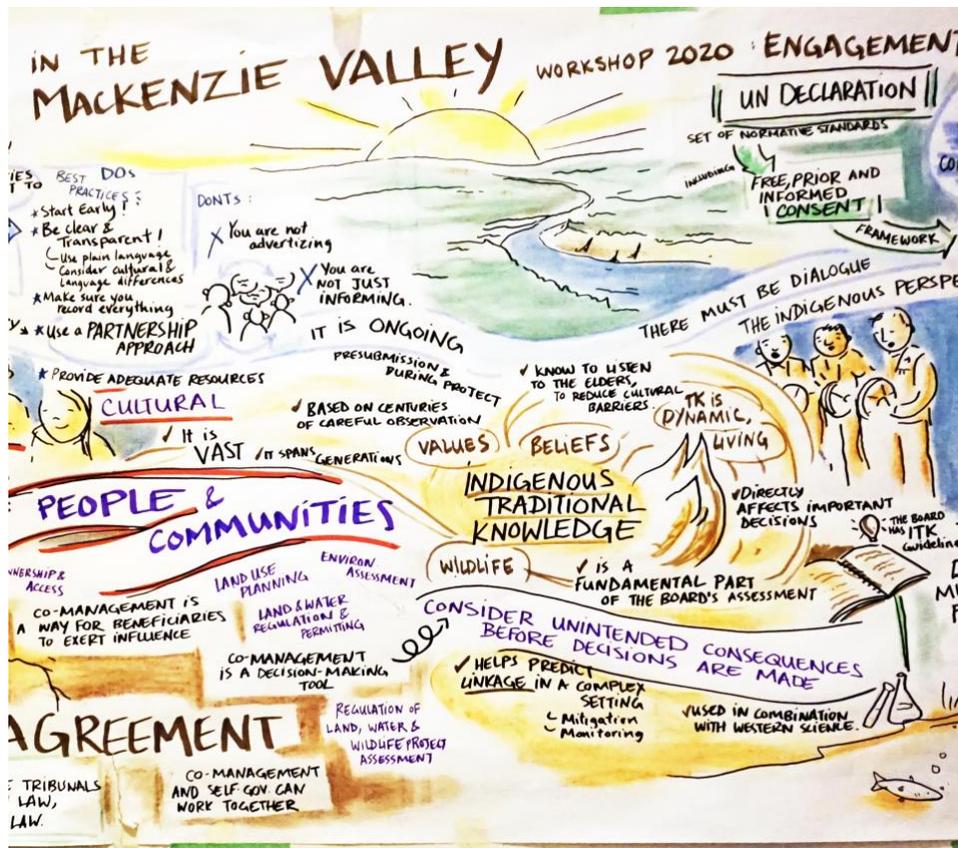


# Resource Co-Management in the Mackenzie Valley Workshop 2020: Engagement & Consultation

February 4-6, 2020, Yellowknife, NT



Report of the workshop  
Prepared by PlanIt North Inc.

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Yellowknives Dene First Nation Drummers opened the workshop with a prayer song.

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**Disclaimer:**

The views presented in this report are those of the presenters to whom they are attributed and to the presenters who shared their experiences. The views do not necessarily reflect the views of the Land and Water Boards of the Mackenzie Valley, the Mackenzie Valley Environmental Impact Review Board, the Government of the Northwest Territories, Crown-Indigenous Relations and Northern Affairs Canada, nor the Mackenzie Valley Resource Management Act Workshop Planning Committee.



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Dieter Cazon (right) and Catherine Pennington (left) discussed engagement and collaboration on the Enbridge Line 21 pipeline replacement project.

## Acronyms

CIMP – Cumulative Impacts Monitoring Program

CIRNAC – Crown-Indigenous Relations and Northern Affairs Canada

CIRNAC-CARD – Crown-Indigenous Relations and Northern Affairs Canada – Contaminants and Remediation Division

DCC – Det’on Cho Corporation

DFO – Department of Fisheries and Oceans (now Fisheries and Oceans Canada)

DRIPA – (BC) Declaration on the Rights of Indigenous Peoples Act

EA – Environmental Assessment

EIA – Environmental Impact Assessment

EMA – Environmental Management Agreement

EMC – Environmental Management Committee

FFHPP – Fish and Fish Habitat Protection Program

FPIC – Free, Prior and Informed Consent

GNWT – Government of the Northwest Territories

IBA – Impact Benefit Agreement

IFA – Inuvialuit Final Agreement

IHPP – Indigenous Habitat Protection Program

INAC – Indigenous and Northern Affairs Canada

IRMA – Interim Resource Management Assistance

ITK – Indigenous Traditional Knowledge

LKFN - Łíídlíí Kúé First Nation

LUP – Land Use Plan

MVEIRB – Mackenzie Valley Environmental Impact Review Board

MVLWB – Mackenzie Valley Land and Water Board

MVRMA – Mackenzie Valley Resource Management Act

NASA – National Aeronautics and Space Administration (USA)

NCSP – Northern Contaminated Sites Program

ORS – Online Review System

PEA – Preliminary Economic Assessment

RSEA – Regional Strategic Environmental Assessment

TAEMP – Tłıchq Aquatic Ecosystem Monitoring Program

UNDRIP – United Nations Declaration on the Rights of Indigenous Peoples

YKDFN – Yellowknives Dene First Nation



Workshop participants discussed engagement in small groups.

## MVRMA Workshop Context

Each year, the Land and Water Boards of the Mackenzie Valley, the Government of Northwest Territories and Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC), hold a resource co-management workshop to build capacity among all partners to participate in the NWT's co-management system. In 2020, the Resource Co-Management in the Mackenzie Valley Workshop, "Engagement & Consultation," was held in Yellowknife on February 4-6 at the Explorer Hotel.

The goals of this workshop were to:

- discuss the elements of the Mackenzie Valley co-management system and how it works;
- identify opportunities to continue to improve – all with the lens of engagement and consultation; and
- share knowledge, ideas, and experiences, and an opportunity for dialogue on existing co-management processes.

The workshop included panel discussions, presentations and break-out sessions focused on engagement and consultation.

This report summarizes the content presented and results of the discussions. An appendix with the hand-outs and materials provided during the workshop is available separately.

The 2020 MVRMA workshop brought together two hundred and sixty participants and was facilitated by Joanne Barnaby. Guests were welcomed by the Yellowknives Dene First Nation Drummers with a prayer song, followed by Edward Sangris' opening prayer and comments. Joanne provided an overview of the agenda and the workshop's goals, emphasizing that for all participants to fulfill their roles in consultation and engagement, everyone needed to listen, to talk and to be open with one another. The workshop was about finding ways to move forward together to make wise decisions.

Past reports of resource co-management workshops can be found at the Mackenzie Valley Environmental Impact Review Board's website:

[http://reviewboard.ca/reference\\_material/practitioners\\_workshop](http://reviewboard.ca/reference_material/practitioners_workshop)

## Keynote Speaker: Perspective from British Columbia

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

Celeste Haldane's keynote presentation shared reflections about how to operationalise the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), focussing on experiences from British Columbia. Her talk, "An Update from BC: Rights Recognition, UNDRIP, DRIPA and Nation Building," provided an overview of the current legal context for treaty negotiations in BC and how these legal concepts have been, or are in the process, of being put into practise.

The BC Government has made significant progress in recent years to improve its relationship with First Nations across the province. Although it has begun to move towards an era of *rights recognition*, there is still much room for improvement. Rights recognition refers to the evolution of the treaty negotiation process from the earlier sentiments of *rights denial* and *rights reluctance*. Rights recognition should result in a treaty negotiation process that does not base the treaty relationship on the condition of extinguishment of Aboriginal Rights and Title.

The BC Government is the first in Canada to enact legislation that implements UNDRIP by bringing UNDRIP principles into law. Called the Declaration of the Rights of Indigenous Peoples Act (DRIPA), this new legislation provides direction for the BC Government to enter into joint decision-making agreements with Indigenous Governments. DRIPA also takes a 'whole government' approach, requiring that all government departments develop an action plan and accountability measures detailing how they will implement the new legislation. These principles are therefore also being incorporated into other policy and legislation, including the recently updated BC Environmental Assessment Act.

DRIPA strengthens the legal context in which UNDRIP principles such as Free, Prior and Informed Consent (FPIC) and joint decision-making can be practically implemented. Some examples of effective co-management are already underway in BC, such as the Broughton Archipelago Steering Committee, which brought together three BC First Nations, the Federal and provincial governments and two aquaculture operators to create a transition plan that commits the parties to protect sensitive wild salmon habitat, including transitioning away from fish farm operations. Another example is the BC First Nations Fisheries Council, which has created an action plan to move towards fisheries co-management based on ten collaborative management principles.

An era of reconciliation must recognize the right for First Nations to make decisions related to land and economy and to participate actively in accruing economic benefit from resource and other projects. This *economic reconciliation*, if approached in a truly collaborative manner, is beneficial for industry as well. Settled treaty relationships help clarify relationships and will lead to a clear investment landscape for industry.

An era of reconciliation must make room for relationship-building, supporting partnership development both between Indigenous and non-Indigenous organizations, and also between First Nations to manage resources that range across multiple territories, and within individual First Nations to rebuild governance structures that have been decimated by colonisation.

Celeste closed her talk with a reminder that reconciliation is hard work for all parties involved. Canada and non-Indigenous partners can help support the difficult work of Nation building by recognising that reconciliation takes time and resources.

## Setting the Stage: Origins of the MVRMA

### Roots of the Co-Management- Land Claim Agreements

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

John Donihee provided background on how the Boards<sup>1</sup> came to exist as they are today. The Mackenzie Valley Resource Management Act (MVRMA) and the resulting co-management framework emerged from the settlement of land claims in certain regions of the Northwest Territories. The MVRMA co-management system was created prior to the evolution of federal policy to enable self-government negotiations. At this early stage, co-management enabled parties to the land claims, and those First Nations still negotiating land claims, to provide input into resource management decisions outside of settlement lands. The boards were created to facilitate joint management of resources in the Mackenzie Valley; the boards derive their jurisdiction from the MVRMA and the land claims under which they were formed.

Co-management is not unique to the MVRMA system; the first resource co-management agreement in Canada was the *James Bay in Northern Quebec Agreement*, in 1975. Federal policy continues to evolve, and as agreements are implemented, lessons learned are incorporated into subsequent agreements. For instance, implementation of the *Inuvialuit Final Agreement* (IFA) framework, which preceded the MVRMA, helped to inform the specific structure of the MVRMA – the MVRMA contained substantial operational detail as policy makers had realized that there was little detail to guide implementation built into the IFA. The *Tłı̄ch̄q Land Claims and Self-Government Agreement*, the most recent agreement to date, is the first to include a self-government agreement. The co-management system, via the MVRMA, enables the Tłı̄ch̄q to participate in decision making over resources outside of the boundary of their settled territory.

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<sup>1</sup> For the purpose of this report, *the Boards*, when used in plural, is the collective of all Boards that are party to the integrated resource management framework in the Mackenzie Valley. These include the Land and Water Boards, the Land Use Planning Boards, the Renewable Resources Board, and the Mackenzie Valley Environmental Impact Review Board.

There are many co-management boards across Canada, but not all resource management issues are best managed by a co-management framework. In certain cases, it is more appropriate that the rights-holder be the sole decision-maker, for example when the resource in question is fully within the territory of one rights-holder. Co-management is, at best, a compromise.

The MVRMA boards are set-up as *Administrative Tribunals* and operate under Canadian law, not Indigenous law. This means that they must meet the standards of procedural fairness<sup>2</sup> and are subject to judicial oversight under Canadian administrative law. However, because these boards emerged from the settlement of land claims, and the land claims themselves are protected by the Constitution, the boards cannot be changed or eliminated without the permission of all parties. These boards are here today and will be here tomorrow.

The specific co-management system created in the MVRMA is a built-in-the-North system that has served the North well. Co-management is part of the bargain made between the Crown and First Nations; it benefits not only those who have settled land claims, but everyone who lives in the Mackenzie Valley and Canadians more broadly.

### Integrated Resource Management- How do the parts fit together?

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

Brett Wheler provided an overview of the integrated Mackenzie Valley resource management system. This system is a product of land claim agreements and is unique in Canada. Key principles of resource management in the NWT are *co-management* and *integration and coordination* between boards on issues of land, water and wildlife, land use planning, and project assessment. The boards exist as a result of land claim agreements and the Mackenzie Valley Resource Management Act, which mandated the creation of a co-management system because resource management decisions affect both Indigenous and non-Indigenous people in the Mackenzie Valley and elsewhere in Canada. The MVRMA defines an integrated resource co-management system; the co-management boards represent components of this broader structure. Some boards are regional, while others apply across the entire valley.

The integrated resource management framework provides a structure to make decisions on: land ownership and access; land use planning, which includes developing and implementing land use plans; carrying out environmental impact assessments; land and water regulation, including managing the deposit of waste through regulating use of land and water; and wildlife

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<sup>2</sup> Procedural fairness refers to fairness within the process of how a decision is made. Fairness in the process includes factors such as having an unbiased and impartial decision-maker, and the opportunity for a fair hearing, among other factors.

and renewable resource management, which includes wildlife, fish and habitat. The details for how these functions are carried out differ across the regions.

Other parts of the MVRMA intended to support the system as a whole are: Cumulative Impact Monitoring Programs (CIMP), which monitor the effects of projects on the environment over time; the NWT Environmental Audit, which reviews how well the regulatory system is working to protect the environment; and the Regional Strategic Environmental Assessment (RSEA), which is a tool that will help to systematically assess effects on the environment of a range of development alternatives at the regional scale.

## Setting the Stage: Through the Lens of Participation

[How consultation and engagement work in the co-management system](#)

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

The Land and Water Boards of the Mackenzie Valley have created guidelines to streamline the engagement and consultation process required as part of the co-management system. Lack of or insufficient engagement is often the reason why applications to the Land and Water Boards are deemed incomplete. Julian Morse provided an overview of the Land and Water Boards' engagement and consultation policy and guidelines, which have also been adopted by the Review Board.

Engagement and consultation are different. Proponents are required to undertake engagement prior to the start of the project with all affected communities to ensure affected parties know about the project, and to identify and mitigate concerns, and environmental and socio-cultural impacts. Proponents are required to create an engagement plan to guide engagement throughout the life of the project.

The Boards review a project application once submitted, ensuring that communities have an opportunity to contribute to assessing impacts and recommending approaches to mitigation. Crown consultation can occur throughout the pre-application and post application processes, and the Crown has the duty to consult with communities on adverse impacts to Indigenous and Treaty Rights, which are protected by the Constitution. Boards have the authority to assess the adequacy of Crown consultation, if requested, before making final decisions. Engagement and consultation are guided by the principles of shared responsibility, appropriate disclosure, inclusiveness and reasonableness.

Best practises for engagement include: starting early, as much as six to twelve months in advance for large projects; using plain language and communicating clearly and transparently; documenting all feedback in an engagement log; providing enough resources to enable participation; and using a partnership approach. The goal of engagement is not to secure an

application approval, but to build relationships that will continue into the life of the project. Proponents should ensure regular engagement and additional engagement in advance of project changes. In addition, proponents would ideally create opportunities for community partnership in the project itself, as possible.

Engagement and consultation are a shared responsibility. If proponents are unsure about how to engage with a community, the best thing to do is ask the community itself about how they want to be engaged. Board staff are also a good resource.

### Setting the Stage: Questions and Answers

A participant asked if the Board advises proponents to use community or regional engagement guidelines, providing the example of the guidelines in the Akaitcho Territory. Board staff responded that it may be a good idea to request any existing community and regional guidelines, which can be referenced in the Board's guidelines. The Board also emphasized that it is the proponent's responsibility to ask a community on day one if they have any engagement policies and how the community would like to go about the engagement process. The engagement process should be developed *together*.

Another participant explained that the Métis in Fort Smith Landing and the Hay River Reserve are trying to understand how the Taltson River hydro dam expansion will affect their territory. The proposed transmission lines are across Great Slave Lake; the participant asked if the project was large enough to call for a public hearing. Board staff explained that such a project would normally require a type A license because there is a need to change the flow rate of water; this triggers a mandatory hearing. Boards can also call a hearing even if it is not mandatory, if there is public concern.

## Meaningful inclusion of Indigenous Traditional Knowledge

### Alan Ehrlich, Manager of Environmental Impact Assessment, Mackenzie Valley Review Board

Alan Ehrlich discussed the importance of Indigenous Traditional Knowledge (ITK) for the Environmental Impact Assessment (EIA) process and provided background on what ITK is, why it is so significant to the EIA process, and how the Mackenzie Valley Environmental Impact Review Board (MVEIRB) incorporates ITK into their work.

ITK is vast, much broader than ecology, and includes knowledge, values and beliefs that span across generations. ITK is based on centuries of careful observation and is continually evolving. The MVEIRB created a set of guidelines in 2005 that provide advice to those going through an EIA on how to incorporate ITK into their studies. The guidelines recommend a focus on building relationships and supporting local protocols. The guidelines also outline details about how the knowledge collected during these processes will be managed, owned, and protected.

The EIA process uses ITK because it is an important source of information to shed light on how a project might impact the environment. The purpose of an EIA is to predict how complex projects may affect complex natural, social and cultural systems. This cannot be done with the narrow focus of western science alone, because western science cannot take into account values and cultural impacts. ITK incorporates values and beliefs and is therefore a better source of information to look to when studying how a project will affect a community more broadly and in the longer term. Recognizing this, the MVEIRB informs decisions with ITK and conventional science equally.

Through the co-management system, ITK can be more easily incorporated into board processes because co-management reduces cultural barriers: for example, there may be someone on the MVEIRB who already understands the language being spoken and can more appropriately understand the concepts of ITK being shared.

The MVEIRB uses ITK for a range of purposes, such as deciding what topics to focus on in baseline studies, identifying information connections and gaps, determining significance of impacts and finding ways to mitigate impacts. ITK is a fundamental part of the MVEIRB's EIA process and is used to inform critical decisions. The MVEIRB does not always get it right but aims to continually improve with input from knowledge holders and participants.

## **The Duty to Consult: What it is, recent court decisions and emerging approaches to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)**

Larry Innes, Partner, Olthuis, Kleeer, Townsend LLP

Larry Innes discussed consultation as an evolving legal concept, with the end goal to secure consent. Canada has a long history of denying Indigenous Peoples their rights, and the country would look much different today if Indigenous Peoples had been part of the formation of the country.

Consultation is an idea that emerged from case law. Through the *Sparrow* case in the 1970s the Supreme Court of Canada established that the Crown can only infringe on Aboriginal Rights if there is a justifiable need, which can only be determined through consultation. Ideally, the Crown's imperative and Indigenous laws can be reconciled so that there is no infringement on Aboriginal Rights. Through case law, the concept has evolved, and it continues to do so as courts answer questions about when consultation is required and whether consultation was done adequately in a particular case. On one end of the spectrum, consultation can be mechanistic, for instance, using form letters and following rigid timelines. On the other end of

the spectrum, consultation approaches collaboration and shared decision-making – this is the ideal.

The Crown, and the Boards, as the bodies to whom the Crown has delegated its duty to consult, focus on procedural justice. The Crown does retain ultimate responsibility for the duty to consult. However, as consultation approaches collaboration, substantive justice<sup>3</sup> can be realised more fully as well.

The aim of consultation is Free, Prior and Informed consent (FPIC), as set out in UNDRIP. Even then, consultation by itself is only part of the answer. The goal is to ultimately create sustained Nation to Nation relationships. Treaty negotiations are a two-way relationship; treaties were created so that people can live together in friendship and harmony. These relationships should be based on consent, which does not end with signing treaties. Larry used a marriage analogy: treaties are akin to a marriage in that upon signing, you enter into a relationship – but Canada thought it was a divorce and proceeded to divide up all the furniture! Recognizing and respecting Indigenous Governments and jurisdiction should lead the NWT to resemble a federation within Canada – with Indigenous and public governments practising shared decision-making. Ultimately, the goal of reconciliation is to create Nation to Nation relationships that will renew treaty-based federalism in the Northwest Territories.

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

John Donihee provided a summary of the duty to consult and when this duty of the Crown can be delegated to Administrative Tribunals – in this case, the resource co-management boards within the Mackenzie Valley. He began with a quick overview of the duty to consult itself, then moved to talk about the circumstances under which the Crown may delegate this duty to tribunals and when tribunals have the power to assess the adequacy of Crown consultation. John concluded his presentation by applying the general rules discussed previously to the MVEIRB and the MVLWB and discussing how UNDRIP and FPIC align with the system in place in the Mackenzie Valley.

The Crown's duty to consult arises where the Crown has knowledge of an existing or asserted Aboriginal and/or Treaty Right and contemplates conduct that may potentially affect that Right; the extent of consultation required is proportionate to the nature and strength of the affected right and the severity of the adverse impact on the right.

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<sup>3</sup> Substantive justice or substantive fairness refers to fairness within the decision that is made. Rather than focusing on the process of decision-making, which is what procedural justice is concerned with, substantive justice is concerned with whether the laws which are applied and the decision that is made are fair in their content.

The ability of the Crown to delegate the duty to consult to tribunals arose from the courts – in the recent cases of *Carrier Sekani*, 2010 and *Clyde River*, 2017 the Supreme Court determined that the Crown can delegate the duty to consult to administrative tribunals as long as the tribunals have the power and authority to fulfil the duty to consult. This includes the ability to carry out the consultation with full procedural fairness and remedial powers<sup>4</sup> necessary to implement accommodations that may arise from consultation. In cases where the Crown is delegating this duty to tribunals, the Indigenous groups participating in the process must be made aware of the delegation. The Crown is still ultimately responsible for making sure the duty to consult is fulfilled. In the case where a tribunal has the final decision-making authority on approval and the jurisdiction to decide on questions of law, the tribunal then has the authority to judge the adequacy of Crown consultation.

Applied to the MVEIRB and MVLWB contexts, both Boards must ensure that they meet the requirements set out in the MVRMA for adequate consultation. Although boards have authority and expertise in consultation, their powers and resources may not be sufficient for adequate consultation in all contexts, leaving the Crown responsible for ensuring the duty is fulfilled. The Crown must provide additional support when necessary.

Several important elements of UNDRIP and FPIC are fulfilled by the Mackenzie Valley co-management system. Overall, the duty to consult is well recognised and integrated into the Mackenzie Valley co-management system.

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

Amy Avila provided an overview of the new *Environmental Assessment (EA) Act* in BC and how it aims to advance reconciliation with Indigenous Peoples. BC is home to a large number of First Nations groups, around 200; however, there are only a small number of Treaty Agreements in place. In line with the DRIPA that was discussed by Celeste Haldane in her Keynote address, all BC Governments departments are required to update their policies and plans to ensure that they are working towards implementing UNDRIP principles in their work. The Environmental Assessment Office is the first government department in BC to do this, and the new BC EA Act brings it into alignment with DRIPA. Amy discussed the collaborative nature of the new EA process according to this updated legislation and what that will ideally mean for how public and Indigenous Governments work together in the future.

The purpose of the EA Office is to carry out environmental assessments of project impacts and provide a recommendation to the responsible Minister on whether the project in question

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<sup>4</sup> Remedial powers refer to the administrative tribunal's ability to enforce actions to accommodate Aboriginal Rights or Title that may arise from the duty to consult.

should proceed. The new EA Act was developed through a high level of collaboration with Indigenous leaders and people so that there is greater recognition of their rights to participate in decision-making on activity within their territory.

The new EA process includes two opportunities where First Nations are consulted and ideally, FPIC can be obtained before proceeding to the next stage within the EA. The goal is to shift how the EA process is approached to recognize First Nations' governance structures, internal agreements and jurisdiction so that the EA office is now asking "what do you need to make a decision?" The new process has built-in early engagement with First Nations to identify priorities, information needs, governance structures and to develop a deep understanding of the importance of the potential project area to the community. There is also the option to have the Indigenous Government(s) in question complete the Collaborative Effects Assessment, if they so desire, so that the recommendations to the Minister is coming from them. This is because First Nations are best suited to understand how their rights will be affected.

The EA office is aiming to move towards a point where the collaboration on EAs is holistic and that it would not matter who wrote the report – the public government or the Indigenous Government – because they would be going to the Minister with a consensus on their recommendation. Amy closed by remarking that BC still has a lot to learn – and the Mackenzie Valley system is a great context to look to and learn from.

## Armchair Discussion: Our Co-Management system and the Duty to Consult

**Celeste Haldane, John Donihee, Larry Innes, Amy Avila**

The panel discussion provided an opportunity to bring the day's topics and presenters into conversation with one another and the audience. The panelist's responses and audience questions have been summarised below.

### Question and Answer

**Question:** *Who decides what amount of consultation is adequate? When is the duty to consult satisfied? Do Indigenous Peoples have the opportunity to say whether they consider it adequate or not?*

**Larry:** Consultation that leads to collaboration is a Crown duty, but every duty also has a limit. The answer from the courts is that when everything that is reasonable that could be done has been done, that is when the duty to consult is satisfied. The hope is that all parties – government, Indigenous groups and proponents – design a process that it is fair and reasonable, so that when you get to a point where the parties can't agree, the decision-maker can make a fair decision. The courts don't give a prescription of what to do, but they give a good idea of what not to do.

**Amy:** The Environmental Assessment legislation tries to provide more clarity but with most things in the EA process, we are required to seek consensus with Indigenous Governments. If we have a process, and the Indigenous Governments can write their own section of how they saw consultation take place from their perspective, then that can help determine if we've done well.

**John:** The courts are doing a much better job with the consultation process piece. If procedural fairness is the only measure, then you lose sight of substantive fairness. If substantive fairness is not clear, then what is *enough* is based on procedure because it's supposed to be a relationship – the idea being that if you went through the process correctly and built a relationship, you've satisfied the duty to consult.

**Celeste:** Indigenous Nations must engage too because they have a responsibility to respond. The courts have defined that you can't just say 'no' even though it might be the easy answer. Going back to the marriage analogy, the aim is to not end in a divorce.

**Question:** *Who decides who gets consulted? When communities were being consulted about the diamond mines, we were told that we were too far away. But we have records showing we hunted caribou in that region long before Canada became a country, yet we weren't consulted. Who decides?*

**Celeste:** Work needs to be done between Indigenous Nations on figuring this out so that it is clear who is affected by which projects.

**Amy:** Indigenous Nations can self-identify to participate within section 14 of the BC EA Act, if there will be reasonable effects of a project on their Aboriginal Rights. This goes back to the notion that Nations are best suited to decide if they will be affected.

**Larry:** The governance is still an open question. For 150 years Indigenous Nations were suppressed or divided and conquered. The Nation building issue is internal, but in a public space, decision-making between the Crown and Indigenous Nations is tricky as well. Issues need to be unpacked fully, so that everyone can be in one room and come to an agreement collectively. Not all Indigenous parties agree on what the impacts are on other communities. There is a need to do dispute resolution to arrive at a fair and reasonable result.

**John:** The frameworks have all been developed more recently, since the 1990s, which is when the diamond mine issues were being discussed. There is now a framework in place to decide who gets consulted; it seems in order to be brought into the conversation a community has to show that the project will affect them. There are various challenges to determining this (i.e., socio-economic impacts might be felt further out than environmental impacts).

**Question:** *How can First Nations use policy to implement the duty to consult? For example, our Nation implemented a ban on caribou hunting; how can policy be used to ensure our Aboriginal Rights?*

**Celeste:** How to translate and codify Indigenous law into policies to this effect takes a lot of work, but we don't need to reinvent the wheel – we can collaborate.

**Amy:** Regional Land Use Plans (LUPs) with community priorities and methodologies informing the LUPs, are an effective tool to operationalize community priorities.

**Larry:** First Nations can create their own guidelines for industry to follow. For example, North Arrow is a mining company that didn't like Akaitcho's guidelines on how to consult the community, so they went to INAC. INAC sided with the project and gave them the permit they needed. However, the court overturned the permit, so court cases are good to learn about what *not* to do, but if you read between the lines you can also see what *to* do (i.e., Follow the guidelines the community has made).

**Question:** *Nobody has touched on the natural order of things; all opinions seem to want development to occur. Nothing in what you've said stops development, am I correct?*

**Celeste:** Lots of communities in BC don't want development. The government has been using a divide and conquer method. All communities should have been at the table together for these discussions, but even then, sometimes the answer is *no* to development.

**Larry:** We are talking about the process of how to get to a decision, so no is a possibility. But it's usually more complicated than that. The process is usually iterative<sup>5</sup> and the goal is to come to an arrangement that everyone agrees on.

**Question:** *I am worried about what's happening to the south of us in Alberta. The MVRMA might be okay, but Alberta issues will affect us up here. Does the Alberta-NWT Mackenzie River Basin Bilateral Water Management Agreement have the teeth to protect us up here? The Federal Governments will approve the Tech Frontier project because it's big money. What happens in the southern regions will affect us up here (i.e., In Wet'suwet'an, the Chiefs will sit for 7 days to deliberate, and we should show support).*

**Celeste:** There is a need to have tables set up to deal with the transboundary issues, including from the Federal Government. The transboundary issue is international too, with Alaska. In the Wet'suwet'an case the Crown is being heavy handed. Direct action is a strategy, but it puts people at risk. We're all hoping for a peaceful resolution, but that's an internal issue, to figure out how they as a Nation will re-build their governance structures. They will have to find ways

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<sup>5</sup> Iterative refers to the process being repetitive and cyclical in nature and building on lessons from the previous repetition, so that the process can be refined over time.

to work with band neighbours and create their own constitution and they need time and meaningful discussion to figure this out.

**John:** There is no transboundary water agreement that has implementation related to it. It is not designed to protect us here. The Federal Government will likely approve a company like Tech Frontier and unfortunately, NWT will be affected.

**Question:** *What do you think about creating one Indigenous Engagement Guide, for both settled and unsettled areas, organised by region. What do you think of one document that educates the non-indigenous side on how to engage with communities?*

**John:** Not sure how to answer this question as there are already a lot of guides out there to address this issue, but the concerns are with existing legislation.

**Amy:** BC is always inventing something new, with no land claims to rely on. I think this is a good idea for BC. Indigenous groups have to do the work themselves to figure out what's important for them.

**Celeste:** A pan-Indigenous approach is not helpful, and it ignores contexts. One-size fits all solutions don't work. It is better to collaboratively create something that works for each community and factors in landscapes, conditions, etc.

**Question:** *When UNDRIP was introduced, Indigenous communities were very happy. But then the government said they were doing what was in UNDRIP already and the government didn't think UNDRIP was a big deal. The worry was that the government will write it into Law, but no one would know how to implement or interpret the new laws and it would be up to the courts to decide. UNDRIP, where we have and use the declaration, where is the actual implementation?*

**John:** UNDRIP is a goal and it's most useful to understand gaps between what we do and what we should do.

**Celeste:** We need to address how the Crown doesn't want to talk about what redress or compensation look like; this is not in the form of transfer payments, etc.

**Amy:** BC's EA legislation is different than the rest of BC currently, but all legislation needs to evolve over time. With the help of UNDRIP, the goals are to evolve towards it.

**Larry –** UNDRIP has procedural elements, but procedure doesn't guarantee outcome. The process must also create substantive justice.

**Question:** *Since the beginning of time, in creation stories, all we do is for our children and grandchildren, so they have a place to live. Through formal schooling, we learn only about the settler state. We've been presented today with a lot of corporate terminology. For example,*

*John's presentation about the administrative system that's been inserted into the co-management process. Dene-Canada is meant to be a treaty relationship, but this administrative process, is it fair? They only want to consult and accommodate – and do what they were going to anyway. Business as usual. Does this duty to consult change anything?*

**Celeste:** Thank you for your remarks; it's a good reminder of the purpose of this work. We're all dealing with colonial impacts and we need to close these socio-economic gaps.

**Larry:** Dene law must be brought up in these discussions. We're evolving towards the point where we can build on the fundamental treaty relationships and come to equal, fair, partnership-based decisions – but it's clear we're not there yet.

**John:** Co-management is still a compromise. As far as resource management legislation goes, it's quite good – but still, it's a federal process and ministers make final decisions, so there are definitely gaps. It's gotten to the point where some projects do get rejected, but not very many.

**Question:** *When we work with projects in our communities, we have to sign confidentiality agreements – but how can we arrive at FPIC if things have to stay secret?*

**Larry:** You're right, nothing good comes from confidentiality agreements. The information needed for good, open decision-making is not available under these agreements.

**Question:** *We've been viewing boards as corporate and abstract bodies, but perhaps we need to look at boards as creatures less of government and more the result of treaty relationships. The Sahtu and Metis have a voice through board appointments. So, is UNDRIP needed in the MVRMA system?*

**Celeste:** Indigenous communities need to be co-developing legislation that affects them.



Participants paused for a photo in the main workshop hall.

## Breakout Groups (rotating)

### Moving from consultation to collaboration

The Board requires project proponents to engage with potentially affected parties prior to submitting their application. This *Early* consultation is intended to promote collaborative relationships, support meaningful community participation and reduce the potential for conflict. In this break-out session, participants were asked to share their experiences of *early consultation processes*. Participants were asked to share what worked well, what was frustrating and why. Participants then brainstormed how early consultation processes could be more effective in developing collaborative approaches.

#### What worked well?

- **Relationship-building:** The proponents and regulators need to take time to build relationships, openly, honestly and in-person. Engagement is effective when it allows for informal discussions.
- **Clear plans and procedures:** Engagement plans that define community engagement create clear expectations, as do Indigenous Government protocols that define who a proponent should talk to and that provide up to date and accurate contact information. Later in the process, formal agreements between the community and the proponent create clear expectations and formalize relationships. It is also helpful when the Land and Water Boards provide guidance.
- **Community-driven:** Processes are most effective when the community is in the driver seat. Collaboration and direct involvement should start early in the project so that relationships can be built and community members truly understand the project.
- **Creative communications:** Visual and hands-on communications work best. Communications can be targeted to specific groups, like elders. Door to door surveys can help people understand the project and provide feedback. Another model that has worked well is a *reverse tradeshow model* where there are booths at which participants can ask questions of a representative.

#### What was frustrating?

- **Not being recognized and not feeling heard:** Communities need to be recognized off the bat. Communities feel powerless when proponents do not fulfill their engagement and consultation responsibilities or impose processes that are defined and imposed externally. This feeling can also emerge from a clash of perspectives or worldviews or if there is a lack of cultural or local understanding on the part of those who are engaging the community. The result can be that elders' knowledge and perspectives are not properly understood and recorded. The feeling of not being recognized is particularly frustrating when communities put forward concerns but there is no clear response and the project is approved without explanation. Follow-up actions need to happen or else

there will be mistrust. The proponent also cannot be rigid in their plan – how can you collaborate when some components of a project are set in stone?

- **Past experiences colour current processes:** Community members often have a lack of trust with proponents because of their past experiences with resource projects.
- **Inadequate communication:** This can include: short timelines and inadequate notice; communication that is not comprehensive, speaking only to a small segment of people, a regional body or someone who is not an official representative of the community; or not making the effort to update contact lists. Some types of communication are also inadequate, for instance phone calls, sometime even from out of the territory or country, are not effective for engagement. In addition, often engagement is focussed only on Indigenous Government Organizations, which can create or amplify divisions in the community; public engagement is also important.
- **Poor coordination:** Poor coordination can occur at multiple levels. For proponents, it is frustrating if community members and leadership are not working together and it can therefore be hard to get the word out. Regulators and Boards can also be poorly coordinated, for example, requiring a proponent to have a land use permit prior to a lease and vice versa. Impact Benefit Agreements (IBA) negotiations and the regulatory processes that they are related to are poorly linked.
- **Government responsibilities are poorly defined or fulfilled:** A letter from the government does not equal consultation. The Crown's duty to consult has to include meaningful accommodation; it cannot be *my way or the highway*. The federal government has a responsibility of due diligence and should require informed consent.
- **Lack of response:** Proponents sometimes do not hear feedback during pre-application engagement and issues raised at the pre-application stage arise after the application is submitted. Sometimes, the proponent may only hear feedback from some individuals who feel strongly but are not representative of the community as a whole.
- **Northern challenges:** Sometimes infrastructure, such as internet, is inadequate for effective communication. People are spread out and dispersed in the North making it difficult to engage in-person and the same level of effort seems to be expected for small, medium and large projects.
- **Lack of capacity:** At community levels there is often not enough support and funding for training and capacity building. It takes funding to educate community members about what is happening. Often, a local leadership organization does not have staff with a technical background. Communities can have high staff turnover. Government and proponents can also have capacity limitations and it can be difficult in the face of all of these to determine how much detail is enough or too much. It is also challenging for proponents and regulators to set realistic expectations and not raise expectations in engagement beyond what can realistically be achieved.

## How can early engagement processes be better?

Participants had suggestions for every Party to the process – proponents, communities and government.

- **Proponents** should come to the Land and Water Boards *before* submitting an application. Early and iterative engagement can result in better solutions; for example, early engagement in the Gahcho Kué process led to refinement of the waste rock pile, which was beneficial for everyone. This can help small proponents learn who they need to speak with and what they need to do. Proponents need to be comfortable and committed to honesty and transparency. They should provide notice to affected communities as early as possible and spend as much time on the ground as possible, not by parachuting in, but by coming with a comprehensive engagement plan prepared ahead of time with the community government. Proponents also need to make sure that they come to the table with accurate information to share. Talking about the project out on the land, where it is going to take place, is ideal. Proponents should also expect to give back to communities when they are taking from the land. Engagement summary reports should be provided to communities in draft for comment and feedback. Finally, proponents should come with a willingness to listen and change plans, if needed.
- **Communities and community leadership** should ask early about employment and contracting opportunities. Communities can benefit from articulating cultural norms and community expectations. Communities also require funding to participate meaningfully to ensure that there is content prepared for meeting, technical staff in place to review and communicate information, and funding to support engagement processes including travel, food, interpreters and peoples' time. Indigenous Government Organizations should develop guidelines on how to engage in their traditional territory.
- **Government and regulators.** It is important that with the new Northwest Territories Mineral Resources Act, the government consults with community and Indigenous Governments *prior* to administering resource rights. This will substantially shift the dynamic of early engagement. Include members of Indigenous Government Organizations as board members during decision-making processes, training the member for a specific project.

Early engagement processes can also be improved by the following:

- **Resource Indigenous Traditional Knowledge holders** by providing capacity and collecting traditional knowledge early. Indigenous knowledge can provide thousands of years of observations compared with the western scientific evidence, which may be relying on recent observations only. Traditional Knowledge as well as community members' perspectives should inform project planning. Ensure there is clarity in how

traditional knowledge will be used and who owns it by creating and following traditional knowledge protocols.

- **Use appropriate language** by hiring interpreters and explaining concepts visually and with plain language. Care should be taken to explore terminology so that terms can be understood across languages.
- **Communicate often and to a wide audience**, using multiple venues to share information.

Participants suggested that the Land and Water Boards' and MVEIRB's community engagement and consultation guidelines should:

- Explain that early engagement enables information to be shared and potential issues identified quickly. It allows more time for the proponent and the community to clarify their expectations of project components and outcomes.
- Provide advice related to cultural awareness and protocols, specific to each region.
- Clarify guidelines for consultation in preliminary screening, explaining that engagement at this stage will build project support and aid project momentum later on.
- Provide guidance for realistic expectations for both proponents and communities.
- Provide consistent templates for engagement plans and engagement reports. Templates should track actual conversations versus attempted communications. Engagement logs should be detailed, explaining how concerns raised were addressed.
- Establish protocols for communications between all Parties.
- Provide advice and examples about how to incorporate visual aids and oral traditions into early engagement to make information more accessible.
- Incorporate a list of groups to consult with and up to date contact information.
- Clarify the level of effort expected for different size projects (for instance, identify thresholds and triggers).
- Incorporate information and processes that will help all Parties to understand relevant history that helps to contextualize concerns.
- Ensure processes recommended are iterative and allow for continued collaboration and evolving relationships throughout the life of the project.

## How to get the information you need?

Participants explored their experiences of trying to ask questions and understand information. Based on these reflections, participants provided insights into what has worked, what has not worked, and how processes could be improved to help people understand information and receive answers to their questions.

### What works well to receive information and answers?

- **Asking and responding to questions clearly:**
  - Framing questions clearly and concisely helps proponents to respond clearly and concisely.
  - Providing cultural context can help others to understand community concerns.
  - When responding, seek confirmation that the response has been understood.
  - Be consistent with information and messaging.
  - Review the original material before asking questions.
- **Iterative communications:**
  - Providing questions in advance so that they can be answered more clearly and comprehensively. This requires models of iterative communication and engagement.
  - Information sessions before major meetings or workshops help to ensure that the right information is prepared and conveyed. This allows for relationships to be built and strengthened over time.
  - Engagement should start early (*pre-application*) and continue regularly.
- **Foundations for good communication** include the following:
  - It can be helpful to have one primary contact identified for each Party so that communications can be clear and consistent and information recorded clearly. Strong internal leaders for each party, that communicate well with their team (or a Chief or technical resource person communicating well with community members) is effective.
  - Use plain language and visual resources, including maps.
  - Create space to consider, document and address traditional knowledge.
  - Resource (fund) processes.
- **Formal and informal Board processes work well**
  - The Online Review System requires the proponent to respond and makes the information public and transparent.
  - Use formal information requests; talk to those with expertise (for example in government) while preparing the information request in order to improve your understanding of the issue.
  - Public hearings – communities can request a public hearing.
  - Community panels at hearings.
  - Board facilitated technical sessions with resulting reports are less informal and very effective.
- **Specific communication methods** should be diverse (using multiple avenues at once). Some that have worked well for some participants include:
  - Newsletters, public service announcements with radio, TV, print and on-line.

- Working with schools or facilitate community groups to create content promoting opportunities related to employment, the economy and scholarships.
- In-person communications directly to officials and in particular, with a decision-maker.
- Quick phone calls for simple questions followed by an e-mail to confirm understanding.
- Opportunities for small group meetings and one-on-one discussions including booths.
- Integrating Board staff in community engagement so that they can help explain content and processes.
- A collaborative approach to design engagement ensures effective methods.
- Create spaces where youth, elders and all community members can work together with content, helping each other to understand. Create a diverse community committee.
- Provide information in multiple formats including on-line, print and on USB drives.
- An initial town hall.
- Elders having a special table to discuss issues together and in their language.
- **Preparing information in advance**
  - Communities identifying areas of cultural significance in advance helps them to later be effective and efficient in communicating their interests.

### **What is not working well to share information?**

- Engagement during pre-development stages is often effective but then is not maintained after the license or permit is issued.
- Community consent might be given at the beginning of the project, but the proponent has limited need to maintain it once projects are licensed.
- Elders and many community members do not have access to internet and computers to find the information that is recorded on-line.
- It is difficult to understand the technical information and to sort through so much available information.
- The proponent's community liaison often does not have the answers, does not have decision-making authority, and provides inadequate follow-up from those who do.
- Lack of resources in communities to provide adequate responses and engage properly with the information.
- Insufficient effort and resources are being put toward interpreting concepts and technical information across languages and cultures.
- Too often engagement is not iterative, so information flow is one way with insufficient opportunity to ask questions. There is insufficient time in the engagement process for information to be shared effectively and questions to be answered meaningfully.
- Sometimes proponents are not forthcoming with information and there can be a lack of trust with proponents because of this or because of past experiences.

- It is challenging to bring informal information or traditional perspectives into decision-making.
- Insufficient opportunities for Board members to ask questions.
- Proponents often do not respect community protocols.

### How can information sharing be improved?

- Make engagement funding available
- Translate concepts (terminology); fund terminology workshops that effectively communicate technical jargon for elders
- Resource / fund communities
- Pre-engagement, in person, as a starting point
- Create gender and age safe environments
- Fund more monitoring studies to ensure baseline information
- More information should be brought forward from proponents' previous applications
- Rules of engagement should be clearer
- Maintain regular meetings (example monthly) with diverse involvement from the community (for example leaders and youth)
- Provide more training in communities to understand regulatory processes and technical environmental information
- Work to ensure more transparency in the process
- Establish strong partnerships (with universities, with government, with other communities) to identify and understand background information

### How can we make public hearings better?

Participants were asked to think about past hearings they have participated in (or otherwise a meeting they have participated in) and brainstorm what worked well, what was most challenging, and how hearings could be improved to ensure that people can take part more and ultimately make the hearing more effective.

There was strong agreement among participants that efforts should be taken to make the hearing spaces (both in terms of the physical space and the process) more informal and comfortable so that participants feel enabled to speak. The process needs to be *humanized*. Specific recommendations are summarized.

- **Physical space:** Many participants wanted to see the space of the hearings made more comfortable for those participating. Many spoke of the need for more informal, round-table arrangements. This extends to having an open mic with no time restrictions so everyone can voice their concerns. Participants also suggested that hearings should be held in the community in question rather than having two to three people travelling to represent their community. This would also allow Traditional Knowledge holders to participate more fully.

- **Understanding Information:** Participants wanted information to be made clearer and easier to access. To implement this, participants suggested having plain language reports, encouraging speakers to speak slowly, producing summaries of key information, and exploring opportunities to reduce language barriers. More training for interpreters should be supported, including terminology workshops.
- **Information sharing:** Information has to be easy for community members to obtain and understand. This can be done through providing hardcopies of information; sending more information further in advance; creating more plain language documents to explain the hearing procedures; improving communication between the proponent and affected communities outside of and before the hearing; using more visuals to communicate; and ensuring plenty of early pre-engagement.
- **Time:** A common theme was the need for more time. This includes more time to allow Elders and community members to speak, and more time at hearings to ask questions. Participants wanted to see more back-and-forth within the broader process (before the hearing itself) to understand, digest and respond to issues. Some suggested that the hearing should be co-designed with participants based on the level of interest and time should be allotted based on this.
- **Funding:** More funding is needed to resource participants to engage more fully throughout the process. For example: travel costs, retaining expert advice, spending time with community members to educate them about what is happening, funding for research in advance of projects – including traditional knowledge research – and funding for traditional knowledge holders to make statements.
- **Cultural Sensitivity:** There should be greater opportunities to educate proponents about the cultural importance of the lands and resources that they are using. Proponents need to believe and understand that Indigenous Peoples have a special relationship with the land. Using respectful protocols such as an opening prayer should be standard. Bringing proponents out to site before they start the application process with the Land and Water Boards could help in building this understanding.

### Collecting digital evidence and the Online Review System

Participants were asked to share the strengths and challenges of the Online Review System (ORS). Most participants agreed that the Online Review System (ORS) was a useful resource for navigating the MVRMA co-management system. The single point of access through one website for all Boards, its openness to the public, and the ability to register for email notifications were considered important and helpful. However, the ORS can be difficult to use because of language barriers and a lack of capacity, training and internet access. Participant feedback is summarized by strengths and by weaknesses.

#### On-line review system strengths

- **Easy to access:** The ORS is easily accessible to the public. It provides information on all the different projects that have been reviewed or are undergoing review, and any information that you might need access to, such as reports, inspections and recommendations. It is easily searchable, detailed, and well organised.
- **Transparent:** Necessary information is transparent and easy to find; for example, comments, files, and staff contact information, are all tracked live. Being able to see everyone else's comments helps to reduce duplication.
- **Good information:** The ORS is a better system than review systems in the south. It provides detailed information and evidence from all parties. It is easily referenced, searchable and useful for researching previous projects as well as helpful for engagement because all information is in one place. All this information is helpful for tracking the status of the regulatory process.

#### **On-line review system weaknesses**

- **Language:** The ORS is hard for some to use because the language used is not understood by everyone and there are no translations available. Additionally, the ORS does not capture Traditional Knowledge effectively, especially since it is based on text and TK is typically shared orally. The ORS is too technical and complicated, which makes it hard for traditional language speakers to use, which then limits access for those from older generations.
- **Capacity/ Training:** The ORS is not a user-friendly website for some community members and Boards should provide training for communities on how to use the ORS. Capacity issues include individuals lacking access to a computer or internet or lacking the ability to navigate and sort through the documents. It is complicated for some to figure out the ORS search functions and filters or how to post questions and comments. Some are not familiar with the *Excel* program. Other participants noted that the system does not recognize Indigenous jurisdiction, processes and capacity.
- **Information:** Many participants found it difficult to find the information they needed because the search functions are not well refined and will either miss information or come back with too many results. It is difficult to follow-along with a project over the long term, to see its history or see how proponents have changed over time. Information available can also be too technical to be useful. Information provided to registrants in e-mail notifications is too little to be useful – for instance, sometimes there is no place name or map in the notification e-mail.

#### **Recommendations for on-line review system improvements**

- **Capacity and Training:** The Board should provide training and orientation for the use of the ORS and Public registry websites to those who are involved in project reviews. This could include a video on how to use the site. There also needs to be clarity between the review system and the public registry. Boards should consider the communities' internet access as well. Capacity funding should also be provided for technical training to learn how to use related applications like GIS; some participants suggested that all major projects should be required to fund training. Indigenous capacity and jurisdiction should

be considered in the design of the ORS system, with efforts to decolonise the process – starting from what works for Indigenous communities, including those for whom English is a second language.

- **Information:** Information should be presented clearly, highlighting key details. For example, documents should have clear naming conventions and subject lines, with a visual to show the status of the project. A map to search projects by region would also be helpful. Allowing users to input information in different formats, such as audio or visual, would help to capture some of the values/ non-technical knowledge better. Search filters can be improved, including being able to search by proponent name or project due date. Clear contact information should direct people how to follow-up. Finally, more user-friendly outputs should be considered – PDF does not work for all users.
- **Maps:** In line with the suggestions to include more visual information, several participants wanted to see more maps. Maps can be used to verify a project footprint, outline transboundary territories, and coloured pins could be used for active/inactive projects, or different type of projects in the same areas. This can help users make quick decisions at a glance about what is applicable to their work and what isn't.
- **Design:** There were many comments on improving the design of the ORS system:
  - Make the ORS into an application for phone or tablet users.
  - Graphic visuals should be used to show the progress of a project and make it easier to find documents with hyperlinks.
  - Provide more space in the comment section because input can be lengthy.
  - Provide an option to view comments offline and save comments automatically, periodically, as internet interruptions can cause work to get lost.
  - The order of files should be by proponent and include contact information.
  - The website design should include a search bar and a more intuitive design.
  - New uploads should include a brief explanation of the Land and Water Board or the Review Boards and the project.
  - An option to upload audio and/or audiovisual documents.
  - A “live man” to see projects that are before the board.
  - Include a large help button option and add a component to verify which document you are commenting on.
  - A road show for feedback to overhaul the whole process.
  - The Land and Water Boards and MVEIRB should appoint one person so that communities can go through one consistent contact person who can help with enquires and have initial information for up and coming projects for impacted groups communications.

## Spotlight on an Innovative Approach to Community Engagement

Engagement and collaboration between Łíídlíí Kúé First Nation on Line 21 pipeline replacement

**Dieter Cazon, Manager, Lands and Resources for the Łíídlíí Kúé First Nation; and Catherine Pennington, Manager, Community Indigenous Engagement, Enbridge Pipelines Inc.**

Dieter and Catherine jointly presented an example of collaboration between Enbridge and the Łíídlíí Kúé First Nation (LKFN) that has resulted in an ongoing partnership. The relationship that was created between Enbridge and LKFN illustrates that even adversarial relationships can become collaborative and mutually beneficial if both sides are willing to work together.

In 2016, Enbridge became aware of a potential risk to their Line 21 pipeline, which runs from Norman Wells, NT to Zama, AB. A small, 2.5 km section of the pipeline about 10km east of Fort Simpson, NT required replacement because it was at risk from slope instability at the bank of the Mackenzie River. To protect the pipeline from changes to the riverbank, Enbridge proposed to replace that segment and bury it much further below the riverbed, at a depth of approximately 140m.

Though the relationship between the communities and Enbridge was initially strained, the establishment of an Environmental Management Agreement (EMA) between four Dehcho communities, Dehcho First Nations and Enbridge, started to build trust. The EMA established a process to address community concerns about the project, including a framework for engagement throughout the project lifecycle, and monitoring and evaluation of measures to mitigate adverse environmental effects of the pipeline replacement. As part of the EMA, the parties created an Environmental Management Committee (EMC) which allowed for regular communication, input into the project work plan, and opportunities for joint monitoring and training. The EMC was the body through which the relationship was formalised and enabled communities and Enbridge to work together to resolve issues as they arose.

Key to this relationship was funding that Enbridge allocated through the EMA for training and development in support of a Dehcho K'éhodi Guardianship program. The program enabled sixteen Guardians to be trained and allowed for ongoing Dehcho participation and monitoring of the project in the pre-construction and construction phases. A unique aspect of this relationship is that Enbridge has agreed to 7 years of post-construction environmental monitoring. This allows the community and Enbridge to continue monitoring and to respond to issues that may arise with the active pipeline. It also supports long-term community capacity building.

This shift towards lifecycle engagement rather than project-specific engagement has proved successful for Enbridge's relationship with Indigenous communities not just in the NWT, but also throughout North America. This example illustrates how a complex, adversarial

relationship can become a mutually beneficial partnership through a commitment to working together.

## **Keynote Panel Discussion: Ways of Working Together**

**Claudine Lee, Head of Health and Safety, Environment Communities and Training, Ekati Diamond Mine; Jeff Hussey, President and Chief Operating Officer, Osisko Metals; Patrick Simon, Mayor, Hamlet of Fort Resolution and Deninu Kue First Nation Councillor and Dieter Cazon, moderated by Brett Wheler**

This panel brought together representatives from industry and Indigenous organizations to have a conversation about how industry and communities can work together. The panelists were asked to share their thoughts on why it is important for industry and communities to work together, and what it would look like for a project to reflect the Dene relationship. The audience was then invited to join in the discussion by asking questions of the panelists.

**Question:** *Why is it important for industry and communities to work together?*

**Claudine:** It is important for industry and communities to work together because industry is a part of the community and working together is necessary to do a good job.

**Jeff:** We need to work together for mutual benefit and interest. Working together also allows industry to understand the local context.

**Patrick:** Nothing good can happen in the dark. Working together is a duty because it can benefit communities. It is important to maintain full disclosure, be honest and upfront. We know the board process is working if it reflects Dene perspectives. This is the next evolution of the relationship, what we are moving towards. Science alone can't manage the land. For example, if Dene people and Traditional Knowledge had informed caribou regulation, the caribou would be doing better.

**Question:** *How can a project reflect the Dene relationship?*

**Dieter:** The Guardian program is a good example. For example, the harvester community asked if they could send a Guardian along on a caribou collaring trip because they were concerned for the welfare of the caribou. Although they couldn't, because there was no space on the plane, ENR promised to get video footage so that the harvester's concerns could be addressed.

**Claudine:** We just have to listen. Going into the conversation for just an answer will not yield good results. You either won't get an answer, or you'll misinterpret the answer. No community has ever said that they don't want to talk to us. The company has to not shy away from tough issues; they have to take responsibility and act with integrity. Things might not go well, but they have to persevere.

**Jeff:** We have previous experiences of seeing companies in Quebec and Ontario not telling communities at all that they are working in their territory – communities find out through the news.

On the Pine Point development project, we now feel that we have a mineral resource base that is of economic interest, and we are working on a Preliminary Economic Assessment (“PEA”). We are also working with 3-5 local communities and together over the next few months we will prepare for community meetings to present our vision of the project. Following that we will present to other communities in the region.

We are focused on communication, relationship building, providing an explanation of what we are doing, which is highly technical, and also learning about community interests, cultures, history, and capacity. We want to work towards providing training opportunities. Mining operations have longer term economic opportunities than exploration projects.

**Question:** *Claudine, you had mentioned the difficulties of the process from the board. What did you learn from that challenge, what have you learned about best practice?*

**Claudine:** Doing extra environmental monitoring work, upfront, and sharing data put people at ease. It was additional work for us, but what we learned by doing that extra work helped us address environmental issues.

**Question:** *Cooperation is not something you should be forced into. What will it take industry and governments to negotiate in good faith? To recognize that they need to first speak to Indigenous Governments if they wish to work in their territory?*

**Jeff:** It is a continuous process and we have been trying to work with the affected local communities. We will work together to build those relationships.

**Claudine:** In our case we are not waiting for something new to come up – we’ve been doing this for a long time and figuring out what is the best way to engage. Dominion Diamonds has a strategy in place.

**Brett:** It would be ideal if we didn’t have to resort to Board processes, but the process is there if needed. Boards should recognise that the Nation-to-Nation relationship is more than these boards – boards are only one part.

**Question:** *Indigenous Governments have found that it’s better to deal with private companies than GNWT and the Federal Government, because at least the companies accept they’re on traditional territory. The governments try their best to leave us out of the picture; GNWT is currently building a road and expanding the Taltson dam without talking to the communities – they’ll talk to us afterwards.*

**Patrick:** The North is going to change and if it’s done right, I should see me, Patrick who is Dene in it. This is co-management; my involvement and your involvement should change the approach. Relying on good corporate citizenry just doesn’t cut it anymore. We need to always

keep in mind that everything is interconnected, so we must act with that awareness. The Board might change and disappear, because the Dene people expect a little more. The people who know the lands should be the ones managing decisions and the Board and process will have to change to reflect the Dene.

## Breakout Groups

How can we make resource management processes work for you?

In small groups, participants reflected on the discussions of the day and highlighted ways in which the resource management process be improved. Many of the themes highlighted in earlier break-out sessions were discussed in further detail. For instance, many participants would like to see regulatory processes made more personable by improving physical spaces, and informalizing processes. Community and individual participation can be improved by having earlier and more iterative engagement and by adequately resourcing communities to participate throughout project permitting and beyond.

In-person meetings outside of hearings are important to ensure that content is more accessible. Technical sessions, site visits and visual demonstrations of technical issues all help people to understand projects, potential impacts and planned mitigations. Technical sessions could occur sooner in the process to ensure that everyone understands the project better from the outset.

More culturally appropriate settings for engagement can be used by both proponents and Board staff. For instance, elders' luncheons, community feasts, schools and community centres or youth centres are all avenues to engage specific demographics within communities.

It is also important that proponents be required to meet clear standards. For instance, in the past, some proponents have prepared poor Developers Assessment Reports (DARs) that put off key information until later in the process. It is essential that baseline information be required *before* a project is permitted and ideally before a regulatory process begins.

Creative ways of sharing information will help more people and more diverse people to engage in the process and understand proposed projects. This may include innovative ways of visualizing including using film and audio media. This is particularly important given that Indigenous Peoples are used to oral traditions.

Interpretation is very important, and more resources could support building interpreters' skills.

Some participants highlighted their desire to have more opportunities to work directly with Board staff and participate in more training to understand Board processes. In addition, Boards can be more involved after the initial permitting to ensure that commitments are met.



A participant listened and took notes during workshop presentations.

## Building Capacity

### GNWT Interim Resource Management Assistance

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

Fritz provided information about GNWT's Interim Resource Management Assistance (IRMA) Program, which is intended to strengthen the ability of Indigenous Government and organizations in areas without settled land claim of the NT to participate in land and resource management activities affecting their land use areas.

Established in 1997 and originally administered by the Department of Indigenous Affairs and Northern Development, the program was devolved to GNWT on 1 April 2014. Eligible recipients are Bands, local First Nations and Métis Locals as well as regional, tribal or territorial organizations who do not have settled land claims. The program is intended to support these organizations to participate in environmental assessments and other regulatory processes, as well as consultations related to resource management policy and legislation. In addition, recipient organizations may use the funds to develop capacity related to lands and resource management activities.

IRMA is awarded annually through two funding calls – the *Base Funding* with a call out in March which is given to communities based on their size (minimum of \$30,000) and *Resource Pressures Funding*, with a call out in April, which is given to those communities who are engaged in highly significant or major developments for which *Base Funding* is insufficient. There is a second call out for additional *Resource Pressures Funding* in December each year.

### CIRNAC's Northern Participant Funding Program for Environmental Assessment

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

The five-year Northern Participant Funding Program was announced by the Northern Affairs Minister on December 19, 2018. The fund 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 claim 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.

The fund is intended to fill a gap by providing dedicated participant funding where funding has previously been *ad hoc*. The fund is intended to enhance the capacity for organizations and individuals to participate in impact assessment processes and was developed to ensure that funding decision processes are transparent. Funding decisions are made by an independent application review committee with representation from Indigenous organizations and federal and territorial governments.

\$10.3 million is available over five years, with a maximum of \$150,000 per recipient per year per project. The funding applies only to assessment processes, not regulatory processes such as water licensing. Projects must be large or complex and/or have the potential for public concern. Applicants to the fund must meet one of the following criteria: have a direct, local interest in the development; have an interest in the potential impact to related claims and right; and/or have community knowledge, Indigenous Traditional Knowledge or plan to provide expert information.

### Fisheries and Oceans Canada

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

Administered by the Fish and Fish Habitat Protection Program (FFHPP), the Indigenous Habitat Participation Program (IHPP) provides funding for Indigenous peoples to work collaboratively with Department of Fisheries and Oceans (DFO) and/or other organizations toward fish and fish habitat protection and conservation goals.

The IHPP funding program launched on June 7, 2019 and provides Indigenous peoples \$50 million dollars nationally over five years to support the conservation of fish and fish habit

through engagement, collaboration consultation and capacity building activities. Eligible recipients are Indigenous Governments, communities, councils, organizations, boards and service providers working with Indigenous peoples to protect and conserve fish and fish habitat.

An example of a successfully funded program in the NWT is the Tłıchǫ Aquatic Ecosystem Monitoring Program (TAEMP). This community-based monitoring program is intended to determine if fish, water and sediment quality are changing over time, and if fish and water remain safe to consume. The funds support fish, water and sediment sampling in each of the four Tłıchǫ communities as well as the sharing of traditional and scientific knowledge through camps and outreach.

Application call outs for contribution funding occur early in the calendar year (typically February to March) for funding in the following fiscal year. Grant funding applications can be submitted year-round. Contribution types of funding are for engagements, collaboration, and capacity building, whereas grants are specifically to support engagement in an environmental assessment or regulatory phase or to support Indigenous collaboration or participation in reviewing Fisheries Act authorizations and Species at Risk Act permits or to inform Indigenous positions on current or proposed fish and fish habitat issues including determining and addressing projects' potential adverse impacts to Aboriginal and Treaty Rights.

### **Question and Answer**

Participants suggested that training to help participants learn to do applications would be beneficial. Participants also emphasized that when participant funding has been available, process interventions have been constructive and high-quality traditional knowledge has been shared, therefore funding pots such as the ones presented are extremely important. Finally, participants emphasized that capacity funding for environmental assessment processes are important, but capacity needs to be sustained throughout project implementation. It was highlighted that IRMA can be used to support capacity building at non-EA sessions, including technical sessions, and throughout project implementation.



Participants listened intently to panelists on stage.

## Emerging Practices in Environmental Impact Assessment

Practical Reflections on Collaborative Approaches to assessing Potential Impacts on the Rights of Indigenous Peoples

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

Catherine presented on Impact Assessment Agency of Canada's methodology for carrying out impact assessments for projects that affect the Rights of Indigenous Peoples. The Impact Assessment Agency of Canada is a new agency created in August 2019 after the passing of the *Impact Assessment Act*. Formerly, the Canadian Environmental Assessment Agency worked with the *Canadian Environmental Assessment Act, 2012*. The Impact Assessment Agency carries out impact assessments and provides advice to the Minister of Environment and Climate Change, who is the final decision-maker on project approval.

The Impact Assessment Agency has released Interim Guidance on Indigenous Participation in Impact Assessments, which will continue to be updated in consultation with Indigenous communities. Some of the principles included in the Interim Guidance are: working in partnership and aiming for consensus; developing methodology collaboratively; and considering Indigenous Knowledge appropriately.

Catherine gave an example of an impact assessment methodology that was co-developed with the Mikisew Cree First Nation. The methodology included the following steps:

1. Identify and understand the rights
2. Understand the context
3. Identify guiding values and topics
4. Identify pathways of impact
5. Assess level of those impacts
6. Dialogue on measures to address impacts
7. Validate and follow up assessment outcomes

Key points of this methodology were the emphasis on incorporating a broad range of values, taking into account diverse and sometimes intangible pathways, and assessing the level of impacts on a scale that is acceptable for the community. For example, by focusing on values that are important to the community in question, a wider range of values such as protecting certain species and addressing climate change can be included in the impact assessment. By mapping out pathways of impact, long-term, multi-generational, and intangible effects can be incorporated into the conversation – for example, how a certain change in the cultural or natural environment could affect the transmission of Traditional Knowledge for future generations. Importantly, the level of impacts must be assessed in a way that is acceptable to the community. For example, Catherine discussed a situation in which an Indigenous community in BC determined that the Federal government’s scale of ‘low-moderate-high’ levels of impact should include a category for ‘unacceptable’ – because some impacts are simply unacceptable to the community. The severity of impact will be different depending on who carries out the assessment, which is why it is so important to include those directly affected. Step 6 in the methodology described above focuses on accommodations – these must also be determined collaboratively.

Catherine concluded her talk by reiterating the fact that co-development and collaboration can be difficult, and the Federal government has made many mistakes in dealing with Indigenous communities – but it is now putting the effort in, and there are examples, like this one from working with the Mikisew Cree First Nation, that illustrate that environmental impact assessments can be collaborative and successful.

#### Question and Answer

Through questions and answers, some participants emphasized their frustration at the government deciding which communities are affected by a development or not, and inaction by the government related to climate change mitigation. Catherine responded that the north is more affected by climate change than the south and she encourages those working up here to keep voicing their concerns and experiences. She also explained that though she cannot defend the actions of previous governments and bureaucrats, she apologizes for the impacts of past projects and will be communicating to her executives about what she is hearing at this workshop.

## **Learning by Doing- Acquiring Knowledge about Contaminated Sites**

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

Tawanis discussed the work of the Northern Contaminated Sites Program (NCSP), which focuses on remediating contaminated sites, and how engagement with Indigenous communities and northerners plays an important part of this process. The NCSP emphasizes experiential consultation in its work, and Tawanis provided examples of what this looks like on the ground through two examples, those of the Bullmoose-Ruth Remediation Project and the Rayrock Remediation Project.

The NCSP remediates abandoned development project sites which have reverted back to Crown ownership. The objectives of the NCSP are to reduce risks to human and environmental health, decrease federal liabilities and maximise opportunities for social and economic benefits for Indigenous people and northerners. The NWT Contaminant and Remediation Division (CARD) must work with diverse stakeholders to manage these sites and achieve the NCSP's objectives. CARD engages with communities to facilitate information sharing and participation. They must engage with the public and Indigenous communities both as the Crown and as the permit holder, in some cases.

Several engagement approaches are used, including meetings, written and visual information sharing, and experiential engagement. Experiential engagement tends to work really well because it is more familiar to Indigenous communities to learn by doing and by being out on the land. Experiential activities such as eating together in a relaxed environment or even taking breaks during site visits help to build relationships. This also helps with reducing cultural barriers to communication, resulting in a clearer and shared vision of the project's goals. These experiences can be even more meaningful when they involve youth and elders. Through engagement with elders especially, it was evident that elders want youth to have more opportunities to learn about environmental science. In response, CARD started offering educational opportunities, including science camp and fish palatability tests, which are discussed by George Lafferty in the next presentation.

Other experiential engagement activities include field visits and finding opportunities for local community members to participate in the work of managing and remediating contaminated sites. Having people go to remote sites provides a two-way learning opportunity: it helps people to see what is actually being done to remediate sites; and it also allows locals to point out significant areas to archaeologists. Additionally, the program provides job shadow and employment opportunities which builds community capacity. As an example, at the Bullmoose-Ruth site, revegetation and monitoring are taking place in partnership with local community members. To help with the ongoing revegetation on this site, CARD is planning a workshop to teach community members about how to plant and monitor vegetation changes on remediated sites – this not only helps with the management of this site but also builds capacity which will provide opportunities with future projects as well.



Tawanis Testart presented on engagement activities and capacity building opportunities with the Northern Contaminated Sites Program.

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

George presented on two educational programs that CARD runs, Science Camp and Fish Palatability Tests. After hearing from elders that they wanted to see more opportunities for

youth to learn environmental science, CARD started running science camp in 2007. Educational activities are important to encourage youth to get involved in environmental science work, and eventually to become scientists who can come back to work in their own lands.

Through the Science Camp program, youth are taught environmental science in 5-day camps that include classroom and outdoor experiences with hands-on activities. The camp in the Tłı̄chq Region included visits to Yellowknife Bay and the Giant Mine Site. Students were also taken on a field trip of the Taiga Laboratory in Yellowknife. Science Camp was also held for students from the North Slave Metis Alliance. The Camps aim to teach students how to do simple experiments and connect what they see on visits to large mine sites to what they can do and see in their everyday lives.

The other educational activity, not necessarily for youth, is the Fish Palatability Test, which took community members to the Tłı̄chq Region Colomac Mine site and the Tłı̄chq Region Rayrock Mine site to taste fish from the remediated sites and compare how it tastes now to pre-mining conditions. Fish was collected from Steeves Lake and Baton Lake by fish nets and prepared in three different ways – boiled, fried and grilled. Fish was then tasted, and participants were asked to comment on how the fish tasted. Results were that all participants found the fish tasted pretty good – it didn't seem different to how it used to taste, which was a good sign.



Participant Gerald Antoine asked a question of presenters.

The next steps for community engagement and educational opportunities are to continue and expand the Science Camp/ School Outreach program and undertake another Fish Palatability Test. The next Science Camp will be taking place with students from the Yellowknives Dene First Nation. The next Fish Palatability Test is planned for the Stark Lake project site.

## **How Indigenous development corporations can help support community wellbeing and enable communities to benefit from resource development**

**Paul Gruner, President and CEO, Det'on Cho Corporation**

Paul presented on the Det'on Cho Corporation (DCC), a for-profit company with social obligations. The DCC is the business development corporation of the Yellowknives Dene First Nation (YKDFN) and was the winner of the 2019 Economic Leadership Award. This is significant, because this award recognizes all businesses across the Northwest Territories, not only Indigenous businesses. Paul discussed the importance of strong, thriving Indigenous businesses to the economic wellbeing of both the Indigenous community who owns the business, and also wider society – when Indigenous businesses do well, everyone benefits.

To date, the DCC has employed 769 people in permanent, full-time jobs, of which a significant percentage are northerners (66%) and 28% are Indigenous, 10% coming directly from YKDFN. The DCC is one of the largest private employers in the NWT. Last year alone, DCC posted 295 new jobs, many of them well-paying skilled or professional jobs. Of last year's new hires, 66% are Indigenous, and of those, 27% are from YKDFN. The DCC places a strong emphasis on employment creation. Unsurprisingly, about 70% of jobs are related to the resource sector.

The DCC also shows its commitment to the community by providing employment services. A drop-in service is offered to help with capacity building and career development, which 129 individuals, most of them unemployed or in training, took part in last year. Most of these were YKDFN members, but about 13% were from other First Nations as well. Identifying and removing barriers to employment is another element of the employment services offered. For example, potential mine employees must get their fingerprints analysed before they can be offered a job. DCC realised that this was causing a problem for community members because they were choosing to forgo these job opportunities because they didn't want to go to the police station, pay the fees and go through long wait times to get fingerprinted. So DCC now offers fingerprinting services, in a much shorter time frame, which has opened up new job opportunities by removing this barrier.

The DCC is also able to harness some of the spin-off value from large projects such as diamond mining in the NWT. This can be through new business opportunities created by Impact Benefit Agreements and Participation Agreements and providing educational and training opportunities. DCC employees are also able to give back to the community by volunteering, and

as DCC grows, opportunities to diversify and mature the business are created. Paul gave the example of Alaska, where Indigenous businesses have been operating for quite some time, and now operate on a massive scale. These businesses are then able to invest back into the local economy.

Successful Indigenous businesses have a range of benefits that flow back to communities. They help to create employment opportunities in remote, rural northern areas. By creating these employment opportunities, they can help draw people back to small communities and push back against the pressures of urbanization and the brain-drain towards larger cities and the south. Low unemployment and well-paying jobs help communities to thrive, and this has a positive effect on surrounding communities as well. It is in everyone's best interest that Indigenous Business Development Corporations do well.

## **Keynote Panel: Incorporating the Voices of Emerging Leaders - How do we make better decisions that incorporate and reflect the perspectives of emerging leaders**

Tanya Lantz, who is the Community Outreach Coordinator for the Mackenzie Valley Land and Water Board moderated the session, posing questions to a panel of NWT's emerging leaders. She first introduced the panel and each representative was invited to share opening remarks.

**Dakota Erutse** is a Participant of the Sahtú Dene and Métis Comprehensive Land Claim Agreement, born in Yellowknife and raised in Fort Good Hope. He has studied both English literature and Aboriginal Law. He 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 and since 2016 has been a Member and the Vice-Chair of the Sahtú Land Use Planning Board. He has served on the Sahtú Health and Social Services Authority's Board of Management and has served on the Fort Good Hope Dene Band as a Returning Officer.

In his opening remarks, Dakota explained that he values the Mackenzie Valley Resource Management system as it provides a voice to Indigenous Peoples. He shared that it was an MVRMA workshop in 2016 that inspired him to join the Sahtú Land Use Planning Board.

**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 Sahtú Dene and her passion for protecting environmental resources is rooted in cultural teachings that emphasize gratitude and respect for the land. Joanne has worked in intern positions with the GNWT's Cumulative Impact Monitoring Program, the Mackenzie Valley Land and Water Board, GNWT's Conservation,

Assessment and Monitoring division, and in climate change research with NASA scientists leading the Arctic Boreal Vulnerability Experiment.

In her opening remarks, Joanne shared that she was inspired to go to school when she learned about the oil sands and how close some of the tailings ponds are to the Athabasca River, a system that ultimately flows north draining to the Mackenzie River. She became concerned and motivated to study environmental science. She emphasized that it is a critical time for youth to be heard.

**Mason Mantla** was born and raised in Behchokò and is a Tłı̨chǫ citizen who is deeply connected to his community and culture. His educational experiences include graduating from Jimmy Bruneau Regional High School, completing 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. Currently, Mason works as a freelance videographer and entrepreneur and strives to make a positive difference in the lives of the Tłı̨chǫ people. Mason has served on the Wek'èezhì Land and Water Board since 2011.

In his opening remarks, Mason explained that he is passionate about his community and knows that his people have a great deal to offer. He is motivated to make their voices heard by using media and has therefore been working with youth to facilitate them in using multimedia such as filmmaking to tell their stories. Youth have much to offer in helping themselves, their peers, and their communities to build resilience.

**Nigit'stil Norbert** is a multidisciplinary artist, activist, and advocate. Born and raised in Yellowknife, NT, in 2019 she moved home to her Gwich'in ancestral territory of Inuvik, NT. 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 2021. Norbert is passionate about politics and engaging with her community, with a focus on strengthening and empowering youth voices and growth through avenues of creative expression and social justice. Within her art, and within her life, she likes to speak simply, honestly and without fear. She is currently an appointed Board Member of the Gwich'in Land and Water Board along with an appointed panel member for the Giant Mine Remediation Project.

In her opening remarks, Nigit'stil explained her interest in working with youth and her commitment to incorporating the views of youth in decision making. She emphasized the importance and willingness to talk about vulnerability and the power of the voice.

## **Panel Discussion**

Taking a cue from Nigit'stil's opening remarks, Tanya asked the panellists to share their ideas of how we can better incorporate the views of youth in decision-making. The following is a summary of the rich discussion that resulted between the emerging youth leaders.

**Nigit'stil** explained that her father taught her critical thinking and taught her how to create a space for dialogue. This can require broaching difficult topics. For instance, colonialism and residential schools are key lenses that inform youth perspectives. It is important that we create spaces to have big, difficult conversations, even if they leave the facilitators and participants feeling vulnerable.

When she was young, Nigit'stil began to recognize how powerful a tool the voice is and therefore has been working on strengthening her public speaking skills. She explained how important it is to talk with youth about their voice because in finding their voice, youth open channels to healing and connection.

Nigit'stil shared an experience of helping to facilitate a workshop in Toronto during the Idle-No-More movement. She was confronted with a lot of youth who were dealing with challenging things in their lives and she recognized that individuals working with youth need to be able to create a space where young people can feel safe to show up and raise these experiences. Youth also need opportunities to learn about colonialism and its effects.

Looking forward, Nigit'stil and her co-conspirator, Alyssa Carpenter, plan to identify opportunities to work further with youth on training, engagement and consultation. She envisions working in the Beaufort Delta and creating networks between the Gwich'in and the Sahtú. Finally, she stressed that the time to act is now. Youth grow up quickly, so educators and facilitators need to be interacting with youth from early childhood through to adulthood, all the while creating opportunities for them to develop critical thinking and voice.

**Mason** shared an example of an education opportunity that he was involved in, targeting youth outside of the school system. Through the project, he and the project team interviewed individuals about sexual health. They were able to use film to engage youth to talk about the topic. What became clear is that there are a number of reasons why youth voice may be limited, such as a lack of trust with the health professionals working in the community, however, we should never underestimate how much youth have to say if they are made to feel comfortable and enabled to speak.

Mason also shared his perspective that the NWT regulatory system is inherently colonial, and that Indigenous People have little choice but to participate within it. The system was built using western perspectives as a base, with those working within the system then trying to apply traditional knowledge. However, he asks, *why isn't it the other way around with traditional knowledge as the foundation?*

When he attended a course at Dechinta University he created a visual to explain the effects of residential school experiences. The visual depicts a home-fire: children are at the centre of the image and the community; mothers surround them and are taking care of them; elders surround them and are teaching; and the men surround in an additional layer, acting as the hunters, protectors, and providers. Through residential schools, the children were taken away, removing the heat, the fire, the centre and therefore causing the community to collapse. The

mothers had no one to take care of, the elders had no one to teach, the men had no one to protect.

**Joanne** commented that it is incredible how many important topics are not being taught within the formal education system. It is important that we learn about and understand the experiences of youth today.

**Dakota** explained that being from a small northern community can be socially isolating. For him, moving south during the Idle No More movement provided opportunities to confront who he is and the systems in place in the north. It is a challenge to walk the line of being a leader by engaging with the systems in place, while also recognizing their colonial history. For instance, he is often accused of being a part of the problem, a part of the colonial structure, because he sits on the Sahtú Land Use Planning Board.

Dakota further reflected that many youths have experienced the effects of colonialism and that the results in youths' lives can take the form of timidity. In order to build leadership skills, youth need support in developing behavioural competencies such as creative expression, authority and confidence.

### **Question and answer**

Tanya invited questions and discussion from the broader audience.

Several workshop participants shared ways in which the youth leaders' words resonated with them. For instance, one participant shared his experience of being a survivor of the sixties scoop and he shared the trauma of his mother who had three sons taken from her. Like the mothers in Mason's home fire visual, his mother walked alone for many years and had also spent ten years in residential school. He encouraged young Dene to "be like geese, they're smart." He explained that geese share the task of breaking the trail; when one gets tired it joins the back of the line and rests.

Several workshop participants also shared their strategies for working through traumatic experiences and using their healing to look forward in positive ways. For instance, for one participant, healing has meant learning and speaking her language, helping others and looking after herself through practices such as meditation. Dakota agreed, stressing that it is important that young Indigenous people do not see colonialism as a perpetual suffering, but rather only one part of the past. It is important that the conversation focuses on moving forward and being empowered.

Some participants also "accepted the challenge" sharing ideas and commitments about how they could better engage youth and enable youth leadership within their own lives. For instance, the Mayor of the Hamlet of Fort Resolution suggested that he has the power to appoint a youth councillor. He also acknowledged that he has an opportunities to create the spaces to talk about difficult topics and educate people about the history of things that have happened in Canada, topics such as Murdered and Missing Indigenous Women in Canada and

the 1960s scoop of children who were removed from their Indigenous homes and placed with adoptive families or in the foster system. The community government has a lot of opportunity to create a safe space for people to be able to come back and reclaim their identities.

Another participant sought advice about how to engage with youth and to pass on leadership skills. The panellists had several suggestions for him about how to plan a 3-day on the land workshop with youth. Suggestions included:

- Create situations in which youth can lead youth. Ask them what they might want to talk about and what outcome they want to work towards.
- Share knowledge about Dene rites of passage, bringing back spirituality, protocol and celebration. Help them to consider what the goals are of a Dene person's life and how to become a teacher as an Elder.
- Help them look after themselves and each other in the camp. Taking on camp chores and keeping the camp cleans helps to teach them to take care of the environment and to have discipline and self-control. In addition, camp life teaches that materialism and possessiveness are not a part of traditional Dene culture.
- Teach traditional skills such as drying meat and fish and learning Dene games; some youth do not have many opportunities to learn these things.
- Create opportunities for youth to speak. Even simple things like introductions teach youth

One participant asked how the concepts of decolonization can actually translate into taking care of the land. He expressed his frustration that the co-management system can seem like a façade for companies and government to go ahead with their plans in spite of Indigenous opposition and he pointed to the current Wet'suwe'ten Hereditary Chiefs' opposition to the pipeline in BC as an example. In response, the panellists suggested that those living on the land know how to look after it best, that direct action can be useful when it is needed and that practicing traditional skills on the land affirms First Nations' title to it.

In closing, some participants thanked the youth for sharing their thoughts, with one saying, "you are the new storytellers, to translate walking in two worlds." Another noted that the purpose of co-management is to bring people together to share their perspectives and collaborate in decision-making. Dakota encouraged youth to remember that this is Dene and Métis land so young people need to explore how to protect it, "let's speak up!", he said. Mason reminded youth that they are the home fire and that it is important that youth keep shining as they get older in order to build community.



(From left) Tanya Lantz introduced Nigit'stil Norbert, Dakota Erutse, Joanne Speakman and Mason Mantla for the Emerging Leaders Panel.

## Conclusion

With the Emerging Leaders Panel, the 2020 MVRMA workshop ended on a note of looking to the future. The MVRMA workshop provided an opportunity for board members, staff, representatives from Indigenous communities and those who work with them, government staff, industry and any others with a keen interest in the workings of the co-management system in the Northwest Territories to come together and think deeply about how engagement and participation can continue to improve

Themes that emerged throughout the workshop included:

- The importance of building strong relationships – between communities, between public governments and Indigenous Governments, and especially between proponents and communities.
- The ongoing nature of consent, which relates to building strong relationships. For a partnership to work well, and for engagement to be done meaningfully, consent must be ongoing.
- The need to find ways to better incorporate Traditional Knowledge into the process.

- The understanding that although the MVRMA co-management system is one of the best in Canada, there is still a long way to go in terms of engagement and participation.

The MVRMA workshop offered an opportunity for participants working throughout the system to come together, learn through the presentations and discussions and provide suggestions on how to continue improving engagement and participation within the resource co-management system. The workshop closed with a prayer from Elder Violet Dolittle.