Assessing Project Extensions and Amendments:

Creeping Baselines and Cumulative Baselines

Alan Ehrlich
Manager of EIA, Mackenzie Valley Environmental Impact Review Board
Canada
aehrlich@reviewboard.ca
reviewboard.ca
Introduction

CASE STUDY: DIAVIK DIAMOND MINE

SO WHAT IF PROJECTS CHANGE?

PARTIAL SOLUTIONS
Diavik Diamond Mine

• Large diamond mine on island in Lac de Gras, NWT
• Consultations (’94–’99) informed design- No waste in culturally important lake
• Approved in 1999- Comprehensive Study
• 1999 to now- Incremental changes in:
  ↑ surface disturbance
  ↑ mine waste
  ↑ rock piles
  ↑ water
  ↑ fuel
  ↑ years of operation

• 2018- Major change - EA
Diavik closure plan

Photo: courtesy of Diavik, [from MVEIRB Report of EA]
So what if projects change?
Fundamental questions

• Is this the same project?
• How far does original social license go?
  • Scope of consultation
• What baseline should impacts be compared to?
Original EA scope of project

• EAs typically describe the scope of the project being assessed
• Regulatory authorizations are supposed to stay in that scope
• **Difficult in practice** for small amendments, because EA scope:
  • typically lacks details
  • described proposed project, not maximum acceptable limits of development
  • may require some practical flexibility
Original scope of consultation

- The scope of development for amendments has implications about Indigenous rights and FPIC.
- Consulting on one thing and then doing something else is not OK
- Basis for judicial reviews:
  - Chippewa of the Thames  (Thames First Nation v. Enbridge, Pipelines Inc. 2017)
  - Stellat’en First Nation and the Endako mine (Louis v. British Columbia 2013)
  - Rio Tinto Alcan Inc. v. Carrier Sekani Tribal Council 2010
Acceptability

- acceptability matters to impact significance
- initial approval + social acceptance
  = impacts of a certain scale, duration are acceptable at that time
- a minor change to a regulator could be a major change to others
- incremental changes reduce trust!
- raised as an issue by Indigenous parties in 2018 Diavik EA
If, after years of operation, a new expansion or different undertaking is proposed:

• Is it reasonable to assume total impact would have originally been acceptable?
• In its entirety, would approval reflect the values of original EA and its participants?
• How much change is too much?
• When is “the essential nature” of the original gone?
Creeping Baseline and Landscape Amnesia
Changed landscape affects sense of place

- Indigenous Elders experienced Diavik site as a culturally important place (before mining)
- Most have since passed away
Changed landscape affects sense of place

• Current generation has grown up experiencing the island as an industrial site only
• Site is avoided, fades from living memory
Landscape amnesia
(a.k.a. creeping baseline)

• entire frame of reference gradually fades from people’s psyches
• replaced by a more recent one that minimizes relative change
• norms of acceptability morph over time
• societal standards slide
• degraded environment becomes familiar, and the pristine one gradually forgotten
Conditions and values may change over time

- Environmental, social and cultural conditions and context may have changed substantially
- Socio-economic changes may cause changes to values over time
- Values that led to original significance conclusions may have changed
Approaches to dealing with creeping baseline / landscape amnesia

• Cumulative Effects Assessment
• Traditional Knowledge
• Cumulative effects assessment can overcome the piecemeal effect of incrementalism
  • considers *total* impact to get the right reference point (the opposite of creeping baseline!)

**Cumulative baseline vs creeping baseline**

- Cumulative effects baseline ≠ Project-specific effects baseline
Cumulative baseline

- Cumulative baseline
  - is what would happen *without* the combined impacts of [the Project with other activities]
- For comparing *against* combined impacts of all incremental changes, baseline must not *include* those impacts
  - The cumulative impact *prediction must include* the cumulative effects
  - The *baseline* it is evaluated *against must not*
Cumulative baseline vs creeping baseline

• Cumulative baseline is not a snapshot of current conditions!
• It need to reflect conditions prior to cumulative effects
• Diavik EA:
  • “baseline” = environmental setting prior to diamond mine(s)
  • “background” = current environmental setting, prior to the Project
• similar distinction (but different terminology) in other EAs
Cultural camps vs. landscape amnesia

- Traditional Knowledge (TK)
  - spans generations
  - captures pre-development conditions and values
- On-the-land cultural camps enable continuous use of area
- Developer supported
- Used by harvesters, families and org’s
  - TK research
  - TK education
  - Traditional land use activities
In summary...

• For amendments, consider original significance determinations (acceptability) and current values
• Don’t consult on one thing and do another
• Beware of creeping baselines
• Baseline for cumulative effects must be more than current conditions
Let’s continue the conversation!
Post questions and comments via chat in the IAIA22 platform.

Alan Ehrlich
Manager of EIA, Mackenzie Valley Environmental Impact Review Board
Canada
aehrlich@reviewboard.ca

reviewboard.ca

#iaia22