

**How do Petitioners Assess the Environmental Petitions Process
of the Office of the Auditor General of Canada?**

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ii. Executive Summary

The Environmental Petition Process is a legislated process that is monitored and reported on by the Commissioner of Environment and Sustainable Development (CESD), part of the Office of the Auditor General of Canada. The petition process allows citizens and groups within Canada to send petitions, to Federal Government Institutions, that enquire about environmental and sustainable developmental issues. As part of its mandate, the CESD diligently monitors and reports on the petition process.

In supporting the role of the CESD, the researcher developed a report that analyzed the experiences from participants of non-governmental organization (NGO) that used the petition process. As a graduate student in the dispute resolution program at the University of Victoria, this project discusses the links between the environmental petition process and the field of alternative dispute resolution. The researcher employed a case study methodology, supported by document analysis and interviews, with participants from five NGOs. The project objective was to find out how former petitioners assess the environmental petition process in responding to and/or addressing their issues or concerns. The researcher employed three lines of enquiry—or sub-objectives—to support the project objective: how do petitioners assess the petition process; how do petitioners assess the responses received by Federal Institutions; and, how do petitioners assess the awareness of the petition process?

This project answered the preceding research questions and provided a series of recommendations. These recommendations aim to improve the petition process, the interaction between Federal Institutions and petitioner and the public awareness of the petition process. These recommendations are:

- Recommendation I: The CESD should continue to educate petitioners on the EPP highlighting some of the possible benefits and limitations of the process.
- Recommendation II: The CESD should increase the publication and exposure of each individual petition

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- Recommendation III: The CESD should reach out to Canadian Non-Governmental Organizations
- Recommendation IV: The CESD should advertize the EPP and continue to speak publically on the process
- Recommendation V: The CESD should reach out to the academic community
- Recommendation VI: The CESD should publicize any direct or indirect change as a result of the petitions
- Recommendation VII: Members of Parliament should publicize the petition process
- Recommendation VIII: Parliament should consider a review of the EPP.

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iv. Acronyms

Boundary Bay Conservation Committee (BBCC)

Bow Valley Naturalists (BVN)

Canadian Environmental Network (CEN)

Commissioner of Environment and Sustainable Development (CESD)

Commission for Environmental Cooperation (CEC)

Environmental Assessment (EA)

Environmental Petitions Process (EPP)

Federal Institutions (FI)

Freedom of Information Requests (FOIR)

Friends of the Earth Canada (FOE)

Jasper Environmental Association (JEA)

Members of Parliament (MP)

MiningWatch Canada (MWC)

Non-governmental Organization (NGO)

Office of the Auditor General of Canada (OAG)

1. Introduction

The purpose of this project was to analyze and assess the Environmental Petitions Process (EPP). Parliament established the EPP, creating a form of civic engagement that allows Canadian citizens or groups to submit questions or concerns of an environmental nature regarding the federal government to the Office of the Auditor General of Canada (OAG). Specifically, Parliament mandates the Commissioner of the Environment and Sustainable Development (CESD), an office that is part of the OAG, with overseeing the petition process. This project analyzed the link between the EPP and the field of dispute resolution. While the petition process was not designed as a dispute resolution process, this project identifies a number of themes throughout the project that are relevant to the field of dispute resolution.

This project analyzed the EPP through the experiences of non-governmental organizations (NGO). The purpose of this project was to answer the following research question: how do petitioners assess the environmental petition process in responding to and/or addressing their issues or concerns? The researcher employed three lines of enquiry, or sub-objectives, to support the project objective: how do petitioners assess the petition process; how do petitioners assess the responses received by Federal Institutions; and, how do petitioners assess the awareness of the petition process?

The researcher worked on an eight-month co-op period with the OAG. It was during this time that the researcher discovered the EPP and met with CESD staff regarding this topic. The researcher, supported by the guidance of two OAG staff members, developed a project that is of benefit to the CESD petition process. This report will be provided to the CESD to assist the office in its understanding and diligent review of the EPP.

This project answers the preceding research questions and is structured as follows. The background section conceptualizes the history and structure of the EPP, identifying the roles and responsibilities within the process. A literature review follows, which identifies

theories and practices surrounding the dispute resolution and the EPP. Particular focus is paid to dispute resolution literature, linking the research and the EPP to dispute resolution theory and practice. The methodology section grounds the project through the research approach, methods, methodology, and certain limitations of the research design.

Following this section, are the findings, which summarize the research based on the methods used, and in particular, the interviews with former petitioners. A discussion section analyzes the findings, and draws the project back to applicable dispute resolution literature and other relevant conclusions. A recommendation section is provided, which lists pertinent suggestions made by the interview participants and the researcher on how to improve the EPP.

2. Background

The EPP is a unique form of civic engagement established by Parliament. There is extensive legislative and policy background to this process. What follows is an overview of the reasons for the genesis of the EPP, the roles and responsibilities within its framework, and some of the key characteristics of the EPP. The applicability of the petition process to the certain theories and practices in the field of dispute resolution are noted in the following literature review section.

2.1. Legislative Background of the EPP

Parliament established the environmental petition process during a new era of international cooperation on environment and sustainable development. In 1992, more than 190 countries, including Canada, participated in the United Nations Conference on Environment and Development and adopted the Rio Declaration. The declaration codifies civic engagement as a key principle in environment/sustainable development management (United Nations, 1992). This international instrument set the tone for Canada's own federal process of civic engagement.

In 1995, Parliament established the Commissioner of Environment and Sustainable Development (CESD) by amending the Auditor General Act (Auditor General Act,

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1985). As part of the OAG, the CESD would strengthen sound environmental management by the federal government through its mandate as an audit office. In addition, a key feature of the CESD mandate is the Environmental Petition Process (EPP). The CESD manages and oversees the process on behalf of the Auditor General. The authors of the petition process intended to ensure timely responses of environmental concerns from Federal government bodies, with oversight provided by the CESD (CESD, 2007). Due to the creation of the EPP, the government established a “unique feature of representative democracy” (CESD, 2007, p. 2.47).

It is important to understand the framework and key responsibilities of the EPP. Since the EPP is a federally legislated process, Parliament has detailed a number of responsibilities to the CESD. The CESD is part of an audit office, with a specific duty and responsibility to audit and report on matters of an environmental or sustainable development nature (Auditor General Act, 1985). Managing the EPP is one of, but not the only responsibility it has to Parliament and the Canadian people.

The CESD has a number of responsibilities regarding the petition process. It has the duty to monitor and report annually to Parliament on the petition process (CESD, 2007). Types of reporting include annual petition reports that include the number, subject matter and status of petitions received on a yearly basis (Auditor General Act, 1985, 23.2.b). The CESD also conducts large-scale reviews of the petition process, the most recent of which was a 2007 report to Parliament (CESD, 2007). In the regular course it also sends follow-up surveys to all petitioners. In addition, subjects or issues raised in the petitions are at times included in future auditing work by the OAG (CESD, 2007). As a body that oversees the EPP, the CESD ensures that the process operates in a fair and transparent fashion.

The criteria for who can submit petitions, what departments are subject to the process and what issues petitioners can raise is laid out by Parliament in the Auditor General Act. Any Canadian citizen or group can submit an environmental petition. Unlike conventional petitions that require significant signatures and support, environmental

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petitions do not require multiple signatures (CESD, 2008). While the CESD cannot set limits on the size of petitions, it does recommend that petitions be no longer than 5,000 words and consist of no more than twenty questions (CESD, 2008).

For the CESD to accept a petition, the subject matter of the petition must be within the mandate of a “Category I” Federal Institution (FI), and the issues addressed must be of an environmental nature. Twenty-eight “Category I” FIs are subject to the petition process (see Appendix A for a list of these departments and agencies). “Category I” institutions must adhere to the process as a result of being listed under either the *Financial Administration Act* or the *Federal Sustainable Development Act* (Auditor General Act, 1985). Those departments or agencies not subject to the process may still participate in the EPP if questioned in a petition (OAG, 2008). These 28 Federal bodies must respond to the questions raised in petitions. However, some circumstances exist when a department or an agency may not respond. These include instances when the subject or questions concern cabinet confidence, litigation or legal opinions, issues beyond Federal mandates, or when petitions request Ministers to provide personal opinions or information (OAG, 2008, p. 8).

Figure 1:

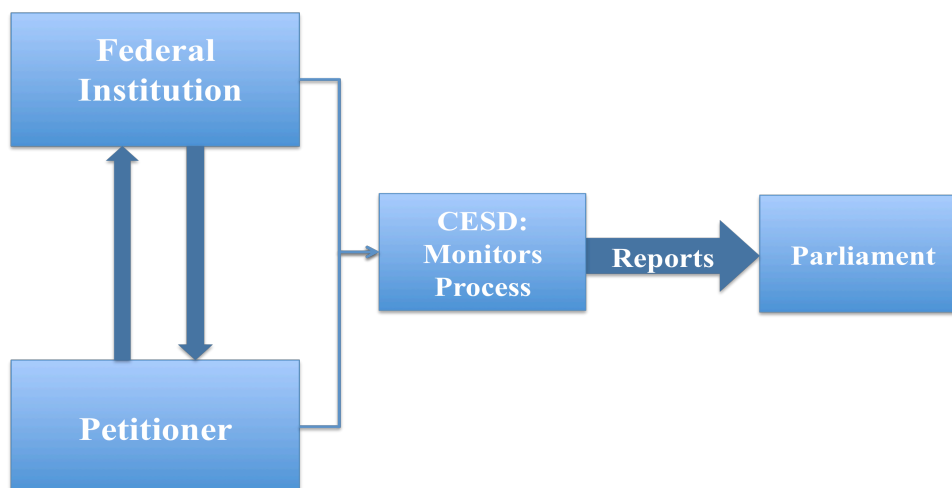


Figure 1 illustrates the interaction between FI and petitioner, and the role of CESD and Parliament. Here, FI and petitioner interact through the questions and responses from the

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petitions. The CESD monitors this process and reports to Parliament, through its annual petitions update.

Environmental petitions must fall within the context of environmental sustainable development; the definition and subject matter of which is flexible and growing. Some of the basic principles of sustainable development include the “ecologically efficient use of natural, social, and economic resources” and the need to “integrate environmental, economic, and social factors in the making of all decisions by government” (Federal Sustainable Development Act, 2008). Both the *Federal Sustainable Development Act* and the Auditor General define sustainable development as: “development that meets the needs of the present without compromising the ability of future generations to meet their own needs” (Federal Sustainable Development Act, 2008; OAG, 2008).

Federal bodies can promote sustainable development in a number of ways. These can include: the integration of the environment and the economy; protecting the health of Canadians, protecting ecosystems, meeting international obligations, promoting equity, sustainable development project management and planning; reducing pollution; and, respecting nature and the needs of future generations (OAG, 2008). As a result, petitions can focus on any of these subjects, since they are actions that promote sustainable development. While questions or issues raised can vary, some instances can include concerns with contaminated sites, urban air pollution, pesticides, environmental assessments and fish habitats (OAG, 2008).

Parliament prescribes timelines for the CESD and the responding departments. The CESD, in its role, monitors these prescriptions. Fifteen calendar days after receiving a petition, the CESD forwards the petition to the respective Federal body. From this point forward, the CESD monitors the interaction between petitioner(s) and the Federal institution(s). The CESD monitors that the petitioner receives their response in a timely fashion. Here, the CESD monitors and assures that respective Ministers adhere to key timelines: within fifteen calendar days, the Minister sends a signed letter to the petitioner, acknowledging the receipt of the petition; and within 120 days, sends a signed reply to

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the petitioner (OAG, 2008). This reply responds to the petition, attempting to answer the questions or concerns raised in the petition. Figure 2 illustrates how the timing of the petition cycle works.

Figure 2:



If delays occur, the respective departments must explain the reasons through a letter to the petitioner (OAG, 2008). The process as legislated—through delineating clear roles and responsibilities—ensures that the federal bodies meet a minimum standard in their responses and adhere to EPP timelines.

Petitions that are submitted are eventually rolled into the annual report to Parliament by the CESD. As part of its reporting responsibilities, the CESD updates Parliament on all new petitions on a yearly basis. After this occurs, the CESD posts these petitions on an online catalogue (CESD, 2007). The petition catalogue is a living document, with petitions and responses added regularly to its growing archive. Here, the public can view these petitions, the issues and questions raised, and the responses by the Federal institution(s). Petitioners have consented to the publication of their petitions and the details, including contact information, within the website (CESD, 2007).

2.2 Characteristics of the petition process

As a legislated process, the CESD has had some limitations placed in its roles and responsibilities towards the EPP. It is important to take note of the scope of the CESD's role —and what it can and cannot do—in respect to the process. The OAG does not respond to petitioners themselves during the process (OAG, 2008). While the CESD may contact petitioners, it does so to assess the process or provide general guidance on requirements of the EPP or preparation of a petition. These checkups include a 2007 petition review, which involved surveying petitioners about their experiences with the process. Rather, the interaction within the petition itself is left between the petitioner and the Federal institutions involved.

Second, the CESD does not verify any of the claims in either the petition or the responses received (OAG, 2008). In this regard, the quality and depth of the questions raised by petitioners, and the responses submitted by Federal institutions can vary. This has resulted in a number of petitioners receiving responses that they claimed were insufficient in detail, or at times, were merely a repetition of existing policy, as opposed to an explanation of the issue(s) raised in the petition (CESD, 2007, 2.18). In fact, the CESD noted that responses that are less complete have been on the rise since 2004. By 2006, the responses that were less complete rose to 41 percent of petitions submitted (CESD, 2007, 2.20). The 2007 report noted that this resulted in roughly half of the petitions surveyed by the CESD stating that the responses were not what they expected (CESD, 2007).

The CESD has a role in instances of inadequate, vague, or incomplete responses. The Commissioner of the CESD has the authority to raise the issue of an inadequate response to the respective Federal institution(s) with which the petition was filed (OAG, 2008). Federal bodies are expected to provide 'substantive' responses to petitioners (OAG, 2011). Further, the CESD can bring issues of any infractions to the attention of Parliament in its annual petitions report (CESD, 2007). The CESD has the power to audit departments or agencies on issues raised or commitments made in the petitions (OAG, 2008). Finally, by including petition responses in a public catalogue, responses are

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archived and available for public consumption. These actions raise the awareness and publicity of the responses, while providing some accountability to the responses and commitment made by Federal institutions.

It is important to note that the CESD cannot compel government bodies to take action on the issues raised. While the process compels departments and agencies to respond to petitions, the process, as legislated, does not compel federal bodies to take action on issues raised in petitions. This is a common misunderstanding of the process and the CESD articulated as much in its 2007 review. The report noted that a significant number of petitioners expected action by the Federal institution(s). The CESD noted that this could be the result of a lack of awareness of the EPP (CESD, 2007). This was a key reason why a number of petitioners interviewed for the 2007 review expressed some dissatisfaction with the outcome of the process (CESD, 2007).

While the process does not compel change, it has resulted in action. The CESD has noted that departments have initiated new environmental projects, changed existing policy, and investigated alleged environmental violations within the EPP process (OAG, 2011). Overall, the CESD notes that the EPP has affected change in environmental and sustainable development management by government (CESD, 2007). Aside from affecting action on environmental issues, there are several potential benefits to the EPP. The EPP represents a departure from the conventional citizen petition. Traditional petitions can have a narrow scope, and strict limitations on how they are submitted and what issues they can raise. Requiring signatures to a petition can be an arduous process for the ordinary citizen or civic group. Parliament and the provinces set standards for signatures, content of petitions and other guidelines (Parliament of Canada, 2008; James, Carol, n.d.).

In this regard, the EPP is unique. Petitions do not require multiple signatures, other than the petitioners themselves. In addition, the issues presented can vary, so long as they are of an environmental nature, and are within the responsibilities of a FI. Finally, the EPP mandates responses to citizens. In this regard, the EPP facilitates the communication of

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issues between groups or individuals and the federal government.

This form of civic engagement has resulted in government action, increased government accountability, and possible empowerment of civic groups and citizens. The EPP has generated a medium for civic engagement and for citizens and groups to vocalize their concerns (CESD, 2007). Detailing how petitioners assessed this process and providing a report to the CESD on the experiences of some petitioners assists the OAG in its role as a gatekeeper of this process. Specifically, this project is providing the OAG with an evaluation on the: process of the petitions; interaction with Federal bodies; publicity of the petition process; and, the expectations and outcome of the petition process.

There are two features of the petition process that are the subject of this project and warrant descriptions. The first feature is the option for petitioners to use follow-up petitions. If petitioners are unsatisfied with responses they receive from a FI, or wish to continue with the line of questions developed in the petition, they may continue their enquiry by submitting additional petitions. These ‘follow-up’ petitions may be submitted immediately following an initial petition or in the future, by raising additional questions or issues, or determining the status of the issues raised and seek updates on any commitments made by the respective FI (OAG, 2011). The follow-up option is a unique feature of the petition process, since it compels departments to respond to the questions raised through the initial petition and follow-up petitions, giving the petitioner the ability to continue their enquiry, even after the initial petition.

The second feature of the EPP that this project will focus on is analyzing non-governmental organizations (NGOs), rather than citizens, that have used the petition process. Since either a Canadian citizen(s) or a Canadian organization may submit a petition, this project analyzed the experiences of organizations with the petition process, and specifically, those that resulted in follow-up petitions. The rationale for analyzing NGOs and follow-up petitions is provided in greater detail in the methodology section.

There is a strong legislative background to the EPP that mandates roles and responsibilities for all parties involved. This process ensures that the petition process is timely in its responses to petitioners. How this process is linked to the field of dispute resolution follows in the literature review section.

3. Literature Review

For the literature review and document analysis component of this project, the researcher used publicly available information. Conventional academic search engines and the CESD and OAG websites provide extensive sources of knowledge for public use. As a result, there was a rich source of publicly available documents for analysis. The researcher conducted a literature review of the EPP, and relevant dispute resolution themes. What follows is an overview of dispute resolution-EPP literature.

This section provides an overview of dispute resolution concepts relevant to the scope of this project. Key dispute resolution terms and a summary of dispute resolution theory and practice offer a basis for understanding the link between dispute resolution and the EPP. This information will help ground the readers understanding of dispute resolution and its applicability to the EPP. Following this introduction to dispute resolution concepts, the literature review discusses the linkage between dispute resolution themes and characteristics within the EPP.

3.1 Disputes and Conflicts

A Conflict is a disagreement or incompatibility between parties over goals, objectives, standards, attitudes or expectations between groups or individuals (Sloan & Chicanot, 2003). Conflicts have been defined as, “an inseparable part of social interaction (Azar, 1990),” whereby parties “pursue goals that are mutually inconsistent (Nicholson, 1975),” over, “values, competition for status power, and scarce resources (Edwards, 1981) (from Yarn, 1999, p. 113).” Conflicts are aggravated by poor communication or negative perceptions of the other party (Lebaron & Pillay, 2006).

A dispute is a manifestation of a conflict, in which the issues are typically identified, the parties are known and the 'particularities' of the conflict is understood by those involved (Sloan & Chicanot, 2003, p. 77). Burton (1969) describes conflict as an extreme form of a dispute (from Yarn, 1999). As such, a dispute is the symptom of a conflict between parties. Therefore, conflicts can exist without a dispute, but the reverse is not possible (Yarn, 1999). Disputing, through articulating the issues at hand, is the process whereby parties are seeking to resolve the conflict (Yarn, 1999). The field of dispute resolution is a response to disputes and conflicts and their characteristics (Pirie, 2000).

3.2 Dispute Resolution

Dispute resolution is the multi-disciplinary study and practice of analyzing and discovering alternative ways to resolve disputes and conflicts. Commonly referred to as alternative dispute resolution, the field developed as a discipline, with inherent practices and theories, as a reaction to court-based processes (Pirie, 2000). Generally, dispute resolution concerns a set of procedures and processes designed to provide alternatives to adjudicative settlements of conflict (Tidwell, 1998, 14).

There are multiple approaches to dispute resolution and the methods and theories accredited to this discipline. Among the numerous methods used within the dispute resolution framework are: mediation, negotiation, restorative justice, and forms of arbitration. Since the dispute resolution field is multi-disciplinary and borrows from the fields of law, social sciences and psychology, the practice of dispute resolution is not limited to the above forms (Pirie, 2000).

dispute resolution aims to alleviate tensions within a dispute, and if possible, resolve the issues between parties. Generally, a dispute resolution process is one in which two or more parties articulate issues of concern. A third party commonly facilitates the process, usually applying rules of engagement between parties. If possible, parties achieve outcomes that are satisfactory. What is important to note is that dispute resolution processes are not limited to finding a resolution of a dispute. While this is a primary goal

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of dispute resolution, the benefits of a dispute resolution process can occur in the absence of a resolution. These outcomes may include a change in relationships or understanding of the dispute through the dialogue that the dispute resolution process facilitates.

Moreover, as a process, dispute resolution promotes a number of possible outcomes, which include (Pirie, 2000, p.10):

- Individual satisfaction: dispute resolution can leave disputing parties feeling their individual desires were satisfied due to the process
- Individual autonomy: dispute resolution can also strengthen the capacity for disputing parties to resolve their own problems
- Social justice: dispute resolution can ameliorate, neutralize, or at least, does not exacerbate, existing inequalities in the societal distribution of material wealth and power

Dispute resolution processes provide the avenue whereby individuals or groups can articulate their concerns or issues. These outcomes provide some of the context whereby a link between dispute resolution and the EPP is found.

3.3 Dispute Resolution and the Petition Process

There are characteristics within the EPP that are relevant to the field of dispute resolution. These include: the articulation of issues and concerns from citizens or organizations; the feedback of those issues in a timely and accountable fashion from respective government bodies; the possible sense of satisfaction regarding the resolution of issues; and the promotion of equity. Moreover, the EPP provides an alternative process for concerned groups or citizens to deal with environmental problems. The EPP provides a medium for civic engagement by facilitating the interaction between citizens or groups and government bodies. In this regard, the process is a unique model for articulating environmental and sustainable development concerns.

The EPP facilitates communication between parties over a specific type of issue. This facet is critical to dispute resolution, since a dispute is the articulation of a conflict, rather than the conflict itself (Yarn, 1999). In addition to providing a forum for articulating

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concerns, the OAG monitors responses to confirm that they are timely and respond to the petitioner's questions or requests in a substantive manner. As such, the EPP offers a level of transparency and accountability to concerned groups or individuals. This facet of the EPP is critical. The process offers a level of certainty that the issues and question raised by concerned parties are received and replied to within an expected timeframe. As a result, the EPP is an alternative to other forms of dialogue with government bodies that may not provide similar assurance of feedback in a timely fashion. Ensuring timeliness, accountability, and feedback throughout the dialogue is an important feature of both the EPP and dispute resolution .

In addition, the EPP allows petitioners to continue dialogue with FIs through use of the follow-up petitions. This option offers petitioners the chance to continue raising questions to the departments in question if the initial petitions are deemed insufficient, or if the petitioner wishes to continue with the enquiry. Follow-up petitions may also indicate a persistence of issues between the petitioner and the FI involved. Since the petitions may highlight a dispute over environmental issues, there may be a persistent issue at stake for the petitioner that necessitates repeated petitions to the departments in question. It may be the case that through the use of follow-up petitions petitioners are able to resolve the issues raised, or gain clarity on their question or concerns.

The EPP could have an empowering effect, and thus promote equity, by redistributing perceived power imbalances between the government and different types of petitioners (for example individuals or non-governmental organizations). Disputes that have issues of unbalanced power, a lack of empowerment or unfair access will not deal with the underlying causes and conditions of their dispute (Sandole, 1998). Without a resolution or empowerment of participants such disputes will persist (Sandole, 1998). By ensuring access within the EPP, the process offers an avenue that empowers citizens and groups to seek answers to their concerns.

Promotion of equity, as noted above, is one of the key means to achieve sustainable development. This principle is articulated in both the OAG Act, and key environmental

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agreements. Principle 10 of the Rio Declaration states that environmental issues are best handled through the participation of all citizens, and that citizens shall have the opportunity to participate in decision-making processes (United Nations, 1992). Section III of Agenda 21 of the Rio Declaration reaffirms the need for civic participation in environmental and sustainable issues (United Nations, 1992).

The EPP facilitates civic engagement by creating a medium for citizens and groups to articulate concerns, make requests, and receive feedback on action from the government about those concerns. Civic engagement offers a long-term benefit through the empowerment of citizens and groups. When processes such as the EPP expose citizens or groups to new forms of governance and civic engagement, their increased awareness can lead them to initiate structural change and take a more active role in their communities (Maiese, 2005).

At a practical level, the EPP provides an alternative approach for addressing environmental issues. Certain conventional methods—such as court based systems—for environmental disputes have limits. Certain literature has criticized conventional environmental adjudicative processes as being too adversarial, time-consuming, costly, harmful to future relationships, distant from affected communities, and often too inflexible to address the issues at hand (Pirie, 2000). There is no one model for environmental dispute resolution (Pirie, 2000), and the EPP is one of the growing forms for the articulation and possible resolution of environmental concerns. Public disputes, such as environmental issues, are increasingly coming under the influences of alternative dispute resolution methods (Tidwell, 1998, p.16).

When a citizenry is denied access to democratic participation, there are negative consequences. One of these consequences is the inability, through this lack of access, to articulate and resolve issues between citizenry and government. A cause of this symptom is the failure of governments in recognizing the concerns or groups or individuals (Dukes, 1996). Therefore, effective models of civic engagement should encourage real and effective public participation (Dukes, 1996). By mandating an accountable system of

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public engagement, the petition process operates as an effective model for public participation. As a result of these features, the EPP confers an opportunity for growth in civic empowerment. The process allows groups or citizens to engage within the democratic process to address issues or concerns.

Dispute resolution characteristics are found in the EPP in a number of ways. It affects power imbalances by promoting equity. Equality is promoted by providing a reliable and accessible forum for the articulation and possible resolution of environmental disputes. The process facilitates communication in a timely and reliable fashion. Of course, the EPP also offers the possibility that the issues raised by concerned parties can be resolved or acted upon. These characteristics denote a form of citizen engagement that is applicable to the field of dispute resolution, and vice versa.

While the EPP was not designed as a dispute resolution process, this project demonstrates that it could be considered as such, with one caveat. The EPP facilitates a number of dispute resolution features, including the articulation of issues and concerns and the promotion of equity and accountability between parties. However, as currently legislated, the EPP is relatively inconsistent in its ability to produce satisfactory outcomes, or make tangible change for petitioners. The following sections, in particular, the discussion and conclusion, will return to these concepts, rationalizing the link between dispute resolution and the EPP.

4. Methodology

The purpose of this project was to answer the following research question: how do petitioners assess the Environmental Petitions Process in responding to and/or addressing their concerns? The researcher employed three lines of enquiry—or sub-objectives—to support the project objective. Each line of inquiry is supported by a number of research questions and the analysis of documents. The goal is: that the questions support the line of inquiry, which in turn—and combined with the analysis of the remaining lines of

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inquiry—help achieve the project objective. To recap, these lines of enquiry are: how do petitioners assess the petition process; how do petitioners assess the responses received by Federal Institutions; and how do petitioners assess the awareness of the petition process? Overall, the aim of this project was to gain the perspectives of petitioner experiences with the EPP.

The following section highlights how the methodology achieved these objectives. First, a research design and methodology are described, which introduce the reader to the research paradigm used. Next, the research methods are described, highlighting the use of interviews and document analysis. Subsequently, a summary of the petition catalogue is detailed. This analysis served a number of purposes, which are described below, the key of which was to offer criteria for the selection of cases. The methodology section concludes with a description of some possible limitations in the research design.

4.1 Research Design

This project worked within the interpretive research paradigm. The interpretive paradigm is based within the social science discipline and means:

The interpretation of interactions and the social meaning that people assign to their interactions. This perspective asserts that social meaning is created during interaction and people's interpretations of interactions. The implication is that different social actors may in fact understand social reality differently, producing different meanings and analyses (Hesse-Biber & Leavy, 2011, p. 27).

This approach focuses on seeking meaning and understanding from small-scale interactions and subjective experience (Hesse-Biber & Leavy, 2011). As a result, it values experience and perspectives of individuals as crucial sources of knowledge (Hesse-Biber & Leavy, 2011). With the essence of this project being the analysis of petitioner experiences and perspectives, the interpretive paradigm was well suited to facilitate the project objectives.

4.2 Methodology

Working within the interpretive paradigm, the case study is of an instrumental nature. Stake (2005) defines an instrumental case study as a case that provides insight into a larger issue or topic. The cases analyzed play a supportive role in the analysis by providing understanding of a process or an external interest (Stake, 2005). Stake suggests this approach when seeking to provide insight into a larger topic area—such as the petition process (Stake, 2005). To achieve the research objectives, this project employed a multiple case study approach by researching approximately ten cases (Stake, 2005). Collective or multiple case study research involves studying multiple cases (individual petitions) that share a commonality and are selected out of the larger population of possible cases (the petition catalogue) (Hesse-Biber & Leavy, 2011, p. 274). Stake recommends selecting between four to ten cases for research (Hesse-Biber & Leavy, 2011).

In this regard, each petition selected represents such a case. The following binds each case: it is a closed set of petitions (initial and follow-up petitions) submitted by a non-governmental organization between 2001-2012. As such, each case can encompass between two to five petitions.

4.3 Methods

This project used in-depth interviews as the primary method for each case study, with document analysis as the secondary method used. In-depth interviews produce “thick descriptions” and garner rich qualitative data from the perspective of interview participants (Hesse-Biber & Leavy, 2011).

This project employed a semi-structured approach to the interviews. This style provided a suitable balance between high structure interviews that employ standard questions (such as a survey), and the open-ended style that uses very few, non-standardized questions (allowing for an increase in conversation and response from participants) (Hesse-Biber & Leavy, 2011). The semi-structured approach uses a certain set of questions, with some

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standardization, but allows for latitude in responses given and follow-up on topics of interest provided by the interviewee (Hesse-Biber & Leavy). This approach allows for crucial responses to new knowledge, as is common through in-depth interviews. For example, an interviewee may provide information not known to the researcher, and this approach allows for follow-up of that information. This sharing of knowledge can provide additional benefit for post-interview analysis.

NGO participants were interviewed over the phone and were digitally recorded. Participants were asked roughly seventeen interview questions, organized by relevant lines of enquiry. The interviews lasted between forty to sixty minutes.

Document analysis was the secondary method for this project. The researcher conducted document analysis by analyzing the petitions involved in each case. Each additional petition in a follow-up process provided additional information during the research phase. Each petition consists of features that were used in the research. These features include a listing of issues and concerns, questions by the petitioner, and responses by the Federal institution(s). It also includes reasons for submitting the petition and an explanation for submitting follow-up petitions.

By analyzing these features, the documents provided context to the case, inspired questions for the interviews, and offered a source for analysis *after* the interviews were conducted. The petitions were a source for returning to the petition issues, such as analyzing the reasons for the submission and certain questions and responses. The researcher was able to compare interview responses regarding the reasons for and evaluation of the petition process, including evaluations on the responses by FI, with the actual petitions. As a result, there was interplay between the petition analysis and the interviews themselves. As such, this design was an iterative process, working back and forth between interview and petition data.

The researcher applied for and received ethics approval from the University of Victoria ethics board in August 2012. All interview participants signed an ethics consent form

that detailed, along with a participation form, their and their organizations involvement in this project.

4.4 CESD petition catalogue analysis

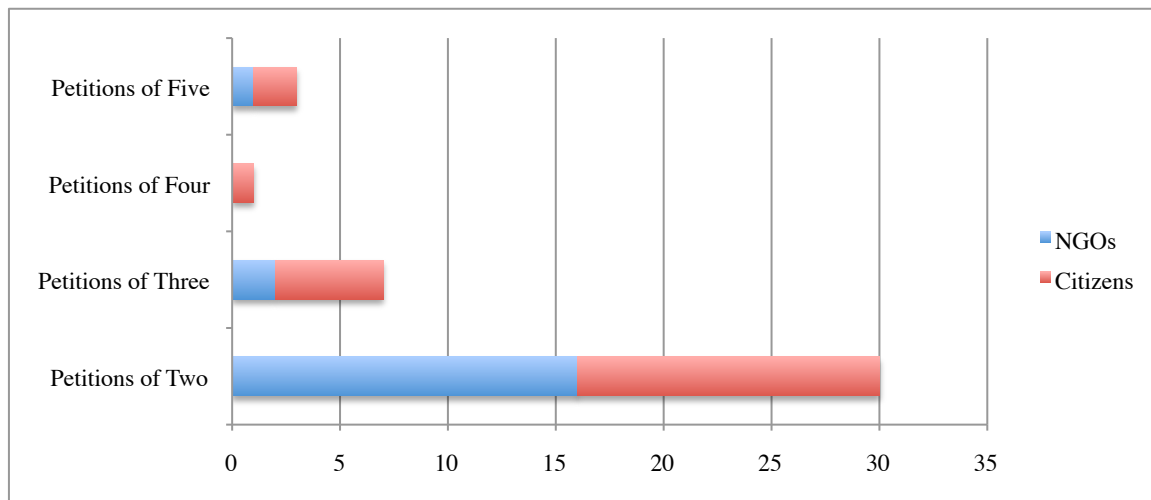
The researcher conducted analysis of the EPP from the CESD petition catalogue. The catalogue is a publically accessible archive of environmental petitions and provided a key source of information in a number of ways. It was a source for analyzing the overall petition population. By analyzing a number of features of the petitions (the amount of petitions, what organizations submitted them, what issues were raised, what FIs were petitioned, and petition timelines) and building a database of all petitions submitted, the researcher was able to build a reference tool for analysis in this project. This reference tool provided a source for sampling and understanding the population. As a result, it provided a source for rationalizing candidate selection. The petition catalogue was also a source for finding individual petitions. This allowed the researcher to continually reference and research each petition pertinent to the organizations interviewed.

The researcher conducted analysis of the public CESD catalogue in February 2012. Since the catalogue is a living archive with petitions submitted regularly, the analysis described below may have changed. One should consider the proceeding analysis limited to those petitions submitted from 1996, to no later than December 2010. This analysis will prepare the reader for the methodological design of this project and reasons for the selection of cases.

There are approximately 303 closed petitions archived on the CESD database (OAG, n.d). Of this number, there are 41 follow-up petitions, or approximately 14 percent of the total petition population of 303 (OAG, n.d.). Follow-up petitions can result in anywhere between two to five petitions. This includes the initial petition, and all subsequent follow-up petitions. Table 1 demonstrates how the 41 follow-up petitions are grouped and whether NGOs or citizens submitted them. It should be noted follow-up petitions mean the initial petition and the subsequent follow-ups. For example, a follow-up petition of two means the initial petition and one follow-up.

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Table 1:



Follow-up petitions represent significant activity within the EPP. This is because when a petition is submitted it is allocated a specific number, and archived by that number (for example: petition number 081) (OAG, n.d). When a follow-up petition is submitted, it is allocated the same number as the initial petition, but followed by a letter. The initial petition may be number 081A, with all follow-up petitions following by letter, such as 081B, and so forth.

As a result, while there are 303 *numbered* petitions, this total number does not account for all additional follow-up petitions. Multiple follow-up petitions can be submitted after an initial petition; in some cases, as many as four follow-up petitions have been submitted. For this reason, follow-up petitions represent a significant portion of the overall petition archive. Of the 41 initial petitions on the CESD database, the subsequent follow-up petitions represent 100 petitions in total (OAG, n.d). Of this number, NGOs submitted 51 of these petitions (OAG, n.d). This means that follow-up petitions actually represent nearly one third of total petitions (28 percent) submitted to the OAG (OAG, n.d).

Concerning follow-up petitions, the issues raised are wide ranging. Based on analysis of follow-up petitions submitted between 2001-2010, 18 issues or topics were raised in the follow-up petitions: compliance and enforcement, governance, health (human and

environmental), science and technology, biological diversity, environmental assessment, transport, water, natural resources, fisheries, toxic substances, waste management, air quality, international cooperation, aboriginal affairs, climate change, pesticides and other (OAG, n.d.).

The scan of the petition catalogue strengthened the research in a number of ways. It provided a context of the overall petition population, allowing the researcher to develop criteria for participant selection. The scan also provided a reference tool for the researcher for both the overall petition population and individual petitions. The subsection that follows is a criteria for case selection, which relies in part on the CESD catalogue analysis.

4.5 Criteria for case selection

Using multiple cases allows one to use an instrumental approach, while investigating a larger phenomenon of population from which the cases are drawn (Stake, 2005). The researcher developed criteria for the selection of petitions. Stake (2005) suggests that the primary criteria for selection of cases should be: is the case relevant to the quintain (*larger group of cases*) and do they provide opportunities for learning about the complexities and context of the larger group? Since the quintain is the petition process, or more narrowly defined, the follow-up petitions, cases will be demonstrative of the larger population. This rationale assisted in meeting the instrumental nature of the case studies used.

Based on a number of criteria, this project identified and recruited participants. First, the researcher ensured that NGOs provided sufficient contact information in the petitions and that these organizations operate their own websites (see Appendix B for a list of NGOs using follow-up petitions). The researcher selected candidates from a variety of groupings within the follow-up petition population. Since it is the option of any petitioner to withhold contact information, the researcher did not consider NGOs that withheld contact information in the petitions.

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From the CESD analysis, 28 NGOs have submitted follow-up petitions. Of these, 21 have either provided contact information and/or operate a publicly available website (OAG, n.d.) (see Appendix B for a list of organizations selected for the project). Six NGOs either do not have an official website or did not provide contact information in the petitions (OAG, n.d.). As a result, the researcher excluded them from candidate selection.¹

From this pool of candidates, the researcher sought to interview 10 participants. Recruitment letters were sent to all 21 NGOs through the respective organization's email and through postal mail.

The researcher sent invitations to organizations in three groupings: ten in late August, five in early October, and six in late October 2012. The researcher sent the invites in groupings based on their representativeness to the petition population and applicability to the research objectives.

The researcher first sent mailing packages that included a letter of consent and ethics participation form. Roughly two weeks later, the researcher sent an email to each organization. This email detailed the project, but was also intended in case the mailing packages were not received. Following this, if necessary, the researcher made a telephone call to the remaining NGOs introducing himself and the project. The researcher made every attempt to contact organizations between late August 2012 and early January 2013. In spite of these efforts, a limited number of organizations agreed to participate.

Of the 21 NGOs invited, five participants chose to participate. Of the remaining organizations, 13 did not reply to the invitations, while 3 contacted the researcher and declined. In the end, just under one quarter of the NGOs invited agreed to participate. As a result of this process, participants of the following organizations were interviewed:

¹ One NGO does not have an official website, but was considered for selection since it has publicly available contact information (OAG, n.d.)

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- Boundary Bay Conservation Committee
- Bow Valley Naturalists
- Friends of the Earth
- Jasper Environmental Association
- Mining Watch Canada

A summary and background of these organizations is found in the Findings section.

4.6 Possible Design Limitations

Several possible limitations in the design of the methodology warrant discussion. These are: the focus on follow-up petitions and organizations, the exclusion of Federal bodies from the primary research, and the number of interviews conducted.

One possible limitation is that by focusing on follow-up petitions and NGOs, the researcher excluded a significant pool of petitioners available. This was done intentionally as a way to narrow the scope of the research. First, by focusing on follow-up petitions, the researcher was concentrating on a particular form of the petitions, which may have provided additional information and context to the EPP. The focus on NGOs further narrowed the scope of research. NGOs were selected as opposed to citizens since they are a significant user of the EPP and operate public websites. This facet provided the additional material for research and contact information. Focusing on both citizens and NGOs would require an expansion of the scope and objective of this project and a significant increase in research.

The petitions involved the submission of questions by petitioners, and the responses by the FI. The researcher chose to interview the former, and excluding the latter. The focus of the project was on how the EPP facilitates the articulation and possible resolution of issues, in addition to how the EPP empowers groups by offering an alternative form of civic engagement. As such, while FI would provide additional analysis to the research questions, organizations were able to provide direct answers to the research objectives.

There may be limitations on the amount of interviews targeted. The researcher chose to

select ten cases for study. Selecting ten cases provides a balance between the instrumental objective of the project, and the need to provide some depth and quality of analysis from the participant interviews. Providing an explanation and evaluation to a larger process relies on creating a “thick description” of each case (Hesse-Biber & Leavy, 2011, p. 256). This allows for a complex and nuanced understanding of the subject of inquiry (Hesse-Biber & Leavy, 2011, p. 256). Increasing the number of cases may result in possibly diluting the in-depth analysis intended (Creswell, 1998).

Of the 21 organizations invited to participate, only 3 replied, excluding the 5 NGOs that participated in the research. However, of those, the majority of declines by organizations were due to a lack of time and resources, which they could commit to this project. In the end, every effort was made to contact and recruit organizations. The result was five organizations and interviews. This could be considered a limitation. However, a case study’s strength is dependent on the quality of data procured, as it is the number of cases selected. The interviews were a rich source of data that provided the analysis and suggestions in this report. Further, this data was augmented by the availability of the petitions used in each case. While ten interviews were ideal, five interviews provided a significant source of data from which to develop recommendations. Greater detail on the selection process is provided in Appendix B.

5. Findings

The Findings section provides a summary of the petitioner evaluations of the EPP. The findings are organized according to the following components. First, a summary of the organizations interviewed is offered. This is followed by the research findings, which are divided by three lines of enquiry. To reiterate, these sub-objectives are, how do petitioners assess the petition process, the interaction with FI, and the awareness and publicity of the EPP. Any recommendations made by NGO participants are noted within this section.

5.1 Organization background and history with petition process

Boundary Bay Conservation Committee

The BBCC is a regional environmental advocacy organization, located in Delta, British Columbia. It focuses its energy on enhancing the public awareness and protection of the Fraser River Estuary ecosystem. Primarily, the BBCC seeks to protect the wildlife habitat of ecosystems encompassing the Fraser River system, including Boundary Bay and Roberts Bank (Boundary Bay Conservation Committee, n.d.).

Between 2005 and 2006, the BBCC submitted two sets of petitions regarding issues facing the Fraser Rivers Estuary. The first set of petitions—no. 153—was filed from July 2005 to September 2006 and involved an initial petition and two follow-up petitions. Petition 153, “Port development on Roberts Bank in the Fraser River Estuary, British Columbia,” involved in an anticipated port development in Roberts Bank. The BBCC made the following statement regarding the importance of Roberts Bank:

Roberts Bank is front and centre in this chain of globally significant, estuary habitats at the mouth of the greatest salmon river in the world, the Fraser River. The BBCC has been involved in environmental issues on Roberts Bank for the last fifteen years. We have repeatedly encouraged the province of British Columbia to declare Roberts Bank a Wildlife Management Area (WMA). The surrounding sections of the estuary, Boundary Bay, Sturgeon Bank and the South Arm Marshes, are already WMA’s. Roberts Bank is the vital link in the estuary stopover for up to five million birds that migrate along the Pacific Flyway and it is a wintering area for the highest number of waterfowl and shorebirds in Canada (Petition 153, 2005).

The BBCC was concerned about the conservation of fish and wildlife habitat near Roberts Bank affected by the proposed development. The Petition called for a moratorium on port development until a comprehensive environmental assessment was established (Petition 153, 2005). It also called for the government to consider establishing a marine protection zone in the Fraser Estuary. The use of follow-up petitions (no. 153-B and no. 153-C), sought for answers to additional questions regarding the port development, and follow-up and address answers provided in the previous petition.

The BBCC filed a second set of petitions between September and October 2006. Petition 177, “Federal environmental assessment of the Boundary Bay Airport expansion in British Columbia,” concerned a proposed expansion of the Boundary Bay Airport. Specifically, the petitions (both 177-A and 177-B) articulated the BBCC concern over a Federal Environmental Assessment (EA) of this proposed airport expansion. The BBCC asserted that the proposed airport expansion affected bird and wildlife in the area and contended that the expansion could violate the *Migratory Bird Convention Act*.

Bow Valley Naturalists

Bow Valley Naturalists (BVN) is a non-governmental environmental advocacy organization. Formed in 1967, BVN are located in, and focuses its energies towards environmental issues in the Canmore-Banff area of Alberta. This includes the Jasper National Park area, and due to this fact, BVN works closely with the Jasper Environmental Association, which is also the subject of this project. Its stated objectives are to: “acquire and disseminate knowledge of natural history; stimulate interest in the appreciation of nature; work for the protection and preservation of wildlife, wilderness area, parks and natural ecosystems; and inform members and the public about environmental issues (Bow Valley Naturalists; petition 269A, 2008).”

BVN filed a set of two petitions: 269A, in November 2008, and a follow-up petition, 269B, filed in August 2009. For this petition, BVN worked closely with two other organizations: Under the Sleeping Buffalo Research (UTSB) research and the Jasper Environmental Association (JEA). This set of petitions dealt with the proposed expansion of the Marmot Basin Ski Area in Jasper National Park. BVN was concerned that this expansion in Jasper National Park could affect wildlife in the area and also affect its area of concern near Banff.

Friends of the Earth

Friends of the Earth (FOE) is a non-governmental environmental organization that is national in scope, but also advocates issues on an international scale. It focuses its

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energies on a wide range of issues including environmental justice, climate change, and water (Friends of the Earth, n.d.).

FOE has a long history of involvement with the EPP. FOE filed petition 158A in October 2005 while its follow-up was filed in November 2007. This set of petitions, “Subsidies to the oil and gas industry and federal efforts to address climate change,” involved two other NGOs: the Sierra Legal Defence Fund and the Pembina Institute for Appropriate Development. This petition asserted that subsidies to the oil and gas industry indirectly affected Canada’s climate change commitments through the increase in greenhouse gases, which is partly the result of the oil and gas industry (petition 158). Aside from petition 158, FOE has submitted petitions on three other occasions:

- Petition no. 008, filed October 1997, “Protecting Canadians from the effects of ozone depletion.” In the petition, FOE asked information on budget commitments for research towards the health and environmental impacts of increased UV radiation and for protection measures. It also asked for information on departmental spending trends during the previous five years (petition 008).
- Petition no. 170, filed June 2006, “Canadian Mining Company Operations abroad.” The petition sought financial, and diplomatic information from the Federal government towards Canadian mining operations overseas. In the petition, FOE also requested clarification on Canadian international policies pertaining to Canadian companies involved in overseas mining operations.
- Petition no. 249, filed June 2008, “Potential environmental impact of the Devils Lake outlet project on Canadian waters.” In this case, FOE was concerned with ecological impact of the proposed Devils Lake outlet and the effects it may have on two waterways: the Red River and Lake Winnipeg. FOE was requesting the government enforce existing standards of environmental and water protection towards this project.

These experiences with the EPP informed the dialogue with the FOE participant. Petition 158 served as the focus of the interaction with the FOE participant. However, FOEs

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experience with the EPP is extensive and served as a backdrop to the information provided in the interview.

Jasper Environmental Association

The Jasper Environmental Association (JEA) is a non-governmental organization located in Jasper, Alberta. The JEA focuses on environmental considerations in the Jasper National Park. Their stated aim is to “support Parks Canada in administering Jasper National Park in accordance with Canadian legislation, Parks Canada principles and policies and the wishes of the Canadian public (website; petition no. 269A, 2008).” JEA has a history of working closely with other regional NGOs, including Bow Valley Naturalists, which are the included in this project.

The JEA has filed petitions to the Auditor General on two occasions. The JEA filed its first petition (no. 86) in July 2003. This petition concerned a commercial tourist operation on Maligne Lake in the Jasper National Park. The petition articulated concern over the commercial activity in the area: potential harm to certain species at risk, an increase in lodging, a lack of research on the impact of the activity, and a lack of public involvement.

The second petition involved environmental concerns with the proposed expansion of a ski area in Jasper National Park. JEA filed this set of petitions with two other organizations: Under the Sleeping Buffalo Research (UTSB) research and Bow Valley Naturalists. The JEA filed two petitions for this issue: petition 269A, filed November 2008; and petition 269B, filed August 2009. The two petitions raised concerns over the environmental impact that ski expansion in the Marmot Basin in Jasper National Park could have on vulnerable wildlife. It also questioned the validity of scientific data used in the decisions made over this expansion.

MiningWatch Canada

MiningWatch Canada (MWC) is an environmental, non-governmental organization that is national in scope. According to its mission statement, MWC ‘addresses the urgent

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need for a coordinated public interest response to the threats to public health, water and air quality, fish and wildlife habitat and community interests posed by irresponsible mineral policies and practices in Canada and around the world (MWC, n.d.).’ Located in Ottawa (Ontario), the key issues MWC advocates are:

- Ensuring corporate accountability
- Promoting environmental planning: including the Environmental Assessment process
- Reforming mining laws and practices and
- Protecting water resources (MWC, n.d.)

Unique for MWC is its composition of members. Unlike many environmental NGOs, MWC is comprised of nearly two-dozen national and regional environmental organizations.

As part of its environmental strategy, MWC has utilized the EPP on two occasions. Petitions 219A and 219B (a follow-up petition to 219A), titled, “Environmental impact of federal Metal Mining Effluent Regulations,” were submitted in October and November 2007 respectively. These sets of petitions articulated the organization’s concerns over a 2002 amendment (schedule 2) to the *Metal Mining Effluent Regulations Act*. MWC claimed that this change to mining regulations lacked sufficient public consultation and could have adverse effects on the fish and wildlife habitat and water safety in Canada.

MWC submitted its most recent petition, “Environmental effects monitoring information and reports related to the Metal Mining Effluent Regulations (no. 334),” in April 2012. In this petition, MWC voiced alarm over a lack of public access, reporting, and monitoring of environmental effects data related to metal mining. In addition, MWC requested clarification on the status of the implementation of recommendations made by a 2007 monitoring review. Due to the recent submission of this petition, that while complete, has not been posted on the CESD database. Both petitions informed the dialogue during the interview with a MWC participant in Fall 2012.

Evaluation of the Environmental Petition Process

Participants were interviewed based on three thematic lines of enquiry: evaluation of the petition process; evaluation of interaction with Federal Institutions; and evaluation of the public awareness of the petition process. The findings are grounded and summarized through these three lines of enquiry.

5.2 Line of Enquiry 1: Evaluation of the petition process

Based on the interview analysis, the researcher was able to draw out four themes from the expectations that NGO participants anticipated from the EPP. These four expectation groupings are: the disclosure of studies or data; the clarification of policy or decisions; pressing for decisions that are timely, transparent, and onto public record; and the expectation that action, in a number of forms, would be taken on the issues raised.

Following this, the section touches on the following: petitioners evaluation of the use of follow-up petitions; what alternative avenues were used; challenges that petitioners faced; and how petitioners would improve and whether they would recommend the petition process.

Evaluating expectations of the Petition Process

Release of studies or data

One organization sought to use the process to draw out studies or data that were useful to the organization. For one organization, a study on the environmental effects monitoring data was conducted and finalized by the government, but had not yet been released to the public at the time of the petition (Respondent E, October 1, 2012). One of the goals for the organization was the disclosure of this information. Following the petition, the respective FI released the study on its website, and provided the organization with the link to this data (Respondent E, October 1, 2012). While it cannot be concluded that the study was released as a direct result of the petition, it was released to MWC in a timeline consistent with the responses from the FI in question (Respondent E, October 1, 2012).

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The disclosure of this information was critical for the organization, since it was concerned with the public disclosure of environmental mining effects monitoring data (Respondent E, October 1, 2012). In this regard, the benefits of the disclosure of this information was two-fold: the information was provided to the NGO by the FI in question and served to support its claims; and the study was provided to the public through the FI website. As such, the disclosure of this data served to support two of MWC principles: promotion of sound environmental planning and the disclosure of information and inclusion of the public in this regard.

Clarifying policy or decisions by Federal Institutions

The petition process can be effective for an organization seeking to narrow in on a certain policy, or seek clarification by a FI. This was an underlying expectation for three participants interviewed.

Three organizations that were the focus of this study are regional in their scope. BBCC focuses on the Fraser River Estuary, while the BVN and the JEA concentrate their efforts on issues within the Banff and Jasper National Park regions respectively. These regional organizations focused their petitions on commercial projects or expansions in environmentally sensitive areas and the potential hazards such projects represent. In all cases, the participants were seeking the clarification of decisions by the FI departmental heads through the petitions. For the BBCC, clarification was required on how the decision was made to expand the Boundary Bay Airport (Petition 177, 2006). The BVN and JEA—who submitted a joint petition to Environment Canada and Parks Canada—were, in part, seeking an explanation on the expansion of a downhill ski area in the Marmot Basin, in Jasper National Park (Petition 269, 2008).

Pressing for decisions that are timely, transparent, and onto public record

Since the EPP mandates timely responses from Ministers of FI, having Ministers respond to NGO petitions was an expectation for petitioners. When interviewed, one participant, when describing a benefit of the EPP, termed the process as a “strategic post office” (Respondent C, November 16, 2012). In this, the participant meant that through

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submitting a petition, an organization has the benefit of expecting a ‘time-bound’ response (Respondent C, November 16, 2012). A key benefit of process is the knowledge that the responses will be provided within a specific time frame. Having a timely and detailed response to this organization’s inquiry was a significant benefit that may not be found in other contact mediums with FIs.

This benefit is combined with the added weight of receiving a response from a Minister. Several participants noted this as a benefit and expectation of the process. Since these responses are made publicly available, several participants noted that it places a certain level of accountability on a Ministerial response. Furthermore, since these responses are made public through the petitions catalogue it reinforces these positive outcomes. The reply to a petition is timely; it is responded to by a Minister of a FI; and it is made public.

Taking action on issues raised by petitioners

Several organizations expected that a certain level of action would occur on the issues raised in the petitions. This expectation of action comes in two forms: first, a modification or change of a policy or decision by the FI; and second, the possibility that the OAG may take some action on the issue. As mentioned previously, three regional organizations—BVN, BBCC, and JEA—were concerned with commercial developments in environmentally sensitive areas. These organizations wished to have the FI in question reconsider its decision regarding development in the two areas in question: the Boundary Bay region and the Marmot Ski Basin.

BVN and the JEA requested that Parks Canada reconsider its decision to approve the expansion in the Marmot Ski Basin (Petition 269, 2008). As part of this petition, they were hoping that Parks Canada would reverse its position on the matter of ‘substantial environmental gain’ (Petition 269, 2008). One of the interviewees highlighted this request as a major expectation of the organization heading into the petition process (Respondent B, November 28, 2012). According to Parks Canada, *Substantial Environmental Gain* is “a positive change in key ecological conditions (wildlife movement and habitat, wildlife mortality, sensitive species/areas and ecosystems) that

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leads to the restoration or the long-term certainty of maintaining ecological integrity (Parks Canada, n.d.).” The participant contended that the decision making process for this designation was faulty and the organization stated as such in the petition. According to the petition: “We feel that a decision by Parks Canada to approve as a ‘substantial environmental gain’ the surrender by Marmot Basin of an already fully protected part of their lease for considerable development in an adjacent area should not go unchallenged (Petition 269).”

The BBCC was concerned about the proposed airport expansion of the Boundary Bay Airport. Before the submission of petition 177, the BBCC made an attempt to inquire about an environmental assessment of the project. The participant expected that some form of action would be taken on the decision to carry forward with this project. These expectations were the following: (BBCC, personal communication, 2012):

- First, an EA would be conducted for this project and the BBCC could participate in the EA
- Second, the OAG could take action by making a statement in support of an environmental assessment.

Meeting Expectations

This sub-section describes how the petition process met the expectations of the petitioners. It explains how petitioners assess how well the EPP met their expectations in relation to each of the four themes: the release of studies or data; the clarification of policy or decisions; making responses by FI publicly available; and taking action on issues.

The release of studies or data.

This expectation was met for one participant. The second study on the environmental effects monitoring data was released by the FI subsequent to the submission of the petition.

Clarifying policy or decisions

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The BVN, BBCC and the JEA were not satisfied with the responses and clarification of policy by the FI through the petitions. Participants felt that the responses did not clarify policy or address key decisions for the organizations. More detail to this issue is provided in line of enquiry two (page 46).

The MWC participant made it clear that the process was positive, in that it helped define questions the organization had on government mining and environmental policy. In the particular case of petition 334, the responses from Environment Canada clarified a number of questions the organization had regarding policy. The participant illustrated how an organization can use the EPP in a strategic fashion. If an NGO has a concern regarding policy, the EPP can assist in narrowing, or getting a more precise understanding of policy by asking a wider range of questions. The responses from those questions by a FI can assist in narrowing the scope for an NGO through the information provided.

Pressing for decisions that are timely and transparent onto a public record.

Despite some disappointments with other expectations, this theme had the most consistent level of appeal. Since petitions—and the responses made from FI and the Department heads—are made accessible and transparent to the public, the participants felt that this was a positive outcome of the EPP.

Taking action on issues

The expectation that action would be taken in response to a petition was a source of dissatisfaction amongst several interview participants. Participants from the three regional organizations—the BBCC, BVN and FOE—articulated disappointment with the outcome of the petition process. Expecting a certain level of tangible actions, either through the FI in question or via the OAG itself, resulted in all three organizational participants articulating some level of dissatisfaction.

One participant articulated disappointment in that the government did not conduct a Federal Environmental Assessment (participant A, November 28, 2012). The participant

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felt that the organization was not aware of some of the limitations of the process, or the CESDs role in the process. Specifically, the participant was not aware that the OAG could not take action in support of the issues raised by the BBCC. Two organizations were seeking a reversal in a Parks Canada decision on the Marmott Ski Basin expansion. A lack of change in the overall decision and in particular, the decision on “Substantial Environmental Gain,” led to dissatisfaction in this regard with the petition process (respondent B, November 28, 2012; respondent D, November 19, 2012).

The responses were not all negative. During the interview process, one participant highlighted a positive evaluation on action by the OAG. The participant explained that an ancillary outcome of the petition process is the possible inclusion of petition issues into OAG audit planning (respondent C, November 16, 2012). This benefit is not immediate, and may take considerable time to occur. Nevertheless, the fact that the issues raised in a petition may be considered in future audit work should be considered as a positive outcome from the EPP (respondent C, November 16, 2012).

Use of follow-up petitions

Participants were asked how they assessed the use of follow-up petitions. Participants stated that they used follow-up petitions when the departmental responses to their initial petitions were unsatisfactory, or, when they wanted to request additional information. Three organizations used follow-up petitions when the organizations deemed the responses to their initial petition to be inadequate.

One participant described how follow-up petitions occur as a natural extension from information obtained during the initial petition. For example, an organization begins an inquiry through the EPP, and the answers from the FI provide additional information and elicit further questions. The use of follow-up petitions allows the organization to continue on that line of enquiry. The participant noted that if the organization had not used the follow-up petitions, information crucial to the issue might not have become public (respondent C, November 16, 2012).

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The use of follow-up options allowed petitioners to apply lessons learned in the initial petition experience. One participant noted how the organization improved on their initial petition and strengthened their arguments through additional data and refined questions during the follow-up process.

However, despite some benefits of using follow-up petitions, three of the five participants noted that the follow-up petitions, and the use of the petition process as a whole, were not necessarily effective in resolving the immediate issues at hand. Namely, the follow-up petitions in these cases, while providing additional information did not produce a tangible outcome to the issues raised.

Alternative avenues used

The researcher asked participants about what alternative avenues were used other than the petition process to deal with the issues at hand. This was to provide analysis of alternative methods that organizations use in comparison to the petition process. In this way, the researcher could compare and contrast the strengths and weakness of these alternatives and the petition process.

NGO participants used a number of other avenues to tackle the issues raised. These avenues are distinguished from the petition process and hold their own respective strengths and weaknesses. The alternative approaches used by organizations—as identified by the participants and petitions—include: freedom of information requests, using the Commission for Environmental Cooperation, writing to FIs, and informal dialogue.

Freedom of Information requests (FOIR)

Two NGO participants used this avenue in an attempt to draw out information from a FI. They are effective for different reasons. One participant distinguished between an FOIR and the EPP. In order to be effective and efficient, one must have a specific focus for an FOIR. The problem occurs when one lacks the information necessary to conduct a focused FOIR. The participant noted how an EPP—with a broader scope—is effective in

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helping to narrow down or refine an issue (respondent E, October 1, 2012). As such, an EPP and an FOIR is effective when used in conjunction together. Ideally, one could strategically use an EPP to narrow targeted information and then use an FOIR to procure the specific information or data required. The participant stated this has been effective strategy for the organization (respondent E, October 1, 2012).

Commission for Environmental Cooperation (CEC)

The CEC is a three-country panel of Canada, Mexico and the United States (CEC, n.d.). According to the CEC website, its mission is to: “facilitate collaboration and public participation to foster conservation, protection and enhancement of the North American environment for the benefit of present and future generations, in the context of increasing economic, trade, and social links among Canada, Mexico, and the United States (CEC, n.d.)” Within the framework of public engagement and transparency, the CEC allows citizens to request a factual record on environmental issues. According to the CEC a factual record includes:

“the history of the issue; the obligations of the Party under the law in question; the actions of the Party in fulfilling those obligations; and the facts relevant to the assertions made in the submission of a failure to enforce environmental law effectively. Once the draft of a factual record is complete, the Council may, by a two-thirds vote, make the final factual record publicly available. A factual record provides information regarding environmental laws and enforcement practices that may prove useful to governments, to the submitters and other members of the interested public (CEC: Enforcement Measures).”

The use of a CEC factual record request is effective when seeking targeted information on an environmental issue. One organization has used it several times regarding lack of enforcement on effluent regulations (respondent C, November 16, 2012). Like an FOIR, the CEC option is hindered by a narrowed focus on issues. Moreover, a participant noted that it might take considerable time for a CEC request to come to fruition—in one case, taking up to five years (respondent C, November 16, 2012).

Formal letters to a Federal Institution

This was the most consistent alternative approach used by NGO participants. All participants referred to using this approach at one point. Specifically, the JEA and BVN

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used this approach multiple times before the submission of petition 269. According to the petition, the two organizations, wrote to Departments in October 2007 and in December 2007 (petition 269, 2008). The two letters were co-signed by eight other organizations. In that particular instance, they did not deem this approach effective, and it was a factor in why the organizations used the EPP.

Informal communication

One participant noted that informal dialogue is used by organizations to resolve issues with FI and create understandings (respondent E, October 1, 2012). For the participant, informal dialogue commonly occurs at conferences or workshops. The participant noted that the EPP is far more effective in that the dialogue is recorded, publicized and time-bound.

Challenges

Petitioners were asked to describe what challenges they faced, if any, through the petition process. The primary challenge for several organizations is a lack of resources—in time and staff—to commit to a petition. Smaller, regional organizations have to prioritize the limited resources available towards projects.

One participant articulated some of the difficulties the organization can face especially noted this. With a volunteer staff, workloads can be erratic, due to the part-time nature of the work at the organization. This can lead to a fragmentation of project work since tasks may be passed from one staff to another due to a host of other personal or other work priorities, including the usually full-time work conducted outside of the organization (respondent A, November 6, 2012). As such, it can be difficult for an organization to produce an effective petition. Two other participants noted that the process is a strain on limited resources. While this is not necessarily a negative perception of the process, it is a reality for many smaller non-profit organizations engaged in seeking change on environmental and sustainable development issues.

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Procedurally, all participants viewed the mechanics of the process positively. Moreover, all participants commended the CESD petition staff. The participants provided positive feedback on the support and availability by CESD staff and their input and assistance with the process.

Petitioner suggestions on improving the petition process

There were several suggestions made by NGO participants on how to improve the EPP. These include the following:

- Departments could expedite their response time. A participant from an NGO made the comment that the reply took roughly 12 weeks (respondent E, October 1, 2012). While this length of time was not a significant problem for the participant, getting FI responses to within 8 weeks would be ideal.
- Two NGO participants articulated that the OAG could assist by clarifying any limitations on what the office and the petition process can and cannot do. This would allow petitioners to measure their expectations with the process and its outcomes (respondent A, November 6, 2012; respondent B, November 28, 2012).
- With limited resources available to conduct effective petitions, a participant made the suggestion that the OAG either develop a simplified approach to conducting a petition, or, provides additional staff to help manage and develop a petition with an organization (respondent A, November 6, 2012).
- Change the process so that FIs are required to act on the issues raised by the petitions
- Highlight the issues raised by individual petitions to the Canadian public.

Recommending the Petitions Process

When asked whether participants would recommend the petition process to others, the majority of participants stated they would. The petition process, according to one individual, is an essential part of the environmentalist 'tool-kit (respondent C, November 16, 2012).' Other petitioners stated that while the process did not produce tangible change in the issues raised, the use of the EPP put the issues on public record. For this reason alone, the EPP is worth recommending.

However, one petitioner stated he/she would not recommend the process (respondent B, November 28, 2012). The reasons for this were that with limited resources available an NGO has to prioritize between various options for tackling issues of concern. Since, in this individual case the petition did not produce change, the interviewee argued that the EPP does not have the potency required for it to be effective and thus, does not warrant expending valuable resources (respondent B, November 28, 2012).

5.3 Line of Enquiry 2: Evaluation of interaction with Federal Institutions

This line of enquiry produced a varied response amongst participants. Two of the five participants responded that the FI replies were adequate, while the remaining three felt the FI responses were unsatisfactory. Amongst the responses, the participants with criticisms towards FI replies detailed some problems with the responses such as the following:

- Replies were repetitious of existing FI policy, rather than a specific response to their questions.
- Departments were not required to provide substantive answers in response to petition questions. Several participants felt that the responses they received were insufficient, in that they did not address the questions, or simply provided a re-articulation of previous answers. One participant was skeptical of the empirical data provided in the FI responses. The participant was unsure if the information that supported the decisions made by the Departments was factually sound. This was because the participant had highlighted previous studies that conflicted with the information provided in the replies.
- Responses were formulaic and that Departments were simply meeting the standards necessary. Since replying to petitions is a requirement for the respective FIs involved, several participants felt the Departments were following their requirements, but not beyond. In this sense, three of the petitioners felt that overall, the FIs were simply meeting a minimum standard in the replies to petitioners.

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- Redundant of previous questions asked either in the petitions or in other correspondence between the organization and the FI. Three of the petitioners felt that some information in the replies, or the replies in general were repetitious, and did not deal with questions on an individual basis.

Issues pertaining to the responses from FIs were a source of dissatisfaction amongst several participants. Also, criticisms towards FI replies were one of the main reasons for the use of follow-up petitions. Petitioners sought to continue raising questions that they did not feel were adequately answered during the previous petition.

5.4 Line of Enquiry 3: Evaluation of awareness and publicity of the Petition Process

Participants became aware of the petition process in a number of ways. Two of the participants were aware of the petition process as early as 2003 or before. In one case, a participant discovered the EPP option through dialogue with a FI. As a result, the organization submitted a petition. The other participant was aware of the EPP as early as the formation of the process and the CESD office, in 1995.

The remaining interviewees discovered the EPP informally through the NGO community, or within their respective organization. One participant noted that despite years of academic and practical experience in the environmental field, the individual had not heard of the EPP until joining the organization. The participant estimated that there is not a broad awareness of the EPP and its benefits and uses.

One participant detailed how organizations and individuals may become aware of the EPP. The participant described how one organization—Eco-Justice (formally, the Sierra Legal Defence Fund)—provides workshops on environmental activism. As part of its presentation, Eco-Justice describes and advises on the petition process.

Improving awareness of the EPP

NGO participants made a number of recommendations for improving awareness of the EPP. The suggestions made by participants include:

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- i. Reach out to the Canadian Environmental Network (CEN). The CEN is a NGO that works closely with 11 provincial and territorial networks across Canada. Among the resources available to the CEN include: publications and media releases, a well-known and structured network that includes delegations and a governing body, and the ability to communicate with the NGO community through a webinar series.
- ii. Request that Members of Parliament, and Federal Institutions publicize the petition process on their respective websites. In doing so, a citizen or group concerned over environmental issues may discover the EPP when researching or contact their Member of Parliament.
- iii. Recommend that the OAG find a way to increase the exposure of individual petitions when they are submitted. One possibility would be through social media. Increasing the publicity of individual petitions could provide a number of benefits:
 - It could increase the public exposure of issues raised by petitioners. In this way, the OAG would be providing a form of advertising of issues on the part of the petitioner.
 - The increase in exposure could create an incentive for organizations to submit petitions—in so much that they create immediate publicity for the issues raised. This could increase the annual pool of petitions, thus increasing the exposure of petitions.
- iv. Find ways in as much as possible for CESD staff to speak on the subject of the EPP. Public speaking could be conducted at workshops or seminars, as well as touring Universities in Canada.
- v. Consider using advertisements or editorials in national environmental journals.
- vi. Reach out to the academic community. Having the EPP taught or mentioned at some level in the post-secondary community could increase the pool of those knowledgeable of the EPP.
- vii. Host a webinar on the EPP. This could be conducted in participation with the CEN as mentioned in (i).

These suggestions for improvement will be highlighted in the recommendations section as well.

5.5 Conclusions

The interviews and petition analysis produces a diversity of opinions on the evaluation of the EPP. These findings are collated and analyzed in the following Discussion section.

6. Discussion

The discussion section analyzes the findings, along the three lines of enquiry that organized the previous section. The data are collated into a general discussion that provides a summary of lessons from the research and possible recommendations. Any recommendations deriving from the discussion are highlighted briefly and then described in detail in the proceeding section.

6.1 Line of Enquiry 1: How do petitioners assess the petition process?

There is an inverse relationship between the expectations by petitioners and their assessments with the outcome of the process. Meaning, that those petitioners who expected significant change as a result of the process, noted poor assessments of the petition process; or in other words, the higher the expectation, the lower the level of satisfaction with the process.

Three petitioners expected a tangible outcome, such as a change in public policy or process, and articulated their disappointment with the petition process. The BBCC, BVN and the JEA were at a certain level expecting a change in private expansion plans into the Jasper National Park and the Boundary Bay area. Specifically, these organizations hoped the EPP would produce changes through:

- The Federal government conducting an environmental assessment process,

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- The Federal government adhering to policy positions— such as the decision on ‘strategic environmental gain,’
- The OAG taking action supporting the organizations by including the petitions in audits, making public statements in support, or ensuring Departments follow or change policy.

Interestingly enough, petitioners were using one legislated process —the petition process—to attempt to effect change on another legislated process, such as an Environmental Assessment. The CESD noted that affecting change in government policy is a primary reason for using the petition process (CESD, 2007). Expectations of this kind of change – when not realized —resulted in poor evaluations of this line of enquiry. The most recent CESD petition report noted a similar finding. The 2012 report stated that roughly half of the petitioners believed their petitions did not have an effect and that the expectation of action continues to be a key reason for poor evaluations of the EPP (CESD, 2012).

Conversely, two participants noted positive expectations from the petitions. One of the reasons for this was that these participants—and the nature and requests of their petitions—did not involve, or did not expect significant change as a result of the petitions. These participants aspired for dialogue with FI with responses that clarified policy, or provided data or studies that supported government positions. A key reason for the divergence between positive and negative expectations was a measuring of those expectations, especially against the possibility of tangible outcomes.

One explanation for this was a general lack of awareness by several of the participants on several limitations of the process. Three participants articulated that part of their disappointment lay in both a lack of action by FIs, in addition to a lack of awareness about the some of the limitations of the process. This confirms findings reported by the CESD in 2007, which noted that “petitioners saw the process as successful or unsuccessful depending on their awareness of its limitations (the petition process) and the ends for which they sought to use it (CESD, 2007).” As noted previously, one of these

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limitations of the process is that while it compels replies by FIs, it does not require them to act on requests by petitioners. Furthermore, the CESD cannot compel FI to change policy or conduct action (OAG, 2007). Several participants noted that had they been aware of some limitations, they might have moderated their expectations.

The process, as legislated, is not necessarily designed to produce tangible change in the issues raised. This limitation is evident in several aspects. Since the process does not provide a mechanism for FIs to act on petition requests it limits possibilities for change. As such, the FIs involved are subject to respond to the petitions, but not act on requests. Moreover, the process as written, does not legislate enough power to the CESD to enforce action by FIs. By not providing the CESD with the power to act on petitioner requests, the office is limited in its capacity to facilitate change in the issues raised.

For its part, the CESD has taken considerable steps to educate the public on some of the limitations of the petition process. The CESD describes any limitations through a variety of avenues, including the annual petition update and other reports to Parliament. The CESD website and especially, the Petitions Guide, inform petitioners on the petition process. The Guide makes clear statements on possible limitations on the EPP. These include:

- “The Commissioner cannot compel federal authorities to take the necessary actions to solve environmental problems,” and,
- “Departments are not obligated to carry out remedial action to resolve the issues raised by petitioners (OAG, 2008).”

While it is important to educate potential users of the EPP on some limitations, there could be an issue for the integrity of the process with over-emphasizing limitations. By over-emphasizing limitations, the CESD may be dissuading petitioners from using the process. Further, while action and change to policy may not be the most likely outcome of the petition process, it is a possibly result, albeit one that is likely long-term. Since a petition may be included in audit planning, such a benefit may not occur for an indefinite

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period. Moreover, a change in government policy or planning—which may have been the result of petitions—also takes considerable time to come to fruition.

Therefore, the CESD must find a balance between educating petitioners and the public, and avoiding dissuading petitioners. Demonstrating how the process can affect change, while specifying limitations could result in a positive expectation by petitioners.

The use of follow-up petitions, like the expectations of the petition process, has similar findings. Namely, that the evaluations of using the follow-up process are similar to the expectations of the outcome of the EPP. The opportunity to submit follow-up petitions is an important feature of the EPP. It allows petitioners to continue with a line of enquiry established through the initial petition. Building an effective petition with a well-documented argument and clear questioning can be a challenging process. As such, if the response received is inadequate, or elicit further questions, the ability of continuing on that line of enquiry is a valuable tool. One petitioner noted that had the organization not submitted a follow-up petition, information important to that organization would not have been made public.

There was some dissatisfaction with the use of follow-up petitions. The primary reason for this again, was what petitioners were seeking to achieve through the EPP. If the expectations are to achieve change, especially in the short term, then the evaluations of follow-up petitions—like the petition process as a whole—is likely subject to a poor evaluation. Three petitioners reflected that the follow-up petitions were not effective, since they did not produce the change expected, and the replies by FIs were at times, unsatisfactory. Measuring expectations by educating petitioners is the most effective tool the CESD can use.

NGOs do not use the EPP in a vacuum. The EPP is one of many approaches used by NGOs to deal with issues of an environmental concern. A 2012 CESD report found that roughly three quarters of petitioners had attempted other avenues for resolving the issues at hand *before* submitting their petitions. It was important to find out what alternative

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approaches are used, in a way to draw on some of the petition processes strengths and limitations. These were described at in the Findings section (page XXX). To reiterate, these were:

- Freedom of Information Requests (FOIR)
- Commission for Environmental Cooperation (CEC) factual record requests
- Formal correspondence with Departments
- Informal Dialogue

Compared to these approaches, the EPP, while limited, has a number of benefits. First, it mandates a response. A formal or informal correspondence with a FI does not necessitate a reply from that Department. In this regard, the EPP is an improvement. Second, the EPP sets out established timelines for responses from Departments. When compared to a CEC factual record request, the EPP is significantly more efficient in its timeliness.

Within 135 days of the submission, an organization can expect a response by a Minister of a FI. Comparatively, a CEC request may take years to procure. Similarly, an FOIR may take considerably more time in its response than the mandated 120-day period to which EPP replies are bound. In the case of FOIR, the requestor is limited in that they can only obtain documents, not replies from Ministers. Nor is there the possibility of action being taken on issues.

There are also certain similarities between the CEC/FOIR approach and the EPP. For the most part, organizations can use all three approaches to elicit a level of information on government policy or process. Factual records, information, clarification on policy, or data supporting government decisions are some of the reasons when an FOIR, CEC, and EPP are used. All three provide a level of assurance that some information will be provided. The key difference is what kind of information an organization determines that it would like to obtain.

An FOIR and CEC request requires a narrow focus and specific, targeted requests. An effective CEC request must meet specific criteria, and be approved by a council of a two-thirds vote before a factual record is made public. An FOIR is a submission process to

the government that requires a more specific line of questioning than a petition. Comparatively, an EPP has a broader stroke. There are no set limits on the length or number of questions or requests that can be made, although the CESD does advise petitioners to limit their petitions to 5,000 words and 20 questions. Even with these guidelines, the EPP offers organizations a broad scope through which to tackle a wider range of issues or use several specific and probing questions to obtain possibly more precise answers with greater clarity (OAG, 2008).

6.2 Line of Enquiry 2: Evaluating dialogue with Federal Institutions

The interaction over issues between petitioner and FI is a critical component of the EPP. There were some criticisms of this dialogue from participants. To reiterate, a number of problems identified by petitioners were that replies were: repetitious of existing policy, formulaic, not specific to the questions at hand, and provided (according to the participant) questionable data supporting the responses. These findings are consistent with the 2007 study by the CESD. The CESD found that some petitioners did not find the responses adequate, and were at times, unclear or redundant of policy (CESD, 2007). However, a recent CESD report noted some improvements in the timeliness, clarity and relevance of FI responses (CESD, 2012).

Three of the participants felt that in the responses, the FIs involved were simply meeting a minimum standard in their responses to petition questions. As such, one petitioner felt that FIs were providing enough in their responses in order to meet their requirements of the process, but nothing beyond that.

Positive evaluations of the interaction can be linked to the expectations of the process. Participants that sought to make replies a matter of public record, or make informational requests experienced a more positive evaluation of interaction. Comparatively, those participants that sought change in government policy, or having the OAG take action on an issue reflected negatively towards interaction with the FI.

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The responses by the respective FI did provide some positive outcomes for organizations. Specifically, in some cases, there was a disclosure of information, the exposure of FI responses, and the clarification of FI policy. Petitioners noted that having those responses in a time-bound fashion, and headed by a Minister of a FI, was a beneficial outcome of the process.

Moreover, having those responses placed on a public forum is a noticeable positive of the process. Participants reflected that this was a key benefit of the process. For some petitioners, who, despite articulating considerable criticisms with the interaction between themselves and Departments, in the end highlighted that at the minimum, a benefit is the publication of responses to both Parliament and the Canadian public.

6.3 Line of Enquiry 3: How do petitioners assess the awareness of the petition process?

Ensuring that the Canadian public is aware of the EPP must be a key target of the CESD. The benefits of increasing the exposure of the EPP are multiple. Increasing the amount of those aware of the process improves the likelihood of an increase in annual petitions. The increase in annual petitions will expand the size and scope of both the annual petition reports, and, the petition catalogue. In particular, an expanding scope—in so much as the expansion of issues raised in a growing petitions pool—could highlight to the CESD, Parliament and the Canadian public an array of issues. An increase in exposure could equal an increasing effectiveness of the petition process.

Participants noted that for the most part, they became aware of the EPP through word of mouth. Commonly, this was from within the organization they joined. The worrisome fact is that these participants are well-educated individuals with an environmental background. Not being aware of the EPP until joining the organization demonstrates there may be a lack of exposure within the environmental community.

The CESD has taken considerable steps to improve the exposure of the petition process. Increasing the publicity in social media, the CESD operates a twitter account and

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YouTube channel. The twitter account provides a more up to date exposure of CESD news, including the petition process (CESD twitter @ CESD_CEDD). The YouTube channel offers videos on a number of CESD roles, including a guide on the petition process (OAG-BVG YouTube channel). Both of these avenues can be used to increase the exposure of the EPP. These are mentioned in the recommendations section.

Participants provided several substantial recommendations for improvement. These suggestions are highlighted in the Recommendations sections. What is clear is that there are multiple approaches to improving the exposure of the EPP. When combined together these tactics could produce an increase in publicity.

6.4. The Environmental Petition Process and Dispute Resolution

This project has demonstrated that the EPP is a form of civic engagement that presents a number of features relevant to the field of dispute resolution. The following sub-section will articulate the link between dispute resolution and the EPP. By connecting the research to dispute resolution literature, this section will rationalize how the EPP and dispute resolution are complementary. This section is organized by four headings, based on dispute resolution themes. Namely, that the EPP: allows parties to articulate issues and concerns; advances equality by disrupting perceived power imbalances; promotes accountability of parties involved; and provides possible outcomes or changes to the issues raised.

Articulate issues and concerns

Not only does the EPP provide a medium for the disclosure of issues, but also it ensures that those grievances will be responded to by a FI. The quality of responses will vary, with some inadequate for petitioners. This does not discount its importance.

Dispute resolution processes, like the EPP, facilitate discussion and the articulation of issues. Not all these instances end in a positive fashion. Mediation, negotiation, or any other dispute resolution process by its very nature, facilitates dialogue; and inherent within this characteristic is a level of risk that the responses—or dialogue—facilitated

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will be inadequate or unsatisfactory to either party. What is important is that dialogue is facilitated and that accountability is at some level ensured. The EPP, like dispute resolution processes, creates the space whereby dialogue is constructed. While the CESD may not facilitate this process to the same degree that a third party (such as a mediator) would, it does ensure that the formalities of the process, which ensure constructive dialogue, are met.

Promoting equality through the disruption of power imbalances

Environmental disputes often reflect power imbalances. Commonly, resourceful private interests are pitted against individuals or organizations lacking equal resources (Pirie, p. 276). The result can be that the party with fewer resources may use tactics such as civil disobedience or boycotts that strain relationships and can intensify the dispute rather than quell it (Pirie, p. 276). By providing a forum for discussion, the EPP offsets some inequalities.

Since the process is legislated by Parliament, and the responses by FIs are ensured, the CESD monitors a process that is unique and reliable. Since the process ensures that citizens or groups can engage with their government over concerns, it promotes a form of civic involvement. It is an option that is always present and available. While the outcome may vary, the EPP provides additional options for concerned parties.

Ensuring a level of accountability towards parties

Having parties accountable to their words and actions provides a more positive process. There are a number of ways in which FIs are held accountable to the EPP: departments must respond to petitions in a timely fashion; the issues raised may be included in audit planning; the petitions and responses are disclosed publically; and there are some enforcement mechanisms by which the OAG can hold FI accountable in instances of poor responses. There is accountability for the petitioner as well. Petitioners are expected to provide clear reasons for their issues and questions and cannot use inflammatory language in their petitions. These factors ensure certain expectations. The petitioner can expect that Departments will respond in a timely fashion. Departments can anticipate

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that the questions and issues raised are constructive and clear. This level of accountability can provide an incentive to participate in the process.

This is not unlike a dispute resolution setting—such as a mediation or negotiation—whereby the mediator sets ground rules for participation. Pirie notes the importance of rule setting in a dispute resolution process (2000). Specifically, in a mediation setting, the role of a third party is critical in assisting in process as much as it is in the content, or issues raised (Chicanot & Sloan, 2003). Ensuring that the roles and responsibilities of a process are essential to the integrity of the outcomes. In this fashion, while the content of each dispute will change, having clear rules for engagement is important. As such, the EPP, by setting clear rules and accountabilities, sets a similar procedural framework to a dispute resolution setting.

Possibility for a tangible outcome or change in the issues raised

Producing a change in issues, relationships or disputes is a core tenet of dispute resolution. There is a diversity of theories within dispute resolution most of which focus on producing some change in the issues or relationships involved.

The interest based approach focuses on producing a tangible outcome. The forefathers of this conventional movement are Roger Fischer and William Ury (1991), whose book “Getting to Yes,” emphasized the importance of objective third parties focusing on “interests, not positions” that produce realistic and tangible outcomes. By focusing on BATNA (Best Alternative To a Negotiated Agreement) third parties can ameliorate a dispute by producing an outcome that is satisfactory to both parties (Fisher & Ury, 1991). The idea that the resolving of disputes equals a tangible outcome can both distract from other benefits of simply creating dialogue in a constructive fashion, and can produce at times, expectations of a process that may not be achieved.

Conversely, the transformative process focuses on producing change in the relationships between parties. This theory moves away from the interest-based approach of producing a negotiated settlement, emphasizing that subtle changes in how individuals perceive

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issues and disputes is equally important. While achieving an acceptable outcome is key target, this theory draws attention towards the complex and nuanced benefits of dispute resolution.

As currently legislated, the EPP is inconsistent in its ability to produce tangible change to the issues raised by petitioners. The lack of a mechanism compelling departments to act on petition requests constrains the ability of the process to produce outcomes that would be deemed satisfactory to a significant number of petitioners. As a result, until the process demonstrates a more consistent ability to produce tangible change or satisfactory outcomes for petitioners, the EPP is limited in its role as being a reliable dispute resolution process.

The process does facilitate the articulation of issues, accountability, and promotes a level of equality. These features are important in the field of dispute resolution and are all positive outcomes of the EPP. Moreover, these features can provide a level of change. For example, a petitioner may come to view the FI or the issues at hand in a different perspective as a result of the process. However, the process as currently designed is limited in its ability to produce noticeable change to disputes raised by petitioners.

Three petitioners noted that by not producing change in the issues raised, the petition process was limited in what it can affect. While they reflected positively in certain aspects of the process—such as the publication of the petitions, the procedures of the process and the assistance provided to them by CESD staff—these respondents felt the process did not produce the expected outcome sought. Specifically, the process did not affect private expansion into regions of environmental concern.

This is the legislated reality of the EPP. Without a mechanism that compels action, the process may at times fall short of expectations. The assumption by many is that the petition can produce a tangible change to the issues raised. This assumption is noted by this project and by multiple CESD reports. This expectation of change is a major reason for some criticisms with the process; and this is not an unfair assumption. Organizations

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seeking a change in an issue—like the private expansion of a project onto an environmental sensitive area—have an expectation that the process can produce a satisfactory outcome to the issues raised.

However, the EPP can produce change, albeit in a time and fashion that may not be anticipated by the petitioner. This change may occur through an audit, a report to Parliament, or a shift in Departmental policy. For example, the CESD noted that petition 337 influenced its Marine Protected Areas audit (CESD, 2012). However, these changes are likely to occur long term.

Linking change specifically to a petition can be difficult. One participant noted that while the organization achieved an expected outcome, in the publication of a study, and this outcome was consistent with the timing of the petition, it is difficult to directly link this outcome to the petition. The CESD also noted that it could be difficult to link action to the EPP (CESD, 2007).

Thus, two problems occur when viewing the EPP as a means to producing a tangible change. One, the timing and fashion of that change may be difficult to anticipate and ascertain. Second, directly associating subsequent change to the submission of a petition may be difficult to conclude. These realities can dilute the perceived benefits of the EPP. It should not discount the actual benefits. It is for these reasons that the CESD should cite specifically instances of substantive change achieved through the EPP. This is noted in the recommendations section that follows.

To reiterate, the EPP demonstrates connection to dispute resolution theories and processes through the articulation of issues, the advancement of equality, the promotion of accountability, and the possibility of outcomes. In drawing back to the literature review (section 3.2), one can see how the EPP at times, meets the three dispute resolution outcomes laid out by Pirie (2000):

- Individual satisfaction: whereby parties have a sense that their individual goals were met. This outcome can vary, depending on the expectations of the

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petitioner. If petitioners expect a tangible outcome, the sense of satisfaction may be limited or non-existent if those expectations are not met. Conversely, other expectations, such as the publication of FI responses, or the release of studies or data, can promote some degree of satisfaction.

- **Individual autonomy:** the process strengthens the capacity for disputing parties to resolve issues of concern. The EPP offers an option for concerned groups to articulate concerns, receive feedback, and possibly resolve issues. As such, the EPP is a reliable process for the NGO ‘tool kit.’ The EPP is a tool for organizations to confront issues of concern.
- **Social justice:** the process can ameliorate inequalities in society. Groups with perceivably less power, such as an NGO, can use the EPP as a means to discuss issues and affect change with a FI. The EPP strengthens the democratic process by offering a unique option for dialogue.

These links to dispute resolution are importance, since several participants articulated in some manner or another, that there is an eroding relationship between NGOs and FI. According to a number of participants, some of these reasons are a result of a perceived lack of environmental enforcement or policy. In this regard, environmental assessments and the encroachment of commercial projects into environmentally sensitive areas are some key reasons for increasing concern by NGO participants. Within this context, several participants cautioned that there is a lack of viable options for dialogue between government and NGO. Letters to FI or Members of Parliament may not be effective, while the dialogue when it does occur, may not be constructive.

Accordingly, the EPP can offer a level of dialogue that is not present in other forms of communication. Timeliness, accountability, and the public disclosure of these responses were some of the positive reflections made by NGO participants. These facets can explain several of the reasons why the EPP shares certain characteristics in dispute resolution.

6.5 Conclusion

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The EPP is a mechanism, entrenched through Parliament that provides a standard for the articulation of issues. For environmental organizations in Canada, the EPP ensures that issues raised are answered in a timely fashion and that there is a measure of accountability on all parties. In doing so, the process promotes a level of equality by providing an avenue that may not have been present for NGOs in Canada.

Having a petition produce change in the issues raised is not as likely as the above outcomes listed. However, this does not preclude the possibility of such change. As this project has demonstrated, tangible change, if and when it is produced, is likely to occur in a time and fashion that is difficult to anticipate.

The EPP does have some limitations. Interview participants offered some criticisms in the lack of tangible outcomes due to limitations of the EPP. As a result, the EPP is limited in its role as a dispute resolution process. A number of CESD reports, highlighted in this project, attest to this fact and demonstrate that petitioners beyond the scope of this project share in some of their critiques. Despite some of the limitations the EPP holds considerable potential by offering a tool for the articulation of concerns and possible resolution of issues for concerned groups and citizens in Canada.

7. Recommendations

The following is a list of recommendations developed for the CESD and Members of Parliament to consider. The majority of recommendations are directed towards the CESD, with an emphasis on improving its role in the EPP. Mainly, these recommendations suggest ways in which to improve the public exposure of the EPP and interaction with users of the petition process. There are some recommendations directed towards Members of Parliament. Since Parliament established the EPP, through amendments to the Auditor General Act, it has the power to shape the petition process. Overall, these recommendations are organized according to the specific roles and responsibilities of the CESD and Parliament.

These recommendations aim to improve the petition process, the interaction between FI and petitioner and the public awareness of the EPP. These recommendations, while suggested by the researcher, were informed by the interaction with interview participants, and additional research. Appendix C (page 73) re-organizes these recommendations by priorities. This section is preceded by the project conclusion.

7.1 Recommendations for the CESD

Recommendation I: The CESD should continue to educate petitioners on the EPP highlighting some of the possible benefits and limitations of the process.

Petitioners suggested that the CESD staff describe the process—and some limitations of it—to petitioners during the making of a petition. Since a petitioner usually has some dialogue with the CESD staff, there is an opportunity to describe some constraints of the process and thereby manage petitioner expectations. The CESD could manage petitioner expectations if petitioners are aware of EPP limitations; especially the fact that FIs are not required to act on petitions. One petitioner suggested the use of a quick-fact sheet, provided to petitioners at the outset of the process, highlighting the benefits and certain limitations of the EPP. The researcher suggests some features that could be implemented towards educating petitioners are:

- Emphasizing the short-term benefits of the EPP: the public exposure of issues; the cataloguing of petitions; the inclusion of petitions to Parliament; and the mandated timely responses from FIs.
- Describing that the CESD cannot compel action by Departments, nor are those FIs required to take action on requests.
- Articulating that despite these limitations, action is possible, and has occurred. The CESD should list particular instances of change. Possibilities involve the inclusion of petitions in audits, policy changes, or other actions taken by FIs, as a result of a petition.

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The CESD has demonstrated through the petitions guide some effort on managing petitioner expectations. Yet taking an opportunity when petitioners and CESD staff interact could improve on the management of petitioner expectations.

Recommendation II: Increase the publication and exposure of each individual petition.

The researcher recommends increasing the exposure of individual petitions could provide an incentive for organizations to submit petitions; since it would increase the publicity of the issues raised and the organization that submitted the petition. One step in achieving this could be through the CESDs current social media infrastructure. Its Twitter account could draw attention to each individual petition when submitted, while its YouTube account could highlight petitions on an individual or collective basis.

Recommendation III: Reach out to Canadian Non-Governmental Organizations

The researcher recommends that the CESD find a way to interact with NGOs over the EPP. This is in order to educate NGOs on the EPP and the possible benefits and limitations of the process. Moreover, it would allow parties to share evaluations, and provide reasons for the strategic value of the EPP for organizational goals. Through the interviews petitioners suggested reaching out to two NGOs. These are:

- Eco-Justice Canada. This organization provides workshops on environmental activism. As part of its presentation, Eco-Justice describes and advises on the petition process.
- The Canadian Environmental Network. The CEN is a national NGO whose primary role is to, “support environmental NGOs by providing them with valuable networking, communication and coordination services (CEN, about).” The CEN works closely with 11 provincial and territorial networks across Canada. Among the resources available to the CEN include publications and media releases, a well-known and structured network that includes delegations and a governing body, and the ability to communicate with the NGO community through a webinar series.

Both organizations could assist the CESD in educating on the EPP and expanding the awareness of the process to the NGO community.

Recommendation IV: The CESD should advertize the EPP and continue to speak publically on the process.

The researcher recommends that the CESD continue in its efforts to expand the exposure of the EPP. Speaking at public forums is one way in which to reach out to the public. Public speaking could be conducted at workshops or seminars, as well as touring universities in Canada.

In addition to public speaking, the CESD could consider placing advertisements in established environmental journals or publications. One participant suggested that advertisements would be an effective way to expand

Recommendation V: Reach out to the Canadian academic community

The CESD should consider reaching out to Canadian universities and faculty. For example, speaking at forums conducted at Canadian universities on environmental topics could provide an avenue to educate the public and university faculty on the EPP. In addition, having the EPP mentioned or taught in some manner in university courses could increase the pool of those aware of the EPP.

Getting the EPP studied and reported on at the graduate level could increase its exposure. Having graduate students analyze the EPP as part of their thesis or projects could increase the exposure of the process since most graduate reports may be made publicly available. This could increase the awareness of the EPP within the respective university and on public databases. Since the EPP is multi-disciplinary, it would be of interest to a number of academic fields, including political science, environmental studies, public administration, and of course, dispute resolution.

Recommendation VI: Publicize any direct or indirect change as a result of the petitions

Through the CESDs current resources—CESD website, Twitter and other social media accounts and reports to Parliament—the office should take an active approach in

publicizing any change that is the result of petitions. This would reaffirm the possibilities of tangible outcomes from the petition process.

Increasing the publicity of individual petitions could provide a number of benefits. First, it could publicize the efforts of the respective organization involved. Second, it could increase the public exposure of issues raised. This could increase the annual pool of petitions and increase the exposure of issues involved.

7.1 Recommendations for Parliament

Recommendation VII: Request that Members of Parliament publicize the petition process

Members of Parliament (MPs) should speak publically, when possibly on the EPP. As a process that was designed by Parliament, MPs should assist the CESD in educating on, and expanding the awareness of, the EPP. Specifically, MPs, could educate those in their respective constituencies on the EPP. Opportunities may arise for MP, when groups or citizens within their ridings express concern over environmental issues. MPs could also publicize the EPP on their respective websites.

Recommendation VIII: Parliament should consider a review of the EPP and make necessary changes to the process

It is clear from the research that a number of participants were unsatisfied with the lack of a tangible outcome with the process. The expectation of change is a key factor in unsatisfied petitioner evaluations in both this project and numerous CESD reports. These include the 2007 petition review and the recent 2012 annual petition report. The latter of which noted that the expectation of action is a significant source of dissatisfaction with the process (CESD, 2012).

In the case of the 2012 report, petitioners articulated frustration that FIs are not required to take action on issues raised in petitions (CESD, 2012). Several petitioners in this

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report noted similar disappointment. A lack of mandated action is a major source of frustration.

Without a mechanism that compels or encourages tangible change, the EPP will continue to fall short of expectations for petitioners. Instituting such a mechanism, whereby FIs are compelled to act on petitioner requests, would strengthen the ability of the process to facilitate change, and satisfy petitioner expectations.

Parliament should conduct a review of the EPP, with the focus being on how to improve the publicity of the process, the interaction between petitioner and FI, and look at possibly ways in which to improve the chances that environmental petitions produce change. Most importantly, Parliament should consider a mechanism whereby FIs act on petitioner requests. In doing so, Parliament should take into consideration the advice of the NGO community, former petitioners (both from NGOs and individual citizens), staff of FIs, and the OAG.

8. Project Conclusion

The researcher developed this project for the CESD as a way to provide an evaluation on the EPP. By analyzing the experiences of NGO participants, this project answered the following research questions: how do petitioners assess the environmental petition process in responding to and/or addressing their issues or concerns? The researcher also answered the three lines of enquiry—or sub questions—to support the project objective: how do petitioners assess the petition process; how do petitioners assess the responses received by Federal Institutions; and, how do petitioners assess the awareness of the petition process? These objectives focused the analysis and recommendations.

The research demonstrated that improvements should be made in a number of key areas. In particular, improvements should be made on the public awareness of the process and the measuring of expectations with the outcomes of the EPP. In addition, Parliament should consider a mechanism whereby FIs must act on petitioner requests. These

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developments could facilitate positive evaluations of the petition process, an increase in exposure and users of the EPP, and a more consistent ability of the process to produce change.

This project was developed for the CESD and for the Dispute Resolution program at the University of Victoria. As such, one theme of this project was on the link between dispute resolution and the EPP. This project identified and rationalized the link between the EPP and dispute resolution literature. In particular, it noted that certain characteristics in the EPP are prevalent in dispute resolution theories and practices: the articulation of issues; the promoting of equality; the ensuring of accountability; and the possibility of tangible outcomes.

The analysis of the EPP indicated to the researcher the need for increased study of the EPP, and the potential from that study, in both the increasing understanding of the process and awareness of the process. A key benefit for the academic community is the multi-disciplinary facets of the EPP. The EPP has potential theoretical and practical links to law, political science, public administration and environmental studies and sciences. While this project focused on dispute resolution, any number of the preceding disciplines could provide additional analysis on the petition process. Further work could include: a statistical study of petitioners, facilitated through the CESD catalogue; a broader survey of petitioners; a study of Departments using the petition process; and a comparison between the EPP and other similar forms of civic environmental engagement.

9. References

Boundary Bay Conservation Committee (n.d.). Retrieved from

<http://www.sunburyneighbourhood.ca/BBCC/index.html>

Bow Valley Naturalists (n.d.). *Who we are*. Retrieved from

<http://www.bowvalleynaturalists.org/page2/page2.html>

Canadian Environmental Network (n.d.). *About us*. Retrieved from <http://rcen.ca/about>

Canadian Institutes of Health Research, Natural Sciences and Engineering Research

Council of Canada, and Social Sciences and Humanities Research Council of

Canada (December 2010). *Tri-council policy statement: Ethical conduct for*

research involving humans. Retrieved from

http://www.pre.ethics.gc.ca/pdf/eng/tcps2/TCPS_2_FINAL_Web.pdf

Chicanot, J. & Sloan, G. (2003). *The practice of mediation: Exploring attitude, process and skills*. Victoria, BC: ADR Education.

Commission for Environmental Cooperation (n.d.). *About the CEC*. Retrieved from

http://www.cec.org/Page.asp?PageID=1226&SiteNodeID=310&BL_ExpandID=154

Commissioner of Environment and Sustainable Development (CESD) (2007). “Chapter

two—environmental petitions: Retrospective and annual report.” *Office of the*

Auditor General of Canada. Retrieved from [http://www.oag-](http://www.oag-bvg.gc.ca/internet/English/parl_lpt_e_1713.html)

[bvg.gc.ca/internet/English/parl_lpt_e_1713.html](http://www.oag-bvg.gc.ca/internet/English/parl_lpt_e_1713.html)

Commissioner of Environment and Sustainable Development (CESD) (2011). “Chapter

six: environmental petitions.” *Office of the Auditor General of Canada*. Retrieved

Analysis of the Environmental Petitions Process

from <http://www.oag->

[bvg.gc.ca/internet/English/parl_cesd_201112_06_e_36034.html](http://www.oag-bvg.gc.ca/internet/English/parl_cesd_201112_06_e_36034.html)

Commissioner of Environment and Sustainable Development (CESD) (2012).

“Chapter five: environmental petitions.” *Office of the Auditor General of Canada*.

Retrieved from <http://www.oag->

[bvg.gc.ca/internet/English/parl_cesd_201212_05_e_37714.html](http://www.oag-bvg.gc.ca/internet/English/parl_cesd_201212_05_e_37714.html)

Commissioner of Environment and Sustainable Development (CESD) (n.d.). *The official*

Twitter account of the CESD. Retrieved from https://twitter.com/CESD_CEDD

Creswell, J. W. (1998). Five qualitative traditions of research design. In *Qualitative inquiry and research design—choosing among five traditions*, pp. 47-72. Thousand Oaks, CA: Sage. From S. Boyd (ed.) (winter 2011). *SPP 516 A01: Course readings* (pp. 40-54).

Department of Justice Canada (1985). *Auditor General Act, A-17*. Retrieved from

<http://laws-lois.justice.gc.ca/eng/acts/A-17/>

Department of Justice Canada (2008). *Federal sustainable development act, C-33*.

Retrieved from <http://laws-lois.justice.gc.ca/eng/acts/F-8.6/index.html>

Dukes, Franklin E. (1996). “The challenge for a transformative practice.” In *Resolving public conflict: Transforming community and governance*. Chapter 9 (121-183).

Manchester: Manchester University Press.

Ecojustice (n.d.). *About Ecojustice*. Retrieved from <http://www.ecojustice.ca/about>

Fisher, R. & Ury, W. (1991). *Getting to yes: Negotiating agreement without giving in* (2nd ed.). New York: Penguin Books.

Friends of the Earth (n.d.). *About FoE*. Retrieved from <http://foecanada.org/en/about/>

Analysis of the Environmental Petitions Process

Hesse-Biber, S. N. & Leavy, P. (2011). *The practice of qualitative research* (2nd ed.).

Thousand Oaks, CA: Sage.

James, Carol (MLA) (n.d.). *Petition guidelines*. Retrieved from

<http://www.carolejamesmla.ca/petitions>

Jasper Environmental Association (n.d.). *Main issues*. Retrieved from

<http://www.jasperenvironmental.org/main-issues/woodland-caribou/>

Lebaron, M & Pillay, V. (2006). *Conflict across cultures: A unique experience of bridging differences*. Boston: Intercultural Press.

Office of the Auditor General of Canada (2008). *Getting answers: A guide to the environmental petitions process*. Retrieved from [http://www.oag-](http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_930.html)

[bvg.gc.ca/internet/English/pet_lp_e_930.html](http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_930.html)

Office of the Auditor General of Canada (n.d.). *Environmental petitions*. Last updated 13 December 2011. Retrieved from [http://www.oag-](http://www.oag-bvg.gc.ca/internet/English/pet_fs_e_919.html)

[bvg.gc.ca/internet/English/pet_fs_e_919.html](http://www.oag-bvg.gc.ca/internet/English/pet_fs_e_919.html)

Office of the Auditor General of Canada (n.d.). *Petitions by petition number*. Retrieved from http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Office of the Auditor General of Canada (n.d.). *OAGBVG's youtube channel*. Retrieved from <http://www.youtube.com/user/OAGBVG>.

Maiese, Michelle. "Capacity building." *Beyond Intractability*. In Guy Burgess and Heidi Burgess (Eds.), *Conflict Information Consortium*, University of Colorado, Boulder. Posted: August 2005. Retrieved from <http://www.beyondintractability.org/bi-essay/capacity-building>.

Analysis of the Environmental Petitions Process

MiningWatch Canada (n.d.). *About us*. Retrieved from

<http://www.miningwatch.ca/about-us-1>

Parks Canada (n.d.). *Marmot Basin ski area site guidelines for development and use*.

Retrieved from <http://www.pc.gc.ca/pn-np/ab/jasper/plan/plan8/d.aspx>

Parliament of Canada (2008). *Petition: Practical guide*. Retrieved from

http://www.parl.gc.ca/About/House/PracticalGuides/Petitions/petitionsPG2008_all-e.pdf

Petition no. 008 (1997). *Protecting Canadians from the effects of ozone depletion*.

Retrieved from Office of the Auditor General website (petitions by petition number): http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Petition no. 86 (2003). *Commercial tourist operation in Jasper National Park*. Retrieved from Office of the Auditor General website (petitions by petition number):

http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Petition no. 153A-C (2005-2006). *Port development on Roberts Bank in the Fraser River Estuary, British Columbia*. Retrieved from Office of the Auditor General website

(petitions by petition number): http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Petition no. 158 A-B (2005-2007). *Subsidies to the oil and gas industry and federal efforts to address climate change*. Retrieved from Office of the Auditor General

website (petitions by petition number): http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Analysis of the Environmental Petitions Process

Petition no. 170 (2006). *Canadian Mining Company operations abroad*. Retrieved from Office of the Auditor General website (petitions by petition number):

http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Petition no. 177 A-B (2006). *Federal environmental assessment of the Boundary Bay Airport expansion in British Columbia*. Retrieved from Office of the Auditor General website (petitions by petition number): [http://www.oag-](http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html)

[bvg.gc.ca/internet/English/pet_lp_e_938.html](http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html)

Petition no. 219 A-B (2007). *Environmental impact of federal Metal Mining Effluent Regulations*. Retrieved from Office of the Auditor General website (petitions by petition number): http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Petition no. 249 (2008). *Potential environmental impact of the Devils Lake outlet project on Canadian waters*. Retrieved from Office of the Auditor General website (petitions by petition number): [http://www.oag-](http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html)

[bvg.gc.ca/internet/English/pet_lp_e_938.html](http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html)

Petition no. 269 A-B (2008-2009). *Environmental concerns related to proposed expansion of the Marmot Basin Ski Area in Jasper National Park, Alberta*. Retrieved from Office of the Auditor General website (petitions by petition number): http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Petition no. 334 (2012). *Environmental effects monitoring information and reports related to the Metal Mining Effluent Regulations*. Retrieved from Office of the Auditor General website (petitions by petition number): http://www.oag-bvg.gc.ca/internet/English/pet_lp_e_938.html

Analysis of the Environmental Petitions Process

Pirie, Andrew J. (2000). *Alternative dispute resolution: Skills, science, and the law*.

Toronto, Ontario: Irwin Law.

Sandole, D.J.D. (1998). “A comprehensive mapping of conflict and conflict resolution:

A three pillar approach.” *Beyond intractability*. Retrieved from

http://www.gmu.edu/programs/icar/pcs/sandole.htm#N_1

Stake, R.E. (2005). “Qualitative case studies.” In N.K. Denzin & Y.S. Lincoln

(Eds.). *The Sage handbook of qualitative research* (3rd ed.) (pp. 443-466).

Thousand Oaks, CA: Sage.

Tidwell, Allan (1998). “The challenge of conflict resolution.” *Conflict resolved?* Chapter

1 (pp. 1-18). London: Continuum publishing group.

United Nations (1992). “Agenda 21: Strengthening the role of major groups. *Rio*

declaration on environment and development, Section III, Chapter 23.2. Retrieved

from <http://www.un.org/esa/dsd/agenda21/index.shtml>.

United Nations (1992). “Principle 10.” *Rio declaration on environment and*

development. Retrieved from

<http://www.un.org/documents/ga/conf151/aconf15126-1annex1.html>

Yarn, D.H. (ed.) (1999). “Definitions: conflict to conflict transformation. *Dictionary of*

conflict resolution (pp. 113-121). San Francisco: Jossey-Bass.

Yin, R.K. (2009). *Case study research: Design and methods* (4th ed.). Thousand Oaks,

CA: Sage.

Appendix A: Federal institutions subject to the Environmental Petitions Process

The preceding list consists of 28 “Category I” Federal institutions (departments and agencies) that are subject to the Environmental Petitions Process. “Category I” departments are those Federal institutions named in the *Financial Administration Act*, or listed in the schedule of—or in which a direction has been made in—the *Federal Sustainable Development Act* (Auditor General Act, 1985). Those Federal institutions not listed below are not required to participate in the petition process. However, the OAG does note that some departments may still voluntarily participate in the process by responding to petitions (OAG, 2008). These “category I” departments are subject to the environmental petitions process and their responses to the petitions may be considered in this project. This project did not interview participants of these departments.

Agriculture and Agri-Food Canada	Health Canada
Atlantic Canada Opportunities Agency	Human Resources and Social Development Canada
Canada Border Services Agency	Indian and Northern Affairs Canada
Canada Economic Development for Quebec Regions	Industry Canada
Canada Revenue Agency	National Defence
Canadian Heritage	Natural Resources Canada
Canadian International Development Agency	Parks Canada
Canada Public Service Agency	Public Health Agency of Canada
Citizenships and Immigration Canada	Public Safety Canada
Department of Justice Canada	Public Works and Government Services Canada
Environment Canada	Transport Canada
Department of Finance Canada	Treasury Board of Canada Secretariat
Fisheries and Oceans Canada	Veterans Affairs Canada
Foreign Affairs and International Trade Canada	Western Economic Diversification Canada

Appendix B: Case Selection Process

After considerable research, 21 NGOs were selected as potential candidates for research.

The criteria for selection was:

- The organization had submitted a petition and if possible, follow-up petitions, from 2001 to 2012.
- The organization provided sufficient contact information in the petition, and, operates a website of its own, with contact information available.

The researcher contacted all 21 organizations from September to December 2012. The purpose of which was to find 10 organizations willing to participate in the project. The

21 organizations selected for research were:

1. Algonquin Eco-Watch
2. Bow Valley Naturalists
3. Boundary Bay Conservation Committee
4. David Suzuki Foundation
5. Ecology Action Centre
6. Eco Justice Canada
7. Federation of Ontario Naturalists
8. Friends of the Earth
9. Georgia Straight Alliance
10. Greenpeace Canada
11. Green Coalition
12. Jasper Environmental Association
13. Living Oceans Society
14. Mining Watch Canada
15. Probe International
16. Pembina Institute for Appropriate Development
17. UTSB Research
18. United Fisherman and Allied Workers Union (UFAWU-CAW)
19. Sierra Club Eastern Canada Chapter

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20. Wildlands League

21. Wildsight

The researcher contacted these organizations through email, postal letters, and phone. Invitations were sent to the 21 organizations in three phases during the fall of 2012.

Invitations were sent based on preference for research; the organizations that represented a variety of petition groupings were sent first. Petition groupings were based on those petitions (including follow-up petitions) of two, three, four and five groupings. This preference was an attempt to ensure a diversity of experiences and evaluations with the petition process.

The researcher sent the first group of petitions in late August. These organizations represented the highest degree of diversity amongst petition groupings. These were:

1. Mining Watch Canada
2. Bow Valley Naturalists
3. Greenpeace Canada
4. Living Oceans Society
5. David Suzuki Foundation
6. Boundary Bay Conservation Society
7. Algonquin Eco Watch
8. Federation of Ontario Naturalists
9. Wildlands League
10. Sierra Club Eastern Canada Chapter

The next group was first contacted in early October:

1. Ecology Action Centre
2. Friends of the Earth
3. Georgia Straight Alliance
4. Wildsight
5. Jasper Environmental Association

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The final group was first contacted in late October:

1. Green Coalition
2. Probe International
3. Pembina Institute for Appropriate Development
4. United Fisherman and Allied Workers Union
5. UTSB Research
6. Eco-Justice

In total, every effort was made to ensure that NGOs were contacted and given considerable time to reply to the invitations. While the researcher had targeted interviewing ten organizations, five in total accepted. As a result, 23 percent of those contacted agreed to participate in the research. These five organizations are:

1. Bow Valley Naturalists
2. Boundary Bay Conservation Committee
3. Friends of the Earth
4. Jasper Environmental Association
5. Mining Watch Canada.

This project provides detail of these organizations and their background with the petition process at the beginning of the Findings section (section 6).

Appendix C: Recommendations-priorities and resources

This appendix organizes the recommendations according to priorities (high or medium). The researcher based priorities on the perceived benefit of the recommendation, the estimated resources associated, and whether the CESD has the current infrastructure available to implement the recommendations. The recommendation numbers correlate with the recommendations listed in section seven.

High priority recommendations are those that the CESD has most of the current infrastructure and resources available and the estimated costs involved are minimal. Conversely, medium priority recommendations are those that have higher estimated costs and would involve additional resources by the CESD.

There are two recommendations for Parliament, one medium and one high. Both of these recommendations are prioritized based on the perceived impact on the EPP.

The costs of these recommendations are estimates and some are difficult to ascertain at this time.

Recommended for	Recommendation	Priority	Estimated Resources Involved
Parliament	Recommendation VIII: Parliament should consider a review of the EPP and make necessary changes to the process.	High	<p>This recommendation would entail considerable work on the part of Parliamentarians. It should involved consultation with numerous stakeholders.</p> <p>It is difficult to anticipate the costs associated with this recommendation, since cost and resources would be dependent on a variety of factors.</p>

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Recommended for	Recommendation	Priority	Estimated Resources Involved
CESD	Recommendation I: The CESD should continue to educate petitioners on the EPP highlighting some of the possible benefits and limitations of the process.	High	Tools already exist for this recommendation. CESD can use the petition guide and key statements on EPP. This can be achieved through verbal dialogue between CESD staff and petitioner.
CESD	Recommendation II: Increase the publication and exposure of each individual petition	High	<p>Could be achieved through use of current CESD infrastructure:</p> <ul style="list-style-type: none"> -YouTube videos could be created on each petition, or on an annual basis collectively -Twitter account could update each petition with minimal resources required <p>The CESD could use its Twitter account to advertise individual petitions.</p>
CESD	Recommendation VI: Publicize any direct or indirect change as a result of the petitions	High	<p>CESD could use current infrastructure. The Twitter and YouTube accounts could highlight changes on a quarterly or annual basis.</p> <p>CESD could also include specific examples in its current reports to Parliament</p>
CESD	Recommendation IV: The CESD should advertize the EPP and continue to speak publically on the process.	High	<p>The CESD currently speaks publicly, including speaking about the EPP. This recommendation reaffirms the need to continue speaking publicly, and should not require additional resources than those already committed.</p> <p>The cost associated with advertizing the EPP in environmental journals varies on a variety of factors: the size of the advertisement (full or half page), how many advertisements are bought (on a monthly, quarterly, or annual basis), and the magazine itself. This also depends on the exposure of</p>

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Recommended for	Recommendation	Priority	Estimated Resources Involved
			the magazine, whether it is regional or national in scope.
Parliament	Recommendation VII: Request that Members of Parliament publicize the petition process	Medium	
CESD	Recommendation III: Reach out to Canadian Non-Governmental Organizations	Medium	<p>The CEN and Eco-Justice Canada have the networking and resources required to assist the CESD in interacting with NGO that have used or would use the petition process.</p> <p>It is difficult to estimate the resources required since it would require CESD and NGO involvement.</p>
CESD	Recommendation V: Reach out to the academic community	Medium	This recommendation would have long-term benefits, and could be achieved through public speaking events or by contacting university faculty and post-secondary institutions.

Appendix D: Certificate of Ethics Approval



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of Victoria

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Certificate of Approval

PRINCIPAL INVESTIGATOR	Jess Applebaum	ETHICS PROTOCOL NUMBER	12-327
UVic STATUS:	Master's Student	ORIGINAL APPROVAL DATE:	16-Aug-12
UVic DEPARTMENT:	PADM	APPROVED ON:	16-Aug-12
SUPERVISOR:	Lyn Davis	APPROVAL EXPIRY DATE:	15-Aug-13
PROJECT TITLE: How do Petitioners evaluate the Environmental Petitions Process of the Office of the Auditor General of Canada?			
RESEARCH TEAM MEMBERS: None			
DECLARED PROJECT FUNDING: None			
CONDITIONS OF APPROVAL			
This Certificate of Approval is valid for the above term provided there is no change in the protocol.			
Modifications			
To make any changes to the approved research procedures in your study, please submit a "Request for Modification" form. You must receive ethics approval before proceeding with your modified protocol.			
Renewals			
Your ethics approval must be current for the period during which you are recruiting participants or collecting data. To renew your protocol, please submit a "Request for Renewal" form before the expiry date on your certificate. You will be sent an emailed reminder prompting you to renew your protocol about six weeks before your expiry date.			
Project Closures			
When you have completed all data collection activities and will have no further contact with participants, please notify the Human Research Ethics Board by submitting a "Notice of Project Completion" form.			
Certification			
This certifies that the UVic Human Research Ethics Board has examined this research protocol and concluded that, in all respects, the proposed research meets the appropriate standards of ethics as outlined by the University of Victoria Research Regulations Involving Human Participants.			
Dr. Rachael Scarth Associate Vice-President, Research			

12-327 Applebaum, Jess

Certificate Issued On: 16-Aug-12