

# **THE VICTOR DIAMOND MINE ENVIRONMENTAL ASSESSMENT AND THE MUSHKEGOWUK TERRITORY FIRST NATIONS: CRITICAL SYSTEMS THINKING AND SOCIAL JUSTICE**

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## **Abstract / Résumé**

DeBeers Canada Inc. prepared an Environmental Assessment of the proposed Victor Diamond Mine in accordance with Federal and Provincial [Ontario] Environmental Assessment law that included a study to gather and incorporate Indigenous knowledge into the process. We evaluated the Environmental Assessment process using a critical systems approach developed to explore social justice issues related to resource development in northern First Nation communities and traditional territories. Our research focused primarily on the experiences of the Fort Albany First Nation throughout the EA process and revealed a need to reflect on social justice issues associated with future development within the Mushkegowuk Territory.

DeBeers Canada Inc. a préparé une évaluation environnementale du projet de la mine de diamant Victor, en conformité avec les lois fédérales et ontariennes sur les évaluations environnementales, qui comprennent une étude en vue de recueillir les connaissances indigènes et de les intégrer dans le processus. Nous avons évalué le processus d'évaluation environnementale en utilisant une approche systémique critique qui a été élaborée pour explorer les questions de justice sociale liées au développement des ressources dans les collectivités des Premières nations du Nord et sur les territoires traditionnels. Notre recherche a porté principalement sur les expériences de la Première nation de Fort Albany dans le cadre du processus d'évaluation environnementale et elle a souligné la nécessité de réfléchir aux questions de justice sociale liées au futur développement du territoire Mushkegowuk.

## **Introduction**

The Victor Diamond Mine site is located approximately ninety kilometers west of Attawapiskat First Nation within the Mushkegowuk Territory (western James Bay region; Figure 1). It is the first diamond mine project in the province of Ontario. Mine construction started in 2006, mine operation began in the summer of 2008, and the mine's life is expected to be twelve years. Critics of the proposal indicate that the mine will have an ecological footprint of 2,600 square kilometers (Sierra Legal Defence Fund, 2005) and that the mine will impact all coastal communities within the Mushkegowuk Territory by affecting land, water, wildlife (Sierra Legal Defence Fund, 2005) and way of life (CEAA, 2005).

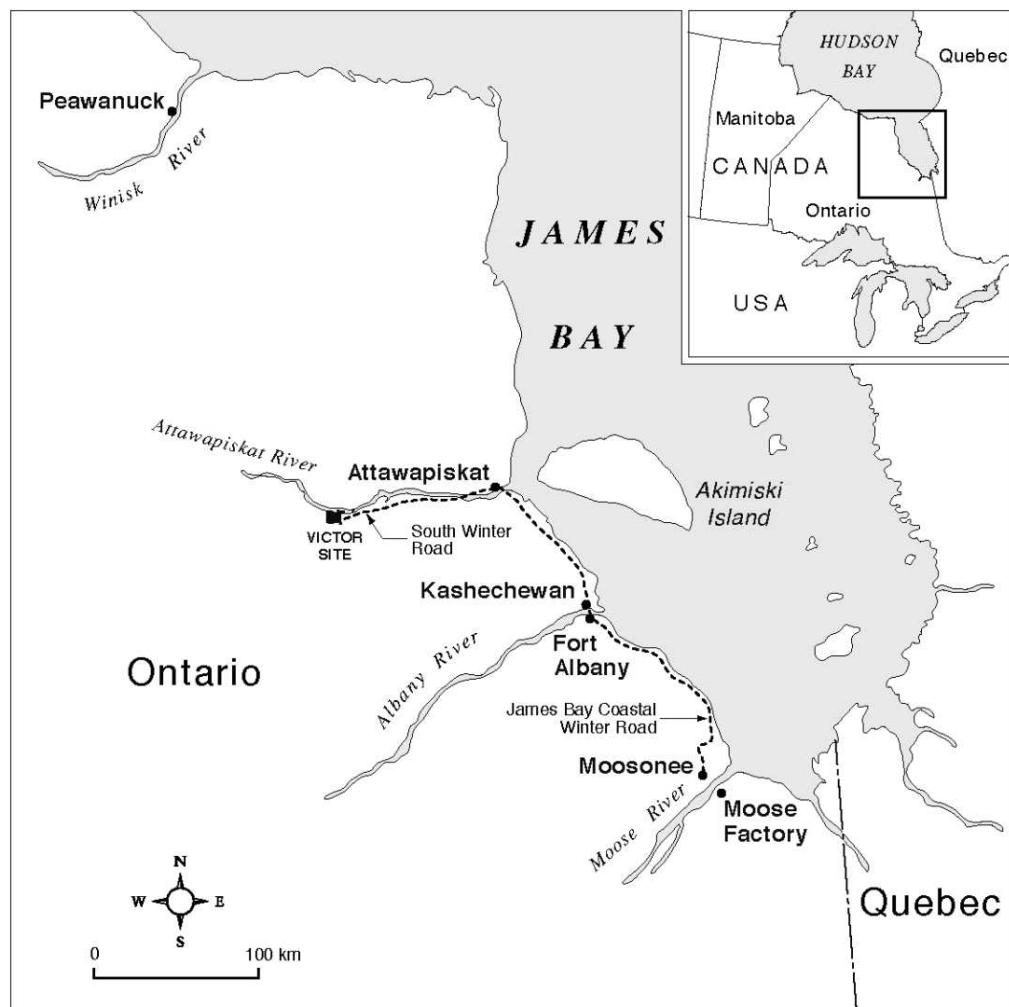
The Mushkegowuk Territory is populated by approximately 10,000 First Nation Cree who inhabit remote coastal communities including Moosonee, Moose Factory, Fort Albany, Kashechewan and Attawapiskat (Tsuji and Nieboer, 1999; Figure 1). These First Nations are represented by the Mushkegowuk Tribal Council, a regional First Nations organization. Fort Albany First Nation, the focus of this research, has a population of approximately 850. Their traditional lands are extensive and overlap with the traditional lands of the other First Nation communities in the area (Fort Albany First Nation Chief Andrew Solomon, pers. comm., 2008).

Kimberlite boulders were discovered along the Attawapiskat River in 1987 and sixteen Kimberlite pipes were drilled in 1989. Subsequent drilling in 1997 identified the Victor Kimberlite deposits. The first phase of advanced exploration was carried out in 2000 and 2001 with an eighty-person camp, a sample processing plant and a winter airstrip. Based on a feasibility study prepared in 2003, it was determined that the Victor Diamond Mine was technically feasible (CEAA, 2005).

The mine is open pit with on-site ore processing estimated at 2.5 million tonnes per year. The major project components include an open pit mine, ore processing plant, related buildings, aggregate mines, waste stockpiles, water management facilities, accommodations, onsite roads, air strip, pipelines, transportation corridor, and facilities in Attawapiskat First Nation and Moosonee (AMEC, 2004). The existing power line corridor up the western James Bay coast as well as the winter road from Moosonee to Attawapiskat were expanded, while a new winter road was built from Attawapiskat to the Victor Diamond Mine (AMEC, 2004).

It is important to note that the Victor Diamond Mine development is happening within the context of a mainly pristine area that contains one of the largest wetland areas in the world (Martini, 1989). Hydro-electrical development has occurred on both the Albany and Moose River systems without any involvement of First Nations of the Mushkegowuk Territories, including Fort Albany First Nation (George et al., 1995). The sea-

**Figure 1**  
**Map of the Mushkegowuk Territory including the Fort Albany First Nation, Moose Cree First Nation, Kashechewan First Nation, Attawapiskat First Nation and the Victor Diamond Mine Site**



sonal winter road connecting the coastal communities to Moosonee was first built in the early 1950s for the construction of the Mid-Canada Radar Line sites (George et al., 1996). In 2001 community-based electrical generating stations were phased out with the development of the first power line north of Moosonee (CEAA, 2005). Mining exploration, new mining developments, and additional hydro-development are in the planning stages for the region (James Bay Resources Ltd., 2008; OPA, 2005).

A Federal Comprehensive Environmental Assessment (EA) process (described below) under the Canadian Environmental Assessment Act was followed for the Victor Diamond Mine that also addressed Provincial EA requirements. We reviewed all of the relevant literature including the 2004 assessment report, related documentation and correspondence and the 2005 final Canadian Environmental Assessment Agency report. The 2005 CEAA report was referenced most frequently as it represents the CEAA's final word on the assessment and formed the basis for the government decision-making on the project. The EA raises a number of issues including questions surrounding the EA process followed (Whitelaw et al, 2009), the need for EA capacity enhancement, strategic environmental assessment and land-use planning needs (Minkin, 2008), and most notably, in the context of the present paper, social justice issues.

In this paper, we critically review the Victor Diamond Mine EA process and explore the relevant existing and emerging social justice issues. We recognize that there are many frameworks for addressing social justice, especially those related to First Nations communities (e.g., Royal Commission on Aboriginal Peoples, 1996; Humpage and Fleras, 2001). However, we have chosen to develop a critical systems approach (Midgley, 2000; Jackson 2000) tailored to exploring social justice in the context of resource development and EA in First Nations specifically. Our intent is to describe the divergent and often incommensurate perspectives associated with the imposition of bureaucratic structures and decision-making processes onto First Nations communities (Long, 1987; Scott, 2001; Nadasdy, 2003; Howitt, 2001). Specifically, our paper has two objectives: 1. To describe our critical systems approach to the exploration of social justice tailored to resource development and EA, and land use planning processes in First Nations communities and traditional territories. 2. To apply the framework to the Victor Diamond Mine case primarily from a Fort Albany First Nation perspective.

## **Environmental Assessment and Context**

Environmental impact assessment is “the process of identifying, predicting, evaluating and mitigating the biophysical, social, and other rel-

event effects of development proposals prior to major decisions being taken and commitments made" (IAIA and IEA, 1999: 4). Several key principles of EA define how this process should be applied:

- As early as possible in the planning and decision-making stages;
- To all proposals that may generate significant adverse effects or for which there is significant public concern;
- To all biophysical and human factors potentially affected by development, including health, gender, and culture, and cumulative effects;
- Consistently with existing policies, plans, programs and the principles of sustainable development;
- In a manner that allows involvement of affected and interested parties in the decision-making process;
- In accordance with local, regional, national, or international standards and regulatory requirements;
- (IAIA and IEA, 1999: 4)

In Canada, EA is regulated at the federal level by the Canadian Environmental Assessment Act and is overseen by the Canadian Environmental Assessment Agency. At the Province of Ontario level EA is regulated by the Ontario Environmental Assessment Act and is overseen by the Ontario Ministry of Environment. There are four types of environmental assessments at the federal level, these include: screening, comprehensive study, mediation and review panel. The vast majority of EAs at the federal level are conducted as screenings. A screening EA involves projects that are known to have minimal impacts and require less assessment than comprehensive or panel EAs. Large-scale undertakings and environmentally sensitive projects usually undergo a more intensive assessment called a comprehensive study, which includes mandatory opportunities for public participation. Mediation is a process in which the Federal Minister of the Environment appoints an impartial mediator to assess a project and help interested parties resolve issues. Assessments by a review panel, appointed by the Federal Minister of the Environment, may be required when the environmental effects of a proposed project are uncertain or likely to be significant or when warranted by public concerns. Review panels are the most rigorous of assessments and offer individuals and groups, with different points of view, a chance to present information and express concerns. Most relevant to this paper is the distinction between the comprehensive EA and the review panel (CEAA, 2008). It will be noted throughout the paper that several organizations, including several First Nations groups, requested that the Victor Diamond Mine EA be conducted as a review panel (Beck, 2004; Kooses, 2004).

The EA of the Victor Diamond Mine followed the pre-October 2003 Canadian Environmental Assessment Act comprehensive EA process as the proposal was submitted prior to Canadian Environmental Assessment Act amendments that were adopted on October 30, 2003 (Government of Canada, 2005). These amendments strengthened the Canadian Environmental Assessment Act. An Ontario EA process following the Class EA for minor transmission facilities was also carried out as a result of changes in the energy supply proposed by DeBeers Canada Exploration Inc. (hereafter referred to as the proponent) to power the mine site from on-site diesel generation to off-site electrical generation (CEAA, 2005). The comprehensive EA process also addressed other provincial EA requirements through an ad hoc harmonization process (CEAA, 2005). The proponent completed the Comprehensive EA and received federal government approval to proceed on August 19, 2005 (Government of Canada, 2005).

From the proponent's perspective, "the purpose of the Victor Diamond Mine is to mine and process diamond-bearing kimberlite ore of sufficient tonnage, grade and throughput, to provide a competitive return on investment to the proponent, and to carry out these functions in an environmentally sustainable and socially responsible manner" (AMEC, 2004:1-4). The proponent justifies the project based on its need for access to diamonds to sustain its business, the cyclical nature of mining in the north and need for new mines to replace exhausted mines to support local economies, job creation (~600) during the three years of construction, during operation (~400 jobs) (CEAA, 2005: PLS-2), and socio-economic benefits to Attawapiskat First Nation through an impact benefit agreement. IBAs "are mechanisms for establishing formal relationships between mining companies and local communities. Their primary purposes are: i) to address the adverse effects of commercial mining activities on local communities and their environments, and ii) to ensure that First Nations receive benefits from the development of mineral resources" (Sosa and Keenan, 2001: 2). IBAs usually rely on information contained in environmental assessments (Sosa and Keenan, 2001). It should be noted that impact and benefit agreements were negotiated with the other Mushkegowuk Territory coastal First Nations after the completion of the environmental assessment and a blockade of the winter road in the early part of 2006.

Public participation is a critical component in any environmental assessment process (Noble, 2006), including the Canadian EA process (CEAA, 2008). Responsible authorities (RAs) are the government agencies whose mandate or governing policies require them to be involved in (i.e. to issue permits), to contribute expert information to and to deter-

mine how the environmental assessment will be conducted (CEAA, 2008). Due to the nature of the VDM project and the concerns that several First Nations had expressed, the responsible authorities determined that it would be beneficial to involve stakeholders early in the process. In April of 2004, a First Nation and Stakeholder Participation Plan for the Victor Diamond Mine comprehensive study EA was developed by the responsible authorities in accordance with the guidelines for the Victor Diamond Mine comprehensive study EA (CEAA, 2004: 3). The objectives of the participation plan were to:

- Identify the First Nation communities and stakeholders who have an interest in participating in the comprehensive study;
- Identify the roles and responsibilities of the parties involved in the participation plan;
- Provide a mechanism for ensuring the First Nation communities and stakeholders receive information on the comprehensive study in a timely fashion and in language that is understandable and comprehensible;
- Ensure that there are meaningful opportunities for the First Nation communities and stakeholders to provide input into the comprehensive study; and
- Ensure that there are mechanisms to demonstrate to the First Nation communities and stakeholders how their input has been incorporated into the comprehensive study.

The participation plan also described the roles and responsibilities of the parties involved in the comprehensive study EA (CEAA, 2004: 4).

#### **The Proponent**

De Beers has the responsibility to explain the project and ongoing results of the comprehensive study to First Nations communities and stakeholders. De Beers is also responsible for obtaining feedback both written and oral showing how the feedback has been incorporated into the comprehensive study.

De Beers also has a responsibility to help facilitate the means by which First Nation communities can access adequate resources to be able to participate meaningfully in the review of the comprehensive study.

#### **RAs[Responsible Authorities]/Expert FAs [Federal Authority]**

The RAs/Expert FAs will participate in De Beers' participation plan as observers and may hold separate meetings with First Nation communities and stakeholders as appro-

priate. The RAs/Expert FAs will also inform themselves of the issues/concerns from First Nation communities and stakeholders on the ongoing results of the comprehensive study and show how these will be addressed.

#### **First Nations Communities and Organizations**

First Nation communities and organizations share the responsibility to inform themselves of the proposed project by attending meetings with De Beers and the RAs/Expert FAs and province. The First Nations are also responsible for identifying their resource requirements to be able to participate meaningfully in the comprehensive study and making those requirements known to De Beers and the RAs/Expert FAs.

The proponent followed the process outlined in the Victor Diamond Mine EA Guidelines (CEAA, 2005) prepared by the responsible authorities, submitted the EA documentation, and received federal government approval in August 2005 (DeBeers, 2008). However, Whitelaw et al. (2009) reported that the Victor Diamond Mine EA process mainly focused on Attawapiskat First Nation and largely excluded the First Nation communities of Fort Albany, Kashechewan and Moose Factory. With the exception of impacts relating to the winter road expansion and second powerline development, members of the Fort Albany First Nation community indicated that they were not adequately consulted. Fort Albany First Nation was unable to properly participate in the EA process due to a lack of capacity and this lack of capacity was not addressed by the proponent or the government responsible authorities. The public consultation processes carried out with Fort Albany First Nation was not meaningful, and the Fort Albany, Kashechewan and Moose Cree First Nations were initially excluded from impact and benefit negotiations. It was not until after a blockade of the winter road in 2006 by the excluded First Nations that impact and benefit negotiations, focused on the impacts associated with the winter road and powerline, were initiated (Whitelaw et al., Submitted).

## **Methods**

### **Primary Data Collection**

The data were collected using a culturally-appropriate, semi-structured interview format which incorporated open-ended questions (Huntington, 1998). Data were collected during the winter of 2006 and the summer of 2007 so as to ensure that the majority of the potential participants were in the community and not out on the land hunting and par-

ticipating in cultural activities. Participants in the study ( $\geq$  eighteen years of age) were all members of Fort Albany First Nation Chief and Council (seven interviewees), senior members of Fort Albany First Nation staff (three interviewees), and key personnel of Mushkegowuk Council's Department of Lands and Forests (one interviewee). All members of Fort Albany First Nation Chief and Council were approached to participate, if he/she were in the community during the time of our fieldwork. Contact was attempted every time we were in the community to conduct fieldwork. Initial contact was made with potential participants by phone and/or in person at home and/or in the community. Interviews were scheduled to be conducted either at the Band office or at a convenient meeting place in the community. Chief and Council held special meetings for the research team to voice their views. Additional interview sessions were held on an individual or small group basis as needed. With respect to personnel from Mushkegowuk Tribal Council, these meetings for data collection were typically scheduled in Timmins, Ontario (the home base for the Mushkegowuk Department of Lands and Forest), with one interview taking place in Fort Albany First Nation. The field team conducted the interviews with the help of a translator when necessary. The questions were administrated orally by the interviewer and recorded by an assistant directly onto a computer and/or digitally recorded. Participants were given the choice of oral or written consent; all participants chose and gave oral consent after being informed of the purpose of the study.

### **Secondary Data Collection**

All available documents with respect to the Victor Diamond Mine were secured from the files of the Mushkegowuk Council offices in Timmins, Ontario. Numerous EA documents (e.g. AMEC, 2004, CEAA, 2005; Government of Canada, 2003, 2004) and written correspondence between various parties involved in the EA, including government agencies (federal and provincial), First Nations, public interest groups and the proponent and their consultants, were reviewed.

### **Social Justice Frameworks: Social Justice and Canadian First Nations**

Many authors have described the uneasy relationship between the First Nations of Canada and the Canadian (federal and/or provincial) government in the context of resource management (Notzke, 1994; Scott, 2001; Howitt, 2001; Bone and Anderson, 2003; Nadasdy, 2003; Berkes et al. 2005). Howitt (2001, 2004) and Nadasdy (2003), in particular, both provide critiques of Aboriginal-state relations with regards to resource management and both argue for the need to fundamentally rethink the

relationship on institutional and epistemological levels. This rethinking process points to the need to address institutional and social inequities, or social justice issues, related to resource management in First Nation communities.

“The concept of social justice is frequently invoked but has proven difficult to define or characterize” (Humpage and Fleras, 2001: 39). Humpage and Fleras (2001) provide useful overviews or loose categorizations of theoretical or conceptual frameworks for addressing social justice issues associated with First Nations. Humpage and Fleras describe three models that dominate the social justice discourse: distributive, retributive and recognitive models of justice.

The distributive model is based on the principle that individuals are entitled to an equal distribution of resources. Humpage and Fleras distinguish between two variants on the distributive model: “liberal-democratic” and “social-democratic.” The former is founded on universalistic principles that point to the fact that what individuals have in common is more important than what divides individuals as members of groups. Solutions to social injustice in the liberal-democratic variant are intended to compensate individuals based on terms defined by the dominant sector. The latter variant, social-democratic, argues that different people have different needs and have unequal resources at their disposal to meet their needs. Achieving some measure of social justice in the context of this variant of the distributive model would involve differential distribution of resources for different people within a common institutional framework.

A retributive model has its basis in the principle of fairness in the competition for scarce resources (Humpage and Fleras, 2001). Thus, a retributive model of social justice would attempt to compensate those unfairly victimized by past actions. While quite similar to the distributive model in that it does not seek to fundamentally question the existing institutional framework, the suite of retributive models does go beyond just attempting to allocate resources equally by seeking to compensate those individuals who have been unfairly limited in their ability to compete for resources.

The recognitive model (Humpage and Fleras, 2001) highlights the need to rethink and expand the concept of social justice with respect to the legitimacy of diverse groups in society. In contrast to the distributive and retributive models, the recognitive model requires a critical examination of the institutional structures that intentionally or unintentionally create disadvantages and power differentials. The recognitive model takes difference seriously, recognizes the collective rights of groups and their self-determination, and emphasizes the importance of inclusive-

ness and meaningful involvement in decision-making processes.

Our work builds on “recognitive” approaches developed by Howitt (2001, 2004) and Nadasdy (2003) that deal with the Aboriginal-state relationship as well as other critical and systems-based approaches to power relations (e.g., critical political ecology - Forsyth, 2003). Below, we present our own recognitive tool to address social justice in Aboriginal-state relations in the context of resource management. Our approach applies critical systems thinking to social justice, and provides a structured, systematic method for addressing the underlying frames of reference, systemic issues and bureaucratic structures that continue to foster social injustice.

### **Exploring Social Justice in First Nations Through a Critical Systems Approach**

Critical systems thinking (Midgley, 2000; Jackson, 2000) is a mode of reasoning based on the implications of formal complex systems theory, that is, a group of interrelated theories (catastrophe theory, chaos theory, information theory, hierarchy theory and self-organization theory) that have been derived in several scientific disciplines, including chemistry and physics. Despite their traditional scientific disciplinary origins, they have provocative implications across several disciplines and fields and, more generally, for the way we understand various types of phenomena as well as the role of learning in planning and policy making. Such thinking, which can be applied to a variety of practical contexts, provides a broad, integrated, cross-scalar, multiple perspective counterpoint to more conventional planning and policy approaches. It is not meant to replace conventional approaches such as EA, but rather to complement them.

Critical systems thinking has emerged from what Jackson (2000) calls “emancipatory” and “post-modern” systems approaches and what Midgley (2000) calls the “third wave” of systems thinking. Influenced by the work of Jurgen Habermas, Jackson (2000) notes that critical systems thinking has three main tenets or “commitments”: critical awareness, emancipation or improvement, and pluralism.

Critical awareness, according to Jackson (2000), involves both theoretical critique and social awareness. Jackson (2000: 375) describes theoretical critique as “critiquing the theoretical underpinnings, strengths and weaknesses of available systems models, tools and techniques.” And secondly, Jackson highlights the need to contextualize this critique with an understanding of social awareness, a grasp “of the organizational and societal climate which determines the popularity of use of particular systems approaches at different times, and the kind of impact that use has” (Jackson, 2000: 375-376).

The second tenet of critical systems thinking is pluralism or the importance of multiple perspectives. Jackson (2000: 365) interprets pluralism “in the broadest sense as the use of different methodologies, methods, models and techniques in combination.” He notes three reasons for the recent interest in, and need for, a more pluralist approach. The first is that a great deal of critique has been undertaken of many scientific disciplines and older notions of single, universal approaches. The second reason for the increased interest in pluralism is the pervasive resonance with relativism that preceded it, but is generally associated with, postmodernism. And thirdly, Jackson notes, quite pragmatically, that pluralism just seems to be necessary. “It is inevitable that practitioners will try to buttress traditional approaches with some of the newer thinking” (Jackson, 2000: 377). The importance of including a plurality of perspectives when considering intervention within complex systems has been well documented (Ravetz, 1999; Kay et al. 1999; Waltner-Toews and Kay, 2005).

This leads to the third commitment of critical systems thinking, improvement or emancipation. Jackson sees this tenet as “part of a much broader dedication to human improvement – defined...in terms of bringing about those circumstances in which all individuals could realize their potential” (Jackson, 2000: 376). Jackson notes that critical systems thinkers realize that a universal notion of emancipation is untenable and somewhat contrary to the postmodern bases of critical systems thinking. Instead, the less universal notion of improvement (Midgley, 2000) is presented and linked to critical awareness and pluralism.

The three tenets of critical systems thinking provide a useful framework to explore the Victor Diamond Mine EA process from a Fort Albany First Nation perspective. Thus, the intent here is threefold. First, this work will provide a critical overview of the historical and current context of the west coast James Bay Cree First Nations communities and the Victor Diamond Mine EA process. Second, the paper will describe the various divergent perspectives involved in this issue. Lastly, the evidence provided will reveal power differentials and their influence on First Nations communities’ ability to improve their situation. The goal is to understand and explain how a so-called comprehensive EA process resulted in the exclusion from the process of the First Nations of Kashechewan, Moose Cree, and the focus of this paper, Fort Albany.

## **Findings and Discussion**

### **Tenet 1 Critical Awareness: Historical and Socio-Political Context**

The first key tenet of a critical systems perspective is to develop a critical awareness of the assumptions underlying different perspectives

and their historical and social context (Jackson, 2000; Midgley, 2000). To better understand the underlying reasons for the diversity of perspectives in this case and to understand how certain perspectives resulted in the process excluding certain First Nations' interest, we briefly examined the multiple perspectives involved in the Victor Diamond Mine EA process in the context of the historical and political factors relevant to the western James Bay region of northern Ontario, Canada.

Since the *Royal Proclamation of 1763*, and through the *Indian Act*, Canadian Aboriginal peoples have lost control and management of their own lands and resources; their traditional customs and forms of organization were altered in the interest of remaking Aboriginal people in the image of European newcomers (Royal Commission on Aboriginal Peoples, 1996). Cree Elder Hosea Wynne succinctly summarized the relationship between his people and the British/Canadian governments since first contact and leading up to the signing of Treaty No. 9 in 1905.

They [European traders] came here in 1487....

Then the British government came. This was the group that came destroyed the people, killed the people.

The Hudson Bay [Company] came and stole from the [Cree] people.

Then this [Province of Ontario and Canadian Federal] government came and lied to the [Cree] people [Treaty No. 9 treaty signing]. (Hosea Wynne in Long, 1987: 1-8)

In addition, other Mushkegowuk elders speak of promises that were made to the Cree people and how these promises have been broken; the elders speak of the oral promises made and not the written "rights" as the Cree signatories to Treaty No. 9 could not read the English text of the document (see e.g., Long, 1987). Moreover, the context for understanding social justice issues in the Mushkegowuk Territory predates the Treaty No. 9 process. In 2003, the Mushkegowuk filed a lawsuit in the Ontario Superior Court of Justice that argues that a number of federal and provincial laws violate a constitutional commitment made by Canada in the 1870 Rupert's Land Order,<sup>1</sup> to protect the interests and well-being of Aboriginal peoples in the region. The laws which break this constitutional commitment, claim the Mushkegowuk Cree, should not apply to the Mushkegowuk (or other affected) First Nations (Mushkegowuk Council, 2008).

Lytwyn (2002) documents the history of the Mushkegowuk Cree mainly through an analysis and interpretation of Hudson's Bay Company archival documents. In this work Lytwyn describes how the originally nomadic Cree migrated to the coast only during the summer months for fishing and other cultural activities; historically, the Cree spent most

of the calendar year up to 200 kilometers inland on higher ground. It was only after the establishment of the Hudson's Bay Company trading posts that the Cree began to live year round along the coast (Lytwyn, 2002). This represented the first alteration of Cree culture by the imposition of white, European institutional structures. The long-term implications of this imposition were an end to a nomadic way of life and the imposition of reserve living.

The introduction of, for instance, Catholic and Anglican faiths by missionaries to these communities has modified the traditional belief systems (see, for e.g., Cooper, 1933) and community structure. Indeed, the First Nations of Fort Albany and Kashechewan were originally one community until the 1950s when they split along religious lines into the predominantly Catholic community of Fort Albany and the predominantly Anglican community of Kashechewan (Solomon, 2008, pers. comm.). Moreover, a partnership between the proselytizing churches and the Canadian government led to one of the worst impositions on Cree and other Aboriginal culture, the residential school system.

Put simply, the residential school system was an attempt by successive governments to determine the fate of Aboriginal people in Canada by appropriating and reshaping their future in the form of thousands of children who were removed from their homes and communities and placed in the care of strangers. (Royal Commission on Aboriginal Peoples, 1996: Chapter 10 - 5)

A resident of Moose Factory encapsulated the wrong these schools did when he recounted his view of the children inside the barbed-wire fence of the residential school. He always wondered, "what had they done wrong to be in a place like that?" (Cheechoo, 2008: pers. comm.)

As far back as the 1940s and 50s, the federal government had a policy that said if we did not send our children to school we would be punished and even put in jail. That's how strongly the government insisted we put the children in school. It is a very powerful imposition having a different culture imposed upon you because when our children went to school they lost the importance of hunting which is why we have lost the old traditional way of our culture. [Western-style] education, itself, has slowly destroyed our culture. (Gabriel Fireman, Attawapiskat in McDonald et al. 1997: 51)

The relationship between Indigenous knowledge (also known as Traditional Ecological/Environmental Knowledge) and scientific knowledge in decision-making is also highly relevant to developing a critical awareness of the context for the Victor Diamond Mine EA process. Traditional

environmental knowledge is “a body of knowledge and beliefs transmitted through oral tradition and first-hand observation. TEK is both cumulative and dynamic, building upon the experience of earlier generations and adapting to the new technological and socioeconomic changes of the present” (Dene Cultural Institute, cited in Stevenson, 1996: 281). Tsuji and Ho (2002) discuss the controversy surrounding the federal government’s decision to give equal standing to Indigenous knowledge with respect to western science in the EA process. Through this work Tsuji and Ho (2002: 328-329) document the commentary on this issue, noting that certain members of the “scholarly” community described this decision as tantamount to “the imposition of religion on Canadian citizens” (Howard and Widdowson 1996: 34). Even with the United Nations endorsement of Indigenous knowledge (UNESCO, 1999), a disparity still exists between Indigenous knowledge and western science (Berkes et al., 2005). Nevertheless, precedents requiring the equal weighting of Indigenous knowledge and western science in the EA process exists in Canada (e.g., Voisey’s Bay nickel mine in Labrador, Canada) (Gibson, 2006).

Co-management agreements and EA processes represent modern forms of governance structures imposed upon Aboriginal groups. Legitimately, researchers and practitioners of co-management and EA see these processes as empowering Aboriginal interests through the utilization of Indigenous knowledge (Mulrennan and Scott, 2005; Berkes et al. 2005). However, an alternative perspective would argue that by agreeing to play by the rules of such governance structures, “First Nations peoples are not merely agreeing to engage with government officials in a set of linguistic fields in which they are at a disadvantage. They are also agreeing to abide by a whole set of implicit assumptions about the world, some of which are deeply antithetical to their own” (Nadasdy, 2003: 6). That is, these imposed bureaucratic structures require First Nations peoples to learn the language of wildlife biology and to think about animals as “numbers” and the land as “property” (Nadasdy, 2003). Environmental assessment has supposedly evolved as a tool to facilitate environmentally sound growth within the context of a neo-liberal growth paradigm. In many cases, the western growth paradigm results in severe impacts on First Nations culture and their ability to continue traditional pursuits (Howitt, 2001; Nadasdy, 2003).

From the early relationship between Canadian Aboriginal peoples and the incoming European settlers, to the imposition of governance, religious and educational structures, to the discounting of Indigenous knowledge with respect to western science, to more recent EA and co-management structures – understanding the historical and social con-

text is critical to understanding the Victor Diamond Mine EA process.

### **Tenet 2 Pluralism: Multiple, Divergent Perspectives**

The second tenet of critical systems thinking is pluralism, that is, to acknowledge a plurality of perspectives and utilize a variety of methods in attempting to understand a complex system (Jackson, 2000; Midgley, 2000). In the context of the Victor Diamond Mine EA, the divergent perspectives of several of the key stakeholders on the issues of the spatial boundaries of the study as well as the consultation process are documented below. These perspectives include the various First Nations' communities and their associated governance structures, federal and provincial governments and the proponent.

#### **Spatial Boundaries**

In the comprehensive study EA final document (CEAA, 2005: 1-16), the spatial boundaries of the EA were defined as,

the immediate geographical vicinity as determined by RAs [responsible authorities] (land and water) that encompasses all physical works and activities proposed by the Proponent for the Victor Diamond Project. This will include the mine site, the community of Attawapiskat (including Potato Island), all roads, pipeline, facilities in or near Attawapiskat, airstrip, the activities and roads near or along James Bay and the communities of Kashechewan, Fort Albany, and Moose Factory, shipping lane for diesel fuel in James Bay and Hudson Bay south of Belcher Islands south tip around 55° 40' N, and fuel lightering site in James Bay.

The perspective of the proponent and ultimately the responsible authorities dominated the EA – the EA process focused primarily on Attawapiskat First Nation – the potential impacts on the communities of Fort Albany, Kashechewan and Moose Factory was only considered to the extent that the roads and shipping lanes would impact them and their lands (CEAA, 2005: 1-16; Whitelaw et al, 2009).

However, as early as October/November 2003, the responsible authorities were aware that the scope of the comprehensive study EA, not just the road and shipping lane, should not be exclusive to Attawapiskat First Nation. Instead, it was recognized that the EA should also include the communities of Kashechewan and Fort Albany as “their traditional territories were adjacent to the mine site area” (Natural Resources Canada, 2004). Despite this, in a January 20, 2004 response to comments on the comprehensive study EA guidelines, De Beers requested that “a clear distinction be made between Attawapiskat and the other

west coast James Bay area First Nations, namely Albany, Kashechewan and Moose Cree First Nations. It was argued that all project specific developments (Victor mine site, Attawapiskat area facilities and the north, south and west winter roads) will be located on Attawapiskat First Nation traditional lands and Attawapiskat will be the principal staging area for the project" (Wyeth, 2004: 3).

In interviews with the Fort Albany Chief and Council, an elder and council member clearly indicated why individuals from Fort Albany should be involved and this insight made it clear that the proponent did not fully understand the historical, social and cultural context.

We mentioned that many people from Albany were from Attawapiskat – we told them 2 years ago – many people from this community [Albany] were originally from Attawapiskat [traditional territorial area]. They [people from Attawapiskat] came here for jobs at the [Roman Catholic] mission. The summer when the school burnt down (2001-2002) we told them when DeBeers came to meet us.

On July 20, 2004, Environment Canada provided comments on the comprehensive study EA and the traditional ecological knowledge study to the proponent and their consultant AMEC. Their first recommendation was that "a rationale should be provided for the exclusion of other communities such as Fort Albany and Kashechewan First Nations from the collection of TEK. If no rationale can be provided, the scope of the study should be broadened to determine the attachment that other Cree individuals or communities may have with land under study" (Dobos, 2004). The establishment of the spatial boundaries of the comprehensive study EA was far from a simple process. The Nishnawbe Aski Nation (supra-regional First Nation governing organization) requested that the Victor Diamond Mine project be assessed as a panel under the Canadian EA Act (Beck, 2004; Kooses, 2004). A panel assessment would have required a more rigorous assessment of the issues and impacts of the Victor Diamond Mine, including the spatial boundaries and the issue of traditional territories.

The Nishnawbe Aski Nation provided the following commentary on the Victor Diamond Mine Comprehensive Study EA public participation process.

I am submitting this letter to you on behalf of the Nishnawbe Aski Nation (NAN) out of concern regarding the Environmental Assessment (EA) process that has taken place for the proposed Victor Diamond Mine in northeastern Ontario as the process followed by De Beers Canada (De Beers) has been alarmingly rapid, inappropriate, and has shut out our par-

ticipation in the EA process. Further, I am requesting you, as the Minister of a federal department that has declared that it would be a Responsible Authority (RA) for the project, and for your department's fiduciary responsibility under the Canadian Environmental Assessment Act, to support NAN and the impacted James Bay First Nation communities of Peawanuck [note: Peawanuck is the community and Weenusk First Nation the governing body; Peawanuck is part of NAN and is located in the southwestern James Bay region], Kashechewan, Fort Albany and Moose Factory in our demand to have an active role in the Victor Diamond Project EA process and be adequately consulted as part of the EA. Further, given our very serious concerns, and the fact that we have not been consulted, we are requesting a full Panel review of the project. (Kooses, 2004)

Attawapiskat First Nation response to NAN's intervention is pointed:

We are in receipt of the letters dated March 16, 2004, from Mr. Dan Kooses, Deputy Grand Chief to Minister Mitchell, Minister Efford, and Prime Minister Martin.

In the letter to Mr. Efford, NAN requests a full panel review of the Project. Attawapiskat First Nation is not aware that NAN was given a mandate for this request and, regardless, NAN has a responsibility to consult with Attawapiskat First Nation prior to taking any position with respect to the Environmental Assessment of the Victor Project, including any request for a panel review. Certainly, we did not authorize NAN to make this request. We would be pleased if you could provide us with a resolution or other documentation indicating what mandate the Deputy Grand Chief may have to make this request. (Hall, 2004a)

When asked about the Victor Diamond Mine EA process, five members of the Fort Albany Council indicated that they were pleased for the members of the Attawapiskat First Nation community, but they questioned whether the benefits of the mine would be shared with the other James Bay coastal communities within the Mushkegowuk Territory. One member of the Fort Albany Council, indicated that when Mushkegowuk Council went to intervene on behalf of the constituent communities, Attawapiskat First Nation told them not to get involved. This member of Council further indicated that Attawapiskat First Nation had threatened to pull out of the Rupert's Land Treaty if Mushkegowuk Council were to get involved (discussed above – see section Tenet 1 Critical Awareness).

Based on the documentation from the EA process, it is clear that the

proponent and Attawapiskat First Nation managed to successfully argue, and convince, the government responsible authorities that the primary First Nation community was to be Attawapiskat. This resulted in Attawapiskat being included in the EA and playing a significant role whereas the communities of Fort Albany, Kashechewan and Moose Factory were largely excluded from the EA process. The reason that the perspective of the proponent dominated the EA process was that a comprehensive EA process (a proponent driven process) was applied. Unlike the Cree communities on the east coast of James Bay, who remained united through the Great Whale hydro-electric development in the 1970s (Salisbury, 1986). Moreover, government responsible authorities, despite crafting guidelines that included all of the coastal communities, eventually approved the use of a comprehensive EA that only addressed Attawapiskat First Nations' interests and concerns; thus, the federal government's responsible authorities failed to ensure that all First Nations interests were addressed.

### **Consultation Duration and Type**

The Victor Diamond Mine Comprehensive Study EA, as conducted, did meet the requirements of the pre-October 2003 Canadian Environmental Assessment Act legislation and was approved by the responsible authorities. It appears that the proponent did undertake an extensive public consultation program prior to the comprehensive study EA as well as consultation on the comprehensive study. Seventy-nine meetings with First Nations communities were held from May 2001 to October 2004, but only four of these were in consultation with the community of Fort Albany compared to thirty-three consultations in the community of Attawapiskat over the same time period (CEAA, 2005).

In a meeting in January 2004 between the responsible authorities and the proponent, the issue of the length of the consultation period for the draft comprehensive EA document was raised. De Beers commented that the proposed sixty-day consultation period, "seemed excessive in light of other project consultation time frames in which 30-45 days seemed to be the average." From the responsible authorities perspective, this timeframe would be required for interested parties to review the lengthy and technical CSEA document. As well, the responsible authorities commented that "it may be unreasonable to expect First Nations to be able to review this document in such a short time frame. If there are requests for extensions to the review period, the RAs [responsible authorities] will consider the merits of these requests in making a decision to grant an extension" (Natural Resources Canada, 2004).

In a letter to Attawapiskat First Nation, the proponent indicated that,

the company would appreciate some undertaking that the Att [Attawapiskat] First Nation would not delay the CSEA [comprehensive study EA] process by demands for extended review periods unless it has really strong reasons to do so. If there are further delays, the project schedule will slip by a year. This would be unfortunate for several reasons. First, there would be few if any jobs available during the period of the delay, thus affecting the First Nation members as no work can be carried out without permits. Secondly, I am advised that De Beers has other projects in progress that are advancing right behind Victor. The other projects have better rates of return, and there is a very real risk that if the Victor project is delayed, it may be overtaken by one or more of these other projects, and this could then lead to a further delay of several years before the project would move ahead.

(Fowler, 2004)

This strongly worded concern came in a letter agreeing to provide intervener funding to allow Attawapiskat First Nation to hire consultants to review the comprehensive study EA (Fowler, 2004). Understandably, the proponent was looking out for the interests of its business and did not want the Victor Diamond Mine project to be subject to costly delays. However, given the need for economic development in these northern communities, the threat of the project and potential jobs being delayed for several years could have had negative economic development implications for Attawapiskat First Nation and the other James Bay Cree communities, including Fort Albany.

With respect to responsible authorities consultations, Chief Hall of Attawapiskat First Nation, in a letter to the Canadian Environmental Assessment Agency, described several concerns related to the consultation and public participation processes associated with the Victor Diamond Mine Comprehensive Study EA.

You know from the comments generated by my First Nation Community that they are very concerned about these two issues. It became evident to all that participated in the public meetings in Attawapiskat and the Timmins Diamond Mining Seminar that the Federal Regulators appear to have limited knowledge and understanding of our traditional ways and the importance of continuous dialogue with us to resolve issues.

We appreciate that the Federal Regulators have attempted to be conscious of the need for effective consultation and participation for the Victor Diamond Project but it

has become evident that the Federal Regulators do not have an understanding of the impact this resource development will have on our traditional way of life. I was glad to hear at the seminar, the Federal Regulators stating that if we would like further meetings and discussions you would come to our communities and spend more time with us. The current process of flying in and out in a 4 hour period is not effective nor meaningful consultation or participation. (Hall, 2004b)

In an effort to provide an alternative to the “fly-in – fly-out” approach to consultation, Chief Hall proposed the following,

therefore we would like to request that the Federal Regulators make themselves available to participate in our traditional way of life, for knowledge and understanding, by joining us in our annual spring hunt on Akamaski Island in April. By participating in our hunt, sharing our food and living with us, listening to our stories at the camp and by sharing ideas we hope that we can come to some common ground on these major issues important to the welfare of our communities and our way of life.

We have traditional accommodations for two weeks for up to 5 regulators. We would like to arrange this as soon as possible so could you identify who will be coming and appoint a coordinator to arrange the logistics of this event. Please forward this request to all the Federal Regulators. (Hall, 2004b)

While this may seem like a logical solution to the issue of culturally appropriate consultation and participation, government regulators rejected this offer. Over two weeks after her initial letter on March 29 inviting federal regulators on the spring hunt, Chief Hall again wrote to the federal authorities about this alternative forum for consultation and participation. Chief Hall expressed surprise and concern that there was no response to her initial invitation. In this follow-up letter she tried to clarify the invitation and relieve any concerns about conflicts of interest that may have been perceived by federal agency staff.

In response to my invitation for the Federal Regulators to accompany my community on our traditional spring hunt I am surprised that I have not had an official response to my offer.

If the Federal regulators join us while we conduct our annual spring hunt it will foster a relationship or understanding while you share with us.... This way of life is the life-blood of who we are and we wish to share this with you. I

can only hope that the Federal Regulators see this in a good way. I was distressed that so far the Federal Regulators have misunderstood our offer. I was informed that Environment Canada will not be participating and are concerned with having federal representatives on the island (Akimiski Island – National Bird Sanctuary). I was informed that the response so [sic] from the Canadian Wildlife Service is of a negative nature and they do not trust our intent. We have been stewards of the land before colonization and we know how to conduct a sustainable hunt to provide for our people. It was not our intent to place the federal regulators in positions wherein they are in conflict with the law. (Hall, 2004c)

In response to this second invitation, a representative from the Canadian Environmental Assessment Agency wrote the following curt letter.

Thank you for your letters of March 29 and April 14, 2004, regarding your invitation to participate in your traditional spring hunt on Akimiski Island.

The Canadian Environmental Assessment Agency respectfully declines your invitation to participate in your spring goose hunt. The other federal authorities will be responding separately to you on their decisions in this regard. (Schafer, 2004)

Natural Resources Canada then sent the following response.

Thank you for your letters of March 29 and April 14, 2004, regarding your invitation to participate in your traditional spring hunt on Akimiski Island.

Natural Resources Canada respectfully declines your invitation to participate in the spring goose hunt. Please be assured that we remain committed to ensuring that the public participation process for the environmental assessment of the Victor project provides meaningful opportunities for Attawapiskat and other First Nation communities to provide input to the comprehensive study. (Calvert, 2004)

While the public consultation with Attawapiskat First Nation was unsatisfactory to the community, it did meet the requirements of the pre-October 2003 Canadian Environmental Assessment Act legislation and the public participation plan. In interviews with the Chief and Council of Fort Albany First Nation, it was clear that the community was not satisfied with the public consultation process. All interviewees indicated that during the public consultations, Fort Albany concerns about the mine and its impacts were not adequately addressed, if even considered, by the proponent or its consultants. When Fort Albany Chief and Council

were asked about the Victor Diamond Mine public consultation process, the reactions were consistent. Below are three quotes from interviews with members of the Fort Albany Chief and Council.

It was not done well at all. They [Victor Diamond Mine Study Team] would fly in maybe an hour or two and not provide much information. When people first come around, community members are apprehensive, they don't ask a lot of question even if less than 10 people in the room. DeBeers considered it a full consultation, I believe they just went through the motions.

Every time we had a meeting with them [Victor Diamond Mine team] it was about different things. They would come and say another thing and another thing. It was like they were playing hockey, stick handling.

There are lots of trapping lines near the winter road – what about a spill? I asked them, what are we going to get if our hunting lines get spoiled and never answered us.

Perhaps not surprisingly, given the investment and potential return on the Victor Diamond Mine, the proponent was interested in making the EA process as efficient and expedient as possible. With respect to the government responsible authorities' lack of response to Attawapiskat First Nations' invitation to the spring goose hunt, it is understandable why they initially ignored, and later, declined this invitation. In our opinion, there are two reasons for this response. The first may be a cultural reason; many government bureaucrats are most comfortable in formal meeting settings around conference tables or public meetings, whether they take place in urban, rural or remote locations. Participating in an activity on the land would place most government bureaucrats in an uncomfortable position. Secondly, government bureaucrats might have viewed such participation on the land over an extended period of time as a perceived conflict of interest by other stakeholders. However, it should be noted that responsible authorities were having conference calls with the proponent on a weekly or bi-weekly basis early in the EA process (Natural Resources Canada, 2003).

It is clear that divergent perspectives emerged through the Victor Diamond Mine EA process, particularly on the issues of the spatial boundaries of the study as well as consultation duration and type. Which perspectives are given legitimacy in a decision-making process is a question of power differentials. Clearly, the Fort Albany First Nation community was at a clear disadvantage throughout the EA process, and so their concerns were not adequately addressed. Even Attawapiskat First Nation, which was an integral part of the EA process, had concerns.

**Tenet 3 Emancipation or Improvement: Enhancing Capacity for Community-based Planning and Self-determination**

It is obvious that there were shortcomings in the Victor Diamond Mine EA process. A clear example of this is the fact that the null or “no-go” alternative to the mine, a key option in any legitimate EA process, was never seriously considered. In the Victor Diamond Mine Comprehensive Final Report, the process for evaluating alternatives was governed by several objectives. The most pertinent to this analysis is the following:

For an alternative to be preferred it must, as a minimum, obtain preferred or acceptable ratings for all performance objectives; an alternative is therefore rejected if it attains an unacceptable rating for any single performance objective. (CEAA, 2005, 3-3)

One of the criteria for evaluating alternatives, cost-effectiveness, was defined as follows:

Cost-effectiveness:

- Facilitates a competitive return on investment (preferred);
- Facilitates an acceptable return on investment (acceptable); and,
- Cannot be financially supported by the project (unacceptable).

Cost-effectiveness relates to overall project costs, including capital, operation, maintenance, and closure/reclamation costs. Each aspect of the project has cost implications and thus cost effectiveness is a performance objective common to all aspects. (CEAA, 2005, 3-3)

The proponent removed the only opportunity for the First Nations’ communities of the Mushkegowuk to refuse this development through the following trite treatment of the null or “no-go” alternative:

The Proponent has indicated that abandoning the project would not fulfill the project purpose and provide a competitive return on investment. Project abandonment is therefore an unacceptable alternative for cost-effectiveness. (CEAA, 2005, 3-3)

More effective public consultation on the evaluation of alternatives may have resulted in a different process but it also revealed the need to enhance the capacity of the Fort Albany First Nation community to understand and engage in future EAs. Thus, an integral part of our research has been the provision of capacity enhancement for EA to members of Fort Albany First Nation at the request of Chief and Council. Several training sessions were organized in the Fort Albany community with Chief

and Council, Health Services personnel, school teachers and members of an adult education program, and school children to provide community members with the basics of EA. These modules included an introduction to the principles and practice of EA in Canada; federal and provincial EA legislation; public participation and First Nations' expectations in the EA process; alternatives and valued ecosystem components; assessment of impacts and significance; the role of Indigenous knowledge in EA; monitoring; the relationship between EA and impact and benefit agreements; and innovations in EA including strategic EA and sustainability assessment. As the training sessions are in a modular format, training is flexible and can accommodate differing schedules. Training is continuing in Fort Albany.

We anticipate this capacity enhancement will enable Fort Albany First Nation to more effectively engage in future EA and also land-use planning processes. It has also raised community awareness of the current and emerging threats to the land of the Cree and the need to prepare for future potential development. Recognizing this need, FNs of the Mushkegowuk Territory have passed resolutions (Mushkegowuk Council No. 2008-11-13, 25, 29) stating that the First Nations "will accept no new resource development projects on their homeland until there is...First Nation approved [community-based] Land Use Plans." The Mushkegowuk Tribal Council, representing four FNs on the west coast of James Bay, has also identified the need to develop a regional/territory-wide land use plan (Mushkegowuk Regional Planning, 2008). Most recently, the Province of Ontario has developed Bill 191 (*An Act with respect to land use planning and protection in the Far North*) that, if passed by Legislature, is intended to protect at least 225,000 km of a total 450,000 km of Ontario's "Far North." The Bill recently went through first Reading in the Ontario legislature June 2, 2009 and, once passed, will require FNs to develop community-based land use plans (Bill 191, 2009).

This process will allow everyone in the community the opportunity to collaboratively learn about and participate in the design of a community-based land use planning process. The development of a community-based land use planning process by Fort Albany First Nation represents an opportunity for increasing the community's adaptive capacity, fostering policy change and would set a profound precedent for environmental and resource extraction decision-making with Mushkegowuk First Nations communities. Such a process and the resulting plan (broadly defined) would provide opportunity for resource extraction proponents and government agencies to better understand the diversity of First Nations' cultures and learn as organizations and agencies how to more

effectively and respectfully interact with Aboriginal governance structures.

### **Conclusions**

Uncompromising Aboriginal campaigns to block unfavorable development have sometimes been the only way to demonstrate de facto, if not de jure, ownership of the resources in question.... Aboriginal agendas for autonomous development demand a major redefinition of the state-imposed regimes of political jurisdiction and property that now severely restrict the right of Aboriginal societies to regulate or share in the benefits of development.

-- (Scott, 2001: 6).

Mining exploration, new mining developments, and additional hydro-development are in the planning stages for the Mushkegowuk Territory region (e.g., Nunavut Mineral Resources Section, 2001; Koven, 2007; Larmour, 2007); thus, First Nations and their organizations must enhance their capacity to maximize First Nation benefits from these developments while minimizing socio-ecological impacts. The EA process is intended to evaluate the social and environmental impacts of a proposed development from a variety of perspectives and through a participatory process. However, in the case of the Victor Diamond Mine EA, the process could not begin to address the historically troubled Aboriginal-state relationship and fundamentally different perspectives present among First Nations.

It has been argued that EA processes represent opportunities for First Nations communities to provide input into decisions that effect their culture, land and way of life (Diduck and Sinclair, 2002; Mulrennan and Scott, 2005; Berkes et al. 2005); however, more should be done to enhance the capacity of First Nations to further develop their own decision-making structures and processes that reflect their culture and knowledge systems and enhance their capacity for self-governance (Scott, 2001; Nadasdy, 2003).

Although the EA process did not serve Fort Albany First Nation well, the ramifications of the process and the First Nation seeking support through research allowed for critical reflection and learning that led to capacity building and interest in a proactive role in land use planning. One of the tools required for this type of initiative is community-based land use planning. Each community-based, land use planning process must be context specific and designed to ensure the unique aspects of individual First Nations culture and environment are addressed appropriately. The concept of strategic EA (Thérivel and Partidário, 1996;

Partidário, 2000), which is the application of EA principles to the evaluation of plans, programs and policies, may provide a useful framework for these community-based land use plans. That is, any new plan, program or policy that would impact the traditional lands of the Mushkegowuk Cree communities would include positive aspects of EA such as meaningful participation, assessment of alternatives and social learning.

This paper presents a tool for addressing social justice issues in the context of EA in First Nations traditional territories. A critical systems-based approach to social justice highlights the importance of critical awareness of the historical and social context of the assumptions embedded in decision-making processes, the multiple, often divergent perspectives that emerge through such processes and the resulting power differentials (Midgley, 2000; Jackson, 2000). This research effort began as an effort to enhance the capacity of Fort Albany First Nation to effectively engage in formal EA processes. In fact, it is not only their capacity to engage in such imposed bureaucratic decision-making processes, but also their capacity to develop their own land use and resource management processes that needs to be enhanced. As well, non-Native government staff, private sector representatives, academic researchers and the general public should reflect on, for instance, the Mushkegowuk Cree's unique culture, their relationship to the land and how they would choose to make decisions regarding its use. An opportunity exists for First Nations to develop community-based processes that will allow them to take a leadership role in decision-making processes that impact their land, their culture and their way of life.

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### Note

1. In 1670, Charles II gave the Hudson's Bay Company the right to trade and control "all the lands draining into the Hudson's Bay and Strait." This large region (which encompasses much of modern day Ontario,

Manitoba, Saskatchewan and parts of Alberta and the Northwest Territories) was known as Rupert's Land. It included the traditional lands of the Mushkegowuk Cree. After confederation in 1867, Canada petitioned England to transfer Rupert's Land and the Northwestern Territory to Canada, to open the region to colonization and ensure that this vast region was not annexed by the United States. In 1870, England passed the Rupert's Land Order which transferred Rupert's Land to the control of Canada on agreed terms (including a commitment by Canada to protect Aboriginal interests in the region).

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