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**Presentation to the Expert Panel to Review Environmental Assessment Processes**  
**Mark Butler, Ecology Action Centre**  
**October 11, 2016, Fredericton**

Thank you for this opportunity. Thank you panel members for bringing your expertise and experience to this challenging task and doing so in the short time provided. Given the abbreviated time frame for your work, I have found you and your staff to be very helpful and accommodating.

The EAC was founded in 1971 and works on a wide range of issues, mostly at the provincial level but also at the national and international level. Science is a strong theme in our work, and based in Halifax, we are lucky to be surrounded by some storied scientific institutions.

We applauded when an independent review of environmental assessment in Canada was announced. This is a special opportunity and likely won't occur again anytime soon. We encourage you to make full use of your independence to recommend a major overhaul of EA with an emphasis on sustainability in all its forms. In this short presentation, I won't address the many things that need to be said about EA in Canada from climate test to indigenous rights to much improved consultation—we will do so in our written submission. We support major reform or next generation EA as eloquently articulated by Bob Gibson and colleagues in Fulfilling the Promise and endorse the twelve pillars of a next generation environmental assessment regime developed by West Coast Environmental Law and others.

Over the years, our organization has participated in many comprehensive studies and panel reviews, many of them marine-based. My first panel review was the Sable Offshore Energy Projects in 1996 which was actually a joint review with NEB and Nova Scotia Environment. As I and other staff members and volunteers participated in successive EAs over the years, we've become more cynical about the process. While CEEA 2012 was a clear assault on the integrity of federal EA, we already felt jaundiced about the process and the outcomes.

It is our view that the current federal EA process is not making anyone happy—communities, impacted industries, environmentalists and possibly even proponents. In terms of information, it produces quantity, but not quality. The process can be lengthy, costly and most importantly, pro forma. There are numerous steps that can be taken to remedy this malaise but given the time I would like to focus on the role of science and indigenous and traditional knowledge and also say a few words about regional and strategic environmental assessment.

The most important document in the EA process is, and will likely remain under any reform, the environmental impact statement. We have not been impressed by most of the environmental impact statements we have read in terms of content, analysis and conclusions. Currently, EIS are 95% descriptive. The quality of science in the documents is often low or mundane. The usual conclusion of no significant adverse environmental impact is expected based on the quality of science and the analysis and certainly, the current rules of the game.

Concerned citizens or communities and project opponents, because of the poor quality of the EIS and the biased conclusions, feel compelled, if they have the intervenor funding or resources, to address all the failings and omissions and emphasize the negative impacts of the project. This creates an adversarial process. The environmentalists say the sky is falling. The proponents say it all can be mitigated—relax. The treatment of the impacts of underwater seismic in EIS provides a good example. Most environmental impact statements usually take a restricted view of the science and downplay the potential impacts on marine life. Environmentalists point to the emerging science and the growing body of evidence showing impacts on marine life from invertebrates to endangered marine mammals. Rarely are the two bodies of science integrated. Personally, I have found this dynamic to be very unsatisfying.

It is true that other parties, be it government departments, such as DFO, or academics provide comment, but it doesn't remedy the fact that the base document or starting point is fundamentally flawed.

What steps can be taken to improve the quality and usefulness of the EIS? In our view the single most important step would be to sever the direct relationship between the proponent and those who produce the EIS and instead ensure that the EIS is produced by independent scientists and those with traditional and indigenous knowledge or access to it.

We would encourage you to recommend an independent body of scientists and those with access to indigenous and traditional knowledge. It may not be a model given its different and more focused role, but there are features of the Committee on the Status of Endangered Wildlife in Canada and its legislated mandate of providing scientific and traditional knowledge advice, that could make it instructive for the Panel. For example, the membership of COSEWIC is interesting:

“Members of COSEWIC are academics, independent specialists, Aboriginal knowledge-holders, government biologists, museum staff or independent biologists. Members have considerable experience with wildlife and biological science including Aboriginal Traditional Knowledge, ecology, genetics, wildlife and fisheries management, systematics and/or risk assessment, coupled with years of field experience.”<sup>1</sup>

The Panel should also consider including an open and transparent peer review in the EA process. We have participated in many DFO peer review processes run under the direction of the Canadian Science Advisory Secretariat (CSAS) which coordinates the production of peer reviewed science advice for Fisheries and Oceans Canada (DFO)<sup>2</sup>.

We do not have a lot of experience working with indigenous knowledge holders but have worked with traditional knowledge holders, primarily fishermen, in the production of research reports. The combination of scientific and traditional knowledge was very powerful.

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<sup>1</sup> [http://www.cosewic.gc.ca/eng/sct8/index\\_e.cfm#qu03](http://www.cosewic.gc.ca/eng/sct8/index_e.cfm#qu03)

<sup>2</sup> <http://www.dfo-mpo.gc.ca/csas-sccs/index-eng.htm>

The work of this body could be funded in arms-length fashion by proponents possibly supplemented by funding from federal and provincial governments. We would recommend that this body not be under the aegis of any government department or the Agency.

So far I have focused on the environmental impact statement. You have heard from other presenters that boosting the role of regional and strategic environmental assessments could greatly strengthen EA and put less pressure on the outcome of a specific EIS and reduce the need for duplicative individual project assessments. We agree wholeheartedly but with the strong caveat that a REA or SEA will suffer from the same failings if conducted under the present structure.

Meinhard Doelle and two colleagues have undertaken a review of strategic environmental assessments conducted by the two Offshore Petroleum Boards<sup>3</sup> in Atlantic Canada. They commend the Boards for initiating these broader assessments but conclude that they suffer from a number of limitations and have resulted in little change at the decision-making level. We have reviewed a number of the Board's SEAs and have found that they suffer from the same limitations as project assessments in terms of the quality of the science and traditional knowledge and the conclusions drawn

You are in Atlantic Canada and most of Atlantic Canada by area, is ocean. Many of the federal assessments in which we have been involved have been marine-based. This is likely to continue. Along with traditional uses of the ocean such as fishing or shipping, there are new uses, particularly in the field of energy. There are experimental tidal projects in the Bay of Fundy and recently a multi-billion dollar wind project has been proposed for offshore Nova Scotia. More scientifically robust regional or strategic and project environmental assessments will contribute to better decisions around ocean use in Atlantic Canada. Of course, environmental assessments need to be acted on<sup>4</sup> and plug into an effective ocean use planning process founded on sustainability in order to be worthwhile. The Oceans Act(1996) provides for the development integrated management plans<sup>5</sup> but none has been implemented in Atlantic Canada despite a ten year effort on the Scotian Shelf off the coast of Nova Scotia.

Finally, a quick word on offshore petroleum boards. The previous federal government was in the process of making them responsible authorities. Luckily this initiative was not realized and we oppose the boards becoming responsible authorities given their conflicting mandates of exploitation and protection.

Thank you and I look forward to your questions.

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<sup>3</sup> Using Strategic Environmental Assessments to Guide Oil and Gas Exploration Decisions: Applying Lessons Learned from Atlantic Canada to the Beaufort Sea, Meinhard Doelle et al., 2013  
[http://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2142001](http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2142001)

<sup>4</sup> <http://www.oera.ca/wp-content/uploads/2013/06/FINAL-SEA-REPORT.pdf> The Offshore Energy and Environmental Research Association produced a comprehensive and exemplary SEA on tidal power in the Bay of Fundy. Unfortunately many of its recommendations were not implemented.

<sup>5</sup> <http://laws-lois.justice.gc.ca/eng/acts/o-2.4/page-4.html#h-11>