



## **Resource Co-management in the Mackenzie Valley Workshop 2020: Engagement & Consultation**

**Date: February 4-6, 2020**

**Location: Explorer Hotel, Yellowknife, NT**

### **BACKGROUND**

The resource co-management workshop is being hosted by the Land and Water Boards of the Mackenzie Valley, the Mackenzie Valley Review Board, the Government of the Northwest Territories, and Crown-Indigenous Relations and Northern Affairs Canada. This year's workshop theme is engagement and consultation. The goals, format, and content for this workshop are based on feedback from participants who attended the resource co-management workshops held over the past five years.

### **WORKSHOP GOALS**

The goals of this workshop are to discuss the elements of the Mackenzie Valley co-management system and how it works, and to identify opportunities to continue to improve – all with the lens of engagement and consultation. This is a chance to share knowledge, ideas, and experiences, and an opportunity for dialogue on existing co-management processes.

## AGENDA – TUESDAY, FEBRUARY 4<sup>th</sup>, 2020 – DAY 1

<b>Arrival Time and Registration</b> (coffee and snacks provided)	8:00 – 9:15 AM
<b>Opening Prayer and Welcome</b> Opening comments, objectives of the workshop, overview of the agenda, goals of the day	9:15 – 9:45 AM
<b>Keynote Speaker:</b> Perspective from British Columbia <i>Celeste Haldane, Chief Commissioner, BC Treaty Commission</i>	9:45– 10:30 AM
<b>BREAK</b>	10:30 – 11:00 AM
<b>Setting the Stage – Origins of the MVRMA</b> <ul style="list-style-type: none"> <li>Roots of the co-management system – Land Claim Agreements <i>John Donihee, Willms &amp; Shier Environmental Lawyers LLP</i></li> <li>Integrated resource management – How do the parts fit together? <i>Brett Wheler, Senior Policy Advisor, Mackenzie Valley Review Board</i></li> </ul>	11:00 – 11:30 AM
<b>Setting the Stage Through the Lens of Participation</b> <ul style="list-style-type: none"> <li>How consultation and engagement work in the co-management system – <i>Engagement and Consultation Policy and Guidelines (2018)</i> <i>Julian Morse, Regulatory Policy Advisor, Mackenzie Valley Land and Water Board</i></li> <li>Meaningful inclusion of Indigenous Traditional Knowledge <i>Alan Ehrlich, Manager of Environmental Impact Assessment, Mackenzie Valley Review Board</i></li> </ul>	11:30 – 12:00 PM
<b>LUNCH (not provided)</b>	12:00 – 1:30 PM
<b>The Duty to Consult:</b> What it is, recent court decisions and emerging approaches to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) <i>John Donihee, Willms &amp; Shier Environmental Lawyers LLP; Larry Innes, Partner, Olthuis, Kleer, Townsend LLP; Amy Avila, Executive Director of Indigenous Relations at the BC Environmental Assessment Office (EAO)</i>	1:30 – 2:30 PM
<b>BREAK</b>	2:30 – 3:00 PM
<b>Armchair Discussion:</b> Our co-management system and the duty to consult <i>John Donihee, Larry Innes, Amy Avila</i>	3:00 – 4:30 PM
<b>Wrap-up Day 1</b>	4:30 – 4:45 PM

## AGENDA - WEDNESDAY, FEBRUARY 5<sup>th</sup>, 2020 – DAY 2

<b>Arrival Time</b> (coffee and snacks provided)	8:30 – 9:00 AM
<b>Break-out Groups: (rotating)</b> <ul style="list-style-type: none"> <li>• Moving from consultation to collaboration (Kat A)</li> <li>• How to get the information you need? (Kat B)</li> <li>• How can we make public hearings better? (Kat C)</li> <li>• Collecting digital evidence and the Online Review System (Kat E)</li> </ul>	9:00 – 12:00 PM  Break
<b>LUNCH (not provided)</b>	12:00 – 1:30 PM
<b>Spotlight on an Innovative Approach to Community Engagement</b> Engagement and collaboration between Łíídlǫ́ Kúé First Nation and Enbridge on Line 21 pipeline replacement <i>Dieter Cazon, Manager, Lands and Resources for the Łíídlǫ́ Kúé First Nation and Catherine Pennington, BC, Athabasca, NWT Community Indigenous Engagement, Enbridge Inc.</i>	1:30 – 2:00 PM
<b>Keynote Panel Discussion: Ways of working together</b> <i>Claudine Lee, Head of Health, Safety, Environment, Communities and Training, Ekati Diamond Mine</i> <i>Jeff Hussey, President and Chief Operating Officer, Osisko Metals</i> <i>Patrick Simon, Mayor, Hamlet of Fort Resolution and Deninu Kue First Nations Councillor</i> <i>Deiter Cazon, Manager, Lands and Resources for the Łíídlǫ́ Kúé First Nation</i> <i>Paul Gruner, President and Chief Executive Officer, Deton Cho Corporation</i>	2:00 – 3:15 PM
<b>BREAK</b>	3:15 – 3:45 PM
<b>Break-out Groups:</b> How can we make resource management processes work for you?	3:45 – 4:30 PM

## AGENDA - THURSDAY, FEBRUARY 6<sup>th</sup>, 2020 – DAY 3

<b>Arrival Time</b> (coffee and snacks provided)	8:30 – 9:00 AM
<b>Recap of Day 2 and Emerging Practices</b>	9:00 – 9:15 AM
<b>Building Capacity</b> <ul style="list-style-type: none"> <li>• GNWT's Interim Resource Management Assistance</li> <li>• CIRNAC'S Northern Participant Funding Program for EA</li> <li>• Fisheries and Oceans Canada</li> </ul>	9:15 – 10:00 AM
<b>Emerging Practices in Environmental Impact Assessment</b> - Practical Reflections on Collaborative Approaches to Assessing Potential Impacts on the Rights of Indigenous Peoples <i>Catherine Dymond, Crown Consultation Operations Directorate, Impact Assessment Agency of Canada</i>	10:00 – 10:30 PM
<b>BREAK</b>	10:30 – 11:00 AM
<b>Learning by Doing – Acquiring Knowledge About Contaminated Sites</b> CIRNAC's Contamination and Remediation Division (CARD) has been using both traditional methods and experiential strategies for engaging Indigenous peoples. Focusing on the Rayrock and Bullmoose projects, CARD will demonstrate how on-the-land events and active knowledge acquisition can enable partners and support good decision-making and caretaking of the land. <i>Tawanis Testart, Project Officer, Crown-Indigenous Relations and Northern Affairs Canada - Contaminants &amp; Remediation Division and George Lafferty, Community Consultation Officer, Crown-Indigenous Relations and Northern Affairs Canada – Contaminants and Remediation Division (CIRNAC-CARD)</i>	11:00 – 11:30 AM
<b>How Indigenous development corporations can help support community well-being and enable communities to benefit from resource development</b> <i>Paul Gruner, President and CEO, Deton Cho Corporation</i>	11:30 – 12:00 PM
<b>LUNCH (not provided)</b>	12:00 – 1:30 PM
<b>Keynote Panel: Incorporating the Voices of Emerging Leaders</b> How do we make better decisions that incorporate and reflect the perspectives of emerging leaders? <i>Mason Mantla, Joanne Speakman, Dakota Erutse, and Nigit'stil Norbert</i>	1:30 – 2:45 PM
<b>BREAK</b>	2:45 – 3:15 PM
<b>Break-out Groups: Looking to the Future</b> <ul style="list-style-type: none"> <li>• The topic(s) will be focused on the results of the break-out groups and feedback collected during Day 1 and Day 2</li> </ul>	3:15 – 4:00 PM
<b>Wrap-up and Closing Remarks</b>	4:00 – 4:30 PM
<b>Closing Prayer</b>	4:30 PM





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**Location: Explorer Hotel, Yellowknife, NT**

### **Keynote Speaker**

#### **Celeste Haldane, Chief Commissioner, BC Treaty Commission**

Celeste Haldane was appointed Chief Commissioner in April 2017. Prior to this she served as an elected Commissioner for three two-year terms commencing in 2011. Celeste is a practising lawyer and was appointed Queen's Counsel in 2019. She holds a Master of Laws (LL.M.) in Constitutional Law from Osgoode Hall Law School (York University), and a Bachelor of Laws (LL.B.) and Bachelor of Arts from UBC. In 2015, she began her doctorate in Anthropology and Law at UBC. The Provincial Government appointed Celeste to serve on the UBC Board of Governors where she is Chair of the Indigenous Engagement Committee and the Legal Services Society. She is a Director of the Brain Canada Foundation, the Hamber Foundation, and the Musqueam Capital Corporation. She is an active member of both the Canadian Bar Association and the Indigenous Bar Association. In 2015, Celeste attended the Governor General's Canadian Leadership Conference. Celeste is a member of the Sparrow family from Musqueam and is Tsimshian through Metlakatla. She is the proud mother of three and grandmother of two.

### **Presenter Biographies – Day 1**

#### **John Donihee, Willms & Shier Environmental Lawyers**

John Donihee holds graduate degrees in both Environmental Studies and Law. He practices entirely in the north, NWT, Nunavut and Yukon. Before the law, John was a wildlife and environmental assessment biologist with the Government of the Northwest Territories. Between 1997 and 2004 John was a Research Associate at the Canadian Institute of Resources Law and Adjunct Professor in the Faculty of Environmental Design at the University of Calgary. He also taught Natural Resources Law in the first Akitsiraq law program in Nunavut. He is currently counsel with Willms & Shier Environmental Lawyers LLP. John's work focuses on advising Indigenous clients about land, resource and environmental aspects of land claim implementation and working with co-management tribunals, including environmental assessment, land and water regulation and wildlife boards. He has been counsel to several MVRMA tribunals since the Act came into force in 1998. In 2014 John was the recipient of a Premier's Award for Collaboration for work done on the new NWT *Wildlife Act*. In 2018 John was appointed as Chair of the Environmental Impact Review Board under the Inuvialuit Final Agreement. John is a recognized expert on environmental and Aboriginal law in matters related to land claims implementation and his experience includes advocacy at all levels in Canadian Courts including appearances before the Supreme Court of Canada on cases involving Environmental Impact Assessment and Aboriginal rights under modern land claim agreements. Away from work John is happiest with either a fly rod or his bagpipes under his arm. His family prefers the fly rod – it makes a lot less noise!

#### **Brett Wheler, Senior Environmental Assessment Policy Advisor, Mackenzie Valley Impact Review Board**

Brett Wheler has worked in the integrated resource management system in the Mackenzie Valley since 2010. At the Wek'eezhii Land and Water Board he managed water licensing and land use permitting processes for a variety of developments and chaired the Standard Terms and Conditions Working Group. For the past several years, Brett has worked with the Mackenzie Valley Review Board, in Yellowknife, as the senior environmental assessment policy advisor.

**Julian Morse, Regulatory Specialist Advisor, Mackenzie Valley Land and Water Board**

Julian Morse grew up in Yellowknife and has worked for the Mackenzie Valley Land and Water Board for over 8 years as a Regulatory Specialist. He has recently transitioned into the role of Regulatory Policy Advisor. Julian has a diploma in Environment and Natural Resources Technology from Aurora College and is scheduled to complete his Masters in Conflict Analysis and Management at Royal Roads University in March. Outside of work, Julian enjoys sailing on the big lake, skiing, and playing music with friends. He also serves on Yellowknife City Council.

**Alan Ehrlich, Manager, Environmental Impact Assessment, Mackenzie Valley Review Board**

Alan Ehrlich has 26 years of experience conducting and reviewing environmental impact assessments, in northern Canada and abroad. He is the Manager of Environmental Impact Assessment for the Mackenzie Valley Environmental Impact Review Board. Alan has extensive experience dealing directly with high profile, politically sensitive environmental assessments involving Indigenous issues. He is also internationally known for his award-winning writing, speaking and thinking about environmental assessment.

**Panelist Biographies – Day 1**

**Celeste Haldane, Chief Commissioner, BC Treaty Commission, Moderator (see above)**

**John Donihee, Willms & Shier Environmental Lawyers LLP (see above)**

**Larry Innes, Partner, Olthuis, Kleer, Townsend LLP**

Larry is a partner at Olthuis, Kleer, Townshend LLP practicing in the area of indigenous rights and environmental law. Larry has worked with First Nations on lands and resources issues for more than 25 years, and has developed extensive experience in the negotiation of impacts and benefits agreements, environmental assessment, co-management measures and treaty provisions. He currently represents and advises First Nations dealing with major mining, forestry and energy developments, and is also involved in several leading First Nation conservation and land use planning initiatives across Canada. Larry is called to the bar in Ontario, Alberta, Yukon, the Northwest Territories and Newfoundland and Labrador. He holds a JD from the University of Victoria, a Masters in Environmental Studies from York University, and is a graduate of McMaster University's Arts & Science Programme. He resides in Yellowknife.

**Amy Avila, Executive Director of Indigenous Relations at the BC Environmental Assessment Office**

Amy is currently the Executive Director of Indigenous Relations at the BC Environmental Assessment Office (EAO). Since joining the BC Public Service over a decade ago, Amy has worked with Indigenous nations on a wide variety of initiatives, from consultation for mine exploration projects to the review of the Columbia River Treaty, negotiations on hydro and oil and gas projects, and major mine development as the Executive Director of the Major Mine Permitting Office. Since joining the EAO, Amy has worked with the Indigenous Implementation Committee and directly with nations across BC to develop policies to support the new *Environmental Assessment Act* (2018) including the Indigenous Knowledge Guide and collaborative approaches to undertaking assessments with Indigenous Nations. Amy studied political science at St. Mary's University and dispute resolution at the University of Victoria.

**Presenter Biographies – Day 2****Dieter Cazon, Manager, Lands and Resources for the Łı́ı́łı́ı́ Kúé First Nation**

Dieter Cazon is a member of the Łı́ı́łı́ı́ Kúé First Nation. As the Manager of Lands and Resources for the Łı́ı́łı́ı́ Kúé First Nation, we continually work with our Members and Leaders to represent and assert Łı́ı́łı́ı́ Kúé First Nation interests and concerns in regards to the changing world, and our continuing commitment to take care of the land so the land will take care of us. After contributing on the Łı́ı́łı́ı́ Kúé First Nation Traditional Knowledge Report in preparation for the National Energy Board and Mackenzie Valley Land and Water Board hearings for the then Proposed Enbridge Line 21 pipeline replacement project, an Environmental Management Agreement was developed and signed between the Łı́ı́łı́ı́ Kúé First Nation, Pehdzeh Ki First Nation, Sambaa K'e First Nation, Jean Marie River First Nation, Dehcho First Nations, and Enbridge for the Line 21 Pipeline Replacement Project. The Environmental Management Committee composed of the participating

communities, Dehcho First Nations, and Enbridge were able to identify and address and communicate on various project concerns for the pre-construction, construction, post construction work, and monitoring."

**Catherine Pennington, Manager, Community Indigenous Engagement, Enbridge Pipelines Inc.**

A former social worker with extensive experience in family services, community wellness, employment counselling and social development, Catherine Pennington entered the energy sector 2005 where she has since worked in Indigenous and Community Relations roles for energy production and pipeline companies. As a Metis woman, originally from northern Saskatchewan, Catherine remains driven to ensure social and economic prosperity are extended to all communities through partnerships and inclusion. Catherine's accountabilities at Westcoast Energy, Enbridge Pipelines Inc., include leadership in Indigenous and community engagement and public consultation. Her current portfolio includes British Columbia, Alberta's Athabasca Region and the Northwest Territories. Catherine attained an honors degree from the University of Victoria, is Certified Professional Coach, holds a diploma in Mediation and Advanced Conflict Resolution from Mount Royal University, is an alumni of the Banff Centre for Leadership, and has studied leadership & coaching at Queen's University. Committed to community development Catherine is a board member and philanthropy chair for the YMCA of Northern BC, Vice Chair and Vital Signs lead for the Prince George Community Foundation, and volunteers with the Caledonia Nordic Club's coaching staff. In 2015, Catherine was one of 250 selected emerging leaders to participate in the Governor General's Canadian Leadership Conference travelling to Nunavut to further experience and study issues of Canadian importance from a northern perspective. In 2019 she participated in the Duke of Edinburgh's Emerging Leaders Dialogue series in Canada with a focus on reconciliation and sustainability. Currently, Catherine is undertaking a Master's degree in counselling with a specialization in coaching sciences. She has recently completed a post graduate certificate from the London School of Economics as well an international coaching program with a focus on health and well-being. As lover of the outdoors and exercise enthusiast northern BC is the perfect home! When not working, Catherine can be found with her husband and children Nordic skiing, biking or kayaking.

**Panelist Biographies – Day 2**

**Brett Wheler, Mackenzie Valley Impact Review Board, Moderator (see above)**

**Claudine Lee, Head of Health, Safety, Environment, Communities and Training, Ekati Diamond Mine**

Claudine Lee is a professional geologist with over 20 years of experience working in northern Canada. Ms. Lee began her career as a student working on diamond exploration programs. She joined the Ekati Diamond Mine in 2011 as the Advisor–Operations and was promoted to Superintendent–Environment Operations in 2012, to Head of Environment and Communities in 2015 and to her current position as the Head of Health, Safety, Environment, Communities and Training (HSEC & T) at the Ekati Diamond Mine in 2019. In these roles Ms. Lee has been responsible for overseeing community engagement activities related to new and ongoing operations at the Ekati Diamond Mine as well as collaboration with IBA partners and Indigenous government organizations on various aspects of the business.

**Jeff Hussey, President and Chief Operating Officer, Osisko Metals**

Jeff Hussey obtained his B.Sc in Geology from the University of New Brunswick in 1985. He has 35 years' experience in the mining industry. For nearly 20 years he worked in open pit operations and underground mines for Noranda & Falconbridge, where corporate culture developed values of safety, sustainable development and process optimization. Since 2017, he is President and COO of Osisko Metals a Canadian exploration and development company creating value in the base metal space

**Patrick Simon, Mayor, Hamlet of Fort Resolution and Deninu Kue First Nations Councillor**

Patrick is a member of the Deninu Kue First Nation. A descendent of Chief Snuff, Akaitcho and King Beaulieu. An alumni of Grandin College. In 80's came home to become the assistant Community Administrative Office and Assistant Finance Officer, eventual becoming a Community Council Member and Sub Chief, along with working as an Administer for the local Metis Organization and local Hunters and Trappers Association. In the early 90's I became a Meteorological Technician working for Environment Canada in the Arctic as well as central Alberta. The latter parts of the 90's I moved back to Fort Resolution and began to work for the Akaitcho Territory Government and the Deninu Kue First Nation as an Environment

Coordinator. The early 2000's I began work for the Deninu Kue First Nation as the Environment Manager. In 2008 I became and spent 3 term as a Hamlet Councillor. In 2008 I became and spent 3 terms as a Deninu Kue First Nation Councillor, with a portfolio of Parks ( establishment of Thaidene Nene and continued development of a co-management regime for the Wood Buffalo National Park) and all Environmental Reviews and Interventions. Currently, I am the Mayor of the Hamlet of Fort Resolution and I continue to sit on the Deninu Kue First Nation Council with the same portfolios.

**Paul Gruner, President and Chief Executive Officer, Deton Cho Corporation**

Paul Gruner has 15 years of management experience in several industries including Oil and Gas, Construction, Telecommunications and manufacturing. He has worked primarily in the North including Northern British Columbia, Yukon, Alaska and currently Northwest Territories. In the past he has served as the General Manager of Dakwakada Capital Investments, CEO of Castle Rock Enterprises and President of RAB Energy. Currently he is the President and CEO of Det'on Cho Corporation which is the investment arm of the Yellowknives Dene First Nations. He sits on several boards including the Northwest Territories / Nunavut Chamber of Mines, Canadian Council for Aboriginal Business, Future Skills Centre Canada and Da Daguay Development Corporation. In addition to his professional experience he has a Master of Business Administration from the University of Northern British Columbia, a Chartered Professional Accounting Designation and the Institute Corporate Director Designation.

**Presenter Biographies – Day 3**

**Fritz Griffith, Program Coordinator, Conservation, Assessment and Monitoring, Environment and Natural Resources, Government of the Northwest Territories**

Fritz Griffith is the Interim Resource Management Assistance Program Coordinator with the GNWT. Born and raised in the north, Fritz grew up in both Lutsel K'e and Yellowknife, after which he moved south to complete a Bachelor's degree in Geology and Master's degree in Earth Science, with a focus on the north. He has also has numerous years of experience working in the field of environmental remediation. Fritz has recently returned home to Yellowknife to follow his passion working in the north. In his current role as IRMA coordinator, Fritz has the opportunity to work with communities in the NWT, supporting their engagement with activities and developments occurring within their traditional territory.

**Jennifer Walsh, Senior Environmental Policy Analyst, Crown-Indigenous Relations and Northern Affairs Canada**

Jennifer was born in Yellowknife but left the territory when she was 8 years old and spent most of her childhood around Winnipeg, MB. She returned to Yellowknife in 2000 to work at a family business and this is where her passion for the North was realized. She studied at the University of Alberta and moved to Ottawa in 2007. She is currently the acting manager of the Environmental Assessment, Land Use Planning and Conservation Group within the department of Crown-Indigenous Relations and Northern Affairs Canada. She is an experienced senior environmental policy analyst who has spent her entire 14-year career working for Crown-Indigenous Relations and Northern Affairs Canada, including 2 years at the Yellowknife Regional Office of CIRNAC. She is passionate about the north and its people and has significant experience in providing scientific and policy advice to the Minister and senior management on environmental management aspects of northern development proposals, including environmental assessment decisions. Jennifer loves living in the city of Ottawa and in her spare time she can be found discovering new restaurants, skiing down the mountains or enjoying her new passion of spinning.

**Angie McLellan, Indigenous Relations, NWT & Nunavut Central and Arctic Region, Fisheries and Oceans Canada**

Angie grew up on the traditional lands of the Chippewas of Georgina, signatories to the Williams Treaties. Her trajectory north began with family canoe trips and subsequent studies at Lakehead University in Thunder Bay, Ontario. Angie accomplished a 15-year career with the Ontario Ministry of Natural Resources, collaborating with Indigenous communities primarily within Treaty 3, 5 & 9. Through this work, Angie was shown two ways of thinking; Anishinabek knowledge and western science knowledge which she applied to co-create fisheries, forestry, park, and land-use management plans. Relocating to Denendeh 4 years ago, Angie was captivated by the kindness of the people and the beauty of the landscape. She started a career as a Fisheries Protection Program Biologist for the environmental assessment and regulatory review of mining, oil, and gas projects for Fisheries and Oceans Canada (DFO). Currently, Angie is the NWT/NU Indigenous

Relations Officer of the Aquatic Ecosystems Program for the department. She is passionate in her endeavor to cultivate and enhance relationships between DFO and Indigenous organizations to co-manage fish and fish habitat.

**Catherine Dymond, Crown Consultation Operations Directorate, Impact Assessment Agency of Canada**

By profession, Catherine is a public servant with over 10 years of experience navigating the federal bureaucracy; she is currently a Senior Analyst at the Impact Assessment Agency of Canada (formerly the Canadian Environmental Assessment Agency). Catherine provides technical advice and supports the well-being of staff who work in Crown consultations on behalf of the Agency. By calling, Catherine is a Mother, a partner, a daughter, a sister, an auntie, cousin, and friend. Catherine seeks to continue the legacy of her matriarchs through raising up her daughter and nieces to be strong and resilient, teaching them the ways, words, and cultures of their mixed race and mixed culture family.

**George Lafferty, Community Consultation Officer, Crown-Indigenous Relations and Northern Affairs Canada – Contaminants and Remediation Division (CIRNAC-CARD)**

George Lafferty is a member of the Tlicho Government in Canada's Northwest Territories. After graduation from high school in Ottawa, Ontario, George started worked with the Government of Northwest Territories (GNWT). After several years, George went on to complete the Management Studies Program in Fort Smith, NT, and started work with the NWT Housing Corporation (NWT HC) in Yellowknife, NT. In 2002, George started employment with the Federal Government of Canada and now works closely with his Tlicho Elders and Aboriginal Organizations Leadership on the Federal Contaminated Sites Remediation Projects. One of his first project was to help develop a Remedial Action Plan for the Mine Remediation Projects in the Tlicho Region, using the Traditional and Ecological Knowledge of his Elders. George believes traditional knowledge information from the Elders is the key to successful remediation projects and a positive step in building trust. George is also a strong supporter of providing education and continues to encourage youth to study hard and consider a career in Science Technology.

**Tawanis Testart, Manager, Crown-Indigenous Relations and Northern Affairs Canada – Contaminants and Remediation Division (CIRNAC-CARD)**

**Panelist Biographies- Day 3**

**Joanne Barnaby, Joanne Barnaby Consulting, Moderator**

Joanne Barnaby has extensive experience in working with northern communities. This experience includes over 40 years of working in Aboriginal organizations providing both leadership and senior management services to aboriginal peoples. While Joanne has not held a staff position in government, she has held positions of public trust including as a Special Advisor to the Premier of the NWT and as a Special Advisor to the Canadian Delegation on the Biodiversity Convention. More recently, she has been awarded contracts as a consultant to assist in the development of public policy in the management of northern and national resources. Joanne now focuses her energy on creating the means for building on the strengths of both western science and traditional knowledge in the development challenges facing northern and aboriginal communities. Her two terms on the Board of Directors of the Science Institute of the NWT together with her pioneering work at the Dene Cultural Institute to bring forward traditional knowledge in a modern day context, has provided her with the unique experience to fully appreciate the needs and opportunities associated with development initiatives. Her work now emphasizes building economic, cultural, and environmental sustainability using western and indigenous traditional knowledge systems, developing management models for full aboriginal participation and for accountability to society. Ms. Barnaby uses an educational approach to facilitating public and aboriginal participation in the consideration of development projects, providing an opportunity to increase appreciation and understanding of the value of each knowledge system. Her long-standing working relationship with northern leaders and elders as well as with science-based managers has provided her with the communication skills required to bridge these understandings.

**Dakota Erutse**

Dakota Erutse is in constant search for a real Canadian—and hasn't yet found one. Since he believes that poets and novelists are the voice to life's edifying lessons, he studies English literature. Since he has an Indian Status Card, he also reads Aboriginal law. Dakota has led community engagement initiatives related to Aboriginal custom election codes and

federal-territorial protected area designations. He was a Member of the Technical Working Group for the *Protected Areas Act*, S.N.W.T. 2019, c. 11. Since 2016 he has been a Member and the Vice-Chair of the Sahtu Land Use Planning Board. He has served on the Sahtu Health and Social Services Authority's Board of Management and has served the Fort Good Hope Dene Band as a Returning Officer. Dakota is a Participant of the Sahtu Dene and Metis Comprehensive Land Claim Agreement. He spends his free time preparing for marathons and writing book reviews and essays. He was born in Yellowknife and raised in Fort Good Hope, Northwest Territories. He lives in Vancouver, British Columbia.

### **Joanne Speakman**

Joanne Speakman is a student at the University of Alberta, studying a Bachelor of Science in Environmental and Conservation Sciences and will be graduating in Spring 2020. Joanne's interest in biology began as she grew up in Délı̨ne, NT, where there were many opportunities to camp and fish on Great Bear Lake. Joanne is a Sahtu Dene and her passion for protecting environmental resources is rooted in cultural teachings that emphasize gratitude and respect for the land. Joanne has lived in Yellowknife since 2000 and feels lucky to have had such unique cultures and environments shape her world view, as well as her studies.

Joanne has worked as an intern with the GNWT's Cumulative Impact Monitoring Program (CIMP) and as a summer student with the Mackenzie Valley Land and Water Board. In 2018, Joanne and Mandy Bayha, another student from the Sahtu, had the amazing opportunity to participate in climate change research with NASA scientists leading the Arctic Boreal Vulnerability Experiment (ABOVE). Following the experience, the ABOVE team invited Joanne and Mandy to present on "Indigenous Perspectives and Co-production of Knowledge" at their 5<sup>th</sup> annual meeting in San Diego, CA in May 2019. Joanne felt it an honour to share her passion for research that is respectful and relevant to communities especially impacted by climate change. Most recently, Joanne was a summer student with the GNWT's Conservation, Assessment and Monitoring division, where she had the opportunity to participate in consultations and to learn from experts in conservation planning. Joanne has met many inspiring and supportive people throughout her journey and looks forward to what's ahead.

### **Mason Mantla**

Born and raised in Behchokò, Mason Mantla is a Tłı̨chǫ citizen who is deeply connected to his community and culture. His educational experiences include graduating from Jimmy Bruneau Regional High School, courses at the University of Victoria's 2011 Summer Institute at the Centre for Aboriginal Health Research and being part of the pilot semester at Dechinta Centre for Research and Learning in 2010. Concerned by the problems and issues in his community and the health of the environment, Mason strives to make a positive difference in the lives of the Tłı̨chǫ people. Currently, Mason works as freelance videographer and entrepreneur. Mason was nominated to the Wek'èezhìi Land and Water Board by the Tłı̨chǫ Government on May 27, 2011 and has been on the Board since. In addition to his love of music (Mason has been writing songs since the age of 12 and playing guitar and singing since the age of 16), filmmaking, Mason loves spending time with his daughters Evie and Theia.


### **Nigit'stil Norbert**

Nigit'stil Norbert is a multidisciplinary artist with over a decade's worth of experience, originally from and based out of Inuvik in the Beaufort Delta Region. Her art has exhibited and toured Canada and the US and her first solo exhibition, *Beading Heart*, which focuses on the lifeblood that is the Nagwichoonjik/Dehcho/Mackenzie River, will exhibit in 2018/2019. Norbert is passionate about politics and engaging with her community, with a focus on strengthening and empowering youth voices and growth when it comes to avenues of creative expression and social justice. Within her art, she likes to speak simply, honestly and without fear. She is currently a Board Member for the Gwich'in Land and Water Board.

### **Community Liaison**

#### **Tanya Lantz, Community Outreach Coordinator, Mackenzie Valley Land and Water Board**

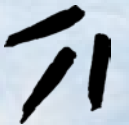
Tanya Lantz is the Community Outreach Coordinator, the key role of which is to help the Land and Water Boards of the Mackenzie Valley (Gwich'in, Mackenzie Valley, Sahtu, and Wek'èezhìi Land and Water Boards), improve engagement with communities. Tanya is originally from Hay River and is a Band Member of the Łutselk'e Dene First Nation. Tanya has

twenty plus years experience in Northern Canada in areas of governance and culture. As an accomplished executive, Tanya has balanced and maintained relationships throughout Denendeh. Her training is through the Faculty of Native Studies at the University of Alberta with emphasis on Aboriginal Governance and Partnerships. Some of her previous experience includes the Chief Executive Officer of the Dene Nation and Assembly of First Nations Regional Office (NWT), Senior Advisor at the NWT and Nunavut Chamber of Mines, Senior Administrative Coordinator for the Department of Lands, in addition to other positions within the GNWT. Tanya is a Mother, a Daughter, a Sister and an Aunt. 



# AN UPDATE FROM BC: RIGHTS RECOGNITION, UND RIP, DRIPA, & NATION BUILDING

CHIEF COMMISSIONER CELESTE HALDANE  
BC TREATY COMMISSION | FEBRUARY 4, 2020





# A RIGHTS RECOGNITION ERA

NON-EXTINGUISHMENT



RIGHTS  
RECOGNITION



UN DECLARATION



# RIGHTS RECOGNITION HAS ALWAYS BEEN THE INTENTION OF TREATY NEGOTIATIONS



Negotiations, in our view,  
will not be based on that  
tired old notion of extinguishment.

We will not tolerate the extinguishment  
of our collective Aboriginal rights.

Let us set that clear today.

- Chief Joe Mathias  
at the 1992 signing of the BCTC Agreement







First rights denial,  
then rights reluctance,  
and now officially in an era of  
Indigenous rights recognition.




# *DECLARATION OF THE RIGHTS OF INDIGENOUS PEOPLES ACT*

- Historic legislation aligning BC laws with the *United Nations Declaration on the Rights of Indigenous People* (UN Declaration)
- First province or territory in Canada to enact legislation that implements the UN Declaration
- Contains a provision for the provincial government to enter into agreements with Indigenous governments for joint decision-making and consent
- Treaties operationalize many of the provisions in both the UN Declaration and the *UN Declaration Act*





A background image showing a pair of hands holding a string of white and yellow beads. The hands are positioned in the center, with fingers slightly spread, holding the string. The beads are small and round, with some having a yellow center and others being plain white. The background is a soft, out-of-focus grey.

# OPERATIONALIZING THE UN DECLARATION

- **The BC Treaty Negotiations Process**

- Article 32 (2) of the UN Declaration: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources [...]

- **Provincial: revitalized *Environmental Assessment Act***

- The new *Act* and majority of regulations brought into force on Dec 16, 2019
- Enhances public confidence and meaningful participation; advances reconciliation with First Nations; protects environment while providing clear pathways to sustainable project approvals

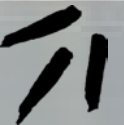


# ENVIRONMENTAL ASSESSMENT ACT

- Revitalization of the *Environmental Assessment Act*
- Initial phase included **Direct Engagement** with:
  - 67 Indigenous nations
  - 7 Industry & businesses associations (totaling 63 representatives)
  - 44 EA practitioners, and 33 NGO representatives
- For proponents: greater certainty and predictability of process
  - Identifying regulatory costs at outset, including capacity funding for Indigenous nations;
  - Increased:
    - Certainty during “Effects Assessment” phase achieved through early phases of consensus building and issues resolution
  - Expanding duration of initial environmental assessment certificate (EAC) to 10 years (maximum), with potential to extend for an additional 5 years

# *ENVIRONMENTAL ASSESSMENT ACT*

- **5. Dispute resolution facilitators**
- 5.1 (...) Minister, after considering a recommendation, if any, of an Indigenous nation, may appoint individuals to facilitate the resolution of disputes (...)
- 5.2 A participating Indigenous nation or the chief executive assessment officer may refer one or more of the following matters to a dispute resolution facilitator:
  - a matter pending decision under section 14 (2), 17, 18, 19, 28 or 29;
  - the provision of a notice under section 14 (1);
  - any other prescribed matter.
- 5.5 If a matter pending decision is referred to a dispute resolution facilitator,
  - (a) a decision on the matter may not be made under the applicable section until after the facilitator has provided a report, and
  - (b) if the participating Indigenous nation requests that the chief executive assessment officer take part in the dispute resolution process, the chief executive assessment officer must take part in the process.

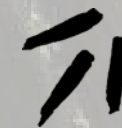






# IMPLEMENTING THE *UN DECLARATION ACT*

- How do we build meaningful relationships?
- Free, prior, and informed consent [FPIC]
- First Nations being at the same table at the same time as everyone else
- Economic reconciliation
  - Sharing prosperity and sharing sovereignty





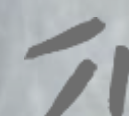


# FREE, PRIOR & INFORMED CONSENT (FPIC)

Article 11 (2): States shall provide redress through effective mechanisms, which may include restitution, developed in conjunction with indigenous peoples, with respect to their cultural, intellectual, religious and spiritual property taken without their free, prior and informed consent or in violation of their laws, traditions and customs

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.







# UNDRIP & FPIC IN PRACTICE

---

- LOU signed between Namgis, Kwikwasutinuxw Haxwa'mis and Mamalilikulla First Nations, and British Columbia in June 2018.
- Parties wanted to engage in a consent-based process consistent with UNDRIP.
- Broughton Archipelago Steering Committee, which included representatives from all Parties, put forward number of recommendations.
- Recommendations provide for a transition that allows industry to respond and provides an opportunity for transparent monitoring and oversight.





# UNDRIP & FPIC IN PRACTICE: CO-MANAGEMENT

## First Nations Fisheries Council

- BC First Nations Fisheries Action Plan and the FNFC's mandate identify the development of a BC-wide fisheries co-management framework as a top priority.
- Co-management meant to actively engage and accommodate First Nations' roles in fisheries and aquatic resource management and decision making processes.
- FNFC worked with First Nations to develop 10 collaborative management principles.
- FNFC supports development of inclusive, equitable, and transparent mechanism that provides Nations opportunity to advance collective interests in a variety of processes, including through Tier 1 (First Nation-to-First Nation), Tier 2 (government-to-government) and Tier 3 (multi-stakeholder) processes.





# PARTNERSHIPS

- **B.C. Regional Mining Alliance (BCRMA)**
  - Pilot project involving the provincial government, Indigenous groups and the mining industry.
  - BC, Tahltan Central Government, Nisga'a Lisims Government, Association for Mineral Exploration (AME), Skeena Resources, IDM Mining, GT Gold, and Dolly Varden Silver.

- **Combatting negative perceptions about BC in investment community** – Rob Stevens, AME VP
- **Opportunity for future growth** – Chad Day, Tahltan Central Government
- **Strengthening First Nation to First Nation relationships** – Nisga'a and Tahltan





# ECONOMIC RECONCILIATION

## RECONCILING PROSPERITY

Across BC, First Nations and local governments are working together towards reconciliation

**\$1B**

**Attracted over \$1 billion investments from Amazon**  
to open a major shipping facility

**Beecher Bay First Nation, Metchosin, and  
Langford** land-swap, and South Langford  
Business Park development

**3,000 - 4,000  
new jobs**





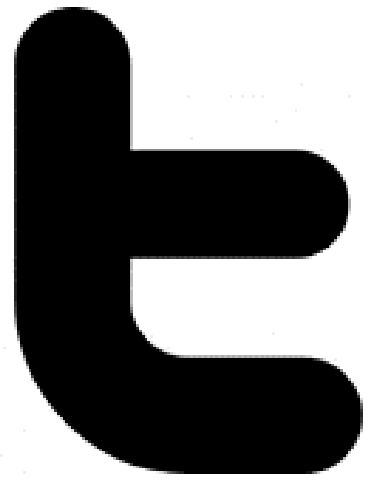
# SUPPORTING NATION BUILDING

- Industry and government can support self-determination
- Who speaks for a Nation?
- Who are the proper title and rights holders?
- These can only be answered by Nations for themselves through:
  - Self-determination
  - Self-governance
  - Nationhood
  - Nation building
- Internal reconciliation
- Moving forward to create prosperity for everyone









# STAY CONNECTED!

[bctreaty.ca](http://bctreaty.ca)

[@bctreaty](https://twitter.com/bctreaty)





# Land Claims, Co-Management and Context

**John Donihee**

*Of Counsel*

**Resource Co-Management & MVRMA Workshop  
Yellowknife NT  
February 3, 2020**

# Outline

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- **Introduction**
- **Co-management and decision-making**
- **Land claims and federal policy**
- **Land claims and co-management**
- **Co-management tribunals and the administrative law**
- **Co-management and self-government**
- **Concluding thoughts**

# Introduction

---

- **The MVRMA is the framework developed by the Dene and Metis of the Mackenzie Valley in the 1970's and '80s**
- **A review of the way land claims first developed and then drove the approach to co-management must be set in an historical context**
- **Co-management is by nature a compromise -**

- 
- **Before federal land claims policy allowed for self-government negotiations, co-management provided an opportunity to influence -- if not control resource development decisions beyond settlement lands.**
  - **Co-management processes evolved toward a form of “co-governance”**

# Land Claims and Federal Policy

---

- **Each land claim reflects the federal policy of the day – and that policy has evolved**
- **Early claims based on “extinguishment – grant back” model with no self-government**
- **Modern – Tlicho – claim is self-government based**
- **Federal policy continues to evolve**

# Land Claims and Co-Management

---

- **Co-management is a decision-making tool**
- **Co-management is found in many contexts without the necessity for land claims or legislation**
- **The approach brings stakeholders together, avoids or helps resolve disputes and encourages more effective decision-making**
- **It is a common tool for bringing users and managers together for better resource development outcomes**

- 
- Co-management is still an attractive resource management strategy
  - JBNQA 1975 – Tlicho Agreement 2005
  - Yukon to Labrador – MANY co-management boards
  - Wildlife, land, water, EIA, surface rights, land use planning
  - With or without legislative follow through – early claims, wildlife vs. EIA, land and water regulation

# Co-Management and Administrative Law

---

- Land claims co-management boards are established as administrative tribunals
- Must meet the requirements of administrative fairness and are subject to judicial review by the courts
- These tribunals are vehicles of Canadian not Indigenous law – subject to the Canadian legal system – even when included in self-government based land claims
- This legal foundation imports challenges and complexity to the business of co-management



- 
- **Co-management tribunals are limited by jurisdiction – either from their land claim or establishment legislation (like the MVRMA) or both**
  - **They make decisions (within jurisdiction) and report to Ministers – and in self-government claims sometimes also to Indigenous governments**
  - **This is a complex legalistic context for Indigenous members to master**
  - **Capacity issues abound both human and financial**

# Co-Management and Self-Government

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- **Co-management and self-government can work together**
- **In Yukon, Wek'eezhii and Labrador, more recent self-government claims still use co-management for resources like wildlife, water and renewable resources**
- **Not all resource management is suitable for co-management**

# Concluding Thoughts

---

- **Land claims based co-management has unique origins and operates in a unique context**
- **Tribunals are like “boards – plus” – they can’t be eliminated by government legislative policy change**
- **Boards bring together Indigenous and government appointees to make decisions on matters integral to s.35 rights**

- 
- **A built in the North system designed – as set out in the MVRMA to make decisions**

**“in the interests of all Canadians but especially the residents of the Mackenzie Valley”**

**Mahsi Cho**

# Contact Information

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**John Donihee**

(613) 217-8521

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**Willms & Shier Environmental Lawyers LLP**

**[www.willmsshier.com](http://www.willmsshier.com)**





# Integrated Resource Management in the Mackenzie Valley

Brett Wheler, Senior EA Policy Advisor,  
Mackenzie Valley Review Board  
Yellowknife, Feb 2020

# Land Claim Agreements in the NWT

- Inuvialuit Final Agreement (1984)
- Gwich'in Comprehensive Land Claim Agreement (1992)
- Sahtu Dene and Métis Comprehensive Land Claim Agreement (1993)
- Tłıchǫ Land Claims and Self Government Agreement (2005)
- Areas without Settled Land Claims (Interim Agreements)



# Principles of NWT Resource Management

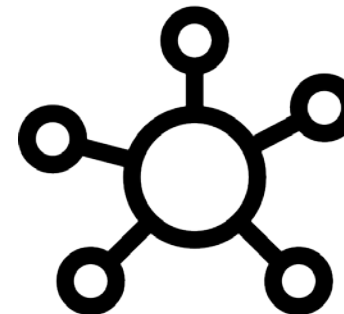
## CO-MANAGEMENT

- **Formal agreements / institutional arrangements between governments and Indigenous Government Organizations**
- Specifying their respective **rights, powers and obligations** with reference to the **management and allocation of resources** in a particular area



## INTEGRATED AND COORDINATED

- Integrated and coordinated system for the **regulation of land, water and wildlife, land use planning, and project assessment.**
- The work of different parts of system needs to be **coordinated**





*“We're here because our cultures and histories are intertwined with yours and the decisions you make... will either diminish us as a people - or else enable us to protect what's basic to our identity and our culture and our values.”*

- Chief Darrel Beaulieu, Yellowknives Dene First Nation, November 26, 2003

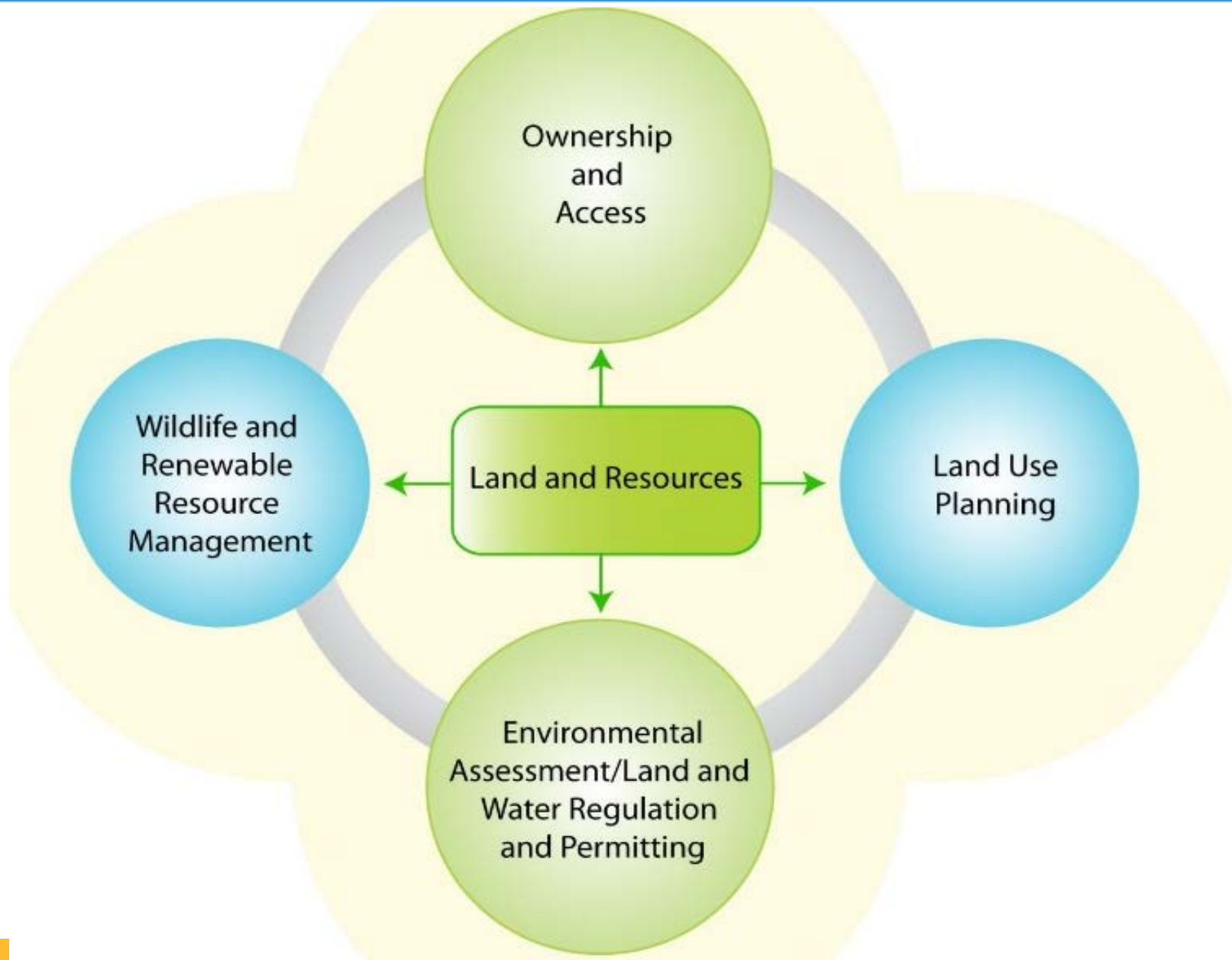


# Co-management

As a result of land claim agreements, environment and resource management is shared between governments and Aboriginal groups through Co-management Boards

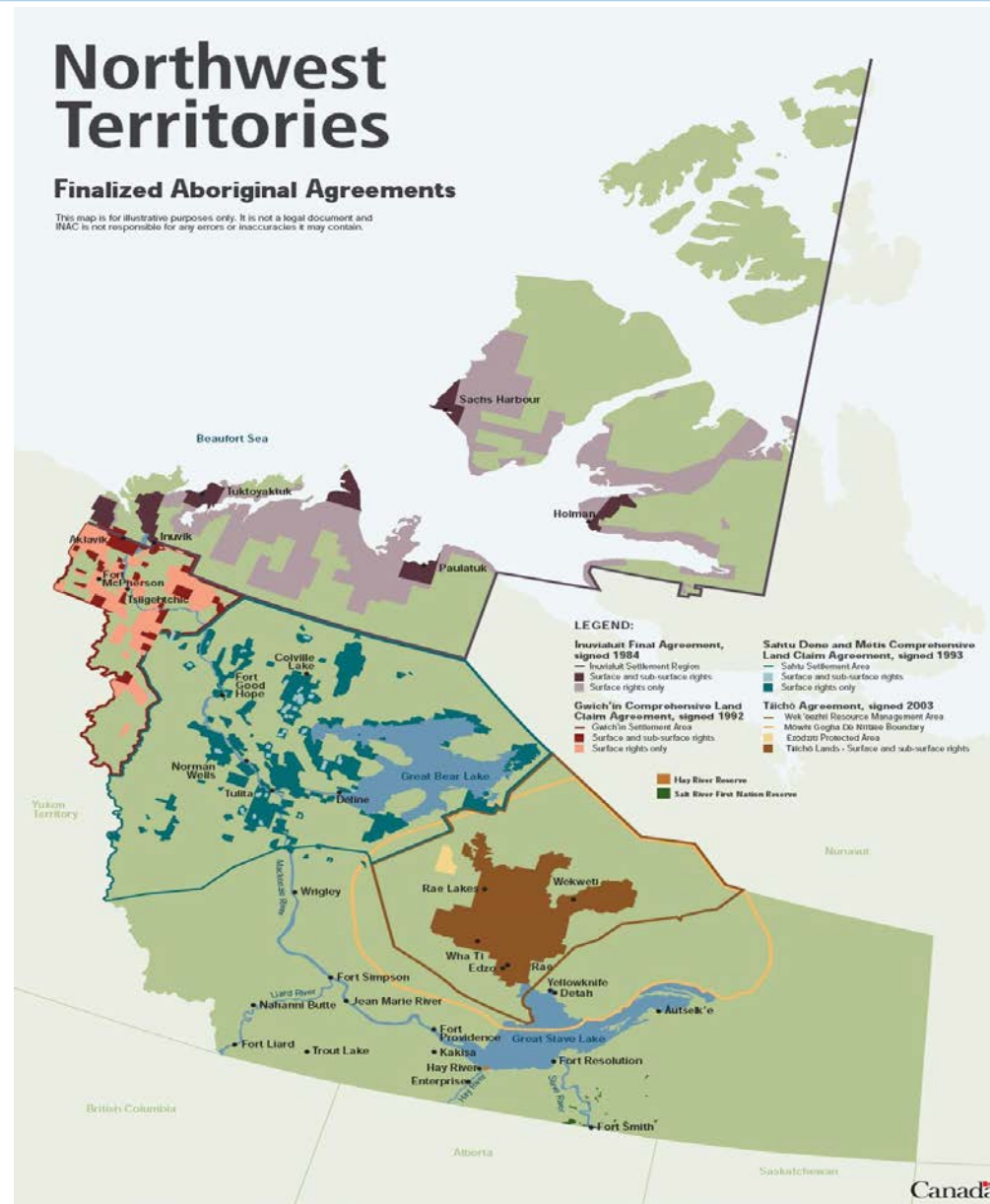


# Integrated Resource Management Framework



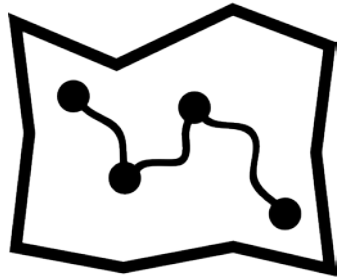
# Integrated Resource Management Framework

## 1) LAND OWNERSHIP & ACCESS





## 2) LAND USE PLANNING



**Land Use Planning Boards** develop and implement regional land use plans

### Mackenzie Valley Boards:

- Gwich'in Land Use Planning Board
- Sahtu Land Use Planning Board
- Tłıchǫ Government
- Dehcho Land Use Planning Committee

## 3) ENVIRONMENTAL IMPACT ASSESSMENT

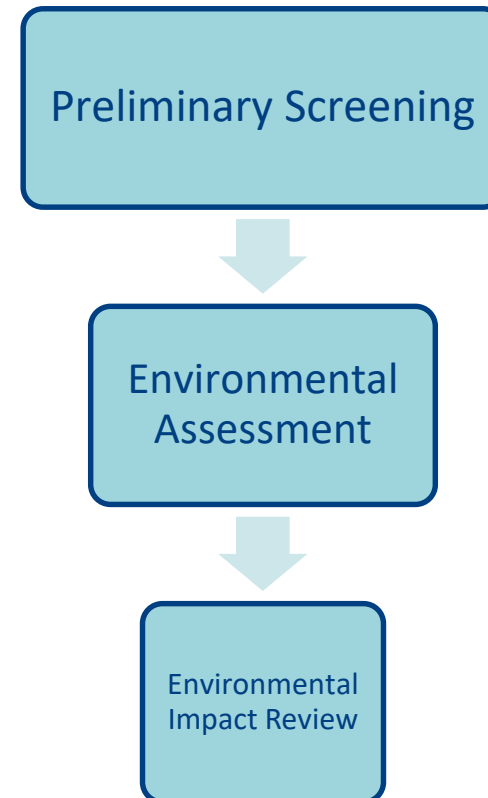


- Carefully consider impacts before action is taken
- Ensure concerns of Indigenous people & the public are taken into account



- Protect the environment from **significant impacts**
- Protect social, cultural, economic **wellbeing**
- Importance of conservation to the **well-being and way of life of Indigenous people**

### Stages of Environmental Impact Assessment



## 3) LAND AND WATER REGULATION



- Regulate the **use of land and water and deposit of waste**
- Land Use Permits and Water Licenses
- Set conditions



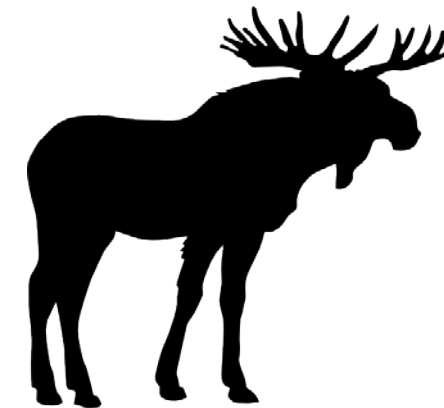
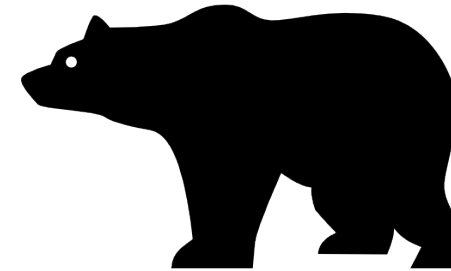
### Boards

- Gwich'in Land and Water Board
- Sahtu Land and Water Board
- Wek'èezhìi Land and Water Board
- Mackenzie Valley Land and Water Board

## 4) WILDLIFE AND RENEWABLE RESOURCE MANAGEMENT

- **Renewable Resource Management Boards** and other organizations (e.g., Hunters and Trappers Committees) manage wildlife, fish, and forests
- **Federal, territorial, Indigenous & co-management** orgs have management & regulatory responsibilities

The process and responsibilities for how these activities are done differ between regions



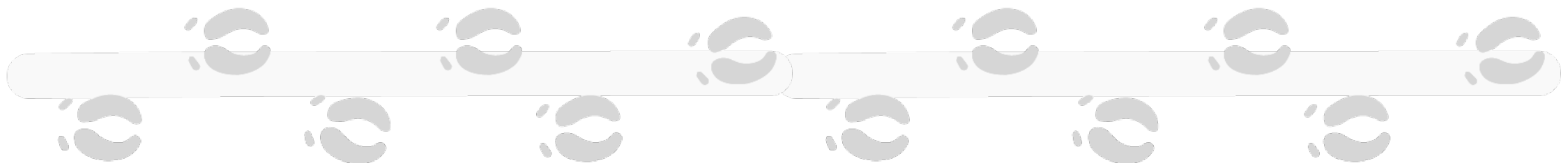


### **Other parts of the MVRMA intended to support the system as a whole**

- Cumulative Impact Monitoring Program
- NWT Environmental Audit
- Regional Strategic Environmental Assessment

During the rest of this workshop, we will have an opportunity to discuss engagement, consultation, and ways of working together

Mahsi



# Land and Water Boards of the Mackenzie Valley

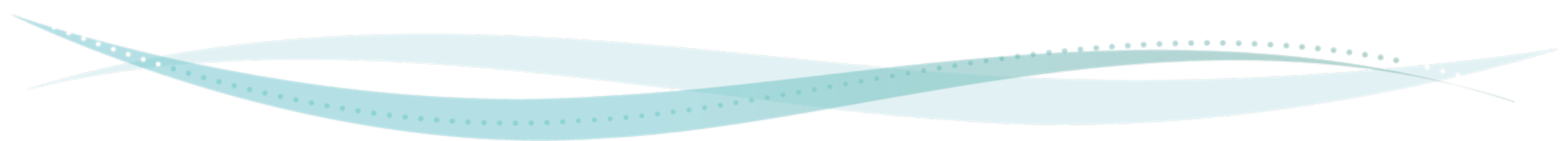
## Engagement and Consultation Policy and Guidelines

Julian Morse, Regulatory Policy Advisor



# Presentation Outline

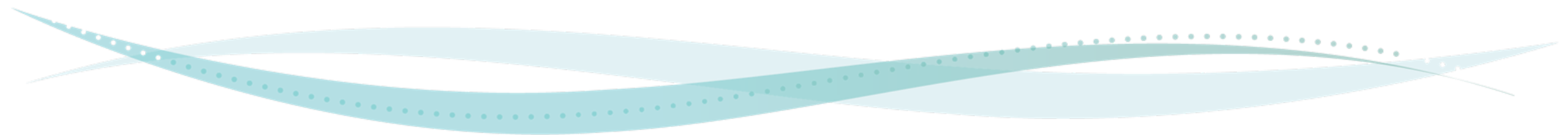
- What is Engagement and Consultation?
- Overview of the Engagement and Consultation Policy
- Guiding Principles
- Overview of the Engagement Guidelines
- How Engagement Works in Practice
- New Joint Policy Development





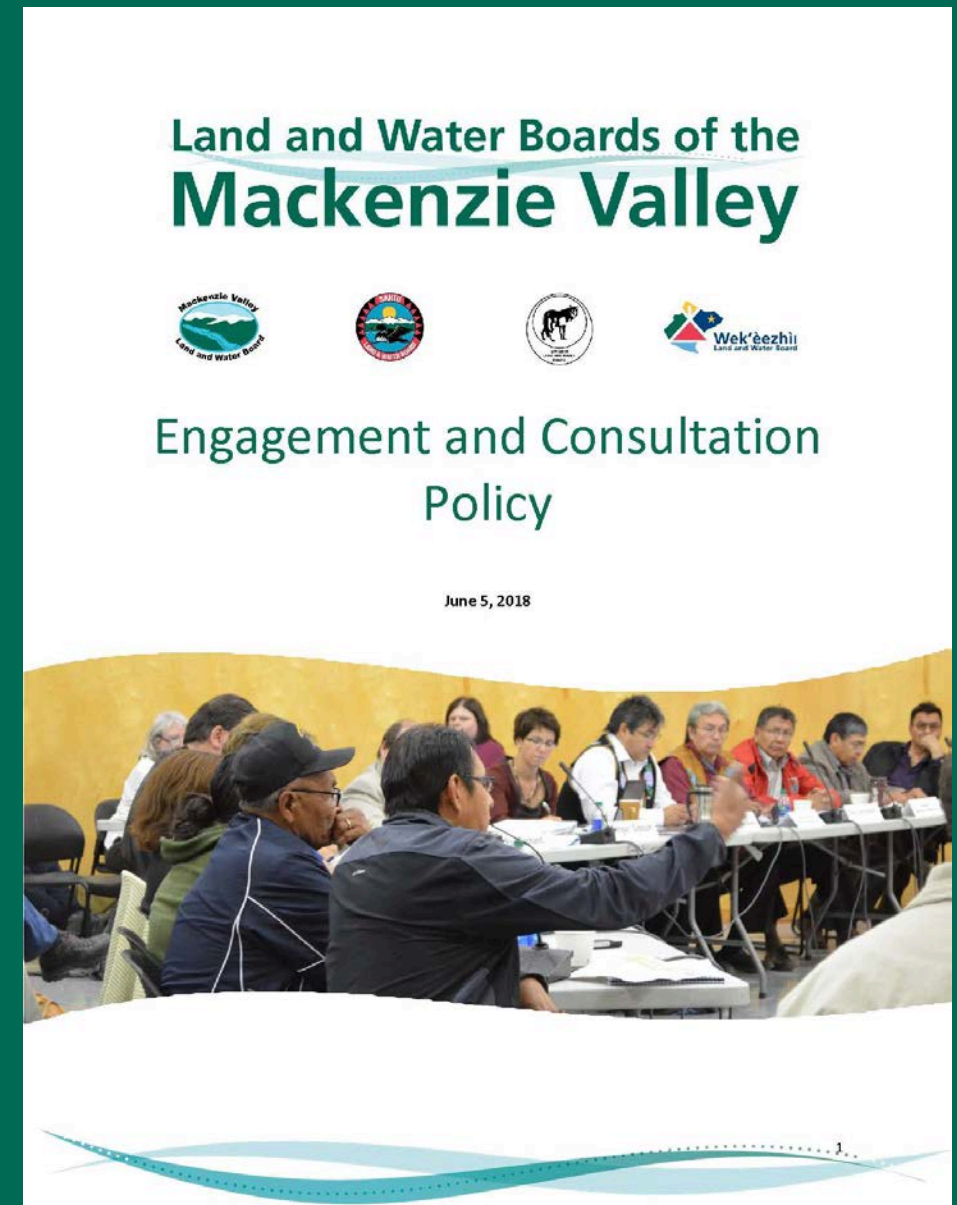
# What Is Engagement & Consultation?

- Engagement:
  - the communication and outreach activities a Proponent undertakes with affected parties prior to and during the operation of a Project
- Statutory Consultation:
  - Consultation with affected parties by the Boards through their review processes as required by the MVRMA
- Crown Consultation:
  - the Crown's duty to consult on adverse impacts to established or asserted Indigenous and Treaty Rights protected by the Constitution



# Engagement and Consultation Policy

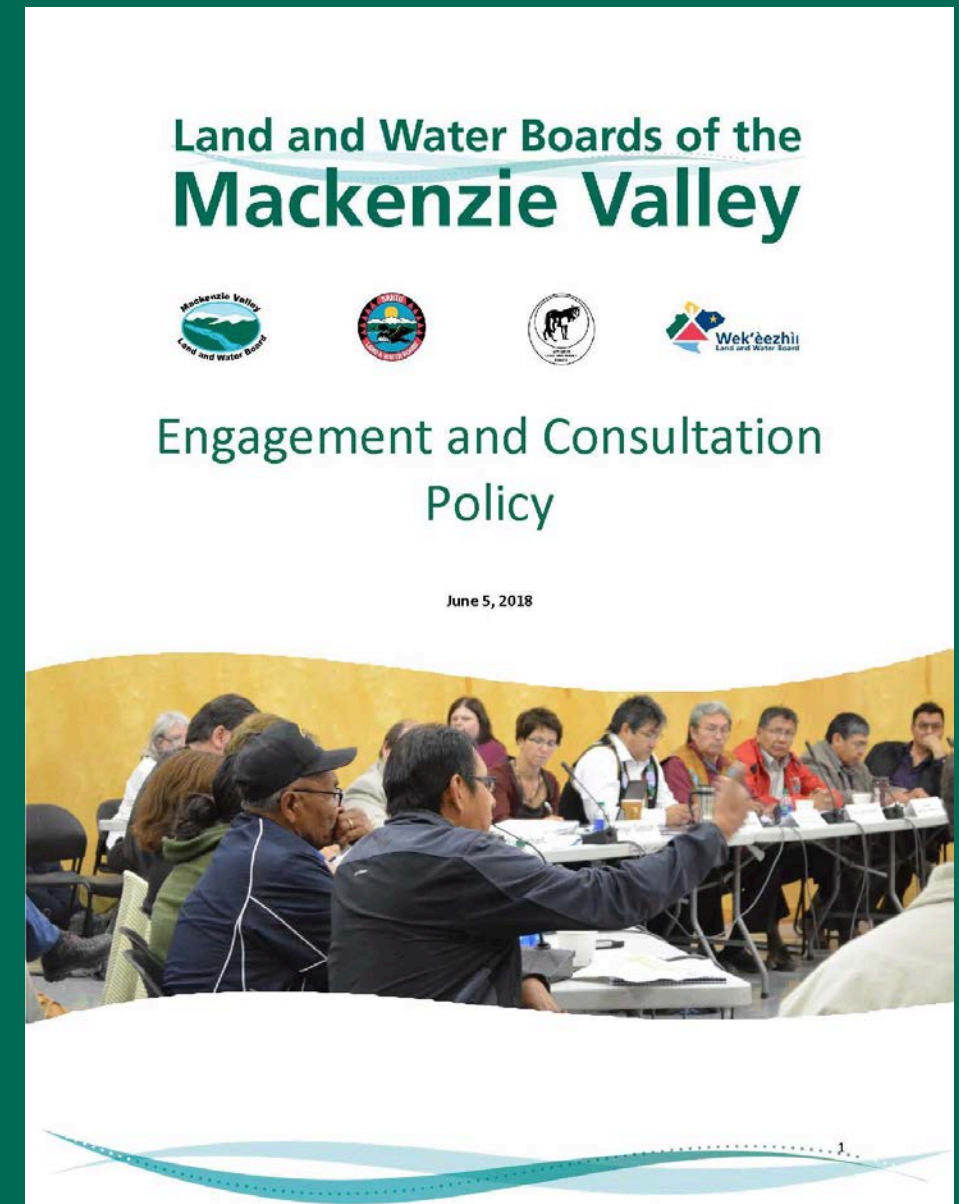
- Boards required by MVRMA to ensure concerns of indigenous people are taken into account
- Policy describes engagement & Consultation requirements
- 3 Parts:
  - Requirements for Proponents
  - Board Processes
  - Adequacy of Crown Consultation



# Engagement and Consultation Policy

## 1. Proponents

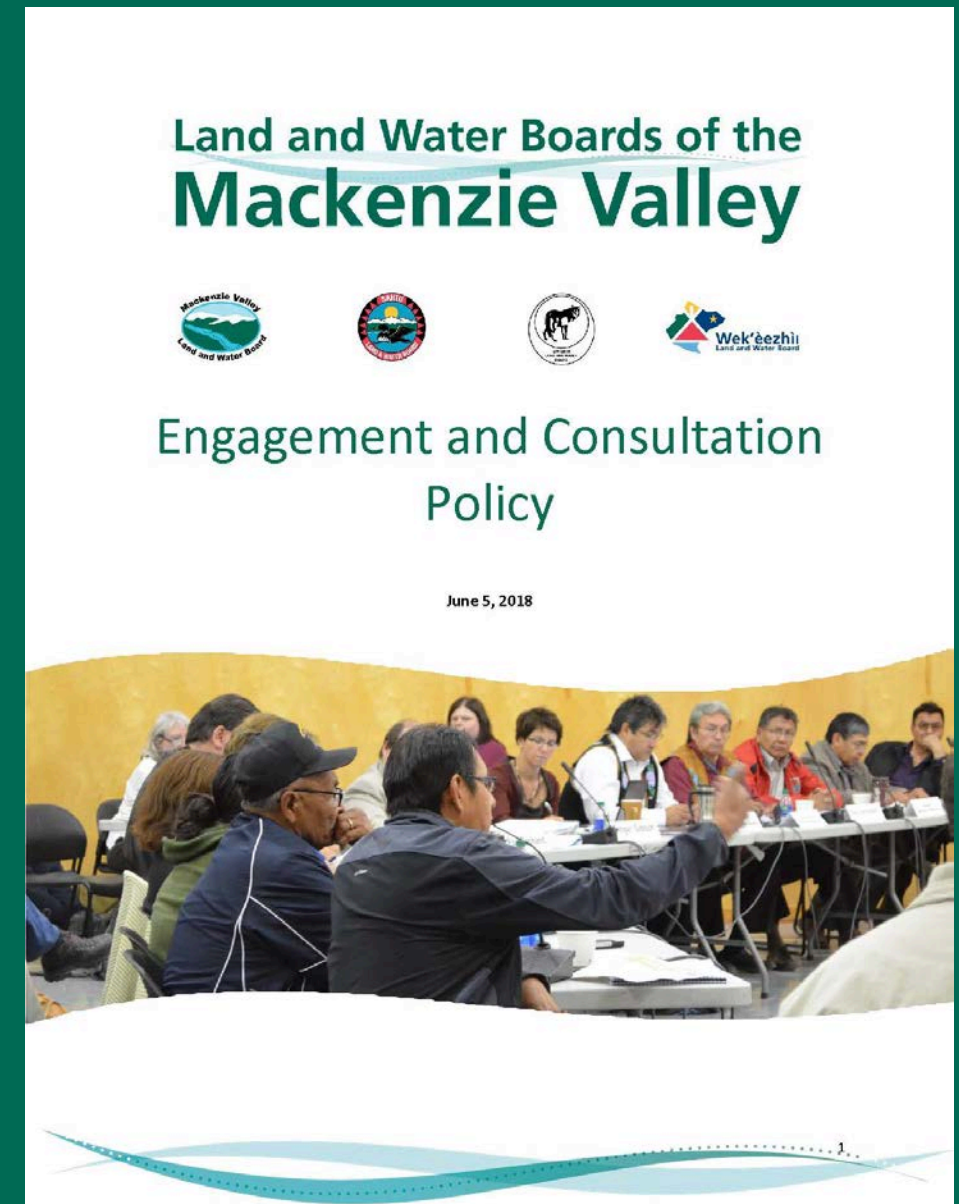
- Required to initiate dialogue and engagement planning with affected parties in advance of an application with the goal of:
  - Explaining the project
  - Identifying concerns and potential impacts to environment and indigenous rights
  - Addressing concerns
  - Ensuring appropriate engagement occurs throughout life of project (engagement plan)



# Engagement and Consultation Policy

## 2. Board Processes

- Use consultative approaches throughout a proceeding
  - Assists affected parties to contribute meaningfully to the process of assessing impacts and appropriate measures and conditions
- Ensures processes meet consultation requirements of the MVRMA and Waters Act

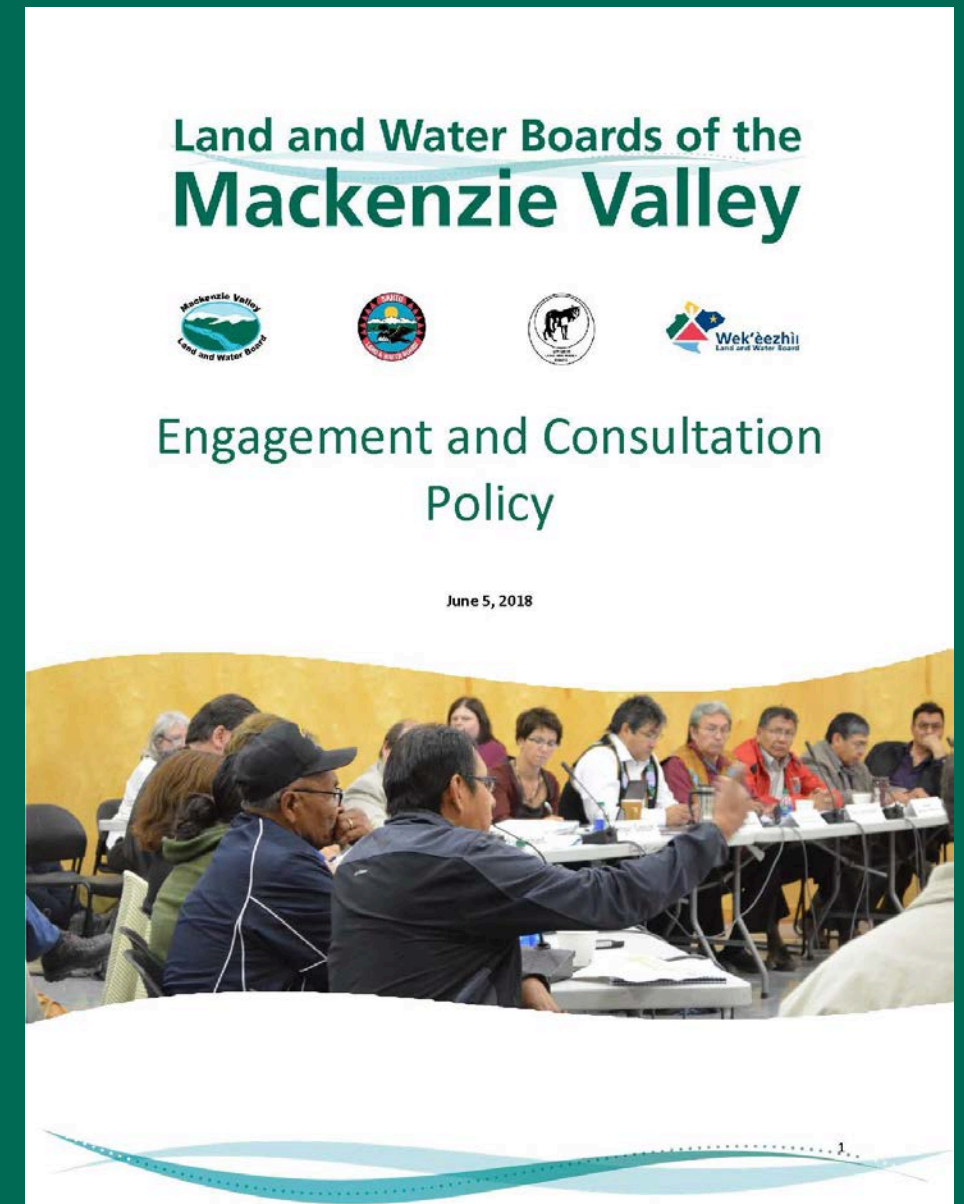




# Engagement and Consultation Policy

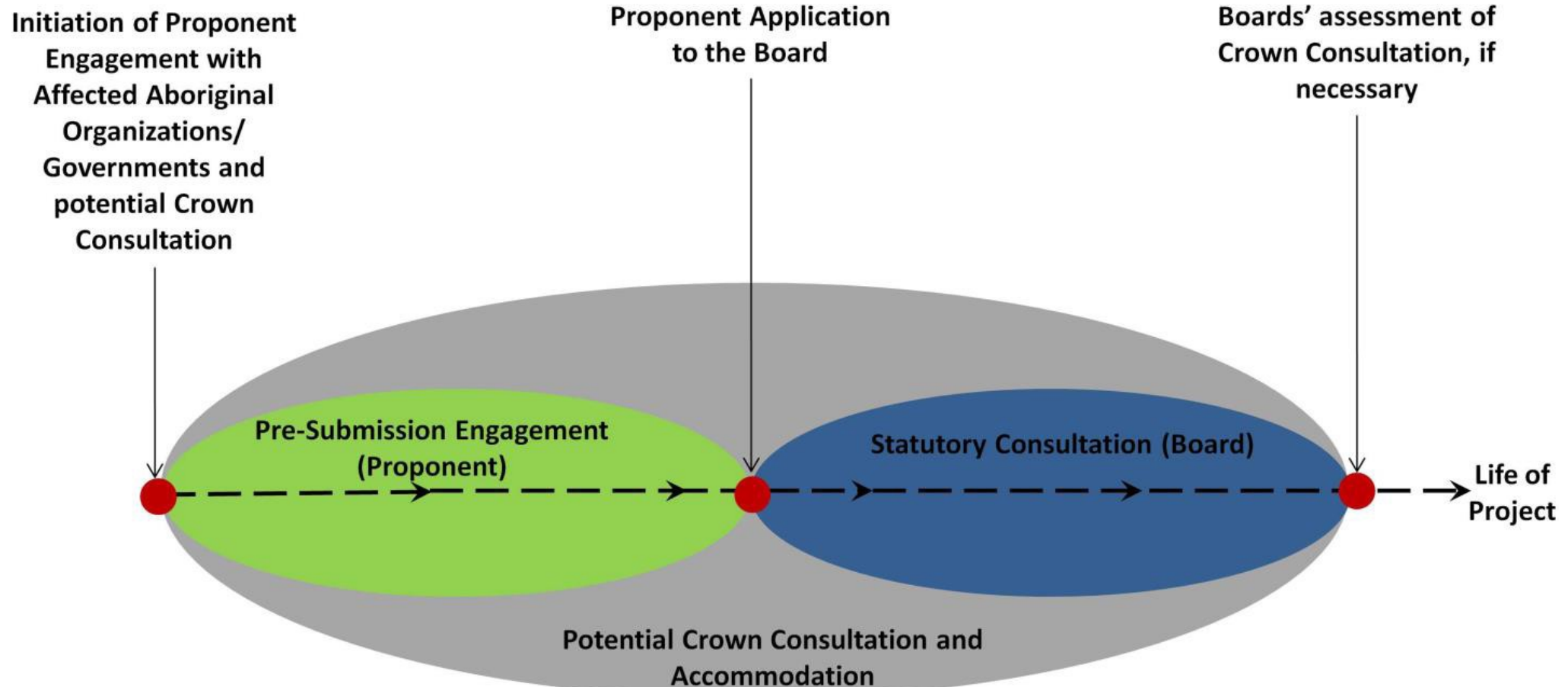
## 3. Crown Consultation

- Occurs throughout and over and above Board process
- Boards assess and rule on, if requested or necessary, the adequacy of Crown Consultation before making a final decision or recommendation



# Relationship of 3 Parts

Land and Water Boards of the  
**Mackenzie Valley**



# Guiding Principles

- Shared Responsibility
  - Coordinated processes reflect responsibilities of proponents, Boards, Governments, Indigenous governments/organizations
- Appropriate Disclosure
  - All relevant information is made available in a timely and understandable manner
- Inclusiveness
  - Everyone potentially affected by an application should be given an opportunity to be heard
- Reasonableness
  - When setting expectations, and entering processes with a spirit of cooperation. Resources provided for participation where appropriate

# Engagement Guidelines

- For Applicants and Holders of Licences and Permits
- Companion to the Engagement Policy
- A step-by-step guide for how to implement the requirements of the Engagement Policy

## Land and Water Boards of the Mackenzie Valley



### Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits

June 5, 2018





# Engagement Guidelines

- Appendices:
  - Engagement Best Practices
  - Possible Engagement Approaches Based on Type of Board Authorization
  - List of Contact Information

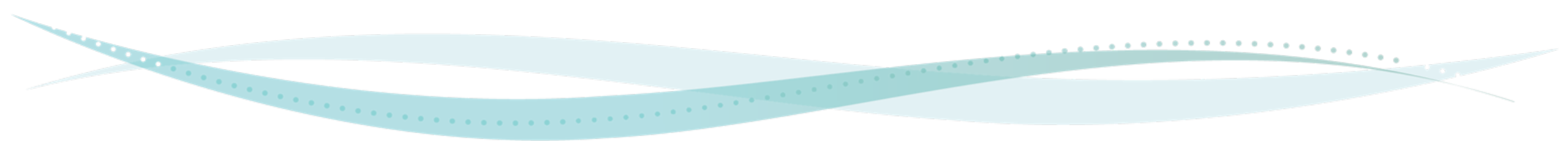
## Land and Water Boards of the Mackenzie Valley

Possible Engagement Approaches Based on Type of Board Authorization:

	Written notification to the affected party	Face-to-face meeting with the affected party	Community public meeting	Proponent-run workshop with affected parties
LUP (types A and B)				
New LUP	•	•	○	
Previously permitted LUP (including renewals) <sup>11</sup>	•	○	○	
Extension of LUP	•			
Assignment of LUP	•	○		
Amendment of LUP	•	○		
Storage authorizations	•			
WLs (types A and B)				
New WL (type A)	•	•	•	○
New WL (type B)	•	○	○	
Renewal of WL (type A)	•	•	○	○
Renewal of WL (type B)	•	○	○	
Assignment of WL	•	○		
Amendment of WL	•	○		

# Engagement Best Practices

- Start Early
  - Large Projects – 6-12 months in advance of application
  - Smaller projects – at least 3 months
- Be clear and transparent, use plain language
- Document all feedback (engagement log)
- Provide adequate resources to enable participation
- Use a partnership approach



# Engagement Guidelines - Appendices

## Appendix E - Pre-Submission Engagement Record (Summary and Log) Template<sup>13</sup>

### 1) Pre-Submission Engagement Summary

Name of Proponent: \_\_\_\_\_

Name of Affected Party: \_\_\_\_\_

Name(s) of representative(s) from Affected Party who participated in Engagement	Dates of Engagement (e.g., list dates or range of dates)	Reason(s) for Engagement (e.g., application for timber harvesting)	Overview of Issue(s) Resolved	Overview of Issue(s) Unresolved

Signature of Proponent (representative): \_\_\_\_\_

Signature of Affected Party (representative):<sup>14</sup> \_\_\_\_\_

<sup>13</sup> A summary sheet for each Affected Party should accompany the log (which may be a chronological list of all Engagement with all parties).  
<sup>14</sup> These signatures represent agreement on the contents of the log and record, but do not necessarily imply that the parties agree on the topics that were discussed.

## Appendix F - Engagement Plan Template<sup>15</sup>

Name of Proponent: \_\_\_\_\_

Name of Affected Party: \_\_\_\_\_

When will you be engaging?	What is the purpose for engaging?	Who will be engaged at each of these stages?	How will you engage?
<i>What is the trigger for Engagement? Triggers may be regulatory (e.g., renewals, amendments, assignments) and/or Project-based (e.g., determining drill locations, changes in Project design, updates to a particular plan, etc.)</i>	<i>In relation to the trigger, what will you be discussing (e.g., updates to design or plans, etc.)?</i>	<i>The people engaged at each stage may vary depending on what is being discussed.</i>	<i>Which Engagement methods will be used? See Appendix G for practices (e.g., notification, face-to-face meetings, community public meeting).</i>

Signature of Proponent (representative): \_\_\_\_\_

Signature of Affected Party (representative):<sup>16</sup> \_\_\_\_\_

<sup>15</sup> One Engagement Plan must be completed for each Affected Party.  
<sup>16</sup> These signatures represent agreement on the contents of the log and record, but do not necessarily imply that the parties agree on the topics that were discussed.

## Appendix G - Additional Information for Life-of-Project Planning or Larger Projects (such as those requiring a type A water licence)

The Board expects that the level of detail and amount of information in an Engagement Plan for larger Projects, such as those requiring a type A water licence, will be greater than for other Projects. The Board is providing additional best practices to assist applicants with their Engagement planning. This information may also be useful for some larger or longer-term Projects authorized under a type A land use permit.

Generally, type A water licences have a longer term and have a greater scope of activity. For example, Figure 1 below illustrates some of the stages of a mining cycle and how more Engagement may be required at certain stages over the life of project. The level of Engagement that will be needed at each stage should be the focus of discussions during initial dialogue with the Affected Party. Proponents may also find additional guidance on Engagement at various stages during the life of the Project in other Board documents (e.g., *Guide to the Land Use Permitting Process*).

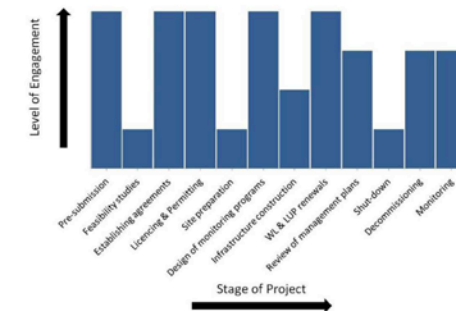


Figure 1. Example of various stages of a hypothetical Project that may require varying levels of Engagement.

It is also important that Engagement with affected parties is evaluated and assessed throughout the life of the Project and that proponents consider and carry out Engagement planning as an ongoing planning process. Figure 2 below shows the process by which Engagement may be evaluated, assessed, and modified by an Affected Party and a proponent.

# Engagement in Practice

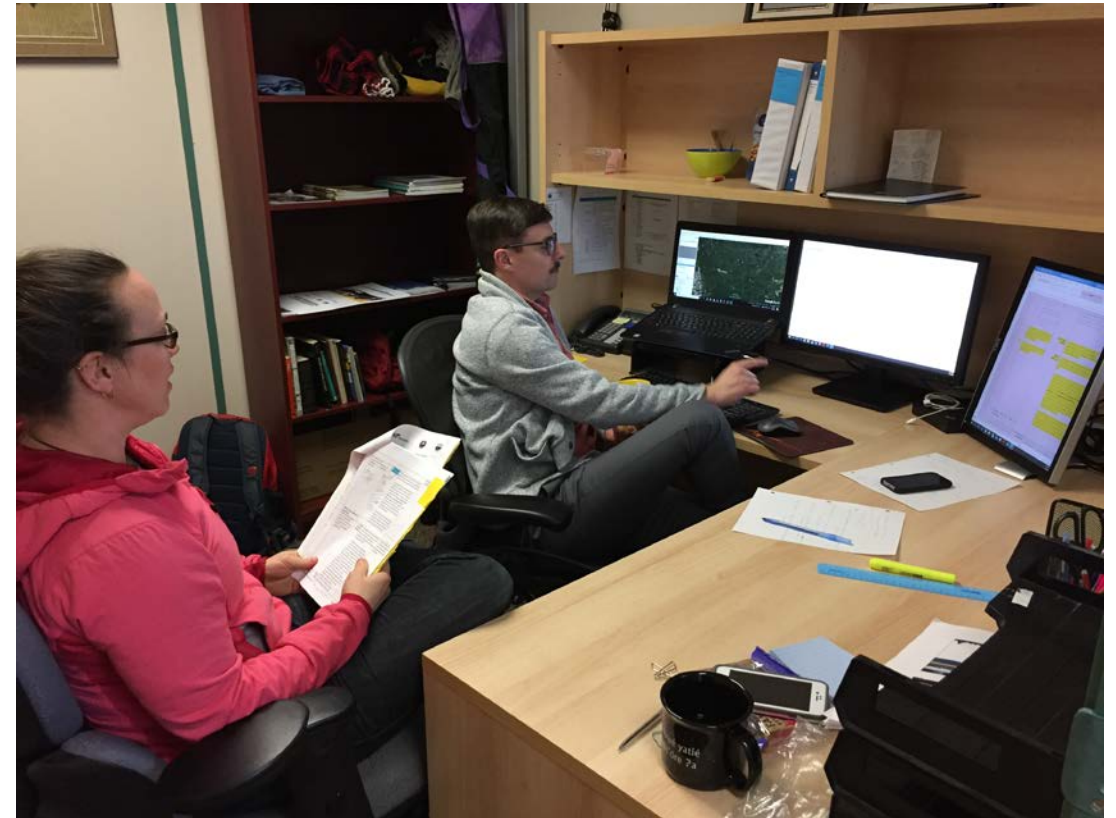
- Pre-Application Engagement
  - Conducted by Proponent
  - Level depends on type of application
    - Letters and Phone calls, follow up
    - Meetings
    - Community Meetings
  - When in doubt – Ask!
  - Log and Record Submitted with Application along with Engagement Plan





# Engagement in Practice

- Staff Review
  - Ensure engagement meets policy requirements
  - Confirm with ED
  - If adequate and application is complete, can go for review





# Engagement in Practice

- Board's Consultative Process
  - Public Review of Application and Preliminary Screening - opportunity for comment
    - In rare circumstances, Environmental Assessment
  - For Large or Controversial Applications, Public Hearing – opportunity to present to Board
  - Following public review & input, Board decision



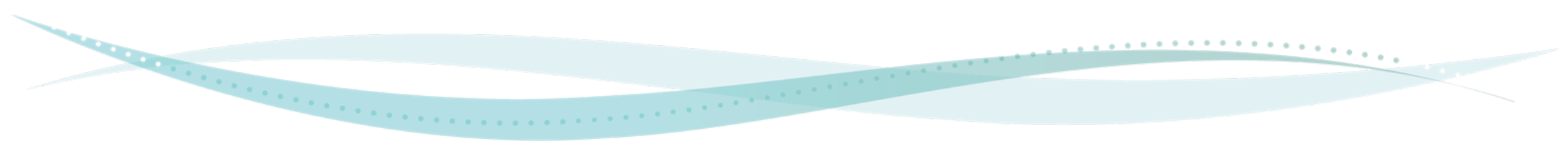
# Engagement in Practice

- Life-Of-Project Engagement:
- Implementation of Engagement Plan by Proponent
- Engagement ahead of subsequent applications – extensions, amendments, renewals
- Keeping communities and affected parties informed about the project
- Opportunity for partnership – go beyond informing to working together



# Joint Engagement and Consultation Policy

- Mackenzie Valley Review Board recently adopted Boards' Policy
- Land and Water Boards and Review Board working together on updating and adopting new joint policy
  - Update to reflect experience over the past several years and new best practices; and
  - Expand the policy to include environmental assessment and impact review
- Staff working on development of draft, stay tuned for engagement!



# In Summation

Land and Water Boards of the  
**Mackenzie Valley**



- Engagement & Consultation a shared responsibility
- Policy & Guide together provide helpful information on how engagement and consultation work
- Ask communities how they would like to be engaged, and Board staff for assistance understanding Policy & Guidelines
- The Boards are always looking for ways to improve our processes, reach out to us with suggestions, participate in policy development

**Thank You,** Please Contact Me For More Information

Julian Morse

Regulatory Policy Advisor

[jmorse@mvlwb.com](mailto:jmorse@mvlwb.com)

867-766-7453



# How the Review Board uses Indigenous Traditional Knowledge

MVRMA Workshop  
February 4-6, 2020  
Yellowknife, NT

Alan Ehrlich  
Manager of EIA  
Mackenzie Valley Review Board





# Overview

- What is ITK
- Why the boards need it
- What we do with it

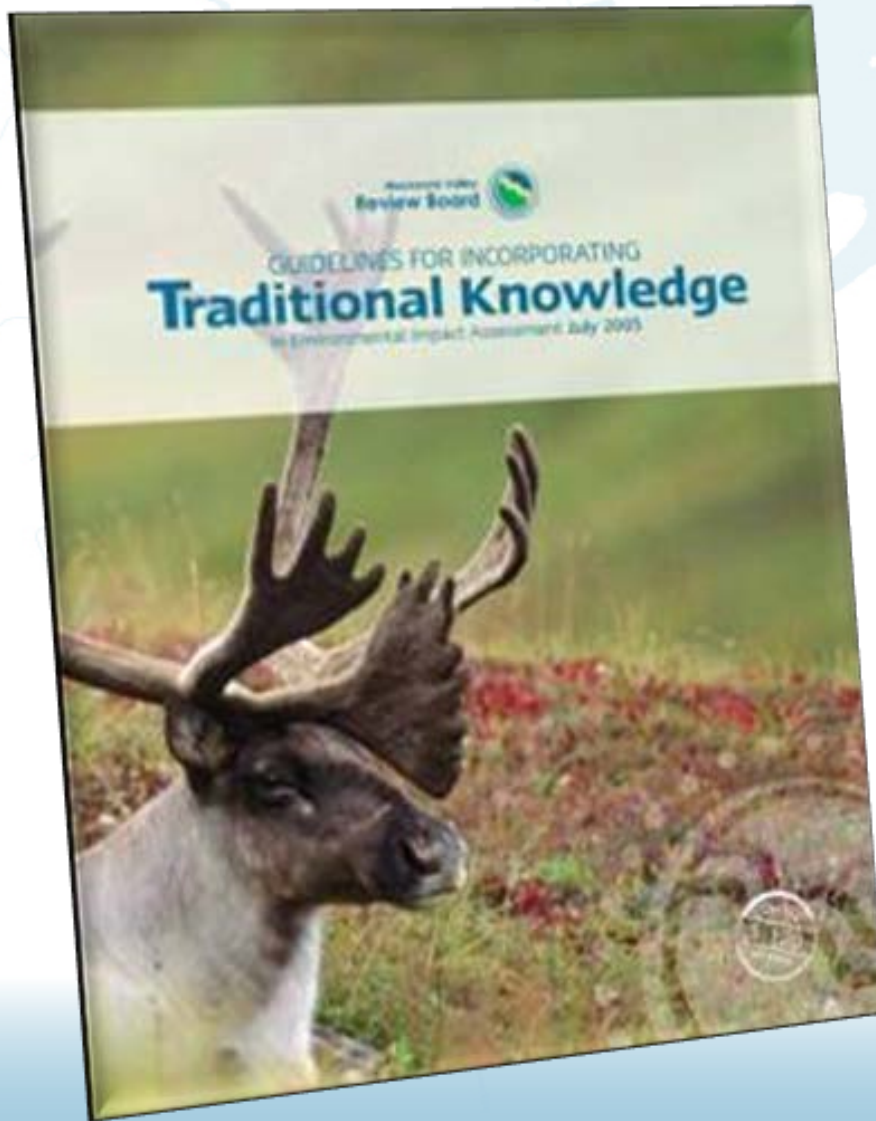


# Indigenous Traditional Knowledge

- is VAST
- includes knowledge, values and beliefs
- spans generations
- based on centuries of careful observation, with very high stakes
- continues to live and develop



# Traditional Knowledge Guidelines (2005)



The guidelines include:

- advice to developers on how to build relationships, collect ITK
- advice to EIA participants on how to share ITK, work with, incorporate TK
- supports for local protocols
- how ITK will be kept on the public record and details about confidentiality and ownership





# Why use Indigenous Traditional Knowledge?

- EIA predicts unintended results from large complex projects imposed on complex natural, social and cultural systems
- To predict impacts well, it is vital to understand:
  - the setting
  - long term variation
  - how wildlife responds
  - how project fits with people's values and beliefs
- ITK is a powerful source of knowledge for this
- Board takes TK as equivalent to conventional science



# Fewer cross cultural barriers



Mackenzie Valley  
Review Board





# We use Indigenous Traditional Knowledge for:

- deciding what subjects to focus on (scoping)
- baseline studies
- identifying linkages and predicting impacts
- determining impact significance
- identifying mitigations
- designing monitoring requirements



## To summarize...

- ITK is a fundamental part of the Review Board's assessments
- ITK directly affects important decisions
- We are trying hard to get it right
- Please help us continually improve!





# Consultation, Cooperation & Consent

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RENEWING TREATY-BASED FEDERALISM IN THE NORTHWEST TERRITORIES

LARRY D. INNES | OKT LLP  
MACKENZIE VALLEY BOARDS CONFERENCE, FEBRUARY 2020

# A “Grand Notion” for a Nation

---

Canada is a test case for a grand notion – the notion that dissimilar peoples can share lands, resources, power and dreams while respecting and sustaining their differences.

The story of Canada is the story of many such peoples, trying and failing and trying again, to live together in peace and harmony. But there cannot be peace or harmony unless there is justice.

- Royal Commission on Aboriginal Peoples (1997)

# Indig(nation)

---

The fundamental objective of the modern law of aboriginal and treaty rights is the reconciliation of aboriginal peoples and non-aboriginal peoples and their respective claims, interests and ambitions...

The management of these relationships takes place in the shadow of a long history of grievances and misunderstanding.

— Mikisew Cree v. Canada [2005]



# Consultation...

In the NWT, we have regulatory processes embedded in legislation that was designed and built in the 1990s to implement co-management provisions under modern land claim agreements.

These processes largely address **procedural aspects** of consultation.

**3** Wherever in this Act reference is made, in relation to any matter, to a power or duty to consult, that power or duty shall be exercised

(a) by providing, to the party to be consulted,

- (i) notice of the matter in sufficient form and detail to allow the party to prepare its views on the matter,
- (ii) a reasonable period for the party to prepare those views, and
- (iii) an opportunity to present those views to the party having the power or duty to consult; and

(b) by considering, fully and impartially, any views so presented.

*Mackenzie Valley Resource Management Act,  
S.C. 1998 c. 25*

# ...and its Discontents

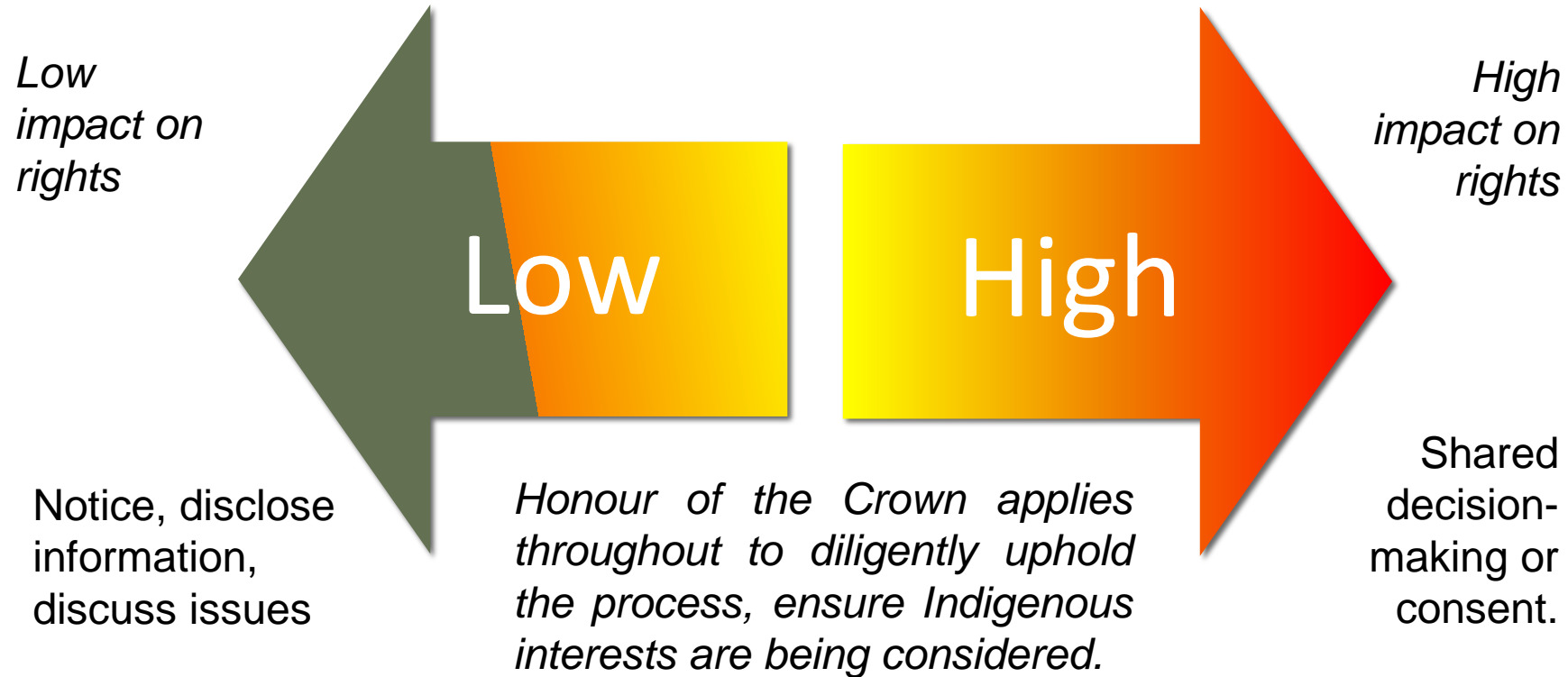
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And we have common law on consultation, which has developed – through judicial review – case-by-case answers from the courts to the question of whether or not consultation is required, and more importantly, whether consultation was adequate in a particular circumstance...



# The Consultation Spectrum

---



***“No sharp dealing”***

# Procedural Fairness

---

*Low  
impact on  
rights*

**Low**

Notice, disclose  
information,  
consider facts.

*Parties before an administrative  
board/tribunal have a right to be heard,  
to receive fair and unbiased  
consideration, and have meaningful  
opportunities to address issues and  
concerns raised through the process.*

*High  
impact on  
rights*

**High**

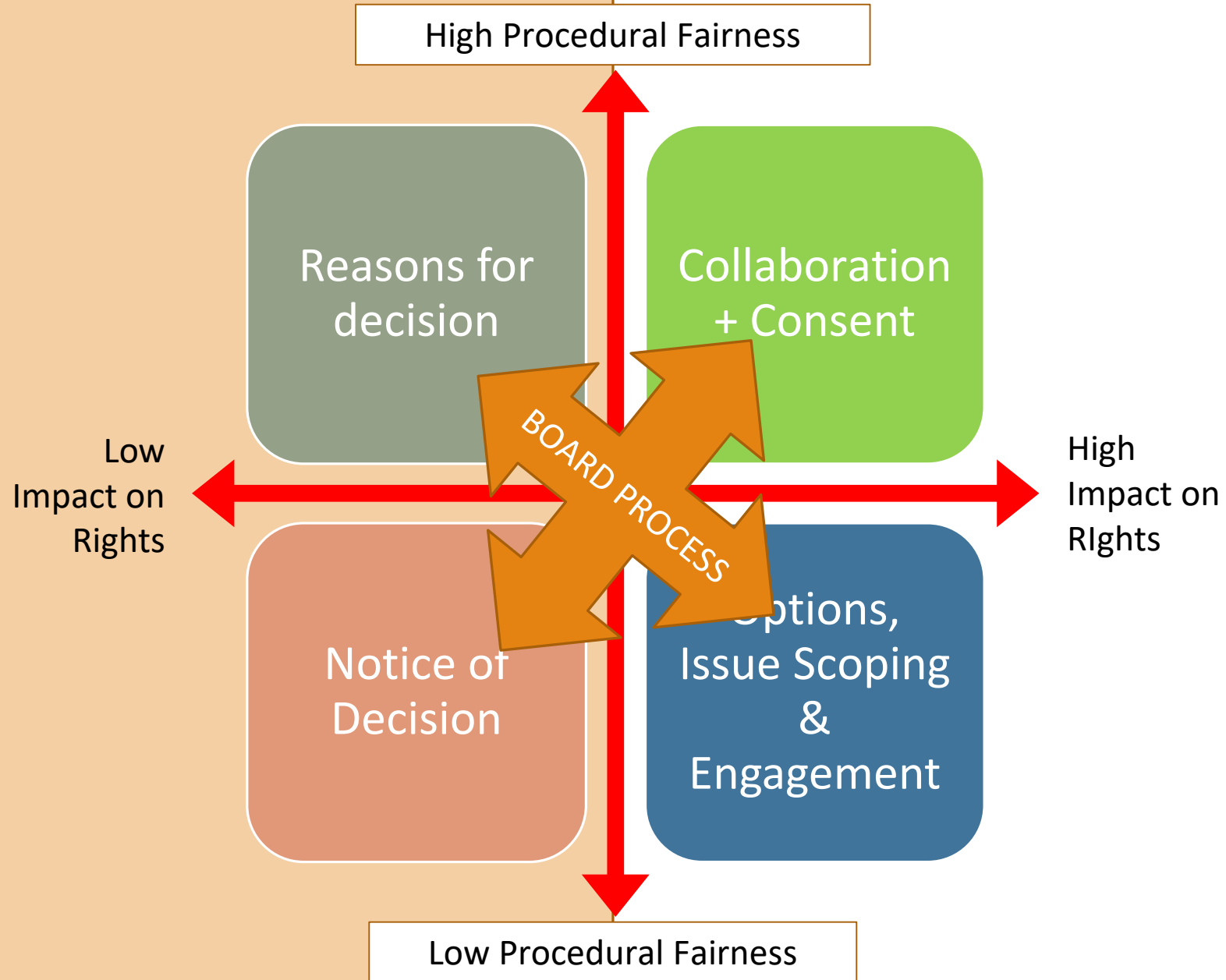
Decisions  
must be fully  
informed,  
reasons must  
be provided

***“Fair and Reasonable”***



Procedural

Substantive



# What about Consent?

---

## UNITED NATIONS DECLARATION ON THE RIGHTS OF INDIGENOUS PEOPLES

Article 19: States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free, prior and informed consent before adopting and implementing legislative or administrative measures that may affect them.

Article 32 (2): States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources.

# Propositions

---

1. Consultation processes should build and sustain Nation-to-Nation relationships with Indigenous governments.
2. Reconciliation is a benefit for all Canadians.
3. Consent is the objective of consultations.
4. Defense of rights/Infringement of rights tactics are fall-back positions, not the starting place.

*Section 35...holds the promise that Indigenous nations will become partners in Confederation on the basis of a fair and just reconciliation between Indigenous peoples and the Crown.*

**Federal Department of Justice: Principles  
respecting the Government of Canada's  
relationship with Indigenous Peoples (July  
2017)**

# How Do Boards Fit in to this Framework?

---

The Supreme Court of Canada decided in *Clyde River* and *Chippewas of the Thames* that appropriately empowered regulatory bodies play a significant role in fulfilling or discharging the Crown's duty to consult and accommodate Indigenous rights-holders:

“The Court's jurisprudence shows that the substance of the duty does not change when a regulatory agency holds final decision-making authority in respect of a project. While the Crown always owes the duty to consult, regulatory processes can partially or completely fulfill this duty.”

Boards play a significant role in giving full effect to the process of reconciliation and fair dealing that is at the heart of the purpose of s. 35 of the *Constitution Act 1982*.



# Board Obligations

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Boards have a duty to ensure that the process is procedurally fair - which may require accommodation to ensure that Indigenous perspectives are heard and considered.



The Crown is ultimately responsible for ensuring that consultation is adequate. Boards can direct the Crown as a party within the process, and/or seek clarifications during the process where they identify procedural gaps or barriers in the statute.



The UN Declaration provides a normative framework – **the goal is always consent.**



Board processes and decisions should promote **shared decision-making** between Crown and Indigenous parties while remaining fair and neutral.

# Collaborative Consent

---

**A process of deliberative dialogue aimed at achieving each party's consent to a proposal**

Process: ongoing, iterative

Deliberative: planned, focused, deep, meaningful, substantive

Dialogue: mutual, transparent, responsive, knowledge-based, interests-based

Aimed at: genuine intent, no sharp-dealing, no veto

Consent: substantive agreement on the outcomes.

Proposal: becomes a shared goal.

# Beyond Consultation in the NWT

---

- Recognize and respect Indigenous Government jurisdictions and law-making authorities.
- Create common frameworks for determining the “public interest” that recognizes the unique circumstances of Indigenous Peoples.
- Innovate in the establishment of joint processes, policies, plans and programs that are premised on shared decision-making.



Larry D. Innes  
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# Duty to Consult and Delegation to Mackenzie Valley Co-Management Tribunals

**John Donihee**

*Of Counsel*

**Mackenzie Valley Resource Co-Management  
Workshop 2020: Engagement and Consultation  
Yellowknife, Northwest Territories  
February 4-6, 2020**

**Willms  
& Shier**

**Environment  
Indigenous  
Energy Law**

**Environment  
Aboriginal  
Energy Law**



# Outline

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- **Crown's duty to consult**
- **When can the Crown delegate the duty to administrative tribunals?**
- **When can tribunals determine adequacy of consultation?**
- **Application to MVEIRB and MVLWB**
- **Impact of UNDRIP/FPIC**

# Crown's Duty to Consult

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- **Duty arises where the Crown**
  - has actual or constructive knowledge of an existing or reasonably asserted Aboriginal right, and
  - contemplates conduct that may potentially affect that right
- **Extent of consultation required is proportionate to**
  - nature and strength of the affected right, and
  - severity of the adverse impact on the right

# When can the Crown delegate the duty to consult to administrative tribunals?

---

## ***Carrier Sekani (2010, SCC)***

- **Legislature may choose to delegate duty to tribunal**
- **Tribunal's power are limited by statute**
- **Consultation is a**
  - “distinct and often complex constitutional process and, in certain circumstances, a right involving facts, law, policy, and compromise. The tribunal seeking to engage in consultation itself must therefore possess remedial powers necessary to do what it is asked to do in connection with the consultation.”

# When can the Crown delegate the duty to consult to administrative tribunals?

---

## *Clyde River, Chippewas of the Thames (2017, SCC)*

- Crown may rely on an administrative body's regulatory processes to fulfil duty to consult
- Extent to which Crown may rely depends on “whether agency's statutory duties and powers enable it to do what the duty requires”
- Administrative body must have
  - procedural powers necessary to implement consultation, and
  - remedial powers to accommodate affected rights where necessary

# When can the Crown delegate the duty to consult to administrative tribunals?

---

## *Clyde River, Chippewas of the Thames (2017, SCC)*

- **Crown always holds responsibility for adequacy of consultation**
  - where administrative body's powers are insufficient, the Crown must step-in
    - fill gaps on case-by-case basis or through legislative or regulatory amendments
    - make submissions to regulatory body
    - request reconsideration of decision
    - seek postponement to carry out additional consultation
  - where the Crown relies on administrative processes to fulfil consultation, reliance must be made clear to Indigenous groups



# When can administrative tribunals determine adequacy of consultation?

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- **Tribunals must have**
  - final decision-making authority on approval
  - jurisdiction to decide questions of law

# MVEIRB and MVLWB Consultation Obligations

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- **Land and water regulation**
  - MVLWB must, in exercising its powers, consider “the importance of conservation to the well-being and way of life of the aboriginal peoples of Canada to whom section 35 of the *Constitution Act, 1982* applies and who use an area of the Mackenzie Valley” (MVRMA, s. 60.1(a))
- **EA and EIR (Part 5 of MVRMA)**
  - MVLWB cannot issue a licence, permit, or authorization required for the carrying out of a development unless the requirements of MVRMA, Part 5 are met (ss. 62, 118(1))

# MVEIRB and MVLWB Consultation Obligations

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- **EA and EIR (Part 5 of MVRMA) cont.**
  - Purpose of Part 5 is to “ensure that the concerns of aboriginal people and the general public are taken into account in that process” (s. 114(c))
  - Process must have regard to “the importance of conservation to the well-being and way of life of the aboriginal peoples of Canada to whom section 35 of the *Constitution Act, 1982* applies and who use an area of the Mackenzie Valley” (s. 115(1))
  - Both the MVEIRB and MVLWB must ensure that the parts of the EA and EIR process for which they are responsible meet these objectives

# Delegation of Duty to MVEIRB and MVLWB

---

- **Boards have procedural powers and institutional expertise in consultation**
- **But Boards' procedural and remedial powers may not be sufficient to effect consultation in all circumstances**
  - Crown cannot universally rely on Board processes to fulfil duty to consult
- **Crown (not Boards) is responsible for**
  - notifying affected parties of Crown's reliance on Board processes
  - ensuring adequacy of consultation, and
  - providing additional process where necessary

# MVEIRB and MVLWB Powers to Assess Adequacy of Consultation

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- **Final decision-making authority**
  - MVLWB makes final decisions on most Type B Water Licenses and LUPs
  - neither the MVLWB nor the MVEIRB make final decisions on EAs or EIRs
  - Boards do not have jurisdiction to assess the adequacy of consultation on Type A Water Licences applications, EAs, or EIRs
- **Authority to decide questions of law**
  - if MVLWB has authority to decide questions of law, MVLWB can determine adequacy of consultation on Type B Water License and LUP applications



# Impact of International Law (UNDRIP/FPIC)

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- **UNDRIP not legally enforceable unless principles incorporated into law by domestic legislation**
  - provides several rights related to natural resource development, including right to FPIC
  - Federal IA Expert Panel Report
    - FPIC “is not necessarily a veto but a process of mutual respect, trust and collaborative decision-making grounded in the recognition of Indigenous Peoples as equal partners”
- **Canadian courts have not yet explored scope/content of UNDRIP rights**
- **Some Indigenous organizations have commented on scope/content of FPIC in particular**
  - we found specific comments from AFN, IRC, and Union of BC Indian Chiefs

# Impact of International Law (UNDRIP/FPIC)

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UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
Right to own, use, develop and control their lands, territories and resources (Article 26)	<ul style="list-style-type: none"><li>• Land claim organizations own and therefore control and can develop large areas of land owned in fee simple (i.e., settlement lands).</li><li>• Beyond that, land claim organizations participate in co-management regimes covering the entirety of their respective settlement areas, through which the organizations are able to participate in decision-making about the use and development of land.</li></ul>

# Impact of International Law (UNDRIP/FPIC)

UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
Right to conservation and protection of the environment (Article 29)	<ul style="list-style-type: none"><li>• MVLWBs must, in exercising their powers, consider “the importance of conservation to the well-being and way of life of the aboriginal peoples of Canada to whom section 35 of the <i>Constitution Act, 1982</i> applies and who use an area of the Mackenzie Valley.”</li><li>• EA/EIR process must have regard to the importance of conservation to the well-being and way of life of aboriginal peoples. MVEIRB and MVLWB must ensure that the parts of the EA/EIR process for which they are responsible meet these objectives</li></ul>

# Impact of International Law (UNDRIP/FPIC)

UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
Right to fair, independent, impartial, open and transparent process to recognize and adjudicate rights (Article 27)	<ul style="list-style-type: none"><li>• Co-management boards, as administrative tribunals, are required by law to be procedurally fair (i.e., impartial and independent).</li><li>• Board decisions are subject to judicial review by courts</li><li>• MVEIRB and the MVLWBs are required by law to engage with s.35 rights-holders and land claim organizations during decision-making, and to consider any views raised during consultation “fully and impartially”</li><li>• MVRMA also requires Board members to be free of any conflict of interest</li></ul>

# Impact of International Law (UNDRIP/FPIC)

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UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
Right to participate in decision-making in matters that would affect their rights through chosen representatives (Article 18)	<ul style="list-style-type: none"><li>• Mackenzie Valley land claims and the MVRMA mandate Indigenous involvement in decision-making.</li><li>• Appointment processes and membership of MVRMA Boards ensures Indigenous representation among decision-makers.</li><li>• Indigenous self-governments are final decision-makers in some circumstances.</li></ul>



# Impact of International Law (UNDRIP/FPIC)

UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
<b>FPIC (Article 32)</b> <ul style="list-style-type: none"><li>• Robust and satisfactory engagement prior to approval (IRC)</li></ul>	<ul style="list-style-type: none"><li>• The level of engagement and consultation required prior to project approval in the Mackenzie Valley is unparalleled in Canada.</li></ul>
<ul style="list-style-type: none"><li>• Protection from duress and coercion (AFN)</li><li>• Freedom from force, intimidation, manipulation, coercion or pressure by a proponent (IRC)</li><li>• Honesty and fair dealing (AFN)</li></ul>	<ul style="list-style-type: none"><li>• Mackenzie Valley co-management boards facilitate a public and accountable decision-making process with respect to resource development. Boards are required to consult with Indigenous decision-makers, and the parameters of consultation are clearly defined in the MVRMA.</li></ul>

# Impact of International Law (UNDRIP/FPIC)

UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
<b>FPIC (Article 32)</b> <ul style="list-style-type: none"><li>• Disclosure of all necessary information (AFN)</li><li>• Sufficient and timely information exchange (IRC)</li></ul>	<ul style="list-style-type: none"><li>• Indigenous peoples can and do request and receive additional information from project proponents and the Crown about proposed developments via information requests. Indigenous peoples also make presentations, ask questions, and comment on the Crown and project proponents' presentations at public hearings.</li><li>• In the EA process, once the co-management process is complete, the Minister re-contacts all s. 35 rights-holders and asks whether MVEIRB's recommended mitigation satisfies their concerns. If the rights-holders are not satisfied, the Crown conducts a second round of consultations where rights-holders can request additional mitigation or accommodation.</li></ul>

# Impact of International Law (UNDRIP/FPIC)

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UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
<b>FPIC (Article 32)</b> <ul style="list-style-type: none"><li>• Proper technical and financial resourcing to allow meaningful participation (IRC)</li></ul>	<ul style="list-style-type: none"><li>• Co-management boards have technical staff who ensure that the requirements of the MVRMA and land claims are addressed before an EA or other regulatory decision-making occurs. Board resources go towards making a fulsome and properly analyzed decision. Fulsome and properly analyzed decisions benefit all parties.</li><li>• Further, the federal government (Crown-Indigenous Relations and Northern Affairs Canada) has recently implemented an intervenor program for EIA.</li><li>• It would be beneficial if that funding were available for large technical Type A Water Licencing proceedings as well.</li></ul>

# Impact of International Law (UNDRIP/FPIC)

## UNDRIP Rights

### FPIC (Article 32)

- Capacity to deploy Indigenous knowledge and values through the application of Indigenous laws and to conduct assessments of potential impacts (AFN)

## Mackenzie Valley Co-Management Regime and Land Claims

- MVEIRB and MVLWBs must, in exercising their powers, consider traditional knowledge as well as other scientific information where such knowledge or information is made available to the Boards. MVEIRB in particular has developed detailed guidelines for incorporating traditional knowledge into EIA.
- Where MVLWBs make decisions they are required to seek and consider the advice of the relevant Renewable Resource Boards to ensure such decisions are consistent with the knowledge base of those boards, which includes traditional knowledge about wildlife and wildlife habitat.

# Impact of International Law (UNDRIP/FPIC)

UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
<b>FPIC (Article 32)</b> <ul style="list-style-type: none"><li>Mutual agreement on a process for consultation, including accommodating the needs/schedule of the participant Aboriginal group (IRC)</li></ul>	<ul style="list-style-type: none"><li>Co-management is the result of negotiated agreements between Indigenous Governments and the federal and territorial government.</li><li>Workplans prepared by co-management tribunals are designed to meet all legislative obligations.</li><li>Crown is ultimately responsible for the adequacy of consultation, although the Crown can rely on Board processes to fulfil its duty to consult in certain circumstances.</li><li>MVLWB Engagement Policy requires proponents to consult and engage with affected Indigenous groups as a part of a complete application.</li><li>Boards provide translation services at hearings and frequently require participants to translate key documents into Indigenous languages.</li></ul>



# Impact of International Law (UNDRIP/FPIC)

UNDRIP Rights	Mackenzie Valley Co-Management Regime and Land Claims
<p><b>FPIC (Article 32)</b></p> <ul style="list-style-type: none"><li>• Right to say 'no' and power to say 'yes' (Union of BC Indian Chiefs)</li><li>• Assurance no actions will be taken until Indigenous communities have had time and opportunity to come to a decision (AFN)</li><li>• Shared objective of obtaining reasonable consent (process of building a relationship, exchanging information, conducting analysis, and integrating Indigenous community in the process of discussion, analysis and decision-making, not a veto) (IRC)</li></ul>	<ul style="list-style-type: none"><li>• Indigenous organizations in the Mackenzie Valley have negotiated rights to particular processes set out in land claims.</li><li>• SCC has held that processes established in land claims must be respected. Where decision-making processes have been formalized in the context of a land claim, those processes must be followed.</li><li>• As land owners, Indigenous organizations that own settlement lands in fee simple under land claims are in a position to reject development proposed on their settlement lands.</li><li>• Section 35 rights-holders that are not land claim beneficiaries still have the benefit of the co-management process negotiated by Indigenous land claim organizations. Section 35 rights holders have the option of negotiating a different process with the federal and territorial government.</li></ul>

# Conclusions

---

- **Duty to consult is Crown's duty**
- **Crown may rely on Board process to fulfil duty to consult in some circumstances**
  - but Crown is responsible for ensuring consultation is adequate, and providing additional process where needed
- **MVLWB may have jurisdiction to assess adequacy of consultation in some circumstances**
- **The Mackenzie Valley co-management regime is premised on collaborative decision-making in land use planning, EIA and regulatory processes**
  - Indigenous involvement is constitutionally protected
  - arguably fulfills several substantive and procedural elements of UNDRIP, and FPIC in particular

# Contact Information

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# The BC Context: The New *Environmental Assessment Act*

AMY AVILA

EXECUTIVE DIRECTOR, INDIGENOUS RELATIONS



**EAO**

Environmental  
Assessment Office

# Legislative Framework and Context



**EAO**

Environmental  
Assessment Office





# Context

- BC EAO is a neutral regulatory agency within the provincial government administering assessments under the *Environmental Assessment Act (2018)*
- Responsible Ministers make a decision on if the project should proceed based on the Assessment Report and recommendations from EAO.
- Mandate to revitalize the Act was part of the Provincial commitment to implement UNDRIP



## Declaration on the Rights of Indigenous Peoples Act 2019 and the New EA Act

- DRIPA requires the development of an action plan to achieve alignment of Provincial laws with UNDRIP over time.
- Also includes a framework for a range of decision-making arrangements between Indigenous governments and the Province
- The EA Act was developed with the goal of advancing reconciliation with First Nations.
- This included significant collaboration with Indigenous nations from the start of the Act's development. The EA Act was the first in B.C. to support the implementation of the UN Declaration on the Rights of Indigenous Peoples.



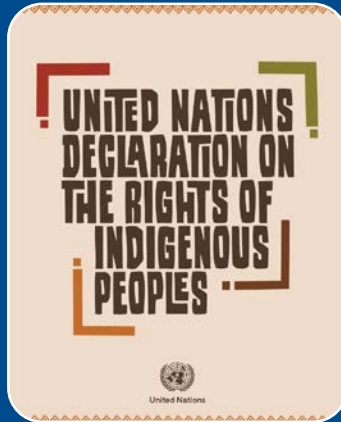
## New Reconciliation Purpose of the EAO (s. 2)

Support reconciliation with Indigenous peoples in British Columbia by:

- Supporting the implementation of the United Nations Declaration on the Rights of Indigenous Peoples;
- Recognizing the inherent jurisdiction of Indigenous nations and their right to participate in decision making that would affect their rights;
- Collaborating with Indigenous nations on EA reviews; and
- Acknowledging Indigenous peoples' rights recognized and affirmed by section 35 of the Constitution Act, 1982.

# Informing the Model of Consensus Seeking in the Act :

## The UN Declaration



- Right to self-determination
- Right to full participation in political, legal, social and cultural institutions
- Right to maintenance, privacy and protection of religious and cultural sites and practices
- Right to Indigenous Decision Making institutions and to participate in government decision-making that affects Indigenous rights
- Right to own, use, develop, conserve and adjudicate rights over traditional lands and resources
- Right to free, prior and informed consent prior to government approval of any project affecting Indigenous lands and resources
- Right to access conflict resolution that applies to Indigenous laws and customs
- Right to financial assistance

## UN Rapporteur's Report

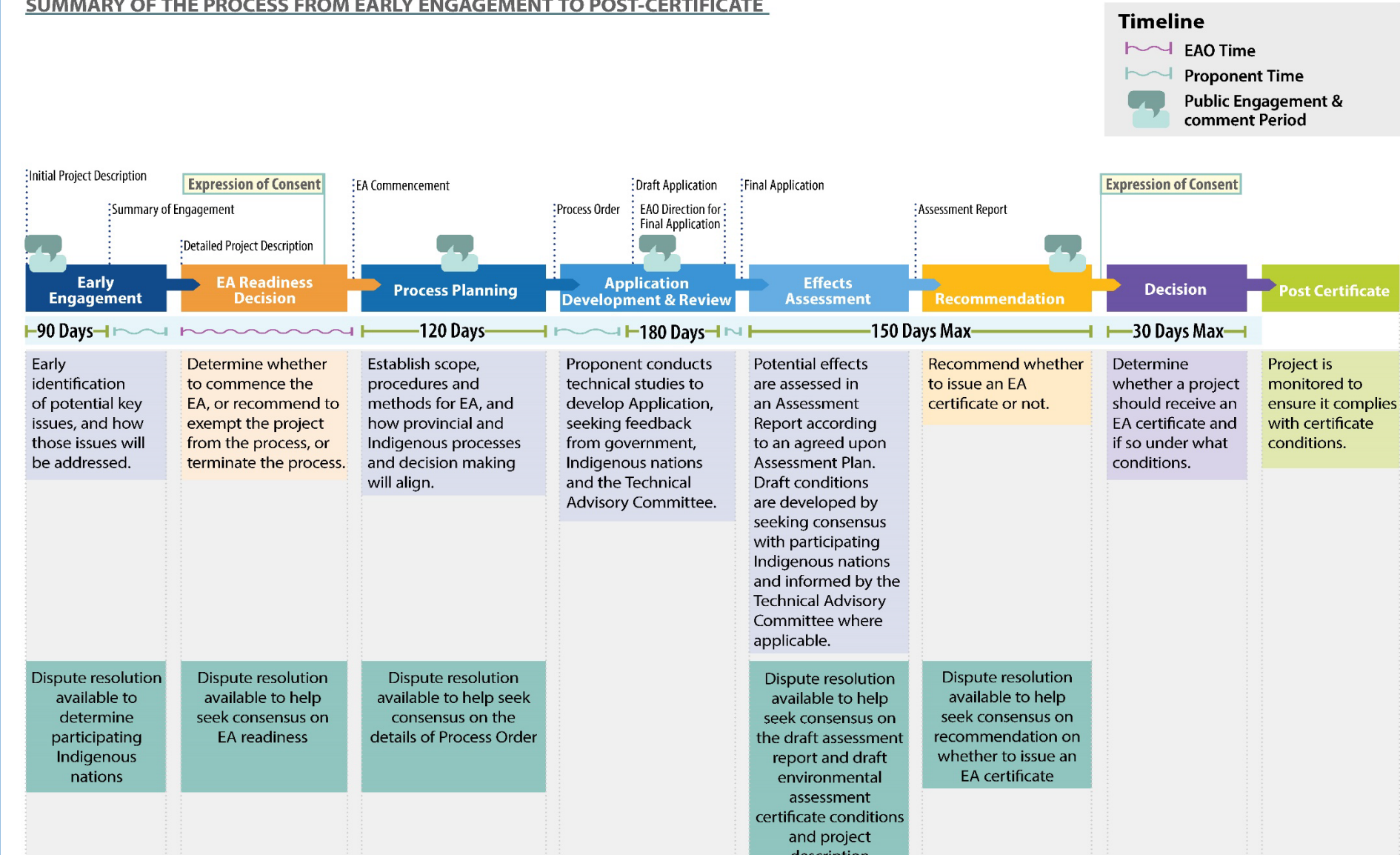


- Indigenous peoples' right to participate goes beyond consultation the view of Indigenous peoples on potential effects of a project is the starting point
- Indigenous Nations should be involved as early as possible with adequate resources and capacity.
- Consensus seeking processes should occur in a manner that recognizes and respects Indigenous governance and decision-making
- Consent is not an action or single moment – it is a process of dialogue and negotiation over the course of a project from planning to implementation to follow up and may be withheld following an assessment and conclusion that a proposal is not in an Indigenous Nation's best interest
- The burden of proof is on the Government to justify proceeding with a decision if there is failure to obtain consent



# New Environmental Assessment Process

## SUMMARY OF THE PROCESS FROM EARLY ENGAGEMENT TO POST-CERTIFICATE



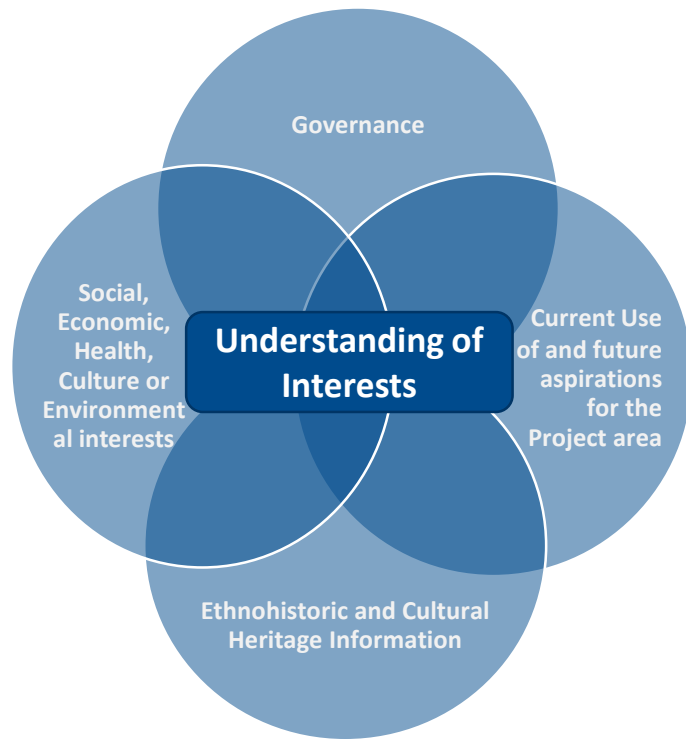




## Undertaking Assessments with Nations

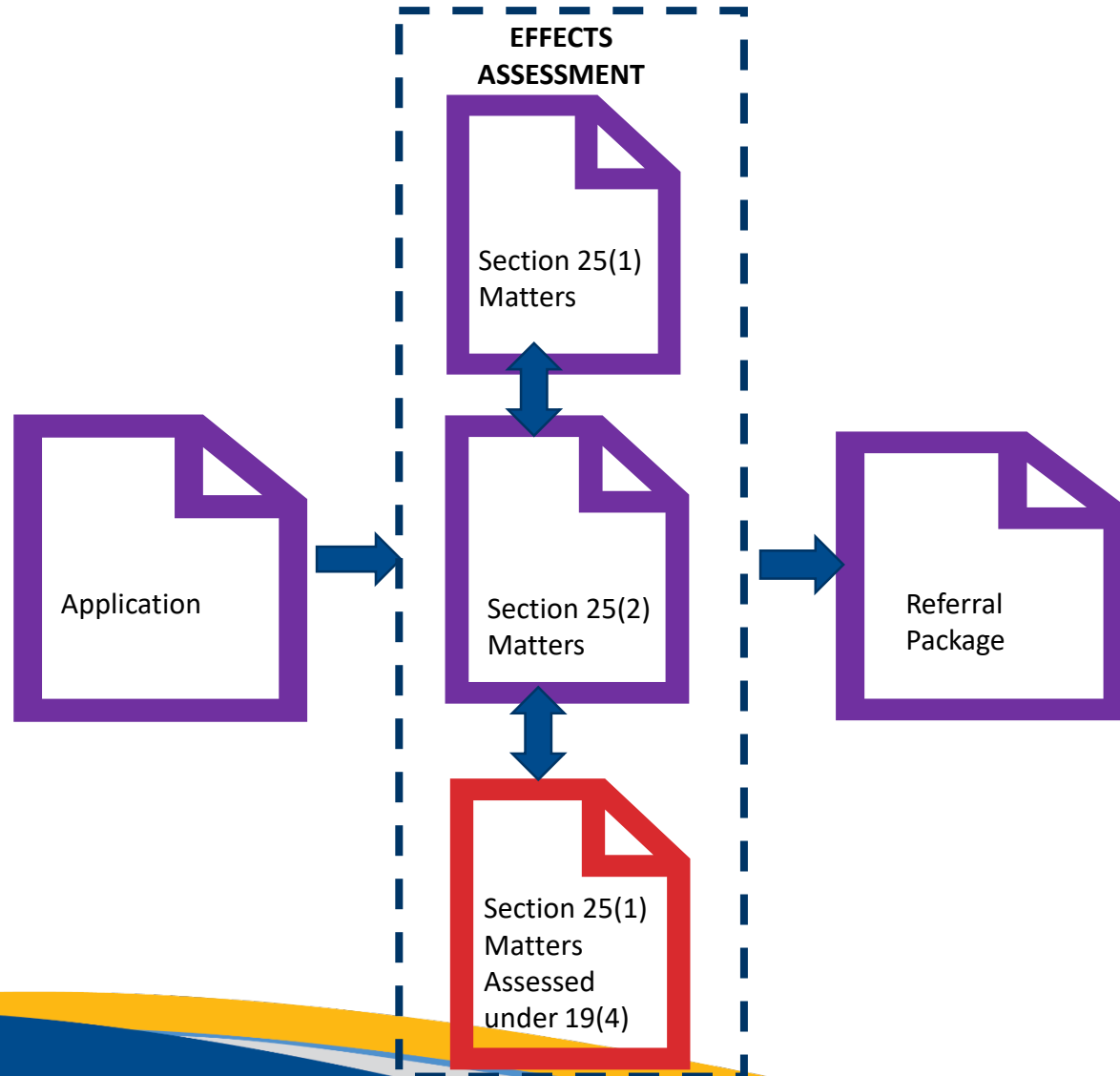
- The new EA process is designed to ensure that any decision taken on the question of consent by an Indigenous nation is free, prior and informed.
- The Act provides space for different mechanisms and tools for consensus seeking which can be tailored to specific contexts and Nations rather than being prescribed (i.e. through regulation).
- Shift in how we engage with Nations including increased focus on *governance* of the project area and the associated *decision making imperatives* of Nations.

Collaborative work with Nations in the Early Engagement and Process Planning phases to develop comprehensive understandings of Indigenous Nation's governance and connection to the land.



- Identify specific procedural requirements of the Indigenous nation for EAs including Indigenous decision-making requirements (processes and information requirements)
- Identify any processes or governance agreements developed between Indigenous nations for working together in areas of territorial overlap or shared territory
- Develop a deep understanding of a Nation's unique connection, past and future uses of the area impacted by the project and Indigenous legal frameworks that governs use
- **Apply the outcomes towards consensus on an EA process that is reflective of the Nation's governance imperatives for constitutionally protected Aboriginal and treaty rights and any broader interests of a Nation that could be affected by the project.**

# Collaborative Effects Assessment Options:



Two Options for Assessment of 25(1) matters:

- Assessment Conducted by the EAO (consensus sought with participating Indigenous nation)
- Assessment Conducted by the Participating Indigenous Nation (19(4) Assessment)

# Closing Thoughts

- Clarifying Indigenous governance imperatives and structures through EAs is contributing to the broader relationship between Nation and the Provincial Crown
- Having these discussions outside the pressure of project review timelines is helpful especially in the BC context (lack of final agreements)
- Have benefitted from learning from other jurisdictions to date (Thank you MVRB!) and hope to do so further especially around the linkages between strategic land management and project reviews.

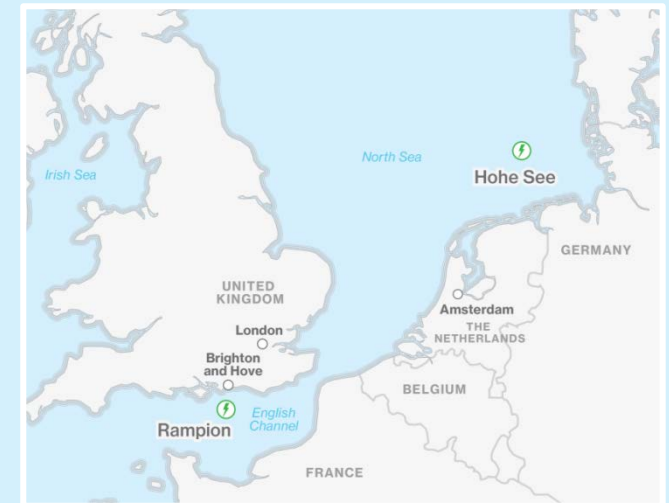
# Enbridge Line 21: A Collaborative Approach to Environmental Management

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Co-presented by Enbridge and Łíídlíí Kúé First Nation  
Mackenzie Valley Resource Management Act Workshop  
February 2020







- Liquids Pipeline
- - - Liquids Pipeline (proposed)
- Natural Gas Transmission Pipeline
- Natural Gas Gathering Pipeline
- Natural Gas Liquids Pipeline
- Crude Storage or Terminal
- Gas Storage Facility
- NGL Storage Facility
- ▼ LNG Facility
- ⊞ Rail
- Power Transmission
- ⚡ Renewable Energy
- △ Gas Processing Plant
- Gas Distribution Service Territory
- Affiliated Gas Distribution Territory

Enbridge fuels the quality of life for millions of people everyday



# Enbridge's guiding principles for Indigenous engagement



- Build meaningful, respectful, long-term relationships by aligning interests and enhancing consultation and community involvement
- Incorporating historical relationship to the land, traditional knowledge and land-use information into project and operational plans
- Increasing socio-economic participation through a proactive approach to employment, training and supply chain
- Strengthening communities and supporting culture through investment
- Cultural awareness training for our employees and contractors



Rooted in respect for Indigenous rights and interests where we operate

# Enbridge Line 21



- **Enbridge's Line 21** (also known as the Norman Wells Pipeline) is a 12-inch-diameter crude oil pipeline, originating at Norman Wells, NT and terminating at Zama, AB.
- **Length:** 540 miles (870 km)
- **Average annual capacity:** 30,000 barrels/day
- **Products transported:** Light sweet crude

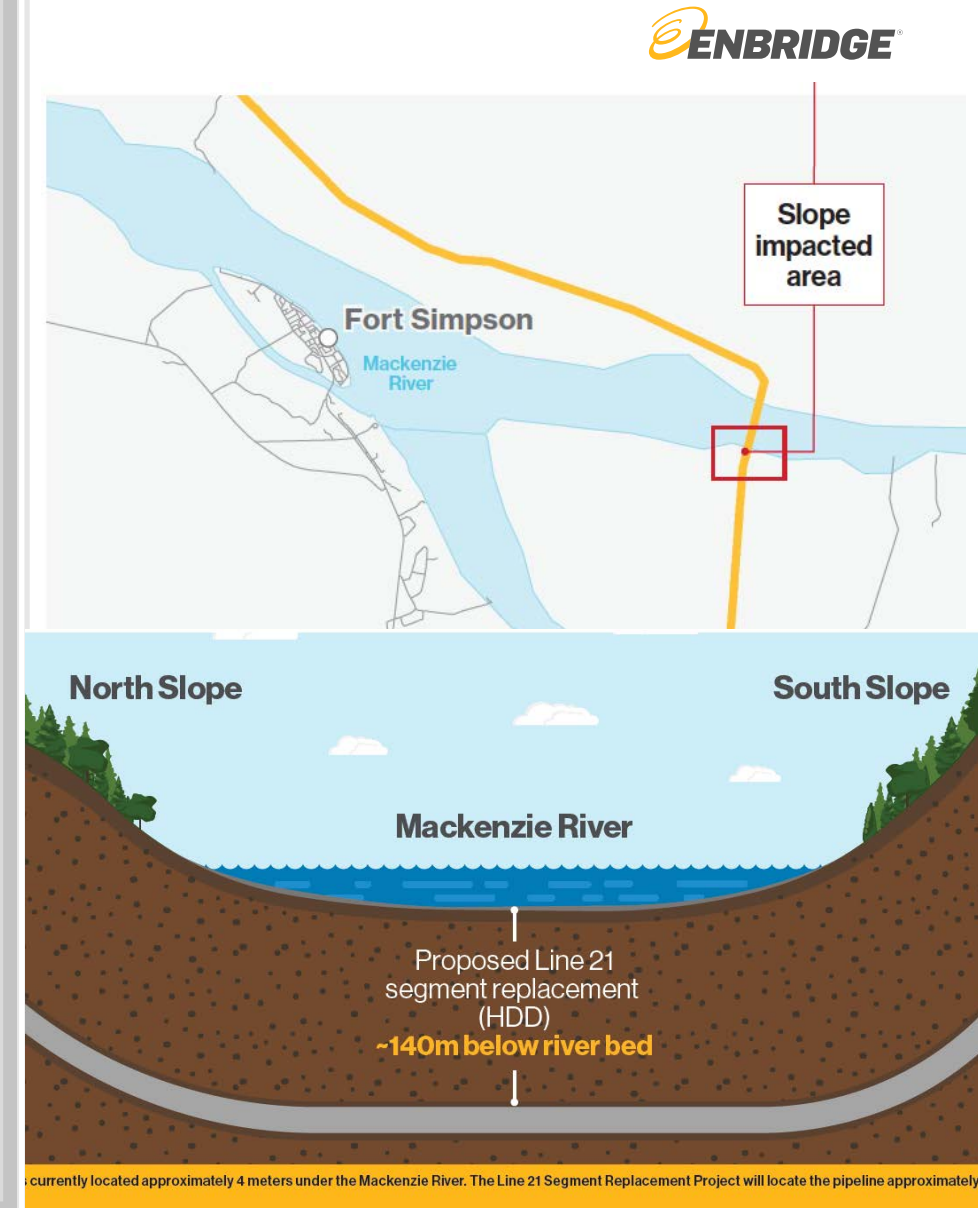


Enbridge transports 25% of North America's crude oil or 2.9 million barrels per day



# Line 21 Segment Replacement Project

- In 2016, Enbridge identified slope instability near the Mackenzie River approx. 10 km east of Fort Simpson
- Enbridge proposed to replace a 2.5 km segment of pipe using Horizontal Directional Drill (HDD) technology that would move the pipe away from the banks of the Mackenzie River
- Enbridge filed an application in March 2017 and the NEB issued a hearing order in May 2017
- Regulatory hearing occurred in fall 2017
- Project approved January 2018
- Constructed safely in partnership with local communities
- Line restarted in fall 2018



# Environmental Management Agreement (EMA)

## Building long-term working relationships with Dehcho Communities and Dehcho First Nations

- In January 2018, Enbridge entered into an EMA with Dehcho Communities
- The EMA established a structure and process for addressing Dene concerns about the Line 21 Segment Replacement Project and ongoing operations of Line 21
- The EMA provides, among other things, a framework for engagement regarding the development, implementation, management, monitoring, and evaluation of measures that prevent or mitigate adverse environmental effects of Line 21 activities



*Local community members participating with Enbridge personnel during Enbridge's annual emergency response exercise.*



# Environmental Management Committee (EMC)



- The Enbridge and Dehcho Community relationship is formalized through an EMC with representation from Enbridge and each of the Dene Parties
- Responsibilities include:
  - Regular EMC meetings with appointed Chair
  - Prepare and execute Annual Work Plan
    - Review environmental monitoring and management Plans and environmental reports
    - Review pending or expected regulatory applications
    - Establish monitoring needs based on planned Line 21 operations and work and any known projects
    - Identify opportunities for joint monitoring and training between the Parties
  - Formal establishment of issue response procedures
  - Formal establishment of dispute resolution procedures



*“Feeding the Fire”: Line 21 Segment Replacement Project Groundbreaking Ceremony*

# Dehcho K'ehodi Guardianship Program

- Dene-led pre-construction, construction and post-construction environmental monitoring program that may include monitoring of water and fish, wildlife, cultural resources and the environment during the Project
- The program facilitates Dene communities' participation in monitoring potential environmental impacts of Line 21 activities using western science and Dene knowledge combined
- Environmental issues are addressed in consultation with the onsite Indigenous Monitor (i.e., a Dehcho Guardian)
- The EMA resulted in 16 new Guardians being trained for on site preliminary construction work March-June 2018 and then in 12-hour rotating shifts during the HDD program, 24/7 from mid-June until August 2018



# Post Construction Environmental Monitoring



- Enbridge has committed to 7 years of Post Construction Environmental Monitoring
- Independent Guardianship Program will occur throughout PCEM – technical reports provided to the EMC
  - Aquatic monitoring
  - Terrestrial monitoring (vegetation and wildlife)
  - Permafrost monitoring
- Supports long-term community capacity building



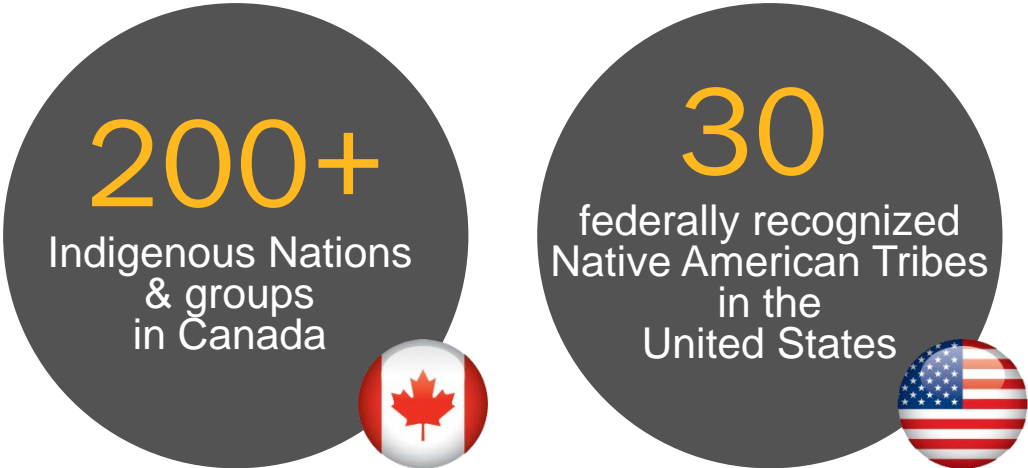




# Lifecycle Engagement and Long-Term Community Relationships



Enbridge engages with



Indigenous engagement and inclusion is a priority of our executives and CEO



Our approach is driven by key learnings from past experiences across North America and is guided by our **Indigenous Peoples Policy**

We've shifted our thinking & approach, from project-driven engagement processes to lifecycle engagement



# Interim Resource Management Assistance (IRMA) Program



# What is the IRMA Program?

- Funding program administered by the GNWT
- Intended to strengthen the ability of **Indigenous governments and organizations** in **unsettled land claim areas** of the NWT to participate in **land and resource management activities** affecting their land use areas





# History

- Established in 1997
- Originally administered by the Department of Indian Affairs and Northern Development (DIAND)
- Devolved to the GNWT On April 1, 2014



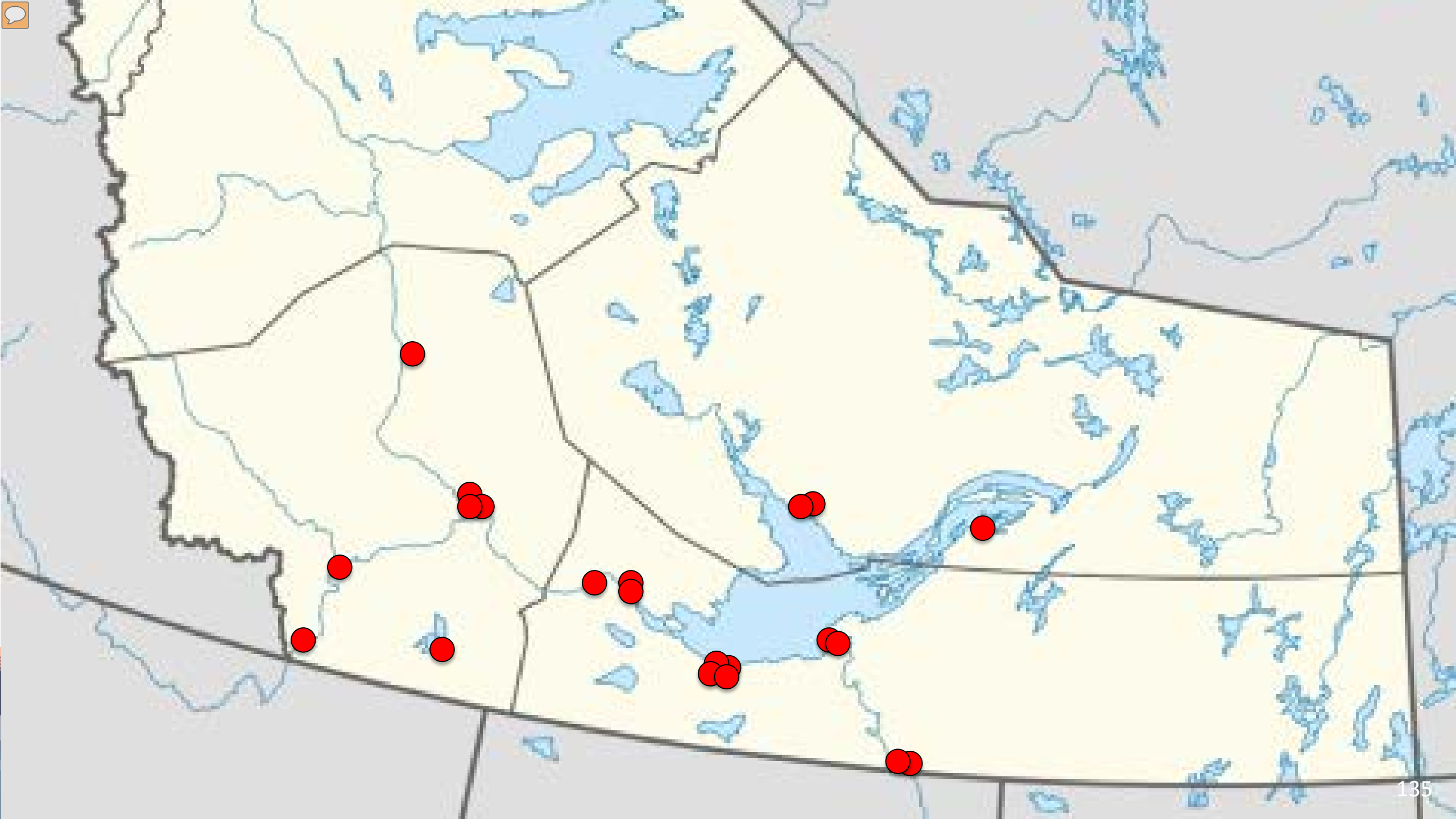


# Eligible Recipients

Indigenous governments and organizations within unsettled claim areas eligible to access IRMA may include:

- Bands, Local First Nations, and Métis Locals; and
- Regional/Tribal/Territorial organizations







# IRMA Program Scope

IRMA is designed to assist Indigenous governments and organizations in unsettled claim areas to participate in activities related to:

- **Environmental assessments** and **regulatory processes**;
- Enhancing the ability to participate in **consultations** related to resource management policy and legislation; and
- Enhancing **community capacity development** in specific land and resource management activities.







# Funding Rounds and Timelines

- Base Funding
  - Provided annually (Application callout in March)
- Resource Pressures Funding
  - Provided annually (Application callout in April)
- Resource Pressures Funding (round 2)
  - Provided annually (Application callout in December)





# Base Funding

- Allocated on a per capita basis
- Minimum funding of \$30,000
- Eligible activities are those outlined in the IRMA Program Guidelines
- These guidelines can be found online at:  
<https://www.enr.gov.nt.ca/en/services/apply-interim-resource-management-assistance-irma>





# Resource Pressures Funding

- Reserved for highly significant and active projects or major developments
- Priority is given to projects related to Environmental Assessment or Regulatory processes under the MVRMA
- Applicants must demonstrate that Base Funding was insufficient





# Common Uses of Funding

- Wages for Resource Coordinator/Manager
- Consultants/legal
- Participation in environmental assessment and/or regulatory processes
- Workshops and Meetings
- Training
- Office/supplies/utilities
- Miscellaneous







# Year-End Reporting

- Written and financial reporting is required to account for the funding provided
- Expenses should match with activities approved for funding through Base and Resource Pressures funding
- Year-End reporting is due just after the end of the fiscal year (April)







Fritz Griffith  
IRMA Program Coordinator  
IRMA@gov.nt.ca  
(867)-767-9233 ext. 53098

# Questions?



Crown-Indigenous Relations  
and Northern Affairs Canada

Relations Couronne-Autochtones  
et Affaires du Nord Canada

# Northern Participant Funding Program

Resource Co-management in the Mackenzie  
Valley Workshop 2020

Jennifer Walsh, Acting Manager, Environmental  
Assessment, Land Use Planning and Conservation



Canada





# Northern Participant Funding Program

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- Five-year Northern Participant Funding Program was announced by the Northern Affairs Minister on December 19, 2018
- Provides financial support to Indigenous governments and organizations, community groups, and other Northerners to facilitate their informed engagement in the environmental and socio-economic assessment processes established under land claims agreements in Canada's three territories
- Funding will be made available for impact assessments of large, complex or controversial resource development or regional infrastructure projects (i.e., “major” projects)



# Program Goals

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**Goal 1:** Establish a dedicated participant funding program, designed with input from Northerners

Funding previously provided on an *ad hoc* basis; no formal program thus no program design input from Northerners

**Goal 2:** Enhance the capacity for organizations and individuals to participate in impact assessment processes

Integrated resource management systems established through northern land claims agreements provide for Indigenous participation in impact assessment processes, but experience has shown this does not ensure the capacity to engage in a meaningful way

**Goal 3:** Provide improved certainty regarding the ability to access funding, and transparency about funding decisions

**Goal 4:** Establish an independent Application Review Committee with representation from Indigenous organizations and federal and territorial governments to select funding recipients and suggest funding levels



# Fixed Program Components

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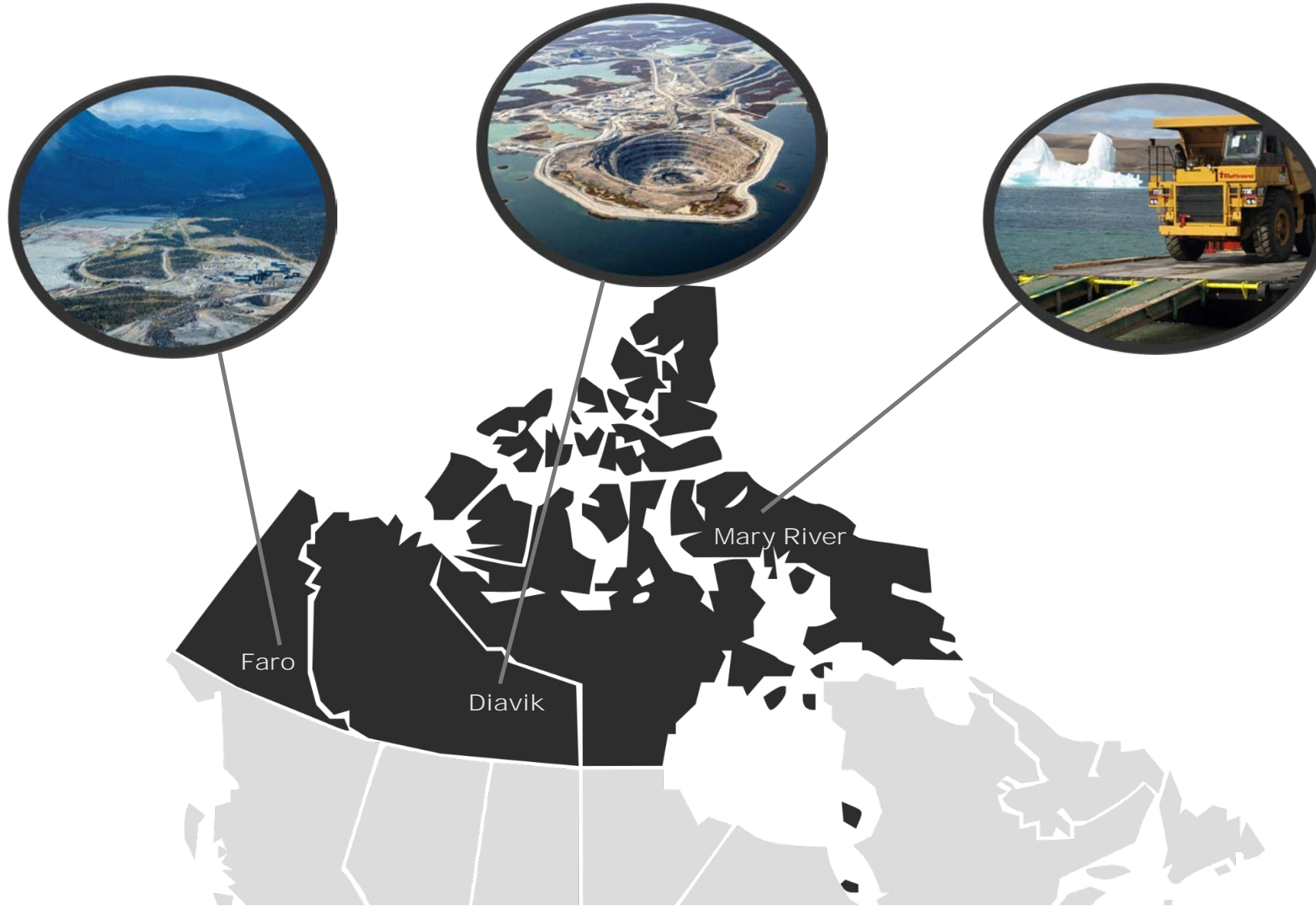
- **Funding Level:** \$10.3 million over 5 years
  - Maximum of \$150,000 per recipient-per year-per project
- **Assessment Processes:** Impact assessment, not regulatory processes such as water licensing
- **Eligible Projects:** Large, complex or controversial projects
- **Funding decisions:** Recipients determined by Application Review Committee.





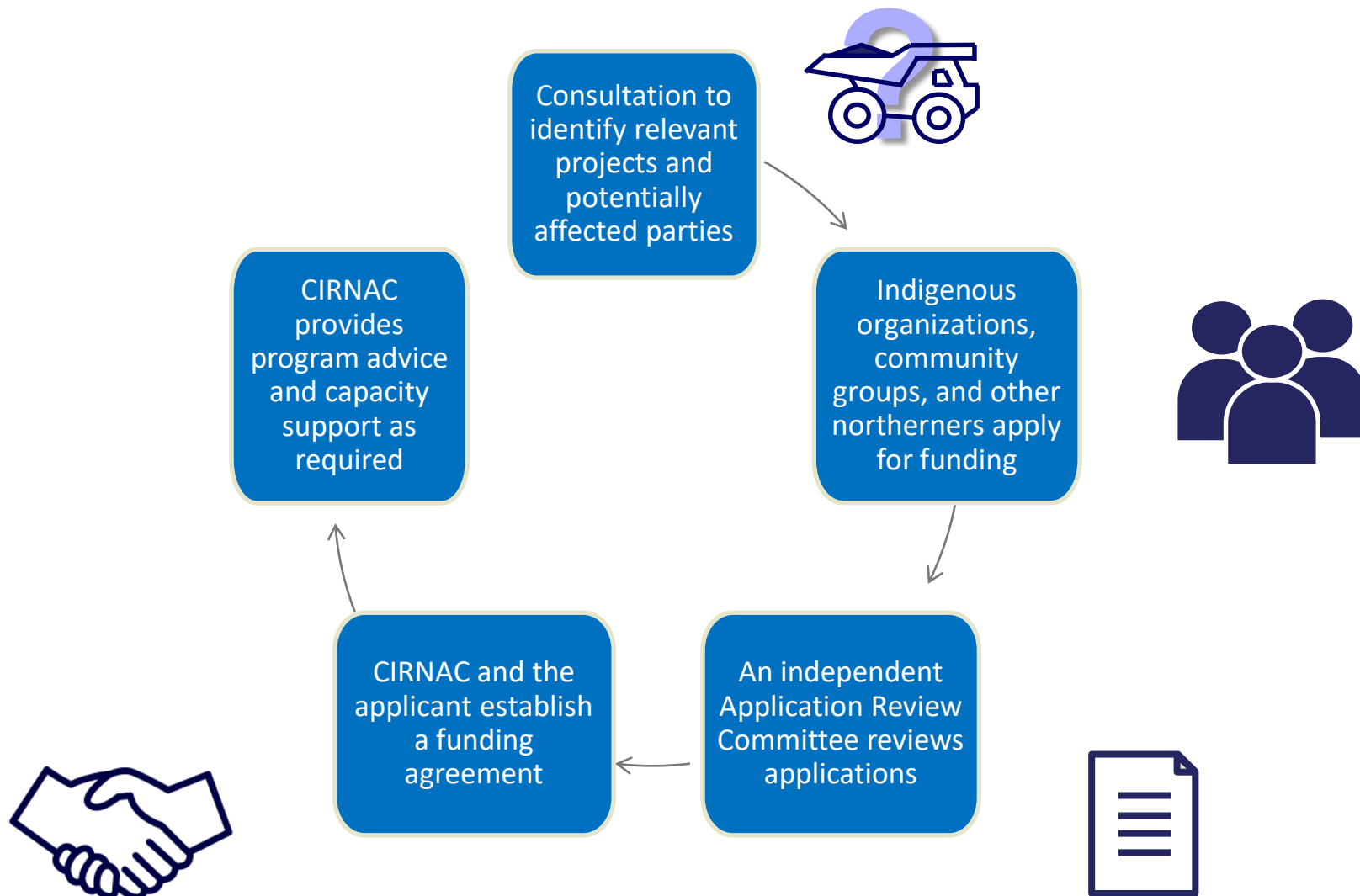


# Project Examples





# Program Structure



# Project Criteria

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- Large or complex resource/infrastructure proposals
- Assessments conducted under northern land claim based assessment processes
- Factors determining project eligibility include:
  - Size and location;
  - Potential for public concern about or opposition to the project;
  - Potential environmental, cultural and socio-economic impacts;
  - Potential impacts on established or asserted rights;
  - Use of new or untested technologies; and
  - Complexity and duration of the project.



# Participant Criteria

Participants eligible for funding are:

- Indigenous governments and organizations (e.g., hamlets, hunters and trappers organizations, women and youth groups);
- Community groups;
- Incorporated not-for-profit organizations;
- Experts able to contribute specialized knowledge; and
- Other northern residents or interested affected parties



# Participant Criteria

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The Applicant must demonstrate that they meet ***at least one*** of the following criteria:

- Have a direct, local interest in the development, such as living or owning property in the development area;
- Have an interest in potential impacts to related claims and rights;
- Have community knowledge, Indigenous Traditional Knowledge, Inuit Qaujimajatuqangit or Inuit Qaujimaningit, or Indigenous perspective relevant to the impact assessment; or
- Plan to provide expert information relevant to the anticipated environmental impacts of the development.





# How to Apply

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- When an eligible project is identified, NPFP staff will announce funding availability in a letter to affected Indigenous organizations, and in a notice posted to the MVEIRB registry.
- The application form includes guidance material about what is eligible and what we look for in an application.
- NPFP staff are happy to review drafts or discuss proposals before the due date.
- Applications should be submitted directly to [aadnc.aidefinancierparticipants-participantfunding.aandc@canada.ca](mailto:aadnc.aidefinancierparticipants-participantfunding.aandc@canada.ca).



# Application Process

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- Once CIRNAC receives applications, they are reviewed by an independent Application Review Committee.
- The committee determines who will receive funding, and recommends how much to provide each recipient.
- To date CIRNAC has funded every application recommended by an application review committee. The funding levels have sometimes differed from the committee's recommendation, based on availability of funds or eligibility of costs.
- After final approval, a contribution agreement is established between CIRNAC and the recipient to flow the funding.
- Please contact [Jeremy.Weyerman@Canada.ca](mailto:Jeremy.Weyerman@Canada.ca) with any questions about the program.

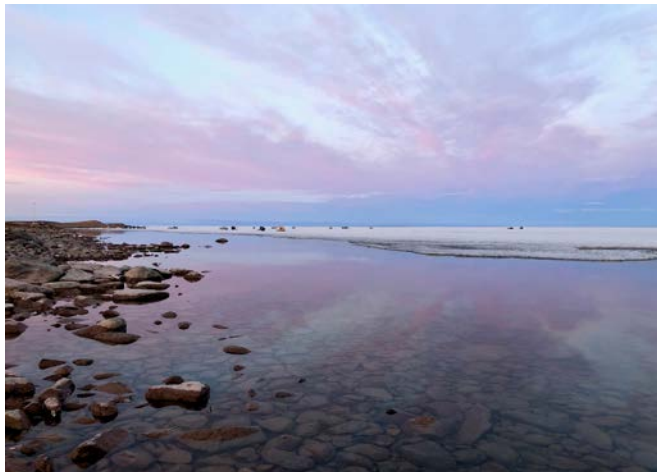


# Program Engagement

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- Want to ensure the program is meeting the needs of participants and provides the support needed to participate effectively in impact reviews.
- Want to understand participants views on how the program can specifically help them, including understanding what participants think it should look like.
- Since the program was announced, program staff have been conducting engagement sessions across all 3 territories.

***Mahsi Cho***





# Indigenous Habitat Participation Program (IHPP)

Fisheries and Oceans Canada – Fish and Fish Habitat Protection Program



**MVRMA WORKSHOP - February 2020**

Arctic Grayling (*Thymallus arcticus*)  
Photograph and Copyright: Paul Vescei

# Context

How we got here

- Canadian Government including Fisheries and Oceans Canada (DFO) is committed to advancing reconciliation with Indigenous peoples in Canada
- Amendment process of the Fisheries Act - Indigenous peoples provided input regarding fish and fish habitat
- Fish and Fish Habitat Protection Program (FFHPP) of DFO is responsible for the conservation and protection of fish and fish habitat under the Fisheries Act
- Indigenous Habitat Participation Program (IHPP) provides funding for Indigenous peoples to work collaboratively with DFO and/or other organizations toward fish and fish habitat protection/ conservation goals



# 2020 MVRMA Workshop Input

Some of what we are hearing from you

Protection  
Monitoring  
Land-Claim-Holders  
Together Communities Water  
life Resources Conservation  
Indigenous-Rights Generations  
Duty-to-Consult Environment  
Two-Ways-of-Thinking-are-equally-valued  
Respect Co-Manage  
Traditions Partnerships  
Capacity Fish Community-based Rights  
Engage Collaboration  
Co-Develop Reconcili-action  
Meaningful

Networks  
Culture  
Advancement  
Consider

# Indigenous Habitat Participation Program (IHPP)

What is it? What is the purpose?

- IHPP funding program launched on June 7, 2019 providing Indigenous peoples \$50 million dollars nationally over 5 years
- Supports the conservation and protection of fish and fish habitat through engagement, collaboration, consultation and capacity building activities by providing two types of funding:
  - Contribution
  - Grant
- For Indigenous governments, communities, councils, organizations, boards, and service providers working with Indigenous peoples to protect and conserve fish and fish habitat

# Contribution Funding

Activities in a nutshell

Type of funding	Themes	Funding Priorities 2019-20	Area of Application
Contribution	Engagement	Engagement on Fish and Fish Habitat Protection Program changes, development of new policies and making of regulations.	Across Canada
Contribution	Collaboration	Increase collaborative activities in conservation and protection of fish and fish habitat - Planning; Protection of fish and fish habitat; Monitoring; Conservation Management; and Data management.	Across Canada
Contribution	Building Capacity	Establish organizational structures - establishment or support (as required) for coordinating/ management structures to support multiple Indigenous communities or groups located in the inland regions of Canada.	Inland areas – where provinces manage the fisheries
Contribution	Building Capacity	Coordinate and manage activities across multiple communities or groups - support information awareness/exchange/training related to the conservation and protection of fish and fish habitat in the inland regions of Canada.	Inland areas – where provinces manage the fisheries

# Contribution Funding

How can this funding support me?

## Engagement

- Supports partnerships to achieve mutual objectives related to fish and fish habitat – e.g. preparing for/attending meetings, discussion groups, conducting outreach to increase awareness
- Develop protocols/guidance – e.g. how Indigenous communities wish to be consulted by DFO and guidance to use two ways of thinking - Indigenous knowledge and western knowledge - in habitat decision-making
- Input into the development of new policies, regulations and initiatives – e.g. reviewing studies/reports, current or likely effects of environmental impacts

# Contribution Funding

How can this funding support me?

## **Collaboration**

- Activities that support fish and fish habitat (e.g. next slide)
  - Planning
  - Protection
  - Monitoring
  - Conservation
  - Data Management

## **Capacity Building**

- Establish organizational structures, information exchanges, training related to fish and fish habitat e.g.

Note: This does not include fisheries management or restoration projects



# Contribution Activities

What's an example of a program that could be funded?

## **The Tłıchǫ Aquatic Ecosystem Monitoring Program (TAEMP)**

- Community-based monitoring program to determine if fish, water, and sediment quality are changing over time, and if fish and water remain safe to consume
- Fish, water and sediment sampling in each of the four Tłıchǫ communities
- Sharing of Traditional and Scientific Knowledge through camps/outreach



Photograph courtesy of the Tłıchǫ Government

# Contribution Fund - Eligible Expenses

What is included?

- rooms, facilities, and/or office space rentals
- insurance;
- materials and supplies;
- outreach materials, such as printing costs;
- training fees and expenses, including materials;
- travel including: meal allowances and accommodation;
- salary, wages and other labour including employer mandatory benefits;
- professional and specialized services;
- purchase or rental of equipment and upkeep (repairs);
- audio/video, data and network communications services;
- ceremonial costs and services; and
- administrative overhead.

# Contribution Fund – Selection Criteria

How are applications assessed?

- alignment with the IHPP objectives;
- relation to other national and regional strategies and priorities;
- scope of proposal to engage Indigenous groups (e.g. number of organizations and people who will be involved and/or supported;
- experience;
- additional resources;
- project management capacity; and
- explanation of how funds will go to the proposal and help achieve its goals.
- preference will be given to proposals with requests between \$50-\$150K.
- currently IHPP will only fund one year projects that take place within a fiscal year (i.e. April 1, 2020 - March 31, 2021).

# Contribution Applications

Show me the money!

- Applications for Contribution Funding have a specific timeline.
- Call-out for applications occur early in the calendar year (Feb-Mar) for funding in following fiscal year (e.g. period covering Apr 1 2020, March 31, 2021).
- Notice of call-out is provided to all NWT Indigenous governments, organizations, communities and other associations at the same time via email/phone
- Additionally information updates are available on the DFO Website (details at end of presentation)

# Grant Fund

What is this and how does it work?

- Grant funding available starting August, 2019
  - Applications can be submitted year-round
- Funding available following the environmental assessment (EA) process in regulatory phase
- Funds support Indigenous collaboration:
  - Consultation of Fisheries Act authorizations and Species at Risk Act (SARA) permits
  - Inform Indigenous positions on current or proposed fish and fish habitat issues and projects
  - Inform project's potential adverse impacts to Aboriginal and Treaty rights and/or to discuss possible measures to avoid or minimize those impacts.
- Further information about grants funding is available on the IHPP website



# Regional Contact Information

I want to grab a tea and chat, who can I contact?

## **Regional Email for applications:**

- ✉ DFO.CAIHPP-PPAHCA.MPO@DFO-MPO.GC.CA

## **NWT/NU DFO Contact for questions:**

- Angie McLellan
- [angie.mclellan@dfo-mpo.gc.ca](mailto:angie.mclellan@dfo-mpo.gc.ca)

## **IHPP Contribution Info:**

<https://www.dfo-mpo.gc.ca/ecosystems/ihpp-ppha/index-eng.html>

## **IHPP Grants Info:**

- <https://www.dfo-mpo.gc.ca/ecosystems/ihpp-ppha/grant-subvention-eng.html>

# Thank you for your interest!

Mársi | Kinanāskomitin | Thank you | Merci | Haj' | Quana | Qujannamiik |  
Quyanainni | Quanaqqutit | Máhsi | Máhsi | Mahsi | ᐃᐃᐅᐅᐅ



# Assessing Impacts on the Rights of Indigenous Peoples

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MACKENZIE VALLEY RESOURCE CO-MANAGEMENT WORKSHOP FEBRUARY 6, 20



Impact Assessment  
Agency of Canada

Agence d'évaluation  
d'impact du Canada

Canada

# The Agency and The Act

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**Minister of Environment and  
Climate Change Canada**



**Impact Assessment Agency of  
Canada**

***Impact Assessment Act***



*(Bill C-69)*



# Impacts on Rights Guidance: Principles

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Respect, protect and uphold the rights of Indigenous Peoples

Work in partnership; aim for consensus

Develop methodology collaboratively

Consider Indigenous knowledge appropriately

Take context into account at outset

Apply broad and holistic approach

Use community-defined thresholds and measures

Use both qualitative and quantitative analysis

Ensure transparency

Aim to develop mutually agreeable measures to avoid or minimize adverse impacts





# Methodology

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Step 1. Identify and understand the rights



Step 2. Understand the context



Step 3. Identify guiding values and topics



Step 4. Identify pathways of impact



Step 5. Assess level of impact



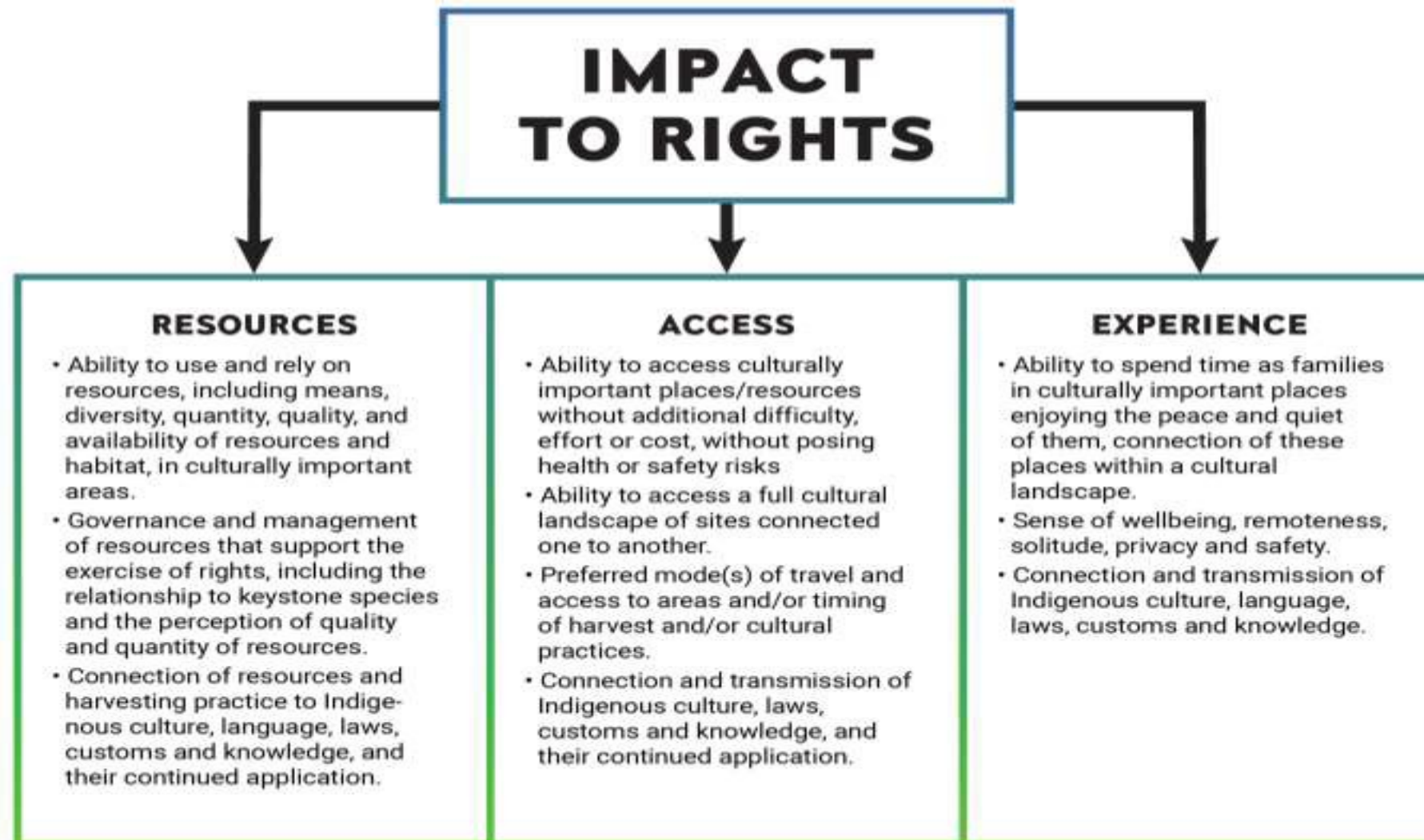
Step 6. Dialogue on measures to address impacts



Step 7. Validate and follow-up on assessment outcomes



# Pathways to Impacts



# Assessing the Severity of Impacts

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These are **some** of the factors criteria to consider when analyzing the severity of impacts on each value and/or right that is being assessed:

Likelihood

Cumulative Impacts

Geographic Extent

Governance

Cultural Well-being

Impact Inequity

Duration, Frequency and  
Reversibility

Health

**Low**

**Moderate**

**High**

*Unacceptable?*



# Questions?

***Catherine Dymond***

*Senior Analyst*

*Impact Assessment Agency of Canada*

[Catherine.Dymond@Canada.ca](mailto:Catherine.Dymond@Canada.ca)



Impact Assessment  
Agency of Canada

Agence d'évaluation  
d'impact du Canada

Canada 



Crown-Indigenous Relations  
and Northern Affairs Canada

Relations Couronne-Autochtones  
et Affaires du Nord Canada

# Learning through Doing

## CIRNAC Contaminants and Remediation – Northern Contaminated Sites

February 6, 2020



Canada



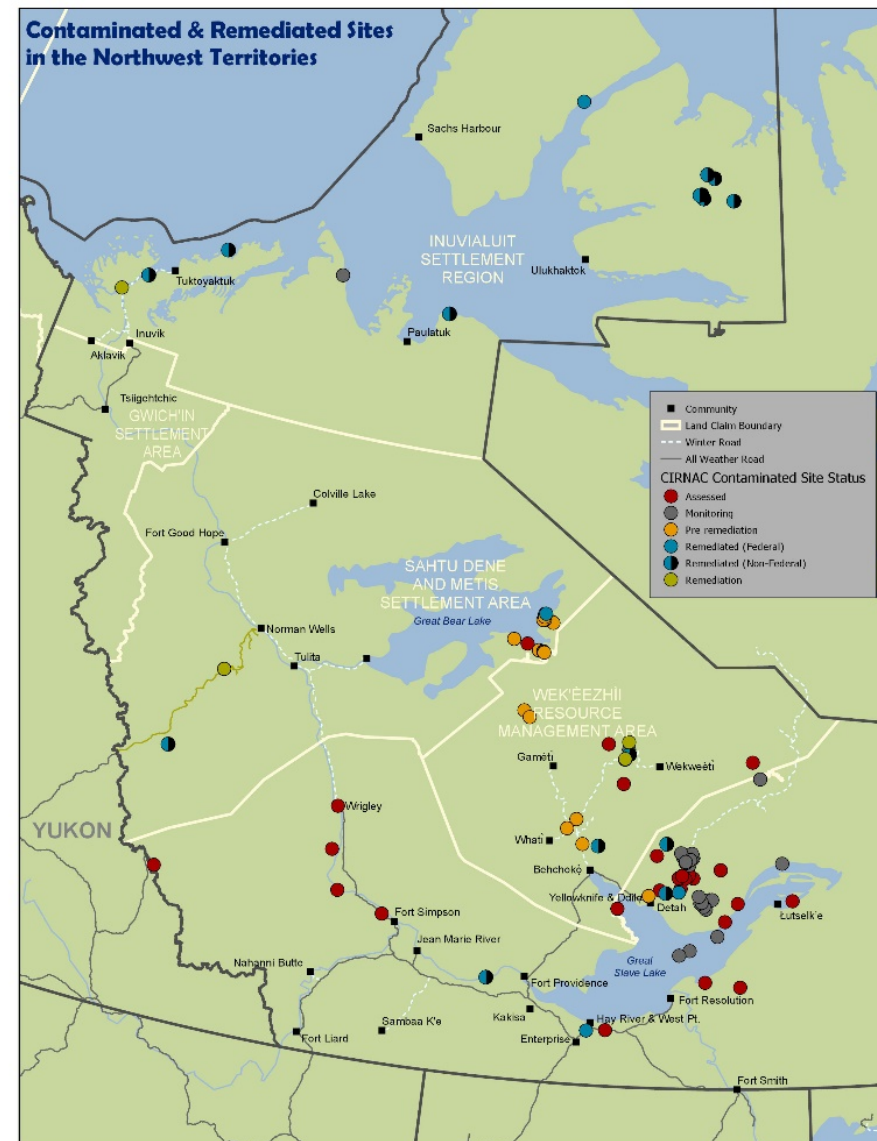
# Objectives

- Present the Northern Contaminated Sites Program's work
- Provide an overview of Canada's approach to Indigenous and community engagement
- Present examples of experiential consultation approaches at:
  - Bullmoose-Ruth Remediation Project
  - Rayrock Remediation Project
- A look ahead to upcoming years



# Northern Contaminated Sites Program (NCSP)

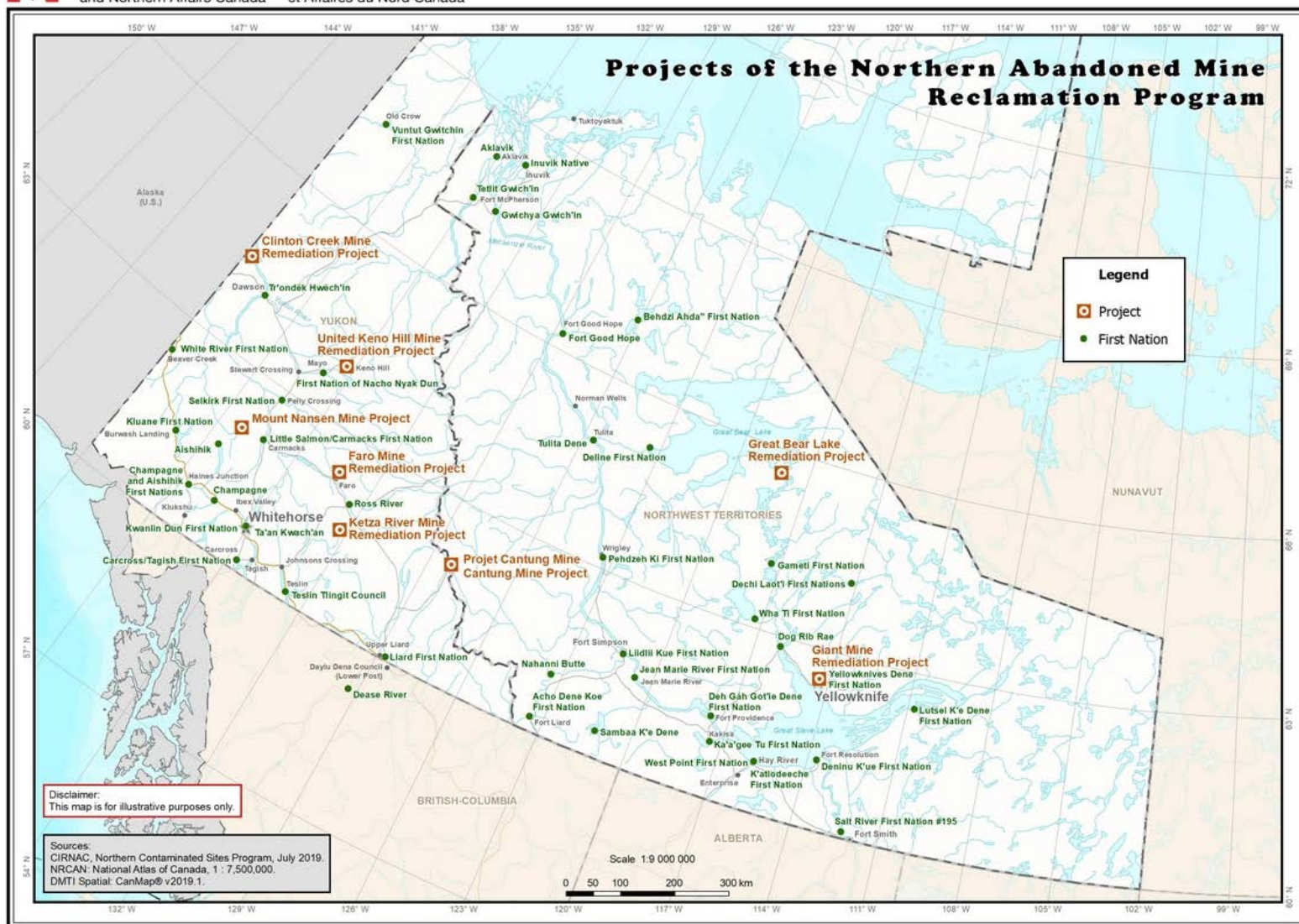
- Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) is responsible for the management of most federal contaminated sites in the Northern territories  
(NWT Contaminants and Remediation Division – CARD)
- Sites are historic economic development projects; environmental impacts/responsibilities were not well understood; the Crown was the owner of last resort
- Program objectives are to:
  - reduce risks to human health and the environment;
  - decrease federal liabilities; and
  - maximize socio-economic benefits for Indigenous people and northerners.
- CARD works with diverse stakeholders to achieve its objectives and manage its sites





# New Developments for 2020

- Federal Contaminated Sites Action Plan (FCSAP) Phase IV 2020-2024 (\$1.16b)
- Northern Abandoned Mines Reclamation Program 2020-2035 – “The Big 8” (\$2.2b)
- Allows for more northern sites to be funded under FCSAP



CIRNAC - ISC, Geomatics Services, August 2019.



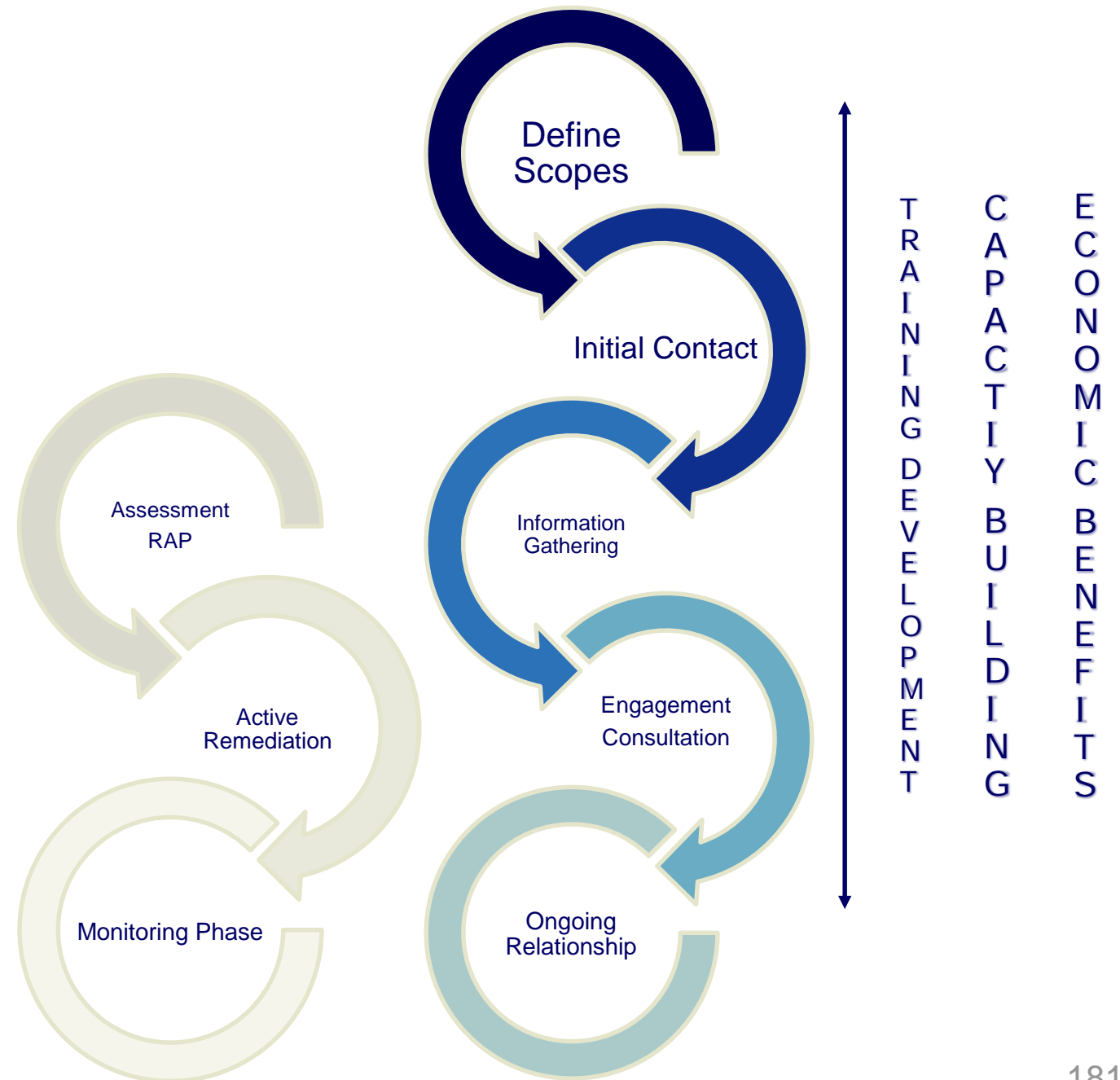
# Community Engagement and Crown Consultation

- CARD engages with stakeholder communities to be better informed, to facilitate participation, and to deliver program objectives more effectively
- Public engagement
- Indigenous engagement
- Crown consultation
- MVRMA – regulatory requirements
- Expert advice/support



# Engagement Approach

- Written materials
- Visual materials
- Information sessions
- Meetings
- Research
- **Experiential opportunities**
- Decision-making input





# Experiential Engagement

- “Learning through reflection on doing”
- Cultural differences in communication can be avoided; demonstrating actions/goals is closer to Indigenous learning models common in local communities
- Includes benefits in motivation, shared objectives, shared activity
- Demonstrates commitment by project team in real world scenario
- Can include relationship-building ancillary activities, such as eating or taking breaks
- Additional benefits through diverse groups; especially youth and Elders



# Community Engagement and Consultation

- In all the communities we have engaged with, our Elders have expressed concerns that we should provide “***Introductory to Environment Science***” information to our youth
- Our first approach and involvement started in 2007
- Today, two (2) examples will be presented:
  - Science Camp (now called School Outreach)
  - Fish Palatability Test







# Tłıchǫ Region Science Camp

## Introductory to Environment Science







# Tłıchǫ Region Science Camp

## Taiga Laboratory visit in Yellowknife, NT







# Tłıchǫ Region Science Camp

## Outdoor Activities







# Tłıchǫ Region Science Camp

## Student and Instructors Discussion, Participation and Certificates





# Tłıchǫ Region Science Camp Group Photo

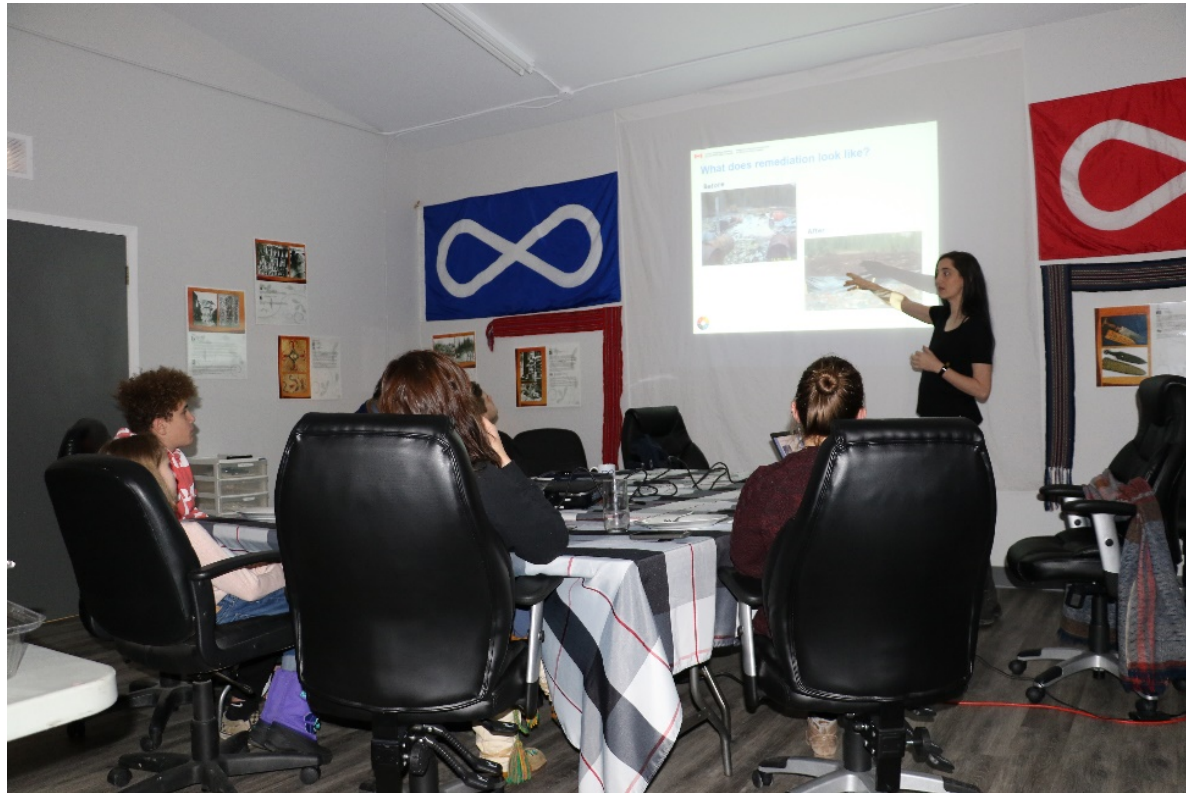






# North Slave Métis Alliance (NSMA) School Outreach

## Introductory to Environmental Science





# 2019 North Slave Métis Alliance (NSMA) School Outreach Introductory to Environmental Science





# North Slave Métis Alliance (NSMA) School Outreach

## Introductory to Environmental Science







# Tłıchǫ Region Colomac Mine Remediation Project

## Fish Palatability Test – Collection by Fishing Net







# Tłychq Region Colomac Mine Remediation Project

## Fish Palatability Test – Preparations and Cooking Style





# Tłıchǫ Region Colomac Mine Remediation Project

## Fish Palatability Test – Results of Tasting

LAKE LOCATION	DESCRIPTION DURING TASTING	FREQUENCY OF MENTION
STEEVES LAKE	Tastes excellent	2
STEEVES LAKE	Tastes similar to past use	4
STEEVES LAKE	Tastes good	3
<b>FISH COOKED</b>	<b>1 Trout, 1 Sucker and 1 Great Northern Pike</b> <b>Trout boiled, Sucker Grilled and GNP Fried</b>	
BATON LAKE	Tastes excellent	2
BATON LAKE	Tastes similar to past use	2
BATON LAKE	Almost the same as before	
<b>FISH COOKED</b>	<b>1. Trout NONE, Sucker NONE,</b>	
GENERAL	Brain taste very good	1
GENERAL	Wanted to eat the whole fish	1
GENERAL	Fish smells good	1
GENERAL	Fish color looks good	1
GENERAL	No change	1



# Tłıchǫ Region Rayrock Mine Remediation Project

## Fish Palatability Test – Preparations







# Tłıchǫ Region Rayrock Mine Remediation Project

## Fish Palatability Test – Cooking Styles







# Tłıchǫ Region Rayrock Mine Remediation Project

## Fish Palatability Test – Fish Tasting Time



# Community Engagement and Consultation

## Next Steps

- School Outreach with Yellowknives Dene First Nation (YKDFN) students
- Continue with School Outreach and other Engagement plans
- Plans for Stark Lake Project Fish Palatability Test





# Field Visits and Adaptive Management







# Job Shadows and Employment Opportunities





# Revegetation

- Primary objective is slope/bank stabilization
- Opportunity for shared work, training, and communication







## Next Steps for Bullmoose- Ruth Monitoring



- Continuing long term monitoring at sites
- Planned revegetation at Bullmoose-Ruth and other sites, in cooperation with partner communities
- CARD is planning a workshop that will teach proven revegetation techniques, train participants in seed gathering and storage, and include a practical work component at sites
- This training (along with other types) will strengthen capacity in Akaitcho communities for cooperative monitoring efforts in the future





# Questions?

Mahsi

Marci

Merci

Thank you!





# Det'on Cho Corporation





Det'on Cho Corporation

**How Indigenous Development Corporations can  
help support community well-being and enable  
communities to benefit from resource  
development**



Det'on Cho Corporation

***Det'on Cho Corporation is a for profit  
organization with a social obligation***



Det'on Cho Corporation

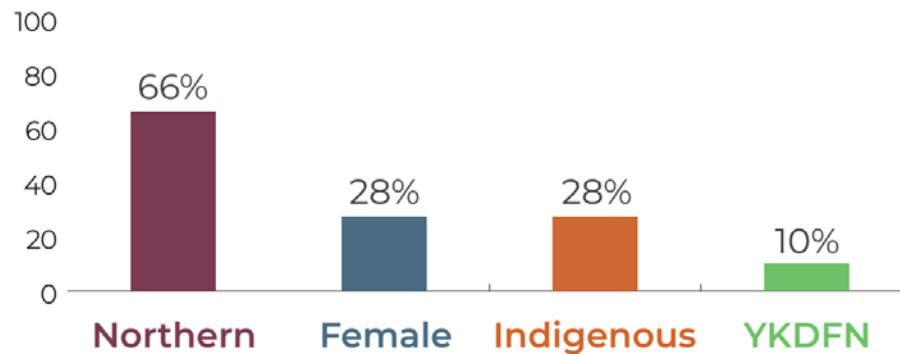


## 2019 Economic Leadership Award Recipient



## Det'on Cho Corporation

### Current Employment Joint Ventures and Partnerships



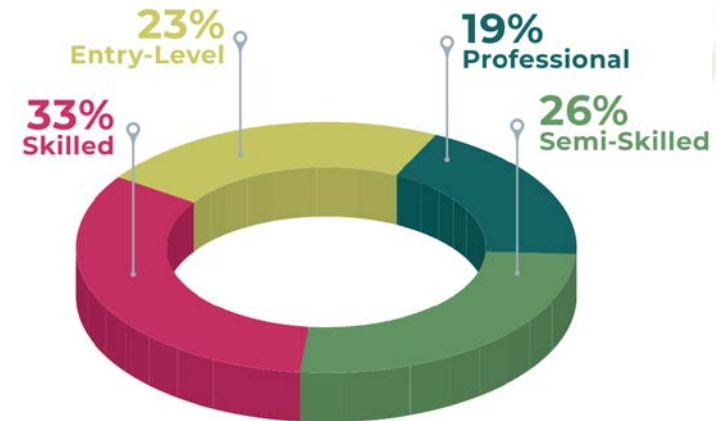
#### Northern:

- Focused on employing NWT residents where possible

#### Significant employer:

- One of the largest private employers in the Territory

Average PFT Jobs = 769  
Joint Ventures and Partnerships





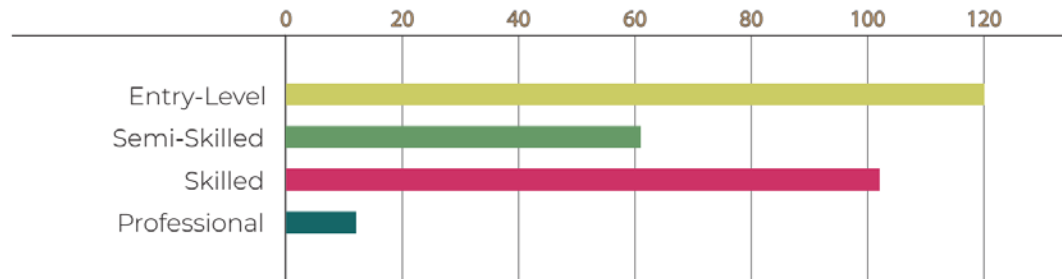


## Det'on Cho Corporation

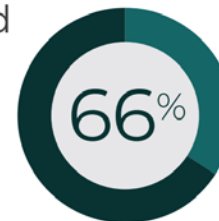
### Employment:

- Strong emphasis on employment creation
- Varying levels of positions from entry to professional levels
- Focus on Indigenous hiring and YKDFN

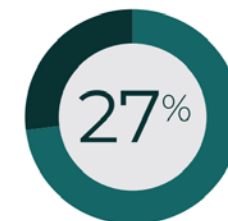
100% Owned, Joint Ventures and Partnerships  
Jobs Posted = 295



100% Owned and Operated Companies  
Jobs Filled



New Hires  
that are Indigenous



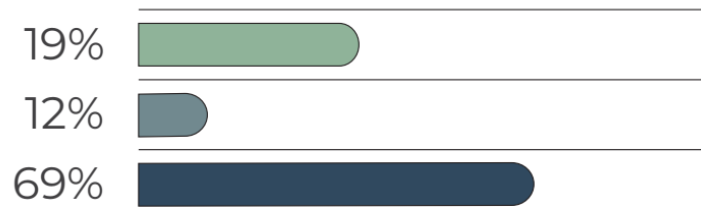
New Hires  
that are YKDFN



## Det'on Cho Corporation

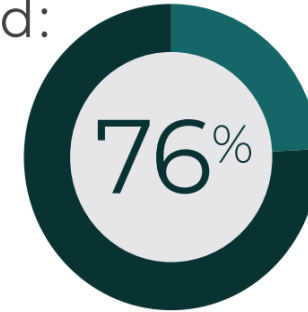
### Employment Services Annual Drop Ins = 129

\*87% YKDFN Members  
\*13% Other Aboriginal



- Employed \*Searching for better employment
- In Training
- Unemployed

Fingerprints  
Completed:  
80



Results  
Returned in  
3 weeks or less

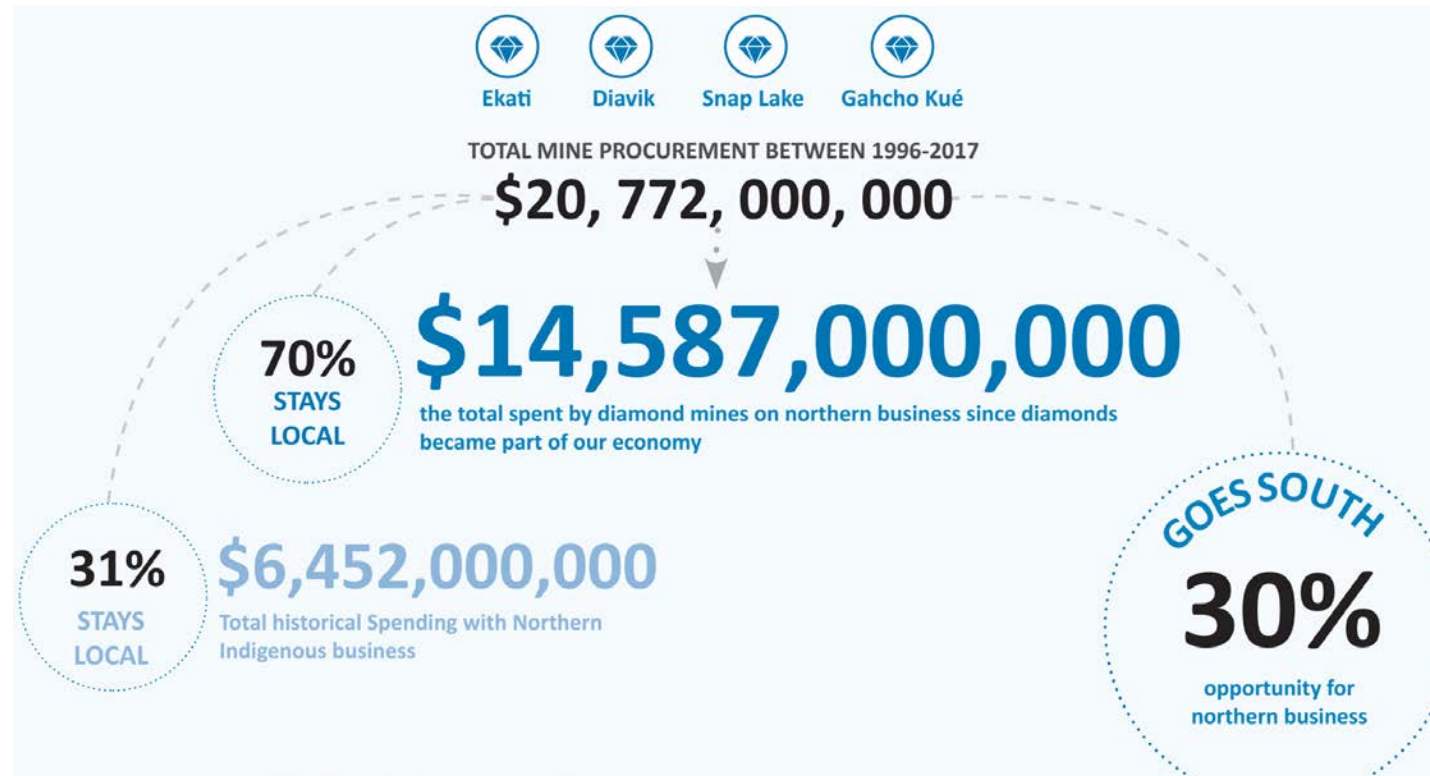
#### Employment Services:

- Identification and removal of barriers for employment
- Capacity building and career development



Det'on Cho Corporation

## 2018 Socio-Economic Agreement Report





## Det'on Cho Corporation

### Spin-off value:

- Anchors local businesses (both Indigenous and non-Indigenous) through Impact Benefit Agreements / Participation Agreements
- Educational pursuits – creates career paths (meaningful work while achieving education)
- Volunteering / community involvement (Det'on Cho employees are involved both within the YKDFN community and beyond)
- Capacity to self-perform and mature the business (Aggregate development, Cheetah project, diversification)





Det'on Cho Corporation



### Alaska First Nations Business:

- 9 / 10 largest private businesses in the State of Alaska in 2019 were Indigenous
- Top 3 grossed over 6.5B USD
- Heavily invested in the local economy through employment, development of key infrastructure and ownership of resource projects



### **The First Entrepreneurs – Natural Resource Development and First Nations** (November 2018) – Germain Belzile / Alexandre Moreau

- Creates opportunities in rural northern locations (Pine Point play)
- Helps preserve communities (Hire from across Northern Communities)
- Tahltan Nation – developed the Tahltan Nation Development Corporation in 1985 and boasts 0% unemployment (Primary / secondary / tertiary)
- Indigenous members holding jobs earned an average of \$51,500 in 2016 before taxes, average wages were nearly \$150,000 for those working in oil and gas and more than \$200,000 for those working on gas pipelines

CANADA'S ABORIGINAL BUSINESS MAGAZINE

INDIGENOUS ECONOMY  
ABO EXPLORES WHAT'S FUELING  
ABORIGINAL BUSINESS ACROSS CANADA

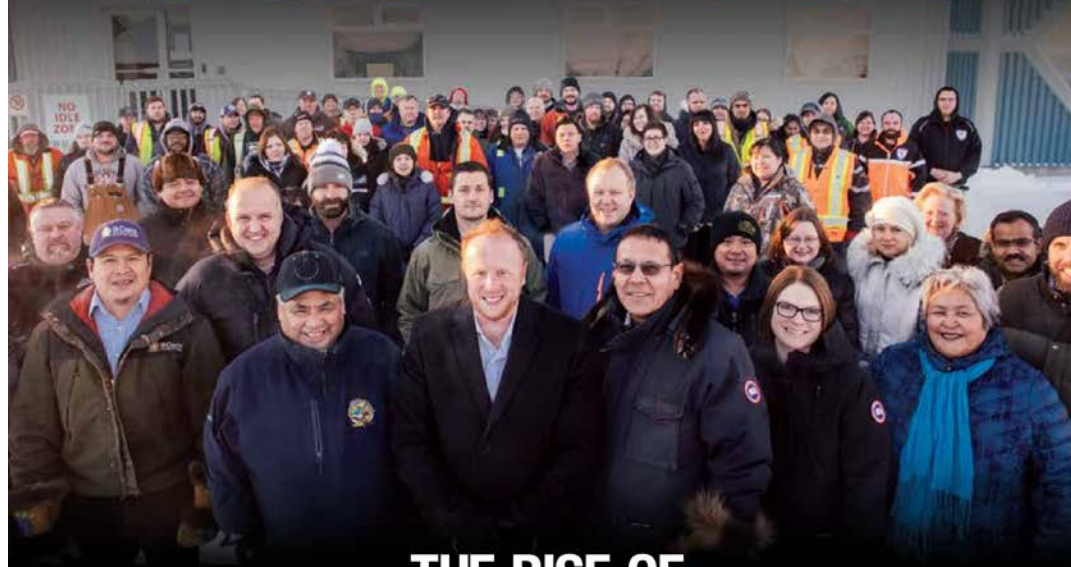
MORE VALUABLE THAN  
GOLD AND DIAMONDS  
THE HUNT FOR NORTHERN WORKERS

YUKON POWERHOUSE  
CHIEF ISAAC ENJOYS STRENGTH  
THROUGH DIVERSITY

WINTER ISSUE 2019

# ABORIGINAL business

QUARTERLY



## THE RISE OF DET'ON CHO

HOW ONE INDIGENOUS-OWNED BUSINESS GROWS,  
THRIVES AND PREPARES FOR THE WORLD OF TOMORROW





Det'on Cho Corporation



Thank you