

Best Practice
Guidelines for
Negotiating
Impact Benefit
Agreements to
Achieve Just
Outcomes

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Impact Benefit Agreements

Issue: EA process mitigates adverse impacts-not distribution of benefits

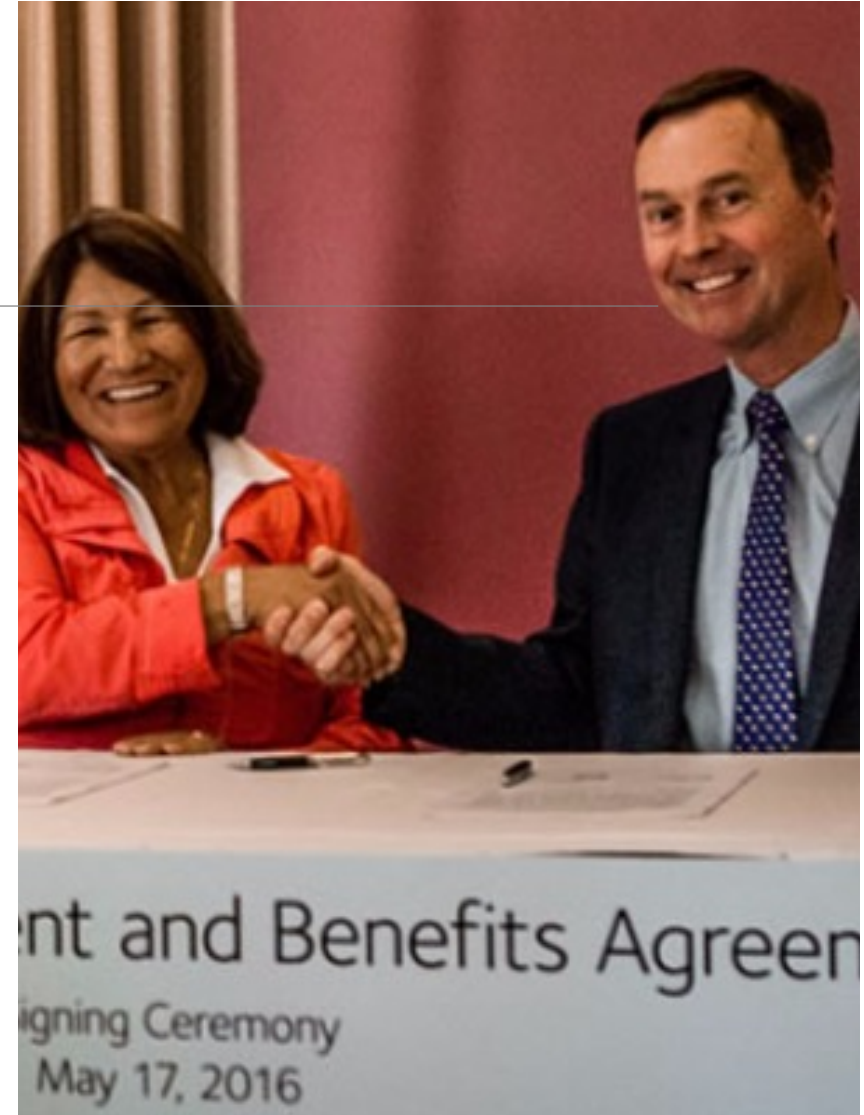
Response: IBAs developed to address benefit distribution

IBA: Agreement between project proponent and community allocating project benefits plus



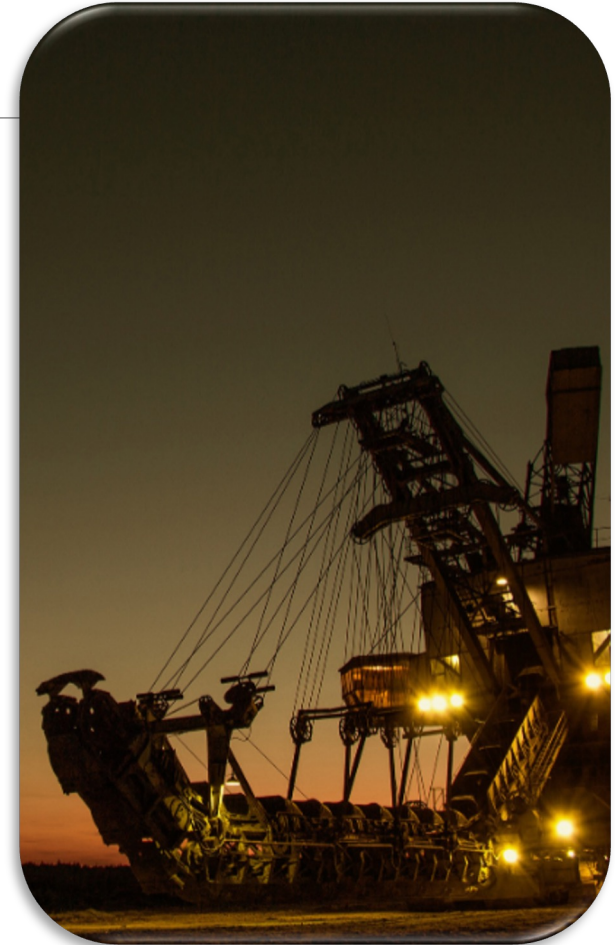
Objective

Negotiate the best possible IBA
to meet community objectives

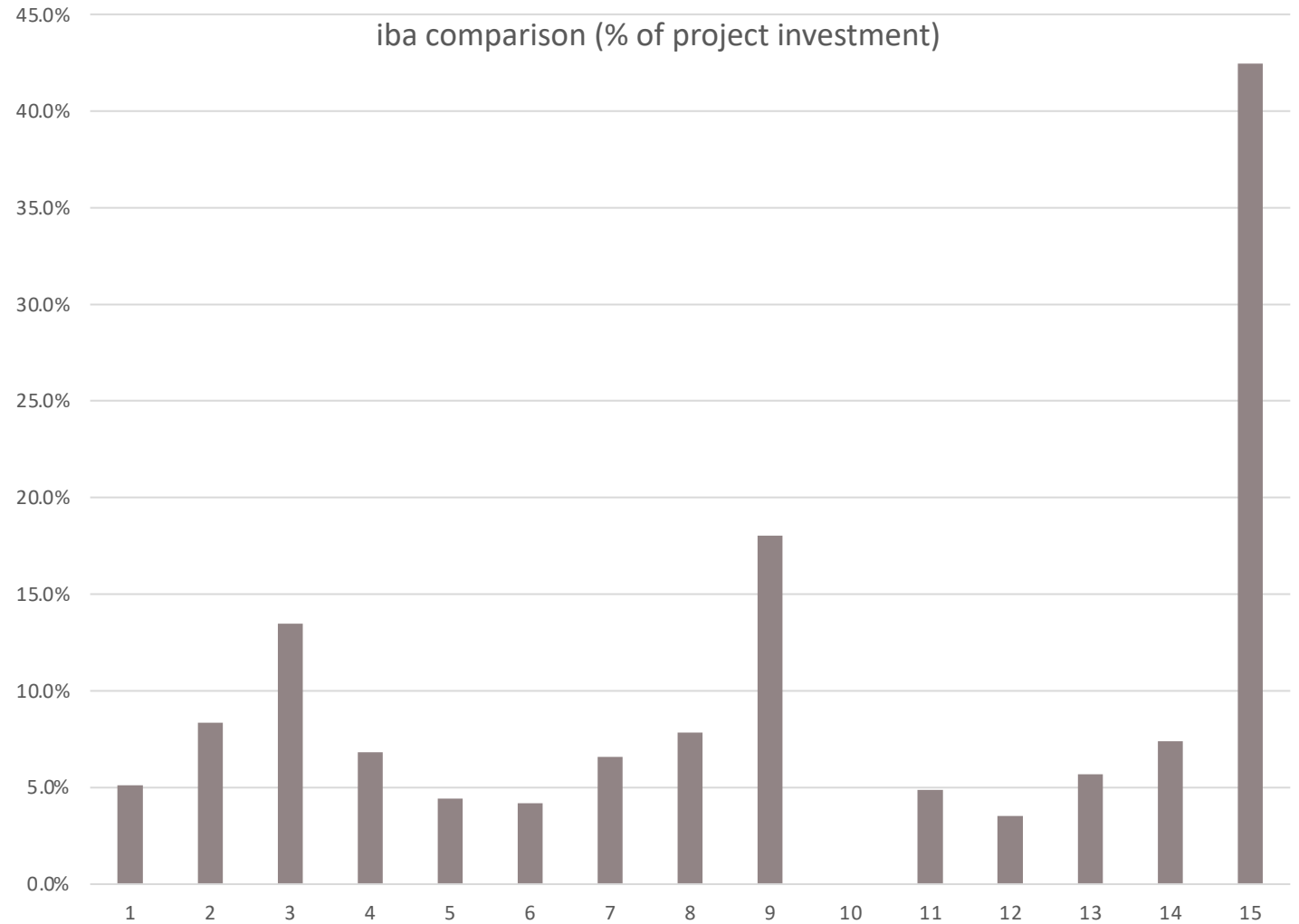


IBA Challenges

1. Defining objectives
2. Assessing trade-offs
3. Limited information on other IBAs
4. Limited information on projects
5. Inequality in bargaining power



IBA Fiscal Benefit Comparison (% of project costs)



Steps in Pre-negotiation and Negotiation Phases



Model Project Economics

Component	Year 1 Millions of \$	Year 2 Millions of \$	Year 3...30 Millions of \$
Capital Cost	500	500	
Operating Cost			100
Revenue			250
Private Net Cash Flow	(500)	(500)	150
Government Tax Benefit	10	10	15
Private Net Benefit (Rent)	400		
Government Net Benefit (Tax)	150		

Benchmarking: Categorize Benefits

Fiscal Benefits

Cash payments from project to community

1. Milestone

- Signing
- Project approval
- Project Start
- Project Completion

2. Project Operation

- Annual/quarterly

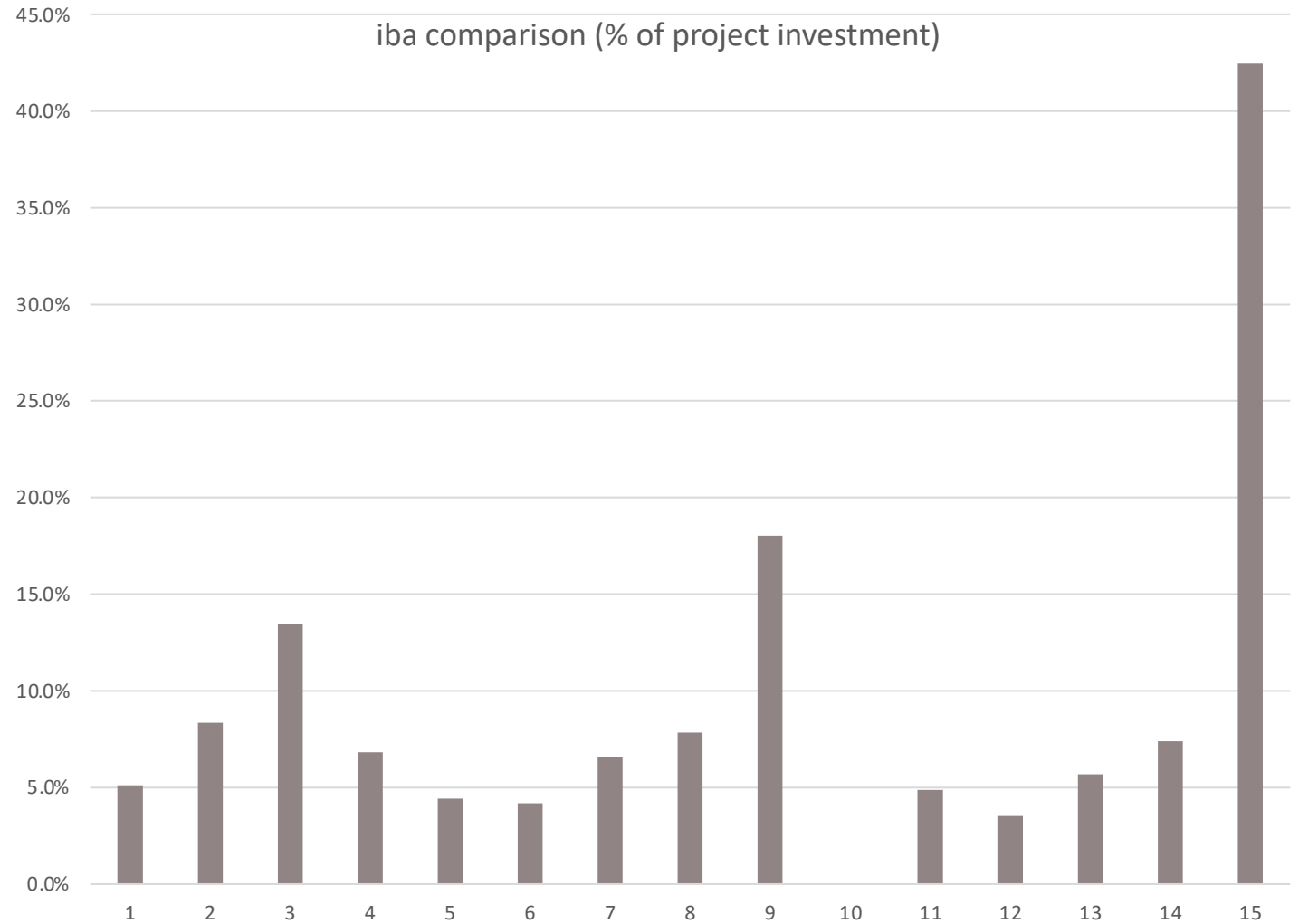
Non-Fiscal Benefits

1. Local Hiring
2. Local Purchasing
3. Monitoring and Enforcement
4. Project Induced Infrastructure and Services
5. Impact Mitigation

Benchmark Fiscal Benefits

Project	Year 1 Fiscal Benefits (milestone)	Year 2-x Fiscal Benefits (annual)	Total Fiscal Benefits Net Present Value (million \$)	Capital Cost	Net Present Value To Capital Cost Ratio
IBA (Coastal Gas Link)	\$1,500	\$ 10,000	\$ 250	\$ 6,600	3.8%
IBA (West Coast Connector)					3.1%
IBA (Raglan Mine)					12.4%
Proposed Project					2.3%

IBA Fiscal Benefit Benchmark Comparison (% of project costs)



Benchmark Non-Fiscal Benefits

	Local Hiring (% of total)	Local Purchasing (% of total)	Mitigation Measures	Monitoring/ Enforcement	Decision Making Provisions
IBA (Coastal Gas Link)					
IBA (West Coast Connector)					
IBA 3 (Raglan Mine)					
IBA 4(Mary River)					

Review Fiscal Options

Fiscal instrument	Description
Production-sharing and service contracts	Contractual arrangements in which project developer extracts the resource on behalf of the community. Community receives physical commodity (production-sharing contract) or cash (service contract).
Joint venture	Community invests capital into project, becomes part owner and receives share of project revenue.
Fixed payments	Direct cash payments from project developer to community occurring at pre-specified milestones.
Cash bonus bidding	Prospective project developers bid on the rights to develop resource (likely up to their estimated net present value of the project). Community paid by highest bidder.
Volumetric royalty	Payments to community based on project production (e.g. \$/oz of gold).

Alternative Fiscal Instruments

Fiscal instrument	Description
Ad valorem royalty	Payments to community based on a percentage rate of the economic value of resource.
Net income royalty	Payments to community based on a percentage of net income of project.
Property tax and Lease fee	Payments to community based on estimated value of land.
Rate of return royalty (profit-based)	Payments to community based on a percentage of economic rent of project (Net income minus developer's return on investment).
Hybrid regime (fixed payments, ad valorem royalty, and profit-based royalty)	Combination of three fiscal instruments.

Evaluation- Summary Table

Fiscal Instrument	Evaluation Criteria				
	Revenue Generation	Administrative complexity	Neutrality	Income Stability	Decision-making Power
Production-sharing and Service Contracts	Yellow	Red	Yellow	Red	Yellow
Joint venture	Yellow	Red	Green	Yellow	Green
Fixed payments	Yellow	Green	Yellow	Yellow	Red
Cash bonus bidding	Green	Yellow	Green	Yellow	Red
Volumetric royalty	Yellow	Green	Red	Green	Red
Ad valorem royalty	Yellow	Green	Red	Green	Red
Net income royalty (profit-based)	Yellow	Yellow	Yellow	Red	Red
Property tax	Red	Green	Yellow	Green	Red
Lease fee	Red	Green	Yellow	Green	Red
Rate of return royalty (profit-based)	Green	Yellow	Green	Red	Red
Hybrid Regime (Fixed payments, ad valorem royalty, and profit-based royalty)	Green	Yellow	Yellow	Green	Red

Performance:  Good  Satisfactory  Poor

Case Study Illustration

- Base base metal mine
- Model mine financials
- Build scenarios



Model Project Economics

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Evaluation Results- Revenue Generation

- 1 Fixed payments
- 2 Ad valorem royalty
- 3 Volumetric royalty
- 4 Profit-based royalty (rate of return)
- 5 Fixed payments and ad valorem
- 6 Fixed payments, ad valorem, and profit-based
- 7 Joint venture

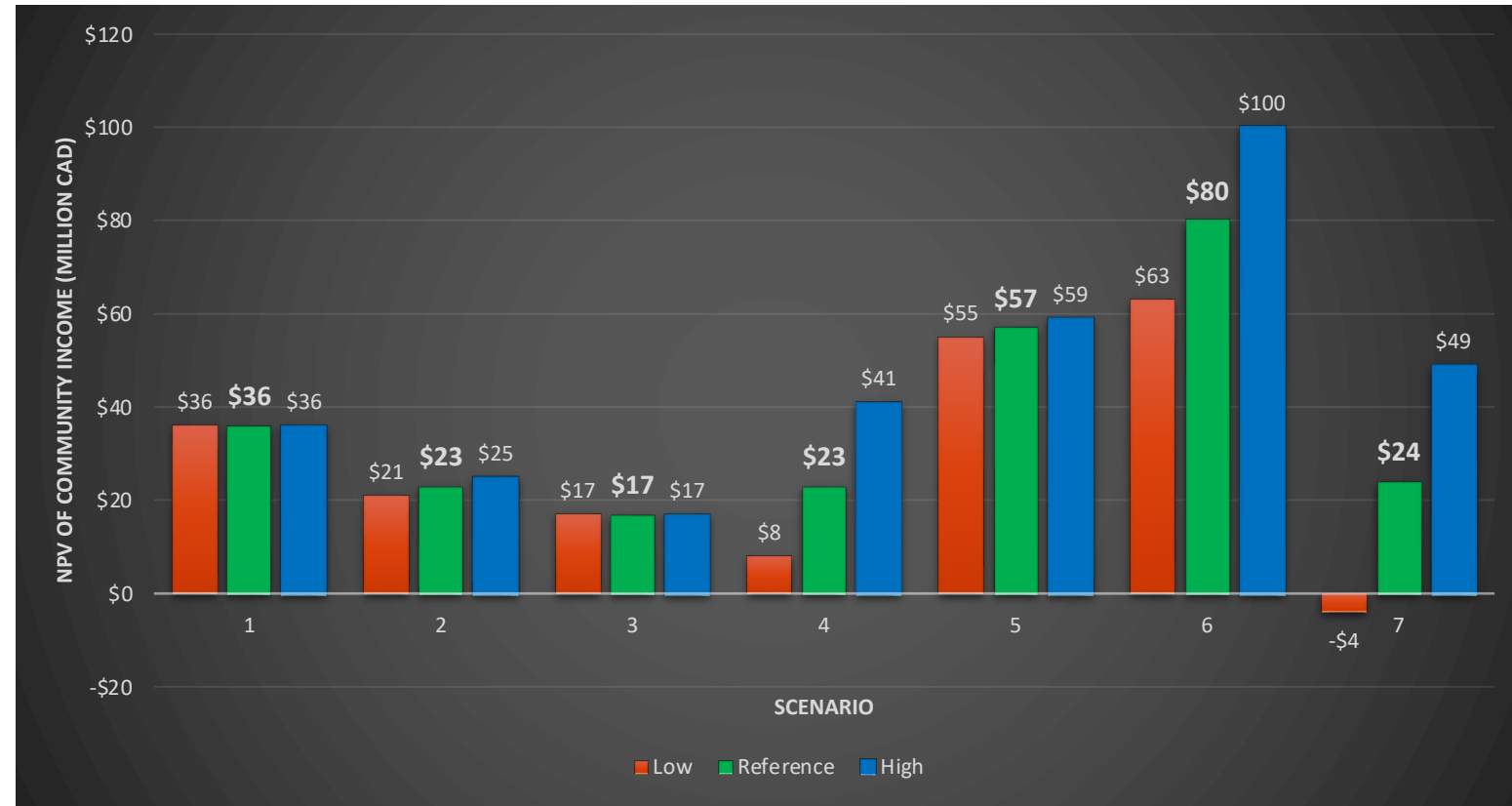


Figure 1. NPV of community income under each IBA scenario (2018 Can \$)

Evaluation Results- Revenue Generation

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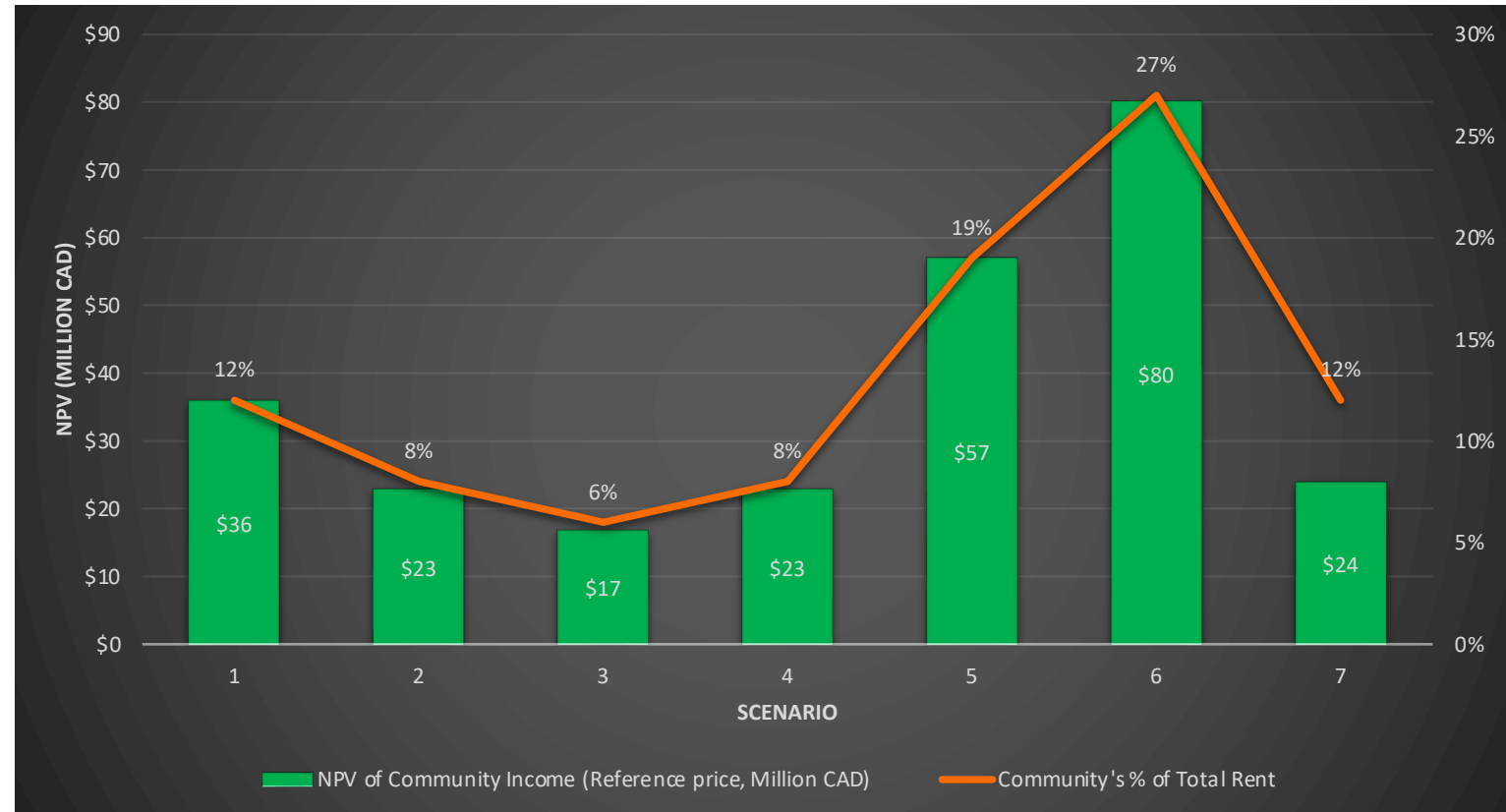
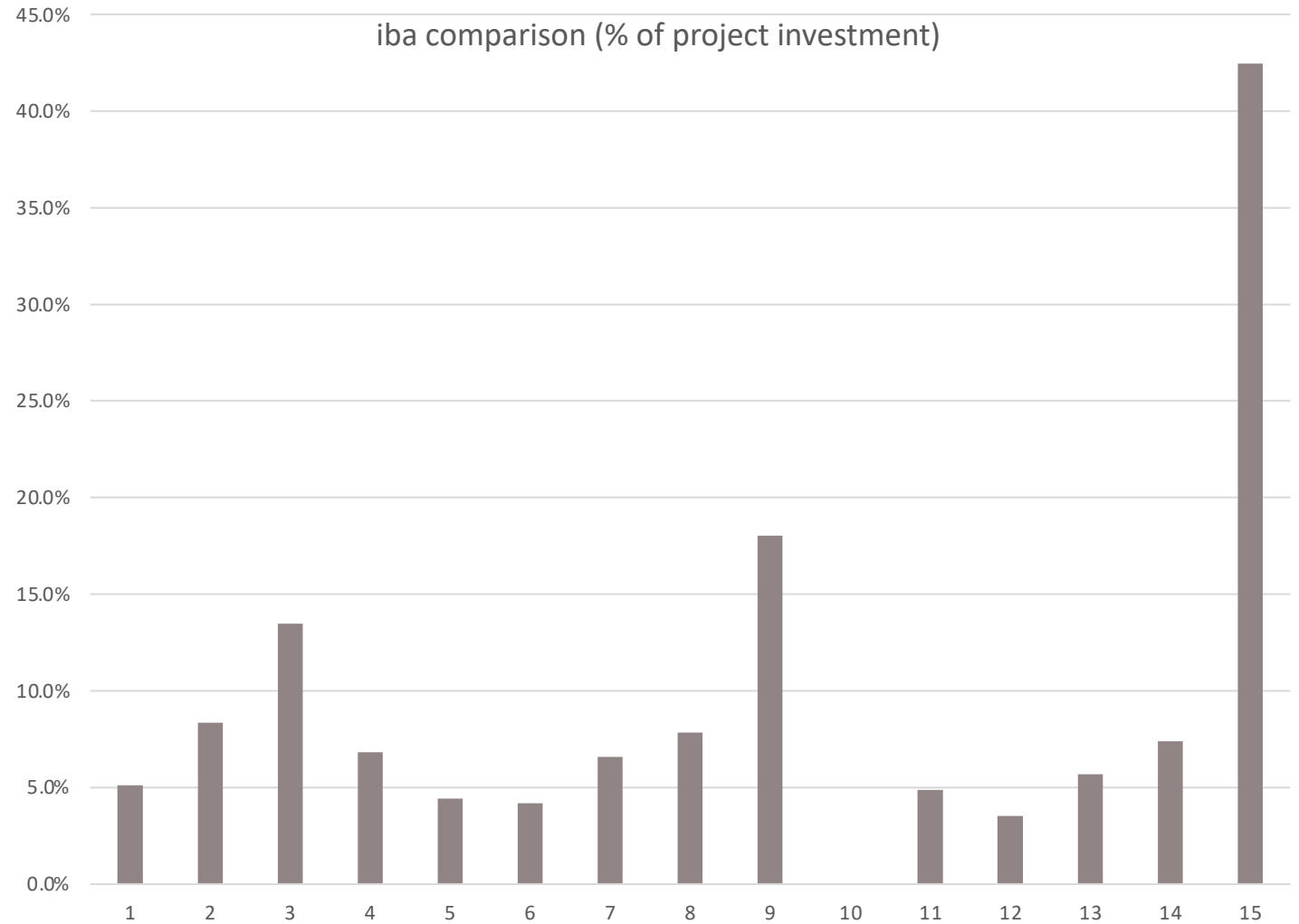


Figure 2. Community NPV and percentage of total rent under each IBA scenario

IBA Fiscal Benefit Benchmark Comparison (% of project costs)



Community Benefit Analysis

Community Benefit Type	Benefit to Community (NPV \$)	Indicator Ratio	Result	bench mark
Private Cash payment	\$36	% of project net benefit	12.2%	4-12%
Government Cash payment	\$36	% of government tax benefit	24%	
Total Cash payment	\$72	% of capital cost	14%	
Employment	\$68	% of total wages paid	10%	
Local purchases	\$22	% of total purchases	6%	
Infrastructure	\$7	% of project net benefit	2.4%	

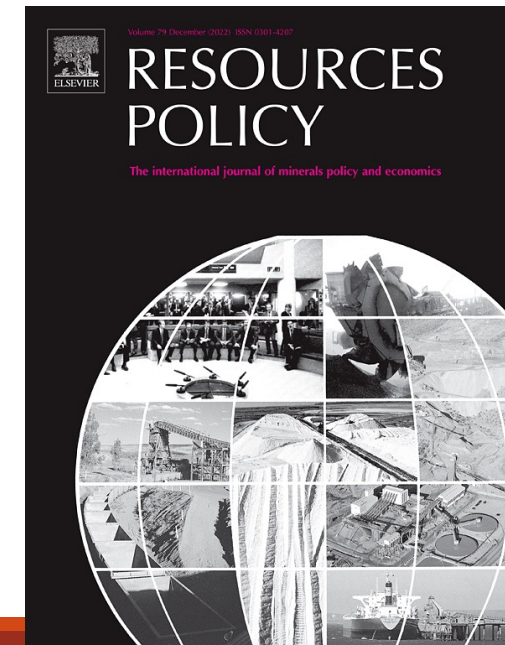
Conclusions

1. Large variation in IBA agreements
2. IBAs have not been very successfully in maximizing community benefits
3. Need to strengthen IBA negotiations
4. We have tools to achieve better outcomes

Thank you- Questions

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website: <http://www.sfu.ca/rem/planning/research/IBA.html>



Recommendations

1. Set community objectives
2. Community impact assessment
3. Model Project finances and government tax benefits
4. Benchmark IBAs
5. Model and evaluate IBA options
6. Maximize front end milestone payments vs annual payments
7. Use combination of fixed payments and profit based payments to adjust to changing economics
8. Improve collaboration among communities

Outline

Objectives of IBAs

Challenges

Existing Agreements

Steps in Analysis

Conclusions and Guidelines

Steps in IBA Negotiation Process

Step 1. Pre-negotiation

- Build relationship with developer (sign precursor agreement)
- Build community capacity
- Meet internally with community to establish goals and needs



Step 2. Negotiation

- Establish fiscal regime to secure monetary benefits
- Establish non-monetary benefits
- Finalize and approve legally-binding IBA



Step 3. Implementation

- Collect benefits from resource project and mitigate adverse impacts
- Monitor IBA performance
- Adjust IBA if needed



Step 4. Conclusion

- Ensure IBA benefits last
- Evaluate performance of IBA to inform future agreements

Evaluative Criteria for Fiscal Instruments

1. Maximize revenue generation for community
2. Minimize administrative complexity of fiscal regime
3. Ensure neutrality of impact on project investment and production decisions
4. Maximize revenue stability for community
5. Provide community decision-making power