

Best Practice Stakeholder Engagement begins at Day 1

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Introduction

Current approval processes for energy, mining and other proposed development are marked by a climate of accountability and transparency. Many argue it's about time. It is not only the requisite engineering, biophysical, socio-economic and cultural studies, which often include public hearings for major projects; even more challenging can be getting a societal thumbs up. The latter has elevated the importance of doing consulting and engagement the hard-to-define 'right' way. Proponents need to communicate with an increasingly diverse mix of stakeholders and Aboriginal communities. Yet while public consultation and engagement are now fundamental activities for impact assessments and social management planning, experience shows that the timing and quality of engagement varies across the board.

Most would agree that early engagement is an integral part of an Environmental Impact Assessment (EIA) or Environmental, Social and Health Impact Assessment (ESHIA). Not only do many assessment guidelines and standards such as the World Bank's International Finance Corporation (IFC) advocate for early engagement; most jurisdictions in North America encourage, even require, timely and proactive engagement practices. Yet experience has shown that while some firms are bar-raisers, those who engage early with stakeholders and aboriginal communities are the exception. This is both a missed opportunity and a real business risk.

This paper explores the advantages of 'good' and early or 'prior' engagement based on lessons learned on various projects. As defined in the 2012 IFC Performance Standards, the 'prior' in free, prior, informed consent (FPIC) refers to the need to engage early. More can be done early on when considering possible impacts or public concerns. Unfavorable impressions not only lead to missed opportunities; they may contribute to the development of a poor relationship with local communities, which may cause delays and significant costs. To illustrate what can go wrong and potentially slow or derail a project, we describe the case of a northern Canada mining project.¹ This is a case of the client trying to follow what would be considered 'best practice' engagement, starting prior to the EIA process, yet still failed to achieve for many years the social license to operate.

Background: Why Engage Early?

Development projects generally require significant levels of consultation with stakeholders at several points along the project development cycle. The process is designed to include key company, government agency, NGO, media and other stakeholders, and works to facilitate understanding and agreement towards a collective end result. Effective engagement with people, regulatory agencies, organizations and communities affected by and interested in the project is essential for delivering meaningful results and recommendations grounded in local knowledge and understanding. Through early EIA engagement, stakeholders and communities can identify the scope of what is to be reviewed and ensure that all 'appropriate' issues are

studied. It also helps deliver respect amongst all parties by working in partnership with interested parties rather than imposing upon them. Some will argue it is the only way to give proper deference to the culture and tradition of consensus decision-making in aboriginal communities. As such, it helps obtain the ‘social licence to operate’ and needed approvals from regulators.

International and Canadian Standards

For World Bank-financed investment projects, consultations should begin as early as possible (World Bank, 2012). According to the IFC Performance Standards, community engagement is an ongoing process that should begin early in the social and environmental assessment process. For projects that affect indigenous peoples, the IFC requires clients to “establish an ongoing relationship with the affected communities ... from as early as possible in the project planning and throughout the life of the project” (IFC, 2012).

Considering that the IAIA13 conference is being held in Calgary, it is worth looking at a Canadian take on this topic. Some notable features of early engagement in the Canadian EIA process are as follows:

- Notification vs. Engagement: Federal and provincial agencies, such as the Canadian Environmental Assessment Agency, generally encourage proponents to provide early notification to stakeholders, although this is not the same as engagement. The former may in fact be quite impersonal and does not encourage two-way dialogue.
- Timing: It is often well into the baseline studies or at the end of the impact assessment process that serious engagement occurs.
- Funding: Canada is unique in that its Canadian Environmental Assessment Act includes provisions for funding of participants to attend panels and mediations. This tends to encourage eligible participants to engage with the proponent.
- Aboriginal communities: The ‘duty to consult’ is constitutionally mandated in Canada for Aboriginal Peoples on any projects that will affect them. Some provinces have produced guidelines for early engagement with Aboriginal communities. Still, several litigations are ongoing about this issue, and some EIA panels have been refusing to determine whether that duty has been fulfilled. As a result, projects are experiencing delays since many groups are taking their cases to the courts. This may further postpone an already long development approval process.

Early engagement in Canada is typically done at the scoping (pre-EIA) stage through an Environmental Impact Statement (EIS). It includes information that the responsible authority requires the project proponent to review. It should detail all planned development components and how they may affect the environment; i.e., whether alone, in combination with each other (existing and proposed), and in combination with other human activities. An EIS is a critical document for communities to gain an early understanding of a project’s potential impacts and benefits. Communities want the proposed development to be explained properly and want to be provided with opportunities to influence development design. Still, engagement should not end with an EIS. Communities expect meaningful and timely information on all stages of development and this includes monitoring and follow-up programs.

Benefits of Early Engagement

Early engagement has several benefits that may include some or all of the following:

- Provides insights into potential impacts, as well as defuses suspicion and concern over a perceived lack of transparency; i.e., it helps build lasting relationships and trust.
- Creates an opportunity for stakeholders to provide meaningful input and promotes a better understanding of the social context of a project.
- Opens the door for working together before significant time and resources have been invested in detailed planning.
- Leads to better informed project planning and decision-making. Recognizing and defining key issues early on allows time for project teams to develop appropriate response actions, identify data needs and orientate baseline studies.
- Increase the chances of resolving concerns as they occur.

Public involvement tends to be easier if initiated early rather than waiting to respond to issues of public concern. A request for involvement by another party may indicate there is already a problem or conflict to resolve in which strongly held and polarized views may already exist (CAPP, 2003).

Risks of Early Engagement

Risks are also associated with early engagement also exist, and caution is needed. Consultation and engagement may be done poorly through any of the following examples:

- using inexperienced people to organize and facilitate meetings;
- showing favoritism to certain individuals, groups or communities;
- not encouraging diverse groups to participate due to timing or location of meetings;
- not allowing enough time and resources for adequate preparation; and
- lack of timely feedback.

Countless other ways exist of ‘not’ getting it right. Not surprisingly, many developers express concern about how expectations and conflicting interests will be managed. Yet the answer to these sorts of worries is not to avoid or postpone engagement, but to make gentle and careful steps into the local setting. Engagement only gets better with time and experiences, and as this paper shows, it is better to start earlier rather than wait until it is too late.

Case Study: Engaging People for a Proposed Mine in Northern Canada

Our firm assisted a mining client in northern Canada with an EIA that took several years and millions of dollars invested in studies and public hearings before finally securing regulatory approval to proceed. Consultation was initiated several years prior to the formal EIA process, and the community engagement approach generally followed a logical sequence seemingly designed to reach a satisfactory outcome. Main ‘gentle and careful steps’ were taken over about a seven-year period, including four years within the context of the EIA, as follows:

- hiring a community relations coordinator from one of the communities;
- engaging through activities such as open houses, presentations and meetings, including with leaders of the communities and government organizations;
- inviting community leaders and representatives to visit the project site;
- building and displaying a project 3-D model;
- undertaking traditional knowledge studies and listening to specific concerns and issues;
- making newspaper advertisements and articles;
- giving radio and telephone interviews;
- keeping the project website updated with timely information;
- making presentations to interested groups, including local Rotary Clubs and schools;
- participating in science forums with presentations and information booths; and
- maintaining an ‘engagement log’ with dates, individuals and organizations engaged with, mode of communication, discussion topics and positions taken by participants.

For any public meetings, responses to issues raised during these discussions were noted, documenting any needed efforts to be resolved. The community and public meetings held provided an opportunity for feedback on the project and showed how past input, including that provided during the scoping sessions, was used to refine and improve mine development plans. An additional objective was to obtain input from the community members and land users with regard to appropriate scopes for the monitoring programs and closure plans. Our client committed to continue its efforts to obtain specific input on the design of the aquatic and wildlife effects monitoring programs, its closure and reclamation plan, and socio-economic monitoring programs as the project proceeded through the permitting process.

Even with many diverse activities over several years, by some accounts, engagement was less than perfect. The company repeatedly tried to arrange public meetings through the community leadership, but unfortunately the local leadership would not provide authorization for these meetings to proceed. Some issues remained leading up to the final hearings for the EIA. According to feedback received in meeting minutes and during the hearings, people felt misled or ignored, and many planned meetings never occurred. During the final hearings some questioned how the area was explored and a lease granted without any consultation with local residents. This may have been untrue but nonetheless the perception was real.

Part of the issue was the apparent distrust of the people’s own leadership within the communities themselves: to accommodate people’s wishes, some alliances were formed and others broke down with certain leaders. As a result, trust declined over time and a long process of miscommunication, mistrust, legal proceeding and even hostilities began. Social baseline studies were interrupted when one community leader felt permission to conduct interviews had not been granted, although a research license had been prepared and approved previously. Over the final two years of the EIA, matters worsened as our client was sued, blocked, yelled at, etc. It was not until the final public hearings that signs of relationship-building and potential building blocks to work together were made apparent. Still a long way to go, but positive steps were made.

Lessons Learned

It was encouraging that the client took on all consultation activities themselves, and seemed to follow the right steps to early, good engagement. As the Project ‘owners’, they rightly felt that they knew the people best. At one of the hearings, the Board thanked the developer and all parties involved for the efforts made toward ‘respectful engagement’. Some lessons learned can be shared from this case study, as follows:

- Due to the sensitivity of consultation with aboriginal groups, it may be necessary to allow more time for consultation and for relationships to mature.
- Adopting an aboriginal approach to consultation involves striving for consensus. This takes time and cannot be hurried.
- The process must be sensitive to seasonal hunting requirements and other activities, which preclude effective consultation at certain times of year.
- Communicate in traditional or local language and produce written communications materials in this language, where possible.
- Tools such as consultation software and stakeholder mapping can improve understanding and plan engagement activities better. Other tools and techniques could be utilized to provide strategic input for a more effective and trust-building process.

Conclusion

In this paper, we have shown that early stakeholder engagement in development projects requiring an EIA, generally speaking, accomplishes the following objectives:

- facilitates trust-building;
- demonstrates transparency;
- supports better relationships with stakeholders and communities;
- improves communication between organizations and individuals involved;
- enables decision-makers to consider the wider implications of their activities; and
- minimize risks to development and operational processes.

Stakeholder engagement is gaining wider acceptance and is now supported by a range of legislation and guidelines. Nevertheless, it is still often treated as an ‘add on’ in order to comply with regulations rather than as an integral component of development planning and delivery. Significant sums of money may be spent on stakeholder engagement, with little return if the process is not well designed. For sharing and promoting awareness ‘best practice’, it is important that organizations share the benefits and results of their approach to early engagement.

Consultation activities that take place early on, and take place often, are key to successful, good engagement. Top clients understand why best practice engagement, i.e., before key design and policy decisions have been made, is invaluable to key stakeholder groups. Early engagement should be established as an integral part of every project, plan or process. Good, early engagement can lead to a better understanding of potential adverse impacts and thereby refinements in project design, which would decrease the likelihood of these impacts. It can also

lead to a greater likelihood that vulnerable or marginalized groups will be engaged in opportunities for social well-being that may arise from a project.

Bibliography

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