



EXPLAINER

How Indigenous-led environmental assessments could ease resource, pipeline gridlock

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[Jimmy Thomson](#)

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Hans Matthews spent much of 2012 criss-crossing Alberta and B.C. as a member of the federal-provincial panel conducting hearings on the contentious Enbridge Northern Gateway pipeline.

Those emotional hearings eventually overshadowed the proposal itself, leading then-natural resources minister Joe Oliver to accuse “environmental and other radical groups” of hijacking the process to “stop any major project, no matter what the cost to Canadian families in lost jobs and economic growth.”

Central to the controversy was opposition from First Nations along the route, many of whom felt they hadn’t been properly consulted during the development of the proposal. It was a social and political mess, all for a project that eventually died anyway. But Matthews, now the president of the Canadian Aboriginal Minerals Association, says it didn’t need to be that way.

“By embracing aboriginal knowledge, communities’ knowledge, it would have been a more balanced and fair process,” Matthews told The Narwhal.

Indigenous ways of life not contemplated by current system

That idea has come to the fore yet again with the Federal Court of Appeal’s rejection of the permits that allowed Kinder Morgan to proceed with its expansion of the Trans Mountain pipeline. In its decision, the court cited a lack of [meaningful two-way consultation with First Nations](#) in the planning process, along with other factors.

“Canada was required to do more than receive and understand the concerns of the Indigenous applicants,” wrote judge Eleanor Dawson in the court’s written decision. “Canada was required to engage in a considered, meaningful two-way dialogue.”

In other words, Canada pushed ahead with its own process, pausing only now and then to collect some feedback from First Nations. For the sake of those affected, the governments in charge, and even the project itself, it is now clear that that was not the right approach. But it didn’t have to be that way.

A new concept is emerging in the world of environmental decision-making: that it’s not enough for governments to loop Indigenous groups into their environmental assessments, and that instead Indigenous peoples should be able to conduct their own processes that run parallel to the non-Indigenous-led assessments.

A [recent report by the Firelight Group](#), a consultancy founded to support the rights and interests of Indigenous communities, found Indigenous environmental assessments “rely on and protect Indigenous culture, language, and way of life in ways existing government legislated systems have either never contemplated or are still not accommodating.”

How is Indigenous assessment different?

In a traditional assessment, Indigenous peoples have some opportunity to contribute to the process and to be heard. But the decision is ultimately up to a government that may not share the worldview of the affected Indigenous communities.

“That means that people are engaged, but if they are busy on another file, or not meaningfully engaged or unable to get their point heard, then they are not able to be equal decision-makers or use their own set of values, worldview and Indigenous law to drive the process forward,” author of the Firelight report, Ginger Gibson, told The Narwhal.

“Indigenous EA [environmental assessment] means Indigenous governments are setting the terms, they’re conducting the review with their worldview and their Indigenous laws — they’re making decisions about the project themselves.”

“It’s a fundamental difference,” Gibson added.

The result is an assessment that from the get-go is steeped in the ideas that are not as well recognized in Eurocentric processes.

“You’re probably going to get a more realistic, pragmatic approach,” Matthews said.

“It would be a community-driven process from the very beginning.”

Indigenous assessment isn’t brand new

The report, which includes three case studies, highlights one example of a fully independent Indigenous impact assessment of a proposed LNG plant that was conducted by the Squamish First Nation in B.C.

The First Nation conducted the assessment after determining the scope themselves.

As opposed to the British Columbia government process, which only allowed submission of archaeological evidence, Indigenous law was incorporated throughout the Squamish-led assessment, as well as the First Nation’s knowledge and culture.

Eventually the First Nation-led process ruled in favour of the project, attaching 25 conditions including some that would mitigate the impacts on cultural practices such as hunting and fishing.

“This more holistic approach is much more conducive to — and reflective of — the type of communal decision-making of many Indigenous people,” the report concluded.

Matthews says this approach allows Indigenous communities to feel their values are being respected by potential developments.

“It’s also a matter of showing respect for the people that have occupied and used the land since time immemorial,” he said.

Gibson says no matter what the outcome of the assessments, the result is a more robust look at the proposed project.

“They are sometimes reaching similar decisions, sometimes reaching different decisions,” she says. For example, both the Tłı̨chǫ government, in the Northwest Territories, and federal government reached the same conclusion, to approve a proposed cobalt-gold-bismuth mine in the First Nation’s territory.

“Our finding from our research is that each process is always better because of the parallel review. There’s more information, there’s more known about the project, there’s more unearthed about the impact on Indigenous people — and there’s a stronger buy-in to the outcome of the process.”

What would this mean for Indigenous-Canada relations?

The history of Canada and its dealings with Indigenous communities on resource issues is fraught with missed opportunities for fulsome conversations.

The Gwich’in of the Northwest Territories and Yukon are a prime example of this lack of engagement.

“There was a lot of oil and gas development and we really didn’t have a say in what was happening,” said Jordan Peterson, deputy Grand Chief of the Gwich’in Tribal Council, which commissioned the report from the Firelight Group.

“We haven’t always been fully consulted or engaged or involved in these processes.”

The Gwich’in Tribal Council is particularly concerned about the Porcupine caribou herd, a vital cultural and economic resource that, like all caribou, is sensitive to the kind of habitat fragmentation and disturbance oil and gas development can create on the landscape.

Peterson and Matthews agree that Indigenous-led environmental assessments would be one way to bring Canada and First Nations, Métis and Inuit closer together, and undo some of the impacts of colonial processes.

“By engaging communities in the assessment process, you’re meeting the goals of free, prior and informed consent,” Matthews says, contributing to the federal government’s stated goal of complying with UNDRIP and the Truth and Reconciliation Commission’s calls to action.

“Ninety-nine per cent of the time it’s an aboriginal community that will have some impact from a resource project.”



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