

Keeping the Agreements of SEIAs Alive: Mitigation and Follow Up

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Outline

- Long term goal for resilience in communities
- Key elements of mitigation
- Need for larger collective limits to inform mitigation requirements
- Monitoring and Follow-Up
- Challenges for Monitoring
- Raising the bar for SEIA

Why do we care about mitigation and follow-up?

Goal: COMMUNITY SUSTAINABILITY

Mitigation should enhance:

Community capacity – a community’s ability to address their own problems and challenges and act on a basis of self awareness.
Relies on physical, human and social capital.

Resilience – a community’s ability to maintain, renew, or reorganize social system functions and ecological functions.

Both of these imply “subsidiarity” -- those closest to a resource should have the greatest decision-making responsibility where the knowledge and ability resides to address problems.

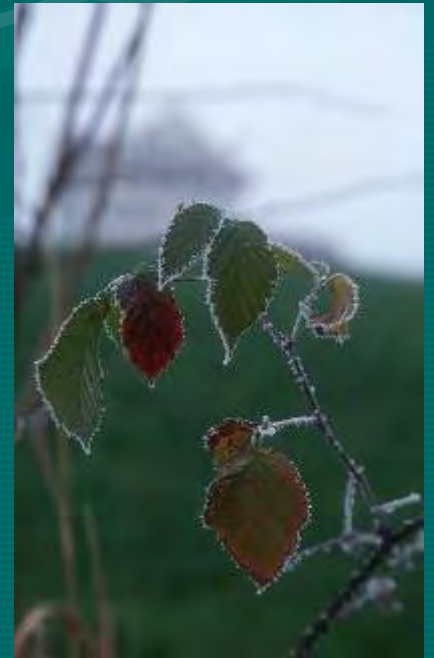
We need adaptive management, i.e., resilient communities, because projects come and go...

Development eventually winds down, and the science of cumulative impacts, reclamation and restoration is fairly new.

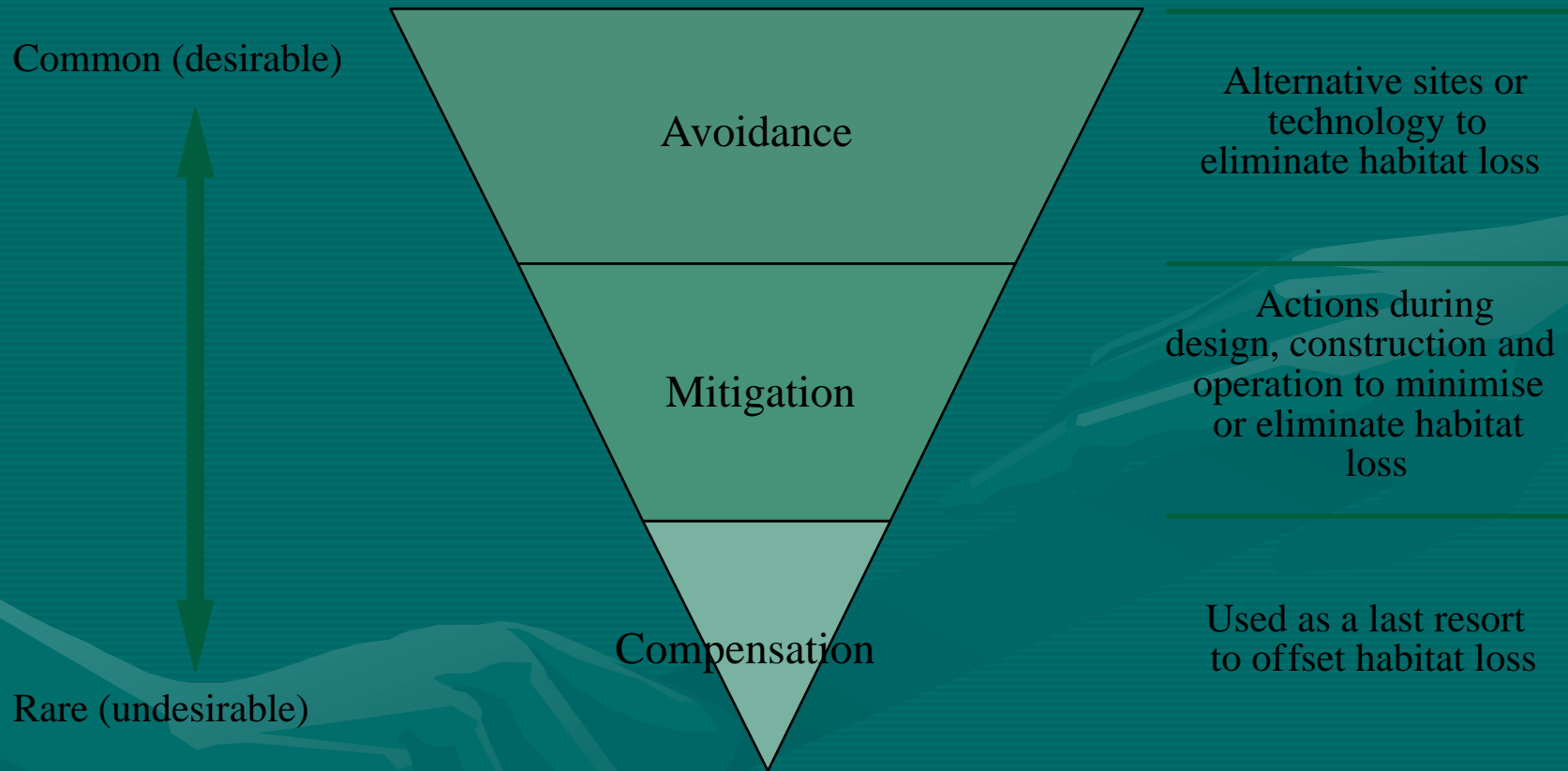


Key Elements of Mitigation and Follow-Up

- Avoid and minimize negative impacts
- To assure impacts are within acceptable levels
- Enhancement or improve existing conditions
- Compensation for losses
- Follow-Up Monitoring Plan
- Clear delegation of responsibilities and contributions
- Political will to enforce agreements



Framework for impact mitigation



Source: Regional Environmental Center for Central and Eastern Europe, 200?

Cautionary statements...

- Time scale important – mitigation should address development impacts throughout the entirety of the project
- Baseline data agreed upon, and implementation plan set up, key for quality of follow-up
- Organizational (local, territorial, federal) capacity to carry out mitigation promises and follow up activities essential

Mitigation

Avoid and Minimize Negative Impacts

- Avoiding impacts
- Minimizing harmful impacts
 - Access to information and expertise
 - Development on your term reasonable requests?
 - Mechanisms for resolving conflicts

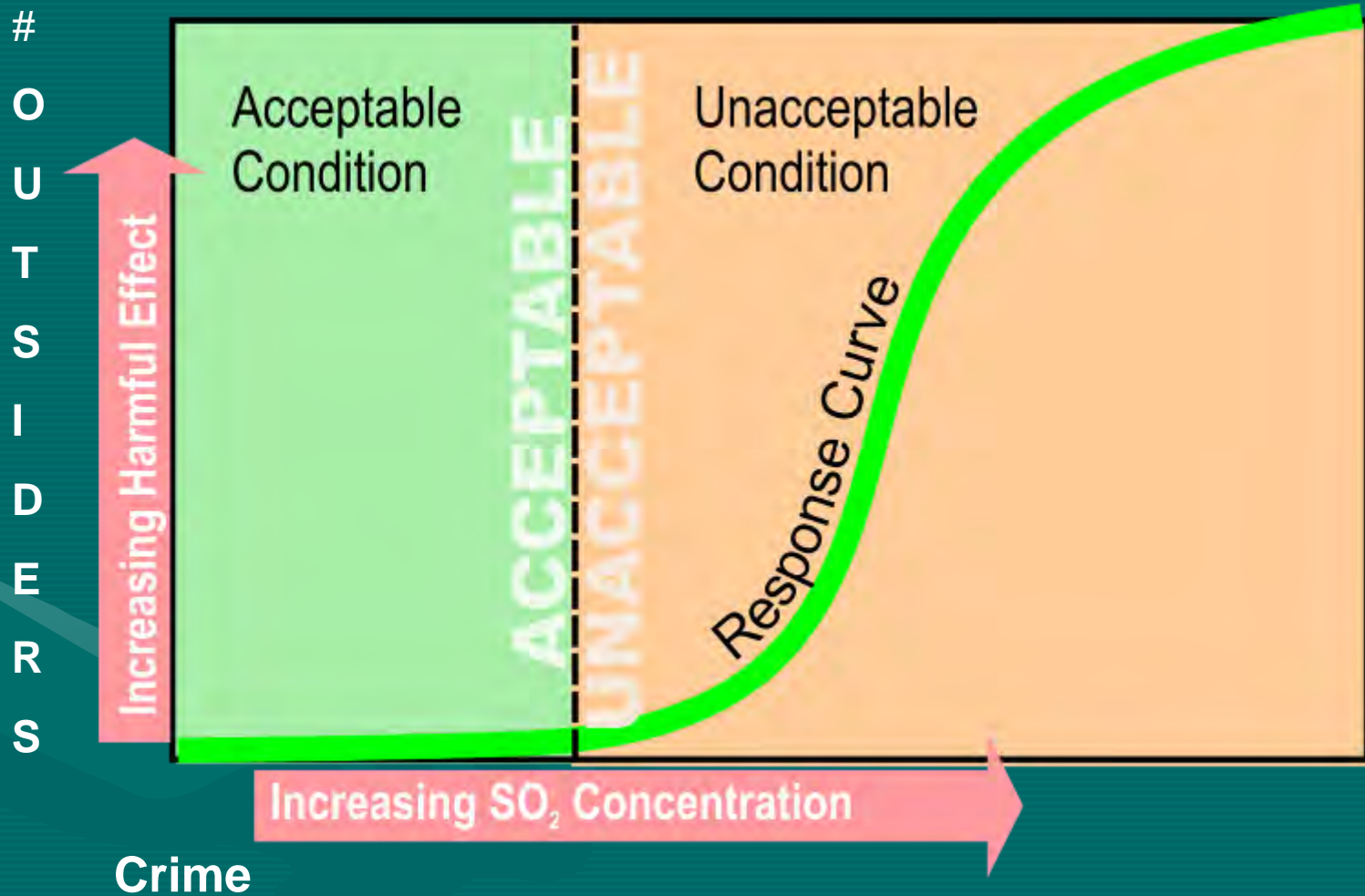


How can we be sure the impacts are acceptable?

- How to set collective limits
 - Protected Areas
 - Zoning land uses
 - Thresholds
- How does the SEIA fit into the community's and region's larger goal to maintain the valued components of the land and the community?



Ideal Threshold



Management Objectives

Valued Components

Measurable Indicators

Thresholds or Limits of
Acceptable Change

Activity Planning and
Implementation

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Mitigation : Enhancement

- Enhancing the positive impacts, or improving existing conditions
- Requires clear picture of community goals, strengths and challenges



Impact Benefit Agreements

- IBAs as one tool
 - Assures a piece of the pie
 - Can address many community priorities
- Potential problems with IBAs
 - Done before SEIA complete
 - Confidential
 - Suppresses critical examination of all impacts?
 - Accountability? Coordination with government?

Key Components of Monitoring

- Ensure the implementation of conditions attached to a decision.
 - Tie monitoring to baseline conditions and with limits (thresholds) in place
 - Measure impacts of a project as constructed.
 - Verify conformity with established with conditions and acceptable limits.

Monitoring Needs

- Take action to manage any unforeseen changes.
- Carry out periodic checks and third-party audits.
- Need organizational capacity to monitor reliably and authority behind monitoring plan to enforce agreements.



Follow-up Monitoring

- Long term commitment:
How to sustain vigilance?
- Responsibility for
monitoring usually divided
- Unclear responsibility
for local, territorial and federal
responsibilities to address socio-economic
priority conditions.



In the absence of systematic criteria for assessing the outcomes of agreements, there is a danger that an ‘ideology of agreement’ will dominate, with the achievement of agreements as such—rather than the creation of substantive outcomes for indigenous peoples—taking central place.”

(O’Faircheallaigh, 2004:304)

Example of successful mitigation and follow-up efforts (Natcher and Hickey 2002)

- Criterion: priority feature in management
- Critical element: process to be removed, maintained, or put in place
- Local value: needing protection or enhancement through management
- Goal: strategy for maintaining, protecting, or enhancing the local value
- Indicator: measuring advancement toward attainment of that goal
- Action: specific plan of activities that must be implemented to achieve the stated indicator

Criterion: modify forest management operations

Critical element is species diversity and availability

Local value is a healthy population of bison in the Caribou Mt. lowlands and drainages

Goal is to limit clearcut activity

Indicator: reduces timber harvesting along the Caribou Mtn slope to maintain lowland bison habitat

Action is to reduce harvesting along the Caribou Mtn slope and increase streamside buffers

Community Led SEIA: another step?

Cape York Model (O'Faircheallaigh 2002)

- INTERNALIZE social impact processes within the communities themselves
- Created a Steering Committee
- Anthropological work on indigenous interests affected by the project
- Appointed indigenous people who can 'speak for country' in Aboriginal law and custom

Cape York Model (O'Faircheallaigh 2002)

- Community discussions around likely impacts
- Identify categories of people likely to be affected
- Government and proponent provides basic info requested
- People's concerns fed back into desk based research
- Community report suggests a monitoring program for ongoing measurement and review of social and economic impacts

Kativik Environmental Quality Commission (Mulvihill and Keith 1989)

- Semi-autonomy/multiple accountability
 - Are you able to hold firm and withhold your approvals until all conditions are met?
 - Overruled in Cameron Hills Extension Project
- Appropriate Legislation
- Awareness of organizational life cycles

How to assure that follow up is difficult (maybe even impossible)?

- Do not assign any organization responsibility for monitoring and follow-up
- Underfund (staff, resources) the organization responsible for monitoring
- Create such a long check list of requirements that only extreme cases warrant action
- Make the penalties for non-compliance cheaper than the costs saved for not complying

Features of Organizations that rigorously enforce regulations

- Regulatory administrative duties are assigned to an agency different from the agency that promotes the development
- They are responsible for regulating more than one industry
- They are evaluated by NGOs or other citizen groups on their performance (have watchdogs)
- Periodically decisions are called into question, sometimes requiring a court decision

Raising the Bar on SEIAs

- More and better information to communities about risks and mitigation possibilities
- A move toward community controlled impact assessment procedures
- Increased pressure by all parties to clarify whose mandate it is to monitor social impacts and enforce agreements
- Encourage impact benefit agreements to be publicly open to scrutiny

Embrace Social Learning

- ...a search for new system structures which facilitate local level decision making through exchange and negotiation processes involving many minds...gain full advantage of creative potential of individuals. (Korten 1981)
- Interaction among stakeholders to identify diversified ways of getting things done (Mutimkura et al. 2004)