

Collaboration for Environmental Assessment:

Opportunities for Comprehensive Decision-making in Western
Canada

Adam Wright

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Supervisor: Barry Ness, Lund University Centre for Sustainability Science (LUCSUS), Lund University

Abstract

This research explores opportunities for a more comprehensive assessment process using the ongoing and contentious Environmental Assessment (EA) of the Enbridge Northern Gateway pipeline project in western Canada. Research on EA in Canada has demonstrated considerable challenges in effectively engaging participants throughout the assessment process. Research suggests that the inability to engage with stakeholders in EA adversely affects the quality of information considered, the integrity of the process, and the legitimacy of EA outcomes. This represents a fundamental challenge for EA, as effective assessment processes are needed to adequately evaluate increasingly complex and contentious projects. Strategies that encourage comprehensive stakeholder engagement in decision making for contentious environmental issues have been identified as being central in generating more thorough and legitimate outcomes, and can produce social learning and other benefits. The study considers insights obtained from literature on collaborative planning, rationality, and sustainability science as well as interviews with EA participants and researchers to pursue that aim. The study reveals common ground that highlights stakeholder equality and cooperation, objectivity and legitimacy, transparency and trust, and the agenda, timing, structure and design of the decision-making process as important in fostering a more comprehensive assessment in this context. Linkages between respondent views about collaboration in the EA process and contemporary interpretations of rationality are also discussed and suggests that further research exploring collaborative strategies that are inspired by these ideas is likely to be fruitful. Finally, the study offers recommendations for decentralized and collaborative process in advance of the project application that encourages consensus, participant equality, and open debate.

Keywords: *Collaboration, Environmental Assessment, Northern Gateway, Communicative Rationality, decision-making*

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“There is no one right path to sustainability that can or should be scientifically determined, but the path is defined through the collective decisions of all involved.”

(Doelle and Sinclair 2006)

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Abbreviations

BC	British Columbia
CEA Act	Canadian Environmental Assessment Act
CEA	Cumulative Effects Assessment
CR	Communicative Rationality
EA	Environmental Assessment
GDP	Gross Domestic Product
JRP	Joint Review Process
NEB Act	National Energy Board Act
SA	Sustainability Assessment
SEA	Strategic Environmental Assessment

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1. Introduction

This section offers an introduction to research on decision-making for Environmental Assessment and to the approach of this study. The specific aim and particular research questions are provided as well as an overview of the thesis.

1.1 Decision-making for Environmental Assessment

The practice of Environmental Assessment (EA) in Canada has been criticized for failing to adequately engage stakeholders in the assessment process (Sinclair & Diduck 2005; Stewart & Sinclair 2007; Booth & Skelton 2011). This problem illustrates a fundamental concern in EA processes as poor engagement procedures can result in deficient information, resentful participants, and incomprehensive outcomes (Gibson 1993; Innes & Booher 2004; Petts 1999). Deficient assessment processes are likely to have considerable social, economic, and environmental implications for decision-making that involves multiple actors and diverse interests. Extensive research has examined more comprehensive approaches to EA such as Strategic Environmental Assessment (SEA), Cumulative Effects Assessment (CEA), Sustainability Assessment (SA), as well as investigations into procedures for expanded public participation, and collaborative planning for EA (Gunn & Noble 2009; Elvin & Fraser 2012; Gibson et al. 2005; Stewart & Sinclair 2007). Research has also indicated the need to explore alternative forms of planning and assessment that meets the current challenge of diverse methodological and substantive goals of EA (Armitage 2005; Lawrence 2000). More collaborative forms of decision-making with regard to contentious environmental issues have been shown to often result in more comprehensive stakeholder engagement and mutually acceptable outcomes (Leys & Vanclay 2010; Saarikoski et al. 2013). Similarly, the notion of *collaborative dialogue* has been identified as a priority within previous studies that have explored what comprises *meaningful participation* as postulated in the Canadian Environmental Assessment (CEA) Act (Stewart & Sinclair 2007; Canadian Environmental Assessment Act 2012). In addition, there is a wealth of literature that illustrate the benefits of implementing strategies of comprehensive engagement such as providing access to broader knowledge resources, creating an environment for social learning and social accountability, allowing for more adaptive and innovative environmental management (Armitage 2005; Diduck & Mitchell 2003; Doelle & Sinclair 2006; Fitzpatrick & Sinclair 2003; Gibbons 2001; Kates et al. 2001; Kwasniak 2010; Leys & Vanclay 2010; Nobel 2000; Pahl-Wostl 2009; Innes 1998; Saarikoski et al. 2013; Sinclair & Diduck 2001; Webler et al. 1995). Research in this area is encouraging and seems to invite further inquiry of specific concepts of comprehensive engagement within current contexts of EA.

1.2 A Focus on Collaboration

This research attempts to focus specifically on collaboration between stakeholders, or *collaborative planning* in EA in part because of the relatively limited boundaries within which it can be conceptualized. Ample research has been conducted on *participation* in EA, which often involve a much broader scope of examination (Booth & Skelton 2011; Stewart & Sinclair 2007). Limiting the scope of this research to one area of focus, i.e. collaborative planning, offers an opportunity for more in-depth analysis and discussion of this strategy for comprehensive EA practice. Although the concept of collaboration can arguably be more narrowly defined than participation, it remains a notion that has been described using multiple interpretations and terms (Murray 2005). Collaborative planning approaches have been branded as consensus building, coordination, co-management, communicative planning, and other terms (Murray 2005). A general description of collaborative planning is a useful starting point: Collaborative planning encompasses the “pooling of resources by two or more stakeholders to solve a set of problems which neither can solve individually” (Gray 1985, p.912). A central aim of collaborative planning is to enable more comprehensive decision-making processes and outcomes by exploring collaborative forms of stakeholder engagement (Brand & Gaffikin 2007; Healey 1997). This study responds not only to the challenge of achieving comprehensive stakeholder engagement in EA practice, but also to invitations for further research focus on collaborative approaches in EA within the context of western Canada (Innes & Booher 2004; Stewart & Sinclair 2007). This research can be recognized in part as building from within this field of collaborative planning for EA.

The following study considers stakeholder engagement in the ongoing EA for the proposed *Northern Gateway* pipeline project in western Canada. The project application proposes to build a twin pipeline system and related facilities to transport oil and condensate between Alberta and the coast of British Columbia (BC) (Enbridge Northern Gateway project application 2010). The Northern Gateway case is used largely because of the diversity of actors and interests involved and the various economic, social, environmental, and political concerns that characterize it (cf. Abacus data poll 2012; Forum Research 2012; Angus Reid 2012; Hughes 2011; Gutzman 2012; Lee 2012; Service et al. 2012). The project proposal has generated considerable tension and polarization among the different actors inside and outside of the EA and offers a pressing opportunity to explore more comprehensive strategies by studying the views of EA participants (specifically, EA intervenors) and key researchers with knowledge and experience in EA and the field of collaborative planning (cf. Abacus data poll 2012; Forum Research 2012; Angus Reid 2012; Respondent interviews, 2013).

1.2.1 Collaborative Planning for EA?

Comprehensive decision-making strategies such as collaborative planning are largely rooted in Jürgen Habermas' fundamental philosophy of *communicative rationality*, which involves a rational approach to decision-making that emphasizes social interaction and integrity of participants (Bohman & Rehg 2011; Dallmayr 1988; Innes 1998; Healey 1997; Healey 2003). The link between Habermas and collaborative planning is useful to introduce before presenting the main aim and questions of this research. Considerable research exists within this field but the value of fundamental ideas about communication and rationality in supporting comprehensive engagement in contemporary EA contexts remain relatively elusive (Palerm 2000, Murray 2005). In addition, it is critical to consider the points of convergence in opinions that exist not only among different EA participants, but also among EA researchers and practitioners to obtain a better perspective of what is required for comprehensive EA practice (Sinclair & Stewart 2007). Can modern interpretations of fundamental ideas on communication and rationality offer insight into more comprehensive forms of stakeholder engagement in EA? Furthermore, is collaborative planning a suitable approach among EA participants and researchers to address the deficiencies of engagement in a western Canadian context? These questions support the basis for this research.

1.3 Research Aim and Questions

1.3.1 Research Aim

The purpose of this thesis is to contribute to a more comprehensive EA process in Canada by identifying opportunities that foster stakeholder collaboration in the ongoing EA for the Enbridge Northern Gateway project in western Canada. The study uses ideas from collaborative planning to explore common ground between EA intervenors and key researchers about collaboration within the process. In addition, EA participant views are discussed using a modern interpretation of Habermas' notion of communicative rationality in order to further explore opportunities for comprehensive decision-making in a Canadian context.

1.3.2 Research Questions

In order to identify opportunities that could foster stakeholder collaboration with respect to this particular case, the following research questions are explored:

- 1.) *What common ground can be identified between the views of the EA intervenors and those of academia about collaboration in the EA?*
- 2.) *What is the relationship between the intervenors' views about collaboration in the EA and the principles of communicative rationality and what insights can it provide about opportunities for stakeholder collaboration in the assessment process?*

1.4 Overview of Thesis

The following section, section two, provides the background to EA in Canada and a description of the pipeline project that is considered in this research. Section three describes the main theoretical perspectives of the research, including insights from collaborative planning and sustainability science literature in this context. Section four provides the details of the methods used in collecting and analyzing the research data, including justifications for their use as well as broader considerations for the quality of the research. The main results of the research are presented in the fifth section of the study using representative quotations from the respondents and insights from collaborative planning to illustrate key themes. The sixth section provides broader reflections on the relationship of the research findings to the literature on EA and collaborative planning, as well as connections to sustainability science and decision-making in a Canadian context. Areas for further research are identified, as well as recommendations for a more comprehensive EA process. The conclusion summarizes the main contributions of the research.

2. Background

This section provides an overview of EA practice in a contemporary Canadian context, including existing forms of participation in the process and recent legislative changes relevant to this research. A description of the proposed pipeline project is also offered as well as the concerns that surround it.

2.1 EA Overview

2.1.1 EA and The Joint Review Process

Although there are multiple definitions and objectives of EA, a general description is a useful reference point: EA is a planning and decision-making tool used to identify and minimize adverse environmental effects associated with development projects (Canadian Environmental Assessment Agency 2013). In January 2010 an EA was initiated in response to various social and environmental concerns over the Northern Gateway project that uses a quasi-legal joint review panel to assess the project application under the *Canadian Environmental Assessment (CEA) Act* and the *National Energy Board (NEB) Act* (Canadian Environmental Assessment Agency 2012a). The joint review panel consists of three individuals appointed by the Minister of Environment that receive and consider information submitted by the project proponent and other participants in the process (Ibid.). The panel produces a report including recommendations for the approval or non-approval of the project, as well as potential terms and conditions for the project if approved (Ibid.) The panel report must be completed and submitted to the federal Minister of Natural Resources within 543 days from the recently implemented CEA Act, 2012 (Canadian Environmental Assessment Agency 2012b). The Governor in Council, acting on the advice of the federal cabinet, will make the final decision on the EA once the panel report has been submitted, and will decide if the regulatory agency (specifically, the National Energy Board) should issue a certificate of *Public Convenience and Necessity* required to build the project (Canadian Environmental Assessment Agency 2012a). The Joint Review Process (JRP) is another name for the EA and offers multiple opportunities to participate in the assessment.

2.1.2 Participation in EA

Participation in the ongoing EA process is a formal undertaking. There are four forms in which to participate:

- 1.) Filing a letter of comment

- 2.) Providing an oral statement
- 3.) Intervenor status
- 4.) Government participant status

The first three options concern participation for the public and Aboriginal groups. A letter of comment consists of a “written statement of the writer’s views on the project and any relevant information that will explain or supports their comments” (Canadian Environmental Assessment Agency 2012b, p.14). An oral statement is similar to a letter of comment, but allows for the participant to submit a 10-minute statement orally in a community hearing (Ibid.). Registering as an Intervenor allows a participant to, “file written evidence, ask questions regarding the evidence of others, be questioned on their evidence, participate in cross-examination and make a final argument at the oral hearings” (Ibid. p.14). In addition to the public and Aboriginal groups, government bodies with environmental assessment or regulatory responsibilities can also obtain participant status if they choose (Ibid.). Parties may not question government participants without prior approval from the panel, and government participants require similar panel permission to question the other parties (Canadian Environmental Assessment Agency 2011). Active involvement at the hearings is limited to registered participants (Ibid.).

2.1.3 A Canadian Context

It is useful to consider the focus of the study within the context of Canadian environmental policy in recent years to provide more perspective for research on EA. In addition to repealing the *Kyoto Protocol Implementation Act*, which would require Canada to participate in the international agreement on addressing climate change, in 2012 the federal government made multiple controversial amendments to several pieces of environmental legislation that modify the *Species At Risk Act*, the *Fisheries Act*, the *Canadian Environmental Protection Act*, and other environmental policies (Jobs, Growth and Long-term Prosperity Act 2012; Jobs and Growth Act 2012). The recent federal bills also involve changes to EA legislation that are important to consider when exploring stakeholder collaboration in this context (Ibid.). Changes to the NEB Act and the CEA Act now allow the federal cabinet to reverse a decision made by the joint review panel in the EA process, and also restrict the EA process to a 2-year timeframe (Ibid.). In addition, the NEB can now make decisions on who is allowed to make representations to the board in the hearings (Ibid.). The new legislation also exempts pipelines from the provisions from the *Navigable Waters Protections Act* (Jobs, Growth and

Long-term Prosperity Act 2012). These changes color the current context of Canada with regard to resource development and environmental matters and provide perspective for this study.

2.2 Pipelines and Public Concerns

2.2.1 Northern Gateway Project

The application for the Northern Gateway project was formally submitted in May 2010 (Enbridge Northern Gateway project application 2010). The developers propose to build a \$5.54 billion twin pipeline system from Bruderheim, Alberta to Kitimat, on the BC coast (See Appendix F.1 for the proposed pipeline route). This project would extend approximately 1,172 km and include an oil export pipeline (transporting 525,000 barrels per day), and a condensate import pipeline (transporting 193,000 barrels per day) (Ibid.). The developers also propose to build a tank terminal, marine terminal, and associated facilities near the town of Kitimat, BC (Ibid.). Between 190 and 250 oil and condensate tankers are estimated to transport energy resources to and from Kitimat every year (Ibid.) (See Appendix F.2 for the proposed tanker route). The main purpose of the project is to diversify markets for Canadian crude oil by gaining access to international markets in Asia and the west coast of the United States, and to provide a channel for importing condensate (Enbridge Northern Gateway project application 2010). The developers point to substantial economic benefits for the Canadian oil industry with expected increases in Canadian oil prices, as well as substantial increases to Canadian Gross Domestic Product (GDP) and employment person-years (Ibid.). In addition, plans have been indicated to develop an equity investment option for Aboriginal groups to economically benefit from the project, and other social development and environmental initiatives have been proposed (Ibid.). Despite these proposals, the project has not been received without concerns.

2.2.2 Multiple Actors and Concerns

Multiple concerns have been raised in Canada since the project application in 2010. Individuals and organizations in government, industry, and civil society have expressed their concerns and reactions to the project as illustrated by regular media updates (cf. Moore & Campbell, 2013). Media coverage and public research has illustrated that public opinion on the Northern Gateway pipeline in BC and

Alberta has been strongly divided, with many studies reporting widely varying levels of support and opposition to the project (cf. Abacus data poll 2012; Forum Research 2012; Angus Reid 2012). Several concerns have been raised that consider the social, economic, and environmental impacts of the project (Hughes 2011; Gutzman 2012; Lee 2012; Service et al. 2012). Opponents argue that the project is not in line with the public interest, would not provide long-term energy security, and that the economic benefits are based on unrealistic projections of oil sands production growth and oil price increases (Hughes 2011; Lee 2012). Considerable concerns are also being raised about pipeline ruptures and the risk for the contamination of protected areas downstream of the project (Service et al. 2012). Furthermore, risks for oil spills from hazardous marine tanker routing (See Appendix F.2) and their potential economic impacts to BC's tourism and fishing sectors, as well as impacts on ecologically sensitive coastal ecosystems and communities have been identified as central issues (Gutzman 2012; Respondent interviews 2013). Additional concerns emphasize large tracts of unseeded aboriginal territory in BC that would be bisected by the project, climatic impacts of expanded oil sands development, conflicting views between the Alberta and BC provincial governments over pipeline royalties and conditions, and recent legislative changes that support accelerated oil sands development (Respondent interviews 2013). These and other concerns have in part inspired the *Idle No More* protest movement by Canadian Aboriginal groups and generally illustrate the diversity of opinions on the project that exist across multiple sectors of society (Nelson 2013). The fragmented interests with regard to the project represent the need for a comprehensive EA process that sufficiently considers the broad concerns of all stakeholders involved. As mentioned, comprehensive stakeholder engagement has been a challenge in existing EA practice, which creates room for exploring alternative strategies for decision-making such as collaborative planning.

3. Theory

This section provides a description of the main ideas that have informed this research. The epistemological and ontological perspectives are presented, as well as relevant insights from literature on collaborative planning, sustainability science, and Canadian EA. Finally, two particular perspectives from collaborative planning are described that are used to discuss the specific research questions in subsequent sections.

3.1 Epistemological and Ontological Considerations

The research adopts the epistemology of modern critical theory. The approach of this study, and of critical theory, adopts a primary interest in social change (Bryman 2008). The research is largely informed by a modern interpretation of critical theory on rationality and communication, as well as collaborative planning for decision-making (Armitage 2005; Bohman & Rehg 2011; Dallmayr 1988; Innes 1998). Collaborative planning has been described as offering a postmodernist critique of scientific rationalism, emphasizing its foundation in critical theory (Healey 1992). In addition, by examining the interpretation of the respondent experiences to gain insight on understanding the social world, the research strategy also employs an interpretivist perspective (Bryman 2008). The ontology of functionalism is also adopted as the research in part explores the function of features within EA as a social institution (Bryman 2008). Reflections of these theoretical perspectives are also evident in the contemporary ideas that inform this research that are described below.

3.2 Collaborative Planning: Origins, Connections, and Critique

3.2.1 Collaborative Planning: Origins and Purpose

While this study acknowledges fundamental theory that has informed this field of research, its intended focus is on the contemporary interpretation of ideas about rationality and collaboration that pertain particularly to the context of EA, as characterized by collaborative planning. Nonetheless, it is still useful to understand the origins of ideas within the field to put the research approach in perspective and to appreciate its value for this study. Collaborative planning can be considered a contemporary application of Habermas' notion of inter-subjective reasoning among a diverse set of actors that seeks to provide comprehensive forms of decision-making (Healey 1992). Habermas describes several circumstances under which this inter-subjective reasoning or *communicative rationality* can generate legitimate and justifiable outcomes and can allow for divided parties to move towards reaching mutual understanding (Bohman & Rehg 2011; Dallmayr 1988). Habermas does not offer these conditions, or this *ideal speech scenario* as a strict set of guidelines for success, but rather to provide "critical questions with which to evaluate instances of governance interaction" (Healey 2003, p.110). A critical evaluation of governance processes is a useful perspective when analyzing processes of decision-making such as EA. This fundamental perspective is also reflected in the modern approach of collaborative planning as a central focus of the research has

been described as “building capacities that may change a wider governance culture” (Ibid. p.110). In addition, the need for collaborative planning has been proposed in order to develop a “critical evaluative framework for assessing the interactive qualities of processes” (Ibid. p.106).

Collaborative planning is a flexible and multi-purposed approach to social interaction and decision-making (Healey 2003). It reflects its theoretical roots in acknowledging that, “governance processes are not recipes. They are unique constructions in specific situations” (Ibid. p.110). Collaborative planning approaches therefore do not attempt to prescribe a specific set of guidelines for a particular process or particular context. The approach acknowledges that governance processes are dynamic, and thus, “explores the conditions under which particular forms of collaborative processes may have the potential to be transformative to change the practices, cultures and outcomes, and in particular, to explore how [...] such processes could be made more socially just and [...] more socially inclusive” (Ibid. p.108). Collaborative planning has also referred to, “practices of governance which rely on dialogue and interaction between governmental bodies, non-governmental organizations, and private interests to find mutually acceptable solutions” (Saarikoski 2013, p.272). The purpose of the approach has been stated to “broaden the knowledge base of decision-making” (Brand & Gaffikin 2007, p.290), and to “realize the democratic potential of planning” in contemporary society (Healey 1992, p.143). It has emerged out of the broader theory of *communicative* planning (Healey 2003), which similarly emphasizes the importance of communication between parties, and has partly emerged “in opposition to an information-oriented process, which sometimes is understood as ‘one-way communication’” (Persson 2006, p.607). Collaborative planning is therefore an appropriate perspective to employ in this study given the deficiencies in communication and engagement in contemporary EA practice (Sinclair & Diduck 2005; Stewart & Sinclair 2007; Booth & Skelton 2011). Although the purpose of collaborative planning has been interpreted in multiple forms, it offers a flexible and exploratory approach when examining governance processes that pursues more inclusive and comprehensive governance procedures. The approach of this study is in part inspired by these ideas and considers insights from this field when analyzing the data in the EA context.

3.2.2 Collaborative Planning and Sustainability Science

Insights from the emerging field of sustainability science also inform this research and reflect many elements within the literature on collaborative planning. The value of comprehensive stakeholder engagement for decision-making that informs this study reflects key elements of sustainability

science research and sustainable development (cf. Gibbons 2001; Kates et al. 2001; Pahl-Wostl 2009; Lang et al. 2012). This study reflects that of sustainability science as it considers a broad range of actors and disciplines to allow for socially robust and socially accountable research (See Section 4; Gibbons 2001; Kates et al. 2001). Similarly, *mode 2* research, or the production of knowledge that seeks beyond the limits of academia are reflected in the ideas of collaborative planning as non-academic actors are encouraged to take larger roles in decision-making to improve the information, quality, and outcomes of the assessment (Brand & Gaffikin 2007; Forester 1999; Gibbons 2001). In addition, the advantages of adaptive governance and social learning in environmental management also motivate this research and are reflected in both collaborative planning and sustainability science. (Kwasniak 2010; Nobel 2000; Pahl-Wostl 2009; Sinclair et al. 2008; Sinclair & Diduck 2001). The benefits for participants and decision-making outcomes associated with increased opportunities for innovation and learning as illustrated in the literature on collaborative planning also motivate the quest for comprehensive EA strategies in this research (Armitage 2005; Forester 1999; Pahl-Wostl 2009; Sinclair et al 2008; Sinclair & Diduck 2001).

Critical social theory is reflected in the approach of this study and that of both collaborative planning and sustainability science. The ideas that inform collaborative planning that emphasize dialogue, interaction, and legitimate outcomes as well as the broader notion of change in governance processes and culture reflect Habermas and critical theory (Healey 2003). Similar features of critical social theory are also central within the field of sustainability science as social interaction, innovation, and new forms of governance are fundamental when considering the interactions between nature and society (Avelino & Rotmans 2003; Clark & Dickson 2003; Rotmans 2005). The ideas generated from this study seek to contribute both to the literature on collaborative planning for EA and the broader field of sustainability science.

3.2.3 Collaborative Planning: Critical Perspectives

An evaluation of the ideas within collaborative planning is useful to maintain a critical perspective of its use within this research. The function of collaborative governance processes in general has been questioned when examined within the context of a largely *un-collaborative* world (Brand & Gaffikin 2007). The notions of inclusivity, solidarity, and quest for consensus that collaborative planning encourages have been criticized as being unrealistic and incompatible with an increasingly individualistic, competitive and socially fragmented world (Ibid.). Also, collaborative planning has

been illustrated as intending to defuse conflict within a deliberative process and inhibit dissenting voices (Ibid.). It seems, however, that collaborative planning has emerged in *response* to an increasingly complex and divided world, and in fact attempts to address the diversity of concerns by engaging with a broad spectrum of interests (Healey 2003). In addition, collaborative forms of decision-making have been described as *encouraging* expressions of dissent for the purpose of examining their *rationality*, or validity, in order to move a process forward (Ibid.). Collaborative planning is also not designed to promote a rigid set of guidelines for a particular process, nor does it assume ultimate consensus will be achieved amongst divided participants; however, among other ambitions, it does seek to incorporate a larger base of knowledge from which to discuss and clarify contentious issues and uncover areas for convergence in divisive contexts (Forester 1999; Healey 2003). In the perspective of collaborative planning, any “consensus” that is reached must also be subject to “critical scrutiny” (Healey 2003, p.114).

There are also critiques that question the more fundamental aspects of collaborative planning including its theoretical underpinnings. Some researchers have pointed out potential dangers of excessively focusing on processes and building consensus rather than the substance and outcomes of the practice (Lawrence 2000). However, research from within the field of collaborative planning for EA emphasizes the importance of focusing on outcomes (Doelle & Sinclair 2006), and it has also been suggested that, “substance and process are co-constituted, not separate spheres,” and that focusing on comprehensive *processes* of engagement is likely to result in comprehensive outcomes (Healey 2003, p.111). The concern has also been raised that collaborative planning, specifically Habermas’ notion of an ideal speech scenario, gives inadequate attention to existing power relations between participants that greatly influence the dynamics of the interaction (Palerm 2000; Murray 2005; Healey 2003). However, collaborative planning can be seen not as ignoring existing power relations between process participants, but rather as providing a useful framework with which to evaluate and challenge such inequalities (Healey 2003). Although other criticisms exist, these responses to the critique of collaborative planning seem to largely justify its ability to provide for more comprehensive forms of decision-making, and therefore its use in this research.

3.3 Two Perspectives for Analyzing EA

3.3.1 A Collaborative Framework for EA

Two theoretical perspectives have emerged from the literature on collaborative planning and are employed in analyzing the data collected for this research in order to put the results into perspective and deepen their discussion. The two perspectives correspond to the two research questions stated in the above section. The first perspective is used to discuss the views about collaboration from EA intervenors and academia (i.e. Research question 1) and utilizes a useful framework contained within the literature on collaborative planning in Canadian EA offered by Derek R. Armitage (2005). This framework identifies five *preconditions* for collaboration and learning in EA and suggests key features of how to move beyond conventional EA practice into an assessment process that fosters collaboration and learning (Armitage 2005). Similar research has been conducted in this field that has created criteria with which to discern practices that facilitate collaboration and learning in EA, although the framework offered by Armitage is particularly appropriate for the Canadian decision-making context for resource management in a similar region (Sinclair & Diduck 2001; Nobel 2000; Fitzpatrick et al. 2008). This framework also parallels the aims of this thesis and is therefore a useful base with which to relate my findings back to the field of research in the discussion section of this study (Section 6).

The five dimensions of collaborative EA are based on an examination of features that have encouraged more collaborative forms of EA practice in the Mackenzie Valley in northern Canada (Armitage 2005). The five categories are listed in the following table:

Table 1: Categories for Collaboration in EA (Summarized from Armitage 2005)

Categories for EA Collaboration
(1) New Institutions and Organizations
(2) Communication Strategies
(3) Collaborative Visioning
(4) Integrating Knowledge Frameworks
(5) Building Adaptive Capacity

The five listed dimensions do not propose to be an exhaustive list of the preconditions for collaborative EA in Canada, but rather serve as a baseline for further research in this direction. With

regard to their use in this study, they are used to discuss the results and to explore connections within the context of emerging research in this field. A description of the five categories is provided in relation to the research findings to offer reflections in the discussion section (See Section 6).

3.3.2 Communicative Rationality and EA

The second perspective employs a modern interpretation of Habermas' principles of communicative rationality to explore how they relate to the views of EA intervenors in order to seek insight into opportunities for a more comprehensive EA practice (i.e. Research question 2). Although there are multiple interpretations of Habermas' ideas concerning communication in decision-making that exist in the literature (Palerm 2000), it is helpful to set appropriate boundaries concerning the practical implications of the theory in order to focus the research in this context. A useful summary of the main principles to evaluate the communicative rationality of a process of deliberation has been made from Judith E. Innes, a instrumental contributor to the literature on collaborative planning (1998). Innes suggests the importance of having appropriate rules in place "to ensure that the products of these discussions are acceptable and socially worthwhile, as well as properly informed" (1998, p.9). The main principles emphasize stakeholder interaction that is geared towards consensus, involves the equal representation and capacity of participants, and encourages genuine and open debate, or rationality, to justify all claims submitted by participants. According to Innes, the communicative rationality of a process entails that all stakeholders be fully *represented, informed, holding equal power and capacity* to represent their interests in the discussion (1998). In addition, debating allows for any argument to be tested for validity in four ways: (1) Speakers must speak *sincerely* and honestly, (2) must be *legitimate* contributors (with credentials), (3) must employ *comprehensible* speech (no jargon, or overly technical language), and (4) the speech must be factually accurate, or *verifiable* (See Table 2) (Innes 1998).

The interpretation of the main ideas of communicative rationality illustrated below is intentionally concise to consider them within the contemporary lens of collaborative planning for EA. These principles do not intend to be an exhaustive list of Habermas' theory of communicative rationality, but are used in this research as a summary of the main components of the ideas as interpreted in a contemporary decision-making context. The research intends to explore these ideas in a practical light rather than for purely theoretical aims. This perspective serves as a useful reference point from which to examine the relationship between the perceptions of the intervenors and the ideas of

communicative rationality to offer insight into more comprehensive EA strategies. A summary of the principles of communicative rationality interpreted from Innes is illustrated in the table below (1998).

Table 2: Principles of Communicative Rationality (CR) (Interpreted from Innes 1998)

CR Principle	Explanation
Consensus-Seeking	Group should seek consensus
Stakeholder Equality	Full and equal representation and information, equal power and capacity to participate
Rationality/ Genuine Debate	Open debate (Importance of good reasoning) All claims can be questioned on the following: 1.) Sincerity/Honesty 2.) Legitimacy of Speaker 3.) Comprehensibility 4.) Truthfulness

Although these are ideal conditions and will perhaps never fully be achieved, collaborative processes should still pursue them because they “help ensure that decisions take into account important knowledge and perspectives, that they are in some sense socially just, and that they do not simply co-opt those in weaker positions” (Innes 1998, p.10). In other words, they aim to uphold the quality of deliberation.

3.3.3 Collaboration and Rationality: Complimentary Perspectives

The two perspectives used for this research can be found within the literature on collaborative planning and can compliment each other for the purpose of this study. The principles summarized by Innes allow the research to seek insights from fundamental ideas on rationality and communication in decision-making, while the preconditions for collaborative EA allow for reflections on contemporary research within a similar context. Both provide a platform for which to analyze and discuss the results of this research, and are used together to broaden reflections for comprehensive EA processes. These insights inform the research design and methodology outlined in the following section.

4. Methodology

4.1 Research Strategy and Process

The research uses multiple interviews, structured observations, and a literature and document review. The research is primarily inductive as it endeavors to draw theoretical inferences and insights out of the observations and findings of the study (Bryman 2008). However, the study also reflects elements of deductive research as it considers the value of ideas from communicative rationality in a contemporary context (Bryman 2008). The methodology follows six general steps for qualitative research adapted from Alan Bryman, and also serves as a structure for this section (2008):

1. Generate research questions
2. Selection of relevant subjects
3. Collection of relevant data
4. Interpretation of data
5. Conceptual and theoretical work
6. Writing up findings and conclusions

4.1.1 Generate Research Questions

Initial observations of the contentious Northern Gateway project proposal from media coverage were combined with informal discussions about participation in the EA with informants working in the field. To further understand the research area, a literature review was conducted that considered a broad selection of academic research on EA participation, collaborative planning, rationality, and sustainability science (Bryman 2008). Multiple documents and legislation were also examined including: The CEA Act 2012, NEB Act, ongoing JRP hearing transcripts, JRP Terms of Reference, Hearing Order, and List of Issues. The literature and document reviews provided multiple perspectives of the practice of EA in Canada, details regarding the Northern Gateway project, and exposed deficiencies in stakeholder engagement (Sections 1, 2 & 3). This provided the basis of the research approach including the main aim and research questions as well as the theoretical perspectives described in the previous section. The two research questions that are presented in Section 1 were developed with the following ideas in mind:

Rationale 1.) Exploring common ground between the EA intervenors and key academics about collaboration in this context may reveal opportunities for collaboration in the assessment process.

Rationale 2.) Exploring connections between the EA intervenors views about collaboration in the process and the principles of communicative rationality may offer insight into the value of this theory in inspiring strategies for more comprehensive forms of decision-making in this context.

The rationale for the research questions provided two related ideas on which to reflect throughout the research process. After developing an understanding of the case and context as well as specific research questions informed by relevant literature, the next step was to select relevant subjects.

4.1.2 Selection of Relevant Subjects

The research considers data collected from two respondent groups: *Intervenors* registered in the EA and *Academia*. Twelve respondents were selected in total, nine from the intervenor group and three from academia. The intervenor respondents are of primary focus for the research as they include the largest and most diverse compilation of society involved in the EA process including representatives from government, NGOs, industry, aboriginal groups, community organizations, individual citizens, and other actors directly engaged in the EA process.

All respondents were selected using purposive sampling, and were chosen based on their relevance to the research questions that were posed (Bryman 2008). Many of the intervenor respondents requested to remain anonymous due to the sensitive and ongoing nature of the EA in this context. Rather than include any titles or names, all of the intervenors are referred in this study as representatives from government, industry, or civil society. Effort was made to consider a broad selection of intervenor respondents. The intervenors interviewed included two representatives from government, two representatives from industry, and five representatives from civil society. There are more respondents from civil society because the research aims to represent multiple groups of civil society representatives. However, for confidentiality, the different groups within civil society are not identified and therefore the research considers their contributions using one sub-group. The views

collected from three intervenor groups in this research do not intend to be a complete representation of the perspectives of each group within the EA because of limitations in the amount of interviews conducted as well as inconsistencies within each group. The research therefore focuses on highlighting the main themes that emerge from the respondent groups rather than independent views, although independent views are still acknowledged and discussed in Appendix D.

Respondents from academia were also considered because their viewpoints represent contemporary research on EA, collaborative planning, and participation and provide an important perspective with which to compare the views from the intervenors about collaboration in EA practice. Part of the focus of the study is to explore areas of convergence that may exist among the EA participants and the researchers that have relevant knowledge and experience in these subjects. The respondents from Academia were selected for interviews based on their experience and knowledge within the fields of Canadian EA research, resource dispute resolution and collaborative planning, as well as aboriginal matters and public education on the Northern Gateway project. In choosing the academic respondents, effort was made to represent contemporary perspectives on collaborative planning and participation within the context of Canadian EA, as well as to incorporate First Nations perspectives into the research. The intervenor and academic respondents are listed in tables in Appendix A.1.

4.1.3 Collection of Relevant Data

The next step involved collecting the data from the selected subjects. Structured observations were initially made at a community hearing conducted by the joint review panel in Vancouver to observe the nature of the process, although the data used for the analysis primarily involved multiple respondent interviews (Bryman 2008). The research considers twelve interviews from respondents that reside in several locations in central and northern British Columbia, in addition to Ontario and Alberta. BC respondents were of focus because of their heavy involvement in the JRP and their diversity of interests. The interviews were conducted between January and March 2013 and lasted approximately 30-60 minutes. Nine interviews were conducted from the intervenor group and three interviews from academia. The interviews were semi-structured in order to provide particular areas of focus, but also to allow for a degree of flexibility in responses and to allow for particular interests and experiences (Bryman 2008). The interviews were conducted by telephone or in person, were audio-recorded and transcribed verbatim. An interview guide (Appendix C) was used that was developed based on the study's two research questions. The respondents were initially briefed with the broad purpose of the research (generally, to look for opportunities to improve the EA process).

The interviews began with an open structure to allow room for the respondents to provide their views with limited influence by the interviewer (Bryman 2008). Respondents were first asked to describe their experience participating in the ongoing EA. They were then asked to describe important areas of focus for a comprehensive process. The interviews then attempted to focus the respondent's attention on the interaction between the stakeholders within the EA, their thoughts on more collaborative involvement in the EA. The respondents validated the interviews in order to confirm that the researcher's findings paralleled the views of the respondents (Bryman 2008). Transcripts of each interview including initial notes were provided to all of the respondents, and any changes that were suggested were incorporated into updated versions of the transcripts, which were used in the analysis.

4.1.4 Interpretation of Data

After collecting and validating the data from the interviews, the next step in the process was to interpret the data. This step involved coding the interviews and the initial data analysis (Bryman 2008). The content within each interview transcript was categorized into themes, and coding was used to identify relevant keywords and concepts out of direct quotations (Bryman 2008). The quotations were also read *between the lines* to interpret their meaning, which was then noted and included in the transcripts provided for the respondents to validate (Bryman 2008). Codes were developed as keywords or short phrases in an effort to capture the essence of what was said. An example of a code developed from a quotation is provided in Appendix A.2.

The codes collected from each individual respondent were initially organized into a series of tables for each respondent. A thematic analysis was then conducted to identify the central themes within each respondent group (e.g. Government), and to further organize the data for analysis (Bryman 2008). Central themes were identified if multiple respondents within one group (e.g. Government) made reference to similar ideas. Summaries of the main themes from both respondent groups (specifically, intervenors and academia) were then categorized into a final set of tables. An illustration of the process of identifying central themes for a respondent group (e.g. Government) is provided in Appendix A.3.

A thematic comparison was then conducted in order to identify common ground about collaboration in the EA process between the views from intervenors and academia (i.e. Research question 1) (Bryman 2008). The central themes of each respondent group (intervenors and academia) were compared, similar themes were colour-coded, and a table summarizing the common ground was developed (See Section 5). Independent perspectives that were offered by the respondents were also noted, in addition to identifying the central themes and common ground within the respondent groups. This was done so as to not omit any individual respondent view.

4.1.5 Conceptual and Theoretical Work

Insights from relevant theory were considered throughout the research process, although particular connections to the respondent data were examined in this step of the research process. Common ground about collaboration in the EA that was identified between the views from intervenors and academia was compared to a framework that categorizes the preconditions for collaborative EA (Armitage 2005). This was done in order to relate the findings to the field of collaborative planning and explore the connections between them. The framework was applied after the results for the first research question had been identified so as not to influence the categories of data that emerged and to leave room for original findings. The framework used is examined in detail in the discussion section of this study (Section 6). In addition, the views of the intervenors were compared to the main principles of communicative rationality in order to explore connections that may provide opportunities for collaboration, and ultimately a more comprehensive EA in this context. A contemporary interpretation of the main principles of communicative rationality is used to compare to the respondent data in order to examine the relationship in a modern context (Innes 1998).

4.1.6 Writing up Findings and Conclusions

The final step was to present the main findings and contributions of the research. The results are presented in the order of the two research questions. First, common ground identified between intervenors and academia on collaboration in the EA is presented. Second, the connections between the intervenor's views about collaboration and the principles of communicative rationality through a collaborative planning perspective are presented. Connections were identified based on similarities between the central themes of the intervenor's views and each element of the three principles of

communicative rationality as interpreted by the researcher: Consensus-seeking, stakeholder equality, and debate (Innes 1998).

The connections between the common ground identified by this study and the main concepts of the framework on collaborative EA offered by Armitage are explored in the discussion section (2005). This section also considers the findings within the current Canadian context and includes connections to the broader fields of collaborative planning and sustainability science. Finally, reflections are made on the research process as well as a summary of the main research contributions in the conclusion. An illustration of the general research process is provided in Appendix A.4.

4.2 Reliability, Validity, and Ethical Considerations

Reliability, validity, and ethical considerations were made throughout the process to support the quality of the findings (Bryman 2008). Triangulation was used through the consideration of multiple sources of data to add to the reliability and validity of the study (Bryman 2008). The intervenor respondent data was related to the academic respondent data, and both were related to insights from literature on rationality and collaborative planning. EA legislation, structured observation at the JRP community hearings, and ongoing hearing transcripts were also considered throughout the research process and are incorporated into the findings. External and internal reliability, as well as external and internal validity were also considered (LeCompte & Goetz 1982). Although an exact replication of the research cannot be guaranteed, the research approach and methodology have been described in detail order to support external reliability. The internal reliability of the study was considered through effort to validate the interview transcripts with the respondents and incorporate any changes made. Effort to uphold the internal validity of the study was made by relating the respondent data to the theoretical concepts within the literature considered and examining the connections between them in the findings and discussion. Finally external validity, or the generalizability of the research findings was also considered, however, the qualitative nature of the research as well as the boundaries of the thesis project including time constraints and amount of respondents considered limit the extent to which the findings can be declared as completely generalizable across social settings (Bryman 2008).

Effort was also made to maintain an ethical approach to this research. A document of informed consent and confidentiality was developed and offered to each respondent that outlined the information about the researcher, the purpose of the research, the conditions of participation in the research, how the findings would be used, and a statement of confidentiality for the intervenors (Bryman 2008). All respondents were consulted to determine how best to identify their viewpoints in the research and are consistent throughout the study. As mentioned, purposive sampling was used to select respondents with direct reference to the research questions considered, and interview transcripts were shared with each of the respondents (Bryman 2008).

5. Results and Analysis

The key themes that have emerged from the interviews about collaboration in EA and their relationship to insights from collaborative planning are presented in the following two sections.

5.1 Common Ground for Collaboration

The first main finding of this research is that considerable common ground exists between the views of intervenors and academia that suggests room for more collaborative strategies in the EA. Approaches that emphasize (1) *Process Structure and Design*, (2) *Stakeholder cooperation*, (3) *Timing*, (4) *Agenda*, (5) *Objectivity and Legitimacy*, (6) *Transparency and Trust*, and (7) *Stakeholder Equality* in the assessment process have been identified through the analysis as key themes of focus to develop more collaborative processes in this context.

5.1.1 Process Structure and Design

“You move from a very conflicted environment to one where parties were simply allowed to work together in a collaborative environment instead of an adversarial one, and they were able to come to a resolution that everyone found acceptable. So that is the kind of direction that this process should go, or be structured.”

- (Academia-3)

Respondents from academia and each category of intervenors considered the quasi-legal structure of the JRP to be generally adversarial and illustrated that the rigid and complex format limited engagement in the process. Respondents from academia indicated that the current adversarial

structure creates conflict as stakeholders argue for or against the project rather than discussing each stakeholder's objectives, contentious issues, and how to look towards mutually acceptable resolutions. Government respondents suggested that the legalistic nature of the process seems to demarcate the discussion and limits the extent of input that participants can have. Respondents from industry and civil society also illustrated that the complicated and formal structure of the JRP greatly limits the participation and influence of the participants. Respondents from all sectors suggested that a more collaborative process would require that all stakeholders take part in the design of the process, including its overall structure, agenda topics, and timeframe. Multiple respondents suggested that taking part in designing the features of the process would allow for "buy-in" to the process and therefore strengthen the stakeholder's confidence in participating.

5.1.2 Stakeholder Cooperation

"The question is would they be able to reach agreement on those issues? There are very different stakeholders with very different perspectives, and these issues will take a very long time to resolve. These issues have been around for decades."

- (Academia-1)

Multiple respondents illustrated that a more collaborative process would involve comprehensive cooperation among the participants. Dedicated effort, respect, patience, and creativity are among the themes that were highlighted as priorities for a more cooperative process that considers the diverse interests.

5.1.3 Process Timing

"In designing the process you would want to sit down with the stakeholders in advance in designing new laws and processes that are going to be applied to Canadians."

- (Government-1)

The notion of having multi-stakeholder meetings in advance of the JRP was also identified as a priority for a more collaborative approach. Respondents from academia, government, and civil society highlighted the importance of having discussions early on in order to make initial progress on fundamental issues. Academic respondents pointed out that a process that rushes to make a decision

on a project without affording sufficient consideration of the underlying issues could result in overlooking optimal outcomes.

5.1.4 Process Agenda

“We need a truly independent panel to make an assessment, and to listen to the issues, concerns, and the impacts not only on First Nations but on the environment, but you know that whole project is a sea to sands project, you look at tankers and the issues that we have right there, and you look at the pipeline and the issues along the pipeline, and then the exponential growth of the tar sands and the impacts that they’ve had on first nations, the Athabasca, the poisoning of their rivers and the cancer rate.”

- (Government-2)

Several respondents emphasized the importance of determining the particular issues that should be addressed in the JRP, or in other words, the process agenda. Determining a catalogue of issues to be considered was highlighted as an essential part of a collaborative JRP process. Respondents from all groups indicated the need for the process to consider a broader range of issues that could include the upstream and downstream effects of expanded oil sands production including climate change and health effects, unsettled First Nations land claims, rights, and the duty to consult and accommodate Aboriginals, pipeline alternatives, national sustainable energy strategies, unsettled provincial disputes over pipeline royalties, alternative destinations for petroleum export, and the effects of an oil spill on the marine environment, among other contentious issues. Similarities emerged amongst the stakeholders as to what issues should be considered in the assessment; however, what was conveyed to be more important than the particular items of the agenda was an agenda that was considered mutually acceptable amongst the stakeholders. This notion is also considered in the previous *Process Structure and Design* theme above.

5.1.5 Objectivity and Legitimacy

“The decision is ultimately made by, in this case, a recommendation by the panel of three people, who make a recommendation to the federal government, who makes a final decision. The problem is that the decision-making process does not ensure that the public interest is fully protected because of course the panel and the federal government can make any decision they want, so there is very little guidance constraining them.”

- (Academia-3)

The importance of objectivity and legitimacy emerged as a common theme between academia and intervenors. Respondents from academia highlighted the existence of biased and deficient information in the JRP hearings, the need for shared information, open dialogue, and greater accountability of the JRP decision. In addition, the importance of having a process that was not designed by one stakeholder was emphasized in order to ensure openness and objectivity. Respondents from civil society, industry, and government also considered objectivity a priority for collaboration, indicating the partiality of the EA regulator and JRP panel, as well as legislative changes made to EA law midway through the process as undermining the legitimacy of the process.

5.1.6 Transparency and Trust

“The main concern is that there is so much opposition to this project and such lack of trust that regardless of whether the federal government approves this project or not [...] there would be enormous conflict because people do not accept the legitimacy of the process.”

- (Academia-3)

Transparency and trust have been integrated into one theme because the two concepts were interpreted as directly related to each other in this context (i.e. more transparency in the process creates more trust in the process and its participants). Respondents from both academia and intervenor groups considered transparency and trust to be central components for an inclusive, legitimate, and peaceful EA process. Respondents from both civil society and industry pointed out the lack of transparency with regard to stakeholder funding sources, and therefore uncertainty in external influence behind particular stakeholders as barriers to building trust among the participants.

5.1.7 Stakeholder Equality

“There are significant inequities in the resources that are provided to the various parties in this kind of hearing process, it is extremely expensive [...] and consequently only those parties who have substantial resources are the ones who are able to participate.”

- (Academia-3)

One of the most recognizable commonalities that emerged between Academia and the intervenors involved stakeholder equality. Respondents from all sectors indicated that the high legal costs of participating in the JRP and a great imbalance of resources among the participants limited comprehensive engagement. Disproportionate financial resources and legal representation among the stakeholders were shown to create an imbalance of power, representation, and access to information. This imbalance was conveyed by the respondents as giving an advantage to stakeholders whom had greater resources in terms of the degree of influence that particular participants could impart in the hearings. Respondents from government and civil society identified that inadequate provisions for funding and legal counsel and representation shaped an unequal playing field among the stakeholders and that this restrained stakeholder engagement. It was clear from both respondent groups that efforts to adjust these imbalances would have to be made for a more comprehensive EA process.

A summary of the seven key themes, or common ground that has been identified between the two respondent groups (i.e. Intervenors and academia) concerning collaboration in the EA is illustrated in the table below.

Table 3: Common Ground between Respondents about Collaboration in EA (Identified by Author)

Theme	Common Ground about Collaboration
Process Structure and Design	Complex, adversarial, inefficient Stakeholder collaboration to design process
Stakeholder Cooperation	Effort, time, open multi-stakeholder discussion
Process Timing	Advanced meetings before EA process
Process Agenda	Process must consider fundamental issues
Objectivity and Legitimacy	Open, objective, fair process design Objective Regulator and Panel
Transparency and Trust	Transparency and trust among stakeholders
Stakeholder Equality	High costs/imbalance of stakeholder power Adjust imbalance of resources b/w stakeholders Equal/fair representation and treatment

5.2 Echoes of Communicative Rationality

The second main finding of this research is that many of the intervenor views about collaboration in the EA reflect central ideas of communicative rationality, and suggest that collaborative strategies

inspired by these ideas are likely to be helpful for decision-making in this context. In addition, this finding suggests that further research that tests such strategies in practice is likely to be fruitful.

5.2.1 Consensus-Seeking

“A collaborative inquiry would look like this, for the same project, you would sit down in advance, you would construct a framework for discussions and inquiry going forward, you would basically elaborate upon the issues that would be in contention, you could basically tell which issues are not divisive, and you can start to build agreement and consensus around those issues.” - (Civil Society-2)

Many of the intervenor’s views reflected the importance of strategies that move towards consensus among the stakeholders in the EA. Multiple respondents from government and civil society indicated the importance of recognizing the diversity of perspectives among the participants as well as focusing on collaborative strategies that would seek to build agreement around areas of common concern. The notion of recognizing and understanding the different of perspectives in the EA process reflects the concept of moving towards mutual understanding and consensus that is central to communicative rationality (Bohman & Rehg 2011; Dallmayr 1988; Innes 1998).

5.2.2 Stakeholder Equality

“[First Nations groups] are unable to question Enbridge because the fees are so high, because of having legal counsel for the rest of the Prince Rupert hearings. So the balance of power is just ridiculous.”

- (Civil Society-1)

Respondents from each intervenor category emphasized the importance of equality amongst the stakeholders in the EA process. Stakeholder equality as interpreted from Innes, allows for full and equal representation, information, and capacity of participants (1998). Respondent views reflected these elements by illustrating imbalances in stakeholder representation, access to information, and capacity to participate in the EA. Respondents from government and civil society illustrated insufficient representation of various participants including First Nations, individual citizens, federal and provincial governmental bodies, and members of the joint review panel. Respondents from government and civil society indicated that insufficient information was provided for the

stakeholders as well as a limited scope of issues to consider in the EA. Intervenors from all sectors indicated an imbalance of power among participants in the JRP, which limited the capacity to engage for many stakeholders. Respondents described barriers to engaging in the EA due to high legal costs, lack of financial resources, difficulties in interacting with particular stakeholders, and unequal treatment of stakeholders in the JRP hearings. The importance of having multi-stakeholder “buy-in” to a fair and objective process to create confidence in participation was also indicated.

5.2.3 Genuine Debate and Rationality

“In order to ground truth [claims made] you put expert and expert in the same panel in a process that is commonly known as “hot-tubbing” and that allows the decision maker to actually witness where the areas of contention are and consider who has a better perspective on things. Through that process you might, may or may not, be able to come to a resolution for those contentious issues.”

- (Civil Society-2)

Many of the views from the intervenors views reflect many of the ideas of communicative rationality considering genuine debate and rationality as interpreted from Innes (1998). Respondents from all intervenor groups suggested the rigid and legalistic nature of the EA format limits efforts to debate issues of concern, as previously described (See Section 5.1.1). Multiple respondents expressed interest in a more flexible and interactive process that allows for more opportunity to freely discuss issues of concern. The critique of the rigid format and interest for more flexible stakeholder engagement reflect the notion of more open processes of debate. Respondents from all intervenor categories illustrated concern over the sincerity and legitimacy of the participants’ interaction during the EA. The suspicion that a more collaborative process was intentionally avoided because it may lead to excessive delays or non-development of the project was raised. Respondents also described under-qualified federal government representatives, unclear stakeholder funding sources, bias within the EA Regulator, misleading documents, and the importance of building confidence and trust between stakeholders and the public. The importance of using comprehensible and truthful language in JRP hearings is also reflected in the respondent views about collaboration. Complex language and procedures were identified as barriers to effective engagement. A need to evaluate the truthfulness and validity of statements made such as expert “hot-tubbing” as described in the quotation above was also highlighted, and reflects the quest for truth through rationality. A summary of the

connections between the intervenor views about collaboration and the principles of communicative rationality is provided below.

Table 4: Connections between Intervenor Views and Principles of CR (Identified by Author)

CR Principle	CR Sub-component	Intervenor View
Consensus-seeking		Diverse stakeholder perspectives and cultures Co-design framework of common ground/contentious issues
Stakeholder Equality	Full/Equal Representation	Equal/fair representation and treatment
	Full/Equal Information	Range of issues Obtain informed consent
	Equal Power/Capacity	Legal costs/imbalance of stakeholder resources/power Stakeholder “buy-in” Objectivity of Regulator and Panel
Genuine Debate and Rationality	Open Debate	Rigid, complex process limits engagement Co-design/agree on process
	Sincerity	Avoiding collaboration in case of project paralysis
	Legitimacy	Under-qualified representatives Transparency Objectivity of Regulator and Panel Building Trust
	Comprehensibility	Rigid, complex process limits engagement
	Truthfulness	Evaluate validity of claims

6. Discussion

This section links the results to the main aim and research questions of the thesis as well as examines the connections between the common themes identified by the study and Collaborative EA as offered by the Armitage framework (2005). The main findings are related to the broader fields of collaborative planning and sustainability science for additional insights in the current context in Canada. Finally, recommendations for a more comprehensive EA process are offered.

6.1 Themes for Comprehensive EA

The findings presented above address the main aim and research questions of this research project by revealing potential opportunities for stakeholder collaboration and more comprehensive decision-making in this context. Seven key themes have been identified by this study that represent common ground between EA intervenors and academia to develop more collaborative and comprehensive processes (Research question 1): (1) *Process Structure and Design*, (2) *Stakeholder cooperation*, (3) *Timing*, (4) *Agenda*, (5) *Objectivity and Legitimacy*, (6) *Transparency and Trust*, and (7) *Stakeholder*

Equality. In addition, this research provides insight into the relationship between communicative rationality and perspectives about collaboration in the EA (Research question 2). Central ideas within a contemporary interpretation of communicative rationality are reflected in the intervenor views about collaboration in the EA. Reflections have been identified in interactive approaches that move towards consensus, stakeholder equality, and genuine debate and rationality. This notion suggests that research that applies collaborative strategies inspired by these themes in practice is likely to support decision-making in this context. The seven common themes in combination with the reflections of communicative rationality represent opportunities for stakeholder collaboration and comprehensive decision-making. Rather than a rigid, complex, and adversarial process with an overly limited scope, EA Participants and key researchers largely support a collaborative, thorough, and fair assessment process that provides participants and decision-makers sufficient time to produce comprehensive and legitimate outcomes. Connections exist between the results identified in this study and literature on collaborative EA that offer further insights.

6.1.1 Common Themes and Collaborative EA

The common ground between the respondents identified by this study reflects existing research that identifies five preconditions for fostering collaboration in EA (See Table 1) (Armitage 2005). These connections support the development of strategies for collaborative EA practice in this context.

6.1.1.1 New Institutional Arrangements

New institutional arrangements and organizations including decentralized decision-making methods and a balance of power between participant groups are highlighted as the first precondition for collaboration and learning in EA offered by Armitage (2005). Many of the respondent concerns about the EA *process structure and design* are reflected in this first precondition. Multiple respondents emphasized that the rigid format limited their participation in the process and expressed interest in a more flexible and collaborative format. The interest in more inclusive engagement and an interest in balancing power imbalances among the stakeholders support the notion of decentralized decision-making arrangements. Multiple respondents offered novel approaches such as more collaborative design and early engagement processes that would create new roles and responsibilities for EA participants and reflect a reconfiguring of power relationships as emphasized by Armitage (2005).

The notion of new, decentralized methods for decision-making seems relevant in response to the complex EA procedures and divided participant interests. The details of a more decentralized approach are grounds for further research; however, strategies that reflect the ideas of the respondents would likely involve a collaborative process that would precede both the traditional JRP and the project application. A preliminary process could also likely side-step more radical reforms to the existing JRP.

6.1.1.2 Communication Strategies

Strategies for stakeholder interaction that facilitate the flow of information between the EA participants and improve the outcome of communication are described as the second precondition for collaborative EA (Ibid.). Multiple respondents highlighted *cooperation* and open discussion between the stakeholders as important elements for a more comprehensive EA. These themes reflect strategies that facilitate the exchange of information to enable more comprehensive communication among the participants. In addition, themes identified such as maintaining respect and patience in stakeholder interaction (e.g. respecting First Nations oral tradition of communication, rather than requiring written correspondence) would allow for more important information to be considered in the EA. Multiple respondents also indicated the importance of transparency, which is also reflected in Armitage's notion of effective communication. More transparency within the process would likely add to the quality of information in the EA and ultimately more informed communication among the participants. *Advanced meetings* among the participants, as suggested by multiple respondents would allow for greater time to achieve more understanding on divisive issues and diverse perspectives. Stakeholder cooperation, collaborative discussion, full information and advanced engagement reflect the idea of effective communication strategies that are seen as fostering multi-stakeholder collaboration in EA. These themes seem fundamental for an adequate flow of information between stakeholders and would likely support a comprehensive strategy for stakeholder communication in this context.

6.1.1.3 Collaborative Visioning

Collaborative visioning involves EA practice that works towards a set of shared values, or objectives among the participants (Ibid.). Establishing a collaborative vision is described as being a fundamental element for EA as various interests and objectives associated with development activities can create a conflicting environment (Ibid.). Multiple respondents expressed interest in determining the

particular issues on the *EA agenda* as well as inclusive stakeholder participation in designing other features of the EA (See Section 6.2.1). Respondents also highlighted the importance of determining a broader list of fundamental concerns to discuss during the EA. A comprehensive list of issues would likely allow for the objectives and values of each stakeholder to be considered and progress would be made from that point towards identifying and building agreement around those issues. Even if each of the issues was not fully addressed, they could still be acknowledged and included in a final EA report and passed on to the appropriate decision-makers after the JRP process. This notion reflects the third precondition of a collaborative vision, as recognition of shared objectives is considered.

6.1.1.4 Integrating Knowledge Frameworks


Integrating knowledge frameworks refers to efforts to amalgamate knowledge sources in the assessment process (Ibid.). This could involve integrating traditional and technical knowledge and contested facts, and/or bridging diverse value systems to strengthen the legitimacy of the process (Ibid.). The notion of integrating different forms of knowledge and information is reflected in multiple common themes identified in this study. Respecting the diverse perspectives, cultures, and forms of communication (as emphasized by multiple respondents) would provide room to link similar objectives and value systems and would also strengthen the legitimacy of the process. Moreover, aspects that integrate knowledge are reflected in the respondents' emphasis on *legitimacy*, *objectivity*, and *transparency*. The importance of objectivity and shared information for providing unbiased and robust knowledge as well as *trust* among stakeholders parallels Armitage's fourth precondition for collaborative EA. Developing a broader decision-making panel that more accurately represents the diversity of interests would likely allow for a more integrated knowledge framework in this context. These themes generally support a legitimate process that is based on comprehensive engagement and an integrated knowledge base.

6.1.1.5 Building Adaptive Capacity

The capacity of individuals and organizations within the EA process to deal with uncertainty and adequately fulfill their responsibilities is the final precondition for collaborative EA (Ibid.). This refers not only strengthening the financial and human resources for the participants, but also the technical capacity for information sharing and coordination (Ibid.). In addition, strengthening the relationships

among the different groups within the EA is a key task to foster the capacity for collaboration (Ibid.). This includes efforts to balance power imbalances among participants to encourage more effective engagement in the assessment process (Ibid.). Common themes such as objectivity, shared information, as well as collaborative design of EA features can be seen as strengthening organizational capacities by generating robust information and engagement (2005). In addition, concerns over *stakeholder equality* within the EA reflect this precondition for collaboration. Several respondents pointed to a substantial imbalance of power, resources, and representation among the participants in the EA and emphasized the need to adjust this for a more comprehensive process. Multiple respondents emphasized the discrepancies in participant resources allowed for imbalances in legal representation and influence in the process, as well as the treatment of different stakeholders. Ensuring funding for legal counsel and clerical provisions for participants as well as limitations in legal representation in the hearings for those with larger resource bases would likely adjust initial inequities in this context. Addressing these imbalances would likely strengthen the capacity of the stakeholders to participate more equitably in the process and encourage the capacity for collaboration. A summary of the five preconditions for collaboration in the EA and the main related themes, or common ground identified in the research is illustrated in the figure below.

Table 5: Connections between Collaborative EA and Common Ground about Collaboration

Precondition		Theme	Common Ground about Collaboration
New Institutional Arrangements		Process Structure and Design	Complex, adversarial, inefficient Stakeholder collaboration to design process
Communication Strategies		Stakeholder Cooperation	Effort, time, open multi-stakeholder discussion
Collaborative Vision		Process Timing	Advanced meetings before EA process
Integrated Knowledge Frameworks		Process Agenda	Process must consider fundamental issues
Building Adaptive Capacity		Objectivity/ Legitimacy	Open, objective, fair process design Objective Regulator and Panel
		Transparency/ Trust	Transparency and trust among stakeholders
		Stakeholder Equality	High costs/imbalance of stakeholder power Adjust imbalance of resources b/w stakeholders Equal/fair representation and treatment

6.2 Discussion of Frameworks and Research Reflections

6.2.1 Collaborative EA and Communicative Rationality: Critical Perspectives

It is important to consider the limitations of the particular frameworks used for this study in order to maintain a critical perspective. The preconditions for collaborative EA were based on the EA process for the Mackenzie Valley pipeline project, and are therefore not necessarily directly applicable to an evaluation of any Canadian EA. In addition, some of the common ground that was identified could arguably fit within multiple categories offered by the framework. However, the five dimensions of collaboration that were used are not intended to describe the case in consideration (i.e. Northern Gateway project), nor to define rigid boundaries of what fosters collaboration, but rather to serve as a point of reference to relate my findings back to the collaborative planning literature and highlight the connections between them to gain further insight in line with the research aim.

The notion that several components of communicative rationality are reflected in the perspectives of the EA intervenors suggests that collaborative strategies that are inspired by these ideas are likely to be useful in advancing comprehensive decision-making in this context. This view compliments the first finding of this research and serves the main aim of the thesis by exposing opportunities to broaden stakeholder engagement and collaboration. However, the use of the evaluative principles of communicative rationality is not without its own complications. Some of the views of the intervenors reflect more than one “principle” (i.e. the rigid EA structure reflects elements of stakeholder capacity to participate, open-debate format, and comprehensibility of interaction). Also, some respondent views do not fit within this structure as indicated in the views that are independent from CR principles (See Appendix D.2). However, how the opinions are categorized is less important here than the notion that they reflect many of the principles of communicative rationality. Although the research findings propose ground for more research on implementing collaborative strategies in this context, theoretical challenges remain. A more comprehensive *testing* of the value of communicative rationality in developing strategies for collaboration is needed to examine the implications of this research in practice (which would extend beyond the boundaries and intentions of this thesis). However, it is inherently difficult to legitimately *test* certain aspects of this theory such as the sincerity and honesty of participant’s statements. Similarly, the inter-subjective reasoning between

participants seems largely idealistic in a contentious EA context. Yet it is important to recall that the ideal speech situation is in fact an ideal that is to be *pursued*, rather than strict criteria upon which a process is to be scrutinized (Healey 2003). Although the ideas of communicative rationality are idealistic in character, this research has identified common ground between the respondents that nonetheless demonstrate interest in a fair and comprehensive process. In addition to further research on collaborative EA practice, there seems to be room to examine collaborative approaches for policy development in related fields such as national energy policy that would have implications for EA. For example, a more comprehensive energy policy may reduce the diversity and intensity of concerns generated by a project-specific EA.

In addition, reducing Habermas' notion of communicative rationality to the three categories as summarized by Innes and interpreted by the author of this research (i.e. consensus-seeking, stakeholder equality, and genuine rationality) are limited. The three principles arguably do not account for the different perceptions of worldview amongst individuals, nor examine if participants opinions necessarily represent their interests or values (*instrumental* or *value rationality*) (Bohman & Rehg 2011; Dallmayr 1988; Persson 2006). It is also imaginably difficult to accurately test these aspects of interaction. Challenges in examining the specifics of these fundamental theories in practice undoubtedly exist, however, it is still productive for researchers and practitioners to focus on the modern interpretations of these fundamental theories as outlined by collaborative planning, and their value when considering the practice of EA. Exploring practical opportunities for a comprehensive EA process is therefore the intended focus of this research, rather than delving into the world of philosophy and social theory.

6.2.2 Reflections on the Research Process

It is useful to reflect on the research process in order to be critical of the research strategy and findings, and to consider the limitations of the research. The findings primarily describe perspectives from BC, as the JRP hearings were being conducted in this province during the data collection phase. The findings also do not attempt to be entirely representative of each sector of society due to limitations in the amount of respondents interviewed. In addition, First Nations groups are not directly represented in the respondent pool; however attempts are made to incorporate their views through relevant documents and literature and by selecting two of the three respondents from academia with key knowledge and experience in First Nations matters. Also, this research

acknowledges that the JRP has not yet finished, which suggests that respondent perspectives may change and more information would likely be useful in analyzing a complete process, nonetheless, it seems particularly important to consider contentious EAs in real time in order to explore potential areas for improvement.

6.3 Collaborative EA in Canada: Challenges and Opportunities

The “opportunities” to foster a more comprehensive EA that have been identified in this study resemble similar research that investigates participation and collaboration in EA, which suggests confidence in realizing these opportunities within this context (Armitage 2005; Doelle & Sinclair 2006; Innes & Booher 2004; Stewart & Sinclair 2007). The findings are important to consider within the current context that involves recent legislative changes to the EA process.

The legislative changes mentioned in the introduction were introduced to support “Jobs, Growth and Long-term Prosperity” (Jobs, Growth and Long-term Prosperity Act 2012; Jobs and Growth Act 2012). By streamlining the EA process and revoking the authority the EA decision the federal government currently seems more interested in establishing EA timelines and presumably more efficiency rather than conducting a thorough assessment process. However, although a collaborative process would likely require more time in the planning stage before the EA, it would likely result in a more comprehensive and legitimate outcome that reflects the interests of the study respondents, and would likely address the deficiencies of the existing adversarial process. Furthermore, there would likely be fewer complications after a collaborative decision for example less legal challenges, protests, and improved social license (for the project proponent) in the region, which would make it more sensible, and perhaps efficient in the long run. This notion is particularly important for the current contentious context in BC. Legislative changes that exempt pipelines from existing environmental legislation and generally support the resource development industry seems to call the legitimacy and objectivity of the EA process into question. If the federal government now has the authority to reverse the outcome of the EA process, what is the point of exploring strategies that could foster more comprehensive engagement of the participants? These recent changes generate many similar questions and have implications for the EA participants and process itself. This context provides challenges for more collaborative EA that generally focuses on comprehensive engagement for decision-making.

Although there are challenges for collaborative EA that exist within the Canadian context, there are also multiple suggestions for more comprehensive EA processes. Numerous tactics exist within the collaborative planning literature on how best to reform EA to better engage with diverse stakeholders (Doelle & Sinclair 2006; Innes & Booher 2004; Palerm 2000; Sinclair & Doelle 2003; Sinclair & Diduck 2001; Sinclair et al. 2008). Strategies include, among others, legislative reforms requiring early involvement in EA processes, various techniques for building consensus, regulatory oversight to evaluate participation within EA (Doelle & Sinclair 2006; Sinclair et al. 2008; Sinclair & Diduck 2001), providing adequate training and financial support and forums for collaboration (Innes & Booher 2004), focusing on building actors attitudes and capacities to participate, or “community-based EAs” (Palerm 2000; Sinclair et al. 2008). As suggested by particular respondents in this study the momentum for initiating an alternative assessment process could also come from governmental bodies, the proponent, institutions of public education, and other forms (Appendix D.1: Process Implementation). Although the best strategies for comprehensive engagement and assessment may require more research in EA practice, the results identified in this research indicates areas that are likely to be productive and support particular recommendations in this particular context.

6.4 Recommendations for Comprehensive EA Decision-making

Three recommendations for comprehensive decision-making have been developed after considering the findings of this study, insights from relevant literature, and the current context of EA in Canada. A collaborative, thorough, and fair assessment process that cultivates comprehensive and legitimate outcomes should:

- 1) Involve a decentralized and collaborative process that precedes the project application
- 2) Be primarily designed and facilitated by stakeholders within the particular context
- 3) Incorporate communication strategies that encourage consensus, participant equality, and open debate

A decentralized and collaborative process would offer a more flexible process that would soften the adversarial nature of the EA. An initial process that precedes the formal submission of the project application would allow for more flexibility and valuable input in the planning phase, and would provide more time to determine potential areas of agreement and contention. The regulatory agency

would require a report and decision from this preliminary collaborative process before the project application would be allowed to be submitted. The project proponent would initiate the process, however, relevant stakeholders would design the particular features of the process, such as appointing a panel of representatives from within the stakeholder groups to facilitate the process. This would provide objectivity, confidence, or “buy-in” for the stakeholders and also allows it to be adaptable to particular contexts. Finally, incorporating strategies for communication and interaction that encourage consensus, participant equality, and open debate would provide the conditions that would encourage participants to work towards building agreement and trust. Encouraging a balance of power, resources, representation, and ultimately the capacity of participants would allow for more comprehensive and fair engagement. Ensuring adequate funding and interactive support by the regulator for participants as well as restricting legal representation could maintain this balance. Facilitating debate amongst experts and stakeholders would provide an environment to adequately evaluate contentious issues and diverse perspectives as the soundness of each claim is examined. The process would be required to demonstrate a level of stakeholder interaction that supports communication strategies of consensus, participant equality, and debate. Although emotions will likely be involved, demonstrated interest in a fair and comprehensive process combined with increased participation in the design and conduct of the process would support progress. These recommendations allow for a degree of flexibility and creativity within the process that are central to accommodate the different contexts and circumstances of each project. These recommendations reflect the enthusiasm for more comprehensive decision-making practice that has been illustrated by both the respondents of this study and previous examples (Armitage 2005; Leys & Vanclay 2010; Saarikoski et al. 2013; Section 5).

6.5 Decision-making in a Diverse Society

Analyzing the case of the Northern Gateway project EA has offered insight into understanding the larger picture of decision-making for environmental matters in Canada. On a macro-scale, the research has been inspired by processes that emphasize innovative forms of social interaction, high quality information, and comprehensive outcomes (Brand & Gaffikin 2007; Forester 1999; Gibbons 2001; Healey). These themes temporarily connect the fields of collaborative planning, sustainability science, and critical social theory to explore the objectives of the study in this context. Although many limitations of this research are recognized, the study illuminates important areas of convergence in a particularly divergent context. Interest in a more comprehensive decision-making process that involves transparent, fair, and interactive features have been identified among

participants and researchers in the particular EA in question. These themes have been integrated into the recommendations offered by this study and parallel research that support broad stakeholder involvement, robust information, and just deliberations (Doelle and Sinclair, 2006; Forester 1999; Healey 2003; Innes 1998; Kates et al. 2001). Comprehensive decisions concerning future development projects in western Canada are essential, as social, economic, and environmental interests appear to clash. Decision-making approaches that are able to adequately consider conflicting interests and effectively engage with multiple stakeholders will likely minimize potential conflicts. Efforts to integrate these interests for decision-making are likely to support legitimate and reasonable outcomes and advance sustainability.

7. Conclusion

This research combines insights from collaborative planning literature, pertinent academic respondents, and current EA participants to highlight multiple areas to foster more collaborative decision-making opportunities, and ultimately a more comprehensive EA using the ongoing case of the Northern Gateway. This study is motivated in part by research that illustrates deficiencies in stakeholder engagement in EA processes, as well as the opportunities illustrated by the fields of collaborative planning and sustainability science. This research suggests that there are rich areas of convergence between the views of EA participants and the insights from academia regarding collaboration in EA. Common ground has been identified that highlights stakeholder equality and cooperation, objectivity and legitimacy, transparency and trust, and the agenda, timing, structure and design of the decision-making process. The research findings also highlight similar themes of interaction that encourage consensus, participant equality, and rationality as reflected by the ideas of communicative rationality. The findings of this study generate recommendations that call for a decentralized and collaborative process that would precede the traditional EA. An initial process would address the deficiencies brought forth by the research respondents and literary insights and would encourage consensus, participant equality, and open debate. These recommendations represent opportunities that are likely to foster more comprehensive stakeholder engagement and outcomes in this context, and provide an opportunity to further develop and test these collaborative strategies in EA practice.

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Appendices

Appendix A: Data Collection and Research Process

Appendix A.1: Interview Respondent Split

Table 6: Summary of Intervenor Respondents

EA Intervenor	Interviewee ID
Government	Government-1
	Government-2
Industry	Industry-1
	Industry-2
Civil Society	Civil Society-1
	Civil Society-2
	Civil Society-3
	Civil Society-4
	Civil Society-5

Table 7: Summary of Academic Respondents

Academic Respondent	Interviewee ID
Professor: Environmental/Sustainability Assessment	Academia-1
Associate Professor and Chair: First Nations Studies	Academia-2
Professor: Resource Dispute Resolution and Collaborative Planning/FN Expert Adviser	Academia-3

Appendix A.2: Example of Coding for Data Analysis

Respondent Quotation:

“We found [the JRP] quite byzantine. [...] To a non-legally trained intervenor, it takes a lot to comply with them [...] It’s only with the maximum expenditure of your intellect and the maximum expenditure of your will and spirit that you can have any effect at all as an intervenor in this process, and even then it is questionable whether your going to change the outcome.”

Example Code: *COMPLEX PROCESS LIMITS ENGAGEMENT*

Appendix A.3: Process of Identifying Central Themes from Respondents

Figure 1: Process of Identifying Central Themes (e.g. Government) (Created by Author)

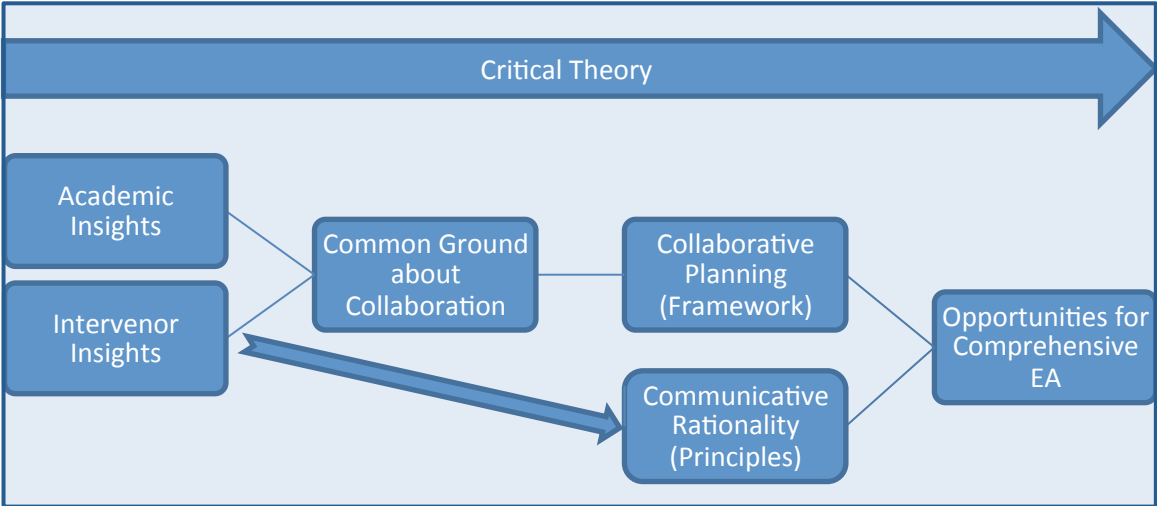


Central themes are summarized from the respondents and categorized within the respondent group. This illustration uses government representatives as an example.

Appendix A.4: Illustration of General Research Process

A summary of the general research process including the theory and methodology is illustrated by the figure below.

Figure 2: Illustration of General Research Process (Created by Author)



The illustration can be interpreted from left to right. The research considers insights from academic and EA intervenor respondents to identify common ground about collaboration in the EA process. This common ground is related to a framework from collaborative planning for EA to identify opportunities for a more comprehensive EA in this context. In addition, insights from EA intervenors are related to principles from communicative rationality to further explore opportunities for a more comprehensive assessment process. A general perspective of critical theory informs the research approach in seeking positive social change.

Appendix B: Consent and Confidentiality Form



CONSENT FORM FOR PARTICIPATION IN RESEARCH and STATEMENT OF CONFIDENTIALITY

This research corresponds to the thesis master's program in Environmental Studies and Sustainability Science at the University of Lund, Sweden, conducted by Adam Wright.

The objective of the research, although the details may change, is to explore opportunities that could improve the EA Process for the ongoing Enbridge Northern Gateway pipeline proposal.

The conditions of participation are:

- Participation in a semi-structured interview lasting approximately 40 minutes.
- The questions and the information provided will be concerned solely with the aim of the project.
- The information provided will be used only within this research project.
- At any time you can decline to answer any question.
- It will be possible to clarify or add information after the end of the interview.
- To facilitate the research interview will be recorded and transcribed.
- No names or organizations will be mentioned in the research process without prior approval, only the group or subset of actors to which the respondent belongs to facilitate analysis of the information.

The thesis project will be published on the LUMES website.

For any information about the project please contact Adam Wright by email or phone. Additional information about the program please contact info@lucsus.lu.se or visit the LUMES website: <http://www.lumes.lu.se>.

I (both the researcher and the participant) agree to the above conditions.

Yes___ No___

Participant Signature:

Name:

Date:

Researcher Signature:

Name:

Date:

Appendix C: Interview Guide



RQ1.) What common ground can be identified between the views of the EA intervenors and those of academia about collaboration in the EA?

- 1.) Can you please describe your experience participating in the EA (Joint Review) process, including interacting with the different stakeholders in the process?
- 2.) In your opinion, how could the process be improved?
 - a. What important areas need to be of focus for a comprehensive process?
- 3.) To what extent do you think that more collaboration between the different stakeholders could contribute to a more comprehensive process and outcome?
 - a. How could the process enable more collaboration among the different stakeholders?

RQ2.) What is the relationship between the intervenor's views about collaboration in the EA and the principles of communicative rationality and what insights can it offer into opportunities for more stakeholder collaboration in the assessment process?

- 1.) To what extent do you think you (or your organization) could achieve a level of understanding of matters of common concern?
 - a. What mechanism could support this idea in practice?
- 2.) To what extent do you think that you (or your organization) carry equal weight and influence in the process?
 - a. What mechanism could support this idea in practice?
- 3.) To what extent do you think that the JRP process would benefit from an open debate format with other stakeholders?
- 4.) Is there anything else you would like to add about your involvement in the EA?

Appendix D: Independent Perspectives from Respondents

Appendix D.1: EA Collaboration: Independent Perspectives

Independent perspectives from the respondents that were not shared among the interviewees (not common ground) are presented and can provide insight into additional aspects of collaboration in the EA.

Process Agenda

“One of the big problems we have is I think that people legitimately want to have a debate over whether the oil sands are good or bad, and that debate is not a pipeline debate that is a government debate independent of the pipeline. [...] the conversation whether GHG go up or not should be something that the government addresses and it shouldn't be something which is debated in a pipeline hearing.”

- (Industry-3)

A respondent from the industry sector suggested that the discussion about expanded tar sands production should be debated independently from the EA. The argument posed was that the EA is to assess the pipeline and not to debate about climate change or oil sands development. This view is in contrast with many of the respondent views that suggest interest in expanding the EA agenda to include fundamental issues including the social and environmental implications of expanded oil sands production associated with the pipeline construction and operation. As it stands, upstream and downstream impacts related to the pipeline, such as climate change and expanded oil sands development are not considered in the EA after changes made to the Canadian Environmental Assessment Act (Canadian Environmental Assessment Act 2012). For the purposes of this research, the details of what should or should not be on the EA agenda is less important than recognizing that different opinions exist, and that the varying opinions should be considered for a collaborative and comprehensive decision-making process.

Process Formality

“The more formal [hearings] tend to allow for more weapons to prevent participants from dodging the question, particularly the proponents, but also government agencies. On the other hand they tend to be more intimidating and full of lawyers”.

- (Academia-1)

There were a few respondents that offered unique perspectives when considering a less formal, or more collaborative structure of EA. A respondent from academia illustrated that trade-offs exist when looking at the level of flexibility of EA processes. The interviewee suggested that more formal procedures, like the EA in question, are more likely to force the participants to be held accountable in terms of adequately answering questions, however, they also “tend to be more intimidating and full of lawyers.” (Academia, I-10). The notion that more participant accountability results from more formal procedures was not raised by most of the respondents and offers an interesting subject for future inquiry. A respondent representing civil society contrasted the majority of the respondents by noting that the joint review panel hearings allowed for sufficient flexibility and time in listening to his concerns and that it is uncertain that a more open debate format would be beneficial. Another respondent from academia emphasized that more flexible assessment processes would have to be unique to their particular case and context, implying difficulties in prescribing particular instructions for such processes.

Process Implementation

“The federal government would probably have to take the initiative in setting up [an alternative process] because it has the jurisdictional authority.

- (Academia-3)

Two respondents from academia suggested potential forms in which an alternative assessment process could be implemented now and in future EA situations. It was suggested that the pipeline proponent could respond to public opposition to the project by voluntarily withdrawing its application and offering an opportunity for British Columbians to collaborate to design an alternative process of dialogue that more adequately considers their input and concerns. Alternatively, it was suggested that the federal government could utilize its jurisdictional authority under the CEA Act to set up a mediation process through the joint review panel to reassess the application. Also, the role of the university was suggested as a useful tool to independently consider the competing stakeholder interests with the objective of public engagement and education.

A respondent from academia also described complications for the pipeline proponent to withdraw its application. It was suggested that withdrawing the pipeline application is complicated by the fact that the proponent likely has obligations from multiple funding parties to complete the EA process and would most likely require an agreement from all of the parties to withdraw and engage in an alternative process.

Efficiency

“A lot of the problems of gateway were solved by that bill. [...] What are the problems that Gateway has? Well one of the problems is its very long, it has many, many steps and one might argue that the NEB wandered around the province inviting everyone’s comments, taking up almost a year of time, which could have been achieved by putting people into groups and advocating as opposed to having public forums like that. You would probably hear the opposite from other people but I don’t think that’s particularly efficient.”

- (Industry-1)

A representative from industry explained that many of the inefficiencies of the EA were address in the legislative changes to the CEA Act in 2012. The respondent suggested that a previously undefined timeframe for the EA, the consideration of extensive and often largely similar statements from individuals, and bureaucratic procedures characterized an inefficient EA process, which was made more efficient by the recent amendments to the CEA Act. This view can be used to illustrate differences in values among the different stakeholders (process efficiency vs. comprehensive assessment) when considering the character of the EA process.

Process Timing

“The cases that are most interesting surely are the ones where you’ve got alternative energy options, alternative options for the economic development of a region [...] those are the things that need to be addressed. So those are more strategic and you can imagine governments not wanting people to be watching how they fumble through strategy. Have scrutiny in that stuff. So for the most part it gets discouraged.”

- (Academia-1)

Process timing is a theme that was identified as representing common ground between the intervenors and academics where advanced meetings were seen as preferential for many of the respondents for a comprehensive assessment process. A respondent from academia shared his thoughts as to some of the reasons why *early* forms of multi-stakeholder collaboration or discussions don’t tend to materialize. He suggested that many people consider the EA process as a project licensing process rather than an environmental assessment, because of the institution’s origins in approval licensing. The lingering notion of the limited capacity of the regulator was suggested to limit the perceived purpose of the EA. The respondent suggested that the proponents avoid early

meetings because they want to demonstrate confidence in their project and because advanced meetings are likely to be perceived as inefficient. In addition, government bodies are suggested to avoid early collaboration to prevent unfavorable public scrutiny as alternative project strategies are openly discussed. A summary of the independent perspectives on collaboration is illustrated below.

Table 8: Summary of Independent Perspectives on Collaboration

Theme	Independent Insights
Process Agenda	Gov't should debate oil sands separately from pipeline, not in EA
Process Formality	Formality Tradeoffs: Greater accountability of participants, but more intimidating/more lawyers Process allowed for flexibility, debate format may not have been the best Less formal process must have hearings that are context and subject specific
Process Implementation	Fed gov't initiate new process b/c of jurisdictional authority, mediation process Proponent application withdrawal, engage in new dialogue/process with public University as apparatus for new process Difficulties for application withdrawal b/c of funding party obligations
Process Efficiency	JRP process made more efficient by recent legislative changes Excessive duplication in JRP process before legislative changes
Process Timing	Barriers to advanced collaboration: lingering notion of EA evolving from regulatory approval licensing, complaints for lengthy process, limited interest in project alternatives, gov't wanting to avoid public scrutiny over strategic operations

Appendix D.2: Communicative Rationality: Independent Perspectives

There were a few views that were inconsistent with the main principles of communicative rationality as summarized by Innes (1998). The inconsistencies referred to the notions of consensus seeking and debate. A respondent from industry did not mention a need for a process that was geared towards consensus, although the respondent did express the constraints of an overly rigid EA process. Also, a respondent from civil society expressed that the EA process allowed for flexibility and sufficient time, and that an open debate format may not necessarily have been a better format. Finally, a respondent from industry emphasized that the government should debate the oil sands separately from the pipeline not in the EA. The recent changes to EA legislation restrict oil sands development and climate change from being part of the EA, so it is currently not considered in the assessment. Although these views were not common among the respondents, they are still important and are therefore acknowledged here.

Appendix E: Additional Interview Quotations used for Analysis

Process Design and Structure

"[The JRP] is very costly, its very time consuming, its inefficient, it leads to a winner or a loser [...], its not a situation that lends itself to be acceptable at the end of the day."

- (Civil Society-2)

"I think that [the JRP] has a certain element of adversariality."

- (Civil Society-5)

"I think the general stages that are used are not necessarily intuitive [...] it seems to strangely demarcate the conversation rather than allow the most broad and full intervention from the public."

- (Government-1)

"We found [the JRP] quite byzantine. [...] To a non-legally trained intervenor, it takes a lot to comply with them."

- (Industry-2)

"Everyday of this hearing, lets say there are 100 lawyers charging 500 dollars an hour, its just outrageously expensive, and those kind of resources are better used elsewhere in society."

- (Industry-1)

"it's obvious that if you approach it from a collaborative aspect that your going to be miles ahead of the game than if you start off with an adversarial process, and if you start off with an adversarial process then you basically pit parties against one another. And so they are not looking then for how they can all agree, you are looking for how they can all disagree."

- (Civil Society-2)

"Because it's an adversarial process there is no attempt to search for alternative solutions that may be acceptable to all parties. You are either for the project or you are against the project, so it is positional bargaining and positional conflict rather than creating an interchange between people saying well what are our objectives, and are there ways that we can meet everyone's objectives here in a collaborative kind of way."

- (Academia-3)

"The people would comprise of all the representatives from all the major stakeholders [...] and it would meet, design its terms of reference, and engage in a dialogue about the project, whether it should be approved and if so under what circumstance, and continue to share information collectively, so you would get common information and all the attributes of a collaborative process."

- (Academia-3)

Stakeholder Cooperation

"I would want to bring representatives of those parties together right at the beginning to work on an agreement, on a format and a timeframe [...] I believe its possible, but it would take that ground work, it would take meetings with all parties."

- (Academia-2)

"When you start looking at First Nations culture, a lot of it isn't in writing and its verbal and I think because of the process where its deeply flawed from the very beginning, and there could be room for a process that takes that into account, you know it might even be a healing circle component to it, that respects the First Nations traditions and how they do things."

- (Government-2)

"This is a very polarized environment now and the level of trust is very low, but certainly one thing is sure that the current process is not going to work, and my experience in the past has been that the alternative collaborative process is, even when faced with a magnitude of opposition and polarization that characterizes this case, in the past they have been able to resolve this."

- (Academia-3)

Process Timing

"The problems lie in that all these things happen pretty late, by the time your having a hearing on these things a lot of the details, a lot of the investment, a lot of the commitment of planning and ego have already gone into what's being proposed and you are grappling with whether or not to approve something, and it usually is yes, and the terms of approval, so your in a case where whether or not this is the best approach to some opportunity or problem, your moving the chairs on the titanic, you are not dealing with the fundamental problems. It should be earlier."

- (Academia-1)

"Trying to solve the issues before it comes to the forefront, before it even comes to the NEB or the panel coming out and doing what they need to do, so I think there's a lot of room for that."

- (Government-2)

"I would want to bring representatives of those parties together right at the beginning to work on an agreement, on a format and a timeframe [...] I believe its possible, but it would take that ground work, it would take meetings with all parties."

- (Academia-2)

Process Agenda

"The Northern Gateway [...] raises fundamental issues at various levels, so should we be ramping up more oil sands production [...] and firing that off to China? Is that a good idea?"

That's the fundamental question, which precedes whether you should build a project here or there or some place else."

- (Academia-1)

"Had there been some attempt to deal with the constitutional issues at the outset, then this mismatch between the way the public is reacting and the way that both the federal government and Enbridge are attempting to run the process, wouldn't have occurred."

- (Industry-2)

"One of the other big faults of this process is that it refuses to look at upstream impacts, [...] what are the climate change impacts, what are the impacts of the tar sands production and on the other hand the tanker side of things, so that would be more comprehensive."

- (Civil Society-1)

"We've got to sit back and develop a national energy strategy, if we had a sustainable national energy strategy we wouldn't even be talking about Enbridge or Kinder Morgan."

- (Government-2)

"The pipeline is stuck in the middle of this debate whether the BC should share in the wealth or not. [...] We've also got this grand poker game going on between Alberta and BC that we are stuck in the middle of."

- (Industry-1)

"Line up alternative proposals, Northern Gateway, Kinder Morgan expansion, rail options, refining in Alberta, shipping through Yukon, shipping east, and make a recommendation."

- (Civil Society-4)

"We have to go before the project is even considered, we need to look at: do we need it?"

- (Civil Society-5)

Objectivity and Legitimacy

"The NEB basically acts as a facilitator not a regulator, they try to facilitate what is best for the industry. [...] Someone said it's like a game keeper behaving like a poacher as far as the regulatory capture."

- (Government-2)

"The biggest criticism of the process is the fact that it has been changed half way through the process. [...] The ultimate thing that changed is that if the panel, prior to this, if the panel had recommended that the project not be approved then that was the final decision, and now the minister under secret cabinet meeting can overturn it and give no reasonable explanation why. And so basically they have politicized it."

- (Civil Society-1)

“There’s no one of high and respected legal standing in the Canadian legal establishment, [...] in dealing with the constitutional issues of running a pipeline through unseeded aboriginal lands that occurred in both the Mackenzie Valley hearings and the Alaska pipeline hearings.”

- (Industry-2)

“One of the major problems is that the information that people provide is biased towards the client they are representing, so that results in deficient information available to the panel in order to make an informed decision. [...] when you hire experts or consultants to prepare a report to you as the client the client has control over the contents of the reports and the information is therefore is seriously deficient.”

- (Academia-3)

“My perspective was that all sides would be considered but since I realized the mandate of the NEB is to accommodate energy production and infrastructure I realized the attempt to convey objectivity is a façade.”

- (Civil Society-4)

“There is no room to say we don’t want it, it is how can we accommodate it, which for people like me it is unacceptable.”

- (Civil Society-5)

“[The Proponent] cannot [be allowed to] control the message just like any other group [...] we can discuss the process and they can agree to it and make suggestions, but you cannot control it because then it doesn’t become an open, objective process.”

- (Academia-2)

“The government should start with the idea that “no” is a possibility and that is not how this is designed.”

- (Government-1)

“Ideally people who are on the panel, there should be representation from the place in which it is going to happen right, from the north west, or at least someone from BC, or someone who understands that FN have unseeded territory that they’re not in treaty.”

- (Civil Society-1)

Transparency and Trust

“[The JRP] has created a lot of cynicism within the public as well because they don’t feel the government has got their interest at heart, that this is a pre-determined conclusion.”

- (Government-1)

“On the last “route revision” B they did a sneaky [...] trick whereby they increased the storage tanks from 11 to 16 storage tanks at the tank farm here in Kitimat, in a “route revision”, so its got nothing to do with the route.”

- (Civil Society-3)

“Now were starting to see it unfold that the oil and gas industry, which is a very heavy lobby in Ottawa, were meeting with the minister and the minister had actually before introducing the bill, rather than consulting with people that would be affected by the bill, people that have Section 35 constitutional rights to be consulted, were talking about FN, aboriginal peoples, who have a constitutional right to be consulted, were left out totally.”

- (Civil Society-2)

“The government has become so blinded by their orientation to oil and gas development that they left reason behind a long time ago. And so they have to politicize the debate, they have to radicalize it, and use every tool available to demonize something that they should be looking for which is input and intelligence.”

- (Government-1)

“It could be improved, first of all if foreign interests weren’t funding Enbridge’s application, and secondly if others weren’t being censured for non-existent funds that are imputed to them as coming from foreign interests. That really slams the deck and is extremely unfair, and has done a lot to turn loyal Canadians against the hearings.”

- (Industry-2)

“There has to be a build up of trust between government and people [...] there is no discussion when there is a power struggle that is led in front of you like this.”

- (Civil Society-5)

“For me, issues of confidence and trust in a proponent are of the utmost concern to Canadians.”

- (Civil Society-2)

Stakeholder Equality

“There is a terrible imbalance between the resources that are being made available to and expended by the proponent and indeed the government participants, and the groups doing the interventions.”

- (Industry-2)

“[The JRP] has a tension between those with lots of money and the ability to hire staff and argue a case versus the general public and various interest groups who have much less, and that is always going to be a challenge to get right, which is how accessible is the process to Canadians who have an opinion but not necessarily a degree or a big bank account.”

- (Government-1)

“The government only would give money to organizations [...] I would like to participate in this process but I have no organization.”

- (Civil Society-5)

“Quite a few first nations [...] have pulled out because of funding.”

- (Government-2)

“Some of the stakeholders have very different resources, money, etc., than others and there would need to be some kind of adjustment for those imbalances.”

- (Academia-1)

“The second thing that is absolutely glaring is the lack of legal counsel [...] I need legal advice and I can't find it, and I have to pay for it.”

- (Civil Society-5)

“The reality is that [the proponent] are not answering 90% of the questions that are being asked.”

- (Civil Society-1)

“I feel that the interactions between the federal government and the intervenors have been closely controlled and in fact there has been an attempt made to obfuscate and silence the intervenors in their questioning of the federal government.”

- (Industry-2)

“When were talking First Nations aboriginal, who would speak right? Because it is coming across the province, its coming across 6-8 huge ancient nations, I don't even want to go to the community level, because that becomes 60 maybe. Finding somebody who could do it, there would be have to be some sort of an agreement, and I think that's possible, there would just have to be a lot of work.”

- (Academia-2)

“You allow the actual appointment of people to the JRP from the parties themselves rather than from government, so then there is “buy-in” to the actual process through the fact that the parties can participate in nominating.”

- (Civil Society-2)

“Even though we all have an opinion [...] you have to set that aside. So in other words, if I am against Northern Gateway, I still believe that Northern Gateway has the right to speak its voice and present its information.”

- (Academia-2)

Consensus-Seeking

“It's obvious that if you approach it from a collaborative aspect that you're going to be miles ahead of the game than if you start off with an adversarial process. If you start off with an adversarial process then you basically pit parties against one another, and so they are not looking then for how they can all agree, you are looking for how they can all disagree.”

- (Civil Society-2)

“[The proponent] thought that they could roll right through the NEB, the JR panel and right through the government and get this going, and not understanding the different first nations,

I guess there is 50 along the route for Enbridge, [...] so there is a lot of buy in that needs to be done.”

- (Government-2)

Genuine Debate and Rationality

“You’re dealing with a government that regards governing as a chess game where the citizenry of the country is the opponent, and that’s observable in the hearings as well, any dealings with Justice Canada who are fielding all of the government intervenors and are acting as the front for the government is like dealing with a chess master. I don’t think that it is conducive to open and fair dialogue about the issues.”

- (Industry-2)

“[The JRP] has interpreted their mandate to curtail discussion, just get it over with; you almost feel that they’re just they’ll hear from people because they know that to fail to hear from people somebody can open the door to a potential judicial review of the result.”

- (Civil Society-2)

“I think [the JRP] is intentionally set up to calm passions and make things very legalistic again, but we are talking about some things that do draw up passionate responses, and there’s the question of whether that is a legitimate argument, but obviously it is because we use emotion all the time to make our case. And while you don’t want people screaming, at the same time you want to allow them a free a range as possible, and right now that’s difficult to see that.”

- (Government-1)

“That’s what [the federal government] are most afraid of is that an open discussion will lead to the project not proceeding.”

- (Industry, I-4)

“I think having discourse amongst the experts is key.”

- (Civil Society-2)

“The [JRP] rules are not conducive to public dialogue and if the government has sabotaged the process whether you ask a question this way or set the tables that way matters less because it is simply trying to correct something after most of the mistakes are done.”

- (Government-1)

“You might have JRP staff to help guide the process, you may have to bring in a facilitator to help guide it. The experts are [...] nominated by the significant parties, whether they be first nations, land owners, NGOs, proponent, government entities, basically cull the best, and you put them all together, and over a couple of days you define a framework for moving this forward. From there, you then envelope the actual parties, whether they would be represented through council or otherwise you start to roll that out you produce a report from that conference of experts and from that report you then get to a situation where you can define where the areas of contention will be and where they wont be.”

- (Civil Society-2)

“After the evidence, you pull everyone back together once again through a facilitator and once again you have a collaborative effort and you allow people to further define the issues now that they have heard the evidence. Then you allow the decision maker to take all of the benefit of having heard the evidence, having heard the submissions in collaborative aspect and then running it through in terms of the final decision in terms of providing advice to cabinet or, if they are the ultimate decision maker, what the decision may be.”

- (Civil Society-2)

“[The JRP] seems to be again designed in such a way that allows the conversation to be broken into the smallest pieces possible and be very, very counter-intuitive.”

- (Government-1)

Appendix F: Northern Gateway Project Maps

Appendix F.1: Proposed Pipeline Route between Alberta and British Columbia

Figure 3: Proposed Pipeline Route in Western Canada (Source: Enbridge Northern Gateway project Application 2010)



Appendix F.2: Proposed Tanker Route, British Columbia

Figure 4: Proposed Tanker Route for Marine Transport (Source: Enbridge Northern Gateway project application 2010)

