

Professional Reliance: Examining the Problems. Jan 2018

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As writer/researcher for BEA and former principal for various environmental organizations in the Fraser Valley, the writer brings 40 plus years of experience in digesting and evaluating reports produced by professionals (either as employees or contractors) supporting various initiatives or proposals. In my experience, Professional Reliance, which has increasingly been used to off-load Government's oversight of public resources, has resulted in a handover of resources to proponents and those developing or exploiting resources, effectively enabling industry to dictate conditions affecting public resources. While Government has defended the PR model, together with so-called "Results Based" oversight, some of the more egregious examples of failure of the model, Shawnigan Lake, Mount Polley, will continue to demonstrate the problems inherent in the model.

The model also distances the public from engagement with processes having an effect on public assets, enables proponents to limit information provided, based (for example) on spurious claims of withholding "proprietary" information, and enables proponents to effectively control public input or concerns. The latter being the transfer of responsibility of public hearings to proponents while Government removes itself from the process.

While the myth that PR can effectively represent the public interest is propagated by Government and proponents, it is the opinion of this writer, that professionals employed by or contracted by proponents have an inherent conflict of interest and that to a greater or lesser degree can be expected to prioritize the interests of their employer over the public interest. Given the expectations of proponents, their ability to dictate Terms of Reference, devote or withhold resources or information and their ability to control and edit information, an essential bias in favor of the proponent's interests is inevitable. When you add the weight of the control proponents have over the future advancement, re-employment prospects of the professionals involved, some degree of bias is a natural, predictable and inevitable outcome.

What checks and balances are in place to counter such bias? Increasingly, nothing effective, but a disingenuous claim by Government that critics of PR should take their case to the Professionals Regulatory Bodies. (See BC Auditor report and concerns re Mount Polley where Government replied to the criticisms by suggesting that, "concern about over reliance on qualified professionals is a criticism of professional body's ability to regulate their professions.")

Government is suggesting that it is the responsibility of professional bodies to maintain some mythical level of objectivity that will maintain the public interest, while being well aware that regulation within professions is a moveable attempt to mostly control the ways in which professionals should avoid "stepping on each other". This has resulted in various efforts by Professions to silence, punish or remove members who have "in their professional actions" taken issue with another professional. So much for expectations of objectivity.

A few consequences,

of Professional Reliance and lack of regulation or oversight by Government follow. Some concerns are generalizations, that is, generally occurring, and made with no ranking of importance.

- Professionals Reports mostly use positive language to describe attributes beneficial to a proponent while possible negatives tend to be described as uncertain, unmentioned in the executive summary with any details well into the report.

- Professional Reports frequently fail to assess potential negatives, perhaps limited by proponents resources, TOR's or other as mentioned previously. Frequently essential ecological functions are entirely missing in the discussion.
- Ministries have deliberately advised proponents on ways to bypass or defeat guidelines or intended practices.
- Ministry staff e.g. biologists, have been excluded from processes and oversight of logging plans despite growing awareness of habitat effects.
- Professionals hired to develop Eco Restoration Plans have demonstrated outdated and limited knowledge of particular ecosystem attributes.
- Oversight by entities such as Forest Practices Board (a form of PR) have no regulatory power and are therefore mostly useless in effecting change.
- Other oversight agencies, ALR, Utilities Commission and others that are touted as independent, have been subject to interference or otherwise restricted through Government imposed limitations on limited powers or imposition of limiting Terms of Reference.

Recommendations:

It is our clear conclusion, based on many years of observation, that Professional Reliance has an inherent bias in favor of the proponent and that that bias is “natural” predictable and observable and that no new self-regulation by Professional bodies will adequately alter that bias.

Accordingly, it is therefore the duty of Government to protect the public trust by some return to oversight by Public Servants with a primary mandate to protect and maintain public resources.

Such a notion however requires that Government reinvent practices and behaviors that have increasingly put Government in the position of encouraging exploitative use of public resources with significant risk or damage to such resources.

Many Ministries happily see their primary role as encouraging potentially damaging resource development. The environmental and public cost of such damaging development is offloaded (externalized) onto a largely unwitting public with nobody counting the costs and no requirement that proponents do so.

It will take no small measure of reinvention to do what is necessary to protect the public trust.

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