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The Publics Speak - Do the Proponents Hear?

Effectiveness of Public Consultation in

Environmental Impact Assessment

by

Janet Armstrong, B.Sc.

A thesis submitted to the Faculty of

Graduate Studies and Research in partial fulfilment

of the requirements for the degree of

Master of Arts

in Canadian Studies

Carleton University

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of Graduate Studies and Research acceptance of the thesis

"The Publics Speak - Do the Proponents Hear?
Effectiveness of Public Consultation in
Environmental Impact Assessment"

submitted by Janet Armstrong, B.Sc.
in partial fulfilment of the requirements for
the degree of Master of Arts

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ABSTRACT

The current legislation that directs environmental impact assessment, the Canadian Environmental Assessment Act, replaced the Environmental Assessment and Review Process Guidelines order in June 1992. While informing and consulting with the public was required in the EARP, it is a stated objective of the CEAA and is mandatory for each of the four levels of assessment.

The objective of this thesis is to identify, define and describe the criteria necessary to ensure effective consultation in environmental impact assessment. A literature review and discussion of what consultation and participation are and how the public determine if, when and how to participate, are followed by a discussion of what constitutes effective consultation.

As no environmental impact assessments have been completed by a Public Panel under the CEAA, it was necessary to evaluate consultation processes for assessments by Public Panels under the EARP. The analysis revealed that the consultation processes implemented did not generally include the criteria necessary for effective consultation. Recommendations for changes to the administrative procedures are made to ensure future consultation processes for assessments by a Public Panel under the CEAA will be effective.

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J.D.A.

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CHAPTER ONE

Canadians are a nation of people who are increasingly aware of their relationship to and responsibility for the natural environment. They recognize that without a clean and healthy environment there cannot be a vibrant and competitive economy. Taken one step further, there is a realization that without a vibrant and competitive economy there will not be the social or environmental well-being Canadians labour to achieve. (Canada's Greenplan, 1991:1) This concept of economic development without environmental degradation has become known as sustainable development and was championed by Gro Harlem Brundtland, the Norwegian Prime Minister, who chaired the World Commission on Environment and Development held in 1992. The Brundtland report states sustainable development can be achieved that

meets the needs of the present without compromising the ability of future generations to meet their own needs. (1992:page x)

The concept of sustainable development has been embraced in Canada and has been a principle on which environmental reform has been based, including reforms to the federal legislation governing environmental impact assessment.

Environmental impact assessment (EIA) is a planning tool which is intended to improve the decision-making process, by increasing the quantity and quality of information available to those who make decisions with respect to projects that have the potential to impact the environment. The federal and provincial levels of government each have EIA legislation which guides and directs impact assessment processes. The municipal level of government is required to carry out EIA for proposed developments within their jurisdiction and generally honours the provincial

legislation. The focus of this thesis is the federal level of government.

The original environmental assessment process in Canada was guided by the Environmental Assessment and Review Process Guidelines (EARP) Order, approved on 11 June 1984. The EARP was a self-assessment process carried out by the federal department initiating the project. The department was responsible, as early in the process as possible, for ensuring that the environmental impacts of a proposed project were considered. If the impacts were deemed significant, the proposal was referred to the Minister of the Environment for a public review governed by a Minister appointed Review Panel.

The Guidelines stipulated that the Review Panel's Terms of Reference, authored by the initiating department, should outline the scope of the public review and that all hearings were to be public hearings held in a non-judicial, informal, but structured manner. In addition to public hearings, every Panel was responsible for carrying out a public information program in order to advise the public that a review of a proposed project was being conducted, detail potential environmental impacts of same and to ensure the public had all the relevant information they may request.

Presently, the EARP Guidelines are being phased out and the Canadian Environmental Assessment Act (CEAA), assented to 23 June 1992, is being implemented. The objectives of the new Act are to:

- ensure there is careful consideration of the environmental impacts of developments before the proponent undertakes action in connection with the project;
- encourage the proponents to promote sustainable development

and thereby achieve or maintain a healthy environment and economy;

- ensure projects to be carried out in Canada or on federal lands do not cause adverse environmental effects external to the jurisdiction in which the projects are to be developed; and
- ensure there is an opportunity for public participation in the assessment process. (CEAA: 942)

In response to the fourth objective of the CEAA, proponents are required to ensure those publics who are concerned with or who may be impacted by a development, are afforded an opportunity to participate in the environmental assessment process. While public participation is a requirement, there are no established processes or guidelines, to assist proponents in the development of a consultation process. The proponent is required to develop a consultation process and submit it to the Canadian Environmental Assessment Agency for approval or recommendations for change. Therefore, it is feasible and very likely, that the consultation process developed for the environmental assessment of each proposal, is unique and is dependent on the specific factors associated with the proposal. Specifics include the magnitude of the proposed development, the nature of the proposed development, geographic location, potential environmental impacts and the level of assessment which is being carried out.

The purpose of this thesis is to examine public consultation and participation as currently carried out in the federal environmental impact assessment process, to determine whether or not it is effective. The objectives of the thesis are to define and describe the criteria which constitute effective consultation, to examine current consultation practices of the federal environmental assessment process to determine

whether they are effective and to make recommendations for change to the consultation component of the federal process, which if implemented would make it more effective.

Consultation is effective when all publics who may be impacted by a proposed development, positively or negatively, are informed and given a voice in the decision-making process. In addition, consultation is effective if decisions are made with due consideration of the knowledge, expertise and experiences possessed by those publics.

For the purpose of the thesis, consultation will be the term used to describe the process developed and implemented by an agency or proponent. Participation will describe the public's active involvement in the decision-making process.

In the following chapter, EIA will be defined and discussed and a historical overview of EIA in Canada given. This will provide a base of understanding for a discussion of the evolution of governing legislation within the federal government. From this general discussion of EIA, the specific element of public consultation and associated requirements for public consultation will be reviewed. The review will include details of the various levels of EIA and the public consultation requirements for each. The EARP Guidelines Order and the CEAA will be referenced as will associated guidelines, government documents, review panel reports and publications.

In the third chapter, the history and evolution of public consultation will be examined in order to better understand the current requirements

and practices. While the demand for an opportunity to participate in decision-making processes has evolved at the senior levels of government, the root of public consultation is the community level. Therefore, in this chapter the discussion will centre around local experiences and examples cited will come from community events. The literature reviewed will include works by Sherry Arnstein, Desmond Connor, Robert Dahl, Charles Lindbloom, Kurt Finsterbusch and Charles Wolf.

Having reviewed the history and evolution of consultation, the fourth chapter will focus on public participation. Identification of who the public are, who defines them and their role in any decision-making process, are challenges which must be addressed in the development of a public consultation process. This will be discussed, and the questions of how and why the public decide to participate and when, during the decision-making process, the public initiate participation, will be analyzed. There are numerous and varied methods and techniques available to the public to facilitate their participation. These will be reviewed and situations where the use of specific methods and techniques is appropriate will be described.

Building on the base of knowledge provided with respect to the historical evolution of public consultation and the behaviour of the public vis-a-vis their participation in decision-making processes, chapter five will examine the benefits of public consultation, will review and discuss constructive and open consultation and describe the following criteria which are necessary to ensure an effective consultation process:

- open communication;
- clear and understandable consultation process and goals;

- accessibility to the process and associated documentation and information;
- balanced participation;
- use of appropriate participation methods and techniques; and,
- ongoing evaluation, participation and monitoring both during construction and after completion of a development.

A framework for the comparative analysis of effective consultation and current practices will be established. The literature and studies of planners, consultants and public consultation practitioners will be reviewed and referenced.

Utilizing the framework established in the previous chapter, chapter six will assess current consultation practices of the federal environmental assessment process against the defined criteria for effective consultation. Specific projects and developments which were assessed will be cited, critical milestones in the process highlighted and documentation disseminated to the community and involved public reviewed. Government documents, submissions made by the participating publics and panel reports to the Minister of the Environment will be referenced.

The seventh chapter concludes the thesis by stating the consultation process implemented in the federal environmental assessment process is not effective, based on the criteria defined in Chapter 5. Recommendations for changes to existing practices and guidelines are made, which if implemented, will result in effective consultation.

CHAPTER TWO

Environmental Impact Assessment (EIA) is a relatively recent activity in North America, having evolved over the past twenty-five years in response to increasing public concern about the deterioration of the natural environment. By the early 1970's EIA was generally accepted by project planners and in 1974, EIA was formally adopted in Canada as a planning tool for proposed development projects, with the establishment of the federal Environmental Assessment and Review Process. While this was perceived as a positive development, it was not supported with any legislated authority.

Since 1974 there have been two further versions of EIA policy at the federal level, each with increasing legislative power and support. The Environmental Assessment and Review Process Guidelines Order (EARP Guidelines Order) issued in June 1984 and the Canadian Environmental Assessment Act (CEAA), established in 1992. Public consultation and participation have been, to a greater or lesser degree, required in all versions of environmental impact assessment policy, but most evidently in the current legislation, the CEAA.

In this chapter, various definitions and objectives of EIA are discussed. From this general discussion, the development of EIA in Canada is examined, specifically at the federal level and the assessment requirements of the EARP Guidelines Order and CEAA evaluated. The requirement for public consultation and participation in EIA is explored generally and then specifically, with respect to both the EARP Guidelines Order and the CEAA.

2.1 Environmental Impact Assessment Defined

EIA has been described as a planning tool to be implemented prior to the initiation of a proposed development, in an attempt to assess the impacts of the development on the surrounding environment.

Sadar and McEwen (1993:10) describe EIA as an activity designed,

to predict, interpret and communicate the impacts of a proposed action on the well being of ecosystems upon which human health and survival depend.

Runyan's definition (1977:126) supports this, stating further that EIA should consider,

environmental (in which are included physical), economic, and social impacts ... since in many cases the purpose of a project is to produce physical-environmental change which will lead to economic and social changes.

Environment Canada describes EIA as,

an organized information gathering process used to identify and understand the effects of proposed projects on the bio-physical environment (air, water, land, plants and animals) as well as on the social and economic environments of the people to be affected. (Canadian Environmental Assessment Process: A Citizen's Guide, 1994:6)

Impacts on the physical, economic and social systems are generally detailed and discussed separately in EIA reports and studies. However, it must be recognized that these systems are interactive and cannot be assessed in isolation from one another. It is necessary and important to recognize that any impacts on the physical systems or biogeochemical cycles are intimately related to economic and social impacts. (Munn, 1979:8; Erickson, 1979:87) Further, there is a growing realization that economic well-being is greatly dependent on a healthy environment. (Marshall, et.al., 1985:4; Canada's Green Plan, 1991:1)

Therefore, an accurate EIA should include predictions of how a project will affect both the individual systems and their interactions.

The integrated nature of environmental, social and economic impacts is very apparent in the James Bay Region of Quebec, as a result of the James Bay Hydroelectric development project. In 1972, the late Premier Robert Bourassa initiated the James Bay Hydroelectric Development Project. He promised the project would bring economic and financial security to the province and his goal was to make Quebec

an economically powerful modern state and to draw away the veil covering our main weaknesses through the promotion and creation of a diversified industrial infrastructure. (Bourassa, 1973:8)

Through the construction of a series of dams and generating stations on the rivers flowing into James Bay, 100 billion kilowatt hours of hydroelectric power could be generated each year. (Richardson, 1972:8) The first phase of the development involved the construction of an immense infrastructure in the James Bay region including: five hundred (500) miles of roads; sixty (60) miles of dikes; ten (10) dams; and, eleven (11) or more generating stations. The total area affected by the resultant flooding constitutes approximately 20% of the total area of the province of Quebec - an area the size of France.

The flooded area was comprised of scrub brush, small trees and rock, which in the James Bay region contains high levels of mercury in an insoluble form. Through a natural process called biomethylation the mercury is transformed into methyl mercury which is highly toxic to humans. The process is carried out by microorganisms which live in the sediment of bodies of water and for protection turn the inorganic mercury into methyl

mercury which is less toxic to them. Once the methyl mercury is in the water it will enter the food chain via the smallest organism and be passed from species to species until it is found in highest concentration in the fish species that consume other fish, such as pickerel.

The biological half life of methyl mercury in fish is very long and as a result contamination of aquatic life is "continuous, persistent, and irreparable." (Shkilnyk, 1985:184) Fish, mammals and fowl are significant elements in the diet and economy of the James Bay Cree. Consequently, the presence of mercury in the food web is devastating to both the food source and economy.

EIA is, in fact, an inexact 'science' in that it attempts to predict what the impacts of a given project will be. In order to do this, a baseline study of background information on the environmental and socio-economic setting for the proposed development is necessary and is typically one of the initial activities undertaken in an EIA. A baseline study generally describes aspects of the physical, biological and social environments which could be affected by the proposed project. (Beanlands, 1988:39) In addition to baseline studies, predictions are also based on known effects which have resulted from previous development projects.

A complete and thorough EIA should:

- describe the proposed action as well as alternatives;
- estimate the nature and magnitude of potential environmental changes;
- identify relevant human concerns;
- define the criteria to be used in measuring the significance

- of environmental changes, including the relative weighting to be assigned in comparing different types of changes;
- estimate the impacts of the proposed action;
- recommend: (a) acceptance of the project;
 - (b) remedial action;
 - (c) acceptance of one or more alternatives; or,
 - (d) rejection; and,
- make recommendations for monitoring to be undertaken after the project is completed. (Munn, 1979:19)

2.2 Environmental Impact Assessment in Canada

Environmental Assessment and Review Process Guidelines Order

In June 1984, the Environmental Assessment and Review Process (EARP) Guidelines Order was issued by the federal government to replace the Environmental Assessment and Review Process and served to strengthen the EIA process. The EARP Guidelines Order, administered by the Federal Environmental Assessment and Review Office (FEARO), was

a federal Order in Council establishing the process to be followed for environmental assessments under federal jurisdiction. The Guidelines Order also required development proposals, to be subjected to an EIA before irrevocable decisions were made. (Conawapa Environmental Review Panel, 1992)

The Guidelines Order contained two types of assessment: screenings, also referred to as initial assessments and public panel reviews. The Guidelines Order required initiating departments to list proposals that would not produce adverse environmental effects and those that would. Those proposals that were deemed to produce adverse environmental effects were automatically referred to the Minister of the Environment for public review.

As per the Guidelines Order the initiating department was also required to establish written procedures to be followed in an assessment, including a public information program.

Canadian Environmental Assessment Act

The current federal legislation governing and providing the legal basis for EIA in Canada is the Canadian Environmental Assessment Act (CEAA, 1992). The Act, which supersedes the EARP Guidelines Order, outlines the responsibilities of and procedures for a proponent conducting an environmental impact assessment of a proposed project. The act describes the process as,

an assessment of the environmental effects of the project that is conducted in accordance with this Act and the regulations (1992:938)

where "effects" mean

any change that the project may cause in the environment, including any effect of any such change on health and socio-economic conditions, on physical and cultural heritage, on the current use of lands and resources for traditional purposes by aboriginal persons, or on any structure, site or thing that is of historical, archaeological, paleontological or architectural significance. (1992:938)

The objectives of the Act are:

- to ensure that the environmental effects of projects receive careful consideration before responsible authorities take actions in connection with them;
- to encourage responsible authorities to take actions that promote sustainable development and thereby achieve or maintain a healthy environment and a healthy economy;
- to ensure that projects that are to be carried out in Canada or on federal lands do not cause significant adverse environmental effects outside the jurisdictions in which the projects are carried out; and,
- to ensure that there be an opportunity for public participation in the environmental assessment process. (1992:942)

2.3 Multi-jurisdictional Issue

Provincial environmental assessment legislation has also been developed and implemented and efforts have been made to harmonize the provincial and federal processes. Proposed developments at the municipal level of government are governed by the provincial assessment legislation, while developments involving multiple jurisdictions, including the federal government, are directed by the federal environmental assessment legislation.

2.4 Canadian Environmental Assessment Agency

The Canadian Environmental Assessment Agency (Agency) is the body responsible for administering and promoting the federal environmental assessment process policies and practices replaced the Federal Environmental Assessment Review Office (FEARO).

The Agency, in addition to enhancing greater public awareness of the vital role environmental assessment plays in the nation, has four primary functions:

1. administering the environmental assessment process;
2. providing legal, procedural and policy advice to the Minister of the Environment, on the Minister's responsibilities under the Act;
3. providing opportunities for public participation in the federal environmental assessment process; and,
4. promoting sound environmental assessment practices. (Citizen's Guide, 1994:8)

The Agency also has a much broader role with respect to the environment; that of promoting sound environmental assessment practices, both across

Canada and abroad. In this respect, the Agency functions to:

1. promote the principles of sustainable development and public involvement in environmental assessment;
2. ensure the consistent application of environmental assessment in all regions of Canada;
3. support research to improve environmental assessment methods; and,
4. promote international cooperation on environmental assessment by learning from, sharing information with and offering Canadian expertise to other countries.

2.5 Public Consultation in EIA

Public consultation and participation in the discussion of a proposed development, enables the decision-makers to acquire information and knowledge regarding impacts, that cannot always be identified or measured using scientific or technological means. This includes traditional knowledge acquired by natives, who have lived, hunted and fished in the same geographic region for generations and local knowledge accumulated for generations by residents in communities.

2.6 Public Consultation - EARP Guidelines Order and CEAA

The EARP Guidelines Order specified that a public information program be implemented in the assessment process and that in a Panel Review, the public be given access to and sufficient time to examine and comment on any information submitted. The CEAA specifies in its fourth objective, that the public be given an opportunity to participate in the environmental assessment process.

In both the EARP Guidelines Order and the CEAA, there is no established consultation process which the proponent must implement to ensure the concerned and affected publics have an opportunity to participate, nor are there established guidelines which provide direction to proponents in the development of a consultation process. Under both the EARP Guidelines Order and the CEAA, the proponent is responsible for developing a consultation process and submitting it to the regulatory body (FEARO or the Agency respectively) for approval. With respect to the CEAA, a document entitled Canadian Environmental Assessment Process: A Citizen's Guide is available to the public and explains the EIA process and the associated regulations contained in the CEAA. It also specifies how the public can become involved in the process and when.

2.7 Levels of Environmental Assessment in the CEAA

Unlike the EARP Guidelines Order, a number of levels of EIA are contained in the CEAA. One of the Act's guiding principles states that the level of effort required to carry out an environmental assessment should correlate to the scale of potential environmental impacts of the project. Thus, the Act includes four levels of assessment:

1. screenings (including class screenings);
2. comprehensive studies;
3. mediation; and,
4. panel reviews.

These four levels of assessment fall within two categories:

1. self-directed assessments; and
2. independent assessments.

Approximately 99% of the projects requiring an environmental assessment are reviewed through a Screening or a Comprehensive Study. Both of these

types of assessment come within the category of self-directed assessments, described as such, since the responsible authority must ensure the assessment is conducted in accordance with the CEAA. Both Mediation and Panel Reviews fall within the independent assessment category, as mediators and panels are appointed by the Minister of the Environment, to carry out an environmental assessment independent of government.

2.8 Encouragement of Public Involvement

Public participation is encouraged by the Agency in a number of ways. The Agency ensures the public has an opportunity to provide comment on screenings and comprehensive study reports. To facilitate participation by interested groups in mediation and panel reviews, the Agency provides funds through the "Participant Funding Program". The Agency works with federal departments and proponents to develop "effective approaches to involving the public". (Citizen's Guide, 1994:14) And finally, the Agency provides guidance and advice to federal departments and proponents on how to create and maintain a public registry which contains records relating to environmental assessments. (Citizen's Guide, 1994:14) The public's involvement will be discussed in more detail, in relation to each level of assessment.

The following description of each level of assessment explains the issues that must be addressed by each assessment, the steps to be taken after the assessment is complete and the public's participation and involvement at each level of assessment.

For the purpose of this section, the term "proponent" will be utilized and will refer to the individual, organization, company, agency or government

body who proposes a project. This differs from a "responsible authority", who is the federal department, agency or Minister, whose actions or authority ensure that an environmental impact assessment of a project is carried out.

2.9 Self-Directed Assessments

2.9.1 SCREENINGS

A screening is a self-directed assessment, that is, an assessment carried out by the proponent for the purpose of documenting the environmental effects of a proposed project. A screening assessment determines the need to eliminate or mitigate the effects, modify the proposal or to refer the proposal for further assessment. Screening assessments, because they can accommodate simple, as well as larger projects, will vary in length, time and depth of analysis. Having completed a screening, the responsible authority must prepare a report which summarizes the results of the assessment.

There are five primary issues which a screening must satisfy. The issues are as follows:

1. environmental effects (including cumulative) of the project, as well as, the effects of any possible accidents or malfunctions;
2. significance of the environmental effects;
3. any technically or economically feasible means by which adverse environmental effects could be mitigated or eliminated;
4. other information related to the screening which is necessary for any accurate assessment; and,
5. public comments.

Having completed the screening, the proponent must decide whether to enable the project to proceed or not. If the proponent recommends that further assessment be carried out, the proponent must request the Minister of the Environment to refer the project to mediation or a panel review. Further review would be recommended if:

1. if it is not clear whether significant adverse impacts will occur;
2. significant adverse impacts will occur and whether the impacts are justified is questionable; or,
3. there is sufficient public concern that further review is warranted.

Public participation in a screening assessment is not mandatory and is at the discretion of the proponent. Factors considered in determining whether or not to encourage public participation include the nature of the project, the environmental location and public concerns. If public participation is not facilitated throughout the screening assessment, the proponent may encourage public review and comment of the screening report, before decisions are made.

2.9.2 CLASS SCREENINGS

The screening of routine and/or repetitive projects may be streamlined by using a class screening report. This particular type of assessment report presents the accumulated knowledge of environmental impacts of a specific type of project, such as dredging, culvert installation and shoreline stabilization. The report further describes actions which are known to reduce or eliminate the potential environmental impacts. However, in these cases, the proponent must still consider and assess cumulative impacts and factors specific to the proposed development site.

As per the CEAA, a proponent can apply to the Agency to have a screening report declared a class screening report for future projects. As a result, the assessment process for more common and repetitive projects, with known impacts, can be made more efficient and avoid duplication. After the Agency grants approval to a class screening report, it can be used in whole or in part by any proponent carrying out assessments of projects within the same class.

While no specific or designated public participation process must be carried out, the public must be notified and allowed to comment before a screening report is declared a class screening report. The comments, if any, received from the public must be taken into consideration by the Agency before rendering any decision.

2.9.3 COMPREHENSIVE STUDY

While the majority of federal projects will be assessed through either a screening or class screening assessment, there are some that require more in-depth assessment. This level of assessment is termed a comprehensive study. The projects which undergo this type of assessment are generally large-scale, could potentially have serious environmental impacts and generate public concern. These types include nuclear power developments, major electrical-generation projects and large industrial plants.

In addition to the factors considered in a screening, a comprehensive study must also consider the following:

1. purpose of the project;
2. alternative means of completing the project that are technically and economically feasible and environmental

- impacts of the alternative means;
3. the capacity of renewable resources that are likely to be significantly affected by the project;
 4. public comments; and,
 5. the need for and requirements of follow-up programs. (A Citizen's Guide, 1994:18-19)

Having completed the comprehensive study, the responsible authority submits the report to the Agency for review. The Agency in turn, makes sure the reports has been prepared in accordance with the CEAA and publishes a notice to advise that the report is available to the public for their review and comment.

If the proposed project is not likely to cause significant adverse environmental impacts, the Minister of the Environment directs the project back and the responsible authority facilitates its progress. Alternatively, if it is likely to cause significant adverse environmental impacts that are not justifiable, the Minister of the Environment will refer the project back to the responsible authority, who will not support the project. Further review either through mediation or a panel review is recommended by the Minister if those circumstances, previously described after a screening assessment, exist.

As with screening type assessments, the public can consult the Public Registry to determine whether a review is underway. If so, concerns and comments can be forwarded to the responsible authority. While not mandatory, a responsible authority may convene a public meeting to receive public input into the areas to be covered by the assessment or to enable the public to provide input during a comprehensive study. Public input

received in these ways must be considered by the Minister when determining the next step in the process. Then, when the comprehensive study report is prepared the public must be given an opportunity to comment before any decisions are made.

2.10 Independent Assessments

The category of independent assessment is that which includes mediation or panel reviews. These two types of assessments are carried out by independent, non-government 'bodies', who at the completion of the assessment, forward a report with conclusions and advisory recommendations to the Minister and the responsible authority. The government makes the final decision on any action which supports proceeding with the project or not.

In addition to those circumstances which would cause a screening or comprehensive study to be referred for an independent review, mediation or panel review may also be required where transboundary effects across federal and non-federal lands, provincial or international boundaries, may occur.

Unlike screening and comprehensive study assessments, extensive public participation is a distinctive element in mediation and panel reviews. Each type of independent assessment, including the requirements and elements of public participation, will be discussed below.

2.10.1 MEDIATION

Mediation is a process in which a Minister appointed mediator (must be independent and impartial) assists interested parties in resolving their

issues. Mediation can be used to conduct a complete environmental assessment or used in partnership with a panel review. In the instance where mediation is used in conjunction with a panel review, it brings the concerned parties together to resolve specific issues, for example, determining the most effective mitigation measures.

Mediation is beneficial because:

1. it is sensitive to local needs;
2. it is less costly and time consuming than a panel review; and,
3. participants may feel they have made a real contribution to resolving the issues. (A Citizen's Guide, 1994:22)

This method of assessment is optimal when interested parties are willing to participate and consensus seems possible. It is most effective when there are few parties involved and the issues requiring resolution are limited both in scope and number. If in the event mediation does not appear to be resolving the issues, the mediator will refer the assessment to the Minister of the Environment for a panel review.

Mediation sessions are not open to the general public. However, those individuals and organizations that are either interested or directly impacted by a project, are encouraged to participate. For the general public who are interested in the issues, a public information program is maintained to advise on the status of the mediation.

2.10.2 PANEL REVIEW

A panel review is the highest level of environmental assessment and is carried out by a Minister appointed panel, comprised of impartial, non-government members. A panel review is implemented when mediation is not

appropriate or has not been successful, such as when there are too many interested parties or unresolved issues. Like mediation, a panel review may be utilized for a portion or all of an assessment. While only the Minister of the Environment can direct that a panel review be carried out, a responsible authority may recommend a panel review before, during or following a screening or comprehensive study.

Prior to appointing the Review Panel, the Minister of the Environment in conjunction with the responsible authority, establishes the Panel Terms of Reference. The Panel is comprised of three members, who are selected for their knowledge and expertise. One of the three are subsequently appointed Panel Chair. The Panel operates independently and reports directly to the Minister of the Environment and the responsible authority. Panels are charged with the responsibility of acquiring technical and scientific information in addition to the informed opinions and feedback from the general public. In summary, a Panel must consider the pros and cons of a project and associated environmental impacts. Once established and prior to initiating the review, the Panel develops operating procedures which serve to guide the assessment.

Panel reviews are distinctive from the other types of assessments in that they encourage open and frank discussion and the exchange of views regarding a project and the associated impacts. Further, panel reviews have the capability of informing and involving large numbers of concerned groups and individuals, by means of allowing the presentation of evidence, concerns and recommendations at public hearings. Panel hearings must be public, the exception being those instances where the panel feels specific, direct and substantial harm to a witness may result from

appearing at a public hearing.

Unlike the other types of impact assessment, a Panel Review provides numerous opportunities for public participation. The first opportunity occurs during the scoping meetings, which are informal, public meetings, held to enable the Panel members to understand the issues and concerns of the public. Scoping meetings also provide an opportunity for face-to-face contact between the Panel members and the concerned publics.

Based on the content of presentations made by the public during the scoping meetings, the Panel develops draft guidelines, to be used by the project proponent in preparing the Environmental Impact Statement (EIS). The guidelines include questions and issues which must be addressed and satisfied in and by the EIS.

When the EIS is completed and forwarded to the Panel, it is released to the public for a minimum 60 day review period, to enable the public to comment on the accuracy and adequacy of the EIS as a response to the guidelines. If, after the 60 day review period, the Panel determines the EIS is incomplete, the EIS is returned to the proponent with a statement of the additional information to be included. If, after the review period, the Panel determines the EIS is complete, hearings are scheduled, with a minimum 21 day notice.

Again, the public are given the opportunity to appear before the Panel at the Hearing to provide their comments and feedback on the project proposal.

Hearings are informal meetings held over a number of days and are generally held during the afternoon and evening. The following is the agenda normally followed at a hearing:

1. The proponent outlines the proposed project and its own opinion regarding the environmental impacts.
2. Specialist government departments present the results of their review of the project and environmental impact statement.
3. Based on the written comments received from the public prior to the Hearing, the Panel may identify major issues. Separate sessions are then convened to discuss the major issues individually.
4. At the end of the Hearing, all participants have an opportunity to make a concluding statement in which their position is summarized.

2.11 Conclusion

The foregoing examination and discussion of EIA in Canada has revealed the objectives of both the EARP and CEAA are similar in that the processes require assessments to be conducted prior to any irrevocable decisions being made. The most significant differences between the two are the increased requirement for and priority accorded public consultation, as well as, the additional levels of assessment contained in the CEAA.

The more clearly delineated requirement for public consultation at each level of assessment, affords the public increased opportunities to contribute to the process. The panel review provides the greatest number of opportunities for the public to contribute. However, to date there have not been any projects assessed by a panel under the CEAA.

This can be attributed to a number of factors. First, the current economic climate does not support or facilitate large scale developments. Secondly, demand for services produced by large scale developments, such as hydroelectric developments or nuclear power stations, have stabilized at current levels or decreased. And finally, the additional two levels of assessment contained in the CEAA provide proponents with alternative options for assessing potential impacts.

Therefore, the analysis which will be carried out to determine the effectiveness of consultation and participation, will be conducted in relation to proposals assessed by public panels functioning under the EARP Guidelines Order.

CHAPTER THREE

The previous chapter presented an overview of the general concept and objectives of environmental impact assessment (EIA) and discussed specifically federal policy development within Canada. The discussion of EIA policy focused on the requirement of providing the public with an opportunity to participate in all types of assessment carried out under both the EARP Guidelines Order and the CEAA. The practice of incorporating public participation as an element of the decision-making process, particularly with respect to EIA, has evolved from a concept to an expectation inherent in government policy.

The objective of this chapter is to discuss the notion of public participation and its evolution from a theoretical concept to a practical reality and to highlight the benefits. The public's participation will also be discussed within the context of political evolution and political confidence, at both the local and federal levels of government. Who the participating public are will be examined and what constitutes a community will be addressed.

3.1 Public Participation Defined

Sherry Arnstein's 1969 landmark article entitled "Ladder of Citizen Participation" was the benchmark article on which subsequent authors, such as Connor (1977) and McMillan and Murgatroyd (1994), have based their arguments in support of effective participation.

Arnstein claimed public participation is an unqualified term for public power and is the "redistribution of power that enables the have-not citizens ... to be deliberately included in the future." (1969:216)

Arnstein's definition of participation describes an idealistic state in which the publics are accorded decision-making power. Rather, participation should be a process whereby the publics have equal and open access to information regarding proposals and decisions that will impact their lives and an opportunity to work together with proponents and the decision-making authorities to develop mutually satisfactory solutions.

Arnstein developed a model, depicted as a ladder, to illustrate and encourage a more informed dialogue between the public and the decision-makers. The ladder, illustrated in Figure I, has eight rungs which fall within three sub-groups: non-participation; degrees of tokenism; and, degrees of citizen power. The first two rungs of the ladder fall within the first sub-group.

Rungs one and two are categorized by Arnstein as non-participation. The first rung, manipulation, masks or replaces genuine participation. It enables government officials to inform the participants and then orchestrate their support. At this level, the public participate through positions to which they have been appointed on advisory committees or advisory boards. While the committees and boards 'go through the motions', they are basically 'rubber-stamp' bodies and the participating publics play an insignificant role.

The second rung, therapy, is described by Cahn and Passett (1971:76) as dishonest and arrogant. This level of participation may take the form of group therapy but because the publics are active, it is misinterpreted as participation. Further, the activities the publics are engaged in do not solicit real input to the causes of situations or the facts behind the

Figure 1 ARNSTEIN'S LADDER OF CITIZEN PARTICIPATION

Arnstein, 1969:216

issues. Rather, they attempt to 'cure' the involved publics of their symptoms and educate them to adjust their values and attitudes in order to conform to those of mainstream society.

Arnstein describes the third to fifth rungs of the ladder as the "Degrees of Tokenism" where the publics are allowed to offer their views and hear the government's plans. Informing is the third rung of the ladder and is the level at which citizens learn of their rights, responsibilities and options. While this could constitute a first step toward 'real' public participation, it is often a one-way flow of communication, from the authorities to the publics. Having received the information, the citizens are not afforded an opportunity to provide feedback or negotiate options.

Consultation is the fourth rung of the ladder and the second level of 'tokenism'. Consultation can be a genuine move toward full participation if combined with other methods of participation. However, if other methods of participation are not used it too becomes artificial, as there is no assurance that the public's concerns and suggestions will be taken into consideration.

Placation, the fifth rung of the ladder, is the point at which the public begin to have a degree of influence on the decision-making process. However, tokenism continues to be evident since the public can advise government officials on the options or impacts of a project, but the authorities still maintain the right to determine the legitimacy of the advice and make final decisions with respect to a project.

At the sixth rung of the ladder, partnership, power is reallocated between

the public and the authorities. As a result the public possesses increasing degrees of decision-making influence and the partnership enables the public to negotiate with and engage in trade-offs with the authorities. The sharing of planning and decision-making responsibilities is managed through established and agreed upon structures such as joint policy boards, planning committees and procedures for conflict resolution.

The seventh rung, delegated power, occurs if the public, as a result of negotiations with the authorities, have achieved "dominant decision-making authority" (Cahn and Passett;1971: 85) for a specific plan or program. At this step of the ladder, the public are in a position to ensure "accountability of the program to them."(Cahn and Passett, 1971:85)

The eighth and final rung of the ladder, citizen control, is the epitome of citizen power. The citizens, at this level, directly govern a program or project with no intermediaries, have complete policy and managerial control and can negotiate the "conditions under which outsiders may change them".(Cahn and Passett, 1971:87)

Arnstein has not only defined public participation but has described the various levels of participation that can occur. Other definitions have been developed but describe the general concept and do not acknowledge that various levels of participation can and do exist.

Grima defines participation broadly as "all activities of private citizens, citizen groups and others trying to influence public decisions through boards, committees or other ad hoc bodies."(1976:61) Grima's definition suggests that public participation is carried out in an

atmosphere of confrontation in which the public, individually or collectively, challenge the authorities rather than working collaboratively to arrive at a mutually satisfactory decision.

Thomson (1977:68) describes a cost-benefit process, explaining that participation exists when authorities discuss with the public the "nature of some problem, the alternative solutions to the problem and the advantages and disadvantages of the various alternatives". This description enables all participants in the process, public and authorities alike, to fully understand the costs and benefits of each alternative to a problem. Such a process would ensure that all participants are fully cognizant of the impacts, positive and negative, of the selected option.

Schatzow explains participation as the "direct involvement of the public in decision-making through a series of formal and informal mechanisms" where decision-making is the "selection amongst alternative courses of action". (1977:141) Like Thomson's definition, Schatzow's definition implies a process where all participants are fully aware of the pros and cons of the each option.

Connor (1977:209) asserts participation is a process rather than a single unitary act; a learning process or experience where each participant comes to more completely understand both the issues and concerns of all participants. Therefore, each participant, including the proponent, can be both student and teacher.

Thomson, Schatzow and Connor consider participation a proactive process

where a dialogue is established between the publics and the authorities, in order to rationally discuss issues associated with proposed developments. Alternatively, Arnstein and Grima view participation as a redistribution of authority where the less authoritative gain the confidence and means by which to influence and alter decisions.

The literature review revealed that any definition of public participation is dependent upon application specificity, as well as various factors which are dependent upon the "ideology, motivations and practical orientation of the user." (Wengert, 1976:23) Also disclosed in the literature review was the fact that numerous publications regarding the theoretical concept of public participation were published during the late 1960's and 1970's. Publications from the early 1980's to the present have focused on the methodologies and techniques employed to facilitate participation, as opposed to the concept or theory of participation.

The concept of cooptation was identified in the literature review and is the term which describes bringing affected or concerned groups and individuals into the decision-making process. Some view cooptation as beneficial as it serves to build consensus, enhances the participation of the public and the contribution of their expertise and information and legitimizes the decision-making process. (Saward, 1991:5) However, others view cooptation as a negative process whereby groups and individuals are pressured by government agencies to become involved and given a false sense of their role in the decision-making process.

Saward explains these opposing views by identifying three types of cooptation: psychological; ideological; and, institutional. Psychological

and ideological cooptation are informal processes where cooption is the end result. Institutional cooptation is a formal process where cooptation is used as a strategy to arrive at a decision and legitimately includes groups and individuals in the process. (1991:7)

Therefore, the process and outcome of institutional cooptation is comparable to the process and outcome of properly conducted public consultation and participation.

3.2 History of Public Participation and Consultation

Throughout the thirties and well into the forties, decision-makers and bureaucrats were viewed as champions of improved social conditions and communities and the public did not perceive a need to participate in the decision-making process. (Kaufman, 1971:1) The rapid period of growth which occurred following the end of World War II, proceeded with little or no contact between the institutions and the communities in which they were developed. The general populace assumed that the development and expansion of hospitals, universities and corporations was an improvement and beneficial to the community in which they were constructed.

However, by the mid-1960's a shift in values caused this belief to be challenged by the public. There was an increasing dissatisfaction with and distrust of government at all levels and ordinary citizens recognized their right to participate in the decisions which affected their lives. Therefore, the public not only demanded an increased role in the decision-making process, but a greater say in ensuring the demands which they made were met. (Sewell & Coppock, 1977:IX)

The dissatisfaction, sense of frustration with government and the public's recognition of their right to participate in decisions which affected their lives, led to a quantitative and qualitative change in the manner in which the public participates. Initially, the demands for greater participation were related to the problems of the urban environment, such as urban renewal, the location of noxious facilities and the development of transportation networks and the push for an acceptable quality of life.

Since the seventies, the demand for greater participation has evolved to include poverty, education and protection of the environment. (Sewell & Coppock, 1977:1) Over this same period of time, life has become increasingly complex, society has become more fragmented and government and its functions have multiplied and grown beyond the comprehension and control of the public. Plunkett and Betts (1978:156) also attribute the increased demands during this period to the public's changing values and expectations. The increased demand for and incidence of citizen participation, described by Kiernan (1990:75) as the citizen participation movement, has permanently changed the way in which planning at any level is carried out in Canada.

This is particularly true with respect to the environment and the emergence of environmentalism as a moral position. The beliefs associated with environmentalism have motivated the public to demand a greater role in the decision-making process and they have become and will continue to be significant participants in reducing adverse environmental impacts. (Price, 1990) Those beliefs are:

1. Resources are limited and society must act as a steward rather than a benefactor of the resources;

2. Leaders do not have a right to allocate resources on behalf of everyone else; and,
3. Overemphasis on economic benefits has placed the earth in crisis. More emphasis must be placed on environmental and social benefits.

3.3 Participation in Political Processes

In a democratic society, the most basic, passive and fundamental form of public participation is the ballot box. Casting a vote in an election every few years provides franchised citizens with an opportunity to participate in the democratic process. Having participated in an election and thereby elected an official or officials to represent them, citizens have handed the elected officials the power and a mandate to make decisions regarding their lives, communities and environment. Therefore, governments get their authority from the "consent of the governed." (Head, 1971:15)

Following an election the elected officials generally proceed to make decisions in an isolated and autocratic manner without further contact with the electorate, until the next election. Historically, citizens have been satisfied with this arrangement and have felt confident that the elected officials and bureaucrats, whose mandate is to implement the decisions made by elected officials, have made competent decisions representative of their interests and concerns. However, to succeed, a democratic system, must be more than a general vote one day out of every three or four years. It must be a vital, on-going contact and exchange between governments and their constituents. (Head, 1971:17)

When the decision-makers are attuned to the requirements of the governed and can easily identify the concerns, when the publics who will be affected by a decision can articulate their concerns and when the procedure by which the concerned publics communicate is well-known, the democratic system of decision-making functions well. However, when decision-makers cannot determine who will be affected, adversely or otherwise, by a decision or the concerned publics do not understand the channels of communication, the system is inefficient. (Sewell & Coppock, 1977:1)

The instance where decision-makers are able to completely, or almost completely, understand and respond to all of their citizens, is described by Dahl (1971:2) as ideal democracy. Ideal democracy assumes all citizens in the community are political equals and have direct, unimpeded opportunities to:

- express preferences;
- identify and demonstrate these preferences to one another and the government through individual and collective action; and,
- have the preferences considered and evaluated equally by the government in carrying out their business and to not have preferences discriminated against due to source or content. (Dahl, 1971:2)

The ideal, however, can never be achieved since the elected officials cannot be responsive to all citizens at all times. Any decision made by elected officials is a process of assessing the costs and benefits associated with each of the options under consideration. Typically there will be support and opposition for each option and generally no option

with unanimous public support. Secondly, there are impediments to some citizens, which prevent them from promoting their preferences to one another and/or the elected. For example, a homeless person, due to lack of a permanent address, would not appear on a census list, assessment roll or voters list and thus would not be a franchised public. As a result he or she would not possess the required knowledge of available resources, process or the necessary channels through which to express his or her preference(s). Finally, due to the large number of expectations which exist at any given point in time in a community, decisions cannot possibly be made which are satisfactory to all.

There exist large numbers of people with differing values and expectations and these must be given adequate consideration in the process leading up to the making of decisions." (Plunkett and Betts, 1978:168)

As democratic states evolve and become more inclusive and open to public contestation, they emerge as polyarchies. (Dahl, 1971:7) A polyarchy is inclusive because all citizens have an equal right to participate in decision-making processes. Polyarchies are open to public contestation because the public have an opportunity to:

- form political organizations;
- oppose the government;
- express their political views;
- consider alternative points of view; and,
- vote by secret ballot.

An important tenet of democracy, as in a polyarchy, is the permission for opposition, rivalry or competition between a government and its opponents. However, the two theories differ in that a democracy is not necessarily inclusive. Historically, not all strata of a community had access to or

were allowed to participate in the democratic process. The process was reserved for a small elite in society and initially consisted of competitive politics which evolved first into non-party politics and then political party competition. (Dahl, 1971)

As additional social strata were enfranchised, the individuals within these strata easily assumed the accepted practices which had developed among the elite. As political systems evolved to become more inclusive and more competitive, that is, increasingly polyarchical, politicians sought support from those groups who more easily participated in decision-making processes.

As the public's confidence and the ease with which they participate in the decision-making process increases, the more they participate. As the public's confidence and participation increase, the individuals have more faith that any actions taken by them matter. Conversely, those publics who do not have confidence and do not participate, are more apt to believe they are ineffective in the decision-making process. (Dahl, 1961:86)

The public are more inclined to have the confidence to participate in decision-making processes at the municipal level of government. This can be attributed to a number of factors. First, municipal governments provide basic services which the public require and utilize on a daily basis. Therefore, there is a more obvious and tangible impact on the day to day activities of the public by municipal governments. Secondly, municipal governments (elected officials and municipal administration) are located within the community and are easily accessed. Finally, there are numerous examples of proposed developments that have been cancelled or

modified as a result of the public's involvement and thus the public have more confidence that their participation and input at the local level makes a difference.

The confidence possessed by the public at the municipal level does not extend to decision-making processes at the federal level of government. This can be attributed to the complexity of the organizational structure and functioning of the federal government. Secondly, the services provided by the federal government are not as readily apparent as those at the municipal level and do not have an obvious day to day impact on the public. Finally, the federal level of government is more difficult to access from a geographic perspective. The federal seat of power and the elected official is remote for the vast majority of Canadians and the means of access are not as obvious as at the municipal level.

3.4 Who Participates?

Babchuk and Booth (1969:32) have found that those who most actively participate are generally upwardly mobile, middleclass, educated, male, homeowners, long time members of a community and politically aware. Economic and racial minorities do not generally participate and Lazar (1971:99) believes that until the basic economic and health needs of the public are met, there will not be broad participation among these groups. In cases where the minority groups do participate, advice and leadership of the group is in the hands of the middle to upper class members. (Sewell & Coppock, 1977:8)

3.5 Who Is the Public?

The public is not a single entity but a plurality - those individuals and

groups that represent the many diverse interests in a community. Because of the many publics there are a number of ways in which they can be described, as follows:

1. Location

The public can be described in terms of their location relative to a proposed development. For example, in a water resource development, the public may be inside the boundaries of the project, in the flood plain or on either side of a river.

2. Interests

The public can be described in terms of their interests and the relevance of those interests to the specific development.

3. Social Characteristics

The public can be described in terms of the characteristics of their social group, such as, goals, history, size, structure, method of organization and communication.

4. Demographic Characteristics

Characteristics of the public such as age, gender, race, income, education and occupation, are useful in identifying secondary characteristics. For example, low income publics may reside in a specific location of the community and belong to the same community group. (Willeke, 1981:306)

The foregoing describe the publics as members of the various groups that exist and can be categorized within the community. In fact very few publics participate as individuals; rather they participate as members of a group. Groups provide a setting in which to

engage in expressive activities, function as vehicles to implement special personal interests and may provide effectual support for the individual. (Babchuk & Booth, 1969:31)

Groups usually form and evolve around a social issue, for example, an anti-pollution group and the members believe there will be strength in numbers, that the members can 'mobilize public opinion' and that as a group they can influence decisions. (Lazar, 1971:98)

While interest groups tend to form around a single common purpose such as resolving a specific issue or to achieve a particular goal, secondary and tertiary purposes generally evolve as the groups mature. Supplementary purposes may increase the size and stability of the group and gradually satisfy multiple needs as the group is able to exert significant and continuing influence. (Carroll, 1990:89) For example, a neighbourhood community group may form to prevent a proposed roadway from fragmenting the neighbourhood. The group may then proceed to develop a new community park or work to enhance the safety and cleanliness of their community. (Lazar, 1971:94)

Individual publics in the community join a specific group because they "believe in the goals and philosophy of the group." (Lazar, 1971:99) In order to invest time, money and feelings in a particular group, the individual may have a surplus of all of these, because his or her basic needs have already been met. Conversely, an individual may have requirements which he or she expects the interest group to fulfil.

3.6 What is Community?

Attempting to define community is a challenge confronted by myriad authors

as evidenced by the work of Hillery. Hillery (1955:111-123) identified ninety-four definitions of community and categorized them into sixteen concepts. The concepts included geographic and social interaction, presence of another common characteristic such as self-sufficiency, common life, consciousness of kind and common ends, norms and means. (1955:115) Hillery's study determined that one common element was present in all definitions - the inclusion of people. While there was no agreement beyond this basic element, the majority of definitions (sixty-nine of ninety-four) agreed that social interaction, geographic area and common ties are frequent elements of community life.

Lee and Newby (1983:57) provide three explanations of community which are not dissimilar to the broad categories developed by Hillery. The first is a geographic reference and describes the physical location. The second explanation of community refers to the social interaction among individuals within the physical location. And the third relates to the sense of identity or shared values and interests between the members of the community.

Krupat (1985:139) sustains Lee's and Newby's notions of community in his definitional categories of community. The first category is a geographic or administrative reference related to the size of the community. The second is a subset of the geographic or administrative reference, for example a local neighbourhood. Krupat's third category refers to the psychological attributes of a group. The third category is further divided into two sub-categories, the first of which identifies shared interests, skills or values among group members and the second is the result of "interaction, sociability, support, identification and

commitment" between the group members. (1985:139)

These three concepts of community, that is, as a geographic or physical reference, as shared values and interests and as social interaction, are all evident in discussions of community in relation to behaviours in the environmental impact assessment process.

However, today, technological developments and the associated speed and ease with which information is disseminated, negate the need for publics to be geographically close or to interact socially, to come together to oppose a development. Those individuals resident in diverse locations come together as a community to oppose a development because of their shared values and interests and the extent to which these will be challenged as the result of the proposed development.

3.7 Government Response to Demands for Participation

Governments at all levels have responded to the expectations and demands to varying degrees and in a variety of ways by developing policies and/or procedures which facilitate participation by the public. They have approved or modified legislation and regulations and altered existing administrative structures to facilitate a greater degree of public participation. (RMOC:1993) While some legislation encourages public participation, such as the EARP Guidelines Order, other legislation specifically requires public participation, as in the CEAA.

In the past, government consultation processes have tended to be narrow in scope and limited to information exchange sessions and/or reactive processes. However, consultation processes are becoming more proactive

and inclusive in response to the greater demands made by the public and proponents are recognizing the value of including the public in the decision-making process.

3.8 Conclusion

This Chapter has explored the broad scope of participation in a political and historic sense. As the public have become better educated, more knowledgeable regarding current issues, increasingly concerned about their communities and environment and more confident that their participation does have an impact, they have increased their level of participation in decision-making processes.

Discussion of who the participating public is revealed a number of characteristics used to describe the individuals and which serve to categorize them, depending on the nature of the proposed development project. What constitutes a community is no longer geographically defined and as a result of technological advancement, the definition of community has extended to include individuals with like values situated in diverse locations.

Governments at all levels have modified existing policies or developed and implemented consultation processes to accommodate and satisfy the growing demands for opportunities to participate in decision-making processes, particularly with respect to environmental impact assessment.

The following Chapter will explore why the public decide to participate and at what point in the process their participation is initiated. This will be followed by a discussion of the methods and techniques available

to the public to facilitate their participation and enable them to provide their input and feedback.

CHAPTER FOUR

The previous Chapter provided an overview of the history and evolution of public participation and explained that the public have come to expect the opportunity to participate and be consulted in decision-making processes. As a result of this expectation, public consultation and participation processes are today inherent in policy at all levels of government. However, how the public decide whether to participate and why they do so, as well as the point at which they initiate participation are questions which must be explored.

Once the public has made the decision to participate, there are a variety of methodologies and techniques available which enable the public to provide their input and feedback. The effectiveness of the methodologies and techniques for facilitating and enabling real input to decision-making are dependent on the extent to which proponents utilize them and in what sequence.

The purpose of this Chapter is to discuss these issues to better understand the public's actions with respect to participation decisions regarding proposed developments and to investigate the methods and techniques which the public use to participate. This will be followed by a comparative analysis of participatory methodologies and techniques to ascertain whether techniques have evolved and enable the public to contribute more equitably, meaningfully and effectively to the decision-making process.

The plethora of information that relates to consultation and participation at the municipal level, necessitates the citing of examples from this

level of government. How public participation has evolved and been incorporated into policy at senior levels of government, particularly the federal level, will then be discussed, especially as it relates to environmental impact assessment.

4.1 Motivation To Participate

When reviewing the decision-making process for developments, it is curious to observe that some proposals attract a great number of publics while others scarcely create a ripple in the community. What is it that motivates the public to participate?

The decision to participate or not is based largely on the public's perception of the magnitude of impact which results from a development and whether the impact affects them personally. If the public perceive that a development will be beneficial and have a positive impact on them and/or their community, they tend not to participate. Conversely, if the public perceive they will be adversely affected by a development, they do become involved and participate in the decision-making process.

This was demonstrated in the events which lead to the recent construction of the Aladdin Childcare Services facility on Russell Road in Ottawa. The siting and construction of the daycare facility, which was the second proposal for the site, was completed without objection or protest and has been enthusiastically supported by the community. However, an initial proposal was made for the same site for the construction of rent to income housing for disabled and senior adults, was vehemently opposed.

The initial proposal was developed by the church congregation (Hawthorne

United Church) who occupy a church on the site and who had identified a need for this type of housing in the community. This proposal was opposed by members of the immediate community, which included homeowners, a school board, another religious institution, who provided social programs and support to those in need in the community, and a candidate for the approaching municipal election. The result was the creation of a division in the community between those who supported the proposal, including the church congregation and those who were vehemently opposed.

The division in the community carried through to the City of Ottawa Committees and Council in their consideration of the proposed rezoning. The Planning and Development Committee considered the rezoning and approved it on a vote of three to one. (City of Ottawa, 1991:62) The Planning and Development Committee recommendation was subsequently considered by Council and approved on a vote of eight to seven. (City of Ottawa, 1991:30) As a result of Council approval, the zoning for the site was amended to support "special needs housing" (City of Ottawa, 1991:46) and the required by-law was prepared to reflect the amendment.

Section 34 of the Planning Act of Ontario, requires that any notices of appeal against a zoning by-law must be forwarded to the Ontario Municipal Board (OMB) for resolution prior to securing final approval of the by-law. In this case, a joint appeal was received from two adjacent homeowners and per the Planning Act, the zoning by-law was forwarded to the OMB for resolution and consideration.

Prior to the OMB hearing, the Hawthorne United Church congregation was approached by the Board of Directors for the Aladdin Childcare Services

Centre. The Board proposed that a long term lease agreement for the parcel of land be established between the two parties and a daycare facility constructed on the site. This proposal met with the approval of the Hawthorne United Church congregation.

The homeowners, school board and religious institution, who previously objected to the rent to income facility, supported the proposed daycare facility and the Hawthorne United Church congregation entered into a long-term lease agreement with the Aladdin Childcare Services Centre Board of Directors. The original proposal for special needs housing, was subsequently withdrawn by the Church congregation and the construction of the daycare facility was completed in the spring of 1995.

4.2 Should We Participate?

In order to determine whether or not to participate, the public evaluates and assesses the magnitude of impact based on the following factors:

1. Proximity to the Development Site

The public assess the magnitude of impact on property values, consider the visual impact of the development and determine whether there will be increased traffic and noise. Generally, the closer the residents are to a proposed facility, the greater their opposition and as one moves out from the site, opposition begins to decline.

2. Economics

The public, in evaluating a proposed development, ascertain the level of job creation and determine whether the facility will be an asset to the community. Any secondary and tertiary economic development resulting from the development will be examined.

3. Social and Environmental Concerns

The public evaluate the potential for water or air pollution that may be generated by a development and whether any social impacts that accompany some developments, such as, increased alcohol consumption, drug use, disease and crime, will result.

4. Values

The public assess the acceptance of a development based on their beliefs and values. For example, a detention centre or a hospice for AIDS patients may be less acceptable than a day care centre. (Praxis, Vol. 1, 1988:9) (Dear, 1992:291)

The decision to participate or not is also influenced by the reputation of the proponent responsible for the development. If a proponent can direct opponents of a proposal to a successful facility constructed elsewhere, it can enhance the likelihood that a proposed development will be accepted. (Dear, 1992:292)

Table 1 illustrates the three tiers of acceptability ranging from Most Welcome to Absolutely Unwelcome. Those institutions which fall within the Most Welcome category are largely accepted and the public do not perceive any negative impact as they are associated with positive social values and beneficial human services. Institutions of this size also support the local economy by providing primary and secondary employment and enhance the capital value of the community. While a large facility would have greater impacts as a result of more cars, more people and more activity, the public do not perceive these as adverse impacts because of the positive impact on local employment and the fact that the services provided are perceived in a positive manner. (Dear, 1992:292)

TABLE 1: HIERARCHY OF ACCEPTANCE

Most Welcome	School
	Day care centre
	Nursing home
	Hospital
	Medical Clinic
Mixed Reviews	Group home (mentally disabled)
	Homeless shelter
	Alcohol rehabilitation centre
	Drug treatment centre
	Chronic mentally ill facility
Absolutely Unwelcome	Shopping mall
	Group home (AIDS patients)
	Factory
	Garbage landfill
	Prison

Reference: Dear, 1992:292

Those institutions that fall within the category of Mixed Reviews have both support and opposition in the community. The opposition can be largely attributed to the client population of such facilities and their position in society's hierarchy. (Dear, 1992:292) Those who support the institutions within the Mixed Review category, perceive the objectives of the services provided as positive and beneficial to the community and outweigh the negative or adverse impacts.

The institutions that fall within the Absolutely Unwelcome category are those that are perceived to have the most significant impact on a community. Adverse environmental impacts are associated with the facilities, specifically the landfill site and factory. As well, high volumes of vehicular traffic are considered negative impacts of the facilities, particularly the shopping mall. The clients that would use the AIDS group home and those that would be detained in the prison, are perceived to be at the lowest level of the social hierarchy and therefore, most unwelcome. (Dear, 1992:291) The economic benefits of these facilities are limited as relatively few jobs are created and the community values are seriously challenged.

Participation by the public in decisions regarding these facilities would increase along the hierarchy, from a minimum number of participants for Most Welcome developments, to a massive number for Absolutely Unwelcome developments.

The phenomenon whereby citizens protest the construction of an institution or a large development in their community is termed NIMBY (Not In My Back Yard). This phenomenon

"... refers to the protectionist attitudes of and oppositional tactics adopted by community groups facing an unwelcome development in their neighbourhood." (Dear, 1992:288)

4.3 When Should We Become Involved?

The public can and do initiate their participation at any point in the decision-making process. If the initial evaluation and assessment indicate the impact is significant, the public become involved at the beginning and sustain their participation throughout the process. If the potential impacts of a development are not perceived as significant or there are many options, the public do not become involved initially. However, if at any point in the process there are changes to the proposal or the available options are narrowed, the public re-evaluate the potential impacts and if perceived as negative, participation would be initiated.

These behaviours are illustrated by Figure 2, "Participation Versus Impact" which illustrates the level of impact versus the number of participating publics. If the potential impacts are insignificant or perceived as beneficial, there are few publics participating. If the impacts are significant or perceived as negative, a large number of publics participate.

4.4 How Do We Participate?

Consultation techniques which facilitate public participation are numerous and range from informal techniques such as an open house where public receive information and can ask questions, to formal techniques, such as a Royal Commission where members of the public present their views to a government appointed panel, at a specified date and time.

52.a

Figure 2: Participation Versus Impact

Consultation techniques can be classified into one of two conceptual categories: participatory and non-participatory.

4.5 Non-Participatory Techniques

Non-participatory consultation techniques involve the collecting of information from the public which is needed to structure the decision-making process itself. In this type of consultation, participants are not self-selected and the participation process is not flexible to the needs and desires of the participants. Rather, the participation process is structured as a data-gathering exercise, designed to capture the views of the general public who otherwise may not have contributed through the participatory consultation process. Examples of non-participatory consultation include focus groups and telephone surveys. (RMOC, 1995:4)

4.6 Participatory Techniques

Participatory consultation processes are designed to provide the public with a number of participation options. The options vary in the degree to which the participants wish to be involved and how much time and effort they are willing and/or able to contribute.

Participatory processes differ from non-participatory processes in the following ways:

1. the process is flexible in order to provide participants with more control over the process and input;
2. participants can communicate directly with staff and the responses are not filtered or interpreted by the researchers; and,
3. the process can be structured in order to meet the needs of

participant organizations.

Participatory processes provide the public with numerous opportunities to provide input at the initial stages of a development. (RMOC, 1995:5)

4.7 Methods of Participation

Participation techniques, whether participatory or non-participatory, can be categorized into four broad methods:

1. public information - education;
2. public information - feedback;
3. extended involvement; or
4. joint planning. (Praxis, 1988:7)

Participation techniques which have been and continue to be the most commonly utilized in consultation processes fall within the first three categories. These methods enable the public to contribute to and participate in the decision-making process, with the officials reserving the right to make any final decisions. However, a number of more open, cooperative and effective participation methods have recently evolved, whereby the public and decision-makers work together to arrive at a decision that is acceptable and satisfactory to everyone involved. Such methods fall within the category of Joint Planning.

The following narrative describes the four methods and the techniques which fall within each. (A complete listing of techniques by method can be found at Appendix A).

4.7.1 Public Information - Education

Participation techniques that fall within the Public Information -

Education category are considered one-way communication, whereby an agency provides information to the public or attempts to educate the public by disseminating information through various means. The education carried out by the proponent, is accomplished by providing an explanation of the history, purpose and benefits of a proposed development. While the public can request additional information or discuss the information received, there is no opportunity to provide input to the planning process or participate in any decision-making.

Public Information - Education techniques are designed to reach a specific audience and can be adapted to any size group or geographic area. While some techniques may be expensive, particularly if the target audience is large and covers an extensive geographic area, they provide good value per capita. The proponent is able to provide a consistent base of information to all who may be concerned with the development and the techniques can be implemented quickly and simultaneously. The large number of techniques provide numerous options and enable a proponent to utilize more than one to target specific audiences, to fit specific circumstances and to release information over a period of time.

However, used in isolation, these techniques do little more than let the public know a development is proposed and do not facilitate any meaningful public input nor provide an opportunity for follow-up. If a consultation process consisted of techniques from this category only, the proponent would be subject to possible court challenge and delays in the final stages of decision-making.

4.7.2 Public Information - Feedback

Techniques that fall within the category of Public Information - Feedback are used to obtain information from the public and signal the beginning of two-way dialogue. The techniques found in this category include those employed to develop overviews of public opinion as well as techniques to encourage the public to respond to a specific development. As a result, the proponent is able to begin to identify and understand the public's opinions and values with respect to a proposed development.

While there are fewer techniques within the Public Information - Feedback category, each facilitates feedback and provides for a solid cross-section and representative sample of the public. Further, each technique within the category can be adapted to either a targeted or general audience. While the techniques require more staff involvement and resources to implement and facilitate than Public Information - Education techniques, the public are able to meet face-to-face with the proponent to discuss the project and the opportunity for follow-up is available.

At this level the proponent is beginning to receive, to their benefit, specific experiential knowledge from the community members, in relation to the proposal.

4.7.3 Extended Involvement

To accommodate the increased demand for a more active role in the decision-making process, Extended Involvement techniques have been developed. These techniques allow for an approach which is collaborative and builds consensus between the public and decision-makers.

Extended Involvement techniques also function to bring together the

technical, political and moral criteria for consideration in the decision-making process. There is greater satisfaction with the results of Extended Involvement techniques as they legitimize diverse points of view. The publics involved are satisfied, not only with the solution, but because there is assurance that their opinions were heard and respected and the process was equitable and relevant. Further, public participation that is collaborative also ensures decisions are made in as inclusive a manner as possible. (Potapchuk, 1991:160)

The techniques in the Extended Involvement category are recommended when issues are complex or multi-jurisdictional. The techniques are implemented over a period of time and result in a well informed and knowledgeable public participating in the process. Further, the techniques enable the proponent to adapt to local conditions and allow for intense, informed and real public input and save time over the life of a development due to a reduced risk of challenge. (Praxis, 1988:9) A proponent could easily move to a decision without controversy, having implemented any of these techniques.

4.7.4 Joint Planning

Techniques which fall within the category of Joint Planning are implemented when proposed developments are controversial and involve many diverse and opposed participants. The techniques result, as the name suggests, in shared decision-making between the publics, proponents and the authorities with the assistance of a mediator or arbitrator. As with Extended Involvement, Joint Planning techniques spawn a group of well informed and knowledgeable publics who can assist the proponent in future initiatives or provide input and advice on an ongoing basis.

4.8 Alternative Decision-Making Methods

McMillan and Murgatroyd (1994:58-59) describe three methods of decision-making within the context of public consultation. The methods, illustrated in Figure 3, are:

1. Directive Decisions;
2. Consultative Decisions; and,
3. Collaborative Decisions.

4.8.1 Directive Decisions

In the instances where Directive Decision methods are implemented, the proponent consults with the community to gather facts and opinions and to educate them with respect to a proposal. However, the authorities reserve the right to make the decision. This approach is appropriate when a decision is required immediately and is of an urgent nature. This is comparable with the Public Education - Information method and is a process which entails one-way communication with the public.

4.8.2 Consultative Decisions

Through Consultative Decision-Making methods the proponent exchanges ideas with the public and analyzes the information received. In this style, the proponent is committed to integrating the public's ideas and concerns into the final decision and there is commitment to reaching an agreement regarding the outcome. In the end however, the proponent reserves the right to decide which option to select. This approach is appropriate when there is potential conflict among the groups involved. Consultative Decision-Making corresponds with Public Information - Feedback and indicates a greater level of public involvement.

58.a

Figure 3: Alternative Decision Making Methods

McMillan & Murgatroyd, 1994:59

4.8.3 Collaborative Decisions

If the commitment and support of all groups to a decision is necessary, a Collaborative Decision-Making process is appropriate. In this method, all interested and concerned publics are involved throughout the entire process, up to and including the final decision. This approach parallels Joint Planning, where all concerned and involved parties work together to reach a mutually satisfactory decision.

4.9 Comparison of Consultation Methods

A review of the eight rungs of Arnstein's Ladder of Participation reveal that the four categories of consultation methods and the three methods of decision-making, discussed above can be easily correlated with the rungs on the Ladder of Participation.

The category of Public Information - Education, whose purpose is to inform and educate the concerned or affected publics, corresponds with ladder rungs one and two, which Arnstein described as Non-Participation. Arnstein defined the objective of these two rungs as the ability of officials to educate the public who have chosen to participate. The objective of McMillan and Murgatroyd's Directive Decision-Making is consistent with these two rungs. In all cases, the authorities retain the right to final decision-making, after having educated and informed the public and obtained opinions and ideas.

Public Information - Feedback corresponds with ladder rungs three, four and five, respectively informing, consultation and placation. Arnstein described these three rungs as Tokenism as the public are permitted to provide comments and opinions and advise officials who consider the input

but retain the right and power to make final decisions. Public Information -Feedback techniques, like those utilized in Consultative Decision-Making, are intended to solicit the public's opinions and ideas and to request comments with respect to a particular project.

Extended Involvement and Joint Planning methods parallel rung six of Arnstein's Ladder which she termed Partnership. At this step, Arnstein believed the public possessed increased decision-making influence and had sufficient authority to negotiate with the authorities. Techniques within the categories of Extended Involvement and Joint Planning facilitate cooperative and consensus-building processes, as do Collaborative Decision-Making techniques, where all concerned parties take part throughout the entire process.

The seventh and eighth rung of Arnstein's Ladder, Delegated Power and Citizen Control, describe a situation where the public hold the majority of decision-making authority. Joint Planning and Collaborative Decision-Making do not correspond with this level of consultation, as these are processes in which participants are equal partners in the process and no one individual or group of individuals have a majority of the decision-making power. The evolution and development of various joint planning and collaborative techniques, suggests it is unlikely that the top rung of Arnstein's Ladder will ever be achieved.

4.10 Conclusion

The foregoing discussion describes generally the why, when and how of public participation. However, there are unique circumstances surrounding resource developments and associated consultation and participation

processes. Burch (1976:45) states there are three factors which make public participation in resource decisions an activity for a select few in society. The factors are:

1. Conservation issues and their supporters have always been part of the existing systems of authority.
2. Old tradition has been joined by the salariat (salaried and middle class). The baby boom generation are generally salaried, college educated and are most likely to have the time, energy, knowledge, interest and income to participate.
3. A steady attempt to remove resource issues from the market and put them under professional allocation as opposed to commodity and real estate markets.

These factors explain the reasoning behind participation by the mainstream, middle class segment of society. However, the issues are complicated because resource developments generally occur in remote areas far from where the middle class reside, where there is no immediate impact on them and where there is a complex web of environmental and socio-economic impacts. Further, resource developments tend to be located on traditional native land, which is often the subject of a land claim settlement. All of these issues make decision-making in resource developments more complicated and therefore require an effective consultation process to ensure all of the concerned and affected publics are kept informed and have opportunities to provide their input throughout the process.

What then constitutes an effective consultation process which ensures participation is balanced and representative of all concerned publics?

The following chapter will present a discussion of effective consultation and identify the criteria necessary to ensure an effective consultation process.

CHAPTER FIVE

Dissatisfaction with government decision-making coupled with shifting beliefs and values, particularly with respect to the environment, have resulted in greater public demand for participation in decision-making processes. This is especially true for those decision-making processes associated with resource developments. Resource developments attract much public attention for a number of reasons: there is potential for significant environmental impacts due to the scale of the developments; the developments challenge the public's environmental and social values and economic well-being; and, the scale of resource developments result in significant capital investment and associated public debt.

While consultation has become inherent in government policy, there will continue to be demands for greater corporate accountability and a focus on doing things "smarter, faster and in a more customer focused and environmentally sensitive way." (McMillan and Murgatroyd, 1994:54) The challenge for any agency or corporation which is developing a public consultation process, is to balance these expectations with community needs and values, in the decision-making process.

This balance can be achieved by developing and implementing an effective consultation process which includes the following criteria:

1. Open Communication
2. Clear and Understandable Consultation Process and Goals
3. Accessibility:
 - (a) language
 - (b) schedule
 - (c) location

- (d) affordability
- 4. Balanced and Diverse Participation
- 5. Appropriate Methods and Techniques
- 6. Monitoring

The purpose of this chapter is to present the benefits of public consultation and discuss the merits of constructive and open consultation processes. The aforementioned criteria which are necessary to ensure an effective consultation process will be examined and the benefits of each presented. A review of government policies, consultation processes and authors of consultation and participation strategy and practice will assist with the development, discussion and description of the effective criteria.

5.1 Benefits of Public Consultation

While some proponents and agencies believe public involvement to be a necessary evil and prefer to communicate only when obliged, the public have a moral right to be involved. A public that is prohibited from participating, is a public that is more likely to pursue litigation. Further, by excluding the public, the review process is missing valuable data and information sources. (Erickson, 1979:310) The public's involvement serves to balance the technical knowledge of the experts in the area of development with the personal knowledge of the people who reside in and experience the environment directly. The technical knowledge together with the personal knowledge provides the qualitative data necessary for sound decision-making. (Armour, et.al., 1981:27)

However, the benefits are realized only in situations where the

participating publics feel their expectations for corporate accountability have been met and where there have been sufficient opportunities for participation in the decision-making process. Logie (1975:3) explains public expectations as follows:

- to be consulted, given full details and asked for input when a proponent initially plans a project;
- the proponent to modify project plans as per the public's comments and to go back to the public for approval;
- a series of meetings with the public, to enable the proponent to understand the environmental acceptability to the public;
- the proponent to then apply to the government for approval and/or licensing or financing;
- the government to demand an EIS including the design of the project, potential environmental effects, mitigating measures and residual effects;
- the government to discuss the project with the public; and,
- the government to approve, disapprove or recommend the project with plan modifications.

By enabling the public to participate in the initial planning stages of a proposal, many impacts can be mitigated. Their participation also serves to build a foundation of trust and cooperation for current and future projects.

5.2 Constructive Consultation

Connor (1977:209) states that participation is

"neither a single unitary act, such as a public hearing, nor a haphazard set of occurrences, but a planned process, responsive to the unforeseen but guided by a general concept."

Therefore, a planned consultation process should result in participation occurring at regular and appropriate intervals in a constructive manner. Connor believes constructive participation occurs when:

1. planners listen to residents concerning their attitudes, goals fears and factual suggestions;
2. citizens find early and convenient opportunities to make positive contributions;
3. citizens learn from planners and others a broader and deeper knowledge and understanding of their environment, its potential and its fragility;
4. individuals, interest groups and agencies identify their own positions, recognize those of others and work toward a win-win solution cooperatively rather than become locked into a destructive win-lose or lose-lose pattern; and,
5. relationships between planners, politicians and others are strengthened so that communication barriers are breached and mutual trust increases as a foundation for communities to function more effectively in every way. (1977:210)

5.3 Open Consultation

McMillan's and Murgatroyd's (1994:54) concept of effective consultation parallels Connor's, and states further that a dynamic consultation process should strive to create an effective plan for change and develop an environment which supports those changes. Thus, the goal of consultation processes is not consensus, but rather ownership of the change.

In order to achieve this, McMillan and Murgatroyd believe an open consultation process is required. While proponents are uncomfortable with

the concept since it is perceived to be a loss of control, open consultation can significantly increase the acceptance and improve the quality of the decision being made. McMillan and Murgatroyd believe open consultation exists when:

1. Consultation is initiated early in the decision process, before a commitment to certain outcomes has been solidified;
2. The purpose of decisions and the process to reach them, are understood by all;
3. Those most affected are involved in the decision-making process. A mutual effort to share, explain and receive information is made by all parties involved;
4. Mutual trust and respect are valued and supported. There is an obvious effort to listen and an active effort to understand other people's point of view; and,
5. All parties play a role in defining the outcomes to be achieved and the risks that must be considered. All parties are welcome to propose options for consideration. (1994:57)

5.4 Effective Consultation

Examining both Connor's and McMillan's and Murgatroyd's concepts regarding constructive and open consultation, it is evident that an effective process is one which encourages and facilitates open communication, the sharing of ideas and concerns and which ensures that all concerned and affected community members are involved from the beginning.

While the initiation of a public consultation process may cause expectations to be raised among community members, the development of clear goals and objectives for consultation and participation and the

establishment of a post-development monitoring process, is vital in managing those expectations and further building and sustaining the trust which must exist between the community and the proponent.

There is no established 'off the shelf' public consultation process available to proponents for implementation. Rather, each process must be designed to address and support the particular circumstances associated with a proposal.

5.5 Community Profile

Before developing a public consultation process, a proponent should assess the community to ascertain the general characteristics of the potential participants in order to develop a community profile. This includes identifying the individuals or groups who will be impacted by, interested in or concerned with a project and where they are located geographically, determine their relationship, if any, with the proponent and evaluate how they may respond to the proposal.

Acquiring this information will enable a proponent to develop a consultation process which maximizes participation by the community. It also allows the proponent to develop a process which is tailored to the specific characteristics and requirements of the community and develop communication tools which respond to and address specific concerns. (MacKenzie Associates, 1995:II-15)

5.6 Criteria For Effective Consultation

The following discussion describes the criteria necessary for effective consultation and presents the benefits of including each in a consultation

process.

5.6.1 Open Communication

The first criteria necessary for effective consultation is open communication, which supports and facilitates all other criteria in the consultation process, builds mutual trust between the project proponent and the community and establishes a sense of partnership among all participants. The intent of open communication is to establish a dialogue between the participants and the proponents. First, to ensure that participants receive the necessary information regarding a proposal and are given sufficient opportunity to contribute their opinions and knowledge. And secondly, to ensure the proponent is able to acknowledge and assess the input and discuss issues of concern with the participating public. Nader (1975:271) notes,

The growth of citizen activism in the late 1960's demonstrated ... the increasing need for information as a prerequisite for meaningful and effective debate on major issues.

Established in the initial stages of a project, open communication can be instrumental in the success or failure of a process and acceptance or rejection of a decision. As each criteria of the process is implemented, maintaining open communication further builds the trust and respect necessary to reach a decision acceptable to and supported by all who are involved.

5.6.2 Clear and Understandable Consultation Process and Goals

In order for those publics who express an interest in being involved, to know when, where and how to participate, the consultation process must be clearly defined and understandable. Associated goals, objectives and decision points must be apparent and the roles and responsibilities of all participants must be clearly designed and established. A consultation

process developed jointly by the proponent and the public would satisfy these requirements and ensure that adequate opportunities for participation are built into the process and reflect the characteristics of the community.

If the consultation process is clear and comprehensible, the public will be able to contribute constructive input, provide feedback at appropriate points in the process and not be surprised by any unforeseen events. Conversely, the proponent will receive input that is timely, effective and productive.

Clearly defined roles and responsibilities ensure that all participants understand their function and what they are required to do and when. This facilitates and expedites the process, as information will be received as it is required and from the necessary sources.

5.6.3 Accessibility

Open communication and a clearly defined and understandable process are necessary criteria for an effective consultation process. However, if the public cannot access the information or contribute meaningfully because they are not able to access the process, it will not be effective. Accessibility extends not only to language but also to those with physical disabilities, financial requirements, mobility requirements and those who are marginalized. The following factors must be considered in the development of a consultation process to ensure it is accessible to all members of the community who wish to participate:

(a) language

Proponents should have determined during the scan of the community the

language(s) spoken by the various members of the population. Providing information and written materials in the language(s) of the community and providing translation services at meetings, ensures that all members of the community have access to the process and are encouraged and able to provide their input.

The use of technical, professional jargon by the proponents and government agencies should be discouraged. The use of such language generally causes the public to feel as though the proponent has 'something to hide' and the public become doubtful and cynical. The use of simple, easily understood terms will ensure the public understands the proposed project, the issues and feels the proponent is genuinely involving them and values their opinions and comments.

In selecting appropriate language, proponents should be sensitive to any needs among potential participants for non-verbal languages. This includes sign language for the hearing impaired and braille for visually impaired participants.

(b) schedule

The schedule and timing of meetings should be varied throughout the week to allow various members of the community to attend and participate. For some publics it is difficult to attend evening meetings and still others cannot take time off from their jobs during the day. Weekends are preferable for some community members, while others favour weekdays.

In addition, the schedule of meetings should take into account the season of the year. This is particularly important in communities with large

ethnic and first nations populations, whose culture and celebrations may differ from that of the proponent. Organizing a meeting during a period of celebration or during hunting or fishing season when many aboriginal families are away from the community, would result in low a participation rate and would negate the participation of some community members.

Therefore, a varied schedule throughout the consultation period facilitates and supports communication with and participation by members of all segments of the community.

(c) location

Organizing and convening meetings in a central geographical location convenient for the proponent, makes participation inaccessible to the concerned publics. Even convening meetings in a central location within the affected community would preclude some members of the community from participating due to proximity, lack of transport or intimidation (particularly if the central location is a government office). Holding meetings in various locations and facilities within the community increases accessibility for the participants due to the closer proximity and familiarity and comfort of the location (such as a community centre or church hall).

For those concerned publics who do not live in the vicinity of the proposed development, the use of technology facilitates their input to the process on a realtime basis. Technologies such as internet and e-mail enable participants to provide comments, concerns and suggestions directly to the proponent.

(d) affordability

In order to ensure members of the community from all socio-economic strata can participate meaningfully, consultation events and meetings and associated materials such as publications, should be free of charge. Further, if any expenses are incurred by the publics wishing to participate, such as photocopying charges or fees for research or legal advice and/or representation, the proponent should provide financial assistance to offset these costs. This ensures that the process is open and accessible to all members of the community and financial status is not a barrier to their participation.

5.6.4 Balanced and Diverse Participation

As discussed previously, all members of the community who wish to participate and contribute, should be encouraged to do so. The various groups, representative of the community profile, should be included from the beginning to ensure the final product will more accurately reflect the community and be viewed as a community result rather than the imposition of one group's thoughts and ideas on another.

Therefore, publics from all segments of the community and all experience levels and backgrounds should be included, such as: business; all socio-economic groups; all ethnic groups; youth; aged; physically disabled. However, community members from these segments, some of whom are marginalized, do not usually participate in consultation processes. Their participation is compromised by systemic barriers inherent in public information, communications and consultation practices which tend to deter those segments who are already marginalized.

By developing an outreach program, a proponent can attract community members from these segments and encourage their participation thereby ensuring the process is balanced and diverse. Effectively reaching out begins by making contact with a member of the targeted community to discuss the concept of developing a strategy to involve those who are usually not represented in consultation processes. For some groups, reaching out goes beyond extending an invitation and requires a more formative approach that establishes trust and understanding. (RMOC, 1995:4, Hart, 1995:11)

In developing a strategy to involve the marginalized groups, proponents must be flexible in order to accommodate the specific needs and requirements of a particular group. For example, a workshop format may not be acceptable to a First Nations group, who would prefer to provide their input by means of a talking circle. For other groups in the community, such as the homeless, a group approach may not provide a comfortable forum in which to provide their input. In this case, one on one discussions could be organized. The community profile and contact with a representative of the various groups would assist the proponent in identifying and developing the approach most appropriate to the targeted group.

In order to ensure the consultation process is balanced and provides for input from all segments of the community, it is fundamentally important to ensure flexibility in both the design of the process and the techniques utilized to receive input to the decision-making process.

5.6.5 Appropriate Methods and Techniques

The previous chapter revealed there are a number of methods and myriad techniques which can be utilized to consult with the public. However, each method and technique used in isolation means little to the publics who participate or to the proponent who employs it. Rather, an effective consultation process is one in which a number methods and a variety of techniques within each are implemented progressively throughout the process. The techniques selected within each method should reflect and support the objectives of the decision to be made and should also consider the character of the participating publics.

The progression through the various methods and associated techniques is illustrated by the "Participation Iceberg" in Figure 4 which portrays the techniques of participation over the life of a project. Initially, the public are involved in the informal processes of networking, open houses, fact finding, walk-about, etc. As a project progresses, the participation techniques become more formal and hearings and briefs may be organized and conducted. (Bradshaw, 1995)

Public Information - Education

During the initial stages of a development, it is necessary for all of the publics who may be affected by or concerned with it, to be advised that a development is being proposed. Techniques from the Public Information - Education method would be appropriate to explain the history of the proposal, provide the rationale behind the proposal, explain the decision that is required and what role the public has. Avenues available to the public to facilitate their involvement in the process should also be clearly defined through these techniques.

Figure 4: The Participation Iceberg

Public Information - Feedback

Follow-up with techniques from the Public Information - Feedback method. Having previously provided some background information to the public through Public Information - Education techniques, this provides an opportunity for the public to ask questions, request additional information, become more involved and begin to make their views and concerns known. The techniques that fall within this category, as listed in Appendix A, are an excellent first step in a consultation process as they provide a means for the proponent to provide information and notification to a large number of publics and across a large geographic area. These techniques also provide the public with a common base of information which they can utilize to assess and evaluate the impacts and determine whether to initiate participation.

Having provided background information regarding the proposed development and received some feedback from the interested and concerned publics, a proponent could then proceed to implement either the Extended Involvement or the Joint Planning method.

Extended Involvement

If the proposed development is complex and multi-jurisdictional but is not yet contentious, implementing the consensus building techniques of Extended Involvement would be appropriate. These techniques move the process toward a win-win solution in which all participants are satisfied with the results and a greater level of trust and respect evolves. This is beneficial, not only for the decision-making process, but also for the monitoring process which is implemented during and after construction.

Joint Planning

After having implemented the Public Information - Education and Public Information - Feedback methods and associated techniques, a proponent will have determined the public's concerns and their response to the proposed development. If there seems to be controversy and an adversarial tone to the feedback and discussions, it would be suitable to move directly to techniques within the Joint Planning method. As a result, the public's issues and concerns can be addressed and resolved in an efficient manner rather than ignoring the concerns and proceeding with the proposed development. Proceeding without resolution can add to the time and cost of a development, as the public is more likely to delay the development by challenging any decisions in court.

5.6.6 Monitoring

The completion of an assessment includes predicting potential environmental impacts as a result of the development and recommending measures to mitigate the severity of those impacts. If the decision is made to proceed with the development, recommendations are incorporated which must be adhered to in the construction and operation of a development. This includes the requirement to monitor both the construction and operation of the development and the environment to ensure that impacts are not beyond what was predicted and to ensure operational procedures conform to both the recommendations and applicable regulations. It is critical that a monitoring process be implemented to ensure the proponent proceeds as required and to ensure there is ongoing contact and consultation with the community.

5.7 Conclusion

The discussion of Connor's and McMillan's and Murgatroyd's writings explained the effective consultation processes are those that encourage and facilitate open communication from the initial stages of a development and maintain that communication throughout the process. Effective consultation ensures that all affected publics who want to participate are afforded an opportunity to provide their input, encourages the sharing of ideas and concerns and assures that those concerns are addressed and resolved satisfactorily. And finally, effective consultation builds mutual trust and respect between the participating publics and the proponents.

To ensure the effectiveness of consultation, six criteria were described and the benefits of each presented. Within the six criteria, there is sufficient flexibility to adapt the consultation process to the specific characteristics of the participating publics, to satisfy the stated objectives of the assessment and to accommodate the particular requirements of a proposal.

The following chapter will evaluate and analyze actual consultation processes implemented for Panel Review assessments completed under the EARP, to determine how many of the identified criteria were present. The results of this comparative analysis will illustrate the effectiveness of consultation processes in environmental impact assessment.

CHAPTER SIX

Public consultation that is regarded as effective is comprised criteria which should be inherent in the process and are supported by a communication strategy that complements each stage. The previous chapter described those necessary criteria and explained the merits and benefits of a well developed communication plan. As already discussed, the current federal environmental legislation (CEAA) includes an objective that requires the proponent to consult with the public and provide an opportunity for the public to participate in the EIA decision-making process. The objective is fulfilled to a certain degree by requirements that are mandated for each level of assessment, particularly Panel Reviews.

The previous environmental guidelines order (EARP) recommended that proponents develop and implement a public information program and make any information and documentation available to the public. In order to do this, proponents did develop various processes to inform the public, to make information available and to provide opportunities for public input. However, for some developments, particularly complex and controversial ones, the public demanded that more extensive consultation be carried out and increased opportunities for them to participate be created. Developments whose proponents were less successful at developing and implementing effective consultation processes, are those that achieved headline status and whose participants played out the decision-making process in the media. This group of projects include the James Bay Hydroelectric Development Project, the Oldman River Development and the Rafferty-Alameda Dam Project.

The proponents of other developments have been more successful at developing and implementing public consultation processes that facilitated public input and discussion, addressed the issues and concerns of the publics and which facilitated the decision-making process.

Having previously defined and described effective consultation, the purpose of this chapter is to determine how effective the consultation processes have been in practice, specifically for Panel Reviews carried out under the EARP. This will be accomplished by completing a comparative analysis of the criteria for effective consultation with project specific consultation and participation processes to determine if in fact any of the criteria for effective consultation were present. Whether the processes substantiate the theories of Arnstein, Connor and McMillan and Murgatroyd, will also be examined.

The reports and documents referenced in this chapter are listed in Appendix B. These include the Panel Reports for various processes, guidelines developed for the preparation of the environmental impact statement and the interim reports for some developments. These documents were selected for evaluation and analysis as they were prepared in association with and to support the assessment of developments by the Panel Review process under the EARP.

6.1 General Observations of Consultation Practices

The evaluation of public consultation processes for EIA carried out by Review Panels indicates there are inconsistencies in the processes developed and implemented for the developments. In some instances, the variations can be attributed to the length of time between the initiation

of the development and assessment and the final report, as in the case of the Military Flying Activities in Labrador and Quebec. This project was initiated in 1986 and the final Panel report was not submitted to the Minister of the Environment until 1995. (CEAA, 1995)

A second factor contributing to the variations in the consultation processes, is the status of the development at the time of the consultation, as in the cases the Rafferty-Alameda (FEARO, 1991) and Oldman River Dam developments (FEARO, 1991). With respect to the former, construction had been initiated and was well under way by the time the Review Panel was established and consultation initiated. In fact, the consultation process paralleled development construction, which continued throughout the consultation period. With regard to the Oldman River Dam development, construction was 95% complete at the time the Review Panel conducted its assessment. These situations severely challenged the objectives of the EIA and consultation processes and weakened any Panel recommendations that resulted. In addition, the EARP mandates that alternatives to any proposed development must be investigated, assessed and presented to the Panel by the proponent. In both situations, alternatives could not be seriously considered or assessed due to the advanced status of construction.

A further observation from the evaluation was the fact that consultation processes were not initiated until after the conceptual stage of the proposed development. By this point, the development proposal and draft EIS guidelines were generally complete and the proponent, without input from the publics, had identified the issues and concerns. While the publics are afforded an opportunity to comment on and provide input to the

EIS guidelines, the concept and direction have been established and any subsequent activities are directed at the final goal of constructing the development as proposed.

It was noted previously that efforts to harmonize the provincial and federal assessment processes have been initiated. This was evidenced by the establishment of joint review panels for proposed developments that were multi-jurisdictional, for example, the McArthur River Underground Exploration Program. (Governments of Canada & Saskatchewan, 1993)

A final observation is the inconsistency of Panel reports. There did not appear to be a standard format for detailing the history of the development, describing the process that was implemented, reporting the findings of the assessment or explaining the specifics of the consultation and participation. Therefore, some reports provided very detailed information regarding each aspect of the process and the results and others were rather vague and provided only minimal details and descriptions. The reports that were vague would make it difficult for anyone who is not familiar with a particular development, to understand the objectives of the process that was implemented, the issues and concerns raised and how they were addressed and resolved.

6.2 Evaluation of Criteria

6.2.1 Communication Plan

There were varying levels of communication with the publics across the various processes and with the exception of the North Central Transmission Line Project (Governments of Canada & Manitoba, 1993), there were no definite communication plans developed to accompany and support the

consultation processes.

In the case of the North Central Transmission Line Project, a communication plan was developed and established early and maintained throughout the process. A component of the communication plan was a public information program that proactively provided information to the affected publics in all the communities that were involved in the development. (Governments of Canada & Manitoba, 1993)

In other cases, the public were given information as required at various points throughout the processes and were notified that the information was available either through direct mail or newspaper advertising.

In the instance of the Military Flying Activities in Labrador and Quebec, Community Liaison Officers were appointed in each community to relate and discuss particulars of the development and address issues and concerns raised by the publics. (CEAA, 1995) In addition to the Officers, toll free phone lines were installed to allow the publics to provide their input, to ask questions and request additional data. There were complaints of inadequacy by the publics, who found that the Community Liaison Officers were usually unavailable and that phone lines, albeit toll free, were not an appropriate instrument for publics isolated in diverse locations in a northern environment. (CEAA, 1995)

Therefore, it can be concluded that, unlike the processes described by Connor and McMillan and Murgatroyd, the consultation processes implemented for the EARP do not generally incorporate open and supportive communication plans. As a result, proponents are foregoing opportunities

to obtain relevant information from the publics and more importantly, to build trust between themselves and the publics.

6.2.2 Clear and Understandable Consultation Process and Goals

The consultation process for the majority of the developments was well articulated and the consultation goals and objectives were clearly described. This information was available to the publics through the Panel Terms of Reference and through operating procedures that were prepared to expedite the assessment process. In addition to consultation goals and objectives, the various points in the process which necessitated input and feedback from the public and associated documentation that would be available, were clearly identified.

The consultation goals and objectives of the Rafferty-Alameda (FEARO, 1991) and Oldman River (FEARO, 1991) developments were not clearly stated and the role of the publics was not defined. This can be attributed to the advanced stage of the development at the time the consultation process was initiated. In fact, in both cases, the consultation process appears to have been a formality.

6.2.3 Accessibility

Language

The criteria of language is one area where all processes were very effective. Written documentation was made available to the public in english and french as well as any native languages and dialects spoken by the natives residing in the development area. The participating publics were encouraged to make oral presentations to the Panels in the language of their choice and translation services were available at all public

meetings.

Thus, with respect to language, the consultation processes were accessible to any publics wishing to participate in the assessment process.

Schedule

The evaluation of consultation processes indicated that public hearings and meetings were convened over a period of a few days to a few months. The disparity between the length of the processes depended on the immediacy of the process, the number of publics who wished to make presentations, the scope of the development, the size of the geographic area and the number of towns and villages that would potentially be impacted by the proposed development.

The evaluation of the processes indicates that consideration was given both to the time of year and the public's activities during that specific period. Public hearings and meetings held for the Rafferty-Alameda Dam (FEARO, 1991) project were held in June, October and November. By June, agricultural producers were finished planting and by October and November harvesting was complete. In the case of the Port Hardy Ferrochromium Project, public meetings were scheduled to accommodate the fishermen in the impacted communities. (Williams, et.al., 1991)

The scheduled times and days for public meetings, hearings and workshops were varied for each process. The schedule in some cases encompassed mornings, afternoons and evenings on any day of the week. For others, the schedule was comprised of variations of mornings or afternoons or evenings, Monday to Friday. A minimum of two time options were available

for every process and there were no processes that consisted of only daytime or evening events. Schedules as extensive as this ensured the process was accessible to all members of the community who wished to participate

Location

In terms of location, the processes were relatively equal with respect to convening public meetings in familiar locations with which the publics felt comfortable. In all cases, public meetings were held in the towns and villages which would be impacted by the development and in most instances, the Panel members toured the proposed development site by land. The Review Panel for the North Central Transmission Line Project also reviewed the site and transmission line routes by air. (Governments of Canada & Manitoba, 1993)

The facilities in which meetings were held included hotels, community centres, schools, libraries, band halls, a shopping centre, municipal offices and service clubs (Lion's Club hall). In the North Central Transmission Line Project, the meetings were convened in the band office and organized to accommodate an opening of traditional native prayers and offerings. (Governments of Canada & Manitoba, 1993)

These various locations in the community were familiar venues for the participating publics and provided a level of comfort which eased their participation.

Affordability

The evaluation of the processes indicated inconsistencies in the

availability of financial assistance for the purposes of securing technical expertise and supporting the participation of publics, special interest groups and organizations. The allocation of funding was managed through a committee established for that purpose and was available through an application process.

Not only did the availability of funding vary but the amounts varied also. In the case of Air Traffic Management in Southern Ontario \$500,000 was available to participants. (FEARO, 1992) For the North Central Transmission Line Project, \$100,000 was available to participants. (Governments of Canada and Manitoba, 1993) Had the Conawapa Project in northern Manitoba proceeded, financial assistance would have been available, although the amount was not documented.. (Conawapa Environmental Review Panel, 1992) The inconsistencies in both the availability and amount were documented in the Panel Report for the Northern Diseased Bison project. (FEARO, 1990)

Therefore, with respect to affordability, the processes have generally not been effective since the lack of assistance prevented some publics from having access to the information via technical experts and from participating in the process.

6.2.4 Balanced and Diverse Participation

It was difficult to determine in the evaluation whether participation was balanced from a socio-economic perspective. However, in other respects, the participation appeared to be balanced and representative of the community profile. In all processes, participants included special interest groups, such as hunting and fishing clubs, environmental

protection associations, business interests, native groups, landowners, other levels of government, special agencies and general publics. The observation was noted in the Panel Report for Military Flying Activities in Labrador and Quebec, that few youth or women participated. In this project, elders of the participating native groups represented all of their members in both the oral and written submissions. (CEAA, 1995)

In terms of participation rates, that is, numbers of participants, the numbers were low relative to the population in the development area. It was observed that the participation rate for the North Central Transmission Line Project was high relative to the population. (Governments of Canada & Manitoba, 1993) If the same percentage of publics participated in a city such as Winnipeg, this would represent 30,000 participating publics.

6.2.5 Appropriate Methods and Techniques

There was little variation between processes of the methods and techniques utilized and processes primarily consisted of public hearings, public meetings and technical meetings. In the North Central Transmission Line Project, the proponent organized a workshop which was effective in bringing all interested and concerned parties together to discuss the issues. (Governments of Canada & Manitoba, 1993)

Other techniques used in various processes included newspaper ads, written submissions, radio and television ads, briefings and a survey. The use of radio communication was common, especially for projects in northern and isolated communities where radio is often the communication lifeline of the community.

Informal techniques were also implemented occasionally and included impromptu meetings in the community, the community grapevine and social events. The members of the Review Panel for the North Central Transmission Line Project, spent time in the various communities impacted by the development and had occasion to discuss the development in a relaxed and informal atmosphere. It was observed by some participating publics that this approach enabled them to provide information and a perspective to the Panel members that would not have been possible at a public hearing. (Governments of Canada & Manitoba, 1993)

With respect to the newspaper ads, these were generally placed in local, community newspapers in the relevant languages. However, in some cases, the ads were published in the Canadian Gazette, a newspaper that is not widely read and is not even available in most of the communities.

The evaluation of the consultation processes indicates that there was no apparent attempt to coordinate and integrate the methods and techniques. For the majority of the developments, the methods selected did not go beyond the level of Public Information - Feedback. The exception was the North Central Transmission Line, where the publics met informally with the Review Panel members and proponent to discuss and resolve their concerns and to develop recommendations. (Governments of Canada & Manitoba, 1993)

6.2.6 Monitoring

With respect to the criteria for monitoring, the Review Panels recommended such a process for all projects with the exception of the McArthur River Underground development, which was a sub-component of a larger uranium mine development. (Governments of Canada & Saskatchewan, 1993)

The objectives of the monitoring process are: to monitor the predicted environmental impacts and report any deviations; to oversee construction and implementation of the operation to ensure it conformed to the specifications; and, to ensure the Panel recommendations and timeframes set out in the Panel Report are respected. Also recommended were clearly defined reporting mechanisms, through which the individuals or committees responsible for the monitoring would report.

The monitoring processes recommended varied between developments in terms of mode, structure and reporting relationship. In some instances monitoring was conducted through a committee comprised of publics, technical experts and government representatives. Interestingly, the committee established to monitor the Air Traffic Management in Southern Ontario development, is chaired by a non-government, uninvolved individual, approved and appointed by the proponent and federal government. (FEARO, 1992)

The monitoring process for the North Central Transmission Line development is managed by Environmental Protection Workers, who were hired from the communities located in the development area. (Governments of Canada & Manitoba, 1993)

While variations exist in terms of the responsibility for monitoring and the established structure, the one common factor in all monitoring processes was the requirement for continued consultation with the publics.

6.3 Assessment of Consultation Practices

An evaluation of the consultation processes carried out for EIA under the

EARP, compared with the defined elements of effective consultation, revealed that consultation processes implemented for the North Central Transmission Line development (Governments of Canada & Manitoba, 1993) and the Great Whale River Hydroelectric development (Evaluating Committee, et.al., 1992) were the most effective. Although the Conawapa development was cancelled, the documentation indicates it is highly probable that the consultation process that was developed, would have been effective had it been implemented. (Conawapa Environmental Review Panel, 1992)

The analysis indicates that certain criteria were consistently included in the consultation processes and were effective in their application. The criteria were: Clear and Understandable Consultation Process and Goals; Accessibility -Language and Location (facilities); and, Monitoring.

Notwithstanding the identified three developments and the noted criteria, the evaluation and assessment of the consultation processes indicate that overall, consultation was not effective. While some criteria of effective consultation were present in various of the processes, there was no consistency in their application. For instance, participant funding was available for the Air Traffic Management in Southern Ontario (FEARO, 1992), the North Central Transmission Line (Governments of Canada & Manitoba, 1993) and the Pine Coulee Water Management (FEARO and Natural Resources Conservation Board, 1995) developments only.

With respect to Accessibility - Location, public meetings and hearings were held in facilities, such as schools, band halls, community centres and so forth, that were familiar to the participating publics. However, specific sessions may have been held in one community only, for example,

only one technical session was convened in one community for the McArthur River Underground Exploration Program, thus making it less accessible. (Governments of Canada & Saskatchewan, 1993)

With respect to involving the publics as early in the process as possible, most processes were ineffective. In fact, the majority did not involve the publics until a draft proposal and EIS guidelines were available for review and comment. Therefore, from the beginning of the process there was a lack of trust and no sense of partnership between the proponent and the publics.

And finally, the methods and techniques utilized for consultation were ineffective as the publics were able to provide their input and suggestions, but were not included in the development of solutions or recommendations and the authorities retained control for final decision-making.

Arnstein's Ladder of Participation presents a number of levels of participation, ranging from non-participation to citizen control, that can be realized in decision-making processes. The evaluation of the consultation processes implemented for reviews conducted under the EARP, indicates that the processes correspond with rungs three, four and five on Arnstein's ladder. These rungs are categorized as Tokenism as the publics are afforded the opportunity to learn of the proposed development and provide comments, opinions and suggest alternatives. However, the authorities retain the right to make the final decision.

A comparative analysis of the consultation processes and the decision

models developed by McMillan and Murgatroyd, indicate that the processes relate to the consultative decision-making model. This model illustrates two-way communication although the authorities maintain the right to make final decisions. This was quite apparent in the consultation processes implemented for the assessments of the developments.

Connor asserts that the process of public consultation is

"neither a single unitary act, such as a public hearing, nor a haphazard set of occurrences, but a planned process, responsive to the unforeseen but guided by a general concept." (1977:209)

In reviewing and analyzing the consultation processes, it is apparent that they were not well planned in terms of involving the publics early enough and providing convenient and appropriate opportunities for the participants to contribute their input and discussion. Connor has described constructive consultation and participation as an open, cooperative, win-win process where differences are discussed and resolved to the satisfaction of all participants. However, it appears that this was not the case in most of the developments and in fact, the lack of communication, understanding and trust are barriers that have continued to exist in the monitoring process.

6.4 Conclusion

The evaluation and analysis of the consultation processes implemented for developments reviewed by a Public Panel under the EARP, revealed that a number of the criteria of effective consultation were present in various of the processes. However, it was determined that overall the consultation was not effective and did not provide appropriate opportunities for the publics to become involved in and contribute to the

decision-making process nor did it allow the participants to work collaboratively with the proponents to address and resolve the issues and concerns.

Thus, despite the evolution of public consultation and participation theory and the development of more collaborative and consensus building methods and techniques, the processes developed and implemented for the developments did not go beyond the historical practices of feedback and consultative decision-making.

The evaluation and analysis was completed for consultation processes implemented for developments assessed under the EARP. The EARP guidelines are presently being phased out and the CEAA is in place to guide environmental impact assessments. However, there have been no Panel Reviews completed under the CEAA and no guidelines have been developed to accommodate this eventuality. The following chapter will include recommendations that will ensure the consultation is effective for developments assessed by a Public Panel under the CEAA.

CHAPTER SEVEN

The thesis proposed to examine public consultation and participation as currently carried out in the federal environmental impact assessment process, to determine its effectiveness. There were three objectives identified for the thesis: (1) to define and describe the criteria for effective consultation; (2) to analyze the current consultation practices of the federal environmental assessment process, to determine whether they are effective; and, (3) to make recommendations for change to the consultation component of the federal process, which if implemented would make it more effective.

The Canadian Environmental Assessment Act (CEAA), passed by parliament in June 1992, is the current legislation governing environmental impact assessment at the federal level of government. The CEAA replaced the Environmental Assessment and Review Process (EARP) Guidelines Order, which were the governing regulations from 1984 until 1992. A review and comparison of the EARP and the CEAA revealed four objectives for the CEAA, the fourth being a requirement for proponents to ensure an opportunity for public participation in the assessment process. The comparison also revealed additional levels of assessment in the CEAA, each level requiring a degree of public input. The highest level of assessment, the Panel Review, has the most clearly articulated requirement for involving the publics. Therefore, it was this level of assessment for which the consultation processes were going to be evaluated for their effectiveness.

In the course of the research, it was found that Panels have been appointed under the CEAA for the BPH Diamond Mine development and the Sable Gas Project and a Joint Panel appointed for the St. Chabiot Coal Mine development.

However, to date the Panel reports have not been completed and submitted to the Canadian Environmental Assessment Agency. It was also ascertained that 99% of the projects requiring EIA under the CEAA are assessed at the level of Screenings or Comprehensive Studies. This could be attributed to current economic conditions which are not favourable for large scale developments. It could be there is no demand for the products generated by large scale developments, such as electricity. Or it could be that the requirements for the various levels of assessment, specifically Screenings or Comprehensive Studies, adequately address and satisfy the concerns of the publics. Further academic study of this issue would be required to fully understand why this is the case. Also worthy of further academic study would be the public consultation processes implemented for developments assessed at the levels of Screenings and Comprehensive Studies to determine their effectiveness.

Because there have been no Panel Reviews completed under the CEAA, it was necessary to analyze and evaluate the consultation processes carried out for Panel Reviews completed under the EARP. The analysis and evaluation revealed that some criteria for effective consultation were implemented for various developments but with no consistency. If the consultation processes to be implemented for developments that will be assessed by a Panel under the CEAA are to be based on the EARP experiences, it is necessary to make recommendations to ensure future processes are effective, particularly since the developments assessed by a Panel tend to be controversial and multi-jurisdictional.

7.1 Recommendations for the CEAA

Guidelines should be developed by the Canadian Environmental Assessment Agency to assist proponents in the development of an effective consultation

process. Guidelines would ensure consistent consultation processes are developed and implemented and participating publics would understand what to expect from the process, what their roles, responsibilities and rights were vis-a-vis the consultation process and would be assured that their concerns were adequately discussed and resolved.

The consultation guidelines should include the criteria for effective consultation as identified in this thesis, with particular attention paid to the consultation methods and techniques recommended for use. The use of each method should be mandatory but there should be flexibility in the techniques utilized from within each method. In addition, the guidelines should include a standard communication plan to be utilized by proponents throughout the assessment to ensure that publics are informed and involved, not only in the initial stages of a proposed development but throughout the entire review.

Consultation guidelines would also improve the efficiency of the Agency. At the present time the proponent must develop a consultation process and forward it to the Agency for review and approval. After the review the Agency returns the proposed consultation process to the proponent with suggestions for change. This exchange continues until a satisfactory consultation process has been developed. The consultation guidelines would eliminate this exchange since proponents would have a clearly defined framework from which to develop a consultation process.

In summary consultation guidelines would ensure consistent, effective consultation for environmental impact assessments conducted by a Panel as well as increase the efficiency of both the Canadian Environmental Assessment Agency and the proponent and would assure the publics of the opportunity to

effectively participate in the decision-making process.

APPENDIX A

Methods and Techniques of Consultation and Participation

Public Information - Education Method:

- Advertising
- Brochures
- Citizen Training Programs
- Contests/Events
- Direct Mail
- Exhibits/Displays
- News Conferences
- Newsletters
- Newspaper Inserts
- News Releases
- Position Papers
- Political Preview
- Publications
- Publicity
- Public Service Announcement
- Reports

Public Information - Feedback Method:

- Analyzing Public Involvement Data
- Briefs
- Community or Social Profiles
- Computer Assisted Participation

Public Information - Feedback Method cont'd

Content Analysis

Focus Group

Interviews

Policy Profiling

• Polls

Questionnaires

Surveys

Written Submissions

Extended Involvement Method:

Advisory Committees

Charrettes

Task Forces

Joint Planning Method:

Arbitration

Collaborative Problem Solving

Conciliation

Mediation

Negotiation

Appendix BList of Panel Reports Evaluated

Military Flying Activities in Labrador and Quebec: Report of the Environmental Assessment Panel.

Final Guidelines for the Preparation of an Environmental Impact Statement on the Proposed Conawapa Project.

Guidelines: Environmental Impact Statement for the Proposed Great Whale River Hydroelectric Project.

Fraser-Thompson Corridor Review: Report of the Environmental Assessment Panel.

The Northumberland Strait Crossing Project: Report of the Environmental Assessment Panel.

Northern Diseased Bison: Report of the Environmental Assessment Panel.

Oldman River Dam: Dam Safety and Design: Interim Report of the Environmental Assessment Panel.

Rafferty-Alameda Project: Report of the Environmental Assessment Panel.

Vancouver International Airport: Parallel Runway Project: Report of the Environmental Assessment Panel.

Oldman River Dam: Report of the Environmental Assessment Panel.

Air Traffic Management in Southern Ontario: Interim Report of the Environmental Assessment Panel.

Rabbit Lake Uranium Mining A-Zone, D-Zone, Eagle Point: Report of the Environmental Assessment Panel.

Pine Coulee Water Management Project Willow Creek Basin Southwest of Staveland, Alberta.

North Central Transmission Line Project: Report of the Federal-Provincial Environmental Assessment Panel.

McArthur River Underground Exploration Program: Report of the Joint Federal-Provincial Panel on Uranium Mining Developments in Northern Saskatchewan.

Dominique-Janine Extension, McClean Lake Project and Midwest Joint Venture: Report of the Joint Federal-Provincial Panel on Uranium Mining Developments in Northern Saskatchewan.

Report of the Port Hardy Ferrochromium Review Panel.

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