

National Aboriginal Forestry Association

Institutional Approaches to Aboriginal Forestry

Conference Proceedings

Kelowna, BC

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Day 1

Introductions and opening prayer

NAFA Executive Director Lorraine Rekmans introduced Elder Mary Eli of the Westbank First Nation, who welcomed participants to the traditional lands of her people and offered a prayer of blessing. She wished participants success with this conference and prayed for all to have the grace to do what is right.

Welcoming address

Chief Robert Louie, Westbank First Nation

Chief Robert Louie welcomed participants to the traditional lands of the Okanagan, on behalf of his council, his people, and the Okanagan Nation. He expressed pride that NAFA had chosen this location for its conference and described the Okanagan Nation, whose traditional territory covers some 69,000 square kilometres in Canada and the US. He explained that the Westbank First Nation already has land and resource management jurisdiction. On April 1, 2005, the Westbank will exercise and implement a self-government agreement covering lands and resources after 17 years of effort.

“This conference is about resources and forestry, and everyone present has a responsibility,” Chief Louie said. Aboriginal people have a responsibility to protect the land. They also have certain Aboriginal rights, including the right to share the lands and the resources. This conference is about exercising that right. Aboriginal people have to convince the government and the public that this is their inherent right.

The benefits that result from forestry must be shared, he continued. Extraction of timber and depletion of resources is happening at an increasingly fast pace. Aboriginal people must exercise the right to share that resource. They have the right to log and also to share in royalties. The latter has not been shared to date, but it must be. This conference must discuss these rights and the Aboriginal shared knowledge. Collectively, Aboriginal people are strong, he said. If they act collectively, government must bend to the rights that they have as Aboriginal peoples.

Chief Louie said he was proud to be part of this important conference. He wished participants success in their deliberations and good health to their families. He extended an open invitation to visit and share with the Okanagan Nation.

Lorraine Rekmans, Executive Director, NAFA

Rekmans noted NAFA’s commitment to have all the conference materials printed on Forest Stewardship Council (FSC)-certified paper. She thanked Domtar for donating the paper and explained that NAFA worked with an Aboriginal printer to establish a chain of

custody certificate. NAFA has committed to using only FSC-certified products in future, she added.

NAFA also committed to making this conference a carbon-neutral event, she said. To compensate for the estimated carbon emissions produced by this conference, NAFA will work with the Tree Canada Foundation to plant over 300 trees on a local territory that was recently affected by forest fires.

Although the climate for Aboriginal forestry is changing, Rekmans said, the commitment to forest issues and to NAFA does not change.

Steve Ginnish, NAFA Chair (outgoing)

Steve Ginnish thanked Mary Eli and Chief Louie for their welcome and for the honour of being invited to hold this conference in traditional Okanagan territory. Forestry is ever changing and Aboriginal people need to ensure that they change right along with it, he said. They must find the means to be collectively involved and to ensure that they have the tools to be involved. He noted the earlier reference to revenue sharing, pointing out that in New Brunswick forestry harvest revenues are shared with First Nations. “That should be done right across the country.”

He also stressed the changing environment for Aboriginal forestry. NAFA’s Board represents a diverse group of individuals who are well suited to addressing these changes. Although he is outgoing Chair, he expects to continue to play a vital role in NAFA. There are some scary things happening in the environment and Aboriginal people need to ensure their needs are being taken into account.

He introduced the new members of the NAFA Board: BC—Dave Nordquist; Alberta—Arthur Dumaine; Manitoba—Duane Hiebert; Ontario—Raymond Ferris; Québec—Chief Conrad Polson; New Brunswick—Dennis Simon; Nova Scotia—Alton Hudson; Yukon—Blanche Warrington. Board seats for Saskatchewan and the NWT are currently empty, but he said he hoped that those would be filled over the next few days.

Ginnish said the agenda for this conference addresses important new issues as well as issues that have been at the forefront for a long time. He hoped that the discussions would help participants and their organizations move forward on these issues.

World Café—Identifying Aboriginal forest issues

Chris Corrigan, Facilitator

Corrigan explained that the World Café process was intended to connect the approximately 250 conference participants with each other. These are all the main players in Aboriginal forestry; if anything is going to happen in Aboriginal forestry, these people will be part of it. He urged participants to consider the future. He asked them to imagine all their goals being realized in 10 to 12 years—they could look back at this conference and say this is where it all began. Within the context of institutional support for

Aboriginal forestry, he asked what opportunities might emerge at the conference. How might this conference change things? “This room is pregnant with possibility,” he stressed.

Corrigan explained the café process, with three rounds of discussion lasting 20 minutes each, and participants switching tables between each round. In the final round, participants would be asked to identify the three most important opportunities or “Big Ideas” that had been discussed. These ideas would be summed up and discussed later in the conference.

He also outlined the principles underlying the process, including a focus on key opportunities, listening for understanding, speaking from the heart, looking for emerging patterns, and connecting ideas. He urged participants to doodle and draw on the flipchart sheets, just as they would jot down ideas on napkins in a real café discussion.

Following the three rounds of discussion, each group identified three key points on index cards. These points were transcribed and formed into nine groupings—access, communications, capacity-building, self-government, resources/revenue sharing, partnerships/alliances/networking, government relations and negotiations, supporting Traditional Knowledge and community approaches, and national institutions—for discussion at the noon hour (see page 10). In addition, the flipchart notes representing each group’s discussion points were displayed around the meeting room for the duration of the conference. The flipchart notes are contained in Appendix A of this report.

***Haida vs. Weyerhaeuser* Supreme Court Decision**

Corkey Douglas, Mandell Pinder

Corkey Douglas presented a summary of the Supreme Court rulings in the *Haida Nation vs. BC (Minister of Forests)* and *Taku River Tlingit First Nation vs. BC (Project Assessment Director)* cases.

Part I: Case Comment

In 1997 in the *Delgamuukw vs. BC* case, the Supreme Court held that Aboriginal title had not been extinguished in British Columbia. Woven throughout *Delgamuukw* was the theme of reconciliation and accommodation, which was placed at the heart of the Aboriginal-Crown relationship.

The Court described a path to the reconciliation of Aboriginal and Crown title. Aboriginal title, being a pre-existing legal right to the land, arising from original occupation, is not extinguished. It is a collective, exclusive right, with the right to choose land use—a right that has an inescapable economic component. The Crown has the power to interfere, but the interference must be justified. To interfere, the Crown must demonstrate a sufficiently valid legislative purpose, and must achieve this purpose in a way that upholds the honour of the Crown.

The key to *Delgamuukw* was the determination that Aboriginal title was not extinguished. The Province is required to consult about Aboriginal title, to listen to the concerns and interests of Aboriginal people, and to accommodate.

Yet, in spite of *Delgamuukw*, the Province denied any duty to consult or accommodate the needs, rights, and title of Aboriginal people, until a Nation proved its title and rights in court, or concluded treaty. Meanwhile the Province continued to manage the land and other resources—business as usual, until the Haida and Taku River Tlingit challenged its policy and conduct.

The Council of the Haida Nation brought a judicial review application challenging a ministerial decision to transfer a tree farm licence in 2000 from MacMillan Bloedel to Weyerhaeuser, and to replace Tree Farm Licence 39 (TFL 39), a portion of which (Block 6) is located in Haida Gwaii.

The Tlingit challenged a ministerial decision to issue a Project Approval Certificate to Redfern Resources Limited, pursuant to the *Environmental Assessment Act*, authorizing it to reopen and operate the Tulsequah Chief Mine. The proposed road that would cut through and open up traditional territory was the target of the Tlingit objection.

In *Haida* and *Taku*, the Court completely rejected the government's argument that there is no legal duty to consult and accommodate until after a final determination of the scope and content of the right. The Court described the Province's submissions as "an impoverished vision of the honour of the Crown and all that it implies." (*Taku*, para. 24)

The Supreme Court rejected both the federal and provincial governments' positions. The Court held that the duty is based not on fiduciary principles, but on the honour of the Crown. This means both levels of government must act honourably when they make decisions within their legislative spheres affecting Aboriginal rights and title.

The Court noted that "Canada's Aboriginal people were here when Europeans came, and were never conquered." The duty arose when the Crown asserted sovereignty, and "with this assertion arose an obligation to treat Aboriginal people fairly and honourably and to protect them from exploitation." (*Haida*, para. 32) When the Province joined Confederation in 1871, it acquired the lands subject to the duty to consult and accommodate (*Haida*, para. 59).

Because treaties remain to be concluded, and Aboriginal title and rights have not yet been proven, fiduciary duties do not arise, but the duty to consult and accommodate exists and is grounded in the honour of the Crown. Several aspects of this duty are noteworthy.

First, the purpose of the duty goes beyond the Crown justifying an interference with rights and title. The Crown found that the legal duty to consult prior to proof is necessary to protect the land prior to the achievement of reconciliation.

Second, the duty extends to the process of treaty making. As the Court stated, "In order to

achieve the reconciliation of the pre-existence of Aboriginal societies with the sovereignty of the Crown, the Crown must act honourably.” (*Haida*, para. 17) This means the honour of the Crown requires that the potential rights embedded in section 35 of the *Constitution Act* be determined, recognized, and respected. This in turn requires the Crown acting honourably to participate in processes of negotiation. (*Haida*, para. 25) The Court identified these standards:

- The honour of the Crown infuses the process of treaty making (*Haida*, para. 19).
- The honour of the Crown requires negotiation leading to just settlements (*Haida*, para. 20).
- Negotiations must be honourable (*Haida*, para. 20).
- The Crown must act honourably in defining rights and in reconciling them (*Haida*, para. 20).
- The purpose of treaty making is to reconcile pre-existing Aboriginal sovereignty with assumed Crown sovereignty, and to define Aboriginal rights guaranteed by section 35 (*Haida*, para. 20).

Finally, the Court defined how the duty operates when the Crown wants to grant features in a territory where Aboriginal title is unextinguished.

Meaningful consultation “may oblige the Crown to make changes to the proposed actions or policies based on information obtained through consultation.” (*Haida*, para. 46) This is how the Court defines accommodation—it is not a veto but the Crown may need to change its proposed decision or policy.

The Court cites New Zealand’s Guide for Consultation with Maori as an appropriate example to guide the Province: consultation is not just a process of exchanging information. It also entails testing, being prepared to amend policy proposals in the light of information received, and providing feedback. Consultation, therefore, becomes a process that should ensure both parties are better informed. Genuine consultation means a process that involves:

- gathering information to test policy proposals,
- putting forward proposals that are not yet finalized,
- seeking Aboriginal opinion on those proposals, and
- informing Aboriginal people of all relevant information upon which those proposals are based,
- not promoting but listening with an open mind to what Aboriginal people have to say,
- being prepared to alter the original proposal,
- providing feedback both during the consultation process and after the decision process.

The Supreme Court varied the BC Court of Appeal’s order, so that the Crown’s obligation to consult does not extend to Weyerhaeuser. The ultimate legal responsibility for consultation and accommodation rests with the Crown. The honour of the Crown cannot be delegated (*Haida*, para. 53).

While the Court held that companies do not owe any independent legal duty to consult with or accommodate at the time the tenure was transferred or replaced, they could become liable in certain circumstances. For example, the Crown can delegate aspects of the procedural duty to the company or impose terms of accommodation on third parties. The government can pass legislation to ensure the legal obligations owed to Aboriginal people are met.

Having found that the Crown had failed to meet its obligations of consultation, a court or judicial review should quash Weyerhaeuser's tenure. However, faced with an argument by Weyerhaeuser that the consequences would be too severe if TFL 39 were quashed, the Court of Appeal exercised its discretion and imposed a duty on Weyerhaeuser to participate in consultation about accommodation. Chief Justice Finch stated that this was necessary to provide an effective remedy because the Crown now lacked the tools to accommodate the Haida, having given away substantial authority to the company under TFL 39.

In short, Weyerhaeuser now finds itself without a legal duty to consult but also without legal standing to participate in decisions the Crown must make, possibly against the company's interests, in order to meet its obligations to the Haida.

Part II: Institutional shape shifting

The decisions provide a tool to transform the political culture in BC from denial of Aboriginal title to a respectful relationship with the Aboriginal people and with the lands—a relationship that draws from the Aboriginal vision of accommodation.

However, the experience of *Delgamuukw* illustrates that Supreme Court of Canada decisions do not implement themselves. Aboriginal people must enforce the judgement by teaching governments how to listen, what it means to be respectful, and how to demonstrate good faith and honour.

Douglas identified some further features of the decisions. These included institutional changes to laws and policies, treaty negotiation processes, Aboriginal law making, the honour of the Crown, treaty rights defined and enforced, negotiating interim agreements, consultation at the strategic planning stage, a remedy for protecting the land, developing capacity within Aboriginal communities, and third party tenures granted without consultation.

The presentation concluded with the simple and beautiful words of the Court in *Delgamuukw*: “We are all here to stay.” Aboriginal people are committed to the implementation of these decisions for the betterment of all.

***Bernard* Forestry Decision, New Brunswick**

Norville Getty, Union of New Brunswick Indians

Norville Getty spoke about the *Bernard* case in New Brunswick, which deals with the

treaty right to commercial logging from Crown land. Josh Bernard is from Eel Ground First Nation, on the Northwest Miramichi River. He was charged with illegally harvesting logs from Crown land for sale to a saw mill for commercial purposes. At trial he was convicted, and lost at the first level of appeal. However, the Appeal Court of New Brunswick overturned his conviction and confirmed that he did have a treaty right based on the 1761 treaty signed with the Miramichi Mi'kmaq Indians. The Crown appealed, and the Supreme Court of Canada heard the case in January 2005—the decision has been reserved.

To understand this case one must examine it in the context of treaties in the Maritimes, and previous court cases.

Oral history goes back to ancient times, and archaeological records show Aboriginal ancestors living in New Brunswick and Nova Scotia for over 8,000 years. Metepenagiag (Red Bank) First Nation territory has been continuously occupied and used over the last 3,000 years, and there is still a thriving community there.

In 1986, the Supreme Court of Canada stated that none of the Maritime treaties ever ceded land. But as recently as January 2005, in the *Bernard* case, the provincial government argued before the Supreme Court that colonial legislation had in fact trumped Aboriginal rights and that the treaties do not permit Aboriginal people to use and occupy their land—otherwise known as Crown land.

For more than 20 years the Aboriginal people of New Brunswick have been researching and presenting their comprehensive land claim to the province through various court cases. Slow progress has been made there and in other provinces. For example, because of the BC *Sparrow* case in 1990, First Nations on the east coast got a food and ceremonial fishery.

The position of the Chiefs and all of the First Nations in New Brunswick is very simple: none of the land has ever been surrendered to the Crown.

In the *Bernard* case First Nations got a very good decision but it was not the 100 per cent decision they would have liked. Of the three judges, two said very clearly there is a treaty right to harvest wood commercially from Crown land. The other said there is Aboriginal title in all Crown land and, therefore, the Aboriginal right to harvest logs commercially exists.

The way forward is to wait for the Supreme Court decision—perhaps by fall 2005—and continue to fight cases in the lower courts. There are still many issues—for example, rights to minerals, oil, and gas; royalties on resources such as wood harvested by the pulp and paper companies; taxation; compensation for past abuses of Aboriginal and treaty rights.

Echoing the previous speaker's quote, "We are all here to stay," Getty said Aboriginal people must come to some accommodation that is fair, equitable, and just to everyone.

The New Brunswick chiefs will never consider discussion or agreement on extinguishing Aboriginal title or replacing the existing treaties. They are prepared to discuss some interpretation of the treaties—definition of rights and co-management of resources for the benefit of all. To achieve this will take good faith and good will on the part of all three levels of government—Aboriginal, federal, and provincial.

The Value of Aboriginal Alliances

Chief Stewart Phillip, Union of BC Indian Chiefs

Chief Stewart Phillip, president of the Union of British Columbia Indian Chiefs and Chief of the Penticton Indian Band, told participants he has little knowledge of forestry. He confessed his only direct experience was in the manufacturing side of forestry in his youth. He worked for both Wildwood of Canada and West Fraser Mills Ltd. as a union member.

Chief Phillip is known in his role of defending Aboriginal title and rights by supporting communities from Mount Currie and Cheam to Oka and Burnt Church. For 30 years he has worked to advance the Penticton Indian Band, the Okanagan Nation, and Native Peoples of Turtle Island.

Chief Phillip noted that since the early 1970s Indian and Northern Affairs Canada (INAC) has been a considerable presence in the life of the Penticton Indian Band. “Their economic program worked 24/7 to convince us economic development was something that happens within the confines of our reserve lands. The message was clear—that’s what we should be looking toward,” said Chief Phillip. It was promoted as the pathway to success. But as mill workers demanded higher and higher wages, the band’s mill became nonviable and collapsed.

A change came about as Aboriginal people began to emerge from the shadow of INAC. “We saw we had interests beyond the border of our land reserves.” Not only in Penticton, said Chief Phillip, but a long, difficult struggle has emerged from sea to sea. The result is that the Constitution has recognized Aboriginal rights. “Our rights are real and have incredible significance to our community,” he added. However, government and industry are not fully prepared to recognize the nature and scope of Aboriginal rights, nor make changes to give full accessibility for Aboriginal people to their interests.

“We were taught as children that we have a stewardship responsibility to the land. Forests are not something we can quickly look at as a commodity for profit and loss.” Chief Phillip described significant success stories he has seen in his travels across the county that show Aboriginals are expanding their involvement in forest operations beyond small mills.

He stressed the importance of economic endeavours. “We need to be in a position to build the strong healthy communities our children and grandchildren deserve.” That involves having resources to establish health care and education programs in

communities and to organize all levels of government. To be able to do that, communities need to reclaim the full measure of Aboriginal title and rights. Nothing less than a paradigm shift on the part of the Government of Canada and industry is needed. Perceptive leaders in business and industry recognize this. “There is no doubt the struggle is difficult, but it is critical to the future of our people.”

The federal government clearly said Aboriginal title and treaty interests are legitimate, but governments find ways to ignore this and carry on business as usual. One way to offset this is to recognize the strength in tribal councils and other Aboriginal organizations. “We must be more informed and active in lobbying governments to recognize our Aboriginal rights,” said Chief Phillip. Part of the “Indian dynamic” is that one condition for success is people must set aside individual and political differences and work together.

Seventy per cent of First Nations communities in BC made a determined effort to negotiate rights through the BC Treaty Process. “But after 11 to 12 years of bad faith negotiations, we realized we had to take a step back and take another look.” Thirty per cent of BC’s communities were not involved from the start. Chief Phillip repeated that working together is crucial if success is to be achieved, despite setbacks.

The Okanagan Nation Alliance hosted a meeting in Kelowna to which all First Nations of BC were invited, to discuss forest policies. Two hundred delegates attended. A second conference was held in Prince George in October 2003, with more than 500 attending. A third, in Victoria, took a different turn. People organized into caravans and travelled to the provincial capital. More than 1,200 delegates came, including hundreds of Elders. Following the conference, 3000 marched on the BC legislature. Chief Gloria Morgan had suggested everyone wear red. “There was a virtual sea of red in front of the legislature on May 20 of last year,” said Chief Phillip. But he said he was keenly disappointed with the result. The provincial Minister of Forests denounced the rally and called the people “malcontents.” In fact, Chief Phillip said, they had gathered ideas from every mainstream Aboriginal organization, and the group became known as the Title and Rights Alliance. It will likely go again to Victoria this spring prior to the provincial election.

Chief Phillip said he was not disappointed in the broad-range results of these efforts. “Our inability to compel government to act honourably has brought us together in BC.” Now there is opportunity to build on that unity.

The BC region of the Assembly of First Nations has meetings scheduled for March 17–18, 2005. Chief Phillip encouraged every First Nation community in BC to send delegates, so that for the first time since 1969 a truly province-wide discussion can take place on how the province, industry, and business are not recognizing Aboriginal interests on land and in forests. Aboriginal people will only be able to have an impact if they act collectively, Chief Phillip stressed. “Every time we have fully mobilized we have had full impact. When our people come together and commit to defending our brothers and sisters we show definite progress.”

First Nations need to grapple with the question of how to effectively connect so leaders have a strong, informed mandate when they meet with government. When First Nations are divided, their voice is not heard. The importance can be measured in the daily poverty Aboriginal people experience as a direct result of denial of Aboriginal interests.

“The vision emerging from our people is that we have don’t have a rightful share of resources,” said Chief Phillip. In the forests, that applies to everything from stumpage to royalties. That contrasts with the original ancestral vision of equitable sharing of resources.

Chief Phillip stressed the importance of the NAFA conference. “This is important work. Our people are depending on these discussions and actions that come out of a conference like this.” He urged people to continue to share experiences. “Share your gifts that you have been given by the Creator. We do not have the right to sit on our gifts. You have the obligation to speak out. What you have to say may be just the perspective we need.”

Organizing and presenting Aboriginal forest issues from World Café

Nine subject areas issued from discussions of emerging opportunities at the earlier World Café roundtable:

Access

- Access to resources is needed to foster development.
- Access to Crown land (long-term solution) was discussed; also First Nations involvement—e.g., co-management agreement including phase-out for capacity building; time volume as a measure of viability; capital, a player to make change that can result in win/win relationships; tenure and royalty sharing.
- First Nations need access to resources.
- Increased access to First Nations tenure is needed.

Communications

- Develop a Canada-wide communication network between First Nations so lessons of past can be shared.
- Be part of the change dialogue. Share success stories—regional, provincial, international. Share how-to stories. Share information using non-traditional technology transfer. A central place to assist in court cases, agreements, and negotiations is needed.
- Connect with others in the same industry; share information, successes, issues.
- Have open and ongoing communication.

Capacity building

- Mentoring should take place within and outside the local community.
- Minimum funds, adequate funds, and strong capacity are needed.

- Training and education are key factors. Bring people in (mentoring) involve Aboriginal banks, create solutions, use job shadowing.
- Long-term capacity building is achieved by partnerships, capital funding, training.
- Bring education to communities. Make training specific to communities.
- Focus on skills and professional development.
- Create and share knowledge; educate youth in forest industry.
- Problems: lack of human resources and time, personnel changes in government and industry, and the need to start over on the learning process.

Self-government and Aboriginal title

- Tribal councils' control, selective harvesting, native values, and habitat should be examined.
- Self-government for all First Nations and long-term sustainability are needed.
- Management and jurisdiction of all resources is needed.

Resource and revenue sharing

- First Nations and the resource industry should be examined; a sharing strategy is needed.
- Revenue streams are needed to support governance institutions—i.e., royalties and stumpage (e.g., to fund NAFA).
- Access is needed to a percentage of stumpage (royalties).

Partnerships, alliances and networking

- Political, business, and education alliances are needed.
- Improve relations and explore opportunities with industry.
- Joint stewardship agreements should address revenue, social needs, and ecological sustainability.
- Partnerships in industry and government should pay for resource management consultation.
- Collective alliances are needed to develop effective strategies.
- Networking among First Nations is needed, similar to technology transfer, plus improvement in the means by which information is interpolated.
- Networking is needed for common ideas—i.e., Traditional Knowledge.
- While First Nations are considered a sidebar or third party, companies come to the table with the understanding their planned cut will happen.
- Need to create market access for First Nations. Market equals control.
- Need network toolbox in technical, legal, political, global, education, training, and best practices.

Government relations and negotiations

- More information needed about the *Haida vs. Weyerhaeuser* case.
- More ways are needed to get government to recognize First Nations rights and title.
- Proper definition of consultation should be used in court cases. Should be respect for archeological assessments, band values, and section 35 rights.
- Equitable co-management arrangements between provincial governments and

Aboriginal peoples are needed.

- Develop a unified agenda with federal and provincial governments to establish a government-to-government relationship.
- Get natural resources back to the national roundtable.
- Interim measures to treaty resolutions should encompass equity allocation through tenure reform.
- Ultimately, an Aboriginal Ministry of Resources is needed.

Supporting Traditional Knowledge and community approaches

- Balance social, economic, ecological, land, and political interests at the community level.
- Invent new models of development.
- Mesh traditional ecological knowledge with today's science and technology.
- Need generic agreements to support ecology/habitat that adhere to First Nations' concerns.
- Forestry is part of community development; move NAFA to the grassroots level.
- Revitalize and incorporate Traditional Knowledge into forest management.
- Ensure proper community development within the resource sector to relay what First Nations want.
- Community development is enhanced by buy-in, capacity, continuity, and comprehensive community planning.
- Resource management should include Traditional Knowledge and ecology.

National institutions

- There should be a NAFA database.
- Information should be shared—there should be a central place to gather and access. Restructure NAFA as a national organization mandated by the Assembly of First Nations, with regional and district representatives. A database should have research, successful business proposals, sample contracts.
- A central national Aboriginal financing agency for determination and allocation is needed.
- Build institutes that address politics and governance, technical strategies and economics, ecological and cultural values.
- Organizational support at regional and provincial level is needed.

Additional ideas emerged from World Café's wrap-up. One participant expressed excitement about royalty revenue sharing. Another was interested in national-provincial institutions, saying many good ideas were expressed but lack a vehicle to translate ideas into action. "The missing link is a professional/technical association to feed these ideas to leaders," he said.

Participants stressed a need for a national marketing organization. They cited a model of success—in the BC/Yukon region First Nations provide retired executives to mentor youth. They also advocated development of non-timber forest products by Aboriginal people.

One participant said that in government relations and negotiations, “we are beating up the harvesters. Really, our argument is with the government. They have the obligation to protect our rights. We should be in there as co-managers.”

A Chief from Ontario commended Chief Stewart Phillip for his rallies, one of which he attended in Prince George. “I could not believe the organization and communities throwing money in a hat for a legal fund. I’ve never seen it anywhere. You should be commended,” he said. He added that he understands when business people talk of trees as commodities, but people should not forget trees are sacred, giving medicine and sustenance.

Workshop A

Paul Birzins, Moderator

Non-Timber Forest Products

Darcy Mitchell, Centre for Non-Timber Resources, Royal Roads University

Non-timber forest products (NTFPs) is the term for all the botanical (plant) and mycological (mushroom species) in the forest other than timber, pulpwood, shakes, or other wood products. NTFPs usually include associated services such as tourism and education. “Wild edibles” is a convenient way of categorizing them, said Mitchell. In British Columbia the floral greenery is 95% of the market and is a large commercial NTFP. Arts and crafts are a huge market as well.

Tourism and education are the ultimate value-added products. They are easy on the resources and generate good returns. They are also of significant interest to Aboriginal communities because they link to cultural importance and reconnecting with the land. In 1997–1999 an estimated \$270 million was generated annually in British Columbia by NTFPs, the big two being floral greens and wild mushrooms. As significant as the value is, it is important to note who is gaining from it.

If this conference were being held ten years ago, nobody would have been talking about the NTFP industry, said Mitchell. But recently it has become the subject of mainstream discussion. One reason may be there has not yet been a clash between the environment and the economy in this field. There are still opportunities to develop these resources that are not so destructive.

Other parts of the world are much more attuned to Traditional Knowledge and NTFPs. In many communities the interest is not just economic—it is a matter of being involved in resource management and diversifying their economies. In British Columbia and elsewhere, NTFPs are of great interest and importance to Aboriginal people. They offer smaller communities a chance to get into the game of resource management and economic diversity.

NTFPs offer opportunities for business creation and income generation in Aboriginal and

other rural communities. They are a good match for Aboriginal communities because the harvesting technologies are simple and capital requirements are low. In many rural communities, members already have the knowledge of the location of the resources through various means. Work with NTFPs is seasonal and can be integrated with other types of employment—for example, fishing in one season of the year and harvesting NTFPs in other seasons. Support is available for initiatives that involve cultural preservation and revitalization. Further, works with NTFPs offers many opportunities to various segments of the population such as women, youth, and Elders.

It is hard to find a product of high enough value to justify harvesting it. In a small community with no easy access, this can be a significant variable. If there are no local buyers, margins may not justify transporting to market—Canadian markets might be too far away or the market might be international. The NTFP sector is poorly understood and at times it gets “a bad wrap.” People may see the work as an unsavoury or unattractive occupation.

Another problem is that some communities often contemplate diversification seriously only when circumstances become desperate—energy, enthusiasm, human resources, and capital are at a low ebb and there is little tolerance for risk. Work with NTFPs requires entrepreneurs, and education and skills are scarce in some communities, making them not well suited to small business development.

Sometimes there is little information available about NTFPs. There is a need to balance the issue of non-commercial and commercial uses. Communities are sometimes hesitant to become involved with NTFPs until they know the intent of the proposed commercial use. Another challenge for some communities is the lack of knowledge or frameworks around property rights.

A sustained investment is required to encourage and support emerging industries—current on-off fragmented approaches are inadequate. If this sector is going to be developed sustainably there must be effort and commitment.

Communities interested in NTFP work have identified certain issues such as the need for a focused approach. Access to sources of advice and assistance are sometimes a challenge for smaller communities. They are seeking approaches to resolving issues around property and to increasing the knowledge base while still permitting employment and income opportunities.

There are linkages among resource and environmental capacity, existing and potential markets, community capacity and interests, thorough planning, managing, monitoring, and evaluating. Development of NTFPs is difficult and takes time and effort. It is difficult to supply enough of these activities to everyone without long-term support.

The first step in development of NTFPs is to find out what is there to be harvested and sustained over time. Timber inventory can be expensive. Find out whether the resource can sustain development use, said Mitchell. Find out what the community wants to do or

develop to participate in this sector. Just because there is a market out there, does not mean that a community can get this market. It is important to find out if the community will sustain this. The international market is very challenging to get into—for example, wild mushroom sales can be very risky. Often a potential market and a real market can be completely different things.

The purpose of the Centre for Non-Timber Resources (CNTR) is to support, encourage, and legitimize the sustainable utilization of non-timber forest resources in the temperate and boreal regions of the world. The principal focus of the CNTR is the wise use of non-timber forest resources to diversify and sustain rural and resource-dependent economies.

Areas of concentration of the CNTR include:

- education, training, and community capacity building, including assistance in identifying and developing economic and other opportunities,
- research: socio-economic, ecological, policy, and
- networking, information development.

Mitchell identified the following approach to NTFP development:

- Who are the local champions? Hold community workshops to raise awareness, identify interests, and decide if the community wants to continue. Do a “best bets” study based on a rough inventory of resources, markets, and local capacity.
- Create a local/regional entity to carry the work forward. This is best if it includes a broad range of knowledge, skills, and interests. Develop a detailed plan. Initial projects should generate cash, create incomes, develop capacity, and demonstrate viability in the short term.
- Critically evaluate first efforts.

Discussion

A participant commented that most NTFPs are on Crown land and government is looking at regulating them because they are of high value. This means the provincial government will “sew up” revenue collection as it has done with forestry. Has the CNTR looked at this in this industry? Many First Nations communities are getting in at the low end while someone else has the market set up to make the big dollars. Where does it fit in the Aboriginal community to make it viable? Mitchell responded that she does not think the BC government is in a hurry to regulate these products. There was a recommendation to regulate mushroom pickers, which was never passed; however, this may change over the next few years. Aboriginal people must look at opportunities for community-based management that is supported by and reflects Aboriginal rights and title. There is an opportunity for people to become involved—Mitchell said it seems more possible for Aboriginal communities to get their feet in the door now.

Another participant suggested that First Nations develop their own regulations with regard to traditional land use and knowledge of their land. This is one area where First Nations are in a place to take the lead and set the tone for how it should be done. The sustainability issue is a huge one. Harvesting properly will sustain the resource for future harvesting.

The Siska created a harvester's handbook that outlines responsible harvesting for all of their people, said another participant. Aboriginal people know there are medicines out there that can deal with a whole realm of illnesses. It must be determined what big business can and cannot do—how they use Traditional Knowledge. It is critical that management of the resources is driven by Aboriginal people. They must stand up and say, "This is our land and our resources."

Workshop B

Jack Smyth, Moderator

Aboriginal Skills and Employment Partnership New Brunswick Inc. (ASEP-NB)

Steve Ginnish

ASEP-NB Inc. is a brand-new company founded by representatives from several government departments, First Nations, and industry, Ginnish explained. It resulted from a brainstorming session and took some time and effort to be realized. The goal of this partnership is to foster greater cooperation within the natural resource sector between First Nations, their organizations, industry, and both levels of government. The nine partners signed an accord to create 200 full-time forestry-related jobs for First Nations people over the next four years. This accord led to the establishment of ASEP-NB Inc., a not-for-profit Aboriginal corporation with a diverse Board of Directors and offices located in the heart of industry and Aboriginal communities.

The forest sector is one of New Brunswick's primary economic drivers, Ginnish noted, and ASEP-NB's mandate is to foster, develop, support, train, employ, and champion Aboriginal people's inclusion in that sector. The Board members represent Human Resources and Skills Development Canada (HRSDC), Natural Resources Canada, the province of New Brunswick, four First Nations organizations representing most of New Brunswick's Aboriginal peoples, the First Nations Human Resources Development Corporation, and the New Brunswick Forest Products Association. The province's ARDA holders are also represented through these groups. This membership provides a direct connection to the sector and employers, which has been an issue in previous efforts. The industry's participation as a contributing partner is critical, Ginnish stressed, and it represents a first in that part of the country.

Ginnish reviewed ASEP-NB's guiding principles. Board decisions are by consensus wherever possible and partner contributions are based on real dollars. The annual cash budget is just over \$1 million, plus in-kind contributions, and almost all this funding is new funding. Client-participant support mechanisms will be an integral part of ASEP-NB initiatives through direct funding and through external resources. Partner organizations will develop a mutual appreciation of the employment opportunities and challenges through cross-cultural awareness forums. The initiatives are open to all the province's Aboriginal people. Further, it has been made very clear that this is a business forum, not a consultation forum, and this partnership is without prejudice to any claims an Aboriginal

community may make, including land claims and treaty rights. A final principle is that all initiatives will be made available in English and French.

The budget for 2004/05 is \$1.45 million (including in-kind contributions). Over the four-year lifespan of ASEP-NB, the total budget will be \$5.46 million. This represents a considerable investment in the Aboriginal community, Ginnish said, and it is hoped that if the program is successful it will be followed by a subsequent initiative.

The objectives for 2004/05, and over the lifespan of the organization, include placements in silviculture, trucking/transportation, heavy equipment operation, and business management training. The organization has seven initiatives to accomplish these objectives, starting with a training-to-employment and retention plan that will cover supply/demand mapping, previous training and employment experience, and partner awareness. Some mills are closing but new opportunities are arising, so the idea is to prepare to take advantage of those, Ginnish said. Other initiatives include immediate placements and retention upgrading; for example, pursuing SFI certification to bring workers into sync with the current forestry atmosphere in the province. Other initiatives address immediate training/recruitment, attracting/training/recruiting, other resources, and long-term working partnerships. All initiatives will be subject to full evaluation, under an arrangement with HRSDC's audit department.

Ginnish closed by noting that a significant amount had been achieved in just five or six months, despite the start-up challenges.

Discussion

A participant asked about eligibility criteria for clients. Ginnish said all opportunities are posted and any Aboriginal client can apply. Experience and education are evaluated as part of the application process. No one is turned away. If a client needs further training, an action plan is developed to help that individual reach his or her goals.

Another participant asked about union issues. Ginnish replied that none had arisen yet, although he anticipated that some would come up. The approach would be to rely on negotiation for resolving union issues that arise.

Forest opportunities and challenges in Denendeh

Diane Giroux

Giroux began by giving an overview of Denendeh, the traditional name for the Northwest Territories, and of the Dene Nation, the organization of the five Dene governments. Three of the regions have signed agreements resolving land claims, and two others are currently under negotiation.

This land has been home to the Dene since time immemorial, Giroux said. The changes that have most impacted the Dene are those that came with the establishment of settlements over the last two generations, along with changes that came with European contact. Colonization came later here than it did south of the 60th parallel, as interest in extraction of resources and mining moved north. The development of mining has had a

tremendous impact on the lifestyles of the Dene. Despite the evolving interest in mining, there continues to be extensive use of forest products and traditional Dene harvesting activities, including a range of traditional foods that depend on the forests.

Today, Dene economies are largely regional, and have a mixture of traditional and modern approaches. In the old days, the whole family would be out on the land and would make a good living. The move to settlements and more sedentary non-traditional lifestyles, with the necessity for youth to attend school, the influence of churches, and the shift to a wage economy, has impacted the level of whole-family involvement in the traditional Dene economy. Now whole families only go out on weekends or holidays, and in some instances only the male family members go out to hunt or fish. In this changing environment, the Dene people are trying to find ways to balance the demands of the modern economy with finding the time to maintain traditional ties to the land. Fewer people practice traditional crafts—it is too easy to buy from northern stores or shop online for imports. These skills, along with an appreciation for preserving cultural practices, are therefore not being passed on to the youth.

Giroux described her own community of Deninu K'ue (Fort Resolution) on the shores of Great Slave Lake, and the region's history of European contact with fur traders and missionaries. Industries in her community and traditional lands have included a commercial fishery on the lake, sawmills, and mining. The Deninu K'ue First Nation is currently re-starting a mill operation to promote the local economy and allow for sustainable harvesting of its renewable resources. This initiative was endorsed by Dene Chiefs at a recent meeting and will provide opportunities and jobs for a community that is not benefiting from the current mining operations across the lake. This mill is being developed by the Dene people, in a manner that respects their values, their long-term interests, principles of sustainable forestry, and the ecological integrity of their lands.

The Dene have in the past accessed funding from the First Nations Forestry Program and will continue to do so to build capacity. Government has never invested in making past sawmill operations viable, but the community effort is moving forward nonetheless with great enthusiasm.

Future forestry challenges for Denendeh include balancing the development of non-timber forest products with the traditional focus on timber. Major industrial development in the territory, such as the oil and gas pipeline, will impact markets for investment and labour, taking Dene youth out of their schools and communities to work in bush camps.

The value of forest, the traditional economy, and traditional values, like that of sharing among families, are not fully understood or appreciated in Denendeh. The traditional economy is not documented, the social and cultural values of non-timber products have not been studied, and the health cost of switching from traditional diets and lifestyles has not been factored. Even the cost of establishing commercial enterprises where traditional systems now function well is not in the minds of developers or regulators in Denendeh, though these concerns are in the minds of Dene Chiefs, youth, and elders.

Speaking on behalf of Dene National Chief Noeline Villebrun, Giroux said the people of Denendeh want a productive and healthy forest economy for the north. They want measured development, not mega-projects that jeopardise the future, sustainable development, and smaller community-based enterprises.

Discussion

A participant asked about the territory's forest land base. Giroux said a thorough inventory has not been conducted, but the two areas of the territory that have large boreal forests are in the southeast and southwest. Her people's traditional territory covers some 480,000 square kilometres, of which about 25 per cent consists of boreal forests. Extraction of timber has been run by government to date. Several companies are engaged in mining for diamonds since the recent find, but this is north of the treeline. Her people are looking for enterprises that represent their traditional values, not simply at maximizing economic return. The territory has five distinct regions and nations, three of which have signed agreements, which limits options for co-management. The two other groups are still negotiating.

Workshop C

Mickey Werstuik, Moderator

First Nation and Forestry Industry Relationships in Canada

Jake Wilson, Institute on Governance

Progress on the important task of establishing working relationships between First Nations and the forestry industry, is the "key to sustainable social and economic development," said Jake Wilson, a researcher with the Institute On Governance (IOG), an independent think-tank based in Ottawa.

Wilson interviewed 75 people in First Nations, industry, and government for a report on this relationship, focusing on the legal and policy context. He found that nearly all those interviewed agreed there has been progress, especially in comparison with past decades. "Over time a lot of small steps have amounted to a lot," he said.

Wilson joined the IOG in 2003 with a master's degree in International Political Economy. He had been a Parliamentary intern with Members of Parliament from both sides of the House of Commons, had done research on international environment governance issues, and worked in community development in Bolivia and Ecuador.

Wilson and his IOG colleague, John Graham, worked together on the First Nations forest industry study project, commissioned by the National Aboriginal Forestry Association, Forest Products Association of Canada, and the First Nations Forestry Program—a joint program of Natural Resources Canada's Canadian Forest Service and Indian and Northern Affairs Canada. Their mandate was to describe the legal and political context and its effect on First Nations' business in the forest sector.

Wilson said he was frustrated at finding so little data. For example, forest companies say

they cannot tackle Aboriginal employment figures, because they may be charged with discrimination if they break out those numbers from other employment figures. “We do need to track that in a way that does not leave companies vulnerable to discrimination charges,” said Wilson.

The Canadian forest industry is worth \$74 billion annually, including \$43 billion in product exports. It accounts for 361,400 direct jobs. Status Indians comprise 2.3 per cent of the population and there is 19.1 per cent unemployment among them. Wilson noted that 1.25 per cent of Canadian forests is reserve land, and 4.1 per cent of tenure is in Aboriginal hands. There are 1,500 Aboriginal businesses in the forest sector, employing 1,700 people.

Pressures are mounting on the First Nations-forest sector relationship, Wilson noted:

- The First Nations land base is growing.
- Legal rulings, such as *Delgamuukw*, *Marshall*, *Haida*, and *Powley*, bring pressures.
- At least three international agreements exist that affect this relationship.
- National Forestry Strategy 2003–2008 has an impact.
- Canadian Council of Forest Ministers criteria and indicators bring pressure.
- Certification standards increase (recently American standards also have become stronger).
- The Canadian Boreal Initiative means First Nations organizations must conserve the boreal and do so in a way that meets First Nation needs.
- Corporate social responsibility, an idea that gained speed in the 1990s, means that companies must pursue social responsibilities and these will affect relations with all stakeholders.
- First Nations governance advances make a difference.
- Two ideas are taking hold—the insulation of business from politics and the empowerment of aggregate First Nations’ organizations. “Those two shifts are putting First Nations in a better position to do business,” said Wilson.

But there are also constraints to the development of First Nations-forest sector relationships:

- Treaty and land rights are unresolved.
- Market conditions are difficult.
- First Nations’ skills and capacity are limited.
- Some companies lack capacity to work with First Nations.
- Large investments are required to enter the industry. “The increasing need for high tech is a reason to team up,” said Wilson. “Non-Aboriginal people with titles to houses and lands can use that as collateral for loans, but that’s not usually available on-reserve.”
- Much of the best land is tied up.
- Most good jobs are unionized or highly skilled. “There are no barriers to First Nations people being in unions, but in practice labour pools are not fluid. Often First Nations need a stake in ownership of the company,” said Wilson.

He suggested that First Nations must build up both stake and capacity. Stake is needed to ensure land tenure, a voice in planning, and a share in business and jobs. Capacity brings the financial, business, technical, managerial, and organizational skills and resources that are needed. Wilson admitted they are interrelated. “To build capacity, you need a stake. Both need to move along together.”

Federal, provincial, and territorial governments should work together and make First Nations forestry a higher priority, said Wilson. Saskatchewan is ahead of the game because senior government officials were in there advocating for First Nations. Wilson said it is important that the provinces take leadership and use the policy tools at their disposal, and that the federal government coordinate economic development programs more effectively. “There are pots of money out there. It’s hard to tell if priorities are being targeted,” said Wilson, adding that there must be senior level ministerial commitment, such as there had been in Saskatchewan.

“How do we get beyond planting trees?” asked Wilson. Everyone sees it is needed, but building long-term capacity strategy is a multi-party process and must involve First Nations, government, industry, training institutes, and banks. The focus should be on financial, technical, and managerial business capacity.

Somehow business must be insulated from politics, but the solution is not to separate the two. Failing business is not good for the community, Wilson stressed. Unclear structures can deter potential partners or investors and frustrate First Nations’ staff. Arms-length economic development corporations are needed so managers can focus on sustainability and profit. Involve the community closely, Wilson advised.

He suggested that aggregated approaches be considered. “Nowhere else in the world do we have small communities of 600 or so dealing with federal government regulations,” he said, adding that together First Nations can deliver many functions better than lone communities. Aggregate bodies require long-term commitments and need to link closely to communities.

Two main recommendations emerged from Wilson’s report. First Nations lands management needs improved enforcement tools, and more research is needed on joint venture models. This research would find out which ones work, so that data gathering can be improved, and government support can be improved for value-added, non-timber forest products ventures. “Government doesn’t have to be seen as a threat in that regard,” said Wilson. He added that more government support is needed for First Nations’ involvement in forest management planning.

Wilson concluded that like forest stewardship, building effective and cooperative Aboriginal industry relations is a long-term venture. “Patience, trust, and commitment are required.”

Discussion

One workshop participant noted his disappointment in the report, because it identified what government believes to be the truth about Aboriginals and it does a disservice to Alberta First Nations. He noted the report should reflect that all the northern boreal forests of Alberta belong to Aboriginal people. But the Alberta government tells the industry there is no basis in those claims and it refuses to consult.

Using the image of a horse and rider, he said, “A partnership is not a partnership if you are the horse.” The federal government has the role to protect the honour of the Crown, but also a strong advocacy role with provincial governments. If funds are needed to buy back forestry allocations, that is a federal responsibility. Until somebody convinces the federal government and the Alberta government, there will not be an effective partnership because there is no basic respect.

Wilson responded that the sample (75 interviews) was not big enough to tailor recommendations for each province. “Many First Nations speakers in Alberta felt progress had been made in spite of, not necessarily because of, the Alberta government,” said Wilson. “Basically everyone needs to sit down and work together.”

Mickey Werstuik of the Westbank First Nation, moderating the session, noted the IOG is in the position of providing information to the government, not setting government policies. Wilson’s report is available at www.iog.ca, including an executive summary.

Workshop D

Peggy Smith, Moderator

Joint Ventures**Kathryn Teneese, Ktunaxa Kinbasket Tribal Council**

The Ktunaxa Nation consists of seven bands, five in British Columbia and two in the US (Montana and Idaho). It has been involved in treaty negotiations as part of the BC Treaty process since 1993. It is currently in Stage Four of the six-stage treaty making process—negotiating an Agreement in Principle.

The Ktunaxa Nation hopes that through the treaty process it will achieve some recognition and reconciliation in its territory. It also hopes for reduced conflict and constitutional protection to allow it to move forward for generations to come.

Treaties will clearly set out land and resource rights, obligations, and authorities of First Nations in relation to other governments. It will create certainty over the use and management of lands and resources, which will lead to a more stable climate for business and investment. Treaties will also enhance First Nations’ opportunities for economic development, self-reliance, and cultural and social well-being.

Treaty negotiation takes time. Courts have consistently upheld First Nations’ title to their traditional territories as a constitutionally protected right of land use and occupancy.

However, First Nations and companies wanting to do business in traditional territories do not have to wait for treaties to clarify uncertainty. Certainty can be established through mutual respect and recognition, meaningful consultation, and the development of mutually-beneficial relationships.

The Ktunaxa Nation and Tembec Industries have worked together for many years, but only formalized the relationship last year. In July 2004, a Working Protocol and a Consultation and Accommodation Agreement were signed. This Protocol and Agreement provide the framework by which the Ktunaxa Nation and Tembec work together now and in the future to realize a mutually beneficial relationship.

The Working Protocol promotes a positive and sustainable working relationship. Through mutual recognition and respect, the Protocol serves as a foundation upon which existing and future relationships are enhanced. The Consultation and Accommodation Agreement relates to Tembec's activities within the Ktunaxa traditional territory. It defines a process for consultation and identifies potential ways to accommodate Ktunaxa interests.

Highlights of the Ktunaxa/Tembec Agreement include:

- development of a consultation process at various levels,
- establishment of a Joint Management Advisory Committee,
- capacity and resource requirements,
- information-sharing protocols,
- revenue-sharing opportunities, and
- development of employment, training, contracting, and business strategies.

To achieve successful protocols and consultation agreements, Teneese advised participants to develop their nation's own Consultation and Accommodation Policy and use it to guide them in discussions and negotiations with other businesses. She recommended working with companies whose leaders are committed to meaningful consultation and accommodation, and have written policies and codes of conduct stating their commitments and how they will adhere to them. She suggested choosing companies that ensure their consultation policies and agreements with First Nations are respected and acted upon at the local level and on the work site.

Lillian Rose, Tembec

Tembec has a First Nations' policy that is very clear—respect of territories where they operate. It is commendable to work for them because they have this commitment. As with many companies today, Tembec has recognized the role of First Nations not only in respect to traditional territories and Aboriginal rights and title, but also as stakeholders in the forest economy in the province.

Tembec recognizes historical inequalities in First Nations access to natural resources. Keeping in line with the political climate and in some cases leading the charge, Tembec is engaging in discussion and talks with First Nations about the role they envision for themselves in resource management.

The three-plus years of negotiations on the Working Protocol and Consultation Agreement are demonstrative of how Tembec and the Ktunaxa have worked together. In uncertain times and with changing legislation, they have stayed the course and developed a “win-win” relationship.

Tembec is also involved in archaeological studies. It is a challenge to obtain the maximum benefit while protecting and enhancing the land. The First Nations’ policy is the component that ties it all together. This direction comes from the CEO and works down. Everyone in the organization is responsible for implementing this policy. This includes all people with whom Tembec contracts.

This agreement was very close to the treaty agreement and Ktunaxa has been able to use it as a template.

Discussion

A participant commented that there are a number of different forces at play in the Ktunaxa partnership. In some ways the arrangement is peculiar to British Columbia because of the title and rights issues. There is also the corporate responsibility side. Tembec made the commitment to apply for Forest Stewardship Council (FSC) Certification. Principle 3 of the FSC requires certified organizations to respect and recognize the legal and customary rights of indigenous peoples. The participant asked whether all companies are the same. Industry is in an interesting position. First Nations are trying to work out a relationship with government while forestry companies are harvesting in their backyards. The *Haida* court decision was important.

Asked who pays for the cost of implementing this Protocol Agreement, Teneese replied that they negotiated an arrangement called “revenue sharing.” Tembec provides funding to the tribal council on a quarterly basis that helps the Ktunaxa implement the agreements. They came to a compromise to get the relationship going because the Ktunaxa were short of capacity and funds.

A participant told of a Tembec partnership agreement in New Brunswick. Tembec buys the logs, turns the logs over to the First Nations who strip them of bark and chip them, and are paid by Tembec. This has created 12 First Nations jobs and has been working very well—the operation is making a profit.

Asked what lessons had been learned in the relationship between Ktunaxa and Tembec, Rose said the first lesson was never to have a meeting on Friday afternoon. It took about three and a half years to negotiate the agreement. She recommended making time lines. The negotiations could have been concluded sooner, but they involved relationship-building so there were benefits in taking so long. However, since business goes on she recommended parameters around time lines. Teneese said it is important to ensure priorities are established. The Ktunaxa nation is small and has limited ability to respond. “My advice is not to have too many irons in the fire,” she said, “and making sure if it’s a priority, you devote the time and effort to achieve it. We were trying to do too many things. Once we rolled up our sleeves and got on with it, it just happened.”

A participant asked whether the partnership was developed before certification affected the partnership. Teneese replied that Ktunaxa had been involved in the discussions developing the criteria for the FSC Certification. The fact that Tembec stepped up and said they were looking for this certification as well, made the standards work.

Asked whether any lawyers were involved in the negotiating process Teneese said drafts were referred to Ktunaxa legal advisers. However, due to financial constraints lawyers were not directly involved at the table.

Asked if anyone has developed a heritage policy on archeological assessment protocols that they could share with other communities as a template, Rose replied that Tembec contracts out all of its archeological work. Teneese said they just signed a memo of understanding for archaeological resources. They are looking at ways to take on this responsibility.

Aboriginal Forestry in Canada—Institutional approaches to Aboriginal forestry

Harry Bombay, National Aboriginal Forestry Association

This theme relates to all the agenda topics for the conference, Bombay noted, and also to the underlying way to address the related issues. Institutional arrangements—in other words, the processes to pursue established goals—are key and all First Nations involved in Aboriginal forestry must look at them carefully.

Bombay's presentation reviewed the institutional arrangements that exist in Canada, focusing on those that govern the forest sector, Aboriginal forestry, and sustainable forest management. He examined gaps in those arrangements, key issues in pushing for institutional change, and proposals for focused activity on institutional prerequisites needed to address Aboriginal forestry in Canada.

Institutional arrangements in Canada—"the rules of the game"—can be grouped under six broad instruments that dictate what happens and how:

- the Constitutional order,
- institutional arrangements (operational rules), such as legislation and regulations,
- organizational structures (government ministries),
- behavioural norms and values of society,
- markets and market institutions (rules governing contracts, property rights, trade, etc.),
- economic instruments (fiscal measures).

Following these six groupings, the existing institutional arrangements in the forest sector start with the Constitution Acts, which give provinces power over natural resources. The legislative framework includes provincial forestry codes and resource tenure systems,

along with federal trade rules and policy coordination on national issues. Organizational structures include ministries responsible for forestry and natural resources, trade department, and forestry research institutes. Relevant norms and values include green consumerism, sustainability, conservation initiatives, and forest certification. Market institutions include the North American Free Trade Agreement (NAFTA) and trade development initiatives, while economic instruments include new taxes or tax breaks, subsidies, tradable rights, user fees, instruments to deal with water rights, and emissions trading.

Citing previous legacies of injustice and denial, Bombay said it is important to understand that existing institutions were devised “with someone else’s interests in mind, not ours.”

The institutional framework that applies specifically to Aboriginal forestry includes the Constitution Acts, a badly outdated *Indian Act*, and provincial policies that for the most part do not reflect Aboriginal rights, along with interim measures and consultation policies that are evolving. Aboriginal communities have very little in the way of forest management structures, Bombay noted. They do not have the institutional arrangements necessary to back their objectives and values. Expressions of societal norms and values include voluntary FSC certification and conservation initiatives like the Canadian Boreal Initiative (CBI). The economic aspects of Aboriginal rights are not respected. Ontario, for example, talks about economic forest development and does not recognize relevant Aboriginal rights. Fiscal instruments are not used and there is little recognition of Aboriginal rights apart from some federal procurement policies. This shows the many gaps to be filled in the institutional framework for Aboriginal forestry, Bombay said.

Sustainable forest management has the same issues. There is no broadly accepted definition of this concept and it has been said that sustainable forest management cannot be attained within the existing institutions in Canada. Problems include tenure systems not being linked to markets and the lack of ownership, which is a disincentive to sustainable forestry management. Further, the costs of protecting biodiversity and ecological function have not been fully internalized and social concerns are not addressed. The accommodation of Aboriginal and treaty rights is also not being addressed. This is one of the most important issues to NAFA, one that it has tried to address.

Major issues driving change in institutional arrangements in the forest sector start with forest conservation. This includes the expansion of parks and protected areas and the CBI’s Boreal Forest Conservation Framework, which is gaining momentum. Issues related to industry competitiveness, including mergers and acquisitions are also driving process and policy development. The Canadian Forest Innovation Council, a new industry group, is leading discussion about science and research. Another driver relates to market access, with issues like softwood lumber and trade agreements. The latest round of softwood lumber talks may result in a trade war, or individual provincial agreements with the US, which might affect existing tenure agreements. Climate change will be another key factor, with \$5 billion announced in the February federal budget for climate

change initiatives. This will affect forestry, with a key question being whether forests are seen in future as a carbon sink or a carbon source. One possible approach is the triad model of forest plantations, intensively managed forests, and conservation areas. Sustainable forest management, if it is to be achieved in Canada, will require extensive changes for tenure systems and legislation. A final issue is a growing recognition that organizational structures are failing to achieve their intended goals. Roughly \$300 million is spent on forest research every year in this country, and restructuring is needed.

Bombay reviewed several examples of institutional arrangements currently undergoing change. The Canadian Council of Forest Ministers' (CCFM) framework of criteria and indicators is the de facto starting point for sustainable forestry management and for reforming forest management institutions. This framework defines and measures sustainable forest management, guides policy, and is the basis for data gathering and international reporting. This process will impact how sustainable forest management is defined and measured.

A second change is the review of regulatory and fiscal policy with the goal of promoting forest conservation. Drivers include the National Round Table on the Environment and the Economy, which is seeking to enhance the conservation agenda in Canada, along with the Senate committee and international pressure to increase conservation areas in Canada.

Also underway is a restructuring of forest research institutes. Paprican will continue to direct research on pulp and paper. Forest Engineering Research Institute of Canada (FERIC) and Forintek Canada Corp., which serve the wood manufacturing and forest operations sectors, are expected to merge. A new forest management institute is to be established in the next year for sustainable forest management. The question is whether it will address Aboriginal forestry issues and if so, how First Nations will control or dictate the research priorities.

Bombay turned to some of the short-term options that could help achieve some of the goals outlined on the flipchart notes posted on the walls. "We must discuss capacity building in a new way," he said. "We need to link this to the government initiatives announced and to emphasize the need for capacity building in those processes." In terms of organizational development, there is a lot of discussion of community and a focus on land use planning. The latter is one key area to focus on, in the broadest sense, and organizational development is needed to do that.

Bombay also mentioned building an Aboriginal presence in the marketplace and how to do that. Another key issue was certification and Aboriginal branding, and the need to establish their own brokerage companies. "We've been trying to push the market for a long time," he said, "and we need to think about how to create market pull."

Other areas include Aboriginal forest tenure. The tenure system is key, something unique to Aboriginal people. An Aboriginal tenure approach is something to take to treaty processes—a model Aboriginal people could shop around. Another issue is Aboriginal criteria for sustainable forest management. First Nations should work together to put

together a document on this to demonstrate that they have a key role to play and can collect data.

Another option is the establishment of an Aboriginal forestry research institute that would define sustainable forest management and refine existing arrangements, building key values, including Traditional Knowledge, into research programs.

A final point is that Aboriginal people should co-opt the agenda when they look at institutional arrangements for Aboriginal forestry, Bombay concluded. The sustainable forestry agenda is one that is calling out for Aboriginal involvement.

Discussion

A participant said that Aboriginal people keep stating and restating their Aboriginal and treaty rights to government, but governments do not listen. In all the areas where Aboriginal people signed their agreements pre-Confederation, the provincial legislation is based on something that is fundamentally wrong.

Bombay acknowledged this, saying those are the rules of the game. If Aboriginal people want change, they have to change the rules. In discussing licences in Ontario, the government reduced the chances for First Nations input by putting them at the table as just one of many actors. One option is to advance Aboriginal interests through legal decisions. The other option is to begin working as though Aboriginal people have the jurisdiction.

Rekmans acknowledged the concerns, citing a jurisdictional gap. Authority was devolved to the provinces, giving them authority over natural resources, through a Constitution that did not recognize the pre-existing arrangements.

Another participant referred to Bombay's comments about model forests and some organizations being swallowed up by restructuring. "In our area," the participant said, "the boundaries of the model forest are being redefined. If the agenda is changing, why are we putting our time into a program that will become defunct?" Bombay said the changes he referred to are only proposals at this stage, though they are likely to happen. Restructuring does not imply that existing programs will end, though there may be changes, including positive changes. The participant said this particular example would then serve as a very good model, with First Nations involved from the start.

An audience member said that after 10 years, the Aboriginal research agenda is still very much "the tail of the dog." It has grown to address Aboriginal issues related to sustainable forest management, but there is extreme resistance from industry and from universities to issues that are seen as political, rather than science-based. If the agenda is set and Aboriginal issues continue to be at the tail, it will be a recipe for disaster for Aboriginal people and issues.

Bombay agreed that if the industry continues to set priorities, it could be a disaster. However, such advances have been made in Aboriginal forestry that he does not see

government putting together a research program without Aboriginal involvement. He also noted evolving government attitudes, saying he expects First Nations will have a significant say. There is a risk and Aboriginal people should monitor this very closely, he added, but their job is to ensure that it is for the good of Aboriginal people.

Bombay described industry partnerships as the outcome of the existing institutional arrangements. If the institutional arrangements favour one partner, the agreements will favour the dominant partner. Aboriginal people need to find ways to increase their leverage and to shift the rules of the game in their favour. Forest research is one way of doing that and it is badly needed right now. This will become more and more important as Aboriginal people fight for every little piece they can get out of the forest sector, he said.

A participant noted earlier comments about the value of non-timber forest products, saying this was an area that First Nations should pursue strongly. If China gets involved in pulp and paper—which they are—Canada will be unable to compete with them. This highlights the importance of putting in place alternative industries that can sustain Aboriginal people for the future. Bombay agreed, noting this fits with the traditional relationships that Aboriginal people have with the land. He said this also reinforces the importance of long-term management plans.

Dinner presentation: Community forestry and BC forestry agreements

Mickey Werstuik, Westbank First Nation

Werstuik said the Westbank First Nation's lengthy journey to develop community forestry began in 1994, with a statement of intent to engage in the provincial treaty process. The 1997 *Delgamuukw* decision was significant, confirming as it did an inescapable economic component to First Nations title. The province was telling Aboriginal people that they must be involved in the treaty process to engage in opportunities, Werstuik said. They were getting conflicting messages about what they should be doing to get access to resources.

The Westbank began by requesting a 10,000 m³ licence for harvesting. The Ministry rejected that, and instead offered 2,000 m³. It said that everything had already been tendered out and there were no opportunities left. After working up through the bureaucracy and getting nowhere, the Westbank First Nation contemplated direct action. The community felt it was within its rights and should proceed, whatever the risks. So it essentially reversed the consultation process by informing the government that community members were going to go out on Crown land and start harvesting trees. The Ministry responded by stapling seizure notices to every tree and issuing verbal stop work orders. When the Westbank ignored these actions, the Province served a legal injunction. This initiated a lengthy legal battle, during which the Westbank agreed to halt cutting out of respect for the court.

After several years and over \$400,000 in legal fees, the Westbank First Nation felt it could not afford to continue. So in 2000, a Letter of Understanding was signed with the provincial and federal governments, after seeking direction from the membership. Key directions set by the community included respecting other values, not just economic values, and managing the whole area, not just the forest.

The August 2000 Letter of Understanding provided 90 days to negotiate an Interim Measures Agreement, but it was not until September 2002 that an Interim Measures Agreement was finally signed with the Province. The Ministry then invited the Westbank First Nation to apply for a community forest licence. A management plan and forest development plan was developed and submitted. Today, five years after signing the Letter of Understanding, no approvals have been granted and the Westbank First Nation has not harvested a single tree under the community forest licence. The province is now offering forest and range agreements.

Paul Birzins, Chief Forester, Okanagan Nation Alliance

Referring to this extended legal battle with the Westbank as an example, Birzins said the government's strategy is to keep delaying until bands run out of money. He began his presentation by noting that the Forest and Range Agreements are part of BC's new approach. There are as many views about these as there are dances in the Okanagan Nation—a point that local dancers emphasized with a live dance performance.

Birzins continued with a description of the Forest and Range Agreement. It provides a per capita share of timber (30 m³) and cash (\$500) in a non-renewable licence that is conditional upon available timber rollbacks and finances. The term of the agreement varies, but most are for five years. The industry is being compensated for rollbacks, even though the tenures were coming up for renewal.

For the Crown, these agreements provide stability to resource development on Crown lands within traditional territory. In signing these agreements, the band agrees that the duty to consult and to seek workable accommodation of the economic component of its Aboriginal interests has been met. The legal opinion is that this agreement is “with prejudice.” The Crown can now articulate how it has consulted and accommodated in any future court actions or negotiations.

Nevertheless, there has been significant First Nation involvement in this initiative. Since September 2002, 83 of the 197 First Nations in BC have signed these agreements, with several more signing on very recently. The later agreements include additional concessions. In all cases, it is up to the community to decide whether it wants to be involved or not. Negotiations continue but much skepticism remains, Birzins concluded.

Brenda Chambers

The dinner presentation concluded with a video presentation that highlighted the opportunities for youth seeking a future in Aboriginal forestry. Chambers introduced it, explaining that it was produced by her production company as part of the Aboriginal Peoples Television Network (APTN) series, *Venturing Forth*. The series highlights successful Aboriginal business ventures. She thanked her sponsors and supporters for

making it possible.

The video described a partnership between a Canadian company, Tolko Industries Ltd., and the Okanagan Nation Alliance, to train a young forester. This program is the first of its kind in BC, providing practical training for a UBC forestry graduate who is seeking to become a registered professional forester. Benefits of the program include capacity building for First Nations, encouraging dialogue between First Nations and industry, providing a better future for youth, and encouraging the integration of First Nations values in forestry.

Day 2

Panel Discussion

Duane Hiebert, Moderator

Sustaining Nitassinan: an Innu approach to ecosystem-based forest management in Labrador

Valerie Courtois, Innu Nation

Nitassinan means “our home,” said Courtois. It refers to lands that have been home to the Innu Nation for at least 2000 years. These lands include one of North America’s largest remaining intact boreal forests. The area is rich in natural resources, and industries include mining and some logging. The Innu are greatly concerned about some development projects and are trying to strike a balance between a traditional way of life and a modern economy.

Courtois reviewed the background to forestry development in Labrador, including Innu protests over harvesting practices in the late 1980s. In the mid-1990s, Newfoundland and Labrador adopted “ecosystem-based forest management,” though the reality on the ground was not as good as it sounded. This led to subsequent initiatives, with a 2001 Forest Process Agreement that led to an ecosystem-based forest management plan for District 19. This agreement covers a very large area of 7.1 million hectares within the Innu Nation land claim area, and contains most of Labrador’s closed canopy forests. The annual allowable cut is about half of what would normally have been allowed.

The Innu objected to past forestry practices such as the size, scale, and concentration of clear-cuts, the lack of pre-operational planning, and the lack of protection for stand-level features and stream buffers. The Forest Process Agreement also led to environmental protection guidelines and committed the parties to develop a co-management mechanism. An interim forest agreement was signed in 2003, providing co-management through a Forest Management Committee that represents the Innu and Natural Resources Canada and that is facilitated by the General Manager of the Western Newfoundland Model Forest. For the first time, the Innu were allocated a harvest of 15,000 m³ per year.

Courtois described the Innu approach to ecosystem-based planning. This means protecting forest function at all scales over time. It seeks to sustain, within ecological limits, a diversity of human and non-human uses and it is based on local economic needs and a long-term vision of ecosystem and community health. The Innu approach is to manage humans, not ecosystems, as not enough is known about ecosystems. The focus is on what to leave, not what to take from the land. She cited an Innu quote to illustrate this approach:

I need the trees, rivers, mountains, animals, rocks, everything that the land provides. These are my tools. My identity is linked to them. If they

disappear, how will I be able to practice my culture? Who will I become?

To Innu, ecosystem-based management priorities means putting ecological responsibility first, followed by cultural responsibility, then economic responsibility, Courtois explained. If the land is there, it will support Innu culture, which will in turn support an economy.

She also explained the multi-scale approach to protected area networks, which means setting and protecting values at the landscape, watershed, and stand levels. More than 60 per cent of the commercial operating area is within ecological and cultural protected area networks. Courtois also gave examples of protection values for these three different levels, noting that these ecological protected area networks (EPAN) consider the needs of key species at each scale.

The plan also provides a new approach to integrating local knowledge. Protecting Aboriginal and other local land use values requires the incorporation of land use information into the management plan. Elders and community members are consulted about their use and knowledge of the forest, including what areas should be protected for hunting, travel routes, and other uses. Digitized Innu land use information was integrated with forestry inventory data, wildlife survey information, and other land use datasets within a geographical information system (GIS). This allowed all participants to visualize and understand the outcomes of various management options, and the result was the establishment of culturally protected areas.

The plan incorporates the use of forest guardians. They play a significant role that includes informing the Innu about forestry issues, building relationships, collecting data, conducting pre- and post-operational surveys, and monitoring the harvest. They are in the field to ensure that activities occur in accordance with the agreement and with community values.

Very little forestry research has ever been conducted in Labrador because of its remoteness, and it is an important part of the plan. A workshop was held in 2003, with a peer review of the plan and discussion of research priorities for District 19. Research under the First Nations Forestry Program includes a study that will look at alternative harvesting approaches to seek ways to reduce the impact on animals. It involves a local hunter who is camping out, tracking, and documenting animal activity and who will make recommendations to the forest guardians. Research is also being conducted through several Sustainable Forest Management Network projects.

Courtois concluded with some key lessons learned. There can be meaningful participation of the Innu community in management planning. One of the most important things has been Innu leadership taking this on as something of importance. Co-management, including the ongoing role of the forest guardians, builds capacity and reinforces the value of the process within the Innu community. St Mary's University will credit the training component in case these individuals ever want to pursue a formal degree. Innu

also learned to ask for what they need instead of being too polite, as well as how to work within existing processes.

Science and innovation

Bernard McCue, Beausoleil First Nation

At a very early age, McCue said, his parents taught him to respect Mother Earth. He worked for many years as a research chemist with major companies and holds several patents. He is now a consultant. Also, having been taught by university professors, he has been able to blend the two approaches, and believes strongly that the two must go hand in hand, especially in relation to the environment.

He described the Beausoleil First Nation on Georgian Bay, where beech bark disease is widespread, as it is in parts of the eastern United States, Québec, and Ontario. The disease is fatal to the trees and nothing can be done but to let it take its natural course. Although McCue is not a professional forester, he has consulted with forestry experts, and he is proposing an opportunity presented by this disease.

The disease is expected to kill an estimated 95 per cent of all North American beech. McCue explained how a tiny sap-sucking insect spreads from tree to tree, creating small holes in the bark that leave the tree vulnerable to a deadly fungus infection. In response to this threat, the Beausoleil First Nation plans to integrate salvage harvesting over the next few years as part of its forestry plans. The intent is to use the wood to make charcoal and it is estimated that about 100,000 m³ of beech can be salvaged, if they move quickly.

In the past, cement kilns were used to produce charcoal, but these are inefficient. McCue has designed an efficient portable kiln that can be used to make charcoal, in tandem with harvesting. He proposes to add further value by producing activated carbon, which is about 10 times more valuable than regular charcoal. McCue has developed a process and filed a patent for a mobile unit that would produce activated carbon onsite along with harvesting and is currently looking for capital to implement this plan.

To sum up, McCue said although nature must run its course with beech bark disease, this provides a rare opportunity with significant economic potential.

Kyoto and forest carbon: an opportunity for Aboriginal sustainable development and conservation

Stewart Elgie, University of Ottawa

Elgie said the idea of being paid to store carbon in trees is really new. “It’s an idea that is hard to get your head around,” but the development of a market for storing carbon could change forest management in Canada.

He emphasized two key messages in his presentation. First, under the Kyoto Accord, carbon in forests may soon have significant economic value, and this is something that the Aboriginal community should factor into its planning. Second, the Aboriginal community should participate in setting the rules for forest carbon trading and management.

Elgie gave a quick overview of climate change, starting with the “hockey stick” graph showing rising global temperatures due to human activity. Most scientists agree that there will be significant increases in global temperatures over the coming century, with higher warming near the poles. Expected impacts include an increase in extreme weather events, pests and diseases extending their range to the north (e.g., mountain pine beetle), more fires in some areas, higher maximum and minimum temperatures (melting ice bridges), rising sea levels, and changes in wildlife habitat and populations. These are best guesses, but it is important to begin planning for these changes.

Canada’s Kyoto commitment will require a reduction in current emission levels of about 25 per cent. Elgie described the global carbon cycle, explaining that humans are releasing carbon from fossil fuels at a faster rate than the environment can absorb it. In forests, the growth of trees stores carbon, while fire, decay, and insect activity releases some of it.

About one-quarter of global climate change is due to forest loss. Canada’s forests store about 500 times as much carbon as all of its annual fossil fuel emissions, and about twice as much as annual global emissions. Globally, boreal forests provide the largest source of carbon storage among all terrestrial forests, and are second only to wetlands.

Much research is being done on the most effective ways to store carbon. Different ways to store more carbon in forests include longer rotation periods between harvesting, setting aside areas to store carbon, smaller road clearances, leaving more debris on site, avoiding urban sprawl, and reducing fire/insect loss. Increase in forest growth and reforestation store more carbon.

The most cost-effective measures, considering the Kyoto implementation period between 2008 and 2012, include reducing harvest levels, setting aside reserves, changing forest management, and reducing deforestation. Planting is less cost-effective in this context because it will not produce results quickly enough.

Payment for carbon storage under the Kyoto Accord will be achieved through trading in carbon credits. For example, a large company that cannot lower its emissions efficiently can buy carbon credits to meet its targets. Carbon credits are already being traded on the Chicago Climate Exchange, with trade on forestry aspects to start in January 2008. The Canadian government will pay people to store carbon in “carbon sinks” in order to meet its national commitments. This is now in the 2005 budget, so it is a reality.

This raises questions of ownership of the carbon credits, the rules for trading, and market pricing. For example, the Saskatchewan government has set aside a carbon reserve and sold the rights to Saskatchewan Power. Those carbon rights may be worth \$25 to \$30 million, and can be used or traded. The Little Red River Cree Nation proposed to set aside 800 hectares for carbon storage, which would have generated as much money as cutting the timber. But the project was not approved because Alberta would not give them the carbon rights. In another example, the more sustainable Innu approach to forestry will store more carbon than traditional harvesting. Whether the difference

qualifies as a carbon credit will depend on how the rules are set.

These rules are very important, so it is vital for First Nations to be involved. Storing carbon in forests will cost about \$3/tonne and the credits may be worth \$5 to \$15/tonne, so there might be money to be made. Canada is developing its carbon trading rules in the coming months. By 2006, a choice must be made on whether to count Canada's managed forests under Kyoto, and if so, what areas will count as managed forests. These choices will determine who has the property rights for forest carbon. If they can secure these rights, Aboriginal communities can negotiate agreements to sell credits to carbon emitters.

The decision on whether to count managed forests will depend on whether or not Canadian forests are releasing more carbon than they are storing. If more carbon is being released, Canada will want to exclude them, as it will be harder to meet its targets. Right now, however, it seems to be neutral. Another important decision is whether to count Canada's northern forests. If they are not included, they cannot be used to generate carbon credits. The carbon trading rules will also be important. Under the proposed approach, credit would be given for any additional carbon stored through projects that go beyond "business as usual." Key issues include who will own the carbon rights and how to set the baseline defining what is business as usual.

Summing up key messages, Elgie said forest carbon storage could generate significant revenues, but getting the rules right is critical and this will happen in the coming months. Carbon storage will make the most economic sense as an alternative to timber harvesting where timber values are marginal. It will also be particularly attractive for lands where there are other values, such as hunting or cultural aspects to forest preservation. Aboriginal communities should begin factoring carbon storage into land use planning now.

The long-term economics of carbon storage relate to building truly sustainable economies for northern forests. There is no clear vision for that yet, although some, like the Innu, are working on it. Carbon storage offers an alternative vision for sustainable economies and land use. The land can generate carbon revenues and still be used for non-extractive uses. What is scarce is more valuable, so carbon storage is an economic resource that will become more valuable in coming years.

Canada's Boreal Region: a wealth of opportunity

JP Gladu, Canadian Boreal Initiative (CBI)

Gladu gave an overview of CBI. This organization was established in 2003 as a national convenor to bring people together. Goals included sponsoring science and the inclusion of Traditional Knowledge, serving as a catalyst for conservation, and adding a policy voice.

The boreal forest is home and foundation to over 600 First Nations communities. It provides clean air, clean water, economic benefits through timber harvesting, and habitat for wildlife that are important to the traditional way of life.

The Boreal Leadership Council was established in 2003, bringing together conservation groups, First Nations, and resource companies. It is extraordinary to have these groups working together to create a vision for the boreal forest.

The Boreal Forest Conservation Framework provides a national vision to balance conservation and development, with First Nations groups setting aside a significant proportion (50 to 60 per cent) of the forests for conservation. This is not a cookie-cutter approach. It is based on collaborative land use planning and respect for Aboriginal rights and values. Key aspects include efforts to ensure that principles and commitment are upheld and that Aboriginal people play a key role in leading land use planning.

The aim is to create a reverse matrix approach, though the model is evolving. Traditionally, foresters go into an area and harvest and then look back. The proposal is to work with communities and to work on conservation first, as the Innu have done. This means planning before development and conserving large-scale ecological processes. The values put ecology first, followed by culture, and then economy.

Current efforts are focused on solidifying the Council, doing outreach to Aboriginal communities and different levels of government, working to bring their knowledge back to the table, and then working to expand supports and partnerships.

Daniel Ashini, Innu Nation

Ashini noted that there is no tradition of Aboriginal forestry. People only harvested timber for personal use, so they are working to develop an approach that shows care and respect for the land and cultural traditions. The Innu nation is striving for an approach that balances the needs of industry with the need to protect the lands and the needs of Aboriginal people. The goal is sustainable communities, where young people can choose their own futures.

The Innu have learned that others, including environmentalists and people in the forest industry, share this goal and are working with them to help achieve it. The support of environmentalists is very important in dealing with issues like forestry and mining. Industry can learn from Aboriginal people, and it is possible to develop respectful relationships with such companies. It has not been easy to teach them that trees are not just dollars—to teach appreciation for holistic values and the value of forests for wildlife, shelter, food. “But I’m sure that bridges can be built,” said Ashini.

Aboriginal people hold the keys to land that the environmentalists want to protect and that companies want to develop. They hold the keys to the future, and the courts are now saying what they have always known—that they have rights, that they must be consulted, and that their rights and concerns must be meaningfully accommodated and dealt with if there is to be any development on their lands.

The CBI is unique in that it brings Aboriginal people together with leaders from the environmental movement and industry. A shared vision for the future of the boreal forest

brings them together. All agree on the need to protect the land, on economic development in a manner suited to Aboriginal people, and on the need for good science and the wisdom of Elders to confront challenges.

But there are also many differences. Environmentalists see the land as a wilderness, believing that by keeping people out, they can keep nature in. But these are Aboriginal homelands and people are a part of it. They are beginning to understand but the parties are still far apart. Industry also needs to understand that a job can be a benefit, but it can also be an impact. Many jobs require people to leave their families. Aboriginal people are often told that they are not qualified and many of them do not fit the system. Some of the money from employment goes into fuelling social problems. It will take a long time for industry to understand but some corporate leaders are willing to learn. The CBI allows Aboriginal people to work with others and to contribute to a national vision and it is their hope that it can make a difference.

Panel Discussion

Blanche Warrington, Moderator

Forest Stewardship Council BC Regional Standards

Evan Stewart, Tsleil-Watuth Nation

The Forest Standards Council (FSC) Canada's mission is to promote environmentally appropriate, socially beneficial, and economically viable management of the forests in Canada through FSC standards and their application.

The FSC principles and criteria cover broad issues such as land tenure, the reduction of environmental impacts, optimal utilization of forest products, and written management plans. They are the guiding framework for developing regional forest stewardship standards appropriate to local social, ecological, and economic conditions. FSC Canada has devolved to the regions the responsibility for developing FSC regional certification standards.

A Technical Review Committee was established to identify issues in the BC standards. The committee considered field experience from certification assessments and monitoring, new approved policy issues, and work of the boreal standard.

The Tsleil-Watuth experience was used by the Technical Review Committee during the standards revisions process. It was a unique experience in a First Nations community.

Recommendations were made by the Technical Review Committee to the BC Steering Committee for changes to the main standard and the acceptance of a "Small Operations Standard." Both the British Columbia and Canada FSC Boards approved the recommendations unanimously.

Considerations and challenges for the Tsleil-Watuth Nation include:

- community capacity—small community and lots of projects,

- technical planning capacity—Eco-Trust Canada can assist,
- operational assistance—can be provided by International Forest Products,
- economics—the cost of implementing FSC on the ground needs to be carefully considered,
- challenges with the FSC-BC Standards—aspects of Principle 3; aspects of Principle 6.

The intent of the FSC complements the values of many First Nations communities in BC and abroad and provides a strong framework to ensure responsible forest management.

Aboriginal Rights and Trade

Russell Diabo

The *Delgamuukw* decision has created a significant amount of discussion about Aboriginal title and rights. However, the federal government has—so far—refused to change its existing policies to conform to the direction of the Court. “Will the same happen with *Haida*?” asked Diabo.

The Government of Canada has insisted that its 1986 Comprehensive Claims policy remains the only readily available basis for global negotiations over land, resources, and Aboriginal interests. Although Canada has been prepared to adjust the process for negotiations, it remains adamant that the policy will remain the same.

The existing Comprehensive Claims policy gives an effective veto to provincial governments over most of the key areas of negotiations—lands, resources, and revenue sharing. The reason for this, says Canada, is that according to the Constitution, the provinces have a beneficial interest in the land and resources within their borders. This puts First Nations in a very difficult position, since, as history demonstrates, provincial governments have been the most hostile towards First Nations and their rights.

Delgamuukw changes the rules as far as provincial veto power goes. The Court found that the federal government’s section 91(24) responsibilities for “Indians” and “lands reserved for Indians” applies to Aboriginal title lands within provincial boundaries. This means that Canada now has the tools at its disposal to protect First Nations from the adverse interests of the province, and to compel provincial governments to act in an honourable way.

It is worth taking a step back to look at the policy development process itself, said Diabo. The Comprehensive Claims policy was designed and imposed unilaterally by Canada, without real participation by First Nations, and without taking their legitimate concerns and constitutional rights into account. It was developed to serve the interests of Canada, without due regard to the rights of First Nations, or Canada’s fiduciary obligations to the First Nations.

It is precisely this conflict of interest that taints the whole policy and process: on the one hand, Canada has to act honourably and in the best interests of First Nations; it has a section 91(24) responsibility to protect their interests against the provinces; and it has a

duty to act without sharp dealing. And yet the current policy, developed and implemented unilaterally, allows Canada to act in its own interests, to the detriment of First Nations.

Unfortunately, to date the federal government has refused to commit to amending its policy to conform with the principles and standards set out in *Delgamuukw*, let alone undertake policy revision cooperatively with the First Nations.

The legal principles that Justice Tysoe takes from the Supreme Court of Canada's *Haida* and *Taku* decisions for his decision in *Gitanyow*, are as follows:

- The Crown's duty of consultation and accommodation is founded not in a fiduciary duty as had been held by the BC Court of Appeal, but in the honour of the Crown (para 16, *Haida*).
- The duty to consult arises when the Crown has knowledge, real or constructive, of the potential existence of an Aboriginal right or title and contemplates conduct that might adversely affect it (para 35, *Haida*).
- The scope of the Crown's duty is proportionate to a preliminary assessment of the strength of the asserted Aboriginal right or title and to the seriousness of the potentially adverse effect upon the right or title (para 39, *Haida*).
- The consultation must be meaningful, in good faith, and with a willingness of the Crown to make changes based on the information that emerges during the consultation process (para 29, *Taku River Tlingit*).
- Sharp dealing is not permitted, but mere hard bargaining will not offend the right of the Aboriginal group to be consulted (para 42, *Haida*).
- There is no duty to reach agreement and Aboriginal groups do not have a veto power over what can be done with land claimed by them; rather, it is a process of balancing interests, of give and take (para 10 and 48, *Haida*).
- Where accommodation is required in making decisions that may adversely affect an asserted Aboriginal right or title, the Crown must balance Aboriginal concerns reasonably with the potential impact of the decision on the asserted right or title and other societal interests (para 50, *Haida* and para 42, *Taku River Tlingit*).

It is not only Crown governments and third parties that have responsibilities and obligations as a result of these legal principles. These legal principles also place a burden on the First Nations to organize internally to prepare for consultations, and negotiate accommodations, from the Crown governments and third parties operating on a First Nations traditional territory until the Aboriginal title issue can be resolved.

Each community should immediately assess the Crown processes in which they are currently participating, to see if they should continue, seek changes, or demand another process. Diabo cautioned that provincial/territorial organizations, their member communities, and their tribal councils must be very careful when they engage in consultation with Crown governments and participate in Crown processes. He invited participants to look at the *Taku River Tlingit* decision to see why they lost their court challenge. The Supreme Court of Canada determined that they were meaningfully consulted because of the processes they participated in and the accommodation they

received in the process.

As much as possible there should be common positions adopted among the member communities of a First Nation, because as the *Haida* decision established, the “pre-proof” consultation and accommodation phase is only until the Aboriginal title and rights “claims” are reconciled with the Crown’s assertion of sovereignty over First Nations’ traditional territory, through a treaty, agreement, or court determination. This will not be soon—possibly years, perhaps decades—so it is important for the communities to continue to work together on lands and resources research and how to use it in the interim.

The Interior Alliance land and resource information needs assessment to analyze the kinds of management information needed by First Nations to fully participate in management of lands and resources, and the kinds of information the Interior Alliance communities already possess for that purpose. The research results described the gaps between what is required and what is available. The report included recommendations on how to close the gaps.

The Indigenous Network on Economies and Trade (INET) has been active on behalf of its members, in advocating that the non-recognition of Aboriginal title constitutes a subsidy to the forestry corporations under international trade law. INET has successfully intervened in international trade tribunals.

There is a burden of proof on First Nations to identify and assert their rights and interests until Aboriginal title is resolved. The Chief and Councils as elected officials are primarily responsible for ensuring that a community exercises due diligence and makes “best efforts” towards ensuring consultation and accommodation regarding natural resource developments on traditional territory, pending the resolution of Aboriginal title.

First Nations leaders and personnel who are on the front line of daily interactions with the Crown, governments, and resource companies are advised to keep a record of e-mails, phone calls, letters, and meetings regarding natural resource developments on traditional territory. This will be important to determine if a First Nation was “consulted” or not.

Aboriginal Forest Research

Beverly Bird, Tl’azt’en Nation

Carrier Sekani Tribal Council (CSTC) is one of the largest First Nations forest tenure holders in Canada, said Beverly Bird. It includes one million cubic meters of renewable and non-renewable forest tenure. The annual allowable cut is 15 million cubic meters. The Chief Forester of BC recommends an additional five million cubic meters due to the mountain pine beetle epidemic.

The Carrier Sekani will undertake research projects with various partners:

- forest innovation and investment (co-management),
- a five-year SSHRC CURA grant with a focus on curriculum development,
- inclusion of science camp research in school curricula,

- determination of what wildlife is in the territory,
- documentation of local pictographs,
- a history of TFL 49.

Bird quoted Fikret Birkes definition of Traditional Ecological Knowledge (TEK): “A cumulative body of knowledge, practice, and belief, handed down through generations by cultural transmission, about the relationship of living beings with one another and with their environment.”

One of the critical dimensions of TEK is its acquisition—for example, observations, sharing stories, direct observations as a result of partaking in subsistence activities such as hunting, gathering, and fishing. The method of transmission down the generations is also critical, as is the method of application to meet the community’s needs. TEK is adaptive and flexible in the context of subsistence activity in a changing landscape—for example, the rotational use of the land. It has been identified since the 1985 World Commission on Sustainable Development as a critical component of better resource management and land use planning, and meaningful participation of First Nations and the transfer of authority of management responsibilities on tribal lands.

Carrier Sekani areas of research include:

- creation of a comprehensive database, coalescing existing ethnobotanical information from Tl’azt’en archives and other primary sources,
- gathering of cultural information regarding selection of plants and cultural beliefs associated with those plants,
- investigation of how culturally important plants are impacted by herbicides,
- investigation of how culturally important plants are impacted by logging,
- research into forest and wildlife health,
- mapping ecological information,
- research on critical wildlife habitats (important sites for preproduction, overwintering, etc.) and spawning ground,
- research on areas of cultural significance (spiritual sites),
- indicators of forest health,
- identification of areas of high damage and areas in need of restoration,
- determining initiatives and strategies to restore and maintain ecosystem health.

The oral history and archeological literature are very important components of the research strategy. Aboriginal people must continually look at the legal implications of how these will be used.

Aboriginal Participation in the Forest-Based Economy—Barriers and Opportunities

Peggy Smith, Lakehead University

Peggy Smith described “life as we know it” in the forest sector “box.” The provinces give large-area, long-term renewable licenses to large, multinational forest companies to harvest timber, with responsibilities to prepare plans, renew forest, consult the public on

environmental, social, and economic issues. The provinces determine the rate and amount of timber harvest. To get their licenses, companies must have a processing facility (pulp or saw mill). The result is capital-intensive commodity production: high volume, low-value pulp and paper, and dimensional lumber.

The purpose of an Aboriginal approach is to improve socio-economic circumstances, attain economic self-sufficiency in support of self-government, preserve and strengthen culture, values, and languages, and maintain a mixed economy.

The Royal Commission on Aboriginal Peoples said, “Economic development is about much more than individuals striving to maximize incomes and prestige, as many economists and sociologists are inclined to describe it. It is about maintaining and developing culture and identity, supporting self-governing institutions, and sustaining traditional ways of making a living. It is about giving people choice in their lives and maintaining appropriate forms of relationship with their societies.”

“Is an Aboriginal-defined approach possible in face of global capitalism?” asked Smith. Some First Nations are trying to develop business alliances to at least get into the sector. “Usually if you can play by their rules you can get in, but if you’re trying to make your own rules, you’re going to run into a problem.”

The criteria to assess Aboriginal participation in sustainable forest-based economic development include rights, and the economic, social, and cultural environments. The outcomes include the meeting of basic needs, self-sufficiency, self-governance, adequate standard of living, high employment and fair distribution of economic benefits across households, cultural integrity, human health, education, political stability, access to lands and resources, and sustainable forest management.

Smith listed four barriers—rights-related, cultural and environmental, economic, and social—and spoke of transforming them to opportunities.

Aboriginal and treaty rights have been inadequately addressed in forest management. They are a fundamental element of sustainable forest management; changing forms of forest management to protect Aboriginal land use—hunting, fishing, trapping, and gathering.

The licensing/tenure system limits protection of Aboriginal cultural and environmental values. The rates of cut are too high. Aboriginal tenure could transform this barrier, producing culturally appropriate forest products and reducing the annual allowable cut.

Funding programs discourage innovation and alternative economic development. They push Aboriginal businesses into the existing forest sector. Redesigned programs negotiated with Aboriginal organizations would encourage alternative economic development.

Currently the Aboriginal technical capacity and support are inadequate. Revenue-sharing

would provide long-term, stable natural resources units. Leadership is needed to incorporate TEK and social issues into forest management.

Keynote luncheon speaker: Dennis Rounville, Vice-President, BC Division, Tembec

Rounville's presentation offered a perspective on Tembec's approach to Aboriginal partnerships and forestry. He began by referring to NAFA's mandate and mission statement, noting that Tembec's mission dovetails well with these objectives.

Tembec was formed in Québec when employees who were fighting a mill closure bought the mill with assistance from government. That company has grown substantially to include 55 manufacturing facilities in Canada, France, Chile, and the United States. Tembec also operates mills and manages forests across Canada. Most of the company's operations are in small rural communities. Tembec's origins have shaped the company's corporate culture. In the communities within which it operates, Tembec sees a responsibility to create positive long-term social, cultural, and economic benefits for the region and its people. This is done in Tembec's approach to managing forests, but it goes beyond that.

Tembec has committed to reduce its impact on the environment, and every mill must show how it will reduce its environmental impact. Every operation also has green programs. The goal is to have all operations FSC-certified by 2005. Tembec has also set up regional advisory boards that represent employees, unions, environmental groups, local communities, and others to ensure that the local operations are adhering to the corporate principles and guidelines. The company also sets out commitments for donating to local community causes, and environmental groups are invited to submit project proposals.

Many forest companies have been slow to recognize the benefits of Aboriginal involvement, which has been neglected in far too many areas. Rounville reviewed significant shifts in the industry over time. The initial focus on harvesting shifted to silviculture in the 1980s. In the 1990s, the focus was on regulation. It was only in the mid- to late-1990s that the industry started understanding the need for Aboriginal involvement, and Tembec has striven to be ahead of the pack.

Tembec's policy on First Nations includes a focus on developing long-term relationships that recognize the key Aboriginal role as stakeholders. Further principles include conducting business with respect, openness, trust, understanding, and integrity; and pursuing responsible stewardship and development while respecting employees, customers, and First Nations. Tembec is also committed to practicing non-discriminatory purchasing and hiring. The company provides First Nations scholarship funds, promotes employee training for First Nations, and sponsors initiatives that foster cultural understanding. Also, each operation is required to hire Aboriginal individuals to coordinate these initiatives.

The company is committed to going beyond making policy statements and ensures that policies are put into practice. Rounsville cited several examples, including harvest and silviculture operations that First Nations run for Tembec.

One new concept that Tembec advocates is that of First Nations resource revenue sharing. Discussions on this are currently further along in Ontario than in BC, he noted.

Rounsville also cited examples of different ways that First Nations are successfully involved in Tembec operations in Manitoba, Québec, and New Brunswick, among others. He described in more detail one of Tembec's BC operations, where the company purchased a closed pulp mill. Tembec officials met with Treaty 8 First Nations and signed a memorandum of understanding, offering them 30 per cent of harvesting activities and other benefits. With union agreement, the company sought other opportunities for First Nations, who run the scales, the log yard, and other aspects of the mill's operation. This has been very successful.

Rounsville described progress on addressing First Nations employment in the East Kootenays. There is a joint management advisory committee and the human resources office is linked directly to the tribal council office. To build capacity, Tembec invites First Nations people to participate when the company does its own in-house training. The company also provides casual experience for First Nations youth, which is tied to their staying in school and being good members of their community.

There have also been some tenure opportunities. Local First Nations acquired a licence after the recent forest fires and harvested the timber together with Tembec. First Nations also acquired a tenure opportunity to harvest on federal land. This will provide employment, capacity building, and a source of revenue.

The training centres at Tembec mills are open to First Nations, including those who want help upgrading their education to Grade 12. There are also scholarships and contracts for archeological services. Also, to satisfy FSC requirements for consultation, Tembec has developed policies regarding consultation with First Nations on employment and procurement. The company is developing a working protocol to ensure this happens on the ground.

Summing up, Rounsville said important steps have been taken to build pragmatic and meaningful relationships with First Nations in Tembec's areas of operation across Canada. These steps are not enough, but they are in the right direction. The reality is that Tembec is a commercial operation. However, it recognizes that it must fully respect Aboriginal values, and also needs to identify new opportunities that will allow Aboriginal people to realize their wishes. In doing so, Tembec is willing to take some risks. Government talks have been slow, and so have the courts. But one will never be a leader by just following the path set by others.

Workshop A

Jeff Eustache, Moderator

Support for Aboriginal Forest Development

Eric Murray, Aboriginal Business Canada

Murray listed three of the key themes participants had recorded earlier in the flipchart notes: land tenure, economic development, and access to funding for projects. He said these were all relevant to his talk on Aboriginal Business Canada (ABC) and the services and supports that it provides for Aboriginal business.

ABC is part of Industry Canada, with a mandate to serve all Aboriginal groups in Canada, and to support and promote the growth of Aboriginal businesses.

Business development financial support is one of the key services ABC provides. It is one of the few players who can provide this kind of funding to Aboriginal businesses. A second core activity is capacity building, another key need identified by participants at this conference. ABC builds capacity by making funding more accessible through regional financial institutions, Murray said. A third activity is improving the business climate for Aboriginal firms. Through policy, research, and advocacy, ABC seeks to promote Aboriginal business to First Nations and others.

Over the years, ABC has invested in 8,500 clients and 16,800 projects. With leveraging from banks and other institutions, this has resulted in a total investment in Aboriginal business of \$1.9 billion, a higher business survival rate, and higher export rates.

Murray described key priority areas, noting that as funding has become scarcer, ABC has focused more on strategic investment in these areas. They include innovation, tourism, trade and market expansion, youth entrepreneurship development, and strengthening Aboriginal financial and business development organizations. Key areas of focus for support include youth entrepreneurs; business innovation; manufacturing; business, professional, scientific, or technical services; market expansion; and specified regional opportunities.

Business funding limits are \$75,000 for individuals and \$500,000 for community-based projects. These are called “non-repayable contributions” (not “grants”). Eligibility criteria include Canadian Aboriginal ancestry; a viable project/opportunity, as demonstrated through a business plan; some equity contribution by the proponent; and a proponent’s experience in the field. Youth aged 18 to 35 may be funded to start, acquire, or expand a business. There is a lot of interest in BC among Aboriginal youth in forestry, including silviculture, mapping/GIS, and trucking, Murray noted.

Funding support for business innovation covers new products and processes or technologies to modernize operations, increase productivity, and raise profitability. Funding for manufacturing supports operations that transform raw materials into finished products (e.g., logs to lumber) or the development, enhancement, or commercialization of new or existing productions, systems, or processes. Market expansion funding is

available for existing companies seeking to expand existing markets or to expand sales into new markets. Start-up support is also provided for service firms offering business, professional, scientific, or technical services, in a variety of fields, ranging from software engineering to law or forestry services.

A new initiative provides support for regional opportunities, with strategic investments to help Aboriginal people set up businesses that tap into opportunities arising from the 2010 Olympics, hydroelectric expansion in Québec, or diamond mining in the NWT, for example.

To apply for any of these forms of support, individuals or groups can speak to an ABC officer or visit the ABC website and fill out an application form. Unlike other programs, Murray said, ABC has an ongoing funding commitment from Industry Canada, which assures clients consistent funding.

Discussion

A participant asked if ABC provides funds for feasibility studies. Murray replied that ABC will provide up to 75 per cent funding to conduct feasibility studies, prepare business plans, etc. It also provides business support; for example, hiring consultants who can advise struggling businesses.

Another participant asked if support is provided off-reserve, and if Aboriginal cooperatives would also be eligible for funding. Murray said support is only offered to for-profit businesses and bands would normally apply through their development companies.

Workshop B

Chief Conrad Polson, Moderator

Industry Relationships

Brian Tallman, Bigstone Band

Bigstone Band relationships with industry start with the Bigstone Industry Notification/Consultation office. Its purpose is to increase awareness of industry activity within the Bigstone traditional area and sphere of interest (northeastern Alberta), said Tallman. It collects relevant information on industry activity from Alberta and industry, and facilitates Bigstone Cree Nation (BCN) meetings with industry and government stakeholders. The consultation office also advocates and refers economic development opportunities to Bigstone and its entities. It monitors and manages Bigstone traditional land use sites with GIS technology and Elder consultation.

Bigstone members build their capacity to participate in industry through the development of training programs such as the pre-trades and drilling worker projects.

Tallman described some of the components of the Bigstone Band move towards traditional land use management. In January 2003, BCN purchased GIS equipment and

software, and hired staff to operate the GIS office. The GIS/GPS technology is used for gathering and management of traditional data. BCN has entered into data sharing agreements with Alberta, Al-Pac, and there will other agreements in the future. They engage in field and electronic monitoring of industry development within traditional area, as well as providing mapping services. BCN has entered into an agreement with Ducks Unlimited Canada and the Boreal Conservation Project to establish an environmental coordinator position.

A significant project of the GIS office is to develop an atlas that would have information such as industry development areas, traplines, wildlife areas, and other important information.

The consultation office works to establish partnerships with industry, government, and BCN departments, to ensure members have the capacity to work in petroleum and forest industries. An example of partnership development is the pre-trades training project for 12 Bigstone members, which ran for six months starting in November 2003. Industry contributed funding and work commitments, and Alberta Human Resources contributed \$100,000 for training fees. Bigstone departments of Social Services and Human Resource Development also contributed. Northern Alberta Institute of Technology (NAIT) and Northern Lakes College are providing instruction.

Bigstone has established a trapper coordinator position, whose responsibilities will be:

- coordination of Bigstone Traditional Trapper's Association,
- provision of technical assistance to BCN trappers when requested,
- development and implementation of a compensation program with industry,
- liaison with industry to mitigate trapper concerns,
- coordination of trapper notices from industry, when requested,
- advocating economic development of trappers.

Tallman updated participants on the progress of consultation. Alberta released a draft policy on First Nations consultation in 2004. The BCN consultation policy was released to industry and government in 2004. Funding of the BCN consultation office in 2004/2005 was provided by the Alberta government and industry. A consultation protocol was established with other communities within the traditional area to develop consultation capacity in each community. A Joint Working Group multi-year funding proposal was submitted that will involve BCN communities, industry, Alberta, and INAC.

BCN consultation with industry includes the oil and gas industry (Canadian Natural Resources Ltd., Devon Canada, Burlington Resources Canada, KOCH Canada Petroleum, Husky Oil Operations, Encana Oil and Gas Partnership, BP Canada, Trans Canada Pipelines, ATCO Electric), and the forest industry (Alberta Pacific Forest Industries Inc., Tolko Industries).

The office structure consists of a Consultation Manager, GIS Supervisor, Trapper Coordinator, Employment and Training Coordinator, and Secretary/Receptionist.

Discussion

A participant said that in Ontario there is a process called “consultation” that involves open houses at tribal council meetings whenever there are revisions or when management plans need altering. He asked if the BCN has such consultations. Aboriginal people have yet to figure out what that truly means as a people in the land. They seem to be right in the spirit of influence where development is taking place or a community is situated in the forest where the cutting is taking place. Looking at the 20-year forest management plan, it takes a lot of time to figure out the future impacts. In Ontario, Aboriginal people are not receptive to the idea of being stakeholders. It means a lot more; they have more at stake. He asked whether the BCN had problems when they entered into the consultation process or whether it was something they had to develop?

Brian Tallman replied that the BCN tries to increase the participation of the community through various measures. A good corporate neighbour also helps as well in terms of funding. He said in his opinion the onus is on First Nations to develop a strong structure for industry to respect their concerns. A strong organizational structure really helps.

A participant from Chilliwack asked if the Bigstone consultation policy was adopted by all the Chiefs in Alberta, and if Bigstone had done any work with accommodation, if it has a framework. Brian Tallman replied that the Bigstone consultation policy mirrors the policy of the Treaty 8 policy of Alberta. Most of the 23 or 24 First Nations have a similar policy.

Elaborating on his questions the participant said that under the *Haida Gwaii* decision and other recent decisions, the government and industry have a responsibility to consult, so they do not have the right to infringe on treaty rights. With respect to that position, they have to accommodate. He asked if there were any specific principles that BCN has developed in relation to when industry or government come into Aboriginal territory based on Aboriginal inherent rights. Tallman replied that a major initiative at his office is to develop a joint working group. In this group, accommodation is a major principle to ensure there is no infringement on treaty rights and at the same time accommodate the economic development aspirations of the community.

A participant from the territories asked if trappers were directly involved in the consultation process that BCN developed. Was there a lands resource or environment structure in place that works with this process? The trappers have been identified in the BCN area—how do the other harvesters fit in; for example, traditional harvesters? It must be difficult to get consensus when it has to reflect the whole membership. Does BCN have a communications strategy as part of this process with its members? The participant also raised various topics such as compensation, an interim measures agreement, and dispute resolution.

Tallman said a communications strategy with members is very important. Members in the five communities must understand what consultation is and what efforts are being made to improve communication. Presentations have been made to these communities in this

regard. There are various areas of dispute resolution with the trappers. Trappers come into the office daily and have certain issues they want dealt with. Usually they just want the opportunity to work with the company that works in their area. Dispute resolution will be a major component of his office. There is a partnership with Ducks Unlimited to create an environmental coordinator position. Many sites with harvesting opportunities have been identified and his office has entered into an MOU with Alberta, as industry will be aware of these harvesting areas—BCN is working to protect them.

Dave Lloyd, Alberta-Pacific Forest Industries Ltd. (Al-Pac)

Dave Lloyd gave a presentation on various logging companies Al-Pac is working with, such as Bigstone Forestry and Janvier/Heart Lake Forestry (JHL). Lloyd spoke about community partners and how employment was a major issue. The use of traditional language is emphasized in their communities with the use of signage and communications advertising.

Discussion

Asked if the allowable cut was 500 m³ annually or over five years, Lloyd said it is on average 500 m³ per year.

Asked how this arrangement and partnership began, Lloyd said it goes back to the conceptual stage of the project. Al-Pac wanted to engage the local community and see if it would become involved in its business. With this vision, the two Chiefs wanted to be involved. So a model was developed that all the parties would buy into it. Once the right players are found, it can be self-sustaining.

Workshop C

Arthur Dumaine, Moderator

National Aboriginal Forestry Association's Activities

Lorraine Rekmans

The National Forest Strategy (NFS) Theme 3 is Rights and Participation of Aboriginal Peoples. NAFA is the thematic team champion, tasked with organizing a working group, prioritizing action items, developing a work program, identifying indicators and relevant sources of baseline, tracking and reporting on progress, and evaluation.

The National Forestry Strategy Team Three partners include NAFA, the Government of New Brunswick, INAC, and the Métis National Council. To date, there has been no response from industry—the Forest Products Association of Canada (FPAC) has not signed the Canada Forest Accord.

The reason for Forest Certification Standards is to raise the bar for Aboriginal rights in Canadian forests. “It was difficult to discuss constitutional rights in a forum with snowmobilers,” said Rekmans. NAFA hired the legal team from the Sierra Club of Canada, but found they could not claim any success in addressing Aboriginal and treaty rights—to prove Aboriginal and treaty rights, one needs to understand what they are. The

Aboriginal communities should be the ones to define what the treaty rights are, said Rekmans. It was about holding a standard accountable. The CSA did not seem to meet the Aboriginal standard. NAFA developed a proposal and is looking for a funding agency to support the hiring of a certification coordinator.

NAFA is working to develop an Aboriginal criterion and associated indicators for Sustainable Forest Management (SFM) in cooperation with Aboriginal and non-governmental organizations. They are pulling together a series of work done over the past several years and reviewing the indicators with key Aboriginal organizations. Baseline sources are being reviewed as well as lobbying the Canadian Council of Forest Ministers (CCFM).

NAFA works with the Aboriginal sub-committee of the Sustainable Forest Management Network (SFMN) to plan a strategic approach to continue on with an enhanced Aboriginal Forest Research institution, to complement the work SFM has concluded. Also, NAFA is engaging at the federal level to ensure national research initiatives incorporate Aboriginal participation.

NAFA sent a delegate to the meetings at the United Nations Forum on Forests 4th Session (UNFF4) held in Geneva. The Canadian delegation was composed of members from the Canadian Forest Service of Natural Resources Canada, INAC, Department of Foreign Affairs, Canadian International Development Agency, International Forestry Students Association, the Canadian Federation of Woodlot Owners, Sierra Club, and the International Model Forest Secretariat. The delegate prepared a report regarding issues that were discussed at the UNFF4 including plans for an international forest convention. NAFA has also secured consultative status as a non-governmental organization with the United Nations.

In boreal forest issues, NAFA has:

- participated with the National Round Table on the Environment and the Economy (NRTEE) boreal task force,
- developed a series of fact sheets on boreal issues,
- hosted an Aboriginal boreal workshop.

In the area of general advocacy and support to First Nations, NAFA worked to create the Indigenous Cooperative on the Environment. It is holding its first meeting at the end of March 2005. Bill 97—Revenue Sharing, Ontario—has been through second reading and NAFA provided support on this. NAFA was engaged in the Aboriginal Roundtable discussions.

NAFA hosted a Board strategic planning session in June 2004 and has drafted a memorandum of understanding with AFN—now in its second draft.

Other activities include:

- assisting with the First Nations Forestry Program (FNFP) conference in May
- joint study with FPAC and FNFP on Aboriginal/industry relationships,

- career fairs,
- science scholarships,
- careers in forestry video, also in French,
- guideline for land managers.

Rekmans said she did not capture everything NAFA does, but hoped her presentation would give participants a sense. Activities are interrelated and linked with many things to develop various guidelines.

Discussion

Asked if it is a function of NAFA to lobby and support for dollars to research NTFP, Rekmans said NAFA participates in any chance it gets to advocate for an Aboriginal controlled research institution. This idea has been handed around the Department of Indian Affairs, Professional Institute Development Program. NAFA has a draft of the strategy and this would be used to lobby for an institution. NAFA has to be careful that what it constructs is enabling and meets its objectives. Its approach to research is to define the truth and to move the yardstick forward on Aboriginal rights.

Asked NAFA's short and long term goals, Rekmans said the short term goal is to remain as an organization. NAFA has a 14-year history and the challenge is always to keep shifting and moving. Long term, it makes sense to build towards Aboriginal organizations that do what NAFA does at a regional level, supported by regional organizations.

“When are we going to make these things into law?” asked a participant. “We have to start writing laws—is this something to incorporate into the strategy?” Rekmans replied that there is a shift in thinking to define sustainable forest management and NAFA is trying to define this. How can anyone claim that “we’re practicing sustainable forest management,” when so many communities are suffering with the logging around them. “We have to bring Aboriginal rights, values, and knowledge into practice,” she said. “That is our long term goal.”

Asked the status of the CSA appeal for Canfor, Rekmans said CSA and the auditors have their own appeal processes. Some of the auditors that NAFA wrote to were gracious about dealing with the appeal, however, one auditor was very resistant. NAFA is wading in a lot of legal and difficult process-related issues. “I am thankful we hired the Sierra legal team to deal with this side of it,” she said. “It is not going to be an easy process.” The Standards Council of Canada is dealing with this new issue of an Aboriginal community wanting to be a part of the process. NAFA has not heard from them. Industry took it badly and NAFA explained that its issue was with the CSA, not with them. It is not a performance-based standard and industry better be aware. It will be interesting to see how it plays out. NAFA will not recant anything it has said so far.

“In trying to jump into north eastern Ontario,” said a participant, “it has taken me a long time to get the information I need.” NAFA could be a basis for moving issues forward to impact other jurisdictions. Rekmans replied that Northern Ontario has an informal forestry coalition. As a non-political association, NAFA has certain advantages. This

discussion will go on about the MOU with AFN. It is easy to launch an appeal because the forestry climate is changing so rapidly. By design or necessity people are collecting to respond to these forestry issues.

Workshop D

Boreal Forest Issues—Aboriginal Perspective

Harry Bombay

“Boreal forests are being seen as the last great frontier,” said Harry Bombay, director of Strategic Initiatives for the NAFA.

The World Resources Institute pointed out that boreal forests, especially in Canada, deserve special attention. A Senate committee in Ottawa published a report on boreal forest issues, focusing on conservation and the need to engage Aboriginal people in management. A national roundtable on the economy and many industries are studying boreal forests.

“The boreal is not just impacted by forestry, but by industries such as oil and gas,” Bombay said. Therefore, extensive research is dedicated to the boreal. In response, NAFA recently issued eight newsletters, on major boreal issues: introduction to the boreal, sustainable forest management, forest certification, forest conservation, non-timber forest products, Canada’s forest industry, climate change, and forestry research.

Boreal means “of the north or pertaining to the north.” Boreal forest covers 11 per cent of the world’s land surface and more than 53 per cent of Canada. It comprises 350 million hectares or 5.3 times the area of Saskatchewan. Sixty per cent of Canada’s fresh water flows north through the boreal. The Canadian boreal contains 25 per cent of the world’s remaining intact, original forests.

Aboriginal people comprise one of every three residents in the boreal. “We are of the land. A lot of Canada’s other residents are in urban centres,” said Bombay, adding that a majority of Aboriginal people are under 30. “We are going to have the workforce in the boreal in large part,” he concluded. The area the boreal covers is basically treaty land, so it becomes a treaty rights issue. Provincial and territorial governments claim ownership of 77 per cent of Canada’s forests, and lease the land under tenure. Under this arrangement, 53 per cent of the boreal forest has already been allocated.

“The boreal is a high source of wood supply,” said Bombay. The forest industry is Canada’s leading manufacturing sector and accounts for 11 per cent of gross domestic product. The value of shipments in 2003 was \$81 billion. Canada handles 20 per cent of the total value of global forest trade.

Aboriginal people play a part in this. There are more than 600 First Nation forestry businesses in Canada. Only five First Nations hold forest tenures more than 50,000

hectares. The total amount of wood allocated to Aboriginal people in Canada was seven million cubic metres or four per cent of the total in 2003.

The National Forest Strategy 2003–2008, which NAFA played a large role in writing, says the goal is “maintaining and enhancing the long-term health of Canada’s forest, for the benefit of all living things, and for the social, cultural, environmental, and economic well-being of all Canadians, now and in the future.” It is consistent with the statement of an Aboriginal Elder, who said the goal is “. . . living on the land in a good way for the sake of the next seven generations.”

This strategy and the Canada Forest Accord, are the guiding documents for forest use. Criteria are “deficient in accommodating Aboriginal rights,” said Bombay, and objections have been made through NAFA. Forest 2020 is an attempt to implement wood plantations, being pilot tested now.

“Historically the boreal has been seen as abundant. That’s changing,” said Bombay. Other factors that at one time favoured the forest industry are changing and forcing consolidation—factors such as availability of high-quality fibre, political stability, a highly productive labour force, well-developed transportation, world-class facilities in remote locations, and close proximity to the United States.

Changing certification standards is having a huge impact. The market-based approach, that consumers will pay more for certified products, is an unproven assumption, said Bombay. Companies need to show consumers they can manage operations in a sustainable manner.

The Forest Products Association of Canada announced all members would pursue independent certification to a forest specific standard by the end of 2006. The aim is to see all boreal management certified, but Bombay said, “They have to meet our needs and recognize our Aboriginal rights. Not all these certification systems do that.”

The Forest Stewardship Council, established in 1993, promotes results-based standards, and the balancing of environmental, social, and economic needs. It is the only certification standard that recognizes and respects indigenous rights, said Bombay.

General aims in conservation and protected areas of the boreal are to conserve biodiversity, reduce habitat fragmentation, preserve old-growth forests, protect rare or endangered species, and empower First Nations. In fact, only eight per cent of the boreal is strictly protected from logging, mining, or hydroelectric development. A more holistic, inclusive approach to park co-management is need, said Bombay.

The *Delgamuukw* and *Haida* court decisions were positive steps, he added, and the concepts must extend into boreal forest issues. The Canadian Boreal Initiative aims to be a national vision, adaptive and solution-driven, that balances conservation and development. It includes the Deh Cho, Poplar River, and Innu First Nations, the non-governmental organizations Ducks Unlimited, Canadian Parks and Wilderness Society,

World Wildlife Fund, ForestEthics, and the industries, Al-Pac, Tembec, Domtar, and Suncor. Bombay said, “My caution about conservation is that we have to apply it much the same way as we approach forestry development. There should be consultation and recognition of Aboriginal rights. Conservation groups assume they are doing what Aboriginals want. That’s not always true. We have to make our own interventions.”

Northern development has cumulative impacts, Bombay noted, as mining, oil and gas, hydro, and forestry move northward together. They bring roads, trails, seismic lines, rights-of-way, power lines, and stations. They threaten the boreal’s ability to provide key ecological services.

To illustrate, 80 per cent of mining takes place in the boreal, using more than 40 million hectares. More than 250,000 kilometres of seismic lines and roads are expected in northeast Alberta by 2050. Sixty per cent of Canada’s electrical generation capacity altered 85 per cent of boreal drainage basins.

On the topic of non-timber forest products, Bombay noted this includes all natural resources found in the forest besides commercial timber. It is a \$442-million industry in Canada, mostly unregulated. There are more than 200 boreal plants used by Aboriginal people. The issues have not been examined much from the Aboriginal point of view. Non-timber forest products can be classified as material and manufacturing, decorative and floral, food, health and personal care, landscape and garden, and environmental services. Elders are concerned about priority rights for Aboriginal people, destruction of resources, and inappropriate commercialization.

Climate change may impact the boreal forest. Many experts say average global temperatures will rise by 1 to 3.5 degrees centigrade over the next century, to as much as 10 degrees centigrade in the northern boreal regions, which Bombay said “would be catastrophic.”

It could produce altered tree growth; unusual wildlife ranges; increased extinction; changed carbon cycles; more fires, insects, and disease; reduced bio-diversity; altered wetlands and watersheds; and a northward migration of the boreal tree line, already moving three to five kilometres each year. “We have to collectively get our act together on what we want to do about climate change—whether to mitigate it or adapt to it over time,” stressed Bombay.

He noted that through NAFA, Aboriginal people are working to create greater focus on boreal forests.

Discussion

A workshop participant said a group of First Nations leaders will convene in Winnipeg in spring 2005 to talk about boreal forests and the balance between conservation and forest management.

A participant from the Cree First Nation in Alberta said they advocate the return of 50 per

cent ownership of forestry rights to First Nations, but admitted 20 to 30 per cent is a more realistic expectation.

A discussion ensued on the movement away from looking at projects one at a time and the need to look at the whole landscape and everything that impacts it. “Forestry is not the only actor out there. Oil, gas, coal, etc.—most are allowed to proceed in a totally disjointed way,” said one participant. Another said people need to ask how everyone is going to remain on the landscape and do it in a manner that does not destroy the landscape.

Revisiting Issues from World Café

Six clusters of topics arose from the second round of World Café: communications, political support, institution development, markets, education, and unity. They are summarized below.

Communications

- An effective communication structure should be developed within provinces and between provinces. In some organizations one person makes five contacts, and the message is carried through communities. From NAFA, one provincial body could be contacted, and it in turn would contact leaders in First Nations communities in that province, who would extend the message throughout the communities.
- Sub-working groups of people with common issues should be established. Often people leave the NAFA conference sessions and do not maintain contact. Everyone’s e-mail contact information should be distributed in one big print-out.
- NAFA communication can be increased by adding electronic newsletters, websites, Aboriginal newspapers, justice channels, and e-learning. One target audience would be the Assembly of First Nations chiefs. A call was made to combat xenophobia.
- Information was acquired through the NAFA conference for network contacts. It is valuable and should be built on for the future.
- A database at these functions would be helpful. Each delegate would fill out a questionnaire at the event, and the information would be put into a database. During a workshop, people with common concerns would be grouped together, so they can contact one another later. The database would also be a networking tool for workshops.

Political support

- There is need for political support from leadership, toward addressing issues and policies related to treaty and Aboriginal rights that address lands and resources, specifically forests.

Institutional development

- There is a need to develop institutional support to deal with such things as stumpage, forest policy changes, networking, and markets. (An outreach is needed at the provincial level.) It may not be reasonable to compare forest health with the social

health of a community. The health of the community was not affected by the health of the land, but rather by colonization and the church.

- More work should be done through the First Nations Forestry Program.
- BC and the Yukon should be separated. NAFA should come to the Yukon. Note: more money should be invested in the Yukon, which has an industry and much to offer Canadians.
- There is a need for structure and people devoted to the management of land and resources.

Markets

- More markets need to be developed for First Nations' lumber products.
- Alliances should be formed and partnerships should be created.
- Joint ventures within First Nations should take place.

Education

- Leaders should connect with First Nations students at post-secondary institutions. They are the future champions to carry the torch.
- Other institutions are not educated about Aboriginal claims, and should be.

Unity

- People must define commonalities and work together.
- First Nations should join together to promote their interests.
- More unity between First Nations is critical.

Discussion

Moderator Chris Corrigan of NAFA facilitated the concluding roundtable, and asked, "What can we go away and do? Can we capture things that seem do-able?"

One provincial government representative, who attended the conference, said he was disappointed that he had not seen any other representatives from governments, either federal or provincial. "This is a great opportunity to come and learn and get better understanding of what First Nations see as challenges, and how we can overcome those challenges," he said. He encouraged NAFA delegates and organizers to contact their politicians and make sure they know that conferences such as this are going on. "Occasionally we are okay to work with," he added with a smile.

Lorraine Rekmans, of NAFA, said discussions are underway about links between NAFA and provincial-level efforts, and also some sort of national linkage. It makes sense, she said. She has been approached by someone in BC, asking when a NAFA office will open in that province. A five-year plan to develop more linkages is a possibility.

One participant said it is necessary, on going home, to do scoping exercises to reach tribal councils in local communities. There are two ways to inform people: knowledge can be collected and people can be invited to come and look at it, or the knowledge can be distributed out to people, which he said is preferable. "I came because this conference

is institute building,” he said. NAFA has been in existence for 14 years, he pointed out, “and it is now looking at its belly-button asking what we need to do to move forward.”

Another participant said he had worked at the community, regional, and national levels for First Nations’ interests. He noted there are some First Nations where indigenous knowledge is professionally collected and merged with land use planning. “Aboriginal values mapping is insufficient,” he said. “It’s not the serious collection of data that we need to buffer Aboriginal interests in resource management.” It is important to bring information to local tribal councils. “If we can’t do that, we will be continually knocking heads about conserving, managing, and using our resources.” Tools have to get closer to the ground at the band level, he noted, and not every band can afford a GIS system and high level technology to do mapping. There needs to be a training program. NAFA alone cannot do it.

“How we can get consultation going before the land is denuded is important. More than a conference, how do you get a training program into a community?” asked a participant. “Without it we will be spinning our wheels.” He drew attention to a case in Ontario in which a First Nations group created a corporation, but a judge declared that a corporation “loses its Indian-ness.” He stressed it is necessary to collect cultural and historical information and use it to scope out how Aboriginals want to be accommodated for sustainable communities.

One participant said he heard a lot about sharing of knowledge, and that is an enriching experience. Much had been shared at this conference and all from the heart. He noted Aboriginal people across Canada have “been through a lot.” More training is needed, and it must be remembered that forestry is just one component. First Nations have many natural resources and much of it is being sent to other nations across oceans and borders.

“The simple concept I was taught is that we should take from the land but take only what we need. Why can’t corporations follow that?” he asked. “So much unemployment and poverty is because we don’t have access to resources that are ours.” He wondered if it is possible to continue, with the level of harvesting going on today. He noted First Nations are still left on the back burner, but questioned if First Nations’ input on decisions would change things. So far it is not happening, he noted. “Even with treaties, why is there still so much talk on how to change things? Why can’t we just take what we need?” He noted the forest is life-giving—i.e., it gives oxygen, it gives animals for food. First Nations should be able to take the natural resources and materials to build houses for their own people. He added that if needs are met through forestry, then First Nations would be able to maintain communities.

“It’s a Creator-given right for us to gain access to our own resources. But the bottom line is that we don’t have any say in government decisions in forestry. Must we continue to go to the courts? Or do we take what is ours?” he asked. He added that any sustainable forest management plan must have Aboriginal input, and Aboriginal people must continue to talk to governments. The issues of land claims, treaties, and access to Crown land are all areas where more discussion and action are needed.

The owner and manager of an import/export company noted that he came to the NAFA conference to buy wood to complete deals in China, India, and Spain. He called on NAFA to develop new markets for First Nations' lumber products, especially abroad. "That may get us away from having to meet the criteria of government here simply because they fund us," he noted.

When it comes to changing the laws that govern the forest industry, First Nations' provincial organizations have to push for changes in the legislatures, he said. First Nations are getting a little of the forest allocations, he said, but need more and need to use it for their own benefit.

As an example of a problem, he noted a truckload of red cedar was ready to send to Spain to a company that sells guitar tops to 125 countries. It was harvested under "inherent rights," but the provincial government threatened to seize the truck because the wood was certified only under the Haida nation. He noted the businessman in Spain took time to come and live in his village for a month to understand why the forest is so important to Aboriginals.

Another participant asked NAFA to encourage joint ventures, and said he would like to see more CEOs of companies coming to live in First Nations' villages and gaining grassroots understanding. "When we leave here we have to find a way to work together as First Nations," he noted. "We get so tied up in internal conflicts that we forget the bigger picture."

Closing Prayer

Richard David of the Mohawk Nation led the NAFA closing prayer. He noted that in the Mohawk tradition the person chosen says the words for everyone, in order to get all who can hear to be of one mind.

He offered words of thanksgiving, inviting each person to look around, recognize friends and people not known before, and give thanks. "The Creator gives us the duty and responsibility to live in harmony. We have the choice to do good or bad," said David. He invited participants in the prayer to give thanks for all the people of the earth.

He turned attention to Mother Earth and said, "We walk upon her; we dance upon her. On Mother Earth there are many waters—streams, oceans, dew, and mist—all are connected. All give us the gift of life." He invited participants to give thanks to the Creator.

In the waters, the Creator placed fish and plants and animals, said David, that have been given the duties and responsibilities to cleanse the waters. "They are fulfilling their promise to the Creator."

He turned attention to plants, some of which add beauty, some add fragrance, some are for animals to eat, some are for people to eat, and some are for medicine. There are people who have knowledge to use the medicine, he said. "The strawberry is the leader of

all plants.” Plants provide nourishment and that gives people the duty and responsibility to enhance the cycle of life.

David directed attention to animals. He noted that if people watch a grizzly or black bear when it comes from hibernation and is weak, they would see what plants the bear goes to for nourishment. People can gain nourishment from the same plants.

Trees provide shelter, fruits, and nuts for people, David said.

Drawing attention to the heavenly bodies, he said, “Grandmother Moon controls tides and the birth of children.” Stars twinkle like jewelry across the sky, and at one time people were able to read the stars like maps—a knowledge that needs to be learned again.

David said enlightened teachers lived on the earth long ago and taught that there are four sacred beings who protect people. “When I was young I did iron work. I walked on beams high in the sky. They protected me.”

“The Creator made all things I talked about and much more,” David concluded. “Give thanks for all things that are important to you. With our finest thoughts we send our greetings to the Creator. I ask him that nothing impede you on your journey back to your families. Thank him for each one of them.”

Dinner presentation: Paix des braves Agreement explained

Abel Bosum, Grand Council of the Cree

Abel Bosum, a negotiator for Cree-Québec relations, explained the new Paix des braves Agreement, which he said is a “new relationship to be characterized by cooperation, partnership, and mutual respect.”

While the old James Bay Northern Québec Agreement (JBNQA) is still in force, a permanent framework has been set out, based on clear and simple formulas to make possible economic and community development of the Cree nation, and the settlement of disputes related to forestry, hydroelectricity, mining, and the application of the JBNQA.

“Both the Cree nation and the Québec nation agree to emphasize those elements that unite them,” said Bosum. The Cree must be able to take full advantage of cultural heritage, language, and unique lifestyle within a context of growing modernization. The agreement marks an important step in a new nation-to-nation relationship, characterized by openness and respect.

Basic funding will be accomplished in part by the Cree taking over certain of Québec’s treaty obligations, particularly those that were not funded in the past. “In the James Bay agreement both Québec and Canada failed to deal with funding,” said Bosum. In the new agreement, an annual payment of \$70 million will be made by Québec to the Cree. It will increase annually to reflect growth in the forestry, hydroelectric, and mining sectors. For

example, one hydroelectric project is expected to increase and boost the funding by approximately 15 per cent or more than \$10 million annually.

Specifically, the indexed formula adds the value of all hydroelectricity, mining, and unprocessed wood harvesting generated in Eeyou Istchee, which totals \$4 billion in natural resources. If that increases to \$4.5 billion, the proportional increase in Québec's annual contribution would be 12.5 per cent or \$78.75 million. The funding is expected to reach \$5.6 billion over 50 years. "We consider the funding to be very substantial," said Bosum. "There's no doubt that the new proposed funding framework represents a huge opportunity for the Cree." He noted it will position the Cree for generations to come as a major economic and financial player in their traditional territory and in Québec.

Québec has agreed to encourage Cree partnerships, employment, and contracts in forestry, mining, and hydro. In forestry alone, it could affect 26 industries.

The Cree trapline system is a key component. The traditional territory is divided in a system of formal traplines or traditional harvesting territories. Each trapline is under the management of a tallyman, guided by Cree laws. The system is the basis of the Cree occupation of the territory and most of the 500 traplines are occupied by one or more Cree families. Future development in Cree lands must be compatible with the Cree way of life, such as traplines, said Bosum.

These principles are to be applied in a scaling-down of projects promoted by Hydro-Québec, and in forestry. There are two levels where the Cree can be involved in forestry development. At the regional level a joint Cree-Québec Forestry Board with equal representation is in the agreement. It will allow consultations with the Cree at various planning and management stages of forestry operations, make recommendations, and monitor forest activities.

Forest activities are to be managed on the basis of each family hunting territory, providing for protected areas and special cutting rules. Cree hunters may designate up to 25 per cent of their lands for special mosaic and other cutting techniques that protect wildlife, and may completely protect campsites and cultural areas.

Under the agreement, no cutting would be allowed in traplines affected by 40 per cent or more of cuts or fires in the 20 previous years. The Cree will receive an annual allotment of 350,000 m³ of harvestable wood. This is going well, with 125,000 m³ received to date and another 165,000 scheduled for this spring.

Of three hydroelectric projects in the James Bay agreement, one massive project has been cancelled, another shelved, and only one small one will go through, if it passes environmental standards. Hydro-Québec will provide a \$105-million training program and hire Cree for permanent technical jobs. "This is going really well. A lot of Cree graduates from technical institutes are now employed with Hydro-Québec," said Bosum.

Additional funds will target such things as new training projects (\$3 million) and new

projects related to archeology and burial sites (\$6 million.) There is \$24 million for the mercury agreement and an additional \$6 million in related new projects. The Cree may hold certain options related to future hydroelectric developments, although one that had been proposed, the La Sarcelle powerhouse, is not going forward. “It’s not feasible,” said Bosum.

A new Cree mining exploration board will be created, similar to the forestry board, but the Cree will hold the majority of seats. Minimum funding of \$300,000 annually will be provided. Québec will encourage agreements between the mining industry and the Cree regarding employment and contracts.

The Cree Development Corporation (CDC) will be established by special legislation, and dedicated to economic and community development of the James Bay Cree. “Our goal is to use this vehicle to be bigger players in these natural sectors,” said Bosum. The CDC will support long-term development of each Cree community, handle management of development funds, promote and accelerate job creation, develop Cree businesses and industries, and make the Cree active partners of Québec in developing the territory.

The Paix des braves Agreement is different from the old James Bay agreement, explained Bosum, because it solves some of the implementation troubles. A high-level discussion forum called the standing liaison committee will act as a permanent forum of exchange and coordination between the Cree and Québec, to strengthen ties and ensure implementation. “Things get unblocked. We’ve been able to call on cabinet ministers or deputy ministers,” said Bosum. But if the liaison committee process fails, it is backed up by a mediation process to resolve disputes, and if that fails, Bosum said, “We have the courts.”

As a result of the agreement most legal proceedings between Québec and the James Bay Cree have been withdrawn. Litigation against Canada is continuing.

Three areas remain unsettled with Québec:

- Policing services are not settled. Québec and the Cree will agree to set up a Cree regional police force throughout the Cree traditional territory. It is a new concept that required amendments of the James Bay agreement and funding by Canada. “This is one of the issues that requires a tri-partite agreement. So far we’ve had no success in bringing Canada in,” said Bosum.
- New arrangements on the court system, provision of incarceration facilities, and rehabilitation programs are to be developed.
- Regional governance issues are to be addressed.

In other agreements affecting the Cree, a five-year funding agreement starting in 2004 provides the Cree School Board with more than \$100 million annually. A new vocational institute will be located in one of the Cree communities.

In a seven-year agreement for health and social services, this year’s operating budget of \$70 million will grow to \$120 million by 2010. “In the past, government would dictate

what we got for health and social services. There was no way to increase it. Now there will be an automatic adjustment each year,” said Bosum.

In December, 2004, the Coulombe Commission released its report with 83 recommendations, calling for major reform of Québec’s forestry regime. “The report reiterated a lot of our concerns and complaints. Some of the recommendations will have a positive impact on the new agreement,” said Bosum. For example, major changes to the annual allowable cut (AAC) will show whether practices are sustainable. “We have wanted something like this that is more transparent,” he added.

The Coulombe report also proposed a 20 per cent reduction in AAC for the province between 2005 and 2008, the period in which a new method for determining AAC will be pursued. It requires companies to engage in certification processes, promotes plans based on the eco-system approach, and provides a new approach to research.

The NAFA conference closed with a gala dinner and entertainment provided by blues singer, Maria Hawkins, and traditional dancers, Viola Brown, Julie Brown and Crystal Prince.

Appendix A

Flip chart notes from World Café

Group 1

Opportunities

- Opportunity to buy a mill
- Opportunity to buy existing logging operation
- Opportunity to have Aboriginal rights accommodated
- Employment: training & skills development > Build professional capacity
- Legislated negotiation required (Condition 34 in Ontario)
- Silviculture opportunities from fibre shortage, including site prep, planting > commercial harvest
- FN are in the forest to do the work
- Opportunity to marry training with work on job skills development
- Career development to lead to long term sustainable jobs
- Consultation requirements: support needed to build
- Capacity for effective participation in consultation
- We can build ASEP models across the country
- Bill 97: revenue sharing legislation in Ontario
- Opportunity to negotiate = need for data
- Opportunities to work with local forest companies (training)
- Building awareness
- Building Aboriginal trade networks; helping each other
- Hardwood glut in Ontario
- Focus on protection of values & new approaches; Not one solution for all First Nations (FN), a variety of approaches across Canada.
- Balance traditional & commercial values
- Empty mills there for the taking
- NB exempt from softwood lumber agreement; need to secure exemptions from liability questions.
- Can move Condition 34 to other policy instruments outside FMPM; Move Aboriginal part in planning outside provincial framework.
- Consultation is ongoing at the government level

Group 2

- Timber supply analyses that integrate TUs and ecol priorities of FN by and for FN
- Define institutional setting(s): Diverse (i.e. Ontario vs. BC); Different levels of technology; Short term dollars for long term gains; Generate own dollars; Many jurisdictions overlapping in some cases
- Rights/title assertion – basis is traditional use and occupancy
- PM's roundtable to include natural resources
- 80% of FN within Boreal forest & no official management

- Forest industry: Baby boomers primary source of labour; Few young people
- National & international agendas: governments vs. FN
- Allocation of resources: sharing the land
- Methodologies used by government etc do not address or take into account Traditional Ecological Knowledge (TEK).
- Proving FN rights/history
- Traditional uses: TEK
- Developing capacities: Oral traditions > modern databases for documentation
- Partnerships: Documenting TEK outside jurisdictions; Stumpage & revenue sharing; beyond stakeholders; Land use mapping; Household harvest study
- Long-term, meaningful agreements
- Treaty is modern; historical burden of proof is on FN
- Cultural history

Group 3

Opportunities:

- New ideas, sharing knowledge
- Organizations (like NAFA) to have one strong voice
- Education: capture interest of youth in FN communities
- Create awareness in communities
- Career opportunities in forest sector – funding availability

Round 2

- Working to develop forest management plans – work with/learn from community
- Funding for FN to maintain fulltime staffing in forest sector (revenue sharing)
- Local management of forest/lands
- Self government based on resource revenues
- Differences in regional practices by provincial/federal governments
- Federal responsibility limited to on-reserve – need to expand to treaty territory

Round 3

- Work within provincial areas to unify FN organizations; Regional organizations responding to provincial governments & need to involve FN in all regions.
- Develop alliances, work together, mentoring between communities
- FN to expand operations; More involvement in all aspects of forestry – harvest, mill, lumber products.

Group 4

Round 1: opportunities

- Develop & maintain FN capacity in the industry (long term)
- Revenue sharing (royalties)
- Better management approaches from government
- Better use of industry knowledge & FN
- More FSC forests

Round 2

- Certification processes with stronger Aboriginal content & leadership (use of TEK)
- Improved communications between FN, industry & government
- Improved access to resources for FN, including small communities
- More Aboriginal foresters

Group 5

Opportunities

- Institutional arrangements > capacity building
- Dollars needed to be a player (e.g. buy licences, manage tenures)
- Why not stumpage revenues?
- Need revenue streams to support governance institutions

Round 2

- Bombarded with management plans
- Getting values lost
- Adversarial attitude not conducive. New approach?
- No continuity; government reps always changing – new learning phase
- No time, resources
- Companies come to the table with the understanding that their planned cut is going to happen
- Need a certification process that is 100% Aboriginal owned, maybe international in nature.
- FSC certification needs FN buy-in, otherwise individual certification.

Group 6

The following key concepts were presented in a matrix model that emphasized a holistic approach with many links and connections among these concepts:

- Opportunities: economic development, spin-offs, diversification, job security, lower unemployment, community self-sufficiency
- Education, scholarships, technical resources
- Capacity, networking, community-based research
- Political alliance, social/political partnerships, meaningful consultation
- Joint ventures, co-management, co-jurisdiction
- Wildlife management, conservation, culture & archaeology
- Tenure equity, Aboriginal title, a say in natural resource management
- Communication, differences across the country
- Capacity: Long-term – at the community level; Better management/revenue sharing; Partnerships; Pool timber resources – business network; Forest health – resource plans
- Say involvement in land stewardship: FSC, ownership of land.

Group 7

- Opportunities: Partnerships: new & improved; Different perspectives; Educational opportunities; Awareness: connectedness – industry, FN, government; Pooling

resources; More strategic approach, i.e. lobbying

- Common approaches for working together: More effective delivery of institutional programs; More recognition of FN programs – address myths; Expand informal lines of communication
- Community foundation first step: young, elders; Common interests & vision critical
- Form Aboriginal institutions controlled by FN – e.g. Centre of Excellence
- More tripartite organizations (formal vs. informal): whole community (industry, government & FN)
- Address capacity issues
- More effective economic development
- Access to own source of income for greater control (vs. government money with strings), i.e. royalty, other economic development; long term – what can we do now?

Three emerging areas:

- Capacity at the community level (what the community wants)
- Training > actual career placement
- Project driven vs. long-term vision

Group 8

Opportunities:

- Communication venue
- Common issues, e.g. land base, court cases
- Access to crown lands, FN involvement TBD
- Challenge: uses not limited to archaeological, historical
- Ancestral rights, permission to access
- Duty to consult
- Varying policy
- Partnership development/connections > co-management
- Further education > mentoring

Round 2

- Co-management, management capacity needs
- Time constraints
- Achieve better professional, socio-economic conditions
- Sharing success stories
- TLE > agreements with provinces/industry for access, training in partnership
- Training > to implement, need trained professionals; not enough FN entering field
- Create pool of talented forestry workers/NAFA
- Ways to enhance forestry education for youth? Increase involvement
- OTJ support, years of commitment needed & job shadowing

Group 9

Opportunities

- Management of forest lands > tenure, licences
- Control of wood utilization: more value-added products, best end use

- Effective participation in international trade, policy, law, agreements
- Effective implementation of certification standards, especially FSC's Principle 3, indigenous rights.
- Aboriginal leadership in setting indicators for good forest management: social, economic, environmental & cultural – developing models to do this.
- Revenue-sharing achieved through pan-Aboriginal national effort
- Good communication among Aboriginal peoples
- 500 Aboriginal professionals, foresters, biologists, ecologists, GIS
- Youth training, silviculture, promote forestry as a career
- Program support for on-reserve management – long term; Start at home; Healthy communities; Example for youth.
- Access to capital to take advantage of business opportunities
- Provinces & Aboriginal people have equitable arrangements
- Better collective approaches/alliances in developing strategies
- Certified, recognized, up-to-date
- Technical capacity/support for good political decisions & protection of Aboriginal values
- Appropriate decision-making/advocacy at appropriate level: individual community members, households, community, tribal councils, regional organizations, PTOs – provincial, national organizations (AFN, Metis, NAFA)
- Good business management
- Equitable partnerships with government/industry; Ensure Aboriginal capacity, from forest workers to management
- Using Aboriginal rights to level revenue sharing equity ownership; Good relationships, access, capacity – for the highest good of all concerned.

Group 10

- Aboriginal governance: Create environment that facilitates economic development; Sets stage to allocate investment = long term business success.
- “Regional development cooperation” concept
- Communication: share/connect
- Start macro-economic talks/concepts
- Create win/win solutions
- Protocol agreements: companies/FN
- Focus on successes
- Balance economic development with social development
- New uses of scarce forest resources

Group 11

This group presented key concepts in a graphic that illustrated links between the resource, mills and markets; with Aboriginal schools, bands and self-government on one side and government and industry on the other.

Group 12

The first round discussion was captured in a “crossroads” diagram: the horizontal axis

represented a line from resource revenue sharing to control or management planning; the intersecting axis led from relationships with government to relationships with industry. The pole representing relationships with industry was further linked to “relationships with other Aboriginal communities” and “concern for the future”.

The second round of discussion grouped key points by province:

- Manitoba: sharing ideas; learning how others include TK into FMP
- Yukon: networking; making connections; increasing awareness
- Ontario: Develop alliance, create partnerships, strategies, include TK into FMP
- Nova Scotia: Partnership, industry, FMP needs more TK, have own FMP with own values

Main points in the third round were also represented by province:

- New Brunswick: more involvement in FMP of province
- Ontario: Sharing knowledge, more emphasis on ecosystem in future development (e.g. buffer zones)
- BC: sharing information on activities, need more consultation, need more inter-tribal organizations.

Group 13

- Increasing market access; Marketing strategies; FN brokerage (organizational structure to support this); Branding; Niche markets; Cut out the middleman (Dell computer approach); Reduce cost of distribution; FN full control; need connections to marketplace.
- Comprehensive community planning; lack of recognition of the need for community buy-in/support.
- Social development: Human resource; Social problems (need support & time to change/break cycle)
- Cultural development
- Resource development: Need to link cultural and social with resource development

Group 14

- TEK with science to achieve responsible sustainable management
- Respect for Aboriginal title
- Shuswap land use plan
- Community-based resource management; Need to train in research – land use planning
- Issue: capacity to manage and monitor
- The activities: funding is an issue to ongoing monitoring
- One solution is a partnership with universities and colleges
- Communications: a lot of good ideas but difficult to translate to the community
- Continuity – training: We train existing people – what about the people coming
- Need structure in place to keep things moving
- Monitoring: land use planning

Group 15

- Capacity development: need to build interest – at one community there is no interest in forestry
- Community is core – interest expands

Group 16

A process through NAFA or ABC organization:

1. To share expertise, ideas & solutions regarding Aboriginal forestry, networking & sharing of ideas
2. Aboriginal development of plans for the management of non-timber resources. TEK and the protection of wild harvesting vs. garden setting
3. Recognition of inherent rights of FN peoples to have jurisdiction over resource management within traditional territories
4. Wish list: “Ultimately, an Aboriginal Ministry of Resources”; Toolbox of best practices, technical, legal, political, global

Group 17

- Build institutes; political strategies, economics, technical strategies, governance, ecological understanding
- Build internal relevance: venues; marketing (more than lumber: carbon, wild rice, animals)
- Build partnerships: Evaluate community impacts: ecosystem, medicines, trappers; Step back from SFL due to those impacts; Handle financing well; Ask: where can intensive forestry occur without negative impacts; Relationships – build them
- Find ways to study traditional uses vs. other demands
- Governance: Separate politics and economics and management; Create safe environment
- Keep focus on the sustainability of the land – Mother Earth; Work together to protect the land

Group 18

Opportunities:

- Resource sharing: government & FN; FN & FN
- Mentoring: within & outside local communities
- Capacity building
- Networking
- Consultation with government

Group 19

Opportunities

- Networking
- Incorporate TK in forest management
- Identify harvest opportunities
- Increase available harvest levels
- Measurable indicators of incorporation of TK

Group 20

This group represented the following key concepts in a complex, free-flowing matrix:

- Standard methodology – treaty – “out gunned” – IMA: need 100,000 m³ to look after community – plans – base plans
- FN = corporations, government, NVIT – IRM – on-reserve forest management – “conflict of interest”
- Partnership – access: training – agreements – employment – Missanabie – MNR/Tembec – eco-tours (land claims unsettled) – landless band = traditional territory (Treaty 9) – building community capacity in TT – hire business capacity – negotiations – tripartite – receptive corporate sector – policy development – milling aspect – processing – FN involved in JV operations – economies in lumber – agreements with company – populations/diverse locations
- Provincial government resistance: FN politics – community development – traditional use: HLP – FN forestry portfolio – INAC driven philosophy > basic business practice – companies need fibre access – different experience: ground based – work with most major companies & government – Foresite: forest management services – higher level plans – FN members: united annual gatherings, land base
- COFI – funded by majors – represent interests – policy – education – Aboriginal affairs > government policy/legislation – influence government.
- NTFP – priorities, traditional use – management prescriptions
- Treaty land entitlement – CFS – FNFP, MFP – resource access negotiation – economic viability process – FN: first & foremost – housing – support for local management – federal government program – understand government formulas: FRA – FN tenure
- Small wood supply: local concern – ecosystem-based research – no stumpage fees – very involved in forestry – Sierra outreach program – Foundation knowledge sharing – Canfor – values/land/planning – manage – involvement – industry – JV – agreement – OSB – Fort St John – Treaty 8 – higher level plans
- JMAC: advisory committee – training/oil fields – value-added – help industry develop forestry plans – access to tenure – agro-forestry – successful log yard operation – TUS – log sort yard – FN forest techs – stewardship – map – JV – Tembec, 3 nations – agreement – review plans
- Planning – FN tenure – government promises not realized – staff years of expertise in forestry & corporations – plans – foundation – empowerment – put aside expectations – step back – archaeology > Moyie LRUP – progress in process
- Trust – relationships – secondary – manufacturing – knowledge = differences – build together – learning – unique plans/ideas – access to resources – term staff – dollars.