

# ONE PARTNERSHIP AT A TIME: FIRST NATIONS BUILDING CAPACITY

By Ian MacNeill



An increasing number of First Nations in British Columbia are looking to forestry to provide economic development in their communities, and many of them are reaching out to non-First Nations contractors to help them build capacity.

“It really is an exciting time,” says Rob Miller, a founding partner at MT+Co, a Vancouver-based law firm where he heads up the First Nations development group. “Most new timber volume being made available in BC is going to First Nations either through treaty or agreements with the provincial government,” he says. This is presenting First Nations with an opportunity to not only take back control over the land and resources in their traditional territories, but merge economic development with stewardship and other traditional values. This kind of economic development not only serves the interests of First Nations people living in their traditional territories, but gives band members that left in search of opportunities elsewhere a reason to go home where they are increasingly finding high-value, meaningful work in First Nations’ forestry companies.

Because many of the First Nations do not have the experience or the resources to build out capacity on their own, they are turning to non-First Nations’ contractors to help them do it, and contractors who get ahead of the curve and establish mutually beneficial relationships with them will be the ones that will secure more volume going forward, says Miller. “Those that don’t are going to have a problem with their business model.”

Miller dug into this issue with Hegus (Chief) Clint Williams of the Tla’amin Nation during the 74th Annual TLA Convention & Trade Show at a session titled, “In It For The Long, Long Run.”

Successful relationships will be built on respectful engagement and ongoing consent. “It’s kind of like a marriage,” says Miller. “If communication breaks down and one of the partners starts taking the other for granted, the marriage is likely to fail.” In terms of business models for Aboriginal and non-Aboriginal entities tying the knot, good examples already exist, says Williams.

Long before the Tla’amin Nation, based near Powell River, acquired a community forest licence in 2004—

which the band had been asking for in some form or other for 140 years—they had a long history of working in logging camps throughout BC. The acquisition of the licence allowed band members to work on their own land to the benefit of both themselves and their community.

Nowadays the Tla’amin are operating successful forestry operations, thanks in part to establishment and maintenance of good relationships with non-Aboriginal partners, including the community of Powell River as well as logging contractors and log brokers. By nurturing those relationships the band has expanded capacity and promoted economic development.

“When we started more than 10 years ago we had nothing; no money and the land we did have was logged out,” Williams explains, pointing out that thanks to the acquisition of the community forest licence what was once a small woodlot now comprises 8,200 hectares of fee simple private lands sustaining an AAC (allowable annual cut) of 25,000 cubic metres. “Although the forest and range negotiations took two years, the resulting forestry operations that followed have paved the way to our becoming a



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self-governing nation,” he says. “Sharing logging revenues with the band has allowed us to keep students in post-secondary institutions and fund housing. Partnerships made us successful and put us in the place we are today.”

The Nisga’a Nation has also benefitted through cooperative relationships with non-Aboriginal partners. Following the signing of the Nisga’a Final Agreement in 1999, a treaty that gave the Nation control of 2,000 square kilometres of land as well as the fishing and forestry

resources contained within them, the Nisga’a government set up Lisims Forest Resources LP, a company designed to harvest and sell timber according to the Nisga’a Forest Development Plan and a TLA member. However, lacking both the financial and human capital necessary to develop capacity in a number of areas, including marketing and harvesting, as well as road building and engineering, the company turned to non-Aboriginal contractors, says Art Mercer, a former Economic De-

velopment Coordinator for the Nisga’a Lisims government. “Our leaders told us right at the start that we needed to find companies we could do business with that shared the same vision as the Nisga’a,” recalls Mercer, who now operates a consulting business in Terrace. “Outsourcing allowed us to keep costs down and make money.”

With an increasing amount of new volume going to First Nations and treaty settlements awarding more land to indigenous people, more bands are going to be looking for partners they can do business with, and the most successful candidates are likely to be the ones that appreciate and accommodate traditional First Nation’s values. According to Ben Haizimsque, Lisims’ current Director of Operations, outsourcing is still an important aspect of the business model. “Our company is looking toward taking on more operational stuff from the contractors, but the problem we continue to have is the lack of a skilled work force, and we are not in a position to just up and create a multi-million dollar contractor community of our own.”

Until that day comes, he says, contractors wishing to do business with

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the Nisga'a or any other First Nation are well advised to do a little research about their prospective partners before picking up the phone. "It's not that hard to do nowadays," he says, adding that while he understands that contractors have their own pressures, an empathy for traditional First Nations' values remains an important consideration. "We prefer to work with companies that are accommodating, but we understand that it's their business and their call."

Rob Miller adds that once constructive relationships have been established it's important to formalize them. Again, research is important. "It's important to understand the scope of opportunities that are available," says Miller. For contractors, an important question is: who has the volume? Is it a First Nation under treaty or a licensee? If it's the latter it may be necessary to partner with a First Nation in order to bring it to the licensee. There are also corporate structuring issues to be addressed; there are tax advantages in doing business with First Nations, but these same advantages can lead to certain liabilities. Corporate governance issues also have to be addressed. Dispute resolution procedures need to

be put in place as well as an understanding of how to insulate the business arm from political cycles within the band. This last point is an important one, says Chief Williams, explaining that First Nations' forestry companies need to have policies in place that prevent "rogue politicians" from scooping profits and using them for other purposes.

Although there are an increasing number of opportunities for contractors and First Nations to do business together, many more would come available if the provincial government were to move forward on issues related to Aboriginal rights and title, said another speaker at the recent convention, Grand Chief Stewart Phillip of the Union of BC Indian Chiefs. Although a 2014 Supreme Court decision granting 1,700 square kilometres of land to the Tsilhqot'in people in BC was deemed a "game changer" when it happened, the provincial government has "dragged its heels" since then on rights and title issues, holding up much-needed economic development, says Phillip. "A recognition of First Nations people and their inherent rights are the solutions to many issues," he said. He's also concerned that First

Nations are not getting enough of a voice in the development of forest policy. "The government continues to issue permits with respect to the disposition of our lands, and that's what leads to conflict," he said, conflict that often ruptures into roadblocks and expensive court battles.

It's no secret that business prefers to have certainty on the land base before committing investment dollars and it would appear that progress on the land claims files would go a long way toward providing that certainty. "It's the unfinished business of confederation," says Chief Phillip.

The TLA recognizes its role in assisting contractors to develop lasting, fruitful relationships with First Nations and the degree to which these relationships would help support the creation of that certainty for business. To that end, the TLA published its "Working Guidelines for Contractors to use in Developing Relationships with First Nations" last year. These guidelines can be found at [www.tla.ca/FirstNationsRelationships](http://www.tla.ca/FirstNationsRelationships).▲




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