

April 21, 2010

Fraser Gravel – Issues and Considerations for how DFO Manages the file

Key Considerations/decisions DFO needs to make

1. CEAA track
2. Area or Major Projects lead
3. FTE allocation

Context

- 3 sites approved for removal this year
- EMBC was very late in getting application documents to DFO, this resulted in less than ideal circumstances and workload challenges (late submission of application documents from the proponent is a chronic problem of this file)
- EMBC and MoE have not been receptive to consultation with external interests in the past, however more recently there seems to be some degree of openness to this concept.
- Significant level of concern is being raised by several NGOs:
 - lack of information access and transparency,
 - unacceptable levels of impact to fish and fish habitat are being permitted without compensation
 - sturgeon habitat is being impacted with no assessment of the value/effects of the impacts
 - reach level effects are not being properly assessed
 - sediment removal is greater than sediment budget in some sections
 - the rationale for gravel removal is poor, and DFO should not be approving without EMBC making a more defensible case for the need, including better rationalized plans for specific removals
- Existing LOA extension expired at the end of March this year (2010)
- Some work has been done on a new LOA but it is still some way to completion.
- The file may follow a new track for future EAs (either comprehensive study or panel); public participation is likely regardless of EA track
- Technical consultants report to EMBC although their work requirements are mostly focused on needs of MOE and DFO; EMBC is a messenger and does not always communicate effectively (significant communication burden with this file)
- Several First Nations with little previous input on this file are voicing concerns about gravel mining and requesting opportunity for input.

Work Items

1) Monitoring active works

- Numerous issues and challenges have arisen each week. DFO found problems on most of our site visits and we found a need to be constantly engaged and on top of this file both during works and monitoring post work conditions.

2) Review and guidance to ongoing monitoring resulting from past Authorizations

- There are multiple monitoring episodes over multiple years at each removal site. Consultants to EMBC collect data and it is submitted to DFO. There is a significant amount of work required to review and interpret this information. It has been challenging for DFO (technically and workload) to review and interpret these data to determine if the original Authorization objectives are being met.
 - It is particularly important to be engaged in this now as the Authorizations have habitat compensation provisions included that require multiple years of post assessment to determine duration and magnitude of impact, followed by negotiation of suitable compensatory works.
- 3) Annual project approvals (Fisheries Act & CEAA)
- The current approach taken by EMBC is a yearly work cycle and they do not begin detailed planning until river levels recede (September), meanwhile they require approvals in place for work in January. This leaves very little time to allow for consultation and public engagement.
 - EMBC wants multi-year planning and approvals to help resolve this challenge.
 - Many parties have voiced concerns that a Comprehensive Study or Panel would be more appropriate than Screening EA for these works.
- 4) Technical and Mgt Committees
- These groups are supposed to meet monthly and provide technical and managerial direction to the program. Participation by MOE Environmental Stewardship Division has been a problem on the TC. EMBC chairs the TC and the gravel removal agenda often overrides objective technical input. Terms of Reference for each committee require revision.
- 5) Letter of Agreement (LOA)
- A new Letter of Agreement or alternate arrangement is required as the current extension expired in March. This is mostly a high level piece describing the mandate and interests of the parties and the basic framework for how we will work together.
 - EMBC is looking for a 10-year agreement. It's in DFO's interest to be sure this LOA identifies realistic roles, timelines and commitments for the department.
 - DFO had internal discussion about the new LOA in autumn 2008 that provides useful guidance (two powerpoint decks are good summaries of these discussions).
- 6) Long Term Plan (LTP)
- This is where the details supporting the LOA will be spelled out and where the real work is in terms of negotiations with the province and level of DFO engagement. It is expected to include things like:
 - how gravel extraction will be planned
 - where gravel extraction will occur and volumes
 - what the review and approval process will be
 - environmental monitoring needs
 - Technical experts suggest that there would be value in having the program planned and approved on a 10 year period, with more frequent review as

monitoring outcomes dictate (Michael Church: “*a program planned for a 10-year horizon and operated in an adaptive and precautionary fashion*”). This is because the key measures are most effectively appraised on a 10 year time scale, as this is comparable with the time scale of morphological and ecological changes along the river.

7) Environmental Monitoring Program (EMP)

- There is agreement that the monitoring conducted to date needs to be improved/adjusted to assess key issues and questions. There has been no previous monitoring and assessment of the impacts of these works on sturgeon. Past monitoring has been entirely site-specific and with no effort to look at reach-level issues (especially from channel morphology and habitat availability perspectives).
- The current monitoring program has not been executed properly and according to DFO requirements in several past years, and so the opportunity to learn and adaptively manage based on monitoring results has been lost. This problem is partly because EMBC administers the program and directs consultants, yet has no technical expertise on the topic. EMBC has no quality-control standard for the consultants and doesn't always know what to ask for.
- There is general consensus that a more strategic and comprehensive monitoring program is required, but a lot of work remains to sort out what this is. This will probably take several months and require work from key internal DFO staff (habitat & science), provincial staff, and probably consultants if funds can be found to retain them.
- There is a timeline pressure here as monitoring will be required this summer to be compliant with the recent Authorizations, and it would be optimal if this monitoring was conducted under the guidance of the new environmental monitoring plan.

Recommendations

1. Planned and organized change of file lead to Major Projects. (this file is not well suited to be normalized and managed similarly to other files within an Area).
2. Determine FTE assignment and align service standards and workload accordingly. (Is DFO a “neutral regulator” responding to what the province proposes or are we a “partner” providing support and guidance to the provincial government?)
3. Focused internal discussion on CEAA track – this is essential in order to advance LOA and LTP. Should also consider broader consultation on this point.
4. Need to resolve external concerns about lack of public consultation and transparency, from DFO's view this would be most appropriately led by BC since it is their project. IF BC can't or won't do this, DFO needs to determine our plan.