



FIRST
NATIONS

BC Business and
First Nations at
the Sustaining
Table

WHAT TO
BRING AND
WHAT TO DO



SUMMARY
RESEARCH
BRIEF

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BC Business and First Nations at the Sustaining Table

What to Bring and What to Do

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SUMMARY RESEARCH BRIEF

BC Business and First Nations

AT THE SUSTAINING TABLE

INTRODUCTION

The history of early engagement between British Columbia's First Nations and the descendents of European settlers is another of history's duality accounts of one people's development at the cost of another's destruction. Rather than recounting the near extinguishment of many complex, highly developed cultures in little more than one hundred years by colonists in pursuit of land, conquest and wealth, we devote this space to reviewing the results of interviews conducted with five experts on the current status of forward-looking efforts to engage First Nations in sustainable, working relationships with BC industry. We believe that these encouraging accounts of early progress provide insights that can be applied building new relationships.

Based on the recommendations of subject-matter experts, we interviewed two people who provided an overview of the First Nations perspective. One is Tawney Lem, a First Nations policy development consultant in the areas of governance and land use. Her practice is focused on building better relationships among First Nations, government and industry. The other is Dallas Smith, son of Hereditary Chief of the Tlowitsis Nation. Smith is Chairman of Kwakwaka'wakw District Council Musgamawg Tsawataineuk Tribal Council, and Chairman of the First Nations Forum.

From industry, we interviewed three key representatives who have been directly involved in building relationships with First Nations: Anne Giardini,

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Assistant General Counsel, and Paul Perkins, Vice President of Policy and Planning, of Weyerhaeuser Company Limited, and Marco Romero, President and CEO of Eagle Rock Materials Ltd.

This document presents insights and principles derived from those interviews. These are organized around two themes:

- A. What to bring to the table – perspective, preparation and purpose; and,
- B. What to do when you get there – communication, transparency and collaboration.

The “Sustaining Table” is a broad metaphor, intended to encompass a range of possible contexts and levels of discussion, not necessarily formal negotiation. The core concept is that all the parties bring value (financial and non-financial) to the table, and invest that value in building relationships and enterprises based on the sincere pursuit of mutual benefit.

A. WHAT TO BRING TO THE TABLE – PERSPECTIVE, PREPARATION AND PURPOSE

1) Perspective

- a) It is important for industry to bring genuine respect for the perspective and position of the First Nations with which it is dealing.

Industry needs to accept that First Nations have claims to their ancestral lands in the nature of unextinguished aboriginal rights and title, and build from there.

Anne Giardini and Paul Perkins:

Environment – The vision [for engagement] is different within First Nations than it is within industry; it is about getting more involved with each other to understand each other’s priorities. In terms of cultural differences, First Nations have a much more preservationist perspective. This may be due to unresolved treaty issues. They want to keep the land as untouched as possible, so when the treaties are resolved the land is as intact as possible.

- b) Industry needs to accept that First Nations have claims to their ancestral lands in the nature of unextinguished aboriginal rights and title, and build from there. Land claims and treaty negotiations have been, and will continue to be, slow and uncertain. Those who wait for more judicial and legislative clarity abandon the field to those already prepared to commit to moving forward.

The provincial government has made its own commitment very clear, taking strong First Nation positions in both forestry and oil and gas. In announcing its “Results-based Code” of sweeping regulatory reform in the forestry sector, the BC government declared its intention to legislate the reallocation of about 20% of long-term timber leases, roughly half of which will go “to new entrants, including First Nations and operators of woodlots and community forests. As well as increased access to timber, First Nations will be offered revenue-sharing to accommodate their interests and create a more certain investment climate until their land claims can be settled.”

Among the conditions required for any development of offshore oil and gas reserve. BC’s energy plan notes that “[t]he Province will also need to work with coastal communities and First Nations to ensure that benefits accrue to the areas where activity occurs.”

Both industry and First Nations must bring, be given credit for, and commit to real value.

Marco Romero:

Starting from a belief that BC’s First Nations have unextinguished aboriginal rights within their traditional territories, right from the start we chose to work closely with them in the evaluation and planning of our two proposed quarry developments. We ultimately elected to become partners, working closely in an open and transparent environment, sharing the risks and rewards of creating a major new business enterprise.

c) Both industry and First Nations must bring, be given credit for, and commit to real value. The context is fundamentally a business agreement for mutual investment of capital in joint enterprise for mutual gain. Even if First Nations cannot or will not match industry’s financial investment, both parties must contribute tangible value or “consideration” to the bargain – for binding contractual commitment, and for psychological commitment.

Anne Giardini and Paul Perkins:

Both partners need to bring an equal amount of capital to the table; both parties need to have something at stake.

d) Industry has to be committed to the huge investment in intellectual capital, emotional energy, and management time required to bridge cultural differences when dealing with First Nations.

Marco Romero:

First Nations communities have a strong sense of the collective. Sharing is an important part of being a community member. Decisions were always taken with consideration for the collective good. To achieve this, we worked principally with each community's elected chief and council, and with their hereditary chiefs, but we made ourselves readily accessible to all members of the community. Special efforts were made to maintain a dialogue with all those who made traditional use of our project area, including fishers, hunters and gatherers.

Much of the challenge revolved around achieving a cross-cultural understanding. It took huge amounts of management time, as the process of achieving trust and understanding was sometimes slow on both sides.

Relationship building and maintenance is an important element of doing business with First Nations, and it requires on-going effort.

Anne Giardini and Paul Perkins:

These types of projects take a huge amount of intellectual capital and it's very easy to underestimate the time and energy required to implement them. It is an ongoing commitment.

The business reality is such that the resources and intellectual capital would be well used in other areas of the company.

2. Preparation

a) Industry must be prepared to invest money and effort – more than a particular deal may be worth on paper – in building First Nations capacity and confidence. Relationship building and maintenance is an important element of doing business with First Nations, and it requires on-going effort.

Marco Romero:

Technical capacity and knowledge of our business was often low. Distrust and lack of self-confidence were sometimes high. We broke through some of these barriers by insisting that they hire independent expert advisors, at our expense. This worked well, but the cost was relatively high. Doing

business with First Nations is not cheap and I suspect many smaller businesses will find it prohibitively so. Perhaps with time, and as capacity and entrepreneurial experience grows, it will become easier and cheaper.

b) Consultation requires more attention than in non-First Nations business. Being committed to and prepared for such intensive and on-going communication is very important to building trust, an essential element of First Nations engagement.

Tawney Lem:

Economic interests and historical ties to the land can form contracts. A very good way for a company to acknowledge First Nations' place on the land is by economic contracts.

Capacity is another benefit (teaching First Nations about reviewing forest development plans, getting them to understand forest operations, map reading and so on), helping First Nations to understand the business and be able to make informed judgements.

Being committed to and prepared for such intensive and on-going communication is very important to building trust, an essential element of First Nations engagement.

Marco Romero:

The cost of not meeting society's expectations on how business should meet rising social and environmental standards can be very punitive. The cost of distrust and misunderstandings can be just as bad. Delays can seriously harm, if not kill a project like ours. By taking our time and putting the effort up front, we materially improved our chances of success and shortened the overall timetable by avoiding problems. It can be summed-up to "an ounce of prevention is worth a pound of cure."

Anne Giardini and Paul Perkins:

We have very formal communication strategies to share information about plans that directly affect First Nations communities, and we share those with chiefs and leaders way ahead of time. We involve First Nations right from the beginning at planning stages.

We are legislated to share information – but we go way beyond the scope of what is required. This also applies to operations on crown lands. We have a commitment to address concerns as they arise.

c) Industry must understand that there is no template for approaching First Nations. Each community, location and situation is unique; the company needs to be prepared to work exhaustively to learn the nuances of the particular First Nation community's needs and values.

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Marco Romero:

We witnessed a project in western Canada where a company only paid lip service to consultation and made all their plans without including the input of the local First Nation community. This resulted in a great deal of distrust by the local First Nations and, ultimately, in an absolute rejection of the project.

While we believe that good communication and effective consultation are key elements, our transparent and highly pro-active approach does not constitute a one-size fits all solution. Sometimes it goes against the grain of more autocratic leadership styles. We have encountered First Nation leaders that do not want to be engaged in such dialogue. Consultation is a two-way street.

Tawney Lem:

Every First Nations is different and every area is different – thinking you can come into a negotiation with a template just doesn't work.

First Nations wants to know that when you come in the door the agenda is open. They don't want a set agenda that a template gives. As such, there can be a lack of consistency for industry.

3. Purpose

a) Industry needs to have a very clear vision of what it wants to accomplish going into a First Nations project; the standard economic metrics won't measure the effort required to establish local support and involvement. Long-term thinking and a broad perspective of value is needed to justify the front-end investment and effort required.

Marco Romero:

We wanted to maximize local content and benefits in our business plan. We were entering the territory of the Nuu-chah-nulth tribes. We believed it made great sense to try working with them. We were blessed by their receptiveness to our approach and plan. We gave it a real chance and it worked.

We have focused our efforts on achieving good communication and on supporting First Nations' desire to develop the internal capacity to deal with the complex technical, commercial, legal and political effects of this project. Once both sides were able to discuss knowledgeably about the project's impacts and benefits, we were able to address ways to achieve a sustainable balance.

b) Experience is the price of knowledge. First Nations tend to focus on holistic and situational elements, while business tends to focus on overriding goals and objectives. Each perspective gains skill and sensitivity from “on-the-ground” work with the other. Industry (especially leaders at the front of the sustainability wave) must look at participation in some First Nations projects as “lab time”, gaining knowledge without short-term economic return. Once acquired, such knowledge and sensitivity have enduring value, opening the door to opportunities for sharing knowledge and sensitivity as marketable expertise. First Nations need to learn to see that such value is embedded in their experience and knowledge, too.

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Anne Giardini and Paul Perkins:

A noteworthy case study is Iisaak Forest Resources Limited. This project was the result of a significant conflict. It's an interesting working example, but not as a stand alone model, because it is not economically sustainable. It's been very successful as an information sharing experience, in terms of meeting the social and ecologic goals. But, looking at the three pillars of sustainability [environmental, social and economic], this project is not viable as the costs are very high.

In terms of the Iisaak area, ecotourism may be a good alternate to make up for the economic loss, but that model is not applicable to all of BC.

The seed capital came in from Weyerhaeuser (MacMillan Bloedel at the time); First Nations brought their willingness to participate (but no money). This project is a crucible for testing the market for sustainably forested products. We have discovered that the market is willing to place very little premium on sustainably forested products.

B. WHAT TO DO WHEN YOU GET THERE – COMMUNICATION, TRANSPARENCY AND COLLABORATION

1. Communication

a) Formalize the commitment and protocol for communication. “Hardwire the company’s DNA” for automatic transparency. There will be less temptation to withhold damaging information in a crisis, and greater inclination to continue to share information even when personalities clash.

Anne Giardini and Paul Perkins:

We have very formal communication strategies to share information about plans that directly impact First Nations communities and we share those with chiefs and band leaders way ahead of time. Involve First Nations right from the beginning planning stages.

We are legislated to share information – but we go way beyond the scope of what is legislated. This applied to operations on crown lands.

b) Communication is connecting with people at a personal level. This requires far more time and energy than sending out a press release from time to time. Building real rapport lies at the heart of relationship-based communication: that means really getting to know one another, meeting families and spouses and understanding what is truly important to the other.

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lies at the heart of
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Marco Romero:

Direct, face-to-face communications are always best, especially if one can make use of visual aids such as maps, photographs, illustrations and videos. We also ensure that all our team members, contractors and consultants made a strong effort to learn about each First Nation’s history, culture and even their language. We walked in the forest and on beaches with them; we shared meals and attended cultural gatherings, such as potlatches and canoe gatherings; we fished with them, and we created opportunities for all of us to get to know each other as people. They met our spouses and children. We spent time with theirs. We made sure it wasn’t always business that brought us together. Sometimes, we just had fun just being together.

c) Remember that this is still business. Communicate the elements of the transaction being negotiated with clarity, patience and precision. Spell out expectations and commitments clearly and frequently. Be very careful about assurances and warranties: specify when you make them and specify when you don't. For example, if there is any chance that an unintended fiduciary duty might be inferred from actions or words, disclaim in writing.

Anne Giardini and Paul Perkins:

Use the same principles as in any partnership. In terms of First Nations, it is "communicate, communicate, communicate." Communicate early and often. Over-communicate your expectations; make goals very clear so that they understand beyond language barriers.

If there is conflict and disagreement, at least the company can be known as one that was transparent and came forward with information openly.

2. Transparency

a) Both industry and First Nations need to define their commitment to communicate openly and with integrity. Articulate this commitment through policy to give direction to decision-makers. Otherwise, communication itself becomes a strategic and situational tool, rendering the integrity of information and the organization vulnerable to the personal weaknesses and pressures of individuals.

Integrity is the core value underlying transparency: deaf to criticism and blind to the optical illusions that stress can cause.

Dallas Smith:

Patience. Transparency. Honesty. The three most vital components [to building relationships with First Nations].

Patience – the ability to empathise with the fact that First Nations don't make snap decisions and there are a lot of internal decisions made. [Also understanding] there are a lot of problems in the communities, such as elective vs. hereditary governance

Transparency – First Nations need to have all the facts to make good decisions and discussions. All the cards have to be on the table; for example, if you are asking about area A but want to go into area B in

the future, that needs to be said. Every detail about economics, job creation, where the labour force is coming from, apprenticeships, and anything else that is relevant. They need to know exactly what you want and what you can offer. First Nations take people at their word. Paper is respected, but the tradition is the spoken word. Weyerhaeuser and BC Hydro are two companies that have been getting better in their First Nations engagement and involvement. We learn from them and they learn from us.

3. Collaboration

a) This concept means much more than organizational damage control, or public relations to get through a crisis. This is at the heart of the cultural connection First Nations engagement requires for lasting success. The relationship is the end unto itself; it needs to be nourished with communication, involvement and genuine care before and after the situation requiring rapport arises.

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Marco Romero:

I believe that our company [Eagle Rock Materials Ltd.] has created a new model for private sector-First Nation cooperation in BC. We have achieved this by engaging our partners in meaningful consultation, and by allowing them to clearly understand the potential impacts and benefits of the project, all while giving them the opportunity to work side by side with us at every step. We have also provided them an opportunity to become actively involved in the project as equity holders that share in the risks, rewards, decisions and responsibilities that we must face as owners of an emerging business.

b) In dealing with First Nations organizations, engage with the full leadership group, strategically and with restraint, regardless of the level of rapport you may have with the ultimate leader. Build real relationships with other members of the leadership group, and deliberately go to them with smaller problems that need solutions; building their confidence and saving the leader's strength for when it is really needed.

Anne Giardini and Paul Perkins:

Look for the leaders; there needs to be strong leadership within First Nations communities. Once you find these leaders, you need to be strategic in what you communicate with them, because these leaders are often beleaguered with many other important issues. Pick the right people to talk to within the band and community.

CONCLUSION

We approached the topic of this brief with some trepidation. The atmosphere surrounding the issues of aboriginal title and land claims is thick with the dust raised by a century of recrimination. From the air it was difficult to see any road between the communities. However on the ground, the air is clearer. There is a road, under construction and already being travelled, shared by the working people commuting between the communities every day. The five first-hand accounts reviewed in this brief demonstrate early progress, and hold promise for the continuing development of positive and effective relationships between First Nations and industry.

**There is a road, under construction
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by the working people commuting
between the communities every day.**

BIBLIOGRAPHY

BC Ministry of Energy and Mines (2002)
Energy for our Future: A Plan for BC
www.gov.bc.ca/em/popt/energyplan

BC Ministry of Forests (2002)
The Forest Revitalization Plan
www.for.gov.bc.ca/mof/plan

Giardini, A. (2003) Personal Communication

Lem, T. (2003) Personal Communication

Perkins, P. (2003) Personal Communication

Romero, M. (2003) Personal Communication

Smith, D. (2003) Personal Communication

BC Business and First Nations at the Sustaining Table: What to Bring and What to Do is based on interviews conducted with five experts on the current status of forward-looking efforts to engage First Nations in sustainable, working relationships with BC industry. While we are recognizing certain companies' best practice initiatives, this document is not an endorsement of these companies as a whole.

For more information please contact CBSR at 604-323-2714 or info@cbsr.ca



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