



Government of
Saskatchewan

Seeking Common Ground

**Roundtable Conference
on First Nations and
Métis Consultation
and Accommodation**

MAY 12 - 13, 2008, SASKATOON INN
SASKATOON, SASKATCHEWAN

Conference Report

**Seeking Common Ground
Roundtable Conference on
First Nations and Métis
Consultation and Accommodation**

**May 12 – 13, 2008
Saskatoon, Saskatchewan**

Conference Report

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Message from the Minister of First Nations and Métis Relations

I am very pleased to provide you with the Report from *Seeking Common Ground: Roundtable Conference on First Nations and Métis Consultation and Accommodation* held May 12 and 13, 2008 in Saskatoon.

This Report was developed as a summary of what was said during the presentations on Day One, and the Dialogue Session and wrap-up presentations on Day Two. The Report is not meant to make conclusions, judgments or recommendations on what was said or heard. We made every effort to be accurate and not to reinterpret what was said. The Report was reviewed in draft by the members of the Roundtable Planning Committee, who represented the Federation of Saskatchewan Indian Nations, the Métis Nation – Saskatchewan, the Saskatchewan Mining Association, Canadian Association of Petroleum Producers, and the Ministry of First Nations and Métis Relations.

It is important to note that the Roundtable was just the start of a process of policy renewal. Input from the Roundtable, a Northern Summit being hosted by the Meadow Lake Tribal Council and the Prince Albert Grand Council, and other forums and meetings during the Fall will also inform the process. It remains our objective to have a draft policy framework available for further review and input in December 2008.

My fellow Ministers and I would like to thank each and every person who attended the Roundtable. Not only did your participation contribute to the Roundtable's overall success, your contributions will be of significant value moving forward with the new policy framework. If you were not able to attend the Roundtable, or feel that your views are not appropriately reflected in the Report, I would ask that you submit your thoughts in writing to: Roundtable, First Nations and Métis Relations, 1855 Victoria Avenue, Regina, Saskatchewan S4P 3T2, or e-mail: aboriginal.consultations@gov.sk.ca.

I am confident that our new policy will both respect and protect Treaty and Aboriginal rights, result in certainty for all, and pave the way to ensure First Nations and Métis people become true partners in Saskatchewan's economic bounty. A secure future for all Saskatchewan people depends upon this engagement.



June Draude
Minister of First Nations and Métis Relations

Executive Summary

Background

The Government of Saskatchewan hosted a two-day Roundtable conference on First Nations and Métis consultation and accommodation on May 12 - 13, 2008 in Saskatoon. The purpose of the conference was to begin discussion aimed at framing a new provincial government policy regarding First Nations and Métis consultation and accommodation when government activities have the potential to impact First Nations and Métis rights and interests. Participation was to be by invitation only, with 340 people expected on Day One; actual numbers for the day were closer to 440, with that number dropping for Day Two.

Day One – Discussion on Consultation and Accommodation

Day One of the conference was devoted to presentations by all groups having an interest in the discussion on the duty to consult.

- **Opening Remarks** - The leaders of the various participating organizations set the stage for the conference with their opening remarks:
 - **Government of Saskatchewan** - Premier Brad Wall recognized the government's leadership role in undertaking what will be a very significant and lengthy process
 - **Federation of Saskatchewan Indian Nations** - Chief Lawrence Joseph focussed on the Treaty principle of environmental protection and the hope for equitable participation by First Nations in Saskatchewan's current prosperity
 - **Métis Nation - Saskatchewan** - Robert Doucette, President, emphasized the need for all levels of Métis governance to be involved in this process and the need to develop capacity within the Métis Nation
 - **Saskatchewan Chamber of Commerce** - Dale Lemke, President, spoke about the desire for Saskatchewan to grow and prosper so that everyone can benefit

- **Framing of the Conference** - Ron Crowe, Acting Deputy Minister, First Nations and Métis Relations outlined the provincial framing of the Roundtable conference. Objectives for the conference included discussing definitions, principles and goals for the consultation process, generating ideas for protocols in developing a respectful process, and establishing good relationships and confidence for the parties involved. The government will frame the policy around the principles of reconciliation, positive relations, certainty for investment, and respect for the environment.

- **Summary of Current Legal Situation Regarding Consultation and Accommodation**
This was provided by Tom Molloy, QC. His presentation was centred on the theme that this is "an emerging area of the law that will have a significant impact on the relationship between Aboriginal people, industry, and governments." Mr. Molloy emphasized the following ideas:
 - The duty to consult rests with the Crown
 - The "trigger" has been set low
 - There can be more than one form of consultation
 - Where uncertainty exists as to the anticipated level of impact, Aboriginal communities must understand a project in sufficient detail so that they can provide meaningful input
 - Negotiations must be done in good faith
 - There is an obligation on communities to come forward and clearly set out applicable concerns. Communities do not hold a veto

- **First Nations Consultation and Accommodation: Rights and Interests**
 - Meadow Lake Tribal Council Chief Helen Ben emphasized care of the environment, and development based on the principles of consultation, participation, and sharing. Chief Ben would like to see First Nations map their traditional lands
 - Prince Albert Grand Council Chief Ron Michel gave examples of successful First Nations economic development and advocated joint development of a “rule book” for consultation. Northern people want to benefit from resource development
 - Clearwater River Dene Nation Chief Roy Cheecham, through reference to the Natural Resources Transfer Agreement of 1930, voiced his concern that consultation could mean compromise. Chief Cheecham noted the lack of federal representation. He indicated that First Nations are open to development provided that First Nations interests are adequately involved
 - File Hills Qu’Appelle Tribal Council Chairman Edmund Bellegarde reminded the Roundtable that the duty to consult must be carried out with individual First Nations, not the FSIN, and requested a separate Treaty 4 summit. Chairman Bellegarde tabled a letter signed by ten First Nation Chiefs from his Tribal Council on this matter. The Chiefs do not consider this Roundtable conference to be consultation and accommodation
 - Federation of Saskatchewan Indian Nations Vice-Chief Glen Pratt emphasized that First Nations want certainty, respect and inclusion, preferring joint management rather than co-management of resources. He expressed concerns about capacity, stating that \$3 million is an inadequate allocation for the consultation process. Vice Chief Pratt stated that consultation must be carried out with individual First Nations, and that the highest possible standards must be applied to the process

- **Métis Nation Consultation and Accommodation: Rights and Interests**
 - Métis Nation - Saskatchewan Treasurer Gabe Lafond presented information from 14 Métis communities involving over 300 Métis citizens. The duty to consult process must be carried out with the democratically elected leaders within the Métis governance structure; the Métis Nation also faces many capacity issues
 - Métis Nation - Saskatchewan legal counsel Doug Racine stressed the benefits to both industry and the province by including the Métis Nation in the consultation process and also commented on the lack of capacity faced by the Métis community
 - Métis Nation - Saskatchewan legal counsel Jason Madden dealt with legal issues concerning the duty to consult. The Supreme Court has affirmed that the Métis Nation has Aboriginal rights. He also focussed on challenges surrounding traditional land use by Métis people, who are highly mobile

- **Industry Consultation and Accommodation Interests**
 - Council of Saskatchewan Forest Industries, Inc. (COSFI) Executive Director Dave Harman noted that the forestry industry is already highly regulated; the certification process has a strong requirement of consultation with Aboriginal peoples within the license area that might be affected. Many forestry companies currently have co-management boards. Consultation must be an active process with government fully engaged

- Saskatchewan Mining Association (SMA) Executive Director Pam Schwann discussed some of the unique challenges faced by the mining industry, for example, that exploration is high risk and funds are raised on the basis of progress. She offered statistics on the industry’s commitment to Aboriginal employment and Aboriginal business. Issues for the mining industry include clarity, certainty, timeliness, an efficient process, and that the level of consultation be commensurate with the level of impact
- Canadian Association of Petroleum Producers (CAPP) Jerry Harvey, Vice-President of Canadian Natural Resources Limited (CNRL) on behalf of the oil and gas industry referred to the consultation process that already occurs within the oil industry, noting that this can be a complex process because of the size of some projects. Issues for the oil and gas industry include timeliness and predictability of the process, a relationship of consultation to the size of the project and clarity regarding roles
- **Recap of the Day by the Province**
 - Ron Crowe, Acting Deputy Minister, First Nations and Métis Relations reviewed the contributions of the speakers from the day

Summary of Day One

In general, all parties expressed optimism about the Roundtable, believing that this was the beginning of a significant process. The day was viewed as historic in bringing together all parties – First Nations, Métis, the provincial government, and business and industry interests. The development of a policy on the duty to consult and accommodate generally is viewed as an opportunity to “get it right”.

General themes for the day include the following:

- The duty to consult is a responsibility of the Crown
- There is a sense of urgency from all parties; they are eager to begin the process
- There is also an eagerness for all parties to work together
- All parties recognize that this will be a lengthy and complex process, requiring further discussion and communication
- All parties are aware of the economic opportunity in Saskatchewan today
- The courts have confirmed that the duty to consult with Aboriginal people impacted by development on traditional lands is a legal requirement

Themes from the First Nations presenters include the following:

- The process must uphold Treaty rights
- The process must protect the environment
- Traditional First Nations’ lands must be mapped, in cooperation with the Métis
- First Nations want to be equal partners in resource development
- First Nations must be consulted on an individual basis, not through the Federation of Saskatchewan Indian Nations
- First Nations are pro-development; many Tribal Councils are already highly experienced in joint ventures and economic development

Themes from the Métis Nation - Saskatchewan include the following:

- The process must recognize all three levels of Métis governance – locals, regions, and provincial

- Métis rights exist and are equal to the rights of other Aboriginals; the Métis people want to be actively involved in this process, a process from which they have felt largely excluded previously
- Capacity building is a very significant issue for the Métis Nation - Saskatchewan and individual Métis communities, and is required on many levels
- Métis land use may differ from that of other Aboriginal groups because the Métis people do not have a land base and are highly mobile

Themes from the representatives of industry include the following:

- Industry is already highly regulated
- Industry currently engages in consultation with communities
- The level of consultation should be dictated by the level of impact of the development
- The consultation process should focus on timeliness, predictability, clarity of roles and responsibility and certainty
- Not all businesses interested in development represent major concerns; capacity and money can be issues for smaller businesses
- Business needs to continue during the policy making process

Day Two – Dialogue Sessions

Day Two of the conference provided an opportunity for dialogue amongst all the parties through facilitated discussions based on a series of questions focussing on issues related to consultation and accommodation. The Roundtable utilized neutral facilitators who were provided training to ensure that all participants had an opportunity to speak and to promote listening by all the participants.

Dialogue Session #1: Reflections on What Was Heard on Day One

- What stood out for you?
- What was missing?

The five most frequently cited themes that emerged were:

- A feeling of optimism – participants generally felt that the Roundtable was an important opportunity for Saskatchewan and that it was an important beginning of a significant discussion on a difficult topic
- Next steps – participants recognized the need for the clarification of terms, outlining protocols and guiding principles. Consultation is seen as the responsibility of the province. Timeliness is important to all parties
- The need for cooperation – participants commented that there were more commonalities than differences, and especially noted the inclusion of the Métis. Collaboration and cooperation were key words
- The need for capacity building – this issue was identified at all levels, but as critical for the First Nations and the Métis. Training, making available experts, mapping traditional territories, and infrastructure were frequent concerns. References were made to both economic and social capacity
- Environmental concerns – First Nations and Métis people view themselves as stewards of the land which is sacred to them. Participants identified numerous concerns with development in Alberta

Dialogue Session #2: Effective Consultation

- How does meaningful consultation occur?

The five most frequently cited themes that emerged were:

- The need for capacity – specific concerns were addressed that included funding, commitments from industry for training, technical support, Saskatchewan Environment capacity, coordination among government departments, and accessibility to experts
- Clear identification of the parties involved – clear definition for the roles of First Nations, Métis, municipalities, knowing which Ministry will be involved, who is the first point of contact, and the role of industry
- The need for a respectful process, one which recognizes the equality of all parties – reiteration of the need to recognize Métis governance at all levels, and that the process must be based on good communication and inclusion
- Early notice for consultation – consultation should begin early, “ahead of the curve” or at a “low trigger”, at the beginning of the permit process
- Full disclosure of information – the disclosure of information can be seen as a trust issue; people felt that lack of information shows disrespect. Some key words were transparency and honesty. Communicating information builds trust

Discussion Session #3: Successful Consultation Outcomes

- What are your goals for successful consultation outcomes?
- What are accommodation considerations?

The five most frequently cited themes that emerged were:

- A clearly defined structure for the process – “leads to timely approvals, minimal adverse effects, skilled workforce, social license, managed costs, dispute resolution that everyone is agreed upon just in case, operating principles and a set of values that we work within that set up the basis for trust and relationship building”. Clarity, timeliness, certainty, less duplication/overlap, and early consultation were all recurring themes
- Better relationships between the parties – there is a desire to see a result that will benefit all parties and thus lead to stronger relationships. The term “true partnership” was recurrent, as was the issue of sustainability in development. Communities do not want to see “boom and bust” development
- Discussion of revenue/resource sharing – resources are seen as generating significant wealth for industry and the Province. First Nations and Métis people want a share in these profits
- Stronger communities – this was seen as a capacity issue again, with issues such as education, employment, and training referenced. Northern communities want to experience prosperity
- Environmental concerns addressed – there was an emphasis on the need for long-term environmental care, through to the decommissioning stages of projects. This impacts the spiritual as well as the physical aspect of First Nations and Métis lifestyle. The need for a more streamlined, focussed process is necessary

Provincial Recap of the Dialogue Sessions: Marian Zerr, Associate Deputy Minister, Executive Council.

Where We Go From Here: Honourable June Draude, Minister of First Nations and Métis Relations. Minister Draude committed the government to a process of policy development which will protect Treaty and Aboriginal rights, while creating successful relationships and business opportunities. She outlined a general timeline, including circulation of the draft report from the Roundtable, further discussion forums, with the goal of a policy draft being available by the end of 2008, and the final policy in place by winter 2009.

Acronyms

ABDLP	Athabasca Basin Development Limited Partnership
CAPP	Canadian Association of Petroleum Producers
CNRL	Canadian Natural Resources Limited
CNSC	Canadian Nuclear Safety Commission
COSFI	Council of Saskatchewan Forest Industries
CRDN	Clearwater River Dene Nation
FHQTC	File Hills Qu'Appelle Tribal Council
FNMR	First Nations and Métis Relations
FSC	Forestry Stewardship Council
FSIN	Federation of Saskatchewan Indian Nations
IBA	Impact Benefit Agreement
INAC	Indian and Northern Affairs Canada
MLTC	Meadow Lake Tribal Council
MNC	Métis Nation Canada
MNS	Métis Nation - Saskatchewan
NRTA	Natural Resources Transfer Agreement
PAGC	Prince Albert Grand Council
SARM	Saskatchewan Association of Rural Municipalities
SERM	Saskatchewan Environment and Resources Management
SIGA	Saskatchewan Indian Gaming Authority
SMA	Saskatchewan Mining Association
SUMA	Saskatchewan Urban Municipalities Association
WED	Western Economic Diversification

1. Purpose of the Report

1. To provide information on the background and process leading up to *Seeking Common Ground: Roundtable on First Nations and Métis Consultation and Accommodation*.
2. To summarize the conference proceedings and to report back the main inputs received from the conference participants.

2. Background

2.1. Announcement

A press release on January 31, 2008 announced the intention of the Saskatchewan Government to hold a conference focused on the duty to consult. Prior to this, a set of consultation and accommodation guidelines had been in place but were rejected by First Nations. The new government announced that it would consult with key groups regarding how the Government should undertake a new process. The purpose of the conference was to begin discussion aimed at framing new provincial governmental policy regarding the duty to consult and accommodate First Nations and Métis concerning the development of resources. The Roundtable included representatives from First Nations, the Métis Nation and industry. The role of the provincial government was primarily a listening one. Federal and municipal representatives were present as observers.

2.2. Planning

The planning was undertaken by a group which represented the many interests involved in the Roundtable. The committee was formed March 2008, as an inclusive process to develop the agenda for the conference. Members of the committee included the following:

- Federation of Saskatchewan Indian Nations: Chief of Staff Howard McMaster, and Executive Director of Lands and Resources Winston McLean
- Métis Nation - Saskatchewan: Consultant Gerald Morin, Executive Assistant Julie Ann Wriston, and Regional Director Northern Region 2 Marlene Hansen
- Canadian Association of Petroleum Producers: Vice President David Pryce
- Saskatchewan Mining Association: Executive Director Pam Schwann, and Cameco Vice President of Corporate Social Responsibility Gary Merasty
- First Nations and Métis Relations: Executive Director Seonaid MacPherson
- Consultant: Vern Bachiu, engaged to assist in planning the Roundtable agenda and program

2.3. Format

The Roundtable conference was held May 12 – 13, 2008 at the Saskatoon Inn, with participation by invitation only. However, on the first day a number of non-registered participants were welcomed to the gathering. The event was chaired by Ray Ahenakew and John Lagimodiere. Ray Ahenakew is a prominent First Nations leader with significant experience in business and adult training. John Lagimodiere is a Métis businessman who owns and operates a prominent Aboriginal newspaper in Saskatchewan. The first day was a series of presentations by the various participants, as well as presentations of “success stories”. The second day provided opportunity for

dialogue amongst all parties through facilitated discussions based on a series of questions focussing on issues related to consultation and accommodation. The Province expressed its key interests however it played primarily a listening role at the event.

The numbers below represent an approximate registration count, with the official invitation numbers included where possible. Participation was to be by invitation only, with 340 people expected on Day One; actual numbers for the day were closer to 440, with that number dropping for Day Two.

First Nations

- Chiefs or their delegates: 42 attended/75 invited
- Tribal Council Chiefs and Vice-Chiefs or their delegates: 8 attended/9 invited
- FSIN Chief, 4 Vice-Chiefs and senior staff: 7
- Treaty Commissioner: 1
- Approximately 25 FSIN staff and Elders

Métis Nation

- Métis Regional Directors or delegates: 12 attended/12 invited
- Métis Local Presidents or delegates: 36 attended/36 invited
- Métis Nation – Saskatchewan Executive: 4 attended/4 invited
- MNC National President: 1
- Elders or “alternates”: 18 attended/19 invited
- MNS staff: 4

Industry

- Oil and Gas: 22 attended/25 invited
- Mining: 26 attended/28 invited
- Forestry: 6 attended/10 invited
- Saskatchewan Chamber of Commerce/Saskatchewan Economic Development Association: 3 attended/3 invited
- CIC: 1 attended/1 invited

Municipal: 4 attended/4 invited (SARM -2; SUMA -1; New North – 1)

Professional Community Planners: 1 attended/1 invited

Federal Observers: 7 attended/4 invited (5 INAC, 1 WED, 1 CNSC)

Ministers and Staff, Executive Council and Deputy Ministers: 27 attended

Government Workers and Recorders: 24 attended

Facilitators: 13

Speakers, Chairs: 11

NDP MLAs: 5

Walk-in Observers – approximately 125

Media – NewsTalk Radio, MBC Radio, PAGC Tribune, Star Phoenix, CBC, CBC

French, APTN and CTV

3. Setting the Stage – Day One

3.1. Government of Saskatchewan, Premier Brad Wall

Premier Wall opened the Roundtable by referring to the conference as “an historic event, not just for the province but for the country”. He stated his belief that this is a new beginning of a longer process. He recognized issues facing the Province – unemployment and poverty – even in the midst of provincial prosperity. Many First Nations and Métis, particularly young people, are not experiencing the prosperity that comes with employment.

The legal precedent for the Government’s leadership role has been set regarding issues on the duty to consult. Premier Wall identified First Nations, Métis, business and industry as having critical roles in the process. This discussion is an opportunity for all parties to “get things right with respect to connecting people to their own economy.” He referred to success stories such as Eagle Drilling Services of Carlyle, SIGA, and First Nations and Métis university graduates who secure employment, but also recognized that this is still not enough progress.

Premier Wall’s Government is committed to ensure the success of partnerships. The establishment of Enterprise Saskatchewan enshrines Aboriginal representation on the board.

Premier Wall acknowledged that all parties have the right to expect something from each other. The Government’s obligation is to lead and to be facilitators between First Nations and Métis and industry in establishing successful partnerships. No future success will be achieved without consultation; there are expectations of industry. Premier Wall stressed Saskatchewan’s openness to investment and his desire to see the current economic momentum sustained, but in this creation of jobs and wealth, “the duty to consult and accommodate is non-negotiable”. The duty to consult does not give veto power to First Nations and Métis.

Honesty is a key element to this process, as is accountability; these are key signs of true partnerships. Premier Wall believes that all parties are on the same team - Team Saskatchewan - and the team represents all people of this province.

Premier Wall closed by referring to First Nations symbols in the Legislature which are there to represent the Treaties and be reminders of the commitments made to First Nations and Métis. The task now is to honour these commitments and move forward together.

3.2. Federation of Saskatchewan Indian Nations, Chief Lawrence Joseph

FSIN Chief Joseph began by referring to the Treaties, based on “the principle of prayer and the connection to Mother Earth”. He believes that the duty to consult began 132 years ago when Treaties were signed. The Creator has now given a second chance to do things right, with everyone involved and present at the table. He expressed his belief that “Mother Earth is bleeding” and needs help.

Chief Joseph thanked the Premier and industry for this opportunity to come together. The FSIN, a 60-year-old organization, looks forward to dealing with all parties based on respect and inclusion of the Treaties. All people in Saskatchewan are “Treaty people” since all are affected by the Treaties. Chief Joseph stated that many Supreme Court decisions have recognized that First Nations people did not relinquish rights to lands and resources by signing the Treaties. First Nations expect equality in any discussions relating to resources and the province.

While being in agreement with the desire for development, Chief Joseph also reiterated the Treaty principle of protection of Mother Earth. That Treaty principle must be one of the guiding principles for Roundtable discussions. Industry must recognize its responsibility for respectful development. All people must be “stewards of the land”. The entry of First Nations people into high levels of business and industry is a positive sign that First Nations will not be left behind.

Chief Joseph stated that “First Nations want to do business with business”. He wants First Nations to be consulted before permits are issued. As part of the process, he would like to see resource sharing discussions, First Nations’ capacity increased, mapping of First Nations’ territories, and respect for the concerns of individual First Nations. The FSIN will not negotiate for individual communities. The term duty to consult must be defined in a unified and consistent way, and First Nations people have the right to be consulted before any new legislation is put in place that may negatively affect them.

Chief Joseph closed with the theme of certainty, both in terms of investment and stewardship. First Nations also want certainty in the opportunities for prosperity. He expressed his hope that this would be the start of a process of seeking common ground so that everyone can prosper together.

3.3. Métis Nation - Saskatchewan, Robert Doucette, President

President Doucette began his remarks by saying, “We need to know where we have been in order to know where we want to go”. Mr. Doucette thanked the Premier for fulfilling his election promise of consultation and to finding a collaborative process. He believes that trust is essential in this process. Legally, through the *Constitution Act*, the Crown is required to consult with the Métis people. The Métis people are committed to working with First Nations in recognizing and protecting Treaties and traditional lands. By working together they can ensure prosperity.

Mr. Doucette referred to several court cases which show that there is a “new era of rights, recognition, negotiation, and agreements with the Government of Saskatchewan”. He thanked the Métis National Council President Clem Chartier for his work on behalf of Métis people.

Community consultations have been held to discuss the issue of the duty to consult, which is very important to Métis people. Important in this new process is for Métis people to be informed of decisions and activities which affect their rights, communities and way of life. Métis people will no longer accept being informed “after the fact”. Métis rights co-exist with First Nations’ rights, and have not been extinguished. Government and industry must recognize the governance structure of the Métis Nation - Saskatchewan and that Métis rights are collective rights. Métis locals, regional and provincial councils are democratically elected bodies.

An issue for the Métis Nation is the development of capacity and sustained support at all levels. This, along with education and information, will allow the Métis to participate meaningfully in the process. Mr. Doucette referred to the Métis as “entrepreneurial” people, open to development which is sustainable and which has minimal adverse effects on the Métis way of life and the land.

He closed with an affirmation in the desire for prosperity and hope for the province and an opportunity to set the agenda for Canada on the duty to consult.

3.4. Saskatchewan Chamber of Commerce, Dale Lemke, President

Mr. Lemke spoke about the optimism present in Saskatchewan during the current time of economic growth. This conference will lead into a new era of relationships and create a process that will facilitate doing business with each other. Consultation discussions will include timelines and predictability of the process, clarity and consistency. He reiterated the pivotal nature of the day in bringing together provincial, First Nations and Métis representatives to make new recommendations for the consultation process. There is opportunity for enhancing and building the Aboriginal workforce in the province. He recognized Chief Joseph and President Doucette who were guests of the Chamber at the President’s Dinner and stressed that inclusion is part of the vision of the “New Saskatchewan”. The focus of the talks must be on growing Saskatchewan and achieving long-term benefits for everyone.

4. Provincial Framing of the Roundtable Conference

Ron Crowe, Acting Deputy Minister, First Nations and Métis Relations

This conference is a fulfillment of the Premier’s commitment to meeting the needs of many parties – First Nations, Métis, industry, municipalities – this will be a challenging job. The purpose of the Roundtable is to find common ground amongst the diversity of participants, the place where views, beliefs, interests and values overlap. There must also be a recognition that some views will fall outside the common ground.

Mr. Crowe reviewed the objectives for the Roundtable:

- Participants will provide concrete proposals for definitions, principles, goals, and objectives of good consultation and accommodation
- Government will hear ideas about protocols for good, productive, respectful relationships associated with the consultation process
- The forum will strengthen relationships and foster reconciliation among the parties – a foundational objective without which other objectives will not be fulfilled
- Other issues will be identified and better understood
- The forum will create confidence for the participants
- The parties will truly listen to each other

The province has definite interests in the outcomes of the Roundtable. These interests represent the principles upon which they will frame the policy.

- **Reconciliation:** seeing that First Nations and Métis peoples of Saskatchewan are involved as full participants in the provincial economy.
- **Positive relations:** developing a consultation process that will foster good relationships among the Province, First Nations, Métis, municipalities and industry.

- **A stable and secure investment climate:** certainty, predictability and stability.
- **A healthy environment:** focusing on our role as stewards for future generations, including Treaty rights.
- **Provincial responsibility:** managing lands and resources and ensuring costs associated with consultation must be dealt with appropriately so the process is sustainable.

Mr. Crowe reviewed the format of the Roundtable. Day One is to allow the interested parties to put forward their concerns and interests and Day Two is to allow for dialogue and reflection on these concerns. Following the Roundtable, the government will review the information and develop a report which will be distributed to all parties for review. Through further forums and discussion, a new draft policy will be framed with a target date of December 2008.

Mr. Crowe concluded with the belief that the Roundtable was about inclusion and breaking down barriers.

5. Summary of Current Legal Situation

Tom Molloy, Q.C., MacPherson Leslie & Tyerman

Mr. Molloy began his presentation with the observation that this is an “emerging area of the law that will have a significant impact on the relationship between Aboriginal peoples, industry, and governments.”

Through reviewing several legal cases, Mr. Molloy traced the history of the establishment of the principle of the duty to consult as early as 1990 in the case of *R. v. Sparrow*. The duty has evolved through several other cases, particularly in British Columbia. The duty can be seen in the Aboriginal Rights context. In this context, it refers to any action which would negatively impact any existing or unproven right. The duty rests with the Crown, and applies to both federal and provincial governments. The duty to consult can be seen in the context of Treaty rights, where it exists in all Treaties. The basis of the duty is in “the principle of the honour of the Crown” whose duty it is to fulfill a fiduciary responsibility to Aboriginal people and honour the Treaties. The duty to consult rests with the government, rather than with industry, although industry is often actively involved in the consultation process and is affected by it.

The “trigger” for the duty to consult has been set low, although a claim of impact with no real evidence of the impact cannot trigger the consultation process. The extent of consultation may vary depending on the circumstance and level of impact. Mr. Molloy referred to a variety of cases: *Delgamuukw – Supreme Court*, stressing that consultation must be in “good faith”; *Platinex Inc. v Kitchenuhmykoosib Inninuwig First Nation*, in which cases, when negotiations failed and First Nations members tried to stop drilling were found to be in contempt; *Hiawatha*, where no duty to consult was required when rights of lands had been surrendered; and *Gitanyow*, which stressed that accommodation must be responsive to Aboriginal interest, and that a cash settlement could satisfy economic interests.

Mr. Molloy discussed other cases which demonstrated that the law allows for more than one form of consultation as long as Aboriginal rights are addressed in a meaningful and timely fashion. It can also be the case that a project can be at an advanced stage and the accommodation becomes difficult on a practical level.

There are some areas of uncertainty, such as when private land is involved where Aboriginal and Treaty rights are being exercised, or when a parcel of land might satisfy a land claim. A reserve might also be affected when there is development on private lands near the reserve, but in such a circumstance there would be no duty to consult. Treaties may contain the phrases “subject to such regulations as may from time to time be made”, and “saving and excepting such tracts as may be required or taken up from time to time for settlement, mining...”. Lands taken up for settlement appear to be subject to the duty, as are concerns focused on hunting and fishing rights. Decisions are divided where regulations are required.

Mr. Molloy presented a General Framework which summarized the legal issues surrounding the duty to consult. As stated before, the duty to consult rests with the Crown which must determine whether a project will have an impact on Aboriginal rights. If there is uncertainty, the Crown must have the project explained completely to all potentially affected Aboriginal groups so that they can determine the level of impact. Negotiations must be conducted in good faith, and the level of consultation is dependent on the level of impact. The actual process of consultation can vary, being bilateral, multi-party, or through a regulatory process, provided that the Aboriginal group(s) have meaningful input.

There is a reciprocal obligation on First Nations and Métis communities to consult reasonably and in good faith and to identify clearly any concerns in relation to a particular project that is being contemplated. Neither First Nations nor Métis communities hold a veto over the uses to which Crown land may be put.

6. First Nations Consultation and Accommodation: Rights and Interests

6.1. Meadow Lake Tribal Council, Chief Helen Ben

Chief Ben began by emphasizing that the purpose of the gathering was cooperation. This cooperation is important in protecting Treaty rights, and in recognizing common interests between First Nations and Métis in discussing their home, the North.

Chief Ben developed a strong theme of concern for the environment. For First Nations people, Treaty rights are a “covenant” to protect Mother Earth. This protection is necessary for the preservation of the environment, sacred sites and a cultural way of life. Along with reserve lands, First Nations people also occupy traditional territories. Mapping of these territories is important, both for their protection and to give clarity and certainty in case of development. Many First Nations people still enjoy a traditional way of life in the north, where the land is still largely untouched by development.

There are two realities: mining and gas development is coming and the duty to consult exists. Previous development has been based on three “Es”: explore, extract, and escape. Chief Ben suggested instead an approach based on principles: consult, participate, and share.

Chief Ben closed with a statement affirming her belief that the development of the north can be done with participation opportunities available for First Nations people. Consultation can provide a “mutually agreeable approach”.

6.2. Prince Albert Grand Council, Chief Ron Michel

Chief Michel stated his belief that “Development in the north should be an opportunity, not a problem”. He agreed with Chief Ben that First Nations people want to be meaningful partners in the development of the north, their home. He referred to legal precedents which show that there is a duty to consult with First Nations, and suggested that rules be developed according to the principles of reconciliation, consultation and accommodation. He wants to be an active participant in developing the duty to consult process.

Chief Michel outlined many instances of cooperation between the Meadow Lake Tribal Council and the Prince Albert Grand Council, joint business ventures such as West Wind Aviation and Super 8 Motels. Each Tribal Council also has its own successful business ventures, giving them proven track records. The Prince Albert Grand Council has now become an investment corporation, supporting developing businesses through investments. All of these examples show that the north is ready and capable of participating in development.

Chief Michel referred to issues facing First Nations in the north, issues such as welfare dependency, and the migration of young, educated Aboriginals from their homes. He wants to see young people staying in their communities.

A northern summit will allow parties to share their interests, respectfully listening to each other. The challenge will be to develop a rule book or code of conduct for development. He closed by asking for “respect, understanding and best efforts” and gave a commitment to that same approach.

6.3. Clearwater River Dene Nation, Chief Roy Cheecham

Chief Cheecham observed that Treaties were agreements between the federal Crown and First Nations and questioned where the Federal Government representation was. He referred to the first breach of the duty to consult in 1930 with the Natural Resources Transfer Agreement, when the Federal Government transferred Crown responsibilities for lands and resources without the consent of First Nations. Since then, government and industry have reaped the benefit of resource development rather than First Nations.

A concern for Chief Cheecham is that seeking common ground might mean compromise. For First Nations people the relationship to the land is very important. He reiterated that there needs to be equitable development of resources for the benefit of all people.

6.4. File Hills Qu’Appelle Tribal Council, Chairman Edmund Bellegarde

Chairman Bellegarde read a letter to Premier Wall from ten First Nations Chiefs, reiterating that individual First Nations have the authority to be consulted with, not the FSIN. The Chiefs do not consider this Roundtable conference to be consultation and accommodation. Government and industry should convene a special forum to deal directly with First Nations’ communities. There needs to be a clarification of the duty to consult regarding Crown or leased lands in the southern part of the province; Chairman Bellegarde suggested a separate Treaty 4 summit. A balance must be struck between economic development and the exercise of Treaty and Aboriginal Rights; regional land use planning can target how much development the land can bear.

6.5. Federation of Saskatchewan Indian Nations, Vice-Chief Glen Pratt

Vice-Chief Pratt expressed his belief that Treaties must be managed government to government rather than through the courts. First Nations need to be consulted with on an individual basis rather than through the FSIN or through Tribal Councils. He referred to United Nations' standards and wants to see this consultation process managed to the highest possible standards. Vice-Chief Pratt sees the *Government of Saskatchewan Interim Guide for Consultation with First Nations and Métis People* leaving unresolved issues; First Nations want certainty, respect, and inclusion. Environmental and capacity issues are major concerns. First Nations have been good environmental stewards and their input is necessary to avoid environmental disasters. First Nations should develop their own permit process and want joint management rather than co-management. On the capacity issue, \$3 million is not enough. Vice-Chief Pratt indicated his displeasure with provincial policies concerning off reserve sales tax and limits on cigarette sales.

7. Métis Nation Consultation and Accommodation: Rights and Interests

In this report, the Métis Nation - Saskatchewan is used to refer to the organization representing Métis people and communities. Métis Nation is used to refer to Métis people and communities.

7.1. Métis Nation - Saskatchewan, Gabe Lafond

Mr. Lafond presented information from fourteen Métis communities involving over 300 Métis citizens. As well, the Provincial Métis Council held a workshop in November, 2007.

Mr. Lafond stressed that Métis rights must be represented in the same manner as those of other Aboriginal peoples. Because there is a democratic process by which Métis leadership is chosen, consultation must be done with the elected representatives of the Métis Nation, not just through public consultation. Notice to a municipality does not constitute notice to the Métis community. Notice to an individual Métis trapper does not constitute notice to the Métis community. Notice must be sent to the appropriate representative of the rights-bearing collective (i.e., the MNS's governance structures). Although recognized by *The Métis Act* through Saskatchewan's legislation, there has currently been no consultation with the Métis Nation - Saskatchewan, or in fact, any process for meaningful consideration of Métis interests, nor does Métis governance receive the same level of funding that other Aboriginal peoples receive. To date, there has been no consultation by government with the Métis for past projects. Métis interests and concerns have been largely ignored and there has been no process or forum for Métis rights and interests to be meaningfully considered. Any go-forward strategy must include the recognition of the reality and the ability for these past unilateral decisions by government and industry to be addressed. There must be a commitment to a sustainable consultation process with the recognition that this process may be lengthy, requiring ongoing discussion and reframing.

Mr. Lafond expressed optimism about a collaborative process focused on "rights recognition, not rights denial". Such a process could lead to mutually beneficial economic development, leading not only to jobs and benefits, but also to Métis ownership and participation in economic development, including such items as percentages of royalties received by government and revenue resource sharing arrangements.

Mr. Lafond suggested that there be an Interim Statement of Policy during the framing of the government policy. Important elements in the policy would include not just short-term projects, but long-term investment. Protection of traditional land is necessary in order to ensure that no damage is done to such lands. He also stressed the need for strong communication to communities through Métis publications and meetings. Further capacity building for the MNS – such items as duty to consult and accommodate curriculum development at Gabriel Dumont Institute, access to experts and environmental assessments – would also further the process. Framing of policy should precede the granting of any new licenses or permits.

7.2. Métis Nation - Saskatchewan, Jason Madden

Mr. Madden dealt with legal issues concerning the duty to consult and accommodate. The precedent to consult was established by the Supreme Court in 2004 in the Haida Nation and Taku River cases. They found that when the Crown is aware of the existence of Aboriginal rights claims which might be adversely affected by development activity, the onus of consultation and accommodation rests with the Crown. The Supreme Court, in the Powley case, affirmed that the Métis Nation has Aboriginal rights protected within section 35.

Mr. Madden stressed that the Métis people exist as a community with specific governance structures that includes Locals, Regions, and Provincial Councils. These governance structures, by legislation, must be engaged in consultation. Métis communities must be defined by both historic and contemporary land use and lifestyle. There is significant legal basis to argue that Métis communities are highly mobile and far-reaching, thus consultation must occur on many levels (Locals, Regions, etc.).

In conclusion, assessing the impact will be challenging as there have been few studies in Saskatchewan devoted to Métis traditional land use. Initial studies show that Métis land use is different from that of other Aboriginal peoples because the high mobility of the Métis population made boundaries largely irrelevant. This might require inter-provincial cooperation. Centralized registries of Métis people will be essential in ensuring consultation opportunities for all Métis people.

7.3. Métis Nation - Saskatchewan, Doug Racine

Mr. Racine stressed the benefits to both industry and the province by including the Métis Nation in the duty to consult. The duty to consult process would mean that the province would have access to local knowledge and advice, and that all citizens would be given consideration, thus leading to a more investment-friendly environment. Currently, Métis people have no vehicle for involvement and feel that their interests have been ignored. They have no access to professionals (such as engineers or archaeologists) to conduct impact assessments. There is no recognition of traditional Métis lands, nor are they informed of any permits or licenses which are issued for those lands. An atmosphere of respectful development, including resources which would provide professional services, an informed membership, accommodation for traditional knowledge, provision of a forum for feedback, would address these inequities.

Suggestions made by Mr. Racine included the implementation of a hearing process for major permit and license application, identification and recognition of traditional lands, and an enhancement of capacity for Aboriginal organizations. Mr. Racine also suggested the implementation of a National Energy Board as a governing agency for applications for major

projects. Such a board would ensure that Aboriginal communities would be contacted and provide documentation of the process of consultation.

8. Industry Consultation and Accommodation Interests

8.1. Forestry: Council of Saskatchewan Forest Industries, Dave Harman

The Council of Saskatchewan Forest Industries, Inc., (COSFI) consists of seven member companies. Saskatchewan forests cover approximately one half of the province with the commercial zone covering approximately one third of that portion.

Mr. Harman provided a definition of the consultation process based on the beliefs of COSFI. Their definition describes a process of information sharing and discussion based on relationships with communities.

Forestry is already subject to regulation through *The Forest Resource Management Act*, which dictates that “Aboriginal and other people using the land within the license area” have been consulted and that concerns are duly noted and that the licensee has responded to these concerns. Forest Certification carries strong requirements concerning Aboriginal consultation and involvement, and sustainability must be taken into consideration. Documentation about consultation is required, with the guarantee that Aboriginal and Treaty rights not be prejudiced by this consultation.

The Forest Stewardship Council (FSC) National Boreal Standard recognizes the “legal and customary rights” of indigenous people in land ownership, use and management. Companies such as Mistik Management and Weyerhaeuser currently have statements regarding Aboriginal rights.

Mr. Harman emphasized that the responsibility for the duty to consult rests with government. The forestry industry has already taken steps to ensure that Aboriginal peoples are given information and afforded input through local co-management boards. There are opportunities for Aboriginal involvement in all area of the forestry industry – harvesting, hauling and silviculture.

Mr. Harman closed by stressing that this must be an *active* process with government fully engaged as is the forestry industry currently.

8.2. Mining: Saskatchewan Mining Association, Pam Schwann

Ms. Schwann presented background on the Saskatchewan Mining Association (SMA). The SMA represents such major players as the uranium and potash industries and includes over 40 member companies. There are 27 producing facilities, with 25,000 direct and indirect jobs, injecting \$2.5 billion in wages, goods, and services into the economy and paying \$1 billion in royalties and taxes. Some examples of successful projects based on a consultative process include Mudjatik Thyssen Mining Joint Venture, Kitsaki, and the Athabasca Basin Development Limited Partnership.

Mining requires some special considerations. Exploration is very high risk, with no guarantee of success. Fund raising for further exploration in projects happens through

demonstrated progress. The exploration and mining industry has previously employed a process of community engagement in developing projects. The industry supports the hiring of local residents and contractors and currently 53% of payrolls go to northern residents.

Ms. Schwann also emphasized that the exploration and mining industry in Saskatchewan is already subject to rigorous environmental regulations at all stages, and that modern mining requires only a temporary use of land. Mining is a key contributor to the Saskatchewan economy. As an employer of First Nations and Métis people, the mining industry has contributed to the development of businesses in those sectors and is recognized as a world leader in employment and business development practices for Aboriginal peoples.

Mining industry expectations for a consultation process include the following: clarity about process and protocols, predictability and certainty, accessibility and inclusiveness. It is important that the level of consultation be commensurate with the level of impact on traditional lands. The process should not interfere with projects that are currently under way, i.e., there should be no interruption of current projects during policy development.

8.3. Oil and Gas: Canadian Association of Petroleum Producers, Jerry Harvey

Canadian Association of Petroleum Producers (CAPP) represents 95% of companies which locate, drill for and recover oil and natural gas. There are 140 producer members in CAPP, and 130 associate members. Oil and gas companies are subject to a complex decision-making process, including such items as regional infrastructure, the size of the resource, regulatory and environmental requirements, availability of skilled trades people and professionals, as well as a multitude of economic and financial considerations.

Mr. Harvey suggested broad goals for the consultation process. Firstly, the level of consultation must be related to the size and timeline of the individual operation, recognizing that there is already a spectrum of consultation activities from notification to Crown accommodation. The process must be timely and predictable, with some certainty as to access to lands and security of investment as part of the consideration. In the oil and gas industry, consultation is often complex because of the size of some projects; recognizing this, there needs to be clarification of roles (including the Crown, Aboriginal communities, and industry).

Mr. Harvey also expressed an optimistic view of the process, anticipating opportunities for shared dialogue and building relationships with communities. CAPP looks forward to involvement with the process, and to being able to provide input into decisions which are made.

9. Recap of the Day by the Province

Ron Crowe, Acting Deputy Minister, First Nations and Métis Relations

Mr. Crowe reviewed the contributions of the speakers from the day.

- First Nations Elder Alma Kytwayhat – opening prayer – we are all intertwined
- Premier Wall – a historic event, an opportunity with high expectations, and government’s responsibility for leadership

- FSIN Chief Joseph – using the protection of Treaties as a guiding principle and fostering the inclusion of First Nations people in the economy
- President Robert Doucette, Métis Nation - Saskatchewan – the need for the Métis to be involved in decision making and to have a share in ownership and resources
- Dale Lemke, Saskatchewan Chamber of Commerce – using consultation as a process that will enable Saskatchewan to continue to grow
- Tom Molloy, QC, outlined the legal background and emerging precedents for the duty to consult, emphasizing that the duty lies with the Crown, and is an evolving state
- Glen Strong and Geoff Gay told the success story of Athabasca Basin Development Limited Partnership
- Northern Chiefs Presentation:
 - Chief Helen Ben, MLTC – focused on the need to respect traditional territories and practices, and MLTC’s focus on participation, consultation and sharing
 - Chief Ron Michel, PAGC – desires to be a willing participant in northern development, proposed joint development of a rule book to provide clarity and certainty
 - Chief Roy Cheecham, CRDN – emphasized Treaties and that this should be a government-to-government process, questioning the lack of federal representation. First Nations have not reaped the benefits of development; does consultation mean compromise?
- Tribal Chairman Edmund Bellegarde, FHQTC – First Nations should be dealt with individually, not through the FSIN. There should be a special forum for First Nations to discuss the balance between economic growth and the exercise of Treaty and Aboriginal rights
- Vice-Chief Glen Pratt, FSIN – referred to the international standard of “free, prior, and informed consent”. The government needs to commit more money to this process; \$3 million for consultation is not enough. Canada has a responsibility to First Nations, as does the province. He voiced concerns over the lack of First Nations input into environmental assessments, citing Alberta as proof. First Nations want respect, inclusion and certainty
- Jason Madden, Métis lawyer – the Métis in general lack capacity, need to define Métis community
- Doug Racine, MNS legal counsel – need to take everyone with you to get ahead, Métis are looking for a win-win situation
- Gabe Lafond, MNS treasurer – the Métis are one people and one Nation
- Dave Harman, Forestry – forestry has sought the input of First Nations and Métis, and lives up to international standards
- Pam Schwann, SMA, and Jerry Harvey CAPP – focused on the certainty of the process, clear roles and responsibilities, understanding the obligations of the parties, minimized risk, secure and efficient access to markets, a timely process, and continued relationship building

10. Banquet Speaker – Chief Jim Boucher, Fort McKay First Nation

Chief Jim Boucher of the Fort McKay First Nation was the Roundtable banquet speaker. He spoke about Fort McKay’s long process of becoming involved in industry in the Fort McMurray area. He indicated that their initial attempts were on a rights basis. These attempts yielded only moderate success. Without detriment to the rights approach, Fort McKay then

began to utilize more of an investment model. They looked at how they could add business value and developed very successful business arrangements with major oil sands developers. Today, Fort McKay's business interests have sales of more than \$100 million annually. While this represents a summary of the content of his presentation, much of the value came through in the way that he told the Fort McKay First Nation story of their experiences with oil sands companies. For many, this was one of the highlights of the Roundtable conference.

11. Day Two – Dialogue Sessions

This report divides the information from each dialogue session into broad themes. Within these themes, the comments were then recorded as they were listed in the records from the dialogue sessions. They are not listed in any particular order. In some cases, comments have been summarized and similar ideas collapsed together.

There were twelve dialogue groups and a thirteenth was created when walk-in people wanted to participate. This group was facilitated by the A/Deputy Minister of FNMR. Participants were selected for the twelve dialogue groups to attempt to achieve equivalent representation of First Nations, Métis, industry, and government. Group facilitators were professional and neutral. Their role was to ensure that groups were productive and respectful and that participants had an opportunity to speak. Each group was recorded digitally and by a note taker.

The intent of the dialogue sessions was to have the variety of interests and issues put forward; it was not to develop consensus or to determine what the majority view was. Statements made during the dialogue sessions represent the opinions of the participants who chose to speak. The summary below captures what was said in general. It was not possible to attribute statements to individuals or to representative groups.

11.1. Dialogue Session #1: Reflections on What Was Heard on Day One

Dialogue Questions:

- **What stood out for you?**
- **What was missing?**

The five most frequently expressed themes were:

- A feeling of optimism
- Concerns about the next steps
- Need for cooperation
- Need for capacity building
- Environmental concerns

11.1.1. Optimism

Participants expressed a feeling of optimism.

- Impressed by the turnout
- Seeking common ground was the intent of the Treaties with our ancestors
- We are all here for the good of Saskatchewan
- There was a lot of positive energy in the room
- Impressed by the quality of the people
- Métis inclusion – happy to be involved

- See this as an opportunity – win/win
- Premier’s promise a good start
- Information sharing and communication themes for the day – a great start
- Glad to hear the term “pro-development”
- Liked the openness
- Informative
- Fresh eyes seeing that something needs to be done
- Opportunity to ensure that everyone in the province benefits
- Yesterday (day one of conference) was a long time coming
- Applaud the Province for putting a difficult subject on the table
- Government wants to get it right – work for consensus
- People here for the good of Saskatchewan
- People were addressing tough questions – that was good
- Feel a sense of commitment and excitement
- Historic occasion – First Nations and Métis together

11.1.2. Next Steps

Participants identified a variety of issues in next steps for the process.

- There needs to be a much wider view for the future
- Should consider anything and everything
- Need for further definitions/terminology/dialogue – Crown, reserve, traditional, private, provincial, leased land; terminology needs to be based on history, religion, and Treaties
- Grassroots need to be involved in what will be an evolving process
- Can’t afford confusion re: claims over lands, lack of certainty over title can ruin opportunity
- Clarity needed about where we are starting from; who will be involved; clear identification of groups involved and their level of input; impact communities must be included
- Guiding principles need to be developed
- Draft community consultation guidelines have been developed (by Muskoday) – no feedback from province
- (A) company has drafted its own internal consultation guidelines and works with community guidelines
- Time concerns – results of conference should not interfere with potential development in traditional territories
- Government bidding process needs to be fairer, more transparent (than in Highways)
- Process is time sensitive – cultural/historic/spiritual damage is being done during process
- “Let’s not blow this one chance” – tired of blaming Government, First Nations need to be responsible
- Didn’t hear a lot from industry – seems duty to consult is more of an inconvenience and might be seen as an expense that industry will have to bear; industry doesn’t always understand social responsibility
- Need a better process than the courts
- Industry is looking for leadership, can provide information to assist in the process
- Some positions might not be worked out in this process – that’s to be expected
- Begin strategic issues councils for economic development

- Can't take your set of values into a community; you have to learn and grow with the mores of the community
- Consultation on a permit by permit basis doesn't make sense
- Permit by permit allows for (the Métis) to build capacity
- What is the role of rural municipalities?
- Hope we learn from our mistakes and those of other provinces (Alberta)
- Feel that government has lots of work to do; burden has so far been on industry
- Session has a lack of business focus; sessions are about talking not acting
- Capital "C" consultation the duty of the Crown; small "c" duty of industry
- More representation - northern municipalities missing, urban and rural municipalities, disappointment in lack of Chiefs – should be a collective
- Took note of Premier's "no veto" statement
- Need to know what is the Treaty/First Nations standard, not just the legal standard
- Needs to be a high standard of consultation, recognize existing laws and leave a legacy of standing for rights
- Notes that it is the Government's responsibility – the FSIN does not have Treaty rights and cannot represent bands on these issues
- Many challenges to be faced – heavily regulated industries have to fit people in, (industry) is liable if there are not qualified people, training programs needed to fit those challenges

11.1.3. Need for Cooperation

Participants stressed the need for cooperation; they appreciated the emphasis on common ground.

- Certainty depends on people working together
- Everything we do is based on relationships; we either build them or they break up
- There was more discussion on what we have in common than what's different – that's encouraging; what stood out was the commonality
- See the inclusion of the Métis as positive
- Very positive to see First Nations and Métis in the same room
- Collaboration/cooperation key
- Getting consensus is difficult
- All members within a community are important
- Currently, Métis are not included on forestry boards, contacted on permits but have no capacity to analyze requests
- Balancing interests is a challenge
- Everything depends on relationships
- Heard more in common from speakers than their differences
- Everyone has a different role to play

11.1.4. Capacity Building

Participants identified capacity building as a key issue.

- All players need capacity
- Adequate resources are needed for any group to be properly informed to make educated decisions
- We have all this development but we don't have the capacity for consultation
- Not just for First Nations, but also for government – need funds and staff to manage this important process
- Volunteers are using their own money on this issue

- Communities need (access to) educated and qualified individuals in respective areas
- Financial assistance for traditional use studies and traditional environment studies
- Training for Aboriginal people in specialized positions in the oil and gas and mining industries
- Difficulties for Métis – no money, no offices, but have to run their own government
- Industry experience is that First Nations contractors can do a great job, but are challenged with paperwork
- Frustrating for industry to work with the great variety in capacity of various First Nations
- Infrastructure needs to meet provincial standards – highways, power, education (Oilsands Quest referred to)
- Need economic and social capacity - “You can come to a community but if that community doesn’t have good drinking water...”
- Government needs to build duty to consult capacity – needs more than a \$3 million fund
- This issue (capacity) came through loud and clear
- Many issues for all parties – First Nations, Métis and Government

11.1.5. Environmental Concerns

Participants expressed environmental concerns.

- Concern for the environment must be paramount
- Sustaining the environment is very important; negative effects can be devastating on the ecosystems
- Concerns over Fort McMurray recurred (development at any cost, water is polluted, affects other communities in Saskatchewan, tar sands development, don’t like what happened in Alberta)
- Development must be sustainable
- Land is key and sacred
- Need to balance economic and environmental concerns
- Stewardship of resources is key
- Impacts are equal whether (you are) Métis or First Nations
- Concern over mercury in fish, acid rain, polluted water
- Clean up after mining activity
- Province more concerned with development and royalties than infringements
- Protect Mother Earth
- Many people still practice traditional pursuits

11.1.6. Clear and Timely Process

Participants stressed the need for a clear and timely process.

- It is the desire of everyone to move forward
- Concern that the issue does not drag on and projects stop
- This is not well-defined in Saskatchewan – need clear roles and responsibilities
- Industry does not want to be a hostage in arguments between the Province and First Nations
- Industry point of view is that we consult, nobody “comes through”
- Needs to be meaningful involvement in development of policy – communities can be overwhelmed by the volume of information

- Duty to consult should begin before the issuance of permits
- Industry thrives when jobs are created – certainty is important
- No one wants to stop development
- Exploration is high risk – there needs to be some certainty
- Industry does mitigation; government does consultation
- Industry is already highly regulated

11.1.7. Need for Participation of Aboriginal People

Participants expressed a concern for Aboriginal people to be involved in industry in a meaningful way, through jobs, training, and economic development.

- We need to develop so our children will have a different life
- Need joint ventures to be able to leverage expertise
- Invest now for the long-term
- Need training to begin to participate in industry
- Aboriginal people need to be an equitable partner
- Business wants to make money, First Nations want to participate not be marginalized
- (Industry should) share procurement policies with percentage targets for Aboriginal businesses
- There has been lots of development in the last few years, employment and profits
- Need for jobs
- How do we create wealth among all people in Saskatchewan
- Goal is to have skilled northerners
- Canada would be embarrassed if the world knew how everyone in Canada/Saskatchewan is prospering except Aboriginal people
- Responsibility of industry to spend on Aboriginal training
- First Nations are pro-development, need respectful development – not boom and bust
- Not just about money, but about having a say, benefitting from infrastructure, training, etc.
- Unhappy with the potash boom, no First Nations involvement
- Aboriginals need to sit in the board rooms, for example, SaskEnergy
- Cameco wants to do more with First Nations partners
- Industry needs more highly qualified people
- Industry needs to think outside the box
- Apprenticeship is industry driven; apprenticeship ratios need to be increased
- Too many CEOs bring in their own workforce – need training for local Aboriginal workforce
- Live near potash mines; but the three of them have only hired half a dozen (First Nations) people

11.1.8. Government Responsibility

Participants felt that the duty to consult is largely a government responsibility and should include a process between Federal and Provincial governments.

- Policy is the responsibility of Government and cannot be delegated
- First Nations are under the control of the Federal government, the Métis under the Province
- The duty to consult should be done government-to-government

- The duty to consult is the responsibility of the Crown
- The duty to consult is the responsibility of the Government – they have to step up

11.1.9. Lack of Federal Participation

Participants expressed concern over the lack of Federal government representatives.

- Recurring question – where are the Feds?
- Getting off “scot free”
- Many times they have the duty to consult, for e.g., pipelines
- Role of Indian and Northern Affairs Canada
- Canada has a fiduciary responsibility to First Nations

11.1.10. Rights-Based Versus Interest-Based Approaches

Participants discussed the issues involved in a rights-based versus an interests-based approach.

- Government position seems to be that Métis rights have been extinguished
- Courts are supporting First Nations more and more
- Don’t want lots of legal wrangling
- Rights exist, period; but once that is recognized, leads quickly to interest-based discussion, how to move forward to advance projects
- Consultation is good business practice
- True intent of Treaties was an agreement to co-exist and share the land (several comments about the “depth of the plough”)
- At the time of the Treaties, Elders said (we) could hunt all over the land
- In response to a comment from industry that “consultation is only going to happen on new development. The Doctrines of Rights began in 1763 with the Royal Proclamation and now consultation is only a small part of the process.”
- “Tom Molloy failed to mention that KI ended up in jail for defending their rights. If we leave it up to the courts to define rights, Métis will need to use injunctions to get industry’s attention. This will produce court rulings that may bring about some certainty.”

11.1.11. Traditional Territories Mapping

Participants expressed a need for traditional territories and land use mapping (also seen as a capacity issue by some).

- A joint record – First Nations and Métis – is needed
- Should be based on pre-contact lands
- Need a province-wide overlay of traditional users
- Focus on the spiritual connection to the land
- (Reserves) should own 50% of seismic information
- Traditional territories “migrate”
- Financial assistance needed for this
- Would be very helpful to industry
- Generational information

11.1.12. Mistrust Expressed

Participants expressed some mistrust of the process based on past experiences.

- There has been lip service but lack of sincerity

- See this as a stalling tactic
- Too many politicians/speeches
- Outcomes need to meet the needs of people, not politicians
- Historically, consultation has been a “slogan”
- Process has been unbalanced – no input into (today’s) agenda
- Permits and licenses have been issued; duty to consult has been an afterthought
- Why is information so hard to get from the Province? Had to use the Access to Information process

11.1.13. Resource Revenue Sharing

Participants expressed a belief in revenue sharing.

- Stumpage should include a percentage that goes to Aboriginal communities, also with gas/oil; this will show that the duty to consult is real
- Want a piece of natural resources for Aboriginal people
- North is resource rich, yet people live in poverty
- Key Lake Inquiry endorsed revenue sharing, but people still live in poverty
- Boom is happening more in cities with little money flowing to the north
- Revenue sharing is a Crown responsibility, not industry’s
- “Industry comes and goes. In forestry, there have been years of clear cutting and taking wealth with them. Make sure that if they come, they stay and share the wealth. Whatever the newcomer makes as profit, he promised you would be just as rich as they are.” I believe he was referring to resource/revenue sharing

11.1.14. Best Practices

Participants appreciated hearing about best practices.

- Fort McKay example – 6 references
- Athabasca Basin Development Limited Partnership (ABDLP) – 3 references
- Industry plays a major part in doing good things for Aboriginals, community training, businesses, infrastructure

11.1.15. Other Concerns

Participants referred to other concerns.

- Health, child care, education
- Unemployment
- Things have to work hand in hand – roads, housing, resources
- “Métis scrip was the biggest land swindle in history.”
- Low self-esteem, lots of anger – hard to thrive in that environment
- Need training and education for industry to begin at the earliest age – need “family healing” approach
- Should be a one to two percent surcharge on industry to create a test case fund

11.1.16. Natural Resources Transfer Agreement (NRTA)

Participants expressed discontent with NRTA (Natural Resources Transfer Agreement).

- Needs a change
- Was it legal according to Treaty?
- Changed jurisdictional authorities without the knowledge of Aboriginal groups
- Will be discussed at the Northern Summit
- First Nations not consulted

11.1.17. Input of Elders

Participants appreciated the input of Elders.

- Ongoing – their wisdom must not be forgotten

11.1.18. Immigration

Participants commented about immigration.

- Immigration is a concern since most Aboriginal people not being utilized to the fullest extent possible
- It's insulting to consider hiring immigrants when you have Aboriginals not working

11.2. Dialogue Session #2: Effective Consultation

Dialogue Question:

- **How does meaningful consultation occur?**

The five most frequently expressed themes were:

- The need for capacity
- Clear identification of the parties involved
- The need for a respectful process recognizing the equality of all parties
- A significant element will be early notice for consultation
- A significant element will be full disclosure of information

11.2.1. Capacity

Participants identified a variety of issues associated with their concerns about capacity.

- Want to be able to hire expertise when required – engineers, environmentalists, biologists
- Commitments for training from business/industry to meet employment demands
- Technical support to review proposals
- Funding
- Financial support from the Crowns
- Ability to man community consultation offices
- With capacity comes parity
- Saskatchewan Environment doesn't have the capacity to meet the demand
- Government needs coordination among departments, needs to clearly define what consultation is and whose responsibility it is, need consistency
- Communities are not structured to sign a business deal
- Trust is also a capacity issue – build on it
- Translation for Elders who know the land at a local level
- Need a designated government team to go into communities
- Access to documents
- Substantial money to see the process through
- Industry should help
- Need a duty to consult fund to help Aboriginal groups assist in capacity building, both First Nations and Métis, as well as a communication vehicle - newsletter or website?

11.2.2. Parties to be Involved in Consultation

Participants expressed the need to clearly identify the parties which should be involved in consultation.

- What are the roles of the First Nations, the Métis Nation, the municipalities
- Respect the democratic process of government and groups who identify themselves as primary contacts
- First Nation Chief and Council are the first point of contact, then leaders will contact the impact communities
- Industry will consult with whoever is identified as the consultation parties
- Government has to take a stand as to who they are going to recognize
- Need to know which ministry leads duty to consult for government
- Industry needs clarity about who to contact for First Nations? For Métis?
- Who, what, when?
- If it is a rights-based process who do you contact?
- Roles and responsibilities need to be identified
- Needs to take place at the local level
- Process needs to be government-to-government
- First Nations and Métis need to be included at the start of the process
- Industry shouldn't be backing away and putting it all on government
- Real consultation is between the government and the rights-bearing people; the role of industry is to provide information
- Responsibility of the Crown
- As many people as possible involved from small communities; must go to the grassroots, not just the leadership
- Consultation can occur in little groups, but effective consultation involves everyone who will be affected
- "Some people from my community couldn't be here, (i.e., would not be able to sit through meetings of this type), but they still want to be part of the process."
- Consult with First Nation, not the FSIN
- How does industry start discussions with First Nations? Band assemblies are a good place – industry should be invited to discuss issues on forestry, trapping, permits, etc.
- Pragmatically, how is it possible for government and industry to meet with individuals; isn't it the Chief's responsibility to get out to the people?
- Looking at the federal government to act on duty to consult – Indian Affairs said if project is on reserve land, through that process they will notify other agencies plus community

11.2.3. Respectful Process

Participants expressed the need for a respectful process, where all parties are equal.

- The first order of business is the ability to listen
- This should be a partnership meeting rather than a duty meeting
- Effective consultation equals inclusion
- *Active* (stress from session notes) participation by all parties
- Recognize Métis governance structure at all three levels
- All people should be heard

- “They (forestry) went behind our backs and cut anyway even though talks hadn’t been concluded.”
- Should be people making decisions, not one man
- Respect/confidentiality of proprietary information
- Recognize that the Métis have a voice
- When something happens, all parties need to know what to do
- Equal footing – First Nations, Métis and Government

11.2.4. Early Notice

Participants identified early notice as a key component of consultation.

- Early consultation builds trust; once that trust is built we are with you all the way
- We feel that the earlier we go to a community to start the process the better
- At exploration through to clean up
- Needs to be ahead of the curve; consultation is low-trigger threshold
- Meaningful clear, early, timely, complete process, in good faith, all parties have to listen, recognize the honour of the Crown
- Triggered at the dispensation stage of permits, earliest notice possible
- Saskatchewan Environment doesn’t respect us (First Nations)
- Should come from the Government

11.2.5. Full Disclosure

Participants expressed the need for a full disclosure of information, that information be correct and clear.

- Really explain early and clearly where thinking/proposal is at to get input
- Province should compile and share a list of companies which are active or interested
- Industry protects proprietary information at the early stages
- Information concerning long-term impacts
- Had heard nothing about mine expansion at Rocanville (as an example of information being difficult to get)
- Poor information limits the consultation process
- Tell the truth; trust is linked to honesty
- Need transparency
- Clear, focused process, gaining trust, communicating clearly with all parties
- Field tours are important to show how the land will be affected

11.2.6. Level of Consultation Commensurate with Impact

Participants said that the level of consultation should be commensurate with the level of impact.

- There has to be a process right at the beginning to determine whether it impacts a little or impacts a lot
- There is less impetus at the beginning because some projects never go beyond the base level of stage one
- Cumulative impact in an area continues during talks
- Damages should be paid commensurate with impact on rights
- Trigger point is important to this discussion
- Identify the significance of the project
- Different development and the size of development – is a small development following the same process as a mine exploration, e.g., purchase of land, money spent on community consultation

11.2.7. Appreciation of Culture

Participants expressed the need for an appreciation of culture.

- It's not about cutting deals; it's about hunting, fishing, trapping
- First Nations/Métis have different cultural belief/value practices – very holistic and integrated
- Need to understand where we are coming from as Aboriginal people, then park that and proceed together
- Elders have to be informed (recurring theme)
- Need an Elders' gathering to prepare for duty to consult
- Treaties at the forefront
- Process must protect Treaty rights
- Treaty arrangement – Government has a legal duty
- Sovereignty of individual First Nations must be respected

11.2.8. Timely Process

Participants expressed the need for a timely process.

- There are two parts – timing and timeliness
- Clear timelines
- Provincial policy takes months to review and adopt
- Leases are short lived, and development is expensive
- Don't want investment capital to go elsewhere
- Want to stay out of courts
- Industry is frustrated with the duplication of the same process
- Still waiting for approval of protocol agreement on resource development
- What is going to happen down the road
- Would like communication within the next three months

11.2.9. Environmental Concerns

Participants identified the protection of the environment as a concern.

- Ice roads affect fish
- Elders understand the environmental impacts
- Saskatchewan is the only province where exploration is not regulated
- Consultation needs to be linked to Environmental Assessment or other regulatory process
- All issues are linked to the land
- Saskatchewan Environment is continuing to grant permits as this Roundtable occurs

11.2.10. Continuous Process

Participants expressed a concern that this be a continuous process, with updates and feedback, opportunities for communication.

- Consultation is when the company changes its plans to include the information received
- The idea of consultation – at the end of the day it's an opportunity
- Communication and follow up is huge, updating people and educating them on the process
- Need community liaisons
- "How do I get a clear agenda to review this data and how do I get information to our people?"

- We (Mining Association) meet with communities to discuss the project as partners (Best Management Practice on Consultation)
- Remove barriers so we can all be understood
- What's important to communities and industry may be different
- Monitor the process
- First Nations need time to come to a common understanding among themselves

11.2.11. Traditional Territories Mapping

Participants reiterated the need for mapping traditional lands.

- First Nations have a different view of traditional territories
- Even if you define traditional territories, rights still exist outside it
- Plants, food, medicines, eco-systems, wildlife management – all part of traditional territories
- First Nations and Métis traditional territories overlap – need a common strategy
- Do not like the term – disagrees with the Government on the definition and notes that Elders don't recognize the term traditional territories, all land is their territory

11.2.12. Community Benefits

Participants expressed the need for communities to benefit from development.

- Investments in communities
- Investment has a ripple effect, needs to affect communities
- Royalty sharing can be done in different ways, e.g., education
- Though companies don't do resource sharing, they provide benefits
- Revenue sharing should include First Nations and Métis
- Need long-term benefits
- Jobs

11.2.13. Natural Resources Transfer Agreement (NRTA)

Participants were concerned with the terms of the NRTA.

11.2.14. Lack of Federal Participation

Participants were concerned with the absence of the Federal government.

11.2.15. Other Comments

The following is a list of separate items noted from Dialogue Session #2.

They did not fit easily into categories but represent a variety of concerns.

- Use the Treaty Land Entitlement agreement and process as a model
- Consultation was a principle of Treaty, and still needs to be built around these principles
- Done on a program basis, not permit by permit
- Need a dispute resolution mechanism
- Higher standards should be applied to the duty to consult, international standards
- Government is responsible to have an overall discussion with relevant communities rather than project by project
- Local (Métis) representatives on Rural Municipality boards/councils
- Need for interim consultation guidelines
- Expectation that Provincial Government will take key role

- Don't want the Alberta model of government delegating consultation and accommodation to industry
- Integrated land use planning is necessary

11.3. Dialogue Session #3: Successful Consultation Outcomes

Dialogue Questions:

- **What are your goals for appropriate consultation outcomes?**
- **What are accommodation considerations?**

The five most frequently expressed themes were:

- A clearly defined structure for the process
- Better relationships between the parties
- Revenue/resource sharing
- Stronger communities
- Environmental concerns

11.3.1 Certainty in Process

Participants identified a definite structure as an appropriate outcome. The process will be clear, timely, and respectful.

- Effective efficient consultation process leads to timely approvals, sound relationships, minimal adverse effects, skilled workforce, social license, managed costs, dispute resolution that everyone is agreed upon “just in case”, operating principles and a set of values that we work within that set up the basis for trust and relationship building
- No hidden agendas, respect for all parties
- Reduction of overlaps in ministries
- Clarity around roles with Saskatchewan Urban Municipalities Association/municipal projects
- Clearer responsibilities, timely process
- Goals, a well-designed and well-developed process
- Greater certainty for permit process; industry timelines respected
- Clear idea of trigger for consultation - permits are (now) issued before consultation; as soon as an application comes in consultation should begin
- Should work with individual First Nations, not the FSIN
- Need action quickly on duty to consult policy/protocol
- Clarity – what, when, who – less duplication of efforts
- Clarity on Crown, traditional, reserve and private lands
- Does consultation occur on private lands or not?
- Knowing you are consulting with the rights-bearing interests
- Checks and balances to ensure that all have been heard
- Needs to be flexible and fluid
- First Nations need to be consulted before permits are issued
- Need to streamline regulations – can First Nations/Métis regulations be considered in line with the province; also recognize that regulations are high among industry
- Need a roadmap with requirements and timeline
- Interim policy
- What process is followed if an agreement can't be made?
- Working from agreed-upon principles

- Certainty, clarity, commitment
- Need an oversight committee
- Maybe it's time for First Nations/Métis to be involved in developing standards
- Need a sense of confidence even if things go wrong
- Early notification and community involvement
- Checklist for permit could include consultation with the community
- Consultation prior to exploration; coming together early
- Industry wants to see rules and regulations melded together – one process

11.3.2. Strengthened Business Relationships as a Result of Consultation

Participants identified strengthened relationships between business and communities as an appropriate outcome of consultation.

- You don't have to own everything, but partnership is a part owner
- Consultation is a form of negotiation, a meaningful compromise and path forward. All parties get what they need by working together
- Industry is looking for the formal license to operate as well as the social license to proceed
- Able to move forward together with benefits flowing to communities; community effectively supports and participates in development
- We want harmony; we want to work together
- Relationships between First Nations and business will be stronger; building trust, strengthening relationships
- Economic development partnerships established – job creation, manpower development, equity participation – whole array of economic development partnerships
- First Nations' interests are for a business opportunity like everyone else
- Industry will partner in training and job creation, benefit sharing
- Work projects
- Partnership opportunities between First Nation/Métis projects; spin offs will be good economic driver
- Collaborative approach
- Need confidence of all parties
- Strong, sustainable, growing and trusting relationships are required and will evolve
- Open and honest information sharing, need to continue the dialogue
- Developing meaningful relationships with local businesses, doing more than grunt work
- Equitable treatment, economic certainty – this is doable for everyone
- Intention is not to hinder progress and industry, but to move along side by side
- Would be great if First Nations could sit down with industry – they are not enemies of industry but want a true partnership
- Ultimately consultation is a meaningful compromise, all parties may not get what they want but there should be an openness, a relationship, walking away from the process feeling okay, a sense that they have been treated fairly

11.3.3. Resource Revenue Sharing

Participants identified revenue/resource sharing as an appropriate outcome for consultation.

- First Nations' communities are looking for sharing opportunities and want a piece of the pie

- Infrastructure – roads, education – need revenue sharing
- We never relinquished resources and now want a share
- Billions (of dollars) extracted from traditional lands - Government receives money and distributes to programs and areas, but it's not coming to First Nations people; royalties that government gets should be recycled to First Nations
- Industry should share revenues with First Nations
- Piece of profits more desirable than piece of taxes
- Accessibility to wealth of resources
- Fair and equitable system to distribute wealth
- Active participants and owners of resources
- Provincial revenue sharing should be considered by government
- Government does not want to talk about royalties so what other vehicle can we recommend?
- They are taking stuff out and not leaving anything for us

11.3.4. Stronger Communities Desired Result

Participants identified stronger communities as an appropriate outcome of consultation.

- A consultation outcome should be giving people the option of staying close to home
- Accommodation looks at how people are going to prosper economically, educationally, socially
- Capacity and unemployment issues will be addressed
- Build capacity within bands through business
- Initiate education programs that will build capacity to be able to seize opportunity
- A prosperous, happy lifestyle – managing the prosperous times with a healthy lifestyle, the well-being of all community members
- Education, training and employment for local individuals within local community where project is located
- Economic development projects require equity for start up – fund to assist Aboriginal groups
- Aboriginals still underrepresented in projects
- Province/industry doing the development should be spending on training
- Permits need to contain a percentage of northern content – for e.g., northern contractors hold a 10% bid preference over south; Key Lake (was) broken down into smaller projects, with no bonding on some projects (building roads)
- Greater recognition of the specific need of the north – more provincial presence in the north (La Ronge)
- Consultation needs an employment requirement; community needs first option for employment
- Preparedness of the impacted community to accommodate the development
- Need a profile or database for each community to see what qualifications there are so industry can look at and use those people
- Ability to deal with social issues with the influx of money; need protection for our people on a social level
- Sustainable economy so we can provide for ourselves; sustainability for the future

11.3.5. Appropriate Levels of Consultation

Participants identified appropriate levels of consultation for different projects and fewer adverse effects from development as an appropriate consultation outcome.

- Includes both site and project specific concerns
- Industry to mitigate impacts
- Elimination or reduction of effects
- Industry perspective should be to minimize as much as possible
- Should provide a projection on how long it will last (e.g., pulp mill stink)
- Cannot predict the future, which is largely unknown
- Identify impacts on traditional land use to mitigate, eliminate or reduce these impacts
- Level of consultation should be commensurate with impact
- Any development on traditional land will have an impact – can be mitigated through jobs, social support, employment and other benefits but ultimately will impact Treaty rights
- Development type should dictate the type of consultation

11.3.6. Environmental Protection

Participants identified protection of the environment as an appropriate outcome for consultation.

- Saskatchewan Environment should be here
- Animal cycles are being disrupted
- Water availability and quality must always be monitored
- Done mainly at the development stage, but also needs to be long term for clean-up/decommission stage
- Need environmental assessments done by First Nations/Métis done as 3rd party assessments, can't trust Saskatchewan Environment with this task solely
- New industries should learn from the past (Uranium City)
- Impacts on spiritual life – herbs, medicinal plants can't be replaced
- Have everyone working together at environmental assessment process, then have one report to share
- Clearly issues with environmental assessment process (30 days) – these things can be addressed better; lengthy technical review time should be used better
- Environmental standards are improving – changed on a regular basis

11.3.7. Increased Sensitivity to Culture, Beliefs, and Values

Participants identified an increased sensitivity to culture, beliefs and values as an appropriate consultation outcome.

- Recognize, respect and value our culture, where we are coming from and how we look at things; respect for Aboriginal way of life
- One absolute is to respect Treaty rights; cannot compromise Treaties
- Shared understanding of each other and interests
- History is very important to us in terms of legacy and impact of decisions made
- Consultation is a process not a Treaty negotiation; need to include Treaty principles
- Duty to consult covers many aspects of Treaty rights – education, health – as it has an impact on inherent rights; it is understanding and respect and reconciliation of Treaty rights with Crown

- Although Métis aren't Treaty beneficiaries they claim inextinguishable Aboriginal rights and title; there is only one Métis Nation
- Language can create barriers; traditional territories is not a word in the Cree language and should be eliminated
- Should protect hunting grounds
- For Métis, basis of consultation is protection of rights

11.3.8. Need for Information

Participants identified receiving information that will lead to more well-informed communities as an appropriate consultation outcome. Industry will also benefit from information from communities.

- Something of this importance we don't want to take lightly
- Consultation is not one-time shot; it is an ongoing process
- Better community understanding of projects
- Information sharing/communication – help to learn more about government/industry partners
- Need a liaison person keeping government/industry/First Nations/Métis informed
- Land use studies
- One workshop is not sufficient; this is a starting point
- Both impacts and benefits are identified
- Accommodation will mean altering the design if necessary
- Information gives industry a better understanding of the whole process
- Expectation of Roundtable is education for all parties
- Need time to consider these discussions

11.3.9. Recognition of Traditional Territories

Participants identified the recognition of traditional territories as an appropriate consultation outcome.

- Imposing bylaws for taxes within traditional territories so some revenue could come as taxes for trucks, presently going to RMs and government
- Funding for mapping
- Elder consultation in traditional territories
- Industry needs to know specific sites to avoid – e.g. burial grounds
- Aboriginal participation in land use studies
- Culture and history considered

11.3.10. Natural Resources Transfer Agreement (NRTA)

Participants identified further discussion of NRTA as an appropriate consultation outcome.

11.3.11. Federal Participation

Participants identified the need for the federal government to be involved in consultation.

11.3.12. Other Comments

The following responses were specific to questions about accommodation concerns. (This was voiced as a separate question in some groups, but there is some overlap of ideas.)

- Should be project specific
- Meeting the minimum legal requirements should not be the only level of accommodation
- IBA (Impact Benefit Agreement) is part of accommodation and is done between individuals and Aboriginals but is not part of the legal process
- Some industries are not interested in IBA; Métis groups depend on that information so maybe it should be a requirement
- Issues with cost for small companies and small projects - 30K for both small and large companies - maybe it should be scaled back
- Trade offs don't necessarily mean losers
- IBA – employment, safety for cultural sites
- IBA – how is community to benefit for losing assets forever when industry is taking billions off the land
- Industry is responsible for mitigation, not accommodation
- Industry must be open to discussion about impacts
- Distinguish between accommodation and mitigation because mitigation means there is an impact; need a trust fund

12. Next Steps

12.1. Provincial Recap of the Dialogue Sessions

Marian Zerr, Associate Deputy Minister, Executive Council

Ms. Zerr commented on the value of listening and learning afforded by the Roundtable. She recapped the dialogue sessions.

There were three main themes in the discussions of “What stood out for you?”

- **Excitement:** everyone sees this as an opportunity. While this is a time of economic prosperity, there is an issue of capacity for some of the participants. People want the opportunity to be given a hand up, not hand outs, to be able to stay in their communities and make a contribution.
- **Inclusion and collaboration:** there was a spirit of cooperation, with the tone being set through all nations coming together to pray at the beginning.
- **Need for results:** there will need to be a continuation of the building on relationships and trust that was started here.

Ms. Zerr recapped some specific comments on both what stood out and what was missing.

On the next dialogue question, “How does meaningful consultation occur?” Ms. Zerr highlighted the following themes:

- **Capacity issues:** including education, information, definitions, territory mapping, and access to professionals. These all require financial assistance. Government and industry also need to have capacity to move forward.
- **Respect:** for cultural differences and views of all participants.

Ms. Zerr again included some specific comments from the session.

On the third question, because the dialogue session had just ended, Ms. Zerr only briefly referred to the themes. The questions focussed on “What are your goals for appropriate consultation outcomes?” and “What are accommodation concerns?”

- Economic and environmental stability
- Inclusiveness and shared prosperity
- Trust and transparency

12.2. *Where We Go From Here*

Honourable June Draude, Minister of First Nations and Métis Relations

Minister Draude reiterated the historical aspect of the occasion, the new beginning represented by the event. She recapped some of the ideas presented – care and concern for Mother Earth, the importance of the forum, and the need for the Métis to be represented, the need to “get it right”. Even though this is a tough issue that won’t be easily resolved, Minister Draude stressed that the will exists to fix it. First Nations want to be dealt with individually; elected Métis representatives must be consulted; and industry requires clarity and timeliness.

The next step is for the Government to develop a policy which will protect Treaty and Aboriginal rights while creating successful relationships and business, and which will result in reconciliation. Following the conference, the draft report will be shared with all parties. This will be followed by further forums. Minister Draude spoke of her commitment to a northern summit and other meetings which will lead to new drafts of policy. She outlined a timeline for the draft policy to be ready for the end of this year, with a final policy in place by the winter of 2009.

Minister Draude expressed hopefulness in the process and recognition of the importance of such this policy for First Nations and Métis. The Roundtable fulfilled the first step in this process. She expressed her commitment to working with the parties in the future.

The Government of Saskatchewan thanks all who contributed to the Report from *Seeking Common Ground: Roundtable Conference on First Nations and Métis Consultation and Accommodation*.

Additional copies of this report can be obtained from the Ministry of First Nations and Métis Relations' website at www.fnmr.gov.sk.ca or by contacting:

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