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# Building a Lasting Legacy – Safeguarding What We Value

## A Regional Strategic Approach to Liquefied Natural Gas Development in BC

First Nations and communities in northern British Columbia are presently grappling with the potential for a large number of new resource development projects, and in particular up to a dozen liquefied natural gas (“LNG”) projects, including pipelines and export facilities as well as increased gas extraction to feed these projects. Addressing these projects primarily through project- and proponent-specific environmental assessments and negotiations presents a daunting, if not impossible task that risks less than optimal results for all involved. West Coast Environmental Law has recently concluded a two year research project on best practices in regional cumulative effects management. Our research suggests a number of collaborative steps that could be taken to establish a more effective and efficient pathway forward, in particular through collaboratively developed analysis and decision tools at the regional scale to inform inclusive, science and Indigenous knowledge-based decisions about land use in particular geographic areas and on specific projects. This regional scale approach to addressing the cumulative effects of different development scenarios is sometimes referred to as regional strategic environmental assessment.

### 1. A focus on values

The complexity of the task ahead of us is amplified by BC and Canada’s current laws about resource development. Rules about land and water use tend to be embedded in laws about specific resource extraction industries (e.g., *Oil and Gas Activities Act*, *Mines Act*, *Forest and Range Practices Act*), environmental assessment takes place on a project-by-project basis, and no one has responsibility for the big picture. This approach has contributed to fragmented decision-making that fails to address the cumulative effects of multiple projects and different forms of development. It also frustrates and undermines efforts to accomplish any semblance of integrated resource management planning.



Our research suggests that this approach must be turned on its head: placing the focus of assessment and management first and foremost on the needs of the land, water and people, then assessing how the combined impacts of past, present and future development affects them, before making decisions about the desired nature, pace and scale of development.

The first task at hand is identifying the key values (and rights) that need to be protected, and in turn the associated socio-economic and ecological conditions (often referred to as ‘valued components’) that can be measured, managed and maintained over time to ensure the integrity of the value or right. Such values can encompass both important components of the biophysical environment (e.g., salmon, water, climate) and of human well-being (long-term, meaningful employment, living wages and income, food security, health and cultural vitality), and, importantly, the relationships between them.

## **2. Deploying best available scientific and Indigenous knowledge to understand valued components**

Many values cross-cut political and administrative boundaries: species like salmon or grizzly bears have extensive home ranges, water connects communities and ecosystems across large watersheds, traditional hunting territories and cultural ties extend over vast landscapes, and jobs and services reach from local to regional and international markets. It thus makes sense to examine impacts on many values at a broader scale. Analysis and mapping can be done to help understand the past, present and future condition of valued ecological components (such as habitat modeling for key species) and to identify low risk management targets for them.<sup>1</sup> This process of “food and water security” planning could offer important information about what it will take to safeguard key species like salmon, and the water that sustains us. Past experience suggests that an independent science body, involving respected scientific and Indigenous knowledge experts has a strong potential to assist with this work. In addition to assessing risks and benefits to valued components in different development scenarios, such a body might also consider and recommend generic and industry or class-specific mitigation measures and operating standards designed to conserve, protect and enhance valued components in the assessment and potential implementation (with conditions) of specific projects.

## **3. Identifying key drivers and future development scenarios**

Regional strategic environmental assessment is a process designed to systematically assess the potential environmental effects, including cumulative effects of alternative plans or development scenarios for a region. In this context, scenario development should address the range of plausible LNG development scenarios, but also account for the effects of other past, current and reasonably foreseeable development, at least with respect to key drivers that could affect the condition of selected values. In other words, while it is widely understood that not all currently proposed LNG projects will proceed, what are the range of plausible development scenarios for the future?

<sup>1</sup> For an example re: identification of low risk targets by an independent science body see: Coast Information Team Ecosystem-Based Management Planning Handbook (March 2004), online at: <http://www.citbc.org/c-ebm-hdbk-fin-22mar04.pdf>.

One could envision a scenario development process with both an expert and community component, integrating community perspectives on desired future scenarios for the region, including the nature, pace and scale of development, with modeling and other technical analysis tools and information from industry, non-governmental organizations, Indigenous knowledge holders and governments. Constructing multiple scenarios that include a range of development and environmental drivers (e.g. business as usual, graduated or rapid growth of industry-specific activities, climate change) avoids the need for achieving consensus on any one scenario, but allows all plausible scenarios deemed to be important to be evaluated.



*Wetland south of Davie Lake*

## **4. Evaluating potential cumulative effects on valued components in different development scenarios**

The intent of scenario-based regional strategic environmental assessment is not to predict the future, but to evaluate the general preparedness and capacity of governments (including First Nations governments), communities and industries to manage the impacts associated with each scenario; the effectiveness of possible mitigation measures and management strategies; and, the relative vulnerability and resilience of communities and ecosystems to residual impacts.

Put simply, regional strategic environmental assessment should assist all parties in better understanding how things we value will be affected in a range of plausible “futures” reflecting different development and protection choices. It opens up the



potential for identifying scenario(s) with the greatest mutually reinforcing benefits for all values, while respecting ecological limits and upholding the title and rights of individual First Nations. It also encourages explicit attention to trade-offs where they exist. Put another way, it is a tool that can assist us in collectively identifying options to maintain both ecological integrity and high levels of human well-being over time.

By deploying best available scientific and Indigenous knowledge to this end, analysis and mapping undertaken at the regional scale has the potential to provide vital direction to geographically- and project-specific decisions.

### **5. Government-to-government agreements informed by regionally developed information, targets and scenario analysis**

Proposed natural gas projects, from fracking in the northeast, to multiple LNG pipeline proposals, to export terminals and tanker traffic on the west coast impact dozens of First Nations. The governance rights and authority of individual First Nations must be reflected in any assessment and decision-making about future development in their territories.

Given the cross-cutting nature of many ecological values, and the added power of collective engagement, impacted First Nations may choose to enter into protocol agreements with the Crown to facilitate collaborative oversight of regional strategic environmental assessment, and to jointly develop principles and processes to inform and support the negotiation of government-to-government agreements (either bi-lateral or multi-lateral) that are informed by the regional assessment, regarding matters such as:

- strategic land use planning;
- principles and processes for conducting environmental assessment of specific proposed natural gas infrastructure projects;
- standards for specific resource industries, including natural gas, that account for the laws, rights and values of the First Nations;
- other principles and processes for implementing collaborative, effective approaches to shared management and decision-making relating to lands, waters and resources;
- principles and processes for ongoing monitoring and adaptive co-management to ensure that

objectives and targets are being met and to evaluate their effectiveness; and,

- fair sharing of the financial benefits of resource development.



### **6. Ensure proper analysis and agreements are in place before making choices about future development**

Development choices that are made now may irreversibly change the face of some areas of northern BC. We need to ensure that a “gold rush mentality” does not prevent us from making thoughtful choices that reflect a variety of points of view and respect the constitutionally unique role of First Nations in the decision-making process. With focused attention and sufficient resources a regional strategic approach can be implemented in a timely way to inform and facilitate project-specific assessments and *before* any approvals are granted. This collaborative approach – focused on shared values and scenarios that best safeguard and advance them – has the potential to build the ‘social licence’ that gives projects the certainty they need, and to assist the Crown and

First Nations in reconciling their respective laws, traditions and responsibilities in the context of LNG development. Furthermore, it responds, at least in part to industry concerns about the shared responsibility of governments and other actors, such as other proponents, in cumulative effects assessment and management beyond the scope of particular projects.

## 7. A supportive legal and policy framework for effective cumulative effects management

*Our research suggests that regional strategic environmental assessment can and should be used now to provide direction for decision-making in relation to the large number of natural gas projects proposed for BC.* However, the components of regional strategic environmental assessment discussed above are only pieces, albeit important pieces, of the larger framework that is necessary for meaningful cumulative effects management.

Key elements of cumulative effects management may be summarized as follows:

1. Establishing strategic level direction for resource management (e.g., identifying targets/objectives for valued components, collaborative planning, scenario analysis)
2. Assessing, managing and regulating specific activities to ensure objectives are met
3. Monitoring and adaptive management (i.e., adjusting plans and actions based on outcomes of monitoring)

Regional strategic environmental assessment can be a key tool to assist in establishing strategic level direction for resource management, but ultimately all of the elements noted above must be linked together by a supportive law and policy framework that ensures that they operate as an integrated system for managing land and resource use. Doing so will likely involve new institutions and approaches to decision-making that are more integrated and collaborative. For a summary of best practices research regarding models from around the world that offer potential in the cumulative effects management context, and to better understand the legal context in BC see West Coast Environmental Law's *Regional Cumulative Effects Management in British Columbia: A Legal Discussion Paper*.



Kitimat River



Parsnip River and Tributaries

**This backgrounder was prepared by West Coast Environmental Law for educational purposes only. If you require advice about the specifics of your legal situation, please contact one of West Coast's lawyers: 1-800-330-9235.**