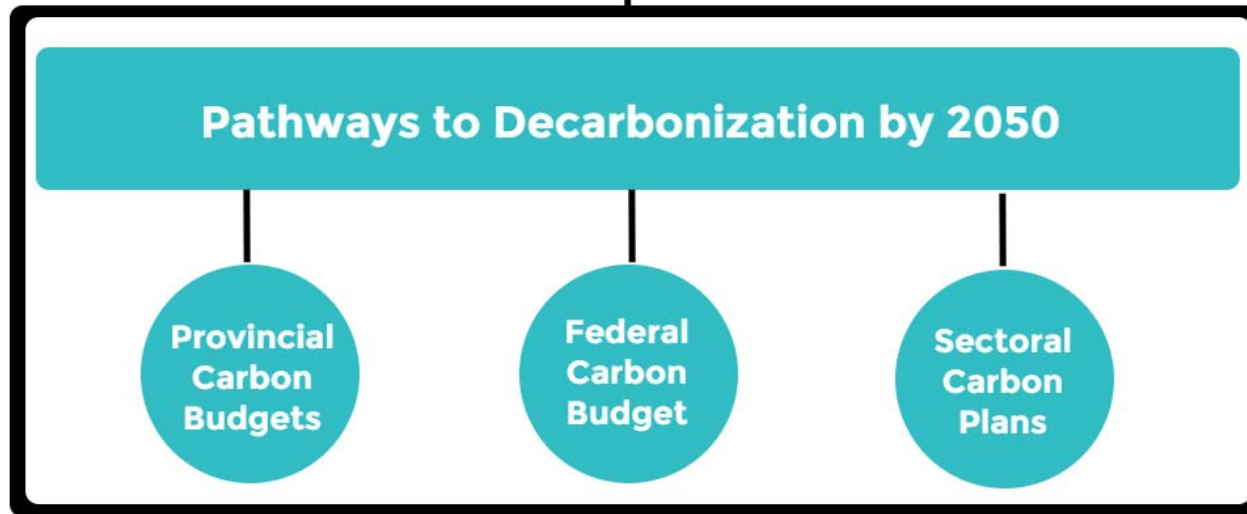
A Climate Test

- Carbon obligations & goals = proxy for impacts
- Test: Will the proposal move Canada further down the path, or away from it, and how far?
- Must begin with carbon plan and budgets
- Government-endorsed budgets are floor, not ceiling

Tiering of a Climate Test



Considering climate begins at the strategic level



A climate test **must start with strategic-level initiatives** - the Paris Agreement, federal policy guidance, etc - developed through **credible, open, sustainability-based processes**.



Once pathways to decarbonization are developed, an EA asks, **will the project contribute to Canada staying on the pathway? Is this the best option for meeting or exceeding our Paris Agreement commitments?**

A Climate Test Con't

- Consider direct and indirect (upstream and downstream) lifecycle emissions, including
 - Effects of land use changes
 - Grid electricity emissions
 - Fossil fuel processing for project inputs
 - Vented and fugitive methane
- Consider alternatives (including the “no”)
- Assess climate impacts on the project

A Climate Test – Economic Analysis

- Rely on economic models that are consistent with global decarbonisation by 2050
- Discount the social cost of carbon from economic benefits
 - “Net benefits” means equitably distributed economic benefits to offset the costs associated with climate impacts

“Meaningful public participation is early, ongoing, accessible and dynamic. It occurs at all levels of assessment and has the ability to influence outcomes.”

EA Review Summit Outcomes

PARTICIPATION FOR THE PEOPLE

Principles for Meaningful PP

- Early – before proposals submitted
- Ongoing – throughout assessment & follow-up
- Accessible
- Dynamic
- Deliberative
- Occurs at all levels of assessment
- Has the ability to influence outcomes
- Based on mutual respect

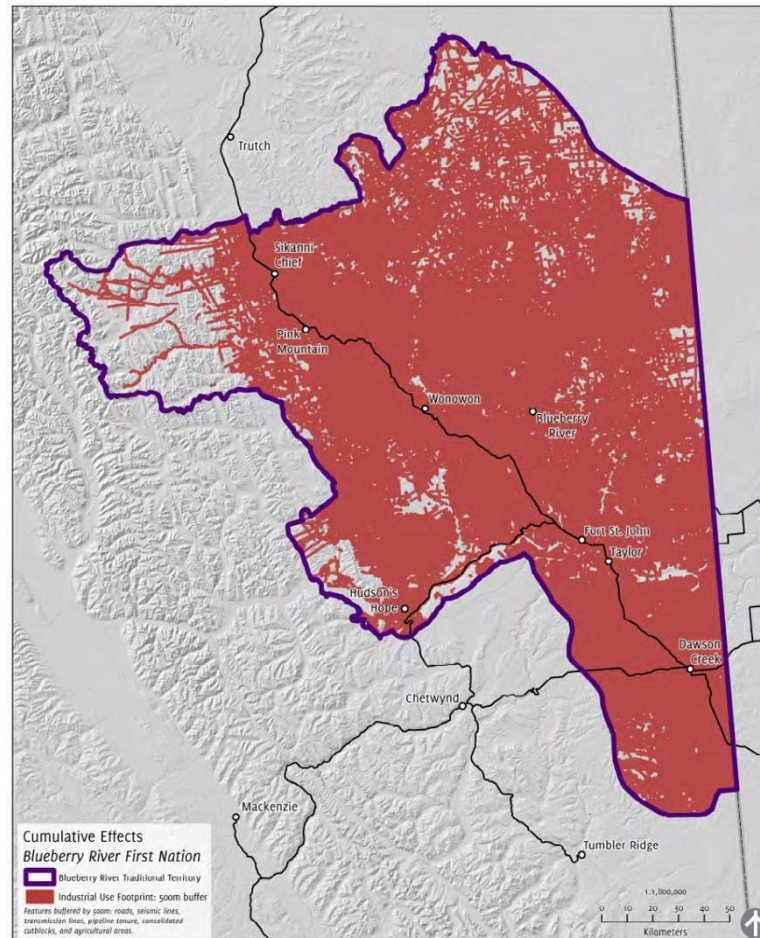
Implementing Meaningful PP

- Begin before proposals submitted
- Continue throughout assessment & follow-up
- Engage in design of alt. engagement processes
- Engage the public in SEAs and REAs
- Consider alternatives (including the no)
- Have a broad scope for public interest considerations

Implementing Meaningful PP, con't

- Provide a searchable, accessible database of information
- Provide adequate resources and education
- Show how comments were received, considered and reflected in decisions
- Provide written reasons
- Provide a right of appeal

Why we need next gen EA...



The logo for West Coast Environmental Law features a dark teal background with a lighter teal wave-like shape above it. The text "West Coast Environmental Law" is written in white, sans-serif font across the dark teal background.

West Coast Environmental Law

“This is a legacy law – we need to get it right, and ensure that the Canadian public has confidence in this process”

*– Catherine McKenna, Minister of Environment and Climate Change,
Federal EA Reform Summit, May 2016*

THANK YOU