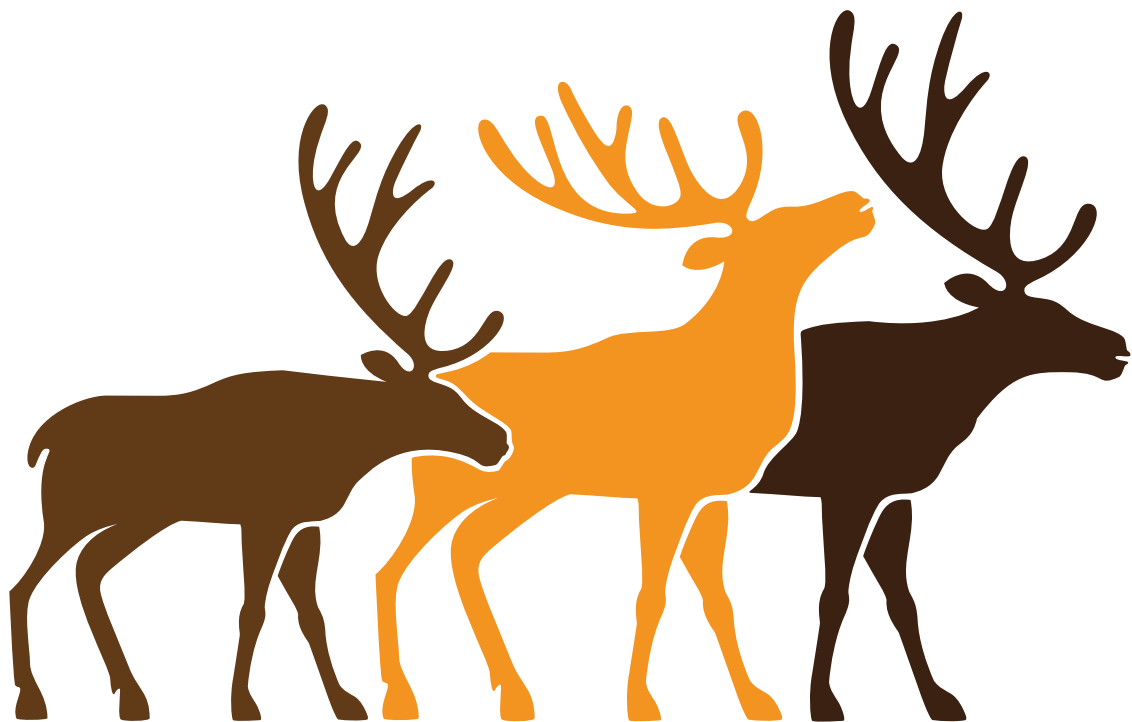


APRIL 19-20, 2018 (INUUVIK)

**ENVIRONMENTAL IMPACT
ASSESSMENT
WORKSHOP REPORT**



Introduction

On Thursday, April 19 and Friday, April 20, Gwich'in Council International hosted a Workshop on Environmental Impact Assessment.

The goals of the Workshop were threefold: (1) to share information gathered through the Arctic Council project with the communities; (2) gain insights that can be shared with the Arctic Council project on best practices emanating from the Gwich'in Settlement Area; and (3) provide an opportunity to build capacity and facilitate discussions amongst those involved in Environmental Impact Assessments.

Funding for the Workshop was provided by the Circumpolar Affairs Division at Indigenous and Northern Affairs Canada.

About Gwich'in Council International

Gwich'in Council International (GCI) represents 9,000 Gwich'in in the Northwest Territories (NWT), Yukon, and Alaska as a Permanent Participant in the Arctic Council; the only international organization where there is a seat at the decision-making table alongside national governments for Indigenous peoples.

GCI's membership consists of two representative bodies in Canada: Gwich'in Tribal Council (GTC), who represents the beneficiaries of the Gwich'in Land Claims Settlement Act in NWT and the Vuntut Gwitchin First Nation (VGFN), which is a self-governing First Nation in Old Crow, Yukon. GTC and VGFN are joined by seventeen federally-recognized Tribes in Alaska.

GCI supports Gwich'in by amplifying our voice on sustainable development and the environment at the international level to support resilient and healthy communities.

What are Environmental Assessments?

An “undertaking” means the project that is proposed to be “undertaken”. The goal of the assessment is to assess potential impacts of the undertaking and to weigh them against the anticipated project benefits.

There are three options to consider in most environmental assessments: (1) proceed; (2) proceed with caution; or (3) reject the project. The point of view that you have on a project often depends on the role that you have: (1) Community; (2) Proponent or Owner; and (3) Government.

There is also a hierarchy of concerns that the Land and Water Board, for example, is charged with looking at: first, on the impacts locally; second, on the impacts within the Mackenzie Valley; and third, within Canada more broadly.

The original intent behind Environmental Assessments was to regulate government behaviour. Over time, that focus has shifted to be mostly, but not only, on the private sector.

Clarity of Process

Gwich'in have co-management over resources. These co-management rights are laid out in the land claim. The co-management system that Gwich'in fall under is the Mackenzie Valley Resource Management Act. Other participants in the Board include the Sahtu and Tlicho, which together with Gwich'in make up 50% of those appointments to the Board. Federal and territorial representatives make up the other 50%.

There was a discussion of some misunderstandings about the role of Board Members on the Mackenzie Impact Review Board. The Board includes 50% Indigenous appointees. Gwich'in have the right to appoint a member to the Board.

There were also concerns about why the Gwich'in spot on the Review Board sat empty for a lengthy period with fears about political considerations impacting the appointee process. It was clarified that the Gwich'in appointee, while nominated by the Gwich'in Tribal Council, they are not on the Board to represent Gwich'in interests or to respond to the Tribal Council. Rather, he or she must act as a public servant of the Board. However, the Board Member from a particular region is relied upon when an application from that region is brought forward to help the Board to understand its particular context. There was also the comment that direct appointments should not require screening from government agencies. It was also noted that the Gwich'in Land and Water Board did not have quorum for a long period, but now has a full suite of Board Members.

There is also an inter-relationship between the planning and the Environmental Impact Assessment processes. The MVRB only deals with those issues which have not been able to be resolved at previous stages. It needs to be recognized that the Land and Water Board wears two hats: (1) Regulator; and (2) Reviewer. Co-management describes a process where civil government and Indigenous communities make decisions together on environmental assessments and other regulatory processes related to natural resources.

There was also a sense that concerns with regulatory processes get mixed in and complicated with concerns about preliminary screening. Part of the strength of the MVEIRB, it was argued, is that it is an integrated system, but at the same time because it is the same organizations are regulating and conducting Environmental Impact Assessment, there is a lot of mixing of language, which can be confusing.

The system for EAs is based in the land claims and the process was developed in silos that has lead to a process that can seem piecemeal at times. One Land and Water Board staff, indicated it took years before they met another staff of a different land and water board, which is indicative of the challenges faced by boards operating in such vast geographic regions.

There are five phases comprising the Environmental Assessment process under the Mackenzie Valley Environmental Review Board system:

1. Start-Up
2. Scoping: this is often one of the most consultative phases with a focus on impacts on the environment and on the people.
3. Technical Analysis: includes both Traditional Knowledge and Scientific studies. The question becomes whether information is adequate.
4. Public Hearings
5. Decision Phase

Most Environment Assessments have technical sessions for Renewable Resources Boards, Renewable Resource Councils, and government departments. The goal of these sessions is to make sure that all involved understand the project and what exactly is being discussed at the table. There are also topic-specific sessions. The MVRMA became subject to new timelines in April 2014. At its most basic, the process must be done in a "timely manner".

Public Concern

One of the key strengths of the MVRMA process, it was suggested, is the ability to refer a project to Environmental Assessment based on “public concern”. In the south, many types of projects have to be of a certain size or that cause significant impacts to trigger an EA and there is a concern by some that proponents may skew the numbers to avoid entering the EA process.

“Public concern” is a nebulous term that industry is not fond of, but the MVEIRA does allow for projects to be referred to Environmental Assessment if there is “public concern”. This means that while proponents of big projects will often ask for an Environmental Impact Assessment, others will come through preliminary screening processes.

A Tlicho example was given about a proponent wanting to take out fracking sands from an area outside of Becheko. The project was in an area that was culturally significant area for Tlicho, so the project was referred to Environmental Assessment with the result of the proponent eventually deciding to withdraw the proposal.

A positive example was highlighted of where a proponent did change their design related to public concern. That example was the Ekati/Jay project. The original project design was to see the draw down of water levels in a lake by 95%. However, when the proponent spoke to the elder panel, they quickly realized that the elders would never support the proposal. Consequently, the proponent agreed to remove it from the project. However, while the proponent was complimented for altering the project design in like of community concerns, it was noted that it would have been a lot less expensive if they would have discussed with the community even before the plans and engineering work was completed and made public.

Similarly, it was relayed that many projects that are not approved are rejected based on the principle that there was not enough to assuage “public concern”. This is due in part to the fact that there are usually means to mitigate the bio-physical aspects of a project, which are much easier to resolve than public concerns.

Another strength is that very few projects reach the full Environmental Assessment stage. For the MVRB, of all the preliminary screenings received since 1999, less than 4% go to a full environmental assessment. The reason for this was noted to be that there is very good clarity around other processes that inform good decision-making. This is particularly the case with Land Use Plans, which developers can look at and design around knowing that consultation happened at the land-use stage. This often reduces what needs to be done at the project stage. Moreover, the Land Use Plans are enforceable. Gwich'in, it was noted, had the first Land Use Plan in the Northwest Territories.

It was also relayed that there is a tendency of proponents to focus on the most affected communities, as they want to limit the number of communities with whom they need to negotiate IBAs. However, the remit of the MVRB is wider, they have a responsibility to look at all potentially affected communities. The Board is responsible for weighing “affectedness”.

Legislative Amendments

There are several amendments that are being made to the Mackenzie Valley Review Act:

1. Timelines
2. Development Certificates: are enforceable measure imposed from the Board that are independent of other authorizations and enforceable in their own right.
3. Administrative Monetary Penalties
4. Pause Period during Preliminary Screenings
5. Consultative regulations.

It was noted that where there are delays, that it is usually at the Ministerial, rather than Water Board level. The Ministry responsible is the Department of Lands for the GNWT.

Funding

It was reminded that both Environment Canada and Indigenous and Northern Affairs Canada have funding available to help with various roles. However, the majority of funding comes from Gwich'in Tribal Council and RRCs pushed hard for GTC to provide more funding. The funding stream that funds the RRCs is land claims implementation funding. This budget is very limited and restrictive of RRCs being able to fulfill their mandate.

Communication Barriers

The question was asked, “how do we get better information that we can use”. There was strong perception that the process is far too form-driven, rather than information-driven. One solution offered was to build out an information protocol that would highlight all the information that you are looking for. It was noted that in the NWT that there is not a fixed way of doing things, because the system is meant to be responsive to individual nations and interests. If you can identify the information that you would like to receive, then each nation could design the form the way that you would like. It was also noted that the MVRMB does not vet information requests. Rather, the proponent has to provide the information that is requested by the reviewers. It was also noted, that RRCs can request that proponents come to their community to provide the information needed.

It was also discussed that there is no streamlined communication between the different organizations involved in EIAs in the GSA, notably RRCs, GLWB, GRRB, GTC, etc. It was suggested that they should meet monthly and come to create greater clarity about how these organizations interact. It was suggested that GTC could be a part of this meeting and to help ensure that the documentation coming out of it is good.

There was also seen to be a need for better coordination between the DGOs and RRCs to work together before proponents come to the communities. The RRC is to provide recommendations to the DGOs. It was encouraged that the two, as they are mostly involving the same peoples, should “speak with one voice”. As one participant stated, “We have great people, but not a lot of conversations are going on between them; this needs to change”.

One of the tools available to assist with sharing information is the Online Review System that is available through the MVRMA. This means that RRC can follow along to see if their concerns are being addressed.

Fibre Line

There was also the viewpoint of some that though environmental monitors were hired to work on the project, the monitors were mostly young people, who do not have an adequate level of traditional knowledge to be effective monitors. It was also suggested that not all of the monitors understood how the elders would have liked to have contributed to the monitoring. It was also noted that the environmental monitors used to work for the Regional Resource Councils, but now are being employed by the proponents. It was believed that the system was more effective when the monitors reported directly to the RRC, because then they were assured that the information was not being doctored before it reached them for analysis. When the information comes through the proponent, there is often suspicion about its accuracy.

There were concerns that the Land Use Plan was not well-understood by the communities during the fibre-line project. Particularly, there was a sense that while the Land Use Plan lays out how consultation should occur, many elders felt that these protocols were not respected.

It was also raised that in the 1990s there was considerable work done to identify corridors with highways that had community support on the routing. However, when the fibre line project was done, they put it on a different routing, rather than follow the lines the community identified as acceptable. It was raised that, "somewhere all the planning got lost and not communicated". This led to the idea that the routing should be revisited now, before the discussions about a Mackenzie Valley Highway intensify, because it was believed that once a highway is approved, timelines will drive the process, rather than careful planning.

There was also the perception of broken promises with the fibre line. For example, it was the understanding of Tsiigehtchic that they were to be connected to the fibre line, but the proponent later, citing increased costs of the projects, did not link up the committee. There was the perception that the project was agreed to on false pretences. It was felt that there should be contingencies at the planning stage presented, so that communities can understand the full implications of a project.

A Moment to Rethink

It was suggested that a useful exercise could be to review what occurred during the Fibre Link project to see what worked and what did not. It raised awareness among the Regional Resource Councils that “we need to get ahead of these projects”.

There is not as much activity in the Gwich'in Settlement Areas as in other areas of the Northwest Territories, which provides the opportunity to slow things down and really think about how the system is working.

It was suggested that the fibre case be run through to find out where difficulties with the system have occurred in the past. Then, changes can be made and the fibre case study can be run through again in a table of experiences to see if the changes made any difference.

Consultation

The question was asked, “What is proper consultation?”

It was stated by some participants that 30 days to carry out all of the work does not meet the needs of the community, because they are too restrictive, because they do not have the technical capacity to review the applications quickly. Alternatively, when applications come in at a culturally sensitive time, it is impossible to meet the legislative timelines; especially as they are not “business days”, but “calendar days”. For example: proponents seem to often put in big applications right before Christmas when our offices and the government offices are closed in order to run the clock. They do this, in the opinion of many, as “they want for us to say yes to every application”.

There was the sense from some that, “we do not have the resources to be properly consulted”. Similarly, there is a need to be able to delineate when a hearing is a public hearing or a GTC consultation.

Increasingly, there are guidance documents for the Crown and agencies to inform how they carry out the duty to consult. The federal government is putting out an outline about consultation for boards. Many First Nations are starting to lay out their own processes on how they want to be consulted or are concluding MOUs with government or proponents on the process.

It was also noted that GTC does not yet have a consultation protocol that lays out the expectations of how Gwich'in want to be consulted. It was suggested that such a document could be created. It was noted that Vuntut Gwitchin is finalizing such a document, which covers not only economic projects, but also research.

Traditional Knowledge

Different systems place a different emphasis between the natural world and the physical environment. In many ways the system in the North is ahead of that in the south. It was reminded that Indigenous peoples had a direct role in drafting the Mackenzie Valley Environmental Impact Review Act (MVEIRA).

“The North is really the cutting edge” of Indigenous-involved in Environmental Impact Assessments, especially compared to the fragmented system of southern Canada. One area, in particular, where the North is leading the use of traditional knowledge, which is mandatory in the North, but not elsewhere in Canada. However, it was also recognized that the MVRMA system is still relatively new compared to the other federal and provincial processes.

When elders and others share traditional knowledge, they need to be considered as “consultants” and appropriately compensated for the time that they are spending sharing their expertise and knowledge. An example was raised, about when elders walked a route with the highway staff to tell them where to put culverts. Their expertise being taken seriously and incorporated into the project design meant a lot to the elders. The question was posed as, “How do elders share information, so that their voices are heard?”

It was also suggested that TK policies need to be updated, as they are twenty years old, so that they are more responsive to the types of projects that are likely to be seen in the GSA. In particular, there was the perception that there needs to be tighter controls over who owns the information that is included in EA submissions. It was suggested a broader TK policy than just EAs is needed, as very similar challenges are prominent with researchers in the community.

Concerns about research licensing were also raised. Concerns were related to the volume of requests and the complicated jargon that researchers used that is not understood clearly by the reviewer who must interpret it for other decision-makers. It was also suggested that the kinds of research being pursued are not in line with community needs. It was suggested that a research priorities document could be created to help to clarify what the research needs of the communities are. It was noted that the GRRB does have such a document.

Cumulative Impacts

In addition to being application-driven, Environmental Assessments are also site/project specific. This is a recognized downfall of the system, which does not take into consideration cumulative impacts, as much as would be preferred.

However, it was believed that in the GSA, since there is not a lot of economic activity, that it is an ideal time to establish what the preferred limits for cumulative impacts. The tool best suited to this is a "Strategic Environmental Impact Assessment", which are rarely used in Canada. Such studies are mandatory in the European Union. An example from Australia was given of when a Strategic Environmental Impact Assessment was used. In the region, there was high potential for LNG projects. Instead of dealing with the applications on a case-by-case basis, they instead decided to create a district in which these activities would be allowed.

It was argued that "good decisions are based on cumulative impacts".

Species at Risk

While the Porcupine Caribou is not on the Species at Risk list, yet, the MVRB is using the precautionary principle when it comes to any caribou species. In this way, the Board has not relied on the federal listing. Instead, it examines how a project will impact caribou who interact with that project.

Given the discussion about caribou, the question was raised about whether there are any mechanisms in the Environmental Assessment that would allow Gwich'in to raise their objections to the opening up of 10(0)2 lands. It was cited that when a project that's located wholly in another jurisdiction, that the MVRB can be asked to come to an agreement to use the MVRB to use their process to do another review. This is usually done in the case of trans-boundary projects.

Trans-boundary Issues

There were also concerns about the limitations of what Gwich'in can influence on NWT and Crown lands, explaining: "We feel like our voice is only good on a little box, but our treaty [Treaty 11] used to extend all the way to the coast". It was noted that the Yukon legislation does include provisions for Tetlit Gwich'in lands, as well as consultation with GTC.

Environmental Assessment in the Yukon comes from Chapter 12 of the Umbrella Final Agreement. It creates a single assessment process for all settlement and non-settlement lands. It allows for the use of Traditional Knowledge, as well as a broader spectrum of socio-economic factors than are prevalent in other jurisdictions.

The Yukon is divided into assessment districts with most projects being screened by the designated office. Vuntut Gwitchin are included in the North Yukon region, which has the only final land use plan at this time. It should be noted that the Inuvialuit areas in the Yukon were not included in the land use plan.

The North Yukon Planning Commission started with a Resource Assessment Report, which outlined the social, cultural, heritage, economic, and ecological resources of interest in the planning region. The report took advantage of both Traditional and scientific knowledge.

The North Yukon Regional Land Use Plan identifies oil and gas development in the Porcupine Caribou range, as well as management of development of wetlands as the two major pressures. The goals of the plan, included: sustainable development, maintaining habitat, and facilitating economic development.

The Plan identifies management units which are defined by ecological boundaries. Each is given a designation: (1) Protected; (2) Integrated management; and (3) Community Area (which is 5 kilometres around Old Crow). It also created different zones with Zone 1 allowing for the least development and Zone 4 for the most. Each zone has their own designated level of disturbance that can occur. Consequently, Zone 1, for example, does not allow for oil and gas development of any value. It should be noted that there is currently very little development pressure in Vuntut Gwitchin territories, which has meant that the plan has not been fully tested.

The Yukon Environmental and Social Assessment Act (YESSA) gives the Regional Land Use Planning Commissions the ability to monitor implementation of the approved regional land use plans to determine if they are in compliance. While the conformity checks are supposed to be done by the Commission, the Commission ceased to exist once the plan was completed.

Chance Oil/Northern Cross

This project sought to have 20 exploratory wells with up to 82 kilometres of roads, which were viewed to be all-season. The all season nature of the roads proved to be one of the more difficult parts of the application. However, the North Yukon Regional Land Use Plan said that areas of caribou crossing and mitigation areas. In the end, it was determined that this project did not meet those requirements.

In the case of Northern Cross, the Designated Office never did do a full evaluation as they were unable to determine the impacts on the caribou. However, in the preliminary stages, they did rely on the Land Use Plan.

One of the deficiencies in the system that the Northern Cross project revealed was that Gwich'in in the Northwest Territories and the Inuvialuit were not adequately considered, because the land Use Plan was the vision of Vuntut Gwitchin and YTG.

The other lesson-learned is that implementing a land use plan without the regulatory tools, results in a lower likelihood of success

Indigenous-Led Impact Assessment

The Firelight Group presented the study that was commissioned by Gwich'in Council International. It was reiterated that that the North is really ahead of the South in terms of Indigenous involvement in Environmental Impact Assessment. In the North, Indigenous communities are real decision-makers, while in the South, Indigenous peoples are more often on the outside looking in. Often, they are asked for a Traditional Use Study and then are no longer involved.

Indigenous-led Environmental Impact Assessments seek to bring into consideration factors that the state-led system largely ignores, such as intergenerational equity or natural laws. Indigenous-led assessments tend to aim to create better socio-economic balance. Similarly, there is less emphasis on paperwork and greater focus on oral testimony. Generally, there is a greater willingness to consider that projects may not be appropriate to proceed if they hold more risks than benefits on balance, with the key difference being that what constitutes an appropriate balance is defined by the affected indigenous groups themselves.

It was also found that the majority of Indigenous nations who set up their own system to review a specific project, decided to keep them for use on future projects after having set them up. In other words, there are economies of effort that emerge after the first time an indigenous community runs its own EA process.

The United Nations Declaration on the Rights of Indigenous People has been adopted by Canada and the rights recognized by UNDRIP, will increasingly have implications for Environmental Impact Assessment, and in the south is a major driver for indigenous-led impact assessment.

Lessons learned from the Tlicho related to co-managed (government to government) EIA was that having set-aside time for elder and youth panels was an effective tool. The Tlicho were considered to have a lot of internal capacity and to be successful they had to leverage both the powers of taxation that they have under their self-government agreement and the human resources that they have. This enabled them not to wait, but to really guide the process. The proponent wanted to develop a property that was on federal lands, but surrounded by Tlicho lands. There was a pre-existing right of access, but that was not clearly defined at the time of the proposal. Therefore, the Tlicho challenged the scope of the application and were successful. When it was determined that there was not enough Traditional Knowledge on record. They conducted a specific TK study for the project and held a public hearing on this specific information.

The co-developed model of Environmental Assessment says that between the community and the proponent. The benefit of this system is that it creates predictability for companies and indigenous communities, before entering into the formal system. Communities enter into this type of relationship, because they believe that they can get more out of the proponent than they could out of the crown. The benefit for the proponent is that the community is less likely to oppose during the formal process.

Another case study that was looked at was the Raglan Mine expansion, an example of this co-developed model. There was a provision in the Impact Benefit Agreement for the project that required that when there was to be an expansion of the mine that a new Environmental Impact Assessment was to be done. The discussions were done behind closed doors with heavy face-to-face negotiations. This model, it was determined, was most successful when there is only one Indigenous group affected; the greater the number of affected indigenous groups, the harder it becomes to create and maintain unity, and the more difficult it becomes for a Proponent to work with multiple Nations.

The most high-risk/high-reward model was determined to be an Independent Impact Assessment done wholly by the nation outside of the Crown process. The case study given was Squamish First Nation for Woodfibre LNG plant. While they undertook their own EIA, they did not ignore the Crown process. Rather, they shadowed it, taking information as they need it and filtering it through their own cultural lens. They also defrayed costs by only taking on what was critical to their own interest. It was suggested that proponents and governments do not need to be adversaries if you choose to use this method, but you should rely on them for information sharing, but do it in an Indigenous way. However, while the Squamish ultimately approved their project and their conditions were accepted by the Crown and Proponent, the example of the Tsleil Watuth First Nation was given where they used their own process to review the Trans-Mountain Pipeline and ultimately arrived at the decision that they could not support it going ahead. However, the government did not heed this decision, as the project has been approved. The reasons that were considered for the different outcome was that Trans-Mountain was a project of "national significance" and involved multiple Indigenous nations, some of whom have given their support for the Project.

The work of the B.C. Major Projects Coalition was brought forward for information. Several B.C. First Nations have come together to put together principles and criteria for Environmental and Social Guidelines for Environmental Impact Assessments. Given the number of nations involved, they realized that they would not be able to do an EIA together, so they decided instead to create some common principles and criteria against which to measure the adequacy of major project assessments.

Their nine draft principles have now been made public (they were not at the time of the Inuvik Workshop) and are that in all Major Project Assessments:

1. First Nations Rights will be respected, maintained, and promoted.
2. First Nations will be fully engaged in assessment and decision-making for major projects, integrating their laws, norms and values.
3. First Nations stewardship and governance rights and responsibilities will be respected and adhered to throughout the major project life cycle.
4. Ecological values and services will be maintained and if necessary, restored.
5. Impacts to indigenous culture, socio-economic conditions, health, rights, title and traditional use will be properly assessed and managed to the satisfaction of the affected First Nations.
6. First Nations will have access to adequate resources, information, and time in order to inform their engagement and consent decisions.
7. The major project assessment scope and process will adhere to best practice and reflect First Nations values.
8. All projects will be assessed using a focus on total cumulative effects loading and best practice of cumulative effects assessment.
9. Adequate information will be provided to inform consent decisions made through First Nations' "Lenses."

For more information, go to <http://www.fnmpc.ca>

Court Cases to Consider

The main case to keep in mind which really clearly articulated consultation requirements was the Haida Case (2004).

The recent Clyde River was important for Environmental Impact Assessment. The court case, which reached all the way to the Supreme Court, had to do with concerns from the community about seismic testing that was approved by the National Energy Board. The Supreme Court ruled that the National Energy Board consultation was not adequate because there was not funding provided to the community to intervene, nor was there a public hearing. The Court also ruled that there was not enough translation of materials into Inuktitut.

Another recent case to keep in mind is Chippewas of the Thames, who similarly appealed to the Supreme Court about the adequacy of consultation. However, in this case, the Court ruled that the consultation was adequate, because oral testimony was permitted and it was clear that the National Energy Board process would be relied on to fulfill consultation, which was not stated clearly in the Clyde River case.

The main principles came out of the court cases were that consultation obligations of the Crown can be delegated to certain regulatory boards. In addition, procedural aspects of duty to consult can be delegated to the private sector.

It should be noted that when the Land and Water Board approves screening without ministerial approval, the same requirements apply to LWB in terms of looking at the adequacy of consultation.

It should also be noted that the courts have said that consultation is a “two-way street” and that there is also an obligation for the First Nation being consulted to take part.

It was also raised that there is a current process to amend and update federal Environmental Assessment legislation. They will be changing the name from “Environmental Assessment” to “Impact Assessment”. However, these processes are not anticipated to have an impact on the GSA, as they are geared toward south of 60.

A checklist about consultation on land issues for the GSA, are being created by GTC Lands and should be available in time for the 2018 General Assembly. This is part of the Tribal Council’s requirement to download land management to the community and shift GTC towards more of an advisory role. It was suggested by one participant that with the multitude of different organizations representing Gwich’in and an evolving rights landscape continuing to emerge through Supreme Court cases that a simplified manual for Gwich’in: “these are your rights and this is how you can be involved”.

Conclusion

The information gathered during the Workshop and informing this report were taken forward to the Canada-hosted Workshop for the Best Practices in Environmental Impact Assessment project of the Sustainable Development Working Group of the Arctic Council. The Workshop builds on those held in Alaska and Finland, with a forthcoming workshop in Russia. The Workshops will culminate in a Best Practice Guide for Environmental Impact Assessments in the Arctic, which will be endorsed by the eight Arctic states - including Canada and the U.S.A. - and the next Arctic Council Ministerial in May 2019.

In addition to the information received for the Best Practices Project, the following ideas emerged as potential next steps for the organizations involved to follow-up on from the Workshop:

1. It was reported that Mackenzie Valley Environmental Impact Review Board would be holding sessions over the summer in Gwich'in communities on capacity-building and information-sharing related to MVEIRB processes.
2. That the Gwich'in Renewable Resources Board could hold training sessions for use of online system for using projects for the Renewable Resources Councils.
3. That a manual could be created by Gwich'in Tribal Council that outlines Gwich'in rights in relation to the land claim and current Canadian law, as well as the ways in which Gwich'in can get involved with decision-making.
4. It was suggested that the organizations involved in EA - GRRB, RRCs, GLWB, GTC - could meet monthly and come to create greater clarity about how these organizations interact.
5. That a review be done of the fibre line project to see what worked and what did not to make amendments to the system before a big project, such as the proposed highway, occurs.
6. That a guidance on Gwich'in research interests be created.
7. That a guide to how Gwich'in want to be consulted be created.
8. That a Strategic Environmental Assessment be considered, so that cumulative impacts are better understood.

APPENDIX A

Tips and Tools for Environmental Impact Assessment Engagement: How not to get bogged down in paper!

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What do you do when you get 10 binders on your desk describing a new Project? There are so many questions to answer:

- Where to begin?
- What do you absolutely have to know versus what isn't so important?
- Who do you need to review different parts of the document?
- How and when should you get the community involved?
- How the heck are you going to find the time and money to pay for all this?
- And many more...

If you are working directly for an indigenous community, and you are tasked with leading an intervention, these tasks can be daunting. In our experience, it is much better to develop a system in advance that works for you, than having to react on an ad hoc basis to new incoming projects. Below are some high level recommendations to this end.

1. Do an internal audit on prior and current files - what is working and what isn't? How are you currently prioritizing files? We use a system that runs old and new projects through the assessment process and identifies gaps in the system. You may find that much of your process works just fine, and instead of revising those elements, fixing one or two bottlenecks will make a huge difference.
2. Set out your own information requirements for initial applications and checklists for your reviewers to determine conformity
 1. Note: Review Board is developing pre-EA information requirement guidance; the federal government is setting up regulations for early project information requirements, so you don't need to reinvent the wheel here. You may want to shadow those ongoing processes.
3. Set up a referrals flagging system (red, yellow, and green files) with different review steps, persons involved, and supplemental information requirements for each.
 1. Factors to consider
 1. How big /complex is it? Set your own triggers to further action.
 2. Does it adhere to LUP?
 3. Is it an important use area?
 4. How much damage is already there? (cumulative effects may make particular locations more sensitive to change)
 5. Adopt a simple decision tree for this system, with yes/no answer questions to guide flagging process in a logical fashion (potential factors to be included in this decision tree are included below)
 6. Create checklists that make the referral management process simpler for your staff and managers
4. Develop a total cost user pay system to augment public funding
5. Set up subject matter expert teams or have experts on call

6. Prioritize review of issues known to be of highest concern to your members
 1. Don't feel like you need to review all of a 1000 page document. You know what issues your members care about the most; focus on those.
7. Send out somebody to have a look! Need monitoring teams that can do an appraisal of the proposed site
8. Make sure that the monitoring is done by your members - Community Environmental Monitoring training is a critical priority for many indigenous communities
9. Build community compliance monitoring into your conditions
10. Issue clear consultation/engagement protocol These may already exist in other forms and simply need to be updated or simply advertised more consistently. Don't reinvent the wheel! (See resources below).
11. Set up increased joint communication system amongst the boards and decision-makers (e.g., GTC, RRB, LWB, RRCs, community governments)
 1. Online review system
 2. Greater face to face interaction - a standing working group
12. Use detailed and clear consent condition statements that are minimally subject to interpretation

Resources

- Mackenzie Valley Land and Water Board. 2013. Engagement Guidelines for Applicants and Holders of Water Licences and Land Use Permits. Yellowknife, NWT.
- Mackenzie Valley Land and Water Board. 2013. Engagement and Consultation Policy. Yellowknife, NWT.

APPENDIX B

List of Participants

- Adam Chamberlain - Gowlings WLP
- AlecSandra Macdonald - Gwich'in Land and Water Board
- Alistair Macdonald - The Firelight Group
- David Krutko - Mackenzie Valley Review Board
- Eugene Pascal - Endiihtat Renewable Resources Council
- Georgina - Tetlit Renewable Resources Council
- Grace Blake - Gwich'ya Renewable Resources Council
- Grant Sullivan - Gwich'in Council International
- Holly - Gwich'in Land and Water Board
- Janet Boxwell - Gwich'in Renewable Resource Board
- Jordan Peterson - Gwich'in Tribal Council
- Leigh-Ann Jones - Gwich'in Tribal Council
- Leonard Debastien - Gwich'in Land and Water Board
- Mark Cliff-Phillips - Mackenzie Valley Review Board
- Rosa Brown - Vuntut Gwitchin First Nation
- Sara French - Gwich'in Council International
- Stephen Charlie - Gwich'in Tribal Council

APPENDIX C

List of Abbreviations

- DGO - Designated Gwich'in Organization
- EA - Environmental Assessment
- EIA - Environmental Impact Assessment
- GCI - Gwich'in Council International
- GLWB - Gwich'in Land and Water Board
- GRRB - Gwich'in Renewable Resource Board
- GTC - Gwich'in Tribal Council
- MVRB - Mackenzie Valley Review Board
- MVEIRA - Mackenzie Valley Environmental Impact Review Act
- RRC - Renewable Resource Council
- VGFN - Vuntut Gwitchin First Nation
- YESAB - Yukon Environmental and Social Assessment Board