

TWO PROPOSALS TO AMEND THE ENVIRONMENTAL
ASSESSMENT ACT - 1975

Presented to the Standing Committee on Resources
by R.S. Lang, Associate Professor in
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I speak to you as an individual, not representing York University. My background is as a professional civil engineer and professional urban and regional planner with fourteen years experience at all three levels of government across Canada; and as a university professor teaching graduate students planning and environmental impact assessment. My interest, with regard to environmental assessment, other than as a citizen and resident of Ontario, lies mainly in the development and application of knowledge and methods in this new field. In that regard, I welcome and strongly support the Environmental Assessment Act, especially in its most recent form, as a major step towards safeguarding and improving the environmental quality of this province.

My general views on environmental assessment in Ontario were set out in a February 1974 brief to the Minister of the Environment in response to the Green Paper of 1973.* This hearing appears to be neither the appropriate time nor place to re-state those views or to address fundamental issues. Rather, I am assuming the basic structure of the Act is now in

*Lang, R.S. and C.D. Morley, Environmental Impact Assessment, Faculty of Environmental Studies, York University, February, 1974.

place, the structure constitutes a suitable base upon which to build an environmental assessment process (amendments will come as experience dictates), and any improvements that can be made at this time will be relatively minor.

The changes made in Bill 14, resulting in the Act which has received second reading, cover several of the concerns I had. What I am presenting to you today are two additional changes, intended to address the issue of adequate time for public participation and the larger issue of how to realize the real potential of environmental impact assessment.

Adequate Time for Public Participation

A basic problem is to give affected members of the public adequate time to consider and respond to environmental assessments.

Adding fifteen additional days to 7(2) is desirable. But it still leaves quite a short time for response - which will be a source of frustration (on the part of affected persons) and trouble (on the part of proponents and Ministries). This situation could be improved if the proponent were required, say sixty days in advance of submitting an environmental assessment to the Minister, to declare his intent to do so. That would give everyone, including the Ministry of the Environment, other affected Ministries, and affected groups and individuals, time to prepare for receipt of the assessment.

The additional preparation time would be considerably more fruitful if the proponent, when declaring his intent, provided the Minister with the items listed under subsection 3 (a), 3 (b)(i) and 3 (c) (i) of

Section 5, namely, a summary description of the undertaking, of the rationale underlying it, and the environment that will be affected. To meet this requirement would not create hardship for proponents; their design and engineering work would have already provided the necessary information. On the other hand, giving notice and describing the proposal and its site would facilitate the preparation, by all concerned parties, for receipt of the assessment; it would lead to better reviews of the assessment; and it would result in more informed (and hopefully, less inflammatory and less time-wasting) public hearings later on.

A legitimate concern is that environmental assessments not create undue delay. The foregoing proposal would help minimize such delay.

Recommendation: Add two new subsections to Section 5, possibly between the present (2) and (3):

Sixty days prior to submitting an environmental assessment to the Minister, pursuant to subsection 1, the proponent shall submit to the Minister a Declaration of his Intent to submit the environmental assessment together with a summary description of the undertaking, a summary statement of the purpose of and rationale for the undertaking, and a summary description of the environment that will or may be affected by the undertaking.

Upon receipt of the Declaration of Intent the Minister shall give notice of receipt thereof, and the place or places where the Declaration and accompanying documentation may be inspected, to the clerk of each municipality in which the undertaking is being or will be carried out, and in such manner as the Minister considers suitable, to the public and to such other persons as the Minister considers necessary or advisable.

Environmental Assessment and Government Decision-making

A recurring theme in reviews of the American experience with environmental impact assessment is that its real potential lies in making decisions of government and other proponents more sensitive to natural and human environments - more sensitive to the needs of people and other living things directly and indirectly affected by man's actions.

Having proposals evaluated for their environmental impact goes only part-way in this direction. What really counts is eventually having proposals that come forward for environmental assessment already as environmentally sensitive as their proponents can make them. This, in turn, means gradually building an increased environmental awareness into the earlier planning, design and decision-making processes of proponents. In fact, this basic purpose of environmental assessment was suggested by the 1973 Green Paper and it was confirmed recently in a speech by Mr. Rudik, Assistant Director of the Environmental Approvals Branch of the Ontario Ministry of the Environment.*

One problem is how to determine the extent to which experience with this Act will have produced more environmentally-enlightened planning, design and decision processes. Needed is a kind of annual progress report by the Minister of the Environment in which he:

- (a) Evaluates the past year's experience with the environmental assessment process (commenting on its effectiveness and citing progress, based on evolving criteria which he deems to indicate

*Rudik, Victor, Environmental Assessment Process in Ontario, paper to Air Pollution Control Association, Ontario Section, Toronto, 22 April 1975.

the adequacy of the process).

(b) Abstracts all environmental assessments submitted and Ministerial and Board decisions made with respect to such assessments.

(c) Presents a state-of-the-province overview of the environmental quality of Ontario (including problems/concerns and progress or lack thereof in overcoming them); and in light of this statement and the purposes of the Act, reviews progress towards increased provincial government response to environmental concerns, natural and human).

(d) Includes, for each relevant provincial Ministry and agency whose policies and programs significantly affect the natural and human environment of Ontario, a summary environmental assessment of such policies and programs and their cumulative effects, having regard for the purpose of the Act.

Recommendation: Amend the Act to require the foregoing report.

Such a report, equivalent to the annual reports of the U.S. Council on Environmental Quality, would provide the Legislature and the people of Ontario with concrete evidence of the over-all effectiveness of the Environmental Assessment Act. It would comprise a higher policy level of environmental assessment, allowing for a view of the forest where individual environmental assessments see only the trees. And it would help determine the extent to which the full potential of environmental assessment - more environmentally sensitive planning and decision processes - was being realized.

I appreciate the opportunity to present these views to your Committee, and thank you for hearing them.

Respectfully submitted,

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