



200 – 2006 West 10th Avenue
Vancouver, BC V6J 2B3
www.wcel.org

tel: 604.684.7378
fax: 604.684.1312
toll free: 1.800.330.WCEL (in BC)
email: admin@wcel.org

West Coast Environmental Law Dialogues for Legal Innovation

DIALOGUE SUMMARY

Beyond Pipelines: Managing the Cumulative Impacts of Resource Development in BC

On February 26, 2013 a small group of opinion leaders and decision-makers from across BC came together to engage in a high level public dialogue about the challenge of managing the cumulative impacts of past, present and future human activities on BC's ecosystems and communities, including the ever-increasing impact of climate change. The Dialogue explored three themes:

1. The nature and extent of the challenge of cumulative impacts management
2. Root causes and drivers for change
3. The values, principles and strategies that could or should inform innovation to address the challenge of cumulative impacts management

Hosted by West Coast Environmental Law, the event was attended by a sold-out live audience and was also broadcast live via video webcast. Outcomes from the Dialogue will help shape a multi-year law reform project of West Coast Environmental Law focused on cumulative impacts management in BC.

This Dialogue Summary offers highlights from the event in the form of selected quotes from the dialogue participants. Video of the full event may be viewed at:
<http://www.youtube.com/watch?v=a0T092PpbQ4>



Beyond Pipelines Dialogue event at the Morris J. Wosk Centre for Dialogue in Vancouver, BC

The Dialogue participants were:

Opening Remarks: Rueben George, Tsleil Waututh Nation

Moderator: Jessica Clogg, Executive Director & Senior Counsel, West Coast Environmental Law

- Gerald Amos, Director of Community Relations, Headwaters Initiative
- Denise Dalmer, Director, Environment and Sustainability, Business Council of British Columbia
- Tom Ethier, Assistant Deputy Minister, Resource Stewardship Division, Ministry of Forests, Lands, and Natural Resource Operations
- George Hegmann, P. Eng., M.E.Des., Principal and Practice Leader, Stantec
- Gwen Johansson, Mayor, Hudson's Hope, BC
- Valerie Langer, Director BC Forests Conservation, ForestEthics Solutions
- Tara Marsden/Naxginkw, MA, Gitanyow Huwilp Lax'yip Implementation Coordinator, Gitanyow Hereditary Chiefs
- Dr. Faisal Moola, PhD., Director General, Ontario and Northern Canada, David Suzuki Foundation and Adjunct Professor, Faculty of Forestry, University of Toronto
- Anna Warwick Sears, PhD, Executive Director, Okanagan Basin Water Board
- Lindsay Staples, Principal, North\West Resources Consulting Group
- Mark Zacharias, Assistant Deputy Minister, British Columbia Ministry of the Environment

I OPENING REMARKS

Jessica Clogg (Moderator)

“West Coast’s *Dialogues for Legal Innovation Series* brings together diverse perspectives to help shape solutions to complex legal and policy issues that affect the well being of British Columbians and our communities.”

“Tonight’s event is focused on the question of how we better manage the cumulative impacts of the multitude of decisions made every day, by governments, proponents and individuals on our environment and human well-being, in the hope of charting a more resilient and healthy future for our children, and theirs.” (0:30)

Rueben George (Tsleil Waututh Nation)

“Tsleil-Waututh means People of the Inlet, and that’s the Burrard Inlet behind us... People ask me...what do you see happening to your water here, your traditional territory, and what I share is, I grew up in that water and I see an abundance of salmon in that water...we would clam and get crab, dungeness crab, and it was really beautiful, we would swim there, we would play there, we would paddle there...we used to do everything in the water... My kids won’t experience what I experienced... It’s been an ongoing thing, the disruption that has been caused, and now we’re at a point where, if we don’t stand up and fight for something we have to deal with the consequences. And the consequences for our future and our future generations do not look good. ” (3:15)

“The loving connection and the spiritual connection that I have with the land, the loving connection and the spiritual connection that I have with the waters—I want my children to experience that, and to take those values and apply it to the work that they are going to do in their life, to be proud of where they live, and to be connected to where they live, for generations.” (6:50)

“I grew up in poverty, and I know what it’s like, and I know when these oil companies come by and offer millions of dollars that would help a lot of people, a lot of my people out of poverty, but we can’t put a price on the sacred. We can’t put a price on those sacred things that we entrust that us as British Columbians, and Canadians, and the people from Vancouver, we all deserve an opportunity to have a connection like that to our land...to our waters. It’s the most beautiful place on earth, and let’s keep it that way.”

Jessica Clogg

“To start things off, I wanted to reflect briefly on one of the moments when the light bulb went on for me regarding the central importance of more effectively grappling with cumulative impacts management... I was in a room, with many knowledgeable, dedicated people, not dissimilar to those who are here tonight... I realized that the answer wasn’t all of us in that room working harder to do what we were already doing, but a more profound transformation in how we approach managing human activities to better safeguard those things which we value most. And that transformation likely wasn’t possible within the boundaries of our existing laws, and our existing institutions.” (11:50)

“In this sense cumulative impacts management isn’t just about environmental assessment, it’s about:

- identifying what we as a society value with respect to the land and water;
- specific measurable objectives for those values;
- assessing, managing and regulating activities to ensure those objectives are met;
- monitoring activities and their effects; and
- adaptive management, learning and modifying the system as appropriate based on the results of monitoring.”

“And when we look at cumulative effects management in that holistic sense, it’s not just about technical tools for assessment, it also raises important questions about governance, about the way we organize ourselves to make decisions, and how we integrate best available scientific information and Indigenous knowledge into decision-making.”

II Food for Thought

Lindsay Staples

[Reading from Hugh Brody, *Maps and Dreams* (Vancouver: Douglas & McIntyre, 1981) at 246-7]:

The concept of cumulative impact is easily related to the series of developments experienced in northeast British Columbia. From the Indians’ perspective the long history of the region’s development can be understood only as a progressive loss of lands by a people for whom mobility has always been at the heart of economy and culture... Developments that serve an industrial economy are usually interconnected by stages of economic growth and by infrastructure. To



Lindsay Staples offers food for thought at *Beyond Pipelines*

understand the effects of new developments then, we must understand what has passed and been experienced before. The idea of cumulative impact invites this kind of understanding.

Yet it is an idea beset by difficulties. It is not always easy to specify the process of which any project is part—unless the process is described in very general terms as industrialization or frontier development. If the process is described in a general way, however, its cumulative impact may be similarly described. Such generalizations may be useful in looking at how damage to wildlife or to the environment has occurred and may be minimized, but may be of little use in prescribing specific remedies for specific ills. Nor is a general description of the effects of industrialization as a progressive deterioration of the environment any less discouraging: large and general processes occur with anonymity and remorselessness. The forces that press them forward transcend the merely national, and often seem too many or too abstract to be related to regional needs or fears. The imagination stumbles and falls when presented with the idea of turning the relentless course of history from its path. When impact is seen as process, those most directly and personally affected, confronted by the horrifying magnitude of it, are likely to give up in despair.

An overenthusiastic use of the idea of cumulative impact can thus lead to a hopeless fatalism. It can also imply a troubling degree of passivity among the peoples that are affected.” (36:00)

“Cumulative effects is how we cope with and manage the weight of the past and the uncertainty of the future, in the present.” (42:00)

“There is an important link between cumulative effects assessment and cumulative effects management. I would argue that we’ve got a long way to go in improving our abilities with respect to cumulative effects assessment. But a large part of the problem that cumulative effects assessment faces, certainly in Canada, and certainly the proponents of development projects who are required by law to prepare these cumulative assessments is the dismal state of cumulative effects management. In the absence of an adequate and sound and rigorous cumulative effects management regime, the tools that could should and could be available to do sound and rigorous cumulative effects assessment are essentially absent. My view is that until we get the management right, cumulative effects assessment is going to be seriously flawed in most instances.” (45:20)

“[Cumulative effects management] needs to be informed by sound scientific direction but also by the best traditional knowledge, local knowledge, and community knowledge. Quite apart from Ottawa and Victoria and the centres where remote control decisions are made, there are people in landscapes who are deeply informed about what’s going on in their backyard and how that information and knowledge comes to bear with respect to decisions that affect them is obviously very important.”

“[There] needs to be a linkage between land-use plans and how they inform development decisions.”

“At some point with cumulative effects you have to be able to answer the question when is enough enough? And when is the pace and scale of development too much, too much for government of any size to handle?”

The monitoring work [should be] transparent, and...the findings and the analysis...done by independent bodies. Such is the state of political skepticism in the world that we live in today: there’s the concern about spinning information and spinning results. The notion that it’s reputable bodies that are doing the analysis and making the judgments is absolutely critical.” (50:40)

“One of the challenges is the sheer number of actors involved, and how we collectively get our act together. This is an area where there needs to be leadership... I’d like to suggest tonight that one candidate...for that leadership are First Nations: First Nations on the basis of their title, First Nations on the basis of their attachment to the land...First Nations are very uniquely positioned to show some leadership in this area; the rest of us need to work with them and collaborate with First Nations government to do this really important work.”

III Theme One: The nature and extent of the challenge of cumulative impacts management

Faisal Moola

“I’d just like to give you some statistics from a study the David Suzuki Foundation released recently on the impacts of 40 years of industrial development in northeastern BC. We found that within a 58,000 km² area, the Peace region— the territories of the Treaty 8 Nations— right now there are 16,267 oil and gas wells, 28,587 km of pipeline, 45,293 km of roads, and 116,725 km of seismic lines packed into this region. If laid end to end roads, pipelines and seismic lines would wrap around this planet an astonishing 4½ times. This didn’t happen by mistake. This was a consequence of decisions made by decision-makers to allow overlapping tenures to happen within the same area.” (56:00)



Dr. Faisal Moola speaking at *Beyond Pipelines*

Gerald Amos

“I spoke of the oolichan in my opening comments. A lot of people and organizations like the Department of Fisheries and Oceans wanted it to remain a local issue. But the oolichan was traded up and down the coast and to the interior, the oolichan oil from our community... Our people, the Haisla, had responsibilities that went beyond physical borders. We harvested 650 ton of oolichan annually...and we don’t any more in that one particular river. The impact of that unfortunately hasn’t been recognized as a cumulative impact not just locally in the Kitimat River and to the Haisla people, but perhaps coastwide and maybe the coast of the whole of North America, because the juvenile oolichans go out to sea. We had reports from our brothers in the Alert Bay area where they witnessed a 250 ton bycatch of oolichans, juvenile oolichans out in the north end of Vancouver Island. That ties us together because those oolichan are part of the food chain that feeds a host of other critters that make up this ecosystem, this environment that we all share.” (58:00)

Valerie Langer

“We keep on making decisions one application at a time and the public gets to comment one application at a time. Over a period of two decades or three decades all of a sudden what looked like it was just one cutblock and effects on *that* stream, and all the community’s efforts to think about how that would affect them...concessions were made to allow the economics to work ...concessions were made on the environmental side without really getting a sense of what was going to happen over the decades... Before you know it you turn around, it’s ten years later and a watershed has gone down, or two watersheds, or a whole fishery has disappeared. Where we are asked to manage and where we’re asked to participate is at such a micro scale.” (1:01:00)

Anna Warwick Sears

“We are in such a hurry to give out these permits right now. In the Okanagan there is a move, and I believe that it’s province-wide, to streamline permitting processes. At the Okanagan Basin Water Board AGM a couple of years ago we had a fellow from Forest Lands and Natural Resource Operations give a presentation about the new ministry. He said, “If you want to put in a gravel quarry it’s a one-stop shop.”

“[There is] definitely a push between municipalities to help boost growth and development. Despite the regional growth strategies a lot of times we’re not looking at each other’s zoning. Zoning around the lake is an example where we are hoping to still do some more larger scale planning. My observation is that people are zoning the lakeshore and developing the lakeshore assuming all other communities and jurisdictions are leaving it pristine where actually everyone is building lots around Okanagan Lake, which is one of the province’s big resources...” (1:05:00)

Denise Dalmer

“We have to look at our roles as individuals and in communities we are a collection of individuals, and people don’t just go somewhere, they usually go somewhere for a good-paying job that’s long term and sustainable. Tourism isn’t going to be that. Our economic system right now has provided all the social benefits, health care, social services, infrastructure that we have right now. And people don’t just buy things, they demand things as part of a lifestyle. We have to see consumers, which is us, as part of the solution, rather than industry as the problem. The other part of that is that we always talk about “out there”, but actually 80% of us live in urban centres...we ignore these kind of environmental issues because they’re not close to home...sometimes in cities we don’t connect our lifestyle patterns with the consumption of natural resources out there.” (1:08:00)

Gerald Amos

“We know about the impact of cumulative effects, we’ve known about it for a while, I daresay... I think it would be completely irresponsible of federal, provincial governments, First Nations governments not to come together on this question and chart a path for ourselves. If we don’t do that, we’re going to be letting down my grandchildren.” (1:12:00)

Tara Marsden

“Currently we are looking at a modern-day gold rush in the northwest part of the province. It’s driven by global economic factors outside our control. There are six environmental assessments that we’re currently engaged in looking at gold and copper and other mineral mines outside our territory...but all the traffic that would service the mines would go through our territory. There’s a potential for up to ten more in the Tahltan territory to the north of us and some in the Nisga’a territory to the west. We also have two liquefied natural gas pipeline proposals going right through our territory, and four run-of-the-river power projects currently on the books.”

“Now we are looking at decline in our moose population— the moose population in the Nass River has declined by 65% in over the last 10 years.” (1:16:00)



Tara Marsden/Naxginkw speaking at the Dialogue event

Tom Ethier

“There is a tension between citizens and applicants wanting to have speedy decisions so they have certainty and know what the decision is, but there is also a tension around what is the public interest, what are we trying to achieve.” (1:19:00)

Mark Zacharias

“From a provincial perspective we’re also looking at invasive species and climate change. We’re also looking at population growth.” (1:22:00)

Gwen Johansson

“I believe that you get better decisions if the decision-maker has to look out the window and see the consequences of his own decisions. What we’ve seen in government in recent years is this migration away from the areas where the decisions are going to impact. Whereas we used to have the senior members of the Oil & Gas Commission, for instance, in the area in where the oil and gas was being produced it is now centred in Victoria.” (1:23:00)

IV Theme two: Root causes and drivers for change**George Hegmann**

“We as a species have great difficulty making decisions. It’s always been the case through 5,000 years of recorded human history and 250 years of industrial development which has brought us to where we are today, to where every single person in this room is benefitting, and now we are seeing the consequences of what has brought us to this point in time. We often look at cumulative effects with all its science with all its technology, and we can discuss and debate endlessly all the opportunities and all of which we may avail ourselves, all of which is possible in regards to monitoring and study and assessment, but fundamentally in the end, people have to make decisions.” (1:25:00)

Faisal Moola

“I think it’s about recognizing wealth, about where wealth comes from... The problem is that we’re not recognizing the full wealth that we’ve been blessed with, and that’s the non-market wealth that these geographies provide. The reality is that trees clean our air, wetlands filter water, they help store enormous amounts of greenhouse gases... There’s a growing awareness internationally that these non-market benefits, which scientists refer to as ecosystem services, are critical to sustaining the health and well-being of communities.” (1:30:00)

Valerie Langer

“We are less and less willing to give governments or communities the ability and the right to set thresholds for how we behave economically, to say, set science-based thresholds on what can the water ecosystem deliver sustainably.” (1:33:00)

Gwen Johansson

“Our system of measuring our success by how much our GDP grows will lead us into oblivion...so either we have to find another way to measure success or Mother Nature will solve the problem for us.” (1:35:00)

Anna Warwick Sears

“The lack of other economic drivers in the province is certainly affecting the rate of resource development.”
(1:36:00)



Anna Warwick Sears at the Dialogue event

Tara Marsden

“While I understand that, yes, we all want jobs and we all want some level of lifestyle and comfort in our lives, will these companies really run for the hills if we are a little more careful and a little more cautious?” (1:39:00)

Lindsay Staples

“At some point it does get down to this question of wealth, and the distribution of wealth. If all the wealth is going into the immediate present, another word for it is greed... One of the questions we all have to address is the distribution of the benefits of development between present and future generations.” (1:41:00)

Denise Dalmer

“Jurisdictional overlap is a huge issue. It’s hard to get things done, and do it the right way when you don’t know who your master is, or when the masters are having fights about who is in charge. In terms of decision-making...I don’t think any of our systems adequately articulate how to make trade-offs. Often what has happened over the past years is that we use the regulatory process, which is almost a checklist approach, to debate policy issues.” (1:49:00)

George Hegmann

“The root cause is doing what we do. The cause then leads us to challenge our ability in order to do what...has largely been viewed as far too difficult to even imagine, and that is, compromise, [through] full insight and understanding of the beneficial impact of what we do plus the wealth, the natural accounted wealth, and a decision-making process that can weigh that before us.” (1:54:00)

V Theme 3: Addressing the challenge of cumulative effects management: Relevant values, principles, and strategies

Valerie Langer

“One of the ways we need to address cumulative effects is by combing through the laws and policies that we currently have, and taking a really good, honest look at how they currently actually hardwire or prevent us from addressing the conservation that, even though we hold the values, we don’t allow...It’s the irony that we want to protect biodiversity, we have these higher level goals, and then when we get to the ground level work we are prevented from actually accomplishing it.”
(1:57:00)

Faisal Moola

“The most exciting thing I’m seeing right now in terms of managing the land base in a more sustainable way is coming from First Nations... If you look at the northeastern part of this province, less than 4% of that landscape has been permanently protected. Nevertheless, First Nations have come together [in northeastern BC] and they are trying to establish a 90,000 ha protected area, a tribal park that will protect caribou habitat, but will also sustain the traditions of their

communities... There are scientists now that are saying that nature needs half, we need to commit at least half of the land base explicitly to biodiversity conservation. It may not be parks and protected areas, it may be indigenous tribal protected area or reserves or some form of enlightened management, but before we start talking about tinkering on the land base in terms of how we accommodate different industrial interests, I say let's take stock of what we have, the true wealth of this province, and protect it." (2:00:00)

Tara Marsden

"What we would like to see is more targets, targets for both the population numbers of different species, but also habitat targets—how much habitat do we need in our territory to sustain the moose, to sustain the salmon and the grizzly and all of those things. Not just looking at species in isolation, but looking at where they live and making sure they have that home as a target in our planning and decision-making."

"Necessity is the mother of invention and there are a lot of smart and capable companies. Encouraging them to work more collaboratively, which is difficult when they are in competition with one another, but having more of a shared responsibility for maintaining and improving conditions on the land, as opposed to seeing it as a threat to their business, being part of partnerships with First Nations, and being there for the long haul as opposed to the short term gain. We've heard from some companies 'just tell us what the rules of the game are, and make it transparent and clear' and so that's what we're trying to do in Gitayow is engage with companies and make that as clear as possible." (2:04:00)

Lindsay Staples

"One strategy is to establish a very clear net benefit test when it comes to evaluating developments. To inform that test I would recommend that there are sustainability criteria that would apply to the test so we're thinking about future generations as well as the present, we're thinking about the distribution of wealth and opportunities between urban centres and the rural landscape, we're thinking about the distribution of adverse and negative affects across our landscapes, the trade-offs between Vancouver and Hudson's Hope. Our decisions need to be evidence-based and transparent." (2:08)

Anna Warwick Sears

"I think a lot of what people have been talking about here has had to do with creating buffers, being conservative in terms of how fast we're moving, how much we're cutting down the forests at any one time, how much we are digging out of the ground at any one time, how rapidly we're licensing water supplies... The way that you get to resilience is by leaving yourself some space so you don't have to fully allocate all the water in the stream, you don't have to try and optimize your cut so that you get as much as possible as quickly as possible, you just leave yourself some space because that wood is going to be worth something in the future and that water is going to be worth something in the future and you just leave yourself some space because it is an uncertain future and we don't really know where we are going." (2:10:00)

Denise Dalmer

"We need to take cumulative assessment out of environmental assessment. Companies can't really do cumulative assessment on a single project, we don't have access to other people's information, which is usually proprietary, and that's not our job. Our job is to focus on how we build a good project. Cumulative impacts assessment is government's job, and industry's job is to gather the

data in the best way possible to facilitate the conversation that then goes on within government around public interest trade-offs that are made around developments in a place...”

“I also think that we need to use more scenario planning, and I actually don’t object to the word ‘threshold’, and I don’t think companies would either. I think what we object to are vague hopes and aspirations that you can’t in any way wrap your head around what they mean...you can’t make decisions about investing, sometimes billions of dollars worth of capital. In terms of objectives, those are often wishy-washy and not very well articulated either and I think that has to be worked on.”

“The other key thing from my point of view is GIS. Humans are visual beings... If government were to invest...in GIS and layering data, along with risk assessment and scenarios that would be a good model to start from.” (2:13:00)

Tom Ethier

“The key thing about values is that they need to be something we can measure and we can track with some reasonable degree of accuracy and precision.” (2:17:00)

George Hegmann

“Regional land-use plans...have some of the greatest opportunity, but clearly they need the backbone of statutory provision through legislation, otherwise they will not be able to be successful. It’s not very well known, but north of 60 in the Northwest Territories if you go right from the Beaufort Sea right down to the border with Alberta and BC you will see that that entire landscape is covered by the equivalent of land-use plans, which either through the provision of settled land claims or other provisioning acts provide enormous opportunity.” (2:20:00)

Valerie Langer

“There is a set of values that are embedded in the Great Bear Rainforest agreements that could be applied across the rest of the province with some good effect...applying the principles of ecosystem based management...which incorporate the values of maintaining the ecosystem and then managing ourselves within those bounds.” (2:26:00)

Gerald Amos

“The sooner the provincial and federal governments come together with First Nations on these issues the better.” (2:31:00)

“The drums of our communities are beating... The drums are becoming louder and louder in First Nations communities. As well, there is music coming out of non-First Nations people that I think speaks to why we are here this evening. And here is one of them. This lady is a third generation person who has lived on a farm up in the Smithers area. Her name is Rachelle van Zanten [her song] is called “I Fight for Life.” [www.rachellevanzanten.com] (3:01:00)