

Creating a Procedural Framework for Restitution
Between an Indigenous Family and Gold Mining Company
in Northeastern Ontario

By

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Abstract

The study creates a procedural framework for establishing positive long-term working relationships around principles of consent among others between an individual Indigenous family and a gold mining company to deal with conflicting interests. The focus of the research is my family's territory and sustaining our Cree lifestyle. The study identifies the main elements that make up a framework to continue and improve our Cree lifestyle and to create a setting for collaboration between my family and the gold mining company. The research may contribute to other First Nations and their governance processes such as internal consultation processes with their citizens and to help them conduct proper engagement. The framework may also assist resource developers and all governments to become aware of and better understand Indigenous land stewardship systems in the James Bay area. Finally, the outcomes of this research may shed light on the difficulty in defining processes to address and consider consent.

Keywords: Indigenous family, gold mining, customary land tenure, cultural sustainability, procedural framework

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I would like to acknowledge my late father, Eddy Trapper, who instilled the knowledge and sacredness of our natural world in my life. I am forever grateful. I know you would have filled our family map with your life. I thank my family who trusted me with this path to taking our customary responsibilities for our family's territory. I wish to acknowledge the support from friends and colleagues, nehnaskomindinaw (I thank you all). I could not have achieved this research study without the financial assistance of the Wildlife Conservation Society Canada, The W. Garfield Weston Foundation, Mushkegowuk Employment & Training, and Detour Gold. I say a special thank you to my thesis committee, Dr. Faries, Dr. Ling, and Dr. Chetkiewicz for their guidance and patience in joining me on my adventure. Lastly, *Nehnaskomouw Shehmundo* for answering my prayers and guiding me through this part of my life journey.

Dedication

This thesis is dedicated to my family descendants of the Oustan-Trapper families who inherently govern and occupy the family's territory of Detour Lake, Kattawagami Lake and Burntbush Lake area from generations past. The following quotes continuously resonate in my mind as I work for my family.

**“What will my father or Obadiah think if they saw this land now where they used to walk?
They wouldn't recognize it.”** – *Eddy Trapper, family meeting on September 2, 2007.*

Detour Gold President Paul Martin: “Well Lillian, you know there is an elephant in this room.”

Me: “And I know exactly the size of your elephant. What we got here is an interest problem.

You're interested in gold and I'm interested in my life.” – *Meeting at Detour Gold head office on February 4, 2014 with my Mom present.*

With continuing occupancy and use of our family's territory, my family takes their inherent responsibility to diligently care for this area for generations to come. As a great grandmother, I pray that this paper is acceptable and is of great importance to my family and our descendants.

I hope I have done well by you all.

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Creating a Procedural Framework for Restitution Between an Indigenous Family and Gold Mining
Company in Northeastern Ontario

Chapter 1: Introduction

The relationships among governments, proponents, and Indigenous Peoples are a constant friction of interests worldwide. In Canada, there is an awakening in Indigenous communities especially with the Idle No More movement that has been posted through various social media outlets. Indigenous peoples are taking stronger positions on resource development, for example, mining companies, who may or are impacting their homelands. Although there is supporting case law on Aboriginal and Treaty rights and some improvements on the inclusion of Indigenous Peoples in resource development activities, there are still more changes required to improve the relationships among the parties for the betterment of the future of Mother Earth, our planet.

Government and resource development companies have made some efforts to fulfil their responsibilities for engagement within Canadian society and with Indigenous Peoples. For example, some mining companies have taken voluntary actions beyond legal requirements for better business and less negativity (O’Faircheallaigh, 2015, p. 93). At the Prospectors and Developers Association of Canada (PDAC) conference held March 2014 in Toronto during the Corporate Social Responsibility (CSR) forum, the mining industry questioned the absence of the definition of consent by the federal government (Brown, 2014).

Furthermore, knowing that First Nations decision-making processes usually involve consensus, the mining industry is deliberating if consent is met when First Nation leadership provides a band council resolution supporting the mining activity or if there is still uncertainty should its band members disagree with the leadership’s resolution (Brown, 2014). The question of consent for resource development is a critical factor.

It is this uncertainty around consent that First Nations, federal and provincial governments need to address. According to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP) (United Nations, 2007) specifically in Article 32, it states that in order to obtain free, prior, and informed consent (FPIC), one must carry out a thorough consultation and accommodation process, especially with those who may be directly impacted by the proposed activity. The obligation of consultation and accommodation applies to the federal and provincial governments, as was defined in the *Delgamuukw v British Columbia*, [1997] 3 SCR 1010, 1997 CanLII 302 (SCC) and the *Mikisew Cree First Nation v Canada (Minister of Canadian Heritage)*, 2005 SCC 69 (CanLII), [2005] 3 SCR 388 case laws where Aboriginal and Treaty rights were affected.

Governments have fiduciary responsibilities for their citizens. First Nation governments established under the *Indian Act*, (R.S.C., 1985, c. I-5) who are elected by their citizenship have the fiduciary obligation to consult their citizens as well and to represent their citizens' rights and interests in a respectful manner. It should be noted that since the arrival of European settlers to what is called North America, these settlers brought their laws and influences to control Indigenous Peoples and take the natural resources. This action is referred to as colonization. It was carried out by processes of assimilation through means of oppression. This situation has resulted in conflicts among the First Nations and their members. The *Indian Act* is a piece of legislation that imposes a foreign system of the utmost control over a people. The Chief and Council are established and dictated to by this Act with the concept of false sovereignty. However, First Nation governments should be aware of their own customary social and political structures. The case of *Louie v. Louie*, (2015) BCCA 247 was regarding the breach of fiduciary duty by First Nation leadership where Hunter (2015) identifies that "it's clear that band councils operating under the *Indian Act* have consent requirements with their membership" (p. 3). Therefore, First Nation leadership needs to consult with their citizens to obtain consent in a meaningful and proper process when Aboriginal and Treaty rights are or will be affected.

Although Aboriginal and Treaty rights are recognised as collective rights, it is the citizens of a First Nation who exercise those rights individually as noted in the *Behn v. Moulton Contracting Ltd.*, (2013) 2 SCR 227, 2013 SCC 26 case. One of the judges, J. LeBel delivered the judgement in this *Behn v. Moulton Contracting Ltd.* case and he acknowledged “rights may sometimes be assigned to or exercised by individual members...In the broad sense, ...these rights might belong to them or that they have an individual aspect regardless of their collective nature” (p. 243). In the same case, the Grand Council of Crees/Cree Regional Authority (GCC/CRA) as Interveners stated that there are three types of rights: collective, mixed, and individual (*Factum of the Interveners*, GCC, p. 3).

At a news release on the Moose Cree First Nation Declaration statement and map in which I was a participant, it was affirmed that Moose Cree Homelands is based on the historical occupancy of families (Timmins Daily Press, 2008) who exercised their Aboriginal and Treaty rights individually on their respective family territories. Our family’s territory is part of the identified Moose Cree Homelands. Lack of meaningful and proper consultation by First Nation leadership to obtain consent from its citizens who exercise these rights leads the ideology of collective rights fragmented between First Nation leadership and its citizens. A faulty notion of collective rights leaves individual First Nation citizens with the task of protecting their individual and collective rights and interests.

Background

As First Nation people, my family continues to exercise our individual Inherent, Aboriginal and Treaty rights by hunting, trapping, fishing, and harvesting on our family’s territory that we continue to occupy and use. The family’s territory was inherited through family lineage that follows a form of Indigenous governance on land stewardship as our ancestors practised before us. We continue to follow our Cree customary system of territorial management and stewardship for the Detour/Kattawagami/Burntbush Lakes area with a "*Gahniiganshkuk*" meaning the one who leads, in the Cree language (*sensu* tallyman, headperson). After our father passed away and, in consultation with our family Elders as identified in our family's Oral History report, my youngest brother was chosen to inherit

the position of *Gahniiganshkuk* for our family's territory. It is important to note in James Bay Cree society that “the band (First Nation) is not involved in the inheritance of hunting territories from one family to the next. Hunting territories are passed from one actual user to another (ideally along kin lines), without reference to more general rights by the band as a whole” (Tanner, 1986, p. 31)

My family encountered great social injustice by those who were supposed to safeguard our Indigenous rights. It is critically important that the history of our family's experience of the assault upon our lives be known. The following are the predominant events that occurred. “Gold was discovered in 1975 at Detour Lake...First Nations...were not consulted” (Long, 2010, p. 230). In the late 1990's, the gold mining company Placer Dome operated on my family's territory and gave one of their mobile trailers to my family as part of the mine's closure plan. My family used that dwelling to exercise our rights and access the northern part of the family's territory to hunt, trap, fish, and harvest our natural resources. In the early 2000's and without consultation, other mining companies came into my family's territory to conduct exploration activities. One junior mining company, Trade Winds Ventures, established a temporary exploration camp in the northern part of my family's territory. Our family experienced an incident with this mining exploration company's activities. In August 2007, Trade Winds Ventures was in a “50/50 joint venture with Detour Gold” (Detour Gold, 2011c) and demolished our mobile trailer without any notice or consultation with the family. Trade Winds Venture demolished and removed our dwelling to construct their exploration camp on the exact same foundation. In doing so, they robbed us of our capacity to continue our customary activities and to exercise our inherent rights to our ancestral lands.

On August 29, 2007, my parents went to check on their dwelling to see what supplies and equipment they needed to stay and trap from there for the coming winter season. It was at this time that they discovered what happened. A truck driver from the construction site told them where our trailer had been discarded. My parents went to the former mining company's landfill in the vicinity and took pictures of their destroyed dwelling. My parents informed me of what had transpired and I have been involved with this incident since then.

There was an initial meeting on November 2, 2007 between my family and President Ian Lambert of Trade Winds Venture regarding this incident. Also present were: President of Detour Gold, Gerald Panneton; Ministry of Natural Resources Cochrane office District Manager, Marty Blake; Ministry of Northern Development and Mines representatives from the South Porcupine government office; Grand Chief Stan Louttit of Mushkegowuk Council; and Deputy Chief Charlie Cheechoo of Moose Cree First Nation. As communications continued between the Trade Winds Venture President and our legal counsel, the discussions consisted of developing a family report as a way for resolution. The report was to demonstrate that the incident was not only about a demolished trailer but a greater loss to a way of life. The discussions, however, were unsuccessful due to unresponsive communications from Trade Winds Venture President to our family's legal counsel in pursuing a resolution to the demolition of our dwelling.

Shortly afterwards, Detour Gold and our First Nation government, Moose Cree First Nation (MCFN) were in negotiations regarding the opening of a mine. In late October 2008, I attempted to brief the then MCFN Chief Norm Hardisty Jr. on the status of my family's progress on the incident and concerns. A heated discussion took place, in which the Chief stated that the MCFN agreement was a business matter and that it was a collective approach. This suggested that there would be no discussions from MCFN with my family who are and will be directly impacted by Detour Gold's mining operation. As noted above, the failure of the MCFN Band Council to engage its citizens in consultations of fiduciary obligation prior to accepting an agreement means the position on a collective approach by MCFN is erroneous in its governance structure(s). It represents a less than desirable decision-making process with and for its citizens and those families who are the caretakers and stewards of their territories and sustainable resource use.

During the failing communications with MCFN and Trade Winds Venture from January 2009 to June 2010, my family experienced great loss in the deaths of six family members. Our family was devastated. The great heaviness brought about by complicated grief made it very difficult to continue working on this outstanding injustice.

On December 14, 2010, MCFN leadership held a community meeting regarding community ratification of the agreement negotiated by MCFN and Detour Gold. At this community meeting, my family presented a letter of concern to MCFN regarding the lack of consultation with my family whose rights were directly impacted by the mining activities and the outstanding issue related to the exploration company and our demolished trailer. A copy of the letter was forwarded to Detour Gold. In personal communication with Detour Gold, the company stated that they were directed not to consult with our family by MCFN's negotiations team. The team was comprised of representatives from the Pape Salter Teillet law firm: Colin Salter, Nuri Frame, Sara Rohani, and one main MCFN representative, Ernest Rickard, among others. It remains unknown how other MCFN representatives participated in this process.

MCFN leadership signed the agreement with Detour Gold (Detour Gold, 2011b) without responding to the letter of concern presented by my family. Meanwhile, Detour Gold began operations on their mining property and bought out Trade Winds Venture properties (Detour Gold, 2011d). Detour Gold knowingly took on the unresolved issue of our demolished dwelling. Detour Gold opened a mine on our family's territory without any direct consultation by MCFN with my family. Furthermore, Detour Gold also signed agreements with Taykwa Tagamou Nation (Detour Gold, 2010a), Wahgoshig First Nation (Detour Gold, 2010b), and the Métis Nation of Ontario (Detour Gold, 2012). Detour Gold signed four impact benefit agreements (IBA) with Aboriginal groups. Detour Gold and our family continued with direct discussions to seek a resolution to the outstanding issue of our demolished dwelling.

Our family are a collective of relatives of inherent lineage and we are not all registered to one First Nation under the federal government system of status Indian registration. We are registered to various First Nations in Ontario and Québec. Although there are other First Nations who have an obligation to consult its citizens, there are a number of family members registered to MCFN citizenship. However, there was no support from MCFN leadership to protect our Aboriginal and Treaty rights or address the current impacts to our rights. It was not until August 2016, under the newly elected MCFN leadership, that Chief Patricia Faries approached our family with a desire to correct the wrongs created by

the former leadership. This ignited communication that began in November 2016 between MCFN and my family was initially positive. However, this relationship quickly became stagnant in the summer of 2017 and the situation has not changed since or been addressed.

Our family and Detour Gold, however, are willing to develop a positive long-term working relationship to deal with the unresolved issue and the competing interests between my family's lifestyle and the extraction of gold for profit by Detour Gold. This painful experience for our family reveals a significant injustice to our family's rights and lives. Our experience reflects a flawed process for meaningful and proper consultation for those with individual Inherent, Aboriginal and Treaty rights.

Research Questions

To manage interests between my family and the gold mining company, I developed a procedural framework to establish a positive long-term working relationship the gold mining company. This framework focuses on my family's territory and sustaining our Cree way of life for our wellbeing, including the activities and values important to continuing our existence on the land as our ancestors have done since time immemorial. To assess the impacts from the demolition of our dwelling on our way of life as well as from gold mining activities, the study identified four main factors that make up the framework based on a respectful, diplomatic, and acceptable level of relief and support to continuing and improving our Cree lifestyle.

Other objectives of this research include: documenting the locations of culturally-significant sites and their uses; developing a baseline of information about sites and uses for intergenerational Cree knowledge transfer, future monitoring, and/or management for our present and future generations; and creating a "setting" or context for collaboration in which to address matters as well as opportunities, with the mining company. The relationships between all three governments (e.g., provincial, federal, First Nation) and my family is a larger problem that will not be addressed in this study.

Although, the federal, provincial, and First Nation governments all failed to consult my family regarding the exploration and development of mining activities, urgently addressing the presence of

Detour Gold and the impacts of their mining activities on our territory and rights is of utmost importance.

Therefore, the research questions are:

1. What is required to address the conflicting interests of an Indigenous family's knowledge and customary practices with gold mining activities where existing agreements with Indigenous groups (3 First Nations and 1 Métis Nation) have not considered those practices?
2. How can resource developers and Indigenous Peoples better co-exist with conflicting interests in the same space in the natural environment?
3. How can a Cree customary land tenure system that maintains the Indigenous sacred relationship of interconnectedness within the natural environment help address consent for First Nation communities with Federal and Provincial government legal obligations of consultation and accommodation along with resource development industries?

Significance of the Research

Guidance for establishing a positive long-term working relationship between a First Nation family from a grassroots level and a gold mining company is limited at this point as preliminary literature searches have found no public descriptions of such family-led relationships existing in Ontario or Canada. In general, literature is developed from a community lens and not from a family level. This study may be the first of its kind in its application of family decision-making processes from a customary land governance system. It may be useful in assisting First Nations with their governance structures by developing or modifying their own internal consultation processes with their citizens to obtain consent to support or to oppose resource development projects, including factors to consider prior to negotiating agreements with resource development companies and conflict resolution processes. In addition, it can assist resource developers in being more aware and understanding of First Nation land stewardship systems, specifically in the James Bay area. The research paper may provide lessons learned, options, and ideas to change current gold mining companies' public relations policies and potentially improve its practices around CSR with Indigenous Peoples. Furthermore, the results from this paper could be

applicable to improving government consultation protocols on resource development such as forestry, energy, infrastructure, exploration, and other types of mining whether the proponents are Indigenous or non-Indigenous. Government environmental assessments (EA) will need to change to recognize and allow for the implementation of Indigenous-led processes for their own land stewardship responsibilities and future generations.

This study explores a story of personal experience and interest. It is a living example of a real-life situation where an Indigenous family, living with a resource development company operating in its back yard, is exercising self-determination in order to forge a difficult path forward to co-existence and equitable treatment.

Research Methodology

The process to researching an Indigenous injustice experience and seeking a way forward required an Indigenous approach. As an Indigenous researcher knowledgeable of the medicine wheel approach utilized in various facets in our culture (e.g., the four directions: north, south, east, and west; four medicines: tobacco, sweetgrass, sage, and cedar; four stages of life: childhood, youth, adulthood, and Elder), it was obvious that the research methodology to developing a procedural framework for restitution take the medicine wheel approach. The design of the medicine wheel is in the four phases for my study. This ancient symbol of North American Indigenous peoples is used to express concepts of various relationships (Bopp, J., Bopp, M., Brown, & Lane Jr., 1984, p. 9).

As an Indigenous person, I am born with an inherent responsibility to care for Mother Earth. Wilson (2001, p. 175) suggests that Indigenous research needs to consider Indigenous worldviews and circumstances, so research must stem from an Indigenous paradigm instead of merely providing an Indigenous perspective to the topic. “As a researcher you are...gaining knowledge in order to fulfill (the) end of the research relationship by...being accountable to *all your relations* (and)...action research...fits well into our paradigm because the idea is to improve the reality of the people” (Wilson, 2001, p. 177). Action research is an inquiry to improve the quality of a situation. Therefore, action research is the most

appropriate process to assist my family to reach the most satisfactory relationship of restitution with the gold mining company because “action research is done *with*, rather than *on*, the participants...and is done to provide learning and understanding...that can be used by the participants to improve their situation for the benefit of all” (Dick & Greenwood, 2015, p. 195).

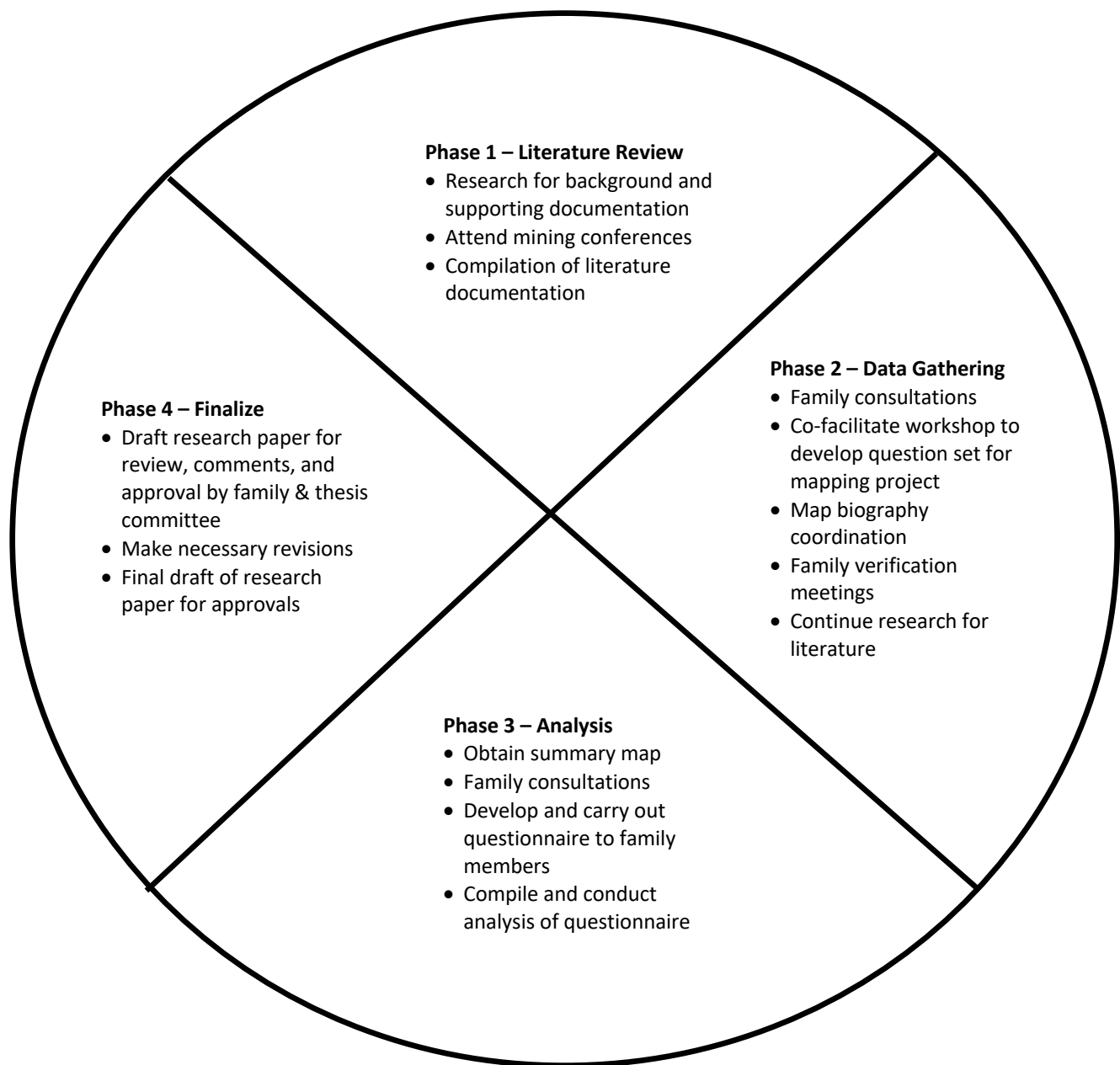
Also, this type of research was most suitable as it allows flexibility to constantly adjust the process, to respond to the unexpected events or changing timelines among participants’ availability, participants’ cultural seasonal activities, and coordinating the logistics of funds and travel schedules.

My parents sought advice from me regarding the destruction of the trailer and negative impacts upon our rights. The social injustice on our Indigenous rights experienced by my immediate family from MCFN leadership and the Federal and Provincial governments provided an opportunity to tell our story as a case study as our communications with Detour Gold were in good standing. The family could have chosen to take legal action against MCFN, Detour Gold, as well as the Federal and Provincial governments, which would have meant finding monies to take the long-outdrawn process involved in the legal system. The family may yet end up in litigation in the future. However, as noted earlier and as time is of the essence, it was crucial to address the conflicting interests of our family’s lifestyle in our territory and the gold mining company immediately. Therefore, my family agreed to taking the academic avenue to obtaining restitution in a timely manner and to learn and create or improve governance processes, corporate social responsibilities, consultation, and accommodation obligations for other First Nations entities, resource development industries, and Governments.

I produced a diagram (Figure 1) to display the medicine wheel approach utilized to frame my research methodology process. The medicine wheel presents the four phases I took to carry out my study. The four phases are labeled as literature review, data collection, analysis, and finalize. I provide a chronological description of the process I took starting at phase one clockwise to phase four.

I began with the first phase of literature review. I researched and compiled supporting documentation from international, national, provincial and Indigenous peoples’ research, institutional

information and case studies. The written documentation involved the environment and resource development specifically mining, Indigenous land stewardship systems, Indigenous land use and occupancy studies, legal documentation dealing with Indigenous Peoples and land, as well as, CSR policies that were reviewed to determine application to the research and analyzed for factors to include in a procedural framework. I kept a running list of references and obtained some books. Relevant literature was gathered from various scholarly databases including Google Scholar, resource development company websites such as Detour Gold, institutions including Canadian Legal Information Institute, and materials from mining-related conferences I attended during the research period such as PDAC and Mine Closure conferences.

Figure 1. Research Methodology

The second phase of data gathering involved consulting with my immediate family on several occasions to identify what product(s) we needed to develop a procedural framework that would help seek restitution for our rights and interests. The family agreed that as part of the family report we have been requesting since the trailer incident, we wanted to produce a map of our occupancy and land uses to demonstrate our continued existence on our territory, range of uses, and locations of culturally significant sites. We decided that a professional mapping firm would be hired to carry out this mapping project because of the possibility of litigation in the future and we needed a map that would stand up in court or scrutiny from others like governments, First Nation communities, and companies.

In addition, family discussions were undertaken on the use of our Indigenous knowledge to be collected in the proposed mapping information, addressing intellectual property rights concerns, advancing negotiations with Detour Gold, and developing proper consultations for an established working relationship with Detour Gold. Therefore, it was confirmed by the immediate family that the principles of ownership, control, access, and possession (OCAP) (Assembly of First Nations, 2009, p. 21) is the standard for information management of the family's knowledge to be collected. The OCAP principles were relevant because the combined four components would be the best practice to safeguard the family's knowledge. We decided to follow this approach that will lead to developing data sharing agreements with the mining company and others if required to ensure our intellectual property rights were protected.

In discussions with Detour Gold, I informed them of the academic avenue we were taking to addressing the trailer incident and requested that they fund the mapping project. Detour Gold agreed with the request and I approached a mapping firm, Tobias & Associates (T&A) of my request for their services. T&A indicated that they work with GeoPraxis, a geographic information systems (GIS) company to digitize their raw data. There was a long-standing working relationship between the firms. Through extensive discussions for over several months between Detour Gold, T&A, GeoPraxis, and myself, we finally reached a contractual agreement between Detour Gold and me, a contractual agreement between T&A and myself, and a contractual agreement between GeoPraxis and myself. The T&A

agreement included a detailed work plan with set timelines for producing the map. Funding arrangements for T&A and GeoPraxis services were unique as both firms do not take money from resource development companies. Therefore, I had to handle payment requirements and transactions through my agreement with Detour Gold. Once all parameters were in place, we initiated the set work plan developed by the mapping firm.

I met with my family immediately after the agreements were signed to discuss the work plan. Consensus was reached regarding my participation as the researcher in the mapping project. My main duties included coordinating all travel and hotel arrangements for family participants and T&A; introducing the study to the family participants; facilitating meeting and mapping logistics such as venue, catering, scheduling, and overall clarifying any misunderstandings on the entire mapping project. One of the first tasks for the immediate family was to identify the names of family participants to be interviewed for the mapping project. The family compiled a list of 42 family members who were known to have lived and/or harvested in the family territory on a few occasions. I made an effort to contact the 42 family members and succeeded with confirming 24 family members to participate in the mapping project.

The next step in the work plan was to have the 24 family members develop the mapping questionnaire for the mapping interviews. The development of the mapping questionnaire was done in a one-day workshop setting. From the list of family participants and their places of residency, it was decided by the family that there be 2 workshops. One workshop was held in Cochrane, Ontario for those family participants that live with highway access. The other workshop was held for those family participants who live without highway access and north in the remote community of Moose Factory. I helped facilitate the workshops with the lead mapping practitioner and President of T&A, Terry Tobias during which I introduced the project and answered questions. The family identified 52 questions regarding occupancy, land uses, and sacred sites for the mapping interview exercise. Terry tested the 52-question set by conducting 2 initial mapping interviews the following day after the Cochrane workshop to ensure it was appropriate for mapping requirements and the length of interview was completed in a

suitable time (Tobias, 2010, p. 299). I observed both interviews and was impressed with the attention to details and process by the mapping professional.

After the mapping questionnaire was developed by T&A, the most intense and extensive part of the entire mapping project was the mapping interviewing process. T&A hired 2 mapping practitioners who were personally trained by Terry Tobias to following the rigorous and thorough mapping interviewing process developed by him (Tobias, 2010). The 2 mapping practitioners conducted the 26 interviews that were held in Timmins, Ontario over 2 days and in Moose Factory, Ontario also over 2 days. I coordinated all the logistics for the mapping exercise and observed most of the interviews. It was difficult to observe the full interview of each participant as there were 2 interviews being done simultaneously. The mapping practitioner conducted the interview by asking the 52 questions with the participant using a pencil to identify the location of the feature on the map. The mapping practitioner then made the assigned color markings of each feature on a topographic map of the family territory. The markings were precise and coded accordingly for each family participant interview. The interviews were digital recorded. The length of time for an interview ranged from approximately 45 minutes to 4 hours depending on the participant's knowledge and experiences in the family territory. The longer interviews were done in 2 separate sessions so as not to cause participant fatigue (Tobias, 2010, p. 299). The marked information on the maps are called map biographies. Tobias (2010) describes map biographies as an assembly of use and occupancy data collection of an individual's life on the land where the term "use refers to the harvesting of resources...(and) occupancy are likely a more valid indication of a longstanding relationship to the land...when establishing territorial limits" (p. 33).

All the marked maps were sent to GeoPraxis to be entered into a GIS to produce draft map biographies. Following the T&A work plan, the lead mapping practitioner, Terry Tobias analyzed the draft maps and indicated a need to conduct a verification meeting with a family participant to ensure accuracy on the recorded information (Tobias, 2010, p. 313). I coordinated and attended the meeting as an observer. I continued with researching for appropriate literature to support my study.

In the third phase of analysis, the summary map was completed and provided a powerful visual of culturally-significant sites and land uses by our family. The family requested to include the mining claims and leases in the family territory to display the conflicting uses. At this point in the research, all contractual agreements with the mapping project were completed. In following the OCAP principles, all the raw data, digital recordings, and documents were returned to the family by T&A and GeoPraxis. As the researcher with an understanding of the sensitivity of intellectual property rights of Indigenous Peoples, I sought consent from my family, specifically the family headperson to utilize the final summary map of the culturally- significant sites and land uses for my thesis. After a family discussion on the summary map, a letter of consent was signed by the family headperson for the use of the summary map (see Appendix A for letter).

At this stage of my research, it became evident from the mapping exercise discussions that it was necessary to collect more family input. It was clear that I needed to seek more information on what a framework should entail and given the limitation of the literature reviewed thus far. I consulted my immediate family about developing a questionnaire. The family was concerned with the completed questionnaires being public as no one wanted family members to be vulnerable to backlash from other community members if they sought out the questionnaires. I assured my family that I can put protective measures in place on the questionnaire. The family agreed and also mentioned it would empower other family members to participate who were not avid land users, unlike those who participated in the mapping exercise. The family directed me to design the questionnaire into four areas similar to the medicine wheel approach as this method is followed in many aspects of our Indigenous culture. I created four categories that would be most inclusive of our family's lifestyle in the customary and contemporary perspective to help in developing a procedural framework. I developed a semi-structured questionnaire where I provided one question and it was applied to four categories. The four categories were environment, culture, social, and financial. I also provided a section at the end of the questionnaire labelled as other for comments, ideas, or if the participant was not sure which category their suggestion applied. As supporting

documentation, I attached a brief overview of the history of events regarding the demolished trailer to the questionnaire package. The question requested “input on what you think should be in each specific category in a framework for future discussions with Detour Gold on ‘compensation’ and to ensuring that our family’s lifestyle is sustainable for generations to come” (see Appendix B for questionnaire). I consulted my immediate family on the draft questionnaire for their approval before proceeding further.

I provided the questionnaire package by hand delivery to family members and emailed other family members who resided a long distance away. I gave a timeline of one month for the participants to return their completed questionnaires. I recorded the participant names and contact information in a spreadsheet to keep track of who received a questionnaire package and who returned a completed questionnaire. The questionnaire offered anonymity to family members participating. Furthermore, the questionnaire offered direct input in fairness, accountability, respect, and equal opportunity to participate in the research study. After the one-month timeline, I collected the questionnaires in person or through email. It is important to note that all family participants in the questionnaire know the family territorial area as they have visited for ceremonial events and/or subsistence harvesting.

In the analysis of the completed questionnaires, I recorded all input into the computer and continued to sort each questionnaire input into the four main categories. The semi-structured questionnaire provide ease in sorting the majority of the information. Some information was in point form while others provided full sentence structure. I placed the suggestions that were in the category labelled as other in the most appropriate category and I reassigned some suggestions to another category because of commonality. Once I finished sorting all the questionnaire suggestions, I searched for similar ideas and grouped them within each category. On further examination of the groupings, I found more smaller distinct groupings and labelled them accordingly. Finally, with each of the four categories, I identified a common idea for an overall theme to the category. I drew a chart of each category and labelled all boxes that were representative of my analysis in order to display the results. At this point, I consulted my family on the results from my analysis of the questionnaires. The family were comfortable with the charts and

approved of them (see Figures 3-6). My family stated that the completed questionnaires were to remain the property of the family.

In the fourth phase of finalizing, I charted an outline of my paper that resembled the table of contents and completed the first rough draft of my research paper. Around this time, I took personal leave of approximately 2.5 years intermittently for various reasons. Therefore, the time frame for completion of phases 1 to 3 was approximately 12 months in total considering the schedules of family participants as well as the availability of the mapping firm and GIS company. Upon my return in the spring of 2018 to complete my paper, I was advised by my supervisor to obtain more recent articles and supporting documentation. I accomplished the task of updating most of the resource materials and made necessary revisions. I consulted my family on the draft paper and informed them of the university approvals process.

The participants in the research project are my family who fully supported this study and were very willing to participate. My family includes my mother, who left this world in May 2017, four siblings, and extended family members. As participants in the research process, they shared their knowledge and experiences. The majority of my siblings were involved in the decision-making processes with the study. Decisions were reached by consensus in the immediate family discussions with the final word from the headperson of our family's territory for confirmation.

It is extremely important to speak of the validity of the information collected as well as how possible bias from me as the researcher was handled as this study was the result of a personal family experience. As a result of hiring a professional mapping firm to carry out the tasks of developing the summary map, the use of another research entity strengthens the quality of the research findings. Based on the question set developed by the family, T&A's established mapping methodology eliminated any subjective or supportive perspectives that might have directed a favourable result or product. I was not able to influence participants or change the mapping process. This placed the mapping firm and me in a less biased and objective position.

The second source of data collected was from the questionnaire conducted in the third phase of the research process after the mapping project. The process to establishing the questionnaire was done in consultation with my immediate family and they dictated the design to be developed, which was the medicine wheel approach with four categories. Furthermore, the participants answered the questionnaire without my presence. Once again, I was not able to influence their thoughts and answers to the four categories requested.

The two sources of data developed from the family's culturally significant sites and land uses summary map and the family questionnaire provided a satisfactory holistic foundation supported by literature acquired to support the ideas for both data sources to developing a procedural framework. Although the data developed is from qualitative research methods, Mathison (1988) states that a good research strategy uses multiple methods to valid the research findings (p. 13). Denzin (1978) as cited in Mathison (1988, p.14) quotes "the rationale for this strategy is that the flaws of one method are often the strengths of another: and by combining methods, [a researcher] can achieve the best of each while overcoming their unique deficiencies." The visual information from the summary map validates the family's presence and use of the land. In addition, the questionnaire results support the mapping information and framework content in which the supporting documentation from various sources reinforces the strategic approach to research findings. With the use of three sources of information from multiple participants and a number of resource materials, the result was a convergence (Mathison, 1988, p. 15) of information that binds and, in this case, a procedure to developing a framework for addressing restitution. Mathison (1988) refers to this strategy as methodological triangulation where the use of a number of methods in the examination of a social phenomenon (p. 14) for assuring validity.

In regard to researcher bias in the study and validity of the data sources, the participation of my immediate family was a key factor. They were a key factor as they decided, directed, and approved the study at various stages. The consultations with each other was a positive component to the decision-

making processes that demonstrated their strength in leadership and sound guidance in my research process.

Chapter 2: Results

Mapping of Family Cultural Data

From our early discussions with Detour Gold in 2008, our family insisted that a family report of our territory was essential for moving forward on the outstanding legal issue of our demolished trailer. One of the first products identified was a map of the family territory displaying our occupancy and land uses as official proof of existence. This research paper was written to validate and confirm my family's occupancy and land uses and to identify significant cultural sites for an overall assessment of the direct and indirect impacts from mining activities on our lives and territory. The mapping project was one part of the family report for restitution. According to Chaplin, Lamb, and Threlkeld (2005), "Indigenous mapping...is a powerful tool for indigenous peoples in their struggles to defend and claim their ancestral lands, manage their resources, plan economic development, and preserve their cultures" (p. 630).

Detour Gold offered to have me conduct the mapping project. Although I had the skills, I declined as we have an outstanding legal issue with our demolished trailer and as a researcher, it would be best to abstain to avoid possible bias. As indicated in the research methodology section, it was decided in family discussions that this mapping project required a professional third party to carry out the task. The T&A lead mapping practitioner, Terry Tobias, said our family was the second family in Canada to hire him to do a mapping project. Most of his contracts are community level mapping projects (personal communication, July 2015). The following map (Figure 2) displays the results from the 26 family member interviews of cultural data that was not or possibly partially included in the EA of Detour Gold's present operating mine. From my observations, some of our family members participating in our family mapping project said there were never interviewed in any capacity before the opening of the Detour Gold mine.

The following provides support for family territorial mapping and the customary land governance structure. The *Statement of Claim* submitted to the Ontario Supreme Court of Justice by the Grand Council of Crees (GCC) on March 3, 2016 speaks to an Indigenous land tenure system and an Indigenous customary practise. The head persons of a family's territories are referred to as *Ndoho Ouchimauch* and they are responsible for the family's hunting territory and have greatest authority over the hunting territory (GCC, 2016, p. 13). Furthermore, according to GCC Cree Nation Mining Policy (2010-07, p. 6), the GCC recognizes this customary management system under the Sustainable Development policy as part of GCC governance structure. As explained in greater detail below, this Indigenous land tenure system supports my family's claim of responsibility and care for our family's inherited territory, led by the headperson, *Gahniiganshkuk*.

Through the Cree oral tradition of transferring knowledge, the people of the surrounding James Bay region had their own land stewardship system of family-based areas. In the early 20th century, anthropologists documented the practice of the Cree people from the present-day communities of Attawapiskat First Nation, Ontario on the western coast to the Cree Nation of Chisasibi, Québec on the eastern coast of James Bay. Flannery and Chambers (1986, p. 130) confirmed "family hunting ground as originally used by Cooper and Speck not only is useful, but also accurately encapsulates both traditional Cree notions about the lands that sustained them and their way of life in the bush itself." Family hunting grounds is a foreign term applied to our family territories where we lived under our laws and protocols for natural and social harmony and followed seasonal cyclic activities to practice conservation and preservation of our natural resources.

Family-based land stewardship is a customary, social, and political structure of land tenure. Anthropological mapping shows that this land tenure system was exercised by Cree people throughout James Bay region (see Flannery & Chambers, 1986). This system followed Cree customary law before European contact (see GCC, 2016, p. 13). It is similar to system used by the Indigenous Peoples of present-day British Columbia who occupy the interior of that province. As Dewhirst (2011) notes, "The

keyoh is a hereditary ancestral territory owned and managed by the chief of an extended family... (and) the *keyohs* continue to provide traditional game fish, plant and fur resources...(for) sustenance” (p. 1).

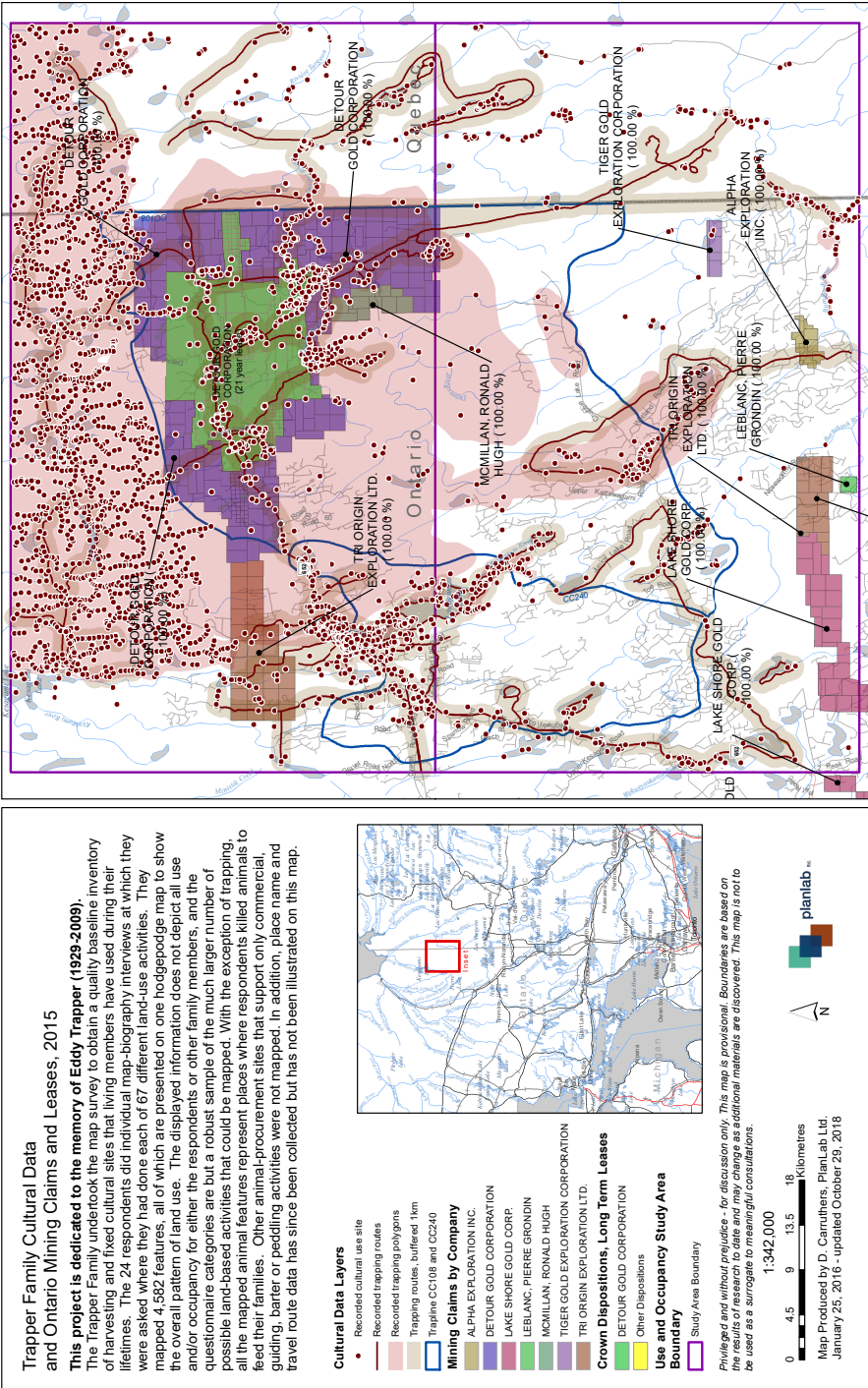
Our family territories, a customary tenure system, were subsequently not included during Treaty making as our People were not part of the development of that agreement. Our customary land tenure was not recognized when the Ontario government established the registered trap line system in the 1950's as I found no supporting documentation during my literature review searches. As a result of this nonrecognition, this Indigenous land-stewardship system was not considered during the restrictive scoping process of the Victor Diamond Mine Comprehensive EA in the Hudson Bay Lowlands which provided the basis for flawed and incomplete EA reports (Tsuji, McCarthy, Whitelaw, & McEachren, 2011). The Victor Diamond Mine is located on the west coast of James Bay. These authors offer supporting documentation of a land governance system similar to the one my family practices with similar questions about both the mining company's EA reports and the government's acceptance of these scoped reports based on their government registered trapline and arbitrary treaty boundaries. Specifically, Tsuji et al. (2011) state that the restrictive scoping process of not recognizing family-based areas results in incomplete data collection and consequently inaccurate actions flow from the EA studies. For example, in our family, the location of the Detour Gold mine site has restricted our access to a prominent moose yard in the vicinity where we seasonally hunt. The Detour Gold environmental assessment reports, therefore, need to be re-examined to address restrictive scoping in particular. The new information derived through this research could also help identify limitations in the overall EA process and the project's operations and future plans. In tackling this void of family information, one option for addressing the EA process is through a formal grievance process. The academic along with the GCC examples provide further evidence to support the Indigenous land tenure system that is specific to the James Bay region.

Although my family members have occupied and harvested in this area as well as in other places, the family territory is inherited through succession within the family lineage in accordance to customary

law based on our customary land tenure system. In the mapping exercise, the results from the 24 interviews with family members produced map biographies that were compiled to produce a summary map (see Figure 2). These biographies display land uses including habitations, fixed cultural sites, and trapping activities as indicated in the metadata. There were 67 different land uses identified and 4,582 features mapped (see metadata on summary map). The Ontario government-registered traplines held by my family are also within the family's territory. In addition, mining claims and leases were included to highlight two additional conflicting land uses on our family's territory. With the identified mining claims in our family's territory, proper and meaningful consultations with our family by all exploration companies is required. For example, Detour Gold holds a long-term lease and many mining claims are identified in green and purple colors on the family summary map. The summary map displays Detour Gold exploration and mining activities covering a vast area on our family's territory in comparison to other mining claim holders.

This map was presented to Detour Gold on May 9, 2016 at our family's base camp located at Kattawagami Lake as part of my contractual agreement with Detour Gold. Federal and provincial government ministries were invited to attend to witness this exchange and to be aware of our occupancy and land uses in exercising our Indigenous rights upon our family's territory. Representatives from the Ontario Ministry of Natural Resources & Forestry (MNRF) and the Ontario Ministry of Northern Development and Mines (MNDM) attended. At this time, the family stated that this map was only a part of the family information and insisted that an oral history project be supported by Detour Gold. Detour Gold representatives indicated the need for further discussions given this new information and stated support for the oral history project. The government representatives were informed that a consultation process needs to include our family members who occupy this area. The government representatives indicated that they would have to report to their superiors. The MNRF representative requested a copy of the map. However, the family stated that the summary map was not public information at this time.

Figure 2. Trapper Family Map



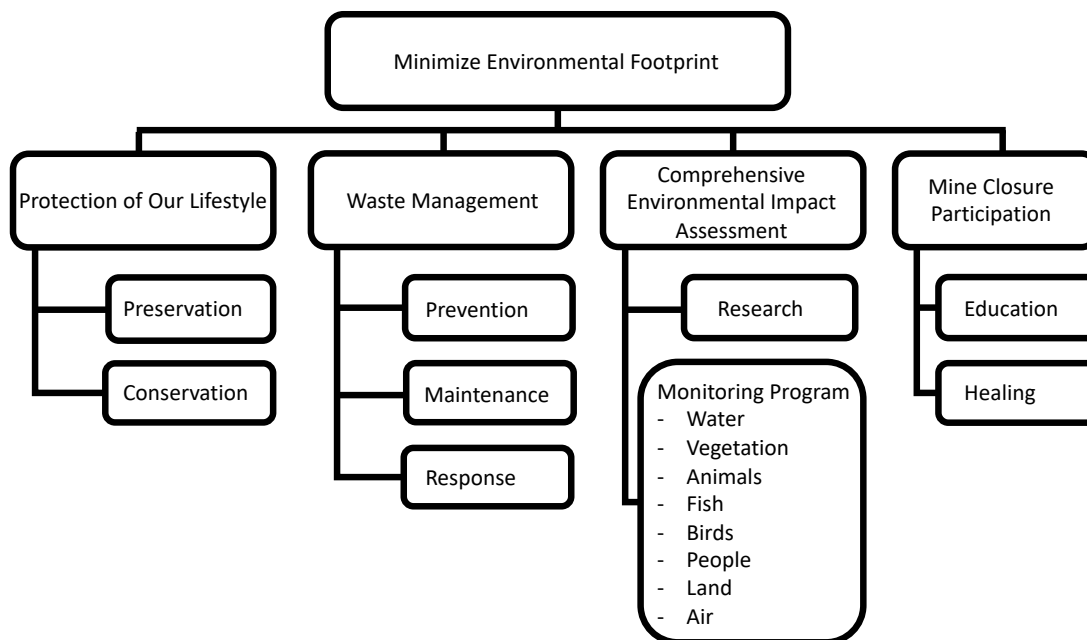
Family Questionnaire

The questionnaire allowed for anonymity of the participants as a precaution against possible backlash to our family and our family's territory from other First Nation people and communities. This negative behaviour of backlash is a form of lateral violence. "Lateral violence occurs particularly amongst Aboriginal peoples where its roots lie in colonisation, oppression, intergenerational trauma and ongoing experiences of racism and discrimination" (Cripps & Adams, 2014, p. 401). Cripps and Adams (2014) further describe a range of behaviours of lateral violence to include gossip, jealousy, family feuding, and community conflict (p. 401). Belonging to small Indigenous communities who have experienced extensive changes from the processes of colonization brings risk of negativity in the social settings of a community. Therefore, the option of anonymity provides "a process of comfort...as they could speak out without being identified...in relative safety" (Clark & Augoustinos, 2015, p. 30). A total of eleven family members participated in the questionnaire and all chose to remain anonymous. The family members had extensive knowledge of our Indigenous relationship within the natural environment and an awareness of the history surrounding the demolished trailer. As a result, they provided brilliant ideas and opinions on what they would like to see in place in the near and distant future for our family. Although the questionnaire was completed by a small number of participants, the quality of data compiled provided excellent results.

As described in phase three of the research methodology, under the direction of my family the design of the questionnaire was to follow the form of a medicine wheel with four categories similar to the overall research methodology. I also stated that I developed charts of the results for the four categories. The four charts (see Figure 3 to 6) offered an uncomplicated structure to assist in clarity of presenting the results. From the analysis, the feedback was clustered on the best and most suitable subgroup with subject headings in each category in which four main themes surfaced and provided suitable designations. The

findings permeate the four categories of the medicine wheel methodology with content that offers substance for a more holistic approach.

Figure 3. Minimize Environmental Footprint



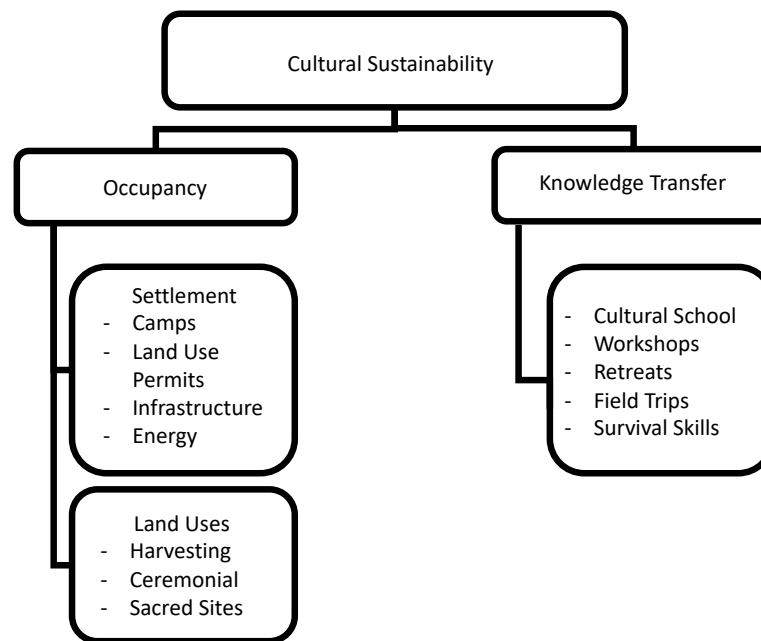
In the environment portion of the questionnaire, the theme of minimizing the environmental footprint was identified with all relevant ideas as displayed in Figure 3. For example, a few family participant statements under the environmental category included to “reduce environmental footprint (and to conduct) comprehensive impact assessments” (Family participant #5) where these assessments would be from an Indigenous holistic perspective. “I would want the land to be clean, also the lakes, to have clean waters” (Family participant #3) and there was a strong request from family participants to establish an environmental monitoring program for the family territory (i.e. Family participant #1, 2, 4, 10 and 11). In this category of environment, it was difficult to separate environment and cultural based on some of the input provided from the family participants as our Indigenous culture is part of the environment. For example, Family participant #2 suggested that an energy source such as solar panels be provided for all

camps. I moved this to the cultural portion and placed it under the section labelled occupancy. I understand why solar panels as an energy source was suggested to be an environmental idea. However, it was placed in settlement as it is associated with camps and infrastructure. Another example suggested by Family participant #8 under the cultural portion was to provide care and safety of wildlife, trees, and medicines. I moved this to environment and placed it under Protection of Our Lifestyle as it deals with preservation and conservation of our natural resources. I think the suggestions related to our natural resources were best placed as protection of our customary lifestyle by preservation and conservation.

In the cultural portion of the questionnaire, the theme of cultural sustainability was identified with all relevant ideas as displayed in Figure 4. When asked about what cultural sustainability means, one person responded with:

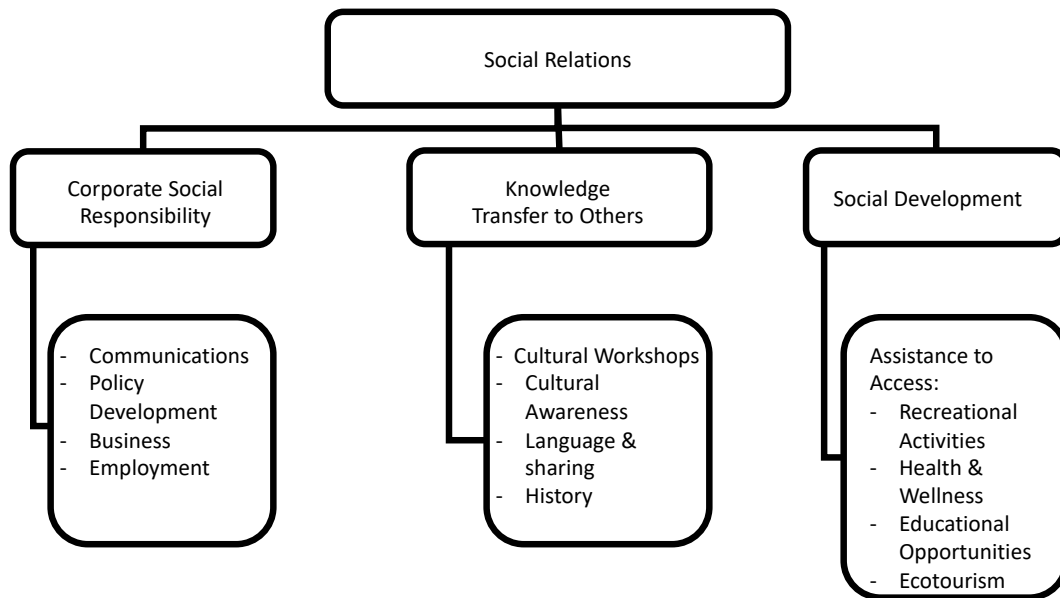
I have live(d) in the bush most of my time, trapping & hunting, skinning animals, clean the moose hides, setting the fish net and night lines in the winter time. I want my grandchildren to (be) able to live like this too, and I want to pass down my knowledge to my grandchildren, so they can continue to live the way I lived. (Family participant #3)

This speaks volumes about the process of occupancy and knowledge transfer.

Figure 4. Cultural Sustainability

Under the Cultural Sustainability category, I placed ideas that touched up on our occupancy of our family territory and the knowledge required to survive on the land including the transfer of the unique knowledge through various learning environments and activities.

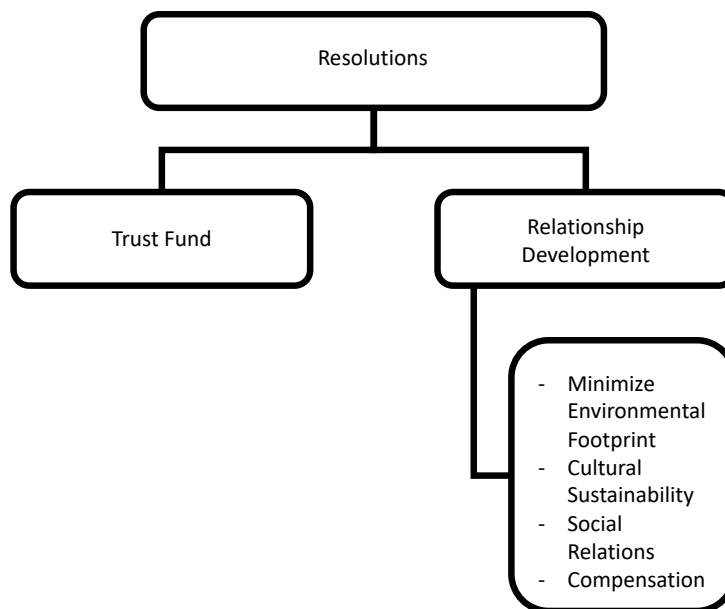
In the social portion of the questionnaire, the theme of social relations was captured with all relevant ideas as displayed in Figure 5. This information from the participants relates to industrial relations, other people who are not family, and more contemporary in nature.

Figure 5. Social Relations

The process of CSR is illustrated in the following quote that “the working relationship with the family and DG needs to develop into something that is sustainable” (Family participant #9) and “to maintain the good relationship” (Family participant #11). Six participants provided input on cultural sustainability that was focused on knowledge transfer to other people in communities and towns such as “support and offer traditional knowledge and skills through workshops at youth camps, moose hide tanning, snowshoe making” (Family participant #2). And requesting assistance to provide access to various gatherings like “annual family gathering, powwows, sundances, funerals” (Family participants #4). Education was prominent in the feedback, however, not only western education but “historical education for all, held on the land” (Family participant #7) besides “scholarships (and) funds for education” (Family participant #1). Suggestions that touched upon other people and did not identify family members, I placed under Knowledge Transfer to Others and Social Development section.

In the financial portion of the questionnaire, the theme of resolutions was captured with all relevant ideas as displayed in Figure 6. The financial category of the questionnaire is the cohesive component that encompasses the other three categories in the questionnaire.

Figure 6. Resolutions



From our demolished trailer to the present, the encroachment of the mining company activities on our family and family territory requires “compensation for loss and use of the land” (Family participant #7). The company needs “to be accountable for the (demolished) trailer” (Family participant #11). “I am asking if they could get a trust account and put money every time or every month, I will be very thankful” (Family participant #3). “Just because DG is a multimillion-dollar company doesn’t mean it can pay people to forget what it has done to the land and family” (Family participant #9). The resolutions identified speak to developing a long-term working relationship between the mining company and our family through meaningful and proper consultations. As our family operates in our own customary Cree governance system on land tenure, our family will continue to pass on the responsibility to care for the land, animals, air, and water long after the mining company has completed its extraction for gold and left

our lands. The trust fund will assist the family's descendants to continue carrying our inherent responsibility to caring for the family territory. This responsibility will include healing the land from the aftermath of the mining activities and infrastructure while ensuring our strong customary lifestyle on the land is practised and knowledge transferred to our children yet to come.

Chapter 3: Discussion

The steps taken to define a procedural framework stems from the summary map and family questionnaires around the four main themes (e.g., minimize environmental footprint, cultural sustainability, social development and resolutions). The four-part procedural framework offers a way to develop a long term, positive working relationship for seeking restitution with direct and indirect impacts between my family and Detour Gold. As indicated earlier, the medicine wheel methodology with its four parts is a very significant symbol for understanding and addressing relationships. Parlee (2015) discusses a similar framework made up of four spheres: natural capital, human capital, social capital, and financial capital. Parlee's framework is focused on community development and "offers opportunities to consider the kinds of issues being experienced" (Parlee, 2015, p. 427) by an Indigenous community. The framework considers the effects of resource development activities on socio-economic of subsistence and livelihood for First Nations communities, as well as the foundation of cultural customs and spiritual beliefs. Parlee's approach differs from the Rio declaration on sustainable development as having three spheres: economic, environment, and social (Tost, Hitch, Chandurkar, Moser, & Feiel, 2018, p. 970) that discounts the cultural or human pillar. My family's case with a rich customary lifestyle in our natural environment demonstrates that the cultural component requires its own pillar because our culture is of utmost importance to our survival. Our culture includes laws for the land, animals, and people. There are protocols within our societies on how we deal with each other as human beings. There are processes to follow and uphold.

Decision making processes are systems with inclusivity of a family, community and nation. It is worthy to note that "Indigenous societies...were built on the foundations of true democracy; all

members...participated in decision-making. Unfortunately, the colonists primarily adopted the federal structure and not the decision-making process” (Clarkson, Morrisette, & Regallet, 1992, p. 76). It is questionable whether First Nation decision-making processes through Band Councils were used to ratify the Detour Gold IBA that are similar to the foreign government processes of consultation or if Indigenous thorough governance processes were used. My family’s cultural perspective is still intact to varying degrees and this procedural framework stems from that perspective. Examination of the information compiled for this research uncovers the justification for the medicine wheel approach and supports Cree perspectives, history, understanding, and future outlook. The decision-making of the Chief and Council can be juxtaposed with our customary family-centric decision-making. The four following main themes provide a holistic approach to the sustainability of our Cree lifestyle. The following sections discuss the results from the questionnaire with the subgroupings that are supported by literature.

Minimize Environmental Footprint

The input from the environment section of the questionnaire captured the theme of minimizing the environmental footprint from the mining activities upon our family’s territory. The natural environment is key to the survival of our Cree lifestyle, namely the customary economy of subsistence and livelihoods as well as cultural and spiritual values. “The use of these natural resource assets and their significance to the survival of the people cannot be over-estimated” (Kunkel, 2017, p. 10). Indigenous peoples within their natural environment have “fundamental linkages...(that) constitute an interacting and ever-changing system that is known as an ecosystem” (Millennium Ecosystem Assessment (MEA) Report, 2003, p. 50). The MEA Report (2003) further states that ecosystem services are benefits humans receive from ecosystems and there are four types of services: supporting, regulating, provisioning, and cultural. Although this structural approach of assessment compartmentalizes the environment from a foreign perspective, “there is some overlap in that many services can provide benefits in more than one category...(that) help emphasize the range of services, direct or indirect” (Conservation of Arctic Flora and Fauna, 2013, p.594) especially for Indigenous cultures.

Cultural services provide benefits in the areas of spiritual, cultural, and recreational spheres whereas provisioning services provide benefits of food and water sources (MEA Report, 2003). In general, our Indigenous views “through the process of cultural evolution...have developed our customs, beliefs, institutions and methods of social control; our sense of belonging and connectedness to the earth, all are based upon the original law...that crystallizes our sense of responsibility and our relationship to the earth” (Clarkson et al., 1992, p. 12). This inherent responsibility includes protecting our natural environment “structured by a web of mutual relationships and obligations” (Conservation of Arctic Flora and Fauna, 2013, p. 595).

In protecting our natural environment specifically our family territory from resource development activities, there are historical factors that impacted our area of responsibility. During the Treaty No. 9 delegations of Commissioners Scott, Stewart and specifically MacMartin through his diary records of what transpired, Long (2010, p. 344) states that First Nation “traditional territories (made up of individual family areas) did not follow provincial borders and were not mapped or surveyed – or even inquired about – at treaty time. And by MacMartin’s account, the Ojibwe and Cree of far northern Ontario were never asked to surrender them.” My family’s territory straddles the provincial boundary. This is arbitrary from a Cree perspective and from personal discussions with my late father, he remembered as a young child when the right of way was cleared to distinguish the provincial boundary. Our family territory is defined by the natural landscape along eskers and waterways with the main lakes of Detour, Kattawagami, and Burntbush as identifiers in this study. This is the area of inherent responsibility from our ancestors.

Protection of our lifestyle. The territorial management and stewardship of our family’s territory includes the principles of conservation and preservation. It is unlike the western practice of real estate where one can sell and leave property or western approaches to protection such as parks and conservation areas that may be established to offset development in the region. Our family will continue to occupy this area and will follow the customary law of passing the responsibility of “proper stewardship, guardianship and custodianship...to ensure the productivity and sustainability...for present and for future generations”

(Cree Trappers' Association, p. 9). Therefore, the conservation and preservation of our resources are key to our survival. There was a recent passing of Bill C-262 brought forward by New Democratic Party Member of Parliament Romeo Saganash (that was publicly televised). On May 30, 2018, the Bill passed through the House of Commons of Canada that made reference to "an Act to ensure that the laws of Canada are in harmony with the United Nations Declaration on the Rights of Indigenous Peoples" (see <http://www.parl.ca/DocumentViewer/en/42-1/bill/C-262/third-reading>). UNDRIP with its principles may very well be a key instrument to developing Canadian law for protecting rights of Indigenous Peoples in Canada. Article 25 in the UNDRIP speaks to these principles of "the right to maintain and strengthen (our) distinctive spiritual relationship with (our)...occupied and used lands...and to uphold (our) responsibilities to future generations." Moreover, UNDRIP Article 29 states that we "have the right to the conservation and protection of the environment and the productive capacity of (our) lands or territories or resources." "The right to a healthy environment is a pillar right upon which the exercise of other Indigenous rights depends. If environmental degradation occurs, it threatens (our) rights and responsibilities...as well as the well-being of nature" (Indigenous Circle of Experts, 2018, p. 69). Kunkel (2017, p. 13) states it is because Indigenous values are embedded in customary activities in our natural environment that Indigenous peoples seek to protect their lands from resource exploitation and development activities.

The resource exploitation and development activities from the gold mine have damaging environmental impacts on the land, water, air, wildlife and our Cree culture that are all interrelated, interconnected, intertwined and hold a holistic sacred space. My family are human beings living in our respective family territory to the greatest extent possible as our ancestors did and enjoy this lifestyle. These impacts on rights, Indigenous or human, affects our wellbeing. It affects our spiritual, emotional, mental, and physical wellbeing. We are taught that everything has a spirit in our natural environment, our home. It affects our spiritual wellbeing knowing that our home is being exploited and never will be the same. It affects our emotional wellbeing from the pain of knowing that our home is being exploited and

never will be the same. It affects our mental wellbeing of struggling to stay positive despite the pain of knowing our home is being exploited and never will be the same. It affects our physical wellbeing knowing that our home is being altered, polluted and contaminated for resource exploitation and development activities from the gold mining. Our family struggles to enjoy our lifestyle from these impacts.

To protect our lifestyle for the present and for our descendants, we need to protect the environment and to ensure it is healthy for all who rely on its resources now and into the future. “Biodiversity is...a key element to sustain life on the Earth” (Venkateswarlu, Nirola, Kuppusamy, Thavamani, Naidu, & Megharaj, 2016, p. 336). Moreover, biocultural diversity is a concept that recognizes humans and non-human species are fundamental to shaping and sustaining biodiversity (Pert, Hill, Maclean, Dale, Rist, Schmider, Talbot, & Tawake, 2015, p. 51). In relation to the academic views on biodiversity and biocultural noted above, our cultural knowledge and practises of sustained uses have maintained our natural resources since time immemorial by replenishment of resources identified as conservation. The preservation of special sites or areas such as caribou calving grounds or sites of spiritual significances with restrictive uses either entirely or seasonally and prohibiting any drastic landscape changes are essential for biodiversity.

Therefore, our family and the mining company must develop a working relationship where “collaborative approaches...are critical in fostering mutually respectful uses of knowledge to respond to environmental concerns and create meaningful environmental management outcomes” (Robinson, Maclean, Hill, Bock, & Rist, 2016, p. 124). The working relationship can provide a platform to reaching a state of co-existence and minimizing the environmental footprint of resource development activities.

Waste management. With the opening of a mine site, there is increased access to other human activities including recreational activities such as canoeing, hunting, and fishing as well as continued mining and exploration where people leave unwanted items or dispose their garbage on the land and waterways. Recreationalist or sport hunters who take advantage of roads built by forestry and mining

companies in our territory are a concern. These behaviours of irresponsibility and disrespect for land and water impacts our family directly and indirectly when we live and hunt, trap, fish, and harvest from our territory. Waste management and mine closure plan were identified in the questionnaire results as participants wanted to be educated on the process of handling chemical waste or spills from mining activities. “In any mining process, there will be always a certain amount of waste material which has to be deposited as final waste and will have to be confined in special sealed waste disposal areas” (Dold, 2008, p. 283). Cyanide is used to recover gold through the leaching process and “there are many chemical, physical, and biological processes by which cyanide can be destructed” (Akcil & Mudder, 2003, p. 445). As stewards of our territory, mandatory discussions must occur to obtain an understanding of the prevention, maintenance, and response mechanisms to mining waste, especially cyanide, with the mining company. Once the mine is closed, our family will be left with the aftermath of an unhealthy environment and changed landscape.

Furthermore, the opening of the gold mine has brought more exploration companies into our family’s territory. It is unknown what waste has been left behind as a result of their activities. Has the responsible Ministry been properly monitoring these activities for compliance? Our family has visited hunting camps and fishing sites in the past in order to remove garbage and clean up discarded animal parts. Instead of conducting our daily lives with subsistence practises and enjoyment, we have spent our time collecting domestic and industrial waste from the roadsides and other areas.

Comprehensive environmental impact assessment. From Detour Gold’s EA report submitted to the Canadian Environmental Assessment Agency (Detour Gold, 2011a), my father is mentioned on page 89 regarding a trapline and nothing more. There was no formal request or discussions between my family and MCFN or Detour Gold regarding our occupancy, land uses, or any significant cultural sites in our family’s territory that I am aware of. As a result of missing critical information, the EA studies to open the gold mine are flawed, incomplete and could have warranted a judicial review for a different

more robust EA at the federal level. As stated earlier, without the inclusion of my family's information in Detour Gold's flawed and incomplete EA studies, there is possibly a grievance process to be pursued.

Therefore, the family input from the questionnaire provided calls for a more robust comprehensive impact assessment from the effects of the mining activities such as a joint review panel that would enable meaningful First Nation participation for my family. It is recognized that in order to sustain our Cree lifestyle, there needs to be a holistic assessment of our family's territory by carrying out an extensive monitoring program consisting of the eight elements listed in Figure 3. The collection of data would establish a baseline of information to ensure there is still a healthy environment in which to practice our Cree lifestyle. From my visual analysis of the family summary map (Figure 2), I estimate approximately one third of the family's territory is "taken up" by Detour Gold mining activities (Figure 2) where there were fewer impacts from other activities in the family territory. We are left with less suitable land in our family's territory to exercise our Indigenous rights as the landscape varies considerably from old growth forests to extensive harvested areas with logging roads from the forestry industry. There are a few lakes, rivers, and creeks as well as wide open spaces of bog with sparsely populated small trees such as the Tembec Wetland Conservation Reserve (MNRF, 2005) located along the provincial border in the proximity of the southwest area of our family's territory. Therefore, the displacement of our occupancy and land uses from the land where Detour Gold mining activities are occurring in our family territory leaves us with the remaining lands that are less suitable for animal habitat and that are impacted from past forestry operations and other people such as sport hunters, recreational fishers, and cottagers.

The state of health of waterways and lands in the family territory is unknown. If our family were included in the participation of the initial EA studies, a monitoring program could have provided a baseline of data supported by the family map of occupancy, land uses, and culturally significant sites also referred to Traditional Land Use (TLU) as "a key mechanism...to defend (our) land use and occupancy in environmental impact assessments" (Joly, Longley, Wells, & Gerbrandt. 2018, p. 335) when the initial EA was conducted to open the mine. "Impact assessments must recognize that TLU is not a static process

that can be presented in its full capacity as a point on a map... (but view) the cultural importance of the landscape as a whole” (Joly et al. 2018, p. 341). It is necessary to have an inventory of the state of health of the family territory in order to ensure adequate spaces of biodiversity, suitable habitats for those who we share with such as the Woodland caribou, and overall cultural sustainability in which all natural resources are healthy, available, and cared for. One approach to explore is “the Ecological Services (ES) approach, specifically the identification and categorisation of cultural ES benefits, [that] can be a useful exercise in identifying what may otherwise be treated by separate legislative instruments (e.g. cultural heritage and water planning respectively)” (Bark, Barber, Jackson, Maclean, Pollino, & Moggridge, 2015, p. 247). In our pursuit of self-determination, monitoring is “a tool for asserting Indigenous sovereignty and jurisdiction and as a way of understanding (monitoring) as more than data gathering – as a form of Indigenous governance” (Wilson, Mutter, Inkster, & Satterfield, 2018, p. 297). It was a priority for my father to have all the water and waterways sampled in our territory to ensure the water is healthy and safe as we continue to drink from the lakes, creeks, and rivers. Without healthy water, we will cease to exist on this part of the land, our home.

There should be a permanent external monitoring body established to oversee the daily mining and exploration activities in the family territory. Self-monitoring of its mining activities by Detour Gold presents an issue of trust. There is also a lack of confidence that the responsible Ministries will consult with our family on permitting or inspect mining activities since there was no consultation on the permit application to build an exploratory camp that resulted in demolition of our trailer. The CPAWS Wildlands League found that De Beers Canada Ltd. failed to report on methylmercury while the then Ministry of the Environment and Climate Change (MOECC) was negligent in demanding the reporting and ensuring compliance (CPAWS, 2015). Furthermore, monitoring oneself within boxed spaces like mining claims and leases does not represent a holistic view of responsible environmental stewardship. Scambary (2009) found that Indigenous people in Australia are engaging in programs of biodiversity management (p. 184) with resource developers. This is similar to what our family desires in developing a wildlife management

program with Detour Gold since we have now developed and implemented a beaver management program.

Mine closure participation. Detour Gold is an open pit mining operation which has and continues to drastically change the landscape on our family territory. Sandlos and Keeling (2016) as cited in Kunkel (2017, p. 8) state that the mining impacts on Indigenous peoples do not end with mine closure but endure beyond remediation, reclamation, and restoration. Our family has knowledge of the land prior to the exploration discovery of gold in the 1970's when the area was in its natural state. Therefore, it is crucial for full family participation on closure planning and obtain a comprehensive, more than likely a technical understanding as well to bring the extraction process to closure for the Detour Gold mine. "In order to optimize an appropriate remediation technique, it is important to understand the pre-mining geological... (environment) and similar study of post-mining waste, biogeochemical reactions, ore processing, waste disposal and locate climate" (Anawar, 2015, p. 118) that our family can assist with. "Presence or absence of biodiversity plays a major role in determining land quality while considering indicators of reclamation" (Venkateswarlu et al., 2016, p. 337) since cultural sustainability is a key factor to our family existing on the territory. These factors for remediation and reclamation on our family territory demands our participation in the decision-making processes on mine closure by the company as our family will inherit the aftermath.

Given these different elements of mine closure, the family will employ or use our Indigenous knowledges and western science. "Contamination and environmental remediation tend to be framed as technical or scientific issues, (so) the contributions of...Indigenous knowledge...is typically confined to matters of...pre-contact cultural history and knowledge of biotic and land-based resources" (Sandlos & Keeling, 2016, p. 279). However, mutual equitable participation in the end of mine process may provide a unique opportunity for land restitution by informing restoration targets with potential economic opportunities and ecological perspectives as our family has the greatest stake to healing our home (Sandlos & Keeling, 2016, p. 280 & 285). "The extent of corporate social responsibility ...(with)

remediation processes must go beyond ecological restoration to address deep social, economic and cultural legacies” (Rixen & Blangy, 2016, p. 308).

Cultural Sustainability

As noted earlier, a healthy biodiversity is essential for cultural sustainability and vice versa. This practise of cultural sustainability was exercised through our laws, hereditary occupancy, and use of our respective territories from our customary land tenure systems in the James Bay region. The *Statement of Claim* submitted to the Ontario Superior Court of Justice (Mushkegowuk Council, 2003) regarding the Rupert’s Land Protection Pledge made reference to a case on July 9, 1867 during the pre-Treaty era in which the Québec court recognized the existing Cree occupancy around James Bay, territorial rights, and customary laws (Mushkegowuk Council, 2003, p. 7 & 8). The existing Cree governance system existed over proportional areas of land in order to sustain a group of families within their respective territories. The *Tsilhqot’in Nation v. British Columbia* (2014, p. 286) case confirms that sufficient tracts of land were occupied to govern occupancy and land uses which implies a common practice among Indigenous Peoples. In sustaining our culture, my family wishes to uphold its obligations to continue with our livelihoods “described generally as a range of activities associated with the customary sector, including fishing, hunting, (trapping), gathering, the production of art and craft, the conduct of ritual, and the maintenance of family and kin relations” (Scambary, 2009, p. 185).

Occupancy. In relation to occupancy of my family in the area, the International Council on Mining and Metals (ICMM, 2015) promotes responsible mining on Indigenous lands, provides guidance to resettlement issues where conflicts arise with local and Indigenous Peoples that could result in “possible legal action and loss of reputation (which may also significantly damage their social license to operate)” (see <https://www.icmm.com/en-gb/society-and-the-economy/mining-and-communities/resettlement>). From the cumulative effects of loss of occupancy with the destruction of our dwelling in the north part of our family’s territory and loss of land use area due to Detour’s operations, the responses from the questionnaire describe the need for building camps in other suitable places around

the mine site and other sites to continue our Cree lifestyle practices and to ensure there is a carrying capacity of resources to sustain our lifestyle.

Precedence was set in Australia with the outstation movement that is a similar phenomenon to the suggested family feedback on re-establishing and enhancing occupancy on our family territory. Kerins (2009) writes that in the 1970's, the original people of that continent actively rejected their artificial communities and returned to their ancestral lands with the support of the Australian government. Also, mining companies proposing to operate on Aboriginal ancestral lands, negotiated agreements to re-establish communities in their respective territories together with housing, water, infrastructure, tourism initiatives, and environmental monitoring (O'Faircheallaigh, 1995, p. 6 & 14) in which my family included an energy source for their cabins. Similar to my family's Indigenous practices and wishes, the original people of Australia also have a "desire to return to their own country (ancestral lands) ...to participate in environmental programs (and) reclaim their...heritage" (Peterson & Myers, 2016, p. 10 & 44).

A profound statement noted in Long's Treaty No. 9 book (2010) based on MacMartin's diary declares that Duncan Campbell Scott explained at the outset that "the Cree...were not obliged to live on their reserve and would be allowed as of yore to hunt and fish where they pleased" (p. 337). Currently, there is a preference by my family to live in our natural environment on our respective family territory, either year-round or intermittently throughout the year, to continue our customary land uses of harvesting, practising our ceremonial rites, protecting our sacred sites and monitoring the health of the territory. The concern with land use permits issued by the provincial government to recreationists and/or exploration companies in the family's territory will need to be examined to ensure proper consultation, accommodation, and restitution from past actions to ensure our cultural sustainability and possible infringements on our Indigenous rights.

The outstation movement "reinvigorated Aboriginal culture by being closer to sacred sites and enabling intergenerational transmission of traditional law, healthier lifestyles through reduced reliance on

store-bought food stuffs, caring for country and fulfilling cultural obligations, lowered rates of substance abuse and domestic violence” (Burgess, Johnston, Bowman, & Whitehead, 2005, p. 119). From the feedback I received, this echoes my family’s desire to settle in our family territory for our own well-being and cultural sustainability. Burgess et al. (2005, p. 121) concludes that Indigenous natural resource management, in other words Indigenous people caring for the land, may enhance their physical, social, mental, and emotional health and well-being. The Queen of England ordered that “it will be the duty of the Government to make adequate provision for the protection of the Indian tribes whose interests and well-being are involved in the transfer” as identified in the “Protection Pledge” (Mushkegowuk Council, 2003, p. 3) when Rupert’s Land was amalgamated with Canada in 1869. However, in practice, First Nation interests and well-being are not protected with many First Nations living in poverty as a result of the federal government’s violation of this pledge with the land transfer. With Detour Gold supporting our family to occupy our family territory and somewhat sharing the land with their mine, these initial actions support our well-being and desires thus far. Furthermore, despite establishing a private agreement between my family and the gold mining company and not the federal government, this action would nevertheless touch upon the Treaty No. 9 as verbally agreed by providing “a modest sharing of the land and its benefits” (Long, 2010, p. 353).

Our well-being is related to the health of the land that we harvest from. The customary practice of harvesting food from the land for subsistence follows the annual cycle of Mushkegowuk’s six seasons: spring, blooming of earth, summer, fall, freezing up and winter (Omushkego Education, 1994). This practice pursued “a system of rotation...(where) the land was divided into sections, and one part was hunted one year, another the next, allowing the land to lie fallow for as much as three years” (Flannery & Chambers, 1986, p. 130). With the demolished dwelling and the developed mine, this customary system of conservation has been destroyed and will never return to this area of land again as the land has been permanently changed for which there is no foreseeable restoration of an open pit. As in the *Tsilhqot’in Nation v. British Columbia*, (2014, p. 286) case documentation, knowledge of patterns and trends were

identified on land and resource uses in their homelands (Kunkel, 2017, p. 7) encompassing their seasonal movements. This cyclic human management of utilizing our natural resources and our sacred obligations to caring for our lands was perceived as unused or uninhabited land providing the basis for occupation by Europeans under *Terra nullius* (Latin expression meaning nobody's land) when they arrived on this continent known as Turtle Island by the original Indigenous peoples. In general, this principle of nobody's land has been rejected by Indigenous Peoples as these unused or uninhabited lands were given time to replenish in following conservation practices so they will be food and other resources to harvest upon return to the area.

Leibovitch Randazzo and Robidoux (2018) in their article state that although land-based foods are healthier and help to address issues of food insecurity, "there are significant monetary costs to getting on the land... and harvest sufficient yields to feed their families" (p. 17). There needs to be support mechanisms or programs in place to ensure our family are able to continue harvesting despite the impact from the mining operations.

The identified significant cultural sites in the summary map such as spiritual sites and burial sites, along with other ecological and cultural landscapes, will require the family and the mining company to identify what type of action or plan is required to either manage for or protect the sustainability of my family's lifestyle. Many of the burial sites in our family territory are old whereas others are as recent as 2017 when we laid our mother to rest.

Knowledge transfer. In our effort to preserve our cultural lifestyle, the input from my family recognized the need to transfer our Indigenous knowledge to the younger generations. "The largest attack on Indigenous Knowledge systems right now is land dispossession" (Simpson, 2014, p. 21). To assert ourselves on our territory, the family suggestions included: developing year-round cultural school for families with children, conducting workshops, retreats, field trips and teaching survival skills. Simpson (2014) further claims that in order to make the transformation away from government-run education

systems, we need to educate our young people in land-based places and “the land must once again become the pedagogy” (p. 14).

Article 14 in the UNDRIP upholds the right that Indigenous children have access to culturally appropriate education. As survivors, my siblings and I note that our experiences of the residential school system have greatly negatively impacted our very souls and we are clearly aware that our healing journeys must include a culturally applicable education approach to addressing intergenerational trauma and supporting and restoring cultural sustainability. Our family’s vision of developing a cultural school in our family’s territory is similar to Bell (2010) who “created a culture-based educational and healing space for (Indigenous) children...to achieve an education academically comparable to the public education system, while learning about (Indigenous) culture and therefore developing a strong sense of identity and pride in themselves” (p. 1 &2). The curriculum to be developed for our children and youth would have to be culturally relevant and follow the Cree philosophy and lifestyle.

In recognition of the knowledge and skills held by our family members, questionnaire responses included conducting workshops on various cultural activities. These activities included snowshoe making, moose-hide tanning, offering retreats for healing through grounding in ceremonial practises and rejuvenation on the land, field trips to reconnect with significant and sacred areas, and possible environmental monitoring purposes. Lastly, teaching survival skills to exist in our natural environment are critical, since the artificial environments of reservation communities and municipality living (“civilization”) disconnect us from our natural surroundings and teachings of being in the bush.

One researcher who spent some time with my family at Kattawagami, Kayo Ohmagari (1996, p. 195) concluded the greatest concern facing Cree people women was the transmission of bush skills and knowledge. A lack of these skills is a liability for Cree people in continuing their customary lifestyle which remains strong based on the results of the family questionnaire.

Social Relations

In general, the Truth and Reconciliation Commission (TRC, 2015) summary report defines reconciliation as coming to terms with past wrongs and establishing and maintaining a respectful and healthy relationship between Indigenous and non-Indigenous peoples of Canada (p. 6). Within the scope of this study, the history between our family and Detour Gold consists of a relationship that based on compromise and conflicting interests. Both parties need to acknowledge and support a willingness to reach a place of comfort with the hope of finding a path of healing for our family and our territory.

Corporate social responsibility. Although IBAs have been signed, the settling of land claims, the slow development of consultation processes (Mindiola & Chabot, 2008, p. 4), the Government's obligations to attempt meaningful consultation and accommodation have provided an atmosphere of uncertainty for the mining industry. There is no set model for First Nations to build capacity to deal with the mining industry. This study reaffirms the flawed relationships and the issues experienced as a result of the absence of a model for proper consultation or engagement process.

The IBA Community Toolkit (Gibson & O'Faircheallaigh, 2015) identifies steps that can be taken to prepare for negotiations and to start a process that does not assume consent (p. 11) nor is based on infringement of Aboriginal and/or Treaty rights by the resource developer or government. MCFN leadership, in its legal fiduciary obligation to its people, did not carry out a thorough information gathering exercise before or during negotiations with Detour Gold. Our family who are being directly impacted were never consulted by the parties; therefore, the information gathering was done with key family knowledge holders with the best information of the family territory. There was no First Nation leadership or community involvement or participation in our data gathering exercises. In the subsequent federal and provincial governmental EA processes, a cultural assessment report is required that allows a First Nation community the opportunity to participate. Furthermore, we are somewhat fortunate to have our family's traplines, registered with the MNRF. In spite of this, there was no notification for consultation on the proposed and existing mining project and activities. As a government-recognized trapline holder, letters of notification from MNRF often arrive randomly on land use activities that may

impact our trapping rights. The fact we were not informed, nor provided an opportunity to engage directly with Detour Gold indicates a flawed consultation process. Therefore, the voluntary CSR practices by Detour Gold started with a faulty process from negotiations to finalizing IBAs with Aboriginal communities, specifically MCFN and Wahgoshig First Nation, as stated by family members.

The Canadian federal government defines CSR as “the way companies integrate social, environmental, and economic concerns into their values and operations in a transparent and accountable manner” (Ramji, 2013, p. 74). According to Dahlsrud’s study of CSR definitions (2008), there are five CSR dimensions: environmental, social, economic, stakeholder, and voluntariness (p. 4) and they require “CSR management tools...to develop and implement a successful business strategy” (p. 6). CSR is a voluntary practice by resource developers (Rodhouse & Vancly, 2016) where early communications with potentially impacted communities is established “as being a tool for achieving two-way, symmetric information-sharing (p. 787). “Some researchers indicate that the turning towards environmental and community development strategies is driven mainly by the link between CSR, shareholder value, and financial performance” (Wirth, Kulczycka, Hausner, & Konski, 2016, p. 54). As our family continues with direct communications with Detour Gold, O’Faircheallaigh (2015) recommends that “voluntary initiatives (such as CSR) ...involves commitments by individual companies to take measures, beyond those required by law, in order to enhance the benefits of their operations and reduce their negative consequences” (p.93). Wirth et al. (2016) go on to state that there is a popular quote concerning CSR – “you do well by doing good” (p. 54) yet this is still to be determined in the case of a long term positive working relationship between Detour Gold and my family.

The 2017 Sustainability Report (Detour Gold, 2017), prepared for the Global Reporting Initiative, offers a high-level overview of their activities and status with regard to Aboriginal communities with whom they signed agreements (see Aboriginal Relations section, p. 12). In the 2017 Sustainability Report, the five CSR dimensions are health and safety, Aboriginal partnerships, environment, our people and economy. However, upon further implementation of developing our positive, long term, working

relationship, there will have to be new changes to Detour Gold's CSR initiatives. "The importance of the means used by the company to create awareness of its socially responsible activities... [should stem] from third-party sources like [my family] ... to facilitate the positive impact of corporate social responsibility on the perceived performance of the company's products" (Chernev & Blair, 2015, p. 1422).

In doing so, this action would work towards Call to Action #92 in the TRC (2015) summary report. This Call to Action recommends "the corporate sector in Canada to adopt the UNDRIP as a reconciliation framework and to apply its principles, norms, and standards to corporate policy and core operational activities involving Indigenous peoples and their lands and resources" (p. 336). "Using FPIC (Free, Prior and Informed Consent) engagement processes to develop qualitative mechanisms for measurement could increase CSR practitioner understanding of grassroots issues that arise when engaging with communities" (Rodhouse & Vanclay, 2016, p. 792) for assessing effects on Indigenous Peoples. As a result, a changed and improved CSR policy that includes an innate cultural perspective from the Indigenous Peoples directly impacted by mining activities can be adopted that would enhance Detour Gold's relations and ultimately improve its financial standing on the global market and recognition for its part in this revolutionary change. "CSR is not a photo-opportunity for a corporate website or corporate philanthropy. Rather, it has become a required strategy that is measured and reported and rewarded with successfully-permitted projects that result in higher stock values and enhanced corporate reputations" (Ramji, 2013, p. 75).

From initial discussions, Detour Gold agreed to financially support the development of a family report. The support for our family's mapping project for identifying customary activities and culturally-significant sites is part of the family report. In doing so, the company touched on its legal responsibility to begin addressing the outstanding legal issue of the trailer incident. Specific sites identified as points on the family's summary map (Figure 2) acquired with the application of a GIS can "assist in conflict resolution processes by moving the conversation from positions to principles and helps the negotiation process perform its function as justice-seeking exercise" (Ali, 2016, p. 648).

Other responses from the questionnaire include business opportunities, partnerships to sharing benefits, and employment, with preferential hiring for qualified positions within the company. As part of an agreement, O’Faircheallaigh (2015) reiterates the options of “preferential access to employment opportunities, ...training programs to enhance...employability [and] participation of ...business in contracting opportunities” (p. 97). These initiatives could assist in sustaining ourselves on the land, assist with biocultural monitoring in our territory into the future, support mitigation and restoration actions, and enhance the company’s CSR.

Knowledge transfer to others. In recognition of the family’s knowledge and skills, it was noted that these could be shared with other people who wish to learn about caring for the land and land based survival skills including community members, schools, groups and the general public. Generally speaking, since racism is so prominent in our society, particularly for visible and marginalized peoples such as Indigenous Peoples, it was also suggested that the family could facilitate cultural awareness/sensitivity training for Detour Gold employees and management. These could be for all levels of staff with a goal to improve relations between and among Indigenous and non-Indigenous people. Given Detour’s 2017 Sustainability Report, there is a need to educate the company regarding the “traditional territory of the Cree, Algonquin, and Métis Peoples” (p.3). With the statement of Métis traditional territory made by Detour Gold, I can only assume that all Aboriginal agreement signatories made territorial claim including the recent assertion by the *Statement of Claim* from the GCC (p. 12). There is much learning to be held. Parmenter and Trigger (2018) say “this would involve understanding ‘culture’ as more than an easily identifiable set of ‘traditional beliefs and practices and engagement with the changing realities of life for Aboriginal people in the wider society” (p. 369). Overall, these initiatives could serve as one process for Indigenous participants in “identity development...to combat the colonization of all Indigenous peoples” (Bell, 2010, p. 171) and also provide economic benefits to First Nations in sustaining our lifestyle.

Social development. This category was developed based on input that equates to a more contemporary and substandard living situation. For over a hundred years, the federal government has failed to recognize its obligations to Indigenous people (Chambers & Burnett, 2017, p. 114) and “have typically under-resourced the human development of ...Indigenous populations for much of their post-colonial histories...(like) health, education, participation in the economy, legal rights to traditional lands and resources, cultural security, and wider issues of social inclusion” (Mitou, Cooke, Lawrence, Povah, Mobilia, Guimond, & Zubrick, 2014, np). Pamela Palmater accurately observes, “it is our own federal laws and policies that not only put First Nations in their current state of extreme poverty, but the same laws and policies keep them in that state” (Chambers & Burnett, 2017, p. 114).

It is likely that in recognition of this situation of lack of sufficient services from federal and provincial government responsibilities including health and education experienced by family participants and commonly in Indigenous communities that brings forward the request for assistance to access such services. The final resolution from the Special Chiefs assembly (Assembly of First Nations, 2017) titled “Federal Engagement on Health Transformation” Resolution no. 63/2017 cites UNDRIP Articles 21 & 18, TRC Call to Action #18, and other supporting statements to identify the outstanding and unfulfilled Treaty obligations to provide adequate and equitable First Nations health care. Resolution no. 65/2017 from the same Assembly titled “New Interim Funding Approach for First Nation Education” also identifies UNDRIP Articles 14, 19, 23 to address the lack of funding for First Nations Treaty rights to education. Some examples of health care assistance noted in the response to the questionnaire include dental, eye care, medical transportation, and wellness program needs. Educational assistance noted from the questionnaires include subsidizing costs, fees for conferences, training, workshops as well as other short-term educational opportunities.

In addition, assistance to participate in recreational activities was identified. “The Royal Commission on Aboriginal Peoples (RCAP, 1996) deemed recreation and leisure to be critical elements in the holistic journey to health” (Wall, 2008, p. 70). Recreation and leisure opportunities such as

participating in sports, educational programs, cultural activities such as powwows, ceremonies and gatherings help heal from addictive abuses (Wall, 2008, p. 76). There are many organized sports in Indigenous communities such as hockey (e.g. Little Native Hockey League, Mushkegowuk Cup), basketball, North American Indigenous Games, and the Masters Indigenous Games among others that could include participation in town and city leagues by our family members for their well-being.

Ecotourism was suggested as a way to benefit from our lands based on our knowledge. “Ecotourism has the potential to both celebrate nature as well as celebrating traditional culture in a manner that is sympathetic to conservation” (Mendoza-Ramos & Prideaux, 2018, p. 278). This economic initiative will also change spaces of geopolitical opposition and re-enforce homeland occupancy to enable eco-cultural resurgence and social development (Mendoza-Ramos & Prideaux, 2018, p. 279). Ecotourism activities, if well designed and supported, could empower the family “to develop and manage tourism businesses that respect the cultural and natural environment” (Mendoza-Ramos & Prideaux, 2018, p. 289).

Resolutions

The greatest advancement of human recognition for Indigenous Peoples is the UNDRIP with its 46 Articles. This declaration can set a new standard for reconciliation and could shift the paradigm between colonized and sovereign nations of people. Companies, Canadian governments and general society need to be aware that Indigenous people are not stakeholders but are rights-holders. “Their distinct legal rights and interests to lands and resources... [that enable them] to claim and assert legal rights to the lands and resources that are a part of the mining project footprint; this is what sets them apart from other stakeholders” (Ramji, 2013, p. 66). A human rights impact assessment needs to be executed (Ramji, 2013, p. 77) by the company with knowledgeable professionals. Communities need to identify all possible impacts; something that was not addressed with our family.

Therefore, in contrast to Ramji’s recommendations (2013), the social license to operate is not fully satisfied and puts the Detour Gold mining project in an unstable and uncertain position morally and

legally. As noted earlier, although IBAs were developed and implemented by Aboriginal communities, in our family's case, the agreements were done without proper consultation and our individual rights were not considered.

In seeking restitution to our circumstances through relationship building with the mining company, the family will need to solidify the relationship through a negotiated agreement. As suggested through responses in the family questionnaire, the content of such an agreement should have environmental, cultural, social, and financial commitments. The gold mining company and our family need to establish a positive, long term, working relationship for conservation and preservation that allows us to co-exist on the land while still pursuing a customary Indigenous lifestyle with resource development activities in our backyard. A biocultural approach to conservation is one approach that can be explored and modified for resolution.

Biocultural approaches to conservation are “actions (that) encompass all phases of the conservation process, including management, and also governance more broadly” (Gaven, McCarter, Mead, Berkes, Stepp, Peterson, & Tang, 2015, p. 141). Gaven et al. (2015) express the principles of biocultural approaches to involve accepting intergenerational planning, acknowledging that culture shapes resource use, developing social-ecological methods with innovative frameworks, maintaining relation building, integrating rights and responsibilities, and finally, respectfully using different knowledge systems into planning (p. 141). With these values, this approach provides one avenue to co-existence given both parties have conflicting interests. “Protecting your interests usually means setting out in an agreement how the social, economic, cultural, and environmental impacts of the project will be prevented, mitigated or compensated” (Chiefs of Ontario, 2009, p. 264).

Along with the destruction of our dwelling in the northern part of the territory, we lost a part of our customary way of life through the development of an open pit mine. “Mining development is an inherently environmentally and ...culturally disruptive and destructive process. Compensating such disruption or destruction is therefore important if long-term development plans are to be sustainable and

beneficial” (McLeod, 2000, p. 115). In keeping with the medicine wheel framework in its cyclic formation with systemic processes where all are interconnected, interactive, and interrelated, the financial pillar is an element that allows this procedural framework to be the adhesive and functioning component.

Trust fund. In consideration of long-term planning, similar to the common Indigenous perspective of caring for seven generations yet to come, the family suggested that a trust fund be set up for our descendants who will inherit the territorial responsibility as they continue to occupy and use the resources in the family’s territory. When agreements are in place with “revenue streams from mining projects, they have the potential to address issues of inter-generational equity through the establishment of long-term investment funds” (O’Faircheallaigh, 2015, p. 99).

For example, an Indigenous group of land owners in Australia set up such a trust with re-investments. Within a 20-year timeframe, “the trust will have significant capital base which will generate an income ...well into the future and possibly long after mining has ceased” (O’Faircheallaigh, 2015, p. 99). Another example is in Fiji where a sustainable development trust fund was established with monies from “royalties and compensation payable for...land which cannot be rehabilitated to the original state such as that affected by open-pit mining” (McLeod, 2000, p. 124). Basically, a certain percentage of the total compensation was allocated to the sustainable development trust fund and after mine decommissioning, a small percentage was dispersed at certain times until the remaining balance is disbursed, and the fund closed (McLeod, 2000, p. 124).

The specifics and options for setting up a trust fund for our descendants will need to consider a long sustaining fund for generations to come as contamination and pollution from the mining operations will exist hundreds of years after mine closure.

Relationship building. In the relationship-building efforts with Detour Gold that were led by my immediate family, it is part of our responsibility to speak for the land and animals that do not speak the English language and for our extended family and future descendants. Although there is no amount or type of compensation for the destruction to our customary way of life and robbing us of our land to

exercise our rights when our trailer was demolished, this incident will be used as a reminder of why Detour Gold and our family need to collaborate towards a place of reconciliation, a new platform. It is essential to establish an appropriate governance structure and communication plan as a basis for proper and meaningful consultations and decision-making processes, that can be translated into relevant languages (e.g., Cree, Algonquin, French), to be considered independent to overcome distrust, allow access to technical information, enable evaluation for clarity of the environmental data (Sharp & Offor, 2008, p. 24) and develop a consensual process for knowledge sharing.

The family responses from the questionnaire identifies our interests in moving forward and not stay in anger and be immobile on the destruction of the trailer. The mediation procedure can take the form of an interest-based negotiation in which the issue is separated from the family and the focus is on interests, not positions, and offers options for mutual gain (Sharp & Offor, 2008, p. 18). The family interests are focused on minimizing the environmental footprint of the mine, maintaining our cultural sustainability, improving social relations and reaching a place of co-existent with resolutions by developing a long-term, positive working relationship. With time comes change, so it is mandatory that the relationship remain adaptable, results based, and constructive.

Conclusion

Due to non-existent internal community consultation protocols within the Moose Cree First Nation and its quasi-collective approach, our family has suffered. Poor First Nation governance structures, lack of community definition for collective rights, illegitimate decision-making processes, and poor negotiation processes leave First Nation citizens with uncertainty and a lack of confidence in their leadership. It is also unclear whether the provincial government specifically MNRF sent letters of notification to government registered trapline holders whose trapping activities would be impacted by the mining proposal and activities as no such letters were found. Detour Gold received direction from the Federal government of what First Nations to engage with as this is the Federal government's process in

meeting its fiduciary obligation in regard to consultation. Furthermore, Detour Gold was aware of the outstanding issue of the trailer incident before, during and after the signing of its IBAs.

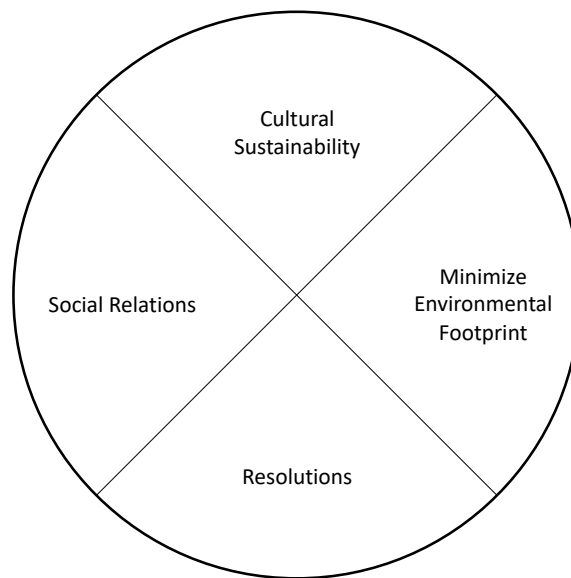
Left with the task of protecting our own rights and interests, our family, with assistance from legal counsel, took it upon ourselves to obtain the most just treatment and equal existence on the land we have inherited through family lineage. Our occupation and land use in our respective family territory must be recognized by First Nations, Governments and resource developers who must engage with us through developing or following proper and meaningful protocols.

In researching our family's occupancy in the Detour, Kattawagami and Burntbush area known as our family's territory, evidence demonstrates occupancy of the area prior to the claim of sovereignty by the Crown and pre-Treaty era. According to Flannery and Chambers (1986) "the information on these bands' hunting grounds extends back three or more generations to the 1850s or 1860s" (p. 112) and the Kostcan (also written as Oustan or Ostan) family are identified as Kesagami people (p. 133) in which we, the descendants are presently located in the region southeast of Kesagami Lake to the Detour, Kattawagami and Burntbush area.

In addition, through our Oral History report, that is not part of this study, our family is able to define the lineage of *Gahniiganshkuk* back four generations from present. Chief Justice McLachlin reiterates the *Delgamuukw* three-part test for Aboriginal title: "(i) the land must have been occupied prior to sovereignty; (ii) if present occupation is relied on as proof of occupation pre-sovereignty, there must be a continuity between present and pre-sovereignty occupation; and (iii) at sovereignty, that occupation must have been exclusive" (*Tsilhqot'in Nation v. British Columbia*, 2014, p. 227) in which our family's position could meet the criteria in the three-part test. Long (2010, p. 5) affirms that the "legal validity of Treaty No. 9 is weighed (against) Canada's promise, in the Rupert' Lands order, ...(by the) the power differential at treaty time and any failures to fully explain the treaty's ramifications, ...(and) a party is entitled to avoid a written contract if it is fundamentally different than what the party thought it signed." Therefore, Treaty No. 9 has many discrepancies to be legally binding while the Governments and industry

choose to interpret the Treaty in a narrow sense as land surrenders whereas in general with all historic Treaties, First Nations agreed to share the land. The Treaty agreement requires re-examination as Cree families occupied and used their respective territories prior to living on reserve lands and for proper implementation of the Treaty of both parties, First Nations and the Crown.

Figure 7. Procedural Framework



As stated earlier, it is urgent that we address the presence of Detour Gold in our family territory and the impacts of their mining activities upon our rights and interests. My family's interests are identified in the procedural framework (Figure 7) by the four pillars derived from the family questionnaire results of four categories. While the pillar of cultural sustainability of practicing our customary way of life was identified as desirable to be preserved, the other three pillars (i.e., minimize environmental footprint, resolutions and social relations) identify a way forward to sustainability with conservation measures for our territory and family existence in the territory. A concept in Aboriginal law called an "inherent limit" that can be described as adhering to a point or level in the application of exercising Aboriginal rights. Wu (2015) argues that "the inherent limit described in *Delgamuukw* was

focused on the issue of cultural preservation” (p. 124) maintaining past customs and practices. In the recent decision in the *Tsilhqot’in* case, the inherent limit was altered “from cultural preservation to the well-being of future generations” (p. 138). Wu (2015, p. 138) further questions the use of inherent limit on Crown land and inter-generational equity. In correlation to the inherent limit concept, the well-being of my family relies heavily on our Cree customs and practices for cultural sustainability while our thoughts are set on the future of our descendants in an ever-changing world through knowledge transfer, wellness and the development of a financial trust fund to support a positive legacy for a post-mining project.

Regarding research question #1, as a path forward for our family and the company to address the conflicting interests, a procedural framework must be developed from those directly impacted. From this study, it would be advisable that Detour Gold participate and assist in implementing the procedural framework by solidifying a mutual agreement for sustainability. The common goal required is to build a positive long-term working relationship with our family whose rights are being directly impacted and will continue to be cumulatively impacted for our future generations. The relationship must be long term as both parties need to be adaptive to unexpected changes or situations such as a change in ownership of the mine or environmental contamination. The family’s knowledge and customary practices will bring new information and perspectives that are, more than likely, not considered in existing Aboriginal agreements.

For the question of co-exist in research question #2, the most common interest between our family and Detour Gold is the environment however, from different perspectives. Our family interest for the environment is our inherent responsibility to care for it that can be described as stewardship utilizing conservation and preservation practices. Whereas, Detour Gold extracts the natural resource from the environment with government regulatory and compliance measures to allow this mining activity. Therefore, through common understanding of each other interests and recognition of our Indigenous rights in Canadian law, it is highly recommended that both parties negotiate for acceptable spaces and accommodate for any permanent losses to the family who will continue to live in the area for generations. The pillars of the procedural framework will need to be considered in negotiating for acceptable spaces

such as under the comprehensive environmental impact assessment of environmental monitoring, family occupancy and land uses to address cumulative cultural impacts and enhancing the company's CSR to include a cultural component.

Research question #3 of helping to address consent for First Nations communities, First Nations must collect and develop their own information. In the James Bay region, one avenue could be developing their own environmental assessment that includes a comprehensive ethnographic study of its people's culture in their environments which could be community and family territorial based studies. The studies could focus on a Cree customary land tenure system by mapping of occupancy, land uses and cultural sites and producing an Oral History report of that family and territory that includes collecting relevant historical information. Furthermore, another study that is widely mentioned by governments and academics is a traditional ecological knowledge study which usually involves obtaining First Nations knowledge of the environment including the relationships and systems among animals, vegetation, water, and people. Once the identified studies are developed from those families who have a sacred relationship of interconnectedness to a specific area of land, there must a series of discussions with various groups within a community such as other families, land users, youth, women, men, and Elders on the studies to best reach a community understanding and direction for leadership. Hence, an internal community consultation protocol is developed that respect, honors and utilizes its citizens and customary land tenure system and governance practices as part of a decision-making process. These studies and discussions must be carried out by individual First Nations before they can make informed decisions to agree or disagree on consenting to rights infringement and negotiations. A community that utilizes its people or family group who are the most knowledgeable of their territories will have the best information with community direction for entering into discussions with Governments and resource development industries.

Lastly, in developing and implementing a procedural framework for restitution, this could be a precedent for implementing various UNDRIP Articles and the TRC Call to Action #92. As a result of the

outstanding issue, it is recognized that Detour Gold incurs some risk in following this path, but I argue they would benefit from outcomes based on justice, equity, sustainability, and the opportunity for my family to continue our customary way of life on our family's territory for generations to come regardless of its signed agreements with its Aboriginal communities. Detour Gold is working with a self-determining Indigenous family who hold their individual Indigenous rights in high regard to discover a new platform of moving forward. It is my analysis that this procedural framework of minimizing the environmental footprint that reaches to maintain biodiversity, identifies cultural sustainability factors for our continued existence on the land, improved social relations with the company and others in society, and resolutions to ensure provisions to my family and future generations for restitution offers a path for First Nations and other Indigenous Peoples to consider and apply. This procedural framework supports their citizens who follow their own customary land tenure and land management systems in a respective and equitable manner. This approach brings awareness to governments and resource developers that not all First Nations people in the James Bay region live in communities. And also, their processes for consultation, accommodation, and environmental assessments must change to permit First Nations to be equitable partners in the decision-making processes when land and rights are involved.

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Appendix A

Letter of Consent

June 18, 2018.

To Whom It May Concern:

I, Clarence Trapper identified as Gahniiganshkuk (aka. Tallyman, headperson) for my family's territory of Detour, Kattawagami and Burntbush Lakes who has the inherent responsibility to care for my family's territory give consent to give permission to Lillian Trapper, Researcher to display the Trapper Family Cultural Data map for her Royal Roads University Masters in Environment and Management thesis study. However, she is not given permission to access the intellectual property data of the family participants in this summary map as the family is following the OCAP principles in safeguarding our Indigenous knowledge.

I remain, this is satisfactory to providing consent to use the summary map.

Sincerely,



Clarence Trapper.

Gahniiganshkuk of the Detour/Kattawagami/Burntbush Family Territory.

Appendix B

Family Questionnaire

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July ____, 2016

Dear Family member,

SUBJECT: INVITATION, RESEARCH CONSENT AND QUESTIONNAIRE FORM

I would like to invite you to be part of a research project that I am conducting. My name is Lillian Trapper and this research project is part of the requirement for a Masters of Arts degree in Environment and Management at Royal Roads University. My credentials with Royal Roads University can be established by calling Dr. Chris Ling, School Director, School of Environment and Sustainability, 250-391-2600 x. 4171.

This document constitutes an agreement to participate in my research project, the objective of which to **obtain input from family members on what could be in the framework with developing and maintaining a positive, long-term working relationship with the mining company.**

The research will consist of a questionnaire and is foreseen to last 15 minutes. The questions are to retrieve input from family members as possible components of the procedural framework. In addition to submitting my final report to Royal Roads University in partial fulfillment for a Master of Environment and Management degree, I will also be sharing my research findings with family members, mining company and hopefully, make presentations to create awareness to other First Nations, mining industry, and public forums and in academia.

Information will be recorded in hand-written format in questionnaire by participant. At no time will any comment be attributed to you unless your specific agreement to attribute that comment has been obtained beforehand. The information you provide will be summarized, in anonymous format, in the body of the final report. All documentation will be kept strictly confidential and completed questionnaires will be stored in hard copy and electronic format in a secure location.

The questionnaire allows for anonymity of the participant due to the contentious issues between the Trapper family and/or ties to the study area with First Nation organizations regarding the family's territory. In certain circumstances, the report may be reviewed by future MEM learners, provided permission has been obtained from the report writer.

There will be option to withdraw from the research project. Conflict of interest will be managed by the researcher emailing or mailing the questionnaire to participants who wish to fill out the questionnaire and will be either scanned and email back to researcher or the participant will mail the completed questionnaire back to the researcher. Furthermore, by the participant providing hand-written answers in the questionnaire, this also alleviates any conflicts of interest by the researcher especially

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with those family members who wish to hand deliver their completed questionnaires for such reasons as not have an email address or unable to scan their completed questionnaires.

You are not compelled to participate in this research project. If you do choose to participate, you are free to withdraw at any time without prejudice. Similarly, if you choose not to participate in this research project, this information will also be maintained in confidence.

By signing this letter or by marking verbal consent box, you give free and informed consent to participate in this survey.

Name: (Please Print): _____

Signed: _____

Verbal Consent Provided ☐

Date: _____

Personal Information:

Name of Interviewee (optional to maintain anonymity):

Trapper Family Ancestry ☐ and/or Family Territory Linkage ☐

Place of Interview: _____

Date of Interview: _____

I, Lillian Trapper confirm that the participant who wishes to remain anonymous meets the condition of being a Trapper family descendant and/or has ties to the study area.

Signature of Researcher, Lillian Trapper

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QUESTIONNAIRE

Background:

The family's traditional territory was inherited through family lineage that follows a traditional form of Indigenous governance on land stewardship as our ancestors practiced before us.

- Late 1990's, a gold mining company gave mobile trailer to my family as part of the closure plan of its mine.
- Family used dwelling to access the northern part of the family's traditional territory to hunt, trap, fish and harvest located at Little Hopper Lake.
- Trade Winds Ventures (TWV) came into family's traditional territory carrying out mining exploration in northern part of territory.
- August 2008, TWV who were in a 50/50 joint venture with Detour Gold, demolished our mobile trailer.
- TWV built their exploration camp on the same exact location.
- No consultation or notice with family on new mining camp from government or company.
- Uncooperative communications from TWV with our legal counsel in pursuing a resolution to the demolition of our trailer.
- Detour Gold (DG) bought out the adjacent TWV properties and knowingly inherited the unresolved issue of the demolished dwelling.
- DG and Moose Cree First Nation (MCFN) were in negotiations for impact benefit agreement (IBA).
- December 14, 2010, family presented a letter of concern to MCFN at a community meeting regarding no consultation with family who are being directly impacted by the mining activities and forwarded a copy of the letter to DG.
- December 21, 2010, leadership of MCFN signed of their IBA with no consideration nor prior response to the letter of concern presented by family at the community meeting.
- DG stated that they were directed not to consult with our family by MCFN during their negotiations on their agreement.
- DG and our family have since begun discussions to seek a resolution to the demolished trailer issue.
- No support from MCFN to protecting and addressing impacts on our Aboriginal and Treaty rights from DG's mining activities.
- Family and DG are willing to develop a positive, long term, working relationship to deal with this unresolved issue and the competing interests of the family's traditional lifestyle and the extraction of gold for profit by DG.

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Therefore, this questionnaire is asking for our input on what you think should be in each specific category in a framework for future discussions with Detour Gold on 'compensation' and to ensuring that our family's lifestyle is sustainable for generations to come . The concept for the framework will take the form of a medicine wheel with 4 quadrants. The 4 general categories identified below are to assist in organizing your ideas/input with the understanding that some ideas may fit in more than one category. Please provide a list of ideas up to 10 for each category.

1. Environmental:

2. Cultural:

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3. Social:

4. Financial:

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Please add any other ideas that don't fit the categories above:

MEEGWETCH