

R. Wilde  
201, 9740-82 Ave  
Edmonton, AB T6E1Y  
433-6804

ABORIGINAL SOCIETY  
AND ALBERTA'S  
NATURAL RESOURCES CONSERVATION BOARD

A discussion paper prepared by the  
Regional Elders Environment Commission  
for the  
Natural Resources Conservation Board

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## 1.0 INTRODUCTION

The Regional Elders Environment Commission is made up of nine elders from the Sucker Creek, Driftpile and Swan River Indian Bands, located along the south shore of Lesser Slave Lake in northern Alberta. The Commission was put together in response to the May 8, 1992 decision by the Natural Resources Conservation Board (NRCB) to grant approval for an expansion to the Alberta Special Waste Treatment Centre (ASWTC) in nearby Swan Hills. The aims of the commission are to: (1) stay abreast of activities at the ASWTC and recent research on the treatment of hazardous wastes; (2) continue to lobby to prevent the increased incineration of hazardous wastes at the plant so as to protect the health and safety of the local peoples; and (3) liaison between the bands and the provincial government, and present the concerns of the local Aboriginal communities.

This discussion paper was born out of the frustration experienced by the elders throughout the NRCB hearings for the proposed ASWTC expansion. This paper seeks to examine the source of this frustration by examining the implications of the NRCB hearings, and Alberta's Environmental Impact Assessment (EIA) process in general, on Aboriginal society in Alberta. To achieve this goal, this paper examines questions regarding the objectivity, formality and scope of the NRCB process and hearings. Moreover, this paper provides concrete suggestions for the NRCB in the hope of promoting a more equitable and culturally sensitive process for natural resource decision-making in the province.

## 2.0 THE NRCB AND ALBERTA'S EIA PROCESS

### 2.1 The Question of Objectivity

In the May 9, 1992 edition of the Edmonton Journal, the Honourable Mr. Ralph Klein, Alberta Environment Minister, was quoted as describing the ASWTC expansion ruling by the NRCB as "a well-thought-out decision" based on unemotional and unbiased grounds. We feel compelled to question whether the ruling was based on "unbiased" grounds; if one explores the nature of the NRCB procedure and Alberta's EIA process in general, one discovers that it is not a value-free systematic process. For example, the decision of the NRCB can be greatly influenced by the role and biases of stakeholders in the process, the use of experts and science in decision-making, or the inherent bias within the system. The following attempts to support this claim.

The "top-down" approach to planning and impact assessment tends to create specific roles for project stakeholders with inherent biases: proponents work within regulations to ensure approval of the development; communities attempt to organize and prevent development if impacts are perceived to be harmful and not appropriately compensated for; government attempts to stay neutral but remains ever fearful of being labelled as anti-economic growth by its constituents; and consultants gather "neutral" facts and data while receiving payment from either the community or proponent. These biased roles cause problems for objective research, especially when the proponent responsible for the proposed development is also responsible for the preparation of the EIA; the proponent becomes both advocate and decision-maker (Freisema and Culhane 1976).

The technocratic nature of EIA has created a significant role for the professional or "expert" in the process. "In an increasing number of technological decisions, 'expert' judgements have come to take on considerable significance," writes Freudenburg (1986), yet "unfortunately, 'experts' are not infallible" (p.472).

Further, the expert may be no less biased in reporting social phenomena than is the average citizen. Wilson (1973) reports two findings of a study by D. Sewell of the University of Victoria which reflect the problematic relationship between expert decision-making and hierarchies within professional organizations:

1. professional training in engineering or biology etc. predisposes its practitioners to rather narrow views of complex problems; and
2. seniority in an organization makes men more conservative in their perspectives and behaviours, reflecting primarily the aims and interests of the organization which employs them and the normal state of political equilibrium within it (p.126).

EIAs which place a disproportionate emphasis on the "expert" to provide objective results and fair decisions often increase community resistance to facility siting. If we are to progress towards a more participatory and democratic form of planning, we must question planning by "experts." Yet, at the same time, we appreciate that newly empowered participating publics must show a renewed commitment to critical examination. Community empowerment without critical thought is no more desirable than autocratic decision-making by professionals.

The belief that a better use of scientific information is needed in the generation of public policy has become pervasive among the public (Hammond et al. 1983); certainly this belief exists with regard to the NRCB decision-making process. Yet the incorporation of science into policy is problematic because of a number of fundamental constraints to its use: (1) scientific information is probabilistic, yet policy decisions require singular discrete choices among fixed alternatives; (2) scientific information is not analytical, making the process difficult to criticise and improve; and (3) in-depth and repetitive experimentation is usually required to provide definitive answers to policy-relevant questions, yet critical experiments cannot be performed within

the time frame of the decision-making process (Hammond et al. 1983). Because science provides only probabilities rather than absolutes, it must be able to strike a balance between refutation and verification. As it is used within Alberta's EIA process and the NRCB hearings, science tends to continually redevelop with little true refutation.

Elders Bill Willier of the Sucker Band and Roy Giroux of the Driftpile band appropriately remind us of the uncertainty of the scientific conclusions provided during the ASWTC hearings:

They (CSAL) told us all nothing should happen; it's pretty well safe. Now we heard that they had a blow out (Incident at Swan Hills July 5, 1992)...They were telling us, it's pretty safe, all monitored; if anything goes wrong they will know it right away. Well, they didn't know it.

Nothing is supposed to happen. Then I heard that they had a blow up there (Incident at Swan Hills July 5, 1992), and three guys ended up in the hospital. What was supposed to be perfect wasn't perfect.

While developers and project proponents publicly regard EIAs as biased against development, a pro-development bias in EIAs may lurk at a deeper and more subtle level. Freudenburg (1986) cites two key factors that tend to make assessments more supportive of development: (1) the selective availability of data; and (2) the analysts' tendency to focus on certain questions while ignoring others (p.466). Further, the author contends that analysts work in a system that contains its own biases. For example, notes Freudenburg (1986), EIAs "will often weigh local 'preferences' against a national 'need' for energy, ...rather than balancing a national 'preference' for cheap energy against the 'need' to preserve the vitality of local communities" (p.466).

The NRCB attempts to maintain "objectivity" through a rigorously formal process of public consultation and detached inquiry; this is done so as to avoid being charged with identifying too fully

with the subjects of their concern, or of acquiring an emotional attachment. Yet to the Aboriginal community involved, indifference to our plight does not indicate objectivity and value freedom, but a very real value stand.

## **2.2 The Problem of Scope**

A significant source of contention for communities facing proposed developments is the scoping process in EIA, which defines the spatial and temporal boundaries for the study. Finsterbusch (1985) notes that very seldom do EIAs define temporal and spatial study boundaries which are broad enough to document future indirect and cumulative impacts from a development; this certainly was the case with the ASWTC expansion EIA. There was general agreement among the Aboriginal participants in the ASWTC expansion hearings that the scope of both the EIA and the hearings was too confined.

For many of the elders from the local bands, it is impossible to talk about the implications of the ASWTC expansion upon their activities in the Swan Hills without referring to other "development" activities in the Swan Hills as well; recognizing the cumulative impacts of "development" is a natural response for a peoples whose lifestyle and culture has been forcibly eroded over the last two generations. The comments of elders Joe Willier of the Sucker Creek Band and Roy Giroux of the Driftpile Band reveal this sad reality:

Too many oil companies all over. You can't go trapping up there. If you leave your traps through the winter, somebody will bother your traps, or run over them with a Skidoo. What's the use in trying to trap in there now. It's been logged out; no timber, nothing left....The forestry roads and oil all over here now; you have to get out of there.

This logging business; clear cut. Boy oh boy, it used to be so lovely. When there is all of this clear cutting all over the country here, there is going to be no game anyway. Where in the hell is the game going to be at. They're not going to stick around, like farm cattle sitting out in the open.

By limiting the scope of the hearings, the NRCB was able to avoid the sad reality of "development" within the Swan Hills from the local Aboriginal perspective. The sad reality is that "development" in the Swan Hills is destroying the hunting and trapping lifestyle of the local Aboriginal peoples, thereby forcing them onto their reserves to carry out a welfare-dependent existence; wouldn't it have been interesting if the NRCB had expanded the scope of their hearings so as to view the ASWTC expansion proposal within the context of that reality?

### **2.3 Public Consultation and the Problem of Formality**

For the elders who participated in the ASWTC expansion hearings in Swan Hills in the winter of 1992, the experience will not soon be forgotten. Elder Jim Sound explains why:

I was very interested in that (NRCB Hearings). I never been in to anything like that. There was a lot of interesting things; how they go about it....Too bad it went the wrong way....I could sit through those things and listen, and never get tired. I went to courts and all that, for people drunk, or something like that, but this was something the people were fighting for. That was something to me.

What is of critical importance is the impression of formality which was left with the elders who participated. To many, including elders Eva Laboucan of the Driftpile Band and Charlie Willier of the Sucker Creek Band, the NRCB hearings were similar to a court with judges and all the associated amenities:

The white people (the NRCB) talked. We didn't talk, we just listened. I don't know what they were; maybe judges.



There was three judges sitting in front over there. It seemed for me, they were judges or something. And they talked to each other...and come up with a decision. Three old men sitting in front of the table. I think they were judges from some place...the city. The people of Swan Hills, they had their lawyer sitting with them. He cross-examined, just like a court...It was like a real court case, the hearing. It's the way they operated.

Whether deliberate or not, the format of the NRCB hearings created an environment similar to a criminal court room; for Aboriginal society, such an environment is associated with only intimidation, fear and abuse. This contention is well supported by documentation within section 4.0 of the Report of the Task Force on the Criminal Justice System and its Impact on the Indian and Metis People of Alberta. The task force, which was chaired by the Honourable Mr. Justice Robert Allan Cawsey, released its report in March, 1991. In it, the task force examines and explains the implications of court room formality for the treatment of Aboriginal peoples. We could quote extensively from the report, but instead, we simply urge the members of the NRCB to read the report themselves.

The intimidation and misunderstanding created by the formality of the NRCB hearings is adequately revealed by comments made by elders Lina Twin and Jim Sound of the Swan River Band:

I would have spoken, but I don't have enough education.

If somebody asked me to go say something over there (in the NRCB hearings), no bloody way. I tried that when I went to a Nechi course. I did good when I had the people right around, but as soon as I stand up...We sit in a circle and, you know, talk, and I was talking to everybody. But then when I got up to talk my two minutes, alone in front, that was the time I didn't know what the hell I was saying. I had that thing all memorized, but as soon as I got up there, boom.... See that's our problem. We never do these things...We never speak...A lot of us are not that educated, and they use them god damn big words, and we don't even understand what they're talking about. You can use simple language and come out with the same thing. But them, they use great big lan-

guage; the letters are so long we don't know what the hell they're talking about. I bet ya through that hearing, a lot of us didn't understand half of what was going on.

To properly explain the implications of the formality of the NRCB hearings, we borrow an analogy developed by Naomi Wolf (1991) in her work, The Beauty Myth. The convention or formality of the NRCB hearings and the EIA process should be viewed as a transformer acting between Aboriginal society and legitimate political power. A transformer plugs into a machine at one end and an energy source at the other, in order to change an unusable current into one compatible with the machine. The convention of the NRCB hearings and the EIA process links Aboriginal society's energy into the machine of power while altering the machine as little as possible to accommodate them; at the same time, like the transformer, it weakens the Aboriginal community's energy at the point of origin. From an Aboriginal perspective, it would appear that this is done in order to ensure that the machine scans and adjusts the Aboriginal input into a code that suits the power structure. This conversion and the draining of energy appears to be based on a fear that the force of an unmediated current of native energy on a native wavelength could upset the imbalance of the prevailing power structure. Does this analogy explain the rationale behind the formality of the NRCB hearings?

To many elders, the formality, structure and content of the hearings led them to believe that the hearings were not designed to aid in the decision-making process, but rather were designed to facilitate and support a pre-conceived decision. To elders Gene Davis and Jim Sound of the Swan River Band, the hearings were a game:

No matter what happened, we would have lost.

They (NRCB) had a break, and that other lawyer come out with a big smile and said hello to me and had a few words. I said 'are you working hard?' 'Oh, ya' he said, 'working hard.'

This is having fun, not work.' He was having fun. I think he must have already know before time (about the decision). He didn't have a worry in the world. That Slavic (Jerome Slavic, Council for Aboriginal society), he was like a blank wall.... They already knew what was going on, but they had to go through all this thing, because this lawyer of ours was making big bucks and he had to show something.

These perceptions are supported by Parenteau (1988), who provides crucial insight into the nature of public consultation:

It is an illusion to think of participation as a neutral social operator, perfectly receptive to all influences....It must be understood as a special instrument in the socio-political arena, an instrument suitable for the exercise of certain types of political influence for the benefit of certain segments of society and designed for this purpose (p.4).

The author suggests that public consultation, especially when it takes the form of a public hearing, is essentially a strategic game conducted on the basis of a previously existing relationship of forces; naturally, the elders who participated in the NRCB hearings were well aware of this reality.

We stress that if it appears that the only aim of public consultation is to gain approval for pre-established decisions or to meet legislative requirements, resistance from the native community will be intense; "in order to have successful participation, the proponent must be listening" (Kauffman 1991, p.34).

### **3.0 SUGGESTIONS FOR CHANGE**

#### **3.1 Composition of the Board**

A significant amount of community resistance and anxiety towards noxious facilities, such as the ASWTC, can be attributed directly to the process of facility siting and the use of quasi-judiciary boards, such as the NRCB, to support these developments. The "top-down" method of facility siting in Alberta leads inevitably to one outcome - the imposition of a decision. The "decide, announce, and defend" orientation of facility siting unavoidably leads to community resistance. Naturally this resistance is even greater when the decision is made by people of a different culture, or as many Aboriginal peoples feel, by people of a different nation. Elder Charlie Willier of the Sucker Creek Band eloquently presents the Aboriginal perspective of the siting process:

There are a lot of reasons why we don't want that toilet to be built right at the edge of our reserves. It's (the ASWTC) just like a huge toilet. People from all over Alberta, over the border, they come and shit there and go back. That's what I told that Minister (Honourable Ralph Klein during visit of July 19, 1992 ). That's the way it looks like to me and all of us Indians.

This problem could easily be eliminated if the composition of the NRCB properly reflected the composition of the study area, or Alberta in general; a board comprising three white, male engineers certainly does not reflect the cultural composition of this province.

#### **3.2 Promoting Informality and Understanding**

If it is not possible for Alberta's Aboriginal community to have direct representation on the NRCB, it is imperative that the members of the NRCB develop an appropriate understanding of the culture, in its broadest sense, of the people to be affected by the decision of the board. Chief Jim Badger of the Sucker Creek Band extended an invitation to the members of the NRCB during the

ASWTC hearings to come to the reserve and gain insight to the culture of the band, but the invitation was gratefully declined. This is truly unfortunate.

Elder Eva Laboucan of the Driftpile Indian Band stresses that an accurate understanding of the local Aboriginal community was not achieved through the NRCB hearings:

They (the NRCB) thought we were stupid. They did not see what we were talking about....They do not see what we see. That's why we had Ralph Klein up into the bush and down to the lake (visit by the Minister July 19, 1992) to see the way we live....It's going to take a long time for them to understand us Indians; they think they know us, but they don't.

If the aim of the NRCB is to make decisions which are "in the public's best interest," they must properly understand the unique characteristics of communities which comprise that public. To do this, they must consider "both the objective environment of facts and figures and the subjective or perceptual response to that environment" (Carley and Bustelo 1984, p.10). If properly acknowledged the insight gained from such research can do much to humanise the EIA process and ease public anxiety. This was realized by Jim Wilson (1973) conducting social research for B.C. Hydro on the resettlement program of the Columbia River project:

I called on all the people who held positions of trust and responsibility in their communities, on public officials and also on some of the known opponents of the Arrow Lakes Project. I visited homes, read the local newspapers, walked the streets, drove on the back roads, and in effect tried to feel the situation and all its nuances for myself. It was, of course, a highly subjective, relatively unsystematic, exploratory process, which involved a considerable degree of personal excitement and stress as I tried to understand and to assess the meaning for Hydro of the mass of 'facts' and viewpoints which inundated me during the two week period. It was inevitably a risky process in that one could very easily come to false or naive conclusions. Admitting this, and remembering also that the conclusions drawn from such an exploration should always be tentative and subject to review, the utility of such a reconnaissance cannot be over-emphasized (pp.29-30).

Furthermore, we strongly suggest that the NRCB re-examine its commitment to formality if they seek to make decisions which are "in the public's best interest." As we have already suggested, the formality of the hearings has the effect of creating a court room environment. We could reiterate the recommendations cited in section 4.0 of the Report of the Task Force on the Criminal Justice System and its Impact on the Indian and Metis People of Alberta, but instead we simply recommend, or rather request, that the members of the NRCB read the report themselves and seriously consider the recommendations made therein. The Honourable Mr. Justice Cawsey (1992), Chair of the Task Force, stressed in a recent phone conversation that non-natives involved in judiciary duties involving native peoples "must recognize the barriers which are developed by formality." When asked whether such informality compromised the objectivity of the hearing, Justice Cawsey replied that it did not; rather, he suggested, informality opened doors to a better understanding.

By adopting a formal or judiciary style of inquiry, the NRCB naturally takes on the negative perceptions held by Aboriginal society for the criminal justice system. Recognizing the intimidation the criminal justice system evokes with Aboriginal peoples, once again we must ask whether evoking intimidation is the purpose behind the formality of the NRCB hearings.

We repeat that, to Aboriginal society, the formality of the EIA process and the NRCB hearings does not represent an objective and value free inquiry, but a very real and offensive value stand. The NRCB consultation process must adopt a language and create a setting which permits the effective and equitable participation of all members of the public, regardless of their education or level of "professional qualification" (Torgerson 1981; Priscoli and Homenuck 1986; Wilson 1973). Furthermore, in order to achieve true fairness when making decisions impacting Aboriginal peoples, the members of the NRCB must become informed, involved and interested in the Aboriginal world view.

### **3.3 Expanding Scope**

In order to alleviate the contention experienced by the limited scope of the NRCB investigations and hearings, we suggest that an open forum, made up of members of the local environment, be initiated prior to investigations and hearings to establish terms of reference for the EIA. In this way, the impacted public can be assured that they will have the opportunity to discuss the issues they feel are critically related to the proposed development. Furthermore, the public can rest assure that the scope of the hearings and investigations is broad enough to ensure an accurate documentation of the cumulative social and environmental impacts of the proposed development.

Carley and Bustelo (1984) suggest that adopting cumulative impact assessment, whereby long-term incremental change is examined over a broad area during the post-development stage, is really a recognition of what should already be an essential component of regional planning. Effective regional planning must seek to understand the cumulative implications of a variety of developments/obtrusions within a region. This can only be done by expanding the temporal and spatial scope of NRCB investigations.

#### 4.0 CONCLUSION

The governments of Canada, both provincial and federal, have finally confessed to many of the past injustices inflicted upon Canada's First Nations; confession, it seems, is good for the soul. Everywhere, governments are recognizing the need to listen carefully and thoughtfully to the concerns of the First Nations; public consultation is the call of the day. Yet, these confessions and current attempts to include native voices in decision-making seem to have done little to alter the historical colonial pattern of resource development in regions like northern Alberta. Regardless of the process by which they are given "public approval," massive resource developments and noxious facilities continue to force native hunters and trappers from the land to live welfare-dependent lives in government supported settlements.

The NRCB will not gain the respect and trust of the First Nations of Alberta if it is seen as an agent of that colonial pattern; if it's solitary aim is to facilitate and adorn deleterious developments, which are destined to occur. **Presently the NRCB has power; it does not empower.**

We respectfully submit these concerns not with an accusatory intent, but with the hope of developing a more equitable and culturally sensitive process for natural resource decision-making in the Province.

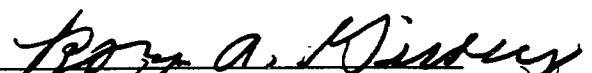
Sincerely,

**The Regional Elders  
Environment Commission**

  
Bill Willier

  
Charlie Willier

  
Senator Joe Willier

  
Roy Giroux



Eva Louise Laboucan  
Eva Laboucan

Harvey Giroux  
Harvey Giroux

Jim Sound  
Jim Sound

Gene Davis  
Gene Davis

Ben Badhu for:  
Lina Twinn

c.c. The Honourable Mr. Ralph Klein,  
Minister of the Environment

The Honourable Mr. Justice R. A. Cawsey,  
Alberta Court of Queen's Bench

Professor Leroy Little Bear,  
Department of Native American Studies,  
University of Lethbridge

Mr. Gary Wouters,  
Regional Director General,  
Indian and Northern Affairs Canada

Bruce Milne,  
Community Affairs Coordinator,  
Alberta Environment