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## NAFA CREATING A NATIONAL ABORIGINAL BUSINESS DIRECTORY

NAFA, with the support of Natural Resources Canada is currently in the process of creating a National Directory of Aboriginal Businesses in the Forest Sector.

The primary objective of this directory will be to produce a useful current listing of all forestry-related businesses that will be used by contracting authorities and other businesses seeking Aboriginal suppliers and business partners. The directory will be a marketing reference tool made available in both publication format and electronically on the web, and will be updated on an annual basis.

Through NAFA's working networks and research and advocacy activities it has undertaken over the past several years, NAFA has estimated that there are more than 1200 Aboriginal forest-based businesses in Canada. Most of these enterprises are small and medium-sized enterprises (SME's) that could benefit from the increased visibility that a focused directory would provide. The added exposure provided by a National Directory of Aboriginal Business in the Forest Sector will prove useful in finding customers for the listed enterprises.

It will connect these enterprises with buyers, distributors and potential partners and contribute to growth and diversification in the Aboriginal forest based economy.

The directory will serve other useful purposes, in terms of data generation enabling trend analysis, the identification of focused research and development needs and best practices, and fostering linkages with other economic sectors. The development of this directory and its supporting on-line database, is timely considering the broad transformation occurring in the forest sector.

NAFA is hopeful that entrepreneurs will see the potential benefits of this directory and its ability to link enterprises across Canada. The initial listings in this edition will be offered without cost to the contributors.

For businesses who are interested in listing in the directory, there is a questionnaire available online. To be included in the upcoming directory visit the NAFA website at [www.nafaforestry.org](http://www.nafaforestry.org). The questionnaire is to be signed and returned to NAFA by fax or mail. 🌲



## ONTARIO MINISTER ANNOUNCES REVIEW OF FOREST TENURE SYSTEM

Ontario's Minister of Natural Resources, Donna Cansfield has officially announced that there will be a review of Ontario's forest tenure and pricing systems. She made the commitment at the Ontario Professional Foresters Association (OPFA) annual meeting in Sudbury on April 24, 2009. The OPFA was meeting on the theme *Whose Forest is it Anyway? – The Role of Tenure, Pricing and Ownership in the Future of Ontario's Forests*. The meeting was attended by foresters from across the province and experts from other jurisdictions such as Quebec, British Columbia (BC), New Brunswick, and from research institutes and universities that focus on forest policy.

In Ontario, Crown forest lands are organized into three major zones for the purpose of forest management – the Northern Boreal in the province's far north, southern Ontario, and the Area of the Undertaking, located between the other two zones. The Area of the Undertaking is the area of the province within which the majority of commercial forest management takes place. This area is managed

under large, area-based tenures called Sustainable Forest Licence (SFL). The volume that may be harvested under an SFL is determined based on forest resources inventories. The SFL holder has full management and planning obligations, which must comply with the Crown Forest Sustainability Act (CFSA). Most SFL's are held by the large forest companies such as Abitibi-Bowater, Tembec and Domtar. In recent years, there has been a trend towards the amalgamation of SFL's and towards co-operative forest management companies.

No First Nation in Ontario holds an SFL and only a few First Nations are involved in Co-operative SFL's. In several other provinces, First Nations do hold area-based tenures – the equivalent of Ontario SFL's, on their own or through joint venture companies. At the OPFA meeting, Harry Bombay, Executive Director of the National Aboriginal Forestry Association (NAFA) made a presentation on the notion of an Aboriginal Forest Tenure and what the key attributes of such a tenure would need to be. His presentation

was based on forest research carried out by the Sustainable Forest Management Network and on policy papers developed by First Nations' organizations in Ontario and BC.

In view of the slump in the forest industries, tenure review and change is needed to bring about greater investment and diversification in the Ontario forest sector. Minister Canfield pointed out that "While our current tenure system has changed incrementally over time, it is not as flexible as it should be. That makes it hard for new entrants to get access to forest resources." To undertake the review, Minister Canfield expects to engage a Task Force that will develop recommendations based on input from a range of different organizations. No timeframe for the work of the Task Force has been made public.

For First Nations in Ontario, the review of forest tenure and pricing systems is an opportunity to raise concerns and interests relevant to Aboriginal and treaty rights, forest sustainability, and the need for Aboriginal economic development. 🌲

## BC FIRST NATIONS FORESTRY COUNCIL

A newsletter on Aboriginal forestry should not be printed without an overview of what is occurring in British Columbia. The following was provided by the First Nations Leadership Council, May 2009.

*The First Nations Forestry Council has been quick to adapt to the federal government's budget decision to abandon its mountain pine beetle (MPB) pledge.*

*After being forewarned this might happen, the board moved ahead with developing new proposals based on the funding priorities the government was expected to outline in its new fiscal plan.*

*The Forestry Council had fought hard to get the federal government to honor its MPB pledge by transferring \$100 million a year to the province so our communities could received the 20% (\$20*

*million) a year that BC had committed to share.*

*The Forestry Council is now fighting to get funding out of new government economic recovery programmes – in particular, the new \$1-billion, two-year Community Adjustment Fund. It is pleased to report that their project proposal for \$20 million a year for three years to address the MPB*

*continued on page 6*

## TENURE REFORM – COMMUNITY FORESTS COULD PROVIDE NEW OPPORTUNITIES IN NORTHERN ONTARIO

Nishnawbe-Aski Nation (NAN) has passed a resolution in support of changing the Ontario forest tenure system to accommodate First Nation treaty interests in co-managing lands and resources for the benefit of First Nation communities.

In a resolution passed this March, NAN has endorsed the work of the Northern Ontario Sustainable Communities Partnership (NOSCP), an ad hoc group that formed in 2006 to develop a community response to the forest industry crisis in northern Ontario. Participants include northern municipalities, non-governmental organizations, academics, Aboriginal organizations, as well as individual members.

NOSCP sees the current crisis in the forest industry as an opportunity to re-evaluate the structure of the current forest sector in Ontario and to focus on solutions to achieve long-term sustainability for forest ecosystems and communities in Northern Ontario.

This March, NOSCP hosted a workshop on Community Forestry in Thunder Bay, Ontario. The community workshop was conceived after the development of the 12 point Northern Ontario Community Forest Charter which was designed to promote community-based decision-making for the publicly-owned forests of

Northern Ontario. The charter was released for wider endorsement in the fall of 2007. The ultimate goal is to create change away from the top-down approach now being taken. When NOSCP was formed its focus was on stabilizing an industry that's been decimated in recent years. Now they have begun taking the first steps toward that goal with the creation of a charter that outlines community-based initiatives that ensure community, workers, and Aboriginal interests are upheld. The workshop this year was based on the principles of the charter and was designed to inform the public about how to access Crown forest resources and explain how the forest tenure system affects community and ecosystem sustainability. Participants took part in a dialogue that was reflective of the key forest and community stakeholders and Aboriginal peoples from throughout northern Ontario. Participants explored ways of creating a new and improved forest-based community development paradigm that provides communities with enhanced participation and control over how their forest lands are managed.

Dr. Peggy Smith, Associate Professor in the Faculty of Forestry and the Forest Environment at Lakehead University, and one of the event organizers, says, "The restructuring of forestry in Northern Ontario presents

us with an opportunity. We want to respond to this downturn by coming up with new ways of approaching forest management, and developing a new vision of forestry that not only includes enhanced participation by community members, but also puts a premium on community sustainability." This workshop was an effort to empower Northern Ontarians. The workshop program consisted of a combination of presentations, panels with Question-and-Answer, and interactive sessions to discuss how to implement NOSCP's Community Forest Charter. Community forestry scholars and practitioners from other jurisdictions were invited to provide expertise about the community forest approach.

Support for this event was provided by: Communications, Energy and Paperworkers Union of Canada, EcoSuperior, Environment North, First Nations Forestry Program, Forest Renewal Coop, Geraldton Community Forest, Keewaytinook Okimakinak, Matawa Tribal Council, Nishnawbe Aski Nation, Northern Ontario Heritage Fund Corporation, Office of Aboriginal Initiatives (Lakehead University), Ontario Ministry of Natural Resources, and Thunder Bay Ventures. All presentations will be uploaded to NOSCP's website at <http://www.gcf-on.ca/noscp>. 🌲

## CAPACITY, MEANINGFUL CONSULTATION AND GOVERNMENTAL ROLES — OPINION

Where the legal duty of consultation has been triggered, institutional arrangements and support are needed to accommodate Aboriginal rights and participation in the sustainable use of Canada's forests. Such support is needed to ensure that Aboriginal communities derive optimum socio-economic benefit from the use of forested lands and resources and ensure that the legal duty of the Crown to consult is fulfilled according to basic principles.

The issue of Aboriginal capacity development in the forest sector is an area that is currently unaddressed by government programs in Canada. Government funding of some traditional land use studies and values mapping projects is closest facsimile to capacity development that currently exists.

Though the courts have not been prescriptive in ruling on the governmental legal duty of consultation, they have, however, described a need for governments to ensure that consultative processes are meaningful for Aboriginal peoples. It could be implied that in order for a consultation to be meaningful, there must be evidence that Aboriginal people were able to effectively engage and represent their interests, rights and traditions within the consultation processes. In other words, it could mean that the need to address Aboriginal capacity is a fundamental tenet of meaningful consultation and that the legal duty to consult includes some obligation towards capacity development.

The courts have stated that consultation must occur at the earliest stage of development, demonstrate transparency, be conducted according to a reasonable process, and be based on full information provided by the

Crown. The consultative process must address the substance of the First Nation's concerns, and wherever possible, demonstrably integrate them into the proposed plan of action; and where appropriate, seek an accommodation and explore, in good faith, the issue of compensation. This process describes in actuality the beginning of and not just the sum total of a relationship between Aboriginal peoples and the Crown.

With the courts outlining a need to accommodate Aboriginal rights, interests or concerns, the Crown is setting out basic principles that will ensure respect for the honour of the Crown. The duty to consult is triggered when Crown activities may infringe Aboriginal title or rights. The duty arises from the honour of the Crown and the goal of reconciling the Crown's rights with prior existing Aboriginal rights, as guided by the entrenchment of Aboriginal and treaty rights in s. 35(1) of the Constitution Act.

On the surface it may not be immediately evident that the duty of consultation itself contains other considerations for the government's fiduciary obligations towards Aboriginal peoples. However, upon closer examination of the duty, its purpose, and tests to ensure the duty is fulfilled, it is clear that the courts expect Aboriginal communities will have the resources and capacity with which to make the consultation meaningful.

Natural Resources Canada has examined a number of challenges

related to First Nations involvement in forest management and has noted that one challenge is the need to build skills and capacity (financial, technical, educational, organizational) within Aboriginal communities and, conversely, to build skills and capacity (for working with Aboriginal people) within forest companies.

**“it is clear that the courts expect Aboriginal communities will have the resources and capacity with which to make the consultation meaningful.”**

One of the earliest pronouncements on what consultation must entail in order to be meaningful is found in *Halfway River First Nation v. B.C. (Min. Forests)*, 1999 BCCA 470, where Finch J.A. wrote, “The Crown's duty to consult imposes on it a positive obligation to reasonably ensure that aboriginal peoples are provided with all necessary information in a timely way so that they have an opportunity to

express their interests and concerns, and to ensure that their representations are seriously considered and, wherever possible, demonstrably integrated in to the proposed plan of action ... “

The Judge raised an important consideration when he raised the question of whether a First Nation that does not have the capacity to understand technical information and cannot afford to hire a consultant can ever have a real opportunity to express its interests and concerns without assistance.

The duty of consultation is a legal responsibility so it is reasonable to expect that the responsibility for training and capacity building must be something more than a discretionary undertaking of government. There must be a commitment to accompany the legal duty.

## NEWS IN BRIEF

### SUSTAINABLE FOREST MANAGEMENT NETWORK WINDS DOWN

The Sustainable Forest Management Network (SFMN) held its final national conference in Ottawa April 21 – 23 concluding fourteen years as a National Centre of Excellence in forest research. Over the next two years, the SFMN will wind down completing research projects and publishing findings in study reports and research notes.

Over the past seven years, Aboriginal forest research was a focus through the Sustainable Aboriginal Communities initiative. Much of this research will be contained in a two volume book entitled *Changing the Culture of Forestry in Canada – Building Effective Institutions for Aboriginal Engagement in Sustainable Forest Management*.

The Executive Director of NAFA is a member of the Board of Directors of the SFMNetwork. 🌲

### FOREST PRODUCTS SECTOR COUNCIL

The Forest Products Sector Council is a non-profit organization founded by Human Resources and Skills Development Canada and established to address substantive human resource development and transition issues within the forest products industry. Chief Shane Gottfriedson, Kamloops Indian Band, British Columbia, is a Director at large on the board, representing the views of Aboriginal peoples. This sector council was championed by the Forest Products Association of

Canada (FPAC) and is seen as one means by which the Memorandum of Understanding between the Assembly of First Nations and FPAC can be advanced.

A major first task of the sector council will be to undertake a sector study to understand the full extent of the industry's workforce and to determine the skills that will be needed in the future, considering the transitions occurring in the sector. 🌲

### CAPACITY, MEANINGFUL CONSULTATION AND GOVERNMENTAL ROLES — OPINION CONTINUED...

Despite judicial acceptance of the requirement for meaningful consultation, determining whether consultation is meaningful is one that the Supreme Court of Canada has left to be determined on a case-by-case basis. Until there is an institutionalized approach to capacity building, Aboriginal people

will be chasing a patchwork of funding programs and arrangements to meet their needs. *This is an opinion of Lorraine Rekmans the former Executive Director of NAFA. Lorraine was a Green Party candidate in the Federal Election 2008 and is the Aboriginal Affairs Advocate within that party.* 🌲

### FOREST STEWARDSHIP COUNCIL (FSC) INTERNATIONAL

The FSC International is undertaking a comprehensive review and revision on its Principles and Criteria (P&C). As the global leader in forest certification, the FSC revision of their P&C will have an impact on Indigenous Peoples throughout the world. All FSC P&C are considered relevant to Indigenous Peoples, although some principles more directly address Indigenous Peoples' forest issues. Principle 3 states; "The legal and customary rights of Indigenous Peoples to own, use, and manage their lands, territories and resources shall be recognized and respected."

The review and revision of the FSC P&C is just getting started. Terms of reference for the review and revision process were released in March 2009 and working groups are now being forward. Indigenous Peoples organizations,

particularly those that are members of FSC International or are members of national FSC initiatives, have been encouraged to take part in the working groups. The revision of FSC P&C internationally will mean subsequent revision of FSC standards in Canada.

Larry Joseph of BC (Gitxan) and Wade Cachagee (Chapleau Cree) are on the Board of Directors for FSC Canada and Larry will be involved in one or more of FSC Working Groups. NAFA is a member of FSC International and will take part in workshops as deemed necessary. In this work on FSC revision of P&C, Indigenous participants will no doubt be guided by the UN Declaration on the Rights of Indigenous Peoples. 🌲

## BC FIRST NATIONS FORESTRY COUNCIL CONTINUED...

disaster in our communities has received the personal approval and support of the Minister of Natural Resources, Hon Lisa Raitt. At the minister's direction, the Forestry Council has submitted this to Western Economic Diversification and Minister Raitt has promised to take an interest in its progress.

The Forestry Council is also pursuing federal funding through the \$120 million Transformative Technologies Fund, to be administered through FP Innovations to help small and medium sized businesses develop new projects, markets and products. It is also working to take advantage of some of the \$1.4 billion in Aboriginal-specific funds, which include programmes for housing and other infrastructure, which could generate opportunities for First Nations timber and wood products.

Projects being pursued include the

First Nations Forest Sector Development Program, which would help communities develop wood and non-timber resources and pursue environment restoration projects. This plan includes a proposal to supply First Nations wood and wood products for First Nations housing programmes. It is also actively pursuing funding for the branding and marketing plan.

At the provincial level, the Forestry Council is working on a number of fronts:

- **Funding:** Efforts are underway to build on the limited renewed core funding that has been promised, and to obtain renewed funding for ongoing forestry-related programmes;
- **Advocating for action** on the recommendations of the Premier's Roundtable on Forestry report: This report was issued in March and

includes recommendations regarding entrenching First Nations tenure in law, extending tenure sizes and lease terms, and replacing community per capita revenue sharing with fee income based on all harvesting done on First Nations lands. These stem from the Forestry Council's detailed submissions to the Roundtable, the hard work of First Nations representatives on this group – Dave Porter and Chief Lynda Price – and meetings with ministers and the Premier. Minister of Forests and Range, Pat Bell spoke in support of these recommendations when they were released. The Forestry Council is now awaiting the outcome of the current BC election and the opportunity to establish acceptable details and to implement these measures as quickly as possible. 🌲

## NATIONAL ABORIGINAL FORESTRY ASSOCIATION

The goal of NAFA is to promote Aboriginal involvement in forest management and related commercial opportunities. NAFA is committed to holistic or multiple-use forestry, which implies the rebuilding and the sustainable development of the forest resource to serve a multitude of community needs.

NAFA is a grass roots initiative backed by First Nations and other Aboriginal groups and organizations that function at either the regional or community level in the area of forestry.



**The Board of Directors is comprised of ten representatives, one from each of the provinces and territories, except for the Atlantic region which has two directors.**



### New Brunswick & P.E.I.

*Dennis Simon, Elsipogtog First Nation*

### Nova Scotia & Newfoundland

*Alton Hudson, Confederacy of Mainland Mi'kmaq*

### Quebec

*Larry Paul, Eagle Village First Nation*

### Ontario

*Raymond Ferris, Constance Lake First Nation*

### Manitoba

*Frank Turner, Swampy Cree Tribal Council*

### Saskatchewan

*Vacant*

### Northwest Territories

*Vacant*

### Alberta

*Darrell Gerrits – Bigstone Cree Nation*

### British Columbia

*Terry Teegee – Takla First Nation*

### Yukon

*Garaldine Pope – Kluane First Nation*



**NATIONAL  
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FORESTRY  
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