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A Guide to

Involving Aboriginal Peoples in Contaminated Sites Management

Canada

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Introduction

Acknowledgements

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This guidebook is based on training curriculum developed by Carole Mills, Indian and Northern Affairs Canada, NWT and was written by the Centre for Indigenous Environmental Resources (CIER).

Purpose

The purpose of this guide is to introduce managers of contaminated sites to the fundamentals of public involvement, the importance of Aboriginal involvement and best practices for involving Aboriginal peoples in contaminated sites management.

How This Guide Was Developed

This guide is based on the 'Involving Aboriginal Peoples' training delivered by Health Canada's Contaminated Sites Division. Individuals from Aboriginal organizations, Assembly of First Nations, Métis National Council, Carrier Sekani Tribal Council, and Takla First Nation provided feedback on the draft version of this guide and their comments were incorporated into the final document, where possible.

Using The Right Terms

This glossary has been adapted from Health Canada's "Reaching Out: A Guide to Communicating with Aboriginal Seniors"[1]. Some additional terms have also been added. Proper use of these terms ensures respect for Aboriginal peoples and their cultures. If in doubt about which terms to use or how to use them, ask an Aboriginal person directly.

Aboriginal/Native

The term 'Aboriginal' means original inhabitant. The Constitution Act, 1982 states that the Aboriginal peoples of Canada include the Indian, Inuit and Métis. In common practice, the word 'Aboriginal' is capitalized, as are similar terms, such as 'North American', 'French Canadian' or 'European'. Aboriginal is used as an adjective (Aboriginal peoples, an Aboriginal person). The term 'Aboriginals' is not a defined word in dictionaries, and thus should not be used, instead use the term 'Aboriginal people'. For example, Anishnabe or Nishnabe, meaning 'the people', is often used in reference to the Ojibwa. Again, the Aboriginal peoples in question should be your guide to appropriate word choices.

The term 'Aboriginal' is generally preferred to 'Native', although 'Native' is still used in the news media and by some Aboriginal people to refer to themselves. Phrases such as 'our Aboriginal peoples' or 'our seniors' should be avoided, since they suggest 'possession' and may be perceived as condescending.

Aboriginal people and Aboriginal peoples

The distinction between Aboriginal people and Aboriginal peoples is important. 'Aboriginal people' is used in two ways: as a plural term for two or more people of Aboriginal ancestry, and a collective term for all Aboriginal persons in Canada. 'Aboriginal peoples' refers to the many distinct groups of original people, each with its own culture, language and traditions, many of which live in particular geographic areas. 'Aboriginal peoples' is also used as an indicator of their status as nations.

Aboriginal senior

Older Aboriginal people are referred to as seniors. The term 'Elder' is usually reserved as a title of honour (see below). Given the shorter life expectancy of Aboriginal people, some government and other agencies consider Aboriginal people as seniors as early as age 55.

Aborigine(s)

This term has been used incorrectly to refer to Aboriginal people in Canada, but in fact it refers to someone of Aboriginal ancestry in Australia. It is incorrect to use this term to refer to Aboriginal people in North America.

Elder

'Elder' is a title given to Aboriginal individuals in recognition of their knowledge, wisdom, experience and/or expertise. Elders provide guidance and often enhance the quality of community life through counselling and other activities. Elders often have special skills or abilities, including knowledge of ceremonies and traditional ways and the ability to tell the stories and history of their people.

Elders are generally, but not always, the older members of the community. Thus, the terms 'Elder' and 'senior' do not always mean the same thing. To determine community practice, ask the older people how they prefer to be called. 'Elder' is capitalized when used to indicate honour or a title. It is not generally capitalized when it is used to mean senior.

First Nations

This term began to be used in the 1970's by those previously called 'Indian', in recognition of their role as the first inhabitants of this land, a term that had fallen into disfavour with Aboriginal people. The term is not synonymous with 'Aboriginal peoples', as it does not include Inuit and Métis.

Indian

The term 'Indian' is generally inappropriate, except where required for clarity in discussing legal or constitutional issues. (For example, entitlements to federal programs or benefits are limited to 'status' or 'registered' Indians, as defined in the Indian Act. Not all First Nations people are 'status Indians'.)

Indigenous / Indigenous Peoples

This term is used mainly in an international context, as in the United Nations International Year of the World's Indigenous Peoples, a UN working group on the rights of Indigenous peoples, and the World Congress of Indigenous Peoples. It refers to all original inhabitants of territories, and recognizes their status as nation groups.

Inuit

'Inuit' is the term for the mainly northern people known formerly as 'Eskimos'. In Inuktitut, the language of 'the Inuit', Inuit means 'the people', so it is not necessary to use either of these words with the term — Inuit, not the Inuit or 'Inuit people'. The singular form is 'Inuk' (for example, an Inuk woman).

Métis

Métis are Aboriginal people, descendants of the First Nations and French Canadian settlers that originated (and has since spread) in the Red River Valley, in Manitoba. It is appropriate to include the acute accent (é) when writing Métis in English, but many Métis organizations do not use the accent, so you should check their preferred spelling when addressing material to them.

Geography and Citizenship

Aboriginal peoples tend to prefer phrases such as 'Aboriginal peoples in Canada' rather than 'Aboriginal Canadians' or 'Canada's Aboriginal people', 'First Peoples in Ontario' rather than 'Aboriginal Ontarians'.

Rightsholder

Aboriginal people are often referred to as rightsholders. Rightsholders are stakeholders that also have rights associated with an area affected by a project, policy or plan. Aboriginal rights are affirmed by s. 35(1) of the *Constitution Act* and include inherent, Aboriginal, Treaty, land title and land use rights. It is important to know whether an Aboriginal group prefers to use the term rightsholder instead of stakeholder.

"Big C" Consultation vs the consultation described in this document

Projects regularly include some form of discussion with interested citizens and groups. Involving people in the process through consultations can include a range of different activities and degrees of decision-making and control (e.g. from information sharing to shared decision-making). Health Canada's definition and continuum of public involvement is explained below. For the purposes of clarity, this guidance document discusses the regular consultation between a government and its citizens only, not what is often referred to as "Big C" Consultation. This guidance document refers to stakeholder consultation and public consultation processes.

"Big C" or legal Consultation is the constitutional duty of the Crown, stemming from s.35(1) of the *Constitution Act*. Consultation requires a meaningful and fair process to have discussions and a substantive discussion that addresses, or accommodates, First Nation concerns.[2] Consultation is required with Aboriginal peoples whose existing or potential rights may be impacted by a decision the provincial and/or federal governments are wishing to make. It is referring to inherent, Aboriginal, treaty and land title rights, and traditional use activities, how they may be impacted, and how they may be accommodated by whatever decision is being proposed by the Crown.

This form of consultation is distinct from stakeholder consultation and public consultation processes, which have an entirely different legal basis (usually statutory, rather than constitutional).

Sustainability Framework

At first glance, contamination of soil or water is an environmental and a human health impact. As we think through the secondary or less direct impacts that result from contamination the effects on community sustainability become clear and make the remediation of these sites an even higher priority.

The four pillars of sustainability are: environment, economy, society, and culture. Community sustainability requires each of these areas to be healthy, strong and exist in harmony and balance. Sustainability is complex and each area affects and is effected by the other. The issue of contaminated sites is a good example of this interconnection.

For example…
A few years ago, a spill from a fuel tank contaminated the soil in an area where several families pick blueberries. Not everyone in the community knew about the spill right away and some people did pick and eat some berries. Now that people know about the contamination at this site they have not gone there for the past 2 years and the community is worried about the people who ate the berries, and about future picking possibilities. Other concerns that people have are social, cultural, and economic:

Social

Extended families used to go berry picking together and this was an important time that strengthened family ties. Now that this is not happening people are not spending this time together.

Cultural

During these times on the land, children would learn traditional practices and important terms and place names in their local language from their Elders. This experiential learning facilitated language and cultural teachings. Without the berry-picking outings it is more difficult to share this Indigenous Knowledge.

Economic

The berries that were picked were eaten, frozen, and used for jam and other baking. Whereas before these foods were provided for free, families now have to purchase these, or substitute items.

You can use this framework for thinking about these impacts before talking with people in the affected community. Take the environmental and/or health impact through the circle and identify other independent and/or associated impacts related to other areas of sustainability. This can help you prepare for your community work and to better understand the holistic impacts and Aboriginal ways of thinking and knowing.

You can also use this as a tool to engage the leadership, Elders or others you are working with in the community in a conversation about the effects of the contaminated site on the local environmental, economic, social and cultural sustainability of their community.

Understanding Public Involvement

What Is Public Involvement?

Although there are many different ways to define public involvement, they all relate to a process that involves people in decisions that affect and interest them and their community. A crucial part of public involvement is participation in the decision-making process by the individuals, community-based organizations, and institutions that will be affected.

Health Canada defines public involvement as 'the level of participation by the public or the extent to which the public is actively involved in understanding, assessing or resolving issues of public concern'. A wide range of activities can be used to engage Canadians in government decision-making processes. It is a progression that starts with outreach to build awareness and interest. It evolves to information exchange, through to discussions and recommendations to partnership and decision-making.

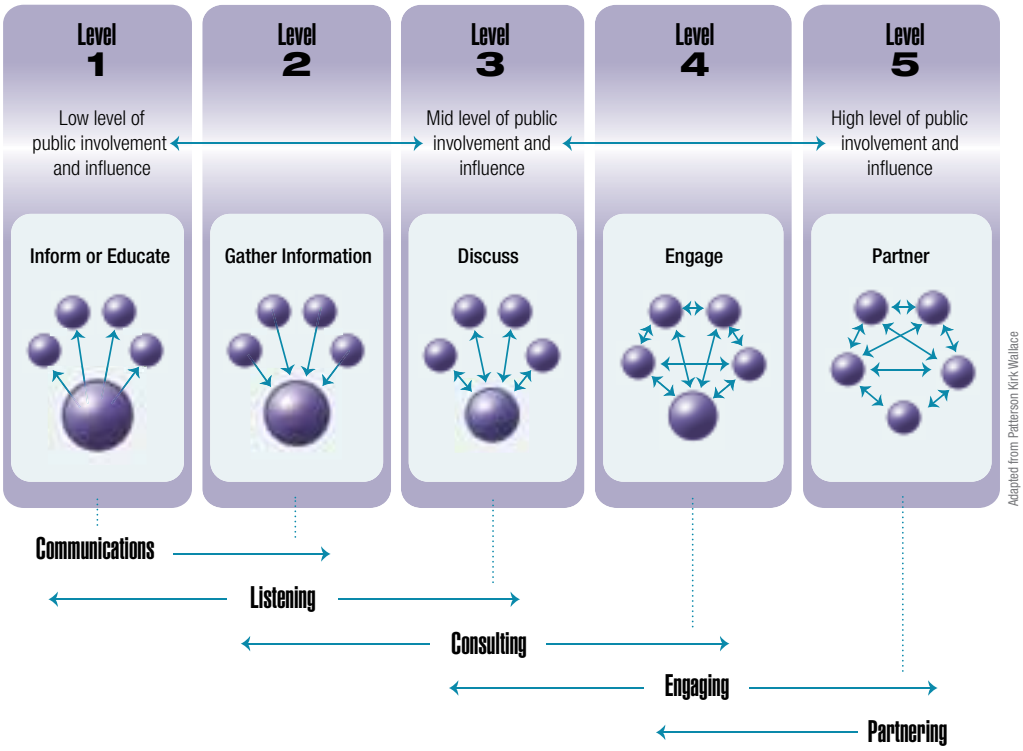


Figure 1 – Health Canada Public Involvement Continuum

The public involvement planning cycle has four (4) distinct phases:

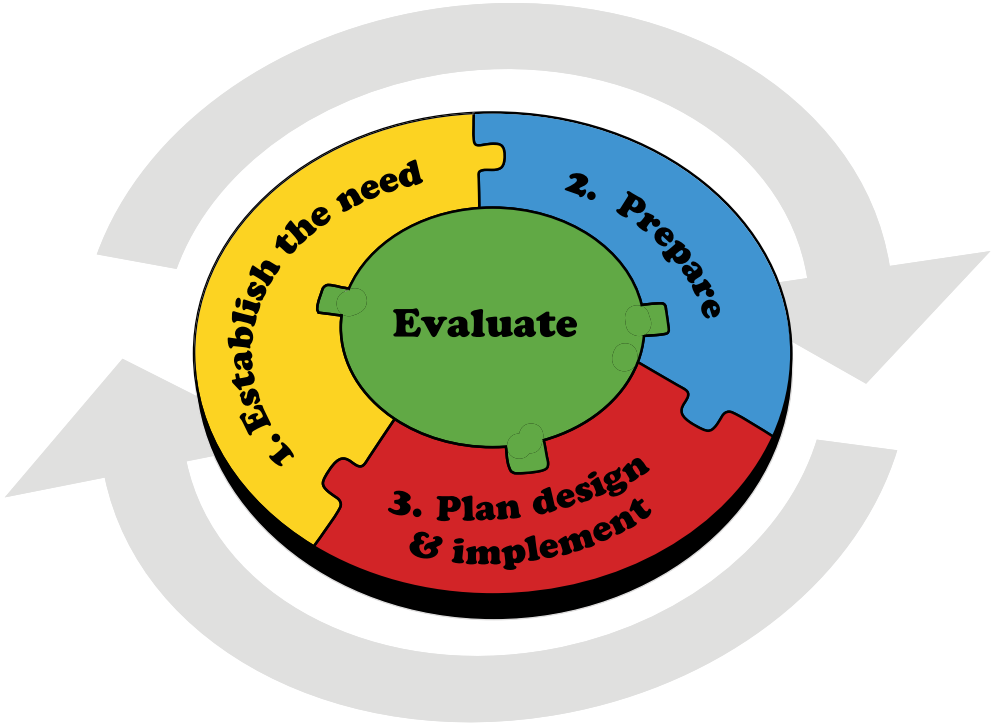


Figure 2 – Public Involvement Planning Cycle

Public involvement is more than communication! Communication is often a one-way process in which one party is relaying information to another party (e.g. information out). Public Involvement is about participation in a decision-making process, based on openness and transparency.

Stakeholder

Stakeholders are all of those who may be interested in or affected by a federal contaminated site. Stakeholders may include individuals, families, households, groups (including government departments or branches) and organizations of all kinds (including businesses, environmental organizations, non-profit groups, industry representatives, community associations, and more). It is not only those who live at or near a site who have a stake in it, but those who work near it, eat food collected from it, vacation around it, or are in any other way affected by possible exposure. Stakeholders may be from a wide range of age groups, socioeconomic and educational backgrounds, and cultural, religious and linguistic communities.

Openness

Openness means inviting, hearing, considering and sharing of information in the conduct of the custodial department's business. This is accomplished by: equal opportunity for participation, relationship building, timeliness, planning, recognizing support and capacity, clarity, shared responsibility, accountability, and innovation.

Transparency

Transparency is facilitating public access to and understanding of information and processes used by a custodial department to conduct its business. This is accomplished by: equal opportunity to access information, relevance, clarity, accountability, and timeliness.

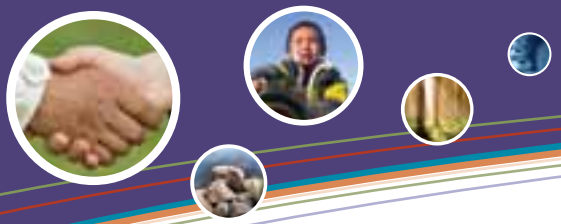
There are many ways you can engage the public in site management planning and many factors will affect how and when Aboriginal people are involved. The Health Canada public involvement continuum has identified 5 levels of participation. Your public involvement plan may include activities from a variety of levels.

This document takes you through the four phases of Public Involvement planning while discussing your engagement of Aboriginal people and communities. Please refer to Health Canada's templates and training documents for a complete, detailed description of Public Involvement planning.

Contaminated Site Impacts in Aboriginal Communities

EXAMPLE: WABIGOON RIVER, ONTARIO

Ojibwa communities near the Wabigoon River in Northern Ontario, who had depended on fish for both subsistence and income, suffered profound cultural effects when contamination of the lake's ecosystem by methyl mercury resulted in a ban on eating its fish. Similarly, contaminated sites can severely disrupt rural communities where use of the water (for swimming and fishing) or of the land (for hunting, trapping, berry and mushroom picking, camping, etc.) is an important part of the culture and economy. - Health Canada



PUBLIC INVOLVEMENT PHASE 1: ESTABLISH THE NEED

Aboriginal Involvement Drivers

Much attention has been given to the increasing need to involve Canadians, in particular Aboriginal peoples, in government decision-making related to issues directly affecting their lives and communities[3]. There are a number of factors driving this increased demand for public involvement, one being the recognition that involving Aboriginal peoples contributes to better decision-making and project outcomes.

Benefits

There are a number of benefits to involving Aboriginal peoples in contaminated site management. One benefit is that it often results in better relationships between the federal government and local communities. Aboriginal communities have sometimes had negative experiences with the federal government. By working with Aboriginal peoples in a meaningful way, this can improve the credibility of the federal government to these communities and make for better working relationships in the future. Additionally, these efforts are now required for federal departments to meet regulatory requirements.

Involving Aboriginal peoples serves first and foremost to improve relationships, and:

- Increase trust and understanding;
- Establish credibility;
- Reduce conflict/ provide a forum to manage conflict;
- Provide a strong foundation for addressing any unforeseen, future problems; and,
- Meet legal obligations.

An additional benefit is that involving Aboriginal peoples often produces better projects. By working with local people you are connecting with a knowledge system that people have inherited from their ancestors and developed over many years living in the region. Aboriginal people can provide insights and information about the area that you would not be able to obtain anywhere else. Working with Aboriginal people produces better projects in that it:

- May lead to less costly options;
- Provides better understanding of the site and challenge(s);
- Allows for the inclusion of Traditional Knowledge;
- Improves decision-making;
- Provides long-term understanding / support of project in community; and,
- Creates real and lasting change.

Another benefit of involving Aboriginal peoples is that it can provide benefits to community members. If you are training local people or using local labour and skills you will be building community capacity as well as stimulating the local economy. Working with people also serves to reduce fear and anxiety in the community, which may arise when the issue of a contaminated site is a concern in the community.

Proper consultation includes providing sufficient information to the community in a timely manner so that they may have an opportunity to consider the information and develop a position. Also, the community must have the opportunity to express its interests and concerns with serious consideration being given to these concerns.

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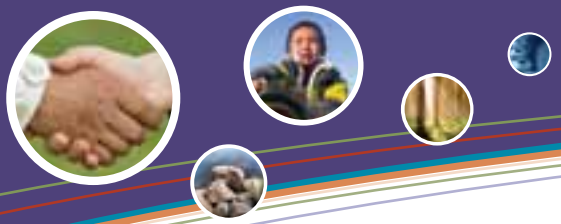


PUBLIC INVOLVEMENT PHASE 2: PREPARE

Prepare: Get to Know Your Stakeholders

Stakeholder Analysis

Cross-cultural awareness is a key component of knowing your audience, engaging with them and communicating with them. Who are you trying to involve and why? What are they like? It is important to get to know your general audience in order to increase your understanding of Aboriginal demographics, culture, community, economy, and environment. You will need to know and respect the culture of your audience in order to develop engagement efforts that are culturally and linguistically appropriate. Ask people how they want to be involved and what works well in their community. It is important to be open and transparent while developing these engagement activities so that people understand your approach and rationale.

General Background On Aboriginal Peoples in Canada

There are three groups of Aboriginal peoples that are recognized in Canada: First Nations (historically referred to as Indians), Métis, and Inuit. The *Indian Act* defines an Indian as "a person who, pursuant to this *Act*, is registered as an Indian or is entitled to be registered as an Indian." The *Act* sets out the requirements for determining who is a Status Indian. Métis is defined by the federal government as people of mixed First Nation and European ancestry who identify themselves as Métis people, as distinct from First Nations people, Inuit or non-Aboriginal people. Inuit means "people" in Inuktitut, their language. Most Inuit live in Nunavut, the North West Territory, northern Quebec and Labrador. Each of the three groups, and members within each group, have unique heritages, languages, cultural practices and spiritual beliefs.

In 2006, over 1.1 million people in Canada self-identified as being an Aboriginal person; this represents 3.8 % of the total Canadian population. The self-identified First Nation population totalled 698, 025, of which 40% (279,210) lived on a reserve; the total Métis population was 389,785; and the total Inuit population was 50,485. The Aboriginal population is becoming increasingly urban and in 2006, 54% of these Aboriginal people lived in an urban centre, an increase from 50% in 1996.[5]

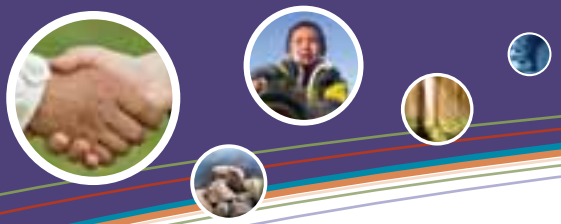
There may be other pressing issues facing communities that may be higher priorities than the project you are there to discuss. For example, overall, Aboriginal people are almost four times as likely as non-Aboriginal people to live in a crowded dwelling. They are three times as likely to live in a dwelling in need of major repairs. In 2008, at least 85 First Nation water systems were in high risk and there were 106 boil water advisories in various communities. These pressing issues may compete with the leadership's time and attention.

The Aboriginal population in Canada is relatively young. In 2006, approximately 50% of the Aboriginal population was under the age of 25 as compared to only 31% of the non-Aboriginal population. Children under 15 accounted for 30% of all Aboriginal people in 2006, compared with 17% of the non-Aboriginal population.

There are 11 language groups in Canada and 58 languages and dialects. Most Aboriginal languages are spoken more than they are written. Of the Aboriginal identity population, 18.7% identify an Aboriginal language as their mother tongue.[5]

Aboriginal peoples rank lower than the general Canadian population on various formal education attainment indicators. In 2006, the high school completion rate for Aboriginal peoples was 52% as compared to 69% for the total Canadian population. The unemployment rate was 14.8% in 2006 for the Aboriginal population, as compared to 6.6% for the total Canadian population. The average individual income among Aboriginal people was $23,935, as compared to $35,501 for the Canadian population.[5] Informal education (passing on traditional teachings and knowledge by knowledgeable members) and informal economies (e.g. traditional activities such as hunting, fishing, gathering) occur to different degrees in Aboriginal communities but remain an important component of society and the economy.

There are a number of mobility factors and health related challenges in Aboriginal communities. One beneficial factor related to mobility is that many members tend to stay in their community for a long-time, which represents a wealth of site knowledge and history within residents. One challenge related to mobility is that nearly half of all Aboriginal seniors rarely leave their homes for more than an hour a day, which may make it challenging to share information with this group. Also, there is a lower percentage of driver's licence holders in Aboriginal communities, which can influence their ability to attend events/meetings. Health related challenges include high rates of chronic and contagious diseases and shorter life expectancy.



Aboriginal Social/Cultural Practices

Culture is not simply a matter of customs or traditions - it is also a way of looking at life, a set of shared beliefs and values, a vehicle for understanding the world and one's place in it. Within the cultural diversity of Aboriginal peoples, there are a vast number of different cultural practices and protocols.

Many traditional economies, such as fishing, hunting, trapping, gathering, and guiding still thrive in Aboriginal communities. Many Aboriginal beliefs are rooted in deep respect for the land and the environment. Family/community are very important in Aboriginal cultures, which affects information sharing and decision-making.

Traditional or Indigenous Knowledge is at the centre of Aboriginal cultures. "Traditional Knowledge is more than a simple compilation of facts drawn from local, and often remote environments. It is a complex and sophisticated system of knowledge drawing on centuries of wisdom and experience. It also constantly grows and changes with new information."[7] Traditional Knowledge tends to be shared in a somewhat indirect way, as compared to western science. For example, if you ask an Elder a question, he/she may share a story with you that provides information you need to get to an answer, but not always the direct answer or decision.

Other Social – Cultural Issues To Consider:

Different groups within Aboriginal communities (e.g. women, Elders, youth) play different roles within the community. Additionally, different communication methods may be required to engage these groups.

With many Aboriginal peoples, community benefits are more important than individual benefits (e.g. reserve land is for community benefit; no individual property owners).

The issue of time is different in Aboriginal communities; Aboriginal peoples are not always 'driven by the clock'. It is more important to have everyone's voices heard than to meet timelines.

Also, listening is an important quality and Aboriginal peoples can be more inclined to listen without immediate comment, since they consider the information and their views before responding.

Community discussions are often open forums for all issues, not just the topic intended, so be prepared to deal with seemingly unrelated, side-issues.

A public involvement process should not be "cookie-cutter". Tailor each program to suit the community in which you are working.[6]

Table 1: Sample Overview of the Community Groups/Audiences

Audience	Elders	Leadership	Youth	Resource Users	Adults
Characteristics	Like to stay at home Few speak and understand English Rely on family and friends for information	Like to be aware of issues first First line of approval Can be busy therefore hard to contact (try Band Manager/top administrator)	Large percentage of the population Relate to current media Live with extended family	Knowledgeable about the land/water/animals/plants Continue to spend time on the land	Understand traditional and western world
Key Messages	Holistic, simple and jargon-free understanding of contaminated site process, impacts in community	A simple understanding of contaminated site process so can pass info to members Want them to know what the impacts to the community are	Want them to know that their input and help is important A simple understanding of contaminated site management process so can talk amongst their friends Want them to know how they will be impacted	What are the impacts on resources and their use	Need a simple understanding of contaminated site process so can pass info to members and family What are the impacts to the community
Possible Issues	Respected as decision-makers People will listen to them	Concerned with the best interests of community Ultimate decision-makers Can halt any process if unaware of it Follow any existing community protocols	Concerned with how their friends view them Are the future of their community; make an effort to include them Need to feel connected to the process	Traditional activities very important The eyes, ears and voice of the land and its resources Viewed as land experts in the community	Some communities have defined roles for men and women

Understanding Each Aboriginal Community

Community Background

Developing community profiles or background information is important, as no two communities are alike. Adapt your involvement approach to community practices.

A general background on each Aboriginal community is important. Do your homework beforehand by beginning to understand:

- Economic conditions;
- Political structures;
- Norms and values;
- Demographic trends;
- History;
- Experience with engagement efforts; and,
- Perceptions of those initiating the engagement.

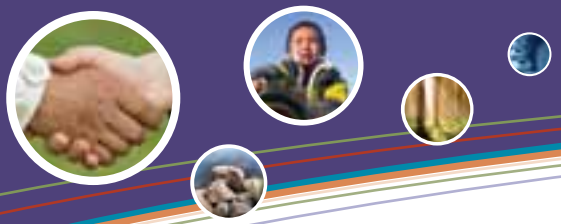
Groups Within A Community

It is also important to note the different audiences within a community as they may require different communication methods, etc.:

- Elders;
- Leadership;
- Youth;
- Resource users (hunters, trappers, fishers); and,
- Adults (men and women).

For each of the different stakeholder groups, it is important to determine:

- Their characteristics – current behaviour/motivations, level of awareness, level of knowledge;
- Key messages – What do you as a site manager want them to know? What perception do you want to create? What action do you want as a result?
- Possible issues – What are the main concerns of the audience? How do they influence others (family ties and allegiance are strong in Aboriginal communities)?
- The best approach for delivering the message to each stakeholder group.



Leadership

The leadership in an Aboriginal community can range from a hereditary or elected Chief and Council in First Nation communities, to President/Chair and Local/Council in Métis communities, to a Mayor and Council in Inuit communities. The leadership governs community affairs and assures good government by:

- Assuring clear and responsible direction;
- Providing the best possible programs and services to meet the priority needs of the people;
- Assuring that the government is fair, honest and effective;
- Ensuring that there are adequate resources and that these are properly and responsibly managed;
- Promoting unity within the community and government; and,
- Representing the best interests of their nation in all internal and external dealings.

A First Nation community may be governed by an elected Chief and Council, hereditary Chief and Council (e.g. Buffalo Point First Nation has purely hereditary rule), or both. The elected Chief and Council are chosen by the membership of the band according to the regulations of the *Indian Act*. In communities with a hereditary system, each house or clan has a hereditary chief who is responsible for the overall care of his people. Amongst the hereditary chiefs one of them is the Head Hereditary Chief and together they guide the community. Hereditary Chiefs can either inherit rank and title maternally or paternally depending on their traditions (e.g. rank and title is inherited from the mother for some First Nations in BC). Within the hereditary system there are no elections held. Where both systems occur, the Hereditary Chiefs usually inform or advise the work of the elected Chief and Council.

Tips when working with leadership

- It is best to contact and begin work with the Chief/Mayor/President/Chair or designated Councillor at the onset of any project, to inform him/her of the project and obtain approval.
- Chiefs/Mayors/President/Chairs are often very busy and can be difficult to reach. Try to access someone who has a top administrative position, such as the Band Manager in First Nation communities, to arrange to meet with and get information to this person if you cannot meet directly from the outset.

- Try to contact the Councillor/Administrator who has an environment portfolio or is responsible for contaminants/environmental issues. If there isn't an environmental portfolio, contact the person with the health portfolio.
- Respect any existing engagement protocols that have been developed by the community.

Although Indigenous Knowledge is different from western science there are some similarities. Both sources of knowledge:

- Are verifiable, repeatable, peer – reviewed (within the local community versus the scientific community);
- Have experts that require years of specialized education, with their own specialized language, and require context for the knowledge (an Elder versus a professor);
- Evolve over time; contradictions exist;
- Require resources in the form of money, time, and people;
- Have access issues in terms of intellectual property rights;
- Include past, present and future;
- Include micro and macro information;
- Are used for survival ; and,
- Can be holistic; the holistic nature of Indigenous Knowledge can be compared to cumulative effects, inter-disciplinary research in western science.

Elders

Elders serve an important role in Aboriginal communities and often play a pivotal role in the decision-making process for the community. In most cases, it is the communities themselves that determine who is an Elder. In many communities, someone is not automatically an Elder by virtue of age!

When working with Elders, take into consideration language, education and mobility issues. Some Elders only speak their Aboriginal language and will require a translator for communication. Elders may rarely leave their homes and rely on their networks of family and friends for information and assistance. Additionally, some Elders may have very little formal education and may not be comfortable with reading or writing in English.[1]

Some best practises to follow when working with Elders are to[1]:

- Be proactive, take the initiative and reach out to Elders and do not wait for them to approach you.
- Form lasting partnerships with community contacts that can help you understand the needs of Elders.
- Rely heavily on personal contact and word of mouth to communicate with Elders, as this is likely the method they most prefer.
- Try to understand Elders needs from an inclusive holistic perspective, for example do not disregard things because you feel they are not relevant to your project.

EXAMPLE: HESQUIAHT FIRST NATION, BRITISH COLUMBIA
The Hesquiaht First Nation is governed by both the hereditary Chiefs and elected Chief and Council. Four current hereditary Chiefs guide the community and they sit hierarchically with one being the Head Hereditary Chief. Collectively, the four hereditary Chiefs inform the work of the elected Chief and Council. The elected Chief and Council are responsible for management of band affairs and for reporting back to Hereditary Chiefs and membership.

Challenges

There are a variety of challenges that may be associated with involving Aboriginal peoples in contaminated site management including:

- Mistrust;
- Socio-cultural differences;
- Political environment;
- Understanding of the contaminated site process;
- Capacity / ability to participate;
- Identifying the appropriate person(s)/groups; and
- Effective communication.

It can be useful to anticipate these and other expected challenges, and consider the possible solutions described in the tables on the next page.

EXAMPLE: SQUAMISH NATION, BRITISH COLUMBIA
A dispute arose when Hereditary Chief Kiapilano of the Squamish Nation and his supporters occupied the offices of the state-funded "Squamish Band Council" in North Vancouver, and ordered the eviction of the entire band council. Chief Kiapilano and his supporters were protesting the signing of a deal by the Band Council Chief with the province "…allowing mining and destruction of more of our land. We're here today to tell these fake leaders to leave, and we're staying here until they're gone." **(Siem Kiapilano of the Squamish Nation)**

On the other side, "…The Squamish Nation has, according to the legislation, adopted a Membership Code and an elected Council to represent these people in their affairs." **(Keith Nyce, Councilor of Kitamaat Village Council).**

EXAMPLE: CARRIER SEKANI TRIBAL COUNCIL, BRITISH COLUMBIA
For a proposed pipeline development, a community liaison was hired to work with the Carrier Sekani Tribal Council (CSTC), community members and the company. The liaison went door to door to speak with community members about the proposed development and also worked with the company. "I was fortunate CSTC hired me to go out into the communities and bring these companies to the community and I had to give them a boot camp on the protocols on how to deal with Aboriginal People" – **Geraldine Fleurer (liaison)**

Table 2: Challenges and Solutions

Expected Challenges	Description	Possible Solutions
Mistrust of the federal government	Site managers may face the issue of mistrust of the federal government due to:· Historical practices; The government's past relationship with Aboriginal peoples; and, Negative experiences with impacted sites and government, including existing contamination that from the community's perspective, the government is taking too long to address (which may influence how community members respond to representatives from the federal government).	Make all information available for review, including background sources and raw data. Provide funding to the community to review the materials with their own technical experts. Keep records and keep promises; document all interactions, especially commitments that you make. Take time to listen to communities and their past grievances with the federal government beforehand. Explain and reinforce to the community why their participation is worthwhile. Maintain continuity so that the same people contact and visit the community. Inform Aboriginal communities of any decisions that are made.
Socio-cultural differences	Site managers may face the issue of socio-cultural differences between Aboriginal and non-Aboriginal people. Examples include:· The perceived value of science versus Traditional Knowledge (TK) by western-based Canadian society. TK is core to many Aboriginal peoples and is tied closely to their culture. There is a sense among many Aboriginal peoples that TK does not get the respect and value it deserves from western-based science community; and, Aboriginal peoples strong connection to land and the environment is a central part of their culture, more so than for non-Aboriginal peoples. For example, for projects that fall under the *Canadian Environmental Assessment Act* (CEAA), many Aboriginal peoples believe the federal EA process pays greater attention to the examination of impacts on the non-human components of the environment than on the people who live within and rely upon the very same environment.	Involve people in human and ecological risk assessment. Host a joint fact-finding session where all participants examine data sources together. Acknowledge uncertainties – science cannot answer or know everything – and consider Traditional Knowledge and the learning opportunities it provides. Demonstrate the integration of Aboriginal views in the final decision, if applicable – if not, be prepared to answer 'why not' to the community.

Expected Challenges	Description	Possible Solutions
Political environment	It may be challenging for site managers to navigate, work and communicate within the political environment present in many Aboriginal communities, because: In First Nations and Inuit communities they are in fact another level of government; Treaties are a government-to-government agreement; and, There may be settled and unsettled land claims. Examples include: Fear of causing a heated political situation that ends up in the media, especially related to legal issues (e.g. Treaties, land claims); Potential conflict between the current Aboriginal government system (e.g. First Nation Chief and Council) and traditional governance system (e.g. Hereditary Chief); Public involvement related to a contaminated site may lead to a discussion of other community issues where the federal government is involved (e.g. housing, infrastructure, education funding) that may not be, in your view, directly related to the contaminated site; and, Significant and frequent changes in Aboriginal political leadership (where this is the case) can create political instability and uncertainty for long-term planning and effective engagement in communities.	Hire and work with a community liaison to assist with your project and communications with the community. Be prepared to answer, or at least listen to, non-related questions. Provide the objective(s) of a presentation or meeting – put it in context with other community issues and priorities. Provide opportunities for the community to retain a peer reviewer to conduct independent assessment of information.

Expected Challenges	Description	Possible Solutions
Capacity / Ability to participate	Site managers may face various factors that hinder the capacity or ability of Aboriginal peoples to participate in public involvement activities related to contaminated sites. Factors include: Lack of understanding of the contaminated site process and/ or the science involved with contaminated sites; Remoteness of location that makes it hard to bring people together in one spot; Timing in community due to events like hunting season, funerals, other cultural events; Language barriers; and, Lack of financial resources to participate and/or to acquire resources to promote greater understanding.	Get community liaison(s) to help distribute information to the community. Use interpreters from the community who know the contaminated site process and how to explain it. Provide workshops/training to interpreters or community liaison(s) so they can learn the process and pass on information. Involve key messengers in planning public events (times, places, topics, or other community priorities). Ask Chief/ Mayor/President/Chair or community liaison about dates that have no/fewer conflicting events. Use visual aids (e.g. pictures and graphics); Aboriginal communities often prefer to receive information visually and orally rather than through text. Advertise opportunities for involvement early and widely (post ads in newspapers, increase circulation of meeting notices/ posters among residents).
Identifying the appropriate person(s)/ groups	It can be challenging for site managers to determine: Which leaders and groups should be consulted? Just Chief/Mayor/President/Chair and Council? Start with elected Chief/Mayor/President/Chair? What about Elders, Tribal Councils, regional Aboriginal governments/groups, Metis governing member organizations, residents? When they should be consulted? What is the appropriate level of involvement?	Ask the community liaison to identify the appropriate person(s)/group(s). Research other previous studies and activities that were done in the area with respect to lessons learned. Talk to people who have worked with that community. Ask the community what type of consultation methods or mechanisms they would like to use to engage and involve the community. Get to know the community early in the process – its history, geography, culture, citizens, values and concerns. Find out and talk with other parties that may have background information on the community, such as Tribal Councils, Aboriginal organizations, provincial governments.

Expected Challenges	Description	Possible Solutions
Communication	Communication can be a challenge in Aboriginal communities because: Current consultation approaches are increasing their reliance on electronic methods of communication; this may be difficult in many Aboriginal communities due to remoteness, lack of access to technology and other factors; Understanding complex technical information about contaminated sites may be challenging for a layperson; There are different communication styles between Aboriginal and non-Aboriginal peoples. For example, silence in a non-Aboriginal community may mean different things than it does in Aboriginal communities; The first language of many Aboriginal peoples is NOT English or French; and, Translating technical terms may be difficult in some Aboriginal languages and dialects.	Ask the community what types of communication methods they would like to use to engage and involve the community. Use communication methods that have worked in the past or ones that have been suggested by community contact(s). Use visual aids (e.g. pictures and graphics); Aboriginal communities often prefer to receive information visually and orally rather than through text.· Work with local experts and leaders in meetings or discussions with community members to help increase community ownership and trust. Be comfortable and patient with silence; give people time to process and respond.

Involvement In Contaminated Site Management

Involving Aboriginal Peoples

There are many opportunities to involve Aboriginal peoples within the various steps or phases of contaminated site management.

Contaminated site managers should make addressing community concerns, especially those that affect well-being and sustainability, an integral part of the overall management plan for a contaminated site. These concerns are best addressed, as are the other elements of site identification, assessment and remediation, through a community capacity approach – i.e., an approach that builds on a community's competence, using its own strengths and resources as the first step to healing and resolving problems. Empowering residents to have real involvement in, and even control of, all stages of the site management process can, in and of itself, help combat the feelings of helplessness and loss of control that people may feel from living near a contaminated site. Such an approach can help to increase community members' sense of safety, confidence, competence and trust. Informed, empowered residents are also better able to understand risk factors and therefore suffer less anxiety from subjective risk perception.

There are a number of economic opportunities for Aboriginal peoples through their involvement in the contaminated site management process:

- Many Aboriginal-owned and operated companies exist that can carry out necessary work;
- Joint ventures maximize input at the beginning;
- The Procurement Strategy for Aboriginal Peoples (PSAB) promotes the use of Aboriginal companies; and,
- Land claims have socio-economic and procurement provisions.

Involving Aboriginal peoples throughout the entire site management process provides continuity for the project and for the residents. Local community members have existing background knowledge about the site and the associated uses, objectives and challenges.

EXAMPLE: Matawa First Nations, Ontario

October, 2008 – Matawa First Nations signed an agreement with the Ontario Government to develop a protocol for mineral exploration and development in Matawa First Nations alongside the Chiefs of each of the Matawa communities. These protocols will mean that the rights of the First Nations peoples and their traditional lands and waters are protected. This represents the beginning of a meaningful relationship between the government and an Aboriginal community, which will hopefully avoid contamination issues in the first place.

EXAMPLE: LOCAL ENGAGEMENT

In a First Nation in Northwestern Ontario where soil contamination was an issue, the First Nation Band-owned construction company was hired to carry out the soil remediation process. The company employed local people (labourers, operators) to do the work, used local equipment, and included the community in the process for selection of the location of soil farm (i.e. soil treatment area).

EXAMPLE: ELDER KNOWLEDGE

In one project, engineers were looking for an old dump site using 'as-built' diagrams. The Elders told the engineers that the dump site was located under the airport and not where their diagrams indicated. They did not believe the Elders and spent the summer taking samples to find the dump, only to find that the dump was, in fact, located under the airport.

Seasonal Variation

Health Canada's recommendation in one area was to limit daily duck meat consumption to roughly the size of a deck of cards. However, ducks are only in the area for 3 weeks a year, which meant that consumption by local people over the year would be low. As a result a decision was made to say that duck meat was safe to eat.

EXAMPLE: ELDER KNOWLEDGE

In one project, scientists were doing a trout study. They were advised to take Elders and youth with them when they went to look for the trout. They did not take any local people with them, did not find any trout, and requested extra funds to locate the areas with trout. An Elder accompanied the scientists out to the area and was able to easily and quickly show them where the trout were located.

EXAMPLE: COMMUNITY LAND USE

In one contaminated site, engineers wanted to grass over a mine tailings pile. The community did not want to grass over the pile because the caribou would be attracted to grass and people were worried that if the caribou ate the grass they would have more contaminants in their bodies, which would be passed onto residents eating the caribou. This land use and animal behaviour information is crucial to developing a successful management plan.

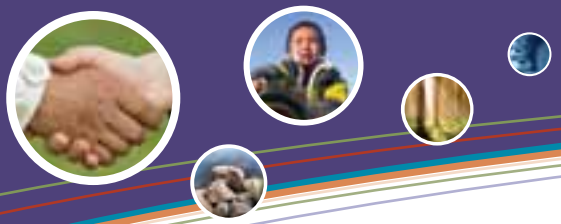


Table 3: Opportunities for Public Involvement in the Contaminated Sites Management Process

Site Management Activity	Examples of Opportunities for Public Involvement
SITE IDENTIFICATION	
1. Identification of suspect sites	Aboriginal peoples' input on: Areas of concern Prioritization of sites in an inventory
SITE AND RISK ASSESSMENT	
2. Historical Review (literature review, site visit, interviews)	Aboriginal peoples can also assist with: • Site characteristics; • Buried landfills; • Sampling; • Historical review; • Local records; • Oral histories; • Photos; • Maps; • Establishing a baseline on historical conditions; • Oral history; • Traditional knowledge; • Present conditions; and • Changing conditions (climate, permafrost). For Ecological Risk Assessment Aboriginal peoples can assist with: Problem formulation; • Selecting valued ecosystem components; • Chemicals of concern and pathways; • Identifying where and when to collect samples; • Collecting samples; and, • Animal health (observations, determinants). For Human Health Risk Assessment Aboriginal peoples can assist with: • Problem formulation; • Exposure assessment; • Historical and current risk scenarios; • Dietary consumption / seasonal variation; • Types and parts of animals used by community members; • Living/working conditions and land use; • Risk characterization; • Provide historical and current epidemiology of the community; and, • Help identify what is "safe" or "acceptable".
3. Initial Testing Program (sampling, analyses, conceptual exposure model, preliminary human health RA)	
4. Site Classification (Classes 1 to 3, N, I)	
5. Detailed Testing Program (Contamination delineation, update of conceptual exposure model, finalization of remediation guidelines or risk assessment) Detailed Human Health Risk Assessment	
6. Site reclassification	

Site Management Activity	Examples of Opportunities for Public Involvement
SITE REMEDIATION / RISK MANAGEMENT	
7. Development of Remediation/ Risk Management Strategy	Aboriginal peoples can also assist with: Development and implementation of remediation/risk management strategies throughout all aspects of the strategy. Aboriginal peoples can help identify: Components of concern; Land use objectives; Issues/criteria for evaluating options; Options for meeting objectives; and, Preferred and acceptable options. Other opportunities to involve Aboriginal peoples in the risk management/ site remediation-process include roles related to: Heavy equipment operators; Cooks and support; Project management; Administration; Health and safety; and, Communications and facilitation. Aboriginal peoples can: Act as informal monitors and communicators; Provide long-term knowledge of the site; Be involved in short-term and longterm monitoring processes; and, Act as informal or formal “watchdogs” for the project.
8. Implementation of Remediation/ Risk Management Strategy	
9. Confirmatory Sampling and Final Reporting	
10. Long-term Monitoring	

PUBLIC INVOLVEMENT PHASE 3: PLAN, DESIGN AND IMPLEMENT STRATEGIES, KEYS TO SUCCESS & USEFUL TIPS

There are a number of strategies to keep in mind when planning for before, during and after the site management process. As you develop your plan, it is important to remember that Aboriginal peoples value face-to-face interaction, so plan to go to the communities as much as possible. It is important to talk to your community contact/liaison about what public involvement methods work best in the community, i.e. community gatherings, kitchen table coffee talks, luncheons, or radio.

It is important to anticipate that project costs may increase because of effective and/or ineffective involvement with Aboriginal communities. Although it may seem like effective involvement costs more at the outset, these upfront costs can save money over time and reduce costs associated with project delays and stoppages arising from improper or non-existent involvement.

Other parties that may have information or interest in your community or project include: Indian and Northern Affairs Canada (funding services officers, environmental officers, etc.), provincial Aboriginal organizations (e.g. Assembly of Manitoba Chiefs, Métis Nation Saskatchewan, Qikiqtani Inuit Association), Tribal councils, Aboriginal environmental groups (e.g. Centre for Indigenous Environmental Resources), and Government legal counsel (e.g. to determine what legal matters may be before the courts involving the community and the federal government).

Before the activities

As presented in Phase 2 (Prepare):

- Talk with key community messengers.
- Invite key messengers to participate in public involvement planning/activities.
- Get key messengers to help distribute information to the community.
- Ask the community contact/liaison what type of consultation methods or mechanisms are preferred to best engage and involve the community.
- Provide a template(s) of any documents (letters of support, letters of agreement) that need to be signed.
- Check for other federal and provincial processes on-going in the community.
- Research and learn about other previous studies and activities done in the area.
- Find out and talk with other parties that may have information or interest.
- Try to have the same individual(s) visit the community who have visited or contacted the communities in the past.
- Frequent changing of a department's representative can create community confusion or frustration.

The more time you spend on relationship-building at the beginning - especially face-to-face - the better the outcome will be.

Be flexible! Timelines and budgets may change along the way.

Prepare for ongoing communication and commit to being responsive throughout the process.

Working with a community liaison is the best way to learn about a community, but prepare as much as you can before visiting.

Maximize the use of local capacity and provide opportunities for community members to learn and grow from the process.

Time and Location of Visit

- Avoid visiting during prime hunting seasons.
- Avoid visiting during cultural and community events (e.g. funerals).
- Avoid visiting/having a meeting in competition with other community priorities.
- Choose time and location as suggested by community contacts.
- Choose break-up and freeze-up times to visit communities in the North.
- Consider on-the-land locations, i.e., hunting camps, even location nearby contaminated site.
- Involve key messengers in planning public events (times, places, topics, or other community priorities).
- Consult with Elders and leaders to see if it is appropriate to incorporate customs and ceremonial practices.
- If appropriate, determine what the local customs and ceremonial practices are and use them prior to any meeting, e.g. smudging, gift of tobacco to Elders, burning seal oil.
- Determine if interpreters will be needed for meetings and if so, meet with them in advance of meetings, including to discuss terminology.

During the activities

- Take your time and spend an appropriate amount of time in the community. More is better.
- Dress casually when in the community.
- Offer to visit schools during your visit. This creates more awareness about your project and will generate conversations at home. Teachers are often looking for new information to share with students.
- When meeting Elders, introduce yourself to them individually.
- Shake hands during introductions.
- Do not expect people to make decisions during your first meeting with them. Allow community members time to absorb information, consult with others, and make decisions.
- Document all your efforts and responses and the responses of Aboriginal groups. This is key to a good consultation approach and will help ensure that you consider and respond to the comments and questions posed by community members. This is important in demonstrating meaningful consultation.
- Ask permission to take notes or photographs and explain the value of this record of the meeting to people.
- Provide a meal or snack first before or after your presentation or session. It is a sign of respect and also attracts participants.

Interpretation

- Use paid interpreters when you are doing presentations or visiting people who are more comfortable speaking their traditional language.
- Use interpreters who know the terminologies you will be using.
- Provide workshops for interpreters to learn the terminologies.
- Use interpreters who are trusted by the community.
- Provide presentations to interpreters ahead of time.
- Meet with interpreters prior to the meeting.
- Use two interpreters per language or take many breaks.

Work with the community to develop an evaluation plan and to identify measurable success indicators.

Some suggested tactics for engagement: take advantage of existing community events; host community meetings/ workshops; hold focus groups for a specific group such as elders; hold “kitchen table” meetings; work with local people to conduct a survey; provide information and ask for feedback through community radio.

Building trust will enable you to collect better information and build more meaningful relationships within an Aboriginal community. Engaging community leadership - by methods as formal as a Memorandum of Agreement or project protocol - can be a catalyst for building a working relationship with the community as a whole.

Meetings and/or Open House

- Avoid theatre-style seating. One good approach is to set up information stations around the room, and spread out resource people. Alternatively, invite people to sit in a circle or horseshoe.
- Take many breaks.
- Offer to record (video and/or audio) event for the community to have as reference afterwards.
- Always try to use local experts and leaders in meetings or discussions with the community – the local expertise or leadership is more trusted.
- Consider having a kid's corner with crayons and activities since people will often bring their children with them to community meetings. Consider providing childcare during the meeting.
- Be comfortable and patient with silence; give people time to process and respond.
- Silence in meetings does not mean understanding and/or acceptance.
- Special consideration should be given to age and gender of participants and presenters.
- Be prepared to answer, or at least listen to, non-related questions.
- Acknowledge uncertainties. If you do not know the answer, don't be afraid to say so, or that you will follow up to provide information.
- Remember to consider Traditional Knowledge and the opportunities it provides.

Presentation

- Your best mechanism to convey the details of your project, especially complicated concepts.
- Provide the objective(s) of the presentation – put it in context with other community issues and priorities.
- Keep presentations simple.
- Offer summary presentations first, then detailed ones.
- Avoid acronyms, technical terminology, and overly detailed graphics.
- Explain graphs, colours, and symbols used.
- On the last slide have two or three key messages – leave these up as you answer questions to help reinforce your key messages.
- Use visual aids (e.g. pictures and graphics); Aboriginal communities often prefer to receive information visually and orally rather than through text. When using visual aids (e.g. maps, photos, models) make sure they are accurate.

- The animals chosen for graphics are important – use animal species that are relevant to your Aboriginal audience (e.g. selecting a moose rather than a panda bear).
- Use graphics or analogies that are familiar and relevant to Aboriginal peoples – e.g. amount of hair on a caribou or berries in a berry basket.
- Use analogies, especially when describing concentrations.
- Provide site tours as a complement to the presentation.

Communication Methods

- Online forms of communication are still a challenge as many communities only have dialup Internet access.
- Computer use is more popular among youth.
- Use communication methods that are proven or suggested by community contacts.

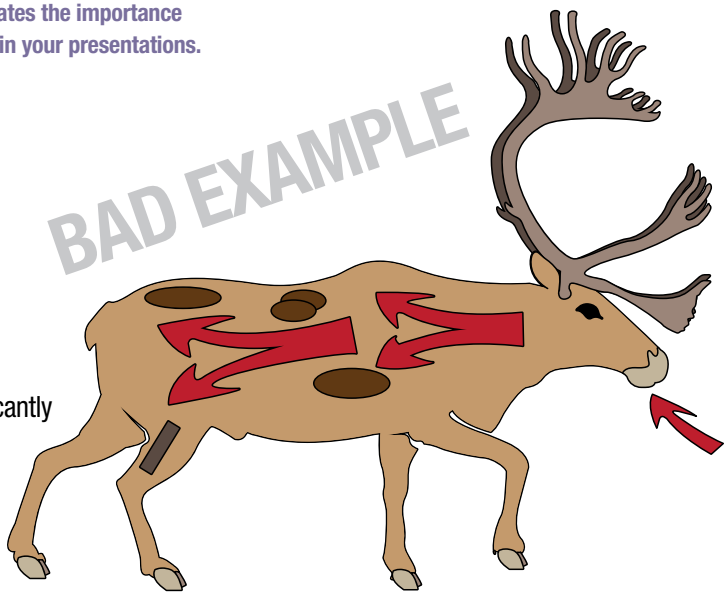
Graphs and Charts

- Avoid multiple axes.
- Avoid clutter.
- Explain axes each time – stay consistent from slide to slide.
- If you are not going to explain it, do not use it.
- Show guidelines.
- Use colours that are very distinct from one another.

Figure 3 – This graphic illustrates the importance of providing accurate visuals in your presentations.

The graphic is illustrating how contaminants move through the body of a caribou but the kidneys and other organs on the caribou are in the wrong places.

This inaccuracy can significantly reduce your credibility and trustworthiness among Aboriginal peoples.



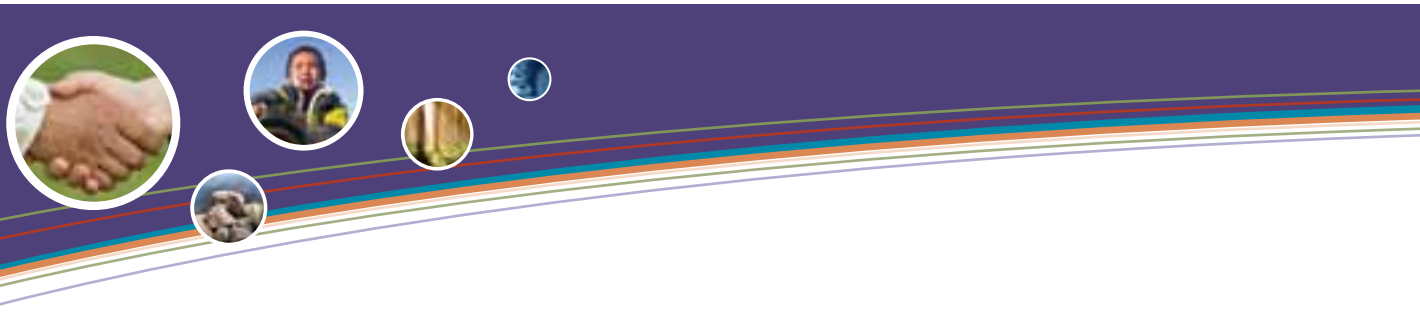
After the activities

- Do not jump on a plane! Spend time in the community afterwards.
- Leave copies of photos/videos behind.
- Send a summary of comments heard to key community messengers; you may need to send information more than once but be consistent in the information and messages being resent.
- Allow enough time for Aboriginal groups to consult with their members before moving ahead.
- Inform Aboriginal communities of any decisions that are made.
- Demonstrate the integration of Aboriginal view in the final decision, if applicable; if these views are not included, be prepared to go to the community and answer why not.
- Evaluate Aboriginal involvement – involve the community in this (see evaluation section).

Building Trust

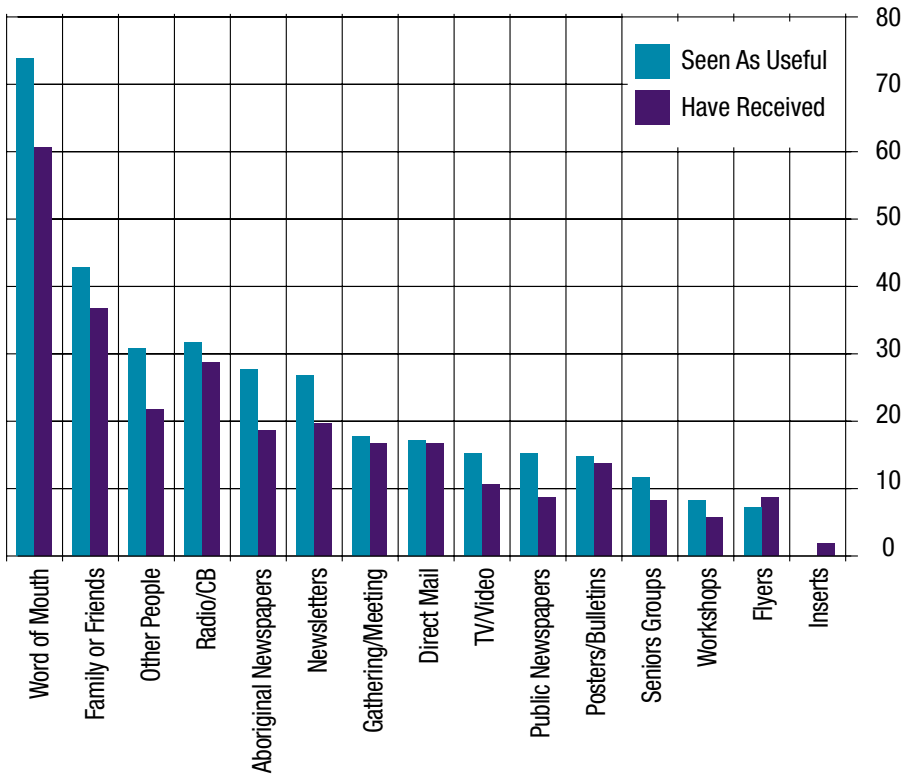
People do not always trust the sources where they get most of their health information, according to a 2007 study by the University of Alberta. Participants use relatives/friends and television as major sources of health information, but claim not to trust these sources very much. Elders were not listed as a main source of information, but had a high trust rating. Elders often do not have adequate information about health risks or the time and capacity to act as key communicators on these issues in communities.

In all communities, government agencies were not identified as being a key source of health risk information and trust in this source was rated as low. Effective risk communication requires committing the time and resources necessary to building a relationship and constructive dialogue with the people affected by the risk. This will help to rebuild community trust of the people and agencies responsible for communicating on these issues. Incorporation of a fair, open process of public participation and dialogue is one important means of increasing public trust.



Communication Methods

Figure 4 – Effective communication methods in Aboriginal communities.[1]



PUBLIC INVOLVEMENT PHASE 4: EVALUATE

Public involvement evaluation plan

Evaluation Plan – Check List

The following check list provides an overview of the most critical questions that should be answered when developing a public involvement evaluation plan. It is important that the evaluation framework be developed as part of the overall public involvement plan, so that the public involvement objectives can be effectively measured.

Table 4 – Checklist

Evaluation Element	Question	Examples/Context	Answer
Purpose	Is the purpose of the evaluation clear?	To communicate the results of a public involvement activity To describe effective public involvement initiatives for duplication elsewhere To report to management and stakeholders on the outcome of the public involvement initiative To measure the success at meeting the objectives of the public involvement plan	❑ Yes ❑ No
Target Audience	Has management been involved in development of the evaluation plan?	Management should review both the public involvement and evaluation plans to ensure that: The scope of the plan also meets management needs The evaluation plan fits into broader departmental performance frameworks	❑ Yes ❑ No
	Has the audience for the evaluation been determined?	Custodial department staff and/or management Other Federal departments Provincial/municipal agencies General public Aboriginal and Northern Communities Other Stakeholders	❑ Yes ❑ No
Evaluation Issues	Are the evaluation questions clear?	Are they about how a PI activity was implemented? (process evaluation) Are they about the results of a PI activity (outcomes evaluation)	❑ Yes ❑ No
Objectives	Can the objectives of the public involvement plan be measured by the evaluation?	Increased stakeholder participation in site management Improved public involvement mechanisms so that they are more effective and efficient Verify that the public involvement plan objectives have been met	❑ Yes ❑ No
Success indicators	Have success indicators for the objectives been set?	Success Indicators: the measurement used to determine if objectives have been met. Indicators need to be feasible, timely, and comparable across similar activities	❑ Yes ❑ No
Who to involve	Have you determined who to involve in the evaluation process?	Stakeholders Staff/employees Other Federal Department staff/employees Provincial/municipal staff/employees Other(s)	❑ Yes ❑ No
Data Sources	Have you identified the right tools to collect the required information?	Surveys following open houses and community meetings Stakeholder Interviews Questionnaires Program documentation Site documentation Focus groups Other(s)	❑ Yes ❑ No
Schedule	Has a schedule to gather the required information been set?	This schedule should be incorporated into the public involvement plan scheduling process.	❑ Yes ❑ No
Budget	Has a budget to cover the cost of evaluation been set?	The evaluation budget should be incorporated into the public involvement plan budget process.	❑ Yes ❑ No

Case Studies

TLICHO FIRST NATION, NORTHWEST TERRITORIES

The closure planning for the abandoned Colomac gold mine in the Northwest Territory represents a successful collaborative planning and decision-making process that evolved from a partnership between the Tlicho First Nation (formerly known as the Dogrib Treaty 11 Council) and the federal Department of Indian Affairs and Northern Development (DIAND) as owner of the site. The Colomac Gold Mine is an abandoned open-pit mine located 180 km north of Behchokò, 40 km west of Wekeweètì, and 220 km northwest of Yellowknife and was in operation from 1990 to 1997. The mine site lies in the traditional territory of the Tåîchô people or Dogrib Dene, situated in the headwaters of the Indin and Snare Rivers. The main environmental concern of the mine was the presence of tailings water contaminated by the cyanide processing of the gold ore.

DIAND, along with the federal Department of Public Works, underwent a collaborative long-term remediation process involving representatives of the Tlicho Governments as active partners.

The Tlicho engagement included:

1. Membership on a project management committee set up to oversee the closure planning for the Colomac site;
2. Membership on an executive committee, comprised of DIAND officials and the Tlicho leadership, to deal with key policy issues arising from the planning work;
3. Membership on a scientific team established to support the work; and,
4. Engagement of a Tlicho-owned company for management of the site during the reclamation period.

Other steps of the process in which Tlicho members were involved included:

1. Gathering of available Traditional Knowledge about the site, comprised of a series of interviews with knowledgeable land users in each of the communities;
2. Annual round of community meetings, to keep the four Tlicho communities informed;
3. Technical investigations and inventory work conducted by both the on-site Tlicho site management team and the joint Colomac scientific team; and,
4. Providing early clarification to DIAND about what options would be acceptable to Tlicho First Nation in terms of site closure, through a framework and in depth discussion.

“The 5- year process produced a technically and environmentally sound, and affordable, plan that met the approval of the regulator, the government (as licensee), and the Tlicho as the

most potentially affected party. The project is an outstanding example of effective collaboration between a site operator and an affected First Nation. Because of [a] the deep engagement from the outset; and [b] the real attempt to address the needs of the Tlicho in reclamation of the site, the process goes far beyond any conventional definition of 'consultation'. It sets a new benchmark for enabling a First Nation to participate meaningfully in a land use planning exercise that ultimately affects how its people use the land and resources of its traditional territory. The fact that the Tlicho were visibly involved in the reclamation project from the start won support for the closure plan in the Tlicho communities." (Pearce, 2008)

TAKLA FIRST NATION, BRITISH COLUMBIA

Many former mine sites in Takla First Nation territory, including the Bralorne mercury mine are now toxic contaminated sites that continue to threaten community and ecosystem health. The Bralorne mercury mine has been abandoned for 70 years but continues to leach mercury, arsenic, and cadmium into the environment, affecting water, local plants, wildlife, and humans who use the area. The BC government has undertaken Phase I and II site assessments of the area before engaging the community and has proceeded through to completing draft ecological and human health risk assessments without the agreement or participation of the community.

Takla First Nation feels that impacts of this contaminated site on Takla residents have been overlooked or ignored and improvements are needed in the following areas in order to engage the community in a meaningful way:

- Takla First Nation wants to be intimately involved in the design of any and all studies and remediation options as well as engaged in all areas of joint decision-making and land-use planning in a government-to-government relationship.
- The use of human health 'impact' studies, rather than human-health 'risk' studies that assess the impacts that community members have felt (perceived and real) from the use of the contaminated site for 60 years is an important area that the community feels has been overlooked.
- Takla seeks to improve mining regulations so that companies and governments know what standards Takla expects of them for future land use.
- Improvements to mining legislation and regulations that engage the community at every step will provide greater certainty for companies and government and greater assurance to First Nations that their traditional activities and constitutional rights will be respected.
- Joint land use planning in a government-to-government manner is needed to reduce polarization over land-use visions for Takla territory.[9]

BROKEN HEAD OJIBWAY NATION, MANITOBA

Indian and Northern Affairs Canada (INAC) was undertaking an environmental assessment on the construction of a sewage lagoon for a series of houses in the community. It was determined that the system would need to cross the neighbouring Brokenhead River to connect the houses to the lagoon, and therefore a study of the ecological impact on the stream was required. Unfortunately, this scientific study would require additional unplanned expenditures, which meant that there would have to be a reduction in the number of houses that could be connected to the lagoon.

In collaboration with their consultants, officials from INAC approached community leadership to involve the community in identifying a solution. Chief and Council knew that local Elders had fished in that area for decades and could provide Traditional Knowledge, which could be useful in determining the impacts on the stream. As a result:

- Surveys were distributed throughout the community to see what was known about the fish stock and fish habitat in the affected area.
- A small group of Elders, who were also highly regarded in the community, were interviewed.
- The result was a Traditional Ecological Knowledge document that compiled the collective knowledge of the communities dating back several decades.
- The document showed that it was widely known that there was no fish habitat in the area.
- The document was accepted in lieu of a scientific study and the subsequent cost savings, coupled with community approval to move forward, allowed the project to move forward in its entirety.

A few years later, a contaminated site cleanup was undertaken at Brokenhead Ojibway Nation. Diesel fuel had contaminated soil surrounding the school and teacherages. The strong relationship between INAC officials, their contractors, and leadership at Brokenhead Ojibway Nation continued with strong public involvement in the site remediation by:

- Ongoing newsletters and information sessions,
- Giving affected community members and residents of the teacherages an opportunity to take a hands-on role in the cleanup,
- Allowing community members to participate in the manual effort needed to excavate soil surrounding the teacherages,
- Having teachers, Elders, health officials and others participate in an advisory council.

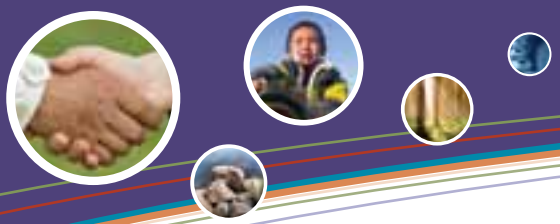
INAC officials credit the public involvement and positive working relationship with making the remediation more efficient, as well as preventing undue fears within the community – which could have lead to concerned citizens speaking to the media, protesting the remediation, or other issues.

Summary

Key things to remember for engagement of Aboriginal peoples

- Honour the uniqueness of each Aboriginal community you work with; tailor each program to suit the community in which you are working;
- Make the time for background research; learn about the community;
- Make key contacts in the community and rely on these contacts to understand the local approaches;
- Aboriginal peoples value face-to-face interactions – spend time in the community;
- Ensure that you listen to the concerns of the whole community and show them how their comments have been addressed; if these concerns have not been addressed explain why not; and,
- Be flexible and adaptive when planning and working in Aboriginal communities.

In conclusion, involving Aboriginal peoples provides local socio-economic opportunities, builds community capacity, and can create smoother regulatory processes. Involvement can occur at many levels and throughout the contaminated sites process, resulting in better overall project outcomes.



Endnotes

1. Health Canada. 1998. *A Guide to Communicating with Aboriginal Seniors*
2. CIER. 2007. *Consulting with the Crown: A Guide for First Nations*.
3. INAC. 1991. *Report of the Royal Commission on Aboriginal Peoples*. Canada Communication Group Publishing. Ottawa, Canada.
4. http://www.uofaweb.ualberta.ca/
5. Statistics Canada. 2008. http://www.statcan.gc.ca/
6. Canadian Association of Petroleum Producers. 2003. *Guide for Effective Public Involvement.* http://membernet.capp.ca
7. Emery. 2000. From *Guidelines: Integrating Indigenous Knowledge in Project Planning and Implementation.* http://www.acdi-cida.gc.ca/
8. Pearce. 2008. Closure of the Colomac Mine - *A First Nations Mine Owner Collaboration.* Proceedings of the 30th Annual BC Mine Reclamation Symposium, June 19-22, 2008.
9. Takla First Nation (personal communications).

Appendix 1: Resources

The following information was used in the development of this document and provides additional reading on the topics discussed.

Examples of other topic areas where Aboriginal involvement guides have been used:

Centre for Indigenous Environmental Resources. 2007. *Consulting with the Crown: A Guide for First Nations*. Centre for Indigenous Environmental Resources, Winnipeg, Manitoba (http://www.cier.ca/).

CIER designed a consultation guide to assist First Nations to more effectively engage in consultations with the Crown, and ultimately as a tool to protect their rights and interests. The Guide begins with an explanation of the meaning of "consultation" and sets out a six-step consultation process. The Guide was developed with the assistance, and based on the experiences, of a number of First Nations from across Canada. These experiences have been translated into tools and sample protocols provided throughout the Guide as resources and ideas for First Nations to use in conjunction with other support materials. Ultimately, the duty to consult can be viewed as a mechanism for First Nations to sit at the decision-making table and work with other governments regarding decisions affecting lands, waters, and resources. In doing so, it is an opportunity for First Nations to bring forward their values, principles, traditions and laws, and further promote the objective of reconciling the relationship between the Crown and First Nations peoples.

Centre for Indigenous Environmental Resources. 2006. *Climate Change Planning Tools for First Nations Guidebooks.* Centre for Indigenous Environmental Resources, Winnipeg, Manitoba (http://www.cier.ca/).

First Nations peoples in Canada are significantly affected by climate change because of where they live and how they continue to rely on the environment for economic and cultural success. Community planning is an important tool for First Nations to use to adapt to changes in the environment, plan for the needs of their community and build a healthy society and culture. These six Guidebooks 'walk and talk' a First Nation through the planning process. Each Guidebook develops an important part of the planning process and is a precursor to the next guidebook. The six Guidebooks focus on: Starting the planning process, Climate change impacts in the community, Vulnerability and community sustainability, identifying solutions, Taking adaptive action and Monitoring progress and Change.

Minister of Public Works and Government Services Canada, 1998. Reaching Out: *A Guide To Communicating With Aboriginal Seniors*. Minister of Health, Ottawa, Ontario (http://www.phac-aspc.gc.ca/).

The Reaching Out guide was developed to assist people in communicating more effectively with Aboriginal Seniors. As part of the Aboriginal Seniors Information Project sponsored by Health Canada, it was shown that Aboriginal Seniors are the most difficult audience to reach. The Reaching Out guide addresses these difficulties by suggesting preferred communication methods of Aboriginal Seniors and the barriers they may face. Understanding the audience is key to effective communication.

Canadian Association of Petroleum Producers. *Guide for Effective Public Involvement.*

The Canadian Association of Petroleum Producers (CAPP) developed a "Guide for Effective Public Involvement" (http://membernet.capp.ca/) for those involved in Canada's upstream oil and natural gas industry as an on-going reference for public involvement activities. It provides useful information to consider when getting started in designing a public involvement process, such as: the fundamentals of public involvement, steps to develop and implement effective public involvement programs across diverse communities in Canada including Aboriginal communities, how to evaluate public involvement results, and a resources section as well as tools and case studies. It contains many sections that are specifically related to involvement with Aboriginal people.

BC and Yukon Chamber of Mines. *The Aboriginal Community Engagement Guidebook*

This guide was developed for minerals exploration personnel to provide guidance on Aboriginal community engagement. The document is divided into two parts. Part one provides history and background on Aboriginal community engagement and mining, which includes BC's Aboriginal history and constitutional background and the B.C. Treaty process. Part two outlines details on Aboriginal community engagement, which includes a comprehensive corporate practices checklist and ten guiding principles.

SGA Energy Ltd. 2005. *The Ontario First Nation Guide to Wind Power Development* (http://www.windustry.org/).

This Guide to Wind Power Development helps Ontario First Nations assess the opportunity for developing wind power to sell to both central and remote grids. The full scope of work required for wind development is presented from an Aboriginal perspective along with an outline of the steps from the first concept meeting with the community to generating the first kilowatt-hour of electricity. Included in the guide is information on what wind power is, what makes it viable, a systematic process for a community wind project from concept to reality, and how to create an ideal project team. This document helps Ontario First Nations appreciate the full scope of a wind power project and what help they will need to make it successful.

Tewanee Consulting Group and Indian and Northern Affairs Canada

The First Nations Communications Toolkit was developed by Indian and Northern Affairs Canada, BC Region, and Tewanee Consulting Group for First Nation communicators as a resource with information on communications planning, publications, events, and media relations. Input into the toolkit came from First Nations in order to provide communication information from a First Nations' perspective to ensure effective communications to support strong governance and the development of healthy, sustainable First Nations communities.

The Aboriginal Forest Planning Process (AFPP) Guidebook

A participatory decision-making tool developed to facilitate the actual involvement of Aboriginal communities in forest planning, was evaluated by pilot applications in three First Nations in interior British Columbia. One of the goals is to encourage First Nation community members to participate in discussions about land use and to actively plan for the future. Other goals include communicating, engaging and raising awareness about forest planning in First Nations communities. The three pilot communities identified a number of benefits of the AFPP. Firstly, the AFPP could increase First Nations' level of participation because it produces a comprehensive, well-developed well-supported case for implementing First Nation goals and strategies. Secondly the AFPP could increase recognition and respect for First Nations' perspectives and help blend Traditional Knowledge with science. Finally, it could assist in improving communication and building relationships with other First Nations, government agencies, and industry.

Karjala, M., Sherry E., and S. Dewhurst. 2003. *The Aboriginal Forest Planning Process: A Guidebook for Identifying Community-Level Criteria and Indicators*. University of Northern British Columbia, Prince George, British Columbia. 90 pp.

Sherry, E.E., Dewhurst, S.M., and M.K. Karjala. 2005. Aboriginal Forest Planning: Lessons From Three Community Pilot Projects. *The Canadian Journal of Native Studies* 25(1): 51-91.

Canadian Policy Research Networks

A Learning Guide to Public Involvement in Canada
The Guide to Effective Participation by David Wilcox

International Association of Public Participation (http://www.iap2.org/).

Appendix 2: Tools

Engagement tools

http://www.partnerships.org.uk/guide/ideas.htm

IAP2's Public participation toolbox http://www.iap2.org/associations/4748/files/06Dec_Toolbox.pdf

Best practices – Participatory Methods Toolkit: A Practitioner's Manual

Tools for involvement in contaminated sites (table) http://www.hc-sc.gc.ca/ewh-semt/alt_formats/hecs-sesc/pdf/pubs/contamsite/managers-guide-gestionnaires/index-eng.pdf

Engagement Tool examples from '*The Community Planning Handbook*" by Nick Wates

General Factors contributing to engagement success http://www.cdc.gov/phppo/pce/part1.htm

Principles of Community Engagement http://www.cdc.gov/phppo/pce/part2.htm

Communication Tools

Examples of types of communication tools (internal and external)

Communicating risk effectively (text box) http://www.hc-sc.gc.ca/ewh-semt/alt_formats/hecs-sesc/pdf/pubs/contamsite/managers-guide-gestionnaires/managers-guide-gestionnaires-eng.pdf

Evaluation Tools

Process evaluation questions http://www.sushinecoast.qld.gov.au/addfiles/documents/community/cetoolkit.pdf (en anglais)

Evaluation checklist http://www.hc-sc.gc.ca/ewh-semt/pubs/contamsite/managers-guide-gestionnaires/plan-eng.pdf

Appendix 3: Background Information On Aboriginal Peoples and Legal Consultations

Government legal counsel can help you determine and interpret the 'duty to consult' as it applies to your site. Be sure to consult with them before moving ahead.

www.ainc-inac.gc.ca/pr/index_e.html

www.afn.ca

www.itk.ca

www.metisnation.ca

www.aboriginalcanada.gc.ca/community

"Honour of the Crown"

The duty of federal and provincial governments to consult with Aboriginal peoples is grounded in the concept called "the honour of the Crown". It means that the government must act with honour and integrity in its dealings with Aboriginal peoples which, in turn, implies a "duty to consult" where a decision may be determined. For this reason, consultation must take place before any legislation, policy, program or any other activity that could adversely affect treaty or Aboriginal rights is developed and implemented. Further, the Crown must accommodate the interests and concerns of the potentially impacted Aboriginal peoples; this is a fundamental element of consultation in order for it to be viewed as meaningful by the Supreme Court of Canada. Aboriginal peoples, who have constitutionally protected rights, are not, therefore, merely the "general public" or one of many "stakeholders." You should remove them from your definition of stakeholders then...

The following information provides some perspective and understanding of the terms often used when explaining the "Honour of the Crown":

Rights vs. Title

Section 35 of the *Constitution Act*, 1982, affirms and protects the rights of Aboriginal peoples, including inherent, Aboriginal, Treaty, land title and land use rights and it guarantees them to men and women equally. Aboriginal peoples retained these rights when this country was colonized (as opposed to be granted by the federal government). It is these rights that are

the subject of consultation when governments are fulfilling their duty to consult regarding specific decisions that may impact these rights or the way an Aboriginal community exercises these rights.[4]

Inherent rights are the rights that Aboriginal peoples possessed prior to European contact and that continue to this day where they have not been eliminated by colonization processes. Sometimes these rights were affirmed through treaties and other agreements. They include rights to self-govern.

Aboriginal rights include the right to engage in numerous activities, including the rights to perform the traditional activities and customs of Aboriginal peoples, such as hunting, fishing, trapping and gathering. Aboriginal rights are communal rights, shared by all members of an Aboriginal group, but are exercised by individuals. Many Aboriginal rights are cultural rights. The rights of certain peoples to hunt, trap and fish on ancestral lands are examples of Aboriginal rights. The nature and scope of rights are not limited to pre-colonization forms of those rights; they are not frozen in time, and can be exercise in modern ways.

Aboriginal title is a type of Aboriginal right that applies to land. In other words, claims of Aboriginal title are land claims. The key to establishing Aboriginal title is to establish possession of the land. For the purpose of claiming Aboriginal title, possession is defined as use and occupancy of the land in question since before the introduction of British law in Canada. Aboriginal title is a communal property right that gives right to exclusive use and occupation of the land in accordance with traditional purposes and uses.

Different Types of Lands

Non-treaty lands are lands that are subject to Aboriginal rights or where Aboriginal title claims have not been determined, but are asserted.

Treaty lands are lands that are subject to historic treaties, where Aboriginal title has been surrendered, such as the numbered treaties. Many other Aboriginal rights exist regarding these lands.

Land claims lands are lands that are subject to modern land claims agreements or treaties where no treaty had previously been made, and Aboriginal title subsists. Land claims provide greater certainty for Aboriginal peoples over rights to land and resources, and greater control for Aboriginal peoples over the decisions that affect their lives.

Court Cases Supporting The "Duty To Consult"

Many court cases have affirmed the Crown's duty to consult. The "duty to consult" means that the Crown has a legal duty to consult with an Aboriginal group where it has real or constructive knowledge of the potential existence of Aboriginal rights or title, including those that are claimed, but as yet are unproven. The duty to consult is triggered where there is a possibility that a government decision (which includes activities) might adversely affect a potential Aboriginal or Treaty right. The strength of the potential right and the seriousness of the potential adverse impact by the proposed government action will determine the appropriate scope and content of consultations. Courts have emphasized the importance for governments to undertake meaningful, good faith consultations with Aboriginal groups.

Haida Nation v. British Columbia (Minister of Forests), [2004] 3 S.C.R. 511, 2004 SCC 73

"The government's duty to consult with Aboriginal peoples and accommodate their interests is grounded in the principle of the honour of the Crown, which must be understood generously… The duty to consult and accommodate is part of a process of fair dealing and reconciliation that begins with the assertion of sovereignty and continues beyond formal claims resolution…Consultation and accommodation before final claims resolution preserve the Aboriginal interest and are an essential corollary to the honourable process of reconciliation that s. 35 of the *Constitution Act*, 1982, demands".

Taku River Tlingit First Nation v. British Columbia (Project Assessment Director), [2004] 3 S.C.R. 550, 2004 SCC 74

"The Crown's honour cannot be interpreted narrowly or technically, but must be given full effect in order to promote the process of reconciliation mandated by s. 35(1) of the *Constitution Act*, 1982…This in turn may lead to a duty to accommodate Aboriginal concerns. Responsiveness is a key requirement of both consultation and accommodation."

Mikisew Cree First Nation v. Canada (Minister of Canadian Heritage), [2005], 3 S.C.R. 388, 2005 SCC 69

"When the Crown exercises its Treaty 8 right to 'take up' land, its duty to act honourably dictates the content of the process. The question in each case is to determine the degree to which conduct contemplated by the Crown would adversely affect the rights of the aboriginal peoples to hunt, fish and trap so as to trigger the duty to consult… Under Treaty 8, the First Nation treaty rights to hunt, fish and trap are therefore limited not only by geographical limits and specific forms of government regulation, but also by the Crown's right to take up lands under the treaty, subject to its duty to consult and, if appropriate, to accommodate the concerns of the First Nation affected."

Aboriginal people as rightsholders

When working with Aboriginal people it is important to understand that they are not only stakeholders, but rather they are rights-holders, which is affirmed by Section 35 of the *Constitution Act*. In one example, First Nations were treated as stakeholders by a provincial government, which resulted in increased costs and delays in the project.