



Balancing Community Autonomy with Collective Identity: Mi'kmaq Decision-Making In Nova Scotia

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Overview

- * Context: Historical and legal landscape
- * New Political Order: Assembly of Nova Scotia Chiefs
- * Steps in decision-making
- * Strengths of current decision-making model
- * Challenges
- * Summary



The Mi'kmaq

- * Indigenous people of Atlantic Canada, eastern Quebec and northern Maine
- * Culture/language became distinct 2500 BP from neighboring nations
- * 90% of diet derived from aquatic species





Mi'kmaw Worldview

Msit No'kmaq

- * "All my relations"
- * Belief that we are all related – living and non-living
- * Mi'kmaq Creation Story
- * Reinforced in in the Mi'kmaq language
- * Expressed in our way of life, including governance

Netukulimk

- * Natural resource "management"
- * Not something that is talked about - it is what we do!
 - * Take what is needed
 - * Prevent waste
 - * Share
 - * Give back



Mi'kmaq Governance



- * Santi Mawio'mi (Mi'kmaq Grand Council)
- * 3 levels of polity – national, district and local
- * Grand Chief, Kjikeptin, Petus
- * Districts occupied by families
- * District chiefs met with Grand Chief to discuss what will be harvested & where

Source: danielnpaul.com



Canada's Legal Legacy

Legislation

- * *British North America Act, 1867*
- * *Fisheries Act, 1868*
- * *Indian Act, 1876*

Impact

- * Treaties were forgotten
- * Relationship to Mother Earth was changed
- * Mi'kmaq Nation was divided
- * Responsibility for the land and the people was removed



Elevated Legal Position

- * Mi'kmaq are in an elevated legal position and have a special relationship with Canada through the the *Constitution Act*
- * *Constitution Act, 1982* (s. 35, 52)
- * Aboriginal right to fish for food, social, and ceremonial needs (*Sparrow, 1990*)
- * The Duty of the Crown to Consult (*R. v. Haida, 2004*; *R. v. Mikisew Cree, 2005*; *R. v. Taku River Tlingit, 2004*).



Perspective

- * Mi'kmaq in NS (13)
- * Status Indians: 16,245 (1.3%)
- * Aboriginal and treaty rights co-existing with claims to Aboriginal title
- * The requirement to consult is high





Mi'kmaq-NS-Canada

- * **2002 Umbrella Agreement**
 - * Expression of goodwill and political commitment by Mi'kmaq-NS-Canada parties
- * **2007 Framework Agreement**
 - * Promoting negotiations towards a resolution of issues respecting Mi'kmaq rights and title in a timely manner
- * Provides **process for Consultation** known as the **TOR**
 - * Lays out the rules and principles of Consultation
 - * Does not commit parties to come to an agreement
 - * “On record and with prejudice”



New Political Order: Assembly of Nova Scotia Mi'kmaq Chiefs

- * Proclaimed and asserted nationhood over traditional lands and waters (Oct. 1, 2008)
- * Declared itself to be an institution of governance for issues of common interest and concern
- * Representatives: 13 Mi'kmaq First Nation Chiefs (voting) and Mi'kmaq Grand Council (non-voting)
- * Provide direction to KMKNO



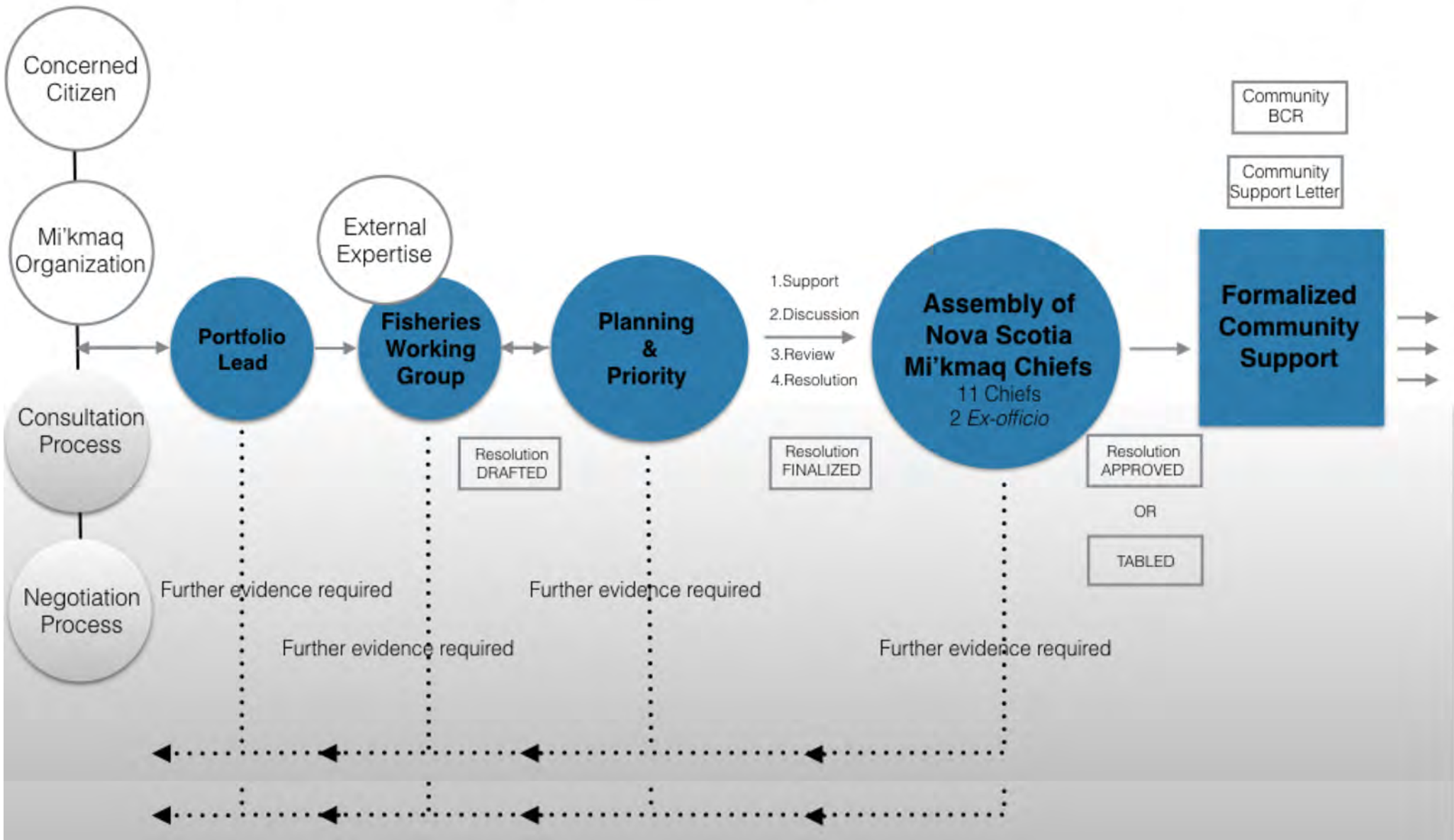
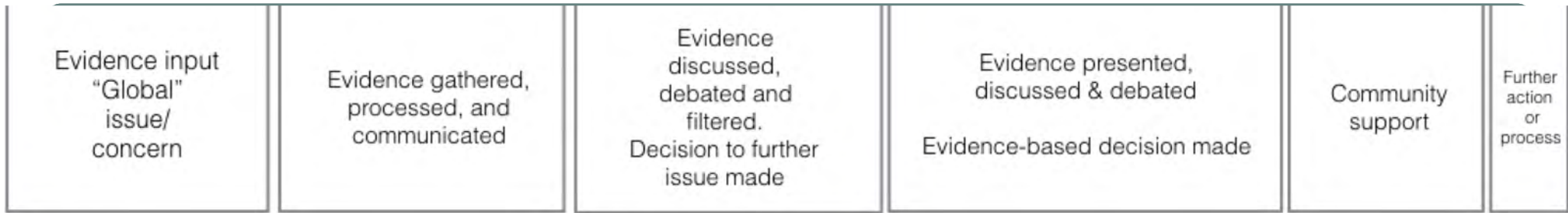
Decision-Making Support

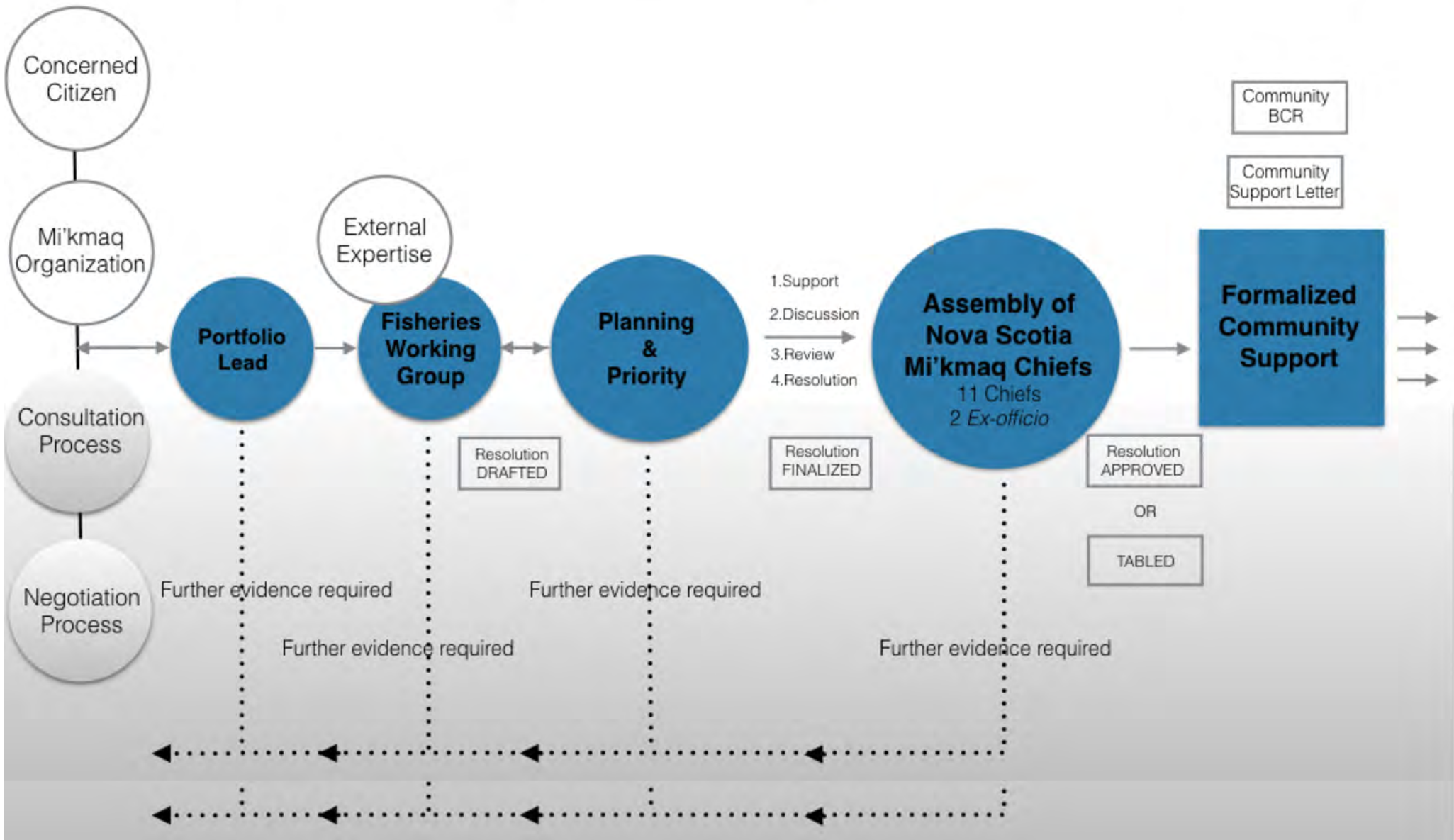
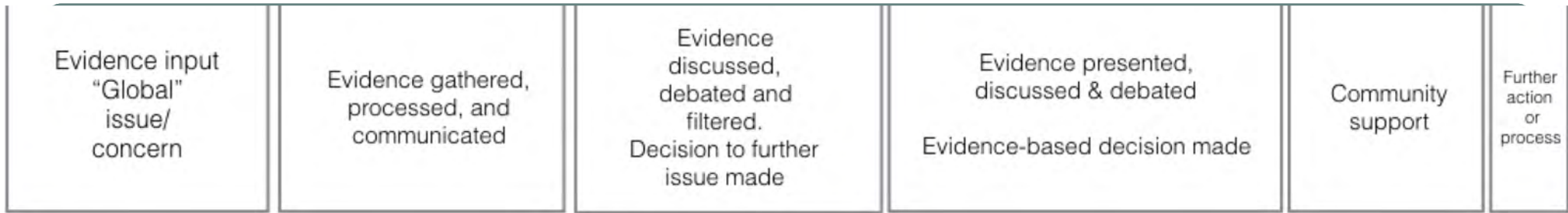
- * KMKNO serves as the administrative body to the ANSMC
- * Legal implications underpin many decisions made by the ANSMC
- * Mandated to carry out Mi'kmaq obligations agreed to in tripartite negotiations
- * Centrally located in Millbrook First Nation



Kwilmu'kw Maw-klusuaqn Negotiation Office
Mi'kmaq Rights Initiative

Our Rights. Our Future.







Strengths

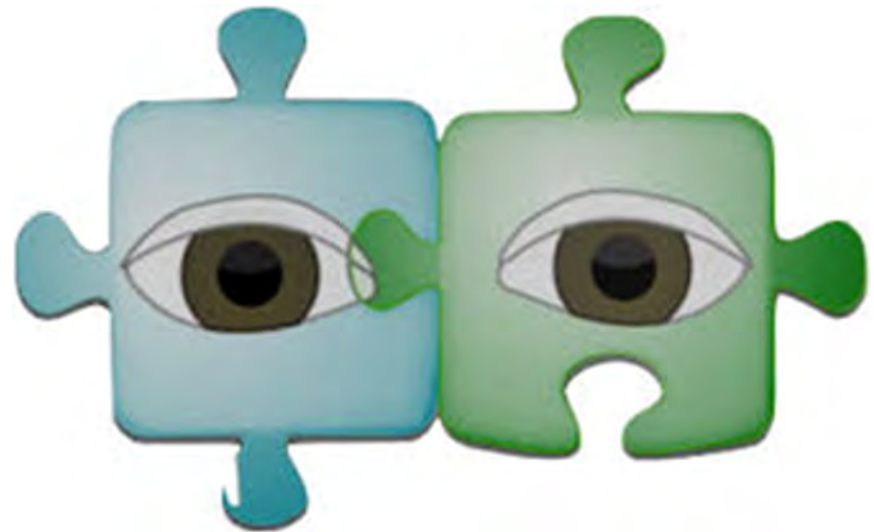
- * Credibility of organizations as evidence input and external expertise is highly valued
- * Current process allows for support to be gained during rather than only at the end
- * Credibility of decisions achieved through process (official voice of the Mi'kmaq of NS)
- * High level of agreement is necessary (~75%)



- * Role of knowledge used in decision-making
 - * Empirical
 - * Theoretical
 - * Experiential
 - * Active and passive gathering of evidence
 - * Evidence considered appropriate in a Western-based judicial system



- * Founded in Mi'kmaq ontology and epistemology
- * Role of evidence is prominent and influenced by both Mi'kmaw and Western ways of knowing
- * Interactive model to re-conceptualize evidence
 - * Opportunities for interaction
 - * Learning forum





Challenges

- * *Indian Act*
 - * Delays in decision-making
 - * Established relationships interrupted by election cycle (2 to 4 years)
- * Decision-making process
 - * Slow – up to 4 months
- * Heterogeneity among Mi'kmaq
 - * Different perspectives and placed-based knowledge



Summary

- * Mi'kmaq decision-making model is based on mutual exchanges between evidence providers and decision-makers
- * Internal support provided through researchers and legal council fosters interactive approach to learning that values both Mi'kmaw and western ways of knowing in the oral form of knowledge transmission
- * The incorporation of Two-Eyed Seeing provides knowledge interplay where Mi'kmaq values and ways of knowing co-exist with other sources of knowledge derived from natural and environmental sciences



Wela'liog! (Thank you!)
Questions/Comments?