

Voices of Understanding Looking Through the Window

Examining decision-making models and creating ethical spaces where indigenous communities and the AER can work together.

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Reprinted in November 2017 with an updated cover image that captures the bundle after it was protected through ceremony with Dr. Reg Crow Shoe.

Alberta Energy Regulator

Voices of Understanding - Looking Through the Window

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Message from the President and CEO

On our path to regulatory excellence, we are striving to create a new relationship with indigenous peoples—one built on mutual understanding and trust.

Voices of Understanding: Looking Through the Window acknowledges the very different ways that indigenous cultures and western cultures look at the world. To help us understand how to appreciate those different views, this book explains indigenous and western decision-making models and explores the ways that we can come together.

We couldn't write a book like this on our own. It is difficult to admit that you don't have all the answers, or that the answers you have are incomplete. Recognizing that your worldview is not the only valid vantage point is humbling. To acknowledge this requires an open mind, respect, and trust in those who teach us.

For many months, a team of Alberta Energy Regulator (AER) employees worked with Dr. Reg Crow Shoe, a Blackfoot elder, to learn how our organization can better respect the knowledge and cultures of indigenous communities.

We know that the decision-making models that the AER uses and the decision-making models used by indigenous communities are not mutually understood—but making decisions is an important part of being a regulator. We are tasked, day in and day out, with considering applications and making decisions that are fair and informed. To help us approach this in a way that's respectful of indigenous communities, Dr. Crow Shoe introduced us to Blackfoot decision-making circles, traditionally used

to make decisions within communities by providing participants equal opportunity to have a say. Dr. Crow Shoe taught us how Blackfoot decision-making circles reflect indigenous worldviews and how those can be reflected in the decisions we make with our western worldview.

Dr. Crow Shoe also taught us about ethical spaces: spaces that are created when two distinct, complementary worldviews are acknowledged equally.

Voices of Understanding tells the story of two groups divided by a wall. Rather than allowing that divide to alienate them, the book shows how each group has equal opportunity to look through a window and better understand the other before walking through a door to make shared decisions. Only when both have looked through the window to understand each other's customs and worldviews can either comprehend what to do when they pass through the door.

So often, we think we can charge ahead. To not run to the door takes mindfulness, respect, and discipline. This journey reminded us to not assume, but to listen.

I owe great thanks to Reg and Rose Crow Shoe, whose insights and contributions to this book have been invaluable. In a ceremony led by Dr. Crow Shoe and elders Rose Crow Shoe, Mike Beaver, and Richard Lightning, I received a bundle representing the teachings from the Voices of Understanding process. In receiving the bundle, I accepted the responsibility to share and apply the knowledge they gave us to our future work. This is a story I am glad to tell, and one that I endorse. These teachings will support our mandate and guide our work as we apply this knowledge to the AER's current and future strategic plans.

To those in the industry we regulate, I ask you to read this with an open mind. This is not a regulatory document, but an opportunity to do things differently.

We will gain a better understanding with every learning opportunity before us. I have high hopes for the discussions ahead, and I ask you to look through the window as we are learning to.

Jim Ellis

President and CEO, Alberta Energy Regulator

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Acknowledgements

The Alberta Energy Regulator (AER) acknowledges the guidance and insight provided by Dr. Reg Crow Shoe and Rose Crow Shoe, Piikani Nation Elders from Treaty 7 territory. Their teachings are the foundation of this book.

Elder Mike Beaver, from Bigstone Cree Nation in Treaty 8 territory, and Elder Richard Lightning, from Ermineskin Cree Nation in Treaty 6 territory, supported Reg and Rose in the pipe ceremony associated with this book. The feedback and direction they provided assisted in refining our learnings.

Many AER employees participated in the journey to create this book, and many more will be involved as we work to raise awareness of the concepts discussed in *Voices of Understanding*. The AER project team specifically involved in creating this book was initially coordinated by Anna Rose, alternative dispute resolution practice lead—her desire to see indigenous communities feel welcomed into AER processes was the motivation for this book.

Arlette Malcolm, director, Indigenous and Regional Engagement, provided strategic leadership that advanced development of this book. Denise Parsons, senior advisor, Alberta Stakeholder Engagement, undertook writing and coordination aspects of *Voices of Understanding* with the support and guidance of a project team that included the following individuals:

- Dean Campbell, senior hearing advisor
- Caryl Covey, advisor, Area Based Regulation
- Doreen Healy, indigenous engagement specialist
- Coreen Lawrence, alternative dispute resolution specialist
- Barbara McNeil, hearing commissioner
- Cara Tobin, manager, Strategic Communications
- Jason Veness, senior strategic advisor, Alberta Stakeholder Engagement

Editing was provided by Ken Bonnett (senior editor), and Natalie Brodych (advisor, Internal & Corporate Communications) provided communications support.

The AER's executive leadership team endorsed *Voices of Understanding* from the outset. The participation of the AER's president and CEO, chief hearing commissioner, and executive vice presidents in the pipe ceremony associated with this book, along with the project team, demonstrates the AER's commitment to this project.



**My highest hope for this book is that oral traditions and western world concepts can work together to open ethical spaces that will help us teach youth and help us reach decisions.
—Dr. Reg Crow Shoe, January 2016**

Foreword - What We Hope to Achieve

When the AER and Dr. Reg Crow Shoe initiated this journey in 2003 with the development of the first edition of *Voices of Understanding: Decision Making Tools*, our intent was to create a learning kit for youth. We wanted to foster cross-cultural understanding, share information about the regulator, and promote an interactive learning environment.

When the AER considered developing a second edition of *Voices of Understanding*, we sought to clarify our intent—what did we hope to achieve with this new book? Our initial thoughts included the following:

- We are motivated by our commitment to regulatory excellence, which includes utmost integrity, empathic engagement, and stellar competence, and we want to demonstrate these attributes when working with indigenous communities.
- We recognize that the decision-making approaches of the Alberta Energy Regulator (AER) and indigenous communities are not mutually understood. Finding ways to meaningfully engage with indigenous communities will help us to become a better regulator.
- We want to compare alternative dispute resolution and hearing processes to indigenous decision-making approaches to build understanding of how they can be complementary processes.

With these intentions in mind, we reached out to Dr. Reg Crow Shoe and his wife and fellow elder, Rose. Reg and Rose are elders in the Blackfoot community and members of Piikani Nation. They guided development of the first edition of *Voices of Understanding*. We asked Reg to share his hopes for a new edition of *Voices of Understanding*, and he emphasized two outcomes:

1. That orally transmitted indigenous knowledge about decision-making be documented because indigenous youth now predominantly interact with the “written word,” and oral traditions are being lost
2. That the teachings shared with us would support the creation of “ethical spaces” that would allow indigenous communities and nonindigenous communities to see each other’s perspectives and to choose to work together in those spaces

At first glance, the intentions of the AER and the hopes Reg expressed seemed poorly aligned. However, through the exercise of looking through the window—as will be explained later in this book—we found the link. We discovered a door that we can open and thereby enter an ethical space that allows us to work together.



We Are on a Journey

For several days AER staff listened, asked questions, and sought to understand what Reg was sharing with us. Eventually we realized that there are many opportunities to learn and apply the teachings Reg and Rose were sharing. Part of our journey is accepting that we don't have all the answers and that we may not have understood some things. We acknowledge that this book, and the process we participated in to develop it, are part of a journey—it reflects what we understood at a specific point in time, and our understanding will continue to evolve. This is okay. Prompting discussion and learning is the overarching theme of *Voices of Understanding*. There are many more discussions to be had—sharing what we learned with other AER staff, decision-makers, and people working with processes that involve indigenous communities is a continuation of our journey.

Application

The intentions of *Voices of Understanding: Looking Through the Window* would not be met if we assumed that the insights described in this book apply to all indigenous communities or to all leadership systems. First Nations, Métis, and Inuit communities and peoples each have unique and complex processes, protocols, and expectations that we must seek to understand. The way that elected and hereditary leaders in indigenous communities approach governance and decision making may differ from the way that other leadership, as provided by elders or other knowledge holders, approach governance and decision making in a community. The concepts presented in *Voices of Understanding* are open to interpretation and are not intended to impose a specific approach on the leadership of indigenous communities or the way the AER and indigenous communities can work together.

Likewise, *Voices of Understanding* does not impose a prescriptive approach on the industry the AER regulates. Some companies may already embrace the concepts described in this book. For other companies, as it has for the AER, *Voices of Understanding* can provide insights into the benefits of exploring different ways of engaging indigenous communities, including strengthening relationships and helping to prevent or resolve disputes. As is the case in most walks of life, working together in a meaningful way results in the most success.

Terminology

The terms used to describe people and organizations can be a source of confusion and tension. While the term “indigenous” may be used predominantly in this book, Reg often referred to “First Nation” when he spoke, and sometimes he included a reference to Métis communities or to aboriginal people. There are concepts he felt were applicable to all oral cultures and others that were

specific to only his community. Different terms are used throughout this book, and our intention is simply to reflect what Reg expressed to us.

Translation

Concepts discussed in this book are not always easily defined terms that have a direct translation from Blackfoot to English. We came to realize that, like the multiple Inuit words for “snow,” many Blackfoot terms associated with a decision-making circle do not have a direct translation to English. A decision-making circle is not a singular concept; it is multi-faceted, and several English terms could be used to describe it, including a process, a model, a protocol, or a system. We encountered this many times in our discussions with Reg, and he illustrated the challenge of translation, and the associated confusion that can occur, with the following story:

Our elders have a word for popcorn. Because popcorn looks like a bowl of clouds, in our original Blackfoot language we call popcorn “cloud food.” Our young people, who are taught Blackfoot in school based on a curriculum developed within a western context, are taught to literally translate “pop”, which means “small explosion,” and “corn,” which means “looks like teeth”, into a Blackfoot word for popcorn. So, when the young people speak about popcorn, the elders laugh because what they are hearing is “exploding teeth”!

Similar to Reg's example about popcorn, the Blackfoot concepts of decision-making circles, ethical spaces, and other terms, are not easily translatable. We sought to reflect what Reg taught us and in so doing there is not always a continuity of terminology throughout this book. This is because there are not literal interpretations available for some of the concepts we discussed. Our intent is to capture the richness of the concepts Reg shared, and this sometimes required using several terms for what might seem like a singular concept.

What we learned from Reg is that we shouldn't get caught up in these terms and ways of labelling people and concepts—we need to get on with creating ethical spaces, and in doing so, the relevance of terminology will become apparent.

Who are We to Tell This Story?

Many will wonder why it is the AER that's sharing this story. We are sharing it because we are obliged to—which is not a burden, but an acceptance of a responsibility. We recognize now that when we asked for Reg's insights, we were also receiving the responsibility of carrying forward his teachings. Advancing regulatory excellence means that we accept this responsibility as a reflection

of our mandate, and that we carry it forward in our strategic planning and in our approach to developing and implementing new regulatory tools.

In Blackfoot culture, bundles are associated with ceremonies, societies, and individuals. Bundles have both physical and abstract aspects that convey a vision, a mandate, and a story. We are bound by a bundle, transferred to the AER through ceremony. This bundle represents knowledge and the privilege given to the AER to tell this story. We are now responsible for sharing this story by building awareness within the AER, and externally, of what Reg has taught us.



On January 31, Dr. Reg Crow Shoe and three elders from Treaty 6, 7, and 8 territories hosted a ceremony at the AER. The event acknowledged the work behind this edition of *Voices of Understanding* and also ceremoniously granted the AER the right to use this shared knowledge. During this ceremony, Reg transferred a bundle to Jim Ellis, president and chief executive officer of the AER. Jim received the bundle, and in so doing he accepted the responsibility to share and apply the knowledge we have gained.



ETHICAL SPACE

Ethical space may not be a familiar term. It is a new concept for the AER and it is not easy to define. When we work to understand a perspective that is different from our own, and then examine that understanding with an eye to finding connections with our own perspective, or our own worldview, we begin to create an ethical space. The key is to link these worldviews in a way that does not diminish either, and that honours both. This new way, which reflects a deep understanding of varying perspectives and values, can result in an ethical space that transforms the way we work together.

Introduction

The first edition of *Voices of Understanding: Decision Making Tools* was our first encounter—our first attempt at understanding each other. Reg shared his perception of the first edition with us:

The book [the first edition of *Voices of Understanding*] was a written story, and the audio tape was the oral story, but we never connected or linked them. Like an IBM and a Mac, we can't mix them together or they'll crash, but we can link them; we have cords and cables to connect them. This is what we are trying to achieve—the second edition is going to talk about building the foundation of linking the two.

This statement by Reg illustrated the evolution of our learning. Our first attempt, *Voices of Understanding: Decision Making Tools*, presented two unlinked narratives—Blackfoot decision-making circles and Alberta Energy Regulator (AER) hearings. This, our second attempt, seeks to connect oral and written concepts. To make the connections, we discussed two aspects of indigenous and western cultures:

- Worldviews
- Decision-making models

Weaved through our discussions with Reg about worldviews and decision-making models were our attempts to find connections. We ventured to “link” worldviews, then we sought to link decision-making models. As we move through this book and think about linkages, Reg cautioned us not to look for ways to integrate our worldviews and associated processes, but to link them.



**...we came to understand
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Reg emphasized the significance of this linking exercise, and we came to understand the importance of a window through which we can see two sides, and of a door that we can open to enter a new space, an ethical space. This doesn't mean we take pieces of western cultures and parts of indigenous cultures and try to blend them together. Rather, we consider both cultures, and when we have enough understanding to see the connections, we are able to create a new, ethical space where we can tell a new shared story that links two systems.

This new story is represented by the bundle Reg transferred to the AER, which contains this book.





1 Worldviews – Knowledge Systems

The lens through which we see the world is often considered our “worldview.” Our ideas, attitudes, knowledge, and opinions influence our worldview. As a regulator, worldviews are not something we often consider when doing our work and seeking to fulfil our mandate. Yet we found ourselves in a discussion with Reg about how we see the world, what underlying assumptions guide our approaches, and how worldviews influence learning and decision making. This discussion was crucial for reaching a level of understanding that allowed us to find connections. We sought to connect, or as Reg described it, “link,” worldviews so that we could establish a foundation of mutual understanding and trust. This foundation allowed us to approach discussions about decision-making models with an improved understanding of how worldviews influence the models we use and the decisions we make.

When we sat down with Reg and Rose to discuss this book and affirm our shared objectives, we cited AER values, as identified in the AER’s Strategic Plan, and expressed a desire to address specific aspects of the *United Nations Declaration on the Rights of Indigenous People* and the work of the National Centre for Truth and Reconciliation (Canada). Reg used our approach to illustrate a worldview. He pointed out that these written books are the authorities that we were drawing from to rationalize the creation of this book. Reg also pointed out that the end product would be another written book that aligned with a western worldview that values documentation. This discussion with Reg identified how our approach to this book reflected a worldview where “truth” is evident because it has been documented in a written text.

If we look at the dominant society and the Western knowledge base that exists, we access it from a Western written system, so whether it’s management systems or education systems, it’s a written management system that we need to navigate to get rights or privileges or to add to that knowledge base, and the products that come out are written books.

However, there is another approach: traditional knowledge that reflects an indigenous worldview. Reg explained that traditional knowledge is an oral management system that we also need to address.

As we navigate that oral system and the associated protocols, then we can get rights or privileges that add to traditional knowledge.

The products of an oral system are stories and songs that are documentation, or proof, of knowledge and of what was learned.

Reg encouraged us to link these two systems. Linking these systems forms a foundation.

It's the systems we have to link. We use Western written systems, and we try to access traditional knowledge. But you can't, because it's like a square peg into a round hole - it doesn't fit! So many times we've tried that. The first edition [of *Voices of Understanding*] was looking at how we might use written systems to access traditional knowledge, but now I think that we're at a level that we have to understand that there is an oral system, and we need to link the systems because linking those two systems allows for a foundation.

This section gives an overview of an indigenous worldview supported by an oral system, and it provides information about a western worldview and the associated written system that supports this worldview. With a base level of information in hand, we then examine links between our worldviews and discuss the creation of ethical spaces.

1.1 Indigenous Oral Systems

The premise of an indigenous worldview that Reg shared with us is that of equality—with humans as equal to all creations, with knowledge shared through oral systems, and with authority grounded in stewardship and authenticated through songs.

In an indigenous worldview, there are seven sacred teachings that come from the creator. These seven sacred teachings, which are natural laws and behavioural expectations, were described by Reg as being comparable to an organization's code of ethics.



RULES AND PROTOCOLS

Reg used the terms rules and protocols when discussing an oral tradition. He did this to emphasize that that an oral culture has entrenched processes and outcomes that validate it. He sometimes used the terms “rules” and “protocols” interchangeably and we came to understand that protocols are associated with the process, such as providing an elder with tobacco when a decision is being sought. The rules are most often the outcomes of the process, or the decision.

In Blackfoot culture, these sacred teachings are embedded in stories. There are similar stories in other indigenous cultures that Reg encouraged us to examine.

Reg explained to us that in his community, storytelling is a way of passing information from generation to generation. Indigenous people often use storytelling and oral teaching methods to transmit knowledge to youth, including information about the past and the way things are today, and to illustrate important lessons about life. This is traditional knowledge—the information, evidence, experiences, and beliefs embedded in orally transmitted stories that reflect the collective knowledge of a community and a culture. These stories reflect the seven natural laws and often depict a close relationship with nature rather than control over the natural world. All creatures and things are equal and connected. These stories use images to teach not only about relationships between people, but also about relationships between people and nature. The stories and associated details contain knowledge. The knowledge associated with an oral system is often referred to as traditional knowledge and is obtained through an adherence to processes and protocols.

On the other side is TK - traditional knowledge base. On that side, the traditional knowledge side, there is an oral management system that we also need to navigate, and as we navigate that oral system, then we can get rights or privileges that add to traditional knowledge... and the products that come out of that oral system are stories and songs that are physical documentations. I might have a story that adds to the knowledge base, but the song validates it as real. Or I might have a song that allows me the privilege to access traditional knowledge. It's that oral management system, complete with protocols that we have to navigate.

Not just anyone can tell these stories. The position of storyteller is highly respected because it is given to an individual who has gained specific knowledge and who has been granted the right to tell a story. This responsibility can be transferred to others once they have gained the required knowledge and expertise. A specific object, such as a bundle that contains significant cultural material, physically symbolizes authority (similar to a degree certificate a person receives upon graduation from university). If a person is not authorized to tell a story or discuss a certain process but does so, they could face serious repercussions, such as embarrassment in the community or segregation. The purpose of this restriction is to ensure that the knowledge base remains consistent. A parallel example would be the repercussions of practising law without a degree.

When a request is made for a decision, the request may come from the external environment as information in the form of a “sensor story.” The information contained in the sensor story is discussed within the decision-making circle by those with the appropriate knowledge. Knowledge holders consider the sensor story in the context of the standards and norms reflected in stories.

In our way, in our oral culture, it's retelling the stories so that when people come in with information, the elders usually sit together in a circle and they all have standards and norms that they hold as stories, so when someone comes in with a story then they measure it and compare it to those norms and standards.

After an introduced sensor story has been explored, a new story may be created or an existing one changed. This validation process allows for formal control and preservation of oral knowledge while also remaining adaptive to change.

The story of Napi and the Mice illustrates how there are rules and protocols associated with an oral tradition. Reg shared this story with us:

NAPI AND THE MICE

Because Napi was being left out of the activities of the camp in which he was currently staying, he decided that it was time for him to leave and go out on his own again. Napi never worried about where he was going to sleep or when he was going to eat until that time arrived. So off he went travelling all that day. It was getting a little late, so Napi made his way down to one of the rivers to spend the night.

During the evening, Napi was having trouble sleeping because his legs were sore and bothering him. Late in the night when he was just about asleep, he started to hear voices. He thought that it was just because he was tired, but the voices kept on, and they got louder.

Finally, Napi got up and decided to find out where the voices were coming from. He went towards the sound, every once and a while stopping to listen for the direction it was coming from. Napi crept along the edge of some bushes, careful not to make a sound. He spotted something white. As he got closer, he realized it was a sun-bleached elk skull. The noises were coming from the skull! Napi, crawling ever so slowly, reached the elk skull without even so much as cracking a dry blade of grass. He peeked into the eye of the elk skull and was amazed at what he saw. Little mice were inside of the elk skull, dancing and singing. With their little paws up to their little cheeks, they were jumping up and down on their little feet, singing as they danced in a circle. Over and over they sang, taking little breaks to catch their wind, then back to singing and dancing they went. Napi wanted to join them.

So Napi went back to fetch his robe and approached the skull. With his old, old familiar wail, he said, “Aye, aye, aye niss-gah-nuk ohn-ni nah-goo-kah-wahn-ists ahe-hey. Aye, aye, aye, little brothers, what you are doing, let me do it too.” When one of the older mice peeked out from the skull and saw Napi coming, he told the rest of them, “It’s only our big brother Napi. He’s crying to join our dance.” Without any further discussion, all of the mice agreed to let Napi join them in their little dance.

Napi was too big for the skull, so the leader of the mice told Napi that he could only put his head through the neck part of the skull and that this had to be done by the mice’s magic. Once inside, he could sway his head back and forth to the tune of the singing and dancing. This was all right with Napi.

The leader of the mice told Napi: “You are not one of us. We have a restriction for those who aren’t one of us. We dance for four nights; this is only the first night. At daybreak, we disperse until night falls again. We continue this way until after four nights, and then we go our separate ways. Through all of these nights you must not fall asleep or bad things shall happen to you. We will have to leave your head in this skull until after the last night, and then we will let your head out of here. Don’t fall asleep while we are dancing at night. Beware!”

So Napi agreed, and once again the mice began dancing and singing while Napi moved his head back and forth and to the sides, keeping with the rhythm of the mice music. Napi was having the time of his life.

At daybreak, the mice all left. Napi fell asleep with his head inside of the elk skull and all day he slept like a dead thing. Napi would've slept on, but the mice woke him up as they were coming in, talking excitedly in their happy voices. Again, they danced and sang through the night, with Napi doing his part by bobbing his head in time with the music.

Once more, daylight came and the mice dispersed for the coming day, leaving Napi all alone. This went on for two more nights.

On the beginning of the fourth day, Napi couldn't sleep because he was awfully tired of lying on his stomach. While he was trying to sleep, the mice came back for their last day of dancing and singing. Sometime during the mice's singing and dancing, Napi fell asleep and the bad things the mice had mentioned to Napi had to be carried out. So, the mice chewed off all of Napi's hair.

When Napi woke up, the mice were all gone and he couldn't get his head out of the old bleached elk skull. To make matters worse, he couldn't see where he was going. So, he got up with the elk skull on his head, feeling his way - this way and that way. As he was groping around, Napi fell into a river. There he was, floating down the river, bobbing out of sight with the elk skull still on his head.

Napi didn't know how long he was in the river, floating with the current, when some women, who were cleaning fresh entrails from a buffalo, getting them ready to eat, spotted the elk skull floating towards them.

One woman screamed out, "Here comes an elk swimming down the river!"

The women hurried to the river, pulling the skull to shore, only to find that it was a man with his head stuck inside of an elk skull. They helped him further and broke the skull off of Napi's head with a stone hammer. As the skull broke free, the women saw his naked head and ran off screaming, scared of this hairless person. None of them had ever seen a hairless person before.

Napi slowly reached up and touched his head, and he almost broke out into a run, too. He felt nothing but naked skin on his head. This was a bit embarrassing to Napi; he didn't know how to act or what to do. So, he acted like a crazy person, screaming and hollering, running here and there. The women took off in many directions, far away from this dangerous person.

When Napi was out of sight, far away from the camp, he slowed down and became himself again so that he could get a better feeling of his head. He knew that he was plumb bald and that he would have to stay out of sight for a long time until all his hair grew back. That is what he did, and from then on, he never trusted mice with anything, anymore.

THE END.

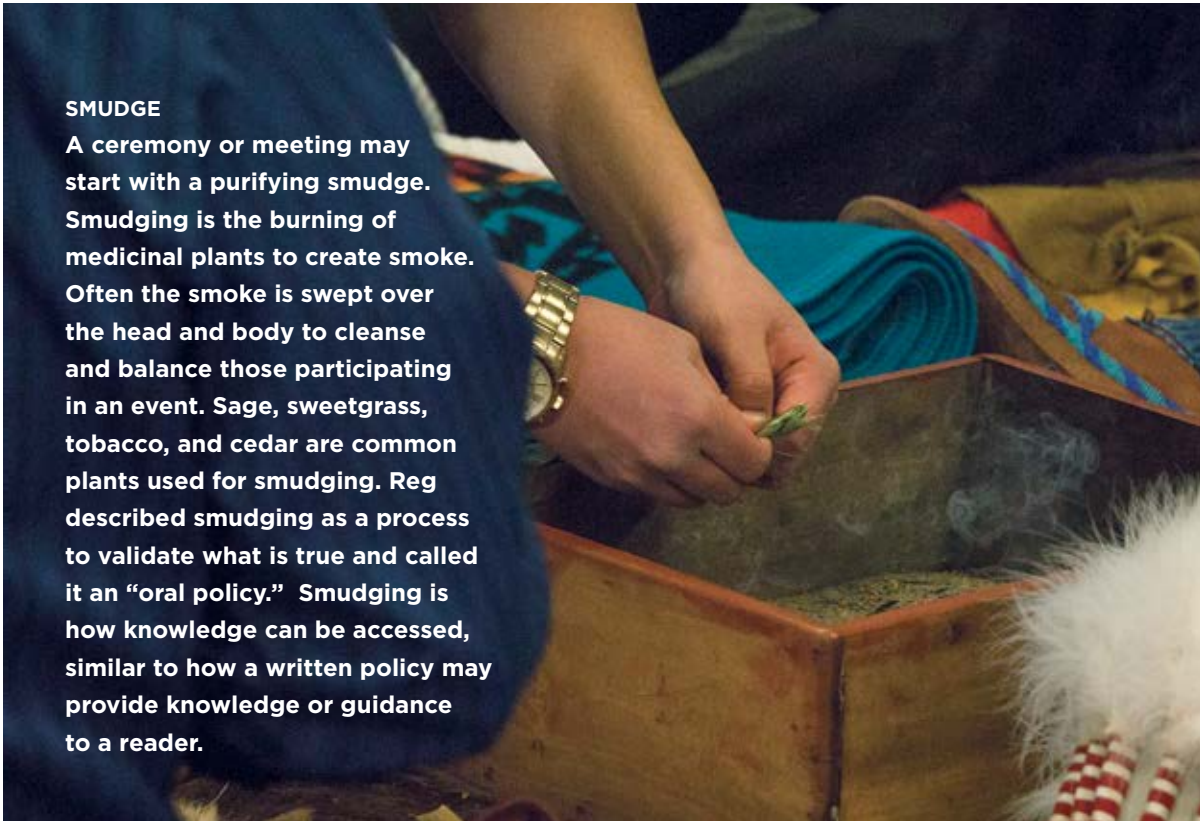
Reg told this story to illustrate that there are rules associated with oral traditions, and when we don't understand or follow those rules, we run into problems:

So the old people would say, we're in this ceremony and anybody wanting to come in needs to follow our rules. That's why we make the smudge and talk about our rules and if they're going to come they need to be aware ... if they don't follow our rules, they're going to be crazy like Napi and everybody's going to laugh at them when things go wrong for them.

Some indigenous decision-making and conflict resolution processes are rooted in storytelling and oral delivery methods and are set within a decision-making circle. The decision-making circle has rules and protocols that should be followed, and it provides an opportunity for participants to share their knowledge and experiences. It often includes storytelling, singing, and dancing. All people who participate in a decision-making circle have been chosen because of their role or position in a community or for their relationship with the person who requires a decision. Through our discussions with Reg, we came to understand some basic components of an indigenous worldview, drawing

SMUDGE

A ceremony or meeting may start with a purifying smudge. Smudging is the burning of medicinal plants to create smoke. Often the smoke is swept over the head and body to cleanse and balance those participating in an event. Sage, sweetgrass, tobacco, and cedar are common plants used for smudging. Reg described smudging as a process to validate what is true and called it an "oral policy." Smudging is how knowledge can be accessed, similar to how a written policy may provide knowledge or guidance to a reader.



from examples he provided from a Blackfoot perspective. This understanding prompted us to consider the western worldview that the AER predominantly works within, a worldview explored in the following section.

1.2 Western Written Systems

Parallel to an oral system is a written system, predominantly a product of western societies. Reg shared with us what the elders in his community talk about when they think of a western worldview as embodied by a written system. Reg spoke of the days preceding the treaties signed by First Nations and what is now Canada, and what those events, along with residential-school teachings, led elders to perceive as the western worldview.

The elders observed that the premise of a western worldview is that of dominion—with humans as superior to all creations, with knowledge shared through written systems in a hierarchical structure, and with authority being grounded in ownership and authenticated through documents, permits, and certificates.

The AER is an example of the structures resulting from western written systems. Our current governance, education, science, and decision-making processes are manifestations of a system that has historically followed colonial governments as they settled into new areas of the world. Western civilization relies heavily today on written documents to administer the system. We have instituted instruments such as legal documents, legislative acts, and constitutions that empower our civilization to maintain our worldview and provide order and structure in our society.

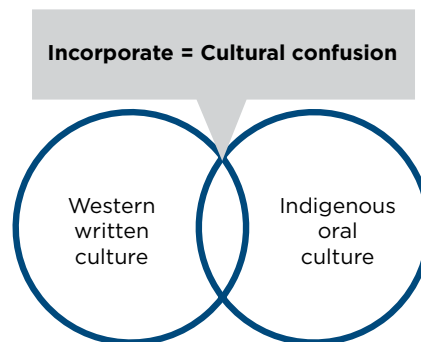
If a western worldview is premised on dominion and a written system, in contrast to an indigenous worldview premised on equality and an oral system, how do we find ways to work together? We examine the link, or the connection, through an exploration of ethical spaces.

1.3 Linkages - Ethical Spaces

Voices of Understanding is about creating connections, about linkages that generate a new way of working together within an ethical space. Through our discussions with Reg, we established a foundational understanding of worldviews and sought to understand how indigenous and western worldviews can be linked. Reg encouraged us to really think about what “linking” means and reminded us that we are not seeking to either incorporate or integrate components of worldviews when he said the following:

We tend to mix stories [oral traditions] with written documents, and when we take stories with written documents we get confused because we combine them. We need to pull the stories apart from written documents, because written documents is the western concept of collecting data, collecting information, collecting knowledge, and it's stored in written documentation. The parallel to an oral culture is the data, the knowledge, and what's happening in the environment—that information is stored in our stories... these packages that are called stories.

Attempts to either incorporate or integrate indigenous processes and knowledge with mainstream institutions and ways of doing business have been repeated through different initiatives and forums. These attempts have had limited success or have created confusion, or both. Such an approach is often referred to as *incorporation*, and can be illustrated as follows:



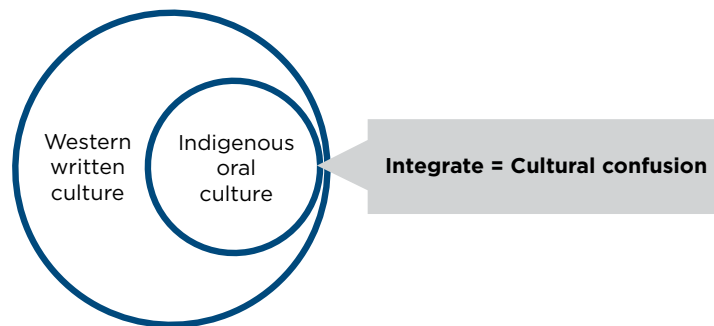
A story Reg shared with us about cultural confusion involved a memory he has from his time in residential school.

Reg entered residential school when he was five, and when he started school he came with an understanding of math that was grounded in his worldview. Reg spoke of being a part of the Blackfoot little birds and the chickadee societies when he was young and that when he had completed his learning in those societies he was given a song. The song represented his

CULTURAL CONFUSION

Cultural confusion is when we take both cultures, we mix them up, and then we try to find answers.

certificate or proof that he had completed those levels, like a report card. Later, when he was moved to residential school, he tried to use his songs in a math class to demonstrate that he understood numbers and formulas and how to calculate answers. The Blackfoot language couldn't be understood by the English-speaking teachers, and the concept of singing knowledge, versus showing it by writing down numbers and formulas, couldn't be reconciled within the institution of a residential school. Reg used this example to illustrate cultural confusion, the result of trying to make an indigenous oral system work within a western written system—which is also sometimes referred to as *integration* and can be illustrated like this:



If we were going to avoid the cultural confusion that flows from the incorporation or integration of worldviews, we needed to know how we can authentically link parallel systems. When we asked Reg how to do this, he provided us with a few examples of protocols for meetings.

These examples reflect two concepts, or two ways of linking systems:

- Cultural translation
- Cultural interpretation

The first example Reg gave us related to a gavel, the small hammer or mallet often used in governance to start proceedings. In a western thought process, we may think of a gavel as signifying the start of a meeting. It is the call to order. There is a cultural question to be asked about this: when engaging an oral culture, it would be appropriate to ask, “How do you call to order your gatherings?” The response may be, “a smudge is our call to order.”

Here lies the link: by asking a cultural question about a call to order, a gavel and a smudge are identified. For this example, the cultural translation is to connect the smudge to the gavel. The cultural interpretation is to recognize that they are both a call to order. In a practical context we have now linked a call to order.

A similar point can be illustrated through a consideration of a gathering place—perhaps a boardroom is a typical meeting place for some, and for others a tipi is a common gathering place. The cultural question about this would be, “what is your gathering place when you need to make important decisions”? The *cultural translation* is to connect the boardrooms to tipis as gathering places. However, both a boardroom and a tipi are more than spaces. They have expectations of protocols that must be understood. For example, most aspects of a boardroom—the booking of a meeting, running of the meeting, attendees and their roles, and minute taking—are understood in an organization. In other words, putting a group of people into a room with a large table does not create a boardroom. The protocols are absent. The *cultural interpretation* is to recognize that both a tipi and a boardroom reflect the venue where decisions are made. Thus, we have linked another aspect of decision-making—that of gathering place and associated protocols.

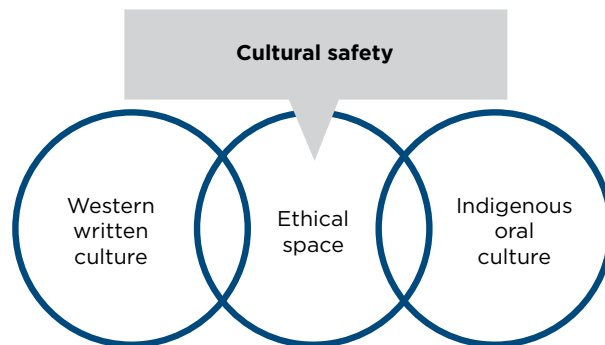
Gathering place became a very tangible link for the AER. The ceremony for the knowledge transfer that preceded this book included a traditional pipe ceremony, held in a circle format inside a boardroom. The AER logo, the Canadian and provincial flags, and other items that represent our sources of authority and influences were present alongside the symbols of authority and influence that Reg brought to the gathering, such as a pipe and drums. We shared the space, talked about the protocols, and brought together people who had a common understanding of the purpose, and in doing so we created a link.



As we reflected on what Reg shared with us and discussed our differing interpretations, we came to realize what he meant by a link, or an ethical space. Reg described ethical space as a way of thinking and acting that links the worldviews of indigenous and western cultures.

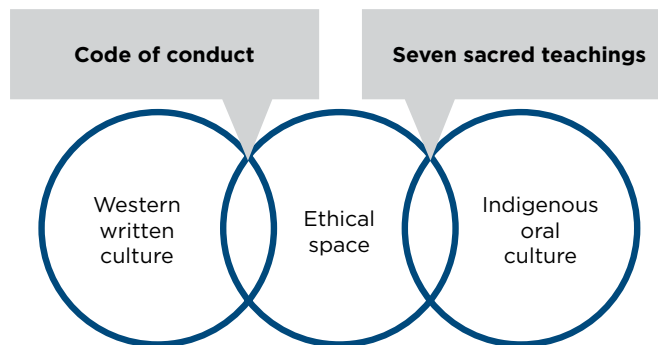
We can use circles, and these circles represent ethical principles that both cultures have: the written culture and the oral culture. They have ethical principles that link those two cultures together. Whatever comes out of the circle are foundations we can work from to find solutions when we get together to have hearings and mediations, and that way we're recognizing the oral and written system by linking them together. We don't want to combine them together, because we'll get culturally confused. We need to pull them apart and link them together and that sitting in this ethical space, that ethical space is our link—that's our foundation to get together and have a discussion.

An ethical space reflects a new way of thinking, a new way of doing things, and it doesn't diminish what already exists. Both a western written culture and an indigenous oral culture are distinct, with unique practices. Reg told us that each culture can bring practices forward that together set the fundamental principles for how to move ahead, resulting in an ethical space—a place of cultural safety. It can be illustrated as shown below:



During one of our conversations with Reg we asked if we had illustrated the concept of ethical space correctly, and he confirmed that we had. We didn't ask Reg about the overlapping space where western and ethical space connect, or where indigenous culture and ethical space connect. We didn't ask because we assumed that these overlaps reflected some confusion that would naturally occur when we tried to figure out what ethical spaces looked like, and how we would interact in those spaces. So we sat in silence for a moment thinking about these overlaps and fearing that confusion would be a constant issue as we navigate this journey of trying to understand how to work together.

In response to the silence, Reg answered the question we never asked: that space between a western written culture and ethical space represents a code of conduct, or values, reflected in western culture, organizations and individuals. For the AER this could be represented by the *Code of Conduct and Ethics for the Public Service of Alberta* (February 22, 2017). For individuals interacting in a nonwork environment, perhaps the beliefs or the values that guide daily interactions, that demonstrate respect for others, are represented by this overlapping space.



Reg told us that the overlapping space where an indigenous oral culture and ethical space connect is a reflection of the ethical values or seven sacred teachings discussed earlier in this section. In Blackfoot culture these teachings are reflected in stories. Similar stories, that validate the seven sacred teachings, are found in Cree, Sioux, Ojibway, Inuit, and other indigenous cultures.

When we link western and indigenous cultures, we bring the principles of each culture together to create an ethical space that reflects the values of both.

Through our work with Reg we came to realize that we need to move away from trying to incorporate or integrate indigenous perspectives into our work—this results in cultural confusion. Instead, we need to work together to create a new space, an ethical space, that is culturally safe. We don't entirely know what this will look like, and that is a part of our journey.

It is with this understanding that we were able to move forward and delve into the details of what we were learning. These details are explored in the next sections of this book, which discuss decision-making models and processes.



2 Decision Making – Models and Processes

How do we learn? What structures and processes support our learning? When we were children, our parents may have read to us, showed us things, and told us what we needed to know. As we grew, the school system provided the structure, the people, and the materials to guide our education. Perhaps, along with that, we had grandparents or other people in our life who told us stories about their childhood or adult experiences, stories that enriched our understanding of the world, our families, or our community. As adults in a workplace setting, we can access training and opportunities provided by our employers, or externally, that support our personal or professional growth. These models and processes support our learning and can be culturally specific. Such culturally specific models are further examined in this section.

What follows are an overview of the decision-making circles that Reg described and which are founded on a four-part learning process, and a summary of key AER decision-making approaches, followed by a discussion about linkages.

2.1 Indigenous Decision-Making Circles

The AER sought Reg's guidance on how decision-making circles work so that we could consider how to link our models and processes with those of indigenous communities and create a new space, an ethical space.

Before considering decision-making circles, Reg encouraged us to first ground what we were going to learn in the four basic concepts of an indigenous oral system.

The Learning Process in an Oral System

Embedded in the circle process are four learning components: venue, language, action, and song. Reg shared with us that stories are repeatedly told by parents, grandparents, and elders, and that these stories teach important lessons that are passed from generation to generation within a structured decision-making circle process.

Reg explained to us that oral traditions have a validation process, or a way of proving that what is being said is true:

A traditional Piikani Blackfoot process has four parts: venue, action, language and song. So if I say I belong to the Thunder Pipe society, for example, I need to be able identify myself to the Thunder Pipe community in those four ways: I need to be able to sit in their venues, to demonstrate my ability and qualifications through certain actions. I need to speak their

language and sing those Thunder Pipe songs that give that authority. If I can't do all these with respect and understanding, then I can't be a part of their society or discourse. This is how we would protect or give authority to information, or to a concept. (Crow Shoe 2006)

Reg provided the following information and photos to represent the four components of the learning process in an oral system:

Venue is a place where everyone gathers for a common purpose. Protocols and rules are associated with specific gathering places.



Action is the physical act of applying an insight, a protocol, or a formal decision. Action is the demonstration of ability and qualifications.



* Reproduced with permission from Dr. Reg Crow Shoe.

Language may be verbal or nonverbal, with the venue determining what type of language will be used—interpreting the language through symbolic representation is one of the principal methods for translating and understanding oral practices. Language is stories. The image to the right illustrates Blackfoot winter counts. The language is a drawing (no text) that tells a story of significant annual events.



Song is a culmination of the previous three components and is a physical representation of authority. An individual will be allowed to sing a certain song or be granted the authority to perform certain tasks once he or she has completed actions pertaining to venue, action, and language. Having a song says, “Yes, he’s proven himself.”



** Shunka Ishnala (Lone Dog), Yanktonai. About 1870. National Museum of the American Indian, Smithsonian Institution. Photo by Janine Sarna Jones. Viewed 10 August 2017, <<http://americanhistory.si.edu/buffalo/about-hides.html>>.

To illustrate how the four components of an indigenous learning process would interact, Reg provided an example of how one becomes recognized as a traditional healer:

If I was given a plant to heal with, the users of that plant would come together because they own the song and I would go into that venue and ask. Secondly, I would go into that venue and I would prove myself with that plant to say that I know how to use this plant (action). Thirdly is language, and that's where the stories are so important. I can tell the story of that plant, and creation story and the story of how it comes to be a medicine. After they test me, and I pass the test and I'm sanctioned, then I'm given a song from their society, a society song that says, "Yes, he's proven himself and now he's a healer with that plant." So in an oral culture when I go out in the community and people ask me about the plant I would say that the healing components of this plant were given to me and here's my song. Once I sing my song, it's like showing my degree or my piece of paper that says, this is how I got it, and that's validation. In an oral culture, that's how we validate person, place, thing, and story—through venue, action, language, and song. (Crow Shoe 2013)

The learning process in an oral system is founded on the components of venue, action, language, and song. This learning process validates what is truth and allows knowledge to be passed on to others in a manner that does not require a written document as evidence of that knowledge. Venue, action, language, and song are present in decision-making models, as illustrated by the following discussion of Blackfoot decision-making circles.

Blackfoot Decision-Making Circles

With an understanding of the learning process that is a foundation of decision making, Reg shared with us an overview of the Blackfoot model for decision making. In Blackfoot communities, ceremonial bundles play a central role in decision-making circles. These bundles, present at traditional ceremonies, contain cultural materials wrapped in a special cloth. The bundles have physical and abstract components: the objects inside the bundle and the associated songs and prayers to be performed at the decision-making circle, as well as instructions on how the bundle should be handled and what kinds of taboos are associated with it.

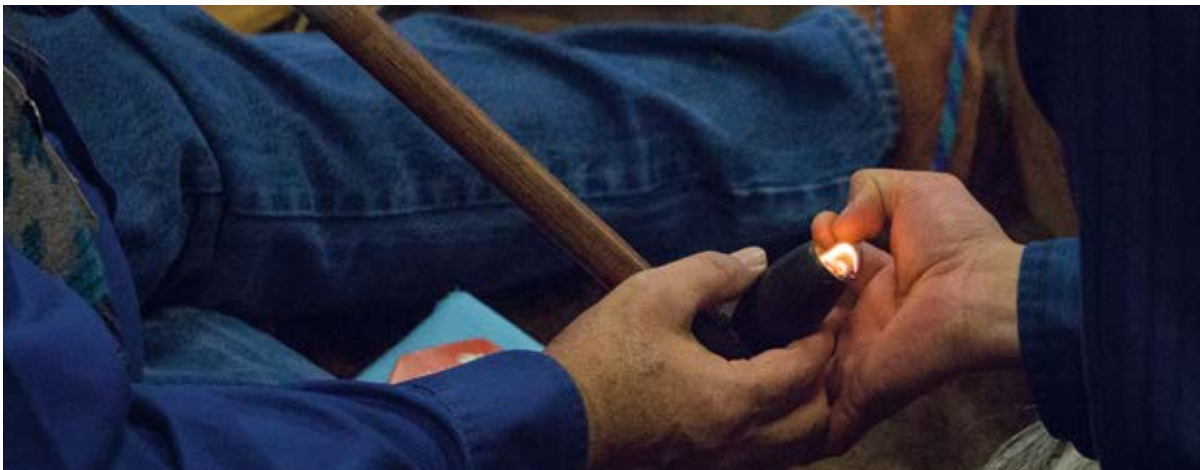
Bundles are an important component of decision-making circles. They represent authority. A person who needs a decision to be made in a decision-making circle makes a vow to the bundle to accept and carry out whatever decisions are made during the decision-making circle ceremony. In essence, these bundles are the “physical and abstract manifestation of the traditional Blackfoot belief and social system” (Crowshoe and Mannes Schmidt 2002, 19).

There are many different types of bundles, each having a particular function. The one associated with the decision-making circle is called the Thunder Medicine Pipe Bundle. In the original story of how the bundle was created, the spirit Thunder gave a pipe to the first owner in a vision and relayed instructions for the accompanying songs and dances, which sounded like thunder. One of the disciplinary actions associated with this bundle was severe punishment, including death, if an individual disobeyed the decision or agreement made at a historical pipe bundle decision-making circle.

Each bundle has two stewards called bundle keepers who commit to properly taking care of the bundle, including unwrapping and handling all parts of it during a ceremony. Bundle keepers carry the responsibility of being knowledge carriers and of ensuring that the ceremony is practised correctly, thus maintaining not only an important tradition but also the well-being of their community. Bundle keepers have “high status in their communities and are today regarded respectfully as elders” (ibid., 20). In a decision-making circle, bundle keepers play a role as either ceremonialists or advisors.

Bundles can be transferred from one set of bundle keepers to the next in a transfer ceremony. “The transfer ceremony is a process of certification by peers, which, once achieved, gives the owner specific authority” (ibid., 31).

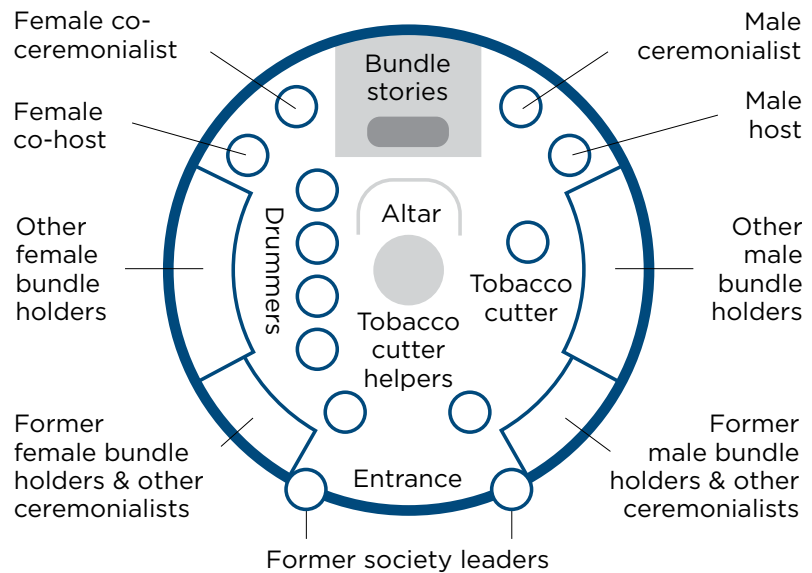
A Blackfoot decision-making circle is facilitated by a pipe ceremony. A community member who requires a decision be made gives tobacco to the Thunder Medicine Pipe bundle keepers. These bundle keepers are two individuals who have the transferred right to guide the process. Reg asked that we continue to reinforce the details of Blackfoot decision-making circles, and to highlight the modifications to the traditional circle that account for modern decision-making.



What follows is a modified illustration of a traditional and a modern decision-making circle as shared by Reg in the book *Akak-stiman: A Blackfoot Framework for Decision-Making and Mediation Processes* (ibid.) and in supplemental discussions. These two examples identify the key roles and positions within a traditional decision-making circle and how they have been translated for western applications.

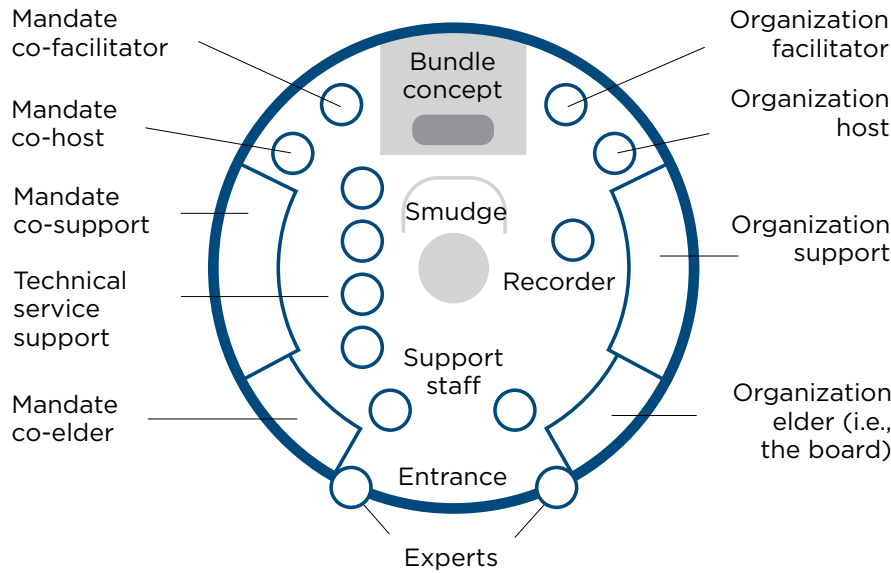
| Traditional circle |
|---|
| Male ceremonialist |
| Male host |
| Other male bundle holders |
| Former male bundle holders |
| Female co-ceremonialist |
| Female co-host |
| Other female bundle holders & other ceremonialists |
| Former female bundle holders & other ceremonialists |
| Drummers |
| Tobacco cutter |
| Tobacco cutter helpers |
| Former society leaders |

TRADITIONAL DECISION-MAKING CIRCLE



Many of the roles and responsibilities of participants have been adapted for modern issues. For instance, there are not necessarily specific male and female roles. Sometimes the tobacco cutter might become the record keeper, and the drummer's positions might be filled by people who represent supporting organizations. Reg provided the following comparison of the roles within traditional and modern decision-making circles:

MODERN DECISION-MAKING CIRCLE



| Modern circle |
|---------------------------|
| Organization facilitator |
| Organization host |
| Organization support |
| Organization elder |
| Mandate co-facilitator |
| Mandate co-host |
| Mandate co-support |
| Mandate co-elder |
| Technical service support |
| Recorder |
| Support staff |
| Experts |

The roles described on the previous two pages illustrate the adaptation of a decision-making circle to reflect contemporary applications. Along with adapted roles is a process that Reg identified as a crucial component of a decision-making circle. The process is described below.

Process for a Decision-Making Circle

Protocols and processes guide circle decision making. Reg shared with us that steps are taken when making a decision using the modern decision-making circle. While describing this to us, Reg sometimes used terminology applicable to a traditional decision-making circle and thus demonstrated the connections between these historical and contemporary approaches.

1. The ceremonialist (the organization facilitator in a modern decision-making circle) enters the circle structure. Once this person reaches the defined position, he or she welcomes participants. The ceremonialist then assigns seating and defines roles and responsibilities.
2. Directly after the smudge or the opening statement, the co-ceremonialist (i.e., mandate co-facilitator) states the mandate of the bundle. He or she ensures that the decision-making circle meets the purpose of the bundle and will interrupt the circle process if necessary.
3. The organization host, who wants a decision to be made, makes a vow by placing tobacco at the bundle and explains why a decision was requested. He or she asks the ceremonialist to facilitate and begin the circle decision-making process. The mandate co-host represents an opposing view to that of the organization host.



4. The ceremonialist has the option to either burn sweet grass (i.e., a smudge) to start the process, or make an opening statement.
5. The ceremonialist then defines the rules for the decision-making circle.
6. The decision-making circle usually involves two rounds of discussion. The first round begins with a discussion of the issues behind the organization host's request. The organization host, who made the request for the decision-making circle, begins the discussion, followed by organization support, then the other mandate co-host, and finally, mandate co-support.
7. After the first round, the organization facilitator and recorder sum up the general parameters of the discussion and present priority issues identified in the discussion.
8. A second round of discussion looks for solutions based on the issues identified in round 1, with the desired outcome of resolving the conflict between the organization host and the mandate co-host. Discussions follow the same order as in the first round of the decision-making circle.
9. After the second round, the ceremonialist and the recorder sum up the general parameters of the discussion and present solutions reflected by the discussion.
10. After consensus has been reached, the ceremonialist directs the implementation of the consensus. (There are an average of two rounds of discussion; however, if agreement cannot be reached, a third round may be required.)
11. The decision-making circle ends with the ceremonialist and his or her supporters singing a song.

Indigenous decision-making models, as described by Reg, facilitate community-based decisions, and while grounded in tradition, they are used in contemporary settings. These consensus-based models give everyone who participated in the process a chance to have a say. Each indigenous community will have its own version of a decision-making model. All decision-making models have protocols and processes that determine the appropriate position and duties of each individual participating in the ceremony. For example, Reg described the tipi floor plan as shaping the ceremonial positions and proceedings for both traditional and modern decision-making circles, and it is for this reason that the word "circle" is used to describe the model. Reg acknowledged that other models are used in indigenous communities. He referred to the use of longhouses, half circles, and triangle configurations as representing the diversity of venues and models.

Returning to his discussion of the process for a decision-making circle, Reg described decision-making circles as being based on community participation, with value placed on each individual's voice. People must be willing to learn and take on the responsibilities that come with a specific position in the circle. They are also accountable for supporting and implementing the decision that is reached.

Reg shared information about his community and emphasized that it has always returned to the decision-making circle to bring the community together. "The aboriginal decision-making process is naturally limitless in its scope and was used for all issues," Reg said. "This book will help foster the return of decision-making circles to the community, very much like the traditional ways to keep harmony among aboriginal people. The decision-making circle shows that the positions within the circle are interdependent and interactive to enable consensus and to solve problems."

Hand-in-hand with an analysis of Blackfoot decision-making circles, and the associated roles and processes, is a comparison of the AER's decision-making models. Two models—for hearings, and alternative dispute resolution—are summarized in the following section.

2.2 AER Decision-Making Models

Reg encouraged us to reflect on how the AER makes decisions and on what a western learning system might be and how it relates to our decision-making models.

The Learning Process in a Written System

Reg described a learning process in a western system that parallels that of an oral system. He spoke of an analogy to a western system where a boardroom, motions, discourse, and the passing of a resolution reflect venue, action, language, and song. These aspects are reflected in the AER's decision-making models and in the governing system that the AER operates under.

We have a parallel structure to venue, action, language, and song in our own paradigm or worldview. An example is when we open the provincial legislature. The venue is our provincial legislative building, the action is the walking of the cace (authority) to its place near the Speaker of the House, the language is the ritualistic nature of opening the legislature and inviting members to sit for the session, culminated by the singing of our national anthem to hold members of the House accountable and permit them to be in that space. We have the same parallel protocols and processes as indigenous worldviews. We walk through them every day. They are more recognizable to us because they are born from the western system. We need to validate that the same processes exist in the oral system and in turn allow other people who follow that system to validate as well. Validation of the oral system is important because it goes beyond merely seeing its usefulness and goes towards what we are attempting to do and that is recognizing its inherent worth, independent of whether we understand it or not. — Jason Veness, senior advisor, Indigenous Engagement, AER.

Energy resource development in Alberta is regulated by the AER. The AER provides for the safe, efficient, orderly, and environmentally responsible development of energy resources. This includes allocating and conserving water resources, managing public lands, and protecting the environment while securing their economic benefits for all Albertans.

To ensure that this activity is safe, environmentally responsible, and closely managed, the Government of Alberta has granted the AER authority to

- review and make decisions on proposed energy developments,
- oversee all aspects of energy resource activities in accordance with government policies,
- regularly inspect energy activities to ensure that all applicable requirements are met,
- penalize companies that fail to comply with AER requirements, and
- hold hearings on proposed energy developments.

The AER's authority (for energy-related development only) includes the *Environmental Protection and Enhancement Act (EPEA)*, including reclamation and remediation activities, and the *Water Act*. The AER is also responsible for public lands and geophysical activities under the *Public Lands Act* and the *Mines and Minerals Act*.

The AER regulates through adjudication and regulation. A company must file an application with the AER before it can proceed with an energy development, such as a well, pipeline, or production facility. Before filing the application, the company must first notify people who may be directly and adversely affected by the application, such as indigenous peoples, landowners, occupants, and trappers within a defined area near the company's proposed development. This allows potentially affected parties to discuss their concerns and issues with the company and have the opportunity to have those concerns addressed and, if possible, resolved. When concerns cannot be resolved, a hearing may be required before the AER makes a decision on the application.

STATEMENT OF CONCERN

Albertans concerned about a particular application may submit a “statement of concern,” which is a written submission that outlines specific concerns about an application. A statement of concern may be filed by anyone who believes they may be directly and adversely affected by an application.

Indigenous people, individuals, groups, associations, and companies that object to a proposed development or to some aspect of a proposed development may file a statement of concern. The AER then examines the information submitted by both the company (the applicant) and those that filed statements of concern. The AER may decide to hold a hearing to make a decision on the project.

Hearing

An AER hearing is a formal process that gives parties an opportunity to present and test evidence. It is a public forum with rules and procedures that all participants must follow. Anyone may attend to observe, but only those allowed to participate can take part in the hearing.

A hearing panel usually has three AER hearing commissioners. One of the three panel members acts as the chair of the hearing. The panel members sit at the front of the hearing room, facing the hearing participants. The participants often have lawyers, support staff, and others who may act as witnesses, such as technical experts and landowners.

A court reporter attends the hearing to transcribe the oral hearing into a written transcript. The hearing panel can only make its decision based on the record. The hearing follows a process similar to a legal court. It is designed so that every party has a chance to provide evidence, listen to the other party's evidence, ask questions of the other parties, and present argument to the hearing panel. It typically follows a process such as the following:

Process for an AER Hearing

1. The panel chair opens the hearing by stating the purpose and introducing the hearing panel, AER counsel, and AER staff. Hearing participants come forward and register. The panel chair explains how the hearing will be conducted and deals with any preliminary matters.
2. All witnesses must be sworn in or affirmed before giving evidence. They are asked to promise that they will tell the truth. There are a variety of ways to be sworn in or affirmed, according to different beliefs or cultural practices.
3. The applicant, or the party bringing the issue forward to the AER, is the first to present evidence. The applicant and its witnesses sit at the witness table. The applicant explains the project and may also have expert witnesses to present technical evidence.
4. Each hearing participant, in turn, can question (i.e., cross-examine) the applicant's witnesses. Disagreeing parties can cross-examine the opposing side. This questioning tests the evidence both parties have provided. The hearing panel listens to how the witnesses answer questions; this helps the panel decide whether they can rely on the evidence, and it helps them find the



best evidence to use for their decision. AER staff and the hearing panel may also ask questions, but they do not cross-examine. This is because the AER is neutral and does not oppose or support either side. Their questions are to clarify evidence or to gather missing information.

5. When questioning of the applicant is complete, the first participant and its witnesses sit at the witness table to provide evidence. Participants may speak for themselves and may have a witness panel or expert witnesses.
6. The participant is cross-examined by the applicant, then questioned by AER staff and the hearing panel, in that order.
7. Each participant in turn follows the same process until all have presented their evidence and have been questioned.
8. After the evidence is given, the applicant and participants make their final arguments or statements to the panel. The applicant has a last chance to reply.
9. The panel chair closes the hearing, and the panel has 90 days to issue a written decision.
10. The hearing panel takes this time to carefully consider all the evidence submitted by the parties and write a report giving reasons for the decision. The decision, including any conditions, is the final decision of the AER and can only be appealed to the Court of Appeal of Alberta.

Indigenous communities regularly participate in AER hearings. Some ways that the AER and indigenous communities have worked together to try to create an ethical space include

- holding hearing sessions in First Nations' communities;
- swearing in or affirming witnesses in a manner that reflects cultural preferences, such as the use of community specific objects;
- supporting indigenous ceremonies before, after, or as part of a hearing;
- facilitating the participation of elder panels as witnesses in a hearing;
- providing translation services for indigenous speakers, based on preferences identified through discussions with communities;
- inviting the holders of indigenous knowledge to participate in hearings; and
- reflecting indigenous knowledge in hearings decisions.

The planning of a hearing with an indigenous community is an example of the possibilities associated with an ethical space. Meaningful dialogue is required to make the process work for the hearing panel and the community. Preparing for a hearing and navigating the hearing process with

the intention of creating ethical space provides the opportunity for AER decisions to reflect the perspective that indigenous communities provide during a hearing.

Alternative Dispute Resolution

The AER's alternative dispute resolution (ADR) program was developed in response to the desire of stakeholders and indigenous communities to be more directly involved in, and have more control in, resolving energy-related disputes.

The AER's ADR program helps parties resolve disputes pertaining to energy matters regulated by the AER. ADR is not a prescriptive program and can include a variety of approaches, including facilitated meetings or mediation. ADR is adaptable, and mediation has some natural parallels to indigenous decision-making circles.

Circle is so simple and yet has a profound impact on how we show up together—when we change the chairs we change the conversation. In Circle, each of us has a critical role on the rim from where we co-create our centre, setting the intention for our gathering. Circle calls us to hold space and bear witness for each other. It invites vulnerability and humility to our conversations and allows us to see each other and our situations in a new way.

—Leslie Allen, collaborative engagement specialist, Alberta Stakeholder Engagement, Climate Policy Assurance Team



The primary goal of ADR is to help parties explore and understand each other's interests and, together, develop acceptable solutions. Another important goal is to restore working relationships.

Even though the AER encourages parties to first attempt to cooperatively reach agreement prior to requesting assistance from the AER's ADR team, in cases of dispute, use of the ADR program will be considered. A mediator facilitates the process and does not make decisions for participants. The AER has both staff and hearing commissioners who are mediators.

ADR can be used before a company applies to the AER, during the application review process, prior to a hearing with a hearing commissioner, for operational disputes and for disputes over reclamation.

Process for Involvement in ADR

ADR can be triggered at any time throughout the lifecycle of a project regulated by the AER. An individual or community can enquire about ADR at any point, and a statement of concern does not need to be filed to advance ADR.

If a statement of concern is submitted to the AER, a reply letter will be sent providing the relevant contact information and information about ADR.

In some cases, AER field centres or reclamation officers may identify a conflict between a company and a community or an individual and may suggest that ADR be considered.

The steps involved in ADR are outlined below.

1. The AER identifies an opportunity for ADR, or a relevant party expresses an interest in ADR.
2. The AER reaches out to affected parties and confirms their interest and willingness to participate in ADR and confirms what needs to be resolved.
3. The AER mediator meets individually with participants to understand their perspectives and to gather background information. These meetings help participants prepare for ADR.
4. The ADR session begins with an introductory discussion. When the parties first meet, the mediator sets a collaborative environment where the participants are welcomed and introduce themselves. The mediator explores the "nuts and bolts" of the process with the parties and helps the participants as they set appropriate guidelines for their communication and decision making.

5. Following introductions, the draft agenda is discussed and the issues to be resolved are clarified. The mediator listens to the participants and neutrally communicates the issues the participants identify.
6. Using open ended and exploratory questions, the mediator guides a deeper exchange of the participants' perspectives and interests (needs, fears, concerns, hopes) related to the specific issues. The goal is mutual understanding using conversation, not debate. Focussed listening is encouraged. Ideally, the participants begin to see common ground and create solutions.
7. Should resolution be achieved, the parties often choose to develop an agreement that identifies what they have agreed to. These agreements are between the parties, and while the mediator may help the parties identify agreement terms, the final agreement is not shared with the AER.
8. Post-meeting support is provided by the AER if requested by either party.
9. A post-mediation evaluation is provided to participants should they wish to provide feedback on their experiences with ADR.

Reg prompted us to think about why First Nations may not participate in an ADR, or why ADR involving indigenous communities may not have the outcomes we might expect. He said that if we want to address this, we have to give First Nations “cultural safety” and create a mandate that supports both sides. Without this joint mandate, there is a belief that the mediator or the AER will use their authority to facilitate a decision that does not consider First Nations' interests. As Reg, said, “If you can look through a mediation window and can link joint mandates and parallel structures, then you can build trust.”

Some of the ways we are seeking to reflect Reg's guidance and work better with indigenous communities in an ADR process are described below.

- Recognizing that wisdom can be accessed through storytelling and that the relevance of the story will be revealed, in time
- Using transformative mediation where the focus is not established through an agenda but rather, “we go where the parties need to go” in terms of the topics that are discussed
- Acknowledging and creating space for the multiple layers of decision makers and processes in indigenous communities, including youth, elders, elected officials, and other representatives

- Broadening the agenda of an ADR session to include unresolvable items such as treaty rights or residential schools, recognizing that such topics provide context and support relationships
- Changing our language by moving away from “mediation speech”
- Investing time in building the relationships and trust needed for ADR to reflect the interests and approaches of indigenous communities

We are learning that a prescriptive approach to ADR does not support the participation of indigenous communities. As we continue to work with indigenous communities and apply what Reg and other knowledge holders are teaching us, we will seek to create ethical spaces where disputes can be resolved in a manner that all parties can feel comfortable with.

2.3 Linkages – Looking Through the Window

When considering the links between learning processes and decision-making models, Reg encouraged us to compare decision-making circles with the AER’s decision-making models, such as hearings and ADR, with the intention of finding parallels. An understanding of these parallels strengthens our view through the window.

When we look at what is going to strengthen that window—on AER’s side they have ethical values; on our traditional side, we have seven sacred teachings ... they’re the same and that’s what strengthens that window. So when we start looking at joint mandates that’ll help strengthen that window, that’s what’s going to make that window real. If you can link the structure, then that foundation is going to get strong because we’ll just automatically recognize the joint mandate that exists ... the ethical values that exist on both sides.

Reg encouraged us to think about the learning processes in an oral and a written system, and the decision-making models in each system, and find the linkages that open the door to an ethical space. Our analysis is captured in appendix B: Comparing Learning Processes and appendix C: Decision Making Models – Examining Linkages, where we consider hearings, ADR and decision-making circles. This is not a conclusive exercise, but rather an illustration of how we will continue to challenge ourselves to examine our approaches in relation to those of indigenous communities, and we encourage others to do the same.

A LESSON IN LOOKING THROUGH THE WINDOW

As the province’s single energy regulator, we are moving away from assessing oil and gas development applications in isolation, to looking at proposed activities within the context of all development in an area, the environmental capacity, the economic opportunities, and the social values and expectations of those who live, work, and play in an area. This expands our lifecycle approach to development. A lifecycle approach to development means overseeing all aspects of oil and gas development, from application through to end of life (reclamation). It also means engaging with indigenous peoples earlier to understand what matters to them and to ensure that they have an influential voice in how we regulate—they want to know more about what is going on, where development will occur, how it will happen and how it affects them.

Through a series of pilot projects and initiatives, the AER is exploring an alternate regulatory approach to large-scale and complex development activities. Doing this requires input on how people affected by energy development want and need to work together to arrive at a common understanding of the concerns about energy development and to jointly develop solutions to address those concerns. Engaging indigenous communities in this regard, and in a manner reflective of what we have learned from Voices of Understanding, is certainly a work in progress. Often we have heard from communities, “show me, don’t tell me”—we need to walk the talk and demonstrate our understanding through actions.

During the time this book was being written, we had the opportunity to apply some of our new understanding. We were in the midst of reaching out to stakeholders and indigenous communities for participation in a project and noted that the level of interest from indigenous communities was very low. We stepped back to evaluate what needed to change if we were going to honour Voices of Understanding and decided to be open to hearing what was making it difficult for communities to engage with us in this project. Indigenous communities told us we needed an approach that linked the AER’s engagement framework to an indigenous framework based in an oral tradition. From there, together, the AER and local indigenous communities worked to create an indigenous community panel as a forum for moving forward together.

Below are some of the things we did to help us advance our understanding (looking through the window) and eventually achieve trust and cultural safety, and to help us venture into the realm of an ethical space where both a western and an indigenous worldview interact equally.

- We weren’t rigid in our approach—we met informally with communities and individuals to share understandings and to identify interests.

- We were open to hearing about, and discussing, historical issues that created a low-trust environment between the AER and indigenous communities.
- We discussed decision-making models and how an indigenous worldview approach leads to complementary decision making, and how this approach restores and enhances the relationship between indigenous peoples and the AER.
- We honoured community values and recognized that our priorities didn't always align.
- We participated in cultural awareness sessions to support our development of knowledge and skills conducive to working with indigenous communities.
- We recognized indigenous traditions through adherence to protocol—we participated in ceremony and smudge to promote accountability to one another and to demonstrate a humble approach to engagement.
- We held each other accountable through a joint commitment statement that was developed in collaboration with all participants.

Thus far, our experiences with the indigenous community panel have prompted discussions about what is needed to achieve mutually beneficial outcomes, and about how to do so in a way that allows for action and communication in an ethical space where oral and written systems are recognized.

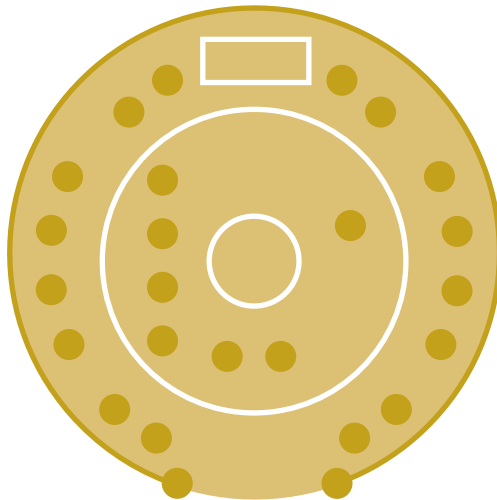
As we started to grasp this concept of “linking,” we struggled with how we capture an oral tradition in a written book and reflect the cultural richness of what we were learning from Reg. Reg shared with us some of his thoughts about this using a series of drawings showing western decision making on one side and Blackfoot decision making on the other. He called these “management systems” that have associated organizational structures, information sources, and processes. He then showed us the parallels between them.

Organizational structures

To ground our understanding, Reg started with something that we could easily relate to—a typical organizational structure. He drew a diagram of a top-down organizational structure and while he was drawing, he explained that from his perspective this typified a “western” organization. Parallel to a typical western organizational structure is that of an oral culture. Here is what Reg drew:

Organizational Structures

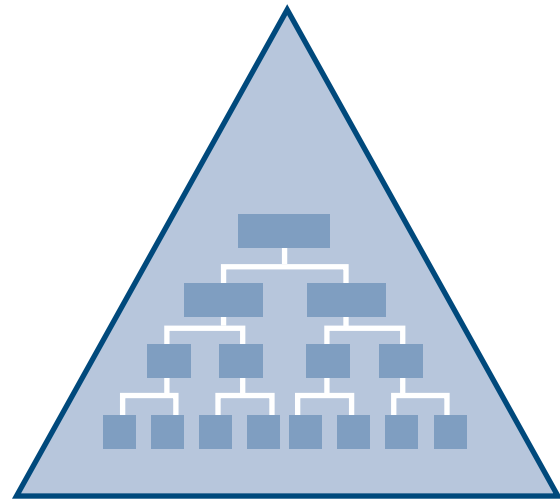
Indigenous Oral System



**EXTERNAL
(environment)**

● Individuals/roles

Western Written System



**EXTERNAL
(information)**

■ Individuals/roles

As illustrated by the above “Western Written System” graphic, this type of organization has leadership concentrated at the top of the structure, with subordinates reporting to leaders. The organization may be divided by expertise, function, or geography, and the parts connect at a leadership level but are predominantly stand-alone entities. Reg observed that there are processes that support this type of structure. If external information is being presented to the organization, it generally needs to work its way up through the management system in a hierarchical manner, which is usually an internally focused exercise.

While a “western” system, the AER only somewhat mirrors Reg’s description. Groups are connected by informal relationships or formal processes to support information flow. Decisions can be made at various levels within the AER, not only at the senior leadership level—leadership delegates decision-makers throughout the organization.

Parallel to a typical western organizational structure is the structure of an oral culture. As illustrated by the “Indigenous Oral System” graphic, Reg presented a circle decision-making model similar to what is described earlier in this book. In this type of organization, experts feed into the entire system at multiple points, and while there are specified roles and responsibilities, information flow is primarily unrestricted.

Both management systems reflect a mandate—or the key purpose the organization is trying to fulfil. Reg Crow Shoe said the model used to deliver the mandate in both systems can be understood through the learning process of venue, action, language, and song (as described on page 18).

It doesn’t matter what the story is or in what individual indigenous community, you can access the mandate through the process of venue, action, language and song. This is what connects all indigenous oral communities and what can link to the western worldview. When you can draw the parallels between the actions, the venue, the language, and the song, then you, because you have navigated the processes appropriately, can make shared decisions.

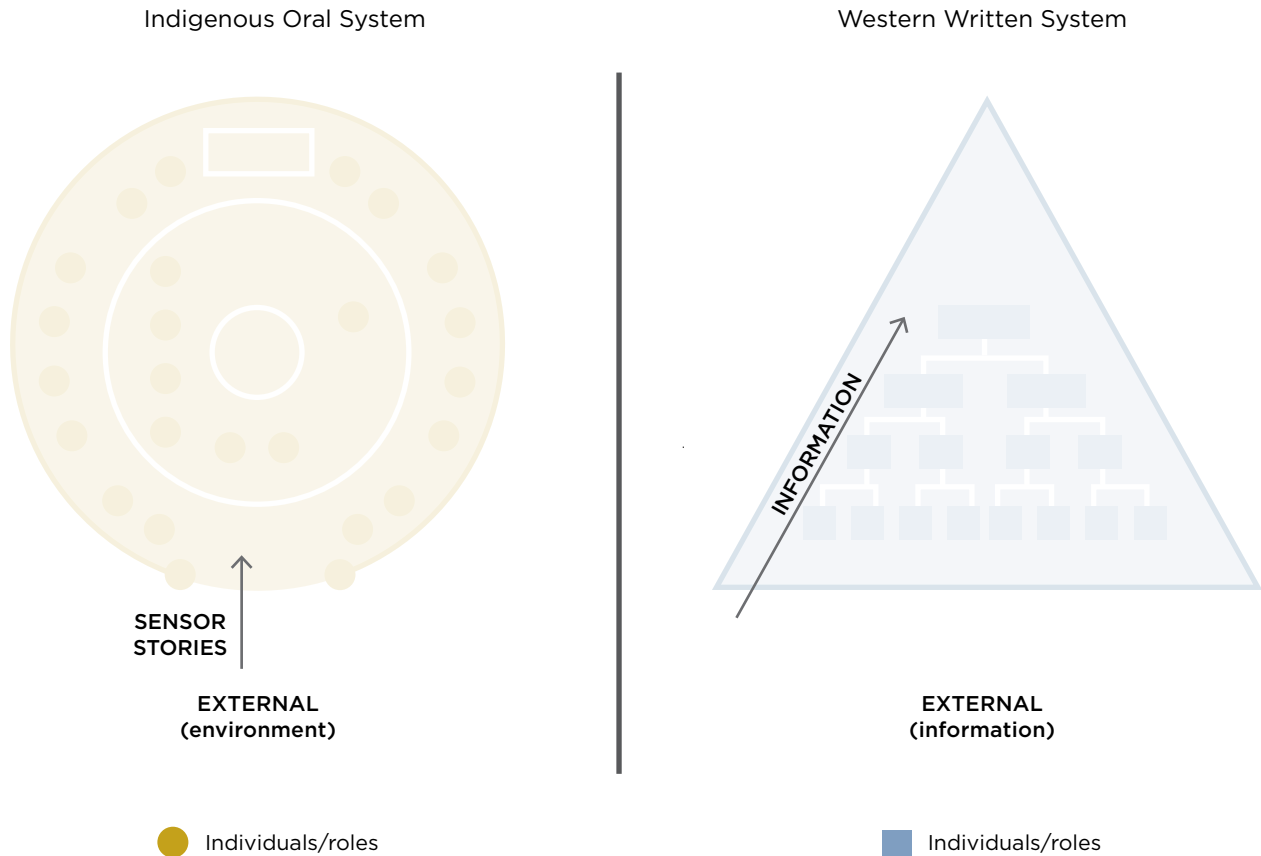
This is our challenge: to find the learning process in each worldview. Reg didn’t tell us what the venue, action, language, and song aspects of each system are. Our journey includes figuring this out with each indigenous community we work with.

Information sources

Reg encouraged us to think about the information sources that guide decision making within western and oral management systems. Information often takes the form of data, budgets, expert opinions, analysis of existing programs, and evaluation of potential new activities. We noted that most information flowed through in materials such as briefing notes or a business case presentation, which includes supporting data and metrics.

In an oral system, information is usually gathered exclusively from the external environment. What is happening to people, to animals, and to the earth’s resources is the information an indigenous community will validate to inform decision-making processes. Reg illustrated our discussion with the following two drawings:

Information Sources



Within both systems we can see that information, in various forms, influences the decisions that are made.

Processes

As the overarching graphic Reg was creating began to unfold, he elaborated on his thoughts and explained aspects of the management systems he was illustrating. Reg explained that the management systems weren't just graphics identifying roles and information sources—they also represented a process that addressed information flow and decision-making.

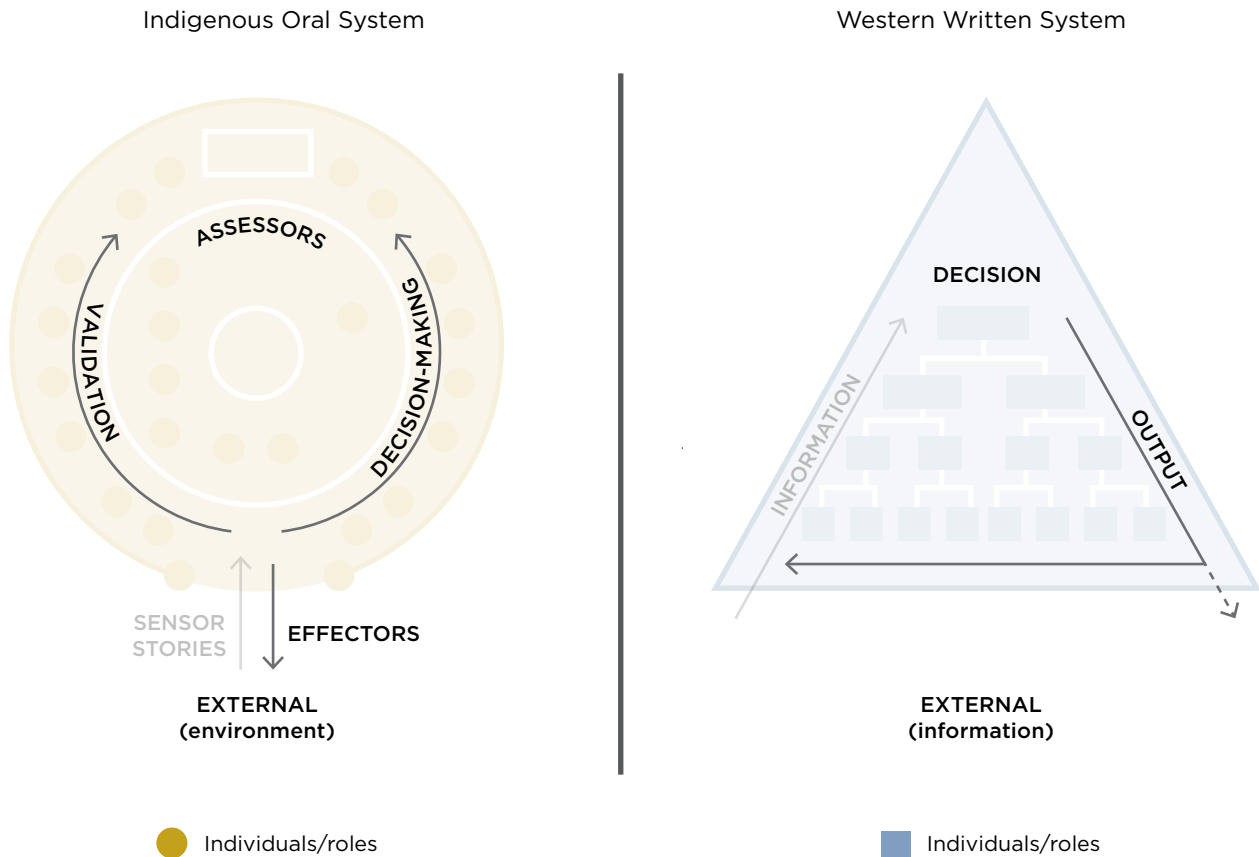
Reg asked us how information comes into our organization, and he spoke about an environmental situation being an input into our organization and how that information flows to our leadership and its advisors. Following that, the output, being the decision or information to be conveyed, is externally communicated through subject matter experts.

Reg then discussed a process within an indigenous oral system wherein a sensor story reflective of the external environment is brought into the circle and provided to the assessors by following protocols. The decision flowing from this process would be conveyed by effectors. He illustrated this point by challenging us to think of the cultural question associated with these parallel processes:

My cultural question would be, how do you get into management control? On the indigenous side I'm going to be a sensor to bring in information and offer tobacco to get into management control. On the western side, I'm going to determine if it is in my job description and that will allow me to feed information into management control (leadership).

Reg drew the following image to illustrate information flow:

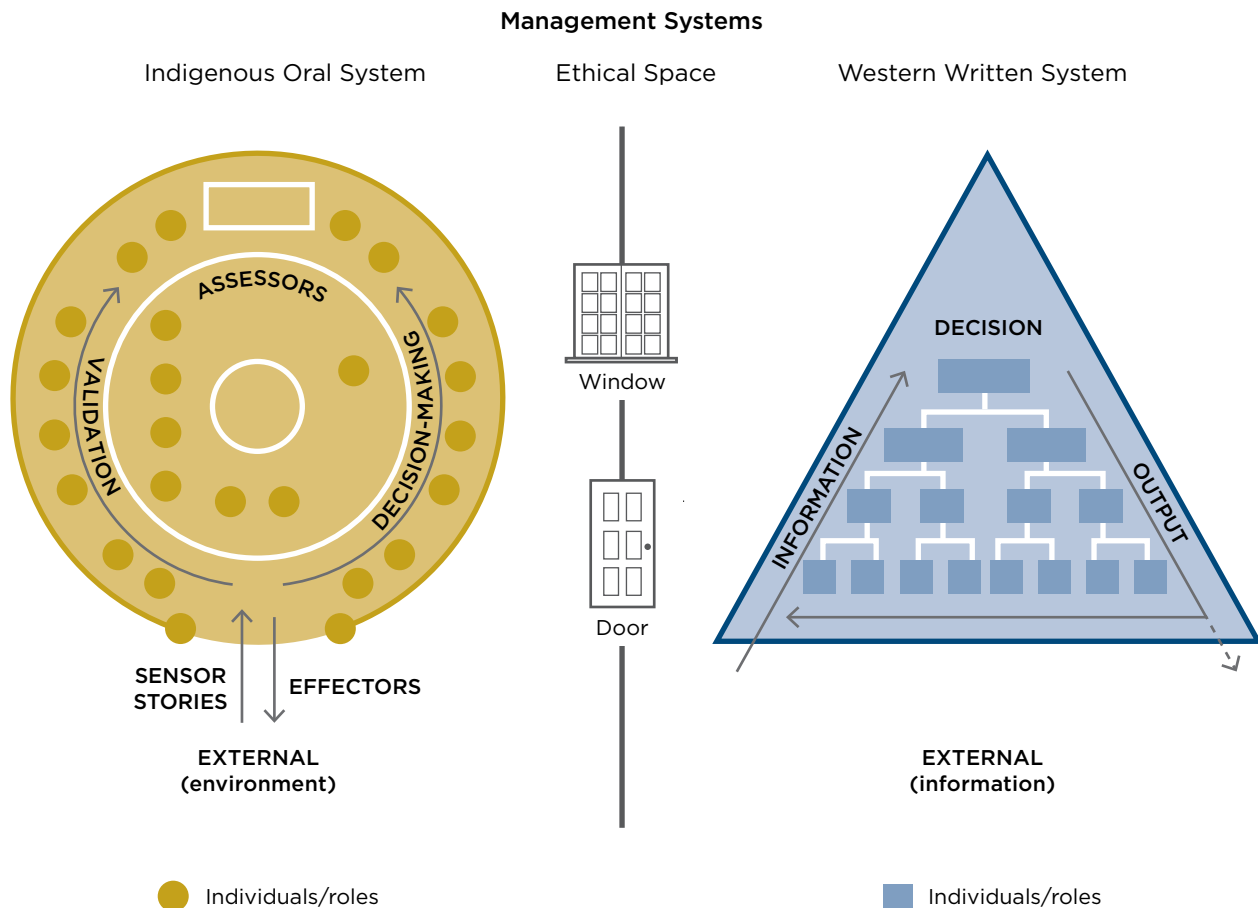
Processes



In an oral system there are sensors who convey situations from the environment, and there are assessors who assess the sensor stories to determine whether it is valid. Validation is a process that compares the information with existing stories within an oral tradition. Any changes resulting from the input of the sensors and the validation by the assessors are then communicated by effectors who create a new story to share. The same could be said for a western system where information comes into an organization and is validated against strategic plans and organizational norms and communicated through subject and technical experts.

Linkages

After explaining these two management systems, Reg took us through an exercise of identifying how we find the connections between the systems. Reg amalgamated his drawings, and together we generated the concept of parallel systems. A wall with a window and a door was added to the drawings, resulting in the image below.



Dean Campbell, senior hearing advisor at the AER, confirmed his understanding with Reg using a window and door analogy:

I see we've got this wall, with the western and oral systems on either side. And what we're used to is working on the western side and tossing something over the wall every now and then, and then wondering why it didn't work. So what I see now is that we're not trying to develop a process with this document or book, but an opening. We're trying to open a window on that wall so that we can see and understand the process that is going on. And maybe we can even get to the stage where we can make a door that we can walk through, because we know a little bit about what is going on and we can thus engage in a discussion.

Reg elaborated on the door and window concepts as an approach to developing ethical spaces. The window is an analogy for the cultural interpretation and translation necessary to know how things work on the other side of the wall, for the other culture. Reg further explained that the concept of an ethical space could be the door. Seeing a door and having glimpsed the other side through the window, we want to walk through the door. Reg cautioned that you can't rush through the door. The door brings the two sides together. The door is providing the ethical space for the two sides to have the discussion.

For the AER, ethical space will require empathic engagement to understand it, which means we should not rush through the door. Ethical space is the place that provides the most opportunity to learn and to improve our relationships with each other—it is here that we have a foundation upon which to begin a dialogue between cultures and a way to link two worldviews without diminishing either.

Reg's father, Joe Crowshoe, worked with author Michael Ross to create the book, *Weasel Tail: Stories Told by Joe Crowshoe* (Ross 2008). In the book a conversation between Joe and Michael is captured. Joe tells the author this: "Say Mike, if the white people understand my Native people, they will understand the way of the Indians in the future. In the future, we're all going to work together. The only difference is language. English and Blackfoot is different."

Creating a New Shared Story

The concept of decision-making circles, as a Blackfoot oral model with associated processes, was shared with the AER from the perspective of Dr. Reg Crow Shoe.

Voices of Understanding explores the concepts shared by Dr. Reg Crow Shoe and inspires the AER to link our work with culturally appropriate engagement processes that create ethical spaces.

This has a transformative effect on the AER as it seeks to become more empathetic and inclusive in its regulatory mandate. By becoming aware of the indigenous oral system of decision making, the AER accepts that oral systems are valid. Most importantly, if we are going to reach mutually acceptable decisions, we have to look through “the window” and see the common ways in which decisions are made in indigenous communities and in a western regulatory framework. Then, in demonstrating respect, we can pass through the door and bridge decision-making processes to create a new space, an ethical space.

On January 31, Dr. Reg Crow Shoe and three elders representing treaty areas 6, 7, and 8 hosted a ceremony attended by AER’s executive leadership team and employees from across the organization to celebrate the second edition of *Voices of Understanding*. The event also ceremoniously granted the AER the right to use this shared knowledge. A storage package, or bundle, was presented to the AER by Dr. Reg Crow Shoe. This bundle is held by our CEO, Jim Ellis, and tells a story as part of a process associated with the book *Voices of Understanding*. Our new story is partially captured here, in this book, and it is also captured in the bundle, which contains items associated with our journey, as described by Reg:

We tend to mix stories with written documents, and when we take stories with written documents we get confused because we combine them. We need to pull the stories apart from written documents because written documents is the western concept of collecting data, collecting information, collecting knowledge, and it’s stored in written documentation. The parallel to an oral culture is the data, the knowledge, and what’s happening in the environment; that information is stored in our stories ... these packages that are called stories. So the story is the document and the storage package.

This bundle does not symbolize completion, but rather a step further in our shared journey. The ceremony granted the AER the authority and rights to use the knowledge captured in this book and to carry Dr. Crow Shoe’s teachings forward in our work—a responsibility we are honoured to accept. *Voices of Understanding* is, therefore, a living book. Our understandings will change as we begin to apply what we have learned to the AER’s regulatory framework. This represents our journey to understanding.

Reg taught us that songs validate stories, so we sought to figure out what song is associated with this book, the bundle, and our future work. Reg told us that our song is a smudge. If we work with a decision-making circle and smudge, we will have validated our knowledge through a cultural process. By doing this, we can build trust. This is our next step—to begin building trust with indigenous communities based on an understanding of individual community processes and protocols.

The AER is grateful to Dr. Reg Crow Shoe, who shared his knowledge and granted the AER the privilege of using that knowledge in the development of this book and the creation of our story. As a result of his teachings, the AER can bridge our decision-making models and processes with indigenous decision-making models to more effectively deliver a regulatory process suitable to indigenous communities, and do so within an ethical space.



Appendix A: Bibliography

Crowshoe, Reg, 2013. Reg Crowshoe – Venue, Action, Language and Song. [video online] Available at: <<https://www.youtube.com/watch?v=HDOrB6RvdlU>> [Accessed January 19, 2017]

Crowshoe, Reg, and Crow Eagle, Geoff, 2006. Piikani Blackfoot Teaching. Available at: <<http://www.fourdirectionsteachings.com/transcripts/blackfoot.pdf>> [Accessed January 27, 2017]

Crowshoe, Reg, and Manneschmidt, Sybille, 2002. *Akak'stiman: A Blackfoot Framework for Decision-Making and Mediation Processes*. Calgary: University of Calgary Press.

Ross, Michael, 2008. *Weasel Tail: Stories told by Joe Crowshoe Sr. (Aapohsoy'yiis), a Peigan-Blackfoot elder*. Alberta: NeWest Press.

Additional Reading Materials

Reg encouraged us to consider additional resources as we worked to develop this book and further explore the concepts we were learning. The following resources were identified by Reg and in our own research.

Bell, Catherine, and Napoleon, Val, ed. 2008. *First Nations Cultural Heritage and Law: Case Studies, Voices and Perspectives*. Vancouver, BC: UBC Press.

Bullchild, Percy, ed. 1985. *The Sun Came Down: The History of the World as My Blackfeet Elders Told It*. San Francisco: Harper & Row.

Raczka, Paul M, 1979. *Winter Count: A History of the Blackfoot Peoples. Alberta: Oldman River Cultural Centre*.

Treaty 7 Elders and Tribal Council, with Walter Hildebrandt, Sarah Carter and Dorothy First Rider, 1996. *The True Spirit and Original Intent of Treaty 7*. Canada: McGill-Queens University Press.

Appendix B: Comparing Learning Processes

Reg helped us to develop the following table, which compares an indigenous oral system and a written system, such as that of the AER. This table identifies the parallels between the two systems, premised on the learning processes of venue, action, language, and song. Through this exercise we were able to “look through the window” and better understand each system of learning and decision making.

Learning Processes – Linking Systems

| | Indigenous oral system | Written regulatory system | Linkages and parallels (looking through the window) |
|----------|--|--|---|
| Venue | <p>A place where everyone gathers for a common purpose.</p> <p>Shape of venue is community specific and can be a circle, triangle, half circle, or rectangular structure (such as a tipi, igloo, or longhouse).</p> <p>Specific protocols must be followed regarding conduct, order of events, and assigned seating.</p> | <p>A place where people gather for a common purpose.</p> <p>Venue often reflects the nature of the gathering and may be a boardroom, meeting room, community hall, court room, or hearing room.</p> <p>Protocols are often specific to the meeting and may include a chair, mediator, facilitator, high-level decision maker, and subject experts.</p> | <p>A space in which to facilitate a gathering with recognized protocols associated with the space.</p> <p>Space reinforces the significance of the activity and relationships of those using it.</p> <p>Placement and roles of participants consider authority and contributions.</p> |
| Action | <p>Action specific to the occasion and includes movement (such as dance), behaviours, conduct, and protocols.</p> <p>Mandate is defined by bundle.</p> <p>Call to order—smudge.</p> | <p>Reflects mandate and is specific to the purpose of the event, such as a hearing or ADR meeting.</p> <p>Captured in processes and rules, such as joint operating procedures, rules for cross examination and providing evidence, and code of ethics.</p> <p>Call to order—gavel or other expression of authority.</p> | <p>Specific to occasion or event.</p> <p>Commence with a call to order.</p> <p>Seek to promote respect and allowing all voices to be heard.</p> <p>Premised on protocols and procedures.</p> |
| Language | <p>Reflects culture and society and is contextual—language is specific to the process.</p> <p>Can be verbal and nonverbal, such as symbolic items representing a message.</p> <p>Language is unique to the group making the decision.</p> <p>Usually oral, sometimes written, depending on the context and intended use.</p> | <p>Organizationally appropriate language such as key messages and core vision statements.</p> <p>Structured through written information such as agendas, notes and minutes.</p> <p>Business-specific and technical terms controlled by style guides and book templates.</p> <p>Often supported by visual maps or models.</p> <p>Valid only if written.</p> | <p>Verbal and nonverbal (symbolism).</p> <p>Language is unique to the group making the decision, and to the situation.</p> |

| | Indigenous oral system | Written regulatory system | Linkages and parallels (looking through the window) |
|------|--|---|--|
| Song | <p>A physical representation of authority.</p> <p>A culmination of the whole process.</p> <p>The granting of authority.</p> <p>Examples include the treaty song, the chickadee song, and the beaver bundle song.</p> | <p>Books, including written decisions and directives.</p> <p>Mediation agreements and discussions.</p> <p>Approval books.</p> | <p>Formalizes a decision and recognizes authority.</p> <p>Features regulations and agreements.</p> <p>Transmits information and knowledge.</p> <p>Represents law and societal order.</p> |

Appendix C: Decision-Making Models – Examining Linkages

With an understanding of what it means to “link” decision-making processes, we looked for the connections that link two models used by the AER (hearings, and alternative dispute resolution) with those of a decision-making circle.

The following table highlights a series of questions that prompt us to consider the cultural interpretation of aspects of the three decision-making models being examined. Reg encouraged us to ask “cultural questions” that promote a discussion of aspects of our work that we assume are common to all cultures. With this understanding, we can establish the linkages that can assist indigenous communities, the AER, and other interested parties in the creation of ethical spaces.

Decision-Making Models – Examining Linkages

1. Cultural question: What model do you use to make decisions?

| Decision-making circle | AER hearing | AER alternative dispute resolution | Linkages |
|--|--|--|---|
| <p>To find common solutions and establish a common understanding between two opposing parties.</p> <p>Used to settle conflicts and disputes.</p> | <p>To provide a process for making a decision when conflict has emerged between industry and parties affected by a proposed development.</p> | <p>To find common solutions and establish a common understanding between two opposing parties.</p> <p>Used to settle conflicts and disputes.</p> | <p>Finding solutions and making decisions.</p> |
| <p>The process is not confrontational.</p> | <p>Process is intended to be transparent and fair.</p> | <p>Process is intended to be transparent and fair.</p> | <p>Guided by process.</p> |
| <p>All participants have the opportunity to speak, state their position, and propose solutions.</p> | <p>Hearing panel decides who will have the opportunity to speak, state their position, ask questions, and propose solutions.</p> | <p>All participants have the opportunity to speak, state their position, and propose solutions.</p> | <p>All participants have the opportunity to speak, state their position, and propose solutions.</p> |

| Decision-making circle | AER hearing | AER alternative dispute resolution | Linkages |
|--|---|--|--|
| Participants address their comments to the bundle and not to a specific participant. | Participants address their comments to the hearing chair, and witnesses respond to the person asking the questions. | Participants can address their comments to any participant. | All participants have a voice, which is expressed in accordance with specific protocols and rules. |
| Balanced resolution. | Balanced resolution in the sense that all participants have a say. | Resolution that participants agree on or can live with. Improve relations. Increase face-to-face discussions that lead to local solutions for local problems. Achieve a higher percentage of resolved disputes without having a dispute lead to an AER hearing. | Brings people together to resolve a conflict. |

2. Cultural question: Who leads your decision-making model, and how do they do this?

| Decision-making circle | AER hearing | AER alternative dispute resolution | Linkages |
|--|--|---|---|
| Ceremonialist: Male or female steward of the bundle who sits on the right side of the bundle. | Panel chair. | Staff mediator or hearing commissioner mediator. | Experienced people who are respected in their organization. |
| Looks after the “operations” of the ceremony. | Controls conduct of hearing. | Role is to help parties speak openly and respectfully about what concerns each of them and reach a solution that can be agreed on by everyone. | Management of the operations for the decision model. |
| Brings people together when a decision is required to resolve a conflict. | Speaks for the AER. | Brings conflicting parties together to try to reach resolution. | Supports decision making. |
| Guides the decision-making circle, including laying out the roles of each participant and starting and ending the meetings with a symbolic act (e.g., burning sweet grass [smudge] or making a statement). | Lays out roles of each participant and describes the hearing process. Begins and ends hearing with opening and closing remarks. | Can give information on concerns and explain the AER’s processes. Will set up a preliminary meeting to help parties decide which ADR option will work best for them. It may be held face to face, over the phone, or by telephone or video conference, depending on the number of parties involved and the complexity of the issues. | Provides the foundation for decision-making. |

3. Cultural question: Who supports your decision-making model, and how do they do this?

| Decision-making circle | AER hearing | AER alternative dispute resolution | Linkages |
|---|--|--|---|
| Co-ceremonialist: Male or female steward of the bundle who sits on the left side of the bundle. | All hearing panel members. | Co-mediator: Sometimes the mediator will bring a co-mediator to help the mediator. | Supports the lead or head position. |
| Looks after the mandate of the bundle during a ceremony. | Decide on a fair process. Uphold the mandate of the AER. Bound by jurisdiction, legislation, and the common law. | Co-mediator: Supports the mediator to achieve the objectives of the mediation. | Upholds the mandate. Ensures purpose is met. |
| Ensures that the decision-making circle meets the purpose of the bundle. | Review evidence and arguments and make a decision. | Supports discussion between the parties to work towards resolution. | Supports decision making. |

4. Cultural question: Who else participates in your decision-making model?

| Decision-making circle | AER hearing | AER alternative dispute resolution | Linkages |
|---|---|---|--|
| Host 1 | Applicant | Applicant/intervenor | |
| Male or female community member may give the Thunder Medicine Pipe bundle keeps a pipe and make a request for a decision-making circle. Places tobacco at the bundle and makes a vow (a formal commitment/request to the bundle to use the decision-making circle as the process to find solutions and abide by them). Asks ceremonialist to start the circle process. Participates in circle process. | Makes application to develop an energy resource in Alberta. Brings evidence to the hearing. Tests the evidence of others by cross-examination. Argues for specific outcomes. | Makes a request for a decision-making circle, a mediation, or a combination of both. Builds a process that works with the indigenous community. Makes sure concerns are heard. Important to bring an open mind, speak honestly, and try to understand the views of everyone involved. Prepares a list of questions to make sure all of your concerns can be dealt with. | Makes a request for a decision or a discussion. Agreement to support the outcome. |

| Decision-making circle | AER hearing | AER alternative dispute resolution | Linkages |
|--|--|---|--|
| Host 2 | Participant/intervenor | Applicant/intervenor | |
| Female or male community member that holds an opposing view to that of host 1. Participates in circle process. | Brings opposing issues to the table. Provides evidence. Tests evidence of others by cross-examination. Argues for specific outcomes. | Same as previous section. | Presents opposing views. |
| Host 1 and host 2 supporters | Lawyer and witnesses (supporters) for both applicant and intervenor | Lawyers and advisors | |
| Contribute to the process; have specific responsibilities. Various people who support and act as resources to the hosts. Supporters sit on the same side of the host they support. Supporters could include professionals, consultants, elders, friends, and family. | Counsel: provides legal and procedural advice to their client. Speaks for their client in letters and at the hearing. Technical experts: Provide evidence and expert testimony at the hearing. | To help understand the information and options before them and contribute to an efficient and informed ADR process. Advisors and lawyers are not required to participate in ADR but are welcome to attend if that's what the parties want or need. Any costs for advisors or lawyers should be discussed with the company before the first meeting. | People who support and act as resources. |
| Advisors | AER staff | AER staff, advisors | |
| Former ceremonialists, elders, and bundle keepers. People who have previously gone through the process. Observe the proceedings and ensure that everything is done in the right order and that ceremonial protocol is followed. Have no voice in the decision-making process. | Legal counsel, technical staff. Ensure that all legal and technical requirements are met. Give advice on legal, procedural, and technical issues. Ensure the evidence is adequate, looking for errors, gaps, inconsistencies. Ask questions to resolve the deficiencies. | Mediator. Technical staff. Subject-matter experts, such as an engineer or an environmental specialist. Hearing commissioner mediation bring legal staff and technical staff. | Observe the proceedings and ensure protocol is followed. |
| Ceremonialist service support | AER hearing support staff | Mediation support | |
| Experts who support the specific mandate of the decision-making circle. Take decision back to their organization and implement it (extends beyond community). | Organize and provide logistics and procedural support. | Organizes and provides logistics and procedural support. | Provide expertise and support. |

