

AAC and Arctic EIA: Good Practice Recommendations for Environmental Impact Assessment and Public Participation in the Arctic

Introduction

Good Practice Recommendations for Environmental Impact Assessment and Public Participation in the Arctic is not a simple process. The Canadian Arctic, for example, is made up of three territories and is home to approximately 100,000 people. The NWT's population is approximately 44,000 people; half of which are Indigenous peoples with historic treaty rights, modern treaty rights, including self-government, all of which are protected under the *Constitution Act, 1982*.

More recently, with a view to achieving “reconciliation”, modern treaties are currently being negotiated and implemented with Indigenous Governments in the Northwest Territories (NWT). The socio-political and environmental landscapes continue to evolve, slowly bringing clarity to the terms written in the “old treaties” of *Treaty 8* (1899) and *Treaty 11* (1921). Embedded in modern treaties in the NWT, including the *Tłı̨chǫ Agreement (2005)*, *Sahtú Dene and Metis Land Claim Agreement (1993)*, the *Inuvialuit Final Agreement (1984)* and the *Gwich'in Comprehensive Land Claim Agreement (1992)*, are renewable resource boards and councils comprised of NWT residents and treaty beneficiaries. These boards and councils are charged with protecting the environment when industry or government contemplates development of lands and resources in the NWT.

Sahtu and Tlı̨chǫ communities are members of the Arctic Athabaskan Council (AAC) through its affiliation with the Dene Nation. AAC's strategic objectives are to defend the harvesting rights and interests of Athabaskan peoples, communicate Arctic Council activities as it relates to Athabaskan interests and promote the evolution and strengthening of the Arctic Council to address and balance the competing issues of environmental protection and sustainable development. With this in mind, AAC's paper will consider three main objectives of the EIA Project:

- a) To identify Arctic specific good practices to draw and co-create good practice recommendations for EIA and related public participation for the Arctic by sharing experiences and learning from each other
- b) To build a Sustainable network of Arctic EIA actors
- c) To work in cooperation with Arctic Economic Council (AEC) and others such as the Prospectors & Developers Association of Canada.

This paper will give an overview of the regulatory regimes and their processes in the NWT and Yukon. The public boards that conduct environmental assessments in Yukon is the Yukon

Environmental and Socio-Economic Assessment Board (YESAB) and in the NWT, the Mackenzie Valley Environmental Impact Review Board.

AAC's review of YESAB and MVERB will consider three specific questions: Are there rules on accessing traditional knowledge (TK) or are the guidelines clear when accessing TK? Is there a role in educating the public about the EIA process? Are there elements in each of the territories' EIA processes that can be highlighted and shared?

Northwest Territories

Northwest Territories (NWT) is located north of the 60th parallel, above Saskatchewan, Alberta, and eastern British Columbia, between the Yukon and Nunavut. The territory is divided up into a number of settled and unsettled land, resource and self-government agreement areas. Over 44,000 people live in the NWT, of which approximately half of are Indigenous to the territory. Approximately 20,000 people live in the capital city, Yellowknife.

The NWT has been home to the Indigenous people for thousands of years. Most Indigenous people still live in small, remote communities and continue to integrate their ancient ways of everyday life. Many Indigenous peoples continue to rely on country traditional foods for a large part of their livelihood. Traditional activities include fur trapping and the harvesting of medicine, berries, moose, caribou, fish and birds. All animals and mammals are also spiritually important to the Indigenous people.

Resource Management in the NWT

The Sahtu and Tlicho land claim agreements contain provisions that allow for Sahtu, and Tlicho participation in decision-making towards the conservation of their lands, water and resources for present and future generations. These land claim agreements require the establishment of land use planning boards, land and water boards, and the Mackenzie Valley Environmental Impact Review Board. These public boards are created under the 1998 *Mackenzie Valley Resource Management Act* (MVRMA) to provide for the integration and coordination of resource management.

The MVRMA applies to the Mackenzie Valley Region, but not to the Inuvialuit Settlement Region. Areas without a land claim agreements (e.g., southern NWT) are subject to Treaties 8 and 11, and are recognized and protected by the *Constitution Act, 1982*. Two main principles govern the Land and Resource Management system outlined in the MVRMA. The first is that regulation of land, water, and wildlife in the settlement area and in adjacent areas should be coordinated, including the management of land and waters. The second is that the system should be one of co-management.

The Mackenzie Valley Environmental Impact Review Board (Review Board) is an independent administrative tribunal responsible for conducting fair and timely environmental assessments

(EA) in the Mackenzie Valley region of the Northwest Territories. In an environmental assessment, the Review Board must determine if a project is likely to cause significant adverse impacts on the environment or cause significant public concern. If the Review Board recommends that a project should proceed, it may require mitigation measures to reduce adverse impacts to the environment or people so that those impacts are no longer significant. The final decision makers are the GNWT on territorial lands and the Federal Government on federal lands also known as Crown land.

Mackenzie Valley Resource Management System

The [Mackenzie Valley Resource Management Act](#) is the federal legislation which governs the Mackenzie Valley. The Act creates an integrated co-management structure for public and private lands and waters throughout the valley. It has established public boards to regulate the use of land and water, to prepare regional land use plans to guide development, and to carry out environmental assessment and reviews of proposed projects in the Mackenzie Valley. The Act also makes provisions for monitoring cumulative impacts on the environment, and for periodic, independent environmental audits.

The Mackenzie Valley Environmental Review Board is mandated to oversee environmental assessment and review of proposed projects. Environmental assessment is a process that includes environmental impact assessment (EIA). EIA is a procedure to integrate environmental considerations into the planning and design of development projects to ensure meaningful public participation in the development of these projects. The overarching goal of EIA is to avoid and or mitigate significant negative impacts on the environment and inhabitants.

The Mackenzie Valley boards and organizations involved in the environmental impact assessment and regulatory process are as follows:

Preliminary Screening & the Regulation of Land and Water

[Gwich'in Land and Water Board](#) is responsible for conducting preliminary screenings and for regulating land and water and deposits of waste throughout the Gwich'in Settlement Area. This regional co-management board was established by the *Mackenzie Valley Resources Management Act* and originated out of the Gwich'in Comprehensive Land Claim Agreement.

[Sahtu Land and Water Board](#) is responsible for conducting preliminary screenings and for regulating land, water and deposits of waste throughout the Sahtu Settlement Area. This regional co-management board was established by the *Mackenzie Valley Resource Management Act* and through the Sahtu Dene and Métis Comprehensive Land Claim Agreement.

[Wek'èzhìi Land and Water Board](#) The Wek'èzhìi Land and Water Board is responsible for conducting preliminary screenings and for regulating land and water and deposits of waste throughout the Wek'èzhìi Management Area. This regional co-management board was

established by the *Mackenzie Valley Resource Management Act* and through the Tlicho Agreement.

[Mackenzie Valley Land and Water Board](#) is responsible for conducting preliminary screenings and for regulating the use of land and water in the Deh Cho and South Slave regions (unsettled claims areas), as well as development that may have impacts on more than one settlement region. The authority of this co-management board extends to all Crown and private lands and water in the Mackenzie Valley. In the Sahtu, Gwich'in and Wek'èezhii (settled claim areas), regional land and water boards have been established. The Mackenzie Valley Land and Water Board monitors and ensures consistent application of the Mackenzie Valley Resource Management Act between all regional land and water boards in the Mackenzie Valley.

Environmental Assessment

[Mackenzie Valley Environmental Impact Review Board](#) is responsible for conducting environmental assessments on proposed developments and for striking panels to conduct environmental impact reviews on them if necessary, throughout the Mackenzie Valley. Based on the findings of its assessment, the Review Board makes recommendations to the federal and responsible ministers on whether a proposed development proceed to regulatory approval or not, and if so under what conditions. This co-management board was established by the *Mackenzie Valley Resource Management Act*.

Its mission statement: We conduct fair, effective, timely, and evidence-based environmental impact assessment processes that consider: the protection of the environment from the significant adverse impacts; the protection of the social, cultural, and economic well-being of residents and communities; and the importance of conservation to the well-being and way of life of the aboriginal peoples.

Core Purpose and Values:

The Mackenzie Valley Environmental Impact Review Board conducts environmental assessments. This public process is a thorough study of a proposed development's application to decide if the development is likely to have significant adverse impacts on the environment, or likely to cause public concern. If so, the Review Board may recommend to the Minister of Lands of the Government of Northwest Territories that the project can proceed to regulatory permitting and licensing provided some measures are in place or the project should be rejected.

Alternatively, the Review Board decide the project can proceed to regulatory permitting and licensing as is, in which case the ministers have 10 days following the Review Board's decision to refer the development to environmental impact review. Or the final option is the Review Board may order an environmental impact review for a more detailed review by an independent panel.

MVERB's Values:

Committed: We are committed to our obligation and duty to ensure our decisions are balanced and respect the interests and knowledge of all of our communities.

Balanced: We consider both traditional knowledge and scientific knowledge.

Diverse: We acknowledge and benefit from the diversity, unique backgrounds, knowledge, and perspectives of our Board and staff.

Fair: Our processes are transparent to ensure fair, accessible, and accountable decisions and operations.

Trust and Respect: We strive to create an environment based on mutual respect, trust, and honesty that enables effective and efficient teamwork and consensus decision-making.

Continuous Learning: We value continuous learning and improvement, fostering an environment of innovation and adaptation.

Second stage in the EIA process

Environmental assessment is the second stage in the EIA process. It involves in-depth study of a proposed development's potential for impacts on the environment⁵¹. Environmental assessment identifies, evaluates and reports potential ecological, social, cultural and economic impacts, and the mitigation measures to reduce or avoid these impacts. The goal is to produce good decisions about whether or not a project should proceed, and if so, under what conditions. Most developments that undergo preliminary screening do not require environmental assessment, but those that do are subject to more detailed and rigorous analysis. The Review Board is the only body in the Mackenzie Valley that conducts environmental assessments. It must conduct an environmental assessment for all projects that are referred to it and, in some cases, may exercise its discretion and conduct an environmental assessment even when no referral occurs⁵². This section provides details on the environmental assessment process. It describes the roles and responsibilities of the Review Board and other involved groups, as well as the process and possible outcomes of environmental assessments

Environmental Impact Review

Independent panels will be established by the Mackenzie Valley Environmental Impact Review Board. Environmental Impact Review (EIR) means the examination of the Project undertaken by the Joint Review Panel in accordance with the process set out in the Agreement. During the EIR, the Parties will establish an Environmental Impact Review process consistent with the spirit and

intent of their respective authorities; the Parties agree that development should occur in a manner that protects the environment from significant adverse environmental impacts unless justified; and protects the social, cultural, and economic well-being of affected residents and communities; the Parties wish to ensure that the biophysical; and social, cultural and economic effects of the project will be thoroughly evaluated; and the Parties acknowledge the importance of incorporating traditional knowledge in the environmental impact review of the project.

Components of review

An environmental impact review of a proposal for a development includes:

- (a) the preparation by the Review Board of terms of reference for the review panel, after consultation with the responsible ministers, with any first nation affected by the proposal and, if the Board has determined that the development is likely to have a significant adverse impact on the environment, or to be a cause of significant public concern, in Monfwi Gogha De Niitlee, with the Tlicho Government;
- (b) the submission of an impact statement by the applicant for a licence, permit or other authorization or such other person or body as proposes to carry out the development, and its distribution in accordance with any guidelines issued under section 120 and any special instructions issued under subsection 133(2) of the MVRMA;
- (c) public notification, in accordance with any such guidelines, of the submission of the impact statement;
- (d) such analysis of the proposal as the review panel considers appropriate; and
- (e) public consultations or hearings in communities that will be affected by the development.

Wildlife Management

- [Gwich'in Renewable Resource Board](#) is responsible for wildlife, fish and forest management in the Gwich'in Settlement Area. This regional co-management board was established by the Gwich'in Comprehensive Land Claim Agreement.
- [Sahtu Renewable Resource Board](#) is responsible for protecting, conserving, and managing all renewable resources in the Sahtu. This regional co-management board was established by the through the Sahtu Dene and Métis Comprehensive Land Claim Agreement.

- [Wek'èezhì Renewable Resource Board](#) is responsible for managing wildlife and wildlife habitat in Wek'èezhì area. This co-management board is a wildlife co-management authority established by the Tlicho Agreement.

Land Use Planning

- [Gwich'in Land Use Planning Board](#) is responsible for preparing comprehensive land and water use plans for the Gwich'in Settlement Area. These plans provide direction for use, development and conservation with respect to all land, water and other resources in the area. This regional co-management board was established by the *Mackenzie Valley Resource Management Act* and through the Gwich'in Comprehensive Land Claim Agreement.
- [Sahtu Land Use Planning Board](#) is responsible for preparing comprehensive land and water use plans for the Sahtu Settlement Area. These plans provide direction for the use, development, and conservation with respect to all land, water and other resources in the area. This regional co-management board was established by the *Mackenzie Valley Resource Management Act* and through the Sahtu Dene and Métis Comprehensive Land Claim Agreement.

Co-management boards in the NWT

As institutions of public government, the boards regulate all uses of land and water while considering the economic, social and cultural well-being of residents and communities in the Mackenzie Valley. In unsettled claims areas, the Mackenzie Valley Land and Water Board is responsible for resource management in those areas. As new land claim agreements are settled, the *Mackenzie Valley Resource Management Act* will likely be amended to include them and additional boards will be created for those areas. These independent co-management boards nominate half of the board members and the federal and territorial governments nominate the other half of the board members.

The Sahtu and Tlicho manage large areas of land, gained through land, resource, and self-government agreements, with a combination of surface and sub-surface rights. Land administration systems have been developed by each Indigenous government, composing the Boards that make-up the framework for all lands in the Mackenzie Valley.

[Gwich'in Land and Water Board \(GLWB\)](#)

[Gwich'in Land Use Planning Board \(GLUPB\)](#)

[Gwich'in Renewable Resources Board \(GRRB\)](#)

Mackenzie Valley Environmental Impact Review Board (MVEIRB)

Mackenzie Valley Land and Water Board (MVLWB)

Sahtu Land and Water Board (SLWB)

Sahtu Renewable Resources Board (SRRB)

Sahtu Land Use Planning Board (SLUPB)

Wek'èezhìi Land and Water Board (WLWB)

Wek'èezhìi Renewable Resources Board (WRRB)

Yukon

Yukon is located in north western Canada, bordered by Alaska to the west, British Columbia in the south, Northwest Territories to the east, and the Arctic Ocean in the north. Yukon is 482,443 square kilometres in size and encompasses both Arctic and sub-Arctic regions consisting of vast tundra, boreal forest, mountain ranges, extensive river systems and lakes. It is home to over 38,000 people (Bureau of Statistics, 2017) and numerous species including: big game animals such as moose, caribou, mountain sheep and bears; migratory birds such as trumpeter swans, geese, ducks, hawks and cranes; resident birds such as goshawks, grouse, owls, chickadees and ptarmigan (Yukon Government, 2017); fish such as grayling, trout, burbot, pike and salmon; and fur bearing animals such as beaver, rabbit, coyote, fox, lynx, marten, mink, muskrat, otter, squirrel, wolf and wolverine (Government of Yukon, 2015). Economic sectors include agriculture, energy, forestry, hunting and outfitting, mining and exploration, tourism and trapping. This vast territory of diverse people, wildlife, ecosystems, habitat and industries are managed through multiple levels of government including municipalities, the Government of Yukon, First Nation governments and the Government of Canada. This paper will focus on the groundbreaking *Umbrella Final Agreement*, management boards and committees, the Yukon Environment and Socio-economic Assessment Board and lessons learned.

Yukon Land Claims and the *Umbrella Final Agreement*

Since time immemorial, and long before European contact, Yukon First Nations have lived and thrived in Yukon by hunting, trapping, fishing and gathering while carefully managing their natural resources through the use of traditional knowledge transferred through generations via oral traditions and experiential learning. Yukon First Nation languages, stories, traditional knowledge, laws, spirituality and culture still play an important part in management in Yukon.

Non-aboriginal people came to the Yukon in waves during significant historical periods, namely the fur trade, the Klondike Gold Rush and World War 2 and the building of the Alaska Highway. These influxes through the years had significant impacts on First Nations lives and land and while it is often believed that Yukon land claims began when Elijah Smith and a delegation of Yukon Chiefs presented the document *Together today for our Children Tomorrow* to then Prime Minister Pierre Trudeau in 1973, Yukon claims were put forward as early as 1901 and 1902. Ta'an Kwäch'än Chief Jim Boss wrote letters to the Superintendent General of Indian Affairs in Ottawa outlining his people's concerns regarding: "... alienation of lands and resources in their traditional areas and their need to have a say in their own affairs and governance." (Council of Yukon First Nations, n.d.). After hard work and negotiations over many years, the *Umbrella Final Agreement* was signed in 1993.

The *Umbrella Final Agreement* (the "UFA") provides a template for negotiation of First Nation final agreements. To date, 11 of 14 First Nations in Yukon have settled their land claims and are now self-governing. They are: Champagne and Aishihik First Nations, First Nation of Na-Cho Nyäk Dun, Teslin Tlingit Council, Vuntut Gwitchin First Nation, Little Salmon/Carmacks First Nation, Selkirk First nation, Tr'ondëk Hwëch'in, Ta'an Kwäch'än Council, Kluane First Nation, Kwanlin Dün First Nation and Carcross/Tagish First Nation. (Mapping the Way, Our Agreements, n.d.)

A number of boards and committees were established through the UFA and final agreements to provide Yukoners with opportunities to provide input and recommendations for decision-making. Members of these boards and committees are nominated by signatories to the UFA and Final agreements, namely, federal, territorial and Yukon First Nations governments, and the Council of Yukon First Nations. Those board and councils, and their affiliated chapter of the UFA and final agreements, include:

- **Yukon Surface Rights Board** – Hears and decides on disputes related to accessing or using Yukon First Nation settlement land
- **Yukon Land Use Planning Council** – Makes recommendations on land use planning in Yukon and jointly administers federal land use planning funding with Yukon government
- **Yukon Environmental and Socio-economic Assessment Board** – Assesses projects and provides recommendations that protect the environmental and social integrity of Yukon, while fostering responsible development in the territory
- **Yukon Heritage Resources Board** – Provides advice to governments on issues that affect Yukon's heritage resources; When requested makes determinations about ownership and management of certain heritage resources.
- **Yukon Water Board** – Issues water licences and ensures balance between conservation, development and public use of water.

- **Yukon Fish and Wildlife Management Board** – Makes recommendations on the management of Yukon fish and wildlife
- **Yukon Salmon Sub-committee** – Makes recommendations related to salmon and their habitat
- **Renewable Resource Councils** – Provide local input and advice related to fish, wildlife, habitat and forestry management on the Traditional Territory of a specific First Nation; 10 have been established to date

Environmental Impact Assessments in Yukon

The Yukon Environmental and Socio-economic Assessment Board (YESAB) is an independent, arms-length assessment body which administers the legislation and regulations of the *Yukon Environmental and Socio-economic Assessment Act* (YESAA) (YESAB, About YESAB | YESAB, n.d.), a federal act enacted by Parliament in 2003.

Its mission is: “... *to protect the environmental and social integrity of Yukon, while fostering responsible development in the territory that reflects the values of Yukoners and respects the contributions of First Nations.*” YESAB defines its core purpose and values as follows:

Core Purpose:

To protect the environmental and social integrity of Yukon, while fostering responsible development in the territory that reflects the values of Yukoners and respects the contributions of First Nations.

Core Values:

Neutrality – We will be unbiased and fair in the way we conduct ourselves and carry out our work

Integrity – We will act in a principled and professional manner

Transparency – We will provide an open and inclusive assessment process that allows for Yukon voices to be heard and considered

Growth – We will be a progressive and dynamic organization

Passion – We believe our work will make a difference for the future of Yukon

Assessment Process

An assessment is required if project activity is listed in the YESAA regulations and requires a permit or authorization, the transfer of land or utilizes federal funding. The process is triggered when an individual or organization submits a project proposal to the Board at one of the six

Designated Offices depending on the assessment district the project falls within (YESAB, Designated Offices, n.d.). The Board ensures the proposal contains the necessary information to begin the assessment process. Staff and resources are available to assist project proponents to develop and submit proposals.

Assessors gather and analyze relevant information through research and from various sources including: federal, territorial and First Nation governments; experts; and the public. Once the information is considered, assessors will make recommendations on whether the project: should proceed; proceed with terms and conditions; or not proceed. Designated Offices may opt to refer a project to an Executive Committee screening, or the Executive Committee may refer a project to a panel of the Board for review.

Once the assessment is complete the recommendation is sent to the decision body which is either the federal, territorial or First Nation governments. The decision body will then decide whether to accept, reject or vary YESAB's recommendation. The results are issued in a decision document which is included in the YESAB Online Registry, accessible by the public.

The YESAB website is comprehensive and contains detailed information about the board's organization, annual reports and news and events, as well as the assessment process, requirements and participation. The website also links to the YESAB Online Registry (yesabregistry.ca) which contains documents related to project proposals. The detailed contents of the website are too vast to include this paper so readers are encouraged to visit the site for more detailed information.

EIA Research Questions

This research paper aims to address questions about the effectiveness, efficiency, inclusivity and transparency of the environmental assessment process in the NWT and Yukon, namely the MVERB and YESAB assessment process that includes the use of Traditional Knowledge, EIA public education and EIA highlights from both territories.

Are there rules on accessing traditional knowledge (TK) or are the guidelines clear when accessing TK?

While the MVRMA does go further than other institutions in incorporating Traditional Knowledge (TK), it still remains a challenge. Some plans have gone into action before meaningful TK is considered, leading to attempts to amend it later on, or even borrowing TK from one plan and incorporating it into another. It has been identified as an area for improvement.

In Yukon, one of YESAA's main purposes is the guarantee opportunities for the participation of Yukon First Nation persons, and [to] make use of their knowledge and experience in the assessment process. Therefore, two key features of YESAA are the, guaranteed opportunities for

First Nation participation, and consideration of traditional and local knowledge within its process.

All three Arctic Territorial governments agree that traditional and local knowledge is essential to our understanding of the North and we should: Equally recognize the importance and contribution of traditional knowledge to advancing the northern knowledge base and its value to decision-making, as well as the necessity of preserving and respecting traditional knowledge as integral to sustaining northern cultures; Reflect local, Aboriginal, and scientific knowledge and expertise to fully encapsulate the state of knowledge on a particular topic; Encourage efforts to incorporate the traditional and local knowledge of northern Aboriginal peoples and local residents in research projects and decision-making; Respect the rights of Aboriginal governments and peoples to set guidelines regarding ownership of, access to, and use of their traditional knowledge.

Incorporating TK and Traditional Ecological Knowledge (TEK) into EIA can be cumbersome and fraught with hierarchy amongst those ‘who have the knowledge and those who need it’. Marc G. Stevenson further explains, “One way of resolving this conundrum is not to focus on traditional knowledge *per se*, but to incorporate the entire knowledge system of [Indigenous] people into all stages of EIA, while accepting them as integral players in the identification, assessment, mitigation, and monitoring of environmental and socioeconomic impacts.”

Perhaps the ongoing challenge is best explained by Stevenson, the value of traditional knowledge in northern environmental assessment is being recognized. However, realization of its role in EIA will remain elusive if it continues to be taken out of context and [Indigenous] people continue to be regarded as just another “stakeholder.” This is why it is incumbent upon government and industry to abandon old concepts and explore new ways to involve [Indigenous] people and incorporate their knowledge into EIA. Only through the formation of true power-sharing relationships, in which both parties provide equal contributions of knowledge and expertise to apply this knowledge, will [Indigenous] people and industry mutually benefit from northern development.

White, Christensen, and Ehrlich, *Involving Canada’s Indigenous Peoples in Environmental Assessment*, posit that both traditional knowledge and science together are required for best analysis of predicted effects... in combination of the Board’s typical consensus-based approach to decisions, the broader diversity of values contributes to better decision-making.

Is there a role in educating the public about the assessment process?

Although there is no specific legislation that allows for educating the public with respect to the review process, MVEIRB has undertaken several stakeholder workshop and has engaged with the community with developing Traditional Knowledge procedures. Within the co-management process there is the aspect of ‘public concern’. Brian Crane, as an environmental lawyer who has represented Indigenous interests for years explains that ‘public concern’ is to a large extent, a

perception or an emotional issue rather than a tangible concern that can be analyzed in the same way as adverse environmental effects. In terms of the Agreement, 'public concern' exists as a safety valve or an opportunity for the public to participate in decisions (e.g., through hearings) which is in keeping with the spirit and intent of the land claim.

The Mackenzie Valley Review Board (Review Board) hosts territorial workshops and conferences to improve the effective implementation of the Mackenzie Valley Resource Management Act (MVRMA). Workshops and conferences have mainly targeted practitioners in order to enhance their skills and knowledge of regulatory processes and environmental impact assessment processes. At the 2016 MVRMA workshop, co-hosted by the Review Board, the Land and Water Boards and the Government of the Northwest Territories, it was recommended that regional sessions be held to enable open dialogue about resource management regimes within the context of the unique circumstances of each region.

The goals of the workshop held in Norman Wells in the Sahtu region and Hay River in the South Slave region were to share knowledge, ideas, and experiences and to provide an opportunity for open dialogue on existing co-management regimes and processes established under the settled land claims agreements in the NWT. The expected outcomes were better understanding and implementation of the resource co-management regime within the context of a legislated regional land claim agreement. This plain language workshop focused on the follow-up, monitoring and compliance of development projects in the Mackenzie Valley. The content of the workshop will focus on the stages of a project lifecycle after the environmental assessment is complete, including regulatory permitting, ongoing project monitoring and compliance, and closure and reclamation.

The onset of Devolution in the Northwest Territories has raised questions from stakeholders and proponents about potential changes to the current regulatory framework. To address these questions, and to provide an open venue for discussion, the Mackenzie Valley Review Board (MVRB), the Land and Water Boards (LWB), as well as the Government of the Northwest Territories (GNWT) hosted a workshop for interested and affected parties from across the Territory.

It highlighted the fact that proponents and stakeholders should be meeting to address concerns well before applications are submitted. This can help ensure that the issues and values of all

Parties are understood before entering into the more formal aspects of Board proceedings. It is the responsibility of the proponent to ensure that the public is informed, and their concerns identified. Therefore, proponents are encouraged to engage stakeholders early in the process.

The workshops provide some tips to enhance to effective participation in the MVRMA include:

- Connecting concerns to the language or context of the Act can help deliver a position or argument more effectively to the Boards

- As participant funding is typically limited or unavailable, partnering with groups who have a common objective can also help in addressing an issue
- Maintaining focus on the issue(s) of concern, while allowing other groups or departments to address their own concerns
- Most importantly, actively participate in public engagements

Are there elements in each of the territories' EIA processes that can be highlighted and shared?

Effective and Respectful Engagement Practices

To assist mining, exploration and development companies working Yukon to: "... establish sound and respectful working relationships with Yukon First Nation and communities when undertaking mineral exploration or development projects or activities" (NNDFN THFN Yukon Chamber of Mines, 2012), First Nation of Na-cho Nyak Dun, Tr'ondëk Hwëch'in and the Yukon Chamber of Mines collaborated together to develop *Engaging with Yukon First Nations and Communities: A Quick Reference Guide to Effective and Respectful Engagement Practices 2012*. The guide includes information about the environment, Yukon First Nations, Yukon communities, Yukon Chamber of Mines, permitting and regulatory context, land operating context, early and effective engagement, mitigation for potential challenges, First Nation governments and development corporations, local benefits, contacts and useful links and endeavours to assist resource companies to have meaningful engagement with First Nations to increase their chances of success.

Indigenous Consultation

The Government of Canada takes a "Whole of Government" approach to [Indigenous] consultation in the context of EAs to ensure that [Indigenous] groups are sufficiently consulted when the Crown (federal government) contemplates action(s) that may adversely impact potential or established Aboriginal or Treaty rights. These rights are recognized and affirmed in Section 35 of the *Constitution Act, 1982*.

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

- (a) by providing, to the party to be consulted,
 - (i) notice of the matter in sufficient form and detail to allow the party to prepare its views on the matter,
 - (ii) a reasonable period for the party to prepare those views, and

(iii) an opportunity to present those views to the party having the power or duty to consult; and

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

Conclusion:

This paper started off by stating, *Good Practice Recommendations for Environmental Impact Assessment and Public Participation in the Arctic is not a simple process*, and although there are environmental acts and traditional knowledge guidelines, some practices and procedures are still a work in progress and require more thorough political support, public education, and legislative analysis. Continuous analysis complete with recommendation for how the Mackenzie Valley Regime is operating in the North may bring about a procedure best suited for Indigenous peoples and all residents of the NWT.

As more land claim and self-government agreements come into force and implementation becomes operational, EIA in the Canadian Arctic may always bring about challenges and opportunities. However, EIA is overseen by several boards that work together in hopes of avoiding legislation burden; co-management also comes with its uncertainty but with the inclusion of Indigenous peoples as decision-makers there also comes a better understanding of traditional knowledge. With the acceptance that holders of a culture are the people best able to evaluate the importance of an impact to that culture then one way to simplify the process requires that science and traditional knowledge, at a minimum, be given the same value in the EIA decision-making process to be then considered *a good practice recommendation*.

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