

**UNDERSTANDING ABORIGINAL PARTICIPATION IN  
NORTHERN ENVIRONMENTAL ASSESSMENTS: THE  
CASE OF THE JOINT REVIEW PANEL FOR THE  
MACKENZIE GAS PROJECT**

by

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# APPROVAL

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## **ABSTRACT**

This project examines Aboriginal participation in northern environmental assessment processes through the study of Aboriginal public participation in the Joint Review Panel for the Mackenzie Gas Project. To identify factors limiting individual-level Aboriginal participation in this environmental assessment, a program evaluation of the Joint Review Panel's public participation initiatives and a study of the impacts of five contextual factors were conducted.

The results of this study reveal four key process deficiencies which may have contributed to limited individual-level Aboriginal public participation in the Joint Review Panel proceedings; namely, deficiencies in respect of cultural compatibility, resource accessibility, point of involvement, and process clarity. This research also indicates that the over-lapping factors of socio-economic status, social relationships, consultation fatigue, Euro-Canadian colonialism, and relevance may have further constrained Aboriginal public participation in this environmental assessment. Recommendations for improving individual-level Aboriginal participation in northern environmental assessment processes are formulated based upon these research results.

**Keywords:** Aboriginal; public participation; northern environmental assessment; environmental assessment; environmental decision-making; Mackenzie Gas Project; Joint Review Panel

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## **LIST OF ACRONYMS**

EA            environmental assessment

JRP           Joint Review Panel

MGP           Mackenzie Gas Project

NWT          Northwest Territories

## GLOSSARY

<b>Aboriginal organization</b>	An organization representing the regional or local interests of a group of Aboriginal peoples.
<b>Aboriginal civic engagement literature</b>	Literature exploring factors and phenomena influencing Aboriginal people's desire or capacity to participate in public institutions and processes ranging from community development initiatives to federal elections.
<b>Community member</b>	Aboriginal person resident in any of the geographic communities included in the project area.
<b>Critical environmental assessment (EA) literature</b>	Broad body of literature exploring EA processes, including public participation in these processes, from a critical perspective.
<b>Environmental assessment (EA)</b>	The process through which decision-makers assess the potential environmental and socio-economic impacts associated with proposed projects (Gibson, 2002).
<b>Joint Review Panel (JRP)</b>	An independent body appointed by the Canadian Environmental Assessment Agency, Inuvialuit Game Council, and the Mackenzie Valley Environmental Impact Review Board to evaluate the potential impacts of the Mackenzie Gas Project on the environment and lives of the people in the project area.
<b>Mackenzie Gas Project (MGP)</b>	A gas extraction, processing, and transportation project proposed by the Mackenzie Valley Aboriginal Pipeline Limited Partnership, Exxon Mobil Canada Properties, Shell Canada Limited, Imperial Oil Resources Ventures Limited, and ConocoPhillips Canada (North) Limited. The proposed project consists of three natural gas production fields, a gathering system, and two underground transmission pipelines spanning the length of the NWT.
<b>The Canadian north</b>	The geographic area north of 60° latitude in Canada and existing within the regions of the Yukon, Northwest Territories, Nunavut, Nunavik and Nunatsiavut.

<b>Public participation</b>	Processes aimed at enabling persons affected by or interested in a given decision to provide decision-makers with input, opinions and feedback regarding the same (Rowe & Frewer, 2000).
<b>Terms of Reference</b>	Agreement concluded by the Inuvialuit Game Council, the Minister of Environment, and the Chair of the Mackenzie Valley Environmental Impact Review Board establishing the scope and nature of the issues to be included in the environmental impact statement for the Mackenzie Gas Project.

# **1: INTRODUCTION**

## **1.1 Research Context**

Scholars and policy-makers are increasingly regarding public participation as an integral component of environmental decision-making and environmental assessment processes (Baker et al, 2005; Noble, 2006). The Canadian government has enshrined and promoted such participation through legislative instruments such as the *Canadian Environmental Assessment Act* (S.C. 1992, c. 37), which states that one of the purposes of the Act is:

....to ensure that there be opportunities for timely and meaningful public participation throughout the environmental assessment process (s.4(1))

Broad public participation in environmental decision-making processes is consistent with principles of equity, fairness and democratic participation (Baker et al., 2005), and may improve the over-all quality and implementability of decisions (Charnley & Englebert, 2005; Noble, 2006). The beneficial impacts of participation on decision quality have been attributed to factors including increasing decision-makers' access to local information and knowledge, helping to identify socially acceptable solutions and increasing decision-makers' accountability vis-à-vis the decisions (Diduck and Sinclair, 2005; Noble, 2006). In turn, implementation benefits have been linked to increased decision legitimacy and buy-in leading to reduced litigation and greater public support for the resultant decision (Beirle, 1999).

The rationale for public participation in environmental assessment (EA) processes is particularly compelling with respect to Aboriginal peoples. In the first instance, such processes engage Aboriginal peoples' constitutionally protected consultation rights (*Dene Tha' First Nation v. Minister of Environment*, 2006, Federal Court). Furthermore, Aboriginal peoples hold traditional and place-based knowledge which may be required for effective ecosystem management (Rajaram & Das, 2006). Such knowledge may be particularly important in cross-cultural situations such as northern EAs presided over by southern decision-makers who may be unable to anticipate the local concerns and issues engaged by the proposed project (Funk, 1985).

Notwithstanding the importance of such participation, there is evidence that Aboriginal peoples' input and participation is marginalized within Canadian EA processes. In its 2000 submission to the Canadian Environmental Assessment Agency, the Assembly of First Nations states:

First Nations across Canada have expressed the strong view that the [*Canadian Environmental Assessment Act*] in its implementation, fails to...ensure meaningful and on-going First Nation participation in environmental assessment" (AFN, 2000).

Recent research in the Canadian north further suggests that EAs conducted by one regulatory body, the Mackenzie Valley Environmental Impact Review Board, do not model a fully inclusive approach and have generated mistrust amongst affected Aboriginal groups (Galbraith, Bradshaw & Rutherford, 2007). Improvements to Canadian EA processes and practice are required to facilitate and enable Aboriginal participation in these processes.



Unfortunately, while a small body of literature has developed in respect of Aboriginal participation in Canadian EAs (see e.g. Baker & McLelland, 2003; Vincent, 1994; Shapcott, 1989), to date there has been little empirical research conducted in respect of the specific factors limiting Aboriginal participation in northern Canadian EA processes.

This research project addresses the above gap through a qualitative study of Aboriginal participation in the EA for the Mackenzie Gas Project (MGP) in the Northwest Territories of Canada (NWT). The EA for the MGP provides the opportunity to examine Aboriginal participation in an EA for a mega-project in an area where Aboriginal peoples comprise the majority of the population (Government of NWT, 2008). The suitability of the Joint Review Panel for the Mackenzie Gas Project (JRP) as a case study for Aboriginal participation in northern EA processes is further heightened by the fact that, notwithstanding the profound economic, social, and environmental impacts that may be associated with the proposed project (see e.g. World Wildlife Fund, 2007; APG n.d.), there was low individual or grassroots Aboriginal participation in the public hearings for the project. Specifically, only 298 people testified at the JRP's 25 community hearings and only one resident of the Inuvialuit Settlement Region, for instance, applied for intervener status in the JRP (NGPS, 2007; JRP, n.d.a). As the JRP process nears completion, media and government attention has focused on the JRP's extended timeframe (see e.g. Loreen, 2008; Scott, 2008); however, these low participation levels highlight a different, and possibly more fundamental, flaw in this EA process. In particular, these dismal participation rates leave open the possibility that this

public review panel may ultimately have provided an ineffective forum for public input into the regulatory decision-making processes surrounding the proposed MGP.

## **1.2 Overview of Research Objectives and Activities**

This research aims to examine the nature and scope of Aboriginal participation in the JRP for the Mackenzie Gas Project, and identify the factors that may have hindered individual Aboriginal people within the project area from participating in this EA. To this end, the research objectives are: (1) to evaluate the JRP's public participation initiatives; and (2) to identify and investigate factors that may have limited individual-level Aboriginal participation in the JRP's community hearings.

In order to satisfy these objectives, this research employs a two-phased approach consisting of a program evaluation of the JRP's public participation strategies and a study of contextual factors influencing individual-level Aboriginal participation in the JRP proceedings. The areas of inquiry explored through these two research activities were derived from the critical EA literature (i.e. the literature exploring EA processes, including public participation in these, from a critical perspective) and the Aboriginal civic engagement literature (i.e. the broad body of literature exploring factors and phenomena influencing Aboriginal peoples' desire or capacity to participate in public institutions and processes ranging from community development initiatives to federal elections).

## **1.3 Structure**

This report is divided into six additional chapters. The second chapter provides background information about the Berger Inquiry (a high-profile impact assessment in

the 1970s of a proposed gas pipeline for the Mackenzie Valley), the JRP proceedings, and the study area. Chapter three describes the methodology employed in the research. Chapter four discusses the results of the program evaluation of the JRP's public participation initiatives. The ensuing chapter outlines the results of the study of the contextual factors influencing Aboriginal participation in the JRP. The paper concludes with a chapter summarizing the results of this research, outlining recommendations for change to northern EA practices, and discussing possible research extensions.

## **2: BACKGROUND AND CASE STUDY DESCRIPTION**

This chapter provides a brief description of the geography and demographics of the NWT and study area, as well as an overview of the Berger Inquiry and present-day JRP proceedings. This historical and geographic information, together with the synopsis the JRP process, comprise the background and context for my study of Aboriginal participation in the JRP.

### **2.1 Northwest Territories and Study Area**

The NWT is located in the northwest portion of Canada, and is bordered by Nunavut, the Yukon, British Columbia and Alberta. The Territory has a population of approximately 42,000 people, 51 percent of which identify as Aboriginal (Government of NWT, 2008). The two main Aboriginal groups of the NWT are the Inuvialuit (Inuit) and the Dene (First Nation). The NWT Dene are composed of several First Nations and regional tribal councils; namely: Tlicho First Nation, Deh Cho First Nations, NWT Treaty 8 Tribal Council, Gwich'in Tribal Council, Salt River First Nation and Sahtu Dene Council (Department of Justice, n.d.). The federal government has concluded final agreements with the Inuvialuit, Sahtu, Gwich'in and the Tlicho (*Inuvialuit Final Agreement*, 1984; *Gwich'in Land Claim Settlement Act*, 1992; *Sahtu Dene and Metis Land Claim Settlement Act*, 1994; *Tlicho Land Claims and Self-Government Act*, 2005)

The study area for the research on contextual factors is the Beaufort Delta, an administrative region in the northern portion of the NWT. I conducted fieldwork in two

communities within this region: Inuvik and Fort McPherson. Inuvik is the administrative center of the Western Arctic, and has a population of 3,420 (Government of NWT, 2007a). Fort McPherson is a smaller, more traditional community with a population of 791 (Government of NWT, 2007b). Inuvik and Fort McPherson are both located in the Gwich'in and Inuvialuit Settlement Regions. Fifty-eight percent of the population of Inuvik and 94 percent of the population of Fort McPherson identify as Aboriginal (Government of NWT, 2007a; Government of NWT, 2007b).

## **2.2 The Berger Inquiry**

The JRP is actually the second EA that sought to assess the potential impacts of a proposed Mackenzie Valley Pipeline. In 1974 Canadian Arctic Gas Pipeline Limited submitted a proposal to the federal government to construct a 5,000 km pipeline to transport natural gas from the Arctic Ocean to metropolitan centres in southern Alberta and British Columbia (Berger, 1979; Gamble, 1978). The originally proposed gas pipeline triggered the now-famous Mackenzie Valley Pipeline Inquiry (the “Berger Inquiry”).

In March 1974, the Canadian government commissioned Justice Thomas Berger to examine the environmental, social and economic impacts of a gas pipeline through the NWT and Yukon, and consider the conditions that should be attached to any right-of-way granted for such a project (Berger, 1977). In order to fulfil this mandate, Berger visited 35 villages, towns and cities across the NWT and Yukon to gather input and feedback from ordinary Northerners resident within the project area (Gamble, 1978). Ultimately, Berger recommended that the government abstain from approving any pipeline across the

Northern Yukon, and institute a 10-year moratorium on a pipeline through the Mackenzie Valley. To this end, Berger writes:

There should be no pipeline across the Northern Yukon. It would entail irreparable environmental losses of national and international importance. And a Mackenzie Valley pipeline should be postponed for ten years. If it were built now, it would bring limited economic benefits, its social impact would be devastating, and it would frustrate the goals of native claims (Berger, 1977, vol. 1, p. xxvi-xxvii)

The Berger Inquiry has received domestic and international acclaim for its successes in fostering Aboriginal participation in its public review process (Bocking, 2007; Nelkin & Polack, 1979; O'Reilly, 1996; Wismer, 1996):

More effectively than perhaps anyone before or since, [Berger] erased the divide between technical expertise and public knowledge....Moreover, Berger demonstrated that the best decision requires not just the right information, but the right process. In other words, better decisions and better projects demand democratic practice, an opening up of information and debate so that everyone can have their say (Bocking, 2007, p. 50-51).

Ultimately, the Inquiry heard testimony from over 1,000 Northerners, the content of which figured prominently in Berger's final report and recommendations to government (Berger, 1977). The Inquiry is viewed by many as the high-water mark for participatory EA practice in Canada (see e.g. Funk, 1985), and comprises an important part of the historical context of the contemporary EA for the current Mackenzie Gas Project proposal.

### **2.3 The Joint Review Panel**

The Mackenzie Valley Pipeline was revived as a portion of a larger Mackenzie Gas Project (MGP) in 2003. In June of that year, the Mackenzie Valley Aboriginal Pipeline Limited Partnership (the "Aboriginal Pipeline Group") joined with a producer

group comprised of Exxon Mobil Canada Properties, Shell Canada Limited, Imperial Oil Resources Ventures Limited, and ConocoPhillips Canada (North) Limited, to submit a preliminary information package in respect of the proposed MGP to the National Energy Board (NEB, 2003). These proponents proposed a gas extraction, processing and transportation project consisting of three natural gas production fields, a gathering system and two underground transmission pipelines spanning the length of the NWT (MGP, n.d. See Figure 1). If the project proceeds as planned, as much as 1.2 billion cubic feet of natural gas will be extracted daily from reservoirs in the northern Beaufort Delta, processed, and transported through over 1,200 km of pipeline to connect with the NOVA Gas Transmission Limited pipeline facilities approximately 15 m south of the Alberta-NWT border (MGP, n.d.; MGP, 2004; TOR, 2004). TranCanada Corporation has separately proposed the 300 km North Central Corridor Pipeline Project which would provide a link across northern Alberta to the Alberta tar sands developments (Nature Canada, n.d.). Overall, the proposed project is expected to cost over seven billion dollars to construct, and would be the single largest industrial project the NWT has ever seen (WWF, n.d.; Taiga Rescue, n.d.).

**Figure 1: Map of location and components of the proposed Mackenzie Gas Project**



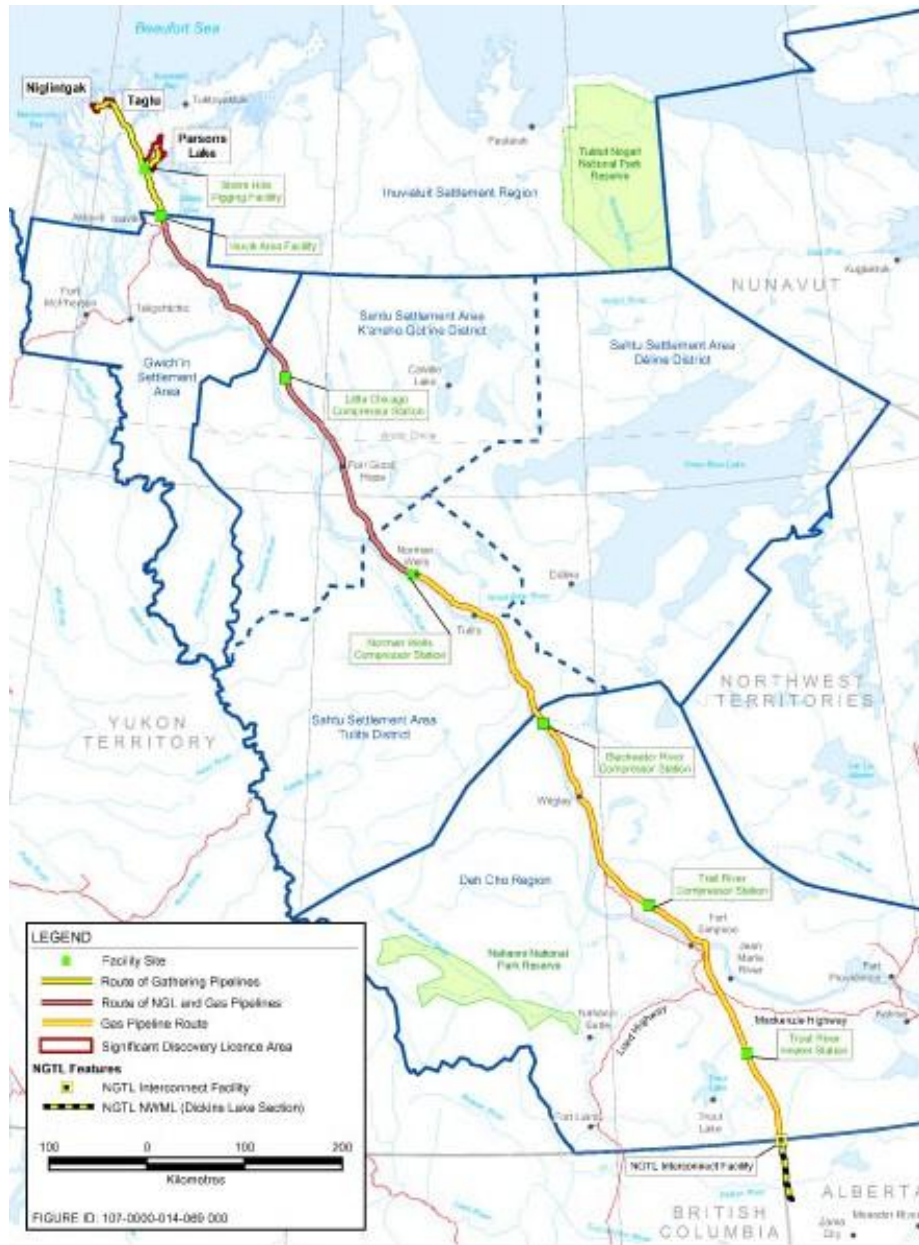
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The proposed Mackenzie Gas Project crosses Inuvialuit Settlement Lands, Gwich'in Settlement Lands, Sahtu Settlement Lands, as well as Deh Cho Territory and Dene Tha Traditional Territory (Imperial Oil et al., 2004; Dene Tha, 2004: see Figure 2). Pursuant to *Canadian Environmental Assessment Act* and the Inuvialuit, Gwich'in, Metis



and Sahtu comprehensive land claims agreements, the project triggered federal, Inuvialuit and Mackenzie Valley Environmental Impact Review Board EA processes (Cooperation Plan, 2002).

**Figure 2: Map of settlement lands impacted by the proposed Mackenzie Gas Project**

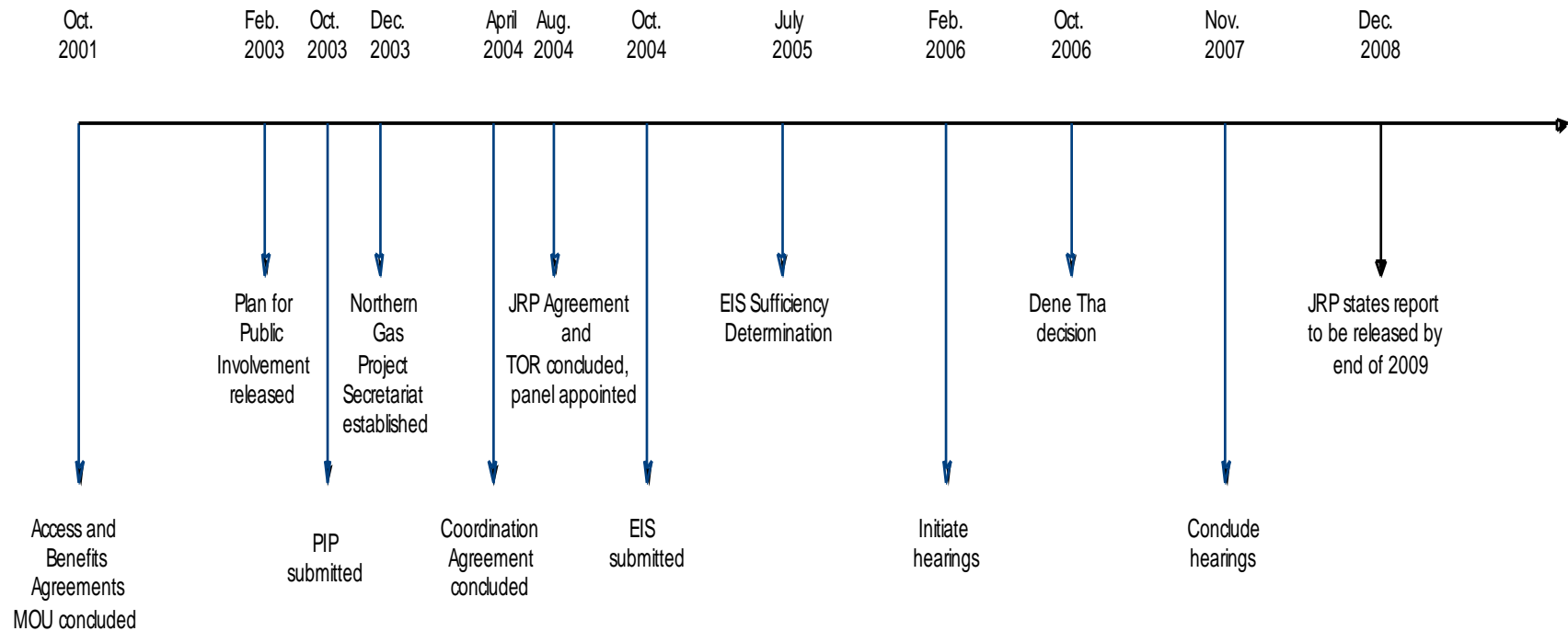


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The ensuing inter-jurisdictional agreements and initiatives undertaken by the JRP comprise part of the context of public participation in this EA process.

The major historical milestones associated with the JRP are as follows (see Figure 3):

**Figure 3: Timeline of the major milestones associated with the JRP proceedings. The following acronyms are used: EIS (Environmental Impact Statement), JRP (Joint Review Panel), MOU (Memorandum of Understanding), PIP (Preliminary Information Package), and TOR (Terms of Reference).**



i) *October 2001: Aboriginal Pipeline Group MOU*

In late 2001, the Mackenzie Gas Project producer group and 30 Northwest Territories Aboriginal groups, represented by the Aboriginal Pipeline Group, concluded a memorandum of understanding concerning ownership interests in the Mackenzie Gas Project and the negotiation of access and benefit agreements (MGP, n.d.). Aboriginal groups, including those of the Northwest Territories, are increasingly pursuing access and benefit agreements with corporate proponents as a means of ensuring that their constituents appropriately benefit from development activities occurring in their traditional territories, and are compensated for the negative impacts associated with those activities (Kennett, 1999b; Shanks, 2006). Access and benefit agreement negotiations have continued throughout the course of the regulatory review for the Mackenzie Gas Project (Halifax, 2003; Bickford, 2008).

ii) *December 2003: NGPS Agreement*

Following the submission of the proponents' preliminary information package regarding the proposed project in October 2003, the federal government and the Sahtu, Gwich'in, Metis and Inuvialuit land claims bodies concluded a memorandum of understanding establishing the Northern Gas Project Secretariat (*NGPS Agreement*, 2003). The Secretariat had community offices in Inuvik and Yellowknife in the Northwest Territories, and conducted community visits throughout the project area to inform and educate the public about how to get involved in the Joint Review Panel proceedings (NGPS, n.d.).

iii) *April 2004: Coordination Agreement*

In the spring of 2004, the federal government, government of the Northwest Territories, and various Inuvialuit, Gwich'in and Sahtu land claims organizations concluded the *Agreement for the coordination of the regulatory review of the Mackenzie Gas Project* (the "Coordination Agreement") delineating a joint regulatory review for the Mackenzie Gas Project. In particular, the parties divided the review into technical National Energy Board hearings regarding the safety, engineering and economic aspects of the proposed project, and JRP hearings regarding the project's potential socio-economic, environmental and cultural impacts (INAC, n.d.b). The Joint Review Panel hearings were intended to serve as the main fora for public input regarding the proposed project (TOR, 2004).

iv) *August 2004: JRP Agreement and Terms of Reference*

Shortly after the conclusion of the Coordination Agreement, the Federal Environment Minister, Chair of the Inuvialuit Game Council (the wildlife and wildlife habitat management board formed pursuant to the *Inuvialuit Final Agreement*) and Chair of the Mackenzie Valley Environmental Impact Review Board (a co-management board created pursuant to Gwich'in and Sahtu Comprehensive Land Claims Agreements) concluded the *Agreement for an Environmental Impact Review of the Mackenzie Gas Project* (the "JRP Agreement"). This agreement established the Joint Review Panel to evaluate potential impacts of the project on the environment and lives of the people in the project area (JRP Agreement, 2004). Further to the JRP Agreement, the Mackenzie Valley Environmental Impact Review Board selected three representatives for the seven-

member panel and the Minister of Environment selected the remaining four. The Agreement further provided that the Inuvialuit Game Council nominates two of the four representatives selected by the Minister of Environment (JRP Agreement, 2004).

On August 4, 2004, the parties to the JRP Agreement also released the *Environmental Impact Statement Terms of Reference for the Mackenzie Gas Project* (the “Terms of Reference”). This document provided the proponents with guidelines for the preparation of the environmental impact statement for the project (TOR, 2004).

v) *October 2004: Environmental Impact Statement Submitted*

Two months after receiving the Terms of Reference, the project proponents submitted their environmental impact statement to the Joint Review Panel (MGP, 2004).

vi) *July 2005: Environmental Impact Statement Deemed Sufficient*

In June 2005, the Joint Review Panel hosted a four-day environmental impact statement sufficiency conference involving a group of 42 organizations and individuals (JRP, 2005d). After considering the input received through this conference, and comments received through a parallel public comment period (JRP, 2005c), the Panel determined that the environmental impact statement was sufficient and that the matter could proceed to public hearings (JRP, 2005a).

vii) *February 2006: Hearings Initiated*

In early 2006, the Joint Review Panel initiated public hearings in respect of the proposed Mackenzie Gas Project. In order to facilitate community involvement in the

proceedings, the hearings were divided into community, general and topic-specific hearings (JRP, 2007). The community hearings had the least formal procedures of these three types of hearings, and were to serve as the main fora for individual members of impacted communities to provide input to the panel regarding the proposed project (JRP, 2006a).

viii) *November 2006: Dene Tha Decision*

Approximately half-way through the Joint Review Panel's original public hearing schedule, in response to an application for judicial review brought by the Dene Tha First Nation, the Canadian Federal Court ruled that the federal government had breached its duty of consultation owed to the Dene Tha in respect of the proposed Mackenzie Gas Project (*Dene Tha First Nations v. Minister of Environment*, 2006). As a result, the Joint Review Panel proceedings were delayed and revised to more appropriately include the Dene Tha First Nation (JRP, 2006b).

ix) *November 2007: JRP Hearings Conclude*

After nearly two years of hearings, the Joint Review Panel's public hearings concluded. In addition to the general and topic-specific hearings, the panel conducted a total of 25 community hearings in 22 communities within the project area (JRP, n.d.a).

x) *December 2008: Final Report Release Date*

Following the conclusion of the public hearings, the JRP began writing its final report and recommendations to the federal government, National Energy Board,

Mackenzie Valley Environmental Impact Review Board, the Inuvialuit Game Council and other responsible authorities. The Joint Review Panel was to release the report by the end of 2008; however, in December 2008 the panel announced that it would not be able to complete the report until the end of 2009 (JRP, 2008).

## **2.4 Chapter Summary**

The geographical, historical, and JRP background information described in this chapter comprise the context of this study, and helped give rise to the research objectives explored through this project. In particular, the historical and geographical context, together with the scope of the proposed project and associated EA process, suggest that there should have been extensive Aboriginal participation in the JRP hearings. Specifically, as written, the proposed project would be located in a region where Aboriginal people comprise the majority population group. In addition, the project is expected to trigger profound economic, social, and environmental impacts (Government of NWT, 2008; Ecology North, 2006; APG, n.d.). Furthermore, the proponents and federal government have dedicated substantial resources to the JRP process (INAC, n.d.b.; interview data).<sup>1</sup>

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<sup>1</sup> Over \$2.1 million in participant funding and \$8 million in capacity building support was distributed in conjunction with the assessment (INAC, n.d.b; interview data), and the Northern Gas Project Secretariat was created for the express purpose of distributing information regarding the JRP (NGPS Agreement, 2003).



Notwithstanding these factors, however, there was low individual-level Aboriginal participation in the JRP hearings (JRP, n.d.a). The methods used to explore this disconnect, and identify factors which may have constrained Aboriginal participation in the JRP's community hearings are explored in the ensuing chapter.

### **3: METHODS**

This chapter provides an overview and explanation of the research methods employed in this study. The first section discusses research design and the application of a case study method, qualitative methods, and two-phased approach to this study. The ensuing sections address the areas of inquiry, data sources, and analysis applied through the program evaluation of the public participation initiatives of the Joint Review Panel for the Mackenzie Gas Project (JRP) and the study of contextual factors influencing Aboriginal participation in the JRP. The chapter concludes with a discussion of the research limitations of this study.

#### **3.1 Research Design**

##### **3.1.1 Case study**

This research examines the subject of Aboriginal participation in northern environmental assessment (EA) processes through a detailed examination of one example of this class or group of phenomena; namely, Aboriginal participation in the JRP (case study approach: Flyvberg, 2006). The case study approach was selected because the research pertains to an understudied subject area, and involves variables which could not be manipulated (Gerring, 2007). I chose the specific case of Aboriginal participation in the JRP processes because this EA offers unique learning possibilities regarding the subject phenomenon (Flyvberg, 2006). As written in chapter 2, notwithstanding the scope and scale of the impacts of the proposed Mackenzie Gas Project (MGP), large Aboriginal

population within the project area, and extensive resources allocated to promoting public and Aboriginal participation in the JRP, there was low individual or grassroots Aboriginal public participation in the JRP's community hearings. This disconnect between promotion and actual participation in the JRP hearings provides an opportunity to examine some of the root causes or factors inhibiting Aboriginal participation in such proceedings.

I further selected the Beaufort Delta as the study area for this study of Aboriginal participation in the JRP. I had lived and worked in the Beaufort Delta prior to undertaking this study, and was of the view the knowledge and personal relationships derived through that experience would strengthen my ability to conduct fieldwork in the region.

Finally, I focused my research on active, individual Aboriginal participation in the JRP, and specifically the study of individual members of the Aboriginal public who delivered testimony at the JRP community hearings. It should be noted that there were other avenues for Aboriginal involvement in decisions regarding the proposed MGP. In particular, three regional Aboriginal organizations participated as project proponents, through their involvement with the Aboriginal Pipeline Group (MGP, n.d.). Two Aboriginal land claims organizations were also able to nominate and select members of the JRP panel (JRP Agreement, 2004). In turn, individual members of the Aboriginal public could provide input to the proponents during the project design stage, and could also attend the JRP hearings as observers. Collectively, these fora have provided the Aboriginal leadership with strong avenues of influence in respect of the proposed project, and individual members of the Aboriginal public with the opportunity to gain

understanding of the MGP and provide non-binding suggestions to project proponents. Nevertheless, it was only through providing testimony at the JRP hearings that individual members of Aboriginal communities could directly, personally influence the regulatory decisions surrounding the MGP.

The literature and factors related to the project area suggest that such individual-level input at the JRP hearings may have been important in terms of ensuring that the panel had access to the full spectrum of information, values, and opinions of people from the project area in respect of the proposed MGP. Specifically, although Aboriginal organizations had considerable influence in respect of the proposed MPG, it cannot be assumed that this was an adequate proxy or replacement for input of individual members of the impacted Aboriginal populations in respect of the regulatory proceedings for this project. To this end, the literature suggests that environmental decision-making processes which exclusively involve the local leadership may not adequately represent the concerns of disenfranchised segments of the population:

...in local communities across Canada, there is evidence that local elites attempt to skew development processes to favor their own interests using the rubric of community...Consequently, as Davis (1996, 234) suggests, “We need to consider local social structures and processes because investing local user groups with management powers may do little more than entrench the advantages of vested interests, thereby assuring that participation and benefits will be realizable by only a few” (Reed and McIlveen, 2007, p. 757)

In fact, there is evidence from one of the four Aboriginal groups in the project area (the Gwich'in) to suggest that the participation of the Aboriginal political elite in the JRP proceedings may have been insufficient to ensure that the panel had access to full or representative public input regarding the proposed project. Specifically, a comprehensive

study of Gwich'in beneficiaries resident in the Gwich'in Settlement Area indicates that less than half of the Gwich'in beneficiaries want the MGP to proceed as proposed (Salokangas, 2005). The Gwich'in leadership, however, has actively and publicly supported the MGP throughout the regulatory proceedings for this project. In his closing remarks to the JRP, for instance, the President of the Gwich'in Tribal Council states:

The Gwich'in Tribal Council, and the Gwich'in people, are in favour of the Mackenzie Gas Project (Carmicheal, 2007, p. 3).

This seeming disconnect between the Gwich'in leadership and populace further emphasizes the importance of individual-level Aboriginal public participation in the JRP proceedings. Specifically, it suggests that such individual-level input serves an important function in terms of ensuring that the panel had access to a full and representative spectrum of information, values, and opinions of people from the project area regarding the proposed MGP.

### **3.1.2 Qualitative methods**

I selected qualitative research for this topic because it is an emergent area of study and, unfortunately, there is very little published research as to factors impacting or limiting Aboriginal participation in Canadian EA processes (exceptions include Galbraith, Rutherford & Bradshaw, 2007; Shapcott, 1989). In emerging and understudied topic areas such as this, qualitative methodologies provide the flexibility and responsiveness necessary to explore and develop emergent theoretical frameworks (Blaikie, 2000; Patton, 1990). In addition, the qualitative approach facilitates understanding of the subject's social reality and perceptions (Patton, 1990): a matter of considerable consequence given the focus of this research.

### **3.1.3 Two-phased approach**

Two main research activities were undertaken in order to satisfy the research objectives of this study. First, I conducted a program evaluation of the JRP's public participation strategies. Then, I undertook a study of the contextual factors influencing actual Aboriginal public participation in the JRP processes. Through these two activities, I assessed the JRP's public participation initiatives and identified and investigated factors that may have limited individual-level Aboriginal participation in these proceedings.

I employed this two-phased approach in order to address the possibility that some of the factors which constrained Aboriginal participation in the JRP may not have been revealed through the program evaluation alone. The limitations of an exclusive focus on EA process is highlighted by Doelle and Sinclair, who observe in respect of efforts to promote general public participation in EAs:

Such processes and legislation assume that if an opportunity is provided in appropriate circumstances at crucial decision-making points in the process, the public will be ready, willing and able to step up and make constructive and convincing contributions, and that those contributions will be incorporated into project design and decision-making...These unrealistic assumptions have led to public participation mechanisms that actually have the effect of discouraging participation (2006, p. 2-3)

In other words, the authors argue that the presence of appropriately conducted and resourced opportunities for participation may not, alone, suffice to ensure adequate public participation in EAs. The critical EA literature further indicates that a broad spectrum of contextual factors, ranging from political climate to participant self-efficacy, may potentially influence public participation in such processes (Puxley, 2002; Diduck & Sinclair, 2002; Chang & Mattor, 2006).

The relative dearth of literature concerning Aboriginal participation in Canadian EA processes provides further support for employing both the program evaluation and study of contextual factors to identify and investigate factors that may have limited individual-level Aboriginal participation in the JRP. Aboriginal peoples comprise a distinct sector of Canadian society, and unique measures may be required to facilitate Aboriginal participation in public EA processes (Roberts, 1996; Arctic Environmental Protection Strategy, 1997; Assembly of First Nations, 2000). Nevertheless, to date little empirical research has been conducted regarding the specific factors impacting or limiting Aboriginal participation in EAs (notable exceptions include Galbraith, Rutherford & Bradshaw, 2007; Shapcott, 1989). As such, I considered it particularly appropriate to complement this study's program evaluation, which was based upon evaluative criteria from literature regarding general public participation, with a second research phase to examine contextual factors that may be specific to Aboriginal participation in these processes. The research methods associated with the program evaluation and study of contextual factors are summarized in Table 1, and discussed in the ensuing sections of this chapter.

**Table 1: Summary of the research objectives and methods applied in each phase of the study**

<b>Research Phase</b>	<b>Associated Research Objective</b>	<b>Areas of Inquiry</b>	<b>Data Sources</b>	<b>Data Analysis</b>
<b>Phase 1:</b> Program Evaluation of the JRP's public participation initiatives	To evaluate the JRP's public participation initiatives	Nine evaluative criteria developed through a comparative review of nine frameworks for evaluating public participation	<ul style="list-style-type: none"> <li>- documents</li> <li>- interviews with Expert Respondents</li> <li>- interviews with Community Member Respondents</li> </ul>	Qualitative content analysis to generate inferences through the systematic identification of data pertinent to each of the nine evaluative criteria
	To identify and investigate factors that may have limited individual-level Aboriginal participation in the JRP			
<b>Phase II:</b> Study of Contextual Factors limiting Aboriginal participation in the JRP	To identify and investigate factors that may have limited individual-level Aboriginal participation in the JRP	Five broad contextual factors identified in the critical EA and Aboriginal civic engagement literature	<ul style="list-style-type: none"> <li>- interviews with Community Member Respondents</li> </ul>	Thematic analysis of interviews to identify themes and relationships present in the data, particularly as these pertain to the five contextual factors comprising the focus of this phase of the research



## **3.2 Phase I: Program Evaluation**

### **3.2.1 Evaluative framework development**

In order to evaluate program effectiveness, analysts must compare the program to evaluative criteria (Patton, 2002; Rossi & Freeman, 1993). In so doing, analysts may use new or pre-existing evaluative criteria. The latter, however, may have higher reliability and validity due to having been tested and refined through previous applications (Babbie & Benaquisto, 2002).

As there are no universally accepted evaluation criteria for public participation (Abelson & Gauvin, 2006), I developed the evaluative framework for this study through a comparative review of existent public participation evaluation frameworks. First, I surveyed the literature to identify nine different public participation evaluative frameworks.<sup>2</sup> I then effected a preliminary screening of these frameworks to assess whether the evaluative framework: 1) is published, 2) includes both process and outcome criteria, and 3) applies to all forms of public participation exercises. Using these criteria, I narrowed the nine evaluative frameworks down to five; namely, those described in Rowe & Frewer (2000), Baker & McLelland (2003), Bond, Palerm & Haigh (2004), Noble (2006), and Andre (2006).

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<sup>2</sup> Namely, Rowe & Frewer (2000); Noble (2006); Bond et al. (2004); Baker & McLelland (2003); Andre (2006); Abelson et al. (2003); Bierle (1999); Webler & Tuler (2006); Prystupa (1994).

These five frameworks comprise the basis of the comparative analysis completed to derive the evaluative criteria used in this study. The first step in this analysis was to enumerate the evaluative criteria contained in each of the five frameworks: where evaluative criteria overlapped, or referred to similar quantities, I consolidated them into a single criterion. The criteria identified through this exercise are summarized in Table 2.

**Table 2: Summary of the evaluative criteria enumerated in the public participation evaluation frameworks described in Rowe & Frewer (2000), Baker & McLelland (2003), Bond, Palerm & Haigh (2004), Noble (2006), and Andre (2006). Overlapping evaluative criteria are consolidated.**

Criterion	Rowe & Frewer	Baker & McLelland	Bond, Palerm & Haigh	Noble	Andre
<b>Early Involvement:</b> public involved as soon as value judgments enter into play, and provide input regarding the consultation forum	X	X	X		X
<b>Representativeness:</b> members of the public who participate should be ideologically, geographically and demographically representative of the broader public	X	X	X	X	
<b>Task Definition:</b> the scope and nature of public participation should be clearly defined	X	X			X
<b>Transparency:</b> the public can see the decision-making process and outcomes thereof	X	X	X	X	X
<b>Structured Decision-Making:</b> appropriate mechanisms are used for displaying and structuring the decision-making process	X				
<b>Public Understanding of Process:</b> members of the public actually understand the decision-making process		X		X	X
<b>Resource Accessibility:</b> participants should have access to appropriate and adequate information, human resources, time and material resources	X	X	X	X	X
<b>Influence:</b> participants should have a discernable, positive impact on decision making outcomes	X		X		
<b>Independence:</b> the decision body should be independent from sponsoring agencies, and be seen as such by the general public	X				X

<b>Criterion</b>	<b>Rowe &amp; Frewer</b>	<b>Baker &amp; McLelland</b>	<b>Bond, Palerm &amp; Haigh</b>	<b>Noble</b>	<b>Andre</b>
<b>Cost Effectiveness:</b> exercise should occur at the most appropriate decision-making level, and be conducted in a timely manner at a reasonable cost	X	X			X
<b>Cultural Compatibility:</b> participatory exercises should be adapted to the cultural context and include trust-building mechanisms		X		X	X
<b>Benefits to all Partners:</b> benefits of involvement must be apparent to the public				X	
<b>Equal Opportunity to Participate:</b> access and opportunity to participate should be evenly distributed		X			
<b>Accessibility:</b> the public must be able to access, and communicate with, project proponents and decision-makers				X	
<b>Legal Right to Participate:</b> the right to participate should be enshrined in legislation		X			
<b>Adaptability:</b> proponents and members of the public must demonstrate willingness to learn and flexibility				X	
<b>Social Learning:</b> participants should gain new knowledge through their participation		X	X		
<b>Consensus Building:</b> if possible, the participatory exercise should help build consensus			X		
<b>Continued Dialogue:</b> the public must have on-going communication with the decision-makers				X	

Through a comparative review of the five frameworks and the 19 evaluative criteria listed in Table 2, I selected the Rowe & Frewer (2000) framework to serve as the base for this study's evaluative framework. First, many of the criteria which were absent in the Rowe & Frewer framework, but present in one or more of the other four above-listed evaluative frameworks, may be properly described as 'outcome criteria'. While both process and outcome criteria may be validly applied in the evaluation of public participation exercises, process-oriented criteria are more compatible with this study's timing (i.e. field research occurred prior to the conclusion of the JRP) and research objectives (i.e. to evaluate the JRP's public participation initiatives *and* to identify and investigate factors which may have influenced Aboriginal participation in the JRP). Furthermore, the Rowe & Frewer framework has been successfully applied in evaluations of other public participation exercises (see e.g. Rowe et al., 2005; Rowe, Marsh & Frewer, 2004).

The evaluative framework applied in this study contains and reflects two modifications to the Rowe & Frewer framework. First, the 'task definition', 'transparency', 'public understanding of process', and 'structured decision-making' criteria enumerated in Rowe & Frewer (2000) were consolidated into a single 'process clarity' criterion. In turn, the 'cultural compatibility' and 'benefits' criteria were added to address any gaps which may have arisen from applying the Rowe & Frewer framework to the evaluation of public participation in an EA; though the Rowe & Frewer framework is derived from, and informed by, sources specific to the evaluation of public participation in EA (Rowe & Frewer, 2000), the Rowe & Frewer framework was initially developed in respect of public participation in science and technology policy-making. The cultural compatibility and benefits criteria are identified in one or more of the other four above-

listed frameworks, which were each developed in respect to public participation in environmental decision-making [Baker & McLelland, (2003); Bond, Palerm & Haigh, (2004); Noble, (2006); Andre, (2006)]. Furthermore, these two criteria are highlighted as factors of particular importance in the literature addressing Aboriginal involvement in public EA processes, (see e.g. Galbraith, Bradshaw & Rutherford, 2007; Baker & McLelland, 2003).

Having thus derived the nine evaluative criteria for this study's evaluative framework, I reviewed the five frameworks a second time to derive indicators for each of these criteria. First, I enumerated each of the indicators described in these frameworks vis-à-vis the identified evaluative criteria. Where indicators overlapped or referred to substantially the same quantity, I consolidated these into a single indicator. This review yielded 24 indicators, each of which were included in the evaluative framework applied in this study. The nine evaluative criteria and 24 indicators are summarized in Table 3.

**Table 3: Summary of the evaluative framework applied in this study’s evaluation of public participation in the JRP. These criteria and indicators were derived through an iterative review of the evaluative frameworks described in Rowe & Frewer (2000), Baker & McLelland (2003), Bond, Palerm & Haigh (2004), Noble (2006), and Andre (2006).**

Evaluative Criterion	Indicator	Evaluative Framework				
		Rowe & Frewer	Baker & McLelland	Bond, Palerm & Haigh	Noble	Andre
<b>Early involvement</b>	Public is involved in the EA process as soon as value judgments are salient	X		X		X
	Public is able to provide input as to the consultation format and processes		X			
	Public is able to provide input as to the scope of the assessment			X		
<b>Representative</b>	Participating public is ideologically representative of the broader population	X	X		X	
	Participating public is demographically representative of the broader population	X		X		
	All affected geographic communities are involved	X				
<b>Process Clarity</b>	Decision-makers utilize appropriate tools to structure and display the decision-making process	X				
	Decision-makers communicate their decision and attendant reasons to the public		X	X	X	
	Scope of the public participation exercise is clearly defined	X	X			X
	EA agency has taken steps at the outset of the process to display their decision-making process to the public	X	X			X

Evaluative Criterion	Indicator	Evaluative Framework				
		Rowe & Frewer	Baker & McLelland	Bond, Palerm & Haigh	Noble	Andre
<b>Process Clarity</b>	Public actually understands the decision-making process		X		X	X
<b>Resource Accessibility</b>	Sufficient participant funding	X	X			X
	Provision of capacity building support for marginalized groups		X			X
	Time sufficient to enable the public to consider, prepare and deliver responses	X				
	Access to high quality, appropriate, accessible and comprehensive information about the project and EA process	X	X	X	X	X
<b>Benefits to all partners</b>	The public must perceive there to be real benefits to participating in the EA				X	
<b>Influence</b>	Public participation had a genuine, visible impact on decision-making outcomes	X	X	X		
<b>Cultural compatibility</b>	Consultation process is culturally appropriate		X			X
	Participants respect and trust one another				X	
<b>Independence</b>	Process managers should be independent and unbiased	X				X
	The public should perceive process managers to be independent and unbiased	X				
<b>Cost-Effectiveness</b>	Exercise conducted in a timely manner	X	X			
	Exercise concluded at a reasonable cost	X	X			
	Consultation occurred at the optimal decision-making level					X

### 3.2.2 Data sources for the program evaluation

The data for the program evaluation phase of this research were comprised of interview and documentary data. The latter consisted of primary documents, including local newspapers, government statistics, and publications of the Northern Gas Project Secretariat, the JRP, the National Energy Board and the project proponents. The qualitative data contained in these documents provided historical background regarding the JRP, and informed the interview investigations conducted for this study (May, 2001).

The interview data, in turn, consisted of open-ended interviews with two groups of respondents (total n=34). The first category of respondents (n=19) was made up of Aboriginal and non-Aboriginal persons resident in both northern and southern Canada who had developed special knowledge of general public and Aboriginal participation in the JRP through their professional experiences (hereinafter the “Expert Respondents”). The majority of the interview data for the program evaluation phase of this study came from the Expert Respondents. The second group of respondents consisted of Aboriginal people (n=15) resident in Inuvik or Fort McPherson (the “Community Member Respondents<sup>3</sup>”). Although the interviews with these Community Member Respondents focused on the contextual factors explored in the second phase of this research, information from these interviews were also used in the program evaluation, where relevant to specific evaluative criteria.

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<sup>3</sup> in this study, the term “community member” refers to an Aboriginal person resident in any of the communities within the project area



The recruitment strategies and interview methodology differed somewhat for these two groups of respondents. To recruit the Expert Respondents, I conducted a search of public documents and websites, and drew upon my personal contacts in the study area to identify a total of 36 potential participants. Ultimately, 19 of the 36 people thus contacted agreed to participate in my study. This group of respondents included representatives from territorial, federal and municipal governments, Aboriginal organizations, industry and non-profit organizations.

The interviews of Expert Respondents were semi-structured, occurred in-person or over the phone, and were tape-recorded and later transcribed by myself. I subsequently sent the transcripts to the respondents for review, and they were given the opportunity to comment on and revise these records. In several instances, I obtained additional information from the Expert Respondents through follow-up emails and telephone calls.

I recruited the Community Member Respondents using transcripts of the JRP community hearings, consultation with the Fort McPherson Renewable Resource Council, and my pre-existing personal contacts in Inuvik. Persons thus contacted were asked to identify other possible participants (snowball sampling: Patton, 2002; Babbie & Benaquisto, 2002). Ultimately, the Community Member Respondents included individuals who had participated (n=nine) and who had not participated (n=six) in the JRP community hearings in their community. These respondents were from the demographically, culturally and economically divergent communities of Inuvik and Fort

McPherson.<sup>4</sup> It was hoped that by sampling respondents from such diverse elements, I would obtain a fuller spectrum of perspectives on the subject area, thereby permitting a fuller exploration of the topic (Kelle & Erzberger, 2004), and potentially enhancing the external validity of the data (Ruddin, 2006).

The interviews with Community Member Respondents were based upon the interview guide approach. I selected this approach due to its compatibility with northern Aboriginal communication styles, and appropriateness for individuals who may be uncomfortable with direct question and answer interviews (Huntington, 2000; McAvoy et al., 2000). The interviews occurred in Community Member Respondents' homes or in restaurants, and lasted an hour to an hour and a half. I tape-recorded the interviews, and the tapes were transcribed by a third party. Upon completion, I sent the interview transcripts to the Community Member Respondents, and invited them to review and comment on these.

### **3.2.3 Data analysis for the program evaluation**

I analysed the interview data for this study's program evaluation of the JRP's public participation initiatives using qualitative content analysis techniques. The term content analysis has been used inconsistently in the literature (Patton, 2002); in the context of my research, however, it refers to the deductive process of generating

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<sup>4</sup> For a comparison of Inuvik and the outlying communities in the Beaufort Delta, see Gray (2007).

inferences through the systematic identification of pre-determined characteristics present in the data (Berg, 1989).

In order to conduct this content analysis, I reviewed the interview data for concepts and statements relevant to the nine evaluative criteria and 24 indicators used to evaluate the JRP's public participation initiatives. I then categorized these interview excerpts in a synthesis table according to their relevance to these evaluative criteria and indicators. Finally, I analyzed the synthesis table to find differences, commonalities, and patterns in the data. When interview data conflicted, I reconsidered the data within the context in which they were collected (Taylor, 1998), paying particular attention to whether the respondent resided in the project area and had participated in the JRP hearings, the type of organization (if any) the respondent had represented at the proceedings, and consistency with the other statements made by the respondent during the interview.

### **3.3 Phase II: Study of Contextual Factors**

#### **3.3.1 Areas of inquiry**

I derived the areas of inquiry examined through the study of contextual factors limiting Aboriginal participation in the JRP through a review of the Aboriginal civic engagement and critical EA literature. In particular, I reviewed these two bodies of literature to identify factors beyond EA practices, which have been found to limit participation in such exercises. As my research aims to explain the low rate of individual Aboriginal participation in the JRP, I further narrowed my focus to those contextual factors which disproportionately or specifically inhibit individual-level Aboriginal public

participation in such processes. Through this review, I developed five broad areas of inquiry; namely: socio-economic status, relationships, consultation fatigue, Euro-Canadian colonialism, and relevancy. These factors are described in detail in Chapter 4.

### **3.3.2 Data sources and analysis**

The data for the study of contextual factors limiting Aboriginal participation in the JRP consisted of qualitative interviews with the Community Member Respondents, using the recruitment and interview methods described in section 3.2.2.

In order to conduct the analysis for the study of contextual factors limiting Aboriginal participation, I analyzed the above interview data using open and axial coding to identify themes within the data (thematic analysis: Ezzy, 2002). The first step in this process, open coding, consists of reviewing the data line by line to identify themes, critical terms, and key events (Newman, 2004). Thus during the open coding process, I reviewed the interviews of Community Member Respondents and broke the data down into units of information. I then categorized these units according to codes which were influenced by existent theory, and included both in vivo and sociological constructs (Berg, 1989; Charmaz, 2006; Ezzy 2002). The former included terms drawn directly from the interviews themselves, such as “big shots”. The latter included terms derived from the literature, such as “cultural imperialism”. Through a process of constant comparison, I revised and refined the categories over the open coding process (May, 2001). Ultimately, the open coding process produced a total of 49 key themes or coding categories.

The coding categories derived through the open coding process form the basis of axial coding, wherein the analyst re-examines the data to determine the relationships

between the key themes derived through open coding (Ezzy, 2002). At this stage of the analysis, I reviewed the data to determine how, or whether, each of the 49 key themes derived through the open coding phase related to the five contextual factors comprising the main focus of this study of contextual factors limiting Aboriginal participation in the JRP i.e. socio-economic status, relationships, consultation fatigue, Euro-Canadian colonialism, and relevancy. I also considered the relationships between these five central factors.

Ultimately, I was able to integrate each of the 49 key themes around one or more of socio-economic status, relationships, consultation fatigue, Euro-Canadian colonialism, or relevancy by applying broad definitions of these central factors which built upon, and at times extended beyond, existent literature. For example, one of the 49 key themes emergent from the open coding phase was 'age'. The literature reviewed for this study does not specifically address a link between age and participation; however, the critical EA and Aboriginal civic engagement literature do evince a relationship between socio-economic status (as expressed by educational attainment and income levels) and civic participation. As age is a component of socio-economic status, and socio-economic status is one of the five broad contextual factors identified in the theoretical framework for this study, I ultimately categorized age as one of the sub-themes relating to socio-economic status. This axial coding process continued until each of the 49 key themes derived through the open coding phase had been integrated around one or more of the five contextual factors, and no further relationships could be observed between these five central factors.

I used a qualitative data analysis program (“In Vivo”) throughout the open and axial coding processes described above. In particular, I used this program to organize and retrieve the interview data associated with the key themes and coding categories.

### **3.4 Research Limitations**

The timing of this research was such that I could not fully assess the JRP’s performance in respect of one of the evaluative criteria identified in the evaluative framework described in section 3.2.1; namely, the influence of public participation on the JRP outcomes.

At the time of writing, the JRP was expected to release its final report late in 2009, with the Federal Government response to the report to follow four months thereafter (JRP, 2008; Cooperation Plan, 2002). My fieldwork for this study, however, took place between June and August 2008. In consequence, I was only able to partially assess the JRP’s performance in respect of the ‘influence’ criterion by examining public influence on the one existing decision of the JRP for which the panel sought prior public input; namely, the panel’s October 2004 decision concerning the sufficiency of the environmental impact statement for the proposed project. This decision of the panel provides at least a partial indication of what might be expected regarding the influence of public participation on the ultimate outcomes of the JRP.

A second temporal limitation of this research is that some of the questions posed during the interviews pertained to events that had occurred two to four years prior. In consequence, the validity of this study’s interview data may have been negatively impacted by respondent memory failure (Blaikie, 2000; Babbie & Benaquisto 2002).

A final research limitation arises from, and is a reflection of, the cross-cultural nature of this study. One author explains: “Cross-cultural inquiries add layers of complexity to the already complex interactions of an interview. The possibility of misunderstanding is increased significantly...” (Patton, 2002, p. 391). The history of oppression and exploitation of Aboriginal peoples in northern Canada by non-Aboriginal settlers and researchers, and my specific position as a non-Aboriginal researcher working with Aboriginal populations, added a further challenge to my research. McAvoy et al. (2000, p. 481) write in respect of cross-cultural resource management research, “The disadvantages of Whites doing this research are their social distance from the culture being studied...and the strong distrust often felt by participants.” Such dynamics are particularly pertinent to the interview data of this study exploring the presence or absence of colonial dynamics within the JRP processes.

It is my hope that the latter limitations were partially mitigated by the utilization of culturally appropriate research instruments (Nickels et al., 2007), and by the fact that I had lived and worked in Inuvik for a year and a half prior to beginning this research. Nevertheless, the reader should keep in mind that the results of this investigation are likely affected to some degree by these cross-cultural interactions.

## **4: THEORETICAL FRAMEWORK**

The theoretical framework for this research was developed from the critical EA and Aboriginal civic involvement literature. From these two bodies of literature I identified the areas of inquiry explored in the data collection phase of this study.

In this chapter I draw upon the critical EA literature to explain and justify the nine criteria I selected to evaluate the JRP's public participation processes in the first phase of the research. I then review the critical EA and Aboriginal civic involvement literature to identify the five contextual factors of potential relevance to Aboriginal participation in the JRP that I used in the second phase of the research.

### **4.1 Program Evaluation Framework**

Through the iterative process described in Chapter 3.2.1, I developed a nine-part framework for the program evaluation of public participation in the JRP. This section discusses the criteria selected for that framework, placing particular emphasis on how these criteria may specifically relate to Aboriginal participation in EAs.



**Table 4: Evaluative criteria applied in the program evaluation of the JRP. These criteria were devised through a review of the evaluative frameworks described in Rowe & Frewer (2000); Baker&McLelland(2003); Bond, Palerm & Haigh (2004); Noble (2006) and Andre (2006).**

Evaluative Criterion	Explanation	Sources
Early involvement	The public should be involved in the EA process as soon as value judgments enter into play, and be able to provide input regarding the form of the consultation process itself	Abelson et al., 2003; Andre et al., 2006; Rowe & Frewer, 2000; Beierle, 1999; Bond et al., 2004; Baker & McLelland, 2003; Petts, 2001
Representativeness	Members of the public who participate in the EA process should be ideologically, geographically, and demographically representative of the broader public	Abelson et al., 2003; Andre et al., 2006; Rowe & Frewer, 2000; Bierele, 1999; Bond et al., 2004; Baker & McLelland, 2003; Petts, 2001
Process clarity	The EA process should be structured, communicated to, and understood by, the public	Rowe & Frewer 2000; Baker & McLelland, 2003; Noble, 2006; Andre et al., 2006; Bond et al., 2004; Petts, 2001
Resources	EA participants should have access to appropriate and adequate information and sufficient human resources, time and material resources	Baker & McLelland 2003; Armitage, 2005; Rowe & Frewer, 2000; Rutherford & Campbell, 2004; Noble, 2006; Bond, 2004; Andre et al., 2006; Petts, 2001
Benefits	Benefits of involvement must be apparent to the public	Noble, 2006; Petts, 2001
Influence	Participation should have a discernible, positive impact on EA outcomes	Rowe & Frewer 2000; Noble, 2006; Bond et al., 2004; Andre et al., 2006; Abelson et al., 2003
Cultural compatibility	EAs should be adapted to the cultural context and include trust-building mechanisms	Baker & McLelland, 2003; Andre et al., 2006; Noble, 2006
Independence	EA bodies should be independent from project proponents and government bodies, and be seen as such by the general public	Rowe & Frewer, 2000; Andre et al., 2006
Cost-effectiveness	Public input into the EA exercise should occur at the most appropriate decision-making level, and be conducted in a timely manner at a reasonable cost	Rowe & Frewer, 2000; Baker, & McLelland 2003; Andre et al., 2006; IAIA, 1999

**4.1.1 Early involvement:** *the public should be involved in the EA process as soon as value judgments enter into play, and be able to provide input regarding the form of the consultation process itself*

In order to ensure that public consultation be meaningful and not artificially constrained to providing input into minor project-related details, the public must be involved early on in the decision-making process (Abelson et al., 2003; Andre et al., 2006). Specifically, participants should be able to engage with, and provide input on, the underlying assumptions and options relevant to the EA process (Rowe & Frewer, 2000; Bierele, 1999). At a minimum, the public should be involved in determining what form of EA, if any, is required (screening) and deciding what issues the EA will address (scoping) (Bond et al., 2004).

Early involvement may be particularly important in EA processes involving Aboriginal populations possessing distinct cultural views and values, which may diverge from those held by EA regulators. In such instances, late involvement could result in inappropriate issue definition and rejection of project alternatives before they are even considered (Rutherford & Campbell, 2004). In addition, the literature and recent court decisions indicate that ‘early involvement’ for EAs involving Aboriginal populations should include input as to the consultation format itself (Baker & McLelland, 2003; AFN, 2000; *Dene Tha First Nations v. Minister of Environment*, 2006; *Haida Nation v. British Columbia (Minister of Forests)*, 2004). A study of Aboriginal participation in EAs in British Columbia concludes:

..First Nations must be asked what participation techniques they prefer, rather than what techniques are acceptable. Just because meetings and presentations take place in First Nations’ communities and are accepted by First Nations, does not mean that these techniques are the preferred choice for First Nations” (2002, p. 599)

**4.1.2 Representative:** *members of the public who participate in the EA process should be ideologically, geographically, and demographically representative of the broader public*

It is a principle of effective participatory decision-making that the active and inactive publics should be represented in the decision-making exercise, and that the participating public should be representative of the larger population (Rowe & Frewer, 2000; Noble, 2006; Andre et al, 2006). In order for the participating public to be representative, all affected geographic communities must be involved in the decision-making process (Rowe & Frewer, 2000; Abelson et al., 2003). Further, the views expressed by participants should be representative of the spectrum and distribution of opinions present amongst the broader public (Rowe & Frewer, 2000). Finally, the participating public should be demographically representative of the larger population (Rowe & Frewer, 2000; Bond et al., 2004; Andre et al, 2006).

**4.1.3 Process clarity:** *the EA process should be structured, communicated to, and understood by, the public*

The sponsoring agency should ensure that the EA adheres to an organized decision-making process, and that this process is displayed to the public. In particular, decision-makers should utilize tools such as decision trees or multi-attribute theory to structure their decision-making processes (Rowe & Frewer, 2000; Van Hinte, Gunton & Day, 2007). In turn, the relevant authorities or the EA body itself should take steps to communicate the scope, mechanisms and expected output of the participatory exercise to the public (Rowe & Frewer, 2000; Baker & McLelland, 2003). In addition, when the decision-makers issue their decision, they must detail their reasons for the same (Baker & McLelland, 2003; Andre et al, 2006). Finally, in order for EA processes to be transparent,

the public must actually understand the decision making-process (Baker & McLelland, 2003; Noble, 2006).

**4.1.4 Resource accessibility** – *EA participants should have access to appropriate and adequate information and sufficient human resources, time and material resources*

The demands associated with participating in EA processes are such that members of the public require a number of resources to fully participate. One such resource is adequate, culturally appropriate, understandable, and objective information about the proposed project and corresponding EA process (BC First Nation Environmental Assessment Working Group, 2000; Baker & McLelland, 2003; Armitage, 2005). For EA processes involving Aboriginal populations, the information requirement may further extend to providing translated materials in the relevant Aboriginal languages (O’Faircheallaigh, 2007; Baker & McLelland, 2003; Armitage, 2005).

In addition to the above-described information requirements, EA sponsors should provide adequate human and material resources to the participating public (Rowe & Frewer, 2000; Andre et al 2006). Typically this requirement is met through the provision of participant funding (Rutherford & Campbell, 2004; O’Faircheallaigh, 2007). In EAs involving marginalized groups who would otherwise lack the capacity to participate in such a process, however, the obligation may also include the requirement to provide additional capacity-building support (Andre et al, 2006; Ellis, 2005; Noble, 2006; Baker & McLelland, 2003). Such capacity-building support has been identified as a particularly important element of efforts to support Aboriginal participation in Canadian EA processes (O’Fairchealligh, 2007; AFN, 2000; Confederacy of Treaty Six Nations, 2000).

Time is the final resource addressed within the evaluative criterion of ‘resource accessibility’. In particular, EA participants should have sufficient time to consider the information presented to them, and prepare and deliver their response to the decision-maker (Abelson, 2003; Rowe & Frewer, 2000). The critical EA literature stresses the need for longer time frames for EAs involving Aboriginal populations (Finish Ministry of the Environment, 1997; Baker & McLelland, 2003; Wismer, 1996). This body of literature does not, however, include any guidelines or recommendations as to the amount of additional time required to ensure adequate and effective Aboriginal participation in such processes.

#### **4.1.5 Benefits to all partners – *benefits of involvement must be apparent to the public***

There must be real, readily apparent, benefits associated with taking part in the EA process. Potential benefits include enhanced knowledge and the opportunity to convey one’s opinions to the decision-makers (Petts, 2001; Rutherford and Campbell, 2004). The critical EA literature indicates that such benefits, or lack thereof, may be of particular relevance to Aboriginal participation in such processes. In particular, some scholars argue that Aboriginal EA participation has been limited by the failure of typical EAs to help Aboriginal people realize their own agendas (Davis, 2001; Paci, Tobin & Robb, 2002; Shapcott, 1989).

#### **4.1.6 Influence – *participation should have a discernible, positive impact on EA outcomes.***

Public input should have a genuine, visible impact on EA outcomes (Rowe & Frewer, 2000; Noble, 2006; Bond, 2004); otherwise, the exercise is “..an empty and frustrating process for the powerless” (Arnstein, 1969, p. 216 ). In particular, the

environmental impact statement and final decision should clearly evince consideration of, and responsiveness to, public input (Noble, 2006).

**4.1.7 Cultural compatibility – *EAs should be adapted to the cultural context and include trust-building mechanisms***

Participatory EA processes should be context-oriented and culturally specific to the population being consulted (Baker & McLelland, 2003; Andre et al, 2006). Culturally compatible consultation initiatives may include trust-building mechanisms to help overcome differences in understanding and trust deficits between the public and the sponsoring agency (Noble, 2006; Roberts, 1996).

Again, the critical EA literature specifically highlights the importance of cultural compatibility vis-à-vis Aboriginal EA participation. Some authors assert that Euro-Canadian EA processes can not, or do not, truly incorporate Aboriginal input due to the cultural schism between Western and Aboriginal ways of thinking (White, 2006; Ellis, 2005). Aboriginal people, in turn, may be less included to participate in public EA processes if they are wary of being misunderstood by Western regulators (Stevenson, 1997). The impact of such ideological rifts may be exacerbated by the use of culturally inappropriate consultation fora. For instance, a number of authors caution against using public hearings (i.e. formal proceedings where members of the public individually state positions that are recorded) as a medium of public consultation for Aboriginal populations, arguing that such hearings may alienate and discourage Aboriginal participation (Vincent, 1994; O’Faircheallaigh, 2007; Roberts, 1996).

The critical EA literature also highlights the importance of trust-building initiatives in EA processes involving Aboriginal populations. According to one academic:

Past environmental damage and bad relationships between government agencies and Aboriginal groups and communities make communities reluctant to participate in more environmental assessment processes. The parties involved need to work together and build trust. (Roberts, 1996, p. 123)

**4.1.8 Independence** – *EA bodies should be independent from project proponents and government bodies, and be seen as such by the general public*

Participatory exercises should be conducted and managed in an unbiased manner, and be perceived as such by the general public (Rowe & Frewer, 2000; Andre et al, 2006; Van Hinte, Gunton & Day, 2007). A recent study of northern co-management boards asserts that the independence of regulatory officials may be compromised by factors including the appointment process, funding, and board members' orientation and affiliations (White, 2008).

**4.1.9 Cost-effectiveness** – *public input into the EA exercise should occur at the most appropriate decision-making level, and be conducted in a timely manner at a reasonable cost*

The objectives of participatory exercises should be met at a reasonable cost (Rowe & Frewer, 2000; Baker & McLelland, 2003) and in a timely manner (Van Hinte, Gunton & Day, 2007; IAIA, 1999). In addition, participation in EA processes should occur at the optimal level of the decision-making process for a proposed project (Andre et al., 2006).

**4.2 Areas of Inquiry for the Study of Contextual Factors**  
**Limiting Aboriginal Participation in the JRP**

This section of the chapter describes and expands upon five factors comprising the focus of this project's study of contextual factors limiting Aboriginal participation in the

JRP. As described in Chapter 3, these factors were derived through a review of the critical EA and Aboriginal civic engagement literature and consist of: socio-economic status, social relationships, consultation fatigue, Euro-Canadian colonialism, and relevance. These factors are summarized in Table 5 and discussed in the ensuing sections.



**Table 5: Areas of inquiry explored through this study’s examination of contextual factors constraining individual-level Aboriginal public participation in the JRP. These factors were derived from the critical EA and Aboriginal civic engagement literature**

Contextual Factor	Explanation	Sources
Socio-economic status	Socio-economic factors including literacy, income levels and sense of personal and external agency may impact Aboriginal participation in public EA processes.	Bishop & Preiner, 2005; Diduck & Sinclair, 2002; Cheng & Mattor, 2006; Cairns, 2003; Elections Canada, 2003; Silver et al., 2006; CTSN, 2003
Social Relationships	Social relationships may constrain or enable Aboriginal participation in EA proceedings by serving as vehicles for information, a source of peer pressure, or a means of socialization	Vincent, 1994; Silver et al., 2006; Baker, Adam & Davis, 2005; Bishop & Preiner, 2005
Consultation fatigue	Extensive, on-going consultation activities may result in participant burnout and informed cynicism, and thus negatively impact public participation in ensuing EA processes	World Bank, 1996; Bond, Palerm & Haigh, 2004, Villebrun, 2002; Labrador Inuit Association, 2000; Innu Nation, 2000; Diduck & Sinclair, 2002; Cheng & Mattor, 2006; Mulvihill & Baker, 2001; Shanks, 2006; Roberts, 1996
Euro-Canadian colonialism	A history of social exclusion from dominant institutions and processes, together with push-back against illegitimate foreign powers, may diminish Aboriginal participation in public EA processes	Hefler, 2006; Ladner, 2003; Cairns, 2003; Hunter, 2003; Silver, Hay & Gorzen, 2004; Federation of Canadian Municipalities, 2004; Silver, Keeper & Mackenzie, 2006; Baker & McLelland, 2003; Shapcott, 1989; White, 2006; Ellis, 2005; O’Faircheallaigh, 2007; BC First Nation Environmental Assessment Working Group, 2000
Relevance	The relevancy of public EA processes to Aboriginal populations, and ultimately the desire of Aboriginals to participate in such processes, may be limited due to forum and outcome limitations, as well as ideological disconnects.	Davis, 2001; Paci, Tobin & Robb, 2002; Shapcott, 1989; Villebrun, 2002

#### **4.2.1 Socio-economic status**

The literature on critical EA and the literature on Aboriginal civic engagement emphasize the potential impacts of socio-economic status on public participation, and specifically highlight the net negative impacts of such on Aboriginal participation in the civic activities of dominant society. Studies of Canadian electoral participation indicate that people with higher socio-economic standing participate in federal elections to a greater extent than people with lower socio-economic standing because the former have more skills, resources, and exposure to public political discourses (Silver, Keeper and Mackenzie, 2006; Stolle & Cruz, 2005). Low Aboriginal participation in federal elections has been attributed in part to low literacy and employment levels, and less connection to mainstream discussions surrounding federal elections (Silver et al., 2006). The critical EA literature, in turn, suggests that well educated people from the middle and upper classes are disproportionately represented in public EA hearing processes (Prystupa, 1994).

Evidence from Aboriginal populations, together with the socio-economic realities of Canadian Arctic communities, leave open the possibility that socio-economic factors may have negatively impacted individual-level Aboriginal participation in the JRP hearings. Aboriginal stakeholders assert that socio-economic factors, particularly educational attainment, are important determinants of Aboriginal participation in EA processes (see e.g. Confederacy of Treaty Six Nations, 2001). The socio-economic conditions in Arctic communities have been described as ‘third world conditions within a first world economy’ (Usher, Duhaime, & Searles, 2003 as cited in Cliff, 2007, p. 37),

and literacy issues are prevalent in the Aboriginal population of the NWT (Statistics Canada, 2003).

#### **4.2.2 Social relationships**

The literature further indicates that Aboriginal participation in EA processes may be influenced by individuals' relationships with their family, extended community, and the Aboriginal leadership. Specifically, a body of Aboriginal civic engagement literature argues that social and family relationships can be formative locations of socialization for traits and values influencing Aboriginal civic engagement (Silver et al., 2006; Stolle & Cruz, 2005), and may also be key sources of information in respect of such public processes (Baker, Adam & Davis, 2005). It is important to note that such relationships may ultimately either foster or hinder participation in public EA processes. To this end, a discussion paper produced in conjunction with the Great Whale EA in northern Quebec asserts that kin and community relationships may be the source of culturally-based peer pressure to either not participate in EA processes, or abstain from voicing dissenting opinions in such processes (Vincent, 1994).

Aboriginal leaders may exert a unique form of social influence on Aboriginal public participation in EA processes. Studies of Aboriginal political participation indicate that Aboriginal persons may feel pressure to abstain from disagreeing with the leadership in public fora so as to avoid being 'blacklisted' by the leadership (Bishop & Priener, 2005). A 2007 study of the JRP proceedings suggests that the Aboriginal leadership strongly influenced opinions voiced by the Aboriginal public at the hearings (Gray, 2007). The risk of being blacklisted, together with collectivist Aboriginal cultural values

(Kral, 2003), leave open the possibility that pressure from the Aboriginal leadership may have constrained Aboriginal public participation in the JRP hearings.

#### **4.2.3 Consultation fatigue**

A third area of inquiry explored through this study of contextual factors limiting individual-level Aboriginal participation in the JRP proceedings is consultation fatigue. In particular, the critical EA literature asserts that consecutive, intensive public consultation exercises may result in “fatigued” populations who are no longer mobilized or willing to participate in such exercises (Diduck & Sinclair, 2002; Mulvihill & Baker, 2001). Participants may also become fatigued over the course of a single, particularly long, assessment process (Erikson & Kennedy, 1985). Finally, such fatigue may result from previous negative experiences with public consultations undermining trust and willingness to engage in future exercises (Bond, Palerm & Haigh, 2004, Villebrun, 2002; Labrador Inuit Association, 2000; Innu Nation, 2000).

The history of consultation and EAs in the Canadian north, and the length of the JRP process itself, leave open the possibility that consultation fatigue may have negatively impacted Aboriginal participation in the JRP hearings. The population targeted by the current JRP proceedings has been subject to numerous EA processes dating back to the Berger Inquiry and the Beaufort Sea Environmental Assessment Review Process in the early 70s and 80s (Erikson & Kennedy, 1985). Participation fatigue and cynicism were evident at the conclusion of the latter review, causing two commentators to conclude: “In the Beaufort region, as elsewhere, there has been considerable experience with, and cynicism about, external agencies consulting with the northern public without any observable effect” (Erikson & Kennedy, 1985, p. 619).

Public EA and consultation processes have proliferated across the Canadian north since the Berger Inquiry and the Beaufort Sea Environmental Review Board process, resulting in observed consultation fatigue amongst northern Aboriginal peoples (MacLachlan, 1984; Shanks, 2006; Roberts, 1996). It is possible that such fatigue could have been compounded by the duration of the JRP process: over five years has lapsed since the appointment of the panel, and it still has not released its final report and recommendations.

On the other hand, it is possible that the Berger Inquiry acted as a powerful precedent countering some of the above-described fatigue impacts. Specifically, the resultant moratoriums on northern pipeline construction are compelling evidence of the influence which the public may exert on EA processes. The memory of the Berger Inquiry and its historic outcomes may have helped counter or mitigate the informed cynicism present in an “over-consulted” population.

#### **4.2.4 Euro-Canadian colonialism**

The impacts of the historical and contemporary oppression of Canadian Aboriginal peoples on Aboriginal participation in public EA processes is the fourth contextual factor explored through this research. In the millennium since first contact, the relationship between Aboriginal people and Canada’s settlers has undergone several distinct phases, ranging from co-operation to exploitation and attempted assimilation (RCAP, 1996, vol. 1). Around the end of the eighteenth century, however, political, economic, and social factors gave rise to a profound power shift from Aboriginals to settlers and a period of on-going abuse of power constituting “...excessive and systemic political dominance” (RCAP, 1996, Vol. 1, part 2, ch. 8, p. 2).

The critical EA literature and Aboriginal civic engagement literature suggests that this on-going institutional racism constrains Aboriginal participation in public EA processes. In particular, the literature indicates that Aboriginal participation in these processes may be negatively impacted by low self-efficacy, the social exclusion of Aboriginal peoples from Canada's dominant institutions, and Aboriginal protest against colonial powers (see e.g. Alfred, Pitawanakwat & Price, 2007; Cairns, 2003; Shapcott, 1989).

First, the critical EA literature indicates that when people believe they will not be able to significantly impact decision outcomes, they are less likely to participate in the decision-making processes (Cheng and Mattor, 2006). In addition, the literature on Aboriginal youth participation in federal electoral politics identifies a link between sense of personal agency and electoral participation. Specifically, Aboriginal youth respondents report they would be more likely to vote if they had a sense of agency in their own lives (Alfred, Pitawanakwat & Price, 2007). Sense of agency and perceptions about personal ability to influence public decision-making processes may be actively undermined by experiences with on-going institutional racism such as that documented by the 1996 Royal Commission on Aboriginal Peoples (RCAP, 1996, vol. 1, part 2).

The Aboriginal civic engagement and critical EA literature further indicate that Aboriginal civic and EA participation may be negatively impacted by the dominant culture's failure to adequately welcome or value Aboriginal participation in its institutions and processes. Civic engagement scholars have described such exclusion as a feeling that a given public process is 'not their process' (Hefler, 2006, p. 103) or 'not for people like us' (DeMontfort University and the University of Strathelyde, 1998, p. 6).

The critical EA literature indicates that Aboriginal people feel that their input is often not valued in, and is excluded from, EA processes (Roberts, 1996; Baker & McLelland, 2003). According to one Aboriginal scholar, “As our experiences with [traditional ecological knowledge] has shown us, participation does not guarantee that Aboriginal people will be valued, listened to, and afforded the respect we deserve” (Simpson, 2001, p. 144).

Finally, the Aboriginal civic engagement and critical EA literature suggest that some Aboriginal people may eschew participating in public EAs or other civic activities affiliated with the federal or provincial governments as a form of nationalist protest. Recent studies of Aboriginal electoral participation, for instance, attribute low Aboriginal participation in Federal and provincial elections to Aboriginal people’s perception of these as illegitimate exercises of colonial power (Cairns, 2003; Elections Canada, 2004; Ladner, 2003; Hunter, 2003). A study of Haida participation in EAs in British Columbia similarly concludes that: “Participation in the process is rejected by some Natives as a legitimization of the status quo that asserts foreign sovereignty, laws and regulations over their land” (Shapcott, 1989, p. 64). Some Aboriginal organizations have indicated that Aboriginal participation in public EA processes will not improve unless and until Aboriginal people are conferred some degree of power over the proceedings (see e.g. British Columbia First Nation Environmental Assessment Working Group, 2000).

#### **4.2.5 Relevance**

In order for persons to invest the time and energy required to participate in an EA, the forum, subject, and outcome should be relevant to them. The critical EA literature, however, argues that public EAs may be of limited relevancy to Aboriginal peoples (see

e.g. Villebrun, 2002; Davis, 2001; Shapcott, 1989). As such, the fifth and final contextual factor examined in this research is the impact of EA relevancy on Aboriginal participation. This factor overlaps with the previous one in that many of the culturally based relevancy failings may be viewed as symptoms or expressions of contemporary Euro-Canadian colonialism. However, relevancy failings linked to outcome limitations extend beyond the Euro-Canadian colonialism factor explored in Chapter 4.2.4. Both of these forms of relevancy failings are discussed below.

With respect to the former, some scholars argue that public EA proceedings are conducted in a culturally alien manner (Villebrun, 2002), and that their agenda contravenes the spirit of Aboriginal people's values and concerns (Shapcott, 1989; Paci, Tobin & Robb, 2002). The emphasis on highest valued use in EAs conducted pursuant to the *Canadian Environmental Assessment Act*, for instance, is said to be fundamentally incompatible with First Nations' equity and ecosystem values (Paci, Tobin & Robb, 2002). Such limitations led one scholar to conclude: "In EIA [environmental impact assessment] devised by non-Natives, based on cost-benefit analysis, and biased in favour of non-resident "experts", the question of relevance answers itself" (Shapcott, 1989, p. 61).

In addition to these culturally-based relevancy failings, EAs may not be the optimal venue for Aboriginal people to deal with the complex range of issues associated with proposed developments occurring in or near their traditional territories (Davis, 2001; Paci, Tobin & Robb, 2002). In northern Canada, there has been a rapid increase in the use of impact benefit agreements -- legally binding, project-specific agreements between a corporate proponent and impacted stakeholder group(s) regarding adverse effects and



benefits associated with the proposed project (Shanks, 2006). The increasing use of these agreements by project proponents and Aboriginal organizations in the Canadian north has been attributed to deficiencies in public EA processes, including the lack of tools to achieve long-term and regional goals, and the failure to make recommendations in respect of project benefits (Galbraith, Bradshaw & Rutherford, 2007). In short, the literature suggests that outcome restrictions may be limiting the relevancy of public EA processes to northern Aboriginal people, at least at the governmental level.

There is also the possibility that such impact and benefit agreements may be dampening individual-level Aboriginal public participation in EA processes, operating in a negative feedback cycle with the same. Individuals are less likely to take part in participatory exercises when they believe their interests are adequately represented by other people, and are often willing to defer to others who are ‘better positioned’ to make decisions of public importance (Diduck & Sinclair, 2002). Individual members of an Aboriginal group may feel that they are adequately represented by their leadership in negotiations for impact benefit agreements, and that the agreements arising from these negotiations sufficiently protect their interests. Even if they don’t feel that their interests are adequately represented by these agreements, other members of the Aboriginal public may likewise be discouraged from participating in the associated EA processes because they are resigned to the belief they won’t obtain anything better than that conferred by the agreement, or feel pressure from their peers to abstain from challenging what has been negotiated on behalf of the group as a whole. Significantly, such impact and benefit agreements often include “non-opposition” clauses requiring signatories to publicly support the project and abstain from raising objections during the associated regulatory

processes (Shanks, 2006). As a consequence, it is conceivable that Aboriginal public participation in EA processes could be lessened in those instances where the Aboriginal leadership has actively pursued impact benefit agreements with project proponents. Nevertheless, supplanting public forum EAs with confidential intra-stakeholder agreements does not guarantee a full airing of the issues and concerns that should be given weight in approving and structuring significant mega-projects such as the proposed MGP.

### **4.3 Summary**

This chapter presents an overview of the critical EA and Aboriginal civic engagement literature pertaining to the evaluation of public participation in EAs, and contextual factors limiting Aboriginal participation in these processes. On this basis, a set of nine program evaluation criteria and five contextual factors were identified for application in the analysis of the JRP to judge the quality of participation process and make sense of the (limited) quantity of Aboriginal and public participation in this process, respectively.

## 5: PROGRAM EVALUATION RESULTS

This chapter presents the results of the evaluation of the JRP's public participation initiatives according to the nine evaluative criteria and associated indicators derived through the iterative process described in chapter three. For each criterion I rated the JRP's performance using the following scale:

- Fully met = all indicators for the criterion are satisfied;
- Largely met = more than 50 per cent of the indicators for the criterion are satisfied;
- Partially met = 50 per cent or less of the indicators for the criterion are satisfied; and
- Not met = none of the indicators for the criterion are satisfied.

The evaluation reveals that one of these evaluative criteria is fully met, two criteria are largely met, four are partially met, one is not met, and one could not be directly assessed. The results are summarized in Table 6 and discussed in the ensuing portions of this chapter.





**Table 6: Results of program evaluation of the JRP's public participation initiatives according to the criteria derived from Rowe & Frewer (2000); Noble (2006); Andre (2006); Baker & McLelland (2003) and Bond, Palerm & Haigh (2004). Not met (○) = no indicators satisfied. Partially met (◐) = 50 per cent or less of indicators satisfied. Largely met (◑) = more than 50 per cent of indicators satisfied. Fully met (●) = all indicators satisfied**

Evaluative Criterion	Performance	Strengths	Weaknesses
Early involvement	●	<ul style="list-style-type: none"> <li>Public able to provide input regarding the terms of reference, and the location and timing of hearings</li> </ul>	<ul style="list-style-type: none"> <li>Public not able to provide feedback as to consultation format</li> </ul>
Representativeness <sup>5</sup>	◐	<ul style="list-style-type: none"> <li>Participating public was geographically representative</li> </ul>	<ul style="list-style-type: none"> <li>Participating public was not demographically representative</li> </ul>
Process clarity <sup>6</sup>	●	<ul style="list-style-type: none"> <li>Scope of public participation was clearly defined</li> <li>Relevant EA agencies took steps to publicly display their decision-making process</li> </ul>	<ul style="list-style-type: none"> <li>Many community members did not exhibit good understanding of the JRP process</li> </ul>
Resource accessibility	◐	<ul style="list-style-type: none"> <li>Federal government provided significant capacity building support to regional Aboriginal organizations</li> <li>JRP provided adequate time for general public participation</li> </ul>	<ul style="list-style-type: none"> <li>Participation funding inadequate</li> <li>Project and process information was difficult to access and was culturally inappropriate</li> <li>Time limits inappropriate for community members</li> </ul>

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<sup>5</sup> The data were inconclusive as to one of the three indicators used to assess this criterion (ideological representativeness). As such, ideological representativeness does not appear as either a strength or a weakness in this table.

<sup>6</sup> The timing of this study was such that the researcher was unable to assess two of the indicators for this criterion; namely, “decision-makers utilize appropriate tools to structure and display the decision-making process” and “decision-makers communicate their decision and attendant reasons to the public”. Preliminary data, however, did raise concerns regarding these indicators

Evaluative Criterion	Performance	Strengths	Weaknesses
Benefits to all partners		<ul style="list-style-type: none"> <li>Wide range of stakeholders reported real benefits associated with participation</li> </ul>	
Influence	unable to directly assess	<ul style="list-style-type: none"> <li>N/A</li> </ul>	<ul style="list-style-type: none"> <li>N/A. However, decisions surrounding the JRP Agreement and environmental impact statement sufficiency raise concerns regarding this criterion</li> </ul>
Cultural compatibility			<ul style="list-style-type: none"> <li>Significant cultural incompatibilities regarding consultation format</li> <li>Community Member Respondents report low levels of trust for the panel</li> </ul>
Independence		<ul style="list-style-type: none"> <li>Panel members were legally independent from appointing bodies</li> </ul>	<ul style="list-style-type: none"> <li>Evidence that some panel members may have been biased towards project approval</li> <li>A range of respondents indicate that they did not believe the JRP to be independent</li> </ul>
Cost-effectiveness <sup>7</sup>		<ul style="list-style-type: none"> <li>JRP was not conducted in a timely manner</li> </ul>	<ul style="list-style-type: none"> <li>Total costs were reasonable</li> </ul>

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<sup>7</sup> The data for this study were inconclusive with respect to the third indicator used to assess this criterion (“consultation occurred at the optimal decision-making level”).

## 5.1 Early Involvement

*Indicators:*

- √ Public is involved in the EA process as soon as value judgments are salient;
- X Public is able to provide input as to the consultation format and processes;
- and
- √ Public is able to provide input as to the scope of the assessment

The criterion of early involvement was largely met by the JRP's public participation initiatives. In particular, although members of the public were not able to provide feedback regarding the format of the consultation itself, they were involved as soon as value judgments became salient, and were able to provide input as to the scope of the assessment.

First, the public was invited to submit written comments on the draft Terms of Reference for the JRP in June 2004 (Inuvialuit Game Council, Mackenzie Valley Environmental Impact Review Board & Canadian Environmental Assessment Agency, 2004). The Terms of Reference established the scope of the assessment, and further instructed decision-makers to assess the need for, and alternatives to, the project (Terms of Reference, 2004). In addition, the public was able to provide input as to the timing and location of the hearings (JRP, 2005b). On the other hand, the public was not provided the opportunity to give feedback on the consultation format and processes, as established through the *Plan for Public Involvement in the Environmental Assessment for the Proposed Mackenzie Valley Gas Pipeline in the NWT* (the "Plan for Public Involvement") (2003) and the *Joint Review Direction on Procedures for Hearings* (the "Rules of Procedures").

The majority of interview respondents express satisfaction with the above-described entry points into the JRP process; nevertheless, several respondents indicate

that the public may not have been able to realize the opportunity to provide input at the Terms of Reference stage of the review. Specific criticisms include the sufficiency of the Phase I participant funding to review the Terms of Reference, and the time allocated to do so (six weeks in the middle of the summer). Notably, a number of respondents state that they were unable to contribute their values or feelings to the ensuing JRP processes. According to one respondent, “ ..you can’t really present the moral argument as evidence. That’s sort of, I guess that’s the problem.” Such statements re-enforce the practical limitations on the public’s ability to provide input as to the scope and underlying assumptions associated with the EA of the MGP.

In conclusion, the public was generally able to provide input as to the scope of the EA, and was involved in the JRP process as soon as value judgments became salient. However, the public was not allowed to provide input as to the consultation format. Further, practical limitations on the opportunity to provide input as to the scope of the assessment clearly affected some respondents, and may well have negatively impacted participation rates in the ensuing proceedings. As such, the evaluative criterion of “early involvement” is largely met by the JRP.

## **5.2 Representativeness**

*Indicators:*

- ? Participating public is ideologically representative of the broader population;
- X Participating public is demographically representative of the broader population; and
- √ All affected geographic communities are involved

The evaluative criterion of representativeness was partially met by the JRP's public participation initiatives. In particular, the data are inconclusive as to the ideological representativeness of participants, but do indicate that the JRP's participants were geographically representative and demographically unrepresentative.

The range of locations for the JRP's hearings indicates that all affected geographic communities had the opportunity to participate in this EA. The JRP held a total of 25 community hearings in 22 communities (21 across the NWT and one in Alberta) and nine open general hearings in seven communities (six in the NWT, two in Alberta, and one in the Yukon) (JRP, n.d.a.).

In contrast to such advanced geographic representation, the interview and documentary data indicate that the members of the public who participated in the JRP community hearings were not demographically representative of the broader public. In particular, respondents commented that business people, youth, elders, "grassroots people", "uneducated" people, and women were underrepresented at the hearings, thus implying that middle-aged, educated men were overrepresented at these proceedings. I was unable to identify the age or education levels of the JRP participants from the hearing transcripts; however, analysis of these transcripts reveals that only 106 of the 298 participants in the community hearings (34.4 per cent) were women (JRP, n.d.a). A further dimension of this gender imbalance is that the Status of Women Council of NWT, which was the only registered intervener group whose objective was specifically to advance women's issues and interests in respect of the proposed MGP had to withdraw from the JRP hearings in November 2005 due to funding issues (Status of Women Council of NWT, 2005; interview data).



Respondents indicate that the above-described demographic incongruities ultimately detrimentally impacted the quality of public input received through the JRP proceedings. One respondent describes the impacts of the gender imbalance, for instance, as follows:

And the main message coming from that community is not so much weighted to social concerns, but tends to have an under-representation of the socio-cultural kind of family life concerns. Because the band leadership being male, often the emphasis is on economic development.

The data are inconclusive as to the ideological representativeness of the public who participated in the JRP proceedings. Some respondents state they can't possibly gauge such ideological representativeness. Others assert that the participating public was ideologically representative of the broader public, and still others argue that persons who were against the pipeline were overrepresented at the hearings.

In summary, based on the interview and document data, the participating public was demographically unrepresentative and geographically representative of the broader public. As such, the JRP partially satisfies the 'representativeness' evaluative criterion.

### **5.3 Process Clarity**

*Indicators:*

- ? Decision-makers utilize appropriate tools to structure and display the decision-making process;
- ? Decision-makers communicate their decision and attendant reasons to the public;
- √ Scope of the public participation exercise is clearly defined;
- √ EA agency has taken steps at the outset of the process to display their decision-making process to the public; and
- X Public actually understands the decision-making process

The “process clarity” evaluative criterion is largely met by the JRP’s public engagement strategies. Although there are some indications of problems with the JRP’s use (or lack thereof) of appropriate decision-making tools, and the communication of government and JRP decisions leading up to the JRP’s final report and recommendations, at the time of writing it is not possible to directly assess the JRP’s performance in respect of these two indicators. The data do, however, demonstrate that the relevant EA agencies clearly defined the scope of the public participation exercise and took steps to display their decision-making process to the public. The results of this study further indicate that the level of public understanding as to these decision-making processes varied.

Ultimately, the public and others will not be able to directly assess or identify the JRP’s decision-making tools, or the extent to which the JRP communicates their decision regarding the proposed MGP to the public, until the JRP’s final report and recommendations are released. A number of respondents, however, raise concerns about the decision-making tools and decision communication practices employed by the JRP to date. For example, one respondent notes that the panel was unable to get the proponents to reveal their decision trees. In turn, the relevant regulatory bodies did not adequately communicate their decisions in respect of the final Terms of Reference and environmental impact statement sufficiency in August 2004 and July 2005, respectively. Although both of these decisions were preceded by public comment periods, the government did not issue any reasons in conjunction with the final Terms of Reference, and the JRP’s perfunctory sufficiency decision only included four paragraphs explaining the reasons for the same (JRP, 2005a). All of the Expert Respondents were of the opinion that the JRP and government did not adequately communicate their reasons for these two

decisions. The broad stakeholder discontent associated with this communication gap is illustrated through the following statement by a government representative:

I think there were things that were going on that behind that nobody knows. And the reason I think that is that it's not clear - for example, the decision on, well let's go back close to the beginning: the decision on the conformity of the [environmental impact statement]. That certainly wasn't clear, it was never clear.

As written above, at the time of writing, it is impossible to directly assess the JRP's performance in respect of use of appropriate decision-making tools and communication of their final decision regarding the proposed project. However, preliminary data raise some concerns in respect of these two indicators.

One of the JRP's process clarity strengths was that the scope of the EA, and the public's role in that process, was clearly defined through the Terms of Reference and Plan for Public Involvement. In particular, the Terms of Reference establishes the scope of the JRP's assessment and outlines opportunities for public participation in that process. The role of the public in the JRP process is also detailed in the Plan for Public Involvement (2003).

The JRP's second process clarity strength is that prior to the initiation of the EA, the relevant regulatory bodies took steps to clarify the attendant decision-making process. In particular, the decision-making process for this EA was set out in the JRP Agreement, the *Cooperation Plan for the Environmental Impact Assessment and Regulatory Review of a Northern Pipeline Project through the Northwest Territories* (the "Cooperation Plan") and the *National Energy Board Act* (JRP Agreement, 2004; Cooperation Plan, 2002; NEBA, 1985). The degree to which these documents effectively communicate the

subject decision-making process, however, is significantly reduced by the considerable cross-referencing between these instruments. In addition, neither the evaluation of the JRP's recommendations by Responsible Ministers and Authorities, nor the National Energy Board's decision in respect of a certificate of convenience for this project, are governed by pre-established decision criteria (Wozniak, 2007). Notwithstanding the above, on the whole the JRP satisfies this indicator as the decision-making process was set out in the JRP Agreement, the Cooperation Plan, and the *National Energy Board Act*.

In contrast, the JRP performed poorly in respect of the final, and perhaps most important, element of the evaluative criterion of process clarity; namely, actual public understanding of the decision-making process. In particular, notwithstanding the efforts of the Northern Gas Project Secretariat to conduct public education about the JRP process, interview data indicate that registered interveners exhibited varying levels of understanding of the regulatory process and that, as a whole, community members exhibited a low understanding of the same.

All of the Expert Respondents agree that the JRP process was poorly understood at the community level. The respondents attribute this understanding gap to a variety of reasons including the complexity and "foreignness" of the process, the Northern Gas Project Secretariat's failure to adequately disseminate process information regarding the JRP, poor chairmanship, and changes to the JRP processes during the regulatory proceedings. With the exception of one respondent who had not attended any of the JRP community hearings and did not reside in the NWT, all of the Expert Respondents are of the view that this understanding gap inhibited community member participation in the hearings, and diminished the quality of some of the input provided by participating

community members. One Expert Respondent highlights the impacts of community member's confusion as to the difference between the community, general, and technical hearings, for instance, as follows:

...a lot of the people I talked to in the communities about the hearings, they all were under the impression that they had to register – if they wanted to speak their voices, they – like some people would go to the [technical] hearings, like they didn't understand? And at those meetings, there wouldn't be a time for them to talk. And then they just would be like, "Whatever, they don't want to hear my voice, I don't want to register." They felt that didn't have a fair say. And I think that it was maybe a huge misunderstanding of understanding the process and when to talk and when not to.

The assessments of Expert Respondents as to community members' understanding of the JRP process, and the impacts of this, are confirmed by the community member interview data. Over half of the Community Member Respondents identified lack of understanding of the JRP process as a barrier to participation. One community member states, "I guess sometimes I don't understand so I think there's nothing come out of it. Sometimes I never go." Community Member Respondents attribute this lack of understanding to literacy barriers and the fact that the JRP and Northern Gas Project Secretariat did not explain the JRP process to the communities in a culturally relevant manner.

In conclusion, the evaluative criterion of process clarity is partially met by the JRP. Although the data raise some concerns in respect of the decision tools and communication of the JRP, at the time of writing it is impossible to directly assess the JRP's performance in respect of these two indicators. The data do, however, indicate that the regulatory bodies did clearly define the scope of the public participation in this EA and set out the relevant decision-making process in a range of legal instruments. The data

further show that although registered interveners largely understood the decision-making process associated with this EA, many community members did not. This latter gap appears to have limited grassroots participation in the JRP proceedings.

## 5.4 Resource Accessibility

*Indicators:*

- X Sufficient participant funding;
- √ Provision of capacity building support for marginalized groups;
- X/√ Time sufficient to enable the public to consider, prepare and deliver responses;
- X Access to high quality, appropriate, accessible and comprehensive information about the project and EA process

The JRP partially satisfies the evaluative criterion of resource accessibility. Although the federal government provided considerable capacity-building support to impacted NWT Aboriginal groups, and the EA timeframes were sufficient for the registered interveners, the participant funding was inadequate, and there were fundamental flaws in the information provided regarding the JRP process and MGP.

One of the JRP's biggest strengths vis-à-vis the 'resource accessibility' evaluative criterion is the considerable capacity-building support associated with the EA. Altogether, the federal government provided approximately eight million dollars in capacity funding to NWT Aboriginal groups through initiatives including the Interim Resource Management Assistance Program and Mackenzie Gas Project Capacity Fund (interview data; INAC, n.d.b). It should be noted, however, that the federal government funnelled this money through the regional Aboriginal organizations. For this study, I interviewed four representatives of Aboriginal organizations operating at the sub-regional level; all four of these Expert Respondents describe capacity limitations negatively

impacting their participation in the JRP proceedings. These include not being able to analyze the environmental impact statement, do any original research in respect of the MGP, or hire experts to assist them throughout the JRP process. These limitations raise the possibility that either the capacity-building funds were inadequate, or that there should have been distribution stipulations to ensure that Aboriginal organizations operating at the sub-regional level could benefit from these funds, or both.

The JRP partially satisfies the ‘time’ indicator. On one hand, the time provided to review, prepare, and deliver presentations to the JRP was adequate for the purposes of the organizations that formally intervened in the JRP proceedings (registered interveners). Although some Expert Respondents assert that the time allotted to review the environmental impact statement and Terms of Reference was insufficient, the total time for public input and comment for this EA spanned over three years. Although some registered interveners might believe that they would have benefited from more time to prepare and deliver their presentations, the time provided for general public intervention seems reasonable.

The time provided, however, appears to have been insufficient from a community member perspective, particularly with respect to the 15-minute time limit on public presentations to the panel at the community hearings. Although the JRP rules of procedure provide that the chair could waive the 15-minute limit (JRP, 2006a), a 2007 study of the JRP hearings concludes that the chairman frequently enforced the 15-minute limit (Gray, 2007). In this study, all but one of the Community Member Respondents whom address the topic of timeframe adequacy state that the time provided at the community hearings was inadequate, and restricted or inhibited Aboriginal participation

in the proceedings.<sup>8</sup> In particular, respondents explain that the time provided was insufficient to enable community members to feel comfortable, open up, and fully express their concerns to a body of unknown individuals. One Community Member Respondent describes:

.... that 15 minutes you were given, I don't think it allocated enough. From a cultural aspect, you ask an elder to speak about how they feel about this, and having that time restraint of 15 minutes - when an elder speaks in the community, they speak as long as they want. It's just a respect thing. I just feel that that's one of the biggest flaws.

Another Community Member Respondent explains that the time limits played a role in his own decision not to take part in the proceedings, stating:

But then they just give a few minutes to talk too. Some people want to talk some more, but, "Oh, your time is up.".... You can't open up. You can't say what you want to say. You've got a lot of important issues to talk about and you can't fit it in, just talk a little bit.

In sum, although the time provided was generally sufficient for the registered interveners, the presentation time restrictions were culturally inappropriate at the community level.

In addition to the above time limitations, the JRP's participant funding was insufficient for an EA of this magnitude and nature. Although the Government provided over \$2.1 million in participant funding for the JRP (INAC, n.d.b), this amount must be

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<sup>8</sup> 6/7 Community Member Respondents state that the time provided at the community hearings was inadequate and limited community member participation in the proceedings.



viewed in context of the overall budget of the proposed MGP (over seven billion dollars) and JRP process (\$18.7 million, as of April 2009) (WWF, n.d.; Mathisen, 2009). In addition, the applications for participant funding far outstripped available money at each stage of the assessment (Wozniak, 2007). In fact, four of the five representatives of non-governmental organizations interviewed for my research express dissatisfaction with available participant funding. Two of these respondents report that their organization had to withdraw from the proceedings partway through due to funding limitations. One government respondent reports that the quality of the ensuing hearings suffered as a result, as those organizations had presented a unique perspective on the issues.

Finally, the data indicate that the proponents and government failed to produce and disseminate accessible, culturally appropriate information of the nature required to support full and informed Aboriginal participation in the JRP. As described in section 5.3, Expert and Community Member Respondents report that, as a whole, community members exhibited limited understanding of the JRP. Respondents attribute this gap to a variety of factors including the Northern Gas Project Secretariat's failure disseminate adequate information about the JRP process.

A review of the documents listed on the Northern Gas Project Secretariat's website reveals that although the JRP published considerable information regarding their processes, most of this information is targeted at well-resourced and highly educated interveners; only nine of the 122 files posted in the documents section of JRP's website

could qualify as ‘plain language’, culturally-accessible items (JRP, n.d.b).<sup>9</sup> Furthermore, although the Northern Gas Project Secretariat had community offices in Inuvik, Yellowknife, Norman Wells and Fort Simpson, the Secretariat only undertook one community outreach tour over the course of the entire EA process (interview data). Respondents indicate that the above gaps as to the production and dissemination of accessible information explaining the JRP process hindered individual-level Aboriginal participation in the proceedings. One Community Member Respondent states:

Look at the turnout of people that spoke. Look at the numbers. Project those numbers to the population of the area. That’s a flaw right there. I think that’s part of how it’s very unjust. It is the responsibility of the people to rise up and to dialogue with them themselves, and to speak their mind and their voice. But to understand a process that’s not known to them? You don’t have somebody going visiting elders and telling them, explaining to them in clear context, in a cultural context, about this opportunity.

In contrast to the information produced and released by the Northern Gas Project Secretariat, the proponents’ website includes a large number of videos, colour brochures,

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<sup>9</sup> I defined plain-language documents as documents which:

- a) were free of technical terms or jargon;
- b) did not require the reader to reference legal or other procedural documents in order to understand the content of the document; and
- c) included some additional mechanism to ensure that the content of the document would be understood by members of the general public in the project area. These mechanisms included: the use of pictures or audio files, translation into the Aboriginal languages, or inclusion of terms and words employed by persons resident in the project area.

The nine documents which satisfied the above criteria were: four announcements (available in mp3 format and translated into Gwich’in, North and South Slavey), three information sheets (which included pictures and were free of technical jargon), the EIS in brief (which was translated into Inuvialuktun, Gwich’in, South Slavey and North Slavey), and a summary of questions asked at the public information sessions (which included pictures and reproduced language used by the public at those meetings).

and plain-language documents regarding the proposed project (MGP, n.d.). Furthermore, the proponent hired local outreach staff in their regional offices in Inuvik, Fort Simpson, and Norman Wells, and undertook extensive direct community outreach activities throughout the JRP process (interview data; MGP, 2004). Thus, relative to the information produced and disseminated by the Northern Gas Project Secretariat in respect of the procedural aspects of the JRP, the proponents' information regarding the MGP appears to have been quite accessible to the general public and Aboriginal communities. Nevertheless, it is important to keep in mind that the role of the proponents' information was not to elicit feedback and input, but rather to promote the proposed project.

Three quarters of the representatives from government, non-government, and Aboriginal organizations, as well as two thirds of the Community Member Respondents, report significant flaws in the information provided by the proponents in respect of the proposed MGP. The primary complaint from government and non-profit organization representatives was that the information was "too general" and did not enable them to evaluate the conclusions contained in the environmental impact statement.

Representatives of Aboriginal organizations, in turn, report that the proponents' information was overly technical and too prolific. Finally, Community Member Respondents state that the information was presented and distributed in a culturally inappropriate way, the amount of information was overwhelming, and the language used by the proponents and regulators was inaccessible. The majority of the Community Member Respondents further report that these failures were a barrier to community member participation in the JRP hearings. One Community Member Respondent explains:

When I went to their meeting, it was just straight white people, and they were using a language I don't understand. They were using these big words that, you know, I don't know... It's just like speaking another language I don't understand.

In conclusion, the data indicate that the relevant regulatory bodies and proponents provided insufficient participant funding as well as inadequate and inappropriate information in respect of the JRP and MGP. Respondents report that the funding limitations impeded meaningful participation of organizations in the JRP, and that the information limitations negatively impacted community members' participation in the proceedings. In addition, although the JRP's overall time frames were reasonable for registered interveners, the time restrictions on presentations at the JRP's community hearings appears to have negatively impacted individual-level Aboriginal participation in these proceedings. On the other hand, the Federal government did provide considerable capacity-building support to Aboriginal organizations. In consequence, the evaluative criterion of resource accessibility is partially met by the JRP's public engagement initiatives.

## **5.5 Benefits to All Partners**

*Indicator:*

√ The public must perceive there to be real benefits to participating in the EA

The interview data indicate that a broad range of stakeholders perceive there to be real benefits attendant to participating in the JRP. Expert Respondents identify benefits including using the JRP as leverage in negotiations with the project proponents, ensuring that the panel addressed their interests and concerns, and having the opportunity to

contribute to public education. It should be noted that all of the Expert Respondents interviewed for this research participated in the JRP processes; it is possible that other stakeholders, particularly those who elected not to participate in the hearings, may perceive the benefits of participation differently.

The interviews with the Community Member Respondents indicate that many community members also perceive participation benefits, including the opportunity to impact the panel's decision, knowledge development, and a sense of personal satisfaction. In this case, many of these perceived benefits are identified both by individuals who had, as well as those who had not, participated in the JRP hearings. This implies that the identified benefits were not, in themselves, sufficient to incite community members to participate in the hearings. Furthermore, three Community Member Respondents indicate either that there were no benefits to participating, or that these were not recognized by the community. In particular, one respondent explains that because he did not understand what was happening in the hearing, he could not benefit from attending the proceedings. A second respondent asserts that there was a misconception in the community that the hearings invoked something bad, like going to court. According to a third respondent, community members did not attend due to the fact that they were not compensated:

That first time, the land claims, they go to meetings and they get paid. That spoiled everything. Now they don't get nothing.... So why go? They don't get nothing out of it. People aren't getting paid. Some of the people are getting paid, they don't get paid, so why? This is the way it is too, a lot of people, I know that.

In summary, although these may not always have been sufficient to induce participation, the interview data suggest that Expert Respondents and Community Member Respondents alike perceive there to be benefits to participating in the JRP process. In consequence, the JRP satisfies the evaluative criterion of ‘benefits’.

## 5.6 Influence

*Indicator:*

? Public participation had a genuine, visible impact on decision-making outcomes

At the time of writing, the JRP has not yet released their final report and recommendations to the Responsible Ministers and Authorities. As such, it is impossible to directly assess the public’s actual or perceived impact on the decisions resultant from the JRP process. However, an examination of the legal requirements for these decisions, and the degree of influence the public has had on other decision points in this regulatory process, raises concerns in respect of this evaluative criterion.

Although the JRP is legally required to include a summary of public input in its final report (JRP Agreement, 2004), there is no corresponding requirement that the Responsible Ministers and Responsible Authorities consider this public input in the course of accepting, rejecting, or modifying the JRP’s recommendations regarding the proposed MGP. In consequence, there is no guarantee that the public’s input will be reflected in the final decisions for this project (Wozniak, 2007).

Further concern is raised by the limited influence the public appeared to have on the JRP’s decision as to the sufficiency of the environmental impact statement for the MGP. The JRP’s cursory sufficiency decision only contained three references to

assertions made by members of the public during the public comment period for this matter (JRP, 2005a). Nearly 1/3 of the Expert Respondents report that the public exerted minimal influence on the sufficiency decision, and that the panel was subject to a great deal of pressure from the government to come to the decision it did.

In conclusion, at the time of writing, it is impossible to directly assess the influence of public participation on the decision-making outcomes ensuing from the JRP. Nevertheless, the absence of legal requirements to consider public input, and the panel's environmental impact statement sufficiency decision do raise some concerns about the extent of actual and perceived public influence on the future outcomes of the JRP process.

## 5.7 Cultural Compatibility

*Indicators:*

- X Consultation process is culturally appropriate
- X Participants respect and trust one another

Notwithstanding its efforts towards developing a culturally appropriate consultation forum, the JRP did not satisfy this evaluative criterion. To the panel's credit, the JRP community hearings opened with a prayer by a community member, often incorporated community feasts, and provided translation into the Aboriginal languages (JRP, n.d.a). Further, in an effort to reduce the formality associated with the community hearings, the Rules of Procedures provided that the chair could extend the 15 minute time limit for individual submissions at the community hearings, and also stipulated that written submissions and pre-registration were not required at the community hearings (JRP, 2006a). Expert and Community Member Respondents, however, indicate that

notwithstanding such measures, the JRP's public hearings were incompatible with Dene and Inuvialuit ways of communicating.

With the exception of two respondents, all of the Expert Respondents interviewed for this study were of the view that the JRP hearings were not sufficiently culturally compatible. Respondents highlight cultural compatibility deficiencies including the extensive formalities associated with the JRP's public hearings, and Inuvialuit and Dene peoples' reticence to speak in such public fora. There may, however, have been inherent constraints on the JRP's ability to fully adapt to northern Aboriginal cultures while satisfying the procedural requirements of EAs conducted within the Euro-Canadian legal system. In particular, two Expert Respondents assert that the formalities of the JRP were necessitated by the fact that public hearings such as those conducted by the panel are required by law to achieve an accurate record of proceedings, and to meet minimum rules of fairness requirements.

Perhaps more significantly, the majority of the community members interviewed for my research are of the opinion that the hearings were not compatible with their culture. Even the two Community Member Respondents who state that the hearings were "all right" from a cultural perspective go on to explain that that is what they have come to expect from consultation exercises led by southern-based industry and government bodies. The following excerpts from five community members who elected not to participate in the hearings attest to the level of cultural incompatibility, and the negative impacts of such incompatibilities on individual-level Aboriginal participation in the JRP:

I think what they should do is... You know what Judge Berger did? He went out into the land. I remember when that plane landed a couple



kilometres down below our fish camp. He had to walk along the shore to the camp, and the water's quite high. Him and one of the translators came up and I thought, "Boy, this is a switch. You're finally coming to us in our environment where we're more comfortable." I think what they need to do is go out to these camps. They need to go where these guys, these hunters, trappers, and fishermen are comfortable. They need to talk to them there, because we're not going to go out into the public forum where you see a whole panel of people from oil and gas talking in their vocabulary, that is so different from what we're accustomed to...

and

...some of our Aboriginals are reluctant to go to a public forum like this. It's because it's intimidating.

and

Just go in [to the JRP hearings] sometimes, I look around. You can't hear them. They've got microphones, they've got earplugs...yeah, they've got their microphones in their ear. Half of the time you don't know what they're talking about. So those poor people just walk back out too. You see these young people around now, they use those little music things? Talk to them, they just look at you. Same thing in the meeting. That's where a lot of guys get turned off, I guess, the way they set up.

and

Gwich'in culture is different. The Gwich'in, when they have meetings, it's not like that. When they have meetings, it's something that everybody understands when they talk. We understand one another better. These high-class peoples come in and they're using these big languages. It's wasting their time coming into this community is the way I feel.

and

Ok – you’re non-Inuit. And I’m Inuit. And if I try to consult you the way of my life, I don’t think you’d take it. Because it’s a different culture all together.

The above excerpts indicate that from community members’ perspectives, the hearings were culturally foreign to them and this was a significant barrier to Aboriginal public participation in the hearings.

In regards to the second indicator for the cultural compatibility criterion, the interview data reveal that although representatives from government and non-profit organizations tended to have high trust in the JRP, the panel failed to engender trust amongst community members. In particular, the non-profit and government representatives interviewed for this study generally praise the panel for how seriously panel members approached their work, their growing competency, and level of engagement. Two notable exceptions are the two respondents who state that the panel “did not seem to appreciate [non-government organization] involvement”, and did not seem very concerned with the issues these organizations were putting forth.

In contrast to the generally high level of trust expressed by Expert Respondents, most of the Community Member Respondents convey low trust of the panel. Expressions to this effect include: “they wouldn’t even know what I’m talking about”, “if I say something, they’ll probably throw it in the garbage”, “they already got it planned out” and “Even if we said no, it won’t mean a thing to the government”. A number of the Community Member Respondent attribute this distrust to past experiences with federal government bodies, institutional racism, and residential school.

The majority of the Community Member Respondents further indicate that their distrust in this regard was somewhat allayed by the presence of four Aboriginal panel members, as the respondents believed these members were more likely to understand input from the Aboriginal public:

Well, it's our own people. You trust them. If there was straight white people, you don't trust them – so all that is in the air around here yet.

Interestingly, several of the Community Member Respondents expressed distrust of the specific Aboriginal person selected to represent them. Respondents attribute this distrust to reasons including the fact that they did not personally know their representative and the fact that, in their view, the representative was not knowledgeable enough about the land and culture.

In summary, the JRP does not satisfy the evaluative criterion of cultural compatibility. The interview data indicate that while most representatives of government and non-governmental organizations express trust for the JRP, community members convey high distrust of the panel: a barrier that was insufficiently addressed by simply including Aboriginal members on the panel. In addition, the JRP's consultation procedures were not culturally appropriate. The data further suggest that these gaps likely represented a significant barrier to Aboriginal participation in the JRP process.

## 5.8 Independence

*Indicators:*

- |                 |  |
|-----------------|--|
| X               | Process managers should be independent and unbiased;                       |
| X/√<br>unbiased | The public should perceive process managers to be independent and unbiased |

The documentary data raise the possibility that not all the panel members were completely neutral about the MGP; further, interview data indicate that Expert Respondents perceive the JRP to be independent and one third of the Community Member Respondents perceive the panel members to be either biased or lacking independence. As such, the evaluative criterion of independence is only partially met by the JRP.

Despite legal requirements to the contrary, there is evidence suggesting that some of the panel members may have favoured project approval. The JRP Agreement states: “The members shall be unbiased, free from any material conflict of interest relative to the Project” (JRP Agreement, 2004). A media interview with the panel members prior to the onset of the JRP’s public hearings, however, raises concerns of potential panel member bias. Before hearing any of the expert or community evidence regarding the project, one of the members (Perchy Hardisty) commented, “I feel positive about [the project]”, and another (Barry Greenland) stated, “[the pipeline] will bring a boost to the community. They think it’s about time they make a major step about this and the feeling up here is good” (Burnett, 2004). These statements indicate that, notwithstanding legal requirements to the contrary, some of the panel members may have been in favour of the project before hearings began.

As to the second indicator, public perception of independence, the interview data reveal divided perceptions of the JRP’s independence from government, industry and the sponsoring Aboriginal organizations. All of the Expert Respondents report that, overall, they believe the panel was independent, or state that it is too early to tell. Community Member Respondents, on the other hand, convey divided opinions as to whether they

perceive the panel to be independent and unbiased: some indicate that they believe the panel to be independent, and others state unequivocally that they know “for a fact” that the panel is not.

The interview and document data for this study reveal that the JRP’s stakeholders are divided as to whether the panel is independent, and raise the possibility that some of the members may actually have been biased towards the project. As such, the evaluative criterion of independence is partially met by the JRP.

## 5.9 Cost-effectiveness

*Indicators:*

- X Exercise conducted in a timely manner;
- √ Exercise concluded at a reasonable cost;
- ? Consultation occurred at the optimal decision-making level

A review of the costs associated with the JRP process in comparison with the costs of other EAs suggests that this process partially satisfies the evaluative criterion of cost-effectiveness. Although the monetary costs associated with the JRP appear reasonable, the exercise has not been concluded in a timely manner, and the data are inconclusive as to whether consultation occurred at the optimal decision-making level.

Cross-EA comparisons and interview data imply that while the JRP’s \$18.7 million budget (as of April 2009) is reasonable, the elapse of more than five years from the initiation of the JRP proceedings to the projected final report release date (Mathisen, 2009; TOR, 2004; JRP, 2008) is excessive. The costs and timelines of the EAs for two other large-scale hydrocarbon development projects in the NWT (namely, the Berger Inquiry and the Beaufort Sea Environmental Assessment Review Process) provide useful

points of comparison. The Berger Inquiry cost \$19.9 million (2009 dollars), and took 22 months to complete (Berger, 1977). The Beaufort Sea Environmental Assessment Review Process cost \$17.0 million (2009 dollars) and took three years to complete (Bissett & Waddell, 1985). The conclusion that while the costs associated with the JRP were reasonable, its timelines were not, is further supported by the interview data. Specifically, the majority of the Expert Respondents report that the JRP's overall budget is reasonable, but echo the strong public sentiment that the assessment has taken much too long to complete.<sup>10</sup>

In respect of the JRP's extended timeframe, it should be noted that the Dene Tha and the Deh Cho were initially unfairly excluded from the JRP process, and initiated legal actions against the federal government in response to the same (Ebner, September 17 2004; Ebner, Oct. 26, 2006; *Dene Tha First Nations v. Minister of Environment*, 2006). The delays and JRP re-structuring resultant from these legal actions, however, only provide a partial explanation as to why this EA process has taken over five years to complete.

Finally, the interview data are inconclusive as to whether the consultation occurred at the optimal level. The consultation for the MGP occurred largely at the level of the proposed pipeline project itself, rather than being supplemented by consultation

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<sup>10</sup> For example, the Town of Inuvik's responded to the announcement of the projected Dec. 2009 release date by passing a resolution accusing the Joint Review Panel of "gross incompetence" and calling upon the Minister of Environment, MVEIRB and the Inuvialuit Game Council to terminate the panel (Francis, 2008).

associated with regional planning processes as only one Aboriginal group within the project area (namely, the Gwich'in) had completed a regional land use plan prior to the onset of the JRP proceedings (Gwich'in Land Use Plan, 2003). Expert Respondents express a broad range of opinions as to the optimality of the project level of consultation. Some respondents state that the hearings were the only “workable” (and thus optimal) point of participation, while others indicate that the whole consultation process constituted “over-kill” and thus could not be said to be optimal. Still others are of the view that the JRP public hearings should have been preceded by participatory land use planning processes. This divergence of opinions might be attributed to individual respondent’s personal dispositions toward the proposed project and the general utility of public consultation, or their unique experiences with the JRP.

In summary, the data are inconclusive as to whether the level of public engagement in the JRP was optimal, and indicate that the financial costs associated with the JRP proceedings are reasonable. Nevertheless, the JRP proceedings have not been concluded in a timely manner. As such, the JRP partially satisfies the criterion of cost-effectiveness.

## **5.10 Chapter Summary**

In summary, although the calibre of the JRP’s public participation initiatives may be on par with those associated with other contemporary Canadian EA processes, several key process deficiencies remain in the panel’s efforts to promote and enable public input into these proceedings. In particular, the results of the program evaluation indicate that only one evaluative criterion was wholly met, and the remainder were either largely met, partially met, or could not be directly assessed at the time of writing. According to this

analysis, the JRP's greatest strengths are in the areas of benefits to partners, early stakeholder involvement, and process clarity. Conversely, its most significant weaknesses are in the areas of cultural compatibility, representativeness, resource accessibility, independence, and cost-effectiveness.

Interestingly, notwithstanding the gaps identified through the above program evaluation, expert respondents repeatedly express high praise for the JRP's adherence to EA 'best practices' and assert that there was very little the JRP could have done to improve the low levels of public participation in its processes.<sup>11</sup> One territorial government representative argues:

If people didn't engage in this one, I don't think it was because the federal government didn't try to get out there up front and make it possible for people to engage. I don't know that I've seen any other project up here that had that level of forethought by the government in terms of trying to make that happen. So in a way, I'm not sure how much more could've happened for this panel...

An Aboriginal government representative echoes this sentiment:

Again, I don't think that there was more that they could've done. I mean, the process that they laid out was fairly open. People could go and register, but you had to register well in advance to get on the list to provide your comments. And that was just, again, a lack of their educating

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<sup>11</sup> 11/14 Expert Respondents who provided opinions as to the overall-quality of the JRP's public participation initiatives supported this position.



people in the community as to the process. But again, it's dependant on the individual – if you want to get involved, then you'll make the effort as well.

These assessments of the Expert Respondents regarding the calibre of the JRP's public participation initiatives, however, stand in direct contrast with community members' assessments of grassroots participation in the JRP. In particular, notwithstanding the opinions of Expert Respondents that the JRP had largely “done all they could do”, Community Member Respondents express high levels of dissatisfaction with governmental consultation about the MGP and with the level of community input received by the JRP. In particular, nearly all of the Community Member Respondents indicate that that the panel had not heard sufficient input from the grassroots people.<sup>12</sup> A smaller portion of the Community Member Respondents is of the view that the government did not sufficiently discharge its consultation responsibilities in respect of the MGP and JRP.<sup>13</sup> Although it is possible that the above opinions as to the adequacy of the consultation activities by the JRP and federal government represent a minority view on these issues, this is unlikely given the breadth and number of respondents interviewed for this study. In the next chapter I examine contextual factors that may have contributed

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<sup>12</sup> 8/10 Community Member Respondents who expressed an opinion as to the sufficiency of public input received by the JRP supported this view.

<sup>13</sup> 4/6 Community Member Respondents who expressed an opinion as to the sufficiency of the government's consultation initiatives supported this view.

to the low levels of aboriginal participation in the JRP processes, and also to community dissatisfaction with the JRP's participatory initiatives.

## **6: RESULTS OF STUDY OF CONTEXTUAL FACTORS LIMITING ABORIGINAL PARTICIPATION IN THE JRP**

In this chapter, I review findings from the interview data to identify and describe the impacts of five key contextual factors on Aboriginal participation in the JRP. These contextual factors (namely, socio-economic status, relationships, consultation fatigue, Euro-Canadian colonialism, and relevancy) are identified in the critical EA literature and the Aboriginal civic engagement literature as factors which may constrain Aboriginal participation in such proceedings.

### **6.1 Socio-economic Status**

The results of this study indicate that factors related to socio-economic status encouraged some Aboriginal people to participate in the JRP, and discouraged others, and that the impacts of such vis-à-vis an individual's interest and ability to participate in the hearings was a reflection of their unique socio-economic standing. The results further indicate that, as a whole, Aboriginal people's relatively disadvantaged socio-economic status may have contributed to limited Aboriginal public participation in these proceedings. The data reveal three primary ways in which socio-economic status may have affected Aboriginal participation in the JRP: through impacts on people's knowledge and skills, through impacts on self-efficacy, and through socio-cultural expectations.

First, respondents link socio-economic status to knowledge and skills which enabled participation in the JRP hearings. For instance, respondents indicate that

individuals who had been employed in the public sector or had occupied leadership positions possessed relatively more advanced public speaking skills, as well as better knowledge of the MGP and its potential impacts.<sup>14</sup> One respondent reflects on the factors enabling her own participation in the JRP:

I also was involved with the chief and band council - was one of the band councillors. So I kind of know what's going on a little bit. And I'm really concerned so I make it my business to go to meetings and whenever I have to speak up, I speak up.

Conversely, the data suggest that young people and people with low formal education generally had a more limited understanding of the MGP and the JRP, and fewer opportunities to develop the public speaking skills required to participate in such a proceeding.<sup>15</sup> Community Member Respondents indicate that such knowledge or skill deficits constrained community members' participation by reducing the perceived relevance of the hearings, increasing the time and effort involved with presentation preparation, and decreasing people's ability to effectively convey their opinions to the panel. One community member explains:

Some of them are shy, like that... Some of them never went to school and they don't talk good.

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<sup>14</sup> 5/15 Community Member Respondents link advanced education, employment status or social position with increased knowledge or skills relevant to the JRP and MGP.

<sup>15</sup> 4/15 Community Member Respondents express this relationship.

In addition to the above-described relationship between socio-economic status, knowledge, skills, and participation, the data demonstrate a related impact arising from the relationship between socio-economic status, self-efficacy and participation. Respondents link educational attainment, employment status, and social position with the confidence of community members in their ability to participate at the JRP hearings.<sup>16</sup> This dynamic was relational, and extenuated by differences in the socio-economic status of community members and other people at the hearings, particularly proponents, government representatives, and panel staff. One respondent who chose not to participate in the JRP states:

I always feel that they're educated and they know what's being said. Me, I say something, I might say something wrong, I always think - I always feel like that.

The results of this study further confirm that such detrimental effects on self-efficacy ultimately diminished community members' participation in the JRP hearings. As one Community Member Respondent explains:

...they're scared because you got no education. They're scared to speak up. You're talking about geologists and everything. It's one of the reasons, you know? I see. I go to the meeting. Lots of people in there, nobody want to say anything. They're sitting up there, what you call? Work people.

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<sup>16</sup> 5/15 Community Member Respondents identify this relationship.

Finally, socio-economic status appears to have affected Aboriginal participation in the JRP through the operation of socio-cultural expectations pertaining to educational attainment and age. In regards to the education-based expectations, respondents report that they and their peers expected people who had attained high formal education levels to represent their community and participate in the hearings. One respondent who had previously been highly active in the community, but elected not to participate in the JRP, further asserts that community members who do attain a high level of formal education may “burn out” as a result of the disproportionate consultation burden they bear.

Socio-cultural expectations related to age also appear to have influenced Aboriginal participation in the JRP. In particular, over a third of the Community Member Respondents indicate that cultural values regarding respect for elders and the obligations of elders to speak for and educate the younger generation positively impacted the participation of elders in the JRP hearings.<sup>17</sup> The one youth who participated in this study describes the converse of this dynamic vis-à-vis youth participation as follows:

Every assembly, every meeting, I’ve always been to it’s always - you’ve got to respect your elders. We all know that. We know that you have to respect your elders. So if an elder’s hand goes up, I’m obviously not going to put my hand up. They get the right to speak before I do. That’s just the way it works.

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<sup>17</sup> 6/15 Community Member Respondents report this relationship.

In summary, this research indicates that socio-economic status affected Aboriginal participation in the JRP through impacts on individuals' knowledge, skills, and self-efficacy, and through the operation of socio-cultural expectations linked to age and educational attainment. These relationships between socio-economic status and participation would appear to promote the participation of some Aboriginal demographics (notably highly educated persons, persons in leadership positions, and elders) in the JRP proceedings. They further suggest that, as a whole, factors related to Aboriginal people's relatively disadvantaged socio-economic standing exerted a net negative impact on individual-level Aboriginal participation in this process.

The relationship between socio-economic status, knowledge, skills, and participation is supported by assertions in the critical EA and Aboriginal civic involvement literature that persons of higher socio-economic standing may be over-represented in such civic engagement exercises due to greater access to pertinent resources and skills (see e.g. Silver, Keeper and Mackenzie, 2006; Prystupa, 1994). The above impacts of socio-economic status on self-efficacy and socio-cultural expectations pertinent to Aboriginal participation in the JRP represent additions to the literature on the relationship between socio-economic status and public participation.

## **6.2 Social Relationships**

The data for this study indicate that social relationships may either promote or inhibit Aboriginal participation in EA processes, and reveal three ways in which social relationships may have influenced Aboriginal participation in the JRP hearings. First, such relationships had the potential to serve as formative influences impacting Aboriginal participation in these proceedings. Second, some community members appear to have

been motivated to participate due to a sense of personal responsibility to their family or immediate and extended community. Finally, according to respondents, social relationships affected the participation of community members in the JRP by attaching social consequences to the same.

In respect of the first mechanism, the data reveal that family members and Aboriginal leaders were formative influences on individuals' decisions as to whether or not they wanted to participate in the hearings. A large portion of Community Member Respondents who participated in the JRP hearings accredit their participation to familial relationships, stating that these relationships were sources of support, teachings, inspiration and knowledge:<sup>18</sup>

I had a lot of teaching in my own way of life as an Aboriginal person, eh?  
And you know, I really feel good about myself like and I'm able to speak up whenever I have to...

On the other hand, the data suggest that familial relationships might also inhibit participation if they fail to provide the teachings and socialization necessary to promote civic engagement in such exercises. One Community Member Respondent states:

Right now the younger people are not involved...my own people: I told those guys, they're running around doing nothing, don't know what to do. There's enough things to do, but it's not them. It's their parents.

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<sup>18</sup> 6/9 Community Member Respondents who participated report that such relationships affected their participation.



Community leadership appears to have been another source of formative influence on public participation in the JRP. Respondents assert that Aboriginal leaders exerted a strong influence on both public perception as to the importance or desirability of community level participation in the JRP proceedings, and public opinion regarding the proposed project.<sup>19</sup> This, in turn, is said to have ultimately constrained community participation in the ensuing JRP proceedings. One community member attributes low public participation in the JRP to weak community leadership, and compares the current leadership to her father, who was a chief during the Berger Inquiry, as follows:

I remember the elders coming to the house, and he would explain all these things to them in the Gwich'in language. That's where I think they had a bit of understanding as to what was happening. So, if you influence them to say, "No, we don't want the pipeline", that's the way they went. They really looked up to their leaders those days. Today we're not like that because right now we have a Chief that doesn't understand the language.

The interview data indicate that in addition to serving as a source of formative influences, social relationships encouraged individual-level Aboriginal participation in the JRP by generating a sense of responsibility to participate in proceedings. Community Member Respondents reveal that either they or their peers were motivated to participate

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<sup>19</sup> 3/15 Community Member Respondents assert this to be the case.

in the hearings by a sense of obligation to their children, immediate community, Aboriginal peoples, or unborn generations.<sup>20</sup>

And I feel that our children – we need to speak on their behalf because they're the future generation and how it's really going to affect them. So those are some of the reasons why I – I take part in what's going on.

Of the above groups of persons to which community respondents indicate a sense of obligation, respondents refer most frequently to their immediate community. Often, this sentiment takes the form of statements to the effect that the respondents felt obligated to speak on behalf of community members who did not speak at the hearings.<sup>21</sup> This sense of obligation might be attributed to strong cultural values attached to helping those in need.<sup>22</sup>

In addition to instilling a sense of responsibility to participate, the data indicate that social relationships influenced participation in the JRP by attaching social consequences to such participation. Specifically, it appears that feedback or social

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<sup>20</sup> 3/9 Community Member Respondents who participated in the hearings identify responsibility to their children as a motivation for participating; 4/9 Community Member Respondents who participated in the hearings indicate either they or their peers were motivated to participate by a sense of responsibility to their immediate community; 2/9 Community Member Respondents who participated in the hearings identify a sense of responsibility to Aboriginal peoples and future generations as a contributor to their desire to participate in the JRP proceedings.

<sup>21</sup> 4/9 Community Member Respondents who participated say this was a factor; 1/6 community members who did not participate in the hearings says that she would have participated if someone had asked her to speak on their behalf.

<sup>22</sup> 2/15 Community Member Respondents mention this cultural value.

consequences from both community members and Aboriginal leadership may have impacted individual-level Aboriginal participation in the JRP.

In respect of peer-based social consequences, respondents express a range of opinions as to the effect which actual or perceived feedback from other community members ultimately had on Aboriginal participation in the JRP. A number of respondents report that they or their peers were discouraged from participating in the hearings because they were afraid of being embarrassed or being subject to conflict and personal attacks from peers who did not agree with their position.<sup>23</sup> According to one Community Member Respondent:

Socially, it's just protecting oneself from being personally attacked and culturally ousted from the community, or people not just agreeing about what somebody might say about whether they support or not. I think people are afraid of that, to say that they support it or not...if your whole community knows your position about this project, then you are going to have a lot of friends and you're also going to have a lot of enemies, that's just the reality of it.

It should be noted that the majority of Community Member Respondents say they are not afraid of looking foolish when speaking in public.<sup>24</sup> Further, some respondents

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<sup>23</sup> 1/6 Community Member Respondents who did not participate report fear of being embarrassed; 4/15 Community Member Respondents state that participation was discouraged by fear of back-lash.

<sup>24</sup> 12/15 Community Member Respondents state they are comfortable speaking in such public fora.

report peer affirmation for the views they expressed at the JRP hearings;<sup>25</sup> presumably, such affirmation would encourage participation. Thus it would appear that actual or potential community reactions encouraged some individuals to participate in the JRP, and discouraged others from doing so.

Respondents report that projected or actual responses of community leaders to community members' testimony at the hearings were a second form of social feedback influencing community member participation in the JRP. Over a third of Community Member Respondents indicate that members of the Aboriginal public who opposed the pipeline were scared to voice their opinions at the hearings for fear of being black-listed by pro-development Aboriginal leadership.<sup>26</sup>

There are people who have their own opinions but wouldn't say it because of: "[Gwich'in Tribal Council] supports the Mackenzie Gas Project. I can't say nothing." There's a few of us who really don't care. I know of a few of us, our funding got cut from school - one person specifically. That's not to say that it got cut because they didn't agree with the pipeline or whatever, but it's just a mystery why they got cut.

It should be noted that none of the respondents who chose not to participate in the JRP cites fear of blacklisting or other leadership consequences as a factor in their own decision to abstain from participating in the hearings. Furthermore, a number of the

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<sup>25</sup> 3/15 Community Member Respondents report such affirmation.

<sup>26</sup> 6/15 respondents state that the Aboriginal leadership's endorsement of the pipeline discouraged them or others from participating in the JRP hearings.

respondents who did participate in the hearings indicate that they did so notwithstanding potential backlash from the leadership.<sup>27</sup> As a result, the interview data indicate that while negative consequences from the leadership may have discouraged community member participation in the JRP, this could be overcome by other factors promoting individual participation in the hearings.

In summary, the data demonstrate that social relationships had the potential to promote or inhibit Aboriginal participation in the JRP proceedings. In particular, respondents report that social relationships influenced Aboriginal participation in the JRP hearings by attaching social consequences to such participation, serving as a source of formative influence, and supporting a sense of social responsibility in respect of participation.

The findings in respect of the first two factors are supported by the literature indicating that familial and social relationships may be important sources of socialization and peer pressure influencing participation in civic engagement exercises (Silver et al, 2006; Vincent, 1994). The relationship between social relationships, sense of responsibility, and participation is not highlighted in the literature regarding general public participation, and thus represents an addition to the understanding of the factors impacting Aboriginal participation in such processes.

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<sup>27</sup> 4/9 Community Member Respondents who participated in the hearings indicate this.

### 6.3 Consultation Fatigue

The interview data indicate that consultation fatigue negatively influenced Aboriginal participation in the JRP hearings in two ways. First, respondents assert that the sheer volume of consultation demands in their communities created participant burnout. Second, respondents maintain that the outcomes of such consultation exercises resulted in informed cynicism which further diminished community interest in participating in the JRP hearings.

In respect of the former, nearly 2/3 of Community Member Respondents state that there are too many meetings and consultations occurring within their communities, and that participation in the JRP hearings suffered as a result:<sup>28</sup>

I think there's just too much happening, too many meetings, to where I feel that people are not going to the meetings.

One respondent illustrates the scale of the consultation burden borne by communities of the Beaufort Delta by pointing out that the community of Aklavik, with a population of 727 (Government of NWT, n.d.) supports 154 distinct boards and land claims organizations, each with unique bureaucratic structures and meeting requirements.

The detrimental effects of generalized consultation fatigue levels appear to have been exacerbated by factors specific to the JRP itself. Compounding factors highlighted by respondents include the public's limited understanding of the JRP hearing content, the

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<sup>28</sup> 9/15 Community Member Respondents express this view.

heavy information requirements associated with the hearings, and the repetitiveness of the consultations for the MGP:

The thing is, when people come into the community about hearings about the Aboriginal pipeline, everything overall and what's going on, eventually people start getting bored because there's too much of it. There's too much information. Even for me sometimes, to get all that information, it just sort of clutters my mind because one direction here, one direction there. We don't have an overall everything, just combine into one package. If it's in one package, it's too thick to understand.

Interview data also indicate that participant burnout may have been further exacerbated by the length of the JRP hearings. Specifically, respondents who identify participant burnout also express frustration with the length of the JRP process and the 30+ years associated with the Mackenzie Valley pipeline consultations.<sup>29</sup>

In addition to these factors pertaining to the duration and volume of the consultation demands facing communities in the study area, the data reveal that consultation fatigue limiting community member participation in the JRP was exacerbated by the outcomes of previous consultation exercises in the Beaufort Delta. Specifically, a number of respondents explain that previous experience with such exercises led them or their peers to believe that the panel would not listen to their input

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<sup>29</sup> 3/15 Community Member Respondents express this frustration.

and, further, that this ultimately discouraged public participation in the JRP proceedings:<sup>30</sup>

And then sometimes some people talk and nothing really happens. If they speak, and nothing really happens, and then towards the end you just think, “What’s the use?”

Significantly, this informed cynicism did not appear to be countered or mitigated by the historical outcomes of the Berger Inquiry concerning the originally proposed Mackenzie Valley pipeline. None of the respondents for this study refers to the Berger Inquiry as a historical precedent causing them to believe that their input might influence the decision of the JRP in respect of the currently proposed MGP. In fact, one respondent specifically refutes this suggestion, stating: “...it’s a different player there. It’s a different scenario.”

The data provide some support for the further possibility that informed cynicism may have been exacerbated by the Aboriginal public’s perception of the degree to which the local Aboriginal governments had listened to, and acted on, community opinion regarding the proposed project. In particular, one respondent argues that community members may not have participated in the hearings because they felt frustrated and fatigued by the failure of their own organization to listen to them. More than a third of respondents express considerable frustration with the degree to which their particular

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<sup>30</sup> 6/15 Community Member Respondents express this view.



Aboriginal government had listened to or reflected community opinion regarding the proposed MGP.<sup>31</sup> In consequence, it is possible that the informed cynicism of the Aboriginal public regarding consultation exercises such as the JRP was compounded by their previous experience with their own governments' representativeness, or lack thereof, on such matters.

In summary, the interview data for this study support the conclusion that Aboriginal participation in the JRP hearings was negatively impacted by consultation fatigue. In the first instance, extensive consultation requirements increased community burnout and decreased interest in the hearings. Furthermore, the outcomes of some of these exercises cultivated an understanding that participation was unlikely to influence decision-making outcomes. The interview data further indicate that such informed cynicism may have been exacerbated by the representativeness of local Aboriginal government on such matters, and was not countered by the remarkable outcomes of the Berger Inquiry.

#### **6.4 Euro-Canadian Colonialism**

The data reveal two primary ways in which historical and contemporary colonialist dynamics contributed to limited Aboriginal participation in the JRP hearings; namely, through generalized negative effects on Aboriginal populations' self-efficacy, and through the oppressive power dynamics operant at the JRP hearings.

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<sup>31</sup> 6/15 Community Member Respondents express this view.

In the first instance, Aboriginal respondents assert that Euro-Canadian colonialist legacies decreased community members' confidence in their ability to speak in public fora, and that this limited Aboriginal participation in the JRP hearings. Specifically, the majority of Community Member Respondents indicate their peers' participation in the JRP was negatively impacted by low self-confidence, shyness, or fear.<sup>32</sup>

A lot of people are kind of scared to speak up; they're shy to speak up. A lot of them don't come to the meetings.

Aboriginal respondents further linked such diminished confidence and heightened fear to Euro-Canadian colonial policies and legacies including: low formal education rates in Aboriginal communities, negative experiences with southern bureaucrats, and residential schools.

The latter figured particularly prominently in the discourses of respondents.<sup>33</sup> Respondents explain that residential school experiences increased survivors' intimidation at the hearings, led to reluctance to "point fingers" at authority figures such as the JRP, and promoted fear of punishment for saying something "wrong":

You've heard about the residential schools? We did not have a voice. A lot of these people have never been able to take back their power, and they

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<sup>32</sup> 5/15 Community Member Respondents indicate that 'shyness' was a barrier to Aboriginal participation in the JRP; 6/15 Community Member Respondents name fear of being judged or of saying the wrong thing as a barrier to their peers' participation in the JRP.

<sup>33</sup> 6/15 Community Member Respondents link residential schools and diminished Aboriginal participation in the JRP.

don't realize they have the potential to get out there and speak to these issues of the pipeline.

In addition to detrimentally impacting the perceptions of community members as to their own capacity to speak at public fora, factors related to Euro-Canadian colonialism appear to have negatively affected community members' assessments of their ability to *influence* JRP outcomes. In particular, Community Member Respondents indicate that, as a result of their historical relationship with southern governmental bodies, they did not believe that they could influence the outcomes of the JRP proceedings.<sup>34</sup> Interview data further indicate that this ultimately limited Aboriginal participation in the JRP proceedings:<sup>35</sup>

Well, a lot of things they did, they don't even really ask our people, and they did things.... That's why I say they won't listen to us. They won't listen to what our concerns are. So why have those hearings? That's what some of our people are saying. It's no use to talk, because even if we talk, they won't listen to us, I know it.

In addition to the above impacts of Euro-Canadian colonialism on the self-efficacy of Aboriginal populations, the interview data indicate that Aboriginal participation in the JRP proceedings was undermined by elements of cultural imperialism

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<sup>34</sup> 5/8 Community Member Respondents directly attribute their or their peer's belief that they will not be able to influence the JRP's decision to past experience with government or industry.

<sup>35</sup> 4/9 respondents who had participated in the hearings say they thought they could make a difference re the decision-making outcomes associated with the JRP, whereas only 1/6 respondents who had not participated say they thought so. Further, 8/15 Community Member Respondents indicate that their peers may not have participated in the hearings because they believed they wouldn't be listened to.

and oppressive power dynamics present at the hearings themselves. This dynamic is well illustrated by the following quote from one Community Member Respondent:

I think partly, I don't know for sure, but possibly that's how come that maybe people don't go to those meetings – it's just an unwelcoming atmosphere that they feel. Maybe just the way the room is set up. It's kind of like I mentioned before, it feels like it's a courtroom every time you go in there. It's like you're going to court and you have those people looking at you. It's just such a colonial government setup.

In the first instance, Aboriginal community members indicate that they did not feel adequately welcome at the JRP hearings.<sup>36</sup> Two thirds of Community Member Respondents further identify oppressive power dynamics present in the JRP hearings expressed through either the manner in which the JRP conducted its proceedings (see Chapter 5.7 in respect of cross-cultural deficiencies), or the language used at the hearings.<sup>37</sup> According to Community Member Respondents, this power dynamic decreased community members' interest in, and understanding of, the proceedings, and also constrained the ability of community members to fully express themselves in that forum:

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<sup>36</sup> 5/15 community members state that they did not feel welcome in the JRP hearings and attribute this to either oppressive power dynamics at the hearings, or the failure of the JRP and Aboriginal organizations to invite the public to speak at the proceedings; 2/15 Community Member Respondents express reservations as to how comfortable community members were made to feel at the hearings; 2/15 Community Member Respondents state the panel did a good job in welcoming them.

<sup>37</sup> 10/15 Community Member Respondents express this view.

...it's just a very controlling atmosphere, and I don't think that it will be very welcoming from a cultural perspective, to be able to go and speak. It's just readjusting to a totally different system that's not yours to begin with.

The above-described research findings are consistent with the critical EA and Aboriginal civic engagement literature regarding the relationship between social exclusion and self-efficacy, participation and colonialism (see e.g. Alfred, Pitawanakwat & Price, 2007). On the other hand, these bodies of literature further posit that such participation may be limited by Aboriginal nationalistic factors linked to Euro-Canadian colonialism (see e.g. Cairns, 2003; Ladner, 2003; Shapcott, 1989). The interview data for my research, however, suggest that it is unlikely that such nationalistic sentiments contributed to limited individual-level Aboriginal participation in the JRP.

In order to explore this topic, I asked Community Member Respondents what they thought about the fact that the Canadian government was a co-sponsor of the hearings, and ultimately makes the final decision as to whether or not the pipeline will go ahead (JRP Agreement, 2004). I prefaced this question with a statement to the effect that some people had told me they thought the JRP was an exercise of colonial power, and others had told me they didn't think it was. In their responses to this question, none of the Community Member Respondents state or imply that they thought the JRP was an exercise of colonial power or control; in fact, all of the Community Member Respondents

who address the issue specifically refute this view.<sup>38</sup> This data suggest that it is unlikely that Aboriginal people abstained from participating in the JRP hearings as a form of nationalistic protest against a colonial power.

The above divergence from the literature might be explained by the fact that, notwithstanding the power imbalances present at the JRP hearings, at a macro-level Aboriginal respondents appear to view the JRP as a manifestation of their increasing self-determination rights. The data suggest that the appointment of four Aboriginal representatives to the panel, and the power shift represented by the same, played a key role in this regard:

The times are gone when the government had all the say. Now we have people in there, even if there's only four.

In fact, the majority of Community Member Respondents report that either they or their peers were encouraged to participate in the hearings by the presence of the four Aboriginal panel members.<sup>39</sup> The presence of these four Aboriginal representatives are said to have encouraged community participation in the hearings by:

- 1) increasing the probability that the panel would understand and consider community members' input;
- 2) increasing panel members' empathy vis-à-vis community members;

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<sup>38</sup> 4/4 Community Member Respondents who evince an opinion as to whether the JRP was, fundamentally, an exercise of colonial power specifically negate this view.

<sup>39</sup> 10/15 Community Member Respondents express this view. The remaining four respondents state that it made no difference to their participation either because the panel wasn't 100% Aboriginal, or because they didn't have a personal relationship with those specific Aboriginal representatives.

- 3) increasing community members' trust of, and ability to relate to, the panel;
- 4) increasing community members' sense of comfort and welcome at the hearings; and
- 5) fostering a perception that the panel represented a step towards self-determination.

Such findings indicate that Aboriginal representation on EA panels can help mitigate the negative effects of Euro-Canadian colonialism on Aboriginal participation in public EA review processes.

## **6.5 Relevance**

The interview data reveal that although the Mackenzie Gas Project was highly relevant to the Community Member Respondents, the JRP hearings themselves were of varying relevance to the respondents and other community members. Respondents indicate that the relevance of the JRP to the Aboriginal public was impacted by, and a function of, the perceived importance of the MGP, the level of understanding of the proposed project and the JRP, cultural incongruencies at the JRP hearings, and competing time demands. Overall, respondents strongly link participation to perceived relevance of the JRP.

The interview data indicate that the MGP and its potential environmental, economic, and social impacts were highly relevant to the affected community members. All of the Community Member Respondents, including those who did not participate in the JRP proceedings, express significant concerns or hopes in respect of the proposed project. The interview data and participation statistics indicate, however, that the relevance of the project and its potential impacts were not sufficient to incite participation

in the JRP hearings, or even to ensure that the hearings were relevant to most or all members of the affected Aboriginal populations.

Factors relating to the perceived relevance of the MGP appear to have been sufficient to make the JRP relevant to about half of the Community Member Respondents. Specifically, approximately half of the respondents who discuss relevance indicate that the JRP hearings were highly relevant to them or their peers due to the significant socio-economic and environmental impacts associated with the proposed MGP, and the opportunity to influence the regulatory decisions regarding this mega-project.<sup>40</sup>

The remaining respondents who address relevance indicate that the hearings were of limited relevance to them or other community members.<sup>41</sup> These respondents attribute this lack of relevance to:

- 1) the cultural identity of the three panel members from southern Canada, in that those members lacked the cultural framework necessary to understand community members' testimony;<sup>42</sup>
- 2) competing time demands;<sup>43</sup>
- 3) belief that they would not be able to influence the JRP outcomes;<sup>44</sup> and

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<sup>40</sup> 6/15 Community Member Respondents express this view (5/9 participants; 1/6 non-participants).

<sup>41</sup> 6/15 Community Member Respondents state that the JRP was of limited relevance (2/6 non-participants indicate that the hearings were not relevant to them personally; 4/9 participants indicate the hearings were not relevant to other members in the community).

<sup>42</sup> 1/15 Community Member Respondents (1/6 non-participants) express this view.

<sup>43</sup> 1/15 Community Member Respondents (1/6 non-participants) express this view.

<sup>44</sup> 3/15 Community Member Respondents expressly link diminished relevance with limited ability to influence decision outcomes.



4) gaps in their own or other's understanding of the JRP and MGP.<sup>45</sup>

The latter, for instance, is illustrated by the following quote from a Community Member Respondent who chose not to participate in the JRP proceedings:

I didn't understand most of it because of the language they were using. I never bothered going again. If there was a pipeline hearing coming in tomorrow, I wouldn't bother to go.

In addition, some Community Member Respondents indicate that although the JRP hearings were generally relevant to northern Aboriginal people, the proceedings were nevertheless irrelevant to them as individuals because they felt their interests were being advanced by the Aboriginal leadership. Two thirds of the Community Member Respondents identify this as a factor limiting either their own or their peers' participation in the JRP. One respondent conveys this sentiment as follows:<sup>46</sup>

No need to talk because my organization is already taking care of me.

In summary, although the respondents all report that the MGP was highly relevant to them, they express a range of assessments as to the relevance of the JRP proceedings as individuals. The latter appears to be a function of factors ranging from competing time demands to assessment of one's own ability to influence the outcomes of this EA.

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<sup>45</sup> 2/15 Community Member Respondents (1/6 non-participants; 1/9 participant) express this view. A further 5 Community Member Respondents indicate that either they or their peers didn't understand what was being said at the JRP hearings, but did not explicitly tie this to the JRP's relevance.

<sup>46</sup> 10/15 community member state either they or their peers did not participate because they trusted their organization to speak for them.

Significantly, two of the variables highlighted in the critical EA literature as factors which may limit the relevance of public EAs to Aboriginal people did not appear to have directly reduced the relevance of the JRP to members of the Aboriginal public. In particular, the critical EA literature indicates that cultural gaps as to the ideological premise of the public EA proceedings, and the procedural rules adopted at such fora may undermine the relevance of EA proceedings to members of the Aboriginal public (see e.g. Shapcott, 1989; Paci, Tobin & Robb, 2002). The literature also leaves open the possibility that the limited outcomes associated with EA processes (particularly as compared to those which might be achieved through supraregulatory channels) may further reduce the relevance of such to individual members of the Aboriginal public (see e.g. Davis, 2001; Diduck & Sinclair, 2002). Neither of these variables appears to limit the relevance of the JRP to community members impacted by the proposed project.

In respect of the cultural compatibility variable, some respondents indicate that the JRP relevance was reduced by the presence of three southern members on the panel who might not understand the testimony of community members. This is pertinent to, and a component of, the impacts of cultural incompatibilities on the relevance of public EAs to Aboriginal people. Nevertheless, none of the Community Member Respondents indicate that their estimation of the relevance of the JRP was diminished by either of the two factors highlighted in the EA literature on the subject; namely, factors related to the ideological premise and specific procedures reflected in and adopted by public EAs.

The fact that the cross-cultural incompatibilities present in the processes and ideological premises of the JRP did not appear to impact the assessments of community members as to the relevance of this proceeding may indicate that the deficiencies

described in Chapter 5.7 weren't of sufficient magnitude to render the JRP proceedings irrelevant to impacted Aboriginal populations. Alternatively, it may speak to the level of community familiarity with such culturally incompatible fora as a result of previous experiences with government and industry-led consultation processes.

As to the impacts of relatively limited EA outcomes on EA relevance to impacted Aboriginal populations, the results of this study do indicate that individual assessment of JRP relevance was negatively impacted by beliefs to the effect that individual input would not influence the JRP's decisions. Nevertheless, none of the Community Member Respondents indicate that the relevance of the JRP to them or their peers was negatively impacted by the limited outcomes of the JRP process as a whole, particularly as compared to the outcomes which could be achieved through supraregulatory channels. The absence of statements to this effect may be attributed to the fact that many community members did not appear to have a good understanding or awareness of the supraregulatory processes associated with the proposed project. According to Community Member Respondents, there was low community awareness about the access and benefits agreements concluded in respect of the MGP.<sup>47</sup> One Expert Respondent confirms:

...when we were going around to the communities, most people had no idea what was being negotiated on their behalf, or what was in the Access and Benefits Agreements.

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<sup>47</sup> 5/15 Community Member Respondents state they or their peers had little or no awareness or understanding of the Access and Benefits Agreements being concluded with industry. Only 2/15 Community Member Respondents state the community was aware of such agreements.

It should be noted that this research did not explore the impacts of such access and benefits agreements on the relevance of the JRP proceedings to Aboriginal organizations. However, the results of this research do leave open the possibility that if the participation of Aboriginal organizations in the JRP was limited by the conclusion of such supraregulatory agreements, then individual Aboriginal participation in the JRP proceedings might have been reduced as a result. Such a result would depend upon the degree to which Aboriginal organizations subsequently encouraged or discouraged community participation in the hearings, and whether this ultimately impacted Aboriginal public participation in these proceedings (see sections 4.2.2 and 6.2).

## **6.6 Overlapping Factors**

Although the above five categories provide a useful framework for analyzing the contextual factors limiting Aboriginal participation in the JRP hearings, interview data indicate that these factors were overlapping and mutually re-enforcing. Table 7 summarizes the links Community Member Respondents drew among the five contextual factors explored in this chapter:

**Table 7: Relationships identified by the Community Member Respondents between the five contextual factors explored in this study**

<b>Contextual factors</b>	<b>Identified connection</b>	<b>Example Direct Quote from Community Member Respondent</b>
Relevance and socio-economic status	The JRP was less relevant to those people who either did not understand the process or who experienced competing demands from their jobs. Respondents further link lack of understanding and competing demands to educational attainment and employment status.	But yet, you know, because of the very little education some people have. They just – they’re more busy trying to make a living from the land. And those are the people that find it hard to - they’re not very interested in what the pipeline is about
Relevance and Euro-Canadian colonialism	Cross-cultural communication barriers diminished the relevance of the JRP proceedings. Respondents indicate that panel members from southern Canada would not understand them, and that the understanding of community members regarding the JRP proceedings was constrained by linguistic and cultural barriers.	I never went to - half of the time I don’t know what they’re having meetings about. Nobody listens. They just bring people from other places and talk about something else.
Relevance and consultation fatigue	The JRP was less relevant to community members whose past experiences had led them to believe that they would not likely influence the decision-making outcomes.	And then sometimes some people talk and nothing really happens. If they speak, and nothing really happens, and then towards the end you just think, “What’s the use?”
Relationships and socio-economic status	Respondents describe how peer influence impacted community member participation in the JRP, and further link such influence to socio-economic status. Specifically, highly educated people were expected to represent their community at the hearings, and respondents who were not highly educated express greater fear of their peers’ reactions to their testimony to the JRP.	I always feel that they’re educated and they know what’s being said. Me, I say something, I might say something wrong, I always think - I always feel like that.

<b>Contextual factors</b>	<b>Identified connection</b>	<b>Example Direct Quote from Community Member Respondent</b>
Socio-economic status and Euro-Canadian colonialism	<p>Respondents indicate that:</p> <ul style="list-style-type: none"> <li>- Aboriginal people’s disadvantaged socio-economic status may be attributed to colonialism and the legacy thereof;</li> <li>- Residential school undermined the self-efficacy of survivors; and</li> <li>- Race and socio-economic status formed intersecting power differentials discouraging community participation in the JRP</li> </ul>	<p>One non-participant with low formal education describes:  “When I went to their meeting, it was just straight white people, and they were using a language I don’t understand. They were using these big words that, you know, I don’t know.”</p>
Socio-economic status and consultation fatigue	<p>Respondents maintain that people with low formal education were less likely to understand the JRP, and thus more likely to experience consultation fatigue.</p>	<p>I didn’t understand most of it because of the language they were using. I never bothered going again. If there was a pipeline hearing coming in tomorrow, I wouldn’t bother to go. Like I said before, maybe they wouldn’t want to listen to me.</p>
Euro-Canadian colonialism and consultation fatigue	<p>Respondents express consultation fatigue linked to their previous experiences with the federal government and other colonial authorities.</p>	<p>Even if we said no, it won’t mean a thing to the government, and they’ll go ahead with it. I say that because things happened like that in the past. We were never given a chance to say how we want things done; it was always the government way</p>

The above table summarizes the numerous links respondents identify among the five contextual factors explored in this chapter. In some instances, the factors compounded one another, as in the instance of the intersecting race and socio-economic based power differentials. In other instances, one factor acted as a strong determinant or pre-cursor to another, such as Euro-Canadian colonialism leading to high levels of informed cynicism and consultation fatigue.

## **6.7 Chapter Summary**

This chapter explores interview data from Community Member Respondents regarding Aboriginal participation in the JRP, as they relate to the contextual factors highlighted in the critical EA and Aboriginal civic engagement literature. The data indicate that the over-lapping factors of socio-economic status, social relationships, consultation fatigue, Euro-Canadian colonialism and relevance influenced Aboriginal participation in the JRP proceedings. Specifically, the data suggest that the limited individual-level Aboriginal participation in the JRP hearings may be attributed at least in part to the operation and impacts of these five contextual factors. The insights provided through this study of contextual factors, together with the deficiencies revealed through the program evaluation of the JRP's public participation initiatives, form the basis of this study's recommendations for enhancing grassroots Aboriginal public participation in northern EA processes.

## **7: SUMMARY AND RECOMMENDATIONS**

### **7.1 Research Summary**

Notwithstanding the value and importance of Aboriginal participation and input into environmental decision-making processes, especially in settings like the Canadian north, such participation is marginalized within typical Canadian EAs. According to one author, in failing to adequately incorporate and address Aboriginal concerns and issues within federal EA processes, the Canadian government is pursuing "...a policy of environmental racism" (Davis, 2001, p. 412). In addition to the legal and moral issues raised by this failure, it is also a matter of environmental concern. Specifically, the quality and implementability of the resultant decision outcomes may be compromised by limited Aboriginal participation in the EA process.

The objectives of this research were to study the factors influencing Aboriginal participation in northern EA processes, using the JRP as a case study. In order to achieve this objective, I conducted a program evaluation of the JRP's public participation initiatives and a study of contextual factors influencing individual –level Aboriginal participation in the JRP.

The results of this study indicate that there were four key process deficiencies in the JRP's public participation initiatives which may have contributed to limited individual-level Aboriginal participation in these processes. This research further supports the possibility that five over-lapping contextual factors also constrained Aboriginal participation in the JRP. Specifically, the program evaluation reveals



deficiencies in respect of cultural compatibility, resource accessibility, point of involvement, and process clarity, and suggests that these may have limited Aboriginal public participation in this EA. The study of contextual factors indicates that Aboriginal public participation in the JRP proceedings was influenced by five over-lapping contextual factors: socio-economic status, social relationships, consultation fatigue, Euro-Canadian colonialism and relevance.

## **7.2 Recommendations**

Interview data and results of this study were used to formulate key recommendations for improving individual-level Aboriginal participation in northern EA processes. In particular, I used the process and contextual factors found to have limited community member's participation in the JRP, together with specific recommendations put forth by respondents when asked to suggest mechanisms for improving Aboriginal participation in these processes, to formulate a series of nine recommendations for improvements to northern EA design. Significantly, many of the recommendations made by respondents when asked about how to improve participation in northern EA correspond with the issues revealed through this study's program evaluation and study of contextual factors constraining Aboriginal public participation in the JRP.

These nine recommendations, summarized in Table 8, do not re-iterate or repeat the practices of the JRP, government, or MGP proponents which appear to have helped support Aboriginal participation in the JRP proceedings, such as appointing Aboriginal representatives to the panel. Further, the over-lapping nature of some of the process or contextual factors explored in this study is such that many of the recommendations described below address more than one such factor.

**Table 8: EA factors found to have constrained individual-level Aboriginal participation in the JRP and corresponding recommendations for improvements to EA design**

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP								
	<i>Resource accessibility:</i> adequate time and information resources	<i>Cultural compatibility:</i> public trust and culturally compatible consultation forum	<i>Process clarity:</i> public actually understands the decision-making process	<i>Early involvement:</i> public able to provide feedback regarding the consultation format	<i>Social relationships:</i> risk of conflict or negative feedback minimized	<i>Relevance:</i> public understands the project and EA process; competing time demands considered	<i>Consultation fatigue:</i> minimized consultation demands; participation demonstrably impacts decision outcomes	<i>Euro-Canadian colonialism:</i> steps taken to equalize power dynamics at the EA forum; forum is culturally appropriate	<i>Socio-economic status:</i> public has the skills, understanding, and confidence necessary to participate
1. Include plain-language and Aboriginal translation requirements for key documents and oral proceedings	X	X	X			X		X	X
2. Use local channels and champions to disseminate project and EA information	X		X			X			X

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP								
	<i>Resource accessibility:</i> adequate time and information resources	<i>Cultural compatibility:</i> public trust and culturally compatible consultation forum	<i>Process clarity:</i> public actually understands the decision-making process	<i>Early involvement:</i> public able to provide feedback regarding the consultation format	<i>Social relationships:</i> risk of conflict or negative feedback minimized	<i>Relevance:</i> public understands the project and EA process; competing time demands considered	<i>Consultation fatigue:</i> minimized consultation demands; participation demonstrably impacts decision outcomes	<i>Euro-Canadian colonialism:</i> steps taken to equalize power dynamics at the EA forum; forum is culturally appropriate	<i>Socio-economic status:</i> public has the skills, understanding, and confidence necessary to participate
3. Eliminate time restrictions on community member presentations	X	X						X	
4. Involve community members in the development of the consultation format. This should include alternate participation venues		X		X	X			X	X
5. Employ proactive consultation measures	X					X			

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP								
	<i>Resource accessibility:</i> adequate time and information resources	<i>Cultural compatibility:</i> public trust and culturally compatible consultation forum	<i>Process clarity:</i> public actually understands the decision-making process	<i>Early involvement:</i> public able to provide feedback regarding the consultation format	<i>Social relationships:</i> risk of conflict or negative feedback minimized	<i>Relevance:</i> public understands the project and EA process; competing time demands considered	<i>Consultation fatigue:</i> minimized consultation demands; participation demonstrably impacts decision outcomes	<i>Euro-Canadian colonialism:</i> steps taken to equalize power dynamics at the EA forum; forum is culturally appropriate	<i>Socio-economic status:</i> public has the skills, understanding, and confidence necessary to participate
6. Provide capacity building support to community members. This should include funds, accessible information, and human resource support.	X		X			X		X	X
7. Streamline consultation activities							X		
8. Promote how previous outcomes have been modified to reflect public input							X		

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP								
	<i>Resource accessibility:</i> adequate time and information resources	<i>Cultural compatibility:</i> public trust and culturally compatible consultation forum	<i>Process clarity:</i> public actually understands the decision-making process	<i>Early involvement:</i> public able to provide feedback regarding the consultation format	<i>Social relationships:</i> risk of conflict or negative feedback minimized	<i>Relevance:</i> public understands the project and EA process; competing time demands considered	<i>Consultation fatigue:</i> minimized consultation demands; participation demonstrably impacts decision outcomes	<i>Euro-Canadian colonialism:</i> steps taken to equalize power dynamics at the EA forum; forum is culturally appropriate	<i>Socio-economic status:</i> public has the skills, understanding, and confidence necessary to participate
9. Invite local leadership to chair community hearings		X	X			X		X	

**1. Institute plain-language and Aboriginal language requirements in respect of both oral proceedings and key written documents**

The results of this study indicate that Aboriginal participation in the JRP was hampered by the inaccessible, technical language employed by the proponents and panel members at the community hearings, and by community members' limited understanding of the JRP process and proposed MGP. The results further suggest that the provision of Aboriginal language translation services at the hearings helped mitigate the detrimental impacts of Euro-Canadian colonialism on Aboriginal participation in such proceedings. In light of these results, it is recommended that plain language and Aboriginal language translation requirements be applied for key written documents and all oral proceedings undertaken in conjunction with northern EA processes.

Similar recommendations in respect of Aboriginal language translation have been put forth by Aboriginal groups in other parts of Canada (i.e. MNC, 2000), and Aboriginal respondents in this study emphasize this as well.<sup>48</sup> In addition to translation services such as those provided at the JRP community hearings, the translation of key written documents into applicable Aboriginal languages would enhance information accessibility and promote Aboriginal people's agenda for self-determination and cultural revitalization (see e.g. ITK, 2007; AFN, 1990).

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<sup>48</sup> 4/15 Community Member Respondents.

Information accessibility would be further advanced by plain-language requirements applicable to key written documents and oral hearings. Initiatives to minimize the use of technical, inaccessible language at the public hearings would also help mitigate oppressive power dynamics present at such proceedings, and increase the desire of community members to participate. To promote the use of more accessible language at community hearings held in conjunction with northern EA processes, regulators should require proponents to file plain-language versions of any presentations delivered at such fora.

**2. Use local channels and champions to disseminate information regarding the proposed project and associated EA process**

The results of this study indicate that social relationships were the source of formative influences and social consequences that affected Aboriginal participation in the JRP. The data further suggest that community members' limited understanding of the MGP and JRP process could be attributed at least in part to the inappropriate or inadequate information dissemination strategies pursued by the proponents and regulators in this case. Significantly, a majority of Community Member Respondents recommend that in order to promote Aboriginal participation in future EA proceedings, proponents and regulators should improve the accessibility and dissemination of information regarding the project and associated EA process. In fact, this is the most frequently cited

recommendation for EA reform put forth by Community Member Respondents.<sup>49</sup> It is thus recommended that, in addition to implementing the above recommendation regarding the use of plain-language documents and Aboriginal language translation, proponents and regulators utilize existing networks and cultural events such as community feasts and festivals to disseminate project and EA process information.

The utility of such social networks and events as a vehicle for information dissemination and peer socialization is well documented in social movements research (e.g. Diani, 2003) and in the Aboriginal civic engagement literature (e.g. Elections Canada, 2004; Silver et al., 2006). Local ‘champions’ and other persons in leadership positions can be particularly helpful in this regard (Alia, 2001). As one Community Member Respondent states:

...if you really want community involvement, you have to work through your organizations, your Aboriginal organizations, to filter that information through. It works...if you wanted people to be really involved, then you would work with the grassroots people.

### **3. Eliminate time restrictions on community member presentations**

The JRP has been criticized for its extended timeframe, and this study does conclude that, overall, the timeframe associated with this EA was not reasonable.

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<sup>49</sup> 8/15 Community Member Respondents.



Nevertheless, in light of the negative impacts of presentation time limits on the participation of community members in the JRP, it is recommended that regulators eliminate time limits on individual presentations at community hearings held in conjunction with northern EAs. It is expected that this would result in relatively small extensions to the overall timeframes of these EAs.

In the first instance, this study indicates that time restrictions were a significant impediment to meaningful Aboriginal participation in the JRP processes. Specifically, a third of Community Member Respondents identify the discretionary 15-minute time limit on presentations at the community hearings as a significant barrier to Aboriginal participation in the JRP, and recommend that the time limits be abolished.<sup>50</sup> The critical EA literature, in turn, also indicates that extended timeframes may be required for Aboriginal participants to completely express their input to EA bodies, establish rapport with the decision-maker, or engage in cross-cultural communication (Villebrun, 2002).

In addition to the above research indicating that time limits constitute a significant barrier to Aboriginal participation in northern EAs, experience with the JRP indicates that time extensions resultant from eliminating time restrictions on individual presentations at the community hearings may be negligible relative to the duration of the EA process as a whole. Specifically, the JRP's community hearings only took 28 days (JRP, n.d.a) in a process which has spanned over five years: the bulk of the JRP process appears to have

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<sup>50</sup> 5/15 Community Member Respondents.

been consumed by technical hearings, data analysis, and report preparation. Even if abolishing the time limits on community member presentations doubled the length of the JRP's community hearings, that would still have only added 4 weeks to the process. This possible time extension does not seem unreasonable given that one of the main purposes of the panel was to gather input and insight from people in the project area regarding the potential impacts of the proposed project (TOR, 2004).

In light of the above, it is recommended that northern EA processes be re-structured so that there are no time restrictions on community member presentations at such fora. It is further recommended that the chair of the EA proceedings retain the discretion to cut-off or limit such testimony if, in the opinion of the chair, the testimony is outside the mandate of the EA, or is needlessly repetitive or irrelevant. The elimination of such prime facie time limits could help remove a significant impediment to Aboriginal participation in northern EA processes, with relatively small increases in the overall length of such fora.

**4. Involve community members in the identification and development of culturally appropriate participation venues, including alternate venues**

Notwithstanding the JRP's efforts to develop a culturally appropriate consultation forum, and the involvement of Aboriginal organizations in the design of the JRP process itself, interview data reveal that community members did not view the process to be culturally appropriate. The results of this study further indicate that the public nature of the JRP's community hearings raised concerns about peer conflict and exacerbated pre-existing power dynamics. One means of addressing these issues would be for regulators

involved in northern EA process and design to specifically seek input from community members, as well as Aboriginal organizations, as to their preferred consultation fora. It is further recommended that in so doing, regulators specifically explore alternate, less public consultation fora.

This recommendation is supported by the literature and suggestions from Community Member Respondents as to mechanisms for improving individual-level Aboriginal participation in northern EA processes. The civic engagement literature documents the importance of incorporating alternate participation venues such as open houses and focus groups to promote the participation of marginalized populations in civic engagement exercises (see e.g. Federation of Canadian Municipalities, 2004). In turn, the critical EA literature highlights the importance of consulting affected Aboriginal populations about preferred consultation fora (Roberts, 1996; AFN, 2000). Finally, a majority of the community members interviewed for this study assert that regulators should have implemented alternate consultation techniques including door-to-door visits, community surveys, camp visits, tape-recorded testimony, and consultations in outdoor venues.<sup>51</sup> As one respondent who did not participate in the JRP states:

Do they have to have a public meeting all the time? Can they go to homes? If they came to me, I would have lots of stuff to tell them if they came to me, like what we're doing now. I would like that, I would like to see that – one-to-one

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<sup>51</sup> 8/15 Community Member Respondents

EA practitioners should consult members of the Aboriginal public as well as Aboriginal organizations in order to obtain feedback regarding Aboriginal people's preferred consultation fora.

**5. Employ proactive consultation measures**

The interview data for this study indicate that the JRP was of limited relevance to about half of the Community Member Respondents, and that its relevance was undermined by competing time demands. Given these results, it is recommended that regulatory authorities undertake proactive initiatives to solicit and obtain Aboriginal input and participation in northern EA processes. Door-to-door surveys would be one means of accomplishing this. In fact, several Community Member Respondents assert that the JRP and other governmental organizations should have conducted door-to-door surveys or visits in order to obtain public input regarding the proposed MGP.<sup>52</sup>

**6. Provide enhanced capacity-building support at the grassroots, or community, level**

This study concludes that disadvantaged socio-economic status, as well as diminished understanding of both the MGP and the JRP, were major impediments to the participation of community members in the JRP proceedings. Furthermore, although the

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<sup>52</sup> 4/15 Community Member Respondents.

federal government did provide regional NWT Aboriginal organizations with a total of \$8 million in capacity-building support throughout the JRP process, most of these organizations used the funds to help support their own intervention in the JRP proceedings rather than providing funding to sub-groups or individual community members (INAC, n.d.b.; interview data). One community member suggests that the Government should have extended capacity-building support directly to the general Aboriginal public, to help community members engage in the process:

It's good that they give us money, but we have to work through our parent organization. We have a regional, and then it filters probably to their community organization, but we're missing those people that are grassroots...I think we don't have that view of what people want. We don't really have the feeling of what the people at that level want.

In light of the above, it is recommended that northern EA initiatives extend capacity-building support at the community level. In particular, such support could include locally based outreach workers to conduct information dissemination and assist community members to formulate and prepare their submission to the relevant EA body.

## **7. Streamline consultation activities**

The results of this study indicate that consultation fatigue hampered Aboriginal participation in the JRP. Two means of addressing such participant burnout are: continued efforts to streamline northern EA processes, and proponent consultation protocols.

The regulatory bodies involved in the JRP did conclude a number of innovative agreements to coordinate the three EA processes triggered by the proposed MGP pursuant to the *Canadian Environmental Assessment Act*, *Inuvialuit Final Agreement* and *Mackenzie Valley Resource Management Act*. Nevertheless, the project ultimately resulted in two separate regulatory proceedings (one by the JRP and one by the National Energy Board), and the JRP assessment itself has taken more than five years to complete (TOR, 2004; JRP, 2008). Efforts to streamline regulatory proceedings should be further promoted to minimize the consultation burden placed upon affected Aboriginal populations.

In addition, it is recommended that EA legislation be amended to mandate codes of conduct for proponents, detailing appropriate Aboriginal consultation protocols and procedures. The Tahltan Joint Councils in British Columbia advocate for the adoption of such a protocol into the *Canadian Environmental Assessment Act*, and assert this would "...safeguard First Nations communities, leadership and band/council offices from the onslaught of proponent salesmanship" (Tahltan Joint Councils, 2000). Given the extensive industry-led consultations occurring in northern Aboriginal communities, such a protocol for proponents would appear to be appropriate in a northern context as well.

**8. Explain and promote how outcomes have been modified to reflect public input**

The results of this research indicate that Aboriginal participation in the JRP proceedings was limited by informed cynicism as to the public's ability to influence the decision outcomes of such processes. It is possible that this cynicism may be due, in part,

to the failure of previous EA practitioners to adequately communicate decision outcomes and public influence on these. One Community Member asks:

What are they doing with our information getting from the community?

They're just throwing it away and then, they're doing what they want.

One means of helping to address such cynicism, and thus support Aboriginal participation in future northern EAs, may be to focus efforts on explaining and promoting how EA outcomes have been modified to reflect public input.

## **9. Invite local leadership to chair community hearings**

In order to reduce cultural incompatibilities, and help make community members feel more welcome and comfortable at community hearings held in conjunction with northern EA processes, it is recommended that a leader from each community be invited to chair the EA hearing in their community. This recommendation was put forth by a Community Member Respondent who indicates that such an initiative would help mitigate the negative impacts of Euro-Canadian colonialism on Aboriginal participation in northern EA processes:

I think what they need to do is they need to enable the leadership in that community to host it. For instance, host it, welcome these panel members into the community, open up with a prayer. Have it like a circle, in a way that the people can feel that they're a part of it. The chief can be the moderator or the chair of it, instead of having an outsider from God knows where. I think culturally that would make a big difference. The chief or the leader from the community is the one that the people respect and trust. To have someone like that who can enable participation, I think that would be very effective.

### 7.3 Recommendations for Future Research

This study focused on individual or grassroots Aboriginal participation in the JRP. There would be value in conducting further research to examine the nature, scope, and factors influencing the participation of Aboriginal *organizations* in the JRP. Such a study would provide an interesting comparison of the state of participation by individual Aboriginals and Aboriginal organizations in the JRP, and the factors influencing such participation. It might also provide an indication as to whether the participation of Aboriginal organizations addressed or compensated for the gap in community member participation. This would help address a fundamental issue arising from this research; that is, what effect did the limited participation of individual members of the Aboriginal public have on the quality of the JRP decision-making outcomes?

There would be additional value in conducting a similar study of Aboriginal participation in EA processes in the Yukon, Nunavut, Nunavik and Nunatsiavut. Such research would provide insight as to the effects of regional cultural, political, and socio-economic differences on Aboriginal public participation in such proceedings, and would test whether these preliminary recommendations to enhance Aboriginal participation in northern EA processes can be more broadly generalized.



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## **APPENDICES**

## **APPENDIX A: SAMPLE INTERVIEW SCHEDULE FOR EXPERT RESPONDENTS**

The following is a sample of the interview schedule that was used in the interviews with Expert Respondents. Some of the interview questions were modified or tailored to the specific experiences, background, or expertise of the respondents.

### **A. Introduction/Background information**

- Brief introduction of researcher and the study
- Review of letter of introduction and questions in respect of the same. Permission to use tape recorder
- Respondent's role in, or connection to, the JRP processes and the community hearings

### **B. Substantive Questions**

- How well do you think the registered intervenors understood the MGP and the EA process for this project?
- How well do you think that individual members of the impacted communities understood the MGP and the EA process for this project?
- What is your opinion of the extent to which the JRP has utilized appropriate decision-making tools and processes for *structuring* their decision-making process in the decisions made to date?
- What is your opinion of the weight the government put on the opinions the public voiced about the JRP's terms of reference and environmental impact statement sufficiency decision?
- In your opinion, did the public who took part in the JRP community hearings accurately represent the diversity present in the populations the JRP was seeking input from?
- What is your opinion of the degree to which the panel succeeded in obtaining input from and participation of individual Northerners in their community hearings?
- What is your assessment of the adequacy of the resources (time, HR, equipment,



facilities and/or funds) that the Canadian Environmental Assessment Agency provided to the public to help facilitate their participation in the hearings?

- In your opinion, have the JRP's public participation initiatives achieved at a reasonable cost?
- In your opinion, was the public involved at the optimal level of the decision-making process or processes associated with the Mackenzie Gas Project?
- What is your opinion of the appropriateness of the draft terms of reference being the first entry point for public participation in the JRP proceedings?
- What impact, if any, do you think the access and benefit agreements negotiated or concluded between aboriginal governments and the oil companies had on the participation of individual Aboriginal community members in the JRP proceedings?

### **C. Conclusion**

- If you were going to advise the Government about how to increase public participation, and particularly the participation of Aboriginal community members, in processes like the pipeline hearings, what would you tell them?
- Is there anything else you would like to add?
- Thank-you, follow-up and opportunity to review the transcripts

## **APPENDIX B: SAMPLE INTERVIEW SCHEDULE FOR COMMUNITY MEMBER RESPONDENTS WHO DID NOT PARTICIPATE IN THE JRP**

The following is an outline of the interview topics explored through the interviews with Community Member Respondents who did not participate in the JRP. Some of these questions outlined below were changed when used in interviews with Community Member Respondents who did participate in the JRP.

### **A. Introduction**

- Ice-breaker: weather, local events, etc.
- Brief introduction of researcher and the study
- Review of letter of introduction and questions in respect of the same
- Consent form and permission to use tape recorder

### **B. Substantive Questions**

- In \_\_\_\_\_ of 200\_, the people in charge of making the final recommendation to the federal government about whether the pipeline should go through or not travelled to (Inuvik, Fort McPherson) to hear what local people had to say about the pipeline. Did you take part in those hearings?
- Can you tell me about why you chose to not take speak at that community hearings?

Prompting questions, if necessary:

- a. In a tight-knit community such as (Inuvik, Fort McPherson), anything you said to the panel about the pipeline could be known to the rest of the community. Did this impact your decision about taking part in the hearings?
- b. In your opinion, what sort of influence can an individual such as yourself make on the Government's decision about whether or not to allow the pipeline to go through?

- c. In some cultures, the right to speak at public gatherings is reserved for certain people (I.e. elders, leaders, etc). Do you think your own position within the community impacted your willingness and desire to speak at the pipeline hearings?
- d. Over the past decades, industry and government have conducted numerous community consultations about a wide range of projects and plans in your community. Did this make any difference to your decision to participate in the pipeline hearings?
- e. Some people have told me that they didn't want to participate in the pipeline hearings because they felt the hearings were just another act of colonial power. Other people have told me that they didn't think the hearings were a colonialist process at all. What do you think about the fact that the Canadian government was a co-sponsor of the hearings, and gets to make the final decision about whether or not the pipeline hearings will go ahead?
- f. How would you describe your feelings towards the panel?
- g. Four of the seven members of the Joint Review Panel for the pipeline were Aboriginal people from the North. Did this make a difference to your decision to participate in the pipeline hearings?
- h. How welcome do you think you, as an Aboriginal person, would have felt at the pipeline hearings?
- i. What steps do you think the Government could have taken to make the hearings more welcoming towards, and inclusive of, people from the communities?
- j. In your opinion, was the panel fully independent from the bodies that appointed them?
- k. In your opinion, how compatible are public hearings (like the type held for the pipeline) with northern Aboriginal cultures?
- l. Taking part in things like the pipeline hearing can take a lot of time. What is your opinion of the amount of time personally had to dedicate towards taking part in these hearings?
- m. How important would you say the pipeline hearings were to you in your own life?
- n. How well do you feel you understand the Mackenzie Gas Project and the pipeline hearing processes?

- o. What can you tell me about the agreements Aboriginal governments may have signed with oil companies about employment and other pipeline benefits?
  - p. What sort of a difference do you think one individual (such as yourself) could make on the Government's final decision about whether or not the pipeline should go ahead or not?
  - q. Do you have any past experience speaking at public meetings?
  - r. In the Gwich'in/Inuvialuit culture, are there specific values or teachings about disagreeing with one another, or with the leadership, in public settings?
  - s. Did your personal relationships with other people in the community make any difference to your decision to participate in the hearings?
- Do you think the people who were deciding if the pipeline should go through did enough consultation about the Mackenzie Gas Project?
  - In your opinion, what could community members gain by taking part in the proceedings?

### **C. Conclusion**

- What changes would have to be made to the pipeline hearings before you would have been interested and able to participate in them?
- Is there anything else you'd like to add?
- Do you know of anyone else that I should try to interview for this project?
- Thank-you, follow-up and opportunity to review the transcripts

## **APPENDIX C: LETTER OF INTRODUCTION**

Dear ,

This letter is an invitation to consider participating in a study I am conducting as part of my Master's degree in the School of Resource and Environmental Management at Simon Fraser University. I would like to provide you with more information about this project and what your involvement would entail if you decide to take part.

The objective of my study is to gain a greater understanding of the nature and scope of Aboriginal participation in the JRP for the Mackenzie Gas Project, and of the specific factors which enabled or limited the participation of Aboriginal peoples from the Beaufort Delta in these processes. I hope that the results of my study will be of benefit to the communities directly involved in the study, to environmental assessment practitioners, and to the broader research community.

You are in a unique position to describe Aboriginal involvement in the JRP processes for the Mackenzie Gas Project and some of the factors influencing Aboriginal participation in these, and your input would be very valuable to this research project. If you agree to participate in this study, it would involve an interview that would take about 60 minutes of your time to take place in a mutually agreed upon location. I would like to assure you that this study has been reviewed and received clearance through the SFU Office of Research Ethics and the Aurora Research Institute. The data of this study will maintain confidentiality of your name and the contributions you have made. In any report, publication or presentation arising from this research your name will not be used when citing information acquired from you.

If you have any questions regarding this study, or would like additional information to assist you in reaching a decision about participation, please contact me at 777-7030 or by email at bla30@sfu.ca. You can also contact my supervisor, Professor Murray Rutherford at (778) 782-4690 or email mbr@sfu.ca. Should you wish to obtain information about your rights as a participant in research, or about the responsibilities of researchers, or if you have any questions, concerns or complaints about the manner in which you were treated in this study, please contact the Director, Office of Research Ethics by email at hweinber@sfu.ca or phone at 778-782-6593. I very much look forward to speaking with you and thank you in advance for your assistance in this project.

Yours Sincerely,

Brook Land-Murphy

## APPENDIX D: SCIENTIFIC RESEARCH LICENCE (AURORA RESEARCH INSTITUTE)

### SCIENTIFIC RESEARCH LICENCE

Licence # 14340N

File # 12 410 820

**ISSUED BY:** Aurora Research Institute - Aurora College  
Inuvik, Northwest Territories

**ISSUED TO:** Ms. Brook Land-Murphy  
1346 East 11th Ave.  
Vancouver, BC V5N 1Y5  
Tel: 604-875-9560

**ON:** 08-May-08

**TEAM MEMBERS:** Dr. Murray B. Rutherford

**AFFILIATION:** Simon Fraser University

**FUNDING:** SSHRC, NRDP

**TITLE:** Understanding aboriginal involvement in the Joint Review Panel proceedings for the Mackenzie Gas Project: a study of factors influencing aboriginal participation in the Inuvik Region

**OBJECTIVES OF RESEARCH:**

The objectives of this research project are to gain a greater understanding of the nature and scope of aboriginal participation in the JRP for the Mackenzie Gas Project, and of the factors that hindered or enabled individual aboriginal peoples of the northern Mackenzie Valley to participate in the environmental assessment for this project.


**DATA COLLECTION IN THE NWT:**

**DATE(S):** June 01 to September 07, 2008

**LOCATION:** Inuvik, Fort McPherson and Aklavik

Licence# 14340 expires on December 31, 2008

Issued at the Town of Inuvik on May 08, 2008

  
Andrew Applejohn  
Director, Aurora Research Institute

