

Aboriginal Participation in Major Resources
Development Projects: Community Readiness

Prince George Roundtable

DRAFT SUMMARY REPORT
JULY 2012



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The Public Policy Forum is an independent, not-for-profit organization dedicated to improving the quality of government in Canada through enhanced dialogue among the public, private and voluntary sectors. The Forum's members, drawn from business, federal, provincial and territorial governments, the voluntary sector and organized labour, share a belief that an efficient and effective public service is important in ensuring Canada's competitiveness abroad and quality of life at home.

Established in 1987, the Forum has earned a reputation as a trusted, nonpartisan facilitator, capable of bringing together a wide range of stakeholders in productive dialogue. Its research program provides a neutral base to inform collective decision making. By promoting information sharing and greater links between governments and other sectors, the Forum helps ensure public policy in our country is dynamic, coordinated and responsive to future challenges and opportunities.

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Thank you to our partner:



Aboriginal Affairs and
Northern Development Canada

Affaires autochtones et
Développement du Nord Canada

Introduction

On June 27th, 2012 Canada's Public Policy Forum convened a roundtable in partnership with Aboriginal Affairs and Northern Development Canada, in collaboration with Natural Resources Canada and Human Resources and Skills Development Canada, dedicated to exploring issues of community readiness in the context of Aboriginal participation in major resources development opportunities. This roundtable is one of a series of regional discussions being convened this spring and summer across Canada, engaging senior leaders from Canada's Aboriginal communities, the natural resources sector and governments. To date, roundtables have been convened in Ottawa (May 22nd) and Calgary (June 8th).

The Prince George luncheon roundtable was moderated by Paul Ledwell, Executive Vice-President of the Public Policy Forum. Elder Minnie Bjorklund offered a prayer of best wishes and a formal welcome from the L'heidl T'enneh First Nation.

A research paper prepared by Aboriginal Affairs and Northern Development Canada, providing context for the discussion (copy attached), was shared in advance with participants.

Dr. George Iwama, President and Vice-Chancellor of the University of Northern British Columbia welcomed participants to the UNBC campus and offered remarks on the importance of community partnerships to realize opportunities for success in resource development opportunities. He also noted that community partnerships lie at the heart of the development of UNBC.

Patrick Borbey, President of the Canadian Northern Economic Development Agency spoke of the potential to improve the lives of Aboriginal peoples and all Canadians through collaborative action between Aboriginal communities, the private sector, governments and community organizations. He provided an overview of some of the key priorities of the Government of Canada, and highlighted a number of success stories, such as the Makivik corporation in Kuujuaq or the Diavik Mine in Northwest Territories, that offer examples of best practices and promising approaches to this issue.

Janine North, CEO of the Northern Development Initiative Trust spoke of the importance of shared value and partnerships to create the conditions for successful collaboration between communities, the private sector, and governments, and outlined some of the conditions which have led to success on particular projects.

Harold Calla, Chairman of the First Nations Financial Management Board Advisory Panel and Negotiator, Surveyor of Taxation, Squamish Nation, provided remarks highlighting the need to understand the interests of Aboriginal communities, which can be described as the integrity of their territories, their desire for sustainable communities and their collective responsibility to future generations.

Allan Clarke, Director General, Aboriginal Affairs and Northern Development Canada provided summary remarks at the close of the discussion.

A complete list of roundtable participants and the meeting agenda is included as an appendix to this report. This meeting was convened under the *Public Policy Forum Rule*, whereby comments are made on a not-for-attribution basis.

Overview of Themes

Engagement

At the outset of the discussion, reference was made to the words of Chief Justice Antonio Lamer, in the Delgamuukw decision: “we are all here to stay.” In recognition of this notion of joint responsibility and opportunity, participants spoke of the need for genuine, collaborative engagement and consultation processes to develop common goals and a mutual appreciation for diverse perspectives.

A key issue in this area relates to consultation and accommodation, for which governments have responsibility but which increasingly involves the private sector as well. One participant noted that accommodation is not about extinguishing the concerns of one party; it’s about finding common ground among all stakeholders. It was underlined that where consultation is the process, accommodation is the substance, and each needs to be understood by what it promises to deliver.

It was suggested that developing protocols for consultation and accommodation could help create processes that provide for more effective and constructive engagement processes in order to drive deeper understanding of a community’s concerns. It was also noted that there is a need for more support for engagement and some participants suggested that this falls under the responsibility of the federal government.

A number of participants also expressed concerns about the implementation of Bill C-38: *The Jobs, Growth and Long-Term Prosperity Act*, and the view that this moves away from the principle of effective engagement. It was noted by some participants that the process of implementation should reflect the themes raised throughout the roundtable, and some concern was expressed that based on both current activities and historical legacies, this may not currently be the case.

Co-ordination and Collaboration

Another issue discussed during the roundtable was the need for better alignment of objectives, especially among government departments and different levels of government (including federal, provincial/territorial, Aboriginal and municipal governments.) Participants noted that at times the actions of governments are impeded by a lack of coordination among departments, and that efforts should be made to ensure departments are working together strategically, rather than simply looking to manage risks. Given the size of government investments in program delivery, it was also noted that this funding could be better leveraged through collaboration, which could ensure that services are streamlined and duplication of activities is avoided.

Participants also noted that collaboration between governments and the private sector could be improved. Sharing expertise and information between the two sectors might offer the opportunity to strengthen existing programs, may help spur the development of more collaborative initiatives, and would serve to increase the speed of what are seen to be excessively deliberative processes in government. One way to do so could be to increase transparency and communication measures surrounding programs. It was also noted that relationship-building activities between the two sectors could be an important way to enhance their collaborative capacity.

Capacity

Capacity issues relating to Aboriginal negotiation skills, entrepreneurship, and relationship-building were noted by participants. One specific suggestion was the need to develop business capacity and acumen in order to grow entrepreneurship and a culture of business among Aboriginal communities. It was also suggested that the private sector has capacity issues, related to the development and management of relationships with Aboriginal communities.

Reference was made to the development of Impact and Benefits Agreements (IBAs) and the role of negotiation skills within Aboriginal communities, who may at times lack the relative capabilities to engage in discussions with major private sector organizations. It was suggested that developing standardized IBAs, or facilitating knowledge transfer from communities who have undergone this process, could be a way to increase the capacity for negotiation and engagement among First Nations communities.

Another suggested way to increase capacity for negotiation is through the development of Aboriginal institutions. Such organizations could help act as hubs for knowledge transfer, information-sharing and the development of best practices. It was noted that a number of organizations have been created, but some struggle for financial support. The development of “resource teams,” which would draw together Aboriginal legal and financial experts with significant experience in the development and negotiation of Impact and Benefits Agreements, was another suggested way to provide expertise to Aboriginal communities.

There is also a need to develop a better understanding within Aboriginal communities of what major resource development opportunities would entail, in terms of land use. Participants discussed the role of comprehensive community planning in setting the foundation for engagement at a local level when major resource development opportunities arise. This is another specific area in which Aboriginal institutions, or individual Aboriginal communities, could help to facilitate knowledge transfer.

Finally, participants discussed the role of the private sector in promoting capacity building and noted the potential for linking these objectives to corporate social responsibility initiatives.

Access to Capital

It was noted that a significant barrier to greater Aboriginal participation in major resources development opportunities is the limited access to capital among Aboriginal communities. Lack of capital has the impact of limiting the instances of Aboriginal equity shares in projects, with the alternative outcome likely to be resource revenue sharing. From a private sector perspective, it was noted that equity stakes are negotiated on a case by case basis, but there is no current consensus on offering Aboriginal communities an equity stake in projects.

One suggested way to improve access to capital is through the use of a sovereign guarantee on debt acquired for Aboriginal participation in major resource development opportunities. This could be a way for the Government of Canada to improve access to capital by sharing risk in these decisions. Other avenues, including option pricing, were raised as possible opportunities for increasing access to capital.

Legislative Barriers

Another barrier noted by participants is the ongoing impediment to business development perpetuated by the *Indian Act*. It was noted that the Act has at times had a stifling effect on the growth and development of entrepreneurship, particularly on reserve lands. Participants suggested that there is a need to reverse, renew, and revive the once-strong Aboriginal entrepreneurial spirit, and that addressing legislative and regulatory gaps would increase certainty for communities and the private sector.

It was also noted that there is a need to continue to reform reserve land management. For example, communities with direct control over their reserve lands under the *First Nations Land Management Act* were noted to have strong outcomes in this area, as noted by one participant.

Best Practices and Case Studies

During the discussion, some best practices, promising approaches, and opportunities for enhancing the capacity of Aboriginal communities were identified, including:

- The Raglan Agreement, an Impact and Benefits Agreement between Xstrata and the Makivik Corporation
- New Gold's New Afton resource revenue sharing agreement with the Stk'emlupsemc of the Secwepemc Nation, believed to be the first three-way agreement of its kind (between the BC government, New Gold, and Secwepemc Nation), which will deliver one-third of royalties from the mine to the Aboriginal community
- The Active Measures Program: The federal government is increasingly using an "active measures" approach to improve the social outcomes of Aboriginal people by moving people away from income support assistance to jobs. Many First Nations organizations are already implementing Active Measures on-reserve leveraging funds from different sources including AANDC, HRSDC, provinces, private sector and NGOs.
- Community awareness and engagement training session in the North, led by the Canadian Northern Economic Development Agency, to deliver information and increase awareness to Aboriginal communities about what participation in a major resource development opportunity entails.

Actionable Recommendations

- Develop protocols for consultation and accommodation to allow for greater transparency and predictability surrounding major resource development opportunities.
- Develop comprehensive community plans on reserves and among Aboriginal communities. In order to be able to engage in negotiations, Aboriginal communities should have an internally developed plan that articulates their goals and positions on issues of land use and development, so that they are prepared to seize economic opportunities.

- Facilitate knowledge transfer among Aboriginal communities. Both private sector participants and Aboriginal leaders noted that negotiation processes are often improved when proponents have another community to help them work through the process.
- Improve Aboriginal institutional capacity. This could include the development of new institutions, as well as the provision of resources for current institutions whose reach is limited. These organizations would be mandated to share best practices and expertise related to participation in major resource development opportunities, such as how to negotiate Impact and Benefits Agreements.
- Explore and experiment with the possibility of using a sovereign guarantee for Aboriginal communities interested in acquiring an equity stake or leadership position in major resource development opportunities.
- Improve collaboration between governments and the private sector. Improving the transparency around agreements and programs, as well as through relationship-building activities could be one way to facilitate this.

The issues and opportunities explored at this roundtable will help inform future thematic discussions as we continue to convene discussions across Canada. A final report will be available following these roundtable discussions:

August 21, 2012	Toronto, ON Theme: Financing Host: RBC
August 31, 2012	Yellowknife, NT Host: Diavik Mines

Appendix 1

Agenda

June 27, 2012

Senate Chambers
University of Northern British Columbia
3333 University Way
Prince George, BC

- 11:45 a.m. **Opening Prayer**
Elder Minnie Bjorklund, Lheidli T'enneh First Nation
- 12:00 p.m. **Welcome**
Paul Ledwell, Executive Vice President, Public Policy Forum
Dr. George Iwama, President and Vice-Chancellor, University of Northern British Columbia
- 12:10 **Tour de Table**
- 12:25 p.m. **Remarks**
- *Patrick Borbey, President, Canadian Northern Economic Development Agency*
 - *Janine North, CEO, Northern Development Initiative Trust*
 - *Harold Calla, Negotiator, Surveyor of Taxation, Squamish Nation*
- 12:40 p.m. **Roundtable Discussion**
- 2:15 p.m. **Summary Remarks**
Allan Clarke, Director General, Aboriginal Affairs and Northern Development Canada
- 2:30 p.m. **Adjourn**

Appendix 2

Participant List

June 27, 2012

Senate Chambers
University of Northern British Columbia
3333 University Way
Prince George, BC

Tim Bekhuys
Director of Environment and Sustainability
New Gold

Danielle Belanger
Senior Policy Manager
Aboriginal Affairs and Northern Development
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Lheidli T'enneh First Nation

Patrick Borbey
President
Canadian Northern Economic Development Agency

John Bowman
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Mary-Rose Brown
Research Associate
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Harold Calla
Negotiator, Surveyor of Taxation
Squamish Nation

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Provost
University of Northern BC

Al Dunlop
Manager of Sustainable Development for North
Eastern British Columbia
Shell

Bruce Falstead
Manager, First Nations Initiatives FortisBC

Shari Green
Mayor
City of Prince George

Steve Henderson
Manager, Community and Aboriginal Relations
Spectra Energy

Janet Holder
Executive Vice President, Western Access
Enbridge

Dr. George Iwama
President and Vice-Chancellor
University of Northern BC

Bob Joseph
President and CEO
National Aboriginal Energy and Power Association

Paul Ledwell
Executive Vice President
Public Policy Forum

Chief Martin Louie
Nadleh Whut'en First Nation

Eric Magnuson
Regional Director - BC
Aboriginal Affairs and Northern Development
Canada

Maggie Marsland
Acting Regional Manager - Omineca
Negotiations and Regional Operations Division BC
Ministry of Aboriginal Relations and Reconciliation

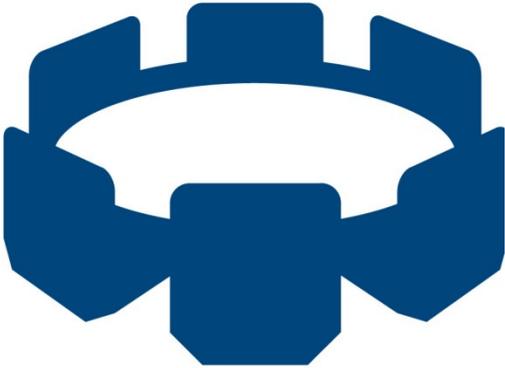
Trevor McLeod
Senior Energy Policy Advisor
Government of Alberta

Bruce Morin
Senior Program Manager
Prince George Nechako Aboriginal Employment and
Training Association

Janine North
Chief Executive Officer
Northern Development Initiative Trust

Dave Porter
President and CEO First Nations Energy and Mining
Council of BC

Vice Tribal Chief Terry Teegee
Carrier Sekani Tribal Council



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