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

by

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I am dedicating this project to my family: Kevin, Peggy, Murray, Diane, Jocelyn, Yanik, Mike, Ed, Heron and Mary. As always, you have been a source of incredible love and support to me.

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LIST OF ACRONYMS

EA	environmental assessment
JRP	Joint Review Panel
MGP	Mackenzie Gas Project
NWT	Northwest Territories

GLOSSARY

Aboriginal organization

1: INTRODUCTION

1.1 Research Context

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

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

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

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

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

> First Nations across Canada have expressed the strong view that the [*Canadian Environmental Assessment Act*] in its implementation, fails to é ensure meaningful and on-going First Nation participation in envi

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

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

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

2: BACKGROUND AND CASE STUDY DESCRIPTION

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

2.1 Northwest Territories and Study Area

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

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

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

2.2 The Berger Inquiry

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

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

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

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

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

> More effectively than perhaps anyone before or since, [Berger] erased theon in

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

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

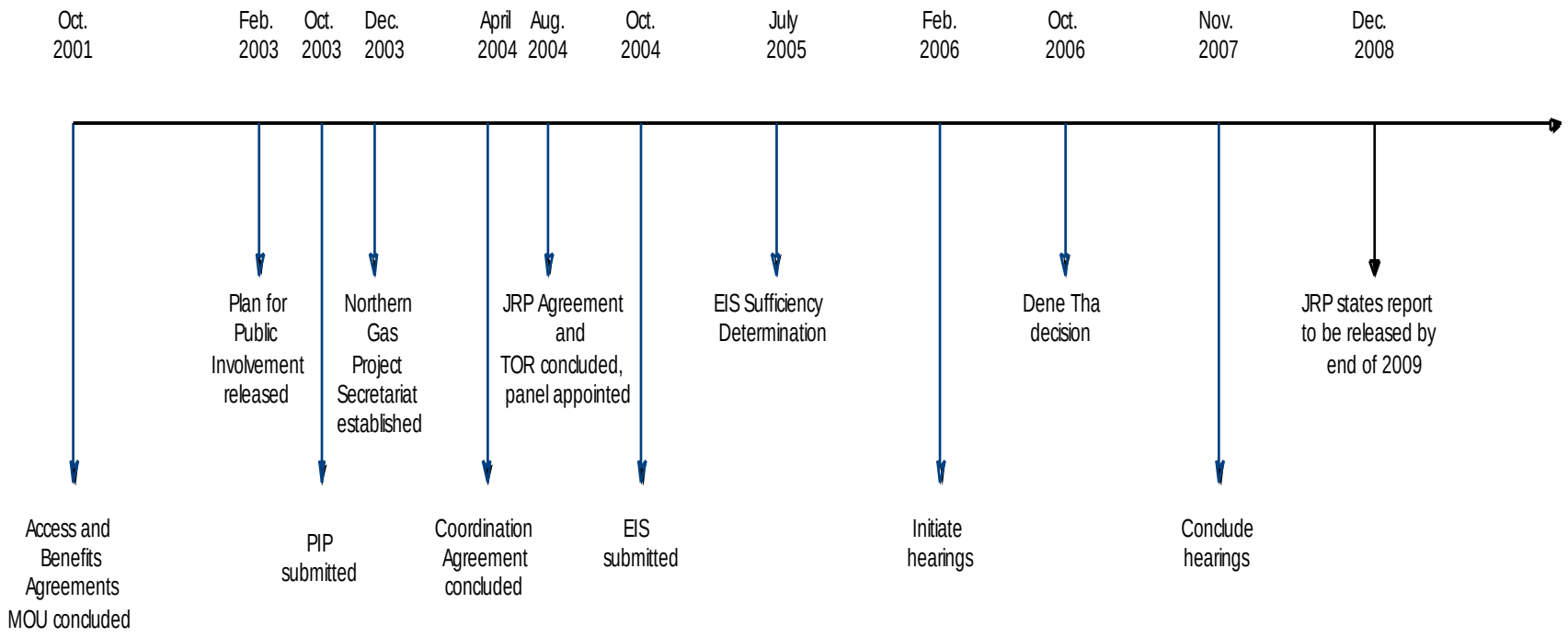
â n.d., Mackenzie Wild, by permission

The proposed Mackenzie Gas Project crosses Inuvialuit Settlement Lands, Gwichôin Settlement Lands, Sahtu Settlement Lands, as well as Deh Cho Territory and

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

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

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



i) October 2001: Aboriginal Pipeline Group MOU

In late 2001, the Mackenzie Gas Project producer group and 30 Northwest Territories Aboriginal groups, represented by the Aboriginal Pipeline Group, concluded a memorandum of understanding

iii) April 2004: Coordination Agreement

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

iv) August 2004: JRP Agreement and Terms of Reference

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

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

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

v) October 2004: Environmental Impact Statement Submitted

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

vi) July 2005: Environmental Impact Statement Sufficiency Conference

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

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

viii) November 2006: Dene Tha Decision

Approximately half-

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

2.4 Chapter Summary

The geographical, historical, and JRP background information described in this chapter comprise the context of this study, and helped give rise to the research objectives explored through this project. In particular, the historical and geographical context, together with the scope of the proposed project and associated EA process, suggest that there should have been extensive Aboriginal participation in the JRP hearings.

3: METHODS

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

3.1 Research Design

3.1.1 Case study

This research examines the subject of Aboriginal participation in northern environmental assessment (EA) processes through a detailed examination of one example of this class or group of phenomena; namely, Aboriginal participation in the JRP (case study approach: Flyvberg, 2006). The case study approach was selected because the research pertains to an understudied subject area, and involves variables which could not

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

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

Finally, I focused my research on active, individual Aboriginal participation in the JRP, and specifically the study of individual members of the Aboriginal public who delivered testimony at the JRP community hearings. It should be noted that there were other avenues for Aboriginal involvement in decis] t avef aner avenues forre

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

The literature and factors related to the project area suggest that such individual-level input at the JRP hearings may have been important in terms of ensuring that the panel had access to the full spectrum of information, values, and opinions of people from the project area in respect of the proposed MGP. Specifically, although Aboriginal organizations had considerable influence in respect of the proposed MPG, it cannot be assumed that this was an adequate proxy or replacement for input of individual members

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

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

3.1.3 Two-phased approach

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

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

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

Research Phase	Associated Research Objective	Areas of Inquiry	Data Sources	Data Analysis
Phase 1: Program Evaluation of the JRPôs public participation initiatives	To evaluate the JRPôs public participation initiatives To identify and investigate factors that may have limited individual-level Aboriginal participation in the JRP	Nine evaluative criteria developed through a comparative review of nine frameworks for evaluating public participation	- documents - interviews with Expert Respondents - interviews with Community Member Respondents	Qualitative content analysis to generate inferences through the systematic identification of data pertinent to each of the nine evaluative criteria
Phase II: Study of Contextual Factors limiting Aboriginal participation in the JRP	To identify and investigate factors that may have limited individual-level Aboriginal participation in the JRP	Five broad contextual factors identified in the critical EA and Aboriginal civic engagement literature	- interviews	

3.2 Phase I: Program Evaluation

3.2.1 Evaluative framework development

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

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

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

Criterion	Rowe & Frewer	Baker & McLelland	Bond, Palerm & Haigh	Noble	Andre
Early Involvement: public involved as soon as value judgments enter into play, and provide input regarding the consultation forum	X	X	X		X
Representativeness					

Criterion	Rowe & Frewer	Baker & McLelland	Bond, Palerm & Haigh	Noble	Andre
Cost Effectiveness: exercise should occur at the most appropriate decision-making level, and be conducted in a timely manner at a reasonable cost	X	X			X
Cultural Compatibility: participatory exercises should be adapted to the cultural context and include trust-building mechanisms		X		X	X

Through a comparative review of the five frameworks and the 19 evaluative criteria listed in Table 2, I selected the Rowe & Frewer (2000) framework to serve as the base for this studyôs evaluative framework. First, many of the criteria which were absent in the Rowe & Frewer framework, but present in one or more of the other four above-listed evaluative frameworks, may be properly described as óoutcome criteriaô. While both process and

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

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

Table 3

public participation in the JRP. These criteria and indicators were derived through an iterative review of the evaluative frameworks described in Rowe & Frewer (2000), Baker & McLelland (2003), Bond, Palerm & Haigh (2004), Noble (2006), and Andre (2006).

Evaluative

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

3.2.2 Data sources for the program evaluation

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

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

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

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

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

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

3.2.3 Data analysis for the program evaluation

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

[4] For a comparison of Inuvik and the outlying communities in the Beaufort Delta, see Gray (2007).

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

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

3.3 Phase II: Study of Contextual Factors

3.3.1 Areas of inquiry

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

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

3.3.2 Data sources and analysis

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

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

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

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

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

A final research limitation arises from, and is a reflection of, the cross-cultural nature of this study. One author explains: ñCross-

4: THEORETICAL FRAMEWORK

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

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

4.1 Program Evaluation Framework

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

Table 4

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

In order to ensure that public consultation be meaningful and not artificially constrained to providing input into minor project-related details, the public must be involved early on in the decision-making process (Abelson et al., 2003; Andre et al., 2006). Specifically, participants should be able to engage with, and provide input on, the

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

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

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

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

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

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

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

There must be real, readily apparent, benefits associated with taking part in the EA process. Potential benefits include enhanc

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

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

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

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

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

4.2

Table 5: -level Aboriginal public participation in the JRP. These factors were derived from the critical EA and Aboriginal civic engagement literature

Contextual Factor	Explanation

4.2.1 Socio-economic status

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

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

4.2.2 Social relationships

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

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

The Aboriginal civic engagement and critical EA literature further indicate that Aboriginal civic and EA participation may be negatively impacted by the dominant cultureôs failure to adequately welcome or value Aboriginal participation in its institutions and processes. Civic engagement scholars have described such exclusion as a feeling that a given public process is ónot their processô (Hefler, 2006, p. 103) or ónot for people like usô (DeMontfort University and the University of Strathelyde, 1998, p. 6).

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

Finally, the Aboriginal civic engagement and critical EA literature suggest that some Aboriginal people may eschew participating in public EAs or other civic activities affiliated with the federal or provincial governments as a form of nationalist protest. Recent studies of Aboriginal electoral participation, for instance, attribute low Aboriginal participation in Federal and provincial elections to Aboriginal peopleôs perception of these as illegitimate exercises of colonial power (Cairns, 2003; Elections Canada, 2004; Ladner, 2003; Hunter, 2003). A study of Haida participation in EAs in British Columbia similarly concludes that: ñParticipation in the process is rejected by some Natives as a legitimization of the status quo that asserts foreign sovereignty, laws and regulations over their landò (Shapcott, 1989, p. 64). Some Aboriginal organizations have indicated that

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

With respect to the former, some scholars argue that public EA proceedings are conducted in a culturally alien manner (Villebrun, 2002), and that their agenda contravenes the spirit of Aboriginal peopleôs values and concerns (Shapcott, 1989; Paci, Tobin & Robb, 2002). The emphasis on highest valued use in EAs conducted pursuant to the *Canadian Environmental Assessment Act*, for instance, is said to be fundamentally incompatible with First Nationsô equity and ecosystem values (Paci, Tobin & Robb, 2002). S

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

There is also

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

4.3 Summary

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

5: PROGRAM EVALUATION RESULTS

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

● Fully met = all indicators for the criterion are satisfied;

◉ Largely met = more than 50 per cent of the indicators for the criterion are satisfied;

◔ Partially met = 50 per cent or less of the indicators for the criterion are satisfied; and

○ Not met = none of the indicators for the criterion are satisfied.

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

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

Evaluative Criterion	Performance	Strengths	Weaknesses
Early involvement		¶ Public able to provide input regarding the terms of reference, and the location and timing of hearings	¶ Public not able to provide feedback as to consultation format
Representativeness[5]		¶ Participating public was geographically representative	¶ Participating public was not demographically representative
Process clarity[6]ative			

5.1 Early Involvement

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

First, the public was invited to submit written comments on the draft Terms of Reference for the JRP in June 2004 (Inuvialuit Game Council, Mackenzie Valley Environmental Impact Review Board & Canadian Environmental Assessment AgemT E4a1.07 Tm[(ntal Ass

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

The range of locations for the JRPôs hearings indicates that all affected geographic communities had the opportunity to participate in this EA.

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

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

The data are inconclusive as to the ideological representativeness of the public who participated in the JRP proceedings. Some respondents state they canôt possibly gauge such ideological representativeness. Others assert that the participating public was ideologically representative of the broader public, and still others argue that persons who were against the pipeline were overrepresented at the hearings.

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

5.3 Process Clarity

Indicators:

?

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

Ultimately, the public and others will not be able to directly assess or identify the JRPôs decision-making tools, or the extent to which the JRP communicates their decision regarding the proposed MGP to the public, until the JRPôs final report and recommendations are released. A number of respondents, however, raise concerns about the decision-making tools and decision communication practices employed by the JRP to date. For example, one respondent notes that the panel was unable to get the proponents to reveal their

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

> I think there were things that were going on that behind that nobody knows. And the reason I think that is that itôs not clear - for example, the decision on, well let's go back close to the beginning: the decision on the conformity of the [environmental impact statement]. That certainly wasn't

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

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

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

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

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

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

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

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

5.4 Resource Accessibility

Indicators:
- X Sufficient participant funding;
- ã Provision of capacity building support for marginalized groups;
- X/ã Time sufficient to enable the public to

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

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

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

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

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

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

> é . that 15 minutes you were given, I donôt think it allocated enough. From a cultural aspect, you ask an elder to speak about how they feel about this, and having that time restraint of 15 minutes - when an elder speaks in the community, they speak as long as they want. Itôs just a respect thing. I just feel that thatôs one of the biggest flaws.

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

viewed in context of the overall budget of the proposed MGP (over seven billion dollars) and JRP process ($18.7 million, as of April 2009) (WWF, n.d.; Mathisen, 2009). In addition, the applications for participant funding far outstripped available money at each stage of the assessment (Wozniak, 2007). In fact, four of the five representatives of non-governmental organizations interviewed for my

could qualify as ópla in languageô, culturally-accessible items (JRP, n.d.b).[9] Furthermore,

and plain-language documents regarding the proposed project (MGP, n.d.). Furthermore, the proponent hired local outreach staff in their regional offices in Inuvik, Fort Simpson,

When I went to their meeting, it was just straight white people, and they were using a language I donôt understand. They were using these big

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

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

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

5.6 Influence

At the time of writing, the JRP has not yet released their final report and

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

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

5.7 Cultural Compatibility

Notwithstanding its efforts towards developing a culturally appropriate consultation forum, the JRP did not satisfy this evaluative criterion. To the panelôs credit, the JRP community hearings opened with a prayer by a community member, often incorporated community feasts, and provided translation into the Aboriginal languages (JRP, n.d.a). Further, in an effort to reduce the formality associated with the community hearings, the Rules of Procedures provided that the chair could extend the 15 minute time

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

and

Ok ï

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

> Well, itôs our own people. You trust them. If there was straight white people, you donôt trust them ï so all that is in the air around here yet.

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

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

5.8 Independence

Indicators:	
X	Process managers should be independent and unbiased;
X/Õ unbiased	The public should perceive process managers to be independent and

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

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

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

perceive the panel to be independent and unbiased: some indicate that they believe the panel to be independent, and others state unequivocally that they know ñfor a factò that the panel is not.

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

5.9 Cost-effectiveness

Indicators:

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

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

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

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

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

5.10 Chapter Summary

In summary, although the calibre of the JRPôs public participation initiatives may

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

Interestingly, notwithstanding the gaps identified through the above program evaluation, expert respondents repeatedly express high praise for the JRPôs adherence to EA óbest practicesô and assert that there was very little the JRP could have done to improve the low levels of public participation in its processes.[11] One territorial government representative argues:

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

An Aboriginal government representative echoes this sentiment:

> Again, I donôt think that there was more that they couldôve done. I mean, the process that they laid out was fairly open. People could go and register, but you had to register well in advance to get on the list to provide your comments. And that was just, again, a lack of their educating

[11] 11/14 Expert Respondents who provided opinions as to the overall-quality of the JRPôs public participation initiatives supported this position.

> people in the community as to the process. But again, itôs dependant on the individual ï if you want to get involved, then youôll make the effort as well.

These assessments of the Expert Respondents regarding the calibre of the JRPôs public participation initiatives, however, stand in direct contrast with community membersô assessments of grassroots participation in the JRP. In particular, notwithstanding the opinions of Expert Respondents that the JRP had largely ñdone all

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

In this chapter, I review findings from the interview data to identify and describe the impacts of five key contextual factors on Aboriginal participation in the JRP. These contextual factors (namely, socio-

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

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

Conversely, the data suggest that young people and people with low formal education generally had a more limited understanding of the MGP and the JRP, and fewer opportunities to develop the public speaking skills required to participate in such a proceeding.[15] Community Member Respondents indicate that such knowledge or skill deficits constrained community membersô participation by reducing the perceived relevance of the hearings

In addition to the above-described relationship between socio-economic status, knowledge, skills, and participation, the data demonstrate a related impact arising from the relationship between socio-economic status, self-efficacy and participation. Respondents link educational attainment, employment status, and social position with the confidence of community members in their ability to participate at the JRP hearings.[16] This dynamic was relational, and extenuated by differences in the socio-economic status of community members and other people at the hearings, particularly proponents,

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

Socio-cultural expectations related to age also appear to have influenced Aboriginal participation in the JRP. In particular, over a third of the Community Member Respondents indicate that cultural values regarding respect for elders and the obligations of elders to speak for and educate the younger generation positively impacted the participation of elders in the JRP hearings.[17] The one youth who participated in this study describes the converse of this dynamic v8r(s d)-10(ym[(who p)-7(a)4(rticipa)5(ted)- r)3(m)-11(a)-57 0 1 9na

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

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

6.2 Social Relationships

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

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

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

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

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

> Right now the younger people are not involved é my own people: I told those guys, they're running around doing nothing, donôt know what to do. Thereôs enough things to do, but itôs not them. Itôs their parents.

[18] 6/9 Community Member Respondents who participated report that such relationships affected their participation.

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

> I remember the elders coming to the house, and he would explain all these things to them in the Gwichôin language. Thatôs where I think they had a bit of understanding as to what was happening. So, if you influence them to say, ñNo, we donôt want the pipelineò, thatôs the way they went. They really looked up to their leaders those days. Today weôre not like that because right now we have a Chief that doesnôt understand the language.

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

in the hearings by a sense of obligation to their children, immediate community, Aboriginal peoples, or unborn generations:[20]

> And I feel that our children ï we need to speak on their behalf because theyôre the future generation and how itôs really going to affect them. So those are some of the reasons why I ï I take part in whatôs going on.

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

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

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

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

[22] 2/15 Community Member Respondents mention this cultural value.

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

In respect of peer-based social consequences, respondents express a range of opinions as to the effect which actual or perceived feedback from other community members ultimately had on Aboriginal participation in the JRP. A number of respondents report that they or their peers were discouraged from participating in the hearings because

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

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

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

In summary, the data demonstrate that social relationships had the potential to promote or inhibit Aboriginal participation in the JRP proceedings. In particular,

6.3 Consultation Fatigue

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

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

> I think thereôs just too much happening, too many meetings, to where I feel that people are not going to the meetings.

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

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

[28] 9/15 Community Member Respondents express this view.

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

> The thing is, when people come into the community about hearings about the Aboriginal pipeline, everything overall and whatôs going on, eventually people start getting bored because thereôs too much of it. Thereôs too much information. Even for me sometimes, to get all that information, it just sort of clutters my mind because one direction here, one direction there. We donôt have an overall everything, just combine into one package. If itôs in one package, itôs too thick to understand.

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

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

and, further, that this ultimately discouraged public participation in the JRP proceedings:[30]

> And then sometimes some people talk and nothing really happens. If they speak, and nothing really happens, and then towards the end you just think, ñWhatôs the use?ò

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

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

[30] 6/15 Community Member Respondents express this view.

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

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

> I think partly, I donôt know for sure, but possibly thatôs how come that maybe people donôt go to those meetings ï itôs just an unwelcoming atmosphere that they feel. Maybe just the way the room is set up. Itôs kind of like I mentioned before, it feels like itôs a courtroom every time you go in there. Itôs like youôre going to court and you have those people looking at you. Itôs just such a colonial government setup.

In the first instance, Aboriginal community members indicate that they did not feel adequately welcome at the JRP hearings.[36] Two thirds of Community Member Respondents further identify oppressive power dynamics present in the JRP hearings

> é itôs just a very controlling atmosphere, and I donôt think that it will be very welcoming from a cultural perspective, to be able to go and speak. Itôs just readjusting to a totally different system thatôs not yours to begin with.

The above-described research findings are consistent with the critical EA and Aboriginal civic engagem

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

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

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

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

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

3) increasing community membersô trust of, and ability to relate to, the panel;

4) increasing community membersô sense of comfort and welcome at the hearings; and

5) fostering a perception that the panel represented a step towards self-determination.

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

6.5 Relevance

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

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

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

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

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

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

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

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

[42] 1/15 Community Member Respondents (1/6 non-participants) express this view.

[43] 1/15 Community Member Respondents (1/6 non-participants) express this view.

[44] 3/15 Community Member Respondents expressly link diminished relevance with limited ability to influence decision outcomes.

4) gaps in their own or otherôs understanding of the JRP and MGP.[45]

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

> I didnôt understand most of it because of the language they were using. I never bothered going again. If there was a pipeline hearing coming in tomorrow, I wouldnôt bother to go.

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

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

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

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

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

described in Chapter 5.7 werenôt of sufficient magnitude to render the JRP proceedings irrelevant to impacted Aboriginal populations. Alternatively, it may speak to the level of community familiarity with such culturally incompatible fora as a result of previous experiences with government and industry-led consultation processes.

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

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

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

It should be noted that this research did not explore the impacts of such access and benefits agreements on the relevance of the JRP proceedings to Aboriginal organizations. However, the results of this research do leave open the possibility that if the participation of Aboriginal organizations in the JRP was limited by the conclusion of

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

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

Contextual factors	Identified connection	

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

6.7 Chapter Summary

This chapter explores interview data from Community Member Respondents regarding Aboriginal

7: SUMMARY AND RECOMMENDATIONS

7.1 Research Summary

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

deficiencies in respect of cultural compatibility, resource accessibility, point of involvement, and process clarity, and suggests that these may have limited Aboriginal public participation in this EA. The study of contextual factors indicates

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

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP				
	Resource accessibility: adequate time and information resources	*Cultural compatibility:* public trust and culturally compatible consultation forum	*Process clarity:* public actually understands the decision-making process	*Early involvement:* public able to provide feedback regarding the consultation format	*Social relationships:*

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP
	Resource accessibility: adequate

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

Recommendation	Contextual or process factor demonstrated to be inhibiting individual-level Aboriginal participation in JRP				
	Resource accessibility: adequate time and information resources	*Cultural compatibility:* public trust and culturally compatible consultation forum	*Process clarity:* public actually understands the decision-making process	*Early involvement:* public able to provide feedback regarding the consultation format	*Social relationships:* risk of conflict or negative feedback minimized

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

The results of this study indicate that Aboriginal participation in the JRP was

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

In the first instance, this study indicates that time restrictions were a significant impediment to meaningful Aboriginal participation in the JRP processes. Specifically, a third of Community Member Respondents identify the discretionary 15-minute time limit on presentations at the community hearings as a significant barrier to Aboriginal participation in the JRP, and recommend that the time limits be abolished.[50] The critical

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

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

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

5. Employ proactive consultation measures

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

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

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

[52] 4/15 Community Member Respondents.

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

> Itôs good that they give us money, but we have to work through our parent organization. We have a regional, and then it filters probably to their community organization, but weôre missing those people that are grassroots é I think we donôt have that view of what people want. We donôt really have the feeling of what the people at that level want.

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

7. Streamline consultation activities

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

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

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

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

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

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

> What are they doing with our information getting from the community? Theyôre just throwing it away and them, theyôre doing what they want.

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

9. Invite local leadership to chair community hearings

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

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

7.3 Recommendations for Future Research

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

There would be additional value in conducting a similar study of Aboriginal participation in EA processes in the Yukon, Nunavut, Nunavik and Nunatsiavut. Such articipation in EA pr2

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APPENDICES

APPENDIX A: SAMPLE INTERVIEW SCHEDULE FOR EXPERT RESPONDENTS

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

A. Introduction/Background information

Brief introduction of researcher and the study

Review of letter of introduction and questions in respect of the same. Permission to use tape recorder

Respondentôs role in, or connection to, the JRP processes and the community hearings

B. Substantive Questions

How well do you think the registered intervenors understood the MGP and the EA process for this project?

How well do you think that individual members of the impacted communities understood the MGP and the EA process for this project?

What is your opinion of the extent to which the JRP has utilized appropriate decision-making tools and processes for *structuring* their decision-making process in the decisions made to date?

What is your opinion of the weight the government put on the opinions the public voiced about the JRPôs terms of reference and environmental impact statement sufficiency decision?

In your opinion, did the public who took part in the JRP community hearings accurately represent the diversity present in the populations the JRP was seeking input from?

What is your opinion of the degree to which the panel succeeded in obtaining input from and participation of individual Northerners in their community hearings?

What is your assessment of the adequacy of the resources (time, HR, equipment,

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

In your opinion, have the JRP's public participation initiatives achieved at a reasonable cost?

In your opinion, was the public involved at the optimal level of the decision-making

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

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

A. Introduction

Ice-breaker: weather, local events, etc.

Brief introduction of researcher and the study

Review of letter of introduction and questions in respect of the same

Consent form and permission to use tape recorder

B. Substantive Questions

In _____ of 200_, the people in charge of making the final recommendation to the federal government about whether the pipeline should go through or not travelled to (Inuvik, Fort McPherson) to hear what local people had to say about the pipeline. Did you take part in those hearings?

Can you tell me about why you chose to not take speak at that community hearings?

Prompting questions, if necessary:

a. In a tight-knit community such as (Inuvik, Fort McPherson), anything you said to the panel about the pipeline could be known to the rest of the community. Did this impact your decision about taking part in the hearings?

b.

APPENDIX D: SCIENTIFIC RESEARCH LICENCE (AURORA RESEARCH INSTITUTE)