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***Native Indian And Inuit Views On The
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Type of Study: Analysis/review

Date of Report: 1988

Author: Environmental Law Centre

Catalogue Number: 9-5-271

NATIVE INDIAN AND INUIT VIEWS ON THE
FEDERAL ENVIRONMENTAL ASSESSMENT AND
REVIEW PROCESS

Sector: Reference Material

9.5-271

Analysis/Review

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INUIT VIEWS ON
THE FEDERAL
ENVIRONMENTAL ASSESSMENT
AND REVIEW PROCESS

**ENVIRONMENTAL
LAW CENTRE**



NATIVE INDIAN AND
INUIT VIEWS ON
THE FEDERAL
ENVIRONMENTAL ASSESSMENT
AND REVIEW PROCESS

A RESEARCH PROJECT
FOR THE INDIAN ASSOCIATION
OF ALBERTA

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December, 1987

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Kansky, Marilyn.

Native Indian and Inuit views on the federal
environmental assessment and review process

"A research project for the Indian
Association of Alberta".

Includes bibliographical references.

ISBN 0-921503-25-3

1. Indians of North America - Canada -
Government relations - 1951- * 2. Inuit -
Canada - Government relations.* 3.
Environmental impact analysis - Canada.
I. Indian Association of Alberta. II.
Environmental Law Centre (Alta.). III. Title.
E92.K35 1988 323.1'197'071 C88-091412-2

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I. INTRODUCTION

A. ENVIRONMENTAL LAW CENTRE OF ALBERTA

The Environmental Law Centre (the Law Centre) was founded in 1981 as a research and public consultation service on environmental and resources law. Since its incorporation, the Law Centre has provided legal research services to individuals, organizations, industry and government on environmental matters of local, regional and national concern. Of particular significance, in 1986, the Law Centre conducted a native law project on regulation of environmental impacts of energy projects on native lands.

B. A RESEARCH PROJECT TO DETERMINE NATIVE INDIAN AND INUIT VIEWS ON THE FEDERAL 'ENVIRONMENTAL ASSESSMENT AND REVIEW PROCESS

The Law Centre was retained by the Indian Association of Alberta (IAA), an organization of Alberta Treaty Indians, in November, 1987 to conduct a research project to determine the views of native Indian and Inuit people on the procedures of the federal Environmental Assessment and Review Process (the EARP process). The IAA undertook the project through a contract with the Department of Indian Affairs and Northern Development (DIAND) and the Federal Environmental Assessment Review Office (FEARO), as part of the current federal government review of the EARP process.

The purpose of the project was to collect and report on information, views and recommendations presented by native Indian and Inuit organizations) Bands and individuals to EARP Panel Reviews which had previously been held throughout Canada. As well, the major Indian and Inuit organizations were to be contacted by telephone to provide an opportunity for them to submit updated or additional information. Views on the proposals themselves were not to be considered as part of the research project. The deadline for completion of the project was December 31, 1987.

co DESCRIPTION OF THE RESEARCH PROJECT

In order to complete the research project within the designated time constraints, the following procedures were followed:

1. Background materials were prepared for distribution to native Indian and Inuit organizations. These materials included:

A background summary paper prepared by the researcher on the procedures required by the EARP Guidelines and government policy, and the actual practices which have evolved (See Appendix A);

A list of questions as a guide to telephone discussions with the organizations. The list included 20 questions related to issues raised in the Department of Environment's discussion paper, "Reforming Federal Environmental Assessment" (See Appendix B);

Other materials included in the mailout were the timetable to FEARO public meetings being held across Canada (the Provisional Agenda) and the Department of Environment's discussion paper (See Appendix C).

2. A mailing list of 36 native Indian and Inuit organizations was compiled with the assistance of the IAA, DIAND and FEARO (See Appendix D).

3. Telephone contact with the native Indian and Inuit organizations was made to advise them about the research project and confirm the names of contact persons and addresses.

4. A covering letter and the background materials were sent to the 36 native Indian and Inuit organizations (See Appendix E).

5. Background materials were also sent to 17 additional tribal councils and Indian Bands and/or their legal representatives which had previously been involved in an EARP process. Although the intention was to expand this second mailing, this was not possible because of the time constraints of the project (See Appendix F).

6. Research was conducted in the FEARO office in Ottawa. Materials available in Ottawa on 24 EARP Panel Reviews dating back to 1976 were reviewed, as well as the current proposal for "low-flying military aircraft over Newfoundland/Labrador.

Submissions written in French were translated. The material examined included the Panel Reports, Compendiums of Submissions, summaries of information and the transcripts. Materials from the West Coast Offshore Exploration Panel could not be reviewed because of their unavailability in Ottawa or Edmonton.

7. A representative from each of the 36 native Indian and Inuit organizations was contacted: Although all organizations listed in Appendix D were contacted by telephone a second time, most of the organizations were unable to respond because of the unavailability of a representative or a lack of familiarity with the EARP process. Several organizations contacted, however, indicated an interest in responding at a later date. Although the research results from the library proved valuable, the time allocated in the contract period for follow-up contact with the organizations proved inadequate to conduct a comprehensive survey of all relevant native Indian and Inuit organizations.

8. This Report was prepared containing the comments of the native Indian and Inuit organizations on the procedures of the EARP process. The comments are presented on an organization by organization basis, under the relevant provincial or territorial heading. The wording of the comments is as close as possible to that contained in the original material. Direct quotations are included when it was deemed inappropriate to attempt to summarize specific concerns or recommendations. The Synthesis summarizes: the comments and recommendations.

II. INDIAN AND INUIT VIEWS ON THE FEDERAL ENVIRONMENTAL ASSESSMENT AND REVIEW PROCESS

A. YUKON AND THE NORTHWEST TERRITORIES

1. COUNCIL FOR YUKON INDIANS

The Council for Yukon Indians (CYI) represents 13 individual Bands in the Yukon Territory (1).

a. Alaska Highway Gas Pipeline Yukon Hearings, August, 1979: CYI announced that it would not participate in the hearings pending land claims settlement (2).

b. Beaufort Sea Assessment Panel, November, 1981 (3): Land Claims should be included as a factor in the socio-economic guidelines (4).

Until land claims are addressed, the CYI is opposed to major development projects that occur in their homeland (5).

CYI is not opposed to the Environmental Assessment Process (6).

Development should not occur until the hearing process has been -completed (7).

The communities must be provided with the time and financial assistance to study the issues and formulate their positions (8).

Attendance of a Panel for one day in each community is not adequate, given the importance of the matter to a great many northern residents (9) .

The EARP process is not geared towards participation of the whole community in rendering a decision upon matters of great importance (10).

The structure of the hearings should take into account the nature of northern communities and the fact that everyone wants to participate in decisions on important matters (11).

The Panel should visit all communities that have a legitimate interest in the Beaufort Development, not just the major centres (12).

The Panel's schedule was much too rushed. The Panel has not made adequate efforts to ensure that the residents of northern communities have a proper appreciation of the issues at hand (13).

The EARP Panel must ensure that the people affected have a clear understanding of the nature and long-term consequences of the proposed development. This "cannot be achieved by quick 'whistle-stops' in the communities. Rather what is required is a concerted, carefully planned process of education and this takes time. " (14).

The native people want to determine for themselves what the impacts of a proposed development on their land and people will be. They do not want non-Indian company consultants coming in to study their communities. Because many consultants who have come have not understood their culture or the importance of the land to them, the consultants were unable to accurately reflect their needs and aspirations (15).

The proponents should not be responsible for the preparation of environmental impact statements. Because of the company's desire to proceed with the proposed development, this supersedes all other considerations and therefore the prospects of producing objective impact statements does not exist (16). As a compromise, the northern communities should be involved in the preparation of the environmental impact statements (17).

c. Alaska Highway Pipeline Technical Hearings, May, 1982 (18):

The Council for Yukon Indians had difficulties in obtaining reports on archaeological investigations from the proponent (19).

Yukon Indians must be involved in heritage resource conservation and management, and have a right to manage their own heritage resources (20).

d. Telephone consultation, December 11, 1987 (21):

The EARP process is not very useful in the Yukon because most of the developments in the Yukon are not assessed under the EARP process or under any other environmental assessment review process.

Both the CYI and the Territorial Government agree there is a need for an environmental assessment process other than the EARP process.

The CYI is seeking to establish a similar environmental assessment process to the one in the Inuvialuit Final Agreement. This process would consist of pre-screening for developments and a panel to look at in-depth plans and proposals. Two issues which are fundamental to the CYI are the scale of projects which should be referred to environmental assessment and review, and whether some projects situated on the lands under the control of individual Bands should be exempt from the environmental assessment process.

The CYI is seeking guaranteed minimum representation of native Indian people on the review panels, regardless of the demographics .

If the proposed environmental assessment review process for the Yukon is established, it would take priority over the EARP process. The role of the EARP process and participation in it by

the CYI has not been decided.

With regard to the EARP panel reviews that the CYI has been involved in, there has not been adequate time or funding for CYI to participate effectively. Funding is necessary so that the Bands can do their own research.

There must be guaranteed native representation on an EARP Panel and the CYI wants input into the appointment of all panel representatives .

At least some EARP panel members should be familiar with the area the project is going to impact on.

Hearings for the EARP reviews should be held in communities as close as possible to where the development is to be built.

There should be both formal and informal EARP hearings. The formal hearings would deal with the technical aspects and intervenor submissions. Informal hearings would deal with those interested in asking questions or talking to the Panel.

The EARP Panel Chairman should be given the power to subpoena witnesses and documents.

The EARP process should be established by legislation, rather than guidelines.

There should be provision for follow-up monitoring of recommendations made by a Panel.

Reports of the proponents should be made available in native Indian languages where specifically requested.

Notification of the EARP review should be given as early as possible.

The Department of Environment should monitor the "self-assessment" process.

Crown corporations should be required to implement the EARP process.

The law on Freedom of Information should be changed so that documents such as initial environmental evaluations can be made public.

A foreign country should be required to publish relevant information.

Departments should be required to address social , health, economic and cultural implications of environmental change in the initial assessment phase.

Information on the initial environmental evaluation should be

sent directly to affected communities.

The Minister of the Initiating Department rather than the Minister of Environment should be required to respond publicly when a decision is made not to hold a public review.

CYI does not support the concept of a negotiator in place of a Panel.

It should be specified when an EARP Panel review will be required, for example for developments involving nuclear power or river diversion.

Proponents should be required to prepare mandatory environmental impact statements.

Both the Minister of Environment and Minister of the Initiating Department should be required to provide a joint response to a Panel Report before a decision to proceed with the proposal is made.

A policy to provide funding for public participation should be established and criteria should be developed.

The EARP process should be periodically evaluated.

2. INUIT TAPIRISAT OF CANADA

Inuit Tapirisat of Canada (ITC) represents more than 22,500 Canadian Inuit in communities found in the provinces of Quebec and Newfoundland/Labrador and in the Northwest Territories (22) .

a. Arctic Pilot Project Environmental Assessment Panel, 1980:

ITC has strong reservations about development proposals for lands of documented Inuit use and occupation in advance of a land claims settlement . These reservations have stemmed from 4 considerations :

i. development should not proceed in areas where the division of existing property rights between the Government of Canada and Inuit has not been clearly defined;

ii. development should not proceed in areas where new political and administrative structures might have a definite policy outlook on development proposals;

iii. development prior to the conclusion of a land claims settlement would inevitably prejudice the negotiating position of Inuit; and

iv. forcing Inuit to react to development prior to a land claims settlement would distract from and, consequently , slow down land claims negotiations (23).

For these reasons, ITC attempted to secure a development freeze on lands used and occupied by Inuit, albeit unsuccessfully (24).

ITC is apprehensive that development of the Arctic Pilot Project would prejudice the outcome to land claims negotiations (25).

The position of ITC is that development should not commence until land claims are settled. Although ITC is not against development in general, it is concerned that if the Arctic Pilot Project were to start, it might preempt a resolution of issues such as property rights and political developments which are presently under negotiation (26).

b. Beaufort Sea Environmental Assessment Panel, 1980:

"ITC views any development or proceedings towards development prior to the settlement of land claims, as premature. Such action will implicate and unnecessarily complicate the settlement agreement." (27) .

... "There is a need to plan and manage development in a manner that is conducive to environmental protection and the Inuit way of life, This requires a thorough evaluation of all development options and final decisions arrived at must be based on the long-term needs of the North . This requires a review of all development projects slated to come on stream in the foreseeable future and the establishment of a means to integrate their development." (28).

(This refers to ITC concern about the lack of a comprehensive planning and management scheme which would integrate and coordinate the many development projects slated for the North.)

ITC also stated that economic benefits from offshore development must accrue to people of the N.W.T. and they should have a right to compensation should environmental damage occur (29).

c. Beaufort Sea Environmental Assessment Panel, November, 1981:

(The statement was supported by the Baffin Region Inuit Association, the Kitikmeot Inuit Association" and the Inuit Circumpolar Conference, 3 regional associations of ITC: (30)

"Inuit Land Claims should be settled in an equitable and just fashion in advance of approvals being given for the transportation of northern hydrocarbon through the Northwest Passage." (31).

"The Beaufort Sea Environmental Assessment Review should be disbanded." (31).

"A public inquiry into arctic tankers should be established." (31).

"DIAND should seek to establish a viable land use planning process beginning with Lancaster Sound and the Regional Plan should be established prior to approval of major developments .

The Regional Plan for Lancaster should be established as an interim plan pending the settlement of Inuit Aboriginal Claims". (32).

Because of the lack of a coherent planning process, the EARP process "was to be conducted in a policy vacuum" (33)0

The EARP process does not provide for an integrated and regional approach to the environmental assessment of developmental problems (34).

There was concern that there was no relevant data base (35).

3. LABRADOR INUIT ASSOCIATION

The Labrador Inuit Association (LIA) represents 3000 Inuit and native settler people throughout northern Labrador communities. The fishery is one of their principal sources of economic return (36).

a. Beaufort Sea Environmental Assessment Panel, 1981 (37):

LIA sees an urgent need to develop a plan for the management of the coastal and offshore areas of Labrador if there is to be any possibility of controlled, integrated development with a minimum of adverse impacts (38).

"The guidelines read as if no native people live in the north and

as if nothing, human or otherwise, exists south of the 60th parallel and most important. as if all the previous attempts at dealing with northern development issues never happened. ..We therefore cannot endorse, nor participate in a process that perpetuates such unenlightened attitudes. For all the reasons outlined in the ITC brief, we have adopted a position of non-participation in this EARP review, recommending instead that a full and comprehensive inquiry be established to consider the issue. " (39).

LIA was also concerned that the larger context of environmental assessment is not being addressed by EARP reviews:

"How can anybody, especially the government, plan for orderly development of the eastern and Arctic offshore environment when the developments are isolated into small EARP reviews which cannot relate to each other in any meaningful way." (40) .

LIA wants settlement of land claims to certain rights in the land and sea-ice in northern Labrador prior to approval of any projects that will potentially affect their rights. It believes that approval of the project will prejudice the aboriginal claims of all Canadian Inuit (41).

4. BAFFIN REGION INUIT ASSOCIATION

a. Arctic Pilot Project, 1979:

Land claims should be settled prior to any major resource development (42).

A regional plan for the High Arctic which is acceptable to the Baffin Region Inuit Association (BRIA) must be in place before the Arctic Pilot Project can be adequately reviewed (43).

The anticipated impacts and the development of mitigative measures are an integral part of the evaluation which should be completed in order to decide whether or not the Project should proceed (44). BRIA will oppose any development which does not meet this standard (45).

BRIA does not accept the notion that a pilot project should proceed so that we can study its environmental impacts. Commitments to monitor environmental impacts after-the-fact are not good enough (45).

BRIA commends the Environmental Assessment Review Panel for providing an open forum in the development of the Arctic Pilot Project Assessment Guidelines (46).

Research plans for environmental and social studies and their purpose, timing and methodology should be explained by the "proponent to community representatives prior to project "approval.

Upon completion, research projects should be reviewed by community representatives to establish their effectiveness vis-a-vis their stated objectives . A committee of community representatives from various communities could operate as an Advisory Board (47).

Research work should be done in close co-operation with the local Hunters and Trappers Associations (47).

To ensure close co-operation, a permanent office should be established to provide a liaison service during the conduct of environmental and social research (48).

An essential component of an environmental research program should be the inclusion of experienced Inuit hunters in the studies as project leaders (49).

Mitigative measures which can be taken to minimize the disruptive impacts of the Arctic Pilot Project should be emphasized (50).

A committee should provide a community information role/liaison function between the proponent and the communities . This committee should have Terms of Reference, a budget commitment and a schedule of meetings . The role and responsibilities of the committee should be defined precisely enough so it does not become an expensive and questionable public relations effort. -The EAMES Advisory Board should be used as a model for the

committee (51).

More translations of the Environmental Impact Statement, even if they are only summaries, should be produced by the proponent (52).

The hiring of qualified Inuit should be considered as a priority item for the environmental and social studies (53).

Specific plans should be developed for the training and employment of Inuit should the development proceed (54).

A complete list of project deficiencies as identified by the Review Panel should be compiled and translated into Inuktitut (54).

b. Beaufort Sea Environmental Assessment Panel, 1981 (55):

The Review should be postponed until after the settlement of Inuit land claims (56).

Existing property rights between the Government of Canada and Inuit have not been clearly defined (56).

Development should not proceed in areas where new political and administrative structures (such as the ITC proposed Government of Nunavut) might have a definite policy outlook on development proposals (56).

Development prior to the conclusion of a land claims settlement would inevitably prejudice the negotiating position of Inuit (56).

Forcing Inuit to react to development prior to a land claims settlement would distract from and consequently slow down land claims negotiations (56).

It is incumbent on the federal government to develop a comprehensive regional plan for the High Arctic and to demonstrate suitable development options for the aboriginal people concerned. "Project review requires a context of policy goals and objectives and the format of a regional planning process if it is to be truly effective and comprehensive for the Canadian North." (57).

"The commencement of the Beaufort Sea Environmental Review Process before the settlement of land claims and before the establishment of a regional plan for the Baffin Region is an indication to us that these issues will continue to receive mere lip-service from the Canadian Government." (58).

It is not acceptable to review a proposal at the preliminary planning stage where there is an omission of project specific details because the assessment and review will be incomplete) there will be no guarantee of consultation with Inuit or Inuit input, and approval would most likely allow other year-round

shipping projects to proceed without undergoing even an EARP examination (59).

c. Beaufort Sea Environmental Assessment Panel, 1983 (60):

An Environmental Impact Statement (EIS) must provide a cultural context of the Eastern Arctic, and this would include the significance of Inuit harvesting activities to the Inuit culture and social system (61).

The EIS should indicate the value of hunting using the following indicators: an individual's worth in his eyes and in the community, the function of harvesting activities in family relationships and the community, the length of time invested in learning about hunting and survival skills, the length of time in passing on skills to" younger Inuit and the cash and in-kind value of harvesting activities. These are important in assessing cultural and socio-economic impacts that may result from impacts on the environment (61).

5. KEEWATIN INUIT ASSOCIATION

a. Telephone Consultation, December 16, 1987 (62):

The Keewatin Inuit Association (KIA) is located on the north-west-shore of Hudson Bay, north of Manitoba. The Association represents approximately 5,000 Inuit people and is represented by the national organization, the Inuit Tapirisat of Canada. Tungavik Federation of Nunavut is conducting the land claims

negotiations .

Land claims should be settled before any new major developments are approved.

If a Nunavut government is established by land claims settlement, there should be some coordination between the federal EARP process and the Nunavut government.

In the interim, until land claims are settled, environmental implications of all projects should be looked at" closely and the KIA should be directly involved in the process and management of their resources.

A body should be formed with representation from existing non-government regional organizations in the N.W.T. (such as the Regional Health Board and the Keewatin Regional Council). This body would consult with EARP until land claims are settled. .

Consultation with the KIA people" should occur on an ongoing basis.

Because of a lack of familiarity with the EARP process, specific comments on the procedures could not be provided.

6. DENE NATION

The Dene people have lived in the North for thousands of years (62a).

a. Norman Wells Oilfield Development and Pipeline Project, 1980:

The Dene do not want to consider the pipeline and how it is going to go in. . . We don't think the Government has any right to be talking about the movement of a resource that they have not clearly decided one way or another, whether it belongs to Canada yet or not. . . And we don't think the institution that you are a part of has any right to be discussing whether this pipeline should be built." (63).

Major development or development of any type. . . has got to be left alone until the whole question of Dene rights, Dene control and Dene recognition is settled (64),

b. Beaufort Sea Environmental Assessment Panel, 1981 (65):

They were critical of the fact that the Review was taking place without a final proposal (66) .

The guideline hearings were not well advertised and the communities were not given the kind of information with which they could adequately prepare for the meetings. Certain communities were omitted from the process entirely and others were represented by delegates flown into communities which were not their own to give evidence (67).

An EARP assessment should not be done before the necessary regional planning has been done (68).

The Dene want the Government of Canada and the oil and mining industry to participate in a planning process with northern people. They put forward the alternative of a land use planning process which is consistent with the objectives of the DIAND as expressed in the Northern Land Use Planning study (68).

The proposed planning process of the Dene would involve establishment of an 11 member planning and management Commission consisting of representatives from the 5 Dene Nation regions, 2 members each appointed by the Dene Nation executive and the Metis Association, and the remaining 4 members from government and industry (69).

All options being considered by the proponent should be in the EIS and the subject of review (70).

A Dene and Inuit translation and summary of the EIS are important (in this case the proponent did not prepare these) (71).

The EIS should include an analysis of "traditional activities" which is the basis of Dene cultural values and bonds among the Dene people. These traditional activities include hunting, fishing and trapping (72).

The EIS must include a discussion of what impacts might occur to families and communities if the traditional activities and values which they embody are further eroded by development (72).

The EIS must also deal with social impacts on Dene or Inuit communities of a large influx of southern Canadians (72).

The EIS should include consideration that northerners have their own ideas of what they want to do with their lives and resources and of other forms of development which might be optional or preferable (73).

The EIS should include consideration of small scale developments which are either planned or ongoing which would be controlled by the communities, and of the long-range survival of the communities in the above-mentioned scenarios (74).

Each volume of the EIS should have an index and specific cross references so that material can be more easily located (74).

c. Beaufort Sea Environmental Assessment Review Panel, 1983:

"The position of the Dene Nation is that no further rights to the land or resources within Denendeh be granted, licensed, permitted, issued or leased to any third party interest until the Government of Canada has resolved all Aboriginal Rights issues with the Dene Nation and Metis Association of the N.W.T." (75).

There should be no more imposed development of their non-renewable resources until their ownership of the land is recognized through a management and control role (75).

There must be an environmental assessment of any specific proposal, in the context of broader control guaranteed in their aboriginal rights settlement (76).

No more large projects should go ahead until the effects of the IPL line have been adequately assessed (76).

The government and companies should recognize the legitimate role of community and regional institutions and the national native organizations in decision-making and deal with the Dene people through these collective institutions (76).

The Dene must play a meaningful role in short and long-term surveillance and compliance monitoring of development projects. They must be trained for this work. In the interim an Environmental Protection Working Group should be established (77).

Terms commonly used in the assessment process should be clearly defined (77).

Recommendations of the Panel should be either accepted or rejected by Cabinet (77).

Funding for participation in Panel reviews and for dealing with the impacts of development projects should be ensured (77).

The Review Panel should take full account of previous reports of Panels, Boards and Committees (77).

If a project cannot be assessed because of a lack of information or preparation, then that should be stated (78).

In the event a Panel recommends that development proceed in the absence of a Dene rights agreement then the following interim measures should be implemented:

- *Dene Nation and communities must have greater control and management of land and resources

- *land and resource allocation and use should be co-ordinated by a single agency which is not under the control of any government department

- *this agency should have extensive representation from northern natives and be located in the North

- *the agency should be integrated with the land use planning bodies which are currently being set up

- *COGLA should be dismantled for lands North of 60 degrees

- *the agency should remain separate from and work closely with the N.W.T. Water Board

- *co-ordination efforts should begin at the inception of a project

- *a comprehensive and equitable program should be established

in legislation for damage to Dene hunters, trappers or fishermen

*the Dene Nation must be recognized and involved as a party to any COGLA negotiations of any new or renewed exploration agreements and production licenses on Dene lands, until COGLA is disbanded (79).

There is a need for a distinct environmental review process with teeth and an on-going role in monitoring and managing. Until such a process is established as part of their negotiations for more control for the Dene, they demand that EARP be made more effective by giving it an on-going role so that it is responsible to the communities and people who put a trust into it (80).

Projects must be managed and monitored, not just regulated through enforcement of specific conditions. A Dene role is needed for proper monitoring (81).

"In front of Panels such as these, we (the Dene) are treated as nothing more than a public interest group. Our real concerns are recognized, but not dealt with seriously within the overall decision-making context." "EARP contributes to this, because it has no enforcement powers, no on-going role, and is not coordinated with other reviewing agencies." (82).

Aboriginal Rights negotiations and land use planning should be within the terms of reference of EARP Panels (83).

"Our political and cultural values get pushed out of focus by the emphasis which Government and Industry tend to place on a specific and technical way of viewing the world." (84) .

"A re-vamped EARP, with a few more teeth and lighter ball and chain, may have an interim role to play in that." (referring to Dene involvement in decisions affecting their land) (85).

d . Telephone Consultation, December 9, 1987 (86):

There will be a restructuring once the Dene claim is settled. A proposed environmental assessment process will include Dene Nation/Metis representation.

Intervener funding is critical in order to analyze the technical reports and information. Although technical advisers have been made available through the EARP process (Beaufort) , the technical advisers made no effort to contact the Dene Nation and did not tell them when they would be in the community.

Hearings should be held in the affected communities. In the past, native people have had to go to other communities to make their presentations.

There should be better access to information and it should be translated into native languages.

There is essentially no consultation on initial assessments.

DIAND owns most of the land and they are bound by the Territorial Lands Act which requires a response from them within 10 days.

It is difficult to use the federal Access to Information Act to secure information unless you know what you are looking for.

They want full access to information.

Proponents must be required to develop complete project descriptions .

There should be a broader range of options available for reviewing some projects, perhaps appointment of a researcher/fact finder .

The recommendations of a Panel should stand unless the Minister overturns them. In the situation when the Panel's recommendations are overturned, the Minister should provide a rationale.

The EARP guidelines should have the force of law.

More weight should be given to local knowledge. Technical considerations should include native knowledge of the land. It is essential to go to the communities to get this information.

There should be thorough monitoring before a project is developed so the effects of the project can be known. This will enable the effects of a project to be better addressed.

Long-term monitoring should be done by industry, government and the local people. The monitoring should be well coordinated.

Aboriginal rights should be dealt with in the assessment, and the question of how should be discussed with procedural issues when the Review commences.

Reviews should also deal with environmental impact policy. At present there are no methods for dealing with cumulative impacts.

New federal government policy should be addressed by the Panel when it is developed.

Recommendations of a Panel should specify who is responsible to carry out specific recommendations.

The problem of the lack of baseline data must be addressed. Although people have perceived changes to the environment as a result of a development, the lack of baseline data makes it difficult to specifically evaluate these changes.

Random audits of initial environmental evaluations should be done by an independent government agency.

The EARP process should apply to all proposals where there will be environmental impact, not just to certain projects.

The Initial Assessment part of the EARP process is the weakest part of the process.

The concept of self-assessment is acceptable, however, the process must be open to the public, legislated and subject to auditing.

The Dene Nation would like to be able to appoint at least 50% of Panel members when the project may affect their aboriginal rights .

Documents should be translated and explained orally by technical advisers.

There should be an appeal process for a Panel decision.

There is no problem with territorial/federal jurisdiction because at present, the EARP process is the major environmental assessment review process.

- Departments should be required to address social, health, economic and cultural implications of environmental change in the initial assessment phase.

A list of proposals which require a mandatory initial assessment should be prepared.

Initial environmental evaluations should be published with approximately 60 days for response.

The Minister of the Initiating Department be required to respond publicly when a decision is made not to hold a public review.

The appointment of a negotiator may be of assistance, however, there should also be other options, other than a Panel review.

A list of automatic referrals for a Panel review should be established.

A Panel should have the power to subpoena witnesses and documents.

The Ministers of Environment and the Initiating Department should be required to provide a public response when the recommendations of a Panel are rejected.

Proponents should be required to include plans for monitoring .
-There is a need to ensure coordination of the monitoring process.
The concerns of the local native people must be included.

There will be a need to avoid duplication of assessment review

hearings if the assessment process is established under the land claims settlement.

A policy of funding public participation should be adopted. The funding should be built into the initiating department's budget and administered by the Panel.

The EARP process should be periodically evaluated.

7. MACKENZIE DELTA DENE REGIONAL COUNCIL

a. Beaufort Sea Environmental Assessment Panel, 1983 (87):

The EIS must be an easy to read document so that all the information on one project or issue can readily be found (88).

The EIS should detail the effects of the proposal on native claims and of the land claims on the proposal (89).

The EIS should deal with the integration of land, people and wildlife, rather than only a description of impacts on specific animals (90).

Advantages and disadvantages of the proposal should be referred to in the EIS (91).

To be able to review and assess the socio-economic impacts and implications, the EIS must show an understanding of the Dene

culture, the affects the differing prospects will have and a strategy to 'mitigate' the adverse effects and enhance the culture. " (92)

8. DENE COMMUNITY COUNCIL

a. Beaufort Sea Environmental Assessment Panel, 1983 (93):

Proponents must accurately assess the impact the project may have on- local use of renewable resources and what that impact will mean in economic and cultural terms to the Dene community (94).

9. UKPEAGVIK INUPIAT CORPORATION

The Inupiat Eskimos of the Arctic Slope have occupied the Arctic Slope of Alaska and the areas of Beaufort and Chukchi Seas since time immemorial (96). Inupiats are subsistence hunters and range broadly on the Arctic slope, including marine areas, in search of bowhead and beluga whales, seals, fish, caribou, walrus, polar bears and other wildlife. Their occupancy is the basis for an ongoing lawsuit regarding native jurisdiction and property rights in the area (96).

a. Beaufort Sea Environmental Assessment Panel, 1981 (95):

-If development occurs, there will definitely be damage and there must be a realistic damage assessment program (97).

-There must be an initial baseline inventory of all existing

resources (97).

A monitoring program is necessary to watch affected areas for damage (97).

A valuation system is necessary to determine all direct and indirect costs of each spill, accident or other damage event (97).

A fund and a simple procedure to assure full compensation and full reclamation efforts after a damage event occurs should be established. The fund should be created in advance and be in friendly or neutral hands before any development occurs.

The Inupiat people should be consulted. They have information available only to native people which could be critical to ensuring preservation of the area (97).

The survival of the Inupiat people must be considered every step of the way in any proposed development (97).

10. CHAMPAGNE AISHIHIK BAND

a. Alaska Highway Gas Pipeline, Aishihik Band Hall, March 29, 1979, Chief Jackson:

"The pipeline project should not go ahead until land claims are

settled and implemented;

"...It is through land claims that we hope to protect our values and traditions, and also to have the means to take part on our own terms with the rest of the Canadian society." (98).

"With only half of the realities being presented through these kind of hearings, and with so many deaf ears around and rights that are only rights through court cases, we have learned through experience to regard the public hearing process as a waste of our time and the taxpayers money." (99).

The project will not benefit the people of the Yukon unless the Indian people are given the opportunity to self-determination that land claims will provide (99).

Concern was expressed that there were no native Indian or women represented on the Panel (100).

11. OLD CROW BAND

a. Beaufort Sea Environmental Assessment Panel, 1983 (101):

Governments have the responsibility to describe the natural and socio-economic development, to establish environmental protection - and socio-economic criteria, to establish the need for and participate *in* the development of mitigative measures for various uses of the environment , and to evaluate the activities of industry in the context of existing and proposed government

policies (102).

Three months to review the EIS was insufficient (103).

The EIS should assess the secondary social and economic impacts resulting from the predicted effects of the proposed development on harvested populations of fish and marine animals (104).

A-review should evaluate whether or not the residents are satisfied that the analysis of effects and the proposed enhancement and mitigation measures reflect their views (105).

A compensation package should be inserted into the EIS (106).

The EARP process should address training for native people (107).

Guidelines for the EIS should require the proponent to examine the question of land use planning (108).

There is a land use planning item on the land claims negotiations table and the Panel should delay any decision until those areas are cleared by the Government of Canada, the Government of the Yukon and the Council for the Yukon Indians (108).

There was a lack of financial assistance and time to prepare for the EIS hearings (109).

The EIS should deal with waste disposal from construction camps , including steel, cast iron, machinery , abandoned vehicles, bottles, glass, ashes, tin cans, lumber, paper, plastic, trash shrubs and slash, food waste, body waste, dead animals, hazardous wastes (poisons, solvents, oils, greases, fuel) and sewage (110).

The socio-economic implications of the abandonment should make reference to other abandonments of the north, for example, Alaska Highway Construction and the Gold Rush (111).

There should have been native people on the funding committee (112)0

12. FORT MCPHERSON BAND (Dene)

a. Beaufort Sea Environmental Assessment Panel, 1981 (113):

"The land is the basis of the people. One we do not in so much feel ownership in, but feel a part of . . . the land is our life, destroy it and you destroy the Dene. We have for the last generation stated clearly that we must have the say in management of the land, our life blood, also the planning of the development of the land must be controlled by the people who know it and love their country. This Panel and the proponents are taking that 'right of destiny from us.'" (114).

There should be funding for municipalities, native organizations and a regional group to ensure intersettlement conflicts are

worked out beforehand (114).

13. FORT NORMAN BAND and the Settlement Council of Fort Norman

a. Beaufort Sea Environmental Assessment Panel, 1983 (115):

The proponent should be required to do quantitative studies on employment in connection with the Norman Wells Pipeline Project(116).

The proponent should be required to present detailed plans of its own for routing more people from the settlements into jobs or training programs(116).

The proponent should be obliged to undertake more community consultation (116) .

"In order to know what forms of harm we may expect and how we might forestall them, we need a solid basis of research into the status quo, a realistic and disinterested look at the areas of greatest probable social impact and a program of future planning that we can see is directed at diverting or cushioning this impact . " (117).

14. FORT RAE, N.W.T., CHIEF MIGWI

a. Norman Wells Oilfield and Pipeline Project, 1980:

Band Councils are the governing body of the community and should be recognized as the Government of the community. The Chiefs of the Band Councils should be contacted before any government staff or other people come into the community (118).

He asked to start the meeting with a prayer which is customary in the Indian Assembly (119).

15. FORT FRANKLIN INDIAN BAND, N.W.T., Chief George Kodakin

a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the Project is approved (120).

16. FORT WRIGLEY INDIAN BAND, N.W.T., Chief Gabrielle Hardisty

a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the project is approved (121).

-17. HAY RIVER INDIAN BAND, N.W.T., Chief Pat Martel

a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the project is approved (122).

18. FORT PROVIDENCE INDIAN BAND, N.W.T., Chief Bonnetrouge

a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the project is approved
(123).

19. FORT SIMPSON INDIAN BAND, N.W.T., Chief Jim Antoine

a. Norman Wells Oilfield and Pipeline Project, 1980:

Dene Rights should be recognized before the pipeline is approved
(1 2 4) .

20. FORT GOOD HOPE INDIAN BAND, N.W.To, Chief Frank T'Seleie

a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the project is approved
(125).

21. CHIEF ALEXI ARROWMAKER, Snare Lake Area

a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the project is approved
(126).

22. OLD CROW COMMUNITY, Several Individuals (127)

a. Beaufort Sea Environmental Assessment Panel, 1981:

Concern was expressed about the omission of aboriginal rights claims (128).

It is important that hearings are held in all communities which are affected so the community is properly represented and informed (129).

23. WILLIAM SMITH, Old Crow Resident

a. Beaufort Sea Environmental Assessment Panel, 1981:

The Panel must be very careful to make sure the native people of Old Crow "get a clear understanding, a clear feeling on their own part that the native" people know what is going on (130).

"Native people are not quickly able to grasp this sort of proceeding, they are not in the habit of dealing with this sort of matter and are unaware of the magnitude of the activities the proponents are envisaging and the tremendous effects the proposed activities will have on them." (130).

There should be a provision for translators so the people are -addressed in their own language (131).

He was "distressed" that there were no women, Indian or Inuit people on the Panel, given that the primary peoples that will be

affected are the native peoples (132).

The question "what effect will the effect on the animals have on the native peoples inhabiting the area?" should be addressed (133).

Funding is necessary so the people of Old Crow can call in experts to support them in their consideration and preparation of their reply or criticisms of any draft proposal (134).

There should be consultation with the Indian people about the optimum time for the Panel to appear because the Indian people are not always in Old Crow (135).

24. JOHN T'SELEIE, Fort Good Hope Resident

a. Norman Wells Oilfield and Pipeline Project, 1980:

There should be a 10 year moratorium on any kind of major development until land claims are settled (136).

25. ELIZABETH YAKALAYA, Victor Menacho, John Blondin and Paul Wright, Residents of Fort Norman, N.W.T.

-a. Norman Wells Oilfield and Pipeline Project, 1980:

Land claims should be settled before the pipeline is approved (137).

26. MR. ALLOOLOO, Resident, Pond Inlet, N.W.T.

a. Arctic Pilot Project, 1980:

Native people should be involved in all phases of development in the North in the future (138).

27. Mr. MUCKTALOO, Resident, Arctic Bay

a. Arctic Pilot Project, 1980:

The Project should be delayed until land claims are settled (1 3 9) .

28. MR. ALAINGA, Resident

a. Arctic Pilot Project, 1980:

Nunavut has to go ahead before there are any further developments (land claims should be settled first) (140).

The Inuit people should handle the environmental studies because of their knowledge about the animals and their habitat (141).

The EARP Panel should have more power or authority so that if the Panel approves ideas and concerns, the federal government does not have to agree with it (142).

B. BRITISH COLUMBIA

1. ALLIANCE OF TRIBAL COUNCILS

The Alliance of Tribal Councils (the Alliance), represents 36 Bands directly impacted by the Twin Tracking Project and 60 Reserves. The Alliance consists of the Sto'lo, Nl'akapxm and Shuswap Tribal Councils (143).

a. CN Twin Tracking Program, 1983-84:

The Alliance was concerned that prior to the EARP Review, the Indian people were not consulted while a federal/provincial process was analysing and approving phases of the Twin Tracking work for construction. As well, the CNR had dismissed the Bands as infiltrators (144).

There should have been a moratorium on construction of the CN Twin Tracking Project until all studies to determine the impact on Indian lands, resources and the people were done (145).

The Indian people should be involved in the preparation of research studies (146).

Indian people should be involved in setting research goals, -designs and activities themselves, as well as aspects of follow-up and review (147).

Insufficient time was allotted for the hearings so that the Alliance was unable to adequately address their concerns at the June and September, 1984 public meetings (148).

A process whereby written questions were submitted to the proponent for follow-up was unsatisfactory. Not all the questions were answered and those that were were brief and very generalized (148).

Indian organizations must be recognized as levels of government that have responsibility, jurisdiction and legislative powers over certain aspects of the lands and wildlife in the area. They should not be treated as special interest groups (149) .

Indian organization's must be a permanent fixture in the approval and review process (150).

2. NL'AKAPXM TRIBAL COUNCIL

a. CNR Twin Tracking Program, 1983:

Before approval of the CN Twin Tracking can be considered, the Nl'akapxm Tribal Council wants acknowledgment by and the response of the Government of Canada to land claims (151).

Concern was expressed that the information presented to the Panel was inadequate (152).

There was concern that construction was proceeding while the Panel was considering the proposal (152).

The Tribal Council wanted resolution of continuing problems with the present rail line, including compensation for alienation of reserve lands and lands lost to settlers, impact on fishing resources, depletion of reserves and mainline accidents, before the proposal was considered (153).

Funding is required to establish a coordinating unit within the Tribal Council to coordinate survey work on "each reserve and organize the responses of each of their Indian governments (154) .

The Panel should deal with the need for a second track before C.N.'s proposal is evaluated (155).

3. THE STO:LO NATION

The Sto:lo Nation consists of approximately 2700 registered Indians (156);

a. CNR Twin Tracking Program, 1983:

The Project should not be allowed to proceed until outstanding land claims have been settled (157).

The Terms of Reference of the Panel should have included whether the Project should proceed as proposed (158).

Indian concerns should be addressed in the proponent's impact studies (159).

There was difficulty in obtaining information from the proponent which was essential to assess the potential impacts to Indian people (160).

In addition to fish and wildlife impact studies, studies to assess potential impacts on people should have been provided (161).

The Terms of Reference should have been presented for public review (162).

The Terms of Reference should have included a review and assessment of the validity of the proponent's rationale for the Twin Tracking (163).

The cumulative impacts from logging, pollution and hydro-electric dams to the environment (Fraser River) should have been considered (164).

-4. LILLOOET TRIBAL COUNCIL

a. CNR Twin Tracking Program, 1984:

The Lillooet Tribe is rejecting the province's authority within the Province of British Columbia and claiming they" are the

rightful owners within their tribal territory. The question they have is "how can the various organizations within this country assume authority over the lands within the Province of B.C. where there was no treaty or anything signed between the Indian people and the Province of B.C. , nor the Canadian Government" (165) .

5. NATIVE BROTHERHOOD OF BRITISH COLUMBIA

The Native Brotherhood of British Columbia has a membership of approximately 2,000 which includes native Indian people (166);

a. CNR Twin Tracking Program, 1984:

Full consideration should be given to the concerns of Indian people . These concerns should be addressed (167).

6. CHEAM INDIAN BAND, Rosedale, B.C.

a. CNR Twin Tracking Program, 1984:

Concern was expressed that the proponent's research consultants did not contact the Indian Band when they were researching heritage sites. (In particular the Band's graveyard would have been affected.) (168).

7. NORTH THOMPSON INDIAN BAND

a. CNR Twin Tracking Program, 1984:

The elders in the community are concerned that CN has not

justified the need for twin tracking (169).

Concern was expressed that construction is continuing before the Panel completes its recommendations for the Minister of Environment . There should be a moratorium on all construction until all research and studies on socio-economic and environmental issues are completed and assessed by the Environmental Review Board (170).

There should be an independent assessment of CN'S economic justification for twin tracking (171).

All options in lieu of twin tracking should be fully explored (171).

8. DEADMAN'S CREEK BAND

a. CNR Twin Tracking Program, 1984:

Concern was expressed that CNR is proceeding with twin tracking construction without adequately addressing environmental impact. Construction should be halted until the environmental impact of the program is determined and protection is guaranteed (172).

The Band has not had full cooperation from CNR with regard to the results of their studies and recommendations. There should be a full disclosure of research material (173).

CNR has failed to acknowledge that Indian Bands are a form of local government with legislative powers to protect fish and wildlife (173).

Until there is a full disclosure of research material, there should be a moratorium on all the twin tracking construction in the Thompson River system (174).

9. CHUCHUA BAND

a. CNR Twin Tracking Program, 1983:

Until land claims of the Chuchua Nation are resolved, the Band is in no position to discuss any potential environmental problems (175).

CNR has not provided the kind of detailed plans that are needed to evaluate their proposal (176).

Studies on the impacts on historical sites of Indian people should be done independently of the CNR administration (177).

Concern was expressed that the emphasis of the studies was on fisheries and wildlife, rather than on the people who live along the CN (178).

c. ALBERTA

1. DENE THA' BAND

The Dene Tha' Band represents 7 reserves in north-western Alberta, in the High Level area (179).

a . Norman Wells Oilfield and Pipeline Project, 1980:

The EARP process should address issues related to compensation for cumulative damage and impacts that loss of livelihood and lifestyle. h-as caused for some hunters and trappers (180).

The EARP process should address issues of on reserve training and education for native Indian people (181) .

There should be iridependent monitoring of environmental and socio-economic impacts by a federally funded institution (181) .

The proponent should be required to post a financial bond in the amount of 10% of the project budget (182).

2. DENE NATION

a. Slave River Hydroelectric Power Development, 1982:

The public must be equipped with adequate funds to participate in an informed and productive manner. Those segments of the public having special interests in the lands and waters which will be :submerged, altered and damaged must be in a position to make

complete interventions (183).

Issues of concern to the proponent should be raised by the proponent at the guideline hearings (184).

The final guidelines should be treated as an obligation imposed on the proponent (185).

The guidelines should consider the project to include operation and maintenance, potential for expansion, abandonment and roads (186).

If the proponent is not in a position to select a preferred option, then all the options should be the subject of an EARP hearing (187).

The proponent should have to consider the impact on other uses of forests and on forests as habitat (188).

3. THE INDIAN ASSOCIATION OF ALBERTA

a. Slave River Hydroelectric Power Development, 1982:

It is inappropriate for government officials and employees to conduct public opinion surveys in advance of guideline hearings or before the Environmental Impact Statement is completed by the proponent. This practice "c-creates mistrust instead of building -confidence in authorities and the companies" (189) .

Before the Indian Association of Alberta will support any mega-project, Indian land claims must be settled (190).

There must be consultation and direct participation by native Indian people concerning all aspects of planning, development and construction (191).

There must be provision of opportunities for equity participation by Indian people (192).

The Indian Association of Alberta advocates a type of evaluative commission similar to the Berger Commission that did the MacKenzie Valley Pipeline Project Assessment (193).

The Commission should have a quasi-judicial function (194).

The effect of water rights on the project must be assessed (195).

The question of compensation for lost Indian natural resources for hunters, trappers, fishermen and gatherers must be addressed (196).

There must be funding for "Indian controlled environmental-research and proposal development (197).

The proponent must consider how there could be Indian partnership in the financing of the project (198).

Indian leaders from north and south of the 60th parallel should participate on various steering committees and boards concerning the assessment and monitoring (199).

Alternative energy sources and hydro-power generation equipment should be considered (200).

The proponent should be asked to correlate economic and environmental factors resulting from disrupted development because of the economic recession (201).

The proponent should forecast the number and types of Indian workers that can be employed during construction and operational phases and consider the feasibility of Indian affirmative action programs (202).

4. DELTA NATIVE FISHERMANS ASSOCIATION

a. Slave River Hydroelectric Power Development

There should be consideration of the effects of the project on the existing lifestyles of the fishermen and their families and compensation if there is a negative impact on the fishery (203).

A Board should be set up which includes representatives from the federal and provincial governments, a (status) native Indian and 2 local representatives of the area. The Board would control and monitor the environmental aspects of the project, including the

construction stages (204).

5. CREE INDIAN BAND

a. Slave River Hydroelectric Power Development

The proponent should conduct a thorough study of the efforts made by other resource developers to maximize involvement of indigenous people in employment associated with resource development projects, and prepare a plan to overcome barriers that prevent native people from taking full advantage of employment opportunities (205).

The proponent should establish a formal and ongoing working relationship with the Cree Band Administration, to assure an adequate degree of community consultation and liaison throughout the socio-economic impact assessment process (206).

The proponent should involve local groups in the design and implementation of survey methodology used for data gathering and analysis associated with the assessment, and the proponent should provide the financial support that local groups will require to participate effectively in this process (207).

The proponent should consult with the community with regard to alternative sites and servicing arrangements for the construction and operation of construction camps and assess the probable impact of each alternative upon the community (208) .

They are disturbed that there are only vague references to Indian lands and native hunting, fishing and trapping rights . This undermines the purpose and effectiveness of the Environmental Impact Statement process (209).

Several questions were raised about the relationship between their entitlement settlement, the legislative provisions in Treaty 8, the Natural Resources Transfer Agreement and the project. These questions should be put into the guidelines . (2.10). .

6. FITZ/SMITH NATIVE INDIAN BAND

a. Slave River Hydroelectric Power Development, 1984:

Native groups should have input into the Terms of Reference of the environmental impact assessment studies (211).

Compensation for trappers, both for long-term losses due to flooding and for losses during construction should be addressed. Compensation should be reviewed every 5 years (212).

The issue of training programs and guaranteed jobs for native Northerners should be addressed (213).

T. FORT CHIPEWYAN CREE INDIAN BAND

a. Slave River Hydroelectric Power Development, 1982:

The EIS should be written to consider the mixed population of the area and should identify both positive and negative changes for Indian people. All Indian Bands should be consulted for input (214).

8. BIGSTONE CREE BAND

a . Slave River Hydroelectric Power Development, 1982:

There is a need for a mechanism for consultation with Indian" people before major resource development, even before such development is planned (215).

9. FORT MCKAY TRIBAL ADMINISTRATION

a. Slave River Hydroelectric Power Development, 1982:

No procedural issues were raised (216).

10. FORT CHIPEWYAN INDIAN BAND

a. Slave River Hydroelectric Power Development, 1982:

Concern was expressed that relevant and complete data on water levels including maps was not provided (217).

Note: Banff Highway Project

The FEARO library does not contain any written or oral representations by native Indian or Inuit organizations on this project (218).

Note: C.P. Rail Rogers Pass Development

No written or oral representations by native Indian or Inuit people were located in the FEARO library (219).

D. SASKATCHEWAN

1. SASKATOON NATIVE WOMEN

a. Eldorado Uranium Refinery, 1980

They "strongly protested that there were no women on the Panel" (220).

E. MANITOBA

There were no EARP Panels which reviewed proposals in Manitoba.

F. ONTARIO

1. MISSISSAUGA RESERVE NO. 8

a. Eldorado Uranium Hexafluoride Refinery, 1978:

Apart from the issue of land claims, no procedural issues were raised (221).

2.. UNION OF ONTARIO INDIANS

a. Telephone Consultation, December 10, 1987 (222):

The EARP process is considered to be weak in Ontario.

Because there was a formal transfer of jurisdiction to Ontario, the projects assessed for environmental impacts are reviewed by the Ontario Environmental Assessment Board under 3 statutes, Ontario Environmental Assessment Act, Environmental Protection Act and the Water Resources Control Act.

A lot of projects that impact on Indian reserves come from sources on provincial land and are therefore subject to provincial assessment.

Because of his lack of familiarity with the EARP process, he did not comment on its procedural aspects.

G. QUEBEC

1. CONSEIL ATTIKAMEK-MONTAGNAIS

The Conseil Attikamek-Montagnais represents 12,000 native Indians of the Attikamek and Montagnais Nations in 12 Indian Bands in Quebec and Labrador.

a. Military Flying Activities Over Labrador and Quebec, 1986

The mandate of the Commission should include stopping the flights (223).

Concern was expressed that the proper procedures are not being followed for assessment procedures, because flights have been authorized without proper evaluation since 1983 (223).

The environmental impact assessment should include social and cultural factors in interaction with the ecosystem (223).

The criteria for the environmental impact assessment should be provided by the Panel, not the proponent and the criteria should focus on the quality of the social and cultural life of the native people (223).

The persons who are conducting the studies should be selected with care so they have an understanding of the linguistic community they are studying, including the Inuktitut, Montagnais, Naskapi, Anglais and Francais (224).

The native Indian people should participate in preparation of the social , economic and cultural assessment studies because of the knowledge they possess. In particular, the Montagnais have already carried out very elaborate research studies and have collected data (225).

The environmental impact assessment studies should have focused on a wider area (225).

There should be a more detailed description of the proposal, including more detail -on the description of the electronic equipment used (226).

The proposal should be clear. They want to know exactly what the proposal is, after all modifications (227).

It would take at least 2 years to complete all the environmental assessment studies which should be done (227).

An economic impact assessment should include job creation for native people, and the impact (reduction) on the the hunting, social costs and compensation. The assessment should be done in the community (227).

A more thorough health study is required (228).

The study on caribou should be expanded (228).

The Panel should examine other places where low-level flying has taken place, including Germany, Nevada and Cold Lake, rather than rely on data from the military (228).

Concern was expressed that if the 16 country members of NATO have decided that flying will take place, then the EARP process can only provide a forum for native Indian people to express their concerns , and the flying will take place (229).

b. Telephone Consultation, December 16, 1987 (230):

A decision was made by the Attikamek-Montagnais not to participate in the current review by an EARP Panel of military flying activities over Labrador and Quebec.

They want no expansion of military flying activities until land claims are settled and while the Panel is conducting its review,

They also want a limitation on and input into new developments until the land claims are settled.

Although they would like to see a complete moratorium on military flying activities, they do not believe this is possible. They are therefore asking that they are consulted on military flying activities and want input into mitigation.

Concern was expressed that because NATO has made a decision concerning the military flying, the EARP Panel does not have the

right to recommend a moratorium on the flights, but can only provide a forum where native Indian concerns can be expressed.

Concern was also expressed about the fact that the federal government (the Minister of National Defence) was supporting the military flying activities by providing financial assistance to NATO, while the Panel Review was being conducted.

The lack of financial assistance resulted in the inability of the Indian people to prepare environmental impact studies because of their lack of human and financial resources.

The Panel review of military flying activities is the only EARP process that the Conseil has been involved with.

c* Telephone Consultation, December 18, 1987 (231):

There is a problem with the self-evaluation process for initial environmental assessments . FEARO should be involved in the initial assessment phase.

The Guidelines should have the force of law.

There should be a list of projects that will require review.

Crown corporations should be required to implement the EARP process.

More coherent procedures are necessary to promote consistency and cooperation with provincial assessment processes.

Initial environmental evaluations should be published.

Departments should be required to address social , health, economic and cultural implications of environmental change in the initial assessment phase.

A- list of-proposals should be prepared which require a mandatory initial assessment.

The scope of the initial environmental evaluation should be published in the media and distributed where there are concerns about the proposal., There should be 60 days or more for public response , depending on the nature of the proposal.

The Minister of the Environment should be required to respond publicly when a decision is made not to hold a public review. "

Appointment of a negotiator in place of a Panel may be a good idea in some cases.

Specific situations should be set forth when a Panel review will be held.

Panel procedures should not be more formal.

A Panel should have the power to subpoena witnesses and documents.

Proponents should be required to prepare mandatory environmental impact statements.

The initiating Minister and Minister of Environment should be required to provide a joint public response to a Panel report before a decision to proceed with the proposal is made.

Proponents should be required to include plans for collection of monitoring data in environmental assessments.

Co-evaluation of projects may be useful in some situations.

Funding for public participation should be provided, Native people lack the human and financial resources to participate effectively.

The EARP process should be periodically evaluated.

2. NASKAPI-MONTAGNAIS INNU

a. Military Flying Activities over Labrador and Quebec, 1986:

Adequate monitoring of the caribou herds and other wildlife has not been carried out (232).

Concern was expressed that the Department of National Defence cleared the proposal in an initial environmental evaluation on the basis it presented no evidence of any social or environmental negative consequences . They did so without the benefit of any baseline data and impact data on the fauna and ecology of sub-arctic zones such as Northeastern Quebec/Labrador (233).

Concern was expressed that the Terms of Reference of the Panel did not include Canada's Defence Policy and its implications for the environment, and the impact on Innu land rights and its implications for the social well being of the Innu people (234).

Concern was expressed that the review was taking place while the project was underway (235).

The Department of National Defence should not have responsibility for the management and direction of the necessary studies (235).

They asked why the environmental assessments were not done before the government and its NATO allies started to increase their training activities out of Goose Bay in 1979 (236).

The government should have called for a moratorium on low-level flying and plans to build the NATO base until after the comprehensive studies were done. The failure do so makes a joke out of the whole environmental impact assessment process (237) .

The review must study with great care the impacts of low-level jet noise and sonic booms on all wildlife species in the affected area (238).

The fact that land claims policy is not within the mandate of the Panel is a serious problem. The military development will seriously prejudice their rights and land claims negotiations (239).

The Panel should be able to recommend that all military expansion should be halted until Innu land claim settlements have been completed (240).

The review should include all possible air combat training scenarios that are likely to result in the next 15-20 years from bilateral agreements (241).

3." LABRADOR INUIT ASSOCIATION

a. Military Flying Activities over Labrador and Quebec, 1986:

Because of the elimination of a separate review which is required under the James Bay and Northern Quebec Agreement, and the failure of the Panel to hold a hearing in Labrador, the Terms of Reference prejudice the Labrador Inuit. For this reason they will not participate in the EARP review (242).

The Association has a reasonable apprehension of bias about one

of the Panel members and is concerned about the composition of the Panel (243).

They are concerned about the prejudice to land claims from low level flying and increased military activities in Labrador (244).

Monitoring of project effects is a critical element in environmental impact assessment, in particular monitoring of effects on caribou (244).

Other outstanding issues have to be addressed, including, effects on furbearers, waterfowl, harvesting activities and the socio-economic environment of the Labrador native people (245).

Concern was expressed about the lack of opportunity for input into the guidelines before they were released to the public. Draft guidelines were handed out for comments at the meeting (246).

Similarly, there was no opportunity for input on the Terms of Reference from them (247).

Concern was expressed about the absence of technical experts from Labrador (247).

A joint management board should be established to develop a management plan for the total caribou herd and its habitat (248).

Public meetings on the draft guidelines provide a good opportunity for the public to provide comments to the Panel (248).

The final guidelines should reflect all the concerns of the public and the Proponent and should be binding. The proponent should respond to public comments on the draft guidelines (249).

The documents, including the draft guidelines, should be written in a way that allows people to understand what is being said and must have as wide and as early a circulation as possible (250).

The time frames established for preparation of the EIS must be realistic. The guidelines should clearly state that full compliance with the guidelines will be required (251).

The guidelines should provide that the Panel will not convene public hearings on the EIS until the Proponent has adequately provided all the necessary information and analysis consistent with the intent of the guidelines (251).

Where the proponent identifies a major or significant data gap that affects the determination and analysis of impacts, the proponent should propose contingency plans for dealing with the situation (252).

The guidelines should include a provision that the proponent must

describe all potential future phases of the project, no matter how remote they may be considered. The proponent must also address ways in which future phases and/or changes to the project will occur, and how it will deal with the problem of potential impacts of the future phases on environmental components where no baseline data has been collected (253).

The guidelines should describe in detail how the proponent intends to provide for ongoing consultation with key resource users who may be impacted by the Project and its future phases: The consultation process should reflect and respect the major areas of impact and people impacted (253).

The mandate of the Panel should include calling for a moratorium on low level flying in the event that no clear analysis of impacts can be determined, or the Panel determines the impacts are unacceptable (254).

The terms "subsistence lifestyles and land use" should be replaced with "the effects of low level military training on the economy, culture and land use of the aboriginal peoples (255).

The EIS must address the potential impact of an increase in people and a subsequent increase in pressure on and access to their wildlife resources (256).

The EIS should provide details of a surveillance and supervision

program to ensure that the monitoring programs and all other terms and conditions of the project are respected. This should include identifying an appropriate organization and methodology for undertaking a detailed and co-ordinated "post-development audit" (257),

4. GRAND COUNCIL OF THE CREES (of Quebec)

a. Military Flying Activities over Labrador and Quebec, 1986

Concern was expressed about the omission of caribou in the guidelines (258).

5. KATIVIK REGIONAL GOVERNMENT

The Kativik Regional Government was incorporated under the James Bay and Northern Quebec Agreement (259).

a. Military Flying Activities over Labrador and Quebec, 1986

The mandate of the Panel should be broad enough to recommend" a stop to any future expansion of flights and a reduction in present flights. The Panel should also have the mandate to recommend alternative project areas or modifications to the present project boundaries (260).

Concern was expressed that NATO was expected to render its decision on the location of the training center before the Panel completed its review process (260),

Guidelines directing the contents of an environmental and social impact statement must be clear, comprehensive and precise in order to avoid confusion in the latter stages of the review which can be costly in terms of time, money and effort (261) .

The process is flawed at the outset in that the Panel is reviewing an activity that is already taking place and where irrevocable decisions have already been made (261).

Because the credibility of the review process would be undermined if new agreements for low-level flight training continue to be negotiated between Canada and its allies, the Panel should request a commitment from the proponent that no further agreements be negotiated until the review process has been fully completed (261).

The proponent should submit a draft EIS document outlining its proposed structure and content (261).

The EIS should include a description of the public's perception of the project and its anticipated impacts, both positive and negative. This survey should highlight the viewpoints of the Naskapis, Inuit and other groups affected by the proponent (262). The guidelines should provide detail about mitigation measures and elements requiring monitoring which should be included in the EIS (262).

In addition to identifying who will be responsible for individual mitigative measures or damages, a description of the mechanisms set in place to ensure compliance should be provided (262).

6. MAKIVIK CORPORATION

a. Military Flying Activities over Labrador and Quebec, 1986:

The term consultation and consultation process should be more clearly defined in the guidelines so that it will be both adequately and correctly conducted (263).

Native Inuit communities should be involved in as many research activities of the EIA as possible so as to ensure Inuit input into the process (264).

"Monitoring" should be better defined in the guidelines and its proposed implementation explained. A watch dog committee should be created to provide surveillance and enforcement of all monitoring studies and mitigative measures if the project is implemented (265).

The guidelines should give attention to the consideration of a "no go" scenario in the environmental impact statement (266) .

The Panel should have the mandate to stop all ongoing military activities in Labrador and Quebec (267).

Note: Port of Quebec Expansion Project, 1982-84

There were no written or oral presentations made by native Indian or Inuit people on this Project (268) .

H. NOVA SCOTIA

Note : Wreck Cove Hydro Electric Project, 1977

No oral or-written representations were made to the EARP Panel by native Indian or Inuit organizations, Bands or individuals (269).

Note: Venture Project Development, Sable Island, 1983

No oral or written representations were made by native Indian or Inuit organizations, Bands or individuals (270).

I. NEW BRUNSWICK

Note: Second Nuclear Reactor, Point Lepreau, 1985

No oral or written representations were made by native Indian or Inuit organizations, Bands or individuals (271).

1. NASKAPI MONTAGNAIS INNU

The Innut people live all across Ntesinan and share a territory which spans an area from the Gulf of St. Lawrence to the Labrador coast and north to Ungava Bay (272).

a. Lower Churchill Hydroelectric Project, 1980:

"On the basis of the argument presented above (that building the project is -an imposition of alien law and authority and hence the denial of their right as a people to self-determination) and in the face of overwhelming evidence that the likely consequence of the construction of the project will produce catastrophic effects on the Innut, we state that construction of the project will involve a contravention by Canada of the International covenants to which it is a signatory." (273).

"If this project is permitted to proceed before we have reached an agreement with Canada on our rights, and before this agreement is fully implemented, we tell you from our hearts that we fear for our continued existence as a people in this part of Ntesinan. " (274).

Concern was expressed that the proponent was almost assured the project will go ahead and that the review would be a rubber stamping (275).

In order for Indian people to have meaningful participation, they should have been provided with financial and other resources. They should have been able to hire their own consultants (276).

The denial of the financial means to participate in the EARP process seriously compromises the integrity of the process (277).

The necessity of the Project should have been examined (278).

Land claims must be settled - they mean the survival of northern aboriginal peoples as a distinct people (279).

Concern was expressed about the way the hearings "were being rushed upon them" (277).

Concern was expressed that no public meeting was held in Sheshatshit and that at the meeting held in Goose Bay, no translation service was available. As well, no literature or questionnaires were available in Naskapi (277).

Schedules should have been worked out which accommodated the seasonal activities of the people and their departures to their camps in the country (280).

Concern was expressed that the proponent's documents did not identify all of the native people who would be affected by the project (281).

The socio-economic studies did not attempt to address the probable impact of the project on the Naskapi Montagnais and scarcely attempted to address the territorial and political rights of the Innut. As well, the little baseline data which was presented was misleading or incorrect (282).

The issue of the territorial and political rights of the Innut and the degree to which the project will usurp or abrogate them is a matter which should be considered in the context of socio-economic impact. This consideration does not have to await agreement between Canada and the Innut on these matters (283).

The NMI want a more open and accessible form of review process, such as the MacKenzie Valley Pipeline Inquiry (284).

Data should be provided on the renewable resource activities of the Innut, hunting, fishing and trapping, and the project's projected impact on those activities (285).

Data was not provided on symptoms of social decay and disruption which have beset northern aboriginal peoples across the North who have been exposed to boom conditions (286).

Wildlife surveys should not be done by using helicopters flying at 130 kilometres a mile, 60 and 120 metres aboveground (287).

The Indian people should conduct the environmental impact studies

themselves (288).

2. LABRADOR INUIT ASSOCIATION

a. Lower Churchill Hydroelectric Project, 1980:

LIA is concerned that the area of the Lower Churchill Hydroelectric Project is subject to land claim negotiations by Labrador's aboriginal people (289).

LIA considers itself to be progressive *in its* development plans for the future and it rejects an anti-development label. It participated in the EARP review process, to the extent that its limited budget would allow, to offer constructive criticism (290).

LIA is concerned about the effectiveness of the EARP evaluation process (291).

Although the proponents should bear the cost of environmental impact studies, it is inappropriate that proponents should be charged with their direction and execution (291).

Proponents of large scale projects should also absorb the costs of the interveners studies and environmental impact evaluation (291).

The whole question of northern development in the Territory or

region to be impacted should be subject to an inquiry process (291).

The scope of the hearings must be adequate to allow for an adequate examination of the consequences of the Project (the scope of the Lower Churchill Review process was considered inadequate) (291).

Concern was expressed about the socio-economic impact study of the Lower"- Churchill Hydro project because northern Labrador communities were not included as major factors, the project brings about other types of development and the area will be subject to land claims negotiations by Labrador's aboriginal people (292).

3. FEDERATION OF NEWFOUNDLAND INDIANS

The Federation of Newfoundland Indians consists of 3 Bands (Bay St. George , Bay of Islands and Central). Excluded from the Federation are 560 Indians living in Conne River, Day D'Espoir. The approximate 1500 individuals within the Federation are not considered by the government to be Indian people (293).

a. Hibernia Development Project, 1985:

They are not opposed to the Hibernia Development, however "Developers and the government must include opportunity for native people to address their concerns prior and throughout the

development stages and from the earliest beginning, serious consideration must be shown while addressing sensitive issues. We will not remain to be observers to any development that has the potential of eroding the well-being of our future" (294).

Concerns included social problems from new-comers, community strain from the resettlement scheme and erosion of lifestyles as a result of increased incomes from oil development and increase of hunting and fishing recreation which the Indian people live close to (294).

II I.' SYNTHESIS OF COMMENTS AND RECOMMENDATIONS

A. INTRODUCTION

The purpose of this Synthesis is to summarize by subject area , the comments and recommendations of the native Indian and Inuit organizations , Bands and individuals documented in Part II of this Report . The comments or recommendations were supported by one or more organizations and are not necessarily a consensus view.

B. RECOGNITION OF NATIVE INSTITUTIONS AND ORGANIZATIONS

1. The government and companies should recognize-the legitimate role of native community and regional institutions and national organizations in decision-making and deal with native people through these collective institutions.

2. Native people do not want to be treated as nothing more than public interest groups . They want to be dealt with seriously within the overall decision-making context. Indian organizations must be a permanent fixture in the approval and review process.

3. Band Councils should be recognized as the Government of the community. Chiefs of the Band Councils should be contacted before any government staff or other people come into the community.

4. Indian Bands should be recognized as a local form of

government with legislative powers to protect fish and wildlife.

5. Meetings should be started with prayers.

C. LAND CLAIMS

1. Concern was expressed about the review of specific development proposals through the EARP process prior to land claims settlement and recognition by the Government of Canada of their ownership of the land. Reasons for this concern were that negotiating positions would be slowed down and prejudiced, and new political and administrative structures may be established through the land claims settlements which may have their own policies on assessment processes and development proposals. Land claims are seen as the protection of Indian culture and values and the survival of northern aboriginal peoples as a distinct people .

2. Several organizations are attempting to establish environmental assessment processes as part of their land claims settlement. The relationship of such assessment processes to the EARP process has not been clearly outlined, other than to say there should be some coordination between the processes. . One organization indicated that any Yukon environmental assessment process would have to take priority over the EARP process.

3. Guaranteed representation of native Indian people on the

Review Panels is wanted.

4. In the interim, until land claims are settled, the organizations should be directly involved in any environmental assessment process and the management of their resources. One suggestion is that a body should be formed from existing non-government regional organizations in the N.W.T. to consult concerning the EARP process.

5. Other interim measures suggested included the provision of greater control and management of land and resources by Indian people, and the establishment of a northern agency with responsibility for northern natives to coordinate land and resource allocation and use. As well, the EARP process should be made more effective by making it responsible to the communities.

6. Aboriginal rights should be dealt with in an environmental assessment review. They should be addressed in the context of a socio-economic impact and consideration does not have to await agreement between Canada and the native people.

D. REGIONAL PLANNING/NORTHERN DEVELOPMENT

1. The EARP Process does not provide for an integrated and regional approach to the environmental assessment of developmental problems. There should be a comprehensive regional planning and management scheme which would integrate and

coordinate the many development projects slated for the North ,
prior to the approval of major developments.

2. Project review requires a context of policy goals and objectives and the format of a regional planning process if it is to be truly effective and comprehensive for the Canadian North .

3. Native people must have a say in the management of the land and control over the planning of the development of the land.

4. The-whole question of northern development in the Territory or region to be impacted should be subject to an inquiry process.

E. COORDINATION

1. Concern was expressed about the lack of coordination of northern development and the failure of an EARP review to take into account previous attempts at dealing with northern development issues.

2. It was recommended that a Review Panel should take full account of previous reports of Panels, Boards and Committees.

3. More coherent procedures are necessary to promote consistency and cooperation with provincial assessment processes.

4. Co-evaluation of projects may be useful in some situations.

5. There will be a need to avoid duplication of assessment review hearings if an assessment process is established under the land claims settlement.

F. LEGISLATION

1. The EARP process should be established by legislation rather than guidelines. Several organizations indicated they wanted the EARP process to have "more teeth" and greater decision-making powers .

2. The EARP Panel should have more power or authority so that if the Panel approves ideas or concerns, the federal government does not have to agree with it.

G. FUNDING

1. There was general agreement that funding is required so that the Indian and Inuit communities can study the issues and formulate their positions. It was indicated that native people wanted to be able to hire their own consultants to do their own research and determine for themselves what the impacts of a proposed development on their land and people will be.
2. Criteria should be developed for allocation of funding.
3. Funding should be built into the initiating department's

budget and administered by the Panel. There should be northern people on the funding committee.

4. A denial of the financial means to participate in the EARP process seriously compromises the integrity of the process.

H. THE EARP PROCESS: GENERAL COMMENTS

1. Several organizations clarified that they were not opposed to a federal Environmental Assessment Process.

2. In many instances, it was commented that the EARP process was not used for most of the development occurring.

3. Several organizations stated that criticisms voiced about the federal EARP process should not be construed as opposition to development in general.

I. ACCESSIBILITY OF PROCESS

Timing:

1. It was stated that notification of an EARP review should be given as early as possible and that information concerning an initial environmental evaluation should be sent directly to affected communities.

2. Native people should be consulted about the optimum time for ,

hearings because the Indian people travel to the country to engage in traditional activities such as hunting and fishing.

Community Consultation:

3. The EARP process should be structured to take into account that everyone in northern communities wants to participate in decisions on important matters.

4. An EARP Panel should visit all communities that have a legitimate interest in the proposed project. One day in each community is inadequate.

5. An EARP Panel should ensure that the people affected have a clear understanding of the nature and long-term consequences of a proposed project. This requires a concerted, carefully planned process of education which takes time.

6. Hearings for the EARP reviews should be held in communities as close as possible to where the development is to be built.

7. Documents should be explained orally by technical advisers.

8. A committee with Terms of Reference, a budget commitment and a schedule of meetings should be established to provide a community information role/liaison function between the proponent and communities.

9. Consultation with native people should occur on an *ongoing* basis.

10. Native people should be allowed to give evidence in their own communities.

11. Technical advisers should be made available and should contact the native people to tell them when they will be in their communities.

12. Proponents should be obliged to undertake more community consultation .

13. There should be provision for translators at the hearings so the people are addressed in their own language.

14. Native people should be involved in all phases of development in the North in the future.

15. Concern was' expressed about the lack of consultation prior to an EARP review.

16. In one case, there was concern about non-Indian company consultants coming to study their communities because the consultants were unable to understand their culture, or the importance of their land to them and hence unable to accurately reflect their needs and aspirations.

17. It is inappropriate for government officials and employees to conduct public opinion surveys in advance of the guideline hearings or before the Environmental Impact Statement is completed by the proponent. This practice creates mistrust.

Access to Information:

18. There must be full access to information, including full disclosure of reports and research material from the proponent.

19. Reports of the proponents should be made available in native Indian languages where requested. More translations of the Environmental Impact Statements, even if summaries, should be produced.

20. A complete list of project deficiencies as identified by the Review Panel should be compiled and translated into native languages.

21. The law on Freedom of Information should be changed so that documents such as initial environmental evaluations can be made public.

22. It is difficult to use the federal Access to Information Act to secure information unless you know what you are looking for.

23. Foreign countries should be required to publish relevant information.

24: Terms commonly used in the assessment process should be clearly defined.

25. Proponents must be required to develop complete project descriptions .

J. SCOPE OF THE EARP PROCESS/TERMS OF REFERENCE

1. Crown corporations should be required to implement the EARP process.

2. The anticipated impacts and the development of mitigative measures is an integral part of the evaluation which should be completed in order to decide whether or not the project should proceed.

3. The notion that a pilot project should proceed so that the environmental impacts can be studied was rejected.

4. Because the assessment and review will be incomplete, it is not acceptable to review a proposal at the preliminary planning stage where there is an omission of project specific details.

5. There should be a "no go" option in an assessment.

6. Reviews should also deal with environmental impact policy, New federal government policy should be addressed by a Panel when

it is developed.

7. Concern was expressed there are no methods for dealing with cumulative environmental impacts.

8. The EARP Process should apply to all proposals where there will be environmental impact, not just to certain projects.

9. Land use planning should be within the Terms of Reference of an EARP Panel.

10. There should have been a moratorium on construction until all studies to determine the impact on Indian lands, resources and people were done.

11. The Terms of Reference of the Panel should include a review and assessment of the validity of the proponent's rationale for the project. The Panel should deal with the need for the project before the proposal is evaluated.

12. The Terms of Reference should be presented for public review and input.

13. Concern was expressed that the Panel's Terms of Reference did not include Canada's Defence Policy and its implications for the environment with regard to low-level military flying.

14. A Panel should have the mandate to recommend alternative project areas or modifications to project boundaries.

15. Concern was expressed that the proponent was almost assured the project would go ahead and that the review would be a rubber stamping.

16. The MacKenzie Valley Pipeline Inquiry was often referred to as the type of assessment process the Indian and Inuit people would prefer.

K. INITIAL ENVIRONMENTAL ASSESSMENT PHASE

1. There was very limited experience with initial environmental assessment .

2. There is essentially no consultation on initial assessments.

3. The initial assessment part of the EARP process is the weakest part of the process.

4. The Department of Environment or FEARO should monitor the self-assessment process.

5. Departments should be required to address the social, health, economic and cultural implications of environmental change in the initial assessment phase.

6. The Minister of the Initiating Department rather than the Minister of Environment should be required to respond publicly when a decision is made not to hold a public review.
7. Random audits of initial environmental evaluations should be done by an independent government agency.
8. The concept of self-assessment is acceptable, however, the process must be open to the public, legislated and subject to auditing.
9. A list of proposals which require a mandatory initial assessment should be prepared.
10. Initial environmental evaluations should be published with approximately 60 days for response.
11. The scope of the initial environmental evaluation should be published in the media and distributed in the area where there are concerns about the proposal. There should be 60 days or more for public response, depending on the nature of the proposal.
12. Concern was expressed about the clearance of a proposal without the benefit of any baseline data and impact data on the . fauna and ecology.

L. ASSESSMENT GUIDELINES

1. An open forum should be provided for the development of the Assessment Guidelines.

2. Guideline hearings were not well advertised and communities were not given adequate information to prepare for the meetings.

3. Guidelines for the EIS should require the proponent to examine the question of land use planning.

4. The-criteria for the environmental impact 'assessment should be provided by the Panel, not the proponent. The criteria should focus on the quality of the social and cultural life of the native people.

5. Concern was expressed about a lack of opportunity for input into the guidelines before they were released to the public and that draft guidelines were handed out for comments at the meeting. Public meetings on the draft guidelines should be held.

6. The final guidelines should reflect all the concerns of the public and the Proponent and should be binding.

7. The proponent should respond to public comments on the draft guidelines .

8. The draft guidelines should be written in a way that allows

people to understand what is being said.

9. The time frames established for the preparation of the EIS must be realistic.

10. The guidelines should clearly state that full compliance with the guidelines will be required.

11. The guidelines should provide that the Panel will not *convene* public hearings on the EIS until the proponent has adequately provided all the necessary information and analysis consistent with the intent of the guidelines.

12. The draft guidelines must have as wide and as early a circulation as possible.

13. The guidelines should include a provision that the proponent must describe all potential future phases of the project and how it will deal with the problem of potential impacts of the future phases where no baseline data has been collected.

14. The guidelines should describe in detail how the proponent intends to provide for ongoing consultation with key resource users who may be impacted by the project and its future phases.

15. Assessment guidelines directing the contents of an environmental and social impact statement must be clear,

comprehensive and precise.

16. The term consultation and consultation process should be more clearly defined in the guidelines so that it will be both adequately and correctly conducted.

17. Monitoring should be better defined in the guidelines and its proposed implementation explained.

18. A watch dog committee should be created to provide surveillance and enforcement of all monitoring studies and mitigative measures if the project is implemented..

19. The guidelines should give greater attention to the consideration of a "no go" scenario in the environmental impact statement .

20. Issues of concern to the proponent should be raised by the proponent at the guideline hearings.

21. If the proponent is not in a position to select a preferred option, then all the options should be the subject of an EARP hearing.

M. EARP PANEL REVIEWS

1. Native people must be guaranteed representation on the EARP

Panels . They want input into the appointment of all panel representatives .

2. At least some EARP Panel members should be familiar with the area the project is going to impact on.

3. There should be both formal and informal EARP hearings.

4. The EARP Panel should have the power to subpoena witnesses and documents.

5. It should be specified when an EARP Panel review will be required. A list of automatic referrals should be established.

6. There should be other options available other than Panel Reviews, perhaps appointment of a researcher or fact finder. One organization did not support the concept of a negotiator in place of a Panel.

7. The recommendations of a Panel should stand unless the Minister of Environment overturns them.

8. Where the Minister of Environment overturns the Panel's recommendations, he/she should provide a rationale.

9. The Ministers of the Environment and the Initiating Department should be required to provide a public response when

. the recommendations of a Panel are rejected.

10. The recommendations of a Panel should specify who is responsible to carry out specific recommendations.

11. Recommendations of the Panel should be either accepted or rejected by Cabinet.

12. There should be an appeal process from a Panel decision.

13. The public hearing process is regarded as a waste of time and the taxpayers money.

14. Concern was expressed there were no women on the Panel.

15. A review should evaluate whether or not the residents are satisfied that the analysis of effects and the proposed enhancement and mitigation measures reflect their views.

16. Sufficient time must be allotted at the hearings for Indian people to adequately address their concerns.

17. A process for the submission of written questions to the proponent for response was considered inadequate.

18. Concern was expressed that because a decision had been made by NATO on low-level flying, the EARP Process could only provide

•a forum for native people to express their views.

19. Panel procedures should not be more formal.

20. The EARP Panel should have a quasi-judicial function.

N. LACK OF DATA BASE

Concern was expressed about the absence of a data base before environmental assessment studies were commenced. There should be a thorough monitoring before a project is developed so the effects of the project can be evaluated.

O. ENVIRONMENTAL IMPACT STATEMENTS

1. The proponents should not be responsible for preparation of Environmental Impact Statements (EIS).

2. Northern communities should be involved in the preparation of the EIS. Native people should handle the environmental studies because of their knowledge about the animals and their habitat.

3. Proponents should be required to prepare mandatory EIS.

4. Research plans for environmental and social studies and their purpose, timing and methodology should be explained by the proponent to community representatives prior to project approval,

. and should be reviewed by the community representatives upon completion to examine their effectiveness vis-a-vis their stated objectives.

5. Research work should be done in close cooperation with the local hunters and trappers Associations.

6. A permanent office should be established to provide a liaison service during the conduct of environmental and social research . to ensure cooperation between the proponent and the community.

7. Experienced Inuit hunters should be included as project leaders in the environmental research programs.

8. The hiring of qualified native people should be considered as a priority for the environmental and social studies.

9. Each volume of the EIS should have an index and specific cross references so that material can be more easily located..

10. Technical considerations should include native knowledge of the land. It is essential to go to the communities to get this information.

- 11. The EIS must be an easy to read document so that all the information on one project or issue can readily be found.

12. The survival of the native people must be considered every step of the way in any proposed development.
13. Three months to *review* the EIS was insufficient.
14. There should be adequate time to prepare for the EIS hearings.
15. The proponent's research consultants should contact the Indian Bands when conducting research.
16. Persons conducting the studies should have an understanding of the linguistic community they are studying.
17. Technical experts from the area should be included.
18. The terms "subsistence lifestyles and land use" should be replaced with the "effects . . . on the economy, culture and land use of the aboriginal peoples."
19. The proponent should submit a draft EIS document outlining its proposed structure and content.
20. Proponents should bear the cost of EIS.
21. Proponents of large scale projects should absorb the costs of the interveners studies and environmental impact evaluation.

.22. The EIS should include:

- mitigative measures which can be taken to minimize the disruptive impacts of a project;
- development of specific plans for the training and employment of native people, including quantitative studies on employment in connection with a project and detailed plans for routing more native people into jobs or training programs;
- a cultural context including the significance of native harvesting activities to native culture;
- the value of hunting, including the individual's worth, length of time invested in learning skills and in passing skills on to younger persons, and cash and in-kind value of harvesting activities;
- an analysis of traditional activities which include hunting, fishing and trapping and a discussion of possible impacts on families and communities if the traditional activities and values which they embody are further eroded by development;
- all options being considered by the proponent;
- the social impacts on native communities from a large influx of southern Canadians;
- consideration that northerners have their own ideas of what they want to do with their lives and resources and of other forms of development which might be optional or preferable;
- consideration of small scale developments which would

- be controlled by the communities and of the long-range survival of the communities in these scenarios;
- the integration of land, people and wildlife, rather than only a description of impacts on specific animals;
- advantages and disadvantages of the proposal;
- an accurate assessment of project impact on local use of renewable resources and what that impact will mean in economic and cultural terms to the native community;
- an assessment of the secondary social and economic impacts resulting from the predicted effects of the proposed development on harvested populations of fish and marine animals;
- a compensation package;
- waste disposal from construction camps;
- consideration of the cumulative impacts from pollution;
- the social and cultural factors in interaction with the ecosystem;
- contingency plans, where the proponent identifies a major or significant data gap that affects the determination and analysis of impacts;
- a description of the public's perception of the project and its anticipated impacts, both positive and negative, highlighting the viewpoints of the Indian and Inuit people affected by the proponent;

- identification of all of the native people who would be affected by the project;
- data on symptoms of social decay and disruption which have beset northern aboriginal peoples who have been exposed to boom conditions.

P. MONITORING/POST CLOSURE CARE/ COMPENSATION

1. Projects must be managed and monitored.

2. There should be provision for follow-up monitoring of recommendations made by a Panel.

3. Native people must be trained for and must play a meaningful role in short and long-term monitoring and surveillance of development projects. In the interim, an Environmental Protection Working Group should be established.

4. Proponents should be required to include plans for monitoring and concerns of local native people must be included.

5. There is a need to ensure coordination of the monitoring process.

6. There should be independent monitoring of environmental and socio-economic impacts by a federally funded institution.

7. The proponent should be required to post a financial bond in the amount of 10% of the project budget.

8. A valuation system is necessary to determine all direct and indirect costs of each spill, accident or other damage event.

9. A fund and a procedure to assure full compensation and full reclamation efforts after a damage event occurs should be established. The fund should be created in advance and be in friendly or neutral hands before any development occurs.

10. Issues related to compensation for cumulative damage and impacts that loss of livelihood and lifestyle has caused for some hunters and trappers should be addressed.

11. Socio-economic implications of abandonment should make reference to other abandonments in the North.

0. EVALUATION

The EARP process should be periodically evaluated.

FOOTNOTES

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3. 1.1#9 (FEARO reference), Additional Compendium of Written Submissions to the Panel on the Draft Environmental Impact Statement Guidelines, December 18, 1981; Porter, Dave, Written Submissions dated November 23, 1981 and November 27, 1981.
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5. 1.1#9, *ibid.*, p.44.
6. 1.1#9, *ibid.*, p.46.
7. 1.1#9, *ibid.*, p.46.
8. 1.1#9, *ibid.*, p.38-39.
9. 1.1#9, *ibid.*, p.40.
10. 1.1#9, *ibid.*, p.40.
11. 1.1#9, *ibid.*, p.50.
12. 1.1#9, *ibid.*, p.49.
13. 1.1#9, *ibid.*, p.49.
14. 1.1#9, *ibid.*, p.40.
15. 1.1#9, *ibid.*, p.45-46.
16. 1.1#9, *ibid.*, p.50.
17. 1.1#9, *ibid.*, p.51.
18. 3.3#5, 1-13.
19. 3.3#5, 1-13, p.1.
20. 3.3#5, 1-13, p.2-4.
21. With Tom Munson, Executive Assistant for the CYI.
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30. 1.1#9, *op. cit.*, Statement to the Beaufort Sea Environmental Assessment Panel, Inuit Tapirisat of Canada, November, 1981, - p.89.
31. 1.1#9, *ibid.*, p.112.
32. 1.1#9, *ibid.*, p.113.
33. 1.1#9, *ibid.*, p.91.
34. 1.1#9, *ibid.*, p.107.
35. 1.1#9, *ibid.*, p.90.
36. 1.1#9, *Op. cit.*, Submission to the EARP Panel on Beaufort Sea Hydrocarbon Proposal, Fran Williams, President, Labrador Inuit Association, Calgary, November 27, 1981, p.118.
37. 1.1#9. *ibid.*, Letter dated October 20, 1981 and Written Submission dated November 27, 1981.
38. 1.1#9, *ibid.*, p.116.
39. 1.1#9, *ibid.*, p.118.
40. 1.1#9, *ibid.*, p.119.
41. 1.1#9, *ibid.*, p.120.
42. AP/NO 4.2#1, Arctic Pilot Project, Northern Component, Briefs, Submissions, Comments, p.1-2.
- 43. AP/NO 4.2#1, *ibid.*, p.2-3.
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46. AP/NO 4.2#1, *ibid.*, p.6.

- .47. AP/NO 4.2#1, *ibid.*, p.14.
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54. AP/NO 4.2#1, *ibid.*, p.25.
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58. 1.1#9, *ibid.*, p.35.
59. 1.1#9, *ibid.*, p.36.
60. 1.1#36, Submissions to the Panel on the Deficiencies in the EIS, p.159.
61. 1.1#36, *ibid.*, p.161-162.
62. With Michael Lightstone, Executive Director of the Keewatin Inuit Association.
- 62a. BS 3#2, YK-19 (See Note 80).
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82. BS 3#2, YK-19, ibid., p.12-13.
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269. WR 3.3#1, WR 4.1#1, WR 4.2#2, WR 4.1#3.
270. SA 4.1#1, SA 4.2#1-1, SA 4.2#1-2, SA 4.2#2-1, SA 4.2#2-2.
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APPENDIX A

BACKGROUND SUMMARY PAPER

**SUMMARY OF THE
FEDERAL ENVIRONMENTAL
ASSESSMENT AND REVIEW
PROCESS PROCEDURES**

Prepared as a Background Paper
for a Project to Determine
Native Indian and Inuit Concerns

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November, 1987

SUMMARY OF THE FEDERAL ENVIRONMENTAL
ASSESSMENT REVIEW PROCESS

I. INTRODUCTION

The purpose of this paper is to outline in summary form the federal Environmental Assessment Review Process (EARP) that is currently in existence. The summary is intended to assist Native Indian and Inuit individuals and organizations identify concerns they may have about the EARP process and is not intended to be a comprehensive description of the process.

II. STATUTORY BASIS

The federal Environmental Assessment Review Process (the EARP Process) was formally established in 1984 by an Order in Council called the "Environmental Assessment and Review Process Guidelines" (SOR/84-467, June 22, 1984; gazetted July 11, 1984). Prior to 1984, the EARP process was an informal process established by a Cabinet Directive in 1973 which stated that environmental assessment on all federal undertakings and activities would be carried out. A second Cabinet directive in 1977 provided for procedural adjustments to the 1973 Directive.

The EARP Guidelines Order was made by the Minister of Environment under the authority of s.6(2) of the Government Organization Act,

1979, S.C. 1978-79, c.13. The Government Organization Act authorizes the Minister of Environment to establish guidelines for use by federal government departments, boards and agencies for the purpose of initiating programs to ensure that new federal projects, programs and activities are assessed for potential environmental effects early in the planning process and the results taken into account. (s. 6(1) and (2) Government Organization Act)

Although the question of whether or not the guidelines are legally binding on the Federal Environmental Assessment Review Office (FEARO) (the office which administers the EARP process) and initiating departments has not been judicially considered, it is unlikely that a court would conclude they are legally binding, because the Government Organization Act has only given the Minister the authority to establish guidelines, not regulations.

III. THE SCOPE OF THE EARP PROCESS

The EARP Guidelines apply to any proposal that:

- a. is to be undertaken by a federal department or agency;
- b. may have an environmental effect or directly related socio-economic effect on an area of federal responsibility;
- c. the federal government makes a financial commitment to; or
- d. is located on lands, including the offshore, that are administered by the federal government.

The Guidelines also apply to boards or agencies of the Government where there is no legal impediment or duplication, and to corporations listed in the Financial Administration Act if it is corporation policy and within the legislative authority of the corporation .

The process is a self-assessment process. This means that the responsibility for considering the environmental effects of a " proposal lines with the initiating government department which has the decision-making authority regarding that proposal. (s.3 EARP Guidelines) (All references hereinafter refer to the EARP Guidelines.)

The EARP Guidelines require that the initiating department consider the:

- a. potential environmental effects including effects on foreign territory;
- b." social effects directly related to potential environmental effects including effects on foreign territory; and
- c. concerns of the public regarding the proposal and its potential environmental effects. (s.4)

As well, in some instances, with the approval of the Ministers of Environment and the initiating department, the review may include

general socio-economic effects, technology assessment and the need for the proposal (s.4(2)).

IV. JOINT FEDERAL/PROVINCIAL REVIEW

In some cases, an agreement may be reached among various levels of government to hold a joint review under the EARP guidelines. Ministers from all levels of government would then have input into the procedures. The Guidelines specify that in a joint review, some of the procedures normally followed may not be required. (s.32)

V. ADMINISTRATION

The EARP process is administered by the Federal Environmental Assessment Review Office (FEARO). FEARO is separate from the Department of Environment, although the Executive Chairman reports directly to the Minister of Environment.

VI. DESCRIPTION OF EARP PROCEDURES

The EARP process has 2 phases: initial assessment and public review by an EARP panel.

1. Initial Assessment

The initiating government department reviews the proposal. If the department concludes there are no adverse environmental effects, there is no further review. If it concludes there are significant adverse environmental effects, the proposal is

automatically referred to the Minister of Environment for public review by an EARP panel. (See 2. following)

If the proposal has some environmental effects, the assessment by the initiating department continues. The department then decides whether:

- a. the proposal can proceed with changes;
- b. further study is required. In some cases a report called an Initial. Environmental Evaluation (IEE) must be done by the proponent to investigate further the nature and significance of potential environmental effects;
- c. the proposal must be modified by the proponent for reassessment;
- d. the proposal should be referred to an EARP panel for public review (if the potentially adverse environmental effects are significant or there is public concern) ; or
- e. to reject the proposal (s.12 & 13).

Other Requirements

The initiating department is required:

- a. to ensure that mitigation OR compensation measures are implemented where potentially adverse environmental effects can be prevented from becoming significant (s.14);
- b. to establish written procedures for the conduct of initial assessments in consultation with FEARO (s.16);

- 4
- c. to provide access to information to the public so they can respond to the proposal (s.15) ; and
 - d. the assessment process is conducted before irrevocable decisions are made. (s.3)

FEARO publishes a periodic bulletin which records initial assessment decisions made by initiating departments (s.18).

There is no provision in the Guidelines for appeal of an initial assessment decision.

2. Public Review By an EARP Panel

The *following* procedures are followed once a proposal is referred by the initiating department to the federal Minister of the Environment for review by an EARP Panel:

- a. Terms of reference are drafted by FEARO in consultation with the initiating department and submitted to the Minister of Environment . The terms of reference define the scope of the review. These are issued by the Minister of Environment; in consultation with the Minister of the initiating department and are made available to the public. (s.26)
- b. A list of candidates for the Environmental Assessment Panel is provided to the Minister of Environment by FEARO, often after public consultation.

- c. The Minister of Environment appoints the members of the Assessment Panel who must be unbiased, free of any potential conflict of interest and political influence and have special knowledge and experience relevant to the proposal under review (s.21 & 22). The Chairman of the Assessment Panel is generally the Executive Chairman of FEARO (s.23).
- d. The Assessment Panel establishes its own operating procedures in accordance with FEARO guidelines (s.27). The procedures are distributed to any interested persons through the Panel's support staff.
- e. The Panel is required to conduct its own public information program to advise the public of its review and to ensure that the public has access to all relevant information requested (s.28). All information submitted to a Panel is public. The public must be allowed sufficient time to examine and comment on the information prior to a public hearing 5.29 .
- f." The Panel may issue guidelines after consultation with the public to the proponent for preparation of an Environmental Impact Statement (EIS) (s.30). In practice, draft guidelines are generally issued and may be revised after consultation with the public. Finalized EIS guidelines are then issued to the proponent. These finalized guidelines often limit the issues to those which the Panel has determined will be most r-elevant to its review.

- g. The proponent must submit to the Panel sufficient copies of the EIS in local Native Indian or Inuit languages as specified by the Panel (s.34(b)). Once the EIS is received by the Panel, it is made available to the public who may comment on its deficiencies (s.29).
- h. If deficiencies in the EIS are identified by the Panel, the proponent must provide additional information as requested. This information is made available to the public (s.34).
- i. The proponent is required to implement a public information program to explain the proposal and its potential environmental effects (s.34) .
- j. When the Panel is satisfied with the EIS and additional information submitted by the proponent, public hearings will be held. The Panel may hold 2 types of hearings, general and community hearings.
- k. Community hearings are generally held when a rural area may be affected by the proposal. These hearings are informal and structured to encourage residents to express their views on the proposal.
- l. General hearings are usually held in larger centres and deal with the technical aspects of the proposal and its potential impacts.

- m. The general hearings are less formal than court proceedings. Witnesses before a Panel may be questioned rather than cross-examined, and their evidence is unsworn. The Panel may not subpoena witnesses and are not given other powers which could be provided under the Inquiries Act.
- n. Interveners will be permitted to make opening and closing statements and to question witnesses.
- o. The proponent must ensure that senior officials and expert staff are present at the hearings to make representations (s.34(>)).
- p. Government departments that have expertise relevant to the proposal provide information to the Panel as requested and experts at the public hearings.
- q. At the end of its review, the Panel prepares its report containing its conclusions and recommendations (s.31). The conclusions and recommendations are limited to those options contained in the terms of reference. It may not be able to recommend rejection of the proposal, but may be confined to recommending terms and conditions to minimize adverse environmental effects.
- r. The Panel Report is submitted to the Ministers of Environment and the initiating department who make the final decision. They are not legally bound by the Panel's Report. The Report must be made available to the public (s.31).

- s. The initiating department must make sure any decisions made by the Ministers are incorporated into the design, construction and operation of a proposal and that suitable inspection and environmental monitoring programs are established (s.33(1) (d).
- t. The proponent must ensure that appropriate post-assessment, monitoring, surveillance and reporting required by the initiating department are carried out (s.34(b).
- u. There is no provision for appeal of the recommendations of an EARP Panel.
- v. There are no provisions for re-evaluation of approved projects.

APPENDIX B

QUESTIONS FOR CONSIDERATION

QUESTIONS FOR CONSIDERATION BY NATIVE INDIAN
AND INUIT INDIVIDUALS AND ORGANIZATIONS ON
THE FEDERAL ENVIRONMENTAL ASSESSMENT AND
REVIEW PROCESS

The following questions will be used to determine your concerns about the federal Environmental and Assessment Review Process (the EARP process), rather than your concerns about any specific proposal reviewed by the EARP process. The questions are only intended as a guideline to a discussion.

I. INVOLVEMENT IN THE EARP PROCESS

1. Have you or your organization been involved in the EARP process in either an initial assessment or an EARP Panel Review?
2. What were the proposals that were considered? When did the process occur?
3. What was your involvement in the process? Did you make oral or written representations to a government agency or department or Review Panel.?
4. Was this review a joint federal/provincial review?

II. CONCERNS ABOUT THE INITIAL ASSESSMENT PROCESS

If you were involved in an initial assessment process:

1. Were you notified by the initiating department that the proposal was under consideration? If so, how were you notified?
2. Were you notified early enough to enable you to make representations to the government department?
3. If you were not notified, what would have been the best way of notifying you?
4. Did you receive any specific information about the proposal?
5. Were you provided with a document called an Initial Environmental Evaluation (IEE)?
6. If so, was this information provided in a language which you could understand?
7. Did you have adequate funding to cover the costs and expenses, such as traveling and typing to make your representations?

8. Were you able to get the necessary scientific expert help you needed?
9. Did you agree with the government department's decision about whether there were adverse environmental effects?
10. Was the matter referred to an EARP Panel for public review?
11. Did you see written material on the procedures used by the government department in conducting its initial assessment?
12. Were there things that you thought the department should have considered that they didn't?
13. Were you notified about the government department's decision and given reasons for the decision?
14. Do you think other departments besides the initiating department should be involved in assessing the environmental impacts of a proposal?
15. Should there be some procedure for an appeal?

II. POSSIBLE CONCERNS ABOUT THE PUBLIC REVIEW PROCESS

1. How did you learn about the Panel Review'?
2. What stage was the review at when you learned about the Public Review Process?
3. Did you have any input into the terms of reference?
4. Are there any areas which you think should always be included in the terms of reference?
5. Were you consulted about the appointment of the Panel members?
6. How do you think Panel members should be appointed? What type of expertise should the Panel have?
7. Were you notified about the Panel's operating procedures?
8. Were you provided with "adequate information about the proposal under consideration by the Panel?
9. Were you consulted about the draft Environmental Impact Statement prepared by the proponent?
10. Were you provided with the Environmental Impact Statement in your native language? Was this important to you?

11. Did the proponent conduct a public information program? Was this information program useful to you?
12. Did you attend the hearings? Were these held in your community?
13. Were you satisfied with the informal structure of the hearings? Do you think there should be provision for *more* court-like proceedings with cross-examination of witnesses and sworn testimony?
14. Were there any witnesses you thought should have appeared before the Panel but did not? Should the Panel have the power to require witnesses to appear before it or certain information to be submitted to it?
15. Was the type of report prepared by the Panel satisfactory?
16. Do you think the Ministers of Environment and initiating department should have the final decision about the proposal?
17. Do you think the Ministers should be required to allow for response to the Panel report before making their decision?
18. Should there be an appeal process if you are dissatisfied with the outcome?

IV. GENERAL QUESTIONS

1. Do you think the EARP process as set out in the Guidelines is sufficiently clear about the procedures?
2. Do you think the Guidelines should be binding and have the force of law?
3. Do you think there should be a procedure for re-evaluation of proposals as technology improves or environmental standards change? If so, how often should a re-evaluation take place?
4. Who should be responsible for monitoring conditions which are required for a specific proposal to make sure they are complied with?
- 5. Are there any proposals which were not reviewed through the EARP process but should have been?
6. Was there an overlap between federal and provincial jurisdiction or between federal departments? If so, do you think there should be one process?

7. Do you think procedures could be improved if explanatory literature, lists of projects or programs, lists of approvals or publication of screening decisions were provided?
- V. RESPONSE TO THE MINISTER OF ENVIRONMENT'S DISCUSSION PAPER:
REFORMING FEDERAL ENVIRONMENTAL ASSESSMENT
 1. Do you agree that a self-assessment program whereby each government department takes responsibility for its own environmental assessment is the preferred approach?
 2. Should Crown corporations which may currently be exempt be required to implement the EARP process?
 3. Are more coherent procedures necessary to promote consistency and cooperation with provincial assessment processes?
 4. Should the law on freedom of information be changed so that documents not currently available, such as initial environmental evaluations, can be made public?
 5. Should a foreign country where a proposal is under review be able to refuse publication of the material?
 6. Should departments be required to address social, health, economic and cultural implications of environmental change in the initial assessment phase?
 7. Should a list of proposals which require a mandatory initial assessment be prepared?
 8. Should the scope of the initial environmental evaluation be published and made available in a public location in the area affected by the project? Should public notices be published in the media with approximately 30 to 60 days for public response?
 9. Should the Minister of Environment be required to respond publicly with reasons when a decision is made not to hold a public review?
 10. Would the appointment of a negotiator in place of a Panel be of assistance for reviewing some projects where a full environmental assessment Panel is not warranted?
 11. Should specific situations be set forth when a Panel review will be held, such as projects involving requests for review by a province, possible impact on transboundary impacts, inter-basin water transfer or projects which may have a cumulative effect on the environment?

12. Should panel procedures be more formal?
13. Should a panel be granted greater powers such as subpoenaing witnesses and requiring the production of documents?
14. Should proponents be required to prepare mandatory environmental impact statements?
15. Should the initiating Minister and Minister of Environment be required to provide a joint public response to a Panel report before a decision to proceed with the proposal is made?
16. Should proponents be required to include plans for collection of monitoring data in environmental assessments? "
17. Should steps be taken to minimize duplication of hearings and to hold a single hearing process where possible?
18. Is it desirable for the Minister of Environment to enter into arrangements with the provinces and Native Indian and Inuit organizations so that duplication of environmental assessment reviews is avoided?
19. Should a policy of funding public participation be adopted and if so, who should provide the funds and how should they be administered?
20. Should the EARP process be periodically evaluated by selected government departments or an independent committee appointed by the Minister of Environment at specified intervals , once every 3 years?

APPENDIX C
FEARO PROVISIONAL AGENDA

PROVISIONAL AGENDA

REFORMING FEDERAL ENVIRONMENTAL ASSESSMENT

CONSULTATION WORKSHOP

25 November, 1987
7:00pm - 10:00pm

26 November, 1987
9:00am - 12:00pm
1:30pm - 5:00pm
SHERATON PLAZA EDMONTON HOTEL
Salon "B"

27 November, 1987
1:30pm - 5:00pm
7:00pm - 10:00pm
THE SKYLINE CALGARY HOTEL
Glencoe Room

1. SETTING THE AGENDA
2. PRESENTATION BY FEARO
3. DISCUSSION OF ISSUES: ALL PARTICIPANTS
Topics and duration of each item to be agreed upon at the meeting

Note to Participants:

The staff of the Federal Environmental Assessment Review Office, which is sponsoring this workshop, are pleased to have this opportunity to discuss issues relating to the federal Environmental Assessment and Review Process with interested participants. We will be seeking your views on the issues raised in the discussion paper, "Reforming Federal Environmental Assessment", and would welcome discussion of **any** issues and ideas that you feel are important but that haven't been raised in the paper. We hope the consultation workshop will provide a forum to examine **specific** potential alterations to the federal Environmental Assessment and Review Process.

We would like to **organize** this workshop, and others across the country, in a manner conducive to frank debate and discussion. If the number of participants' and the complexity of **issues warrant**, the workshop may **split into** smaller groups to facilitate discussion among participants on specific issues.

November 9-13

Newfoundland - Nova Scotia - P.E.I.

Monday

- 9 Halifax
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
The Delta Barrington Hotel, HMCS Sackville
1875 Barrington St.
- 10 St. John's
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
The Battery Hotel, Anchor Room
100 Signal Hill Road
- 12 Charlottetown
-7 p.m. to 10 p.m.
Best Western MacLauchlan's, Stanhope B
238 Grafton St.
- 13 Charlottetown
-1.30 p.m. to 5 p.m.
Best Western MacLauchlan's, Stanhope B

November 17-20

British Columbia - Yukon

Tuesday

- 17 Victoria
-1.30 p.m. to 5 p.m.
Empress Hotel, Albert Room
721 (Government St.)
- 18 Vancouver
-9 a.m. to 12 p.m.
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Holiday Inn Vancouver Harbourside, Victoria Room
1133 W. Hastings St.
- 19 Whitehorse
-7 p.m. to 10 p.m.
Sheffield Whitehorse, Village Square 1
Second & Wood Sts.
- 20 Whitehorse
-9 a.m. to 12 p.m.
Sheffield Whitehorse, Village Square 1

November 24-27

Alberta - N.W.T.

Tuesday

- 24 Yellowknife
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Explorer Hotel, Cumberland Room
413th St.
- 25 Edmonton
-7 p.m. to 10 p.m.
Sheraton Plaza Edmonton, Salon B
10010 104th St.
- 26 Edmonton
-9 a.m. to 12 p.m.
-1.30 p.m. to 5 p.m.
Sheraton Plaza Edmonton, Salon B
- 27 Calgary
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
The Skyline Calgary, Glencoe Room
110-9 Avenue S. E.

Quebec - New Brunswick

Tuesday

- 1 Quebec
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Chateau Frontenac, Salon St. Louis
1, rue des Carrières
- 2 Montreal
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Hotel Meridien, Salon Auteuil
4, Complexe Desjardins
- 3 -Fredericton
-7 p.m. to 10 p.m.
Lord Beaverbrook Hotel, The Petitcodiac Room
659 Queen St.
- 4 Fredericton
-9 a.m. to 12 p.m.
Lord Beaverbrook Hotel, The Petitcodiac Room

December 8-10

Manitoba - Saskatchewan

Tuesday

- 8 Winnipeg
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Sheraton Winnipeg, Canadian North & Central
161 Donald St.
- 9 Regina
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Sheraton Centre, Canadian Centre
1818 Victoria Ave.
- 10 Saskatoon
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Hotel Bessborough, Salon Botche
601 Spadina Crescent E.

December 17-18

Ontario

- 17 Toronto
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
Sheraton Centre, Elgin Room
123 Queen St.
- 18 Toronto
-9 a.m. to 12 p.m.
-1.30 p.m. to 5 p.m.
Sheraton Centre, Elgin Room

December 22

National Capital Region

Tuesday

- 22 Ottawa
-9 a.m. to 12 p.m.
-1.30 p.m. to 5 p.m.
-7 p.m. to 10 p.m.
The Skyline Hotel, Chaudiere Room
101 Lyon St.

APPENDIX D
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APPENDIX E
COVERING LETTER

November 27, 1987

Our file: P-07-394

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ATTENTION: ☒
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Dear Sir: -

The Environmental Law Centre, a non-profit society that conducts research on environmental law and policy, has been asked by the Indian Association of Alberta to prepare a brief on the federal **Environmental** Assessment Review Process (**EARP**) which is currently under review by the federal government. It is **hoped** that the brief will identify **some** of the **problems** Native Indian and **Inuit** organizations have experienced with the **EARP** process in the past.

The brief will be submitted to the Federal **Environmental** Assessment Review Office (**FEARO**) by December 31, 1987 so that the summary of concerns presented in the brief will be considered by the federal Cabinet before final decisions on **changes** to the **EARP** process have been made.

In order to identify some of the concerns **previously** expressed by Native Indian and **Inuit** people, I will be reviewing submissions made to **EARP** panels in the past and will attempt to **contact** as **many** organizations as possible in the next 2 or 3 weeks. I would like to speak with **yourself** or another **representative** of your organization to hear your **views** on the **EARP** process.

Enclosed is a list of questions which **may** be of **assistance** to you. As well, I have prepared a **summary** of the **EARP** process which includes a description of the procedures required by the **EARP** Guidelines. A document circulated **by the** Minister of Environment on the consultation process that **FEARO** is **conducting** is also enclosed.

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If you have any questions, please do not hesitate to call me. I will telephone you in the near future and look forward to hearing your views.

Yours truly,

Marilyn **Kansky**
Director
Environmental Law Centre

MK/mh
Enclosures

APPENDIX F

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APPENDIX G

PANEL REPORTS REVIEWED

PANEL REPORTS REVIEWED

Report #:

- 2* Hydro Electric Power Project, Wreck Cove, Cape Breton Island, Nova Scotia (August, 1976)
3. Alaska Highway Gas Pipeline Project, Yukon Territory (Interim Report, August, 1977)
4. Eldorado Uranium Refinery proposal, port Granby, Ontario (May, 1978)
8. Eldorado Uranium Hexafluoride Refinery, Ontario (February, 1979)
10. Alaska Highway Gas Pipeline, Yukon Hearings (August, 1979)
11. Banff Highway Project (east gate to km 13) Alberta (October, 1979)
13. Eldorado Uranium Refinery, R.M. of Corman Park, Saskatchewan (July, 1980)
14. Arctic Pilot Project (Northern Component) N.W.T. (October, 1980)
15. Lower Churchill Hydroelectric Project, Newfoundland (December, 1980)
16. Norman Wells Oilfield Development and Pipeline Project, N.W.T. (January, 1981)
17. Alaska Highway Gas Pipeline, Yukon Territory (July 1981) (Routing Alternatives Whitehorse/Ibex Region)
18. Banff Highway Project (km 13 to km 27) Alberta (April, 1982)
19. Beaufort Sea Hydrocarbon Production Proposal (Interim Report) (April, 1982)
20. CP Rail Rogers Pass Development, Alberta (Preliminary Report) (April, 1982)
21. Alaska Highway Gas Pipeline, Yukon Territory (Final Report) (October, 1982)
22. CP Rail Rogers Pass Development, Alberta (Final Report) (August, 1983)
23. CN Rail Twin Tracking Program, British Columbia (September, 1983)
24. Venture Development Project, Nova Scotia (December, 1983)
25. Beaufort Sea Hydrocarbon Production and Transportation (Final Report) (July, 1984)
26. Port of Quebec Expansion Project (September, 1984)