

CHARACTERIZING GOOD-PRACTICE ENGAGEMENT
BETWEEN RESOURCE DEVELOPERS AND INDIGENOUS COMMUNITIES
IN NORTHERN SASKATCHEWAN

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ABSTRACT

In Canada, natural resource management and environmental decision-making are informed by a multitude of factors, including evolving standards set by duty-to-consult case law; political commitments to reconciliation between non-Indigenous and Indigenous peoples; global standards for corporate social responsibility; and the expectation among many Indigenous communities that they be participants in decision-making and economic development opportunities in their traditional territories. Additionally, the inclusion of Indigenous peoples in natural resource decision-making requires an approach to community engagement that is unique from the status quo. This is because Indigenous peoples in Canada hold rights and interests that are distinct from public stakeholders. These intersecting and dynamic factors can result in ambiguities in the roles and responsibilities of key parties (industry, Indigenous community/government and state government), and can result in poor practices of engagement which can potentially lead to the erosion of relations, local exclusion from economic benefits, and resistance to project development.

This research was conducted in partnership with the Lac La Ronge Indian Band's (LLRIB) Lands and Resources Management Board (LRMB) and SaskPower's Indigenous Relations office. Its aim was to enhance the capacity of industry, Indigenous communities and government ministries to work collaboratively to generate informed environmental decision-making in Indigenous traditional territory. I carried out a mixed method, qualitative approach that involved participant observation; semi-structured interviews with community members, proponent employees and government employees; as well as group workshops.

Analysis of these sources revealed persistent confusion and/or differing perceptions of the *duty to consult and accommodate*—a legal requirement—and *engagement* with Indigenous peoples. Perceptions of consultation and engagement are tied to how individuals participate in each process, and inconsistencies in these perceptions can lead to complications in practice. Results also identified critical elements for building ongoing, collaborative and respectful engagement. From these elements, I created a framework of principles and practices for effective engagement between resource developers and Indigenous communities/governments. The framework underscores the importance of recognizing and addressing Indigenous communities as self-determining nations with unique cultures, rights, and histories. It also emphasizes the need to make shared commitments to local social and economic benefits related to environmental decision outcomes, and highlights the importance of relationship-building at personal, professional and business levels.

Overall, this work sheds light on the complexities tied to how individuals from private and public companies, Indigenous communities/governments, and provincial ministries perceive engagement and the duty to consult and accommodate. This research also demonstrates that until the policies and procedures that govern environmental decision-making can integrate and reflect Indigenous autonomy and values, the

state-led and economic structures that control Indigenous participation in environmental planning and natural resource management will remain inequitable. Finally, this work offers guidance to proponents, Indigenous communities/governments and provincial ministries to support them in making environmental and natural resource decisions that consider a multitude of interests, and that lead to mutually constructive environmental, social and economic outcomes.

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ABBREVIATIONS

CRA	Collaborative Research Agreement
CPF	Consultation Policy Framework
CSR	Corporate Social Responsibility
EA/IA	Environmental Assessment/Impact Assessment
FPIC	Free, prior and informed consent
FSIN	Federation of Sovereign Indigenous Nations
IBA	Impact and Benefit Agreement
ILO 169	International Labour Organization Indigenous and Tribal Peoples Convention No. 169
LLRIB	Lac La Ronge Indian Band
LRMB	Lands and Resources Management Board
MN-S	Métis Nation of Saskatchewan
MOE	Saskatchewan Ministry of Environment
NAD	Northern Administration District
NSEQC	North Saskatchewan Environmental Quality Committee
PAR	Progressive Aboriginal Relations
SERM	Saskatchewan Environment and Resource Management (former name for the Saskatchewan Ministry of Environment)
SLO	Social License to Operate
TLU	Traditional Land Use study
the Board	Lands and Resources Management Board
TRC	Truth and Reconciliation Commission
UNDRIP	United Nations Declaration on the Rights of Indigenous Peoples
UNGP	United Nations Guiding Principles on Business and Human Rights

CHAPTER ONE: INTRODUCING THE RESEARCH

1.1 Introduction

Local Indigenous¹ participation in environmental planning and natural resource development has become increasingly prevalent in Canada. This is due to a few key factors, including: (i) consistent assertion among Indigenous nations that they maintain jurisdiction over traditionally occupied land and natural resources; (ii) international normative standards for resource development that are founded on respect for Indigenous rights and self-determination, including the principle of free, prior and informed consent; and (iii) the advent of duty to consult law, which legislates Crown consultation with Indigenous peoples on environmental decisions that may impact constitutionally-recognized and protected Aboriginal² and Treaty rights. Indigenous participation in environmental decision-making has also been influenced by recent federal policy commitments to forging a “renewed, nation-nation relationship with Indigenous peoples based on recognition, rights, respect, co-operation and partnership” (Government of Canada, 2018a). The federal government has further signaled its intention to reconcile Crown relations with Indigenous nations by adopting the Truth and Reconciliation Commission (TRC) Calls to Action (Trudeau, 2015) and by endorsing the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (Fontaine, 2016). All of these forces culminate in a political and economic climate that involves Indigenous nations, Crown governments and industry as they strive to navigate regulatory requirements, negotiate diverse interests, and generate mutually beneficial outcomes.

Indigenous participation in environmental decision-making in traditional territory³ can take a variety of forms, and terminology used by scholars to describe local Indigenous participation varies. Common terms include ‘public participation,’ ‘community engagement,’ ‘stakeholder engagement,’ ‘Indigenous engagement,’ and ‘consultation,’ though they do not always mean the same thing. Rather, these terms describe configurations of local Indigenous inclusion in environmental and natural resource decision-making that differ from one another, sometimes incrementally and sometimes in more significant ways. At a broad level, local Indigenous participation in environmental decision-making fits into a global trend

¹ ‘Indigenous’ refers to those peoples who self-identify as Indigenous, who maintain histories, cultures, governing structures and laws that are distinct from those of the colonial state and whose legal rights are recognized internationally (Daes, 2008). Further, most Indigenous peoples are now minorities in their own territories as a result of oppression and discrimination by settler society (ibid).

² The term ‘Aboriginal’ is used in the *Constitution Act, 1982* and refers to Inuit, First Nations and Métis peoples in Canada. Some people find the term offensive because the prefix ‘ab’ connotes ‘away from’ or ‘not,’ and therefore ‘Aboriginal’ means ‘not original.’ The term was also coined by colonizers rather than by Indigenous groups themselves. In light of this, I choose to use the word ‘Indigenous’ throughout this thesis, and refer to specific nations as appropriate. However, I use ‘Aboriginal’ when referring to rights recognized in Section 35 of the *Constitution Act, 1982*.

³ ‘traditional territory’ refers to ancestral land and waters that are occupied and utilized by Indigenous peoples for a multitude of traditional purposes (Joseph, 2012). Malone and Chisholm (2016) explain that the bounds of traditional territory are in flux, and “may be defined by kinship ties, occupation, seasonal travel routes, trade networks, management of resources, and cultural and linguistic connections to place” (Introduction section, para. 1).

in environmental governance toward decentralized government control (Szablowski, 2010; Howitt et al., 2013; Craik, Gardner & McCarthy, 2017), however there remains considerable ambiguity with regards to the spectrum of participation. In the context of natural resource management, there has been movement internationally towards increased collaboration among industry, government and Indigenous and non-Indigenous communities, often through the establishment of co-management arrangements, impact benefit agreements, and joint management agreements (Howitt et al., 2013). This spectrum of participation is directly related to the extent of power-sharing among states, Indigenous communities, and industry (Ansell & Gash, 2007).

Importantly, Indigenous peoples in Canada maintain distinct rights and status from ‘regular’ (non-Indigenous) citizens, and therefore standards for Indigenous participation are different than those of stakeholders⁴ (Lane, 2003; Nadasdy, 2003; Coulthard, 2007; Ruckstuhl, Thompson-Fawcett & Rae, 2014). In Canada, Indigenous participation in environmental decision-making can be organized into two primary categories: consultation and engagement. I draw from Boyd and Lorefice’s (2018, p. 9-10) definition of each term, where ‘consultation’ refers to “the Crown's obligation to meaningfully consult with Indigenous peoples prior to the Crown making a decision or taking a course of action that may affect their rights and privileges, in accordance with Section 35 of the Constitution Act”; and consider ‘engagement’ to be “the broad range of actions taken by companies and government departments as they interact with Indigenous peoples for the purpose of finding common ground when a project proposed by a company is being assessed by the relevant authorities.” These definitions signal a clear distinction between each process; however, in practice the distinction is not always obvious. For instance, scholars have highlighted that ambiguities in the duty to consult legislation obscure legal responsibilities for government and proponents, which can lead to poorly-practiced consultation (Booth & Skelton, 2011 a&b; Noble & Udofia, 2015; Olszynski, 2016). Also, environmental assessments—which are common tools used to mitigate environmental and social impacts of proposed development—may entail both consultation and engagement with local Indigenous communities. Noble and Udofia (2015) note that unclear roles for participants in environmental assessments contribute to poor engagement and inadequate consultation.

It is widely recognized that there are significant risks associated with poor practices of engagement and consultation between resource developers and Indigenous communities (Booth & Skelton 2011b; St-Laurent & Le Billon, 2015; Papillon & Rodon, 2016; Craik et al., 2017; Boyd & Lorefice, 2018). For example, poor engagement and inadequate consultation among resource developers and Indigenous peoples can lead to local resistance of proposed projects through expensive and lengthy court cases or rallies and blockades (Booth & Skelton, 2011c; MacLean, Robinson & Natcher, 2015). Local dissatisfaction with participatory processes of environmental decision-making in traditional territory also

⁴ The distinction between stakeholders and rights-holders is explained on page 32 (Section 2.5.2).

contributes to uncertainty around project completion and an unstable investment climate (Shanks & Lopes, 2006; Coates, 2015; Newman, 2017). Furthermore, poor practices of Indigenous participation in resource development challenge and undermine federal commitments to reconciliation.

In light of these risks, scholars contend that strengthening the capabilities of industry, Indigenous community⁵ and state government to collaborate and work together is imperative (Booth & Skelton, 2011b; Coates, 2015; Poelzer, 2015). According to Udofia, Noble & Poelzer (2016), achieving improved relationships between the Crown and Indigenous nations must involve the improvement of policies that inform natural resource development decision-making processes to necessitate greater inclusion of Indigenous peoples. This call is echoed by Fleras & Maaka (2010), who assert that Canada should implement an Indigeneity-Grounded Policy lens to all policies that implicate Indigenous peoples. Furthermore, recent research by Boyd and Lorefice (2018, p. 3) declares that “Improving consultation and engagement of Indigenous Peoples and resolving resource development conflicts [...] requires a better understanding of the interests and values which underlie competing groups’ positions.” This claim points to the need to analyze and understand the ways in which each group conceptualizes consultation and engagement in order to enable constructive changes in process and outcomes.

In a similar but slightly different vein, Booth and Skelton (2011a) assert that while there is considerable research on the perspectives of environmental assessment and consultation processes from the Indigenous point of view, there is a dearth of scholarly research that focuses on the experiences of Indigenous inclusion in environmental assessment as recounted by proponent and government personnel. Overall, multiple scholars contend that there is a need to better understand the experiences of consultation and engagement from the perspective of all parties in order to move forward with successful collaborative arrangements (Szablowski, 2010; Booth and Skelton, 2011a; Boyd & Lorefice, 2018).

⁵ In this thesis, I use the term ‘Indigenous community’ to refer to the range of Indigenous peoples that may be included in engagement. Indigenous community is inclusive of Indigenous leadership/government, band staff members, community members, and community or band-owned businesses. I believe this term is appropriate to use given the diversity of Indigenous communities in Saskatchewan (Métis and First Nation).

1.2 Research Purpose, Objectives and Thesis Outline

The purpose of this research is to enhance the capabilities of industry, Indigenous communities and Crown government agencies to work collaboratively to generate informed environmental decision-making in Indigenous traditional territory. The research objectives are as follows:

- 1) Define and differentiate between the ‘duty to consult and accommodate’ and ‘community engagement’ as carried out in environmental decision-making processes in Northern Saskatchewan⁶.
- 2) Investigate participant perceptions and experiences of engagement and consultation in Northern Saskatchewan.
- 3) Identify principles that support good practices of engagement among proponents, Indigenous communities and government ministries to inform future interactions between proponents, Indigenous communities, and government ministries.
- 4) Offer recommendations to inform future policies, strategies and practices.

1.3 Positioning the Research in Northern Saskatchewan

This research was undertaken in partnership with the Lac La Ronge Indian Band (LLRIB), a Woodland Cree nation in Saskatchewan, and SaskPower, the province’s main power utility. The LLRIB has over 10,000 band members spread out across six reserves and various cities and towns. The central administrative office is located in reserve no. 1568 in La Ronge, just northeast of central Saskatchewan, but located within the provincial Northern Administration District (NAD). The band is actively involved in decisions that impact their traditional territories through the Lands and Resources Office and the Lands and Resources Management Board (LRMB), which is in its eighth year of operation. SaskPower is a publicly owned utility; as a Crown corporation it manages power-production and service delivery in the province. It is beholden to the Crown Investment Corporation of Saskatchewan under *The Crown Corporations Act, 1993*, which operates under a Board of Directors comprised of seven provincial Ministers.

This research project has its origins in a recent experience of engagement between SaskPower and the LLRIB regarding SaskPower’s desire to use herbicides under a transmission line for vegetation management in LLRIB traditional territory. Upon encountering local concerns and some resistance to the proposal, SaskPower’s engagement team recognized that they needed a different approach in order to maintain positive relationships with the community. The Crown corporation is also experiencing an institutional shift towards economic reconciliation in response to the national reconciliation agenda and is in the process of establishing a more concerted focus on stakeholder engagement. This focus entails

⁶ I define ‘Northern Saskatchewan’ in the third paragraph of the following section, page 16.

integrating their Indigenous engagement efforts into SaskPower's broader operations (personal communication, SaskPower Indigenous Relations Department, February 8, 2019). This research strives to offer useful insight to support this shift and to enhance SaskPower's engagement policy and practices. While its origins stem from a situation involving SaskPower and the LLRIB, this research has a broader scope – it seeks to better understand engagement between resource developers from multiple industries and Indigenous communities in Northern Saskatchewan. To do this, the research examines the experiences and perceptions of individuals from a variety of groups, including a First Nation in Northern Saskatchewan, the Métis Nation of Saskatchewan, five private corporations, a Crown corporation, and two provincial ministries.

The research focuses on engagement and consultation in Northern Saskatchewan, Canada, which is a region that can be defined in multiple ways. Bureaucratically-speaking, 'Northern Saskatchewan' is delineated by the Northern Administration District (NAD) line (Figure 1), which runs more or less horizontally across the province just north of Prince Albert. According to the Government of Saskatchewan, "The NAD includes approximately half of Saskatchewan's land area, but less than four per cent of the province's population. The North's population of roughly 37,000 lives in approximately 45 communities, which include municipalities, First Nations reserves, settlements, and sometimes a combination of each" (Government of Saskatchewan, n.d.). The region has little infrastructure, and the population's education levels and incomes are lower than those among residents in the southern half of the province (ibid.).

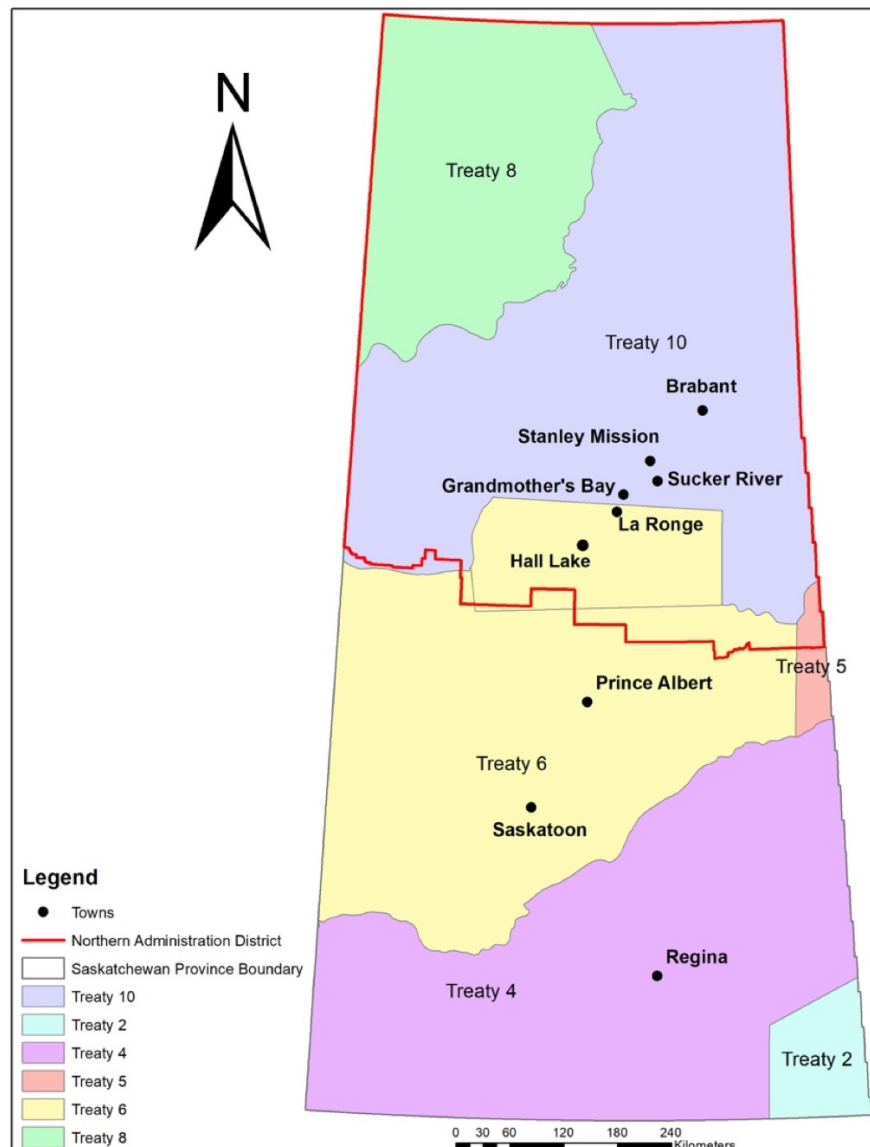


Figure 1.1 Map of the province of Saskatchewan that delineates ‘Northern Saskatchewan’ from the rest of the province and identifies Treaties and geographical locations relevant to the research. The Lac La Ronge Indian Band participated in an adhesion of Treaty 6 after the initial treaty was signed, which resulted in an extension of the treaty. This is seen by the faint grey line at the north end of Treaty 6. Courtesy of John Boakye-Danquah.

I draw from Coates and Poelzer’s (2014) definition of the ‘provincial north’ to describe Northern Saskatchewan, which aligns with the NAD line. According to Coates and Poelzer (2014, p. 2), the provincial north is characterized by “northern climates, political marginalization, large Aboriginal

populations and substantial dependencies on resource economies.” Wanvik and Caine’s (2017, p. 597-598) description of extractive industry development also helps to characterize Northern Saskatchewan, as the region constitutes “a socially and economically marginalized population; a history of extractive industry activity that has imposed cultural and social costs on Indigenous people but generated few benefits for them; and provincial and local government institutions and policies that have been strongly supportive of industry.” These descriptions are reflective of Saskatchewan’s uranium industry, which is the second largest producer in the world (Natural Resources Canada, 2014), alongside the harvest of other minerals and timber. Finally, communities in the North are diverse, populated by Dene, Woodland Cree and Métis peoples who deal with socio-economic challenges that are often a product of colonization.

This thesis follows a traditional format, beginning with relevant background information to contextualize the research topic along with a review of pertinent literature (Chapter 2). After this I describe the research process (Chapter 3). I then present research findings in two subsequent chapters (Chapter 4 and 5), followed by a discussion of these findings (Chapter 6). I draw the thesis to a close with key recommendations and concluding thoughts on the contributions, relevance and transferability of the research findings (Chapter 7).

CHAPTER TWO: LITERATURE REVIEW

Indigenous participation in environmental planning and natural resource management takes many forms and is discussed in relation to environmental impact assessments, extractive development, the co-management and co-governance of natural resources, impact benefit agreements, and Indigenous planning. Indigenous participation in environmental decision-making is not easily contained to a simple nor singular description; as such, in this review I strive to capture a broad and inclusive portrayal of engagement among resource developers and Indigenous peoples. There are myriad factors that inform and influence motivations for engagement, and that guide the actual practices of engagement among resource developers and Indigenous peoples. It is therefore useful to introduce and discuss the subject of Indigenous participation in environmental planning and natural resource management by presenting these key influential social, political, legal and economic factors. First, I begin with a summary of important international standards that shape a normative framework for the inclusion of Indigenous peoples in environmental decision-making. I then review key domestic constitutional and legislative regimes that prescribe procedures of engagement between resource developers and Indigenous peoples in Canada, as well as federal political commitments to reconciliation and to a nation-to-nation relationship with Indigenous nations. Following this, I outline ways in which Indigenous peoples and industry are responding to the conditions and highlight major barriers that impede meaningful engagement between the two parties. I then draw from academic and grey literature to characterize good practices of engagement with Indigenous peoples. Finally, I outline the ways in which this research might address shortcomings in the literature.

2.1 International Standards that Shape Indigenous Participation in Environmental Decision-making

Multiple international conventions set out state and corporate responsibilities regarding human rights with the broad objective of ensuring that business practices are ethical and equitable towards impacted individuals and communities. Foundational to these responsibilities is the 1948 Bill of Human Rights, which consists of four United Nations agreements that legally enshrine internationally recognized human rights, as well as the United Nations Guiding Principles on Business and Human Rights (UNGPs), which was endorsed by the UN Human Rights Council in 2011. As environmental impact assessment scholars Kemp and Vanclay (2013, p. 88) point out, “the precise requirements that businesses need to follow to fulfill their human rights obligations in practice are still emerging.” Nevertheless, these international and widely ratified standards for corporate human rights responsibilities form the backbone for the phenomenon ‘corporate social responsibility’ (CSR), which is an important stimulus that drives corporate behavior.

Furthermore, two primary international legal instruments apply to the rights of Indigenous peoples: the International Labour Organization Indigenous and Tribal Peoples Convention No. 169 (1989) and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP, 2007). The former of the two acknowledges that the rights of Indigenous peoples are equal to the rights of non-Indigenous peoples and should not be discriminated against. UNDRIP (2007) builds on ILO 169 by offering a comprehensive description of Indigenous rights and, most notably, affirming that Indigenous nations are self-determining. The preamble of UNDRIP (2007) also contains conditions for amicable relations between states and Indigenous peoples, stating: “the recognition of the rights of indigenous peoples in this Declaration will enhance harmonious and cooperative relations between the State and indigenous peoples, based on principles of justice, democracy, respect for human rights, non-discrimination and good faith.” Articles 26 and 32 carry particular relevance to the rights of Indigenous peoples as they relate to land.

For instance, Article 26 advocates for states to legally recognize and protect the lands, territories and resources that Indigenous peoples have “traditionally owned, occupied, or otherwise used or acquired” (UNDRIP, 2007). Article 32 articulates the right of Indigenous peoples to determine the use of their traditional lands, territories and resources, and includes requirements for free, prior, and informed consent (FPIC):

States shall consult and cooperate in good faith with the indigenous peoples concerned through their own representative institutions in order to obtain their free and informed consent prior to the approval of any project affecting their lands or territories and other resources, particularly in connection with the development, utilization or exploitation of mineral, water or other resources (ibid).

The Declaration’s espousal of FPIC sets high standards for Indigenous participation in decisions that impact their traditional lands and livelihoods, moving beyond ‘consultation’ by allotting significant agency to Indigenous nations (Szablowski, 2010; Papillon and Rodon, 2017). Szablowski (2010, p. 114) refers to FPIC as a “political project,” one that “forms part of an attempt to redefine notions of national sovereignty, citizenship, and the nation-state in order to make room for the meaningful recognition of Indigenous political institutions, Indigenous sovereignty, and Indigenous citizenship.” These calls for recognition raise challenges for states like Canada—whose government issued an endorsement of UNDRIP in 2016—where governments assert and operate within a sovereignty whose asserted jurisdiction over natural resources is contested by Indigenous nations (Fleras & Maaka, 2010; Szablowski, 2010; Newman, 2017).

2.2 Constitutional, Legislative, and Political Regimes that Govern Engagement between Resource Developers and Indigenous Peoples in Canada

2.2.1 Historic treaties and modern land claim agreements

Treaty-making between Indigenous nations and the Crown has roots in the British Royal Proclamation of 1763, issued by King George III. The Royal Proclamation is a formal political mechanism that governed land negotiations with First Nations for the purpose of British uptake of North American lands. It was established unilaterally among British colonists and stipulated that the Crown must buy land from First Nations prior to settling or claiming ownership of it. It is therefore the earliest written recognition of Aboriginal rights and title and remains legally relevant today as it is entrenched in Section 25 of Canada's *Constitution Act* (Indigenous Foundations, 2009). The Royal Proclamation also informed the existing political relationship between the Crown and Indigenous nations, as European settlers were not allowed to claim Indigenous land unless it had been previously bought by the Crown (ibid). However, there were disparate conceptions of the nature and content of treaties between the Crown and Indigenous nations. While the British viewed treaties as the cessation of Indigenous rights and title to land in exchange for reserve lands and certain assigned benefits (Indian and Northern Affairs Canada, 2010), Indigenous peoples viewed treaties as sacred covenants that governed the sharing of land and the co-existence of two distinct societies (Linklater, personal communication, October, 2016). The divergence in conceptions about treaty derives from the contrasting worldviews of the British and Indigenous peoples, where land and the use of land are regarded in fundamentally different ways (Venne, 1989). This divergence had implications in the treaty-making process and was further complicated by inconsistencies between the written content and oral agreements of many treaties. These disparities are contested to this day in ongoing lawsuits.

Historical treaty-making between Britain representatives and Indigenous leaders increased after 1763 and continued until the early 1900s as Britain settlement expanded and required more land. While there are contrasting perspectives about the content of these treaties, many of them contained conditions about access to medicine and education, along with the right to hunt and trap on "unoccupied" Crown lands. These aspects of treaty constitute 'Treaty rights' as defined in Section 35 of the *Constitution Act*. There are many historical treaties in Canada, covering the eastern provinces through to the prairies; five historic treaties span the province of Saskatchewan. Most of British Columbia and the northern territories were, however, not treated. As a result, Aboriginal title remains intact in those non-treated places. In order to resolve conflicts about claims to rights and land in non-treated regions, the Canadian government introduced the *Comprehensive Claims* process to settle claims to rights and land in the 1970s. These negotiations culminated in modern land claim agreements, which often contain conditions for industry and government engagement with Indigenous nations on natural resource development.

Many Treaty conditions have been and continue to be dishonoured by the Crown. Nevertheless, treaties remain relevant in modern times. As Ermine (2007, p. 200) contends, “the treaties still stand as agreements to co-exist and they set forth certain conditions of engagement between Indigenous and European nations.” The principles embedded in treaties and treaty-making reflect early Crown-Indigenous relations shaped by diplomacy, and stand as a reminder of what is possible for contemporary relations between the Canadian government, Canadian society and Indigenous nations—namely, the potential for more equitable and honourable relationships grounded in the co-existence of distinct societies and sharing of land and resources.

2.2.2 The duty to consult and accommodate Indigenous peoples

The duty to consult and accommodate is a relatively recent doctrine of law that requires the Canadian government to consult Indigenous peoples any time a government decision has the potential to negatively impact inherent Aboriginal rights, title and Treaty rights (Morellato, 2008; Newman, 2014a). These rights are recognized and protected in Section 35 of Canada’s *Constitution Act, 1982*, and therefore bear considerable legal weight. Requirements for the Crown’s duty to consult and accommodate Indigenous peoples have been developed by Canadian courts over the past three decades, and they continue to evolve through case law. There are two foundational principles that underlie the objective of consultation: first, that both parties act honourably in their dealings with one another; and second, the reconciliation of the interests, claims and ambitions of Indigenous and non-Indigenous peoples (Newman, 2014a; Olszynski, 2016). In its simplest form, consultation requires the identification of Aboriginal and Treaty rights that are at risk of infringement by proposed actions, avoidance of, or mitigation for, such infringements, and appropriate accommodations when infringement to certain rights is deemed ‘justifiable.’ Infringement to Aboriginal and Treaty rights may be deemed ‘justifiable’ if the proposed action is seen to contribute significantly to the ‘public interest,’ and the adverse impacts to Indigenous rights are seen to be minor in comparison (Morellato, 2008; Newman, 2014a).

Federal guidelines assist government officials to implement and fulfill the duty to consult and accommodate, and provinces and territories each establish and publish their own policy frameworks to guide provincial and territorial implementation. In Saskatchewan, there is a First Nation and Métis Consultation Policy Framework (2010) which is intended to be used by a multitude of groups, including provincial ministries, agencies, Crown corporations, First Nations, Métis and proponents. The aim of Saskatchewan’s Consultation Policy Framework is to enable government to execute engagement and consultation with First Nations and Métis throughout the province in a consistent and efficient manner. It identifies the scope of government decisions that are subject to the duty to consult policy and offers examples of matters that sit outside of that scope.

While it is the Crown's legal responsibility to carry out the duty to consult and accommodate, it has become common practice for the Crown to assign procedural aspects of consultation to project proponents (Morellato, 2008; Newman, 2014a; Booth & Skelton, 2011b). Saskatchewan's Consultation Policy Framework recognizes this practice and explains that proponents play a direct and collaborative role with the Government of Saskatchewan during the consultation process (Government of Saskatchewan, 2010). Additionally, the policy clarifies that Crown corporations are generally considered to be project proponents in duty to consult procedures; however, there may be situations where the duty to consult rests formally with a Crown corporation depending on its jurisdictional authority (ibid).

In addition to the role that proponents play during the duty to consult and accommodate, Saskatchewan's Consultation Policy Framework advocates for 'early interest-based engagement' with Indigenous peoples, outlining that interest-based engagement is different from the legally grounded duty to consult and accommodate (Government of Saskatchewan, 2010). Interest-based engagement consists of any communication with Indigenous communities that addresses non-rights related matters (ibid). Saskatchewan's Ministry of Government Relations has published a document to explain this distinction to proponents and to clarify the role and responsibilities of proponents during interest-based engagement as they relate to the Province's consultation protocol. This document promotes the early involvement of local Indigenous communities during the development of project proposals *prior to* their submission to Government for authorization (Government of Saskatchewan, 2013). Information gathered during this stage of communication may or may not be related to Section 35 rights, and the Saskatchewan Ministry of Government Relations encourages proponents to track their engagement, organize information based on its relevance to rights or interests, and create an 'Engagement Summary' that can be used by Government if a project proposal does trigger the duty to consult and accommodate.

It is important to note that the Federation of Saskatchewan Indian Nations (FSIN, now known as the Federation of Sovereign Indigenous Nations), a political body that serves to protect and preserve the Treaty rights of all First Nations in Saskatchewan, formally rejected Saskatchewan's Consultation Policy in 2009 upon reviewing it in draft form. This rejection is based on the grounds that the policy "failed to address process-related and substantive concerns regarding taking into account the long-term sustainability of Section 35 rights," and for "seriously and negatively affecting the Inherent and Treaty rights of First Nations in Saskatchewan, and fail[ing] to meet the legal requirements set out by the Canadian courts for meaningful consultation and accommodation with First Nations" (FSINa, n.d.). This rejection points to the prevalence of contrasting interpretations of Section 35 Inherent and Treaty rights between First Nations and the Government of Saskatchewan, as well as disagreement around what constitutes 'meaningful consultation.'

Overall, Canada's duty to consult and accommodate framework, alongside federal and provincial consultation policies, articulate new roles and responsibilities for Indigenous participation in natural

resource management (Newman, 2014a; Poelzer, 2015). These shifts in decision-making procedures have given rise to confusion about the role of proponents in fulfilling aspects of consultation with Indigenous peoples (Olszynski, 2016). In a review commissioned by the Canadian Chamber of Commerce, law professor Olszynski, (2016, p. 25) writes of the duty to consult: “a lack of government involvement in some instances has left businesses exposed to greater uncertainty as to what represents adequate consultation, what form and degree of consent is expected within Indigenous communities, and how well current processes are able to withstand legal challenges.” This finding indicates that resource developers are in need of clarity about how they are expected to interact with Indigenous communities impacted by proposed development. Furthermore, while there is considerable academic focus on the formal processes of consultation, it is unclear how ‘early engagement’ and consultation are carried out by proponents in practice.

2.2.3 Environmental assessment legislation in Canada

Another important framework that shapes engagement and consultation with Indigenous peoples as it relates to environmental development in Canada is the *Canadian Environmental Assessment Act, 2012*. This legislation outlines requirements for assessing the potential impacts of proposed resource development on the physical environment, as well as on the social, cultural and health dimensions of local peoples. Environmental assessments have become important tools used by the Crown to fulfill its duty to consult and accommodate obligations, which are typically accomplished by assigning its procedural responsibilities to project proponents (Booth & Skelton, 2011a; Noble & Udofia, 2015). However, as Noble and Udofia (2015) highlight, there are claims that the environmental assessment process focuses too much on meeting legal requirements of consultation and not enough on the meaningful inclusion of Indigenous input to inform resource development decisions.

In recent years there has been considerable criticism of the *Canadian Environmental Assessment Act's* ability to effectively balance environmental protection with economic development. For instance, environmental impact assessment scholars highlight that disparities in federal and provincial environmental assessment requirements complicate pathways for industry to engage with Indigenous nations, that there is a lack of clarity about industry's role in meeting the Crown's consultation requirements (Noble & Udofia, 2015), and that the existing framework for Indigenous participation in environmental impact assessments is inherently flawed (Booth & Skelton, 2011a; Kirchhoff, Gardner & Tsuji, 2013; Papillon & Rodon, 2016). Mounting criticism from multiple fronts led to a large-scale review of the environmental assessment process, culminating in a report titled *Building Common Ground* published in 2017. This report was generated using input from various groups including the public, Indigenous communities, interested parties, as well as an independent expert panel. It offers countless suggestions for improving Indigenous participation in environmental assessments, including greater cooperation between jurisdictional governing bodies, and increasing funds to enable proponents to fulfill

regulatory requirements for meaningful participation with stakeholders and Indigenous peoples (Gelinas et al., 2017).

The final report informed Bill C-69, which proposed new legislation to enact the *Canadian Impact Assessment Act*, the *Canadian Energy Regulator Act*, as well as to amend the *Navigation Protection Act* and other Acts. This bill was passed into law on June 21st, 2019, and it puts forward principles of partnering with Indigenous communities and advancing reconciliation, where such partnerships would recognize and respect the rights of Indigenous peoples along with “their deep connection to their lands, territories and resources” (Government of Canada, 2018b). The legislative reform contained in Bill C-69 includes an early planning phase, which provides greater opportunity for engagement and collaboration with Indigenous peoples from the outset of the assessment process (ibid). Given its direct effects on resource development in the country, this law is a controversial one. It was passed with numerous amendments, although many of them that had been requested by the Senate were not accepted by the federal government. Overall, the recent passing of Bill C-69 into law adds yet another layer of uncertainty around the responsibilities of project proponents, and requirements for Indigenous participation in environmental impact assessment more broadly (Price, 2018). Moreover, while it is difficult to make strong claims at this point, the standards for what constitutes ‘meaningful’ Indigenous engagement by proponents and government agencies will likely be higher for projects that fall within federal jurisdiction; however, there remains uncertainty around which projects will be affected by the new law. Given existing critical scholarship on such practices to-date, practical information on what actually constitutes meaningful engagement between resource developers and Indigenous peoples in a Canadian context will undoubtedly be advantageous.

2.2.4 Truth and Reconciliation Commission of Canada

In 2015 the Truth and Reconciliation Commission of Canada released 94 Calls to Action centered around reconciliation in Canada. These calls address all sectors of society, including government and businesses, with an overall intent to reconcile the relationship between the provincial and federal government and Indigenous nations, as well as to reconcile legacies of colonialism in order to build an equitable and inclusive society (Truth and Reconciliation Commission of Canada, 2015). Call-to-Action #92 (Appendix G) addresses the corporate sector in the following way:

We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.

- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism. (ibid.)

This Call-to-Action directly promotes FPIC as the Call addresses resource development within traditional Indigenous territories. It sets yet another strong normative requirement for how Indigenous peoples should be involved in environmental decision-making and resource development, one that is grounded in the recognition of Indigenous rights.

In an effort to address its implementation of UNDRIP, as well as the Crown’s complicated political and administrative relationship with Indigenous nations, the federal government is in the process of developing a *Recognition and Implementation of Rights Framework*. The aim for this framework is to identify how Canadian laws and policies can better enable Indigenous peoples to exercise their constitutionally-protected rights, to develop new laws and policies that advance Indigenous self-determination among nations, and to meet the objectives of UNDRIP (Government of Canada, 2018). The framework is currently being developed in consultation with Indigenous nations throughout the country, though it has been scrutinized for its *ad hoc* nature of consultation, lack of transparency, and general inability to expand governance authority to Indigenous nations. In spite of such criticism, this political movement further endorses normative grounds that advocate for transformation of the status quo of Indigenous nations’ participation in environmental planning in Canada.

2.3 Corporate and Indigenous Responses to International, National and Federal factors that Shape Indigenous Participation in Environmental Decision-making

2.3.1 Different motivations drive participation

It is important to note that the main groups (government, Indigenous community and industry) that participate in the management of natural resources within traditional Indigenous territories tend to have different goals that drive their participation (O’Faircheallaigh, 2010; Szablowski, 2010; Boyd & Lorefice, 2018). For example, Szablowski (2010) outlines that governments appreciate direct engagement between industry and Indigenous communities because it relieves pressure on their governing responsibilities; companies choose to engage with the goal of avoiding local disruption of their operations and because it sends a positive message to their corporate audience. Civil society actors, (in this case “members of the

transnational Indigenous movement and their allies”) engage with government and industry with the intent to “promote indigenous self-determination and local control over resources and livelihoods” (ibid, p. 113). These findings align with Boyd and Lorefice’s (2018, p. 4) claim that, “In the context of resource development, the groups involved have different interests and values, as well as cultural and linguistic understandings. They will likely frame the issue differently, which could explain why policy solutions have been hard to come by.” Here, the authors describe challenges related to consultation and engagement between resource developers and Indigenous peoples as a policy problem, and suggest that policy-framing analysis is a useful way to examine such problems because it explicitly takes into account the existence of multiple perspectives and worldviews. That there are different motivations behind each group’s choice to engage with one another on decisions impacting traditional Indigenous territory raises implications around expectations in process, practice and outcomes (Boyd & Lorefice, 2018). These implications are outlined by scholars across disciplines and are often framed as barriers or limitations to ‘meaningful’ or equitable engagement among resource developers and Indigenous peoples (Section 2.4).

2.3.2 Industry response to a complex and uncertain legal and socio-political context

Industry practice regarding engagement with Indigenous peoples is shaped by international and constitutional law, federal, provincial and regional regulations as well as societal norms and local Indigenous expectations. As noted earlier, companies are responding to all of these factors in an effort to fulfill their corporate social responsibility metrics (CSR), standards that have become relevant globally (Kemp & Vanclay, 2013). Some scholars suggest that the strong foundation of Indigenous rights protection entrenched in UNDRIP, including FPIC, along with Indigenous assertions of self-determination in Canada, are shaping a new public perception of corporate social responsibility that is grounded in equity (Szablowski, 2010; Kirchoff et al., 2013; Rodhouse & Vanclay, 2016; Udofia, Noble & Poelzer, 2016). For example, Papillon & Rodon (2016, p. 216) point out that despite the vague stance that many governments are taking on FPIC, “corporate actors in the natural resource sectors have recently been more proactive at engaging with Indigenous peoples in seeking their consent to resource extraction and infrastructure projects,” adding that consent is being sought primarily through negotiated impact and benefit agreements (IBAs) (Section 2.3.4). Furthermore, Kemp & Vanclay (2013, p.91) explain that changing circumstances in natural resource development require a broader consideration of public participation, saying, “No longer are ‘stakeholders’ the dominant theoretical construct, but rather ‘rights-holders’, ‘duty-bearers’ and ‘responsible parties’ are now central to the expanded notion of CSR.”

Another incentive for industry engagement with local Indigenous peoples is the operational risks associated with not having a social license to operate. For example, companies operating or proposing to operate in traditional Indigenous territory may face local resistance to their projects (Natcher, David & Hickey, 2005; O’Faircheallaigh, 2010; Szablowski, 2010; St-Laurent & Billon, 2015; Boyd & Lorefice,

2018), and therefore seek local acceptance to secure operational reliability. The concept of social license to operate (SLO) originates from corporate social responsibility and is a means to make more ethical and effective resource management decisions by addressing local community interests and concerns (Dare et al., 2014; Wheeler, 2015; Edwards & Trafford, 2016; Lacey, Edwards & Lamont, 2016). While approaches to attaining a social license to operate vary (Ruckhstuhl et al., 2014; Syn, 2014; Moffat et al., 2016; Wyatt, 2016), proactive engagement and collaboration between proponents and local Indigenous communities is deemed the most appropriate means to attain local acceptance for resource development projects (Wyatt, 2008; Dare et al., 2014; Lacey et al., 2016; Noble, 2016; Papillon & Rodon, 2017).

Many companies have endorsed policies, principles or guidelines that outline or codify the corporation's commitments to corporate social responsibility particularly as it relates to Indigenous peoples. Examples of these in Canada include the Canadian Electrical Association's (2016) commitment to *National Principles of Engagement of Indigenous Peoples*; the Canadian Wind Energy Association's *Best Practices for Indigenous and Public Engagement* guide, which "outlines practices and procedures to facilitate the responsible and sustainable development of wind energy in Canada" (CanWEA, 2017, title page); and Cameco's *Five-pillar Corporate Social Responsibility Strategy* (Cameco Corporation, n.d.). Furthermore, the Canadian Council for Aboriginal Business—an organization that promotes Indigenous businesses and seeks to strengthen Indigenous communities—has developed a certification program called "Progressive Aboriginal Relations," or PAR. This program has three levels that reflect respective degrees of corporate performance in Indigenous relations, and indicates to Indigenous communities that companies are "good business partners, great places to work, and committed to prosperity in Aboriginal communities" (Canadian Council for Aboriginal Business, n.d.). In 2017, SaskPower received Gold status in PAR, which is the highest certification level.

2.3.3 Indigenous approaches to engaging with systems of environmental planning and resource management

Indigenous actors often choose to participate in environmental decision-making with the motivation to move beyond assimilationist policies and to overcome marginalization (Szablowski, 2010; Booth & Skelton, 2011c; Wanvik & Caine, 2017). As Boyd and Lorefice (2018, p.4) found in their review of Indigenous engagement and consultation policies, "Indigenous groups frame consultation and engagement as a political problem, connected to their broader experience of disempowerment and mistreatment by the Canadian state and non-Indigenous society." For Indigenous groups and allies, Indigenous engagement with government and industry becomes a means to reorient power imbalances and achieve justice and equity (Barry & Porter, 2011; Hanna & Vanclay, 2013; von der Porten & de Loë, 2015; Boyd & Lorefice, 2018). As (Palmer, 2006; Shanks & Lopes, 2006; and Szablowski, 2010) point

out, this is sought primarily through the assertion and promotion of *sui generis* rights, and on the grounds that Indigenous nations are self-determining.

The approaches that Indigenous peoples take to assert their objectives related to environmental development vary. For example, environmental governance scholars Maclean, Robinson and Natcher (2015, p. 208) explain Indigenous approaches to engagement with resource developers the following way:

Despite the challenges that Aboriginal organizations continue to face in post-settler societies of Australia and Canada (ongoing struggles for sovereignty, determination of Native Title, and control over natural resources), they are active participants in natural resource management of their traditional lands. The result is a “mosaic” of engagement across the landscape, a mix of Aboriginal strategies used to instigate planning reforms on their traditional estates.

Multiple scholars further discuss Indigenous participation as inherently political (Fleras & Maaka, 2010; Ugarte, 2014), cross-cultural (Ermine, 2007; Barry & Porter, 2011), and a place of both conflict and cooperation (Barry & Porter, 2011; Maclean et al., 2015) given that engagement between Indigenous peoples and resource developers occurs in an ideologically and politically diverse space—one where there are multiple and contested sovereignties.

Discussion of Indigenous participation in environmental planning and resource management in Canada tends to focus on how Indigenous communities participate in and respond to formalized structures such as the duty to consult and accommodate, impact assessments, and regional planning systems. While much of the literature highlights ways in which these processes fundamentally fail to achieve equitable processes and outcomes (Kuokkanen, 2019), there is also emphasis on the ways in which Indigenous peoples strategize to assert their agency to influence decision-making (Maclean et al., 2015; Wanvik & Caine, 2017). For example, Wanvik and Caine, (2017, p. 596) assert that, “Indigenous communities seize the moment through *strategic* and *pragmatic* engagement with an ever-changing environment” (emphasis original). Maclean et al. (2015) present two primary modes of participation that Indigenous peoples use to strategically engage with natural resource management processes to reach desired outcomes: consensus-building and constructive conflict. While the former tends to involve incremental change through the ‘institutional alignment’ of Indigenous interests and the mandates of planning agencies, the latter provokes transformative change in institutions that fail to recognize Indigenous autonomy and natural resource management aspirations (ibid). Categorizing Indigenous peoples’ engagement in this way, as cooperative consensus-building and constructive conflict, accurately captures many of the examples offered by scholars on how Indigenous peoples are responding to environmental planning and natural resource decision-making in their territories (Howitt et al., 2013; Nygaard, 2016; Hemming et al., 2017; Persson, Harnesk & Islar, 2017; Wanvik & Caine, 2017).

2.3.4 Impact and benefit agreements as primary mechanism of corporate-community engagement

In Canada, the leading mechanism used by companies to achieve a social license to operate in traditional Indigenous territories is the negotiation of Impact Benefit Agreements (IBAs), which are also referred to as ‘collaboration agreements’ and ‘community development agreements’ (Prno & Slocombe, 2012; St-Laurent & Billon, 2015; Craik et al., 2017). In a conventional sense, IBAs are legal contracts established between corporate actors and communities, often First Nation, Métis or Inuit communities, to ensure mitigation of negative operational impacts as well as equitable beneficiation and compensation towards local Indigenous communities (Caine & Krogman, 2010; O’Faircheallaigh, 2010; St-Laurent & Billon, 2015). However, Shanks and Lopes (2006) explain that there are multiple and diverse formats for benefits-sharing agreements that range from formal to informal, and that can include multiple communities. Regardless of variability in form, core elements of IBAs include commitments to mitigate environmental impacts, compensation for infringements to rights, economic benefits such as revenue-sharing and prioritized hiring, social benefits related to education and training, and shared commitment to the continuance of a working relationship between parties (Shanks & Lopes 2006; Craik et al., 2017).

Scholars are increasingly focusing on how IBAs operate within, and contribute to, the trend of a neoliberal governance regime that implicates natural resource management within Indigenous territory (Cameron & Levitan, 2014; St-Laurent & Billon, 2015). For example, benefits-sharing agreements are negotiated without state involvement, yet they fulfill responsibilities that are traditionally within the domain of the state. Some of these responsibilities include fully or partially executing impact assessments, addressing local Indigenous interests, and carrying out constitutionally prescribed consultation and accommodation measures (Cameron & Levitan, 2014; St-Laurent and Billon, 2015). These actions are being carried out without any oversight of policy or regulatory guidance (ibid), demonstrating a shift in roles and relations between Indigenous peoples, corporations, and the state (Cameron & Levitan, 2014). This shift in roles and responsibilities compounds concerns among scholars about the lack of transparency and the ability for such agreements to truly lead to equitable outcomes for Indigenous communities. It is not clear, however, how all of these forces play out in less-formalized spaces of benefits-sharing between companies and Indigenous communities, as the scholarly focus on benefits-sharing agreements is limited to conventional legal contractual agreements.

Furthermore, much of the academic discussion on IBAs centers on evaluating their ability to be mechanisms that empower Indigenous communities to practice self-determination in the context of resource development in their territories, including the ability to secure consent (Caine & Krogman, 2010; Cameron & Levitan, 2014; Craik et al., 2017). While IBAs offer an important avenue to realize benefits that the state often refuses, the predominant scholarly criticism of IBAs lies in their *inability* to secure the meaningful and ongoing consent of communities (ibid). This raises questions of legitimacy in that IBAs

are unable to fulfill the “procedural and substantive expectations of Indigenous peoples” (Craik, et al., 2017, p. 387). A major limitation is the absence of “deep community engagement,” or direct engagement with community members beyond the negotiating team, which is a product of the technical nature of IBA negotiations (Craik et al., 2017). Tied to this criticism, and perhaps most importantly, scholars note that IBAs maintain and reinforce power dynamics and colonial ideologies that undermine Indigenous self-determination (Caine & Krogman, 2010; O’Faircheallaigh, 2010; St-Laurent & Billon, 2015). As Cameron and Levitan (2014) assert, the framing of how IBAs can be useful to Indigenous communities is limiting in that it is often constrained within Western modes of thought (for example, a focus on economic opportunity in the cash economy) rather than responding to Indigenous conceptions of self-sufficiency and sustainability, which may be broader and more diverse. These criticisms exemplify some of the major barriers identified below, and they are important to consider when examining engagement practice and arrangements between resource developers and Indigenous peoples.

2.4 Barriers to Effective Engagement Between Resource Developers and Indigenous Peoples

As alluded to earlier, there are fundamental barriers that inhibit the equitable inclusion of Indigenous peoples in environmental decision-making in Canada. These barriers stem from interrelated limitations, including the endurance of a rigid Western worldview that fails to recognize the validity of other worldviews and consequently maintains unequal power relations (Nadasdy, 2003; Ermine, 2007; Fleras & Maaka, 2010; Barry & Porter, 2011). For example, most policies that guide engagement and consultation originate from Western modes of thought, and subsequently privilege Western values while simultaneously delegitimizing Indigenous values and knowledge (Nadasdy, 2003; Fleras & Maaka, 2010; Barry & Porter, 2011). Youdelis (2016, p. 1384) offers an account of this in practice, citing a member of the Jasper Aboriginal Forum of Jasper National Park, who was displeased with the Forum’s consultation practice:

When asked if she felt meaningfully consulted on the Glacier Skywalk project, the respondent from Samson Cree explained that she did not because she did not agree to the process to begin with. “Consultation is by *their* definition. They didn’t even take the time to figure out what is Samson’s definition of consultation,” she said.

This quote also helps to explain how the unilateral nature of many state-prescribed processes for Indigenous participation in natural resource management further perpetuates distrust of government among Indigenous peoples.

Also, political systems that privilege neoliberal governance regimes tend to delegitimize Indigenous autonomy throughout environmental decision-making in traditional territory (St-Laurent & Billon, 2015; Craik et al., 2017). For instance, the increased delegation of traditional state responsibilities to the private sector (through environmental assessments, duty to consult and accommodate procedures, and IBAs) puts

greater authority into the hands of industry while also reinforcing tools of governance that constrain Indigenous authority (St-Laurent & Le Billon, 2015). Neoliberal governance regimes can also act as a barrier for resource developers, especially in the context of contested jurisdiction over natural resources and ambiguous requirements for FPIC. For example, Shanks & Lopes (2006, p. 15) write that “Industry tends to be caught in the middle of what appears to be a volatile and evolving question of jurisdiction over resource management amongst governments including First Nations governments.” Such an unpredictable jurisdictional landscape can create regulatory uncertainty and unstable investment climates (Coates, 2015; Newman, 2017; Shanks and Lopes, 2006).

Furthermore, Youdelis (2016) contends that the depoliticization of engagement and consultation with Indigenous peoples, whereby process does not address rights and claims to Indigenous sovereignty, also prevents meaningful decision-making process and outcomes. This argument points to another significant barrier—that of limited state recognition of Indigenous rights and interests (Coulthard, 2007; Fleras & Maaka, 2010; Barry & Porter, 2011), which is discussed below (Section 2.5.2). Finally, scholars note that there is a divergence in assumptions and expectations between resource developers and Indigenous peoples as they pertain to good process and outcomes in natural resource management, which tends to lead to strained relationships and sometimes conflict during engagement (Booth & Skelton, 2011; von der Porten & de Loë, 2014; Youdelis, 2016; Boyd & Lorefice, 2018). These forces have been identified as contributors to ongoing inequality in environmental decision-making processes and unjust outcomes, thus continuing the devaluation of Indigenous livelihoods and the sustained discrimination toward Indigenous peoples (Nadasdy, 2003; Booth & Skelton, 2011c; Howitt et al., 2013; Ugarte, 2014).

2.5 Characterizing Good-practice Engagement Between Resource Developers and Indigenous Communities

Notwithstanding the criticisms described above, scholars and practitioners highlight a few key elements that constitute good-practice engagement with Indigenous communities, including: integrating principles of equality and justice into the engagement process; addressing Indigenous groups and communities as distinct from non-Indigenous stakeholders and as self-determining nations; ensuring engagement prioritizes relationship-building among participants and between groups; approaching engagement as a place-based endeavour; and recognizing and addressing capacity limitations at play that may hinder effective engagement. Furthermore, successful engagement between resource developers and Indigenous peoples is described as being multi-layered and dynamic, often requiring long-term commitment among all groups (Ermine, 2007; Carter, 2010; Booth & Skelton, 2011c).

2.5.1 Good-practice engagement is guided by principles of equality and justice

Scholars Fleras and Maaka (2010) contend that interactions between the state, non-Indigenous institutions and Indigenous peoples should be grounded in principles of justice, rather than technicalities or points of law. Ermine (2007, p. 202) puts forward a similar message in reference to cross-cultural dialogue between Indigenous and non-Indigenous groups, saying that it “will require a protracted effort to create a level playing field where notions of universality are replaced by concepts such as the equality of nations.” The notion of equality is also fundamentally integrated within Indigenous desires for the equitable co-existence of their nations within modern states (Fleras & Maaka, 2010; Howitt et al., 2013).

Furthermore, numerous scholars and the TRC Call-to-Action #92 contend that FPIC offer a valuable normative framework for engagement with Indigenous peoples (Ward, 2011; Barelli, 2012; Hanna & Vanclay, 2013; Papillon & Rodon, 2017). Szablowski (2010, p. 113) offers suggestions for operationalizing FPIC through regimes of negotiated justice, where “decision making is to a material extent the result of negotiations rather than the product of adjudication, administrative decision making, or purely private, individual decision making.” However, putting these principles into practice remains elusive, especially when there are different conceptions of ‘consent,’ along with unclear positioning and guidance on behalf of government (Szablowski, 2010; Barelli, 2012; Papillon & Rodon, 2017; Boyd & Lorefice, 2018).

2.5.2 Good-practice engagement approaches Indigenous groups and communities as distinct from non-Indigenous stakeholders and as self-determining nations

Many scholars (particularly those within Indigenous governance and Indigenous planning spheres) advocate for resource developers to consider Indigenous peoples as separate from non-Indigenous participants in their approaches to engagement (Ermine, 2007; Fleras & Maaka, 2010; von der Porten & de Loë, 2014, 2015; CanWEA, 2017; Boyd & Lorefice, 2018). For example, in their recommendations on good-practices for collaborative environmental management, von der Porten and de Loë (2015) suggest that institutions approach or involve Indigenous peoples as self-determining nations rather than as one of many collaborative stakeholders or participants; (von der Porten & de Loë, 2015). Fleras and Maaka (2010) describe this distinction as part of the politics of recognition in settler states and apply the term ‘Indigenous difference’ and ‘indigeneity’ to bring this distinction to light. They contend that distinct Indigenous identities, together with original occupation within colonized lands, fundamentally shape a unique constitutional status that separates Indigenous peoples of Canada from settlers or ethnic minorities (ibid).

Furthermore, the concept of Indigenous difference stands to represent the unique moral and political relationship between Canada and Indigenous nations, which is rooted in a shared colonial history, and manifests in the existence of multiple sovereignties within Canada. Planning scholars Barry and Porter

(2011, p. 172) identify two primary modes of recognition that exist in literature: “first, a territorial recognition linking culture with place; and second, a recognition of Indigenous political structures and government.” The authors further write that these modes of Indigenous recognition are especially relevant in environmental planning, and that such recognition is “resulting in the expansion of conventional planning tools and spatial ordering practices” (ibid).

When Indigenous communities are invited to participate in environmental decision-making processes as autonomous nations, they maintain agency in developing collaborative processes and outcomes (von der Porten & de Loë, 2014b; Youdelis, 2016). Importantly, scholars Fleras and Maaka (2010) and von der Porten and de Loë (2014) affirm that many of the challenges that resource developers face around Indigenous inclusion in environmental decision-making could be solved if legislation were written together collaboratively, at a nation-nation level of policy reform. Another way to ensure Indigenous agency is respected is to include Indigenous groups at the very early stages of project visioning and throughout its life cycle (Jackson et al., 2012; von der Porten & de Loë, 2014, Kuokkanen, 2019). It is also useful for Indigenous groups to clearly articulate their position of authority, as well as their rights and interests related to project development. Scholars further suggest that engagement consider the ways in which Indigenous communities are unique and diverse in their rights and interests (Lane & Corbett, 2005; Jackson et al., 2012).

Respect for Indigenous difference and autonomy can also be demonstrated by drawing on available traditional knowledge (Jackson et al., 2012), given that traditional knowledge is increasingly recognized to be valuable and fundamental to “socially just and environmentally sustainable development” (Sandlos & Keeling, 2016). Ensuring that traditional knowledge is privileged alongside scientific knowledge is critical for the equitable incorporation of diverse sources of information into decision-making. This can be achieved by supporting studies designed and led by Indigenous groups and governments (Sandlos & Keeling, 2010, p. 284).

2.5.3 Good-practice engagement is grounded in relationships

Scholars from multiple disciplines indicate that building relationships between Indigenous and non-Indigenous peoples is fundamental to generating equitable and successful environmental management outcomes. For example, Goetze (2005) maintains that co-management is not only about improving the management of natural resources, but also about reforming relationships between people who have an interest in resources, or authority over them. While it is difficult to pinpoint exactly how to accomplish this, scholars insist that creating opportunities for relationship building among Indigenous peoples, policy or governance practitioners, and even researchers, is vital to establishing trust among groups (Booth and Skelton, 2011a; Castelden et al. 2012; Tondou et al. 2014; Herman, 2015; von der Porten & de Loë, 2015). Returning to the notion of engagement as a ‘cultural interface’ (Howitt et al., 2013) where cross-cultural

dialogue occurs (Ermine, 2007), explicitly planning avenues for cross-cultural exchange among resource developers and Indigenous communities is a useful way for non-Indigenous practitioners to learn about Indigenous cultures and to develop a shared understanding of local interests and concerns. Carter (2010) further emphasizes the importance of reciprocity in relationship, which includes regular communication and transparency in the provision of information, as well as in communication.

Trust can also develop when resource developers acknowledge local historical experiences and trauma, and recognize how these inform current experiences (Adams et al., 2014, Halseth et al., 2016). Numerous scholars refer to the legacy of distrust between Indigenous peoples and non-Indigenous peoples in Canada as a result of oppression and discrimination and explain that “identifying these limitations humbly and openly can build understanding and compassion between collaborators” (Adams et al., 2014, p. 2). Similarly, Youdelis (2016) asserts that engagement and consultation must acknowledge and face the historical and colonial dispossession and political and economic marginalization of First Nations in Canada.

2.5.4 Good-practice engagement considers the local and/or regional context

‘Situated engagement’ is a term developed by Howitt and Suchet-Pearson (2006) to describe the importance of acknowledging local context in plans to engage Indigenous peoples on decisions that impact their territories. Furthermore, Indigenous peoples’ relationship to place underlies Indigenous difference (Fleras & Maaka, 2010) and accordingly, good-practice engagement with Indigenous peoples recognizes and respects Indigenous relationship to place. Alongside consideration of the deep ancestral ties to place that many Indigenous communities carry, it is worth noting that places are distinctive in other ways. For example, Carter (2010, p.209) refers to place as a “social mosaic of localized dynamic structures and processes” which has unique jurisdictions, historical influences and political representation. Drawing from Palmer (2006) she contends that, “Engagement needs to be reconfigured, signifying return to power or the politics of place-making as significant to Indigenous environmental management” (ibid). As such, it is critical that engagement with Indigenous peoples considers not only local Indigenous relationship to place, but also historical legacies and contemporary socio-political dynamics that shape communities and geographic landscapes.

2.5.5 Good-practice engagement addresses capacity limitations

Across the spectrum of literature on Indigenous participation in environmental planning and natural resource management, scholars highlight the need to level the playing field between Indigenous communities and institutions to ensure an equal negotiating platform (Booth and Skelton, 2011; von der Porten & de Loë 2014; Udofia et al., 2015; Youdelis, 2016). Many Indigenous communities lack sufficient administrative and governing capacities to respond to requests for participation or to carry out

internal community engagement (Lane & Corbett, 2005; Carter, 2010). These can be addressed by assisting in skills development, benefits-sharing, and helping to facilitate community meetings (Jackson et al., 2012).

Capacity limitations exist at the institutional level as well, in the form of knowledge or cultural awareness deficiencies (Carter, 2010; Howitt et al., 2013; von der Porten & de Loë, 2014). Scholars suggest that professional literacy is needed for government and corporate employees that focuses on Indigenous cultures, rights, nationhood status, histories, as well as on the impacts that colonial assumptions can have during engagement (Carter, 2010; von der Porten & de Loë, 2014; Truth and Reconciliation Commission of Canada, 2015; CanWEA, 2017). In reflecting on Indigenous inclusion in water management in Australia, Jackson et al. (2012, p. 63) emphasize that “new skills are required for a participatory approach in planning, especially regarding Indigenous engagement.” These skills can be developed through the education of public service and corporate employees, as mentioned in the TRC Call-to-Action #92.

2.6 Identifying the Gap

This chapter demonstrates that a multitude of factors inform local Indigenous inclusion in environmental decision-making in Canada. A strong international legal framework that reinforces Indigenous self-determination, together with evolving constitutional law, domestic policy and political commitments to reconciliation, set normative, legal and regulatory expectations for the conduct of resource developers during project development in traditional Indigenous territory. In their efforts to achieve justice and equality from development on their lands, Indigenous peoples are using these legal tools and frameworks to demand greater agency in environmental decision-making processes (Maclean et al., 2015; Wanvik & Caine, 2017; Kuokkanen, 2019).

Despite the duty to consult’s intent to protect Indigenous rights and ensure a degree of procedural fairness for natural resource management outcomes, scholars claim that Canada’s legal consultation requirements are cumbersome for natural resource developers (Voutier et al., 2008; Olzynski, 2016), have complicated proponent responsibilities related to ‘early engagement’ and ‘consultation’ (Booth & Skelton, 2011a; Noble & Udofia, 2015; Papillon & Rodon, 2016), and that the process is failing Indigenous peoples (Doelle & Sinclair, 2006; Kirchhoff et al., 2013). It is also unclear within academic literature just how proponents are practicing ‘early engagement’ and consultation, given that there are multiple avenues for Indigenous participation. Furthermore, contradictions between procedural standards and expectations of FPIC among governments and Indigenous communities makes it difficult for proponents to carry out good process because the regulatory requirements and social expectations are conflicting (Szablowski, 2010; Barelli, 2012; Papillon & Rodon, 2017). The proposed environmental impact assessment reform through Bill C-69 is further evidence that there is a need for improved

engagement practice between resource developers and Indigenous peoples in order to implement sustainable resource development (Udofia et al., 2015; Gelinias et al., 2017).

While researchers offer useful guidance on how resource developers can more effectively work with Indigenous peoples during environmental planning and natural resource management, the information they provide is not often presented in a manner that is accessible to practitioners of engagement, including governments, Indigenous communities, industry proponents, and non-governmental organizations. For example, scholarly suggestions for engagement are scattered across a broad literature of multiple disciplines and while there are similarities across these suggestions, they are not often presented cohesively. A concise and comprehensive summary of principles and practices for effective engagement would be valuable to proponents, Indigenous communities and government agencies alike.

Moreover, while academics have focused on the experience of engagement from the perspective of Indigenous peoples (Goetze, 2005; Sherry et al., 2005; Egan, 2012), few have focused on experiences of engagement from the proponents' perspective (Booth & Skelton, 2011a). Several scholars have indicated that knowledge of the experiences of individuals who engage with one another across different groups is useful for improving the overall process. For example, in the context of engagement through environmental impact assessments, Udofia et al. (2015, p. 106) call for "further research designed to examine the perspectives and experiences of government, industry proponents, and communities to identify reoccurring failings with, and expectations for, engagement processes in environmental assessments." Additionally, in his commentary on how to better understand regimes of FPIC within corporate and community engagement, Szablowski (2010, p. 123) suggests that, "researchers would do well to study how different actors and groups (community actors, regulatory officials, and corporate actors) operate in the shadow of legal rules in order to expand their ability to advance particular social, political, or economic projects."

Related, political scientists Boyd & Lorefice (2018, p. 9) emphasize the importance of investigating the ways in which each group frames engagement and consultation, claiming that "those looking to improve consultation should focus on how processes can identify and reflect on these groups' frames to facilitate a reframing process and increase areas of shared understanding." In order to generate this information, they call for community-based research that acquires first-hand accounts among those directly involved in engagement (ibid). Finally, there appears to be little to no research that looks at the specific position of Crown corporations within the narrative of engagement responsibilities, particularly as these relate to the duty to consult and accommodate. Such practical insight is critical to the overall goal of improving engagement and collaborative decision-making practices among Indigenous peoples and resource developers.

CHAPTER THREE: THE RESEARCH PROCESS

Research is not a neutral phenomenon, nor does it occur in a vacuum (Wilson, 2008; Hays & Singh, 2012). Rather, research is shaped by multiple intersecting elements including the assumptions of the individuals performing it, the research context, and the methodology and methods chosen to address the research subject (Patton, 2002; Kirby, Greaves & Reid, 2010; Hays & Singh, 2012). In this chapter, I address each of these formative elements to describe my research design and research process, and to offer rationale for my decisions. I begin with a description of my own background, ontology, axiology and perspectives on the research topic, followed by an explanation of my methodological approach and chosen methods. In this description, I strive to outline how these correspond to my own positionality and experiences with the research subject. Following this, I describe my process for data collection and analysis.

3.1 Research Design

3.1.1 Researcher positionality

There is strong alignment between the focus of this research and my personal interests and beliefs as it deals with two issues that are important to me on a personal level: 1) respecting and protecting Indigenous rights and interests, and 2) sustainable resource development. My interest in these matters has developed through my upbringing and educational background. As a young settler-Canadian, I spent my childhood and early adult years on Mississauga, Haudenosaunee and Algonquin lands, though I did not know that until I was in my early 20s. Throughout my childhood and early adulthood, consistent exposure to and enjoyment of the natural world cultivated in me a deep love and respect for land and water, alongside an awareness of their interconnectivity and powerful capabilities to support all forms of life. This upbringing instilled in me a preoccupation with living sustainably, alongside a keen attention to the production, management and extraction of resources that support my lifestyle and Western society more broadly. I was less aware, however, of the colonial forces that shape resource development in Canada and elsewhere.

My conceptions of land and ownership of land started to be challenged as an undergraduate Environmental Geography student. It was in an Introduction to Environmental Assessment class that I first learned about inherent Aboriginal rights as they are enshrined in Canada's Constitution. This learning opened up a curiosity that led me to seek out further resources about the injustices of Canada's colonial existence. In the last six or so years, my conceptions of land, sustainability, and my role as a settler on colonized lands have matured, as have my abilities for self-awareness and reflexivity. I recognize that my existence as a privileged, educated white woman is founded on the dispossession and disenfranchisement of Indigenous nations. Moreover I, alongside all other Canadians, carry Treaty obligations that are intricately tied to the oppressive legacies of Canada's settlement. In this regard, I am

personally invested in finding ways to uphold treaties, and to examine and challenge the structures that continue to dispossess and disenfranchise Indigenous peoples from their lands while benefiting predominantly non-Indigenous peoples and corporations.

Alongside these personal commitments, my choice to pursue this research is driven by an interest to understand the intersections of environmental and social justice, and examine how these inform and/or challenge Canadian policy, economics, and societal views. I value research that is action-oriented, and approach knowledge production through a social constructivist lens, whereby truth is subjective and all knowledge is valid. The following is a question I crafted and included in my application to the University of Saskatchewan as part of my statement of research interest: “How can the coming together of multiple and divergent perspectives, combined with a commitment to shared values for a healthy future, contribute to the collaborative governance of lands and waters involving Indigenous nations and the Canadian government?” This statement embodies my beliefs about the fundamentals of sustainability and shapes my approach to the research topic.

3.1.2 Research Methodology and Methods

The research design is rooted in a social constructivist paradigm and encompasses qualitative research principles. More specifically, the research reflects a pragmatic and interpretivist approach to data collection (Patton, 2002; Hays & Singh, 2012). As Patton (2002, p.695) writes, “The pragmatic, utilization-focused criteria emphasize qualitative data generated to solve problems and inform decisions. This means focusing the inquiry on informing action and decisions.” Patton identifies eleven of these criteria, which are: “focus inquiry on informing action and decisions; interactive engagement with intended users to enhance relevance and use; practical orientation throughout, relevance to real-world issues and concerns; time findings and feedback to support use; understandable methods and findings; actionable findings; credible to primary intended users; what is useful is true; extract lessons” (Patton, 2002, p.681). A pragmatic approach to data collection is appropriate for this project given that its purpose involves generating useful knowledge for research participants and their respective groups, as well as establishing practical tools that can contribute to meaningful processes and mutually beneficial outcomes through engagement.

This project also fits into the category of community-engaged scholarship as it involves two research partners, one being a First Nation and the other being a public utility. Community-engaged scholarship involves a mutually beneficial partnership between the researcher/s and communities, and generates scholarship through “teaching, discovery, integration, application or engagement” (University of Guelph Community Engaged Scholarship Institute, n.d.). While similar, community-based research entails research that is community-driven, participatory and action-oriented (Ochacka & Janzen, 2014). The research topic did not originate from the LLRIB, and so the project is not truly community-based

research. However, the research process was guided by principles of community-based research with Indigenous peoples given its partnership with the LLRIB Lands and Resources Management Board (LRMB) (Castleden et al., 2012; Tobias et al., 2013; Adams et al., 2014; Ochocka & Janzen, 2014; Halseth et al., 2016). Scholars indicate that the community-based research framework provides a good foundation to approach research with Indigenous communities because it aims for respectful and reciprocal research (Tobias et al., 2013; Adams et al., 2015). Furthermore, establishing a formal agreement with the LLRIB LRMB was a means to ensure this research is respectful and useful for the LLRIB. This research has been approved by the University of Saskatchewan Behavioural Ethics Review Board (Appendix A), consistent with the 2014 Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans and is operating under a Collaborative Research Agreement (CRA) between the University of Saskatchewan and the LLRIB LRMB (Appendix B). The CRA outlines that data generated through this research project is jointly-owned by the University of Saskatchewan and the LLRIB, and further explains that the data will be securely stored at the University for six years upon project completion, after which it will be destroyed.

My approach to research and data collection has also been shaped by principles from Indigenous research methodologies, whereby accountability, reciprocity and reflexivity are central to good research process (Wilson, 2008; Tuhiwai Smith, 2012). The ethics approval and CRA are two formal mechanisms that hold me accountable to respectful interactions and research deliverables. I also view the establishment of relationships with individuals involved in the research as another form of accountability, as participants trust me to reflect their words accurately and to follow-through on my commitments as a researcher. There were also a few ways I reciprocated the time I spent in two offices where I took up space and received guidance and education by staff members. For example, during my time with the LLRIB LRMB I took notes at community meetings, and both set up and supported the Lands and Resources Office booth at multiple Treaty Day events in LLRIB communities. I also developed a report for the LLRIB LRMB on the development of a LLRIB Policy on Consultation and Accommodation and presented on the duty to consult and accommodate at a community meeting in Grandmother's Bay. During my time at SaskPower's Indigenous Relations Department I gathered secondary information for an education module for SaskPower staff that focused on Indigenous rights, land tenure in Saskatchewan, and Treaty history in the province. While this module has not yet been created, it remains an ongoing project that the Department hopes will be realized. I have also committed to writing research findings in a final report that will be accessible and useful for project partners. Finally, while not directly related to my research, I was able to assist in a side-project that involved teaching youth in La Ronge, Grandmother's Bay and Brabant Lake about plant identification and the duty to consult and accommodate. I truly enjoyed my time with the youth in each community and wish there were more sessions planned.

In staying true to the pragmatic research paradigm, I took a mixed-methods approach to data collection that involved the intended users of research findings. I carried out 33 semi-structured interviews, approximately 28 weeks of researcher observations, and four workshops that involved 35 people in total to capture the knowledge and experiences of individuals who partake in engagement in their respective social settings. The semi-structured interview format is a useful means to garner information as it allows for exchange between the researcher and the participant while also providing goalposts that keep the conversation relevant to the research subject (Kirby et al., 2010; Hays & Singh, 2012; Van den Hoonaard, 2012). Participant observation is a particularly valuable method for data collection in qualitative research because it can generate in-depth information that captures multifaceted aspects of the research context alongside relationships among participants and participant behaviours (Kirby et al., 2010). During my field work in each site I was able to make observations both as a participant, given that I was welcomed to each office as a temporary staff member, and as a participant observer, given that I identified as an outsider looking upon each social space through a researcher lens (Adler & Adler, 1994). The use of workshops alongside other methods of data collection can serve as an effective way to complement and triangulate data sourced through other methods (Morgan, 1997; Ørngreen & Levinsen, 2017). Workshops also offer a unique way to understand the research topic given that the subject matter is discussed in a space where the researcher and multiple participant views interact with one another (Hays & Singh, 2012; Ørngreen & Levinsen, 2017).

Lastly, I aimed to employ empathic neutrality throughout the duration of the research in an effort to honour the information that was generated and use it appropriately to make ethical and meaningful decisions throughout the project (Hays & Singh, 2012). Also, whether they participated in an interview or workshop, all participants offered their informed consent to participate in the research project (Appendix C). Interviewee informed consent forms allowed participants the choice to be named in the research, to review their transcripts, to be quoted directly, and to review their contributions as they are included in the final thesis (prior to its publication). I chose not to name participants, however I have included some tags for participants in accordance with their specifications of consent.

3.2 Data Collection and Data Analysis

As mentioned above, this research takes a qualitative multi-method approach to data collection. I carried out semi-structured interviews, researcher observation, and participant workshops to gather relevant information. There were two distinct locations of study. I spent fourteen weeks in each location as a student intern, during which I collected most of the data. The first place was the LLRIB Lands and Resources Office in La Ronge, Saskatchewan from May 1st, 2017 to September 1st, 2017; the second place was SaskPower's Indigenous Relations office in Regina, Saskatchewan from October 2nd, 2017 to January 15th, 2018.

3.2.1 Participant interviews

I used stratified purposive sampling to determine research participants, focusing on those individuals with direct experience in engagement or consultation (Hays & Singh, 2012). Research participants were categorized into three primary groups: 1) the LLRIB Lands and Resources Management Board; 2) corporations currently operating in LLRIB traditional territory; and 3) Government of Saskatchewan ministries responsible for environmental planning and management in Central and Northern Saskatchewan. During my first interviews, a few participants suggested that I reach out to the Métis Nation of Saskatchewan (MN-S), noting that the ways in which the Métis interact with government and industry may be different than those of First Nations. I was able to reach the President of the (MN-S) as well as a Métis Elder who works with him, expanding the scope of the research by integrating a Métis perspective. Overall, I interviewed seven members from the LLRIB LRMB, eleven SaskPower employees, seven employees from corporations (three operating in Northern Saskatchewan and two Albertan utilities), two Métis individuals, and seven government officials, for a total of 33 interview participants.

Most interviews took place in-person in the respective spaces of the interviewees, though three interviews were conducted over the phone. Also, three interviews involved two participants together with the researcher. Interviews focused on participant perceptions of and definitions of engagement and consultation, as well as their experiences with each process. Questions centered on participant beliefs about good process as well as barriers that inhibit good processes of engagement, and were generally conversational in nature (Appendix D). Most interviews were an hour long, and all of them were recorded with an audio recorder. All interviewees received an informed consent form prior to the interview and were asked at the beginning of the interview if they had any questions or concerns before participating. Audio files were sent to Transcript Heroes in Toronto, Ontario for transcription. Completed informed consent forms, audio files and transcripts were uploaded and managed using *Filemaker Pro 13* software, and interview transcripts were uploaded to *NVivo 12* for analysis.

3.2.2 Workshops

I facilitated four workshops in total. The first was carried out in Stanley Mission in September 2017 and involved eleven land users from the community; the second took place in December 2017 at SaskPower's headquarters in Regina and involved five staff from Indigenous Relations, Indigenous Procurement and Environment Departments; the third took place in January 2018 at SaskPower's headquarters in Saskatoon and involved seven staff from Vegetation Management and Environment Departments; and the fourth took place in January 2018 in La Ronge and involved twelve members of the LLRIB LRMB. In total, 35 people participated in the workshops. Each session involved a mixture of presenting information as well as seeking input from participants. Each session centered on providing background information of

the duty to consult and accommodate and community engagement regarding environmental decision-making, and requested participant insight into these subjects. All participants were made aware of the research objectives and how the information generated from the session would be used before being asked to sign an informed consent form. Participant input was recorded on paper, and those notes alongside marked up newsprint from the workshops were photographed and uploaded to *NVivo 12*.

The scope of participation for the workshop was limited to individuals directly associated with the two research partners. The main reasons for this scoping include the confines of researcher time and resources. However, one industry staff member did attend the session in Regina. I was encouraged to invite them by a SaskPower employee because their company frequently carries out contractual vegetation management work for SaskPower and confronts issues on-the-ground related to local perceptions of their practices.

Overall, the workshops were a means to explore the experiences and perceptions of engagement and consultation among a cross-section of individuals from SaskPower and the LLRIB who are directly involved or implicated in each process. The majority of participants from the LLRIB were individuals with decision-making capacity (namely members of the LRMB), however the workshop that took place in Stanley Mission consisted of mostly land users and trappers. I do not claim to have developed a broad understanding of land user perspectives on engagement and consultation, though I do believe this information to be useful. However, the workshops allowed me to triangulate information gathered from interviews and observation and generated a more fulsome comprehension of some of the issues at play. Lastly, a few workshop participants from each session told me that the sessions were meaningful experiences for them because I reviewed content that was either useful for their profession or relevant to their livelihood.

3.2.3 Researcher observations

My ability to generate rich observational data was enabled by the opportunity to spend fourteen weeks in each location. Notable opportunities that arose during my time at the LLRIB Lands and Resources office include attending the community tour of the draft Collaboration Agreement between the LLRIB and Cameco in the spring of 2017; attending Treaty days in five communities as a representative from the office; and attending various meetings and events, including the LLRIB LRMB's Annual General Meeting, an introductory meeting with SSR Mining staff, and the official signing of the Collaboration Agreement between with the LLRIB Chief and Cameco's CEO. I often carpooled with the Consultation Coordinator and Secretary of the Lands and Resources Office during travel to LLRIB communities for the Collaboration Agreement and during Treaty days. These hours in the car and times spent in LLRIB communities were valuable to me as they enabled relationship-building, introduced me to nuanced and

tacit details about the LLRIB communities, and allowed me to see a considerable expanse of the LLRIB traditional territory.

I also attended numerous culture camps throughout the months I lived in La Ronge, which further exposed me to Woodland Cree culture. Attending these events also allowed me to meet more people, build relationships, and make social connections that contributed to my sense of place and role as a researcher associated with the LLRIB. It was during my attendance at various community events that I was able to meet the President of the Northern Saskatchewan Trappers Association, who is a LLRIB member and respected Elder. I actively sought out this individual's input through conversations, as it did not feel right to ask him to participate in a formal interview. These conversations yielded valuable and important insight related to the research topic, though they were not collected through the same semi-structured interview format. I entered these notes in *NVivo 12* and coded them along with other data.

Opportunities for observations that arose during my time at SaskPower's Aboriginal Relations office include bi-weekly team meetings with the department, listening to two quarterly company-wide updates from the President, attending SaskPower's annual Aboriginal Procurement event; attending a Duty to Consult Roundtable with provincial, federal, and Métis representatives, and attending a Saskatchewan Ministry of Government Relations duty to consult and accommodate workshop geared towards government officials. Being privy to these spaces allowed me to witness components of engagement, as well as the opportunity to experience and observe community, government and corporate cultures. Altogether, the indirect communication I had with individuals during my role as an observer in these spaces allowed me to make inquiries in the moment and to be exposed to multiple and nuanced perspectives. During my time with the LLRIB Lands and Resources office and in SaskPower's Indigenous Relations office, I took hand-written and typed observational notes, and also wrote researcher reflections. Typed and written observations were entered into *NVivo 12* as word documents or photos for data analysis.

3.2.4 Research limitations

The scope of this research strives to capture insight about engagement practices from individuals who are directly involved in environmental decision-making processes in Northern Saskatchewan. Through purposive sampling I have been able to capture a relatively comprehensive snapshot of engagement as it applies to the experiences of individuals associated with industry operating in Northern Saskatchewan, the LLRIB LRMB, and the Government of Saskatchewan. However, this research does not extend so far as to determine experiences of engagement from other First Nations in Northern Saskatchewan, nor does it sufficiently address the experiences of engagement of Métis local leadership and First Nation and Métis land users. This research does not consider the perspectives of 'grassroots' Indigenous peoples, which is a perspective that a few research participants emphasized as being integral.

Furthermore, the number of interviews I conducted per group is uneven and is particularly skewed towards SaskPower. While I tried to make the number of interviewees from each group relatively even, it proved to be a little challenging to garner commitment from LLRIB LRMB members. This may be due to capacity issues and a smaller pool of people to approach; on one account a Board member that I approached expressed that they chose not to formally participate in academic research projects. Also, an initial scan of SaskPower employees in positions relevant to the research topic generated upwards of 20 individuals. These were scoped down, and I was faced with considerable willingness among SaskPower staff to participate in the research. Despite some unevenness in the numbers of interviews from each group, I believe that I was able to grasp the perspectives of the LLRIB LRMB through my attendance at numerous LRMB meetings, where I was a temporary ‘insider,’ as well as during my experiences as an ‘outsider’ presenting research updates to the LRMB. Additionally, I initially aimed to acquire information from other prairie utilities (Alberta and Manitoba) as a means to compare their experiences with Indigenous engagement to those of Saskatchewan’s Crown utility. Despite expressed interest from Manitoba Hydro’s Indigenous Relations department, I was unable to fulfill these in the end and was only able to reach individuals from Alberta utilities.

3.2.5 Data analysis

I used *NVivo 12* to organize and code data. Data analysis was a recursive process of refining data from all sources. I followed Miles & Huberman’s (1994) description of qualitative data analysis which is a cyclical process: 1) Reduce data (code and organize into themes); 2) Display data (quotes organized into tables that are categorized by nodes and visualized into flow charts); 3) Draw conclusions (from amalgamated quotes as organized into tables); 4) Verify conclusions (across data sources and through participant review of researcher interpretation and findings). For example, interview transcripts, field notes, and photos of notes from workshops were entered into *NVivo 12* and coded in the following order: open coding, axial coding, and selective coding. During my first read-through of a transcript I did not take notes. During my second and third reading I took note of broad themes such as ‘duty to consult,’ ‘principle,’ ‘practice’ and ‘relationship.’ Further review of transcripts looked at these themes in relation to one another and became more specific and organized. Codes were developed both deductively (from interview themes set out prior to analysis) and inductively (from content raised by research participants and through researcher observations). Through my coding process I generated 23 parent nodes that are organized into a coding tree, with many child nodes that further describe aspects of the parent node (see Appendix E). Six parent nodes align with themes set out in my interview questions (Appendix D), while others reflect emergent themes identified by research participants. These nodes originate from ideas that were repeated among participants, or ideas that were emphasized by research participants and reinforced through researcher observation.

Upon their initial creation, nodes were reviewed on multiple occasions, and aggregated or separated based on similarities and differences. Organizing information into my node tree allowed me to notice patterns within and across themes, such as the strong role that economic interests and benefits play in successful engagement. Coding my data in this way also allowed me to identify and explore relationships between and among categorizations, such as shared barriers to good-practice engagement and consultation among research groups, as well as ways in which such barriers are unique to each group. Once coding was completed, I organized information derived from participant quotes into tables as a way to describe key points that align with research themes raised in my interview questions. I created a table for each group, for both consultation and engagement (separately), for a total of six tables. During the writing process I came to make sense of key themes and the relationships among them in a more comprehensive way. This more synthesized understanding is reflected in the final organization of information in my results chapters and in my overall findings. The next chapter presents this synthesized understanding as it explores participant experiences and perceptions of engagement and consultation.

CHAPTER 4:

PARTICIPANT EXPERIENCES & PERCEPTIONS OF ENGAGEMENT AND CONSULTATION

It became evident early on in the research that participants use the terms ‘duty to consult and accommodate,’ ‘consultation’ and ‘engagement’ inconsistently, and that individuals attach different meanings to each respective term. Additionally, the definitions participants attach to each term seem to originate from how individuals participate in each process, which is informed by their roles and responsibilities. As such, I begin this chapter with a description of the roles and responsibilities of individuals within each respective group as derived from participant accounts. I then outline participant perceptions organized by group and identify some of the predominant perceptions that exist across groups. Following this, I discuss practical implications raised by research participants that relate to the varying perceptions of engagement and consultation. I conclude with a summary of what participants deemed to be good process, regardless of whether it is for consultation or for engagement, and summarize key indicators for measuring what participants deemed to be ‘successful engagement’. By identifying the range of perceptions held by those involved in consultation and engagement, I address my first objective and offer a nuanced depiction of engagement and consultation as they are currently conceptualized and practiced in Northern Saskatchewan.

4.1 Government | Roles and Responsibilities

4.1.1 Assessing proposals for the duty to consult and accommodate

In Saskatchewan, government officials are responsible for assessing project proposals that are submitted for regulatory approval to determine whether or not projects pose a threat to Indigenous rights, and to judge if the duty to consult is triggered. If there is indeed a need for consultation, government will either take full responsibility for executing it, or will request the proponent to undertake the responsibility. One government official mentioned this in relation to the relicensing of a hydroelectricity facility in Saskatchewan, saying “Water Security [Agency] is leading the DTC [duty to consult] on a relicensing at present. However, in this situation they have chosen to assign procedural aspects of the consultation to SaskPower, who are effectively the proponent.” Regardless of whether or not authorities delegate procedural aspects of consultation to industry, it is the authorizing ministry that is responsible for assessing the consultation record, and that maintains overall liability tied to the quality of consultation.

When a proposal does trigger the duty to consult, government officials are responsible for sending out consultation notifications to inform Indigenous leadership of a proposed project in their territory. These notifications include key information about the project, and they also request information from the community about any rights that may be negatively impacted by the proposed work. As one Ministry of Environment official explained, “[...] we send out our consultation letters saying project details, this is

what we want to hear back from you, do you have any concerns?” Upon a response from Indigenous leadership, government officials will dialogue with them to continue the duty to consult process, be it through meetings with leadership or attending community meetings. Meetings are common avenues to further share and receive information about the potential impacts associated with a proposed project, as well as to generate options for mitigation.

In terms of the content of consultation dialogue, all government officials explained that they are only responsible for addressing issues concerning Indigenous rights. For example, a Ministry of Environment official explained that their job is to ensure Indigenous communities receive sufficient information about project proposals and make themselves available to meet and discuss project proposals if requested. During these discussions with Indigenous leadership and community members, government officials are careful to explain that their authority is limited to conversations around impacts to Treaty rights. In the context of regulatory approval, government’s role is to assess project proposals in accordance with provincial and federal policy, which often entails ensuring that impacts to Section 35 Indigenous rights are mitigated.

4.1.2 Broad government engagement

Beyond its role in fulfilling the duty to consult, government also facilitates broad engagement with Indigenous peoples to inform a wide range of provincial decisions such as internal directives, policies, and resource management plans. A former Senior Advisor in Saskatchewan’s recently-dissolved Aboriginal Affairs branch explained that while government is not legally obligated to engage with Indigenous communities, engagement is good public policy, further describing it as “developing social license, social capital, cultural capital to continue working on the relationships with these communities. And for them to work with us, and you don’t have to do it, it’s a best practice and I think it’s better for everybody if we do.” He further expressed that broad government engagement with Indigenous peoples enables “[...] an open and a sharing forum to have that dialogue with [Indigenous] community, other stakeholders that are involved and let them also know where government is coming from and what our outcomes are that we’re trying to achieve, and how we think we’re going to get there.” Recent examples of provincial government-led Indigenous engagement include the development of regulations for First Nation outfitting on-reserve; creation of a rules and regulations guide on Aboriginal rights to hunt, fish and trap; and the development of a regional caribou management plan.

4.1.3 Saskatchewan Government Relations Northern Engagement Branch

In Northern Saskatchewan, Saskatchewan’s Ministry of Government Relations has a branch that deals solely with engaging stakeholders across the Northern Administration District, aptly titled ‘Northern Engagement.’ This branch has an expansive network throughout the North, and it strives to build positive

relationships with community representatives, municipalities, and Indigenous leadership. Given the relatively small population, the remoteness of communities, and the prevalence of industry in the North, government engagement efforts are widespread. They range from offering support to projects—be they community-based, government-related, industry-related or academic; offering a ‘northern perspective’ on environmental assessments, regulations or policies; building knowledge within government to support better relationships with northerners; liaising with government in the south; and offering expertise to local community members, often related to finding the right government personnel to assist them with questions or concerns. As one official explained: “[...] in essence we need to know the heartbeat of the north, we need to know, you know, where does the power lie, what are some of the emerging issues, what are some of the past issues, stuff like that.”

The Northern Engagement Branch also manages the Northern Saskatchewan Environmental Quality Committee (NSEQC) since its inception in 1995. The NSEQC consists of representatives from 30 northern communities and First Nations that meet two to three times a year with a focus on mining in the north. These meetings bring representatives from regulatory enforcement boards such as the Canadian Nuclear Safety Commission, government ministries, and companies to present on operations, answer questions, and respond to community concerns. As one Northern Engagement official explained, the role of government is to facilitate these meetings in a manner that respects and balances multiple interests at the table: “one of the things with engaging with the communities like that we have to respect everyone around the table in terms of why they're there, what they're there for. At the same time try and balance that with why the NSEQC is there.” Overall, the NSEQC enables dialogue and learning among northern communities and the uranium industry and has recently expanded its scope to include broader Northern developments that occur in the North. Interviewees from local communities and provincial agencies indicated that the NSEQC is a valuable forum for facilitating exchange among residents and uranium industry representatives, and for building relationships among northerners, industry employees, and northern government officials.

4.2 Proponent | Roles and Responsibilities

4.2.1 ‘Early’ proponent engagement as precursory to the duty to consult

Proponents may be in a position where they are engaging Indigenous leadership for the purpose of project proposal development while also carrying out broader engagement outside of regulatory requirements. Any communication with Indigenous communities that is carried out by proponents during project proposal development, prior to submitting it to the authorizing ministry, is considered to be ‘early’ engagement. If this is done, government ministries request that proponents share their early engagement work with the relevant officials, as this information will inform government’s assessment of the duty to consult and accommodate. One Ministry of Environment official explained that “sometimes they

[proponents] will provide that information to us to augment or for our records, and it just shows that there was some – we call it engagement because it’s not considered to be consultation.” These expectations are laid out in the Proponent Handbook for Engaging First Nation and Métis Peoples, 2013. Outside of ‘early’ engagement for proposal development, it is common for industry to engage with Indigenous communities more broadly, often with the intent to build good rapport with local leadership and land users in order to attain local acceptance of their operations.

4.2.2 Delegation of procedural elements of the duty to consult

The roles and responsibilities related to consultation and engagement are determined by provincial consultation policies. As mentioned earlier, when a project proposal triggers consultation in Saskatchewan, the authorizing ministry may choose to delegate the procedural elements to the proponent. Numerous industry participants mentioned their occasional role in consulting with Indigenous communities, despite not owning the duty to consult. As one SaskPower employee explained, “the procedural, I guess, aspects where we take all of the project information or we translate it into a First Nation’s language that they can interpret, we put a summary together, that kind of thing, so they’ll delegate that to us. But it depends on the scale and the magnitude of the project.” The Director of SaskPower’s Indigenous Relations department explained the process this way, “if we’re delegated procedural aspects by the province, and that’s a different piece, then we are wearing the Crown, the Crown’s responsibility, so we have an obligation to make the process uphold the honour of the Crown.” This quote demonstrates that despite SaskPower’s role in carrying out the duty to consult, the overall responsibility for ensuring credible consultation occurs sits with the authorizing ministry. This participant also spoke of the procedural aspects of consultation as being separate from engagement and suggested that the protocols for consultation are held to a different standard than the Crown corporation’s engagement processes.

Given the possibility of being delegated procedural elements of consultation by the Crown, companies in Saskatchewan may find themselves carrying out engagement and consultation simultaneously. One SSR Mining employee who works out of the company’s gold mine in LLRIB traditional territory explained a situation where the company conducted consultation specifically related to the proposed expansion of a tailings facility (i.e. for regulatory approval), as well as engagement, which was related to building a positive relationship with the local community: “we’ve been doing engagements and consultations, I guess, almost at the same time. So, we were doing some engagements with the Council and with the members, and then in the last quarter we were doing consultations with the bands as well for this tailings expansion.” This quote suggests that proponents in Saskatchewan may practice engagement and consultation alongside one another, though the processes themselves remain discrete.

4.3 Crown Corporations | Roles and Responsibilities

The role of Crown corporations in engagement and consultation can be unclear given that they operate as a business, and yet they are authorized and mandated by the provincial government. Despite maintaining an identity that is tied to government, all government participants and some SaskPower employees expressed that Crown corporations fall into the category of ‘regular proponent’ when their operations trigger the duty to consult, and therefore they do not assume the Crown’s duty to consult. However, a few participants believe that Crown corporations have the capability to carry out their own consultations, or at least understand duty to consult requirements more comprehensively than private companies. For example, when asked about the role of Crown corporations in Saskatchewan, one MOE official explained his view that it would be good-practice for Crown corporations to fulfill the duty themselves, even though they do not. Also, some government participants raised the presumption that employees of Crown corporations should have a better understanding of the duty to consult than employees from private companies. As a result, some government officials expect more robust project application packages from Crown proponents than private proponents.

A SaskPower Indigenous Relations employee also believes that when it comes to expectations around consultation and engagement, the public utility’s association with government sets it apart from private companies. This participant explained that because SaskPower is a public servant to all provincial residents, when it comes to engagement the Saskatchewan public holds them to a higher standard compared to private corporations. This participant further spoke of SaskPower’s unique position as a Crown corporation in assuming that responsibility, and how the of ‘honour of the Crown’ influences the company’s participation in the duty to consult given the presence of Indigenous rights: “When we’re dealing with Indigenous rights holders, we’ve also got the honour of the Crown. So, we need to act honourably. That means you don’t do sharp dealing. The golden rule, you treat people as they would like to be treated.” They continued to express that as a Crown corporation, SaskPower has a role in contributing to reconciliation between Indigenous and non-Indigenous peoples in the province, and that there is work to be done to further prioritize this. This view was shared by another SaskPower employee, a senior executive director, who referred to SaskPower’s obligation to reconciliation, saying:

with First Nations it is our duty for SaskPower to do a better job of telling people what our plans are, explaining how we're trying to get electricity for the future, how we're changing to have a lower environmental footprint and so - and First Nations are a part of that. So that duty to consult is there for anybody but it's there officially for First Nations. And then when you talk about reconciliation and reaching out today, we don't have anything official, like we don't have an official list that was given to us by Crown Investments Corp, for example.

He further expressed that the Crown corporation can improve their role in reconciliation with Indigenous peoples, despite not having specific directives from its governing body. In his words:

[...] so, we're left to say okay, on behalf of the government what should [we] be doing? And that's okay except all the employees here are just trying to get their jobs done. And they're not necessarily thinking of reaching out in any other way. It's not part of what they've been asked to do specifically. And so it really starts with individuals saying well, wait a minute there's more that we should be doing here and what are some of those things and how can we build them into the operations of the business?

Here, this SaskPower executive is suggesting that it is the responsibility of individual employees within the Crown corporation to strengthen SaskPower's approach to engagement with Indigenous communities in Saskatchewan, and that this responsibility is grounded in a broader commitment to reconciliation with Indigenous communities.

While other SaskPower participants did not specifically mention reconciliation, a few offered perspectives that place SaskPower's responsibilities as a Crown corporation beyond the responsibilities of private corporations. For example, there is the belief that as a company beholden to all Saskatchewan residents as its shareholders, SaskPower bears a responsibility to operate in a manner that, where possible, enhances the wellbeing of those citizens and raises the economic status of communities and the province. Moreover, some SaskPower participants alluded to the geographically widespread operations of SaskPower as a factor that puts it in a unique position compared to other companies to be able to support communities that struggle socio-economically. Not only is SaskPower better equipped to build capacity throughout the province—be it through education, skills training or employment—these participants believe that the Crown corporation's ties to government also give SaskPower an additional responsibility to support local community wellbeing where possible, be they Indigenous or not. I expand on this perspective in Chapter Five.

4.4 Indigenous Leadership | Roles and Responsibilities

Indigenous leaders and staff participate in both consultation and engagement continuously with government and industry, while also performing internal engagement with their community membership. The LLRIB is one of a growing number of First Nations in Saskatchewan that has a staff position dedicated to being the “Consultation Coordinator” – the main contact point for outside groups. In addition to this position, the LLRIB has a Lands and Resources Management Board (the Board), which operates as an arm of Chief and Council to facilitate communication with the government, industry, and within the band regarding land-use development in their traditional territory. The Board is responsible for gathering and assessing information from government and proponents about project proposals; determining how to share project information with band members; determining potential impacts to land user rights and making them known to government or industry; and ultimately liaising between the community and government or proponent about community interests and rights. To this end, the range of issues brought

to Indigenous communities often means that communication with government or proponents regarding engagement or consultation are indistinguishable from one another.

For example, one member of the LLRIB Board alluded to the ways in which the Board's responsibilities shift based on the project proposal:

I don't know how you would actually put either one [engagement or consultation] ahead of each other because sometimes you have to be notified that it's our responsibility to either try to contact people so they can be informed about it. Because, they kind of coincide with each other...because sometimes the project will be different, and you've got to adapt to how we're supposed to be responsible for it, or who is responsible for it. That's the thing - I think it's just being able to adapt to it quickly and [determining] how to get the information to everybody that may be impacted [...] from any projects that are going on up and around here.”

This quote also suggests that the responsibilities of the band, government or industry are not static, as they shift depending on the project.

Another LLRIB Board member explained the difference between the Board's engagement with LLRIB membership and with the ministry the following way, “the engagement with our First Nations people, traditional land users is pretty straightforward. We tell them what's happening, what's going on. And with the engagement with SERM⁷ (Saskatchewan Ministry of Environment) and the proponent, it's more a listening process where we listen to them.” This same participant, along with another Board member, further described the Board as a watchdog for the Saskatchewan MOE, ensuring their officials are following provincial regulations. This explanation of the Board's responsibility points to an underlying distrust held by Board members toward both government and industry, a topic that I expand on in Chapter Five.

It is important to note that the human resource capacity that enables Indigenous communities to respond to letters, phone calls and emails about proposed projects varies greatly. Due to inconsistent capacities, the roles and responsibilities differ within Indigenous communities depending on each community's governance structure and administrative capacity. For some communities, it is the Chief's responsibility to field government notification letters; for others, it may be a Councillor who holds multiple portfolios, including Lands and Resources. For many Métis communities, the Métis local President is the main contact for government and industry. The local President is therefore dealing with notification letters alongside myriad other issues related to leading a community.

⁷ The terms 'SERM,' 'Sask. Environment' and 'MOE' all refer to the same provincial ministry that is responsible for approving permits for project proposals in Saskatchewan that have an impact on the environment. In this thesis I use the current iteration to refer to this ministry, which is 'Ministry of Environment.'

4.5 Participant Perceptions of Engagement and Consultation of Government, Industry and Indigenous Communities

Collectively, participant interviews, workshops and field observations showed that participant perceptions of consultation and engagement are inconsistent with one another. While some accounts align with government and court-prescribed definitions, others deviate from them. For example, government officials referred to consultation and engagement in ways that strongly align with legal rulings and policy by seeing the two processes as unequivocally separate from one another. On the other hand, many industry and Indigenous participants viewed consultation and engagement as equivalent. The variation in perceptions is not entirely surprising given that each respective group participates in the two processes in a unique way.

4.5.1 Participant perceptions | Government of Saskatchewan

Government employee perceptions of engagement and consultation were consistent with the definitions stipulated by legal decisions and government documents. These participants referred to the duty to consult and accommodate as a unique legal process that deals solely with Indigenous rights as outlined in Section 35 of the *Canada Constitution Act, 1982*, and described engagement as communication that deals with concerns or interests that are not related to constitutionally recognized Indigenous rights. As one MOE official explained, “consultation is strictly with First Nation and Métis communities. Engagement is any other stakeholder.” Generally, government officials viewed engagement as a procedure that involves stakeholders, be they Indigenous or non-Indigenous, and that deals with concerns that are unrelated to Indigenous rights. This distinction has been coined the ‘rights- versus interest-based’ distinction by government and suggests that engagement deals with stakeholder interests—both Indigenous and non-Indigenous—while consultation solely addresses potential impacts to constitutionally protected Indigenous rights.

4.5.2 Participant perceptions | Industry

Most industry participants described engagement as being separate from consultation, recognizing that the duty to consult is a legal obligation that rests with the Crown, and not with companies. Moreover, conversations with industry participants indicate that each company has their own approach to engaging with Indigenous communities, and that these approaches are supported by internal corporate structures and policies as well as by provincial guidelines. Despite the variation in corporate policies and approach, all proponent participants discussed engagement as the communication that occurs between industry and project stakeholders, be they municipalities, Indigenous rights-holders, local landowners, disposition-holders, leaseholders, or local businesses.

Additionally, all industry participants referenced local acceptance of their projects, or attaining a social license to operate in Indigenous territory, as the predominant objective that drives their engagement

efforts. There was a shared understanding among industry participants that engagement is multi-layered, that it is ongoing for the life of projects, and that sometimes it continues beyond completion of project operations. Despite nuance in their perceptions, most industry participants described their engagement efforts within Indigenous traditional territory as being responsive to Indigenous community capacities, needs and abilities, and reflective of historical and ongoing industry legacies. Also, most industry participants regarded corporate engagement with Indigenous peoples as serving to build positive working relationships by satisfying mutual interests and generating mutual benefits.

4.5.3 Participant perceptions | LLRIB Lands and Resources Management Board and SK-Métis Nation

4.5.3.1 Varying definitions of engagement and consultation

Even though government strives to operate in a manner that delineates clear boundaries between consultation and engagement, Indigenous participants tend to view the processes as indistinguishable from one another. Furthermore, when asked to define engagement in interviews and during workshops, Indigenous participants offered different perspectives. Some described it as early communication with industry, often through initial introductory meetings, while others regarded engagement as the ongoing communication by industry or government to share updates and keep the LLRIB Board informed of existing operations. One Board member referred to engagement as the preliminary communication that happens with proponents where they seek information from the community, saying, “the engagement is just kind of to meet with industry or government or something like that, to talk about any of their plans.” A Lands and Resources Board Elder believes that “engagement should be right at the beginning,” adding that it needs to happen “with the idea before everything is all planned out and ready to go.” These perspectives correspond with other Indigenous participants’ remarks made during workshops, which referred to engagement as the discussion that happens before consultation, comprising of introductions and the provision of project information to leadership and community members.

Another LLRIB Board member, however, viewed engagement as the ongoing communication with the Lac La Ronge Indian Band that happens outside of, or after, the duty to consult. They referred to ongoing communication as “engagement with the community and working together.” While similar in principle, this participant believes the duty to consult is the communication with the LLRIB that happens any time there is new development proposed in LLRIB territory, explaining it would take place *before* engagement. Still, some Indigenous participants do not differentiate between each term. For instance, land users who attended a workshop in Stanley Mission expressed that engagement and consultation consist broadly of government and industry communication with the LLRIB Chief and Council, Trapper Association, and community members about any resource-use decisions that impact their traditional territory, regardless of whether government deems it a rights- or interest-based discussion.

Beyond variation in opinion, there is also a shared perception among many Indigenous participants that engagement involves the early provision of information about project proposals to band leadership, and that engagement is the inclusion of Indigenous peoples in government and industry decision-making processes. In addition to these descriptions, most Indigenous participants believe that engagement should be long-term, and not project-based, citing the positive relationships that ensue from ongoing engagement.

4.5.3.2 Distrust of the duty to consult

Alongside a prevailing view of the duty to consult among Indigenous participants that does not adhere to the rights or interests lens, some Indigenous participants expressed wariness towards the duty to consult and accommodate doctrine. As one LLRIB Board member expressed, “even though we have to do the consult and accommodate decision that's on our side to help us, that can still be overruled even by Federal Government, because Federal Government can still oversee, or take away Treaty rights for hunting and fishing.” Wariness towards the duty to consult stems primarily from a deep-rooted distrust of government, and the view that despite its legal origins as a mechanism to protect Indigenous rights and livelihoods, government and industry do not comply with duty to consult protocols. For example, one LLRIB Board member expressed his belief that the government does not follow its own policy, be it for the duty to consult or for other environmental regulations. He also referred to the duty to consult as too lenient with what it allows industry to do. Another Indigenous participant expressed criticism of the duty to consult and accommodate, explaining his views the following way:

You look at duty to consult; what does that mean? To accommodate—what does that mean? We've been assimilated so much that – or the teachings of the mainstream are so rigid, that are [they] willing to be open to their idea even of being inclusive of the Indigenous people? So what does duty to consult mean, and accommodate? That's a tough one.

A LLRIB member who sits on the LRMB expressed a similar view, and regarded the provincial government's duty to consult and accommodate policy as rigid and self-serving:

And yeah, I think it's just the interpretation of it, how we, as a First Nations kind of interpret what the ability to consult is and accommodate us, and from what the government's aspect of what the duty to consult is, and their little handbook or whatever. And they try to enforce on us that this is what we're willing to do, and so they're not willing to accommodate any changes into their little handbook when we try to tell them, or adapt - like they have to able to adapt.

LLRIB land-users who attended the workshop in Stanley Mission shared this skepticism of government-led consultation. For instance, one LLRIB member and Trapper President referred to the duty to consult as a “learned behaviour,” expressing that it is yet another method for the government to control Indigenous livelihoods rather than allowing Indigenous peoples the autonomy to do it themselves. Collectively, these views demonstrate that while there is an understanding among some participants

about what the duty to consult entails, some Indigenous peoples choose not to accept it on the grounds that they distrust its abilities to serve Indigenous peoples well.

4.5.3.3 Engagement and consultation as mechanisms for Indigenous inclusion

Irrespective of details related to limitations in process and discussion around rights versus interests, many Indigenous participants regarded engagement and consultation as vital avenues of communication with government and industry. These avenues of communication ensure Indigenous peoples are recognized as active participants in Canadian society, be it at an environmental, political, social, educational, or economic level. These avenues were deemed especially critical given the chronic exclusion of Indigenous peoples, both historical and contemporary, from industry and government decision-making processes. Through observations, workshops and participant interviews, it was evident that Indigenous participants regard engagement and consultation with industry and government as important mechanisms for Indigenous leadership to assert their autonomy within their lands. For many participants, this means being meaningfully involved in government procedures so that decisions benefit their people rather than exclude or harm them.

4.6 Perceptions of Engagement and Consultation Government, Industry and Indigenous Communities

4.6.1 Contradictions and confusion in perceptions

4.6.1.1 Is it engagement or is it consultation?

In meetings with the LLRIB Lands and Resources Board, as well as during interviews and workshops with LLRIB members, there was general confusion about the nature of, and relationship between, engagement and consultation. Embedded in this confusion is uncertainty around the roles and responsibilities of government, industry and Indigenous community in both processes. For example, it is unclear when it is the responsibility of industry or government to communicate directly with land users or when it is the Board's responsibility. As mentioned earlier, this confusion may stem from the fact that government officials and industry representatives communicate with Indigenous authorities in a range of ways that serve diverse purposes, such as for the duty to consult and accommodate, for broad government engagement, or for economic opportunities related to industry operations.

Another factor that may contribute to this confusion is the early and ongoing evolution of duty to consult rulings and policy. For example, some Board members referred to earlier years when the government seemed to change their story as to whether they were engaging or consulting with the LLRIB. According to a former and current Consultation Coordinator for the LLRIB, government officials came to meetings with the Lands and Resources Management Board soon after the Board's inception in 2010 saying they were engaging with the LLRIB, while other times they deemed the meeting to be

consultation. This inconsistency in terminology could be attributed to the early stages of the duty to consult procedure, where provinces were still figuring out how to perform the duty to consult and accommodate case law as it emerged.

Currently, government officials and Indigenous community representatives experience frustration upon meeting one another and disagreeing on whether their meetings constitute engagement or consultation. As one LLRIB LRMB member expressed, “They [government] like to try to call them consultation right away, but we just tell them right off the bat too, before we get started, well this is the engagement.” In a workshop led by the Saskatchewan Ministry of Government Relations that teaches government officials how to implement Saskatchewan’s Consultation Policy Framework, multiple attendees raised questions about this situation, and how to move forward when they face it. While there are no easy answers to such circumstances, workshop facilitators stressed the importance for government officials to track their correspondence with First Nations and Métis communities, and to seek ways to ensure the communication with them continues despite differences in opinion around process.

4.6.1.2 Who owns the duty?: Delegating procedural aspects

While most industry participants referred to the Crown’s ownership of the duty to consult, other participants spoke of confusion among industry staff and Indigenous communities regarding whose responsibility it is to fulfill the duty to consult and accommodate. For example, one government official referenced confusion on behalf of industry regarding the difference between engagement and consultation, saying, “a lot of companies will say well we have to fulfill the duty. You do have to consult, yes, but the duty technically, legally, rests with the government.” Another government official expressed that the confusion around who holds the duty to consult within both industry and First Nations is a considerable issue for government, despite their efforts in stressing that the duty solely lies with the Crown.

4.6.2 Practical implications tied to variation in perceptions

Determining whether groups are engaging or consulting can have practical implications. As a LRMB Elder expressed, the confusion around roles for engagement and consultation can influence financial obligations: “I think it’s actually the companies that’s supposed to consult with the people because this office doesn’t get the funding to go – because it costs quite a bit of money to go to communities.” At a technical level, this view is partially accurate given that the Canadian courts have determined that the costs of consultation should not be borne by Indigenous communities. However, this is not always the case, as members from the LLRIB Lands and Resources Management Board attested. While there is provincial funding available to First Nations and Métis locals for their participation in the duty to consult, it is constrained to project-based consultation. And as two Board members expressed, the amount of time

it takes to apply for the grant and to report on its implementation outweighs its value. Despite this limitation, the government remains legally obligated to support Indigenous peoples during consultations, which is a condition that does not apply to engagement. Moreover, one government official believes that if government expects First Nations and Métis to participate meaningfully in government's engagement processes, the government has a role in facilitating that. They said, "What are the resources that are required in order for successful engagement to occur? And what's lacking in your stakeholder's ability to participate and how do you address that?" Such capacity-building could constitute in-kind support or direct funds, and this participant further expressed, "so maybe that's a way that government could provide that capacity and bring everybody up to a level playing field essentially for engagement or consultation discussions. It's definitely something that I think is government's responsibility."

As previously mentioned, many Indigenous participants did not subscribe to the government's interpretation of what constitutes Indigenous rights, nor do they explicitly differentiate their 'rights' from their 'interests.' Due to these contrasting opinions, differentiating between engagement and consultation through the rights versus interests lens can become less meaningful during meetings, and can lead to tension between participating groups. Moreover, the lack of agreement on what constitutes an Indigenous right often came up in project development-related discussions between Indigenous peoples and government officials. A few examples of current discordant topics included the status of commercial trappers, the provincial government's refusal to extend resource revenue-sharing to Indigenous communities, and the contrasting interpretation of Treaty rights. Together, these points of contention can be a barrier to effective communication and to the degree of Indigenous participation more broadly in environmental decision-making.

Government officials and proponents also described experiencing practical challenges associated with framing consultation and engagement through the rights versus interests lens. One MOE official who is responsible for sending consultation notification letters to First Nations and Métis locals explained that he often receives calls from Indigenous peoples asking about development in their traditional lands. He said that their questions are predominantly about employment opportunities rather than impact to rights: "Most of the time it doesn't come down to whether or not someone's working in that area and it's kind of affecting their rights to trap or hunt in that area, it comes down to, a lot of times in these northern communities where poverty is a big issue, they just want to work and so a lot of it is an economic reason." In response to such requests, this participant said he would happily offer a list of companies working in an area despite it being outside of his formal responsibilities. Furthermore, one industry participant expressed that the rights-oriented criteria of the duty to consult can be restrictive for proponents given that their discussions with Indigenous leadership often centre around economic opportunities and the settlement of losses from discriminatory historic actions and decisions. This point also reflects the

prevailing Indigenous perception that their rights and interests are not separate, but rather are integrated under one umbrella of Indigenous rights.

4.7 Perceptions of Good Process Regardless of Terminology

Regardless of how a process is categorized, multiple participants across each group alluded to the importance of informing local Indigenous peoples about project proposals and garnering feedback on them, as well as working together to build trusting relationships. As one industry participant explained, “at the end of the day, before you go into your project you want to make sure that people have a clear understanding and you have a clear understanding of what their concerns are.” One official from Saskatchewan’s Government Relations Lands and Consultation Branch explained the similarities in procedure across consultation and engagement, saying:

[...] they’re pretty much the same, yeah. I mean, you go out, you identify interests and needs and challenges and issues, and you talk about them and you identify options to somehow mitigate them – you know, that’s a big word; we use avoid, minimize, mitigate. Proponents need to do this, you do that irrespective of whether it’s rights or not. How do we address this issue? And then you come to some sort of general consensus, and you move forward.

This quote suggests that despite the confusion around requirements for consultation and engagement, the core components of each process remain consistent with one another.

Similarly, an MOE official referenced government’s’ obligation to inform and include Indigenous communities, regardless of whether officials are engaging or consulting, saying, “you have an obligation to make sure that they’re informed and provide that opportunity for them to be involved, especially if you determine that their rights may be adversely affected.” He further expressed that the most important component in the process is dialogue and finding ways to work with one another:

Yeah you don’t come to a happy medium from government’s perspective. It’s you either consult or it’s not consultation and if it’s not consultation then great, let’s keep talking. If it is consultation, let’s keep talking. We’ll hope you continue to talk with us because some communities, the term “consultation” raises a red flag for them all of a sudden. I don’t know why. In my perspective I think it’s a good thing that a duty’s triggered because a government is obligated.

Committing to ongoing dialogue across groups and working together was also described as being fundamental to the President of the Saskatchewan Northern Trappers Association, who is also a respected LLRIB Elder. Despite his lack of trust in the duty to consult processes, he believed that collaboration among government, industry and Indigenous peoples is necessary to ensure that trappers are respected and included in local land use decision-making. Similarly, the Saskatchewan Métis President regarded both consultation and engagement as avenues that enable government and industry to listen to Indigenous peoples, learn from them, and eventually build working partnerships with one another.

A former Government of Saskatchewan legal official highlighted two theoretical principles that form the backbone for the duty to consult, explaining that they are fundamental to good process regardless of conversations being rights-related (consultation) or interest-related (engagement):

[...] for us we always say the two theoretical principles behind the duty to consult is the concept of reconciliation and honour of the Crown. And so we teach our officials that anything and everything you're doing in your process you have to ask yourself, does this advance reconciliation and does it advance the honour of the Crown? Are we acting with integrity when we're dealing with these constitutionally protected rights?

These principles stem from the political nation-nation relationship between Canada and Indigenous nations, and embody the mutual obligations tied to the relationship. This participant believed that the principles of reconciliation and maintaining the honour of the Crown apply to engagement as well, and that the criteria for the duty to consult and accommodate are encouraging ministries to improve their quality of engagement for decisions that influence non-rights-related issues. As they explained, “so I think this is one area again where the legal duty I think has forced [government] to up our engagement because it wouldn’t - it would not make sense for us to conduct a fulsome engagement or fulsome duty to consult process on a mine but then if we're going to redo child welfare regulations not to have the same level.”

While referred to in a different context, this line of thinking was echoed by a SaskPower Project Delivery Office employee, who expressed that alongside the need to fulfill specific criteria for the duty to consult, the overarching requirement is to have local acceptance and support for projects:

[...] we tend to oversimplify things to say okay, duty to consult I've got that checkbox I know we have to get that. And then when we've got that then we know we're good to go, but I know from my history here at SaskPower just getting duty to consult, well you have to get that [fulfill the duty to consult] but that doesn't necessarily mean that there aren't going to be other issues that come up along the way if people are still unhappy or if there's still issues out there, right?

Numerous government officials supported this position and believed that it is good practice for industry to take actions beyond the duty to consult in order to be successful in their projects. For instance, one official stated, “In addition to the duty to consult, companies, the private sector, has what I will call the common sense to consult. They need to go introduce themselves and build their own trust relationship as well.” Taken together, these perceptions emphasize the importance of focusing on broader principles such as integrity in process, rather than technical details specified by regulations.

4.8 Indicators for ‘Successful’ Engagement

Almost all participants said that measuring the success of engagement between proponents and Indigenous peoples is difficult and complicated, yet critical. Numerous participants indicated that quantifying trust and positive relationships is challenging, which may partially account for challenges in measuring engagement successes. Regardless, it is important to track and evaluate engagement efforts in

order to make improvements, and to demonstrate the efficacy of corporate departments or provincial ministries such as Indigenous Relations or Northern Engagement so as to maintain their financial support. As one government official put it, “that's the bad thing about good relationships. If it doesn't look like it's doing anything, people want to cut it off.”

Generally, there was agreement among most participants that the quality of relationships among people and groups involved in engagement is demonstrative of the quality of engagement overall. Aside from quality of relationship, participants mentioned the following indicators as useful means for evaluating the quality of engagement with Indigenous peoples: (i) community satisfaction or support for outcomes from engagement; (ii) fewer concerns about environmental issues, along with less resistance to project proposals; (iii) the continuance of a good working relationship; (v) health and socio-economic wellbeing of communities; and (iv) mutual wellbeing or “win-win” outcomes. For example, one LLRIB Board member expressed, “I would say in the metrics of a successful engagement are having the numbers of people present that you want. So you want to have lots of grassroots people of the public who are interested, not just the leadership. You want to make sure that at the end of your session that they understand, they have a good understanding of what it is that you're doing.” One industry participant reflected on local responses to industry work, saying:

It's very difficult to quantify on the bottom line [...] where you would be more amicable to quantify it is, what is your ease of doing any work in that area? Or how accepting or how much are you giving back to the community in actual meaningful work. Are people looking forward to you showing up, or are they trying to keep you out?

Another industry participant described the state of relationships as a good indicator, explaining, “So one of the things you want when you do engagement and what shows that you've done a good engagement is that you're holding that relationship as staying solid. It's not deteriorating. It's not becoming worse. Hopefully, it becomes better. You get to know the person a little bit.” Additional research participant quotes supporting each of these indicators are offered in Appendix H.

4.9 Conclusion

This chapter addresses my first objective by exploring the different views among research participants on what constitutes engagement and consultation in land-use decision-making contexts within Indigenous traditional territory. It also addresses my second objective, which is to investigate participant experiences of engagement and consultation in Northern Saskatchewan. Collectively, participant accounts show that those who take part in engagement and consultation maintain diverse conceptualizations of each process, and that inconsistencies in these perceptions raises implications in good process. More specifically, I show that the rights versus interest lens prescribed by the provincial government is not straightforward in practice. This is largely because many Indigenous participants conceptualize their rights and interests

more broadly than the Government of Saskatchewan does. In spite of conceptual, legal and regulatory differences between engagement and consultation, many participants agree that what is most important is integrity in processes and focusing on relationship-building between groups. It seems, however, that applying these principles in practice remains challenging and elusive.

CHAPTER 5:
CHARACTERIZING GOOD-PRACTICE ENGAGEMENT BETWEEN RESOURCE DEVELOPERS
AND INDIGENOUS PEOPLES IN NORTHERN SASKATCHEWAN

The previous chapter demonstrated that participant views about engagement and consultation are multifaceted and complex, and identified key components for good process regardless of whether the process is engagement or consultation. Chapter Five expands on these key components, presenting a framework of principles and practices for carrying out effective engagement among industry, Indigenous community, and Crown governments. The framework has been developed using participant input and researcher observations. Even though participants conceptualize engagement in a range of ways, the objective of this chapter is to present key principles and practices for working with Indigenous peoples in a manner that is separate from any legal obligations associated with the duty to consult and accommodate (Objective 3). However, much of the information presented in this chapter is likely applicable to legal duty to consult processes. Following an overview of the framework, I devote a section to each principle and discuss examples from interviewees that demonstrate how to honour the principle.

The framework contains four central principles to guide and support good-practice engagement among industry, Indigenous peoples, and government. The four principles are: mutual respect and commitment, effective communication, social and economic inclusion, and the reciprocal relationships (Figure 1). The principles are non-hierarchical and closely related to one another, as is suggested by the overlapping circles. Unsurprisingly, there is also close interrelation among the practices given that many of them demonstrate multiple principles. The diagram strives to organize actions and provide clear direction for practice while also showing the non-linear nature of engagement and the intricate interrelation between principles and practices.

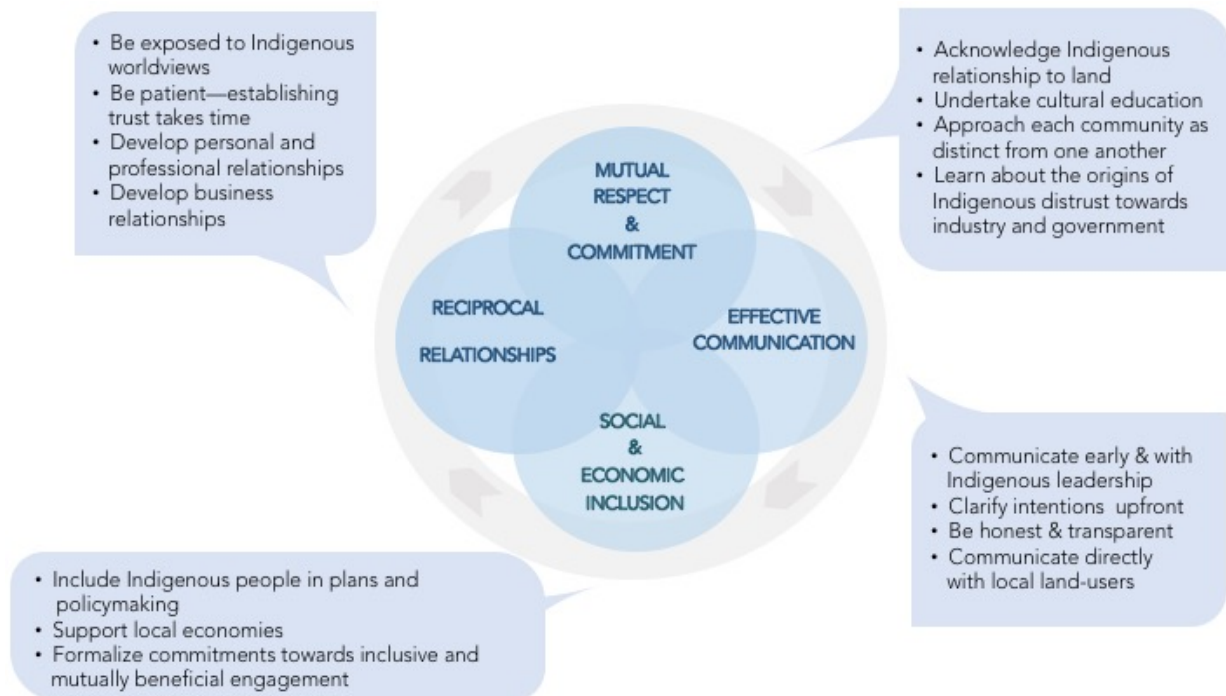


Figure 5.1 A framework for engagement between proponents and Indigenous community on environmental development within Indigenous traditional territory.

5.1 Principle of Mutual Respect & Commitment

Mutual respect and commitment are rooted in an appreciation for one another’s interests, customs, and rights, coupled with a shared openness and commitment to work with one another in spite of potential differences and challenges. There are multiple ways group representatives can convey that they are committed to working with one another, as indicated in the ‘practices’ list below. Key within this list is (i) committing to learn about each community that is being engaged, including their distinct identities; (ii) approaching engagement as a team effort between industry and community; and (iii) welcoming Indigenous expertise. Altogether, these commitments demonstrate mutual respect and cultivate trust.

Box 5.1 Practicing Mutual Respect & Commitment

- **Acknowledge Indigenous relationship to land**
 - Learn about Indigenous rights and interests
 - Learn about land designations pertaining to Treaties and Indigenous rights
- **Undertake cultural education**
 - Learn about the identity, cultures and histories of Indigenous communities
 - Learn about Indigenous traditional and contemporary customs and livelihoods
 - Learn about and respect local protocols
 - Learn about the local demographic
- **Approach each community as distinct from one another**
- **Learn about the origins of Indigenous distrust towards industry and government**

Research participants identified four key strategies for practicing mutual respect and commitment. They are: acknowledging Indigenous relationship to land, learning about the communities you are working with, approaching Indigenous communities as distinct from one another, and learning about the origins of distrust that many Indigenous peoples bear towards industry and government.

5.1.1 Acknowledge Indigenous relationship to land

Various participants across all groups referred either directly or indirectly to the importance of acknowledging and respecting the cultural identity of Indigenous communities in any environmental development engagement with Indigenous peoples. Moreover, while a few participants explicitly raised the importance of respecting Indigenous autonomy over traditional lands and waters, multiple participants alluded to land as Indigenous ancestral territory, and expressed that the impetus to engage with local Indigenous peoples is directly linked to this longstanding relationship to land. In many ways, SSR Mining's approach to the LLRIB Lands and Resources Management Board is exemplary of respect for Indigenous ancestral ties to land. In 2017, SSR Mining had recently taken over the ownership of a mine in LLRIB traditional territory. During the company's first few meetings with the Board, SSR Mining employees verbally recognized the community's relationship to land and acknowledged the nation's deep ties to place. They further stated that the company is a temporary visitor to the territory, saying that SSR Mining bears the responsibility to be a good neighbour to the LLRIB and will strive to treat the local people and the land well.

The first step toward acknowledging Indigenous relationship to land is through education. In a presentation to SaskPower's Project Delivery Office (the department responsible for capital production), a SaskPower Indigenous Relations employee emphasized the need for SaskPower to acknowledge Indigenous rights contained in provincial land designations. This participant further expressed that it is critical for Project Delivery Office employees to understand land designations, emphasizing that in order

for project proposal development to be inclusive of Indigenous peoples, project developers must consider the existence of Indigenous rights in the early stages of project development rather than at the end. This example illustrates that Indigenous engagement is fundamentally tied to decisions that implicate land—especially Crown land.

For Cameco, building an awareness of Indigenous relationship to place among northern mine staff is a priority and as one Cameco employee explained, the corporation is increasingly bringing education about local Indigenous peoples into mandatory training for employees at each mine site:

Internally, providing that education, whether or not... whose lands are you on? And understanding who the neighbours are. I know that's something that, like culturally with the sites, as well as even in the organisation that this has a place within the spectrum of what we're doing. And trying to make sure that that conversation happens.

This participant added that bringing education about local Indigenous rights and culture to the corporation's staff is part of his efforts to fulfill the third component of the Truth and Reconciliation Commission's (TRC) Call-to-Action #92, which is directed towards the corporate sector and encompasses three primary recommendations summarized in Section 3.2.4 of the Literature Review.

5.1.2 Undertake cultural education: Learn about the identity, cultures and histories of Indigenous communities

On countless occasions—during interviews, workshops, and throughout field observations, I heard individuals underscore the importance of learning about each community's culture, history and contemporary reality in order to respectfully engage with them. There are many ways to learn about Indigenous communities, and multiple participants across groups stressed the value of spending time in communities, attending events or culture camps and asking questions. For example, the President of the Métis Nation – Saskatchewan expressed that people who work with Indigenous communities must spend time in communities to learn about local culture and knowledge systems:

It's got to come to the community; these people that are non-Indigenous or [not] Métis, they have to come to the community and they have to learn there. It would be no different than going to a school. They have to go to learn culture, language there. They have to learn the ways and the Métis ways of knowing . . . all those kinds of things that we're talking about.

This participant spoke of a time when his team brought employees from government departments that service Métis, First Nation and Inuit peoples to his community to learn his peoples' ways, explaining the experience had a powerful impact on the officials. He said, “for the first time to step foot on our land and begin to see how we set the net, how we survive, how we make the fish. They started to understand.”

In a similar vein, several industry participants offered descriptions of their education about Indigenous peoples in a broad sense. One utility employee reflected on his experiences over many years

learning about Indigenous culture, saying that it has contributed to his professional development and is imperative for the work he does with Indigenous communities:

[...] so I'll just speak to my example. I started with the company over a decade ago at a field level, and throughout that, within my first two years I was on two different courses, multiday courses, for awareness, put on by certain First Nations through our partnerships with them. One was with that, one was with a kind of a First Nation band company that did that as a service to not just us but the RCMP and whoever else wanted to take it. There was a myriad of different industries on that one. I've had the opportunity to be in two different cultural camps over the following three or four years, so, multiday events. Everything from listening to Elders, talking to them, discussing things, understanding traditional ways and their practices. You know, everything from looking at dietary to going to sweats with them, going through all these different cultural aspects.

He further explained that throughout his years of employment, the company he works for has fully supported his efforts to develop an understanding of Indigenous cultures, ceremonies, and lived experiences in Canada. He also emphasized that education and exposure to Indigenous worldviews plays a role in how he is received by Indigenous peoples when he interacts with them:

So with respect to that, I think it's very important to have that background to be able to have a valid conversation and to be taken seriously. The knowledge I would say is only a component of it, it's how you approach the situation and your demeanour, your behaviour and understanding of cultural practices as well that's very important.

Personal accounts from industry participants demonstrate that learning about Indigenous histories and cultures influences their approach to Indigenous engagement and contributes to more positive process and outcomes.

Understanding cultural aspects of an Indigenous community also allows you to follow appropriate cultural protocols, which demonstrates respect and sets a good impression during meetings and community events. A few SaskPower participants reflected on how their exposure to, and participation in, cultural protocols helps to enhance engagement. For instance, one SaskPower senior executive reflected on the meaningful role that ceremony played during the Crown corporation's meetings with a Northern Saskatchewan Cree Nation, saying:

[...] we started with an Elder giving us a prayer, which I found to be - which I agree with the prayers were almost always about us being open and honest with each other and coming together to have a good frank discussion. They don't say we're going to agree on everything, they don't say that we don't have issues to debate and discuss but they - but they're about us respecting each other and respecting the environment and respecting the situation that we're in and further deepening our relationships.

Furthermore, a SaskPower Indigenous Relations employee shared his thoughts on the demystifying impact that attendance at Indigenous events and ceremonies can have on non-Indigenous employees, saying:

I always like people to experience things. I think it demystifies what the relationships can look like. People who haven't worked in this area, they don't know. If you get invited to a pipe ceremony, they don't know what to expect, they're a little nervous, there's a lot of uncertainty, and once people go through that and they participate in it, then they come through it and they feel quite uplifted around the whole thing. It has a very positive impact on people. They're more likely in the future to say, oh I'll attend that, because I've done it before.

These quotes also indicate that cultural education is a responsibility borne by proponents and is essential if they want to build respectful relationships among individuals as well as across companies and communities.

5.1.3 Approach each Indigenous community as distinct

Research participants noted that it is critical for industry and government employees who work with Indigenous communities to commit to learning about each community, and to refrain from lumping them together into a pan-Indigenous or pan-Northern silo. As one Northern Relations government official expressed, “Communities are kind of like individuals, each community's different, you can't, there's no one approach to addressing a community.” Moreover, the leader of the Métis Nation-Saskatchewan explained that if you fail to understand a community and its culture and identity, you will subsequently exclude them from your process. He explained: “the government has to expand their horizon to know those communities, not just to say on the map northern region “Oh this is – oh here, eastern region,” but they don't even know those people. They don't know the needs.”

Similarly, one SaskPower employee with two decades of experience engaging Indigenous communities in business contexts stressed that it is integral to attain a comprehensive grasp on each community you work with. In particular, he noted that understanding a community's history, how old it is, if it religious or not, and whether or not it was impacted by the residential school system, all influences how you do your engagement, how you build relationships with people, and how you navigate discussions and negotiations. A former LLRIB Lands and Resources Management Board member with experience working for industry also explained:

[...] it's important to know who the people are, not just Cree or D ne, but who, what's their history, who they are historically, what's their cultural practices, their traditional practices, are they religious, what protocols they have in terms of engagement, for example prayers, opening, closing before a meal, smudging, presenting tobacco and gifts. There's a lot more intricate details, but take the time to get to know them and not just treat them like a check on your box that you have to do in order to get your project going.

Finally, a SaskPower employee spoke of hearing a similar message from Indigenous leaders at energy conferences throughout Canada who say, ““come talk to us a long time before you think you have something to do with us. Come and meet us and get to know our communities””. These insights

demonstrate that there are intricate details about communities that are important for resource developers to be aware of, as they inform the engagement process.

5.1.4 Learn about origins of Indigenous distrust of industry and government

In addition to learning about Indigenous culture and contemporary reality, several participants alluded to learning about the origins of distrust within Indigenous communities, stressing that this understanding can be critical for carrying out respectful engagement with Indigenous peoples. For example, a Métis Elder related the need to learn the details of a history that in many ways has been consciously suppressed in order to address the poor relationships between Indigenous and non-Indigenous peoples. He said, “Another thing you have to – you have to know the truth before you reconcile. You have to know what transpired historically to now.” Finding ways to address the damaged relationship between Indigenous and non-Indigenous peoples is relevant because, as one Government Relations official expressed, the repercussions of harmful colonial policies and actions remain in Indigenous communities to this day:

[...] the relationship with government, it's not only political it's also historic. And whether people feel that, or whether they even witness, I'm noticing that within the generations here, even if the youth themselves or the younger generation themselves haven't seen government abandon them or haven't seen those negative issues with government, the perception's still there. So that's carrying forward through the education system and through the information education system and family systems.

This participant offered an example of the historical relationship, saying “[...] you look at things like the '60s Scoop⁸ and things like that—people came in and [said], ‘We're here to help you.’ And they stole their children, you know. Those wounds are still fresh in a lot of communities.” A participant from SaskPower also alluded to the historic wrongs dealt to Indigenous peoples, recognizing that there is work to be done on behalf of non-Indigenous peoples and institutions to focus on reconstructing trust with Indigenous communities: “Well, we’ve got to learn. You know, like, in the past, the relationship was ignored and First Nations were steamrollered. That’s not acceptable anymore, so we’re going to have to learn. And it's really the beginning decades, like, it’s just something we haven’t done before.” This quote indicates that proponents and governments are now required to reassess their engagement with Indigenous communities, especially with regards to land use in traditional territory/Crown land.

Throughout my research experience, I have noticed that Indigenous peoples often take time to educate outsiders about the inequality their community members experience. For example, during my attendance at multiple LLRIB Lands and Resources Management Board meetings, I observed that Board

⁸ The ‘Sixties Scoop’ refers to a widespread practice during the 1960s where the Government of Canada removed large numbers of Indigenous children from their families without consent and placed them into foster homes or put them up for adoption. While the term ‘Sixties Scoop’ references the origins of this practice, it remains today and contributes to a disproportionately high number of Indigenous children in Canada’s child welfare system compared to non-Indigenous children.

members would often take time to explain to government and industry representatives the injustices their people have experienced at the hands of government and industry. These teachings largely centered on the ways in which Treaty has been undermined by the Crown, particularly through the 1930 Natural Resource Transfer Act.

Beyond historical injustices experienced at the hands of industry and government, Indigenous peoples still experience disrespect from government and industry. For instance, a few Board members described a sense of being bullied by government during engagement or consultation to accept project proposals that will benefit the province at the expense of negatively impacting the livelihoods of local traditional land users. As one Board member related, “So I know that in certain cases when we get notifications SERM (MOE) really pushes for them, Sask. Environment (MOE) really pushes for certain industry to come into our area because they know that they’re going to get some revenue sharing back to the province.” He further said:

you would know right away when they come and sign the letters and then ... and they would come to our office and talk to us, you would know that this must be something big if they’re coming right to our office to talk to us and trying to push for the industry to come in. And they try to expedite the permit of going through.

This participant also expressed that there is a lack of consistency in how the Saskatchewan Ministry of Environment (MOE) works with First Nations, saying that sometimes they work with them, sometimes they do not, and that it is likely related to government priorities at the time. However, he also expressed that the provincial government and companies are improving.

Indigenous participants also mentioned experiencing the de-legitimization of their knowledge and concerns by industry and government officials, particularly through the disregard for their tradition and cultures, and the assumption of superiority of Western knowledge systems. One former Aboriginal Affairs government official (who is also Indigenous) noted that government tends to approach communities with the assumption that Indigenous community members do not have valuable knowledge that will contribute to a project or plan, alongside assumptions that the knowledge required for a project is too technical for Indigenous communities. They further expressed issues with this approach, saying, “I think a lot of the issues with government going out to communities is that there is some perception that they [communities] have nothing to offer or what you’re going to get is not technical enough. They don’t understand that but yet as far as I know I don’t think we provide resourcing for hiring [Indigenous] experts to review or conduct their own studies, right?” Furthermore, during my attendance at an NSEQC meeting in November 2017, there was a Committee member who questioned why outside experts and not northern academics were conducting the environmental research on mines within their own communities, and proclaimed that communities should be more involved in environmental impact assessments and other work related to engagement with industry, rather than Crown agencies directing the studies.

5.2 Principle of Effective Communication

Finding ways to communicate effectively across worldviews, across diverse institutional and organizational capacities, and across remote geographic distances is undoubtedly critical to good engagement. Collectively, participants offered information on communication that I have simplified into the following formula for effective communication throughout engagement: (i) communicate early and with Indigenous leadership first, with Trapper Block Chairs if relevant, and then with community members; (ii) clarify group intentions upfront; (iii) provide honest, robust and accessible information to local community leadership and members, including land users; (iii) facilitate opportunities to hear community input as well as opportunities for exchange among industry representatives, community leadership or members, and government officials; and (iv) follow-up on requests and commitments. These are summarized in more detail in Box 2, and further discussed below.

Box 5.2 Practicing Effective Communication

- **Communicate early with Indigenous leadership.**
- **Clarify intentions upfront.**
 - Clearly explain abilities and limitations at the beginning and throughout engagement.
 - Be open about a willingness to work through differences.
- **Be honest and transparent.**
 - Provide all relevant information.
 - Simplify technical information
 - Use lots of visuals to explain concepts
 - Use translators, and take the time to accurately translate concepts across worldviews
 - Offer project site visits to leadership and community representatives
 - Disseminate information or advertise community meetings in the North through the following avenues: social media (facebook), MBC radio, posters in community centres, grocery stores and band offices, local publications, phone-calls and word-of-mouth.
- **Communicate directly with local land users**
- **Follow-up on requests and commitments**

In the following paragraphs, I explain elements of the second principle in relation to the context of engagement in Northern Saskatchewan. Responses from interviews and workshops identified four primary strategies for effective communication. They are: communicate early with Indigenous leadership, clarify intentions at the outset, communicate honestly and transparently, and communicate directly with local land users. I discuss each of these in turn below.

5.2.1 Communicate early with Indigenous leadership

Most participants expressed that initial communication should always be with leadership, recognizing that contact with land users and community members will follow. Early communication with Indigenous leaders accomplishes a few things, including showing respect at the outset, allowing for early relationship

building, enabling leadership to share information with band members, and helping to facilitate the co-development of project plans. One SaskPower Indigenous Relations employee explained that their team demonstrates respect at the very beginning of engagement by communicating with Indigenous leadership, and being open to how they would like to engage, saying:

We want to talk with the leadership and then we let the leadership guide us. We let them tell us. One of the best things we do with an engagement and when we first make that contact with leadership, we ask them how they want to be engaged. So they tell us. We ask them how to engage a community, so we're kind of taking our cues and direction from the groups that we're engaging. So that's kind of again that respectful approach.

While government and industry are improving their practices, multiple LLRIB participants expressed that engagement with their community needs to start earlier, and that too often plans are drafted before reaching out for Indigenous input. For instance, one LLRIB Lands and Resources Board member explained that late Indigenous inclusion limits the incorporation of Indigenous interests, saying, “the thing with the projects, for example with the government, I noticed is that it seems like the planning is already done without involvement...for example, La Ronge Indian Band. And then they come and present it as if it's already set. And to me, engagement should be right at the beginning.”

While numerous participants consistently advocated for early engagement, the responsibility to initiate it often lies with industry and government. However, some participants spoke highly of the practice where Indigenous communities extend invitations to industry and government staff to attend Council meetings. A former LLRIB Consultation Coordinator explained that these meetings allow for consistency in communication as well as opportunities for relationship-building. This strategy signals that Indigenous communities are interested in meeting with industry and government to build foundations for working together and can be useful for communities that have the governing capacity to host frequent meetings throughout the year.

5.2.2 Clarify intentions upfront

Many participants stressed the importance of being upfront, open, honest, and clear about each group's interests, abilities and limitations, claiming that such practices help avoid misunderstandings and disagreements as well as set realistic expectations. One industry participant explained that this is especially relevant given that, in the context of Indigenous engagement, individuals come to the table with different worldviews:

The communication aspect is more an acknowledgement of two systems that look at the world differently, but may be aligned in some way for outcome, and trying to bridge that is kind of, I would say, is the overarching principle between the two parties. And if you can go into that discussion with that in mind, it may not be discussing things pro or against, it's more of aligning those two views and seeing, okay, what is your position, where are you coming from, and then understanding that is a big component of it.

Moreover, several government participants noted that it is important for officials to be clear about the province's position on certain topics early-on in meetings. As one official explained:

So you need to be open and transparent in terms of what you're doing, you need to be clear in your boundaries. When I go to a meeting I'm very clear on what I can and cannot do and I'm also clear on what will not be done. If we're sitting across the table and they're there to talk about say revenue-sharing, resource revenue-sharing, the government of Saskatchewan has created a stance where there is going to be no talk about revenue-sharing, resource revenue-sharing with communities.

While this quote refers to a controversial subject among Indigenous peoples, it demonstrates that early clarification on interests, abilities and limitations within each group allows representatives to establish a realistic starting point from which to set expectations and move forward.

Furthermore, during introductory meetings with industry representatives, I heard members of the LLRIB Lands and Resources Board clearly communicate their priority, which is to protect and enhance the wellbeing of their band members—be it through ensuring the continuance of traditional customs, strengthened education, economic opportunities, or other avenues. I also heard Board members state their aspiration to strike a balance between maintaining a healthy and safe environment for land users and band members while also growing their economic self-sufficiency. In this way, the LLRIB identifies ways in which they would like to work with industry to ensure benefits reach their community, while also mitigating negative impacts to land and traditional livelihoods.

5.2.3 Be honest and transparent

Almost all participants emphasized that honesty and transparency are fundamental to trust-building. For example, with reference to working with Indigenous communities, one government official expressed, “you need to be transparent, they need to see what you're there for, what exactly are you there for, what's going to happen?” This participant further explained that communication influences relationship building with Indigenous communities, saying, “[...] that goes back to the relationships, to be able to be open and honest with them and not be seen as paternalistic or condescending or stone-walling.” Furthermore, a LLRIB Board member explained that being transparent and honest, among other qualities, always generates good responses: “Transparency, accountability, honesty, listening, following up on the questions, being upfront and straightforward to the community members, always get good responses [...] when I approach a meeting that way there are always good things that happen.” Similarly, a SaskPower employee with experience engaging Northern First Nations spoke of the need to be as transparent as possible during meetings with leadership and community members. To him, this includes admitting to not having an answer for a question, tracking down the necessary expertise, and communicating a comprehensible answer back to the person or community.

Additionally, the provision of complete and relevant information is critical to building a shared understanding about what a project entails for all groups. In Saskatchewan, proponents and government are responsible for providing complete and accessible information to Indigenous leaders and community members about project proposals, while Indigenous leadership is obligated to share relevant details about their community's customary use of their land, their collectively held rights, and other interests that may relate to a project. Many participants highlighted the need to provide thorough, accessible, and complete information to one another. One industry participant explained that everyone benefits when information is complete, saying "you just have to make sure that you, you know, that the information that you give is very thorough." Similarly, a government official expressed the need to ensure equal access to information during early engagement with Indigenous communities, explaining:

The free flow of info. So you know, the transparency and trust components of engagement. I think those are some of the things we discuss with the staff. In particular the early engagement and the sharing of information to ensure that communities are up to date and informed prior or during the conversations, that they [Indigenous communities] have that full understanding of what you're proposing.

This participant also emphasized that such an approach is useful because it establishes a good foundation for potential future engagement with the same communities.

5.2.4 Communicate directly with local land users

While it is common for First Nations Land Boards or Indigenous leadership to assume the role of distributing information to their band members, multiple participants believe that accountability and transparency are strengthened when government officials or proponent representatives communicate directly with land users following leadership's guidance. In this way, representatives from industry and government can be sure that their target audience is receiving the information and understanding it in the intended way. Direct communication between proponents and land users can engender local knowledge and feedback that can enrich project plans, and also enhance trust among community members and proponents given the absence of a 'middle-man' entity that may skew information. A LLRIB Board member referred to the value of direct communication between companies and community members, and, when asked why she found this to be important, she responded, "I think it's important because instead of us going and tell the people this is what these guys are going to do, it's not as effective as if it was directly – because we don't know exactly what's going to be happening with this big project."

Direct communication with local land users also helps address two barriers to effective communication raised by participants. The first barrier is chronic underfunding of First Nations, which impedes their ability to engage with local land users on project proposals. LLRIB Board members explained that the Board struggles to maintain a degree of accountability to their community due to insufficient resources. This challenge was recognized by one industry participant who said, "We can only

get to the table, from both ends. So I find that the communities now are in a position that they're struggling because they need to, how to be accountable to their community, and how to get the communications back [to land users]." A second barrier is that not all Indigenous community members trust their leadership to make decisions that serve their interests, and therefore leadership approval for a project may not translate to widespread community approval. This means that while a company may receive formal acceptance for a permit from a community, they may find themselves facing confusion or resistance from local land users when company staff are operating on-the-ground.

5.3 Principle of Social and Economic Inclusion

The concept of social and economic inclusion speaks to the genuine inclusion of Indigenous peoples throughout environmental decision-making processes and highlights the importance for proponents to find ways to support the social and economic wellbeing of Indigenous communities that are impacted by environmental projects. This principle is critical because Indigenous people are too often excluded from environmental and natural resource decision-making processes in Canada, as well as from the benefits of natural resource extraction. This principle can be practiced by (i) including Indigenous leaders in policymaking; (ii) supporting local economies through employment, training and education; and (iii) formalizing corporate commitments towards inclusive and mutually beneficial engagement. Integrating social and economic inclusion into proponent engagement with Indigenous communities is good practice because it fulfills the commonly held expectation among locals that their people should benefit from natural resource operations in their traditional territories. Moreover, participants from government and industry noted that supporting local Indigenous communities socially and economically is a means for proponents to practice corporate social responsibility, helping them to secure a social license to operate within Indigenous territories.

Box 5.3 Practicing Social and Economic Inclusion

- **Include Indigenous peoples in policymaking**
 - Include local Indigenous representatives on Park Committees in a formalized way to enable a more proactive process that integrates Indigenous rights and interests into policy and practices; and include Indigenous leadership when the Ministry of the Environment is drafting their internal policies and procedures.
- **Support local economics**
 - Find ways to train and hire community members to be part of the project.
- **Formalize commitments towards inclusive and mutually beneficial engagement**
 - Commit funds or in-kind support for local programs and events, such as through educational scholarships or supporting culture camps.
 - Develop Indigenous procurement goals within corporations to serve as a mechanism to integrate more Indigenous businesses into corporate operations.
 - Negotiate Collaboration Agreements with communities to formalize engagement and to solidify the inclusion of Indigenous peoples and businesses in project operations and project benefits.
 - Find ways to include Indigenous peoples and organizations in a way that complements the work that government and proponents are already conducting.

Participants offered three primary suggestions for how to improve Indigenous inclusion in local land use decision-making processes. They are: bring Indigenous input into policies, support local economies, and formalize proponent commitments towards engagement that is inclusive of, and mutually beneficial for, local Indigenous communities.

5.3.1 Indigenous inclusion in policy-making

While early and consistent inclusion of Indigenous leadership and community members in environmental engagement is encouraged, multiple Indigenous participants expressed that engagement with proponents could be improved if their leadership were included even earlier, such as in the process of drafting the policies that impact them. One LLRIB Board member who is also a Councillor raised this as a practice that could address some of the barriers faced by the LLRIB Lands and Resources Management Board:

It would be really good to be a part of the policies and procedures of the Sask. Environment [Ministry of Environment]. If we were a part of that, if we had a member that could sit with them that would go over the policies and procedures with them and work and give the First Nations perspective on that, on how to be better to work with Sask. Environment and First Nations people, where it would create less conflict when it comes to consultation or...it would be easier for Sask. Environment to work with us and be a part of the policy and procedures.

And as one Métis Elder expressed, “Even now the policies are so restrictive in regards to how governments work with us. Yes, I know we have to qualify ourselves, we have to be able to work together but there has to be willing parties, on both sides.”

Similarly, the Métis leader I spoke to mentioned the need to indigenize policy in order for it to be inclusive of Indigenous peoples. He expressed that while being exposed to Indigenous culture is integral

for building understanding among government officials, non-Indigenous peoples and even Indigenous peoples who are not rooted in their culture will never be able to make decisions that consider Indigenous rights and interests. As he explained, “No matter how much you think a professional is, if you’re not practical or know how to engage or to understand what is identity, culture, values and language; you will get lost because you’re only taught a certain way and not inclusive of [Indigenous ways].” He further spoke of the need to welcome Indigenous peoples into policymaking because policymakers do not have the Métis headspace to be able to make decisions that consider Métis knowledge, history, culture, and experiences. Collectively, these views underscore the belief that the provincial government should engage Indigenous leadership when ministries are drafting policy that implicates Indigenous traditional territories, and that Indigenous inclusion at that level will improve the local, project-based engagements.

5.3.2 Support local economies

Many industry participants expressed that companies have a role to play in supporting local economies where their projects operate. For example, Cameco currently focuses its engagement efforts in Northern Saskatchewan on building capacity within impact communities, as well as enabling Indigenous participation in the company’s operations through training, employment and revenue sharing. Moreover, given recent labour layoffs in response to a depressed uranium value, Cameco is finding means to contribute to Northern society alongside existing programs like employment fairs and school visits. Employees from Cameco’s Business Development and Northern Affairs and Corporate Responsibility departments referenced Cameco’s involvement in the Northern Leaders’ Roundtable – a pan-northern annual meeting that brings together leaders from First Nations, Métis communities, and municipalities across Northern Saskatchewan to discuss issues their communities face and develop plans to address them. These participants also referenced the role of one Cameco employee who sits on the Saskatchewan Northwest Economic Investment Strategy Board:

A lot of these industries get up and then they provide jobs rather than just the pressure on us, Cameco. I’m at the table providing my expertise or whatever I can contribute to that process as a board member, committee member, a participant, being strategic with our community investment. What do we fund? Do we fund a study on forestry to help stuff being more strategic in that sense? That’s what I’ve been doing lately.

They added that Cameco’s engagement strategy is “focusing on larger concepts versus specific examples,” suggesting that engagement can be broader and longer lasting than one-time community donations or training programs.

As raised in Chapter Four, multiple SaskPower employees noted that as a Crown corporation, the utility is in a position to support local economies throughout Saskatchewan, with some participants saying that this responsibility applies particularly to Indigenous communities given societal obligations to reconciliation. For example, a SaskPower senior executive said:

So those are some of the things that we're talking about now is how do we build that reaching out [to Indigenous peoples]? And one of the things we can do very clearly is we can do that from an economic point of view in terms of providing opportunities for Aboriginal business to do work with us, supply parts materials and work for us. And that's something we are doing and we're expanding that and we're learning more about how to do that better. And the same thing with employees, we've always had Aboriginal employees but the number has gotten to a certain level and it doesn't seem to get a lot higher. And so then the question is so what are the things that are keeping that from happening?

Furthermore, another member of SaskPower's senior executive team expressed that he sees that First Nations leaders want to create opportunities for their future generations, and that those opportunities stem from education and participating in the workforce. In the context of a changing society, he believes the Crown utility has a role in building a more educated and trained Indigenous workforce in the province, and that this will be achieved through collaboration across industry, Indigenous communities and businesses, and educational institutions.

5.3.3 Formalize commitments towards inclusive and mutually beneficial engagement

Research participants identified the following options as useful ways to formalize institutional commitments to sharing project benefits and providing socioeconomic support to Indigenous communities: (i) developing internal corporate guidelines or policies, such as Indigenous Relations and Indigenous Procurement Policies, or use of the 'Five Pillars for Corporate Social Responsibility' model; (ii) drafting Memorandums of Understanding; and (iii) negotiating Collaboration Agreements or Impact Benefit Agreements.

Internal corporate guidelines or policies can be broad and apply to the operations of an entire institution, or narrow, focusing on individual departments. A few industry participants expressed that for many large corporations, conditions for socioeconomic inclusion are a mainstay in any corporate policy regarding engagement with Indigenous communities. Cameco and AREVA⁹ use the 'Five Pillar' model and have negotiated a few Collaboration Agreements with local 'impact' communities. In recent years, SaskPower has established an Aboriginal Procurement policy to guide the Crown corporation's development of business relationships with band-owned and Indigenous businesses. This practice is constructive because it allows the utility to prioritize contracts with band-owned businesses, often indirectly funneling much needed finances towards Indigenous social programs such as housing, education or administrative operations.

⁹ AREVA is a uranium company that is now called Orano. I refer to it as AREVA throughout this thesis as that is what it was referred to by research participants.

5.4 Principle of Reciprocal Relationships

In many ways, the longevity and quality of engagement hinges on the presence of positive working relationships between proponent representatives and Indigenous leadership, staff, community members, and businesses, as relevant to the context. This can be achieved by (i) embracing opportunities to be exposed to Indigenous worldviews; (ii) being patient; (iii) being open to developing personal as well as professional relationships; and (iv) developing business relationships. A focus on relationship building throughout engagement with Indigenous communities is especially prevalent given the longstanding distrust that many Indigenous peoples bear towards industry and government. Individuals and institutions can confront and unpack the distrust by approaching engagement in a manner that consciously strives to build positive professional relationships with community leadership and membership. Furthermore, entering engagement with a commitment to take the time necessary to develop mutually beneficial relationships often demonstrates sincerity and counters the oft-held apprehension that proponents will reap the benefits of a project in traditional territory without respect for local people and environment.

Box 5.4 Practicing Reciprocal Relationship

- **Be exposed to Indigenous worldviews**
 - Participate in Indigenous ceremonies and cultural protocol.
- **Be patient—establishing trust takes time**
 - Approach the building of a relationship with Indigenous leadership knowing that the leadership may change.
 - Stay in contact with Indigenous community (do not disappear).
 - Be prepared to be uncomfortable. Listen to stories and issues people raise without judgment, even if they seem unrelated.
- **Develop personal and professional relationships**
 - Build from pre-established relationships between individuals within proponents, communities, and government.
 - Being present in communities multiple times throughout the year helps to facilitate consistency in communication and trust-building.
- **Develop business relationships**

All of the examples presented in this chapter demonstrate ways in which individuals involved in environmental decision-making in Indigenous traditional territory can cultivate positive professional and personal relationships with one another. Personal interactions that are grounded in respect and a commitment to work with one another, together with efforts to communicate consistently, honestly and transparently, alongside a genuine consideration for the social and economic wellbeing of local Indigenous communities—all culminate in the establishment of trust. Moreover, prioritizing relationship-building at the outset of Indigenous engagement infuses the overall approach, setting a positive tone for the interactions that ensue. Below, I offer evidence from participants on how trusting relationships can be established throughout engagement.

5.4.1 Cultivating trust takes time

Reaching a place where representatives from each group can trust one another requires patience, time, and learning about one another. As one Cameco employee expressed, “We know these communities intimately.” Another Cameco employee explained that the longevity of Cameco’s operations in Northern Saskatchewan contributes to the corporation’s ability to establish relationships with community members:

We have a relationship, where projects and government, you know, you’ll come in, you’ll do your project and leave. In a junior company you’re not invested outside of your project. Once your project’s done, you’re done. Well, we’ve been here for the past 25 years. We have a number of years we still want to be here. So, we’re developing a relationship.

Since SaskPower assumed ownership of the Island Falls hydroelectric dam, the Crown corporation has been working to improve its relationship with two Northern Indigenous communities that were negatively impacted by flooding to build the dam. This work has taken 25 years of negotiations that largely focus on compensation for historical grievances associated with the flooded lands. In reflecting on his involvement in the multi-decade negotiations, a SaskPower senior executive explained that it took many years working through mistrust and disputes to reach a place of shared trust and positive outcomes. When asked what the state of the relationship was now, he responded:

Yes, a very effective working relationship. I have a lot of respect for the Chief and their negotiation team. And the councillors - and I've got a lot of empathy for their challenges because as we've been meeting over the few years here, we've gone through fires, floods, deaths in the community, suicide. And they have acknowledgment that SaskPower's gone through challenges in the economy, government changes, staff changes in the leadership of SaskPower. And so they clearly acknowledge the dynamics of life at a corporation, what our goals and objectives are. And their goals and objectives as the community in society are always influenced by these fundamental changes and that we -none of us can operate in a vacuum. And so that learning, you know, learning that is probably half the battle.

This example speaks to the important role that patience and flexibility play in relationship-building, signaling that respect and trust arise when both parties maintain a shared understanding of the challenges that may impact a group’s ability to participate in engagement.

In conversation with two Government Relations Northern Engagement officials about how they overcome the widespread distrust of government in the work they do with Indigenous communities, one of them explained, “Well, I will say, to be honest, having the relationship is the most important thing.” The other participant agreed, saying:

One of the most, going back to the basics, one of the most important things is trust and building those relationships with those communities. You know, I can be from government and walk into a community and say, "I'm here from the government, I'm here to help." If I don't have any background, I don't have any way in they're not going to take me seriously, I'm not going to get too terribly far.

The President of the Métis Nation of Saskatchewan also sees that trust and understanding among people is fundamental to partnership building between the Métis Nation and Crown governments: “We also know how to trust and understand each other. We have to. People say, you know, governments have that role and responsibility and obligation to be able to work it so, it’s people.” An employee from an Alberta utility shares this sentiment, stating:

But the underlying principle is to have an upstanding, long-term respectful relationship, a two-way street respectful relationship, where you could be taken seriously and seen to be truthful and having a very open and truthful conversation at any time with- you know, is it with Chief and Council or is it with the [band-owned] companies, whoever, right. So that’s the underlying premise.

These quotes illustrate that establishing trusting relationships among those involved in engagement is critical, and that it takes considerable amounts of time.

5.4.2 Develop personal and professional relationships

Several participants referred to examples of how they maintain both personal and professional relationships with Indigenous leaders, representatives and community members. For instance, a SaskPower employee from the Indigenous Relations Department explained that getting to know people involves following-through on community invitations to attend meetings or events, and encouraging other staff members to join:

You have to start with multiple things, and depending on what you’re trying to do, what level of engagement do you do? If SaskPower is willing to participate in community activities, that’s a great way to gain some trust, meet people from the community, maybe those are ceremonies, maybe feasts, maybe they’re round dance. Going out there and getting other people from SaskPower to participate in that. And then afterwards, the community, and you can maintain those. You kind of have to put yourself out there a little bit with the community, in order to gain their trust.

Another SaskPower employee referenced the back-and-forth dialogue that leads to understanding, mutual learning, and eventually to relationship: “You get to know the person a little bit. They understand your organization a little more. You understand their organization a little more. So actually at the end, what would show a very successful engagement, is that you’ve actually created stronger relationships, because you’re teaching and you’re learning a little bit more.”

Furthermore, a Government Relations Northern Engagement official explained that in his experience, a lot of the trust building and relationship-building with community leaders or members happens outside of formal interactions. He further expressed that trust and relationship are borne from being present in communities consistently, and in more casual circumstances than formal community meetings:

It's not so much the, if I use the word epic, epic activities that we do. It's the stuff that happens around the edges, the personal communication. Someone calls me up and asks me how the EQC program is going with the Ministers order and

everything else. In that conversation we talk about trapping, we talk about hunting, we talk about, you know, summer vacation plans and stuff like that. It's that personal relationship that happens, that's the most important. The same with any community. Seeing you in the community more than once. So once a year you go in the community, they're not going to take you seriously. They see you more than once, they see you walking around, you're at the northern store, you're at the coffee shop, you're talking to somebody and you're not just talking business you're just talking, you're just there.

These quotes demonstrate that being present in local places and embracing interactions at the personal level engender trust and are a critical strategy for building and maintaining relationships.

5.4.3 Develop business relationships

As alluded to in Section 5.6.3, corporate commitments to supporting, hiring and partnering with Indigenous businesses can go a long way towards building trust and positive working relationships with Indigenous communities and peoples. For example, one employee in SaskPower's Aboriginal Procurement department discussed the role of Aboriginal Procurement and its impact on SaskPower's overall operations, saying:

when you work with the Indigenous communities or business arms it automatically develops a relationship because it's mutual [...] Aboriginal Relations is the main component, but what we are doing complements that. As a business, as an entity we have a good relationship with the Indigenous businesses and communities. That goes a long way because it builds trust, it builds the economic development opportunities on both sides where we can create some new economy here. That's really positive.

The notion of win-win opportunities contained in business relationships between industry and Indigenous businesses was echoed by other industry participants as well as LLRIB members. Additionally, for proponents dealing with poor reputations among local Indigenous peoples, pursuing business relationships is a useful means to improve those reputations. Examples of recent positive Indigenous business ventures in Northern Saskatchewan include Pinehouse's collaboration with Cameco to develop Pinehouse Business North, a local construction business; Peter Ballantyne Group of Companies owned by the Peter Ballantyne Cree Nation; and the LLRIB's Kitsaki Projects contract to clear vegetation and assemble SaskPower's IP3 transmission line.

5.5 Conclusion

This chapter fulfills my third research objective by identifying key principles that support good practices of engagement among proponents, Indigenous communities and provincial ministries, which are presented in a concise framework. The chapter also addresses objective two by delving into some of the barriers faced by individuals who carry out engagement for environmental decision-making in traditional Indigenous territory, and offering suggestions for how these may be overcome. Conceptualized in broad terms, the framework illustrates that in many ways engagement involves the creation and upkeep of respectful and trusting relationships over time, be they personal relationships among individuals, working relationships among corporate departments, communities and government officials, or business relationships between industry and Indigenous businesses. However, relationship-building is particularly difficult in Northern Saskatchewan due to prevailing legacies of colonialism, a history of resource use and development that excluded local Indigenous peoples and dispossessed them of their territory, and the ensuing local mistrust of government and industry.

In spite of these legacies, there is a general awareness among all groups that engagement and consultation are important, and that engagement protocols should be formalized in order to improve environmental decision-making within traditional territory. For instance, participants identified a need for the inclusion of Indigenous leadership in policy-making and higher levels of environmental decision-making, as well as a need for broader forms and programs of engagement, capacity building, and economic partnership. Overall, embedded within good-practice engagement is a shared aim to understand one another and work together despite diverse capacities, contrasting opinions and discrete worldviews.

CHAPTER 6: DISCUSSION OF FINDINGS

Chapter Four identified and described different perceptions of engagement and consultation both within and across participant groups (Objectives 1 and 2), while Chapter Five offered guidance on how to carry out effective engagement between resource developers and Indigenous peoples (Objective 3). Both results chapters also presented evaluative accounts of current engagement and consultation practices in Northern Saskatchewan (Objective 2). In this chapter I address all four objectives: I begin with an examination of the varying conceptualizations of engagement and consultation among key groups, and offer explanations for inconsistencies in these conceptualizations, as well as explanations for confusion related to roles and responsibilities of each group. I follow this with a discussion of major barriers that restrict good-practice engagement between resource developers and Indigenous peoples. I conclude this chapter with a refined framework for effective engagement between resource developers and Indigenous communities, and a discussion of key elements that are critical for improved practice.

6.1 Inconsistent and Diverging Conceptualizations of Engagement and Consultation

Responses from research participants confirm a message conveyed in the literature that the categorization of interactions between resource developers and Indigenous peoples is complicated. For example, findings highlight that in practice, differentiating between engagement and the duty to consult and accommodate is not straightforward. The discrepancies in how research participants perceive engagement and consultation can be explained by scholarly discussion of the privatization of state responsibilities in environmental governance that is restructuring the roles of industry, government and Indigenous communities as they relate to environmental decision-making. There are also a few examples where Indigenous and government perceptions of engagement and consultation in Canadian-based literature reflect discrepancies identified in this research. I highlight a collaborative management example in Jasper National Park, Alberta to present some of these corresponding sentiments. Finally, inconsistent terminology used by scholars, practitioners and participants to describe Indigenous participation in environmental decision-making reinforces and perpetuates ambiguity between the terms ‘engagement’ and ‘consultation’ as they relate to environmental decision-making in Canada, which may contribute to confusion around what each process entails.

6.1.1 Neoliberal trends in environmental governance explain shifting roles and responsibilities

Numerous scholars have argued that a shift in the roles and responsibilities of key actors who participate in environmental decision-making in Canada stem from the privatization of traditional state functions and services (Cameron & Levitan, 2014; St-Laurent & Le Billon, 2015; Craik et al., 2017). Examples of this transfer of state function include the facilitation of environmental impact assessments by proponents (St-Laurent & Le Billon, 2015); the Crown’s delegation of procedural aspects of the duty to consult and

accommodate to proponents (Cameron & Levitan, 2014); and the rise of impact and benefit agreements (IBAs) between the corporate sector and Indigenous communities (Cameron & Levitan, 2014; Craik et al., 2017). The transfer of responsibilities from state to industry in these examples helps to explain why there are contrasting expectations among research participants around the role and responsibilities of each party.

For example, in a report focused on improving impact assessments in Canada, Noble and Udofia (2015) reference a quote from their work that supports sentiments expressed by participants in my research. Citing an employee from a company operating in Northern Saskatchewan they write, “a proponent’s participation efforts and government consultation requirements ‘quite often have been blended together and the context and expectations of each are not clearly understood [and] the understanding of these requirements vary quite broadly from proponent to proponent’” (Noble & Udofia, 2015, p. 13-14). In response to this conundrum, Noble and Udofia (2015) suggest that government should clarify the responsibilities related to engagement and consultation during impact assessments, which would include “explaining to communities the intended role of industry in consultation processes” (ibid). While greater clarity on the explicit role of industry would be useful for defining expectations of industry during its interactions with Indigenous communities, findings from this research indicate that government-prescribed explanations about procedures of engagement and consultation may not lead to smoother or more acceptable processes. This is because, as noted in Chapter Four, many Indigenous participants believe that the procedures themselves have been unilaterally created, are paternalistic, and are therefore unable to serve Indigenous peoples well. These sentiments have been iterated by scholars who work with Indigenous peoples to investigate ways in which Western systems of planning involve Indigenous peoples (Barry & Porter, 2011; Booth & Skelton, 2011a&b; Ugarte, 2016; Youdelis, 2016) and are further addressed in Section 6.3.

In academic discussions of IBAs, there is ambivalence about whether or not the negotiation process and IBA outcomes constitutes consultation or engagement. Some authors seem to consider aspects of IBAs (such as mitigating any infringement to rights and forms of accommodation) as legal consultation in practice (Craik et al., 2017), while others claim that the negotiation of benefits-sharing agreements cannot fulfill the Crown’s duty to consult and accommodate Indigenous peoples (Cameron & Levitan, 2014). The latter explanation is consistent with the position of the Government of Saskatchewan’s Consultation Policy Framework (2010). However, in the territorial North it is common for modern land claim agreements to require IBAs as part of consultation requirements (Caine & Krogman, 2010), illustrating that the legal and regulatory frameworks that define interactions between Indigenous community, industry and government are jurisdictionally-specific. This jurisdictional nuance contributes to confusion about the relationship between consultation and benefits-sharing agreements. It is further evidence for why some participants are confused about when interactions with industry are considered to be engagement, and

when they contribute to the Crown's legal duty to consult and accommodate procedure, particularly because economic negotiations with industry feature prominently in discussions between industry and First Nations and Métis leadership.

6.1.2 Shortcoming of IBAs

The risks and benefits of state absence during the negotiation of IBAs have been explored at length by academic scholars. On one hand, scholars recognize that benefits-sharing agreements are useful tools for local Indigenous communities because nations can leverage their rights and interests in a way that is more effective than doing so with government (Caine & Krogman, 2010; Cameron & Levitan, 2014). However, the transactional and confidential nature of IBA negotiation has led some scholars to claim that both the process and outcomes are undermining democratic ideals (St-Laurent & Le Billon, 2015; Papillon & Rodon, 2016). Also, the lack of transparency in IBA negotiations creates an information gap that makes it difficult for the public sector to fulfill its responsibilities around supporting public education and training (Shanks & Lopes, 2006). As Caine and Krogman (2010, p.89) write, "in order for IBAs to be considered truly powerful instruments toward redressing colonialism, transparency is crucial." Confidential IBAs among individual Indigenous communities in the same region can also generate competition among communities, which can result in poor relations between communities along with inconsistencies with respect to 'have' and 'have not' communities (Caine & Krogman, 2010). Further, criticisms about the confidential nature of IBAs has led to the recommendation that the public sector have a role in the negotiation of benefits-sharing arrangements between companies and Indigenous communities (Shanks & Lopes, 2006; St-Laurent & Le Billon, 2015).

This suggestion is contrary to the prevailing suggestions I heard during my field work and interviews in La Ronge. For example, I heard from multiple Indigenous participants that the absence of government oversight in their interactions with industry was a good thing. Craik et al. (2017, p. 386) coin this phenomenon the 'trust gap' between Indigenous peoples and government, and explain that, "the lack of trust is particularly pronounced in relation to benefit sharing where First Nations have concerns regarding historic broken promises respecting the sharing of benefits from surrendered lands and present concerns over government reductions of entitlements." While some LLRIB members are concerned about the imbalance in compromise made through benefits-sharing agreements with corporations, LLRIB interviewees indicated that they have more faith in the interactions that happen directly between their leadership and proponents rather than those that are mandated through government regulation.

6.1.3 Jasper Aboriginal Forum: Exemplifying diverging conceptions of engagement and consultation

Human geographer Megan Youdelis (2016) explored the ambiguities between engagement and consultation by explicitly examining the perceived role of the Jasper Aboriginal Forum (the Forum) as it relates to engagement and the duty to consult and accommodate. The Forum is part of a wider effort on behalf of Jasper National Park to “re-integrate First Nations into the park and improve Indigenous engagement in park planning and decision-making” (Youdelis, 2016, p. 1381). To investigate the ambiguities between engagement and consultation Youdelis interviewed members of the Forum, Jasper National Park management staff, as well as executives from Brewster Travel and Maligne Tours, two companies that operate within the Park and whose operations had recently triggered the duty to consult and accommodate. Youdelis’ research focuses on interviewee perceptions of the consultation process, of the effectiveness of the Forum overall, and of Jasper National Park’s actions towards reconciliation with Indigenous nations who were displaced and dispossessed by the park.

Her conversations with Forum members demonstrate that First Nations and Métis groups were not clear on whether or not use of the Jasper Aboriginal Forum constituted consultation, citing mixed messages heard from park managers. This finding aligns with participant accounts from the LLRIB Lands and Resources Management Board, who also claimed that they receive mixed messages about when their meetings with industry and government are considered to be consultation or engagement. Additionally, Youdelis (2016) identified that there were disagreements between Park management staff and Forum members regarding the responsibilities of Parks Canada to fulfill their consultation requirements, further reinforcing that there are varying expectations around processes of Indigenous inclusion in environmental decision-making.

At the same time, Youdelis (2016) heard from park staff that Jasper National Park does not view the Jasper Aboriginal Forum to be a mechanism for consultation because they consider Aboriginal and Treaty rights to exist outside of their mandate, noting that rights to land were extinguished when the park was established. As such, they regarded any exchange through the Forum to be an ‘interest-based’ process, and only consulted with groups who express interest in development proposals regardless of whether or not development could impact Aboriginal and Treaty rights. While this seems to contravene Supreme Court rulings, the comment further substantiates findings from my research that there are fundamentally different perceptions around Indigenous rights and interests, including the extent of Indigenous autonomy within traditional territory. Moreover, Youdelis’ (2016) findings emphasize that divergence in perceptions about the functionality of participatory decision-making processes and bodies such as the Jasper Aboriginal Forum led to poor practice in the eyes of many participating First Nations.

6.1.4 Inconsistent terminology is used to describe Indigenous participation in environmental decision-making processes

Confusion about when interactions between resource developers and Indigenous communities constitute engagement versus consultation is also reflected in scholarly accounts of environmental decision-making. Admittedly, this distinction in procedure is solely applicable to Canada's historical and legal circumstance, and there are justifiable reasons for why the use of a unified terminology in academic disciplines might be elusive. For example, much of the scholarly writing on the subject of Indigenous participation in environmental decision-making centers in colonial settler-states with different legal, regulatory, and rights-recognition frameworks, and some authors refer to examples from multiple countries within the same article (Maclean et al., 2015; Kuokkanen, 2019). However, even Canada-based scholarship on Indigenous participation in environmental decision-making maintains discrepancies in how Indigenous participation is framed.

While scholars often highlight legal duty to consult requirements and the associated prescribed responsibilities for government and industry, authors tend to switch back and forth between using the words *engagement* and *consultation* without clarifying which process they are referring to. For example, in their writing on the inclusion of multiple First Nations in a provincial and federal impact assessment, scholars Booth and Skelton (2011a&b) frequently interchange the terms 'consult' and 'engage.' It is evident that the authors' intent is to consider Indigenous inclusion in environmental assessments broadly, however it is unclear whether there is a distinction between legal consultation and engagement, and in what ways they relate to environmental impact assessment processes. Additionally, in reference to the operation of the Jasper Aboriginal Forum, Youdelis (2016) used both terms to describe the communication between First Nations in the Forum and Parks Canada staff. Findings from my research show that ambiguities in the terminology used to describes Indigenous participation in environmental decision-making can contribute to challenges in practice. It would therefore be useful for academic scholars to be more focused in how they describe engagement and consultation with Indigenous peoples in Canada, including being explicit about potential disputations among groups regarding perceptions of each process.

6.2 Different motivations drive industry, Indigenous community and government to participate in engagement and consultation

There is correlation between the rationales for engagement and consultation as cited by research participants and those rationales presented in the literature. For instance, most Indigenous participants expressed that they choose to engage with industry and government in order to assert their autonomy within their traditional territories, to protect their constitutional rights, and to influence decision outcomes to support the wellbeing of their community members. These motivations reflect those described by

scholars as emancipatory in nature, whereby Indigenous participation in environmental decision-making processes is viewed as an avenue to assert and exercise self-determination (Booth & Skelton, 2011c; von der Porten & de Loë, 2014; Howitt et al. 2013; Maclean et al., 2015; Youdelis, 2016; Boyd & Lorefice, 2018). For example, through their analysis of policy documents Boyd and Lorefice (2018) explained that “Indigenous groups frame consultation and engagement as a political problem, connected to their broader experience of disempowerment and mistreatment by the Canadian state and non-Indigenous society.” They also note that within Indigenous policy documents, engagement and consultation are often framed within “the broader political context and historical relationship between Indigenous Peoples and the Canadian state” (Boyd & Lorefice, 2018, p.5). The authors further show that government and industry maintain a different conceptualization of the purpose of consultation and engagement—a conclusion that my findings substantiate.

For example, among industry participants, explanations for why they engage and consult with local Indigenous communities mirror those conditions outlined in academic and grey literature: namely, to satisfy regulatory requirements for project authorization (Szablowski, 2010; Papillon & Rodon, 2016; Boyd & Lorefice, 2018); and, to satisfy community expectations that enable them to attain local acceptance of their projects (Wyatt, 2008; Dare et al., 2014; Lacey et al., 2016; Boyd & Lorefice, 2018). Furthermore, a few industry staff (including some who work for a Crown corporation) cited the notion of reconciliation or the Truth and Reconciliation Commission Calls to Action as impetus for industry engagement with Indigenous peoples. These accounts support claims in academic and grey literature that the principles of reconciliation influence proponent engagement with Indigenous peoples.

Finally, while there is little research that presents the viewpoints of government staff on Indigenous participation in environmental planning within traditional territory, accounts from government officials indicated that the leading rationale for government consultation and engagement with Indigenous peoples stems from duty to consult law as well as from the public sector’s overall responsibility to fulfill good public policy. This assessment aligns with Boyd & Lorefice’s (2018) findings, though their analysis centered solely on policy documents. It would be valuable to gather more insight from government staff working at different levels of government in environmental planning as they experience either directly or indirectly the frustration among many Indigenous peoples regarding the current political, bureaucratic and economic structures that significantly impact their livelihoods. All of the government officials I spoke to mentioned their desire to have an improved system in place, one that was better equipped to address Indigenous rights and interests.

Overall, participant accounts of their experiences with engagement and consultation further substantiate a message in the literature that these interactions are necessarily spaces of negotiation—places whereby each group is bringing their interests (and rights) to the table to find ways to accommodate or reconcile them, as well as to identify areas of shared understanding. Framing participant

responses in light of their motivations for interacting with one another (Szablowski, 2010), and how they frame engagement and consultation (Boyd & Lorefice, 2018), helps elucidate why there might be discrepancies in expectations for good process and decision outcomes among research participants. Furthermore, these findings substantiate Boyd and Lorefice's (2018, p. 9) claim that such knowledge is imperative for improving engagement and consultation processes, as they write: "indeed, if different groups continue to come to the same table with different expectations about what the intent and outcomes are, this could cause relationships and trust to deteriorate further." This claim affirms what I have determined through my research, and stresses the importance of finding ways to explicitly state and harmonize expectations regarding the intent and outcomes of engagement and consultation *at the outset* of engagement and consultation activities that involve government, Indigenous community and industry.

6.3 Limitations to Effective Engagement Among Indigenous Peoples and Resource Developers

Many of the barriers to well-executed engagement raised in Chapters Four and Five reflect those identified in the literature. Major barriers include: requirements for engagement and consultation are imposed Western systems which often privilege government and industry interests over Indigenous rights and interests (Booth & Skelton, 2011; Maclean et al., 2015; Youdelis, 2016); limited state-recognition of Indigenous rights and self-determination, which hinders equitable inclusion of Indigenous peoples (Ermine, 2007; Barry & Porter, 2011; von der Porten & de Loë, 2014); and capacity limitations within Indigenous communities and corporate and government institutions (Booth & Skelton, 2011; Howitt et al., 2013; Udofia et al., 2015). Furthermore, a few participants named the Crown's lack of political will to reorient the colonial structures that constitute the status quo as a key limitation to meaningful engagement. Taken together, these limitations contribute to a system that prevents Indigenous communities from being equal participants in, and equitable beneficiaries of, the governance of their traditional territories.

6.3.1 Western structures and policies create power imbalances in decision-making procedures

As identified in Chapter Four, numerous Indigenous research participants regard provincially-regulated procedures for engagement and consultation as paternalistic, self-serving and incapable of sufficiently considering LLRIB or Métis rights and interests. This view reflects academic criticism of the ability for environmental governance structures to justly and equitably integrate Indigenous values, rights, interests and knowledges (Nadasdy, 2003; Barry & Porter, 2011; Howitt et al., 2013; Wanvik & Caine, 2017). For example, Nadasdy (2003), Ermine (2005), Barry and Porter (2011), and Youdelis (2016) note that asymmetrical power relations exist between government and Indigenous nations because state laws, policies and decision-making structures embody Western modes of thought that are biased toward promoting and legitimizing Western values. As a result, such laws, policies and decision-making

structures inherently subordinate those of any other worldview—what Ermine refers to as ‘the undercurrent.’ Accounts from LLRIB Lands and Resources Management Board and Métis participants demonstrate that these same unequal power relations shape environmental decision-making in Saskatchewan because the processes for Indigenous participation are always on government’s terms.

Alongside an inability for many state-prescribed systems to sufficiently consider and integrate Indigenous worldviews, LLRIB participants also expressed frustration that the Saskatchewan MOE prioritizes the rights and interests of industry at the expense of environmental protection and Indigenous and Treaty rights. Numerous scholars address this power dynamic and posit that it is a result of the neoliberal economic structures that shape the context of environmental governance in Canada, which are grounded in capitalism (Cameron & Levitan, 2014; St-Laurent & Le Billon, 2015). As a result, these systems inherently transfer power from states to industry, and contribute to the privileging of state or industry interests over Indigenous rights and interests (ibid). Two LLRIB participants raised examples of this phenomenon: one being the fact that mineral exploration in Saskatchewan triggers the duty to consult and accommodate at a minimal level, requiring only a letter of notification, and the second being the provincial government’s practice of selling Crown land (LLRIB traditional territory) to foreign companies for outfitting operations without consulting local Indigenous nations.

While some scholars acknowledge ways in which Indigenous communities are constructively engaging in the neoliberal economy, multiple scholars contend that the capitalist economic relationship between the state and industry effectively minimizes the role of Indigenous communities in environmental planning and natural resource development (St-Laurent & Le Billon, 2015; Craik et al., 2017). My observations and conversations with LLRIB LRMB participants indicate that this dual dynamic exists in Northern Saskatchewan, as the LLRIB is actively increasing its participation in the cash economy through operations of multiple band-owned businesses, while simultaneously striving to assert greater authority in the resource development decisions that impact their traditional livelihoods.

6.3.2 Limited state-recognition of Indigenous rights and self-determination

Frustrations expressed by LLRIB and Métis participants about a system that undermines their rights, interests and autonomy are tied in large part to the provincial government’s limited and narrow recognition of Indigenous rights and autonomy within traditional territory. Coined ‘the politics of recognition’ by social and political scientists, colonial states either refuse to acknowledge the sovereignty of Indigenous nations or set the terms for how they interpret Indigenous claims to sovereignty and rights (Tully, 2004; Barry & Porter, 2011). Perhaps unsurprisingly, the state terms of recognition are often vastly different than what Indigenous nations assert, which serve to maintain state wealth and control over Indigenous traditional territories and livelihoods (ibid). In their discussion on the Innu Nation’s efforts to achieve collaborative forestry management with the Government of Newfoundland and Labrador,

Maclea et al. (2015, p. 205) write, “Although recent court decisions have offered some recognition of First Nation territorial rights through the emerging legal landscape of Aboriginal title, the affirmation of Innu territorial rights by the Newfoundland and Labrador Government have yet to be fully acknowledged, particularly when in conflict with their own economic interests.” The authors further express that the Province’s narrow recognition of Innu rights means that “Innu involvement in forest management is thus considered by the Province to be *a privilege that can be taken away, rather than a secure right to govern*” (p. 207, emphasis added). While this example involves a different political rights-recognition framework (i.e. no Treaty), it points to a common situation in Canada whereby the state claims political authority over natural resources and dismisses or ignores the assertions of authority made by Indigenous nations.

Barry and Porter (2011) argued that Indigenous claims to identity, rights and self-government tend to be interpreted and articulated by state planning systems through “monological modes of recognition”—that is, confined to fixed terms and expressed narrowly in court decisions or policy. The Government of Saskatchewan employs such monological modes of recognition through its Consultation Policy Framework (2010), which prescribes the scope of Indigenous rights that they will and will not consult on. Some government officials recognized that the policy itself does not satisfy the expectations of some Indigenous organizations and nations and explained that this creates tensions in government’s relations with some Indigenous governing bodies and communities. Findings from this research therefore illustrate that challenges persist when Indigenous peoples deem the scope of the government’s definition to be narrow and inflexible. A salient example of this is the Government of Saskatchewan’s stance on commercial trapper licenses: Indigenous trappers with a commercial license and who sell furs lose their rights-bearing status because their purpose for trapping is not considered by the provincial government to be for ‘subsistence purposes’. This shift in recognition changes the degree to which commercial trapper livelihoods are considered in environmental decision-making and creates frustrations among LLRIB members as well as among government officials. The frustration stems from a misalignment between Indigenous assertions of their rights and state recognition of those rights.

Another important example of contested recognition in Northern Saskatchewan is the *1930 Natural Resource Transfer Act*. This legislation enabled the federal government to transfer authority over natural resources to provincial jurisdiction in the prairie provinces. According to LLRIB participants and the Federation of Sovereign Indigenous Nations, the transfer is a violation of the Treaties because the federal government did not maintain jurisdiction over natural resources to begin with (FSINb, n.d.). This particular issue helps to explain why some Indigenous participants consider the provincial policies around natural resource development to be unethical and illegitimate. Moreover, disagreement around political authority over resources brings to light the significance of Treaty in contemporary times, and demonstrates that diverging and contested interpretations of historic treaties manifest in contemporary challenges for environmental decision-making and resource management in Canada, including Northern

Saskatchewan. Scholars have called for broader policy and natural resource governance discourse among provinces and Indigenous nations in order to address the discrepancies related to contested jurisdiction over natural resources (Shanks & Lopes, 2006; Noble & Udofia, 2015).

Legal instruments such as UNDRIP serve to strengthen and reinforce Indigenous assertions and claims for greater state recognition of their inherent rights and self-determination. However, there are incompatibilities between FPIC and the duty to consult and accommodate doctrine (Newman, 2017). Specifically, the courts have decided that Indigenous communities do not have a veto over project decisions, which contradicts the normative claims for Indigenous consent (Papillon & Rodon, 2016; Newman, 2017). Rather, the consultative process is an assessment of impacts to Indigenous rights in relation to benefits accrued from project development, where the ‘national interest’ can trump impacts to rights. Boyd and Lorefice (2018) discussed the contrasting conceptions of ‘consent’ and ‘veto’ across industry, Indigenous groups and governments that emerged from their assessment of the varying frames that underlies consultation policies. The authors found that “government and industry tend to label or categorize consent as a legal requirement or business concern, while Indigenous groups pay attention to the implications it has for autonomy and empowerment in decision making” (ibid., p.9). The discordance between calls for FPIC and duty to consult law is an ongoing conversation among Indigenous and non-Indigenous leaders, legal experts, scholars, activists and politicians that centers on constitutional pluralism.

6.3.3 Capacity limitations at the community and institutional level

Research participants identified two main categories of capacity limitations that inhibit the fulfillment of effective engagement: 1) acutely insufficient resources among many Indigenous communities (Booth and Skelton, 2011; von der Porten & de Loë, 2014; Udofia et al., 2015; Youdelis, 2016;); and 2) a lack of knowledge and awareness among government and industry staff about Indigenous histories, culture and contemporary realities (Carter, 2010; Howitt et al., 2013; von der Porten & de Loë, 2014).

Regarding the former, research participants from all groups recognized that inadequate funding and insufficient administrative and governing capacity of many Indigenous communities compromises the merits of engagement and consultation processes. For example, Indigenous leadership is often unable to respond to letters from the government or industry requesting their participation in engagement or consultation; additionally, conversations with members of the LLIBR Lands and Resources Management Board indicate that the Board struggles to engage internally with their membership on proposals within their traditional territories. Research participants from government ministries and SaskPower also expressed that they operate on tight budgets and lack the resources themselves to carry out good engagement with First Nations and Métis throughout the province.

Additionally, several Indigenous participants expressed that when First Nations and Métis Nations feel the government is making discriminatory decisions, most communities are not able to take the government to court due to financial constraints. These accounts mirror those made by numerous scholars who deem the conventional state-prescribed engagement and consultation processes to be fundamentally undemocratic due to the skewed playing field between resource developers and Indigenous communities (Booth & Skelton, 2011c; Youdelis, 2016).

A few government officials and some industry staff articulated that their branches and departments struggle to carry out good-practice engagement with Indigenous peoples in part because their employees lack a cultural awareness and degree of comfort in working with Indigenous peoples—what Howitt et al. (2013) call ‘institutional shortcomings.’ These authors described this shortcoming as a “lack of knowledge, understanding, skills, and competence in basic issues of social science, cultural awareness, and locally contextualized knowledge,” which limits the ability of institutions to effectively work with Indigenous peoples in “intercultural environmental systems” (ibid, p. 131). In framing aspects of engagement in such a way, the authors bring more acute attention to the deeply ingrained ideological as well as structural limitations of natural resource governance systems more broadly (Carter, 2010; Howitt et al., 2013).

For example, drawing from the work of Hollinsworth (2006) and Howitt and Suchet-Pearson (2006), Carter (2010, p. 205) insisted that, “a type of professional literacy is needed that is quite separate, and a precursor to, intercultural engagement. Agency education requires more than embodying essentialised and exoticised pleas to ‘cultural difference’; it requires a discursive and critical reflection on government engagement practice that critiques its own entrenched power.” These discussions accentuate the need for historical, cultural, anti-racist, and ontological education for government and industry employees in order to build appropriate knowledge capacity in institutions. Education of this sort is valuable and necessary in Saskatchewan. One Indigenous participant who works for industry described that the Government of Saskatchewan as a whole is simply ignorant of Indigenous rights and Treaty relationship and consequently, the provincial government neglects meaningful inclusion of Indigenous peoples in natural resource management decisions and broad provincial decision-making.

6.3.4 Lack of political will to change the colonial system

A few Indigenous participants reflected on *why* the systems that frame engagement and consultation so often ignore or exclude the rights and interests of Indigenous communities, offering straightforward insight that is often implied by scholars. For example, one LLRIB Lands and Resources Management Board member expressed that the government is unwilling to relinquish any control over natural resources despite Treaty relationship, saying:

There’s still – it’s still the control. The control is what they [government] want. And they’ve always had it. Even the land transferred to them in 1930 [...] There’s

no consultation. That's still happening here, right now, right? So you're – you know, 2018. Things should not be happening like this anymore. Either our leadership has failed to – you know, failed to do their due diligence...either that, or the government just doesn't really care.

Similarly, an Indigenous leader believed there is an absence of political will on behalf of the provincial and federal government to adhere to its own commitments to engage with Indigenous peoples and accommodate Indigenous rights. He saw that the Government of Canada consistently subverts Indigenous authority and challenges its own Constitution in its persistent effort to use the legal system to override Indigenous claims to their inherent rights:

So it becomes where there's not the political will to be able to change or to be able to accommodate, so how can you say on one hand "I'm going to engage with you and I'm going to accommodate you," if I can't get to a point where I can change legislation, policy, to be inclusive of you. So, how many times are we going to go to court to be able to get to that point of forcing a government to change?

This view strongly aligns with Ermine's (2007) reflection on Western universality as an unwavering phenomenon that is so deeply embedded in the status quo of Western society it normalizes social inequities and authorizes "dominant/subordinate relationships between human communities" (p. 198). Until the policies and procedures that govern environmental decision-making can integrate and reflect Indigenous autonomy and values, the state-led and economic structures that control Indigenous participation in environmental planning and natural resource management will remain inequitable.

6.4 A Refined Framework of Principles and Practices for Effective Engagement between Resource Developers and Indigenous Peoples

While the original framework presented in Chapter Five highlighted numerous practices that call attention to the unique identity of Indigenous peoples and communities as well as to their distinct relationship to land, it does not go so far as to explicitly call attention to the importance of recognizing Indigenous communities as self-determining nations. I draw on scholarly suggestions and some participant accounts to present a refined framework (Figure 3) that brings greater attention to this critical component of good-practice engagement. Specifically, I suggest that good-practice engagement between resource developers and Indigenous communities necessitates explicit acknowledgement of, and respect for indigeneity and Indigenous self-determination.

In the refined framework, I use the term 'indigeneity' to refer to the distinct Indigenous knowledge systems, relationship to place, cultures and histories among Indigenous nations (Fleras & Maaka, 2010). This addition to the framework brings attention to the social, cultural and political distinction between Indigenous and non-Indigenous peoples as it relates to practices of local inclusion in environmental decision-making. Fleras and Maaka (2010) refer to this distinction as 'Indigenous difference,' which

conveys that indigeneity and Indigenous self-determination are rooted in cultures and independent sovereignties that precede European presence. Importantly, it is the explicit recognition of this difference that fundamentally distinguishes the framework from others focusing on ‘public engagement.’

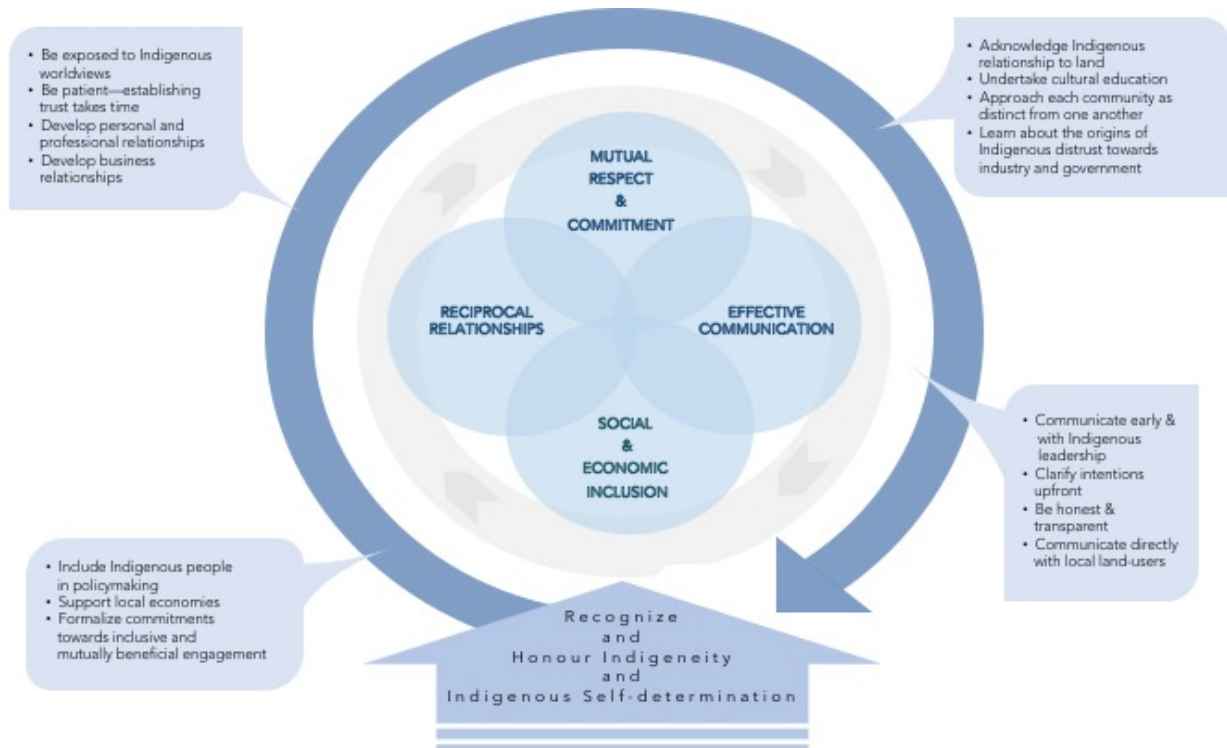


Figure 6.1 A revised framework for engagement between proponents and Indigenous community on environmental development within Indigenous traditional territory that highlights the need to recognize and honour Indigenous identity, culture, history and autonomy within their homelands.

6.5 Key Themes Embedded in the Refined Framework

Below, I discuss particularly salient themes identified in the literature and echoed by research participants, as well as areas where my research findings offer novel information. I discuss the importance of focusing on relationships (Carter, 2010; Booth & Skelton, 2011; Castelden et al., 2012; von der Porten & de Loë, 2014); the importance of economic inclusion and beneficiation for local Indigenous communities (Caine & Krogman, 2010; Truth and Reconciliation Commission, 2015; Papillon & Rodon, 2016; Youdelis, 2016; CanWEA, 2017); and the significance of approaching engagement with Indigenous peoples in a manner that considers their unique identities and connection to place (Carter, 2010; Fleras & Maaka, 2010; von der Porten & de Loë, 2015). Lastly, I delve into the significance of considering Indigenous peoples as distinct from public stakeholders during engagement, and further explain why it is imperative to highlight this in the refined framework.

6.5.1 The significance of relationship

Research participants and academic scholars share the belief that building constructive, reciprocal relationships during engagement between resource developers and Indigenous peoples is critical for a number of reasons. For example, Booth & Skelton (2011a, p. 396) claim that relational successes or failures are fundamental to the perceived success of environmental assessments among participating First Nations, where “positive and respectful relationships were at the heart of that success.” Furthermore, a focus on relationship-building is especially critical in cross-cultural spaces because understanding and relatability among individuals is often lower to begin with (Ermine, 2007; Howitt et al., 2013; Herman, 2015). Reciprocal relationship is fundamentally embedded in the notion of co-existence that underlies historic treaties in Canada, which Ermine (2007) and Fleras and Maaka (2010) claim are important principles to guide interactions between Indigenous and non-Indigenous peoples more broadly. Building respectful relationships between the corporate sector and Indigenous peoples also underlies the TRC Call-to-Action #92, which specifies that economic parity and the targeted education of corporate actors is instrumental to relationship-building. Engaging in a way that prioritizes relationship-building also helps to address the distrust and historically poor relations between Indigenous nations and the Crown, and industry (Adams et al., 2014; Youdelis, 2016; CanWEA, 2017).

Interestingly, some scholars note that because proponents are increasingly responsible for direct engagement or consultation with Indigenous peoples, aspects of the Crown’s relationship with Indigenous nations are being transferred to the corporate sector (Cameron & Levitan, 2014; St-Laurent & Le Billon, 2015). This transfer helps to explain why corporate engagement requires the redress of historical legacies and related local grievances. Moreover, research participants and some scholars contend that engagement efforts that value reciprocal relationships tend to move beyond the technicalities of policies and regulations so often criticized for being a check-box to fulfill, rather than an ongoing dialogue that considers shared interests (Booth & Skelton, 2011c; Udofia et al., 2015; von der Porten & de Loë, 2015; CanWEA, 2017). Overall, the practices offered in Figure 2 bring these considerations together and offers tangible suggestions for how industry staff, Indigenous peoples, and government officials can put relationship-building into practice.

6.5.2 The significance of formal *and* informal socio-economic beneficitation

The proposed framework also highlights socio-economic benefits-sharing as being fundamental to good practice engagement between Indigenous peoples and proponents of resource development. This finding confirms evidence presented by numerous scholars who contend that social and economic equity is an outcome sought by many Indigenous communities and has become requisite for attaining a social license to operate in Indigenous territory (Caine & Krogman, 2010; Craik et al., 2017). However, while much of the academic writing focuses on formalized contractual agreements between companies and Indigenous

communities as the main mode for benefits-sharing (O’Faircheallaigh, 2010; St-Laurent & Le Billon, 2015; Caine & Krogman, 2010), this research shows that beneficitation through engagement can be much broader (Shanks & Lopes, 2006). For example, benefits-sharing arrangements outside of IBAs include Memorandas of Understanding to solidify mutual commitments to share benefits and work together; informal or formal commitments made to prioritize the hiring of local Indigenous peoples; ongoing donations to social and educational programs as well as community events; promoting and supporting the development and success of Indigenous businesses; and long-term plans between community and industry to address historical grievances that stem from colonial policy and industry practice. One industry participant mentioned the usefulness of the term ‘economic reconciliation’ to describe these broad forms of economic inclusion, explaining that framing the concept this way makes Indigenous inclusion more comprehensible for corporate professionals, as something they can ‘get behind.’

Furthermore, there are similarities between explanations offered by research participants and scholars regarding the importance of local social and economic beneficitation during resource development decision-making. First, the absence of resource revenue-sharing between provincial governments and First Nations (Shanks & Lopes, 2006; Coates, 2015; St-Laurent & Le Billon, 2015); and second, the disproportionate and inadequate social services and support available to Indigenous peoples in Canada compared to non-Indigenous Canadians (O’Faircheallaigh, 2010; Coates, 2015; St-Laurent & Le Billon, 2015). These explanations point to larger legacies of colonial and assimilative policies and practices that deny Indigenous peoples wealth accrued from lands and resources in traditional territory. Interviews with proponent employees indicated that while proponents regard their engagement with local Indigenous peoples to be a means to garner local acceptance, many participants also recognize and understand that the need for, and significance of, socio-economic beneficitation is to address persistent poverty and high unemployment in the region.

It is worth noting that economic relationships between corporations and Indigenous entities fall into different categories, as they may involve Indigenous governments, band-owned businesses or Indigenous businesses that are not owned by a band (Shanks & Lopes, 2006). Due to this variance, economic arrangements between each of these entities will be unique based on their governing structures. This draws attention to the complexity of Indigenous – corporate relationships. For instance, the general structure of band-owned businesses aligns with the social enterprise model given that business profits are funneled back to the band for public use. Also, it is common for Indigenous governments to establish trust funds to house monies from IBAs for public use, such as for local education and training. On the other hand, contracts between Indigenous-owned businesses and industry are more conventional, where local benefits often manifest in band member employment and the potential for Indigenous businesses to expand their capital or capacities. As one LLRIB member noted, Indigenous communities and

corporations alike are tasked with responding to these diverse economic relationships, which requires administrative capacity, good governance and the separation of politics from corporate leadership.

Along with other First Nations and Métis communities in Northern Saskatchewan, the LLRIB is committed to building that capacity, as direct relationships between their communities and local industry are a means to ensure they are part of industrial development and operations within their traditional territories. However, communities are not monolithic in this regard, nor are their approaches to building relations with industry. One LLRIB Board member shed light on this when he described his experience presenting a draft Collaboration Agreement between the LLRIB and Cameco to LLRIB members:

My back is against a wall. I get all these people [band members] that come in to see me that are environmentalists saying that I'm doing a bad thing letting these people coming into our traditional territory, starting up these mines, starting up these [CA Agreements] and ... and then I just tell them, "Well, you're only a few people. We got 10,000 band members that need this help, need this funding. We're not getting nothing from the federal government. We got to look at different avenues, different ways to bring in funding to help our band members.

This quote demonstrates that the decision among Indigenous leaders to work with industry is not an easy one, and can be contentious. To this end, participant accounts reinforce a message in the literature that frames Indigenous participation in environmental decision-making as an important yet controversial means to attain socio-economic equity in places that have faced and continue to experience exclusionary and marginalizing colonial policies (Fleras & Maaka, 2010; Booth & Skelton, 2011; Howitt, 2012; Ugarte, 2014; Barry & Porter, 2016).

In this regard, corporate-Indigenous arrangements for socio-economic beneficiation are directly tied to the public sector's failure to effectively distribute wealth (Shanks & Lopes, 2006). This point relates back to the conversation about state and corporate roles and responsibilities in natural resource governance. While the Government of Saskatchewan refuses to share resource revenues with First Nations and Métis in the province, numerous academic authors claim that provinces *should* establish resource revenue-sharing policy with First Nations (Shanks & Lopes, 2006; Coates, 2015). This claim is made on the grounds that the role of the private sector is to create wealth, not distribute it (Shanks & Lopes, 2006). As Coates (2015, p. 30) writes, "Resource revenue sharing is one of the most promising developments in Aboriginal - government relations and Indigenous economic development in recent decades. If the process is handled properly, Aboriginal people in Canada stand to gain the funding they need to build stronger and more resilient economies." Shanks and Lopes (2006) further contend that relieving some of the pressure around revenue-sharing from industry will contribute to a more stable investment climate for resource development in Canada. Regardless of whether it comes from the private or public sector, socio-economic beneficiation tied to environmental development within traditional territory is foundational to more equitable outcomes of engagement between resource developers and Indigenous peoples. Also, the scope of socio-economic relationships developing between industry and

Indigenous communities in Saskatchewan today suggest that industry and Indigenous communities are responding more rapidly to their respective needs than government is.

6.5.3 The significance of a place-based approach to engagement

Research participants put strong emphasis on the importance of localized approaches to engagement, reflecting scholarly calls for ‘situated engagement’ (Howitt & Suchet-Pearson, 2006); Carter, 2010). Key similarities include the importance of considering the deep ancestral ties to place that many Indigenous peoples maintain, respecting local customs and protocols, and being aware of the “variety of historical and social relationships that have shaped that particular cultural landscape” (Carter, 2010, p. 201; Jackson et al., 2012; Herman, 2015). This last point draws attention to the importance for proponents to consider past impacts to places, as there may be historic grievances that remain in the collective memory of Indigenous communities. Findings in Chapter Five highlight ways in which historical practice shapes the levels of trust or distrust within communities, offering proponents a baseline sense of how they might move forward in building trust and relationships with First Nations and Métis nations (Ansell & Gash, 2007; Booth & Skelton, 2011c).

Furthermore, a place-based approach to engagement with Indigenous communities encourages resource developers to address community members directly, moving beyond exclusive communication with community leaders or representatives. This aligns with Carter’s (2010) call for ‘pluralistic representation’ in engagement with Indigenous peoples. It also likens to Papillon and Rodon’s (2016) call for community deliberations that move beyond leadership, which can increase legitimacy in the decision-making process given that it more truly reflects principles of FPIC. Recognizing that Indigenous communities are diverse in their positions on development, and that leadership may struggle to represent that diversity or may not reflect grassroots community perspectives, is an important lesson for proponents.

6.5.4 The significance of ‘Indigenous difference’—Indigenous peoples are not public stakeholders

I did not specifically ask research participants whether or not they differentiated between Indigenous peoples and public stakeholders—although this information would be useful. Instead, I am left to interpret participant responses. While most research participants did not make explicit reference to Indigenous peoples as separate from public stakeholders, many participant comments indirectly alluded to this distinction. However, all LLRIB and Métis participants spoke in a way that inherently reflected their nation’s autonomy and the corresponding expectations they had of government and industry to respect that autonomy. Also, one Indigenous participant clearly highlighted Indigenous difference in his claim that there is a need to indigenize policies and programs for Indigenous peoples “because the mainstream doesn’t work” —a claim that matches those made by academic scholars.

Given the prevalence of insufficient state recognition of Indigenous rights and autonomy, along with the detrimental impact it has on Indigenous participation in environmental decision-making, there is need for redress (Ermine, 2007; Barry & Porter, 2011; Booth & Skelton, 2011; Maclean et al., 2015; Youdelis, 2016). As von der Porten and de Loë (2015, p. 142) write:

There are ways to move forward for environmental practitioners who genuinely want to engage in successful, mutually respectful collaboration with Indigenous peoples within their traditional homelands. Equally, Indigenous nations that are open to collaboration with other actors need not view traditional, stakeholder-framed approaches as the only alternative for collaboration.

The authors further express that improving collaborative environmental governance with Indigenous peoples requires an approach that critically examines Western assumptions that underlie environmental planning while also embracing Indigenous assertions of their distinct rights—a claim that is supported by other scholars (Ermine, 2007; Howitt et al., 2013; von der Porten and de Loë, 2015). For example, Fleras and Maaka (2010, p. 15) offer useful insight about how Indigenous nations are positioned within Canada, and how multiple sovereignties can work together: “[...] they [Indigenous nations] constitute fundamentally autonomous political communities who are sovereign in their own right with respect to land, identity, and political voice, yet sharing in sovereignty of society by way of concurrent jurisdictions of mutual concern.” Recognizing and respecting Indigenous rights and self-determination on Indigenous terms is critical to good-practice engagement because it addresses some of the prevailing barriers that undermine just and equitable engagement between resource developers and Indigenous peoples.

UNDRIP and the promotion of FPIC reinforce this message from a human rights lens. The Trudeau government’s endorsement of UNDRIP, along with commitments to maintain a nation-nation relationship with Indigenous governments and the federal government’s pursuance of the *Recognition and Implementation of Rights Framework*, supports this message from a political position. The refined framework more clearly draw attention to the fundamental role that recognition and respect for indigeneity and Indigenous self-determination plays in effective and mutually beneficial engagement between resource developers and Indigenous peoples. Shaping engagement practice this way is a vital first step to begin addressing ‘the undercurrent’ of Western universality—that is, to make visible the dominance of the Western worldview, challenge it, and make space for more equitable decision-making processes. Recognizing Indigenous communities as autonomous entities promotes respect because it elevates their standing as *government*, rather than depreciating their role in decision-making to ‘stakeholder’ status (Shanks & Lopes, 2006; Papillon & Rodon, 2016). Such recognition would help move towards increased partnership between Indigenous communities and industry, as well as with government agencies, for more equitable environmental decisions within traditional territory.

6.6 Conclusion

This chapter covers a breadth of content, starting with a discussion of key factors that contribute to diverse conceptions of engagement and consultation. Acknowledging and understanding these diverse conceptions provides an explanation for some of the practical challenges related to carrying out engagement and consultation between resource developers and Indigenous peoples (Objective 1). The chapter then presents some of the major barriers that limit good-practice engagement between resource developers and Indigenous communities. These barriers predominantly stem from a misalignment between Indigenous assertions of their rights and autonomy over lands and resources, and state recognition of those rights and jurisdictional autonomy (Objective 2). Based on my analysis of key barriers, I then presented a refined framework that builds on the one presented in Chapter Five, strengthening its capability to be a tool to inform good-practice engagement between Indigenous communities and resource developers (Objective 3).

CHAPTER SEVEN: RECOMMENDATIONS & FINAL CONCLUSIONS

7.1 Summary of Research Objectives and Findings

This research set out to address the following objectives:

- 1) Define and differentiate between the ‘duty to consult and accommodate’ and ‘community engagement’ as carried out in environmental decision-making processes in Northern Saskatchewan.
- 2) Investigate participant perceptions and experiences of engagement and consultation in Northern Saskatchewan.
- 3) Identify principles that support good practices of engagement among proponents, Indigenous communities and government ministries to inform future interactions between proponents, Indigenous communities, and government ministries.
- 4) Offer recommendations to inform future policies, strategies and practices.

The research project fulfills objective one through its finding that categorizing Indigenous participation in environmental decision-making as ‘engagement’ or ‘consultation’ remains ambiguous. Research findings further show that the ways in which key groups conceptualize engagement and consultation are divergent and reflective of each group’s unique mandates and motivations. This results in an absence of shared understanding about critical aspects of engagement, such as its purpose, procedure, and anticipated outcomes. The final framework accounts for this inconsistency by encouraging resource developers and Indigenous peoples to be upfront about their motivations, and to negotiate a shared understanding of procedural expectations at the outset of any engagement or consultation with one another.

This research addresses the second and third objectives by offering critical and useful insight into contemporary standards for effective engagement with Indigenous peoples. Specifically, the framework advocates for extensive forms of inclusion, such as the collaborative development of engagement policies and procedures, and ensuring local communities benefit socially and economically from development decisions or outcomes through standard practices. On the latter point, research findings run contrary to scholarly writing that criticizes the privatized nature of IBAs for lacking regulatory oversight. For example, scholars St-Laurent and Billon (2015) contend that because IBA negotiation processes and outcomes are often shaped by unbalanced power structures, Indigenous communities may be taken advantage of by signing IBAs without state involvement. Additionally, Caine and Krogman (2010) caution that the lack of transparency in IBA negotiations and outcomes undermines democratic principles. By contrast, participants in this study suggested that benefits-sharing arrangements between companies and Indigenous communities can operate constructively in the absence of government oversight. The

principal reason for this is the belief that Indigenous communities are negotiating with industry as autonomous entities, and government intervention would diminish a community's bargaining power.

Finally, through exploring my second objective regarding perceptions and experiences of engagement and consultation in Northern Saskatchewan, this research sheds light on the inequitable and undemocratic conditions that shape the general context of engagement that implicates traditional territories in the province's North. Findings further point to colonial and paternalistic Western policies and structures as responsible for establishing and maintaining these conditions. While this shortcoming is much larger than project-based engagement efforts, the final framework (Figure 3) seeks to confront this fundamental barrier by underscoring the significance of recognizing and honouring the indigeneity and Indigenous self-determination of those Indigenous communities being engaged. Doing so is a critical first step towards transforming the status quo of one-sided and inequitable engagement with Indigenous peoples. The next section addresses the fourth and final objective.

7.2 Recommendations

Through my analysis of engagement practices that involve industry, Indigenous community and government ministries in Northern Saskatchewan, I present the following recommendations to improve future practices of engagement. These recommendations originate from research participants and are supported by academic scholarship.

- 1. Instigate mandatory training for government officials and corporate employees (including contractors) that educates on the following content:** holistic view of Treaties, including disagreement about their interpretation; Indigenous rights, histories, and worldviews; contemporary Indigenous governance structures; colonial legacies; antiracism; land tenure in Canada, including disputations around state-prescribed tenure; the Truth and Reconciliation Calls-to-Action; reconciliation and the honour of the Crown—the two pillars that underlie the duty to consult and accommodate doctrine that emphasize integrity in process rather than technicalities in process; as well as the United Nations Declaration on the Rights of Indigenous Peoples and the principle of Free, Prior and Informed Consent.
- 2. Undertake institutional reform:** revise business models and government policy-making structures to facilitate the early inclusion of Indigenous communities. This will enable collaborative project or policy development (Fleras & Maaka, 2010; Kemp & Vanclay, 2013).
- 3. Instigate mandatory training for contract firm employees that focuses on good-practice engagement with Indigenous peoples:** Oftentimes it is contract firms that are responsible for

doing work on-the-ground in Indigenous traditional territories. Educating individuals from these companies (management and tradespeople) can contribute to improved communication with local Indigenous governments and members, can lead to improved practices (such as vegetation management that is respectful of local cultural customs), and can reduce harmful practices and/or conflict.

4. **Support Indigenous communities in conducting Traditional Land Use studies:** Traditional land use studies establish a database that communities can then refer to when project development is proposed in their territories to demonstrate how the land is being used by community members.
5. **Support the governing capacities of Indigenous communities as a means to facilitate equal participation in environmental decisions that implicate their lands and membership:** build administrative capacity in Indigenous governing bodies, such as through training programs, funding and in-kind support geared towards the development of necessary skills and funding of staff positions; provide in-kind or financial support to Indigenous communities to enable internal community engagement for project-based engagement and/or consultation.
6. **Support economic self-sufficiency within local Indigenous communities through:** economic inclusion, business partnership, and the support of non-extractive economic endeavours within traditional territory.
7. **Establish resource revenue-sharing agreements with First Nations and Métis communities** (Shanks & Lopes, 2006; Coates, 2015). These would exist between the Government of Saskatchewan and individual Indigenous nations.
8. **Strengthen government and corporate policy to acknowledge and honour Indigenous autonomy in the governance of their lands and communities by:** Indigenizing policy that impacts Indigenous peoples (Fleras & Maaka, 2010 present the policy lens of Indigeneity-Grounded Analysis as a useful tool to accomplish this); ensuring engagement policies differentiate Indigenous peoples from non-Indigenous stakeholders and reflect Indigeneity and Indigenous self-determination (Fleras & Maaka, 2010; Von der Porten & de Loe, 2015; Papillon & Rodon, 2016; CanWEA, 2017); and prioritizing provincial and corporate relationship-building with the leaders of Indigenous nations.
9. **Undertake broad policy and natural governance discussions:** to address the discrepancies related to contested jurisdiction over natural resources in Northern Saskatchewan, and to clarify

the roles and responsibilities of Indigenous and non-Indigenous governments in natural resource development (Shanks & Lopes, 2006; Noble & Udofia, 2015). These discussions would include the provincial government, the Federation of Sovereign Indigenous Nations and the Métis Nations of Saskatchewan.

Some of the recommendations in this chapter are high-level and will take years to implement, while others can be applied more practically on-the-ground during the day to day operations of each respective group.

7.3 Research Contributions

This research contributes to current and ongoing academic discussions on Indigenous inclusion in environmental planning and natural resource management in Canada. For example, the research contributes important perspective to the discussion by presenting input from each key group involved—industry, Indigenous community and provincial government. Notably, the explicit inclusion of industry is near-unique (but see also Booth and Skelton 2011a,b&c). Also, while previous research has documented participant perceptions of engagement and consultation and confirms that differentiating between engagement and consultation is challenging, the research reported here also offers clarity on *why* differentiating between them is challenging. This work further shows that the ways in which engagement and the duty to consult and accommodate fit into environmental impact assessments, impact benefit agreements and environmental decision-making more broadly remains, to a certain degree, dynamic and ambiguous. As such, this work indicates that understanding the practical challenges tied to distinguishing between the two processes is important for improved practice, largely because it helps to clarify the roles and responsibilities of each group.

Additionally, the framework generated by this research (Figure 3) contributes to the body of literature on Indigenous participation in environmental planning and natural resource development by bringing together what is often textual information (reports, guidelines, lists, policies) into a simple and concise visual that is reflective of diverse forms of engagement (Government of Saskatchewan, 2013; Canadian Electricity Association, 2016; CanWEA, 2017). In this form, the framework has strong practical relevance. Given that it has been generated using information from multiple groups—industry, Indigenous community and provincial ministry—the framework presents information in a manner that is valuable for each respective group. While it has the potential to be a valuable local tool, it is also general enough to be transferable not only to other geographic regions and resource development contexts in Canada.

7.4 Limitations and Future Research Opportunities

As any individual research project has limitations, there are numerous directions that future research could take to build understanding about how to achieve effective engagement between resource developers and Indigenous communities. For example, while this work considers input from two main industry sectors (mining and power-production), it would be valuable to expand the scope of analysis to other sectors, such as forestry, mineral exploration, renewable energy production and conservation, to understand experiences of engagement and consultation across sectors. It would also be useful to carry out a comparative analysis across sectors to see, for example, if and how expectations and practices of local Indigenous engagement on shorter-term projects differs from those of long-term projects. Methodologically, it would be useful to see how research on good-practice engagement among resource developers and Indigenous communities in other regions of Canada compares to the framework generated by this project. Finally, given a recent and ongoing focus on gender and diversity analysis in Canadian environmental impact assessment, it would be valuable to apply a gender-lens to future research on engagement between resource developers and Indigenous communities. Research of this sort could contribute to a modification of the framework that considers a gender/diversity dimension (Clow, Stienstra, Baikie, Stinson & Manning, 2016; Walker, Reed & Thiessen, 2019).

Further research into perceptions of engagement and consultation across the three key groups would also be useful. For instance, Boyd and Loreface (2018) point out that analysis of the ways in which individuals from industry, Indigenous groups and government define and frame engagement and consultation will contribute to an enhanced understanding of why there might be conflict over resource development, and also “has the potential to contribute to their resolution” (p.5). Also, while this research sought to include a Métis perspective, the input reported here is from a high level of Métis governance in Saskatchewan. In order to reflect the experiences of Métis communities more accurately and at local levels, any future work on perceptions of engagement in Saskatchewan must consider the experiences of local and regional leadership in Métis communities, as they are the ones engaging and consulting with companies and government officials.

Lastly, it would be valuable to include other key groups in future research on perceptions and experiences of engagement and consultation in relation to environmental planning and natural resource management. For example, one group that should be considered in future research is contractors. Oftentimes industry will contract out initial environmental assessment work to environmental consultants, or they may use operational contractors to execute project development or management. Likewise, some Indigenous communities will contract their engagement or consultation to consulting firms. Research that explores the roles and responsibilities of these contractors during engagement and consultation can lead to a more comprehensive picture of the complexities and nuances of each process, which may offer clarity around expectations and improved practice as it relates to contractor roles.

7.5 Final Thoughts

Engagement between resource developers and Indigenous communities is occurring in dynamic spaces—spaces that are shaped by diverse and in some respects contradictory legal, regulatory, political and socio-economic forces. The dynamism of these spaces complicates expectations around what constitutes good-practice engagement between resource developers and Indigenous peoples, which can translate into frustration among those involved, strained relationships and sometimes, conflict. Scholars contend that for Indigenous involvement in environmental decision-making and governance to be meaningful and equitable, Indigenous communities must have agency in decision-making processes. This will require the Canadian and provincial states to reconsider their assumed control over natural resources and to situate control within Indigenous nations. Overall, this research presents a clear message that there is a need for transformation in how engagement and consultation for resource development is currently executed and offers suggestions for future practice.

While the research primarily centres its attention on engagement between resource developers and one First Nation in Northern Saskatchewan, these findings are relevant and applicable beyond the geographic scope of the project and the individual groups involved. For instance, the framework is general enough to offer useful guidance to Indigenous and non-Indigenous groups seeking to work with one another be they academic, organizational, governmental or corporate in nature. Furthermore, calls for transforming the ‘conventional’ or ‘status quo’ practices of engagement between resource developers and Indigenous peoples (i.e. those practices that fail to adequately integrate Indigenous input), are progressively gaining traction and visibility. For example, the Ontario-based consulting firm Shared Value Solutions Ltd. recently published an eBook titled, *Indigenous Guardians and Mining and Pipeline Projects* (2019), which outlines ways in which First Nations, Métis and Inuit are leveraging the various components of IBAs to address their needs and interests. Further evidence that a shift in the status quo is gaining momentum can be seen in the increasingly prevalent programs being made available to corporate and government officials, such as Indigenous Corporate Training Inc.’s multi-day programs titled “Indigenous Consultation and Engagement,” “Creating an Indigenous Engagement Plan,” and “How to Negotiate with Indigenous Peoples,” to name a few.

In order to honour Canada’s commitments to reconciliation with Indigenous nations, it is critical for Indigenous and non-Indigenous peoples to work together in the management of traditional territories. Ermine (2007, p. 203) put forward an optimistic vision for what a possible future might look like with regards to partnership between Indigenous and Western societies in Canada. He wrote, “It is argued that the ethical space, at the field of convergence for disparate systems, can become a refuge of possibility in cross-cultural relations and the legal order of society, for the effect of shifting the status quo of an asymmetrical order to a partnership model between world communities.” And, Fleras and Maaka (2010) contend that for future work to be successful in this regard, there must be a shift in frame of mind: rather

than viewing collaboration with Indigenous peoples as an economic risk, proponents must focus on the opportunities that are created through such collaboration. Such opportunities bring constructive outcomes to all groups involved in environmental decision-making across Indigenous traditional territories in Canada.

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APPENDIX A. Collaborative Research Agreement between the University of Saskatchewan and the LLRIB Lands and Resources Management Board

Towards informed environmental decision-making in traditional territory: Advancing good-practice engagement among Indigenous communities, industry and government agencies in Saskatchewan's boreal north

Collaborative Research Agreement

Between:

University of Saskatchewan
Research Services and Ethics Office
Room 223 - Thorvaldson Building
110 Science Place
Saskatoon, SK S7N 5C9
(the "University")

- and -

Lac La Ronge Indian Band
Lands and Resources Management Board
Box 480, La Ronge, SK S0J 1L0
(the "LLRIB")

A. Introduction

This Collaborative Research Agreement (CRA) sets out the terms and understanding between the University and the LLRIB Lands and Resources Management Board regarding a research project that focuses on good-practice engagement between Indigenous communities, industry, and government agencies. Katherine Stewart is the principal investigator and faculty supervisor for the project, Maureen Reed is faculty co-supervisor, and Tegan Brock is the author of the research project. Members of the LLRIB Lands and Resources Management Board are participants and research collaborators.

B. Purpose

This CRA will ensure that research expectations, objectives, processes and outcomes remain consistent and relevant to all parties involved throughout the duration of the research project, and will set out reporting timelines and final deadlines. It will also ensure that research is carried out in a respectful and ethical way for LLRIB membership.

This document addresses property of information, guiding principles, methods of data collection, ethics approval, format of research outcomes, as well as use and distribution of research findings. It will define the scope of the research as well as guide research decisions.

Statement of Mutual Benefit

This research has the potential to benefit LLRIB by bringing band member perspectives on good-practice engagement to other decision-making bodies such as industry and government agencies. It has the potential to inform and improve the ways in which industry and government engage with LLRIB membership in the future, and may lay a foundation on which collaboration among parties (LLRIB, industry operating in the north, and potentially other First Nations) can occur.

The planned workshop sessions with band members will facilitate knowledge sharing and learning on the topic of legally recognized and asserted Indigenous rights, land-use-decision-making processes on traditional territory, and the duty to consult and accommodate legislation.

The research benefits the University by providing opportunity for skills-development and learning in both a work environment and a community-oriented environment. The University's Tegan Brock will also receive a Master's degree in Environment and Sustainability upon completion of her thesis.

Property of Information

The "Data" means the notes, recordings, observations, empirical data and other information gathered during the course of the research described in this Collaborative Research Agreement.

The University and LLRIB will share ownership of the Data, which will be stored in a secure location at the University. Data will be stored for a minimum of six years after the study has been completed, after which it will be destroyed. The University may use the Data for further education and research purposes. The Data will not be used for any purpose other than that which is outlined in this agreement without the consent of the LLRIB.

The LLRIB acknowledges that a primary function of the University is to add to the general knowledge of society and increase its use for scholarship. It is anticipated that there may be four Research Documents (defined below) produced as a result of this research. The ownership and copyright of any document or report arising out of this agreement, including the Research Documents, shall vest with the author or authors of said document or report. The parties agree to acknowledge the research as being a joint project between the University and the LLRIB in any publication, presentation or other dissemination of the research outcomes. In the case of scholarly, academic or journal publication by the University, but excluding the Thesis, the University will consult on Data interpretation with the LLRIB Lands and Resources Management Board prior to publication. In the event that the University and the LLRIB Lands and Resources Management Board cannot agree on the content of the written report, the LLRIB will be invited to write an editorial to accompany the report to be submitted for publication.

The research findings will be presented in-person to the LLRIB Lands and Resources Management Board in the fall of 2018.

Hard copies and digital copies of the Research Documents will be distributed to LLRIB Lands and Resources Management Board as well as to SaskPower Aboriginal Relations Department. These Research Documents may be shared by the University's School of Environment and Sustainability as an example of the research that can be accomplished by students through the Masters in Environment and Sustainability program. In addition, the Thesis will be housed electronically in the University's library for public access.

C. Project Scope

Research Purpose

The overall purpose of this research is to enhance the capacity of a Crown corporation and an Indigenous nation to establish lasting and collaborative relationships for informed environmental decision-making within traditional territory. The research focuses on principles and attributes of good-practice engagement, and the role that engagement plays in building constructive working relationships between Indigenous peoples, industry, and government that are respectful and mutually beneficial.

Research Objectives

- 1) To co-design a framework of common principles and attributes for good-practice engagement to guide research process as well as inform future interactions between industry and Indigenous communities of the Lac La Ronge Indian Band;
- 2) To use the framework to inform the development of engagement activities with the LLRIB community, and with SaskPower and Saskatchewan Ministry of the Environment staff;
- 3) To co-determine the efficacy of the framework established in Objective 1 as a guide to stimulate good engagement practices.

Research Outcomes

There are three primary research outcomes:

1. Education among LLRIB band members on Indigenous rights as recognized by nations, Treaty and Canadian law, and on consultation and engagement with regards to land-use decision-making processes.

This will occur through information-sharing and discussion workshops carried out in La Ronge in July/August 2017.

2. A modified framework for good-practice engagement that supports on-going, collaborative and respectful working relationships between Indigenous peoples, industry, and government, and contributes to informed decision making for application in other settings.
3. A joint-meeting with LLRIB leadership, SaskPower & Saskatchewan Ministry of the Environment personnel, and potentially with leadership from other First Nations and industry proponents. The purpose of this meeting will be to share the findings from the research, and catalyze communication among all parties with the hopes of improving engagement and partnership in the future. It will be scheduled in May or June 2018.

Research Documents

It is anticipated that research will result in four documents (collectively the “Research Documents”) as follows:

1. A Good-practice Engagement Handbook (“Handbook”) that concisely summarizes recommendations for good-practice engagement with Indigenous communities.
2. An External Consultation & Engagement Protocol (“Protocol”) for LLRIB that is informed in part by research findings.
3. An academic journal article to communicate the research findings and research recommendations to wider audiences (for example, other researchers, First Nations, government agencies, and industry proponents); and
4. A Thesis prepared by Tegan Brock in support of her Master’s Degree (the “Thesis”).

The University agrees to grant to the LLRIB the right to use, copy and distribute the Handbook and the Protocol in any manner in accordance with the principles set out in this agreement, and in a manner that recognizes the contribution of the University and the authorship and copyright of the Handbook and the Protocol.

Research Timeline

Data collection with the LLRIB will be complete by August 30th, 2017. Data collection with SaskPower and Saskatchewan Ministry of the Environment employees will occur between July-December 2017. Data analysis will be ongoing, and will be complete by May 2018. The writing period will run from June 2018 to August 2018, with revisions occurring throughout September and October. Research outcomes will be complete by December 2018.

D. Research Process

Guiding Principles

This research strives to embody principles outlined by OCAP (Ownership, Control, Access and Possession) of information collected throughout the duration of the project. The research process has been informed by principles defined by Chapter 9 of the Tri-Council Policy Statement on ethical conduct involving humans, and with regards to engaging in research with Indigenous peoples in a respectful and ethical manner.

Guiding Principles include but are not limited to the following:

- i. Maintain mutual respect and accountability between the parties;
- ii. Recognize the expertise, responsibilities, mandates and accountability structures of each party;
- iii. Ensure the highest standards of research ethics;
- iv. Respect the individual and collective privacy rights of Aboriginal people;
- v. Recognize the value and potential of research that is scientifically and culturally validated;
- vi. Support collaborative Aboriginal and University processes including the analysis and dissemination and ownership of research findings/reports;
- vii. Understand and observe cultural protocols when working within the community;
- viii. To provide fair treatment to all persons taking part in the research project.

Research Methods

The primary method of Data collection will be semi-structured interviews running 30 minutes to an hour (or longer if necessary). The aim is to seek out perspectives from a cross-section of band member experiences with engagement, including those in leadership positions, as well as land users such as trappers, and berry and medicine harvesters.

There will be two rounds of interviews, and workshop sessions in-between each round. In the first round of interviews, research participants will be asked about barriers to and principles of good practice engagement. This information will inform the researcher's approach to carrying out knowledge-sharing workshops that are open to all band members. Following the workshops, there will be a second round of interviews to discuss and evaluate the success of the workshops.

Informed Consent

All research participants will be asked to provide informed consent prior to participating. This may be provided in written or oral (audio-recorded) form.

Ethical Approval

This research maintains approval from the University's Research Ethics Board upon the signing of this agreement.

E. Communication

Darwin Roy is the main contact for the LLRIB. Any queries or documents will be discussed or sent to Darwin Roy, Community Consultation Coordinator for the Lands and Resources Management Board.

Katherine Stewart and Tegan Brock are the main contacts for the University. Any queries or documents will be discussed or sent to Katherine Stewart, Principal Investigator, and to Tegan Brock, Master's Student, University of Saskatchewan.

F. Funding

This CRA is not a commitment of funds.

G. Duration

This CRA may be modified by mutual consent of authorized officials from the University and from the LLRIB Lands and Resources Management Board. This CRA shall become effective upon the last signature of the authorized officials from the University and LLRIB Lands and Resources Management Board, and will remain in effect until December 31, 2018 unless modified or terminated by any one of the parties. This CRA may be terminated by either party by giving sixty (60) days written notice to the other.

H. Contact Information

University:

University of Saskatchewan
Katherine Stewart, Principal Investigator, Supervisor
College of Agriculture and Bioresources
Department of Soil Science
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Saskatoon, SK S7N 5A8
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- and -

University of Saskatchewan
Tegan Brock, Master's Student, Researcher
Telephone (C): (519) 830-6596
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With a copy to:

Research Services & Ethics Office
University of Saskatchewan
223 – 110 Science Place
Thorvaldson Building
Saskatoon, SK S7N 5C9

Telephone: (306) 966-8576
Attention: Contracts Specialist
Email: research.services@usask.ca

LLRIB:

LLRIB Lands and Resources Management Board
Sam Roberts, Councillor, Chair
Telephone (W): (306) 425-2183
Telephone (C): (306) 425-9373
Fax: (306) 425-2590
Email: sroberts@llrib.ca

- and -

LLRIB Lands and Resources Management Board
Darwin Roy, Lands and Resources Coordinator
Telephone (W): (306) 425-2183 Ext. 237
Telephone (C): (306) 425-4088
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Email: darwin.roy@llrib.ca

J. Counterparts

This CRA may be executed in counterparts and such counterparts together shall constitute a single instrument. Delivery of an executed counterpart of this CRA by electronic means, including, without limitation, by facsimile transmission or by electronic delivery in portable document format (".pdf"), shall be equally effective as delivery of a manually executed counterpart thereof. The parties hereto each waive the right to raise any defence based on the execution hereof in counterparts or the delivery of such executed counterparts by electronic means.

APPENDIX B. Interviewee Informed Consent Form and Workshop Consent Form



School of Environment and Sustainability

Room 323, Kirk Hall
117 Science Place
Saskatoon, SK S7N 5C8

Telephone: (306) 966-1985
E-mail: sens.info@usask.ca

Interviewee Informed Consent Form

Project Title: Towards informed environmental decision-making among Indigenous communities, industry and government agencies in Saskatchewan's boreal north.

Primary Contact / Student Investigator: Tegan Brock, Master candidate School of Environment and Sustainability (SENS), University of Saskatchewan, Kirk Hall, 117 Science Place, Saskatoon, SK, S7N 5C8
Phone: (306) 966-8415
E-mail: tmb004@usask.mail.ca

Faculty Supervisors: Katherine Stewart, Assistant Professor, Department of Soil Science, University of Saskatchewan, 5E74 - 51 Campus Drive, Saskatoon, SK, S7N 5A8
Phone: 306-966-1916
Email: Katherine.stewart@usask.ca

Maureen Reed, Professor and Assistant Director Academic, School of Environment & Sustainability, University of Saskatchewan, 328 Kirk Hall, 117 Science Place, Saskatoon, SK, S7N 5C8,
Phone: (306) 966-5630
E-mail: Maureen.reed@usask.ca
Fax: (306) 966-2298

Purpose Of The Study: University of Saskatchewan graduate student Tegan Brock is seeking to understand components of good-practice engagement with Indigenous communities that can lead to informed environmental decision-making in Lac La Ronge Indian Band (LLRIB) traditional territory. The research project partners with the LLRIB Lands and Resources Management Board and SaskPower, and is focused on improving environmental decision-making in LLRIB traditional territory. The research objectives are:

- 1) To co-design a framework of principles and attributes to guide the establishment of good engagement practices between an Indigenous community and a Crown corporation.
- 2) To use the framework to inform the development of education and awareness activities with participants from the Lac La Ronge First Nation, SaskPower and the Saskatchewan Ministry of Environment;
- 3) To co-determine the efficacy of the framework as a guide to stimulate good engagement practices; and

4) To generate a modified framework to support on-going respectful relationships and engagement for informed environmental decision making.

By participating in interviews, I am partaking in objectives 1 & 3, and contributing to objective 4.

Procedures: My participation will consist of attending one or two 30-60 minute semi-structured interviews with the researcher. The first session has been scheduled for _____ at _____. If applicable, the second session will occur on _____ at _____, or be determined at a later date.

This information will be collected and recorded on a digital tape recorder (if I provide consent) or by personal note-taking. I can request for the recording to be stopped at any time during the interview, and I should feel comfortable with the nature of this project at all times.

Project Funder: The research is funded by a MITACS Accelerate grant and SaskPower. MITACS is a not-for-profit funding agency that seeks to build partnerships between industry, community and academia. There are no conditions on results generated by the research.

Potential Risks: There are no known or anticipated risks to you by participating in the interviews.

Potential Benefits: It is hoped that this research will contribute to improved future engagement between SaskPower, other companies operating in the north, government agencies, and the LLRIB. The research will broaden knowledge across all parties on the issue of good-practice engagement and environmental decision-making in the boreal region, and clarify the roles and responsibilities of each party. It will enhance the opportunity to present LLRIB member perspectives to decision-making bodies, and encourage the incorporation of those perspectives into future decision-making processes. Finally, it will provide a foundation on which collaboration among parties can occur and continue beyond the research project.

Compensation: Participants will not receive direct compensation for their involvement in the research.

Use of Data: I understand that the information I provide will be used in a graduate thesis, a good-practice engagement guide, and potentially in academic presentations and peer-reviewed publications that stem from this research. This may include potential contributions to a larger audience regarding engagement and consultations between other First Nations and government agencies. It is possible that media releases relating to the report may occur, but the information is not intended for commercial use.

Confidentiality: The research team will be responsible for managing research participant information and responses. Long-term data storage is the responsibility of the principle investigator (K Stewart), and data storage will be linked to the identity of participants. This is because the research aims to obtain varying perspectives that may be connected to the role or position of respondents. Information provided by First Nations members will be held in a manner consistent with OCAP (Ownership, Control, Access, Permission), and property of data will follow protocol outlined in the MOU with LLRIB. I understand that my personal integrity and privacy will be respected. The researcher will not use my name unless I request it. If there are circumstances where the researcher wishes to use a direct quote from my interview in any publication, I give them permission: **Yes** _____ **No** _____

If yes, I want the opportunity to review and revise my quotes prior to any release of this information: **Yes** _____ **No** _____

I would like the researcher to include my name with any direct quotations: **Yes** _____ **No** _____

Or, I would like the researcher to use my real name to acknowledge me as a participant in this research, but not use my name with any direct quotations: **Yes** _____ **No** _____

Or, I do not want my real name used for any purpose in this research project: **Yes** ____ **No** ____

Right to Withdraw: My participation in this project is voluntary. I have the right to withdraw from the project before or during an interview, or to refuse to answer any individual questions. I may withdraw from the study up to the time that the data have been analyzed and writing of the results has started. If I decide to withdraw from the project, any information I have given will be promptly destroyed and will not be included in the project in any way. I understand that there is no penalty if I withdraw. My withdrawal will bear no consequences, and no judgments or prejudice will be held against me.

Questions or Concerns: This project was reviewed on ethical grounds by the University of Saskatchewan Behavioural Research Ethics Board. I am free to contact the researcher to ask for information about the research, and to have my questions and concerns resolved. If I would like to investigate about my rights as a participant I can call the Research Ethics Office toll free at 1-888-966-2975 or ethics.office@usask.ca.

There are two copies of the consent form, one of which I may keep for my records.

Declaration: By signing below, I (*printed name:* _____) agree that I have been fully informed and understand the nature of the project, and agree to participate. Furthermore, I understand that this research project conforms to the principles of the University of Saskatchewan Behavioural Ethics Review Board.

_____	_____
Signature of Participant	Date
Signature of Researcher – Witness	Date
_____	_____

By signing below, I authorize the inclusion of my name in the acknowledgements section of the thesis.

Participant's Authorization _____ Date _____ .

I request a copy of the transcript: **Yes** ____ **No** ____

I request a copy of research output(s): **Yes** ____ **No** _____

Contact Address: _____

Email: _____ Telephone: _____

Informed Consent Form / Group Sign-up Sheet

I understand that this workshop will review background information on the duty to consult in Canada, and will involve me in discussing consultation and engagement in relation to the operations of SaskPower/the LLRIB Lands and Resources Management Board. I understand that by participating in this workshop, my input, along with the input of the rest of the group, may be used in Tegan Brock's Master's thesis on good-practice engagement with Indigenous communities. I consent to taking part in the workshop and to my input being used in the research project. I also understand that her research may be used in future publications on this subject.

I also consent to having my photo taken and it's use by Tegan Brock in conference presentations on her Master's research.

Name (First & Last) _____, 2017

- 1.
- 2.
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- 15.

APPENDIX C. Semi-structured Interview Guidelines

1. Do you differentiate between ‘engagement’ and ‘consultation’? If so, how would you describe engagement? How would you describe consultation?
2. Can you reflect on a time when you’ve been involved in community engagement? Or a time when you’ve participated in the duty to consult?
3. In your opinion, what are important principles or practices of good-practice engagement with Indigenous communities?
4. What key roles and responsibilities do you think are important in good-practice engagement with Indigenous communities?
5. Are there barriers to good-practice engagement? If yes, what are they?
6. Can you think of anything that may address/solve those barriers?
7. Is there anything else you’d like to add about engaging with Indigenous communities?

APPENDIX D. Node Tree

Attributes-Practices

- Communicate in Indigenous languages
- Community liaison
- Compromise
- Conflict resolution
- Follow-up
- Integrate input
- Knowledge-sharing
- Know your audience
 - o Understand Indigenous people
 - o Understand Indigenous community
 - o Understand place
- Long-term planning
- Meet face-face
- Be present in place (be visible & available)
- Provide accessible information
- Use social media

Barriers & Challenges

- Barriers
 - o Disrespect
 - o Distance
 - o Distrust
 - Historical legacies
 - o Failed system
 - Colonization
 - Assimilation
 - Desperation of Indigenous communities
 - Indigenous wellbeing compromised
 - Lack of Indigenous authority
 - Lack of faith in government & Indigenous leadership
 - Absence of resource revenue-sharing (with Indigenous communities)
 - o Inadequate funding
 - o Lack of capacity
 - o Lack of political will
 - o Language gap
 - o Poor relationships
 - o Poor understanding (of process, of Indigenous autonomy & rights)
 - o Reluctance to compromise
- Challenges
 - o Biggest challenge
 - o Bridging two worldviews
 - o Difference in perspective
 - o Managing diverse expectations & abilities
 - o Managing social expectations
 - o Overlapping territories
 - o Policy
 - Surface Lease Agreements
 - Trapping licenses
 - o Unemployment

Benefits

- Build capacity
- Economic opportunity
- Local support
- Mutual benefit
- Proximate hiring
- Training and employment
- Revenue from project operations (for First Nations)

Broad context

- Free Prior and Informed Consent
- Globalization
- Nation-Nation relationship
- Truth and Reconciliation Calls to Action

Corporate Dimensions

- Corporate leadership
- Corporate organization-SaskPower
- Corporate organization-Areva
- Corporate organization-Cameco
- Corporate success
- Corporate investment

Duty to consult

- Accommodate
- Duty to consult defined
- Duty to consult-Alberta
- Duty to consult-Saskatchewan
 - o Fast Track Grant

Economics

- Economic development
 - o Generate monetary support for Indigenous communities
- Support Indigenous business
 - o Kitsaki Management Limited Partnership

Engagement

- Defining engagement
- Engagement strategy
 - o Community-based
 - o Internal debriefing
 - o Land-based approach
 - o Long term planning
- Formalized agreement
- Internal Indigenous engagement
- Principles of engagement
 - o Accountability
 - o Commitment
 - o Communication
 - Communicate in Indigenous languages (translator)
 - Communicate with Indigenous leadership
 - Communicate with Trapper Chair
 - Consistent communication

- Early communication
- Exchange of input & dialogue
- Honesty
- Listening
- Follow-up
- Negotiation
- Openness
- Respectful communication
- Social media
- Tracking communication
- Transparent communication
- Consistency
- Flexibility
- Humility
- Mutual respect
- Openness
- Respect
- Stakeholders

Examples

- E.g._Accommodation
- E.g._Challenge
- E.g._Commitment
- E.g._Communication
- E.g._Consultation
- E.g._Diverging worldviews
- E.g._Low response rate
- E.g._Relationship-building
- E.g._Understanding audience to communicate effectively
- E.g._Herbicide
- E.g._I1K
- E.g._Leader's Roundtable
- E.g._Role of the EQC
- E.g._Solutions

Indigenous autonomy

Integrating engagement and the duty to consult

LLRIB Lands and Resources Board

Metis rights

Outcomes of good engagement

- Indigenous procurement
- Trust-building
- Relationship-building
 - Collaboration
 - Partnership
 - Personal relationships
 - Positive relationship
- Working relationship
 - Indigenous-Proponent partnership

Reputation

Risk

- Risk of poor engagement
- Risk of slow permitting process
- Risk of not approving development (for Indigenous communities)

Roles & Responsibilities

SaskPower

- Future direction-SaskPower
- SaskPower-Engagement
- SaskPower-Challenges

Solutions

- Capacity
 - o Building Capacity
 - Donations
 - Support education
 - Training and employment
 - Support good governance in Indigenous communities
 - o Forms of capacity
 - Human
 - Knowledge
 - Monetary
 - o Matching capacity (for procurement)
- Find common ground
- Focus on youth
- Future direction
 - o Build faith in government (non/Indigenous)
 - o Prepare for shift in energy production
 - o Adopt transformed business model
- Indigenize institutions
- Integrate corporate departments (that deal with engagement)
- Indigenous procurement policy
- Participation
- Thinking outside the box

Success

- Measuring success
 - o Indicators of success
 - Demonstrate positive impact
 - o Local support
 - Social License to Operate

Time

Traditional Territory

Treaty Rights

APPENDIX E. Canada's Truth and Reconciliation Commission Call-to-Action #92

Business and Reconciliation

92. We call upon the corporate sector in Canada to adopt the United Nations Declaration on the Rights of Indigenous Peoples as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources. This would include, but not be limited to, the following:

- i. Commit to meaningful consultation, building respectful relationships, and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with economic development projects.
- ii. Ensure that Aboriginal peoples have equitable access to jobs, training, and education opportunities in the corporate sector, and that Aboriginal communities gain long-term sustainable benefits from economic development projects.
- iii. Provide education for management and staff on the history of Aboriginal peoples, including the history and legacy of residential schools, the United Nations Declaration on the Rights of Indigenous Peoples, Treaties and Aboriginal rights, Indigenous law, and Aboriginal–Crown relations. This will require skills based training in intercultural competency, conflict resolution, human rights, and anti-racism (Truth and Reconciliation Commission of Canada, 2015).

APPENDIX F. Indicators of successful engagement and supportive quotes from research participants

Indicators of Successful Engagement	Research Participant Quotes
(i) Community satisfaction or support for outcomes from engagement	<p>“If you go to any community – it doesn’t matter where it is in Canada – and where there’s an environmentally challenging activity taking place, you’ll generally find that where the companies have done a great job of engagement, there’s huge support for that activity locally. And the opposition is all outside.” (07C)</p>
(ii) Fewer concerns about environmental issues, along with less resistance to project proposals	<p>“It’s what’s the result and are communities satisfied with it? Have you gone and followed up to determine if there’s further issues or what you’re doing, is it working for them? [...] Difficult to measure though and identify how the input of those communities had resulted in those outcomes, but a lot of it is measured in less resistance perhaps or even support for what we’re doing, right?” (10B)</p> <p>“Another example is that it’s [engagement] kind of closed off. You’re not going to keep fielding questions or concerns about that project because you’ve done a good enough job and a thorough enough job that you’ve kind of covered all the concerns that were present. We haven’t had any concerns come up from La Ronge on that project, so I would say we did a very good on that project as an example. So relationships would be stronger, they’re not strained, and concerns or issues are minimized. So those are two examples of when it’s done right.” (11C)</p> <p>“although it's hard to put a number to it but I think we would report that fewer and fewer concerns are generated about producing mines and more and more concerns are generated about exploration practices. That is a metric, I mean, it's more and less, you know, we're not attaching a percentage to it but we're identifying a trend and we have also identified what can we do about it.” (02B)</p> <p>“It’s very difficult to quantify on the bottom line [...] where you would be more amicable to quantify it is, what is your ease of doing any work in that area? Or how accepting or how much are you giving back to the community in actual meaningful work. Are people looking forward to you showing up, or are they trying to keep you out?” (06D)</p>
(iii) Reaching beyond leadership to grassroots people	<p>“And at the end of the day I think, you know, the majority of them are satisfied with what we're doing, you know.”</p>

- (local community members), generating feedback and facilitating understanding among them
- And I personally advocate that to have a successful outcome in your consultation or your community engagement you have to talk to the grassroots people.” (04D)
- “So I would say in the metrics of a successful engagement are having the numbers of people present that you want. So you want to have lots of grassroots people of the public who are interested, not just the leadership. You want to make sure that at the end of your session that they understand, they have a good understanding of what it is that you’re doing.”(0Ai)
- (iv) The continuance of a good working relationship
- “So one of the things you want when you do engagement and what shows that you’ve done a good engagement is that you’re holding that relationship as staying solid. It’s not deteriorating. It’s not becoming worse. Hopefully, it becomes better. You get to know the person a little bit.” (11C)
- “So it’s kind of like covering all the aspects of the business because end of the day you want a good relationship, first thing. It’s very important for any industry and the second thing is you want the Indigenous communities and business arms to be successful.” (06C)
- (v) Health and socio-economic wellbeing of communities
- “We have measures of success and one of them is health of the communities. And we have targets specific to those communities, right to our senior officers have their compensation tied to those targets.” (01D)
- “the places we can succeed – if there’s a working partnership, if there’s a willingness for partnerships [...] we succeeded in Pinehouse. We have all kinds of different programs in our community that we capitalize on to be able to teach our people, engage with our people and we’re succeeding. Because of the success that we’re having, other communities are asking us to come [to teach them].” (MNS-1)
- (vi) Mutual wellbeing or “win-win” outcomes
- “a successful outcome of engagement is a win-win for all of the people involved, even though there’s always going to be some people that are dissatisfied with what happened, or what continues to happen.” (07C)
- “it’s a real, it’s a, I guess, a real benefit for both sides. [...] From the bands, I guess the northern bands communities, we’re definitely getting good feedback on that as well.” (08D)
- “We’re partners in this. Like we succeed, they succeed and vice versa. So that’s kind of the -- to think that way, to kind of just change our thinking, and how can we be -- how they can be successful, too.” (02D)