

# Master of Science in Sustainable Management

*"Pipe Dream"* - A study of the Mackenzie Gas Project

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FE306E-003

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# **Master of Science in Sustainable Management**

## ***"Pipe Dream"***

### **- A study of the Mackenzie Gas Project**

**Bodø graduate School of Business**

**Bodø University College**



**Aurora Dyrnes and Ragnhild Johnson**

**Bodø May 2010**

## **Sammendrag**

Denne masteroppgaven identifiserer hvordan interessentene i Mackenzie Gas Project har hatt innflytelse på hvor prosjektet er i dag. Samt at det fremligger en identifisering av sentrale temaer i forhold til involvering av interessenter. Basert på Freemans teori om interessenter har vi identifisert fire nøkkel parter i prosjektet; Industrien, The Aboriginal Pipeline Group, urbefolkning bosatt i området og de Canadiske myndighetene. Vi har analysert arenaene hvor disse partene møtes i dialog om prosjektet og dets implikasjoner for miljø, økonomi og samfunn. Et panel var satt opp for å analysere prosjektets implikasjoner, denne prosessen har vi analysert på bakgrunn i Jacobsen og Ingebrigtsens teori om "communicative arena" som gjenspeiler dette panelet.

Den empiriske tilnærmingen er basert på intervjuer med de involverte partene i prosjektet samt offentlige rapporter og publiseringer om temaet. De empiriske funnene tilsier at prosjektet og dets prosesser har manglet struktur, budsjett og tidsbegrensninger. Det politiske systemet som regjerer i nord Canada har vi identifisert som komplisert og involverer for mange uavhengige beslutningstakere. Eksterne faktorer som Finanskrisen, introduksjon av skifer gass til markedet og innblanding fra internasjonale og nasjonale politisk uavhengige organisasjoner har ført til at prosjektet har blitt forsinket.

Vi konkluderer med at panelet som var satt gjenspeiler teorien om communicative arena, men at dette ikke fungerer i praksis. Vi argumenterer for en videre utvikling av Jacobsen og Ingebrigtsens teori slik at den kan kombineres med effektiv virksomhets strategi ved å involvere interessenter. Vi har utviklet en modell som kan lede til dette, nøkkelbegrepene er; struktur, kompetanse, insentiver og støttesystemer for å gjøre interessent dialoger vellykket.

## **Abstract**

This master thesis is a study of the Mackenzie Gas Project in the Canadian north. With special focus on the stakeholder involved. We have identified the main stakeholders through Freeman's stakeholder theory.

Our problem statement:

*How the stakeholders have influenced the outcome of the Mackenzie gas project: an identification of central themes connected to stakeholder involvement.*

The main stakeholders involved are; Industry, the Aboriginal Pipeline Group, The Aboriginal People in the area and the Canadian government. We have analyzed the arena where these stakeholders come together in dialogue to discuss the project and its implications for the environment, economy and society. A panel was formed to review these implications and we have analyzed this through Jacobsen and Ingebrigtsen's theory on communicative arena which is compatible with this panel.

The empirical approach is based on interviews with the main involved parties together with public reports and publications on the project. The empirical evidence suggests that the project and its processes lack structure, budget and time limits. The regulatory system in place has been identified as complicated and involves a number of independent decision makers. External factors as the financial crisis, introduction of Shale gas to markets and the meddling from non governmental organizations has lead to the delay in the project development.

The conclusion is that the assigned panel could be identified through communicative arena, but it failed in practice. We argue that Jacobsens and Ingebrigtsen's theory needs to be developed in order to contribute to a more effective business approach to stakeholder involvement. We have developed a model where we have incorporated terms that we argue is important when involving stakeholders. These terms are; structure, competence, incentives and support systems for making a stakeholder dialogue work.

## **Acknowledgement**

The biggest gratitude goes to Bodø Graduate School of Business, who provided us with the possibility to travel to Canada and complete this thesis. The person who has helped us the most is our supervisor Jan-Oddvar Sørnes, he has not only sent us to Canada, but also motivated us when the goal seemed to us, unreachable. He has always been accessible to us even though we were situated on different continents; we thank him for his time and feedback. We also thank Jessica Shadian for her guidance in the early process of the thesis.

A special gratitude to the High North Center for Business and Governance for their contribution of financial support that made it possible for us to travel to the remote arctic of Canada to find the information needed in order to conclude this study.

A big thanks goes to the University of Alberta for their hospitality, encouragement and making our stay in Canada wonderful. Special thanks to Richard Dixon, Dough Leong, and Joseph Doucet.

Without the help from John Todd we would not be able to finish this thesis. He has given us a unique insight in the project over enjoyable breakfast meetings in Edmonton. He has put us in contact with our respondents from the Northwest Territories, people we would not normally have access to. We thank him for his contribution in making this thesis possible. We also thank his sister Elizabeth Anne Todd who took us into her home in Yellowknife.

## **Respondents**

Most gratitude to Richard Nerysoo, president of the Gwich'in Tribal Council, his contribution to this thesis has been most valuable.

We are grateful that Bob Reid and Odi Hansen representing the Aboriginal Pipeline Group accepted our invitation to share their thoughts on the project.

We are grateful that Randy Ottenbreit representing Imperial Oil took time to answer our questions. We first tried to contact him while staying at the same hotel in Inuvik, but without luck. Since we never give up, we managed to reach him in Calgary and we are most grateful for his contribution from the Industry side.

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In Yellowknife we were fortunate to meet; The Honorable Minister Bob McLeod, the Honorable Premier Floyd K. Roland and Allen Stanzell at the legislative assembly of the Northwest Territories. They provided us with insight to the government's role in the project, and for this we are grateful.

We thank our families for supporting us throughout this semester. And we will thank Bill Fortier for the time and effort he put in helping us with this project.

Others we will thank are; Eva Mikkelsen for providing excellent coffee, and Kjell Ivar Ingdal for finding our thesis when we thought it was lost.

At last we thank each other for good cooperation over five years, and with the conclusion of our Master Thesis as a good round up of all our years as students together.

Bodø 17.05.2010

Aurora Dyrnes

Ragnhild Johnson

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## **Abbreviations**

MGP – Mackenzie Gas Project

APG – Aboriginal Pipeline Group

JRP – Joint Review Panel

NEB – National Energy Board

MVRMA – The Mackenzie Valley Resource Management Act

INAC – Indian and Northern Affairs Canada

CEAA – Canadian Environmental Assessment Act

NWT – Northwest Territories

DJ – Department of Justice



## **Glossary**

### **Mackenzie Gas Project**

*"The Mackenzie gas project is a proposed 1196-kilometre natural gas pipeline system along the Mackenzie Valley of Canada's Northwest Territories to connect northern onshore gas fields with North American markets" (MGP 2010).*

### **Joint Review Panel**

The Joint Review Panel for the Mackenzie Gas Project (Project) was a seven-member, independent body that evaluated the potential impacts of the proposed Project on the environment and lives of the people in the project review area (JRP 2010).

### **Stakeholders**

Stakeholders are defined by Freeman as: *"A stakeholder in an organization is (by definition) any group or individual who can affect or is affected by the achievement of the organizations objectives"* (Freeman 1984).

### **Stakeholder involvement**

*"Involvement means handling and dealing with various stakeholder groups. This handling of stakeholders is consciously intended, because for each stakeholder group we need to decide on the specific form involvement will take. However, the role of individual stakeholders can change during the lifetime of the project."*(Mosler, 2004)

### **Central themes**

We can define central themes as subjects in any case or project that are central for the completion of the project. If these themes are not tended to properly, the success of the project is compromised.

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# Chapter 1 Introduction

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| <b>In the Beginning</b><br>- Mackenzie Gas Project<br>- History | <b>Mackenzie Gas Project Participants</b><br>- Proponents<br>- Indigenous Community<br>- Local and Federal Government<br>- Political Structure | <b>Problem Statement</b><br>- Structure and Outline |
|---|--|---|

## 1 Introduction

*"I can see now a vision emerging how Canada is going to profit in the future from our Arctic resources without destroying the environment on which it is all based."*

- Brian Mulroney, Former PM of Canada (Corporate Knights 2010)

First we will outline the motivation and the process of finding the subject for our master thesis. Then we will present the case that we have chosen to study, and what we wish to explore within this case.

### 1.1 In the beginning

There are two concepts that we were inspired when we chose a main theme for our thesis: the demand for energy, and the Arctic. There is an increasing need for energy in today's global market, and together with a decline in conventional fields; countries are turning north in order to meet the energy demands of tomorrow. In 2008 the Arctic Council stated that an Arctic war is getting closer. The issues of global warming together with the melting ice is giving us access to massive natural resources, and creating new shipping routes that shorten the distance and costs of transporting goods (The Arctic council 2008). One of the obstacles is that there exists no clarity over who controls what in this economically and strategically vital region (The Arctic Council 2008). In 2007, a Russian submarine planted its nation's flag under the North Pole, a gesture that historically means "claiming the land". Canada's Foreign Affairs Minister replied *"You can't go around the world these days dropping flags somewhere. This isn't the 14th or 15th Century. They're fooling themselves"*, adding that there was *"no question"* that the waters belonged to Canada (Carter 2007). Learning about the Russian flag

planting was the beginning of what would be a finished thesis concerning the Mackenzie Gas Project (MGP) in the remote Canadian Arctic. As the Arctic nations try to resolve the question of ownership, we had other questions. How would the communities in the Arctic areas respond to this rapidly growing interest in their land?

We know that communities in these areas are in need of development and value creation (Government of Canada 2010). But on what grounds and who should gain from the increase in industrial development in the area? In search of answers, we went to some of the remote Arctic regions of Canada and studied the project up-close. What we present, is a study of how the parties involved in the MGP have interacted with each other.

The beginning of the MGP story starts in 1974 when the first pipeline was proposed through the Mackenzie Valley of northern Canada. A report was published, expressing Thomas R. Berger's concerns with the project: *"It may be that, in the national interest, the gas pipeline and the energy corridor should be built. It may be that they should not. But we owe to the peoples of the North, and to future generations, a careful consideration of the consequences before we go ahead with such projects. This report is an attempt to set out what those consequences will be."* (Berger 1977)

This took place nearly 40 years ago, and times have changed. Richard Nerysoo, president of the Gwich'in Tribal Council, expressed his thoughts on the Mackenzie Gas Project to the Calgary Herald in April 2010: *"For the aboriginal people of the Northwest Territories, the Mackenzie Gas Project can represent one project that can contribute to creating a sustainable economy in the North, especially within the Dehcho, the Sahtu and Mackenzie Delta region,"* (O'Meara 2010)

## **1.2 The Mackenzie Gas Project**

*"The Mackenzie gas project is a proposed 1196-kilometre natural gas pipeline system along the Mackenzie Valley of Canada's Northwest Territories to connect northern onshore gas fields with North American markets"* (MGP 2010).

The MGP in Canada's arctic region constitutes a number of different aspects. In this section we will present the history of the project, the different organizations, companies and other participants, in addition we will give a short outline of the regulatory processes in the

Northwest Territories in Canada. It is crucial to have an overview of the project and the major stakeholders involved and the environment in which they operate, in order to understand the project and its implications. By the end of this chapter we will outline our problem statement and how we will approach the MGP.

### **1.2.1 History**

In 1974, the Arctic Gas Consortium proposed a seven billion dollar pipeline in the area of the Northwest Territories (NWT) in Canada. The federal government counted on immediate approval and a rapid start on construction (Wonders, 2003). The government was wrong. Today, in 2010, we still see no signs of the proposed pipeline. After 36 years of land claim agreements, public hearings and political activity, the project remains at a stand still.

In the 1970s, when the first pipeline was proposed, Justice Berger traveled to the Canadian North and performed what has since been referred to as the Berger inquiry (Wonders 2003). Berger went to the Mackenzie Valley where he interviewed and observed the Aboriginal people living up and down the valley. His mission was to find out if the Aboriginal people wanted this pipeline and whether they were ready for it. He concluded that the aboriginal groups in this area were not ready to benefit from such a project; he suggested a ten-year moratorium, and the federal government enforced his recommendation (Wonders 2003). Premier Floyd Roland, with the Government of the Northwest Territories, described it this way: *"When Berger's report came out I was a young guy living in Inuvik. Inuvik was a busy place with lots of exploration and when they enforced a ten year moratorium it was like the tap was turned off and companies said "okay we are done", and they left the north"*.

Thomas R. Berger states in his report: *"We think of ourselves as a northern people. We may at last have begun to realize that we have something to learn from the people who for centuries have lived in the North, the people who never sought to alter their environment, but rather to live in harmony with it. This inquiry has given all Canadians an opportunity to listen to the voices on the frontier."* (Berger 1977)

After this recommendation, the North suffered from a lack of development and the aboriginal communities started negotiations on their comprehensive land claim agreements with the government of Canada. In these agreements, the various aboriginal groups negotiated ownership of areas they historically had connections to. It resulted in four groups gaining ownership of the land and its resources in the area where the pipeline was proposed to go

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through. A fifth group is still negotiating their land claim agreement with the federal government for ownership of land affected by the project (INAC 2009). After this era of negotiations, the aboriginal groups gained power in the project and came together in 2002 to develop what was known as the 'Cooperation Plan' here, they outlined how a possible pipeline project would develop and increase value for the communities in the North. The Aboriginals explained how they would cooperate and contribute to the project through this plan (Cooperation Plan 2002). In 2004, they filed a new proposal for a Mackenzie Valley natural gas pipeline (Bott 2004). This project is commonly known as the Mackenzie gas project. It is currently in progress in the NWT, and is the focus of our study.

*"The Mackenzie gas project proposes to develop natural gas fields in the Mackenzie Delta of Canada's Northwest Territories and deliver the natural gas to markets through a pipeline system built along the Mackenzie Valley."*(MGP2 2010)

**Figure 1 Map of Canada**



(MGP 2010)

The new proposal came in 2004 and the proponents counted on gas in pipes by 2009. We are now in 2010 and there is still a long way to go in order to realize this project. One of the aspects which makes this pipeline unusual, are the processes set in place to evaluate the social, environmental and economic aspects of the project. The amounts of time and resources involved in these processes have not yet resulted in a pipeline. Another pipeline nearby was built in a matter of months. What is so special about the Mackenzie Valley? There are many stakeholders in this project; we have focused on some of these, and as you read through this study, you will see how they are entangled and how the context is complex.



### **1.3 Mackenzie Gas Project Participants**

In this section we will describe the groups we have identified as the most important; those who have the greatest influence and control in the project. They are the proponents building the pipeline consisting of both industry and the Aboriginal Pipeline Group (APG), the aboriginal groups who own the land and the local and federal governments. The proponent group is vital because they are the ones who would actually build the pipeline. The other groups are chosen, because they have legal jurisdiction, authority and ownership of the land affected by the project.

#### **1.3.1 Project proponents**

The project is driven by the proponent group consisting of: Imperial Oil Resources Venture Limited, ConocoPhillips Canada (North) Limited, Shell Canada Limited, ExxonMobil Canada Properties and The Aboriginal Pipeline Group. (MGP3 2010)

The Proponents states that:

*"The Mackenzie Gas Project respects the peoples of Canada's North and the land, wildlife and environment that sustains them. Our priorities include maintaining worker and public safety at all times and caring for the environment before, during and after construction."*

(MGP3 2010)

The APG represents the interest of the Aboriginal peoples from the Northwest Territories, and has the opportunity to acquire up to one-third interest in the main Mackenzie Valley Pipeline. This can provide great financial opportunities for the indigenous communities in the area. The aboriginal groups that are involved in the APG own the rights to the land and will be described further in the next section. This is the first time that Aboriginal groups in Canada will participate as an owner in a major, multi-billion dollar industrial project. By being a part of the MGP, the APG is making history (APG 2010).

#### **1.3.2 Indigenous community**

In the Northwest Territories there exist several groups of indigenous communities. The Population of NWT is about 42,000 and more than half are Aboriginal People. Most of these people are situated in the Mackenzie River Valley and Yellowknife (Government of Canada 2010). We will now present the different aboriginal communities of the Northwest Territories and their history.

*Inuvialuit*

They have seen themselves as different from other Canadian Inuit. Historically their main resource was the sea mammals, such as seals, belugas and bowhead whales. In the nineteenth century, their society changed through the first meeting with Europeans and they started trading fur with the Hudson's Bay Company. In the 1890s, the arrival of American whalers gave the Inuvialuit traded goods including clothing and guns. However that was not the only thing the Americans brought with them; infectious diseases resulted in the death of 90 per cent of the Inuvialuit. With this, centuries of their traditional ways of life were lost. Throughout the twentieth century, Canadian law and modern society drastically altered the way of life of the Inuvialuit. Today more than three thousand Inuvialuit live in modernized communities in the Northwest Territories. Their traditions still remain strong, and their history of living off the land compels them to protect it. In 1984, after intense lobbying, they signed land claim agreements with the Government of Canada. They are still teaching traditions and old way of life to younger generations (Civilization 2003).

*Dene*

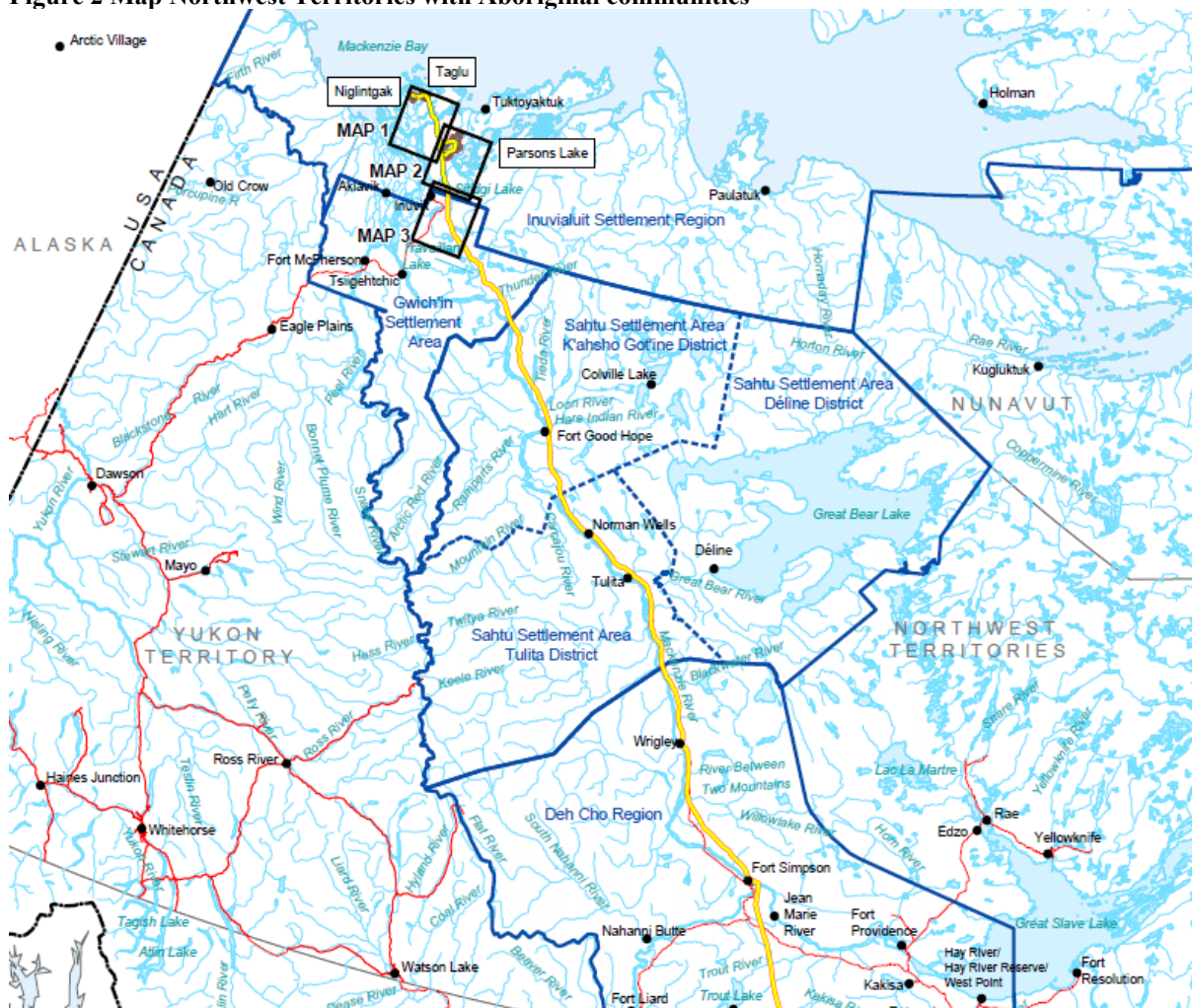
The Dene is historically settled south of the Inuvialuit in the Mackenzie River delta. They consist of several groups, but share the same ancestry and language family. They were hunters, and relied on moose, caribou, black bears and other animals in the area. This group is also referred to as Sahtu and Deh Cho (Dene Nation 2006).

*Gwich'in*

These people live in areas stretching from northeast Alaska to northern Yukon and Northwest territories in Canada. Traditionally, their main resource was caribou, but fish also supplemented their diet. They were nomads until they became fur traders, and established forts that later became settlements. They are located in the region of the Mackenzie Delta and the communities are organized under political bodies like the federal Indian Act and the Gwich'in Tribal Council (GSCI 2010).

Richard Nerysoo born in a tent on the shores of the Peel River, who we met at the Gwich'in Tribal Council in Inuvik explains how it is to be an aboriginal: *"It is very clear to me that it is an important and special thing to be an aboriginal person. It means being able to understand and live with this world in a very special way. It means living with the land, with the animals and with the birds and fish as though they were your brothers and sisters. It means saying that the land is an old friend, an old friend that your father knew and your grandfather knew... indeed, a friend that your people have always known. We see the land as much more than others see it. Land is not money. To the aboriginal person, land is life. Without our land, and the way of life it has always provided, we can no longer exist as a people. If the relationship is destroyed, we too are destroyed"*. (Wonders 2003:194)

Figure 2 Map Northwest Territories with Aboriginal communities



(MGP 4 2010)

### **1.3.3 Local and Federal Government**

The various aboriginal groups described above have their own land claim agreements in place and through their respective tribal councils they make up their own local governments (INAC 2009). However, both the local government of the Northwest Territories, and the Federal Government, have jurisdiction over the land in question. The government of the Northwest Territories differs from the local government of Canadian provinces. Since the jurisdiction is a territory, the land is owned by the federal government (McCrank 2008). Due to this, the Federal Government will be the re-eminent decision-maker in this project, and as it stands now they will also collect the royalties from the project. Due to this cluster of levels of government involved, the project carries a higher level of complexity than projects would have in a Canadian province. A short description of the structure and complexity is provided below, and we will address this more thoroughly later in the study.

### **1.3.4 Political structure and regulatory process**

The multitude of political powers involved in the Mackenzie gas project has made it difficult for the involved parties to understand and interpret the legislation that controls the Northwest Territories. As described, there are several levels of political control in place, and in addition, the laws are vague, and have not been previously dealt with in similar projects (McCrank 2008). The regulatory process for the proposed MGP involves numerous permits and approvals, and will require cooperation among several regulatory agencies. These agencies will decide whether to issue permits and authorizations, and might impose conditions on their approval (MGP7 2010). The project participants will then assess whether to proceed with the project. The MGP requires approvals from federal, territorial and aboriginal government and regulatory authorities responsible for assessing and regulating energy development. In October 2004, the project proponents filed applications for the Mackenzie gathering system and Mackenzie Valley pipeline, and three development plan applications for the anchor fields.

The regulatory process is complex and regulatory authorities are working to develop procedures to coordinate it. The coordinating efforts could affect the project schedule, which is presented below (MGP5 2010).

Figure 3 Mackenzie Gas Project Schedule

| Step One  | Step Two  | Step Three  | Step Four  |
|---|---|---|--|
| <ul style="list-style-type: none"> <li>•Preparation</li> <li>•2001-2003</li> <li>•Completed</li> <li>•Regulatory agencies develop a common understanding and approach to evaluate proposals to build a pipeline. The regulatory Cooperation Plan is developed.</li> </ul> | <ul style="list-style-type: none"> <li>•Preliminary Information Package (PIP) and Trigger Applications</li> <li>•2003</li> <li>•Completed</li> <li>•Regulatory agencies review the PIP and trigger applications</li> <li>•All agencies evaluate the proposed project and determine whether the potential exists for environmental impact or public concern. As a result, the project is referred to the Joint Review Panel for an environmental impact assessment.</li> </ul> | <ul style="list-style-type: none"> <li>•A Joint Review Panel Hearing and Coordinated Regulatory Panel Hearings</li> <li>•2004-2010</li> <li>•Major regulatory applications for most elements of the project are submitted by the proponents in October 2004.</li> <li>•Public hearings are held to listen to the views of residents about the possible impacts of the project.</li> <li>•The public has an opportunity to voice any concerns and to influence the project.</li> </ul> | <ul style="list-style-type: none"> <li>•Completion of the Regulatory Process</li> <li>•If regulatory approvals are given for the pipeline project, licenses and permits will be issued that outline the conditions to be met.</li> <li>•Project proponents will make a decision whether to proceed with construction.</li> </ul> |

(MGP5 2010)

#### *Governmental institutions*

Involved in this plan are various levels of government. The main cooperative initiative is the Joint Review Panel, which consists of 17 different agencies with jurisdiction in the Northwest Territories. Most of these agencies are named under The Mackenzie Valley Resource Management Act, which is enforced by the federal government (INAC2 2007).

#### *The Mackenzie Valley Resource Management Act*

*The MVRMA is a piece of federal legislation that creates an integrated co-management structure for public and private lands and waters throughout the Mackenzie Valley in the Northwest Territories (INAC2 2007).*

This Act establishes public boards to regulate the use of land and water, and to carry out environmental assessments and reviews of proposed projects in the Mackenzie Valley.

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A public board is defined as: *"a group of persons administering an organization established by law, in this case the MVRMA"* (INAC2 2007)

Under the MVRMA, several boards have been created:

- Mackenzie Valley Land and Water Board – Yellowknife
- Mackenzie Valley Environmental Impact Review Board - Yellowknife

Regional boards

- Gwich'in Land and Water Board - Inuvik
- Sahtu Land and Water Board - Fort Good Hope
- Gwich'in Land Use Planning Board - Inuvik
- Sahtu Land Use Planning Board - Fort Good Hope
- Wek'eezhii Land and Water Board - Wekweètì

These boards are responsible for regulating all uses of land and water in the Mackenzie Valley, preparing regional land-use plans to guide the development, and carrying out the environmental assessment and regulatory review process.

The Mackenzie Valley Environmental Impact review Board is responsible for the environmental impact assessment process throughout the Mackenzie Valley. The board also:

- conducts environmental assessments
- conducts environmental impact reviews
- maintains a public registry of all preliminary screenings conducted by Regulatory Authorities (RAs)
- makes recommendations to the Federal Minister of Indian Affairs and Northern Development for rejection or approval

The board has replaced the Canadian Environmental Assessment Act (CEAA) in the Mackenzie Valley, but the CEAA still applies in the Inuvialuit Settlement area (INAC2 2007).

*Indian and Northern Affairs Canada INAC*

*INAC is responsible for the administration, inspection and enforcement requirements associated with renewable, non-renewable and environmental legislation* (INAC2 2007). The

agency ensures compliance with regulations, legislation and the terms and conditions that are part of permits and licenses issued by the boards. Those permits and licenses are issued under Territorial Lands Regulations, Territorial Quarry Regulations, Canada Mining Regulations, and the Federal Real Property Regulations (INAC2 2007).

#### *Joint Review Panel*

The Joint Review Panel was established by the government to conduct public hearings on concerns regarding the environmental, social and economic implications from the project. It consists of a Panel and they were to produce the final report with its recommendations to the federal government who will, based on this report issue a certificate for the proposed project (JRP 2010).

#### *National Energy Board*

The National Energy Board (NEB) is an independent federal agency that regulates several aspects of Canada's energy industry. Its purpose is to promote safety and security, environmental protection, and economic efficiency in the Canadian public interest, within the mandate set by Parliament in the regulation of pipelines, energy development and trade. While the mandate of the Joint Review Panel has been to focus on the environmental, socio-economic, and cultural issues of the project, the NEB hearings considered all other issues including engineering, safety and economic matters. These hearings began on January 25, 2006 and concluded on December 14, 2006. The NEB will make a decision on whether the project is in the public interest, once it has received the JRP's report, and the response from the Government of Canada. Federal government departments are participants in both the JRP and NEB processes - making presentations and responding to questions during the hearings. The purpose of federal involvement in public hearings is to provide expert advice and information to assist the JRP and NEB panels in their examinations of the proposed development (INAC3 2008). The Joint Review Panel hearing is more thoroughly described in its own section, under project description.

We have now established an overview of the major stakeholders in the MGP and a short summary of the regulatory process they operate under. In addition we have given a short summary of the history of the project. Now we will describe what aspects of this project will form the main focus of our study. There are several aspects to consider, as the project is huge

in scope and size. This means we have to limit our focus, to be able to make our study of the Mackenzie Gas Project comprehensive.

#### **1.4 Problem Statement**

The process of reaching a problem statement has been extensive and in the beginning in constant change. There existed many different aspects and approaches we could take in this study. After gaining relevant information on the Mackenzie gas project, there were many questions to be answered. Should we study the project from the view of industry, aboriginal community or the government? We decided to incorporate the views from the main participants in order to provide a broader understanding of the project. We are conducting an inductive study of the Mackenzie gas project; the empirical evidence will provide us with the answers. Our main theme has been developed on the foundation of information on the project and what information is needed. We will focus on how the different involved parts of the project have cooperated, competed and how the regulatory system in Canada has created arenas for the involved parts to interact. We have chosen the main involved parts and classified them by the terms of stakeholder theory (Freeman 1984).

The study is narrowed based on the stakeholders we are taking into consideration. The stakeholders we are including are identified by who has the most control and influence on the project. Interviews with these stakeholders will guide us in finding lessons that can be learned for future projects involving an amount of stakeholders, each with a certain amount of power. The Mackenzie Gas Project affects a number of groups; the most crucial might be the local communities in the Northwest Territories. Residents depend on increased activity in their area, since living off the land and hunting like they used to, is no longer as attractive. They live in modern communities, and expect the same services and options available in bigger cities. They desperately need more job options, infrastructure, and development in their area. The Mackenzie Gas Project is probably their best option for quick and effective increase in activity. This might be one of the main reasons they came together in 2002, and decided to cooperate in the project by creating this plan (Cooperation Plan 2002). Just two years later, the application was filed.

The Aboriginal people have come a long way since the first proposal in the 1970s; they now seem ready and able to benefit from the project. A project like this in the North will contribute to increased possibilities for the people living there. It can contribute to increased wealth,



better living conditions, and increased development of infrastructure. That could also mean simplifying the process of transportation of food and goods from the South. This would likely reduce the cost of living in the North, which again, would have a positive effect on the communities. There are many who will gain from this project. Randy Ottenbreit with Imperial Oil sums it up this way:

*"We are of the view that the Mackenzie Gas Project provides an opportunity to benefit a lot of parties. The supply of gas will benefit the consumers throughout North America, the project provides an opportunity to get jobs for northerners, business or contracts for businesses, it provides revenue to governments, it provides additional reserves to companies such as ours. So we think it's a very attractive project."*

The Mackenzie gas project is not very different from the pipeline from Norman Wells, Northwest Territories, to Zama, Alberta. However, that pipeline was built in a matter of months (Zama City 2010). The Mackenzie pipeline was first proposed in the 1970s, and was stopped due to Justice Berger's inquiry (Wonders 2003). Justice Berger spoke to many people in the affected communities, and decided that they were not ready to benefit from the project. Now, as the project remains in limbo, businesses that were created to accommodate expected increases in activity, are barely surviving financially. Another aspect in this project is the huge number of stakeholders involved, and the many arenas in which they will meet in this project. It can be fruitful to study how these processes are conducted, to see the somewhat 'new business trend in the world', where you include environmental and social concerns into economics, in practice (Cramer, 2001).

Local communities are increasingly supposed to be involved in the decision process, and to gain from the development, through new job opportunities, development of local community and investments. In addition, companies are expected to review the impact their operations will have on the surrounding environment. They have to show how they will avoid or deal with these issues.

Another reason why we consider this study is the new opportunities opening up in the Arctic. They include extraction of oil and gas, new routes for transportation, and new fishing areas, all due to the ice decreasing. The Arctic is populated mainly by indigenous populations, living in small communities. Many of these groups are in need of development, and wish for development. The communities want to benefit financially from new development, but they also demand a certain level of responsibility from companies looking to conduct business in these areas. Many of the communities may never have been exposed to industrial

development before, so naturally, local and indigenous people have environmental concerns. It is likely the residents will only support a project, if the company can convince them that measures will be put in place to ensure minimal environmental impact. Therefore, we want to study a project like the Mackenzie Gas Project. This project is an example of the increased focus on, and activity in the North. Effective communication processes in the Northwest Territories, and cooperation between stakeholders, are probably very crucial for the future of the project. If these processes are not taken seriously, the project could be stopped especially considering that the indigenous population owns the rights to the land and its resources. Therefore we wish to study the MGP and identify central themes of stakeholder involvement and the stakeholders influence on the outcome of the project.

### **Problem statement**

*How the stakeholders have influenced the outcome of the Mackenzie gas project, an identification of central themes connected to stakeholder involvement.*

#### **1.4.1 Structure and outline**

Our research will focus on how the different features of the Mackenzie Gas Project (MGP) are combined and how it has functioned. We will look at the stakeholder interactions and how the legislation, applicable to this project, has affected the process. We will look at lessons learned during the MGP, which can be applied to similar projects. Similar projects can be identified as industrial projects in a fragile arctic area inhabited by local or indigenous populations. We have in mind the proposed oil and gas development in Lofoten and Vesteraalen in northern Norway (Johansen 2010). Hopefully our research can contribute to a better understanding of the many factors affecting such a process. Specifically, how stakeholders will engage in new projects in a world that is more aware of the environmental impacts from industrial development, and with more aware local populations that will demand benefits like jobs and infrastructure from the developments.

Our study is based on the case of the Mackenzie gas project, and will mainly apply directly to this project. The information we gather will be from interviews with industry, indigenous communities, the Aboriginal Pipeline Group, and the government of the Northwest Territories, as well as secondary data. The empirical data collected from these interviews will be the main base for the analysis. In the analytical section, we aim to discover factors and

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procedures that contributed to the slow progression of the project, and how this can be connected to stakeholder theory. Secondary data will be used to describe the project and set the framework. It will also be used to back up what we find as answers to our question. Even though our study can only be directly applied to the MGP, our goal will be to identify some lessons learned that can be helpful to similar projects.

## Chapter 2 Methodological Reflections

| Research Design   | Approach to Research   | Other Aspects   |
|---|--|---|
| <ul style="list-style-type: none"><li>- Exploratory</li><li>- Qualitative</li><li>- Case Study</li><li>- Narratives</li></ul> | <ul style="list-style-type: none"><li>- Interview Guide</li><li>- Secondary Data</li><li>- Quality of the Research</li></ul> | <ul style="list-style-type: none"><li>- Approach to Analyzing the Data</li><li>- Strengths and weaknesses</li><li>- Philosophical Positioning</li></ul> |

### 2 Methodological reflections

*"Research is to see what everybody else has seen, and to think what nobody else has thought"*  
– Albert Szent-Gyorgyi (1893-1986, Hungarian biochemist).

In this chapter we will outline the research methods for our study. We have divided the chapter in three main parts, as shown in the box above. We will use a case study approach for our methodology and a narrative approach to data collection and analysis. We argue that the stories told by our informants will give us an image of the project and its processes.

First we will describe how our study qualifies as an exploratory type of research and define how it is a qualitative way of describing a case. Then we will define why case study is suitable for this study and justify our narrative approach to the analysis. A narrative is a story, in a narrative approach the stories from respondents and empirical findings are used to understand the phenomenon explored (Marshall and Rossman 2006). When this is established an overview of the approach to the research will be given, here we address questions like how to collect data, what kind of interviews we will do and our 'Unit of Analysis'. Secondary data documents will be presented and a justification given as to why these documents are relevant for the study. Then we will explain how we aim to reach validity and reliability for this research based on how we choose and have chosen the design, respondents and data collection. When this is established we will give an overview of the procedure for analyzing the data collected. At last we will examine the strengths and weaknesses of the chosen design and clarify our philosophical positioning.

## **2.1 Research Design**

Our research design is intended to tie our empirical evidence to our problem statement, in order to reach a conclusion for our thesis. The design is our guide that leads the way from the research question, to our conclusion of the study: *"It is a logical model of proof that allows the researcher to draw inferences concerning causal relations among the variables under investigation"* (Yin 2009). Our research is qualified as exploratory and qualitative, which means we will explore a certain incident and focus on few but high-quality research findings. The Mackenzie Gas Project (MGP) will be our case for exploration and we will collect data from in-depth interviews with the key stakeholders involved in the project. We will allow our respondents to tell their story and identify from this, in regards to our theoretical framework, aspects of the MGP. Our research is inductive; the empirical findings are what drive our research and the outcome of our study will emerge from the empirical findings. Our study is not forcing, where we search for empirical findings to suite our theories, but rather analyzing and discussing the empirical findings as a narrative. The inductive analysis will aim at discovering patterns, themes, and categories in our data (Patton 2002). The theories presented in our thesis will work as a guide for understanding our empirical findings not as analytical frameworks like in deductive research (Marchall, Rossman 2006).

### **2.1.1 Exploratory Research**

This type of research is often done when a problem is difficult to clearly defined, and when reviewing the information regarding the MGP it becomes clear that this is the condition for our study. Exploratory is also used when there are few earlier studies on the subject. Studies that exist on the MGP are mainly focused on the environmental and economical implications of the pipeline in the Mackenzie Valley. Our research will focus on the interaction between stakeholders in the project, and this is why exploratory research is the appropriate method in our research (Marshall & Rossman 2006). Through exploratory research we have the ability to capture any aspect, theme or pattern related to our unit of analysis, when speaking to our respondents the relationship shaped by the project will appear. The forces shaping the MGP will become clearer to us through this study (Marshall & Rossman 2006).

### **2.1.2 Qualitative Methods**

There exist two main different ways of conducting research: qualitative and quantitative methods. Quantitative methods is identified by using sampling techniques whose findings

may be expressed numerically, and are amenable to mathematical manipulation enabling the researcher to estimate future events or quantities (Thagaard 2003). In our research, we will use qualitative methods. This is defined as: *"research that seeks to provide understanding of human experience, perceptions, motivations, intentions and behaviors based on description and observation and utilizing a naturalistic interpretative approach to a subject and its contextual setting"* (Silverman 2004:17). In order to answer our research question, we are dependent on the factors used to identify qualitative research highlighted in this definition. We need to identify the human experiences of the parties involved in the project, and what motivated them to act the way they did. The different behaviors of the parties are also relevant when identifying aspects of the MGP. A key characteristic of qualitative research is the ability to identify intangible factors (Mack, Woodson, Kathleen, Guest, Namey 2005). Examples of intangible factors are human perceptions and values. This data cannot be presented through numbers, but has to be interpreted in words. In the MGP, it is the human involvement and communication that is the essence of the process. This is why we argue that qualitative research is the best approach in order to find answers to the focus of our thesis. Within the sphere of qualitative research, there are several methods for collecting data. The one we defined as most appropriate is case study.

### **2.1.3 Case Study**

Case study has its origin in social science; it was the Chicago School and their work that initiated the use of and development of case study design (Tellis 1997). Case study has now moved from purely social studies, to organizational research. A case study is identified through *"collecting empirical data from multiple sources to explore and identify unit of analysis"* (Fitzgerald and Dopson, in Buchanan and Bryman 2009). The actual case to be studied in a case study is the unit of analysis, and the design of the case study provides the framework of the research design. It is the individual elements in each case that constitute a research method (Fitzgerald and Dopson, in Buchanan and Bryman 2009). We have identified our unit of analysis in the section regarding the approach to the research. When it comes to research design and data collection, we will use elements from case-study approach, but in addition we will incorporate a narrative method. This will be further explained in the data collection chapter. When conducting a case study, there are certain rules that define how we, as researchers, should act. We cannot try to become a part of the subject we are studying. This means we will have to remain neutral. Another characteristic of a case study is that we plan

and pre-organize the strategy and the approach to data collection. Our strategy should investigate *how* and *why* a certain phenomenon has taken place.

One of the strongest arguments for using a case-study approach in our thesis is the nature of the Mackenzie Gas Project. Both external and internal factors within the project are in constant change. A case-study approach can handle dynamics and *"still offer flexibility and scope in the research design"* (Fitzgerald and Dopson, in Buchanan and Bryman 2009). We know that the MGP is changing, and so are all the involved parties and the external environment. We, as researchers, have to encompass the ability to adapt to changes and new information that can affect our research.

This method is relevant to our study because our research question consist of the issues of how or why something has occurred. Yin describes the scope of a case study as: *"A Case study is an empirical inquiry that:*

- *Investigates a contemporary phenomenon in depth and within its real-life context, especially when*
- *The boundaries between phenomenon and context are not clearly evident.*

(Yin 2009)

When applying this to the Mackenzie Gas Project, we identify the phenomenon as the interactive processes that have taken place between the stakeholders in the MGP. The context is the environment this takes place in. Our thesis will be based on what Yin calls a holistic single-case and, we will explore this case through different perspectives from the same context. This is further explained when we identify the unit of analysis. Yin also states that *"All case studies should have clear designs produced before any data is collected, and these designs should cover: the main questions or propositions, the unit of analysis, links between data and propositions, and procedures for interpretation of data."* (Yin 2002:76). We argue that our research design and unit of analysis is specific enough to perform a case study, however our study is empirically driven in this sense the outcome of our research is not presumed. The fact that we only focus on some of the aspects of the MGP makes it clear to us that this is a case study; we have narrowed the case of MGP down to a unit of four groups of respondents. We search for the stories and spoken word of the participants of the project and the empirical findings will be the basis for our analysis and conclusion. However, this is a major project and we therefore have to explore it as a case study in addition. We will now

address the method of narrative analysis more thoroughly and describe how we will use this approach in our thesis.

#### **2.1.4 Narratives**

Using Narrative analysis has become increasingly accepted as a valuable measure for acquiring knowledge. *"Stories have recently moved centre stage in social thought. In anthropology, they are seen as the pathways to understanding culture. In psychology, they are the bases of identity; they provide the tropes for making sense of the past. In psychoanalysis, they provide 'narrative truths' for analysis."* (Plummer 1995:18) We believe this approach is appropriate to our study because we aim to understand the communication and interaction process between the stakeholders in the Mackenzie Gas Project. Understanding opinions, motivations and emotions is difficult without speaking to those you wish to acquire that understanding of. Fraser puts it this way *"Apart from encouraging a plurality of truths to become known, they provide ways to understand the interaction that occur among individuals, groups and societies"* (Fraser 2004)

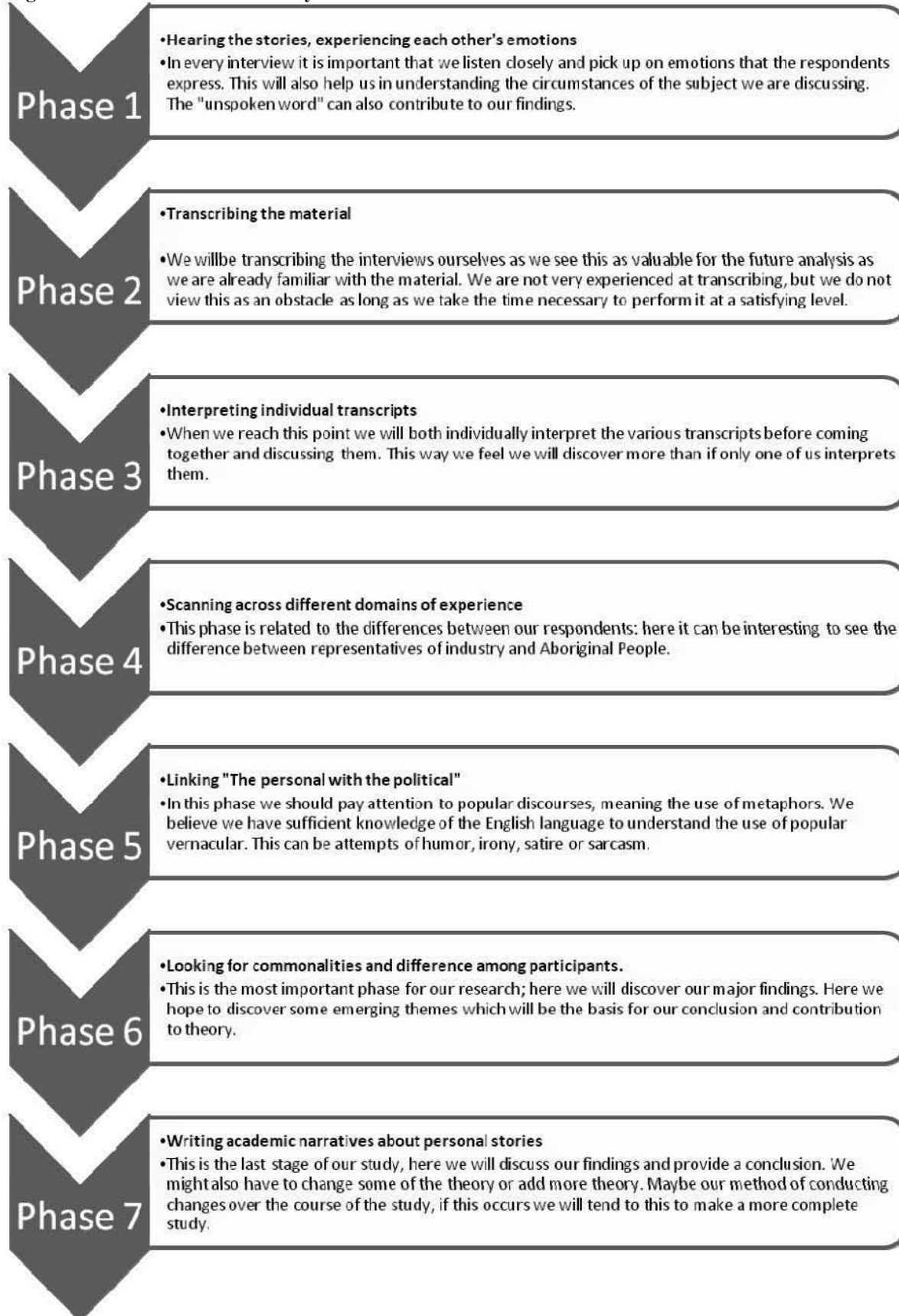
#### **2.1.5 Phases of line-by-line narrative analysis**

Fraser outlines different questions to consider in the different phases when conducting a narrative analysis of interviews. We have included a shortened version of this to illustrate how we aim to conduct the analysis. With each of Fraser's points we have described how we will incorporate this in our analysis:

Figure 2.1 Phases of Narrative Analysis



Figure 4 Phases of Narrative Analysis



(Fraser 2004)

Given our narrative approach, this will obviously impacted the entire research process, including data collection and analysis. As a sensitizing device, we have however identified some theories which we believe will be relevant for reviewing the project as a whole. Still, our thesis is empirically driven, which means that our previous knowledge will not have any bearing on the outcome and findings. Rather, our findings will emerge from our data. We will present all our findings in accordance with the aforementioned narrative approach, and for most of the findings we will draw on existing theory as we develop our theory. Still, because our overall approach is narrative, some of our findings will appear only as narrative accounts, and discussed on their own merit without any linking to existing theory (Fraser 2004).

## **2.2 Approach to Research**

Here we will outline our approach to collecting data. We will describe how to conduct our interviews, and identify our narrative approach to data collection. The narrative approach has defined the structure of our interviews and therefore we argue the importance of discussing this.

### **2.2.1 Unit of Analysis**

For exploratory cases it can be difficult to determine the specific case or unit of analysis (Yin, 1989). It is important that the selection offers the opportunity to maximize what can be learned, knowing that time is limited (Stake1995). It is the analysis we are conducting in our study that makes up our unit, therefore our unit of analysis is defined by the stakeholders we are including from the case of the MGP, they are identified in the theoretical part of our study. Those individuals make up the unit we are gaining information from and we are analyzing the opinions of these individuals. The actual participants will be presented further down in this section. We aim to understand the interaction between these stakeholders, *how* this interaction has been and *why* they interact this way.

### **2.2.2 Interviews**

We will be using unstructured in-depth interviews, and we will use topics as a general interview guide. This method will provide us with not only general information, but the informants' personal beliefs and opinions. This is very important for our thesis, because as stated, we are using a narrative and case-based approach to our problem statement. In Exploratory studies, like this one, the use of unstructured interviews will help us "*find out what is happening and to seek new insight*" (Sauders, Lewis and Thornhill 2007)

### **2.2.3 Data Collection**

In narrative analysis, we as researcher will study a particular case. We will collect data that describes an event from different sides, and identify meaning or knowledge from the data. Narrative research is a different way of acquiring knowledge, but it's also viewed as an alternative way of conceptualizing human nature. By this, we mean that social and cultural aspects of one's personality are much more dynamic than many theories allow (Elbaz-Luwisch 1997). Personal storytelling is now acknowledged as a valid research method (Fraser 2004). It is important that we get the perspectives of all stakeholder groups. We will obtain this through their personal stories. We will use narrative method for data collecting and interview guides, in addition narrative analysis will affect our interview guide in order to get the accurate information. In order to obtain personal stories from the interviewees, it's important that the interview is correctly structured.

We already know that we will use a qualitative method in our research. This means that the data will mainly be collected through interviews with people involved in the project. We will use a Narrative approach when collecting data and pay attention to important factors when collecting case study data, this way we hope to obtain more information from the respondents. Important factors when collecting case study data.

- Not only ask good questions, but be able to interpret the answers.
- Be a good "listener" and not be trapped by my own ideologies and preconceptions.
- We need to be unbiased by preconceived notions.

(Wenning 2002)

These are important points to be aware of when we perform case study interviews; we will try our best to fulfill these requirements while performing the interviews. We believe that by doing this we will acquire more correct information and a bigger scope of aspects from our unit of analysis.

The important factors when collecting data for a Narrative analysis is that we have an unstructured interview where the respondent is allowed to tell their story. Minister provides this practical guide for Narrative interviewing:

- Prepare for the interviews by studying the socio-historical contexts of participants' lives;
- Respond to different communication styles;

- Avoid 'mining' interviewees for information or 'cross-examining' them;
- Demonstrate sensitivity to the time frames of participants as well as our own;
- Facilitate a climate of trust;
- Allow participants to ask questions of their own, as well as how we might respond to any questions they raise;
- Reveal our own investment in the research;
- Share some of the interpretations we make; and,
- Appreciate the politics involved with making knowledge.

(Minister 1991)

We will do our best to consider these issues presented by Minister. We believe it is crucial to perform interviews where the respondents are able to tell their whole story, when this is successfully conducted the findings from these stories will speak for themselves. These findings are then the basis to recognize answers to our problem statement.

### **2.3 Interview Guide**

We have developed an interview guide for our data collection, see appendix 1. The interview guide has been developed from the current information we have in regards to the MGP. We will perform unstructured interviews in order to obtain personal perceptions and stories from our informants. Our theory outline works as sensitizing concepts in this process, the theories are guiding us in approaching empirical instances (Bowen 2006).

In the introduction part of every meeting we will present ourselves and what our project is about. We will also have some questions regarding each informant's background, and how they are connected to the project. By doing this, we will create a relation with the informant and they will understand why we are interviewing them. We will also use our introduction to present the consent form and the informant will agree in writing that we can use the information they have provided us in our thesis. They can also consent to being anonymous, if they wish their name or company not to appear in our thesis. We would also take this opportunity to ask if the informant approves of us recording the interview.

During the actual interview, we will ask broad questions regarding the Mackenzie Gas Project. By doing this, the informants can point out what they think are the most important aspects, and how this affected the project. Since we are using a narrative approach in the

interviews, it's important that the informants themselves can clarify their own perceptions and opinions.

There will also be some questions that can be difficult for the informants to answer; this might be because of sensitivity or their position in a company or organization. The project is touching on many sensitive questions in regards to industry, government and indigenous communities. We will ask question that might not be answered, and the informants can decide not to answer. If they choose not to answer, this is an indication of related issues. This observation can be a part of our thesis, and we can discuss in this study why they may have been reluctant to answer these questions. We will end the interview when the time is running out or we have gathered the information needed.

### **2.3.1 Our Interview Objects**

The method we used when finding the right informants is the snowball effect. This means that we contact one person who might know a person who could be interesting for our research, and then he leads us to people with knowledge on the project which we would not find on our own, due to lack of network in this area (Easterby-Smith et. Al. 2008). We started off with a breakfast meeting with Richard Dixon, who is one of our coordinators here in Canada. He introduced us to John Todd, who would later prove to be an important resource for us when finding informants for our thesis. He moved from Scotland to Canada thirty years ago and has been in the Canadian North ever since. He knows a number of the people involved in the project, both on industry side, and in the aboriginal communities. By using the snowball effect, we have been granted access to important people who would be difficult to establish contact with on our own. We were privileged enough to get the opportunity to travel to the arctic area of the North and interact with the local community and see the magnificent nature in this area of Canada. Through John Todd, we met prominent people involved in the project. One issue we kept in mind when using the snowball effect was that the election of informants could be biased and one-sided. We argue that the informants we have used represent different stakeholders with different perceptions of the project, and this provides our thesis with depth and accurate information.

#### *Industry*

We have interviewed Randy Ottenbreit, who represents Imperial Oil Canada, where he has been working for thirty-five years. He is a chemical engineer, but after earning his business

MBA, he was elected to various management positions in the company. Through his management positions, he has been working with health and safety and regulatory matters. He has been involved in the MGP 2000, and is still involved. He has been working on both the regulatory process and the Joint Review Panel. This makes him highly valuable for our studies, as his experience with the project provides us with the insight we need. We have also conducted a second interview with a member of the industry sector, but this informant asked to remain anonymous, so we will refer to him only as a proponent of the project.

#### *Aboriginal community*

We have interviewed Richard Nerysoo, who is the president of the Gwich'in Tribal Council. He was the lead negotiator for the Gwich'in in the access and benefits negotiations, and was one of the pipeline proponents. He has a wealth of experience with the MGP and its processes. His story was from the Aboriginal perspective on the MGP. We were grateful for his time and insight, especially because he is a prominent representative of the people from the North.

#### *Government of Northwest Territories*

In Yellowknife, we were fortunate to get an interview with The Honorable Premier Floyd K. Roland, who is responsible for Aboriginal Affairs, and Minister of the NWT Power Cooperation. We also interviewed the Honorable Minister Bob McLeod, who is Minister of Industry, Tourism and Investment. They are members of the Legislative Assembly of the Northwest Territories and are working on the Mackenzie Gas Project. Accordingly, they have great insight in the regulatory processes and aboriginal affairs.

#### *Aboriginal Pipeline Group*

We interviewed Bob Reid and Odi Hansen, who are representatives from the APG. Bob Reid is the president of the APG and has previous experience from the TransCanada pipeline. He has been involved with many aspects of the Mackenzie Gas Project, especially on the industry side. Odi Hansen was, and is, involved in the National Energy Board regulatory process, so he could provide insight on this procedure.

*The Joint Review Panel*

We had the intention of interviewing members or representatives of the Joint Review Panel since we early detected a major focus on this panel when researching the project. We requested an interview; initially they seemed positive to answer questions. They requested the questions in advance (Appendix 2); however after forwarding them they withdrew as participants in our study and referred to information available on their website. At the time we had the dialogue with the representatives of the Joint Review Panel, we had already conducted several other interviews and gave concrete questions to the Joint Review Panel related to the information other responders gave in their interviews. They refused to let us interview them, something we find useful to include in our major findings.

## **2.4 Secondary data**

In the case of MGP, which has been a work-in-progress for many years, there are many documents available for review. We will use these sources to document which procedures have taken place in relation to the MGP, and to describe the project. This qualifies as Documentary Secondary Data (Saunders et.al. 2007). This type of secondary data is written material and non-written material. Written material includes reports, websites and organizations' databases, such as personnel or production (Saunders et.al. 2007). These are some of the most important resources for this thesis, aside from the interviews. There are advantages and disadvantages with using secondary data; however we will only use data we perceive as valid and reliable. One advantages of using secondary data is that it provides a lot of information without the time-consuming and expensive process of data collection. Secondary data is also considered unobtrusive; the data was collected without consideration of our topic. This makes it more likely to be honest and accurate, because it was provided in a neutral manner. The reports we will review also provide supportive or comparative data to our own. Secondary data is also easily available for others, and it can be viewed repeatedly (Saunders et.al. 2007).

A disadvantage of using secondary data is that the data might have been collected for a purpose that does not match our focus. However, the secondary data we will review is highly connected to the MGP. The reports and other sources for review will mainly describe the processes in the project. Another concern is that the data might be presented in a particular

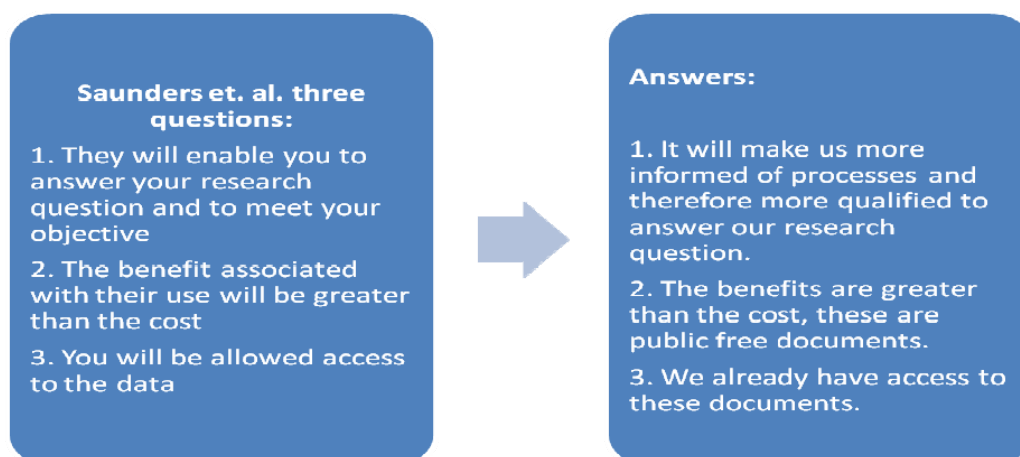
way, leaving out aspects that might matter to our objective, due to its original purpose of study. The main secondary documents we will use for this study are presented below.

#### **2.4.1 The main secondary documents**

Resources we will use include the Joint Review Panel (JRP) Report. It provides recommendations that need to be implemented for the project to proceed. This document also gives insights to how the process within the JRP was carried out (JRP2 2009). The report by Neil McCrank, "Road to Improvement", is also a good resource for the thesis (McCrank 2008). This report reviews the regulatory processes of the Canadian North, it provides insight to how the process currently works, and it points out important aspects for improvement. This report will be used for describing the regulatory process, and to reproduce what McCrank gave as recommendations. He offers a professional opinion of how to upgrade the regulatory process of the NWT. His opinion will be valid in the section of our analysis where we examine the regulatory process. We will also use organizational databases for describing the members of the Joint Review Panel, and to obtain other relevant information regarding the entities included in the thesis and the project in general.

#### *Evaluation of these resources*

**Figure 5 Evaluation of Resources**



(Saunders et.al. 2007:263)



## 2.5 Quality of the research

We have now established that for this study it will be suitable to use case study and a narrative approach. In this section we will target how to reach a good quality of our study. One important aspect of qualitative research is its ability to add to the quality of the study. Yin has outlined four concerns to focus on in relation to quality in research. These should be applied to case studies:

- *Construct validity: establishing correct operational measures for the concept being studied.*
- *Internal validity: establishing a causal relationship, whereby certain conditions are shown to lead to other conditions.*
- *External validity: establishing the domain to which a study's findings can be generalized.*
- *Reliability: demonstrating that the operations of the study such as data collection procedures can be repeated, with the same results.*

Since our superior method is qualitative research, these points qualify as guidelines when justifying our research design, data collection and choice of informants. If we look at the first point, it revolves around creating operational measures. Yin argues that one should use internal validity as a criterion for quality. Fitzgerald and Dopson state that this raises issues. Yin says to use *"pattern matching, explanation building, addressing rival explanations and using logic models"* Fitzgerald and Dopson argue that in organizational case studies *"the probability of relationships may be established and replace the standards of proof of causal relationships applied to quantitative data"* (Fitzgerald and Dopson, in Buchanan and Bryman 2009). By this, they suggest that alternative ways of approaching internal validity in case studies can be used. Many have argued that the difficulty in generalizing from case studies is a major inadequacy. This means that the methods used for researching one organization might not be suitable for another organization (Yin, 2002). It can be complicated to connect the findings from one case study to another; this is because all organizations or projects are different and consist of different players. This means that our research on the MGP is mainly typical for this project. However, we will argue that some findings and elements can be compared to other projects, and the themes identified can be the reality for many similar projects with a high level of stakeholder involvement. The issue of reliability is explained by Yin as the research being repeatable with the same results (Yin, 2002). We will further discuss this issue in the chapter regarding reliability of our research as a whole.

Another aspect of a Case study and narratives is the way we analyze the data that we have collected. Fitzgerald and Dopson argue that one should use triangulation through archival data to verify the information collected in interviews. As already stated we will use narrative in-depth interviews and secondary data. The secondary data consist of published articles and public regulatory processes. These additional readings will support our findings from the interviews. Another concept that gets mentioned in regards to case studies is that the data needs to be multifactorial; by this we mean that the data has to be *"resulting from multiple factors interacting together"* (Fitzgerald and Dopson, in Buchanan and Bryman 2009). We believe our methodological outline is sufficient to fulfill this requirement since we have searched through the secondary documents available and performed interviews with the participants.

### **2.5.2 Construct validity**

Often in case studies the researcher fails in developing a sufficient operational set of measures. We will divide the question of validity in two different groups: internal and external validity. During the process, we as researchers will make assumptions about the problem. This can be a weaknesses regarding internal validity. If we imagine a given situation that can't be directly observed, there exists the possibility of using assumptions or previous results in describing the development of the situation. This is what's known as internal validity, which questions the researcher's ability to keep an objective view throughout the project. This is something we need to be aware of. When working on projects like the Mackenzie Gas Project, one gets dragged into the game of the projects and we get to know the players. It would be wrong to say that we will not take sides, but what we can truly state is that we will not let it affect our study and the way we analyze our findings. This is an objective study of processes involved in the Mackenzie Gas Project.

According to Yin, we need to be aware that this study cannot be used as a general assumption on stakeholder dialogue in similar situations. We can use it as an example, or a 'lesson learned', but not as a general idea (Yin 2009).

### **2.5.3 Reliability**

Reliability revolves around the topic of consistency. This means that the techniques we have used have produced consistent findings. The concept of reliability has traditionally been used in quantitative research. Stenbacka argues that the concept is misleading in qualitative

research (Golafshani 2003). However, Easterby-Smith presents the following three questions that can work as a tool for examination of the reliability of the research:

1. *Will the measures yield the same results on other occasions?*
2. *Will similar observations be reached by other observers?*
3. *Is there transparency in how sense was made from raw data?*

(Easterby-Smith 2002:53)

The first question is concerned with the concept of whether the repeating of the research lead to the same result or findings. This is an important factor in every research project. How can we state that the information we have gathered is valid and true? This is an issue all researchers meet at some point. To construct a theory, the most important part is the validity of the data, and there must underlie sufficient evidence that support our statements.

How can we know for sure that the answers we get are the respondent's actual beliefs and views? A person working for an oil and gas company, as an example will probably give answers that are loyal to the company's values, and not his or her own perception of the issues. The person might also try to present a glorified picture of the company's methods. These are data validity issues that will occur, and it's crucial to identify and highlight this in our research.

If a researcher comes in after us, and performs the same study, will the result be the same? Regarding this issue, it's important to perform every step of the process carefully, and imagine that someone is always looking over our shoulder (Yin 2009). We need to perform our research as if someone was to follow our "recipe" at some other time, and end up with the same results. This is also important for data collection. We need to be careful in the analysis process to be sure that our analysis is as objective as possible (Yin 2009). This is very difficult when it comes to case studies, because organizations and projects are in constant change and the result of a similar study might be different. Using a narrative approach will assist in establishing reliability because when using this method we can only establish finding based on the information provided by our respondents, therefore a study performed by another researcher will depend on whether or not the respondents have changed their opinion since the time we interviewed them.

Another important question when it comes to liability can be: is the data we have collected answering our problem statement? We need to focus on this issue when performing the interviews. The questions need to be well-prepared.

## **2.6 Ethical aspects**

Ethics is founded on principles, rules, and guidelines to determine whether an action is right or wrong. In the past, scientists have stated that research is so important that it does not have to comply with ethics. The fact is that any activity that might affect other people comes with an ethical responsibility. Ethics is important when the researcher is in direct contact with people, like we are in our data collection. There will always be ethical aspects in research that need to be reviewed. According to this specific research, there are several ethical questions that need to be taken into account. One issue is the protection of research subjects and informants. Here we have to secure the dignity of participants. Another aspect we might have to take into account is that some participants might want to stay anonymous. This could be due to some of their statements, or their background. Informant from oil and gas businesses might want to stay anonymous in regards to statements about their companies. They might fear they are compromising their own careers, or their companies' reputations. It's important to respect these issues as a scientist; that can also lead to greater access to data. The downside of keeping the informants anonymous is that the reliability of the research might be compromised. No one can go back and state that your information is true (Yin 2002). To prevent ethical issues, it is important that our role as observer stays objective during the entire process. If we become biased, the validity of our research will earn a weak liability, making the research worthless.

There might also appear to be a conflict of interest among the stakeholders. They might feel that we will produce a negative image of them during our research, and it's important that we clarify our objective position. One important issue regarding ethical aspects of our study is not to stigmatize the indigenous people in our research. Stigmatization of Indigenous people is a well-known problem all over the world. 50.5% of the inhabitants of the Northwest Territory are indigenous people. (HRSDC 2010)

## **2.7 Approach to analyzing the Data**

As previously stated, we will use a narrative approach when analyzing data and we will use Fraser's definition of phases to guide us. *"The analysis should be done by comparing and contrasting the content, style and tone of respective speakers"* (Fraser 2004:192). This is important in our study, because our informants come from different backgrounds and represents different companies or organizations.

We have selected some questions from Fraser's Article as most important when analyzing the transcripts from the interviews:

- *What are the emergent themes or patterns across the transcripts?*
- *How are common patterns and plots unveiled?*

(Fraser 2004)

We have also developed some questions of our own for analyzing the data:

- Do the informants present the same aspects differently?
- Do the informants have different perceptions of what the central themes were?

For our research, it's also important that we present findings that are inconsistent, counter-intuitive, surprising or anomalous (Fraser 2004). We are aware that we might encounter this when analyzing the data. This is because our informants will have different backgrounds and perceptions of the project. So, we will use a Narrative approach both for collecting data and when analyzing our empirical material.

### **2.7.1 Coding**

The overall process of analyzing the data will mainly be done by coding the transcripts so that we comprehend what information they give us. It is described as breaking down, conceptualizing and categorization of data (Buchanan and Bryman 2009). In the first stage of coding, we look at the transcript and recognize "key statements" that will tell us something about the MGP. In this stage, we can end up with a huge number of codes. We will then use these codes and narrow them down to identify "patterns" and "themes" that give us insight in the question we want to answer (Fraser 2004). We will use coding as a tool when analyzing the data collected from the interviews, but we will be careful not to get locked in pre-decided codes, and ignore statements which do not fall under these. We have to acknowledge that new information can be obtained throughout the analysis process, and we will accommodate to include new findings. It's also important that the codes don't keep us from realizing our own impression and how we connect our findings to theory. When using codes in the analysis, the codes require two aspects: the codes need to have an internal aspect. By this we mean that they have to be meaningful for the data. They also need to have an external factor, and by this we mean that the codes have to be meaningful to each other. (Sauders, Lewis and Thornhill 2007)

## **2.8 Strengths and weaknesses with the chosen design**

Many people believe the case study is simply observing a situation and telling it like it is. Yin states that; *"the demands of a case study on your intellect, ego and emotions are far greater than those of any other research method"* (Yin 2002:22). It is important when performing a case study, that we are aware of the method's strengths and weaknesses, and reflect on this prior to the data collection and analysis.

### *Qualitative data*

The amount of information is huge, and the process of analyzing data can be extremely time-consuming. The data mainly consists of personal opinions and statements, and it can be very hard to categorize them into groups. We will use the method of coding interview transcripts, and identify findings using Fraser's phases (Fraser 2004). This will make it easier to extract the meaningful data that will provide us with the answers to our problem statement.

### *Case study*

The first issue regarding a case study is the documentation of information. Some of the strengths in our method are stability and precision, but only if the informants are allowing names and references. This way the information can be traced back to the object, and is therefore valid. If the researcher has been granted access to non public information, it will be hard for others to trace or find valid sources on the facts. The fact that we might not get access to all the information is a weakness of our study (Yin 2009). In regards to our research, we have selected representatives from what we argue are the main stakeholder groups, who will influence the project's outcome. These are stakeholders that will be affected by the outcome of the project. From each identified stakeholder group we have selected people who have been involved, and we obtain knowledge on the processes that have shaped the MGP.

### *Interviewing process*

One of the most prominent strengths in Narrative research is the ability to compare multiple stories about a single issue or event (Greenhalgh, Russel, Swinglerhurst 2005). This creates different perspectives on one phenomenon, and provides us with a broader understanding of the issues. Weaknesses are that we do not know the motivation of our participants. We cannot be sure that they are providing us with valid information. It is important that we are aware of this issue. Performing a good interview can be a major benefit to research. The potential to collect the correct data from the correct people is valuable. One of the downsides of

interviews is that the interviewer might influence a response from the subject. The researcher will have to interpret the response. To avoid biases the researcher can leave the question open. One of the biggest strengths of in-depth interviews is the level of explanations of statements. If there are aspects the researcher is unclear about, the possibility exists to ask follow up questions. These questions are vital for obtaining the right data, and it is crucial that the object understands the question. Another weakness can be the object's response to questions, if he or she is simply saying what they think the researcher wants to hear. In regards to these issues, it is vital that the questions are well prepared (Yin 2009).

### *Physical artifacts*

We as researchers need to have good knowledge on the project we are gathering information on, and be aware of physical limitations and technical challenges. By this, we mean that knowledge and preparation are vital when executing our case study with a narrative approach. Not only knowledge on the geographic scale, but also on cultural and historic features of the environment, and the theoretical background of performing reliable research.

## **2.9 Philosophical positioning**

*"Labels in philosophy and cultural discourse have the character that Derrida ascribes to Plato's pharmakon: they can poison and kill, and they can remedy and cure. We need them to help identify a style, a temperament, a set of common concerns and emphases, or a vision that has determinate shape. But we must also be wary of the ways they can blind us or can reify what is fluid and changing."* (Bernstein 1986)

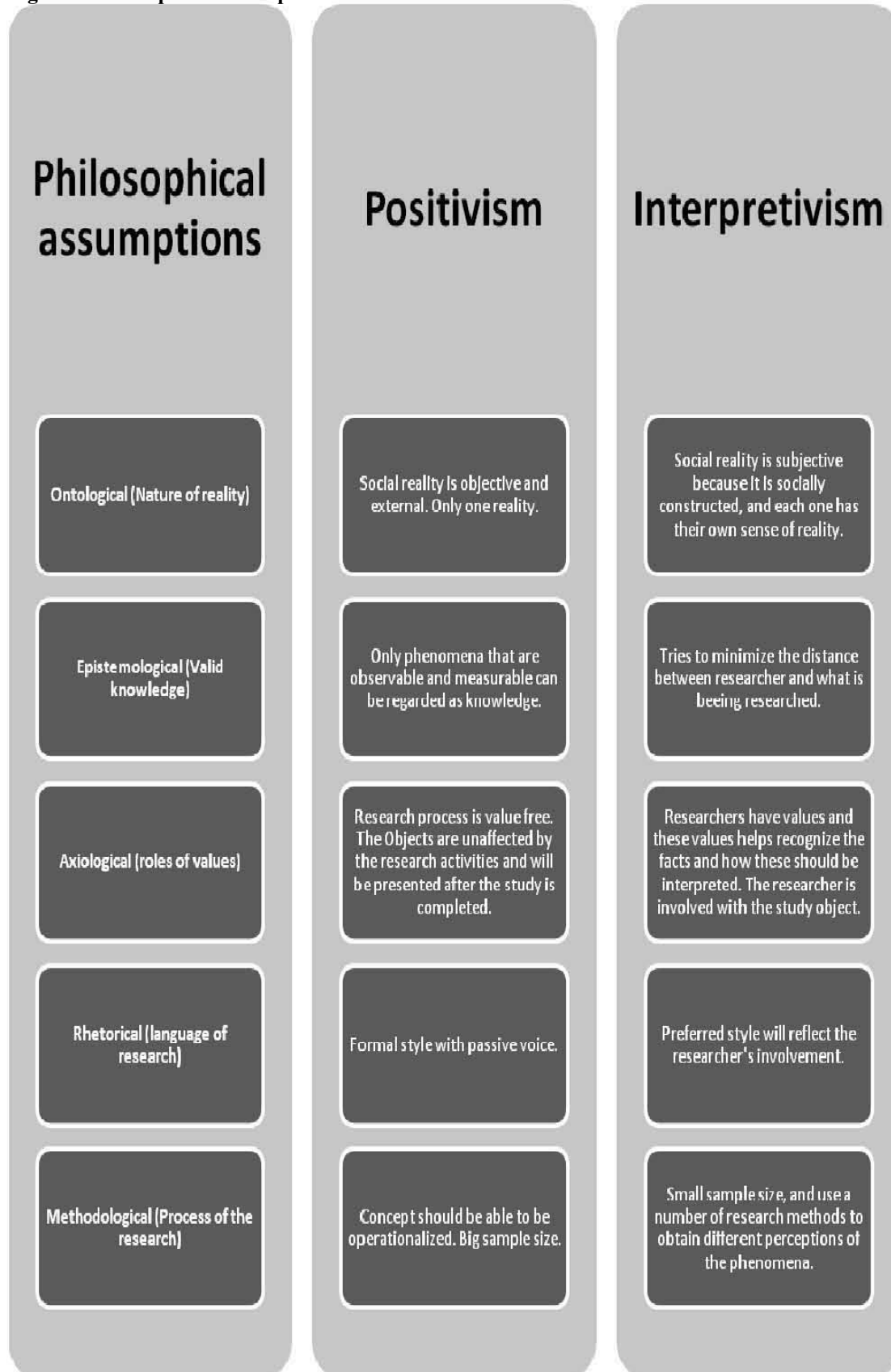
The philosophical positioning is important to determine for a thesis to be clear on how we as researchers see the world while conducting the research. Within our philosophical positioning lays an argument on how we can make conclusions based on our findings. In the methodological section, we have identified how we will gather data and who we will contact. This method of qualitative research suggests that we will not use statistics and other factual data to prove our findings, and to make them more reliable. The main informants for our thesis are our four main stakeholders, and the analysis will be made on the basis of this data. With this in mind, we can engage in a discussion on where we are positioned philosophically for this thesis.

### **2.9.1 Paradigm**

There exist two main research paradigms, Positivist and Interpretivism. The view of positivists is the assumption of the social reality. It is singular and objective, and cannot be affected by the investigation of it. In criticism of positivist view, the term interpretivism came to life. This view revolves around the fact that social reality is in our minds, and is subjective and multiple. This means that the social reality can be affected by the investigation. Today, scientists don't adapt to one of the main research paradigms, they seek new ones. These new paradigms are distinguished through different philosophical assumptions. We can imagine Positivist and Interpretivism as counter points on a continuous line of paradigms (Saunders et. Al. 2007). In our research we aim to conclude with findings based on interviews with the various stakeholders, therefore this thesis will be closer to interpretivism than positivism.



Figure 6 Philosophical assumptions



## 2.9.2 From Interpretivism to Social constructivism

We have established that our research cannot be identified within the paradigm of positivism. This is due to what we base our conclusions on. However, interpretivism is not the only other option to consider. Therefore, we wish to define more specific which world view suites our research. Interpretivism and social constructivism are two different paradigms that can be viewed under the umbrella of qualitative inquiry; however they take different perspectives for understanding human behavior. Here, we wish to briefly present the two paradigms, and then explain which one is most suitable for this research. Interpretivist point of view states that to understand an action you have to grasp the meanings that constitute the action. What does this action mean in its context? For example, raising an arm can be an indication that the person wishes to speak or hail a taxi. You have to understand the intent of the actor through his or her beliefs, values, background and thoughts, to determine what the action means. If you are able to get "inside the actor's mind", you can understand the action. This can be argued to be difficult to do in a satisfactory way; you have to do this by observing and conversing with the actor (Denzin and Lincoln 2003). We are not in a position to observe the actors in action because many of the actions have already taken place. This can make it difficult to place our thesis within this paradigm. Social constructionism argues that knowledge is active, not passive. This means that we use the knowledge we have, and develop it to form abstractions or concepts. The same knowledge can have different implications for different people. Due to this, the further argument is that humans do not only acquire knowledge, but construct it as well. Therefore, knowledge is socially constructed. We use our experiences to construct models and theories to explain our experiences. This is a continuous process that changes when we encounter new experiences. These constructions are done on a basis of shared concepts in the world, such as understandings, practices, cultures and languages. All knowledge and updates of knowledge take place within a framework of how we understand the world. Potter defines social constructionism as "*... how utterances work is a matter of understanding social practices and analyzing the rhetorical strategies in play in particular kinds of discourse*" (Denzin and Lincoln 2003:306). A social constructionist aims to find what people experience as the reality of their situation; all knowledge is socially and therefore culturally constructed (Easterby-Smith et. Al, 2008). This relates to what we aim to do in our research. We seek to find what our respondents have experienced, and what their opinions are on the process of communication. We view this as being the best approach when gathering information in this case. Qualitative inquiry is rooted in trying to understand what other

*"Pipe Dream"* – A study of the Mackenzie Gas Project

people are doing or saying and why they act the way they do. This can be captured under different paradigms, however we have reached the conclusion that social constructivism is the most appropriate and accurate paradigm for our thesis, and how we wish to go about gaining this information.

## Chapter 3 Theoretical Approach

|  |  |  |
|--|--|--|
| <b>Stakeholder Theory</b><br>- Primary and Secondary<br>- Difficulties | <b>Circulation Economics</b><br>- Communicative arena<br>- Circulation vs Mainstream Economics | <b>Framework for Regulatory System</b><br>-Summary |
|--|--|--|

### 3 Theoretical approach

In this section, we will present the relevant theories for our study which we will use as sensitizing concepts when conducting the analysis of our findings. It is the empirical evidence that will shape our thesis; this means that the theory will serve as guidance when discussing our findings. We have earlier reviewed the stakeholders we will include; now we will outline the theoretical framework for analyzing the interaction between these stakeholders. In order for the empirical evidence to be discussed we have decided to use three main theories and McCrank's outline of regulatory system, to incorporate when discussing the major findings (McCrank 2008).

- Stakeholder theory
- Communicative arena
- Ecological versus Neo-classical economics
- Neil McCranks report on regulatory systems

When describing the theory we will argue why it's applicable when discussing the factors that may have affected the project, both the participants and the external context. We are viewing the theoretical framework as a guide for analysis, while the empirical evidence will decide how the theories will be used. Our theoretical part can be defined as sensitizing concepts; the purpose of the theory is to be used as a starting point for our study and as a foundation for our analysis (Bowen 2006)

*"A definitive concept refers precisely to what is common to a class of objects, by the aid of a clear definition in terms of attributes or fixed benchmarks. . . . A sensitizing concept lacks*

*such specification of attributes or benchmarks and consequently it does not enable the user to move directly to the instance and its relevant content. Instead, it gives the user a general sense of reference and guidance in approaching empirical instances. Whereas definitive concepts provide prescriptions of what to see, sensitizing concepts merely suggest directions along which to look.*" (Bulmer 1954:7) With the use of theory for our thesis defined we now present the main theories and why they are significant to our research.

### **3.1 Stakeholder Theory**

The original view of a business core goal was to increase return on investment. By this, we mean that the manager's responsibility was towards their shareholders. This theory is still the main incentive on the business environment, but the means of increasing the return on investment is changing. We now experience a trend of sustainable thinking through corporate social responsibility, where business not only uses economic value as incentives, but incorporates the environment and social perspective in their corporation. One of the theories supporting this new trend is stakeholder theory (Sternberg 1997). There exist several definitions of the term stakeholder. The word "stakeholder" was first presented in management literature in 1963 (Sternberg 1997). In this period the term was meant to recognize the fact that management's only responsibility was to the stockholders. But the concept was later defined as: *"those groups without whose support the organization would cease to exist"* (Freeman 1984).

The term stakeholder as a part of a corporate strategy emerged in the 1980's through R. Edward Freeman's book: *Strategic Management; a stakeholder approach* (Freeman 1984). The book was a result of what Freeman stated was a lack of conceptual framework for businesses in the 1980's. Mostly regarding the major changes they could observe in the global business environment. The Theory was aimed for business managers and should teach them how to adapt to the change of environment and see possibilities instead of obstacles (Freeman 1984). From this book we adapted to the definition from Freeman where he states: *"A stakeholder in an organization is (by definition) any group or individual who can affect or is affected by the achievement of the organizations objectives"* (Freeman 1984).

In stakeholder theory, there exist many approaches toward stakeholders. The instrumental approach is concerned with the impact stakeholders might have in terms of corporate effectiveness. This might be a key issue in regards to the MGP. We would like to present stakeholder theory and how this can lead to a positive development for an organization, but also how it can create too many decision makers. We will outline how the power relation between stakeholders is important when reviewing the communication and decision process. We will also illustrate how we have identified the stakeholders included in our case.

### *Stakeholder identification*

Using Freeman's definition, all four groups in our unit of analysis qualifies as stakeholders (Freeman 1984). The Aboriginal people can through their ownership of the land affect the project and they will be affected because they live in the area of construction. The industry or proponents heavily affects the project as they are conducting the actual project and participating in all communication and regulatory processes. The Aboriginal Pipeline Group is part of the proponent group and will be a one-third owner of the project. The government owns rights to most of the land and in addition industry needs to work out agreements with them in order to get a green light for construction. This is how we identify our stakeholders, we will now use Freeman's model to define the impact they will have on the project.

### **Impact from stakeholders according to Freeman**

P1: There are groups identifiable as stakeholders.

P2: These groups have interests.

P3: The interests have been protected by legislation.

P4: Entities with recognized interest have rights.

P5: Rights-holders have legitimate claims and obligations.

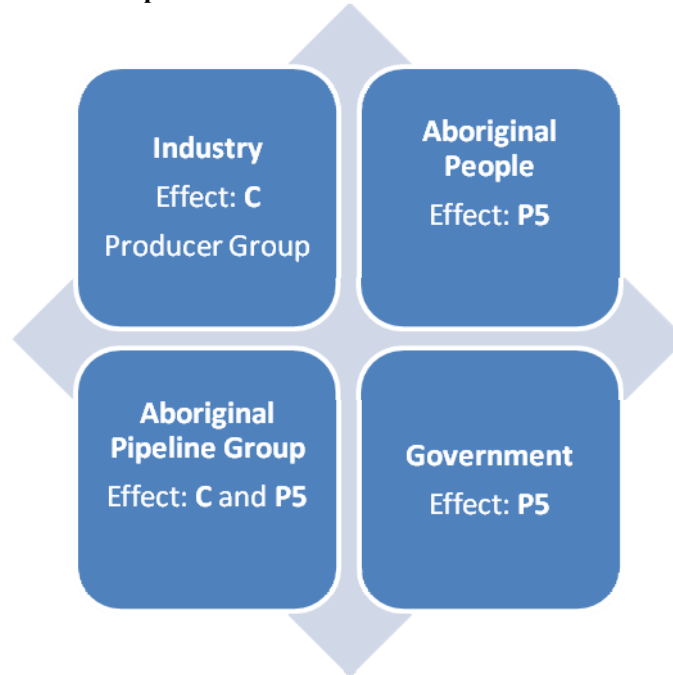
C: Business has duties to stakeholders.

After Freeman had described these factors, he incorporates another principle where he acknowledges Rawls's theories: *"to the effect that inequalities are acceptable only in so far as they benefit a representative member of the least well-off stakeholder."* This gives us:

P6: Rights holders are entitled to a degree of equality which results in maximum fairness to all right holders.

(Gibson 2000)

Figure 7 Freeman's factors of impact from stakeholders



With this model we can see how the various stakeholders we have identified affect or is affected by the process.

### 3.1.1 Primary and Secondary Stakeholders

We can also distinguish between primary and secondary stakeholders. A primary stakeholder is defined by Gibson as “those stakeholders who have a formal, official, or contractual relationship” with the company or Industry (Gibson 2000:1). A secondary stakeholder is anyone who doesn’t fit this definition. This definition argues that our selected stakeholders are what we will define as primary stakeholder. This is why we think it’s important that we look at them and their role in regards to the MGP. We argue that by using a stakeholder approach to analyzing the empirical findings we can identify how the different stakeholders have influenced the processes in the Mackenzie gas project.

There exists several approaches to stakeholder theory; the one we will focus on is the instrumental approach which focuses on how the stakeholders can affect the corporate effectiveness of a business. In order to understand the Instrumental approach to stakeholder theory we need to outline instrumental theory, Freeman outlines it as: “*Instrumental theory, like any good narrative, depends on criteria such as usefulness, simplicity, and clarity in distinguishing ‘good’ from ‘bad’ theory*” (Freeman 1999:213). Some might also say that an instrumental approach revolves around the fact that it’s not the goal itself that is important,

but how we get there. As Gibson stated when outlining the instrumental approach to stakeholder theory, the concern is towards the corporate effectiveness (Gibson 2000). We will now describe this approach further, in order to understand how this can emerge. In this theory, the view we would have towards stakeholders is that they are a *"part of the environment that must be managed in order to assure revenues, profits, and ultimately, returns to shareholders."* (Berman et. Al. 1999:1). *"To maximize shareholder value over an uncertain time frame, managers ought to pay attention to key stakeholder relationships"* is another way of defining it (Berman et. Al. 1999:1). These definitions give us an image of stakeholders as external forces that can jeopardize the business reaching its goals. If we view this in accordance with the Mackenzie gas project we argue that the main stakeholders have the ability and legal right to decide the outcome of the project. We have outlined this through the previous mentioned model by Freeman regarding the impact of stakeholders (Gibson 2000)

### **3.1.2 Difficulties**

In this section we will outline the main difficulties when using stakeholder theory and how these difficulties can be tied to the Mackenzie gas project. In a Normative form, stakeholder theory relies on deontology. By deontology we mean the worth of an action determined by its conformity to binding rules rather than by its consequences. It can also be described as the branch of ethics dealing with duty, moral obligation, and moral commitment (Stephen 2003). This way deontology can be the moral raised for why we act a certain way. Gibson describes difficulties in deontology and stakeholder theory through three claims: *"1. Business have positive duties to stakeholders based on stakeholder interests. 2. Stakeholder groups are distinct from individuals. 3. Duties are owed to stakeholders equally."* (Gibson 2000:249)

We will now view these assumptions and explain how they are important for our thesis and the Mackenzie Gas Project. The first assumptions describe how the stakeholders should be respected by the business. Even though the stakeholder's claims are not supported by legislation, they might still push through their demands. However, does the business have to comply with these demands from the stakeholders? When relating this to the Mackenzie Gas Project, we see that the primary stakeholders have sufficient power to make their demands and put the project on the line. So, in this case the industry has to comply with both the government, and the aboriginal communities. The second assumption revolves around stakeholders as individuals as part of a larger group. This is the case in the Mackenzie Gas



Project where the individuals are represented by elected politicians or aboriginal tribes. These groups are each responsible for engaging people in their groups to find what is important to them in regards to the project. The third assumption is more difficult to acknowledge in this matter. The aboriginal community can be entitled to more than other communities in the area. This is because they are land owners in areas of the Mackenzie Delta. This opposes the theory of Freeman who states that the stakeholder theory does not give primacy to one stakeholder group over another (Gibson 2000). We see that through these assumptions, there are some areas that can be easily connected to stakeholder theory, but there also exist some sides of the project that do not comply with the theory. As previously stated, by viewing the issues from a stakeholder perspective, we can create an understanding of how stakeholder groups interact, compete and cooperate. We also argue that this theory will help us analyzing our major findings.

We also need to touch on the fact that stakeholder theory has been criticized and exemplified through Elaine Sternberg's article *"the defects of stakeholder theory"*. She states that: *"Far from being a source of improvements, however, stakeholder theory is fundamentally misguided, incapable of providing better corporate governance, business performance or business conduct"* (Sternberg 1997:3). We will now outline some of her main arguments and how they affect our use of stakeholder theory. One of the arguments revolves around the term 'balancing stakeholder benefits', and how this is not an objective that is compatible for business. If we use Freeman's definition of stakeholder, the number of affected parties is unlimited. Sternberg claims that *"for a balance to be struck, their numbers must somehow be limited"* (Sternberg 1997:4). She also states that stakeholder theory does not provide any framework for calculating which benefits serve which stakeholders' needs. If conflict between the stakeholders or even within one stakeholder group occurs, the theory does not suggest how these conflicts should be resolved. These are all valid points, and we need to have this in mind while using stakeholder theory for analyzing the stakeholder involvement in the Mackenzie Gas Project. If we connect stakeholder theory to corporate governance, Sternberg states that it's incompatible. She explains this through accountability, and how the directors of a company are accountable to the shareholders. She claims that stakeholder theory is inimical to this concept. She explains this through the principal agent problem and how regular relationships and hierarchies in the company will change through stakeholder management (Sternberg 1997). The company's responsibilities to stakeholders are those bound by law. We will have Sternberg's arguments in mind when reviewing findings from the MGP

The stakeholders of the Mackenzie Gas Project have come together in numerous ways throughout this project. When stakeholders come together on common ground, this can be defined as communicative arena. Before we get to the theory of communicative arena we will review the more famous theory of communicative action by Jurgen Habermas (Habermas 1984). We believe the theory on communicative arena can be applicable for the processes of the Joint Review Panel, therefore we wish to outline its applications in the section below.

### **3.2 Communicative action**

*“Communicative action serves to transmit and renew cultural knowledge, in a process of achieving mutual understandings. It then coordinates action towards social integration and solidarity. Finally, communicative action is the process through which people form their identities”* (Habermas, 1987:140)

Communicative action was developed years before communicative arena; therefore it is valuable to briefly review this theory before proceeding to communicative arena. The theory of communicative action is developed by Jurgen Habermas, a German philosophical sociologist. It's a theory that challenges the Marxist economical thinking. Habermas argues that the key to liberation is found in language and communication between people. He explains that by exchanging opinions and participation in good arguments, people can learn from each other and come up with better solutions. When two or more individuals interact and agree on how to deal with a particular situation after determining a common understanding of the situation, Habermas defines it as communicative action. Habermas states that this is different than forms of action such as pure goal-oriented actions found in Marxist economic behaviour. It is different because it takes all forms of communication and language into consideration. Languages here are used to express opinions, facts, truth and values, in order for the involved parties to reach a common understanding of the situation. (Habermas 1984: 86-95)

We can see how this theory applies to the MGP through the hearing process that was conducted in order to get an overview of all the stakeholders' points of view. This way, the different participants were supposed to gain a greater understanding of each other. This could also provide an overview of the different challenges and best solutions in the process.

However, we are not able to identify whether the communication itself was sufficient and efficient. Rather, we want to analyze the surrounding environment for this communication, and the facilitation of the process. This brings us to communicative arena, which is similar to communicative action. Communicative arena is a more up-to-date and relevant theory to use in this thesis. Communicative action is the theory on actual conversations, while communicative arena facilitates and set standards for these kinds of arenas. We will outline this in the following section.

### **3.3 Communicative arena**

Jakobsen and Ingebrigtsen argue that *"By establishing integrated networks of communicative arena, it is possible to coordinate interests for the various actors in the economic sector, while at the same time taking into consideration values linked to ecology (nature) and society (culture)."* (Jakobsen & Ingebrigtsen, 2007:249)

In the 'communicative arena', it is important that the different participants or stakeholders get their chance to speak their minds. Solutions found by these arenas should be based on all information and values provided by these stakeholders (Jakobsen & Ingebrigtsen, 2007). In our case, the main stakeholders are industry, government, the Aboriginal Pipeline Group and the Aboriginal communities. These four groups are just a fraction of those who can call themselves stakeholders in the MGP, but as previously identified they are those included in our study. The communicative arena aims to bring together economic, environmental and social aspects in the decision-making for a project. It is especially designed to take all matters of a project into consideration, not just the economical competitive and profitable perspective of a common competitive market economy. Communicative arena is established by Jakobsen and Ingebrigtsen and is an important function in their theory on circulation economics (Jakobsen & Ingebrigtsen, 2007).

In our study we can use the theory of communicative arena as an example of what needs to be established mentally and physically for a communicative arena to function properly. Finding out whether the needed functions of a communicative arena have been present in the communication process in the MGP can help us determine whether there can be lessons learned from the processes. Questions on whether this theory works in practice can also be something we need to address. We can establish this through connecting our empirical findings to the criteria's of communicative arena.

Circulation economics is based on the three perspectives of economy, environment and social factors which were created to enhance the possibility of sustainable development in the

market economy. Jakobsen and Ingebrigtsen argue that by viewing these perspectives all at the same time, the probability of a more sustainable development increases (Jakobsen & Ingebrigtsen, 2007). The MGP definitely involves all of these perspectives. When looking at communication and interaction between stakeholders in this project, we view the theory of communicative arena to be valuable to determine how this process was conducted.

Jakobsen and Ingebrigtsen state that 'the communicative arena' is also supposed to solve conflicts where economic profitability targets conflict with ecological and societal values (Jakobsen & Ingebrigtsen, 2007:252). These kinds of conflicts appear when a decision is made based on the economical perspective of the project solely, ignoring potential environmental and social benefits and challenges. We know there are large economic values to harvest in the area of the MGP, but is there satisfying ongoing communication and interaction between the stakeholders? There might be issues of societal or environmental character that have not been properly assessed, either because tending to the issue will remove an option for profit, because the cost of responsibly examining the issue is too high. Whatever we may or may not find in the fields of communication and interaction between the producer group and the indigenous population, this theory will help us define the quality and level of satisfaction of the processes. However, this theory is only a tool and can be used as an argument in our identification of central themes.

Communicative arena is based on the following requirements:

- All individuals and organizations (or representatives from them) who can be affected, should be allowed to participate
- Everyone is given the possibility to ask questions about any statement
- Everyone at any time has the possibility to introduce their own proposals
- Everyone has the opportunity to express their own attitudes, wishes and needs
- Nobody must be hindered, either by internal or external forces, to make use of the above mentioned rights
- Everyone is willing to adapt to the decisions being made

(Jakobsen and Ingebrigtsen, 2007: 255)

These guidelines will help us identify whether the communication within the MGP is in accordance with these criteria, which are considered to enhance sustainable development.

There have been several communication processes in the MGP. Both the hearings with the Joint Review Panel (JRP), and the access and benefit negotiations were arenas for

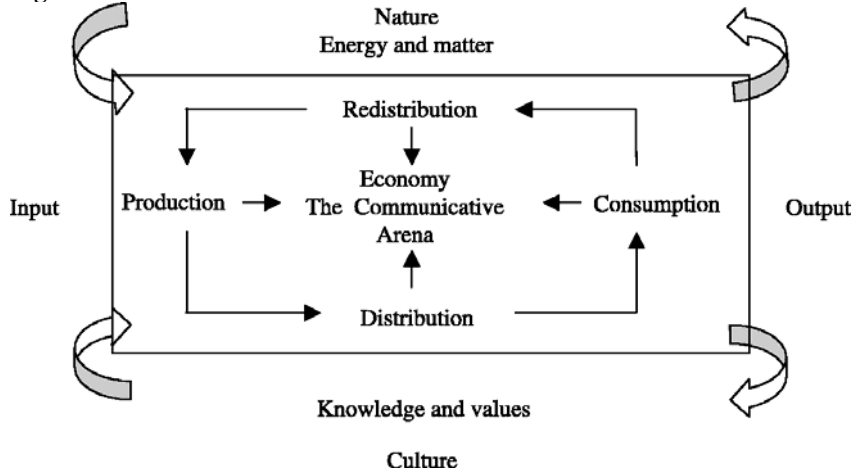
communication. The access and benefit negotiations are confidential, and therefore not available for comparing to the theory of communicative arena. The hearing process, however, is public, and the transcripts of what was said and what went on are available. When conducting interviews with the four main stakeholders, we will address this process and asked for their points of view on it. On the basis of this, we can identify such arenas and analyze them according to this theory. As abovementioned communicative arena is a part of the theory of circulations economics, we will now review this theory as a whole before we compare this theory to mainstream economics.

### **3.4 Circulations Economics**

We will use communicative arena from the theory on circulation economics to describe the hearing process of the JRP, in addition we will compare circulation economics to mainstream economy because we view this as applicable to the process of Access and Benefit negotiations performed in the project. We will first present the main aspects of circulation economics and mainstream economics before we compare the two economic theories.

The main aspect of Circulation Economics is the inclusion of environment and society into the economic thinking. In this theory those three features have equal power and importance when dealing with any issue within business. Jakobsen and Ingebrigtsen argue that *"Based on mounting evidence that human activities on the planet 'have now become of so large scale that they are beginning to affect the ecological life-support system itself' (Constanze et al. 1997:4), we are convinced that changes, both in economics and in economic practice, are required"* (Jakobsen & Ingebrigtsen 2007:1) The philosophy of this theory is based on the opinion that the world need to change its perspectives from an economic view that does not involve much else than profit to a more holistic worldview where the business entities recognize that they are a part of the community, nature and environment they operate in. This relatively new economic theory is suggested as a model for promoting sustainable development (Jakobsen & Ingebrigtsen, 2007).

Figure 8 Circulation Economics



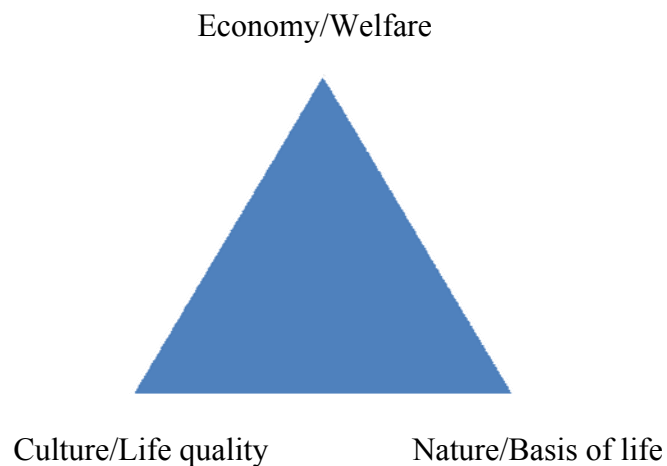
(Jakobsen & Ingebrigtsen, 2006)

The term circulation economic involves expanding this mainstream economics in these aspects;

- Implementing circular value chain
- Integrating economic, cultural and environmental values
- Incorporating a communicative arena for cooperative interaction
- Introducing an organic world view

(jakobsen & Ingebrigtsen, 2006)

Figure 9 Value Triangle



(Jakobsen & Ingebrigtsen 2007)

The theory of circulation economics is an effort to steer away from the widely known and used mainstream or neo-classical economics. This form of economics has been used for years and is concerned with supply, demand, pricing and profit

### **3.4.1 Mainstream Economics**

Mainstream economy is a widely used term. It is most closely related to neoclassical economics. It focuses on the determination of prices, output and income distribution, in a supply-and-demand controlled market. The Neoclassical economy views the business sector on its own; it does not view their affect on the surrounding environment (nature and people) as an important aspect. Other than creating jobs and supplying the demand for a type of good, their view of affecting the world is quite narrow. The focus of neoclassical economics is profit and the maximization of profit (Arnsperger and Varoufakis 2006).

### **3.4.2 Mainstream vs. Circulation Economics**

We have already presented the central concepts of circulation and mainstream economics. We will now compare the two theories and how this applies to two of our main stakeholder groups.

#### *Weak sustainability versus Strong sustainability*

Firstly we will briefly discuss the different levels of sustainability related to these two economic theories. The difference between these two levels of sustainability describes the core difference between mainstream economy and ecological economy. Weak sustainability is only concerned with the overall stock of capital assets. It argues that if one source declines another increase, this is sufficient for the process to be viewed as sustainable. An example is the view that pollution can be compensated for with economic growth. This argues that money can substitute for natural resources. This view is rooted in the mainstream economy and is still the way many businesses operate today. Strong sustainability argues that environmental and social capital is not always possible to substitute. In this level of sustainability, man-made capital and nature capital have to be viewed separately, because they are complements to each other, not substitutes. If one is practising circulation economy, sufficient attention is paid to environment and society. This means strong sustainability is the present aspect of this economic paradigm (Jakobsen og Ingebrigtsen,2007). It seems like the Aboriginals in the Mackenzie River Delta argue for this way of practising sustainability. They

might not call it strong sustainability, but the fact that they will not engage in economic activities without securing the nature and including the surrounding society shows that they stand by this definition of sustainability.

We will outline more concrete differences based on these four principles.

- Linearity versus circularity
- Mechanical versus organic world view
- Competition versus cooperation
- Value monism versus value pluralism

(Jakobsen og Ingebrigtsen,2007).

#### *Linear and Circular*

Circulation economics incorporates a circular way of using resources. The outcome of an economic process is not only viewed as waste, but as new input to the process. This is called redistribution, an easy example is paper. Paper is often put back into the process when recycled and is made into new products. Mainstream economics does not incorporate the concept of redistribution. A circular production line reuse waste as input in another process or the same process and utilize low entropy materials to the greatest possible extent. This way, the material increases its entropy more slowly, and with better utilization than in a linear production line. This might not directly relate to the situation in the Mackenzie Gas Project, but it highlights an important difference between the two theories.

#### *Organic and Mechanic world view*

Mainstream economy lacks a holistic view on the world, leaving it unable to incorporate the thoughts and concepts of sustainability. The neoclassical mainstream economy views itself separated from the rest of the world, and therefore relates to a mechanical world view. The ecological economy, in comparison, takes this holistic world view or organic world view, and therefore incorporates both nature and culture into the economy as equal parts. This seems to be important to the Aboriginal people of the Mackenzie delta. We argue that the trend for industry is still to only fulfil legal requirements in the case of social and environmental responsibilities.



*Value monism and value pluralism*

In mainstream economy, economics is seen as the most important aspect, while in circulation economics, the three aspects: economy, culture and nature, are seen as equal. The main difference is how circulation economic views all of these aspects as one, while mainstream economic ignores two aspects of the world. Members of industry involved in the project seem to ignore nature and culture to some extent. In this sense, they differ from the aboriginals.

*Competition versus cooperation*

The mainstream view on the global economy is based on growth through competition, while ecological economics focuses on cooperation. In the article "Circulation economics –a turn towards sustainability" Jacobsen and Ingebrigtsen state that; *"the tendency to single out profits as the only value in economics must be replaced by multidimensional perspective in which economic, natural and cultural values are harmonized"* (Jakobsen and Ingebrigtsen 2007:585). Cooperation is a necessary tool to harmonize these features. For cooperation to be a strong force in the market we need a more open flow of information. The Aboriginals have been including their community and giving them information throughout the project. They wish to cooperate with all those who have knowledge. In this sense, they are promoting cooperation.

It seems like the theory on circulation economics allies to the way the Aboriginal people conduct business in the Northwest Territories. They see the importance of including the whole community in a decision-making process, and they feel strongly about treating the environment and nature in a respectful manner. They have lived off this land for centuries. The spiritual links they have to nature and people are very important in their culture, and they have great respect for their history (Wonders 2003). Because they come from such a culturally different environment than the industrial stakeholders, and since they are advocating this kind of economic thinking from a historic point of view, they could be somewhat described as 'industry's' polar point'. Aboriginals represent one of the newest theories on economics facing the world of mainstream economic thoughts. An example is their approach to the access and benefit negotiations.

We will use this comparison of two very different economic models and apply them to our findings regarding the access and benefit negotiations. Through the interviews with the two

main participants of these negotiations, the Aboriginals and industry, we will try to detect whether they are advocating one of these models for business conduction or not. We will use this theory to analyze findings from the interviews with the representatives of the Gwich'in Tribal Council and Imperial Oil.

### 3.5 Framework for regulatory system

The regulatory system in the Northwest Territories is, as previous explained, complex. Therefore a report was written by Neil McCrank, where he evaluates the regulatory system (McCrank 2008). We will use McCrank's model for the regulatory system as a guide for analyzing the regulatory regime and its implication for the project. He created this model in order to make recommendations to improve the current system. The model consists of 11 objectives to be implemented in order, to improve the current system.

| Objectives of Model system      | Current system |
|---------------------------------|----------------|
| 1. Understandable               | X              |
| 2. Neutral                      | ?              |
| 3. Clear Mandate                | ?              |
| 4. Open and Transparent Process | √              |
| 5. Fair process                 | √              |
| 6. Timelines                    | ?              |
| 7. Consistent and predictable   | ?              |
| 8. Accountable                  | ?              |
| 9. Capacity                     | X              |
| 10. Coordinated                 | ?              |
| 11. Establish Rules             | ?              |

√ Objectives met in the current regulatory system

? Objectives not met in the current regulatory system

X Objectives that cannot be met in the current regulatory system

(McCrank 2008)

We will use this model when we evaluate and discuss the regulatory system of the Northwest Territories and how this system has affected the Mackenzie Gas Project. In response to this

cluster of regulatory processes, the Minister of Indian Affairs and Northern Development engaged Neil McCrank to review this process and give recommendations as to how the process could be more comprehensive and efficient. One of the suppressing issues he was concerned with was the complexity of the regulatory process, and its effect on investment in the North. We will now give a summary of McCrank's conclusions and recommendations, to point out where he believes improvement can be made to the regulatory process of the North. McCrank has outlined eleven important objectives for any regulatory system:

*1. Understandable*

The regulatory system must be clear and understood by all participants:

- a) The regulatory bodies
- b) The proponents of development
- c) Interested interveners, and
- d) The public at large

*2. Neutral*

The regulatory bodies must remain neutral with respect to development. They should be ambivalent as to whether or not development occurs, but if it occurs, their role is to ensure that it is orderly development in the public interest.

*3. Clear Mandate*

The regulatory bodies must have a clear mandate from their originating documents (i.e. – legislation, regulations, and other policy direction from government) and must operate within the parameters of that mandate.

*4. Open and Transparent Process*

The regulatory bodies must have a process that is open and transparent.

*5. Fair Process*

The regulatory bodies must have a process that is fair and respects the rules of natural justice.

*6. Timelines*

The regulatory bodies must make decisions in a timely manner.

*7. Consistent and Predictable*

The regulatory bodies must make decisions that are consistent and predictable when presented with identical facts. This does not mean that the decisions or approaches cannot be changed, but rather any change in direction should be clearly identified as such for future information to all parties.

*8. Accountable*

Regulatory bodies need to be accountable for their decision making processes. This means being accountable to their originating documents which are derived from government. Governance principles apply between the regulatory body and the government, while honoring the principles of quasi-judicial independence. These governance principles require established lines of authority, responsibility and accountability.

*9. Capacity*

Regulatory bodies must have the capacity to fulfill their roles. Capacity means having adequate funding to ensure a certain level of education and training for the regulatory body to perform its duties. This must embrace the concept of proper orientation, continuing education and upgrading of skills.

*10. Coordinated*

Regulatory bodies must coordinate their actions, collectively, to avoid duplication and to ensure timely processes.

*11. Establish Rules*

The regulatory bodies must set clear and consistent rules for regulated parties, and ensure that these rules are enforced.

(McCrank, 2008:5-6)

McCrank argues that objectives 4 and 5 are met by the current system. He supports this based on his interviews, which all seemed supportive of the individuals, and the time and energy they devoted to these two objectives. Objectives not met are: 2, 3, 7, 8, 10 and 11. McCrank states that they are not met consistently enough to be described as objectives-met. However,

these objectives can be addressed in the current framework. Objective 1 and 9 cannot be met within the current system. Those are: 1. Understandable and 9. Capacity.

With this many objectives not met, we can conclude that under McCranks definition of a well-established regulatory framework, the regulatory process of the NWT does not qualify as successful. The reason for highlighting this in our thesis is due to the uniqueness of the regulatory process, and the fact that this process is one of the most important contributors to the Mackenzie Gas Project. It affects the regulatory hearings, the environmental assessment hearings and the access and benefit negotiations. To some extent these processes are the outcome of having this type of regulatory system. We will use this framework as a guide when analyzing possible findings regarding the regulatory process in the MGP (McCrank 2008).

### **3.6 Summary**

We have now established the main theories used in this thesis. We have explained how these will function as guides in our data analysis to better understand our findings, however our study is mainly empirically driven and it is the findings that are most important for our analysis. Stakeholder theory is a valid theory for our study due to the fact that all our respondents qualify as stakeholders, and the interaction and extent to which the different parties are involved can be viewed through this theory. Communicative arena is applicable to our study because it can help explain the aspects of the Joint Review Panel process, and the findings in regards to it. Circulation economics and mainstream economics are both relevant because they can help explain the differences between the two parts involved in the access and benefit negotiations: Imperial oil and the aboriginal groups. The framework on regulatory systems laid out by Neil McCrank, who has reviewed the system of the Northwest Territories (NWT), is appropriate for our study, when looking at the regulatory system as a whole. It can guide us in identifying themes related to the current regulatory system managing the NWT.

# Chapter 4 Project Description

| Main Stakeholders   | The Joint Review Panel  | The Regulatory System in the Northwest Territories |
|---|---|--|
| <ul style="list-style-type: none"><li>- Proponents</li><li>- The Aboriginal Pipeline Group</li><li>-The Aboriginal Communities</li><li>- Government</li></ul> | <ul style="list-style-type: none"><li>- Panel Members</li><li>- JRP Report</li><li>-JRP Report Conclusion</li><li>-The Cooperation Plan</li></ul> |  |

## 4 Project Description

The Mackenzie Gas Project (MGP) is a 16 billion dollar oil and gas project which includes a vast amount of stakeholders. We will now describe the Project and the factors of the processes involved which are important for answering our problem statement. The information below is provided in order to create an image of the processes involved in the MGP.

### 4.1 Main Stakeholders

#### *Industry*

The producer group consists of several oil and gas companies. We have decided to interview Imperial Oil Canada, because they are the biggest shareholder in the project. Imperial Oil Resources Ventures Limited holds a 100% interest in, and operates the Taglu natural gas field. Imperial is also the operator for the gathering system and the Mackenzie Valley Pipeline. The company is one of Canada's largest corporations. They are leading in Canada in producing crude oil and natural gas. (MGP6 2010)

Imperial Oil Canada has outlined key principals for working with aboriginal communities. *"The new principles will focus our efforts in the areas of consultation, workforce development, business development and community relations. In support of these principles, we"* (Imperial Oil 2010)

## *"Pipe Dream" – A study of the Mackenzie Gas Project*

- *established a network of employees to encourage the sharing of best practices in Aboriginal relations across the company*
- *focused on educational initiatives for Aboriginal students through the Northern Alberta Institute of Technology in Edmonton, the Iniskim Centre at Mount Royal College in Calgary, the Six Nations Polytechnic in Oshweken, Ontario, and the Aboriginal Skills and Employment Partnership in the Northwest Territories*
- *invested about \$685,000 in community, education and training programs that support Aboriginal students across Canada*
- *participated in business development workshops in Alberta, British Columbia and the Northwest Territories. The workshops helped local and Aboriginal businesses understand project-related business opportunities, prequalification requirements and contracting processes*
- *spent about \$105 million in procurement contracts to Aboriginal businesses*

(Imperial Oil 2010)

Imperial Oil states in their report that in the future, the company will continue to consult with regional aboriginal groups and northern communities on the Mackenzie Gas Project. Other future goals while working with Aboriginals include developing action-based performance measures for consultation, workforce development, business development and community relations. The report also mentions a goal of drive consistency, and applying best practices through the establishment of an Aboriginal relations network.

### *The Aboriginal Pipeline Group*

The Aboriginal Pipeline Group (APG) was created in 2000 following meetings in Fort Liard and Fort Simpson. Thirty Aboriginal leaders from all regions of the Northwest Territories signed the resolution that created the APG and set its goals. The APG represents the interests of Aboriginal people in the Northwest Territories in maximizing the ownership and benefits in a Mackenzie Valley natural gas pipeline. (APG 2010)

### *The aboriginal communities*

We have decided to interview a representative from the Gwich'in Tribal Council. They are a tribe who has settled their land claim agreement with the federal government and have completed their access and benefit negotiations with Imperial Oil. This makes the Gwich'in a

good representative for our study. They can outline to us how they have experienced the processes.

#### *Government*

We will interview politicians representing the Northwest Territories, they have been more involved than the federal government. The government of Northwest Territories have also initiated several of the hearing processes involved in the Mackenzie Gas Project. Therefore we argue that they will provide us with insight to the regulatory system in place in the Territory.

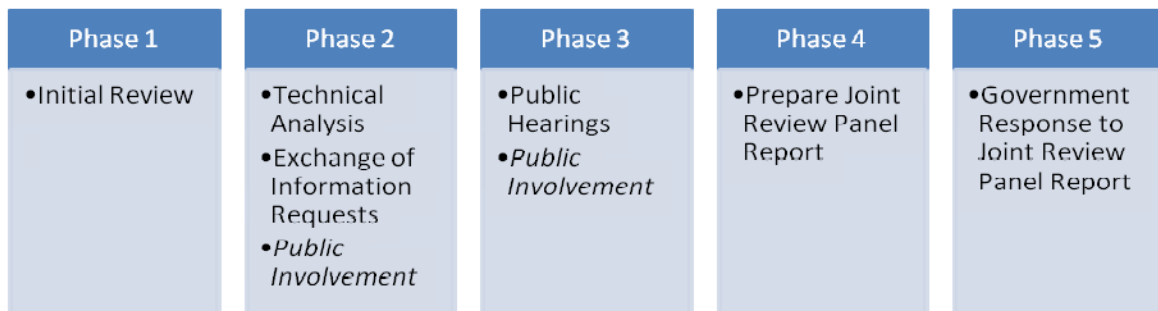
### **4.2 The Joint Review Panel**

The Joint Review Panel (JRP) was established in August of 2004 as a review board in regards to the Mackenzie Gas Project. It was created to review the environmental impact of the project, including the social, environmental and cultural impacts the project might have. The JRP also included traditional knowledge in understanding the various impacts the project might have on the holistic environment of the North. Traditional knowledge is information locals possess in regards to the environment. This would help the panel to include all aspects of the project, and to not overlook any issues. The JRP is committed to review all issues brought up by northerners, and in general all Canadians. The Joint Review Panel was established by several jurisdictions in the North, including the Mackenzie Valley Environmental Impact Review Board, the Inuvialuit Game Council and the Minister of the Environment (JRP3 2010). In all, 17 bodies made up the board. Its purpose was to review the environmental impact of the Mackenzie Gas Project (JRP 2010).

The process of the JRP was divided into five phases. The first phase is referred to as a general review, the second a technical analysis, the third public hearings, the fourth is preparing the report and the final fifth phase is the government's response to their report.



Figure 10 Joint Review Panel process



(JRP3 2010)

### The panel members

The panel members' knowledge and experience were supposed to secure a rigorous review of all concerns of the northerners (JRP4 2010). In regards to the interviews carried out for this thesis, the members of the panel have, to some extent, been evaluated by some of our interviewees. Therefore, we wish to present the members of the board in this section.

**Robert Hornal, Chair** – Stated on the website of the JRP about Mr. Hornal: *“He brings to the firm forty years of experience in resource management, environmental and socio-economic assessment, land claim administration, land use planning, government and regulatory affairs.”* (JRP4 2010)

Hornal has a degree in Geology from Queen's University and did his post-graduation studies in geophysics at Harvard University. After this, he worked as a technical officer and research scientist with Domino Observatory of the Department of Energy, Mines and Resources for seven years. In 1970 he started his engagement in the Northwest Territories, first functioning as the resident geologist for the Department of Indian Affairs and Northern Development in Yellowknife. Then, he became Assistant Director for the Northern Affairs Program, responsible for oil and mineral exploration and development. Finally, he was appointed director for the NWT Northern Affairs Program, tasked with managing the resources of the area. When he was engaged by the NWT, the pipeline from Norman Wells to Alberta was

constructed. He participated actively in the change of regulatory systems in the North, he traveled to several areas of the NWT and met and discussed with local councils. Hornal chaired numerous committees and liaised extensively with federal, territorial and local politicians and other government representatives.

In 1981 Mr. Hornal was appointed British Columbia Administrator of the Northern Pipeline Agency. Here he coordinated socio-economic and environmental planning with all levels and departments of government, as well as the proponents and affected communities involved with the Alaska Highway Natural Gas Pipeline. Robert Hornal has had experience with environmental and socio-economic assessment procedures and practice in Canada since the 1970s (JRP4 2010).

**Ms. Gina Dolphus** – is from Deline, NWT, and has worked in areas, including politics, counseling, advocacy, lobbying, management and administration. She is described as a successful representative of her community, due to her work as a Trustee for the Inuvik Regional Health Board. In addition, she has been involved in local education, holding the position as Vice- Chairperson for the Sahtu Divisional Board of Education. She was also the first female mayor of Deline. Ms. Dolphus has contributed to her community through her involvement in the Land and Finance Corporation in Deline and the Sahtu Regional Director for the Native Women's Association of NWT. In addition she has functioned in the position as President of the Native Women's association of NWT, and Vice President of Native Women of Canada. In recent years, she has been working as a community wellness coordinator with the Deline Uranium Team for the Deline Dene Band Council, and also as sub-chief for the same establishment (JRP4 2010).

**Mr. Barry Greenland-** Has been Sub-Chief for the Inuvik Native band in Inuvik for 10 years. In that position, he has interacted with the Gwich'in Tribal Council, and Indian and Northern Affairs. He has been Director of the Gwich'in Tribal Council Board for two years, and the Nihtat Gwich'in Development Corporation for six years. In addition, he has been a youth counselor, and has worked as community and project coordinator for the Inuvik Native Band, which supports youth and elders (JRP4 2010).

**Mr. Percy Hardisty** – Most recently worked as a counselor and fieldworker for the Fort Provincial Residential School Society. Previously he has been chairperson for the Deh Cho Friendship Centre situated in the Deh Cho region. In addition, he was twice elected as Chief

of the Pehdzeh Ki First Nation, and has served as Dene National Assembly Coordinator. This gives him 25 years of leadership experience within his community. In 2002 he received the Queen's Golden Jubilee Commemorative Medal and he has served in the Canadian Armed Forces. He studied at the Aurora College in Fort Simpson, NWT, and holds a certificate in Management Studies (JRP4 2010).

**Mr. Rowland Harrison** – Has been a member of the National Energy board since 1997. Prior to that, he was partner in one of Canada's largest law firms, which specialized in energy regulation. In earlier years, he was General Director with Canada Oil and Gas Lands Administration. In this role, he was responsible for negotiating exploration agreements for frontier lands like the Beaufort Sea and the Mackenzie Delta. He has been a professor, teaching natural resource law, constitutional law and administrative law. He was the first Executive Director of the Canadian Institute of Resources Law, founded at the University of Calgary in 1979 (JRP4 2010).

**Mr. Pertschy** - graduated with a Diploma in Natural Resources from Arctic College in Fort Smith, NWT. In addition, he studied at the University of Lethbridge, Alberta, where he graduated with a Certificate of Specialization in Fish and Wildlife Management. He has also studied in Kenya, Africa, where his area of interest was wildlife management, but he also studied cultural anthropology. Mr. Pertschy has worked as a National Park Warden for Parks Canada, and as a Federal Fishery Officer with the Department of Fisheries and Oceans in the Western Arctic Region. Currently, Mr. Pertschy sits as a Board Member of the Inuvialuit Arbitration Committee (JRP4 2010).

**Mr. Peter J. Usher** – graduated with a degree in geography from McGill University and the University of BC. He was involved in Western Arctic community economic development, the Inuvialuit land claim and the Mackenzie Valley Pipeline Inquiry from the 1962 to 1976. Since then, he has been situated in Ottawa, operating an independent consultancy. Here, his focus is social and environmental impact assessments, land and resource management, and Aboriginal claims. He was appointed as a member of the Joint Environmental Assessment Panel to review the proposed Voisey's Bay Mine-Mill Project in Labrador (1997-1999). He was also appointed to chair the Wildlife Management Advisory Council (NWT) (1997-2000). He resides in Lanark County, west of Ottawa (JRP4 2010).

### **Words about the Panel**

What we can see from most of these people is that they have been active in their respective communities and can be assumed to be respected and trusted by their communities. Many of them have been involved in similar efforts before, but never has there been a project of this size in this area. We can see that some of the members lack education; this might be due to limited access to educational institutes in the North. Those who seem to be lacking an educational record are and have been primarily involved in the local communities along the Mackenzie Delta region. Some of the members, such as Mr. Harrison, seem to have engaged in similar processes before. This is relevant experience when taking part in a panel like the JRP. Next, we will outline how the general public had access to participate in the negotiations, as this was one of its main purposes. As previously mentioned, none of the panel members or representatives wished to participate in our study, this could have been fruitful for our thesis however the fact that they refused to let us interview them is somewhat moot (JRP4 2010).

### **Public involvement**

The public phases, two and three in the model above, were supposed to be open for all people who wanted to provide input. There were numerous ways for the public to get involved. They could participate in the actual hearing processes, which were conducted in different cities up and down the Mackenzie Valley, or they could write a letter to the JRP to address their concern. This would then be tended to by the members of the review panel. To stay informed, there were different mechanisms in place for the public to follow the process. Announcements would be made in the local newspaper and over the radio, and public information sessions were carried out. People were able to obtain access to the registry, where all documents related to the project were kept, and people could get information through the JRP website, or join their distribution list (JRP3 2010). Through these methods, the public could stay informed of what went on in the hearings, which issues were attended to, and what outcomes the different issues addressed resulted in.

### **4.2.3 The Joint Review Panel report**

The JRP was established to merge all the agencies that had jurisdiction in the area. The JRP's task was to evaluate and review the social, cultural and environmental impact the proposed pipeline would have on the area of the Mackenzie Gas Project. They used the cooperation plan as a guide for how to conduct this process. After the panel was established with the

members described above, they conducted the hearings and addressed several issues of environmental and social concern. At this point, they have completed their report where they have addressed all issues that came up under the hearing processes and made recommendations and demands on how to cope with these factors (JRP2 2009). The report has been submitted to the federal government and the participants in the project are currently waiting for a certificate to be granted by the federal government.

The Report includes different aspects. Here, we will give a short walkthrough of the report and its most important characteristics.

The main conclusion

*"The Joint Review Panel is pleased to submit its report for your consideration. Subject to the full implementation of the Panel's recommendations, the Panel has concluded that the adverse impacts of the Mackenzie Gas Project and the Northwest Alberta Facilities would not likely be significant and that the Project and those Facilities would likely make a positive contribution towards sustainability. The Panel is of the view that the Mackenzie Gas Project could provide a foundation for a sustainable northern future."*(JRP2 2009)

The panel concludes that if all their recommendations are implemented, the project will contribute to a sustainable future for the North. The result of countless public hearings up and down the Mackenzie Valley, and thousands of pages with transcripts was the basis for the report which took 2 years to write.

### **Report conclusion**

The conclusion of the report is a positive one. It is positive in terms of the project being able to attain sustainability in its development, as long as all recommendations made by the panel are implemented. However, they recognize the many uncertain aspects within the project, because the conclusion is based on predictions of the future. They are confident that the project, with appropriate regulatory initiatives, policies, and implementation of the recommendations, will be able to proceed in an acceptable manner. Further, they conclude that the impact of the MGP will likely not be significant, and that the project will contribute to, and serve as a foundation for a sustainable northern future.

We have now described the Joint Review Panel in different areas: the members of the JRP, the way could participate in these hearings, and the report and conclusions they came up with after completing the process. This is relevant information in regards to the analysis of the findings in regards to this panel. We will now present the cooperation plan which was created prior to all this to promote cooperation between the jurisdictional agencies in the area of construction (JRP2 2009).

### 4.3 The Cooperation plan

Prior to the establishment of the Joint Review Panel all the different aboriginal groups up and down the Mackenzie Valley came together and developed the cooperation plan. This plan was supposed to work as a roadmap for the cooperation between the many jurisdictions in the area, for a possible new pipeline proposal. The plan was followed to some extent. Below, we have described the cooperation plan, how it was constructed, and some of its main content.

*"... Cooperation plan describing how, in principle, they will coordinate their response to any proposal to build a major natural gas pipeline through the Northwest Territories."*

(Cooperation plan 2002)

The cooperation plan was prepared in June 2002 by the various jurisdictions in the Northwest Territories. It was developed to enhance cooperation between these agencies so that a possible pipeline proposal would have a framework in which it would be handled. In order to explore potential areas and methods of cooperation and to avoid duplication, the agencies came together and developed this plan. The different agencies are presented in the table below.

(Cooperation plan 2002)

**Figure 11 Cooperation plan parties**

| Agencies with Public Hearing Processes   | Agencies with a Direct Interest in EIA and Regulatory Matters  | Observers   |
|--|--|---|
| <ul style="list-style-type: none"> <li>•Mackenzie Valley Land and Water Board</li> <li>•Mackenzie Valley Environmental Impact Review Board</li> <li>•Gwich'in Land and Water Board</li> <li>•Sahtu Land and Water Board</li> <li>•Northwest Territories Water Board</li> <li>•Canadian Environmental Assessment Agency</li> <li>•National Energy Board</li> <li>•Environmental Impact Review Board for the Inuvialuit Settlement Region</li> </ul> | <ul style="list-style-type: none"> <li>•Joint Secretariat for the Inuvialuit Settlement Region</li> <li>•Environmental Impact Screening Committee for the Inuvialuit Settlement Region</li> <li>•Inuvialuit Game Council</li> <li>•Inuvialuit Land Administration</li> <li>•Inuvialuit Land Administration Commission</li> <li>•Department of Indian Affairs and Northern Development</li> </ul> | <ul style="list-style-type: none"> <li>•Nominee of the Deh Cho First Nation to the Mackenzie Valley Land and Water Board</li> <li>•Government of the Northwest Territories</li> <li>•Government of Yukon</li> </ul> |

(Cooperation plan 2002:2)

## *"Pipe Dream" – A study of the Mackenzie Gas Project*

The cooperation plan was developed prior to the establishment of the JRP and without involvement of the JRP. In addition, the pipeline was not proposed yet at the point of plan development. Therefore, the plan is based on assumptions on what the proposal would be and who the proponents were. Its main purpose was to ensure that the roles of the different parties were clearly defined and understood by all participants, and also to provide clarity on process and timing for the public and potential participants. However, the plan states that it does not bind any authority to a certain course of action. The plan also had another aspect to it. It was developed to demonstrate the commitment and ability for the different agencies to work together on a possible proposed pipeline, assumable to make the process of the pipeline project development more tempting to possible proponents. Instead of having to deal with all seventeen agencies, this plan would show the opportunity of combining those efforts into one process, through the cooperation between these agencies. (Cooperation plan 2002)

The plan considers different ways for the agencies to come together. At one point it discusses the option of including the environmental impact process with the regulatory process of the National Energy Board, but concludes that this would be too big of a procedure and should be two separate processes. The agencies decided on five principles to follow when completing the cooperation plan:

- *Desire of the Agencies to cooperate*
- *Need for a "made in the north" process*
- *Flexibility to consider a variety of development scenarios*
- *Flexibility to consider a variety of development scenarios*
- *Enhanced public participation in the project review*
- *Need to consider fully potential impacts before project decisions are taken.*

(Cooperation plan 2002:5)

The objectives of the framework developed in CP are described under:

Objectives of the framework include:

- *Enhancing efficiency and effectiveness*
- *Improving certainty and clarity of the EIA and regulatory processes*

## *"Pipe Dream" – A study of the Mackenzie Gas Project*

- *Providing for public participation in an open and accessible manner*
- *Developing a process that ensures the appropriate consideration of possible environmental, socio-economic and cultural effects*
- *Addressing the importance of traditional knowledge in the EIA and regulatory processes*
- *Ensuring compliance with existing legislation and comprehensive land claim agreements.*

(Cooperation plan 2002:6)

We can see from the principles and objectives that the purpose of such a cooperation plan was to make the process of the environmental review easier for all the involved parties. One interesting aspect is that the plan did not include those who were to carry it out, mainly because nobody knew who that would be at this point. It possibly served as an invitation for possible proponents, showing commitment for cooperation from the different agencies in the area. The plan set out a basic framework and timeline for the project.

### **4.4 The regulatory system in the Northwest Territories**

The regulatory system in northern Canada has evolved with the country throughout the last century. Much of the current regulatory framework in NWT has come out of the land claim agreements in the area. There are several aboriginal groups in northern Canada, and in recent years, they have each claimed land from the government; land that historically belonged to them. Out of these settlements the current system has evolved. The comprehensive land claim agreements provided a framework for non-renewable resource development regulation with each of the regions (McCrank 2008).

In this way, you have three levels of regulatory institutions that were supposed to co-manage the resources in the North. The federal government is the highest level of government. They own the rights to possible royalties from resource development in the NWT. This is due to the fact that NWT is a territory and not a province, therefore different legislation applies. Then, there is the government of the Northwest Territories, who governs the territory as a whole. Finally, you have the Aboriginal people's governments. They own the land through land



claim settlement agreements. Having a multi-management system like this is unique to northern Canada, and is still new and supposedly complicated for the participants. All three levels of government have some jurisdiction over the land; therefore the philosophy is that all those involved in a project should be able to address issues they view as important. The consequences of this, however, is that more people are involved than ever before, and more regulatory power confuses the situation. Across the North there were previously only three jurisdictions, the INAC and two water boards. They have now been supplemented with 20 plus co-management bodies, which all have their own board of staff and advisors. Most of these institutions are found in the NWT, in the area of the Mackenzie Gas Project (McCrank 2008).

The Joint Review Panel (JRP), described previously in this thesis, is a merger of the 17 of these boards that have jurisdiction within the Mackenzie Gas Project. The cooperation plan and the JRP were efforts made to simplify the regulatory process in the MGP. However, from the JRP report, we see that they did not reach the objective of not having to review issues after this process. Even now many of the concerns of the MGP that were addressed in hearing processes have not been settled, and many of the recommendations made by the JRP were simply to establish some kind of board to manage that specific issue.

The main philosophy in decision-making processes in the North is involvement of the people who live there. Anywhere else in Canada, the government makes the decisions on behalf of the people. They are elected by the people, and that's how democracy works in most cases. In the North, however, there are several smaller groups of people who actually own the land. The land is no longer owned by the government, but by individuals and groups. Therefore, there is an extensive process when carrying out project involving resource development. All parties need to be consulted and involved. One example of such involvement of the community is the establishment of the Mackenzie Valley Resource Management Act (MVRMA). This act enables residents in the area of the Mackenzie Valley to participate in managing the resources up and down the Valley (INAC2 2007). We can see how important the involvements of the communities are in the objectives of the act. They involve enabling residents to participate in resource management, and ensuring that their concerns are being properly assessed. Protecting the social and cultural well-being of the people, and recognizing the importance of conserving the Aboriginal way of life, is vital.

Our approach to the project has been extensive; the amount of public information on the project is incomprehensible. We have limited our research to the main involved parties and focused on the empirical evidence from our interviews.

## Chapter 5 Major Findings and Discussion

| Presentation of Major Findings  | Discussion  | Conclusion   |
|---|---|--|
| <ul style="list-style-type: none"> <li>- The JRP</li> <li>- The Access and Benefit Negotiations</li> <li>-Regulatory Process</li> <li>- External Context</li> </ul> | <ul style="list-style-type: none"> <li>- Communicative arena and the JRP</li> <li>- Access and Benefit Negotiations Discussion</li> <li>- Regulatory System in accordance with McCrank</li> <li>- External Factors</li> </ul> | <ul style="list-style-type: none"> <li>- Lessons Learned</li> <li>- Contribution to Theory</li> <li>- Suggestions for Further Studies</li> </ul> |

### 5 Major findings

Up until now, we have expressed the purpose of this thesis, and we have described the method we will use to obtain knowledge to answer our main question. Further, we presented the various aspects in the case of the Mackenzie Gas Project (MGP). In addition, we have outlined the different theoretical frameworks we will use for understanding our major findings; we will use all of this to answer our main question:

*How the stakeholders have influenced the outcome of the Mackenzie gas project, an identification of central themes connected to stakeholder involvement.*

We have described how the actual data collection took place and how we prepared for that. There are several theories we will use, but stakeholder theory plays a key role. This is an appropriate theory in relation to our question; because the case of MGP involves several stakeholders and it is vital to draw from this study how you can complete a project with that many stakeholders in a successful way. We will try to identify this by highlighting central themes emerging from our study. The main communicative arena that seems of highest interest within our case study is the Joint Review Panel (JRP), which was a public open hearing arena where all Canadians could address their concerns with the project. Therefore, we have provided an extensive summary of the characteristics of the JRP and the role it played in the project. This way, we are able to make comprehensible comments to this panel

for our readers. We have also tried to provide an understandable outline of the regulatory processes that operates in the Northwest Territories (NWT). This is because the regulatory system in the NWT is complex and unique and important to understand in order to make sense of the analysis. In this section we will present our major findings before we identify what can be viewed as the central themes in connection to stakeholder involvement in our case.

## **5.1 Presentation of major findings**

In our study we have collected data through interviews, those taking part in these interviews was representatives from local government in the Northwest Territories, industry, aboriginal communities and the Aboriginal Pipeline Group (APG). Here we will present the most interesting findings from this data material. As previously explained we will use these questions when presenting the findings:

- *What are the emergent themes or patterns across the transcripts?*
- *How are common patterns and plots unveiled?*

We have also developed some questions of our own for analyzing the data:

- Do the informants present the same aspects differently?
- Do the informants have different perceptions of what the central themes were?

From the transcribed interviews we have worked out different categories we found were the most important. The manner we worked out these themes were a process involving several steps. Firstly we read through the transcriptions several times individually, this way we could possibly detected more findings than if we only reviewed them together. After this was completed we sat down together to present for each other and discuss what we felt was our findings, here we addressed the questions above and argued for which theme to focus on using the same questions. Out of this an overview of several aspects evolved and with this we were able to connect related quotes. We categorized these quotes into several themes and from this we identified which categories were most extensive, after selecting our four main themes we again went through the empirical material and included findings that we had previously overlooked. This mounted into these topics, Joint Review Panel, Access and benefit negotiations, regulatory process, and external factors. To avoid leaving important findings out that might not fit these themes we also have a section where we address the project as a whole. The themes were selected on the basis of our interviews and with the

process described above, while reviewing and coding them we found these to be the issues of repetition.

This section will be purely empirical findings; we will not connect it to theory. In our study the theory function as a guide to discuss and analyze our findings and will therefore not be included here. The empirical findings are what drive our study and we have therefore not forced our findings into any theoretical framework. This chapter will be purely quotations from our respondents accompanied by our own comments on what this indicates and what implications the statements have for the project. In the next section, where we discuss our findings, we will introduce theory to the empirical data and use these theories to better understand the findings.

After presenting what we determined to be the most important findings, we will introduce a model for these themes which will follow throughout the analysis and conclusion and function as an outline of the discussion part.

## **5.2 The Joint Review Panel**

*"It took on its own life."* (Floyd Roland)

*The purpose of the Joint Review Panel*

*"The Joint Review Panel for the Mackenzie Gas Project is a seven-member, independent body that will evaluate the potential impacts of the project on the environment and lives of the people in the project area."* (JRP 2010)

The purpose of the JRP has also been described by all our interviewees. We would like to provide the statements of the various stakeholders to establish an understanding of how the JRP is viewed. First, the politicians, Roland and McLeod stated that

*"..we have established a joint review panel that takes in all regulatory bodies, this was supposed to help streamline the process so that at these bodies report back to their groups instead of doing different parallel processes"*(Floyd Roland)

*"And I think it was our government that had the bright idea to have one comprehensive process, so it looked good at the time but now it's taken so long."* (Bob McLeod)

One of the proponents put it this way *".. a panel set up of northerners to look at the socio - economic process"*

From these statements we can see that the panel is viewed differently from stakeholder to stakeholder. The Aboriginal Pipeline Group stated that

*"the joint review panel was an amalgamation of a number of bodies to satisfy the various acts that were created as a result of the land claims"*(Bob Reid).

Imperial Oil, represented by Randy Ottenbreit, stated that *"..the joint review panel was created to examine the environmental, social, cultural and economic aspect of the Mackenzie Gas Project and to issue a report that would be used by the National Energy Board as well as other regulators who are responsible for these permits."*

### **5.2.1 The critique towards the Joint Review Panel**

#### *Cooperation plan*

One of the aspects that were critiqued was the JRP's failure to follow the cooperation plan. We have described the Cooperation plan under the section about the Joint Review Panel. In short, the cooperation plan was put together by the various jurisdictions in the Mackenzie Valley in June 2002. It was a plan for a framework for a regulatory process that merged all of these jurisdictions, for a possible pipeline proposal. The actual pipeline proposal came in 2004. Some of the quotes are not directly related to the cooperation plan, but to the lack structure in the hearing process.

We understood from talking to the politicians in the Government of NWT, McLeod and Roland, that there could have been a clearer timeline for conducting the JRP hearing process, but it's not primarily from them that we find critique of the JRP's process. One of the proponents states that: *"..but the cooperation plan was never followed or adhered too, so that's where the process I think broke down right there in the beginning"* Here one of the proponents of the MGP criticizes the fact that the JRP never really followed the cooperation plan, they did not follow the timeline or the framework for cooperation outlined in the plan. Further he says *"..there was not a really defined process like on the NEB side"* (proponent). The regulatory hearing process of the National Energy Board (NEB) was clear and followed the timeline it had outlined. When it comes to reasons why the JRP could not do the same, he argues that; *"My view is that the cooperation plan ...probably should have been set up with*

*set deadlines and consequences if the various parties don't work together and that was never done" (proponent)*

The Joint Review Panel did not have to answer to anyone, so there were no consequences of not following the plan. We will address this later in this section. Another aspect of the cooperation plan was that it was industry's only indication of how the JRP hearings would work. When the plan was not followed, it led to consequences for the industry.

*"And because we as industry relied heavily on the cooperation plan we thought that would be a mechanism that aboriginals and government at various levels like federal, territorial and aboriginal I guess all those governmental entities would cooperate more and that didn't transpire, so you basically got into a quagmire of issues which protracted the process" (proponent).*

We can see from this proponent's point of view that what he really felt was missing in this stakeholder dialogue was a satisfying plan that everyone could agree on, and stick to. *"when you don't have a well laid-out plan ahead of time so that everybody knows what the rules of the game are, then that makes it difficult to determine how you're going to move forward" (Proponent).* He also addressed the importance of having defined roles in a process like this; *"if the cooperation plan would have defined and everyone would have agreed on what their roles would be in the process, and everybody would stick to those rules you would have a way to move forward but nobody, by history you can tell that nobody actually agreed to all those...and by doing that you protract the process and make it longer than it could have been" (Proponent).*

In the JRP hearing process, there were many jurisdictions in place. This is explained in the section regarding the Joint Review Panel. One of the proponents pointed out that managing those jurisdictional overlaps were the most important aspect of the process; *"it's a matter of how you manage those jurisdictional overlaps that cause some issues" (proponent).*

Randy Ottenbreit with Imperial Oil, who is also a representative of the proponents, had a different angle in regards to why the Joint Review Panel did not function at an optimal level. *"..one of the observations I would make would be that the joint review panel was not a party to that cooperation plan, so they weren't involved in the development of that and in fact they were only created in 2004" (Randy Ottenbreit).*

This is interesting, because one would expect that the parties tasked with carrying out the cooperation plan would have an opportunity to influence how it should be conducted. The fact is that the cooperation plan was terminated two years prior to the gathering of panel members. This raises another question: how can you expect the panel members to follow a plan based on the assumptions of a possible pipeline proposal that they did not even take part in? It is not logical to believe that the constructors of the cooperation plan had sufficient information at hand when creating the plan. Should the cooperation plan have been restructured to be a better fit to new (then current) information before it was implemented?

*The panel members*

*"Number one, first and foremost it was staffed wrong, they did not make sure that the joint review panel members had proper qualifications"* (Bob Reid). Bob Reid with the Aboriginal Pipeline Group (APG) says candidly that he does not think the members of the JRP were qualified for the positions they were given. Further, he states that: *"number two, the panel member's managers that they hired, were totally inexperienced, and had no experience with regulatory process"* (Bob Reid). This is the first two aspects Mr. Reid points out when asked why he thinks the JRP process took longer than initially planned. His colleague, Odi Hansen, joins him in this opinion with this statement: *"I believe a lot of them (JRP members) were second or third choices."* (Odi Hansen).

The process of the JRP was an extensive and difficult procedure that would require highly qualified staff. Mr. Hansen continues: *"And there were a lot of information that they had to digest or take in"* (Odi Hansen). Mr. Hansen insinuates that one of the reasons the process took longer than expected was that the members weren't experienced enough, so it took them longer than it should have to take in all the aspects of the process. In addition, Mr. Reid supplements with a statement regarding the JRP manager: *"the chair (Robert Hornal) really didn't get control of the hearings, there were a lot of hearings in different communities and the theme was primarily the same, the same comments, the same discussion point rather than I guess streamline that and I keep it to new business. People went on and on and on about the same things in the different communities"* (Bob Reid). This is an important and critical aspect for the JRP hearings to be effective, and since this process is a crucial part of the MGP, it is also important for the whole project.

*Newness*

Many of our respondents talked about how new the whole regulatory process in the Northwest Territories is. The JRP hearing process is a direct consequence of this heavy regulatory process, and it is the first time such a huge project has been attempted in this area; therefore it can be difficult for the participants of the hearing process to go about it in an effective manner. Two representatives of the proponents put it this way: *"so it is new so it's always difficult to understand where you're going. That's why I was saying the cooperation plan, if it was a better road map of how things should progress, would probably have made the whole process a lot smoother"* (proponent)

*"I think part of it, is that people are learning about new things and it takes time for them to become comfortable with that"* (Randy Ottenbreit). It is understandable that when a process is new, like the JRP hearing, some obstacles are inevitable, however we believe Floyd Roland made a valid point when he made this statement; *"It is challenging to come up with a process that makes everybody happy"* (Floyd Roland).

Since there are a number of stakeholders that wants a "piece of the pie", it becomes difficult to find a process that will satisfy all parties. In addition, since this is a new process, the procedure established here will probably be the framework for any similar process in the future. Therefore, it is urgently important for the stakeholders to push through on the sections of the process that are important for them. We can assume that this has contributed to slowing down the hearing process of the Joint Review Panel. The fact that it was a public hearing made all stakeholders in the North able to affect the process, and many would not let that chance slip away. Now looking back, Premier Roland states that; *"Work is done now but it's a learning process. What are the do's and don'ts, for a business process to go forward in another way, or do we let the other regulatory authorities do their work? There will need to be an evaluation of that"* (Floyd Roland).

Clearly, the participants and involved parties wish to evaluate what they did right and wrong in this process. This should be useful to look at, but it will probably take some time to gather all feedback and make a proper evaluation. We wish to offer through this study a set of identified central themes from the Mackenzie Gas Project.



*Lack of Incentives*

The Joint Review Panel members were paid by the hour. This meant the longer the process, the more the members got paid. One of the proponents said *"depending on what their incentives and motivation is, the longer they draw this out they get paid more, which isn't the way it should have been set up"* (proponent). Mr. Reid with Imperial Oil backed this up by stating *"I mean we'll never know for sure about this one, but a number of the panel members had no permanent jobs to go back to, and they were paid by the day with no limit, so there's been some speculation that there has been no incentive to them at all to get the job done in a timely manner. In fact the opposite, the longer they could make this thing go on the richer they got"* (Bob Reid). Although Mr. Reid is more modest in his statement, it is clear that this has been an issue and that it has been discussed. The reason why the Joint Review Panel could use as much time as they wanted was the lack of incentive. As the representative of the APG put it: *"One thing that was important is that there were no requirements to the board to report to anyone as far as their timeline"* (Odi Hansen). *"No accountability, no budget, and no schedule. They were set up as an independent body reporting to no one if you can believe that"* (Bob Reid).

This means, in addition to having an incentive to spend more days conducting hearings and working on the report, there was no consequences for this kind of delay. *"The cooperation plan didn't have any milestones or deadlines or deadlines with consequences so that if things were not met or adhered too there would be repercussions, there was none of that"* (Proponent).

The JRP was free to use as much time as they wanted to, without consequences, other than increased salary. This is definitely an issue that could easily be changed in future projects. The fact that such a huge process like the one the JRP carried out did not have to answer to any contract or committee raises many questions. However, this must have been visible throughout the process, and nobody interfered in an attempt to speed up the process. Richard Nerysoo of the Gwich'in Tribal Council is the only one admitting to this fact: *"Well it took its time and that's fine, but the reality is that we didn't get on to press the process either"* (Nerysoo). The other stakeholders involved in the process could, at any time, have tried to do something about this problem.

*Lack of support system*

Another factor that might have compromised the JRPs ability to complete the process within the timeline outlined, is the lack of support systems for the panel. We have already identified some findings where it is clear that the process was new for everyone involved. The panel itself was also a new group of people when the process started; therefore they had no established support system when they started out. This made the process more challenging. Mr. Ottenbreit said it this way: *"I think one of the things that happened as a result of that the joint review panel did not have access to all the administrative and project support that exist in an established board like the National Energy Board, so the Joint Review Panel ended up having to create a lot of that stuff and they didn't have the resources available to them, and my understanding was that it was offered to them but for some reason they chose not to accept"* (Randy Ottenbreit). The JRP had to establish contact with supporting entities after the process started, and probably after the demand for that function was presented.

*Legal system*

Bob Mcleod, minister of the Government of the Northwest Territories had another answer as to why the process took so long to complete for the Joint Review Panel: *"I think it's probably the legal advice that they were given... so it took them a while to figure out how to go about doing that (writing the report) ."* (Bob Mcleod) He argues that the panel members were confused as to who had the responsibility of putting together the report, and that's why it took the JRP two years to assemble the findings into a report.

*Expectations*

The History of the Mackenzie Gas Project goes back to the 1970s. Back then, Justice Berger did a review of the community of the NWT, and concluded that the Aboriginals were not ready to benefit from such development (Berger 1977) Mr. Ottenbreit of Imperial Oil said that this created a certain level of expectation towards this process: *"..a lot of dialogue of consultation and providing the people with the opportunity to be heard out, and I think that was kind of an expectation in the NWT's and partially because they had gone through a process in the 1970s with justice Berger and that created some expectations around how future projects should proceed"* (Randy Ottenbreit).

We have also received the impression from interviewing the various stakeholders that the Aboriginals wished to learn from previous experiences, like the previous pipeline from

Norman Wells to Zama, so that they would get the benefits they felt they deserved this time: *"And no matter what happens and the future is for me anyway, is the lesson learned out of the pipeline from Norman Wells to Zama Alberta, where we get nothing out of that"* (Richard Nerysoo). The reason why we bring up this topic is that with high expectations and determination for not being "fooled" again, the Aboriginals might have been more involved in the hearing process than they would have been if they were used to getting the benefits that they feel they are entitled to.

### **5.3 The Access and Benefit negotiations**

These negotiations were between the project proponents, mainly Imperial Oil, and the land owners, which were established after the land claim agreements. We did get specific feedback from our respondents on this topic; therefore we choose to also give these negotiations its own heading, even though it is a part of the regulatory process. The outcomes of these negotiations are confidential, so we will only be including the nature of it. We will be concentrating on the challenges with negotiation between aboriginal communities and industry. These negotiations do not seem to have slowed the process down significantly, but there is still no agreement with the Deh Cho, and this was attempted by industry several times. Due to this, we wish to identify this process as a central theme.

#### *The nature of the negotiations*

Since the negotiations were confidential, the only source for understanding how they took place is through the interview with Richard Nerysoo of the Gwich'in Tribal Council, and the interview with Randy Ottenbreit with Imperial Oil. Nerysoo was lead negotiator for the Gwich'in people, while Ottenbreit was involved in the negotiations on the proponent side. In addition, some of the other respondents had insight into what the negotiations were focused on. *"..the Aboriginals have control over (the) land (and) you have to negotiate what is called benefits and access agreements. The project proponents had to negotiate these, there's five settlement regions; Inuvialuit, Gwich'in two regions in the Sahtu and then the Deh Cho. All the regions except the Deh Cho have a land claim which governs the rights to the land and how they manage it"* (Proponent).

The Aboriginals have historic ownership of the land in the North. Due to this, they have gained legal ownership of the land in recent years through negotiations with the federal government. These are called 'land claim agreements'. They are protected by section 35 of the constitution: "you have number of jurisdictions, the aboriginal jurisdiction, the land claims that is protected by section 35" (Floyd Roland).

### **Rights of the Aboriginal Peoples of Canada**

#### **Section 35**

(1) The existing aboriginal and treaty rights of the aboriginal peoples of Canada are hereby recognized and affirmed.

*(2) In this Act, "aboriginal peoples of Canada" includes the Indian, Inuit and Métis peoples of Canada.*

*(3) For greater certainty, in subsection (1) "treaty rights" includes rights that now exist by way of land claims agreements or may be so acquired.*

*(4) Notwithstanding any other provision of this Act, the aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.*

*35.1 The government of Canada and the provincial governments are committed to the principle that, before any amendment is made to Class 24 of section 91 of the "Constitution Act, 1867", to section 25 of this Act or to this Part,*

*(a) a constitutional conference that includes in its agenda an item relating to the proposed amendment, composed of the Prime Minister of Canada and the first ministers of the provinces, will be convened by the Prime Minister of Canada; and*

*(b) the Prime Minister of Canada will invite representatives of the aboriginal peoples of Canada to participate in the discussions on that item.*

(DJ 2010)

The negotiations were confidential, which might have been profitable for the Aboriginals, since they may have ended up getting a better deal. Minister McLeod spoke about how far

industry was willing to stretch to meet demands from the community: *"..because they work around the world, if they give over here they must give over there"* (Bob McLeod).

Therefore, it is probably easier for the Aboriginals to get their demands met when the outcome of the agreements are confidential. Due to its confidentiality, no one can use these agreements as examples when the companies have to negotiate agreements in other parts of the world. The industry will not be setting the bar by giving the Aboriginals what they want, since nobody knows what they got. However, the access and benefit represent one of the central aspects of the regulatory process in the Northwest Territories. One of the proponents put it this way: *"and having to negotiate those access and benefit agreements..was another level of complexity that you don't have in other regimes around the world right?"* (Proponent).

The access and benefit agreements were negotiated between Imperial Oil and each of the five settlement groups. In the early stage of negotiations, Imperial Oil offered agreements in a common meeting with all the settlements groups, with the expectation that all would sign, and then each one would be modified to fit the specifics of each group. This suggestion was turned down and they had to engage in separate negotiations; *"I think it was in august of 2005 we held a meeting in Inuvik where we had representatives from the Inuvialuit, Gwich'in, Sahtu and the Deh Cho regions and suggested that they look at signing common agreements. This was a standard type of agreements that we would offer for each of the regions and then customize it a little bit recognizing that there is differences from one region to the other. The suggestion of doing that was turned down, some of the groups felt that their land claims where so different from other groups that they didn't want to enter into agreements that where essentially common. Once that happened we had to embark on separate negotiations with the various groups"* (Randy Ottenbreit).

The idea from Imperial Oil that probably would have made these agreements more efficient, but it was turned down. Gwich'in viewed the best way of conducting the agreements differently: *"Everything that was really necessary for us to do in the negotiations was to set a framework based on specific principles that guided us, and it was clear for us that in order for us to do that we needed to engage the communities"* (Richard Nerysoo). The Aboriginals have a respect for elders and the community rooted in their culture, therefore it was important for them to include them in the negotiations:

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*"We were interested in assuring that the project would be respectful of our concerns about the environment, and the lands, and how we could organize the project so that it had the least amount of environmental damage and that the environmental footprint or the consequence limited to particular areas" (Richard Nerysoo). This was the objective of the Gwich'in tribe when engaging in the negotiations. To assure that this was met, they sat out some guiding principles: "from the beginning was sat out a framework of principles that guided us so that at the end of the negotiations we were able to measure the five principles based on the agreement and how we incorporated that in different ways in the agreement...the principles that we adopted; One was about jobs and training, contracting, another was the insuring the security of the environment, maintaining a sustainable environment, reducing the footprint" (Richard Nerysoo).*

It seems the Gwich'ins was prepared and knew where they were going once they had established these principles. However, Richard Nerysoo of the Gwich'in Tribal Council stated that *"Big part of the reason why it often takes us a bit longer in negotiations is that we like the idea of including representations from the communities. And sometimes it takes us a bit of time to understand what it is we are going to negotiate, or the complexity of the agreements that are necessary for us to come to an agreement with any company" (Richard Narysoo).*

Even though he believed the inclusion of the community was important to the process for the Aboriginals, he realizes that this made the negotiation process more time consuming. However, none of Richard Nerysoo's comments indicates that he regretted including members of community. In fact, quite the opposite: *"it taught us internally a lot of lessons of process, it taught us that it's always important to include the people that are affected by the predicted project. It taught us that our people are not as naive or ignorant about what they believe or the basic principles that should guide agreements" (Richard Nerysoo).* These are some of the lessons learned for the Gwich'in Tribal Council. They also learned the complexity of such agreements and the importance of patience: *"(when) sitting a cross the table from one another there is a whole series of issues that needs to be addressed" (Richard Nerysoo)*

The Aboriginals, or the impression we got from talking to the Gwich'in Tribal Council representative Mr. Nerysoo, was that they were on top of their game at all times, to ensure that they would get what they deserved from the development of this pipeline on their land: *"If you are not ahead of the game, you are always reacting. And if we don't set the rules and I*

*think that's the one thing about negotiating our access and benefits agreements, we know what the rules are, we set the rules"* (Richard Nerysoo). Another observation was that they did not seem to be willing to lower their demands at any cost: *"Well in my view, it is not interesting whether or not your pipeline project proceeds, if it's not in the interest of the community, right?"* (Richard Nerysoo). One of the reasons why they were so active was due to their previous experience with the pipeline from Norman Wells to Zama: *"The lesson learned out of the pipeline from Norman Wells to Zama Alberta, (Is that back then) we didn't have a clear position as to what we wanted out of that project"* (Richard Nerysoo).

From these quotes, we get the impression that the negotiations were viewed very differently from the two sides. While Imperial Oil wanted the groups to sign a common agreement and take on a short process of customizing them slightly, the Gwich'in wanted to engage their community to outline basic principles to follow, and then engage in longer negotiations where they would receive what they felt was satisfactory.

#### *The aboriginals on both sides of the table*

The Aboriginals have two ways of affecting this project. They are both on the proponent side, with the APG, and on the access and benefit negotiation side, initially bargaining with themselves. On the APG side, they wish to keep costs low and to serve their main objective: *"our fundamental objective is to provide a long-term dividend stream back to the communities to help them move towards a self-sustainable economic way of life"* (Bob Reid). Meanwhile, on the side of the access and benefit, they want to gain as much as possible from the project. Some of the Tribal leaders are active in the APG, so how do they go about juggling their two hats? Somehow, it seems through the interviews that the tribal councils were more concerned by this than the APG. In fact, it was Mr. Nerysoo who brought it to our attention: *"Wore as one would say two hats, we are party to the APG which is an investor in the pipeline and yet we are negotiating for the pipeline to respond and respect our interests in terms of opportunities and those are sometimes conflicting. Because we are as one would say wanting to maintain, reduce the cost of the project, on the other hand we want the most opportunities and benefits that could accrue to the community as possible"* (Richard Nerysoo). Nerysoo further stressed the importance of picking a side of the table, sticking to it, and being honest about where you stand in the matter: *"Either you are the leader for the investment part or you are the leader for those who are negotiating the agreements with the*

*communities, you can't serve both" (Richard Nerysoo). "If you pick a side of industry over the people in the community, then you should say that" (Richard Nerysoo).*

While the Aboriginals stressed this issue, the APG gave this response: *"Yes there is a conflict therefore we were not involved in the negotiations of the access and benefit agreements at all. We stepped back on that because we were conflicted. We're on both sides of the table there. Imperial Oil are the project managers they are the ones that were handling the regulatory process, the design, construction management and ultimately the operations so it was Imperial Oil who negotiated the access and benefit agreements with each of the aboriginal groups along the right away and APG stepped back and played no part in that" (Bob Reid).* Mr. Hansen with the APG adds: *"The representatives from the aboriginal groups were usually from the hunters and trappers association and not the leaders per say" (Odi Hansen).* This is an important aspect, because most of the aboriginal leaders are active in the APG.

#### *Obstacles, errors and conflict*

There were challenges in this negotiation process due to the newness of the process:

*"I would say they were challenging, I think just to go back into time, the access and benefits agreements are required as a result of the land claims that has been settled in the NWTs and I think the Mackenzie Gas Project was the first major project to proceed after those land claims were settled" (Randy Ottenbreit).* This statement made by Randy Ottenbreit, the representative for industry, says something substantial about why they were challenging to the parties involved. Maybe this is why they failed with their initial approach: *"I can say to you that the expectations for Imperial to include a quick agreement was a bit of an error on their part. I think that the, it was quite clear to us that the agreements were quite complex, and when Imperial went in to the negotiations I recall this quite clearly because I was involved as a lead negotiator for the Gwich'in, that they wanted to have an agreement done in two weeks" (Richard Nerysoo).* Imperial Oil admits to their inexperience with these kinds of negotiations: *"from the perspective of the proponents, Imperial Oil and the other companies, this is also the first time that we have entered into such comprehensive agreements with the groups of the Northwest Territories, so I think there was some newness to that" (Randy Ottenbreit).*

It seemed like the two units in this negotiation had not only a different opinion about the complexity of the agreements, but also about what timeframe it would be completed under. While Imperial Oil was initially hoping for a couple of weeks, in reality, it took two years:



*"it took us over two years to reach an agreement to conclude and that was with a commitment often to negotiate on a monthly basis" (Richard Nerysoo).*

A representative for one of the proponents in the MGP, who was not involved in the access and benefit negotiations in person, but still has worked with the Aboriginals, had this statement regarding the groups: *"I can say some regions were more business savvy than others. In other words, the Inuvialuit had their land claim the longest so it was, I wouldn't say easier, but in their areas of alignment more so than if you went further down the valley because the level of sophistication was different, they had their land claims a lot shorter so the issues were a little different so it took a while both for aboriginals and industry to understand each other's positions. I think it's just a matter of knowledge and what type of business development they are comfortable with, some had more environmental issues versus others so that could be part of the issue as well, but I wasn't directly involved. I can't say what the specifics were per region but each one had their different new ones"* (Proponent).

The Aboriginal groups have come a long way since the first pipeline proposal appeared in the 1970s. They actually own one-third of the pipeline project this time. This is a huge difference, however not all of the groups has had the opportunity to advance and turn their governing system into a well functioning one. They need their land claim agreements to establish power, and from this they develop their legislative entities. Those of the groups that have not had an agreement for very long have not had the opportunity to mature yet.

There was some frustration between these parts, probably due to the difference between the ways of accomplishing tasks in Imperial Oil, compared to accomplishing tasks in a tribal council. Nerysoo states that they did meet some challenges in the negotiation process, but they also learned from them: *"Another thing that I think we realize is that we can't get frustrated because through frustration you start to do things and say things that you really shouldn't have said"* (Richard Nerysoo). He went on, more candidly: *"I mean there were days when we had some really tough words with each other"* (Richard Nerysoo).

Some additional critique from the Aboriginals was grounded in the model for negotiation the proponent wished to use. In a sense, it was a more pure business strategy. Nerysoo put it this way: *"They are a big company, they are very successful, they have a model they have been using for many years, and as far as they are concerned probably their model is the right model"* (Richard Nerysoo). However it did not seem too serious of a problem with the

Gwich'in tribe. In the end, Nerysoo concludes: *"I must say even though you know we ran into some issues on some concerns about that, in the end we ended up accepting the advice and the instructions and the recommendations that we made"* (Richard Nerysoo).

### *The Deh Cho*

The Deh Cho is the only Aboriginal group who does not have an access and benefit agreement in place with the proponent, Imperial Oil. *"We also at this point don't have an agreement with the Deh Cho. We have had three attempts at negotiating agreements, but have been unsuccessful to this point"* (Randy Ottenbreit). The reason why Imperial Oil has been unable to get an agreement with the Deh Cho seems to be that they are still in negotiation with the federal government to conclude their land claim agreement. Premier Roland from the GNWT states: *"Where there is settled areas its clear, unsettled areas the groups are negotiating they fear by signing off to something they inevitably sign a way some rights that are being negotiated now"* (Floyd Roland). Randy Ottenbreit states: *"Well you don't actually need a land claim in order to enter into an agreement, but I would say that it has always been an issue for them whether signing access and benefit agreements with such as the Mackenzie Gas Project limits their ability to use it as a leverage in their negotiation with the federal government"* (Randy Ottenbreit). The Deh Cho wish not to engage in an agreement with the proponent, because they are afraid this will compromise their ability to gain the agreement they are hoping for: *"from a strategy standpoint, some of the members of the Deh Cho have been of the view that it's probably best not to enter into agreements with the Mackenzie Gas Project, but to use that as leverage to try and get the federal government to agree to certain sticky issues in their land claim negotiation"* (Randy Ottenbreit). The lead negotiator of the Gwich'in tribal council is not pleased with his neighbor in the valley. He points out that the Deh Cho did agree to the cooperation plan from 2002, when all the groups got together and decided on the process of a possible pipeline: *"Well the Deh Cho are against the pipeline now and yet they were a part of the original proposition that we had about guiding any pipeline project"* (Richard Nerysoo). The proponent is not quite as concerned about the Deh Cho: *"When you talk to individuals of the Deh Cho I don't think they have a fundamental different view of the project than people of the Sahtu, Gwich'in or the Inuvialuit regions do. I mean the project offers them the opportunity to get some jobs and what not, so I think from that sense they look forward to doing it"* (Randy Ottenbreit).

## **5.4 The Regulatory process**

The regulatory process of the Northwest Territories includes the Joint Review Panel (JRP) hearings, but it also includes the National Energy Board process and all the different permits that are required. Here we will show findings from the interviews where the various respondents have described what they found as challenging in regards to the entire regulatory process. The process of the JRP or the access and benefit negotiations are part of the regulatory process, but will not be addressed here as they have been addressed in their own sections.

### *Government of Northwest Territories role*

The government of the Northwest Territories' role in the project has different aspects:

*"The territorial involvement, our role from a territorial government, Bob is the minister of industry and investments so, he's on the proponents side, we have aboriginal businesses now lining up to say, help us to get ready for this"* (Floyd Roland).

They are both on the investment and business side of the project, but they also do much to help the various tribal councils understand the legislation, and to help them gain information, since they are still not very experienced in the area of governance:

*"We work with the aboriginal groups getting all the information to them so that they can make up an informed decision"* (Floyd Roland). They also try to cooperate in different areas, since they are governing the NWT together: *"it's a table we set up as a government with our aboriginal regional leaders and we sit down and we, much like what we would call a council of federation table were all the premiers sit together at a table, we sign on an agreement to work together, but it doesn't take the authority away from anybody there"* (Floyd Roland).

They also try to negotiate an agreement with the federal government to share the royalties from the project in the future. Since the Northwest Territories is not a province, like Alberta, for instance, they do not have the rights to the royalties: *"Another gap to understand is the difference between a province and a territory. A Province is a crown in their own right, so they own the land, they own the resources. And in the territories the federal government is the crown, so they own the land, some aboriginal governments have settled land claims and own their own land as well. Until devolution and resource revenue sharing occurs all of the royalties goes to the federal government"* (Bob McLeod).

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The local government has also been negotiating their own agreement with the industry. Industry's incentive for negotiating this socio-economic agreement has historically been the threat of taxation. Since the government of NWT is not entitled to royalties, they will use other types of taxation to gain their piece of the pie: *"So we negotiated socio economic agreements which deal with issues that are important to the government, tax gets for employment, for business, infrastructure and those kinds of things"* (Bob McLeod). Both of these agreements take time, and will be factors for slowing down the process. They are necessary and understandable measures, but still time consuming. However, their involvement in the project is not at a high level. In fact, they are only a part of the decision, which also has to do with the fact that they are a territory: *"We are involved in a very multi-faceted process as the GNWT. Even though we are not final decision makers, one of our departments is part of a final decision process"* (Floyd Roland).

### *The federal government's role*

The federal government owns the land in the Northwest Territories, except the land owned by the aboriginal groups. This means they are final decision makers in the project. Minister McLeod puts it this way: *"What the Canadian government is doing, (well what they say) is: Well we support it but subject to environmental certainty, the regulatory review, and it's got to be any support we have, the financial support has to be based on sound business principles and for commercial reason so everything is qualified"* (Bob McLeod). They are now in the stage of deciding whether to go forward with the project or not. They have received the reports from the Joint Review Panel and the National Energy Board, and are basing their decision from the information in these documents. *".. Then it will go to the federal government for the final decision. A certificate might be issued, then we wait on industry to decide if we are going or not. It is the stage we are currently in and this last leg of the process is much clearer than what the initial first piece was"* (Floyd Roland).

Another aspect of the federal government's involvement in the project is its negotiation with industry stakeholders. Industry wants some form of deal with the federal government to ensure support from their side, especially since industry had to negotiate benefit agreements with both the aboriginal groups and the local government in the NWT: *"Recently we have been in negotiations with the federal government to develop a fiscal framework that would help with the project and those discussions have been taken their time as well. Because the economy has changed, there's been a necessity to have some clarity on the fiscal framework."*

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*I think the economics have changed in terms of cost of material and labor, and there is a high inflationary period where the price of oil went up to over a hundred and forty. Associated cost went up with it and that has caused some affection on the project. It's hard to say, depending on what the NEB comes down with depending on whether we are able or not able to agree with the government will determine if we'll be able to move forward" (proponent). "the project proponents on behalf of the proponents Imperial Oil filed a letter with a schedule and within there it talks about having acceptable conditions and having a framework in place with the federal government, so if those things were in place, the conditions on government issues are acceptable to us and we have some definition with federal government in terms of a fiscal framework, then yes, we will be ready to proceed" (proponent). Finalizing this agreement might also delay the project and contributes to a greater number of negotiations which needs to be finalized for the project to proceed.*

### *The 7000 permits remain*

If the government decides to support the project and gives the industry a green light to proceed, assuming industry is still in a position where it is profitable to continue, they will have to engage in new process of permits and licenses. This is called the project permit process. It involves almost seven thousand different permits, where one-third is considered risky and might end up in individual hearings. These hearings processes will be on a smaller scale compared to the JRP or NEB hearings, but considering the amount of permits, it is deemed to be time consuming. *"The other aspect to this that I haven't mentioned is that there's three components to the regulatory process: there's the JRP process, the NEB process and then there's what's called the project permit process where you actually have to get access, permit access to the land to construct ride ways to do river crossing and access to gravel quarries,, and that's seven thousand permits that we may need to get, and a number of those, because of the way the northern regulatory regime is set up, could go to its own hearing process. Two thirds of those are what we deem to be critical permits before we make a decision to proceed, so even if we did get a favorable decision from the NEB we would still do some regulatory work before the actual construction. Say you are going into, mini public process hearings, you have a thousand public hearings potentially, and that causes a lot of delays potentially. You got to be sure before you invest, that the time and effort to do that, you got to be sure that you have a viable project to go forward with. That's the next step we will get started with, permit applications, not actual construction" (Proponent).*

Randy Ottenbreit with Imperial Oil also had concerns regarding these permits, he states that; *"We also need literally thousands of individual authorizations or permits"* (Randy Ottenbreit). These permits are described on the website of the MGP (MGP7 2010). Not much has started in regards to these permits as of now, but the fact that proponents still have 7000 permits to tend to indicates further the complexity of the Regulatory system in the Northwest Territories.

## **5.5 External Context**

The context of our findings revolves around the changing external factors which have an effect on the project. We can define it as the environment that surrounds the project. We have divided this into three main parts; Change in market and economy, in addition the external forces. We argue that these factors have implications for the Mackenzie Gas Project. This is because the industry members are dependent on investors, and the financial environment is very unstable.

### *Market –the Shale gas Revolution*

Gazprom announced the delay in the development of the Stockman natural gas field. One of the reasons given for this was the Shale gas phenomenon in North America, that has led to a decrease in the need for imports of natural gas. Global LNG supplies are predicted to grow but the global demand has yet to show significant signs of recovery (O'Meara 2010). Many argue that the Mackenzie Gas Project will not be viable because of this new market trend. After conducting interviews, we can see that the involved parties are not concerned. They argue that statistics show a growth in cleaner energy demand and the decrease of conventional fields in Canada. *"people will tell you that because of shale gas it's not going to happen, but they just haven't been informed of the whole shale gas picture and I think I'd like to say they have read two pages of a ten pages book on shale gas"* These are Bob Reid's thoughts on why people who are not involved in the project state that it will not happen, because of the introduction of shale gas to the energy market. Randy Ottenbreit from Imperial Oil agrees with this statement. He claims that due to the rise in demand for energy, the market for arctic natural gas will not be affected by the extraction of Shale gas. One of the concerns has been that the price of natural gas is not competitive in today's market. Randy Ottenbreit argues the importance of getting the natural gas to the markets at a low cost. The Government of the Northwest Territories also agrees that this is not a major concern and states; *"Our projections*

*are even with LNG and Shale gas we will still need arctic natural gas because of the growing demand for energy".*

The APG has also taken this new phenomenon into account. Bob Reid explains how the APG has dealt with it. He says the APG hired an external energy analyst, who produced a report that states that: because the western Canadian sedimentary basin in Alberta and British Columbia are maturing, and the wells are declining at about 20% each year, the conventional resources must be declining. Even with the production of shale gas in British Columbia, the western basin is still declining, and due to this decline there will be a future market for arctic natural gas. This creates the need for the proposed pipeline. From a market perspective Odi Hansen explains that several of the power companies are switching from coal to oil or natural gas, so this can imply an increase in the natural gas market. *"It's the most environmental friendly fossil fuel, and people are calling it the perfect transition fuel"* Bob Reid, on the market implication for arctic natural gas.

#### *Economy –Financial crisis*

The changes we have experienced in the world economy have had an effect on companies around the world. Companies have been careful when committing to new investments, and especially on big projects like the MGP. One of the reasons for this is the decrease in the price of natural gas which, dropped by 50 percent during the recession. This made the MGP less profitable, and that made it hard to attract new investors. Richard Nerysoo points out that the economic downfall is also to blame in this matter. He argues that the financial environment they were operating in was not conducive to building a pipeline. This is mostly due to the fall in natural gas prices and industry having less free capital for new investments.

Still, the communities of the NWT are dependent on this development in order to sustain their communities. *"The future of the Mackenzie Valley is pretty bleak. We have a number of small communities, and there is virtually no development. Oil and gas is the only future that could move these communities from living off the land, to a wage economy"* –Bob Reid President of the APG. This is the case for many remote communities in the Arctic. Increased oil and gas activity can create much needed value in these areas.

#### *External forces*

The government of NWT explains how the environment of industry is changing from a purely economic view to incorporating environmental and social factors. The MGP is an example of

how these aspects have been incorporated into the project. The producer group is acknowledging the fact that the social and environmental aspects of this project are important. If we look at the MGP, there are many stakeholder involved. Some of them have legal rights, while others, like NGOs state their concerns or objections when it comes to social and environmental factors. This stakeholder involvement can be frustrating for many parties. The government of the Northwest Territories stated: *"We have parties that have an interest in the environment or industry side from southern Canada, and they come in and say: well let's check this out. Then we have the international groups who say: well you shouldn't do this, you need to protect this, you need to do it this way. In this state we are saying: we people of the North can make the decisions, we don't need someone from an Ivory tower in Toronto or Ottawa making the decisions for us."* (Government of the Northwest Territories)

They explain how frustrating it can be when people from other parts of the country, or the world start to attempt to get involved, and make recommendations that the local government or communities know will not work. The communities of the north possess a great deal of knowledge about the land, as well as its environment and animals. Therefore, it can be difficult for them to have to listen to a scientist who has only been there for a matter of weeks, for instance, making statements on the fragileness of the caribou herd.

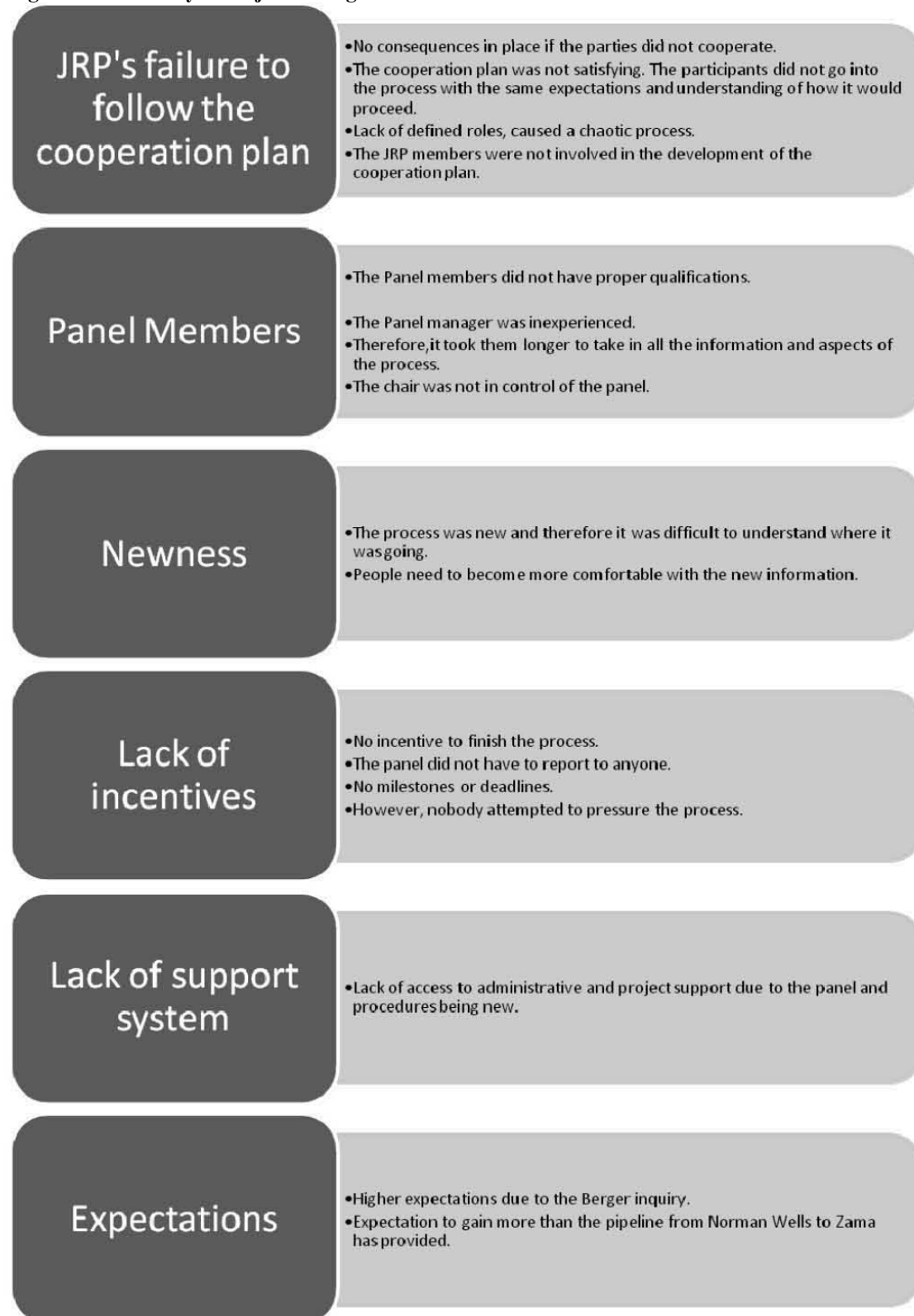
#### *Change in structure of Industry*

Richard Nerysoo explains how the internal structure of Imperial Oil has changed over the years bringing in new external people to the project. He states: *"in all the time I was negotiating, there were four presidents of Imperial Oil"* He also states that: *"The corporate knowledge leaves and is gone, but the aboriginal communities still remain the same. All the people who were involved are here"* We need to realize that the processes involved in the project have taken many years, and it's normal for companies to get new people involved. However, as we see from the statement, it does create issues for the involved parties.



## 5.6 Summary of Major findings

Figure 12 Summary of major findings



## Nature of negotiations

- Difficult because every group felt they were different, therefore no room for a common agreement.
- The Aboriginal People like to include the community in their negotiations it therefore take time to understand what is negotiated.

## Two hats

- Difficult due to the fact that the Aboriginal People are on both sides of the table. (Industry and Aboriginal community side)
- The Aboriginal Pipeline Group stepped back to un-complicate things.

## Obstacles

- Due to land claim agreements these agreements needs to be negotiated.
- The negotiations lasted for two years.
- The differences between the groups create a situation where the same goal exists, but there are different means to get there.
- There is no agreement in place with the Deh Cho because they have not settled their land claim agreement with the federal government.

## The Regulatory Process

- the GNWT is negotiating sharing of revenues with the federal government.
- GNWT has negotiated socio-economic agreement with the industry.
- The federal government supports the project, but subject to the environmental review and the regulatory review.
- If the federal government does not issue a certificate, the project will again be put on hold.
- The industry is negotiating a fiscal framework with the government.
- Seven thousand other permits are necessary in order to start construction of the pipeline.

## External Factors

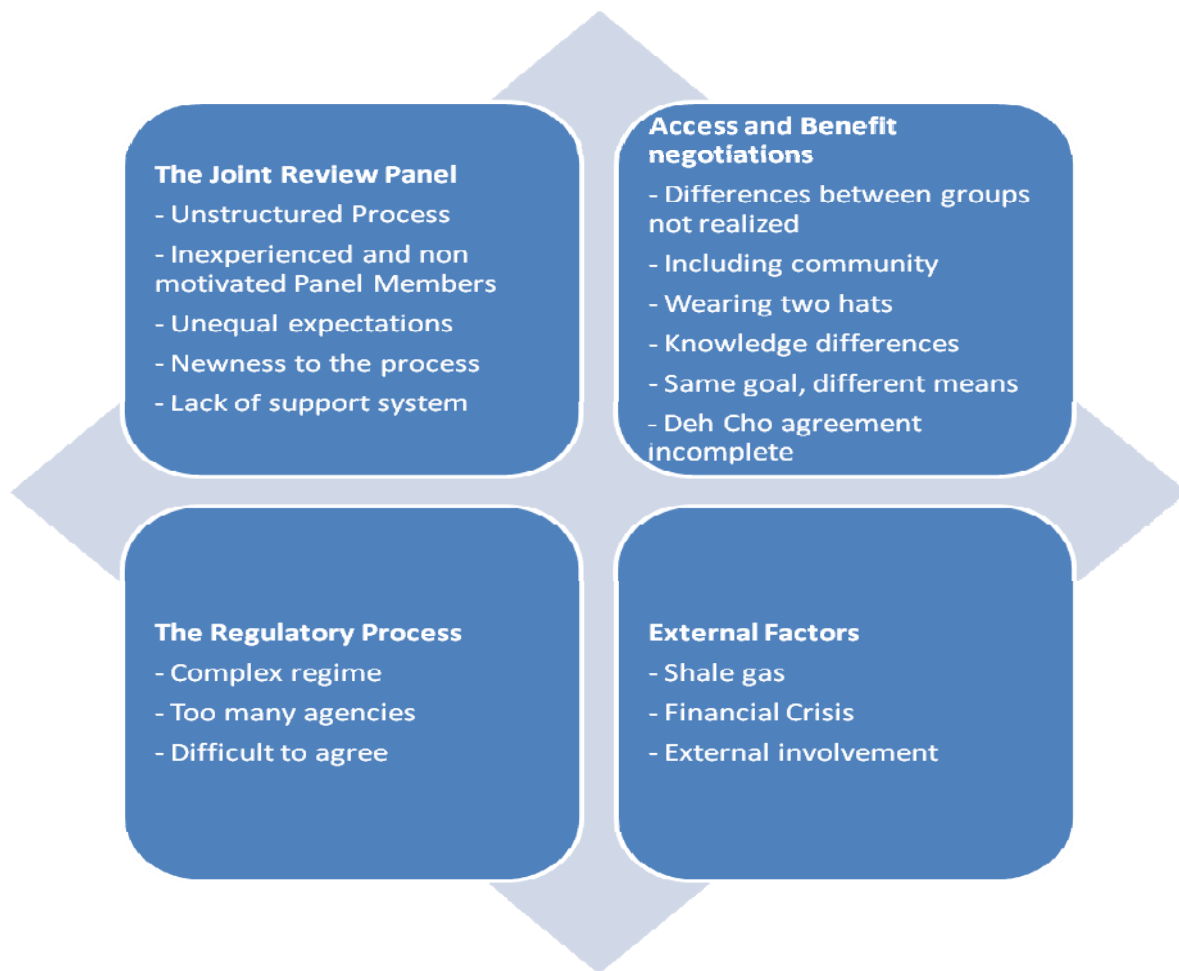
- Shale gas might threaten the demand for natural gas, due to new discoveries. However, it is not a major concern to our respondents as the demand for energy is increasing. They also call it the perfect transition fuel, therefore increased demand for natural gas is expected.
- The financial crisis has a negative effect on the price of natural gas. This will make the MGP less attractive for new investors.
- The involvement of other parties from southern Canada, and other countries confuses and interrupts the MGP process.

### *Summary*

Most of the factors that affect the process of the Mackenzie Gas Project and slow it down are structurally-based. The problems are rooted in a confusing and new regulatory environment and the differences between the groups involved. There might not be anything the stakeholders of this process could have done substantially differently, but there are definitely lessons that can be learned for future projects.

We have divided our major findings in four categories; we will here present the most relevant aspect within the different categories in a figure to sum it up.

**Figure 13 Major findings and categories**



These four categories represent our major findings and will follow into the next section where we will analyse them using theories outlined previously in our study. The discussion part will review each of these themes thoroughly and suggest to some extent reasons why they are our main themes and how they can be dealt with in future projects. Each bullet point in our figure represents a critical aspect of the respective process indicated as the heading in each box. After the discussion part this figure will be developed into a model applicable for future project.

## **5.7 Discussion**

The analytical part will be based upon our major findings from the interviews with the various participants; the politicians, the aboriginal community, the aboriginal pipeline group and industry. The model presented in the previous section will be the framework for the outline of our discussion. We will address the issues of the Joint Review Panel in relation to the theory of communicative arena, the challenges with the Access and benefit negotiations will be better understood using the comparison between circulation and mainstream economics, the regulatory system will be evaluated up against the framework for regulatory system presented by McCrank in his report reviewing the regulatory system of the Northwest Territories. In addition the regulatory system will be reviewed through the stakeholder theory; here the different levels of government in the NWT will be looked at as a stakeholder and how they in different and similar ways can be identified as a stakeholder. In this section a description and discussion of how these different aspects of the project and the various stakeholders affect the project and its progression will be offered, at last a section regarding the project as a whole will be outlined. This chapter is the basis for our conclusion and recommendations for future projects, which will be presented in the conclusion.

### **5.7.1 Communicative arena and the Joint Review Panel**

A communicative arena is defined by Jakobsen and Ingebrigtsen as; *"By establishing integrated networks of communicative arena, it is possible to coordinate interests for the various actors in the economic sector, while at the same time taking into consideration values linked to ecology (nature) and society (culture) ."* (Jakobsen & Ingebrigtsen, 2007:249) The Joint Review Panel is such an arena; all the involved parties in the Mackenzie Gas Project had an opportunity to express their concern in this forum. As far as our findings, there was no critique made of the Joint Review Panel that suggested that they did not reach the requirements for communicative arena. Therefore we will assume that they were met, the purpose of the JRP hearing process was to give everyone the opportunity to address their issues; they succeeded in meeting these requirements.

Communicative arena is based on the following requirements:

- *All individuals and or ganizations (or representatives from them) who can be affected, should be allowed to participate*
- *Everyone is given the possibility to ask questions about any statement*
- *Everyone at any time has the possibility to introduce their own proposals*
- *Everyone has the opportunity to express their own attitudes, wishes and needs*
- *Nobody must be hinder ed , either by internal or external for ces, to m ake use of the above mentioned rights*
- *Everyone is willing to adapt to the decisions being made*

(Jakobsen and Ingebrihtsen, 2007: 255)

However, we argue that these requirements are not enough to establish an effective communicative arena. Most processes within business call for some kind of structure. Many of the critiques of the JRP from our findings are rooted in the lack of structure and a satisfactory level of pre-planning. The critical aspects of the JRP that we have identified are: the cooperation plan, the panel members, newness, lack of incentives, lack of support system, the legal advice and unreasonable expectations. If the cooperation plan would have been reassessed after the establishment of the JRP and the filing of the Pipeline proposal, it might have been a more effective road map for the process. With a better structure and timeline, it probably would have been easier for the JRP to conduct its process. Having qualified personnel that are experienced in such communicative arenas is vital for the success of the procedure; if there is no one to guide the direction of the process, it lacks structure. When the members are not presented with some kind of incentive to conclude the hearings, it takes on its own life, as Premier Roland said. The fact that the process is new and that the panel lacked some supporting systems does explain some of the delay and ineffectiveness. This factor could probably not have been avoided, but will be taken out of the equation in the future, assuming a similar process will take place, and that the members are able to learn from previous mistakes.

We argue that the requirements set out for a communicative arena are not enough. Without the requirement for formal structure, a process like this could go on for a lengthy period of time. There has to be a comprehensive plan, where all participants are aware of their role and where systems are in place to ensure that the process moves on in a timely fashion. Some of the respondents explained that there had been a lot of repetition in the process, due to the fact

that the hearings took place in different communities and those involved often had to address issues that had already been addressed. *"There was a lot of repetition, you could see then that this was going to be a long process"* (Bob Reid). Here, we find a problem with one of the requirements set out by Jakobsen and Ingebrihtsen:

- Nobody must be hindered, either by internal or external forces, to make use of the above mentioned rights

This requirement does not give the involved parties an opportunity to avoid the huge amount of repetition that went on in the MGP. We suggest an additional requirement, calling for a communicative arena. This would contribute to a process that works properly, and gives industry the ability to work through the process without as many obstacles. It wasn't only the oil and gas industry that suffered from the delay. For example, hotels were built to accommodate the increased activity expected in the North. Now that the project has been delayed for so long, they are suffering. *"and there has been new hotels constructed there in anticipation of the pipeline and they are barely hanging on now because of this delay"* (Bob Reid). With better structure of the communicative arena in a communicative process, there will be more certainty of good solutions for all parties, rather than an ongoing process that fails to provide conclusions in a timely manner. For a theory like the communicative arena to operate in the business environment, it has to be structured. The business environment is changing all over the world. Companies are increasingly becoming aware of the need for stakeholder involvement. However, we cannot expect them to engage in a process so time-consuming that the initial project is no longer economically viable. Therefore, we argue more structure is necessary. The Joint Review Panel engaged almost every stakeholder in the Mackenzie Valley in the dialogue or hearings. This qualifies as stakeholder dialogue.

### **5.7.2 Generalization**

Even though the reasons for obstacles in the MGP can be traced back to the complex regulatory process in Northwest Territories, there are some lessons here that can be applied in other projects around the world. The Joint Review Panel was formed due to the many different jurisdictions in the North. The confusing regulatory process was supposed to be simplified by the creation of this panel. However, putting aside the reason for establishment of panel, it is still a good example of stakeholder dialogue in a communicative arena. Stakeholder dialogue will have to take place in many projects in the future and there are many lessons that can be learned from this process that can be applied in those future projects. The structure, framework and road map for the JRP sessions were incomplete and inefficient, and

in some cases even non-existent. In future projects, the participants and planners of such stakeholder dialogues can use this experience to understand the importance of the systems around a process like this. If everyone gets the opportunity to speak their mind and a huge amount of issues are to be examined, there has to exist a formal structure to keep things from getting out of hand.

*Interview with the Joint Review Panel*

As mentioned earlier, the JRP refused to participate in our study; we had a desire to interview them after interviewing our respondents as several of them gave quite hard criticism of the JRP. They were first positive to participate and asked for the questions in advance, after receiving the questions (Appendix 2) they changed their mind.

*"I have reviewed the questions you have submitted... (and) have decided to decline your invitation to participate in an interview"*

Some of our questions were directly related to some of the criticism given by other respondents, the fact that they changed their minds makes us wonder if they could not provide any form of defense to the criticism. We gave them a chance to give their side of the story, they wished not to. We can't do anything but assume why this is, however we find it interesting and decided therefore to include it as one of our findings.

### **5.7.3 Analysis of the Access and Benefit negotiations**

The access and benefit negotiations were between the different aboriginal groups and the proponents. These are two of the most important stakeholders in the project. The process of determining these agreements also contributed to delays in the Mackenzie Gas Project. The difficulties here were mainly due to the different expectations the two groups had for these negotiations. The industry went into them thinking it would only take a couple of weeks. This indicates the possibility that industry viewed these negotiations as less important than the Aboriginals. One of the most important aspects of the negotiations for the Gwich'in Tribal Council was the involvement of the community. This was a time consuming-process. The council developed principles, which their two representatives that participated in the negotiations would work in accordance with. When you attempt to involve an entire community, it takes time to make all members understand the negotiations and the aspects to consider. However, this is how Aboriginals have historically made their decisions, and there is reason to believe this is the case in many Aboriginal communities of the Arctic. For similar



projects in the future, it will be important to include the Aboriginals, and to give them time to understand their role and opportunities in the project.

It is clear that there are important cultural differences between the two groups. The Aboriginals, here represented by the Gwich'in Tribal Council, are focused on community involvement and concerns for the environment. They are not willing to enter into an agreement with Imperial Oil if the development is not done the council's way. Richard Nerysoo, who was the lead negotiator for the Gwich'in Tribal, put it this way: *"My view is that I am not interested in whether or not your pipe line project proceeds, if it's not in the interest of the community"*. Through the framework of circulation economics, this is quite appropriate. It is almost like Mr. Nerysoo is advocating for this economic way of thinking when stating this. His behavior fits the model of circulation economics. On the other hand, the industry's neoclassic economics differ from the Gwich'in circulation economics. The industry, represented by Imperial Oil, went into these negotiations assuming a quick process two weeks in length. Clearly, they did not predict the broad focus of the Gwich'in, including their community in the negotiations and addressing various environmental concerns, both regarding their society and nature. Imperial Oil gave themselves away by proposing a common agreement for all the different aboriginal groups to sign. They stated that they did in fact recognize differences between the groups, but clearly not enough. This suggestion was turned down because the Aboriginals were not comfortable signing an agreement that was initially common. They felt that their communities and the people who live there were different, and had specific needs, so they demanded individual negotiations. In this sense Imperial Oil has a closer relation to the neoclassic way of thinking than to circulation economics.

Since this negotiation process was the first of its kind after the comprehensive land claim agreements were settled, it was initially hard for both parties to understand each other's objectives, and the goals of the access and benefit agreements. We also found challenges in regard to the varied level of advancement of the various aboriginal groups. Some of them have only recently settled their land claim agreements and are still not developed enough to engage in efficient negotiation with a highly experienced organization like Imperial Oil. Representatives with Imperial Oil had their patience tested, because there is no way of going around the agreements. You need the approval of the aboriginal groups. This might also be the reason why they still haven't reached an agreement with the Deh Cho. Due to different levels of engagement in the negotiations and the different level of knowledge and objectives,

the negotiations have been challenging for both sides. Not only are there fundamental differences in their economical paradigm, but they encompass very different knowledge. The Aboriginals have advanced knowledge regarding the environment and nature of the North, while Imperial Oil has extensive knowledge on business matters and negotiations.

The fact that the two parts viewed development in the area in such different ways made the whole negotiation process more difficult. Had industry implemented circulation economics as their practice, they would have developed a better approach to the aboriginal community, and the two sides may have better understood each other's concerns. This would have made the process more efficient, and should be a note to future projects conducted with aboriginal populations. In the future, industry should have a more organic worldview, and work within circulation economic theory when conducting business with indigenous populations.

#### **5.7.4 Regulatory system**

The discussion of our findings when it comes to the regulatory system, territorial and federal government will be done in two parts. In the first part we will view the regulatory system and analyze it in accordance with Neil McCranks report on: *"Road to Improvement, the review of the regulatory system in the north"* Here we will discuss the regulatory system and how it has affected the process and outcome of the Mackenzie gas project. This will have practical implications for the regulatory system in the future as the government of the Northwest Territories soon will be in the process of implementing the recommendations from McCrank. In the second part we will link the regulatory system to stakeholder theory and identify the empirical evidence of the government's stakeholder approach to the Mackenzie gas project and how the government has acted as a key stakeholder in the project.

We have reviewed the major findings when it comes to the regulatory system, and the government both Territorial and Federal are key stakeholders in the Mackenzie gas project. We will use the findings and discuss them in accordance with Neil McCrank's report *"Road to Improvement, the review of the regulatory system in the north"* (McCrank 2008) And use he's model and assessment of the current regulatory system, to evaluate the governments systems in accordance to the Mackenzie gas project. This model that McCrank has created does not suggest that all regulatory bodies should achieve all the objectives. It's meant to act as a foundation in order to recommend improvements. (McCrank 2008)

*"Pipe Dream" – A study of the Mackenzie Gas Project*

| Objectives of Model system       | Current system |
|----------------------------------|----------------|
| 12. Understandable               | X              |
| 13. Neutral                      | ?              |
| 14. Clear Mandate                | ?              |
| 15. Open and Transparent Process | √              |
| 16. Fair process                 | √              |
| 17. Timelines                    | ?              |
| 18. Consistent and predictable   | ?              |
| 19. Accountable                  | ?              |
| 20. Capacity                     | X              |
| 21. Coordinated                  | ?              |
| 22. Establish Rules              | ?              |

√ Objectives met in the current regulatory system

? Objectives not met in the current regulatory system

X Objectives that cannot be met in the current regulatory system  
(McCrank 2008)

We will use this model in our analysis of the regulatory process with special focus on the objectives that are not met, and see if this is the case for the Northwest Territories and the Mackenzie gas project. When viewing the regulatory system of the Northwest Territories in accordance with McCrank's report we have identified the areas where our findings are similar to McCrank's. We have previously outlined the objections behind the different points in the model. In accordance with McCrank's concept of how the regulatory system should act neutral, we have used empirical evidence to state that the interest of the Government of Northwest Territories is to increase the industrial development in the area. However they do not act as final decision makers. The government of the NWT has been setting the framework for the decision making through the Joint Review Panel in order to assure that the development is in the interest of the people. We will state on the background of our interviews that it is difficult to determine whether the government of the NWT is neutral or not. They are wishing industry welcome which indicates where they stand in the question of development. They have set the guidelines for community involvement through JRP. We have stated that the JRP was not successful but we claim that the incentive for creating this panel was in the interest of the environment and community.

If we view the federal government in accordance to this statement we see that they have managed to be neutral throughout the process, but now based on all the information gathered they are the ones who have to make the decision. This means that we can agree with McCrank that when identifying if the regulatory system has been neutral indicating this with a question mark seems to be the right answer.

When we review the issue of the system having a clear mandate we have identified through our empirical evidence that this was not the case for the Northwest Territories. One example is the writing of the JRP report. First it was unclear as to who should write it. So this shows us that there was confusion as to who was responsible for what. We also have evidence that indicate that the different bodies within the government of the NWT did not have a clear idea of their role in the project and there was a lack of cooperation between the different departments. What we can say when it come to the Government of the NWT and McCrank's assessment of their regulatory system that they are compatible. There exists a lack of clear mandate in the GNWT in accordance with the MGP. McCrank states in his report that the regulatory bodies must make decisions in a timely manner. From our findings this is one of the questions that are easy to answer. The regulatory system has completely failed when it comes to this objective. Through their own systems both the JRP and the regulatory regime the amount of time spent on the project has escalated rapidly and resulted in years of communication between the government, industry and communities in the Northwest Territories. Many of the different bodies have started processes in order to gather information and opinions from the public before realizing the amount of time and resources this will take. The result we have experienced in the Mackenzie gas project is a long-term communication and decision making phase that is complicated and hard to finish. Consistent and predictable are one of the themes from the report, and we argue that the government has through their regulatory system managed to obtain all the information needed in order to make an informed decision when regarding the Mackenzie Gas Project. As previously stated it is the federal government that will make the final decision when it comes to issuing a certificate for the Mackenzie gas project. But it has been the territorial government who has been responsible for gathering the information in order for the federal government to make the right decision. We argue that through their extensive process they have managed to gathered information on environmental, social and economic aspects of the project. Their decision should according to McCrank's model be predictable and this means that the recommendations set by the JRP and the NEB should be met by the federal Government, therefore the federal government should

support the MGP. The JRP report states that: *"The Panel is of the view that the Mackenzie Gas Project could provide a foundation for a sustainable northern future"* (JRP report)

When investigating the accountability of the regulatory system we have identified that there existed some confusion on this matter. We know that the reason for why there were challenges for the JRP to publish their report was due to confusion on the matter of who should be writing it. However the documents and report provided by the government of Northwest Territories have been through a thorough process and can be accounted for by the participating parts. The report published presents the overall picture and issues regarding the project. In order for the regulatory bodies to be more coordinated there needs to be cooperation between the different bodies of the Government of the NWT. We argue that increased cooperation would create better starting point for the processes and they could have incorporated timeframes. One of the government's key roles should be to establish rules for regulated parties and enforce these. This was a big error on their part when we look at it in accordance to the MGP. When we discussed our findings from the Joint review Panel hearing process we discovered that they had no incentives to get the job done. This is a lack of framework and guidelines from the government. The government should have demanded a clear timeframe and budget for the hearings and through these they could have regulated the process more sufficient. So we see that McCrank is right when he states that there is a lack of established rules in the regulatory system in Northwest Territories.

### **The government as a stakeholder in the MGP**

The Government of Canada both Federal and Territorial aim to manage the resources in the country in a matter that creates benefits for the country as a whole. The federal government is the decision makers who set the framework for business and resource exploration. But Canada is unique when it comes to aboriginal rights and its legislative environment. As previously stated the regulatory system which controls the north of Canada is a cluster of decision makers, who are suppose to co-manage the resources in the north. In NWT the decisions should be made by involving the people who live there. This involvement of different communities can be view in accordance with the main assumptions of stakeholder theory. Gibson states that a main stakeholder is defined by *"those stakeholders who have a formal, official or contractual relationship with the company or industry"*. (Gibson 2000) We can categorize the government as a stakeholder who has a formal and official connection to the MGP. But how did they take part in the process and how did their involvement contribute to

the MGP's outcome? As we know it is the federal government who has the last saying, and this is why they have initiated the processes involved in the MGP in order to make the right decision based on all the information. We argue that the government has used a stakeholder approach in order for making a decision that benefits the people, communities and the country as a whole.

But has this stakeholder approach to government decision making created the issues and confusion in their regulatory system? We have already discussed one of their methods which were the JRP and we have stated how this stakeholder dialogue failed in providing the government with information in a timely matter.

We justify that the government both federal and territorial are main stakeholders based on their power in regards to the MGP. They are the number one decision maker which has the final saying when it comes to opening up for industrial development in the Mackenzie Valley.

### **Stakeholder power through land claim agreements**

In stakeholder theory the relationship between the stakeholders involved is important in order to achieve beneficial agreements for all the involved parties. In NWT the aboriginal have settled land claim agreements with the federal government. This makes the aboriginal communities unique when it comes to right of the land. A regular private land owner in Canada owns the land but not the resources. The aboriginal land claim agreements make them entitled to the land and the resources. This raises their power and privileges in a stakeholder perspective. As stated in the theory chapter we have classified the aboriginal community as a P5 stakeholder according to Freemans "impact from stakeholder" (Gibson 2000). This means that the aboriginal communities have legitimate claims and obligations in accordance to MGP. So within the regulatory environment the aboriginal community stands out as a powerful stakeholder. This makes the regulatory environment more confusing for the industry wishing to explore these areas.

We would state that the regulatory system in NWT has created issues when using the incentive of stakeholder involvement. It has created more issues than solutions by trying to involve all affected parties. Complexity of decision making while using a stakeholder approach can be justified when viewing the regulatory system in Canada and NWT. This is what we pointed out in the theory chapter when explaining how using stakeholder theory can decrease organizations effectiveness, and if we view the regulatory system and the

government as an organization this applies to the MGP. The processes initiated by the government have had a major lack of effectiveness and this supports Sternberg's claims that *"for a balance to be struck, the numbers of stakeholders must somehow be limited"* (Sternberg 1997:4). This was not the case for the government. The government invited everyone to state their mind about the project, and this is why they initiated the JRP.

If we were to describe the regulatory system from our findings and how this connects to existing theory on the stakeholder approach we can state that the approach has its similarities to theory but it does not make for an effective process.

One of the regulatory divisions that were created during the evaluation of the proposed MGP was the Mackenzie Valley Resource Management Act (INAC2 2007). And the objectives of this act was to involve enabling residents to participate in resource management, that their concerns are being properly assessed, protection of the social and cultural well-being of the people is vital and recognizing the importance of the conservation of the aboriginal way of life. Through this statement we argue that the government uses a stakeholder approach, when making project decisions.

### **5.7.5 External Factors**

The external factors affecting the progress of the Mackenzie Gas Project can be numerous, however through our interviews we have managed to identify three main external forces which has been affecting the project; the discovery of shale gas, the financial crisis and the negative involvement from external interrupters. We will base the discussion evolving around these subjects purely in a narrative way, this means that the answers given by the respondents speaks for itself.

The aspects discovered by analyzing the interviews can be viewed as threats to the project. They can be sufficiently assessed by preparing ahead and being aware of the presents of these threats. Imperial oil assigned an external firm to assess whether or not the discovery of shale gas would affect the development of the project. They discovered after thorough research that there would still be a demand for natural gas in the market even if maximum shale gas were to be extracted. This is due to the decrease of conventional oil fields in Canada and the increasing demand for energy in USA. In addition there seems to be a trend in the market of substituting oil for natural gas, as a transition fuel towards a more sustainable energy use, this indicates increase in demand for gas.

The financial crises affected the price of natural gas in a negative direction; this is negative for the attraction of new investors as the project becomes less profitable. This can still affect the project; however the proponent group is a strong group of companies which is capable of investing significant amount of capital. We have detected no signs of any of the proponents withdrawing from the project at this time. Therefore, we argue that the financial crises are not a great concern. Also none of the proponents have expressed any deep concerns regarding the world economy.

In major project like the MGP there are often non governmental organizations, politicians or other individuals who does not have a relation with the project interfering with the procedures and decision making processes in the project. This has been, according to our respondents, confusing for the members of the community in the Mackenzie valley and also frustrating for those trying to provide correct information regarding the project, like the Government of the Northwest Territories. This kind of issue can be difficult to avoid since one can not prohibit anyone for speaking their mind.

### **5.8 Holistic review of the major finding**

Through the definition by Freeman *"a stakeholder in an organization is (by definition) any group or individual who can affect or is affected by the achievements of the organization's objective"* (Freeman 1984) all of our respondents qualifies as stakeholders to the Mackenzie Gas Project (MGP). They can also be defined as primary stakeholder trough Gibson's definition *"those stakeholders who have a formal, official or contractual relationship"* (Gibson 2000). However the MGP includes all stakeholders in the project with the establishment of the Joint Review Panel.

The emerging business trend in the world today is increasingly concerned with involving more stakeholders. Corporation is increasingly realizing their responsibility not only to shareholders, but also to those qualifying as stakeholders in their operations. To change this focus involves increasing the amount of issues a corporation or industry needs to deal with and can be challenging. We can argue trough the empirical findings in our study that society can sometimes demand too much of business and other stakeholders in a project like this. We have seen that many of the communication processes in the MGP have been the first once conducted of its kind and in this area. Therefore we cannot expect them to be successful, industry, government and communities along the Mackenzie delta needs time to comprehend



the nature of the procedures they have to conduct. We have seen that one of the major issues in relation to the MGP has been the lack of structure and understanding of the regulatory process. The roles of the involved parties has been ambiguous, this has implicated the process of the MGP. This tells us that the emerging trend of stakeholder involvement is still new to industry and others involved in the business sphere.

Our study has examined a project with high stakeholder involvement and through the empirical findings we can suggest that the theory of stakeholder involvement can in some cases be difficult to successfully implement in practice. As a whole the Mackenzie Gas Project gives, based on the empirical evidence, an impression that there can be too many stakeholders involved to manage a project effectively. This project is to us an example of how new trends and pressure from the society can lead to a confusing process that does not seem to find its conclusion. Since the society and in this case, history gives these stakeholders actual power to delay the project; it becomes a cluster difficult to manage. Historically the Canadian aboriginals has been suppressed as a people, they have now received their retribution by settling land claim agreements. This means they are an important stakeholder in the project and the other stakeholders needs a healthy cooperation with them. Since the NWT is a Territory and not a province, the federal government gets involved because they own the land. This, as stated previously, makes the regulatory process complex and non understandable for the participants.

This being said, the positive aspect of the Mackenzie Gas Project is that they have despite their issues managed to include all these stakeholders and developed arenas where they have been able to meet and discuss the issues concerning them. An example of this is the Joint Review Panel. This is in accordance with the emerging business trend, the participants in the MGP have made an impressive effort to include and make everyone affected satisfied with their ability to affect the project. This is initially positive, but for future projects there are several lessons to be learned regarding projects with numerous stakeholders, and we will present these in our conclusion.

## **5.9 Conclusion**

The concluding chapter of our study will be divided in two parts. First, we will address the concrete lessons that can be learned from the Mackenzie Gas Project. Second, our contribution to theory will be outlined. The first part will be concerned with the direct lessons taken from the Mackenzie Gas Project based on the discussion segment. The second section will be a model visualizing the major concerns of a project involving numerous stakeholders, based on the lessons we have learned. We will provide explanations for our opinions on how problems can be addressed in such projects. This model is, to some extent, applicable to similar projects, and refers to processes including stakeholders in general.

### **5.9.1 Lessons Learned**

Here, we will present the concluding remarks to answer our problem statement.

*How the stakeholders have influenced the outcome of the Mackenzie gas project: an identification of central themes connected to stakeholder involvement.*

Through this thesis, we have outlined the structure and processes of the project, and identified some central themes connected to stakeholder involvement in the MGP. One of our major findings is that there were many issues concerned with the Joint review Panel.

#### *The Joint Review Panel*

Our friend John Todd describes the work conducted by this panel as a “*complete bloody failure*”, and states that “*no one with authority took responsibility*”. This is, to some extent, a fair description of the panel and it supports our findings and analysis in regards to this process. The Joint Review Panel is an example of good stakeholder involvement, but as we have presented, it has fallen short of effective business practice. We conclude that it is fair to say that the process has been unsuccessful. We argue this based on some key findings about the Joint review Panel.

- The failure of the cooperation plan.
- Unsatisfying competence in the panel.
- Lack of time frame and budget.
- No incentives for getting the job done.
- No authority to take control of the process.

We contacted the Joint Review Panel to request an interview but they declined our invitation. The reluctance of this group, and the government of the Northwest Territories, to answer questions about the Joint Review Panel, indicates that we are correct in stating that there have been severe problems related to this process.

We argue through these findings that the theory of communicative arena is a well designed concept for stakeholder involvement. However, it does not provide specific requirements for conducting stakeholder dialogue effectively. There exists a need for development in the sphere of stakeholder theory, to make it more compliant to effective business measures. In the model outlined below we stress the importance of structure, competence, incentives and support systems for making a stakeholder dialogue work. Based on our findings, we have identified these as aspects where the hearing process failed.

#### *Access and benefit negotiations*

The access and benefit negotiations have been another key aspect in this project. We analyzed this process using the comparison between mainstream and circulation economics. The Aboriginal People have a view similar to the theory of circulation economics while the industry has a view compatible to the traditional mainstream economical view. This created a gap between the understandings of the negotiating parties, and led to a more time-consuming process than the industry predicted. We state that the access and benefit negotiations is one of the central themes connected to stakeholder involvement in the MGP. These negotiations lacked a clear outline of common goals and satisfactory knowledge sharing. In addition, we discovered the important aspect of mutual respect. We cannot say that this did not exist in these negotiations; however it is an important aspect when conducting negotiations between stakeholders. Other important factors that need to be mentioned here include the unsettled land claims agreement that has also affected these negotiations. In the area where this agreement is not settled, the aboriginal community is reluctant to commence negotiations because they fear that the outcome will compromise their bargaining with the federal government regarding land settlement agreement. We also identified a conflict of interest with the Aboriginal Pipeline Group. They are involved both as a proponent, and as part of the access and benefit negotiations. We have described this as 'two hats', inferring that they should not represent both sides in this process. This is an internal issue connected to these negotiations, but did not seem to affect the process significantly.

### *Regulatory System*

Our findings have identified that the current regulatory system does not meet the requirements of an effective and understandable regulatory regime. For a project of this size to go ahead, it is dependent on the cooperation between the involved parties. After performing this research, we argue that the cooperation could have been more extensive. Under the existing regulatory regime, there are measures that could have been taken to overcome challenges. The participants should have met and identified common goals to work towards; this way there would be a clear goal for all the agencies. The means of getting there would probably still be different, but we argue that this would increase understanding between the stakeholders, and make the process more efficient and successful. In addition, the regulatory regime should have been explained better to the participants to make it as understandable as possible for the stakeholders.

The government is a key stakeholder with legislative power when it comes to deciding the outcome of the project. This increases the government's responsibility to provide a proper framework for the decision making. It is definitely a disadvantage for the MGP to have to answer to a complicated regulatory system such as the one that exists in the Northwest Territories. The high level of stakeholder involvement increases the need for a proper framework and guidelines for companies craving the vast resources in the Arctic. The regulatory regime needs to be improved. Hopefully the Northwest Territories will experience a simplification of its regulatory system in near future.

### *External forces*

The external forces affecting this process are the discovery of shale gas and the major downfall we have seen in the economy. In addition, the involvement of external actors has compromised the project by confusing the primary stakeholders. The introduction of shale gas has decreased the need for natural gas in the USA. However, we argue, based on the statements from our respondents, that there will be a demand for Arctic natural gas in the future. The discovery of shale gas made the MGP unstable at the present time; this might have affected the industry's desire to push the project forward. The important measure to be taken in regards to these concerns is to identify them; by this the stakeholders have sufficient information to act on possible external threats to the project. The involvement of external actors can be dealt with by providing extensive information about the project to both the communities in the Northwest Territories and the public in general, this way the external actors are less likely to confuse the process. In addition the project proponents can provide

some kind of arena for these actors, mainly consisting of Non- Governmental organisations, so that their involvement is more controllable.

*Summary*

To sum up, we can describe the failure of the regulatory system to be the main issue of this project, the government should incorporate guidelines and measures for securing information about the environmental, social and economic implications from the project. The JRP failed to contribute to a system that secured the effectiveness of the hearing processes. The Regulatory system failed in providing the framework of decision-making when creating the Joint Review Panel. The financial crisis together with shale gas have made the project unsecure from a financial perspective, and it's the demand for energy that will show us the outcome of this proposed project. We see that the processes involved in the project could have been more effective, and a clearer framework from the federal government could have contributed to this. The Mackenzie Gas Project is an example of high stakeholder involvement, and meets the requirements of stakeholder dialogue. Through this thesis, we argue that complying with theory does not create a perfect business environment for developing activity in the Arctic.

## 5.9.2 Contribution to theory

Figure 14 Contribution to theory



This model describes the different themes within a stakeholder perspective which we have concluded as central for bigger projects with high stakeholder involvement. We see it as applicable for industry, scientists and in general practitioners of stakeholder involvement. The model is derived from the basic tenants of the theories we have used as a guide in our study: stakeholder theory, stakeholder dialogue, communicative arena and McCranks outline for successful regulatory systems. When reviewing the empirical findings from our data collection, we find there are themes that are not covered by these theories, but are still important in completion of a project with high stakeholder involvement, such as the Mackenzie Gas Project.

### *Involvement of societal stakeholders*

As this model indicates, it is crucial to have sufficient structure and a situation where everyone understands their own roles and the roles of others, when involving a society or community. It is crucial that those managing the most important positions are highly qualified to perform such communication processes, like the Joint Review Panel (JRP) hearings or the access and benefit negotiations. There should be timelines with milestones and incentives for

the deciding individuals to reach a conclusion on issues addressed. This way, the process will not drag on like it did for the JRP. A sufficient support system should be in place to accompany the main processes in the project. This way, the stakeholders have access to expert information and can ask these individuals for assistance when necessary.

#### *Stakeholder negotiation*

In this kind of project or development, negotiations between stakeholders should be based on mutual respect. The participants should attempt to understand each other, and respect the differences between them. This can lead to great knowledge sharing, which is another important subject of stakeholder negotiation. If they share knowledge it will be easier to understand each other's concerns. This can also contribute to simplified development of common goals. With common goals they can work towards the same outcome, with the same objectives in mind. This can help make the issues addressed easier to deal with. In a case like the Mackenzie Gas Project, where different cultures are involved, it is important that the parties respect each other and decide to share information. We could see from the responses regarding the access and benefit negotiations that the two parts, the Gwich'in Tribal Council and Imperial Oil, have different backgrounds and different knowledge skills. By sharing this, they would ease the process of reaching an agreement.

#### *Contribution of legislative/governmental stakeholders*

The most important aspect of the legislative and governmental involvement is that the laws they enforce and the agency structure is understandable for the other stakeholders in the process. Government is in most cases chosen by the public and should work in the public's best interest. For the representatives of government to reach this goal they need to agree on what this is. To do that, they need to establish common ground on what they consider most important. This is especially applicable for the MGP, as the regulatory system of the Northwest Territories is particularly complex. In our opinion, if the three levels of government in this project had a common understanding of how to deal with the project, the process would have been less problematic.

#### *Stakeholder management of external forces*

External factors are divided in two parts: The external intruders to the project and the external forces like the world economy. In regards to the external forces, it is important for project participants to explore and identify these forces. This way they can be identified as new

possibilities or as threats. If you have identified them, you can do something about the issues. If you are unaware, they might jeopardize the project and its stakeholders. Measures can be taken to reduce the impact of external actors on the community. This can be done by establishing arenas for external actors to speak in, so that the project proceeds in a more controlled manner. By doing this, you are ahead of the external actors, and seem more professional and open to their involvement. Providing sufficient information not only to the stakeholders, but also to the external actors can also be a valuable tool. This way, myths and incorrect information can be avoided.

### **5.9.3 Suggestions for further studies**

In our study we have identified what central themes there were and are in relation to stakeholder involvement in the case of the Mackenzie Gas project. For further studies, the focus should be on how to avoid these factors or how to deal with them. Also we have discovered that the Joint Review Panel performed an unsound stakeholder dialogue, and the theory of communicative arena did not work as well in practice as in theory. Further studies can focus on how to develop these theories to function in practice. Another aspect is how pressure from society and other factors can make industry and large companies change their way of business, to something closer to the theory of circulation economics. Questions regarding this can be how we can expect companies to change their behavior and if they are prepared for such a change.

We have criticized the Joint Review Panel for many of their efforts. It would have been very interesting to hear how they felt about our review. However, they did not wish to speak with us. A potential option for future studies would be to interview the Joint Review Panel, to find out what they think about the whole process. They might bring new insights to communicative arena in practice.

In addition, we recommend similar studies to be done on other projects with high stakeholder involvement, to be more able to generalize the themes we have identified.

### *"Pipe Dream"*

*From the dreams experienced by smokers of opium pipes in the 1890's, came an expression applicable for a project of today. The expression pipe dream refers to any fantastic notion, hope or story to be accomplished.*



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## **7 Appendices**

### **7.1 Appendix 1**

#### **Interview Guide**

1. Can you please outline your professional background?
2. What was your role or involvement in the Mackenzie Gas Project?
3. What are your opinions regarding the Joint Review Panel hearing processes?
4. Were you involved with the Access and Benefit Negotiations? Are the aspects you wish to highlight regarding this project?
5. What can you identify as central aspects of the project, those who has contributed to both satisfactory and unsatisfactory progress of the project?
6. Are there other aspects you view as important in regards to this project?
7. Are there challenges with the project or communication processes within the project that you wish to outline?
8. Are there external factors affecting or has been affecting the project?
9. Do you think the pipeline will be built?

- In addition ask follow-up questions were necessary.

## 7.2 Appendix 2

Questions to the Joint Review Panel:

1. Can you please tell us a little bit about your professional background and also your role and involvement in the Joint Review Panel and its process?
2. How did the review process take place, how was it organized?
3. How was the Cooperation Plan implemented in the process? Was it successful?
4. How relevant was the Cooperation plan in this process? Since the plan was developed prior to the establishment of the JRP was it more difficult to use it as a framework for the process?
5. Where there other factors that made the use of the Cooperation plan difficult?
6. Why, in your opinion, did the Hearings take longer than initially planned?
7. Why, in your opinion, did the report take longer to ensemble than initially planned?
8. Would you say that the members of the panel was experienced enough to handle such an extensive and huge process like this?
9. Could there have been made available any type of support that could have benefitted the process and made it more efficient? If yes, what would that be?
10. Talking to participants in the National Energy Board process, we heard that the JRP did not want to share support system with the National Energy Board. Since the NEB is a more mature board than the JRP, they already had in place different functions to support the process, however the JRP turned down the opportunity to use this already established network, do you have any idea or opinion on why that may be?
11. Also, should there have been provided more incentives for the Panel members to finish on time? Do you think this could have speeded up the process?