

GUIDELINES FOR INDIGENOUS PEOPLES



SUMMARY OF THE GUIDELINES FOR INDIGENOUS PEOPLES

This set of guidelines will assist you to understand how to participate successfully and to everyone's benefit in development projects. They are organized in roughly the order you will need to use them when you become involved in a development project.

1) Form a representative group

To interact successfully in a development project, someone or some group will need to represent your collective interests. These can be informal or formal, but it is best if they have some legal standing, such as a community corporation or a non-governmental organization. The members should be chosen on the basis of skills required, not just community status.

2) Be prepared: gather information now

Don't wait for a development project to come along. Start organizing your own information now. It is a beneficial activity in any case, and can be used to trigger the kinds of development projects you want to have happen, including projects that you can carry out yourself.

3) Get involved

Once a development project comes along, it can provide enormous benefit to the community if managed well. But to make the best of the project, it is important to be a part of it at all the stages. If the project is potentially threatening to your livelihood or well-being, do not avoid it, get even more involved.

4) Be assertive. Don't be aggressive, don't be passive

Experience with many proponents and indigenous groups has shown that the best way to interact is to be positive, forthright, and patient. Waiting and reacting in a passive manner is the least effective. Aggressiveness often makes the situation worse.

5) Estimate impacts carefully

Work with the project planners to estimate what the effects and impacts will be from the activities and physical changes that will be made. Estimating carefully what these effects will be is the best way to understand how the development project can be of benefit or can create damage.

6) Communicate and network

Expand your capacity by staying in touch with your community members, your neighboring communities, outside experts, NGO support groups, and especially the proponent and government regulatory or enforcement agencies.

7) Know the rules

Development projects follow government rules or rules that are internal to the organization carrying out the project. Be sure you know what these are, and how they work. Many of these rules will create a framework for your community to ensure the project gives the community the most benefit. Unless you know about these, it is hard to take full advantage of the opportunity.

8) Use and keep your traditional knowledge

Much traditional knowledge information can be shared, some cannot. All of it, however, can be used by traditional knowledge practitioners. This is the best way to share the knowledge: use it in the project to help find solutions to problems and

to estimate impacts. Expect to be compensated for the effort, just as if you were a staff member or contractor.

9) Insist on your rights, know your bottom-line

Most development projects are exciting and of great benefit to the community and to individuals. Occasionally something goes wrong. If your traditional or other rights have been disregarded, you must know what they are, and how to ensure you can retain those rights.

TRADITIONAL GUIDELINE #1: FORM A REPRESENTATIVE GROUP

CHOOSE TEAM MEMBERS ACCORDING TO SKILLS, BUT RESPECT INDIGENOUS SOCIO- POLITICAL STRUCTURES

Before you do anything else, create a group to speak on behalf of your community.

Having a small group represent you may not be familiar, but it can be important and can be done in ways that add to the richness of your traditions. The people chosen will become a team with each member having different responsibilities and tasks. Members should be chosen on the basis of the skills they can bring to the project.

The representative group should have their mandate and authority clearly defined. Perhaps it is only the authority to bring information or recommendations back to the community. One person could be named as the leader or spokesperson of the group. Make sure everyone in the group understands the limits to his or her decision-making authority (if any) without coming back to the community as a whole. Having a representative group of indigenous peoples empowered by the entire community to represent it, can make negotiations smoother.

Proponent representatives are usually delegated the authority to make decisions only on the basis of policies or strategies agreed to by the proponent. It is normal business practice for only a few people to be involved in the actual decision, so they will be at ease with the representative group taking recommendations back to the entire community for decisions. Inform the proponent right from the first about how your community normally conducts discussions. Try to keep the

decision-making process as fast as possible, but be sure to leave enough time to think and consult with your own community.

Consider having all parts of the community represented: Elders, men and women, and young people. The leader or spokesperson should be someone the entire community respects. Other representatives might include those who have special knowledge of the area where the project is to take place.

If culturally appropriate, women should be included. Women's knowledge and advice works best if it is used directly with the rest of indigenous knowledge. If it is not culturally appropriate to have women participate directly, then consider another strategy such as a special interest group working in parallel and reporting back to the main group. Try to develop ways of consulting them informally on issues where their knowledge is normally used in everyday life. Easily forgotten details can sometimes make the difference between a good project and a great one.

BECOME LEGALLY RECOGNIZED

Contracts are a means of defining what everyone wants and agrees to. Being able to agree to a contract is not confrontational, it clarifies the agreement so that everyone knows what to expect.

Your community, or some group such as a specially formed representative NGO, may need to have legal status. It is normal for projects to be handled through contractual arrangements. Deciding whether this is necessary is primarily a decision the community must reach in discussion.

Factors to think about are whether the project will produce revenue, if there are issues of ownership of the end results (e.g. physical structures or patentable materials), if there is some significant change to the landscape that might cause environmental damage that would impair your community.

If the community agrees that there is some reason to consider having legal status, think about using an existing incorporated town or village. If there is no legal entity, consider creating one that includes the whole community. Alternatively consider creating a legal body just for this project (if it is big enough). In India, for example, a practice of establishing non-governmental organizations to represent groups, especially communities, has demonstrated that the idea works well (see Honey Bee – e-mail honeybee@iimahd.ernet.in or on the Internet <http://csf.colorado.edu/srsiti>).

Choose whatever method best suits your situation to take part in legal negotiations over traditional intellectual and cultural property rights, and traditional resource rights. A legal organization will also give you the opportunity to become partners in the project.

In creating a legal entity, there is no reason to change the way your community normally makes decisions or is currently organized. The reason for establishing a legal presence is to ensure that the community has maximum protection and authority in negotiations.

CHOOSE YOUR OWN REPRESENTATIVES

Be sure that the group or people who will be representing the community actually have the

community's agreement to represent them. Several different forms of representation are not appropriate:

1. Try to avoid having a government appoint your representative
2. Do not agree to a government staff member being your representative just because he or she is indigenous. Give the community an opportunity to assess the qualifications of the person who could represent the community.
3. Be careful that the community has a chance to distinguish between tribal leaders who will represent them and tribal leaders who are only interested in brokering a deal.
4. Watch out for tribal "dealers." Sometimes the proponent or government will offer to provide basic services to the community through a dealer, in return for agreement to proceed with the development project.

HELP THE PROPONENT TO COMMUNICATE WITH YOUR COMMUNITY.

Your local community can help proponents by offering to teach the managers of the project the ways of indigenous peoples. In Kenya, Africa, for example, the Friends of the National Museum of Kenya, offers courses to diplomats and business people on proper etiquette for interacting with the many indigenous and ethnic groups in the region. This enhances the experience of business and indigenous peoples working together, and brings modest income to the museum and to the involved communities.

***T*RADITIONAL GUIDELINE #2: BE PREPARED: GATHER INFORMATION NOW**

THE IMPORTANCE OF BEING PREPARED

Development projects can be an enormous benefit to your community. That benefit is made easier to realize if the information that is likely to be required is organized and understood well in advance of the project being initiated. Similarly any potential problems can more easily be solved if the correct information is already known.

The following suggestions are based on the kinds of information that indigenous communities have already found to be helpful in development projects. In many cases, the assembly of this information makes possible the initiation of development projects on your own, and without the necessary intervention of aid agencies or corporations. It also provides evidence to the community, especially the younger members of the community, of the value of traditional knowledge in a modern setting.

CLASSIFY LAND USE FROM YOUR PERSPECTIVE

Experience has shown that early identification of “valued ecosystem components” is a critically important early step in the process. Valued ecosystem components are areas of land or species that the indigenous peoples must have to preserve their way of life. Valued ecosystem components also include the relationships between the environment and living things to the indigenous people a social cultural or even economic attributes that are most important to the community's survival. Perhaps it is a special

area of land that is used for multi-layered agriculture, or perhaps it is a traditional part of a stream that supports an important source of food, or perhaps it is an area that is traditionally used for certain ceremonies because of a set of features the land possesses. These areas and the animal or plants that are of critical importance in them are termed “valued ecosystem components.” By classifying them and by defining them carefully (it is best to do so in advance) it is much easier to describe them and protect them from potential harm during the planning and implementation of a development project. If these are not defined early enough, decisions may be taken that would make safeguarding these areas very difficult or impossible.

(See the following interesting web site. (<http://www.unimas.my/fit/roger/EJISDC/vol1/vol1.html>))

The proponent will have made an assessment of how the land is to be used. Find out how they classified sites (mining, forestry, tourism etc.). Make sure you already have your own classifications for the same piece of land. You want your own classifications complete before you even hear what the proponent has in mind, so you are not biased by the proponent's classification. Compare them. Are there incompatible uses, such as digging up an area for a foundation that is right over a sacred burial ground, or placing a road where a migration route would be blocked? Once problems are known, they can become points for later discussions.

COMPARE SCIENTIFIC FINDINGS TO YOUR TRADITIONAL FINDINGS

In project development and environmental impact assessment, no one has all the answers. Use local authorities to check the accuracy of information used by the proponent to predict effects. Compare your conclusions to theirs. Are they the same or different (work with the end results, not the process of how you arrived at the end results). Science is built on the premise that current knowledge is only a working hypothesis that needs to be tested and refined. The very rigour of science makes it a slave to accuracy. All data must be explained by the model. Do you know something that is not explained by the proponent's model? Usually small differences in data points make small differences in the model, but if even one data point is a long way outside the model, the model will need to change radically to include the new information. This could be an important discovery.

REPORT CARD ON THE PROPONENT'S PAST

Most organizations have a package of information including a mission statement, statement of values, environmental policy statements, annual reports, and technical reports similar to what will be prepared in your case. By requesting this information, you can get a quick look at the proponent. Try to find information on the track record of the proponent. In North America, the Better Business Bureau, or similar organizations in other countries, will have records of complaints. A list of all law suits can be obtained in most countries through legal libraries, on-line annual reports, securities commission findings and other sources. A history of law suits can be very informative, and be used to develop the strategy that will work best in negotiations with the proponent.

If you do not have a way to find out about the proponent directly, ask other communities that have had experience working with the proponent — how did it work out? If you can get on the Internet, use it to find out about the proponent. Send messages to other traditional knowledge organizations (see the appendices for traditional knowledge centres, web sites, and literature). Check out newspaper articles from the business section and also from the news sections. If anything makes you suspicious, follow it up with a call to your local media.

In many countries, this may not be easy, but direct contact with any proponent is possible. Some large mining companies will take representatives of the community to visit projects completed with other traditional groups. This is an excellent way to see what they have done and to talk directly with people who have already been through the process.

GET A TECHNICAL SUMMARY

Developers always make advance plans on paper before they take any major initial steps. Therefore, it will be possible for them to provide the official group with technical documentation. Full technical documents are quite large and often quite complicated. If this is the case, ask for an accurate summary in easy-to-understand language. While you can welcome offered promotional materials, you really do need to get a technical summary.

You should have a lot of information about the project:

1. What is this project all about?
2. Why this location and what other locations were considered?
3. How big is this project, both in its development and construction phases?
4. Once it is completed and operational how many workers will there be?
5. Are they going to be drawn from the local community or brought in from afar?
6. Of the locals, how many will be in management, how many in low-paying jobs?

7. What obvious changes will the community see and feel?
8. How is the waste to be treated?
9. What are the planned transportation routes?
10. What are the current plans for post-project clean-up?
11. What commitments has the project already made to other organizations to take care of these aspects?
12. Can the community take a role in some of the operations instead of hiring outside companies to do it?
13. Is this completely financed? Are there partners? Can the community play an investment role?
14. How long will the project last — both the development and construction phase, and also the operation of the project?
15. Does the proponent plan for a “permanent” home in the community?
16. Just what is the long-term picture from the proponent’s perspective?

PREPARE A COMMUNITY LIST OF QUESTIONS

Prepare a list of needs from the community’s perspective. With this list in mind (but not presented formally) discuss informally at least the following items:

1. When will the proponent be able to tell the community their estimate of the long-term implications for the community?
2. What is the official project timeline? How does this fit in with your community needs for harvest, festivals, etc.?
3. Does the proponent feel at ease with both local men and women involved in the project?
4. Perhaps your community would like to involve young people so they can see how to become leaders. Is this a problem for the proponent, or would it see this as a good thing?

Get the proponent to give you a complete step-by-step definition of how it intends to complete the project.

Offer advice to the proponent on how they can better fit in with the needs of the community.

ENGAGE SOMEONE YOU TRUST TO INTERPRET SCIENCE-BASED KNOWLEDGE

If your community does not have a person trained in the sciences, consider asking someone you trust to transform the technical jargon into plain language. To do this well, the person you engage should have a basic understanding of ecology and theories of socio-economic development. Make sure this person can communicate well in your language. He or she can help to determine what other information will be needed using both traditional and non-traditional knowledge bases to come up with reasonable predictions of impacts.

UNDERSTAND THE EXPECTATIONS OF THE PROPONENT

The proponent will expect the community to provide a continually updated list of contacts and resource people. The proponent may want to understand the social and economic makeup of the community. It will use this information in its predictions of social, cultural, and economic impact. Discuss carefully how this is to be done, and who will be doing it. The proponent will expect the community to define what it wants from the project. This is not a small task to define. Resist the temptation to limit your expectations to money; there are often far more important cultural and social issues and safeguards to be negotiated.

To facilitate a mutual understanding of these and other expectations the proponent may have, invite the proponent to discuss all aspects of the proposed project with the community. Begin by

determining what background information will be readily available. Set agendas together. Provide an explanation of the organizational structure of the community and who its leaders are. Ask the proponent to supply an organization chart with the local representatives identified on the chart. This will be important when it comes to making

decisions and passing information to the correct people.

You should find out if there are possibilities for joint ventures with the proponent.

***T*RADITIONAL GUIDELINE #3: GET INVOLVED**

BE ALERT FOR NEW PROJECTS

Be alert so that if a project is going to be proposed for your area, you know about it and can become involved. There are many ways to do this. Perhaps the most effective is to develop a network of information among your own community members and among communities in the general region. One sign to look for is visits by people who are looking at the resources, discussing policies, or asking about the need to improve the local situation (even if the visit is not official). Another sign is an unexpected visit by a local politician, surveyor, the media, or others who are not the usual visitors.

TO BE EFFECTIVE, PARTICIPATE FULLY

You can only be part of the process by participating in it. Standing on the sidelines and complaining will not have any significant influence on the outcome, and may simply entrench the proponent's view that the community is not being cooperative. When this happens, everyone loses. You may be completely ignored and have no ability to influence the outcome of an assessment or any chance to participate in planning the development project, unless you are part of the process.

PRE-EMPTED DECISIONS? — KEEP TRYING!

In the best situations, any decision about whether to proceed with a project or not, will have been taken with the indigenous community. If this is

not the case, and if a decision has been taken without your involvement, then it is important for your community to stay involved. Try to become involved in an official capacity. The most common problem is that the decision to proceed with the project has been taken without prior consultation.

In that case, move very quickly to insert your community into the process, if possible. Your instinct may be to refuse to talk to the offending people. While this may be a completely understandable reaction, it is not an effective strategy in this situation. Try to be cooperative, but at the same time, try to preserve your ability to make decisions about your own future.

The normal reaction from proponents when a community decides not to cooperate, is to go ahead anyway. That is why it is a good idea to stay involved, and not a good idea to refuse to be a part of the discussions. The community risks losing everything you might have bargained for. Be sure to participate, even if some decisions have already been lost. If the project is clearly going to be detrimental, legal action or media and public pressure may reverse or modify decisions. If so, this gives you the chance to influence at least some of the decisions. Find out what legal action you can take, just in case working cooperatively does not have the desired effect. While legal actions may be unpleasant, cooperation may still be possible after a legal issue is settled.

Moral persuasion with both the public and government agencies can be brought to bear through the media. Be careful, however, not all governments accept criticism well. If your

community must accept an unfavourable project, stay in the assessment or development process. Do not give up. Even minor decisions about the project can sometimes make a real difference.

ESTABLISH FINANCING FOR YOUR PARTICIPATION

Many traditional communities do not have financial resources to plan or to participate. Some governing states require that proponents pay for others to participate in planning and environmental assessments. Ask for financial assistance. This gives your local community a better status in the negotiation. It is not enough for the local community to depend on local volunteers to help with the many tasks involved in an environmental assessment or planning a development project.

As soon as the proponent understands it will be expected to pay for the work of local people, it will want to ensure that its funds are well invested. Be prepared to explain what your people will be doing and what benefits the proponent will receive for its money. The benefits will be the basis on which the proponent will pay. Setting rates and fees is an important part of the negotiations. Try to find other examples, or consult the regulatory agency for benchmark rates of pay or fees for service for other experts such as scientists or technical experts.

Are there other forms of compensation that would be of more interest to the community? What about establishing a school, or a hospital, or scholarship program for the young people to go to university or community college in a distant location? Perhaps the proponent has a need to set up a communications system in the project. Can this be extended to include your community in the system and get access to the Internet? Can the proponent offer training in Internet activities and even help set up a web page for the community?

TRAIN TO BE INVOLVED

The people who are most directly involved will have to learn quickly. Training and capacity building are important. Try to find national, regional, or even local organizations that can provide courses in subjects related to the project. If none is available, try to involve local traditional entrepreneurs in acting as informal mentors, coaches, or teachers. Above all, get as prepared as you can to participate in a process that may not be all that familiar.

PARTICIPATION BY WOMEN

Since women can put different items on the agenda for discussion and review than men, make sure that they are considered in the training. Women, as well as men, will benefit from the training. Training women in your culture may need to be done by women. Encourage the proponent or government to include women as trainers. Once a few women of the community have been trained, they can act as trainers for others in the community. In this way, the investment on the part of the proponent or government need not be large.

ENHANCE YOUR BASE OF INFLUENCE: INCLUDE OTHERS

If possible, involve the entire community. In most projects there are other people or organizations who will directly benefit from or be directly hurt by the project. Still others will be interested in the outcome whenever a project has an impact on the environment.

International, national, and regional special-interest nature or environmental clubs and non-governmental advocacy organizations can be invited to become a part of your advocacy group. National or regional groups of indigenous peoples will be concerned about the potential impact on all aspects of the health of the community. Join forces with these other groups in some manner — whatever is your way. If

possible, cement the relationship in documentation; this will inform the proponent and the regulatory agency of your representation.

When the time comes to negotiate, your base of influence will be larger than if your community tries to do it alone.

T*RADITIONAL GUIDELINE #4: *BE ASSERTIVE, DON'T BE AGGRESSIVE, DON'T BE PASSIVE

ESTABLISH OPEN DOOR NEGOTIATIONS

The best practice is for proponents to include indigenous peoples and their communities in the key decisions right from the beginning. Encourage proponents to maintain open-door policies so that the community can participate in the pre-planning as well as later stages of the project. To maintain this open door, the community should also be prepared to invite the proponent to discussions as well. This does not mean that either the community or the proponent will invite the other to all meetings. It only means that the basic decisions should be discussed openly between the parties.

Occasionally, however, proponents may carry out closed door, or private negotiations in key areas while excluding community representatives. This often happens during government-to-proponent negotiations in which permits, regulations, or licenses are set out.

Such decisions are disrespectful of the community, but may be common practice. If possible, try to establish contact with the proponent before the key decisions are taken. Ask the communities to consider what information the representative group should have to negotiate properly. If the project is already moving ahead, ask to be included in the negotiations for granting permits. There may be standard processes for intervention at this stage. If so, consider using them. This does not have to be confrontational. It can at least begin as an information-sharing process.

Beware of the strategy to establish financial benefits for a few key decision-makers in the community so they can be manipulated to make inappropriate decisions at the expense of the community and for the benefit of the proponent. The community will need to be very firm with these situations. Often traditional knowledge can be used to great benefit in developing the cultural backdrop against which tourist development projects can be created. In Belize, the areas near great ruins such as Lamanai and Altun Ha have been developed with a sense of conservation of the culture of the ancient and modern local peoples.

DEAL FIRMLY WITH THE UNREASONABLE

Most people are quite reasonable. However, proponents sometimes make unreasonable demands because they do not understand indigenous peoples and the way they carry out their daily lives. Common practice may allow business to take advantage of a situation for their benefit at your expense. Business may have trouble understanding that their way is not necessarily the best way.

The best way to deal with both of these sources of unreasonable demands is to assert what is reasonable. It is useful to know if you are dealing with a misguided honest person, or a deliberately dishonest person, but in the end, only insistence on what is correct will be beneficial. Be prepared to go through legal channels to establish and to insist

on what is reasonable, especially if you are facing a dishonest proponent.

TOO LITTLE TIME CAN LEAD TO POOR DECISIONS

Having sufficient time for the local community to come to appropriate decisions is an important part of maintaining a sustainable project. Proponents may be in a hurry. Time costs money. Be wary if the project seems to demand too many meetings in too short a time frame. Discuss the schedule and suggest a time frame that is more effective for your local needs for harvest, hunting, festivals, etc. People will be unable to digest important information if they are concerned about possible loss of livelihood resources.

Requests for cooperative research efforts should be welcomed with a proposal of how the community and the proponent can work together using traditional knowledge alongside scientific methods. However, it wise to be careful of requests for research in which the proponent wants everything done in an unreasonably short time. Suggest Participatory Action Research as an alternative way to increase effectiveness and efficiency by including traditional knowledge.

WORK FOR “MEANINGFUL” CONSULTATION

Be very careful that “consultation” with the community is not really just a process of “informing” the community. Being informed is important, of course. But being involved and consulted for decisions is much more important. A simple request to meet the representative’s supervisor can start the process that will get you to the decision-maker. If this does not work, you will have to resort to finding out who the decision-makers are, and calling them directly, or if possible, visiting them by appointment. Set up one or more of many mechanisms to involve the local community in the process.

If this fails, the situation is likely to be a difficult negotiation. This may force you to fall back on legal approaches or using the media to gather public attention and force a high-level negotiation.

PROMOTE THE CREDIBILITY OF TRADITIONAL KNOWLEDGE

Increasingly, environmental assessments require that traditional knowledge be included in the assessment or impact statements. Development project planning is also beginning to be interested in alternative knowledge bases. This is a wonderful development from the perspective of indigenous peoples. Often, however, neither proponents and regulatory bodies may know how to deal with the alternative knowledge base. Indigenous communities can assist in proponents and governments by guiding them in the best practices of how to share the traditional knowledge and integrate it into the various stages of the projects.

Many best practices are described throughout this series of *Guidelines*. Sometimes it is helpful to understand what constitutes poor practices. Here are some examples of relatively common poor practices:

1. attempts to undermine the credibility of traditional knowledge so that the weight given to the findings by indigenous peoples is less than that derived from science
2. requests for overly simplified traditional knowledge to conform to business standards
3. requiring “proof” that traditional knowledge is useful,
4. or that its only criteria for inclusion will be that it augments science to save time and money.

Defending the validity of traditional knowledge can be done through practice when people respect each other.

When respect and trust are lacking, it may require a legal challenge. In many countries, only time and persistence will make a difference. Any one

project may only gain a little bit of progress, but in time, the sum of all the little steps toward a greater mutual understanding of the traditional knowledge systems will be significant.

PROTECT COMMUNITY STANDARDS

Most proponents will try to be careful of community standards. In fact, there are examples of companies spending years in advance of a development project to prepare for the interaction with the community (such as the diamond mining company Diavik), or offering to take representatives from the potential development community to other locations where the same company has completed projects (Placer Dome - a gold mining company). However, if a

proponent does not respect community standards, it does not foster healthy long-term relationships. The most common ways in which this disregard is encountered include:

1. a proponent consistently setting aside local practices, such as traditional hunting times or sacred ceremonies to suit its project schedule,
2. actions departing significantly from community expectations and agreed plans or decisions,
3. discrepancies or misrepresentations that are dismissed as of trivial importance, and
4. proponent employees who routinely show disrespect for women, children, Elders, and the cultural mores of the community.

You will need to clearly identify and prohibit these unacceptable behavior patterns.

TRADITIONAL GUIDELINE #5: **ESTIMATE IMPACTS CAREFULLY**

CAREFUL ESTIMATES OF IMPACTS MEAN GOOD DECISIONS

The most critically important task, but also the most complicated task, is to estimate as accurately as possible what all the different effects will be on the community from the project: beneficial, damaging, and uncertain. Once these effects or impacts are defined to the best of your ability and the ability of the project, you can make decisions and plan what to do. If fishing will be reduced or destroyed, is the project worth it? If the community will receive a financial package to offset the loss of other opportunities, is it enough to make up for other changes to your cultural and social traditions?

Ask the women to predict the long-term effects the project will have specifically on *their* lives and well being. The invisible economy of "women's work" is usually not factored into the financial picture, but for the health of your community, it can be a major factor. Try to find ways to include that factor in the community's predictions.

BE SKEPTICAL OF PREDICTIONS OF GREAT WEALTH

Careful analysis of benefits to the community are an important factor in making decisions. While huge benefits are sometimes possible, the number of times that occurs is quite small. Therefore, predictions of great wealth resulting from the project should be viewed with a healthy skepticism. Get comparative views of the profit from similar projects. Where does the profit go?

What portion of it will stay in the community? Who from the community will be employed and to do what kind of jobs? What spin-off or support services can be started up? How long will the operational aspect of the project go on? Is the project going to last a long time, or will be gone after a short period? Will the community be a permanent part of the industry? If the community does become dependent on the industry from the project, what will happen when the project is finished or does not live up to expectations?

Experience in traditional communities has shown that sometimes great wealth does happen. With good planning, this can benefit the entire community. Without planning, the new wealth can be lost, or end up in the hands of just a very few people.

ASSUME PREDICTIONS ARE NOT VERY ACCURATE

Because neither science nor traditional knowledge has particularly accurate means of predicting long-term effects, it is important to make the estimates of the impacts of a project with broad margins of error.

Traditional knowledge of the local areas almost always is more informed than distant science. Sometimes this results in under-utilization of resources. In one example in the far north, a whitefish harvest was slowly rising. Managers of the harvest used a scientific basis for estimating the maximum limits. Traditional fishers argued that the harvest could be much larger. The basis for the scientific quota limits rested partly on the understanding that there was one brood stock,

and that stock was measurably lower than could support the current harvest levels. To settle the dispute, traditional fishers requested, and received, permission to take scientists to a whitefish spawning grounds that only they knew about; knowledge derived from centuries of watching the whitefish.

In other cases, it results in an over-utilization of resources. In another example, traditional Inuit hunters of beluga whales in the far north were careful to kill only certain individuals from herds. Scientists decided to sample the herds, and against the advice of the traditional hunters killed a very large individual the local people knew as Lok, named for its strange voice. The following year, the large herd that Lok had lead never formed, and the hunt declined rapidly. The hunt remained low for many years. According to Inuit hunters, Lok had not yet trained a successor, and until a new Lok appears, the beluga will not recover their numbers.

Always consider the cautious position, but ensure that the position is based on the best possible sources of knowledge. In any cases that source is the indigenous knowledge of the area. By combining scientific and local understanding the best possible estimates of impact usually result.

Elders are careful to remind the young that they must not forget that important knowledge can be derived by living on the land, and watching it react to natural forces over long periods of time.

The most common scientific weakness in making estimates of impact is a lack of long-term information. Most projects predict impacts on the basis of a short-term look at specific species. These models can often account for a very large percentage of the impacts, but not all. For example, models of population levels of specific animals or plants over a three year period are not good enough. Gradual changes in natural patterns established for centuries change over much longer periods. Of course, it is important to know if the food or clothing sources will be harmed

immediately — these will be the first predictions made — but subtle, long-term effects can be even more important. Very slow changes in the economy or environment over years can result in social and cultural erosion, resulting in devastation that only becomes apparent years later.

Take time to understand all the long-term effects that might happen from the project. Development is all about change. According to many people in the development field, it is not possible for development to take place without change. Take time to be certain that the nature of the changes that may or will take place are acceptable. It is highly unlikely that development will take place in or near your community without change.

Be skeptical of claims that the community will remain the same during and after the project. Changes, even changes that are expected, tend to create conflict within the community. It may well be that the community is anxious to change the status quo. If so, this makes change easier to accept. If the community is not anxious for change, the transition period may be difficult. Be prepared for healing to take time.

PROTECT YOUR COMMUNITY FROM SOCIETAL IMPACTS OF ALCOHOL, DRUGS, AND DISEASES

If your community is not accustomed to interacting with western value systems, it will be very important to protect your community from potential intrusion onto your cultural values. Development projects originating and staffed by western personnel sometimes inadvertently introduce indigenous communities to unfamiliar ways.

Traditional communities sometimes suffer greatly from alcohol and drugs brought inadvertently into the community. Young and old alike can fall victim to overuse of these substances. Health problems arise from the invasion of germs from

people from distant areas. Research has demonstrated that there is a gender difference in the impact of increased wealth in indigenous communities. Young men are disproportionately drawn away from the local community to seek work in towns or cities. This may leave the women and children behind without the necessary infra-structure and support systems. Under these conditions, disease and malnutrition are common results.

Try setting up a series of self-help groups within the community to make your people aware of the risks and how to avoid unwanted interactions. Establish rules or guidelines of etiquette with the proponent and their staff before the interaction begins. It is much easier to allow greater freedom than to attempt to impose restrictions later.

DEFINE DIRECT EFFECTS

There are legal and moral obligations for a development project that has an impact on the environment beyond the area directly controlled by the project. For example, communities that live on a river downstream from the project have rights (called riparian rights). These rights should be preserved. Altering a migration route, or changing the nature of the surrounding ecosystems may cause unacceptable consequences for the nearby communities. Economic spin-off, cultural

erosion, and social difficulties are all potential problems that nearby communities may experience as well. If possible, make arrangements to encourage nearby communities to join your own self-help systems. If this is not possible, try to have legal means to hold the proponent responsible for any negative impacts on the nearby communities.

DEFINE INDIRECT EFFECTS

Both communities and proponents may be legally responsible for indirect effects as well as the more obvious direct effects. For instance, harm may be done inadvertently by sharing traditional knowledge that another communities would prefer to keep confidential. Financial benefit based on support services required by the community or proponent hosting the project may cause problems in the long-run. If the financial benefit modifies the life-style of the second community away from traditional, but is too small to support the complete transition to a market economy, the nearby community may have been damaged and may feel it has some right to compensation. Whenever this is a possibility, carry out a joint assessment of the situation to map out how all the communities will cope. This may take the form of a multi-community business or management plan.

TRADITIONAL GUIDELINE #6: **COMMUNICATE AND NETWORK**

USE COMMUNICATION TECHNIQUES TO MEET YOUR NEEDS

What are your best ways of keeping everyone informed? Whatever they are, use them all the time. In some communities, the only means is by sending people to talk to others. Organize networks of people to get the word out.

In some, but certainly not all communities, there will be access to telephones, radio, and television. Use phone-in talk shows to allow everyone in the community to express his or her views. Try to get the local television station, if there is one, interested in doing a news feature on the project. Arrange with the proponent to schedule regular field trips to the project for the community.

A simple principle to use is that *people forget what they hear, remember what they see, and learn what they do*. Using maps, diagrams, flip charts, artifacts all ensure that people will not forget. If you have the means, use some of the many modern methods, including computer displays and programs that can be shared with the community so people can take them home. Put them up in community centres, churches, tribal or band head offices, or any other central community facilities. Call general meetings and include the proponent representatives. Remember to arrange translation. Or one of the local people may be able to do it, although formal translation can be complex. Try to make sure that the proponent gives the community information in advance. If you are making the presentation, try to get information about the subject to the community before the

meeting. Use visual aids. If it is at all possible, have a local person record the decisions for the community.

In general, person-to-person contact is the best method of communication. It may not be enough for decisions. All decisions, however small, need to be written down. Open discussion meetings and other meetings should always have some information available to the local community or representatives well in advance. This information should be available for everyone to read, or if reading is difficult, use another medium, such as small gatherings, or poster diagrams, so that everyone can discuss it before the main meeting. At meetings, have an official record of decisions. Use someone from the local community if possible. Make sure everyone agrees that it was recorded correctly. Read the words and modify the record until everyone agrees with it. A video record of the meeting, a copy of which is deposited with the local community, would be both useful and a sufficient record if later issues need to be settled.

WORKING WITH THE MEDIA: BE MESSAGE DRIVEN, NOT QUESTION-DRIVEN

Working with the media can be a two-edged sword. Often the media are extremely sympathetic to indigenous peoples's causes, but sometimes the media can get a twisted slant on a story. Be careful in framing your story to help sway public opinion if you are going to use the media. The key to a successful interview when it might turn hostile is to establish about four or five

messages and write them down. Then write down about two or three examples to illustrate each message. Finally try to find at least one very powerful phrase of about five to ten words to state each of the four or five messages. The phrase is what you want the media to pick up as headlines. During the interview, be message driven, not question driven. Always come back to your message as you answer the questions. Do not allow the interviewer to draw you into saying something you don't want to say.

ASK LOTS OF QUESTIONS

In some countries, the local communities are invited to participate very early. In others there may be no opportunity unless public pressure is brought to bear. Get into the process as soon as it is possible. "Early" is the right time to set up the way in which you will participate, and the best way the proponent will interact with you. What is the schedule? How much time do you have to react? What if you need more time?

Another area of importance is the legal aspects. What regulations will be brought to bear by the proponent? What regulations should the

community bring to bear? What regulatory agencies will be involved — and what is the community relationship with them? How will the community participate? Can one assume round-table discussions, and town hall meetings? Or will it be representative counsel and behind-closed-door decisions? To what degree will individuals and the entire community be involved in contractual arrangements? You may need to get answers to all of these questions.

Many of these questions can also be asked by taking direct action, such as developing ownership partnerships in which local and state government agree on ownership regimes. Partnerships can be developed with the proponent in which traditional and other forms of knowledge are used together in planning and making decisions. Consider carefully what the long-range targets are and ask yourself if it would be a good idea to create a management partnership in which you and the proponent collaborate to put joint plans into effect. This puts the community directly in partnership with the proponent. This may be especially useful when negotiating continuing monitoring and evaluation over the long-term.

***T*RADITIONAL GUIDELINE #7: KNOW THE RULES**

GOVERNMENT SETS THE RULES, YOU CAN HELP DEFINE THE PROCESS

It is all very well to participate, but you must know the rules before you agree to start, or you could be at a great disadvantage. The rules are set by the government regulatory agencies. Find out how the proponent usually acts. The proponent will have had many opportunities to devise methods of getting permission to carry out its projects with the least interference from outside parties (including local communities). But this may be your first.

The following are useful questions to ask:

1. What is the policy of the regulatory agency?
2. What is the process?
3. Was the process reliable for indigenous peoples in other projects?
4. Did the agency follow through on its commitments?
5. What legislation does the agency use?
6. Is the legislation under revision?
7. What resources can the regulatory agencies offer to the local community?
8. What resources can the local community offer to the agency to help the process?
9. What techniques can be used to involve the public, and when can they be used?

For many indigenous peoples, the mother language, and possibly the only language, is likely to be the local language. This may be a problem because the common languages of business are rarely local languages. One solution is to conduct discussions and written communication in the

language of the speaker or writer, but to have instantaneous translation available for discussion. It is not uncommon for major proponents to hire translators full time.

DEVELOP AND PROMOTE A CODE OF PRACTICE FOR YOUR REGION

Development proponents or government may not know how to inter-act or behave with indigenous peoples. It may also be that they are not as well aware of the areas you consider to be ancestral domains, or where you routinely need access to resources. Perhaps there are special ways in which your community makes decisions that you would like honoured when you are asked to share traditional knowledge.

Consider using these guidelines as the basis for creating your own draft code of conduct for proponents and for government that you can share with them for suggestions and ideas for improvement. Let them know you are doing this to help them work with you and your community. Suggest that they adopt the final draft as official government or corporate policy when dealing with indigenous peoples.

Have it ready when a new development project comes along so that the new people can enjoy the benefits of your ideas and experience in dealing with others.

WOMEN HELP INTERPRET THE RULES

Ensure from the beginning that women are offered the opportunity to participate as equals in the process by designing the process specifically to

accommodate them. Women themselves are the only ones able to ensure the process will accommodate them effectively, so women need to be encouraged to be pro-active about their involvement. Make sure that the way this is done does not contravene the traditional ways of the community. It may be formal or informal, direct or indirect, depending on your own systems.

NEGOTIATE THE TIMELINE

Be sure to negotiate enough time to do the necessary work and think about the results. Business spends as little time as possible to make decisions. But it takes a great deal of time to carry out the work to understand the potential impacts of a project, to make sure all the local people have been involved, to have time to reflect on the long-term implications of the project, and to ensure that the work and cultural schedules of the community have not been disregarded. From a local community's perspective, business may seem to be impatient. From a business perspective indigenous peoples may seem to take too much time. This is a very difficult part of setting the rules, but also very important. Make sure you have enough time to correctly judge the impacts of the project.

When establishing schedules, encourage the proponent to base the schedules on traditional milestones, such as harvest times, hunting periods, and sacred festivals.

PRESERVE YOUR CUSTOMARY TRADITIONAL RIGHTS

The ILO Convention 169 recognizes that all indigenous communities have a series of assumed or customary rights and privileges. Because they are assumed, they are not usually recorded anywhere. These can be traditional rights of way, hunting rights, fishing rights, dress, ceremonies, and a host of other rights and privileges that are so much a part of everyday life that most indigenous peoples no longer think about them as rights. However, the loss of these traditional rights

to resources can have a profound effect on individuals and on communities.

Most international law governing these rights defer to the national laws of the country in which the indigenous peoples are located. The specific legislation in countries varies widely. Try to become familiar with them so that you can present your case well.

The best projects will have a means of considering these questions immediately and a cooperative discussion is often the best way to resolve any possible problems. To make these discussions easier, it is best to plan ahead.

Early in the planning process or in the assessment of the project, make sure that the project will not interfere with these rights. Define which customary rights will remain. Consider getting an outside legal specialist in traditional rights to prepare a report on what these customary rights are. Or form a small group within the community to list what everyone thinks it should have as rights. This then becomes a part of the agreement between the community and proponent. The list will be considered a beginning point in a negotiation, not the end result.

If the project is unacceptable to the community, or if certain parts of it are unacceptable, be sure to understand the rules governing the proponent's application, and for making your objections. It is not very effective to object simply because you do not want the project. It is important to be able to state why the project is not acceptable. Increasingly, the loss of traditional rights to resources is seen as an appropriate reason to ask for modifications in the project.

Take advantage of the planning and decision-making processes. Use your traditional knowledge and focus on the mechanisms that are available to find opportunities for community influence and involvement in the proponent's methodology or planning process; work carefully to define the damaging environmental impacts. These are the

factors that will influence the people who will evaluate your objections.

If you find yourself against the proposal, stay involved. This is the only way you can influence the outcome — boycotting the process simply means you do not have a voice. Sign a statement that your involvement in the assessment process in no way prejudices your views on the need for the development. Then later when the rules allow it, continue to use the understanding gained from

traditional knowledge to voice your objections to the project explaining why there remain issues with it..

Also be prepared to change your mind. If you later find that the project is better than you originally thought, it is OK to change your position and go along with the project. In fact, it may be an excellent way to establish a good discussion for other parts of the project.

TRADITIONAL GUIDELINE #8: **USE AND KEEP YOUR TRADITIONAL KNOWLEDGE**

SHARE TRADITIONAL KNOWLEDGE ON YOUR OWN TERMS

Try to imagine how you could give someone else a feeling for what you know, even if this other person has never been in a forest, never lived outside a city, never heard the legends, and is suspicious about any non-scientific approach? Because traditional knowledge comes from experience in nature, from teaching and apprenticeship, from working with the land, by absorbing the feel of wild animals and plants, and by listening to legends and stories, it is not easy to share it with some one who may have no experience. Perhaps mostly because traditional knowledge is a way of life, it is important that it be shared in ways that keep it as a way of life.

Proponents are very interested in getting on with the job, or finding the answer to a question about the project. The proponent may not be familiar with the way indigenous peoples share their knowledge through stories and anecdotes. Indeed, the proponent may appear to have no interest in understanding your way of life or the stories, but instead is focussed on the specific question he or she is trying to solve. The person you are speaking to may be completely or largely unfamiliar with traditional knowledge, does not understand traditional knowledge, and does not see it as a priority to get his or her job done.

This apparently disrespectful attitude is probably not intentionally disrespectful.

From your perspective, and when sharing traditional knowledge is not working very well, one of the most effective ways to gain understanding of the benefits of using traditional knowledge is to offer to help solve the problem — not just to provide the information. In this way, you are bringing your own understanding to bear on the problem. This added understanding may bring a swifter solution than simply providing information.

DISTINGUISH BETWEEN ANCIENT AND MODERN TRADITIONAL KNOWLEDGE

Those unaccustomed to indigenous knowledge often assume it is old-fashioned and out of date. Whereas it is in fact a modern and evolving method of understanding the world around us. It is based on the teachings handed down through the generations. In sharing traditional knowledge, distinguish carefully between ancient traditional knowledge, that which is passed down from generation to generation, and modern traditional knowledge, that which has been acquired in present-day circumstances, and will be handed down in generations to come.

Ancient traditional knowledge is often more spiritually oriented. An argument is developing in some countries that there actually is a distinction between sacred and secular traditional knowledge. In this view, there is “empirical knowledge” acquired from experience, and “belief” acquired through spiritual teachings.

The argument has been used to discredit the use of traditional knowledge in assessing environmental impacts because spiritual aspects are non-scientific, and can not be tested. Critics have argued that this means the local people could make a false claim to know the future and no one would be able to say they are wrong. Several examples of North American native people killing large whales in a traditional festival have drawn these kinds of criticisms. This, the critics say, is unacceptable because the local person has a conflict of interest.

If you find yourself in this position, try to understand the true nature of the objection. Are there alternative ways of reaching mutual agreements in the project? If the problem is a sacred location, are there alternatives for the project that can be offered. If the problem is a long-practiced travel route, are there alternatives for both sides?

In other words, it is not likely that the solution to the difference of opinion will be resolved on philosophical grounds. It is better to search for practical solutions that preserve your own ideals.

PARTICIPATE BY USING YOUR TRADITIONAL KNOWLEDGE

Use your traditional knowledge in its original context. It is not nearly as informative to share information as it is to participate as an expert. The participation might in round-table (or shared) discussions. Another excellent form of participation is to be part of the research effort. The research you and your community can undertake is traditional forms of research..

Use your knowledge to find answers. Classify sites from a traditional perspective: are they used for hunting, left to rest in a fallow condition just now, ancestral resting places? Do this before or at the same time as the project is gathering information.

It is better to make decisions about the land and its resources before the community is asked to respond. In this way, when the community is

asked to react to the proponent's requests, the community will already have a clear understanding of the collective way in which particular areas of land of resources are to be used.

Establish the worth of traditional knowledge advice. Worth can be measured in many ways, but a relatively simple approach is to assign a monetary value (e.g. paying Elders and other people who hold traditional knowledge as equivalents to scientific professionals, establishing payment of royalties, and many other financial aspects). Be prepared to encounter resistance or outright rejection by the proponent of your request that it pay for knowledge.

There are many other forms of compensation that would be as good as money, especially if payment is to be made to the community rather than to individuals: schools, hospitals, training, Internet setup, and many others that you might think of.

SHAPE YOUR TRADITIONAL KNOWLEDGE ACCESS AGREEMENTS CAREFULLY

Ensure that access agreement(s) to traditional knowledge define terms for at least the three most common requests for access to traditional knowledge:

1. where the aim is to manage the resources in partnership,
2. where the aim is to invent patentable products for commercial use,
3. where the aim is to share knowledge freely with others.

Access agreements should also specify precisely how access to the traditional knowledge is to be allowed, and by whom.

Once an agreement has been reached that the project will incorporate traditional knowledge in some way (such as participatory research or actual transfer of knowledge directly to the project), it is important to recognize and guard against potential pitfalls.

1. Avoid participating in token use of traditional knowledge. Establish the extent of traditional knowledge that is needed at the outset. Tokenism often takes the form of hiring a couple of people for a few days consulting and claiming traditional knowledge has been used.
2. Avoid providing poor quality traditional knowledge by establishing internal quality-control mechanisms. Have the community participate in ensuring the information that is to be shared is accurate and informative. Not all sources of traditional knowledge within the community may be high quality. Because the community will depend on the answers derived from the process, ensure good quality information goes into the process.
3. Avoid poor translations. Ensure that whoever is doing the translation has the maturity to understand the nuances of meaning that are important. If possible, have a second person translate it back to the person who spoke the knowledge to correct any misinterpretations.
4. Finally, be sure to treat science and the people who come to your community with a science background with the same respect and equity you expect from them. It is often tempting to test government or proponent staff knowledge of the animals, plants, land, and water. They will certainly know less than you do at the beginning. But concentrate on where their knowledge can be used in cooperation with your own. Cooperation, not competition, is the best practice for development projects.

***T*RADITIONAL GUIDELINE #9: CLAIM YOUR TRADITIONAL RIGHTS, SHARE AND PROTECT TRADITIONAL KNOWLEDGE**

KNOW YOUR RIGHTS

Intellectual property rights are the key to many of the benefits that can accrue from the use of traditional knowledge. Intellectual property rights include the right to own, and therefore to sell or barter ideas, information, special wisdom or understanding, and knowledge about plants and animals that are the result of intellectual, artistic, or creative efforts. In western society, ownership is protected by patents and copyrights. Try to learn about patent and copyright laws that apply in your country or region. The community or group that you have formed may need to apply for patents or copyright protection; your own representative NGO may be an effective spokesperson on your behalf.

Because the transformation of traditional knowledge into marketable products often requires technical skills and commercial investment, it may be in the group's interest to enter into a partnership with the proponent. Partnerships can take a wide range of forms, from simple royalty arrangements where the group receives an agreed percentage of the gross revenue or profit from the commercial use of the resulting product, to full equity share partnerships in which each partner takes risks and benefits in proportion to the combination of financial and other investments in the project.

Indigenous peoples have the right to own the genetic traits of plants or animals under certain circumstances, and if your country recognizes copyright law (most countries do). If you

routinely groom or “manage” wild stocks of plants or animals, it is likely they have unique genetic characteristics — you have the rights to those unique plant or animal traits. To keep the rights, you need to apply for them through your representative group.

SAFEGUARD YOUR RIGHTS

There are certain safeguards that must be taken if the group is to realize the benefits and not lose them to someone else. One of the very first steps that must be taken is to define who will be able to use the traditional knowledge and how it can be used by both local and non-local people. It is normally used every day in the community, yet it is not common knowledge among non-indigenous peoples. You must figure out how you are you going to keep it within your community until you want it released. The release of the information should always be through an agreement, legal if possible, with the owners of the knowledge. The agreement should specify how the knowledge can and cannot be used. It should also specifies the benefits to the community.

Other traditional communities may have the same or similar knowledge, which creates an added complication. They may not necessarily have the same agreement as you do, or may not be aware they should not divulge the information freely. In many areas, neighboring communities may not be on the best of terms. If this is the case, you will need to decide how to deal with the situation in which another community decides to allow access to traditional knowledge that you do not want

divulged. Obviously, this is not the best time to exhibit internal disputes. Try to set up the protocol between communities before the project is underway.

SETTLE THE QUESTION OF LAND OWNERSHIP

Another whole area of rights has to do with ownership of the land, ownership of the resources on the land, and the right to occupy the land even if it is not “owned” by the group. Find out what your legal, or treaty, or traditional rights are to land ownership, resource ownership, and your right to occupy the land. Once you know what they are, you must insist on them. Sometimes these rights are acquired more by practice than by documents, so it may turn out to be a complicated negotiation. The more information you have the better your chances are. If treaty rights or land ownership is in dispute, these questions should be settled before the project is initiated. If disputes are not settled first, the project agreements may no longer be valid once the disputes are settled.

One strategy that might be considered is to establish ownership and resource rights immediately. Why wait until a project comes along? Once there is a project in place, the land will be perceived as valuable, whereas it may not be seen to have much value if no one other than the local community is interested in it. This will make it easier to negotiate the ownership or rights.

STATE YOUR LIMITS TO THE PROJECT

Define which land areas, which resources, what waters can be used, what limits on air, soil, and water pollution will be acceptable. Also define what is off limits, and what is not acceptable to be developed. Are there cultural limits? For example, in tourist development there is always a danger of trivializing native culture and turning it into trinkets. How much of this is acceptable, and how much is not?

Once the limits to the project are agreed within the community, and with the proponent, try to establish enforceable standards and codes of practice. It is not useful to have a wish list of standards that no one can monitor or enforce.

DO A COST BENEFIT ANALYSIS

This will be one of the most controversial and sensitive issues you will face. How will the project benefit the community? What is the cost to the community? What damage will be done to the environment? What social and cultural sacrifices will be made? Estimate the costs of these. Estimate the revenue or other benefits to the communities in monetary or other terms. Add up the benefits, and add up the costs. Subtract the costs from the benefits, and this will help you decide how beneficial a project really is. Get this spelled out in detail, and written down. This will be the foundation for the negotiation about what additional benefits the community might want, or where the potential costs to the community need to be brought to a lower amount.

THIRD-PARTY INTERVENORS CAN HELP

There may come a time when negotiations stall. Calling for assistance can be a means to get past these non-productive situations. Mediation or even arbitration carries with it the need to establish the basic assumptions and to agree on an acceptable person to help with negotiations. It helps if both parties first define the qualifications such a person should have. Sometimes it must be a respected member of the judicial system; in other situations, it might be someone who has the status of a wise person. Courses are available in many countries so you can learn what to do if mediation or arbitration is required in the process. If there are no courses nearby, try to find someone who has successfully participated in mediation and ask for advice.