

BC INTEGRATED PEST MANAGEMENT ACT



The Best Place on Earth

Consultation Guidelines Workshop Discussions Summary Report

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Executive Summary

Over the spring and early summer of 2007, the B.C. Ministry of Environment (MOE) held eleven regional workshops with First Nations throughout the province. The workshops were focused at gathering input and recommendations from First Nations about what should be included in MOE's Consultation Guidelines for pest management.

In total, approximately 100 First Nation individuals participated in the workshops. This report provides a summary of the comments that participants raised at those workshops.

Key Issues:

Participants at the workshops raised five key issues and principles about pesticide use and the development of MOE's consultation guidelines:

1. Participants unanimously agreed that the title and rights of First Nations people should be acknowledged in the consultation guidelines.
2. Participants said clearly that First Nations – as title and rights holders in their territory – need to be involved in any decisions made in their territories about the use of pesticides.
3. Participants said that any decisions made in First Nations territories must consider impacts made to an entire ecosystem and consider cumulative impacts as well as “site-specific” impacts. Many participants shared some of the concerns that First Nations have generally regarding the human health and environmental impacts of pesticide applications, and said that many First Nations advocate for the use of alternative methods whenever possible.
4. Participants said that the “results-based” approach mandated under the Integrated Pest Management Act provides industry with too much freedom to expediently pursue their economic goals with the least possible involvement of the provincial or First Nations governments. Participants said over and over again that the “results-based” approach was incompatible with long term management and responsible stewardship goals.
5. Participants stressed that good decision-making requires solid data, sound analysis and deliberation from First Nations, which can only happen with adequate financial resources. Participants said clearly that First Nations do not have those resources, and said that industry and government have a responsibility for ensuring that those resources are provided during consultation.

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Introduction

The Integrated Pest Management Act (IPMA)¹ regulates the sale and use of pesticides in B.C. Pesticides are chemicals that are used for activities such as vegetation control, pest infestations in buildings, elimination of noxious weeds, mosquito control, and rodent control.

Typical users of pesticides are forest companies, utilities, municipalities, regional districts, and pest control companies. Pesticides that are used in B.C. have been approved as being “safe” by the federal Department of Health (Health Canada).

The IPMA, passed in the provincial legislature in December 2004, is silent on the issue of Aboriginal consultation and accommodation. To address this omission, in 2006 the Ministry of Environment (MOE) issued draft “Consultation Guidelines” for industry and First Nations to use as references until more formal guidelines could be developed with First Nations.

As part of its process to develop the consultation guidelines with First Nations, MOE held a series of regional workshops with First Nations throughout the province in the spring-early summer of 2007. MOE also informed the First Nations Leadership Council (comprised of the First Nations Summit, the Union of B.C. Indian Chiefs, and the B.C. Regional Office of the Assembly of First Nations) about the IPMA consultation guidelines. It is anticipated that discussions with the FNLC will continue until formal guidelines are implemented.

MOE also provided resources to an independent First Nations “Ad-Hoc Technical Working Group” (AHTWG) to conduct a legal and policy review of the IPMA legislation. The AHTWG, which was comprised of First Nation individuals from various parts of the province, delivered their report in March 2007.²

Overview of Regional Workshop Process:

From April to mid-July 2007, MOE held eleven regional workshops with First Nations throughout the province. Workshops were held in Cranbrook, Whitehorse, Duncan, Prince George, Williams Lake, Campbell River, Terrace, Fort St. John, Penticton, Kamloops, and Chilliwack³. Every First Nation in the province was invited to attend, and close to 100 Bands and Tribal Councils participated.

The workshops were provided as information exchange and discussion sessions only and were not intended to be formal consultation. After each regional workshop, a meeting summary was sent to participants for their comment and review. The individual meeting summaries form the basis of this report.

¹ For the purposes of this report, the definition of “IPMA” includes the Regulations.

² See: <http://www.fns.bc.ca/> for a copy of the report.

³ MOE also met separately with an individual First Nation at their request in July 2007; comments from that meeting are also included in the body of this report.

This Report:

This report is an impartial summary of the interests, issues, and concerns that First Nation participants raised at the regional workshops. It is submitted to all B.C. First Nations, workshop attendees, the FNLC and MOE by Catherine Palmer and Cheryl Brooks, independent consultants to the process.

Comments Regarding Process

First Nation participants at the regional workshops registered some general concerns about the process for reviewing the IPMA legislation and consultation guidelines. The following is a summary of those concerns:

Lack of information about legislation: Despite having been mailed copies of the draft guidelines, many First Nation communities were not aware that the IPM legislation had changed, nor did they know about the process for developing the consultation guidelines.

Further discussions required: Many participants said that further discussions were necessary in order to address all of the issues First Nations have regarding pest management and that MOE should provide resources to First Nations in order to facilitate those discussions. Most agreed that First Nations needed to be involved in any further changes to the IPMA legislation.

Workshops not consultation: Virtually every participant agreed that it was necessary to clearly articulate the point that the workshops did not represent formal consultation and this must be noted in the meeting summaries. Participants at one session even requested a signed statement by the Province acknowledging that the meeting was not consultation.

Distrust towards government: Many participants expressed distrust towards government, saying that the Province had used information provided by First Nations in the past in a way that was detrimental to their interests. Others expressed concern that their input and recommendations would simply not be considered by government, and that their past experience suggested that government would not listen to what they had to say.

Skepticism about engaging in process: A few participants expressed discomfort about engaging in discussions with the Province at all about the IPMA legislation because of concerns that engagement would signal a de facto recognition of the Province's jurisdiction over First Nation lands and resources.

Uncertain about role of First Nations Leadership Council (FNLC): Many participants were unclear about the role of the FNLC. In fact, the majority of participants were simply unclear about the FNLC in general – and required an explanation of the make-up and mandate of the FNLC – and given their lack of knowledge they said that they did not feel comfortable about the FNLC representing their interests.

Frustration about New Relationship: Flowing from the uncertainty around the FNLC was frustration about the slow pace of the implementation of the “New Relationship”. Many participants felt that the principles behind the New Relationship had not “filtered down” to the ‘officials’ level within government, and that no real progress had been made in changing how government worked with the communities. Some said that the “Old Relationship” still existed on the ground and that nothing had really changed.

Role of federal government: A number of participants said that Health Canada should have been present at the workshops to answer questions about the safety of pesticides.

Summary of Comments from Participants

This section provides a summary of the comments and recommendations that First Nation participants provided at the workshops. For ease of review, these comments and recommendations have been divided into five broad categories:

- Category I: Recognition of Title and Rights
- Category II: First Nation Participation in Decision-Making
- Category III: Impacts
- Category IV: Consultation Process and Monitoring
- Category V: Capacity

Each category contains several principles that were raised by participants at the workshops. For the purposes of this report, these principles have been framed as recommendations for the consultation guidelines and pest management legislation. In total, there are 41 recommendations.

Context:

The following points need to be considered when reviewing this section:

- Not all of the interests, issues, and concerns were mentioned by all participants at every workshop, and not all of the recommendations were unanimous. There were differing opinions on some subjects, and the level of importance placed on each issue varied from workshop to workshop.
- The purpose of the workshops was not to seek detailed input from participants about particular issues – the workshops were information-sharing sessions only and discussions were by nature fairly high level. Therefore, the list of issues *should not be considered* an exhaustive list of all First Nation considerations.
- Participants that engaged in discussions at the workshops were for the most part expressing ideas as individuals and not necessarily official community viewpoints.

Category I: Recognition of Title and Rights

1. **Recognition and accommodation of title and rights is necessary:** A common message that was heard at all of the workshops was that government and industry need to recognize and accommodate First Nation title and rights and be willing to modify plans (including canceling projects) when there is significant First Nation opposition.

Another issue that was raised was the fact that many First Nations are opposed to using pesticides in any way. Many participants expressed frustration about the inability of communities to enforce their “no pesticides” policy and said that there should be some process in place to require industry to “stop spraying” if there is significant First Nation opposition. A number of participants said that not recognizing these policies undermines the jurisdiction and authority of First Nations. To illustrate the point, one workshop participant said that private landowners are shown more respect by government – if a private landowner tells a company “no, you cannot spray on my land”, the government does not allow the company to spray, and said that this same respect should be given to First Nations.

2. **First Nation interests need to be heard:** Participants said that many First Nation communities are reluctant to even engage in consultation because their input is often “not worth the paper it was written on” since industry is allowed to proceed regardless of objections from First Nations. Participants also expressed frustration that economic interests always seem to take precedence over First Nation’s interests and the fact that government typically approves the use of pesticides despite opposition from First Nation communities.
3. **The Crown is responsible for ensuring interests are addressed:** Participants stressed that the Crown – not industry – is obligated to ensure that First Nations concerns are addressed. If the Crown delegates this to industry, this should be made clear so that First Nations are not “placed in the middle”. A number of participants said this principle should be clearly articulated in the IPMA legislation.
4. **Private land-owners need to be held accountable for their actions:** Several participants said that the actions of private landowners often infringe First Nation’s title and rights and said that private landowners should be held accountable to First Nations for those infringements (i.e. some of the infringements that were cited were preventing access to traditional sites, spraying pesticides on private property that abuts First Nations lands, slash-burning, etc).

Category II: First Nation Participation in Decision-Making

5. **First Nations should be involved in the development of consultation guidelines:** Although many participants said that the regional workshops were a “good step” towards engaging First Nations in developing the consultation guidelines, most participants also said that more engagement was necessary. Some suggested that MOE fund more community discussions to develop the guidelines.
6. **First Nations should be involved in planning:** Participants at virtually every workshop said that First Nations should be involved during the development of pest management plans, not simply consulted after plans have already been established. Participants said that government should come to First Nations at the beginning of the process to ensure that their interests are considered, and not just ask First Nations to review existing plans and policies. Plans should be built collaboratively by First Nations and industry.

Another point that was made was that First Nations want to be involved in the permitting and licensing process in general. For example, First Nations could engage in discussions about the costs of using different types of applications and the benefits of each method (i.e. some alternatives may be more costly but the benefits of providing employment to community members may outweigh those costs).

7. **First Nations need to be engaged at the strategic level:** Some participants made the point that broader “Nation” interests need to be considered by industry and government in addition to the interests of individual First Nations.

Many participants also said that consultation should be done at the strategic (i.e. land-use planning) level as well as at the project-specific level. Information that is gathered at the more strategic level should be passed on to industry so that they have the information prior to developing any plans. Many participants said that there needs to be a process established that allows First Nations and industry to exchange information on an on-going basis.

8. **First Nations should be part of the decision-making process:** A principle that was raised at most workshops was shared decision-making. Participants said that First Nations should be more involved in determining whether impacts are “significant” and part of the process to decide how those impacts should be addressed.

As part of shared decision-making, participants said that industry should submit their pest management plans to First Nations and government simultaneously and that First Nations and government should establish mutually accepted standards for industry to follow.

Participants were clear that shared decision-making was necessary in order to reflect a true government-to-government relationship, and said that this concept should be built into the Act or the Regulations.

It should be noted that a few participants questioned the role of the province in managing First Nations territories and said that government and First Nations need to

“go back to the basics” and talk about who has the jurisdiction to make policies and procedures in the first place.

9. **Traditional knowledge needs to be incorporated into decision-making:**

Participants at every workshop stressed the need to incorporate traditional knowledge into decision-making processes. Participants said that there needs to be more of a balance between traditional and scientific knowledge, and said that infringement of rights should not only be proved based on western science.

Participants also said that traditional studies need to be specific to each territory and that information about First Nation concerns or traditional uses should come from First Nations, not any other source.

10. **First Nations need to be notified about changes to pest management plans:**

Currently, First Nations are asked to comment on pest management plans (which are five year plans) by commenting on the plan at the beginning of the 5-year plan. Many participants said that First Nations should also automatically be notified of any changes to those plans.

11. **Signs about pesticide use need to be clear:** Several participants mentioned that notification about when and where pesticides are being used is not always clear to First Nations – newspaper notices and signs on posts or trees are sometimes not seen by community members, and signs are not always effective because of literacy issues. Participants said that industry should be required – through Regulations – to provide First Nations with schedules and locations of proposed spraying applications.

Some participants suggested that First Nations should be given the opportunity to distribute notices to community members – including to members of neighbouring communities who might be picking berries or doing other activities near the area sprayed. Participants said that Band offices typically need at least 2 weeks notice to make up signs to notify community members.

Participants also said that signage should also identify the name of the pesticide being used and how long it could have impacts on the ability to harvest or use an area.

12. **MOE needs to clarify how commitments made to First Nations by industry will be enforced:** Participants raised concerns about monitoring and said that the Regulations or consultation guidelines need to incorporate some process that ensures that commitments made by industry to First Nations are honoured. While the IPMA allows for penalties to be applied to companies if they do not carry out adequate consultation, participants felt that this was not stringent enough and raised concerns that it is not clear what would trigger MOE to stop or monitor the use of a pesticide because of First Nation concerns.

Category III: Impacts

13. **Cumulative impacts need to be considered:** Participants at virtually every workshop said that the emphasis on “site-specific” impacts conflicted with First Nation’s holistic “ecosystem” approach to managing their territory. Participants said over and over again that First Nations are interested in exercising governance and jurisdiction over their entire territory, not just sites “here and there”.

Many participants said that they would like to receive information about the cumulative impact of pesticides but recognized that there is limited research available on this topic. Some participants said that this was because no one would take responsibility for doing cumulative impact studies (“government points to industry, and industry points to government”), and suggested that First Nations should be provided resources to undertake independent research in the area. Many participants stressed that research was required in order to establish baseline information so that impacts could be accurately established.

A number of participants commented on requests for site-specific information and said that this was really just a way for industry to do “whatever they want” by “putting a red-dot around a site-specific area and then ignoring the rest of the territory”. Participants stressed over and over again that First Nations consider everything interrelated and do not divide up their territories into “neat little parcels”.

Moreover, participants said that some First Nations are also reluctant to share site-specific information – particularly related to sacred, spiritual sites – because there is a lack of trust towards government and industry. A few participants referred specifically to a reluctance to share information about medicinal plants because of fears that government might start trying to regulate the use of those plants, or industry would try to patent their uses.

Finally, some participants called site-specific terminology “insulting” and stressed that just because a First Nation is not using a particular area at a particular time does not mean that First Nation title and rights do not exist in that area. Moreover, many participants said that because ecosystems are constantly changing and evolving, it is often difficult to pinpoint site-specific interests. More generally, participants were unanimous in their view that First Nations should not have to prove site-specific impacts in order to have their title and rights recognized by government or industry.

14. **Impacts to health and the environment need to be minimized:** Participants at virtually every workshop cited specific examples to demonstrate the negative impact that pesticides have had on people and the environment. Specific examples included: the decline of vegetarian animals (i.e. rabbits, porcupines), changes in the appearance of moose, decline of species that naturally protect against pests (i.e. frogs, garter snakes), decline in the quantity and quality of traditional medicines, chemical seepage into waterways, and impacts on wildlife habitat.

Participants also raised concerns about cross-contamination (i.e. birds eating bugs that were sprayed and then carrying those pesticides to other areas) and said that because

First Nations are not always aware of what has been sprayed, individuals may unknowingly eat medicines, plants, and berries that have been treated with pesticides.

15. **Alternatives need to be considered:** A common message at all of the workshops was that industry and government need to focus more time and attention on exploring alternatives to pesticide use. Many participants shared their own experience using alternative methods – i.e. steam, salt-water, manual clearing – and said that those options were often not used by industry because of cost. Some participants cited examples of companies agreeing to use alternatives one year, only to revert back to using pesticides the next because of concerns about the “bottom-line”.

Several participants suggested that MOE should encourage alternative methods to pesticide use by providing incentives to companies that use alternative methods. Not only would the environment be cleaner, many employment opportunities would be created.

Participants at some of the workshops also said that the lack of emphasis on alternatives has created “monocultures” in some areas because spraying of pesticides has killed all of the biodiversity. Industry does not want to spend time to re-grow an entire ecosystem because it is not economical and government often encourages this attitude (i.e. the Ministry of Forests “free to grow” policy, which encourages re-growth by ensuring that re-planted trees have room to grow without being hindered by other species). This approach conflicts with the interests of First Nations, who more likely would want to see a diversity of berries, trees, shrubs, etc.

Category IV: Consultation Process and Monitoring:

16. **Industry should approach First Nations before talking to government:** A number of participants said that the first step in a consultation process should be making contact with the impacted First Nations. Industry should ask each community whether they have any pest management policies or statements and then ask the community to identify key eco-system values and information (i.e. where berries are located, wildlife habitat, etc),
17. **Contact with First Nations needs to be thorough:** A number of participants acknowledged the fact that identifying First Nations territories can be complicated and said that there are no “easy answers” in how to deal with shared territories and overlapping interests. Many participants cautioned that referrals can sometimes “sit on the receptionist’s desk” for several weeks before finding its way to the right office, but most agreed that the Chief and Council should be the first point of contact. A few participants said that rights-holders (i.e. those holding Certificates of Possession) should also be contacted by industry about potential plans.

Participants cautioned government and industry about assuming that First Nation organizations (i.e. Tribal Councils) represented individual community interests and said that individual communities should always be contacted separately.

18. **Industry should meet with First Nations “in-person”:** Participants agreed that companies should meet with First Nations in-person to explain their plans, and said that sending letters and faxes is not sufficient consultation. Participants also said that companies need to realize that consultation is an on-going process and not a “one-stop event”.
19. **Companies should “report-back” to First Nations:** Many participants said that companies should be required to test the results of their pesticide applications and report back their findings to First Nations.

Moreover, participants said that First Nations should receive any consultation reports that industry submits to government to make sure that their interests are being accurately identified – industry should not be able to “tweak” what First Nations have said or “sugar-coat” the issues that they report back to government.

Some participants suggested that MOE require the proponent to obtain a letter of non-opposition or a letter of understanding from the Chief and Council as a way to ensure that the proponent has followed through with commitments made to the First Nation. Participants stressed that a proponent report is not a proper communication tool for MOE to ensure that adequate consultation has happened – this can only come from the impacted First Nations.

20. **Consultation process must be flexible to respect diversity of communities:** Participants said that MOE should not expect one blanket consultation approach to apply to all First Nations because the individual community approach will differ based on capacity and unique circumstances of each community. Consultation guidelines need to be flexible enough to accommodate these differences.

21. **Information needs to be understandable and meaningful:** Many participants said that information contained in pest management plans – particularly regarding the types of chemicals used and how they are applied – needs to be more understandable and less technical. Participants also said that there should be more information available about the make-up of various chemicals and that this information should be put in layman’s terms and include examples of impacts.
22. **Information needs to be provided in a timely fashion:** Most participants agreed that the 30 to 45-day review period (standard timeline for government referrals) is not sufficient, and said that depending on the magnitude of project, much more time may be required. Some participants said that it often takes 2-3 weeks for the referral to even “reach the right desk” before someone starts reviewing it, and they also noted that Chief and Councils sometimes only meet every 3-4 weeks. Most participants agreed that there should be no pre-established timeframe for referrals but that the timeline should be tailored to meet the needs of individual communities.
23. **Information provided by First Nations must be kept confidential:** Several participants said government and industry should not assume that they are entitled to use information provided by First Nations for any use other than for what it was originally intended. This is particularly true for sacred and archaeological information.
24. **There should be more coordination in government:** Participants described provincial Ministries as working in isolation of each other and said that this type of approach makes it impossible to develop comprehensive ecosystem plans because the “right hand doesn’t know what the left hand is doing”. Participants also said that they often see the same referrals pass their desk year after year because there is no central registry system that tracks the interests of First Nations. Some participants suggested that government establish an inter-agency communication strategy or database to track referrals so that First Nations do not need to keep responding to the same requests.

A related issue that was discussed at length in workshops was the lack of coordination between referrals for Forest Management Plans and pest management plans. Participants said that First Nations receive a huge volume of forestry referrals, and then pest management plans come along at a much later date so that it almost seems as though the two processes are completely unrelated. Participants said that integration of these two processes was necessary because otherwise there is too much duplication.

Participants also spoke about the need for more coordination between the federal and provincial governments. Participants said that Reserves could be impacted by the use of pesticides on provincial land, but that because Reserves are federal land they would not fall under the jurisdiction of the provincial IPMA, and therefore the impacts to those lands may “fall through the cracks”. A number of participants said that there needs to be more linkages between the federal and provincial processes to ensure that impacts are addressed.

25. **Some dispute resolution process is required:** While not all participants agreed on how a dispute resolution process would best be structured, most did agree that there is some need for a multi-party tribunal that would mediate disputes between First Nations

and industry/government. This would provide First Nations with a formal process to address disputes without having to resort to legal action. It should be noted that some participants expressed skepticism about dispute resolution processes, and said that these processes are never independent but are always “one-sided” and simply created to justify development.

26. **The concept of results-based management is flawed:** First Nation participants raised a number of points about the principle of “results-based management”, and in general said that this approach was not effective for the following reasons:

- It focuses on impacts and not causes, so impacts need to be “fixed” rather than prevented from happening in the first place.
- It increases the need for pesticides because it does not encourage planning.
- It allows industry to self-regulate which doesn’t serve broader public policy interests.
- It does not protect First Nation title and rights because it essentially “off-loads” the responsibility of monitoring to industry (instead of staying with government, who has a responsibility to protect title and rights).

Some participants also said that the term “results-based” need to be defined in the legislation, and that once defined it should include “protecting and accommodating First Nation title and rights” as one of its criteria.

27. **More monitoring and enforcement of industry is required:** The issue of monitoring and enforcement was raised by participants at virtually every workshop. A majority of participants said that monitoring and audit process is not sufficient and that industry routinely operates beyond the limits and guidelines set by MOE.

28. **First Nations should be more involved in monitoring and should have “sign off” of plans in their territory:** Participants said that First Nation involvement in monitoring would ensure that hunting and gathering areas are protected and site-specific information properly recorded. Some participants suggested that the guidelines stipulate that monitors be local, knowledgeable in First Nations cultures, traditions, and territories, and accepted by the local First Nations.

29. **Commitments made to First Nations need to be enforced and monitored by government:** While the IPMA allows for penalties to be applied to companies if they do not carry out adequate consultation, participants felt that this was not stringent enough and raised concerns that it is not clear how or when MOE would cancel a permit if First Nations concerns were not being addressed. Some participants suggested that government should consider instituting a ‘damage deposit’ that would require industry to set aside money before applications took place – this damage deposit would cover full rehabilitation costs or clean-up costs in the event of a spill or over-application.

Category V: Capacity

30. **First Nations capacity must be developed:** The need for capacity-building was a major issue raised at every workshop. Participants stressed over and over again that First Nations lack the capacity to deal with the volume of referrals they are asked to process, and said that pest management plans often simply “fall off the desk” because there are more urgent priority matters that need to be addressed. To illustrate the point, one participant explained that Bands file an average of 160 reports just to the Department of Indian Affairs. In addition, they also have to deal with provincial ministries, other federal departments, regional districts, municipalities, and industry. Lack of a response to a referral therefore does not translate into lack of interest, it simply means that the First Nation does not have enough time or money to consider the request.

Participants said that government needs to take responsibility for ensuring that First Nations can adequately participate in consultation, and some suggested that MOE consider including a deferral clause in the consultation process so that if a First Nation is unable to review a particular referral at a certain time, that referral could be deferred until the First Nation has more capacity.

31. **First Nations need training and resources to understand complex plans:** Many participants pointed out that pest management plans are very detailed and complex and require some technical knowledge to meaningfully review. To that end, some participants suggested that government should develop a consistent format for companies to follow when developing pest management plans and then provide First Nations with training on how to review those plans.

Participants also said that First Nations need resources to hire technical consultants to review referrals. Many participants said that First Nations are more likely to engage with companies that offer resources to the community rather than companies that ask for site-specific information yet provide no resources to access that information. Many participants reported that some companies have suggested that communities should access the “New Relationship Trust Fund” to pay for costs to review referrals. Participants were unanimous in their opinion that this was not appropriate.

32. **First Nation funding needs should be identified at the beginning of the process:** A number of participants said that industry should ask communities about their capacity requirements before they send them referrals to review. One participant described First Nation costs as simply being a budget “line item” that companies should incorporate into their cost of doing business. Participants also said that capacity costs should be paid up-front and be all-inclusive from the beginning of each process (for example, there are several costs that flow out of Forest Stewardship Plans – these costs should be laid out up-front and be all-inclusive so that First Nations do not have to pay).
33. **First Nations require multi-year funding:** Many participants said that in order for First Nations to review plans effectively and have the expertise to provide input and record readily accessible data to provide informed comments, they need multi-year, consistent funding to cover costs.

34. **Industry should pay costs for First Nations monitoring:** Several participants said

that industry should pay for First Nations to monitor the application of pesticides, regardless of any government monitoring that may also take place.

35. **Relationships and trust are important:** A number of participants stressed that relationship-building is an important part of consultation, and many suggested that one way to build trust is through individual agreements between industry and First Nations (i.e. “Protocol Agreements”, or “Memoranda of Understanding”). These agreements could clarify procedures, referral timelines, allocate resources, identify the type of information required, and outline notification processes.

Participants at one workshop said that it might make sense to attach protocol agreements to a particular license so that those agreements travel with that license regardless of whether the company that owns the license changes.

Some participants suggested that First Nations, industry, and government should meet together about pest management plans to ensure there are no misunderstandings between the parties.

36. **First Nations must have access to economic opportunities:** A majority of workshop participants said that First Nation communities should receive some benefit from the economic activity that takes place in their territory. Participants stressed that opportunities should not just be “one-off” jobs that last a few weeks, but should be pre-planned and as long term as possible.

Some participants said that friction often occurs because First Nation communities agree to the use of pesticides on the assumption that jobs will be provided, and then after one or two years the company goes back to aerial spraying and any economic benefits to the community are lost.

Other Recommendations:

37. A technical working group should be established to address issues raised by First Nations – this could be similar to forestry archaeological committees that have been established in the Province. The technical working group would be a representative body of industry and First Nations individuals.
38. MOE should review processes that are already in place to develop an effective consultation framework (i.e. multi-stakeholder approach such as Turning Point).
39. Definition of the term “mitigation” is required. Participants said that government needs to be clear that mitigation does not simply mean justifying impacts to First Nations people.
40. The word practicable needs to be defined in order to ensure that proponents are not choosing chemical application solely for its economic benefit; what is practicable to industry may not be practicable to First Nations.
41. The Crown is not living up to its obligations to Treaty First Nations because it allows numerous prima facie impacts to Treaty rights.