



GUIDELINES FOR INCORPORATING
Traditional Knowledge
in Environmental Impact Assessment July 2005



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Mackenzie Valley Environmental Impact Review Board



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1. Introduction

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“In exercising its powers, the Review Board shall consider any traditional knowledge and scientific information that is made available to it”

Introduction

1.1 Preamble

The *Mackenzie Valley Resource Management Act* (MVRMA or Act) establishes co-management boards and new decision-making processes that give aboriginal peoples a greater role in the management of land and water and the protection of the environment in the Mackenzie Valley. The Act applies throughout the Mackenzie Valley region, and it also fulfills commitments made by Canada in Mackenzie Valley settled land claim agreements.

The Mackenzie Valley Environmental Impact Review Board (Review Board) is the main organization established to carry out environmental assessment and environmental impact review in the Mackenzie Valley. In order to ensure that aboriginal cultures, values and knowledge play an appropriate role in its determinations, the Review Board is committed to fully consider any traditional knowledge brought forward in its proceedings.

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The Review Board's operational processes have been developed based on legal principles, environmental impact assessment (EIA) best practices, ongoing consultation, practical experience in the implementation of the MVRMA, and common sense. The incorporation of traditional knowledge is one of the distinctive features of the Review Board's mandate and operations of the EIA process in the Mackenzie Valley.

The Review Board has produced the *Guidelines for Incorporating Traditional Knowledge into the Environmental Impact Assessment Process* pursuant to section 120 of the MVRMA. According to the MVRMA, "In exercising its powers, the Review Board shall consider any traditional knowledge and scientific information that is made available to it" (s. 115.1). This document outlines the steps for traditional knowledge's inclusion in the EIA process, including preliminary screening, environmental assessment and environmental impact review.

1.2 About these Guidelines

This document outlines the Review Board's expectations and processes for the incorporation of traditional knowledge in the Review Board's environmental impact assessment process.

These *Guidelines for Incorporating Traditional Knowledge into the Environmental Impact Assessment Process* are intended to:

- Contribute to a fair and balanced EIA process;
- Encourage public participation in the EIA process; and
- Respect and value the benefits that traditional knowledge offers in good environmental decision-making.

These are the first guidelines for incorporating traditional knowledge into an environmental impact assessment to be issued in Canada. The *Guidelines for Incorporating Traditional Knowledge into the Environmental Impact Assessment Process* are intended to identify how traditional knowledge shall be used in the steps described in the EIA Guidelines. However, they are not meant to be a “stand-alone” document. Readers should refer to the Review Board's *Environmental Impact Assessment Guidelines (March 2004)* and the Review Board's *Rules of Procedures*.¹ Whenever there is a conflict between the *Guidelines for Incorporating Traditional Knowledge into the Environmental Impact Assessment Process* and the MVRMA, the Act applies.

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The Review Board will review and amend these guidelines as required, based on what is learned through their application.

¹ These Rules are used to ensure that the Review Board's environmental assessment and environmental impact review proceedings fulfill the spirit and principles of the MVRMA, particularly Part 5 of the Act. This document can be accessed through our website at www.reviewboard.ca or by contacting the Review Board office at 867-766-7050

1.3 What is Traditional Knowledge?

Traditional knowledge is not a static wisdom and it is difficult to define due to its dynamic nature. For this reason, these guidelines do not provide a comprehensive definition of traditional knowledge. However, in considering the broad definition of “*impact on the environment*”², there are three important elements of traditional knowledge that will contribute to the EIA process as set out in the MVRMA.

1) Knowledge about the environment

This is factual or “rational” knowledge about the environment. It includes specific observations, knowledge of associations or patterns of biophysical, social and cultural phenomena, inferences, or statements about cause and effect, and impact predictions. All are based on direct observation and experience, shared information within the community and over generations.

2) Knowledge about use and management of the environment

This is the knowledge that people have about how they use the environment and about how they manage their relationship with the environment. Examples include cultural practices and social activities, land use patterns, archeological sites, harvesting practices, and harvesting levels, both past and current.

3) Values about the environment

This knowledge consists of peoples’ values and preferences, and what they consider “significant” or valued components of the environment, and what they feel is the “significance” of impacts on those valued components. Aboriginal spirituality and culture plays a strong role in determining such values. This element of traditional knowledge includes moral and ethical statements about the environment and about the relationships between humans, animals, and the environment; the “right way” to do things.

² *Impact on the environment (as defined in the MVRMA)*: any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

Traditional knowledge is not a static wisdom.

1.4 Why include Traditional Knowledge in the EIA process?

For the purposes of the EIA process as prescribed by the MVRMA and recognizing the requirements for effective aboriginal participation required by the land claim agreements, the Review Board is mindful that:

- Traditional knowledge includes the knowledge and perspectives of the aboriginal peoples of the Mackenzie Valley;
- Although normally undocumented, traditional knowledge often consists of large sets of observations about the environment. Thus, traditional knowledge can cover a substantial time period and if properly documented, it can add an important historical perspective and understanding of the variability and extent of biophysical, social and cultural phenomena; and
- Traditional knowledge holders are often able to identify links between seemingly unrelated components of the environment.

The aspects above demonstrate the value traditional knowledge can add to a developer's project planning and the Review Board's EIA process.

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1.5 Advice for Developers

The Review Board encourages developers and traditional knowledge holders to work extensively together prior to an environmental impact assessment in order to gain the full value of traditional knowledge during the project planning. A relationship between the developer and the traditional knowledge holders should be well established prior to an EIA (see section 5). This will enable the EIA process to proceed more quickly and smoothly.

Ultimately, using traditional knowledge in the EIA process can lead to better decision making about environmental impacts.

1.6 Advice for all EIA Participants

The main purpose for incorporating traditional knowledge into the EIA process is to provide participants in an environmental impact assessment greater knowledge and understanding of the environment in which a development is proposed, the potential impacts of that development and the significance of those impacts.

The Review Board believes that traditional knowledge can provide the following benefits to the environmental impact assessment process:

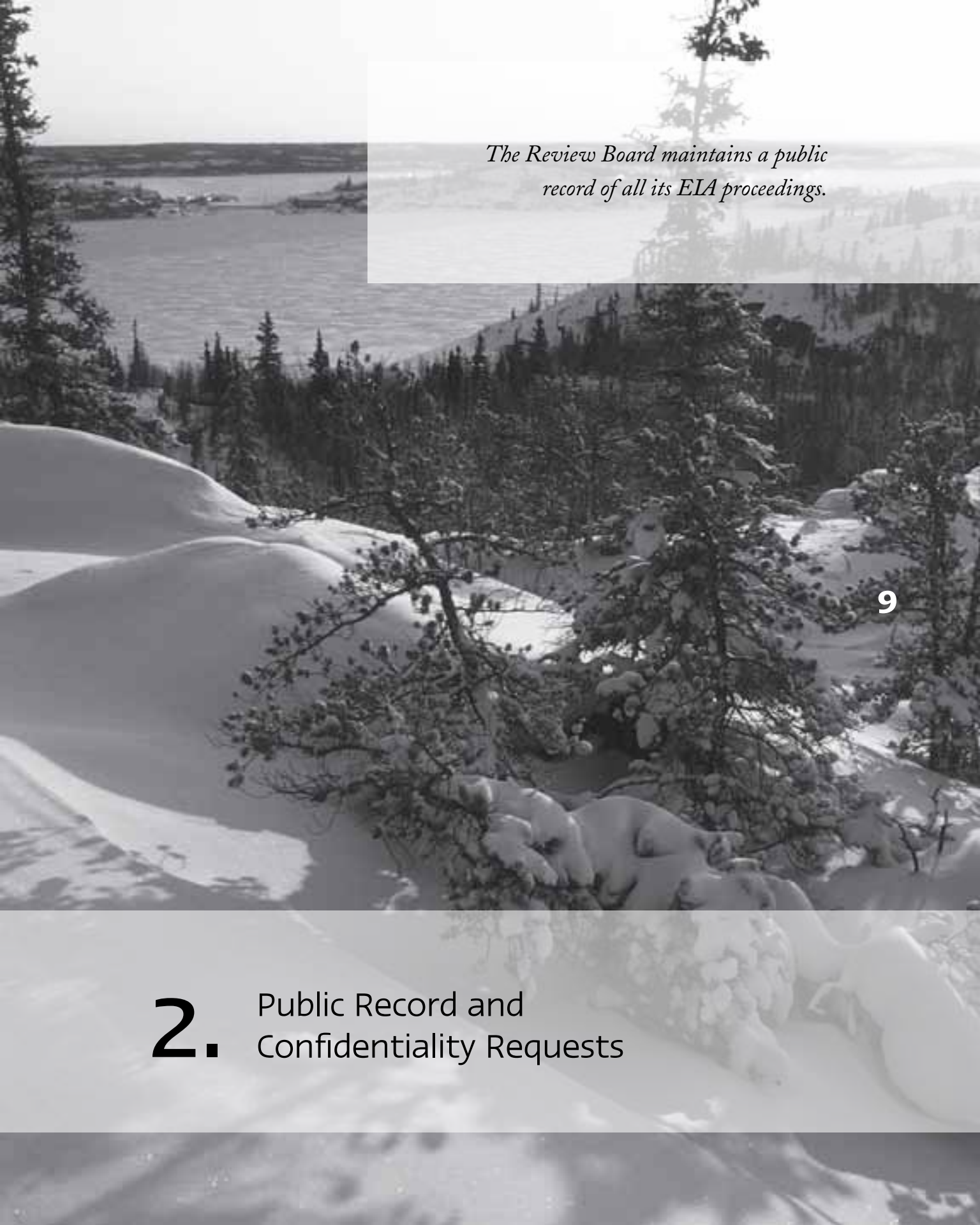
- Traditional knowledge information shared specifically about the environment and the use and management of the environment is important for establishing baseline conditions, predicting possible impacts and determining appropriate mitigation and monitoring methods. This is particularly beneficial where there is no land use plan, where there are social or cultural concerns or when scientific data is inadequate;
- Early dialogue and relationships between the developer and traditional knowledge holders may result in a sharing of knowledge about environmental phenomena unavailable elsewhere. Such information may allow for necessary project design changes to take place even before the EIA process begins;
- Traditional knowledge can add to the understanding of the critical requirements of and potential threats to valued components;
- Traditional knowledge can assist a preliminary screener in deciding whether a proposed development might have a *significant adverse impact* or might be a *cause for public concern*;³ and
- Traditional knowledge is critical in the early stages of the process to help identify issues as part of EIA scoping,⁴ and later on at community and formal hearings (if any) to assist the Review Board in determining the significance of potential impacts.

The incorporation of traditional knowledge in the environmental impact assessment process is a requirement set by land claims agreements in the Mackenzie Valley region of the Northwest Territories, and the MVRMA.⁵ Ultimately, using traditional knowledge in the EIA process can lead to better decision making about environmental impacts.

³ See EIA Guidelines s.2.7, and MVRMA s.125(1)(a).

⁴ See EIA Guidelines s.3.8, 3.9.

⁵ Specific examples are provided in Appendix 3.



The Review Board maintains a public record of all its EIA proceedings.

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2. Public Record and Confidentiality Requests

Public Record and Confidentiality Requests

The Review Board maintains a public record of all its EIA proceedings.⁶ All admissible evidence is placed on the public record, including traditional knowledge, unless a *Request for Ruling*⁷ to protect the confidentiality of information is filed with and approved by the Review Board. However, regardless of whether the information was filed under confidential cover or not, all information held by the Review Board is subject to the *Access to Information Act and the Privacy Act*.

The Review Board's acceptance and use of traditional knowledge will be sensitive to the nature and source of the information and it will respect any arrangements made for its collection. Where the sensitivity of the information is a concern, the Review Board is willing to accept:

- a) Presentations of traditional knowledge with site specific information omitted; or
- b) A summary of a traditional knowledge study's conclusions, that explains the way the information was collected and the solutions derived to mitigate impacts; or
- c) A *Request for Ruling* to file the traditional knowledge under confidential cover.

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Public access to information that influences a Review Board decision is an important part of a fair process, and the Review Board will carefully consider any requests before granting confidential status to information. The Review Board must be convinced that significant harm may result from the release of such information, and the onus for showing harm rests with the party seeking to secure confidential status for the information.

Each request will be handled on a case-by-case basis in an environmental impact assessment. The Review Board shall notify and seek the input of all parties regarding any confidentiality requests prior to making a decision on the request. If confidential status is granted, the Review Board will set out the conditions upon which it will accept and treat the information. If confidential status is denied, the traditional knowledge will not be disclosed and the submitting party may withdraw the information from the public record or decide itself to disclose the information. The Review Board will notify parties of its decision.

⁶ See EIA Guidelines s.3.7., and Rules of Procedure 20-27

⁷ See Rules of Procedure 46-50.

3. Keeping Traditional Knowledge in Context

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Traditional knowledge should be presented to the Review Board in a manner that respects the context in which the traditional knowledge holder originally provided it.

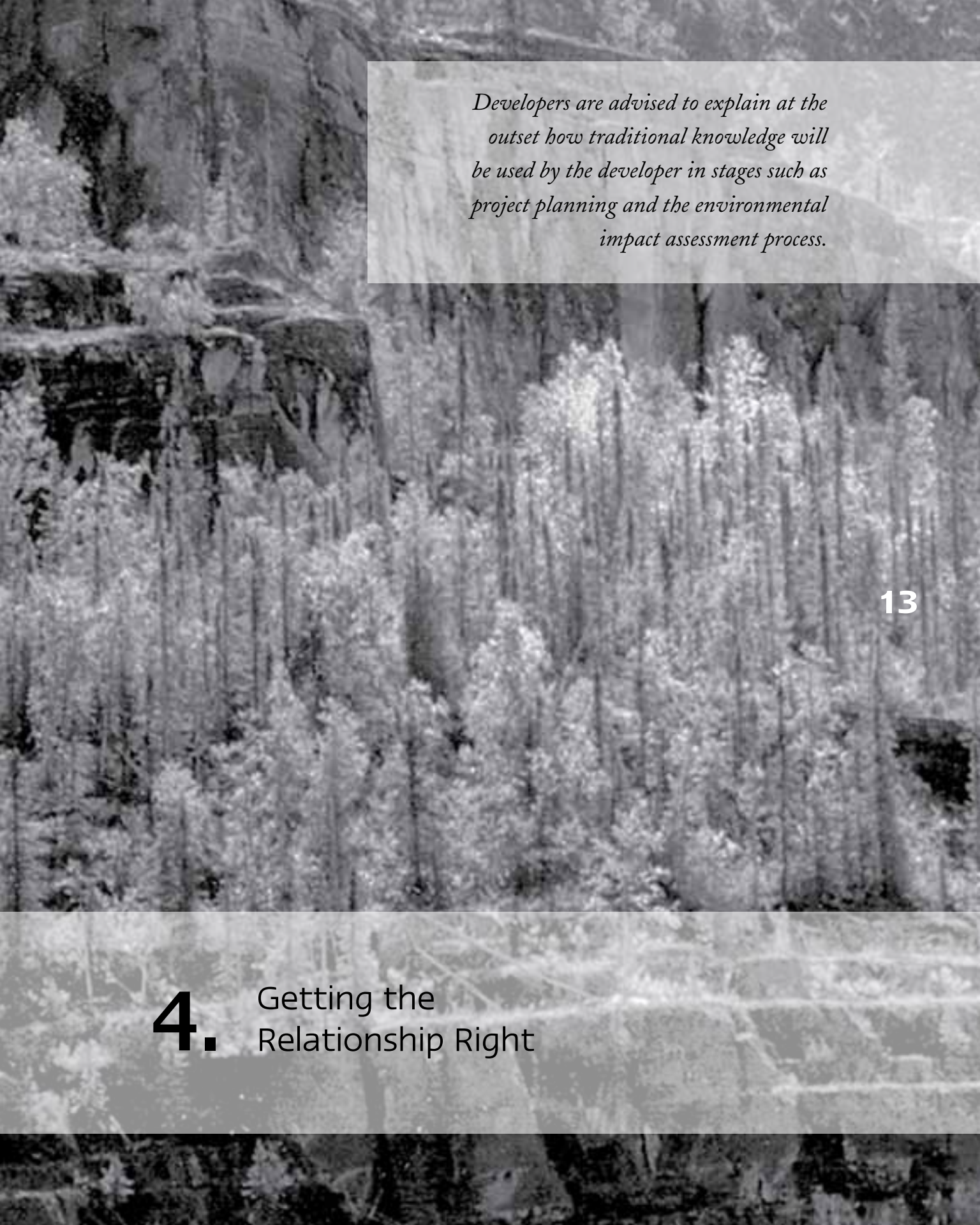
Keeping Traditional Knowledge in Context

The Review Board recognizes that to be understood, traditional knowledge must be heard in the proper context. Traditional knowledge is often only communicated by traditional knowledge holders in a culturally sensitive setting and this setting plays an important role to the context of the information. Thus, context of traditional knowledge and important information can sometimes be lost when traditional knowledge is documented for the purpose of an environmental impact assessment. For example, traditional knowledge holders may identify a link in certain years between the poor physical condition of caribou in summer and increases in recruitment of young-of-the-year trout. In this case, the link between the two could be due to an increased abundance of larval mosquitoes and black flies that are (a) consumed by juvenile trout and (b) developed into biting adults which swarm caribou. However, if the caribou-trout link is broken up in a report (i.e. if condition changes/population changes are reported separately by species) the link between the changes may not be clear enough for reviewers to determine the cause.

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For this reason, during the EIA process, traditional knowledge should be presented to the Review Board in a manner that respects the context in which the traditional knowledge holder originally provided it. This means the methods of presenting the traditional knowledge to the Review Board should provide a descriptive and culturally appropriate setting for the traditional knowledge while ensuring the information presented remains relevant to the project being assessed. The active involvement of traditional knowledge holders in the presentation may be one way of assuring the Review Board that the context of the traditional knowledge is being maintained. This can enable traditional knowledge holders to provide as much of the surrounding context as they deem necessary to ensure the traditional knowledge being presented can be properly understood.

When a party, other than the traditional knowledge holder is submitting traditional knowledge evidence, the traditional knowledge holders may advise the Review Board on the accuracy and completeness of the information. The traditional knowledge holder may do this through technical reports, letters of comment, or verbal presentations at hearings.



Developers are advised to explain at the outset how traditional knowledge will be used by the developer in stages such as project planning and the environmental impact assessment process.

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4. Getting the Relationship Right

Getting the Relationship Right

The Review Board recognizes that decisions on whether and how to provide traditional knowledge for use in the EIA process, must ultimately be made by individual traditional knowledge holders and their communities.

Traditional knowledge holders may present traditional knowledge directly to the Review Board during the EIA process. However, developers should still engage in discussions with appropriate aboriginal organizations and traditional knowledge holders to determine if there is relevant traditional knowledge available to be considered in its project design and for use in the EIA process.⁸ This should be done prior to the start of an environmental impact assessment, so that local concerns can be identified quickly about the proposed development. As a result, design modifications can be made at an early stage to meet these concerns and so that delays related to deficiency statements or information requests may be avoided later in the EIA process.

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Traditional knowledge does not need to be presented exclusively in the form of a traditional knowledge study. The Review Board recognizes there are other methods of having traditional knowledge holders inform the project design and environmental impact assessment.

However, if a traditional knowledge study is going to be conducted, developers, aboriginal organizations and traditional knowledge holders are encouraged to:

- Determine the community protocols and expectations regarding the conduct of a traditional knowledge study in order to determine how and under what terms any traditional knowledge research should be conducted;
- Determine how prior informed consent will be obtained from participating traditional knowledge holders (see section 4.1);
- Identify what traditional knowledge may be useful for project design, impact prediction and mitigation and the EIA process; and
- Determine if any available traditional knowledge needs to be further researched and presented because it is undocumented information that:
 - 1) might not be presented by individual traditional knowledge holders at community hearings, or
 - 2) is not available to the developer using public sources.

The Aurora Research Institute should be contacted regarding licensing of traditional knowledge research or studies.⁹

4.1 Community Traditional Knowledge Policies and Guidelines

Prior Informed Consent

The principle of prior informed consent is an important ethical principle that developers are expected to respect. Developers should assume that traditional knowledge not explicitly made available for public use is proprietary in the sense that it can only be used with permission and informed consent of the holders of that information. Developers are advised to explain at the outset how traditional knowledge will be used by the developer in stages such as project planning and the environmental impact assessment process. This is necessary to uphold the principal of prior informed consent and develop trust in the individual or group providing the traditional knowledge.

Local and regional aboriginal organizations may have expectations and procedures set out for obtaining prior informed consent from their member traditional knowledge holders. Readers are referred to Appendix 4 for a list of possible community policies on the topic. However, developers are recommended to contact relevant aboriginal organizations and traditional knowledge holders directly to determine the process for obtaining prior informed consent. The Review Board may issue information requests to aboriginal organizations to affirm that the parties submitting the traditional knowledge obtained the prior informed consent of the traditional knowledge holders sharing that information.

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⁸ See *ELA Guidelines* s.2.2

⁹ Aurora Research Institute Website: <http://www.nwtresearch.com>

A developer should follow the established traditional knowledge policies available from relevant local or regional aboriginal organizations.

Other Policies and Guidelines

Where available, a developer should follow the established traditional knowledge policies (including procedures for assessing the authenticity of, or authorizing the release of, traditional knowledge information), available from relevant local or regional aboriginal organizations. Where possible, the relevant aboriginal organizations are encouraged to:

- a) Provide any established traditional knowledge policies to the Review Board and to the parties to the EIA process at the outset of the proceeding; and
- b) Monitor the developer's compliance with the community or regional traditional knowledge policies as they relate to the EIA proceeding underway.

Where traditional knowledge policies or guidelines do not exist, the developer must still consult with traditional knowledge holders and the appropriate aboriginal organizations to determine acceptable standards for working with traditional knowledge holders and the handling of the traditional knowledge being used by the developer.

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4.2 Traditional Knowledge Agreements

In the Review Board's view, a fair and appropriate agreement between an aboriginal organization and its traditional knowledge holders and a developer should provide for either of the following two options:

- a) The aboriginal organization to provide the developer with the traditional knowledge study, in which case the developer may use the contents throughout the EIA process (e.g. the Developer's Assessment Report , hearings); or
- b) The aboriginal organization to present the study to the Review Board at appropriate stages in the EIA process (e.g. hearings).

If option (a) is selected, the developer is encouraged to work with traditional knowledge holders to avoid misinterpretation of data. The aboriginal organization or traditional knowledge holders have the right to challenge any interpretations of the study made by the developer or any other party. It is the responsibility of the aboriginal organization, or traditional knowledge holders to inform the Review Board if they are of the opinion that the traditional knowledge has not been presented fully and accurately to the extent required of the developer.¹⁰

¹⁰ See Rules of Procedure 17

5. Conceptual Stage of Development



Conceptual Stage of Development

The Review Board encourages developers to inform aboriginal organizations and communities about the general nature and scope of their proposed development, prior to the application process. Developers should involve traditional knowledge holders in this stage to enable relevant traditional knowledge to:

- a) Assist in establishing baseline information and impact predictions;
- b) Determine if there are any necessary project design changes based on the above information; and
- c) To determine any outstanding public concerns prior to entering the application process.¹¹

The level of effort needed will depend on the project and its location.

¹¹ See EIA Guidelines s.2.2

6. Preliminary Screening

Preliminary Screening

During a preliminary screening, the development will be reviewed to determine:

- Whether the development might be a cause of public concern; and
- Whether the development might have a significant adverse impact on the environment.¹²

Traditional knowledge holders and aboriginal organizations will be provided an opportunity to submit their perspectives on the above two determinations and may submit any relevant traditional knowledge to the preliminary screener regarding the proposed development during this stage of the EIA process.¹³

A preliminary screener, such as a land and water board, may have its own guidelines for developers on how to include traditional knowledge in this stage. Nevertheless, at the preliminary screening stage, it is likely that only pre-existing traditional knowledge studies/information easily obtained will be available to the preliminary screener. If a developer has worked with traditional knowledge holders prior to application, any traditional knowledge presented to the developer shall be reported appropriately to the preliminary screener. This will enable the preliminary screener to determine to what extent traditional knowledge has been incorporated into the project's design, impact predictions and mitigation. It may also aid in the preliminary screener's own determination of whether or not a proposed development should be referred to the Review Board for environmental assessment.

Preliminary screening is generally a quick process. Aside from the traditional knowledge reported by the developer, additional traditional knowledge research will likely not be required by the preliminary screener.

¹² See EIA Guidelines s.2.7

¹³ See EIA Guidelines s.2.5

7. Environmental Assessment

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The Review Board uses traditional knowledge to help identify the issues to be addressed in the environmental assessment, and to assist in determining the likely geographic area of impact.

Environmental Assessment

7.1 Development Description

The developer shall submit a description that is clear and simple to understand. The development description shall include a record of traditional knowledge holder involvement in the project design, impact prediction and mitigation. If a cooperative arrangement was not reached between the developer and traditional knowledge holders or relevant aboriginal organizations, the developer shall outline the efforts made to incorporate traditional knowledge and why the aboriginal organization or traditional knowledge holders chose not to participate.

7.2 Terms of Reference

The terms of reference for the Developer's Assessment Report will specify what information shall be provided in the report.¹⁴ The Review Board uses traditional knowledge to help identify the issues to be addressed in the environmental assessment, and to assist in determining the likely geographic area of impact.¹⁵ In developing the terms of reference, the Review Board will respect any arrangements made between aboriginal organizations or traditional knowledge holders and the developer for the incorporation of traditional knowledge in the EIA process.

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Using the development description, the potential environmental impacts, and the public concerns associated with the development, the Review Board will determine the information it needs from the developer to assess the project. The Review Board may specify in the terms of reference, its requirements (if any) for further incorporation of traditional knowledge into the environmental assessment.

If the Review Board specifies additional traditional knowledge is required, it is because the Review Board believes the information will contribute to a sound and complete EIA process. The Review Board will specify, in its terms of reference, at what point in the EIA process the additional traditional knowledge will need to be submitted for consideration.

If aboriginal organizations or traditional knowledge holders do not want to share additional traditional knowledge, the Review Board cannot impose this requirement on them. In this case, the developer is expected to report on the reasons the aboriginal organizations or traditional knowledge holders chose not to provide additional information.

7.3 Developer's Assessment Report (DAR)

Subject to the Review Board's own discretion in the terms of reference, the Developer's Assessment Report (DAR)¹⁶ shall include, but not be limited to, the following:

- The steps taken by the developer to work with traditional knowledge holders for incorporating traditional knowledge;
- How traditional knowledge and traditional knowledge holders have influenced the developer's project design, impact assessment, and mitigation measures; and
- A plan for future cooperation between the developer and traditional knowledge holders in order to further incorporate traditional knowledge where applicable, including monitoring and mitigation programs.

In preparing the DAR, the developer shall appropriately obtain and make use of any relevant traditional knowledge which is publicly available. The developer shall add to this information with whatever information it may obtain through meetings, consultations, and information sessions with aboriginal organizations and traditional knowledge holders providing the developer obtained the prior informed consent to do so.

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7.4 Conformity Check/Deficiency Statement

The Review Board shall conduct a conformity check¹⁷ to determine if the developer has provided traditional knowledge evidence in its DAR as required by the terms of reference.

If there appears to be something missing, the Review Board shall, at its discretion, issue a deficiency statement about the traditional knowledge content of the DAR.

¹⁴ See EIA Guidelines s.3.10

¹⁵ See EIA Guidelines s.3.9

¹⁶ See EIA Guidelines s.3.11

¹⁷ See EIA Guidelines s.3.12

7.5 Traditional Knowledge Analysis

The Review Board shall consider:

- The relevance of the traditional knowledge presented to the EIA underway; and
- The appropriateness of the methods used to access and incorporate the traditional knowledge.¹⁸

To ensure the traditional knowledge presented in the EIA is reliable and credible the Review Board may seek assurance from those delivering traditional knowledge that:

- The traditional knowledge was collected and peer-reviewed with the aboriginal community or traditional knowledge holders in accordance with appropriate community specific protocols; and
- The traditional knowledge presented was approved by the appropriate individuals or organizations for use using the principle of prior informed consent.

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During information requests¹⁹ or technical hearings, the Review Board may ask aboriginal organizations to confirm that the traditional knowledge was collected and used in an appropriate manner. In addition, the Review Board may make information requests to the developer or to other parties on any issues raised by the traditional knowledge presented. Any other party can point out information gaps in the traditional knowledge and the parties may submit information requests as well.²⁰

When there is a difference in impact predictions provided by parties to the environmental assessment, the Review Board shall investigate the knowledge and experience on which these predictions are based, and find out how the parties involved came to their conclusions. This shall apply to traditional knowledge as it does to other forms of knowledge and information, and may be done through information requests, or by questioning at hearings.

¹⁸ See Rules of Procedure 29, 31

¹⁹ See EIA Guidelines s.3.14

²⁰ See Rules of Procedure 37-40

7.6 Translating Material

The Review Board may direct a party to arrange for the translation of any document into or from an aboriginal language(s) including the following documents:

- a) The Executive Summary of a Developer's Assessment Report;
- b) The Executive Summary of an Environmental Impact Statement;
- c) Plain English summaries of relevant documents; or
- d) Any relevant document provided by a party that, in the Review Board's opinion should be translated in order to conduct a fair proceeding.²¹

A party will pay the cost of translation and provide the number of translated copies in a document directed by the Review Board. Translated materials may, subject to direction from the Review Board, be produced in printed or electronic format.²²

During hearings, where appropriate and necessary, simultaneous oral translation into an aboriginal language of the Mackenzie Valley, or from an aboriginal language of the Mackenzie Valley into English, will be arranged by the Review Board.²³

²¹ See Rules of Procedure 28

²² See Rules of Procedure 29

²³ See Rules of Procedure 88

The Review Board may direct a party to arrange for the translation of any document into or from an aboriginal language(s).

Traditional knowledge evidence provided to the Review Board during a formal hearing shall be subject to verification in the same manner as all other evidence.

7.7 Hearings

Formal Hearings

Not all the requirements for formal hearings will be outlined in this document. Therefore, it is strongly recommended that parties read the *Rules of Procedures* to become aware of what is required in this stage of the EIA process.²⁴

Traditional knowledge evidence provided to the Review Board during a formal hearing shall be subject to verification in the same manner as all other evidence.

Traditional knowledge submissions at formal hearings may include:

- Presentation of already documented material;
- Presentation of a traditional knowledge study (by the qualified expert who directed the study, as well as others who participated); and/or
- Other forms of presentations appropriate to the nature of the traditional knowledge.

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Parties will be given an opportunity to respond to all submissions. Questions directed at traditional knowledge holders will be permitted, provided they are presented in a respectful manner.

The Review Board may, on its own initiative, request information from or hear the testimony of a traditional knowledge holder at a formal hearing.²⁵

Community Hearings

In order to consider evidence in a culturally appropriate manner, the Review Board may choose to hold a community hearing where the structure is informal.²⁶

In order to encourage maximum contribution from the residents, the Review Board may consider other scheduled community events and the communities' ability to participate, when establishing community hearing schedules and locations. Opportunities for members of the public to present traditional knowledge at community hearings include:

- Testimony by traditional knowledge holders; and
- Personal statements by any interested person.

Members of the public or organizations appearing in a community hearing may be questioned by the Review Board or other parties.²⁷

The Review Board will prepare a summary of the information resulting from a community hearing and will provide parties an opportunity to comment on the summary before filing it on the public record.²⁸

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7.8 Follow-up, Monitoring

The Review Board may in its recommendation at the end of an EIA process include a measure or suggestion related to traditional knowledge in follow-up or monitoring programs.²⁹ These measures or suggestions in turn may provide for the inclusion of traditional knowledge holders or experts on any monitoring committee or auditing authority to be established (or to be given authority) with respect to the development.

²⁴ See Rules of Procedure 64-89

²⁵ See Rules of Procedure 32-33

²⁶ See Rules of Procedure 30-31, 90-95

²⁷ See Rules of Procedure 94

²⁸ See Rules of Procedure 95

²⁹ See EIA Guidelines s.3.16

Questions directed at traditional knowledge holders will be permitted, provided they are presented in a respectful manner.

An aerial photograph of a meandering river flowing through a dense forest. The river winds in a series of large, sweeping loops across the landscape. The terrain appears to be a valley with some elevation changes. The image is in black and white, with a semi-transparent white overlay at the top containing text.

8. Environmental Impact Review

9. Conclusions and Future Amendments

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The authority to issue these guidelines comes from section 120 of the Mackenzie Valley Resource Management Act.

Environmental Impact Review

In the event an environmental impact review is ordered, the expectations and process for including traditional knowledge into the review process will be similar to those set out for an environmental assessment. Readers are referred to the EIS guidelines for an explanation of the steps in an environmental impact review.³⁰

Conclusions and Future Amendments

The authority to issue these guidelines comes from section 120 of the *Mackenzie Valley Resource Management Act*. The Mackenzie Valley Environmental Impact Review Board will revisit these guidelines regularly and may amend them as necessary.

Several organizations and individuals assisted in the development of these guidelines. Many thanks goes out to the reviewers and members of the public who put their time and efforts in providing the Review Board with their feedback and suggested revisions to this document between 2003 and 2005.

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³⁰ See EIA Guidelines s.4.1-4.7



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Appendices

Appendix 1 – Definitions

Aboriginal peoples – includes first nation and the Tlicho First Nation as defined by the MVRMA.

Aboriginal organization – an organization representing local or regional interests of a group of aboriginal peoples.

Community – a group viewed as forming a distinct segment of society living in the same geographic locality.

Community Hearing – an informal meeting held in a community to allow the Review Board to listen to views of community members and parties.

Conformity Check – the first step in reviewing the Developer’s Assessment Report, this determines whether the developer responded to every item required by the Terms of Reference.

Developer – the person or organization responsible for a development proposal that is subject to a preliminary screening, environmental assessment or environmental impact review.

Development – any undertaking or part of an undertaking, that is carried out on land or water and except where the context otherwise indicates, wholly within the Mackenzie Valley. This may include activities carried out by private agencies, local, territorial or federal government, or extensions thereof.

Developer’s Assessment Report (DAR) – the impact prediction report submitted by a developer to the Review Board during an Environmental Assessment.

Environment – means the components of the Earth and includes (a) land, water and air, including all layers of the atmosphere; (b) all organic and inorganic matter and living organisms; and (c) the interacting natural systems that include components referred to in paragraphs (a) and (b).

Environmental Assessment (EA) – means an examination of a proposal for a development undertaken by the Review Board under section 126 of the Act.

Environmental Impact Assessment (EIA) – the process of systematically considering the effects of a development on the environment. In the Mackenzie Valley, preliminary screening, environmental assessment and environmental impact review are all parts of the EIA process.

Environmental Impact Review (EIR) – an examination of a proposal for a development undertaken by a panel of the Review Board established under section 132 of the Act.

Expert – someone recognized by his or her community/peers, as having a high level of knowledge of a given subject.

First Nation – means the Gwich'in First Nation, the Sahtu First Nation or bodies representing other Dene or Métis of the North Slave, South Slave or Deh Cho region of the Mackenzie Valley, but does not include the Tlicho First Nation or the Tlicho Government.

Harvesting – is harvesting as defined in the MVRMA and also includes gathering of berries, plants and other sustenance materials from the land.

Heritage resources – means archaeological or historic sites, burial sites, artifacts and other objects of historical, cultural or religious significance, and historical or cultural records.

Impact on the environment – any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources.

Information Requests (IR) – a formal written means by which the Review Board solicits additional information during an Environmental Assessment.

Land Claim Agreement – Gwich'in Comprehensive Land Claim Agreement, Sahtu Dene and Métis Comprehensive Land Claim Agreement or Tlicho Agreement. These Agreements take precedence over the MVRMA where conflicts between an Agreement and the MVRMA exist.

Local government – any local government established under the laws of the Northwest Territories, including a city, town, village, hamlet, charter community or settlement, whether incorporated or not, and includes the territorial government acting in the place of a local government pursuant to those laws.

Mitigation or remedial measure – means a measure for the control, reduction or elimination of an adverse impact of a development on the environment, including a restorative measure.

Party – means an individual or an organization which is granted standing in an environmental assessment or an environmental impact review proceeding on the terms set out by the Review Board and may include a developer, a first nation affected by a proposed development, the federal or any responsible minister, a designated regulatory agency or the owner or occupier of any land affected by the development.

Preliminary Screener – any body or agency responsible for completing a preliminary screening pursuant to the MVRMA.

Preliminary Screening – means an examination of a proposal for a development undertaken pursuant to section 124.

Hearings – that portion of an environmental assessment or environmental impact review proceeding where the Review Board receives information or evidence orally or through a written hearing from the parties and the members of the public.

Rules of Procedure – the Review Board’s Rules of Procedure for Environmental Assessment and Environmental Impact Review.

Scoping – the identification and prioritization of relevant issues to focus the resources during assessment.

Terms of Reference – specifies what information the developer must provide in its Developer’s Assessment Report for the Review Board and others to consider.

Territorial government – means the Government of the Northwest Territories.

Appendix 2 - EIA Process

Application Submitted for License or Permit

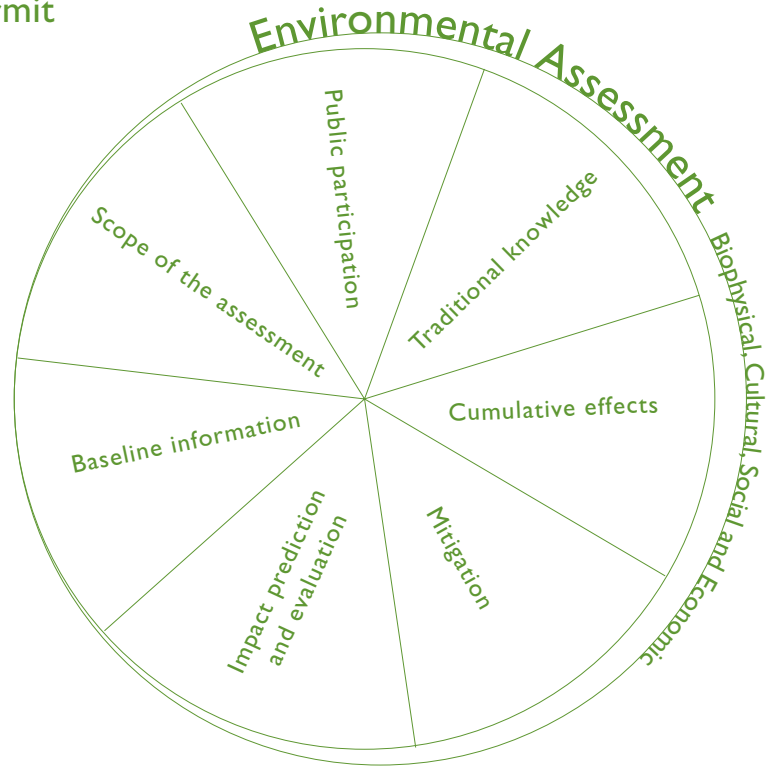
Preliminary Screening
MVLWB or other Authority



Environmental Assessment
MVEIRB



Environmental Impact Review
MVEIRB



MACKENZIE VALLEY ENVIRONMENTAL IMPACT REVIEW BOARD

Recommendation to the Minister of INAC

| | | |
|---|------------------|---------------------------|
| | | |
| Project Approved with or without conditions | Project Rejected | Further scrutiny required |

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Appendix 3 – Relevant legislation

There are requirements in land claims and legislation which identify a need to bring aboriginal knowledge and perspectives (some of which is often referred to as traditional knowledge), into the process for identification of:

- Past and current conditions and trends in the natural environment;
- Past and current status and trends in wildlife harvesting and its importance;
- Past and current conditions and trends in the social and cultural environment including heritage resources;
- The likely impact of the proposed development on all of these aspects of the environment, broadly defined;
- The significance and acceptability to aboriginal people of these likely changes, especially as they may affect cultural identity and social and economic priorities; and
- Relevant social values rooted in culture and tradition.

The Gwich'in Comprehensive Claims (GCC) and the Sahtu Dene and Métis Comprehensive Claims (SDMCC) contain the following objectives:

“To recognize and encourage the Gwich'in and the Sahtu Dene and Métis way of life which is based on the cultural and economic relationship between the land and the Gwich'in and Sahtu Dene and Métis”
(s.1.1.3 GCC) (s.1.1(c) SDMCC)

“To provide the Gwich'in and the Sahtu Dene and Métis the right to participate in decision making concerning the use, management and conservation of land, water and resources”
(s.1.1.7 GCC) (s.1.1 (g) SDMCC)

The Tlicho Agreement requires that:

“the Mackenzie Valley Environmental Impact Review Board ... shall consider traditional knowledge as well as other scientific information where such knowledge or information is made available to the Board”
(s.22.1.7)

The MVRMA, which as noted in the preamble was designed to fulfill certain obligations under these land claims agreements, specifies that:

“The purpose of [Part 5 of the Act] is to establish a process comprising a preliminary screening, an environmental assessment and an environmental impact review in relation to proposals for developments and, ... to ensure that the concerns of aboriginal people and the general public are taken into account in that process”
(s.114 (c) MVRMA)

“The process established by [Part 5] shall be carried out in a timely and expeditious manner and shall have regard to.... the protection of the social, cultural and economic well-being of residents and communities in the Mackenzie Valley”
(s.115 (b) MVRMA).

For the purposes of Part 5, “impact on the environment” is defined broadly as “any effect on land, water, air or any other component of the environment, as well as on wildlife harvesting, and includes any effect on the social and cultural environment or on heritage resources”
(s.111 MVRMA)

Among the factors to be considered in the EIA process is “the capacity of any renewable resources that are likely to be significantly affected by the development to meet existing and future needs”
(s.117(3) MVRMA)

Appendix 4 – Available Literature

*The MVEIRB is not responsible for the content of the documents and resources below. The documents do not necessarily represent the views of the Review Board. This is not an exhaustive list of all resources on the subjects.

We have listed resources for the following topics:

- Mackenzie Valley Traditional Knowledge Policies and Guidelines;
- Other Traditional Knowledge Guidelines and Policies; and
- Considerations for Working with Traditional Knowledge Holders.

*Please note: There may be organizations, regulatory agencies and aboriginal organizations that have traditional knowledge policies/guidelines, which have not been included in the lists below. Prior to conducting traditional knowledge studies or working with traditional knowledge holders, please research what policies exist (if any) and what protocol should be followed.

Mackenzie Valley Traditional Knowledge Policies and Guidelines

Association of Canadian Universities for Northern Studies (ACUNS)

Ethical Principles for the Conduct of Research in the North. Available at: <http://www.acuns.ca/En/acunsEnMain.htm> (Last visited: October 12, 2004) Association of Canadian Universities for Northern Studies, 2003.

Aurora Research Institute

Doing Research in the Northwest Territories: A Guide for Researchers. Available at: <http://www.nwtresearch.com/research.aspx> (Last visited: October 12, 2004). Aurora Research Institute, 2004.

Government of the Northwest Territories

Policy 52.06: Traditional Knowledge. Government of the Northwest Territories, November 30, 1993.

Gwich'in Tribal Council/Gwich'in Social and Cultural Institute

Gwich'in Tribal Council Traditional Knowledge Policy, Approved by the Gwich'in Tribal Council Board of Directors, June 22, 2004.

Sahtu Land and Water Board

Traditional Environmental Knowledge. Approved by the Sahtu Land and Water Board. Revised December 16, 2003.

Deh Cho First Nation

Deh Cho First Nation Traditional Knowledge Research Protocol Accepted by Leadership Resolution #12, Fall Leadership Meeting, Fort Simpson, October 26–28, 2004.

Deh Cho Land Use Planning Committee

Traditional Knowledge Policy. Approved May 27, 2003 Available at http://www.dehcholands.org/docs_policies.htm (Last visited: April 9, 2005). Deh Cho Land Use Planning Committee, 2003.

Dene Cultural Institute

Guidelines for the conduct of participatory community research to document traditional ecological knowledge for the purpose of environmental assessment and environmental management. Available at <http://www.idrc.ca/books/847/7-App1.html> (Last visited: October 13, 2004) Dene Cultural Institute, 1991.

Other Traditional Knowledge Guidelines and Policies**Assembly of Alaska Native Educators**

Guidelines for Respecting Cultural Knowledge. Alaska Native Knowledge Network, Fairbanks: University of Alaska, February 1, 2000.

Canadian Environmental Assessment Agency

Considering Aboriginal traditional knowledge in environmental assessments conducted under the Canadian Environmental Assessment Act – Interim Principles. Available at http://www.ceaa-acee.gc.ca/012/atk_e.htm (Last visited: October 13, 2004). Canadian Environmental Assessment Agency, 2004.

The Council of Yukon First Nations

Traditional Knowledge Research Guidelines. Available at <http://www.contaminants.ca/done/tkGuidelines/TK%20Guidelines.pdf> (Last visited: October 13, 2004). The Council of Yukon First Nations, August 2000.

West Kitikmeot Slave Study

West Kitikmeot Slave Study Traditional Knowledge Guidelines. Available at http://www.wkss.nt.ca/HTML/06_Research/06_tkResearchGuide.htm (Last visited: October 13, 2004). West Kitikmeot Slave Study.

Working Group on Indigenous Populations

The Mataatua Declaration on Cultural and Intellectual Property Rights of Indigenous peoples. International Association of the Mataatua Declaration. United Nations, July 26, 1993.

Considerations for Working with Traditional Knowledge Holders

Agrawal, Arun. “Dismantling the Divide between Indigenous and Scientific Knowledge.” *Development and Change*, vol. 26 (1995): 413–439

Battiste, Marie., and James Youngblood Henderson. *Protecting Indigenous Knowledge and Heritage*. Saskatoon: Purich Publishing Ltd, 2000.

Berkes, Fikret. “Traditional Ecological Knowledge in Perspective.” *Traditional Ecological Knowledge: Concepts and Cases*. Edited by Julien T. Inglis. Ottawa: International Program on Traditional Ecological Knowledge, 1993. Pp: 1–9

Brascoupe, Simon and Howard Mann. *A Community Guide to Protecting Indigenous Knowledge*. Available at: http://www.ainc-inac.gc.ca/pr/ra/ind/gui_e.pdf (Last visited: October 13, 2004). Research and Analysis Directorate, Indian and Northern Affairs Canada, June 2001.

Brascoupe, Simon and Karen Endemann. *Intellectual Property and Aboriginal People: A Working Paper*. Available at http://www.ainc-inac.gc.ca/pr/ra/intpro/intpro_e.html (Last visited: April 9, 2005). Research and Analysis Directorate, Indian and Northern Affairs Canada, Fall 1999.

CAPP Guide for Effective Public Involvement. Available at <http://www.capp.ca> (Last visited: October 12, 2004) Calgary: Canadian Association for Petroleum Producers. 2004.

Emery, Alan R. *Integrating Indigenous Knowledge in Project Planning and Implementation*. Available at: [http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/ea/\\$file/IndiKnow-e.pdf](http://www.acdi-cida.gc.ca/INET/IMAGES.NSF/vLUIImages/ea/$file/IndiKnow-e.pdf) (Last visited: October 13, 2004) KIVU Nature Inc and Canadian International Development Agency, 2000.

Grenier, Linda. “Working with Indigenous Knowledge: A Guide for Researchers” Available at: http://network.idrc.ca/ev.php?URL_ID=28699&URL_DO=DO_TOPIC (Last visited: October 13, 2004). International Development Research Centre, 1998.

Indigenous Environmental Knowledge and its Transformations: Critical Anthropological Perspectives. Edited by R. Ellen, P. Parkes, and A. Bicker. Canada: Harwood Academic Publishers, 2000.

Kassam, Karim–Aly., and J. Graham. Chapter 12. “Indigenous Knowledge, Community Participation and Traditional Land–use Mapping.” *Social Work with Rural & Northern Communities*. Edited by R. Delaney, K. Brownlee, and M. Sellick. Thunder Bay: Lakehead University, 1999. Pp: 192– 216.

Smith, Barney. Applying the knowledge, experience and values of Yukon Indian People, Inuvialuit, and others in conservation decisions: Summaries of 55 Yukon Projects, 1985–2003. Whitehorse: Department of Environment, Government of Yukon, 2004.

Smith, Susan. Chapter 7. “Deepening Participatory Action Research.” *Nurtured by Knowledge*. Edited by S. Smith, D. Williams, and N. Johnson. New York: The Apex Press, 1997. Pp: 173–263

Stevenson, Marc G., “Indigenous Knowledge in Environmental Assessment.” *Arctic*, vol. 48, no. 3 (1996): 278–291

Stringer, Ernest T. Chapter 2. “Principles of Community–Based Action Research”. *Action Research: a Handbook for Practitioners*. London: SAGE Publications Inc., 1996. Pp: 15–35

Tobias, Toby. Chief Kerry’s Moose: *A guidebook to land use and occupancy mapping, research design and data collection*. Vancouver: Union of BC Indians and Ecotrust Canada, 2000.

Usher, Peter. “Traditional Ecological Knowledge in Environmental Assessment and Management.” *Arctic*, vol. 53, no. 2 (2000): 183–193



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