



BLOCKADES: RIGHT? WRONG? BOTH?

In the Canadian movie *Two Indians Talking*, two young native men debate the merits of using roadblocks to get what they believe are their rightful entitlements. Eventually the question emerges, “When you do something for the right reasons, does that make it the right thing to do?”

By Ian McNeill

Off-screen, Chief Joe Alphonse of the Tsilhqot’in National Government in Williams Lake has a ready answer. Yes, he says, roadblocks are necessary and serve a useful purpose. “When you have a roadblock it does work; it brings attention to the issue,” he says. “The government does not want to look bad in public and unfortunately roadblocks are the only way to get them to do anything. Talking to them in good faith means nothing to them.” In recent years, the Tsilhqot’in National Government has used either roadblocks or the threat of them to draw attention to fisheries issues, mining projects they deem intrusive and/or environmentally inappropriate and, most recently, the overhunting and poaching of moose in traditional territories. However, he adds, roadblocks are always a last resort and the decision to set one up is never taken lightly.

“They’re only used in the most extreme situations,” he says. “It means someone along the way is not being listened to.”

Well, he’s right about one thing, says SFU geography professor, Nicholas

Blomley, author of *Shut the Province Down: First Nations Blockades in BC 1984-1995*, blockades can be very effective, especially in a province like BC that relies so heavily on revenues derived from natural resources. “In the early 90s when the treaty process was just getting underway a lot of native leaders felt, quite appropriately in some cases, that they had no other way of prosecuting their case. The province was refusing to accept the fact of aboriginal title; Delgamuukw had not happened and the standoff at Oka was going on. At the time roadblocks played a crucial role in forcing the provincial government to change its policy. It realized that its extraction economy, which relied on a transport system using road and rail lines that often ran through reserves, was vulnerable. So for First Nations, if you want to push your case it makes a lot of sense to set up a blockade. And it doesn’t take much. All you have to do is park your car across the road and it’s a blockade.”

Seen in these terms, it’s easy to be sympathetic and view blockades as a useful tool of an oppressed and ignored people

dealing with an intransigent government.

If only it were that simple. Unfortunately, says MaryAnne Arcand, Executive Director of the Central Interior Logging Association (CILA), while the missiles are flying between First Nations and their government, corporate, or in some cases internal band opponents, her members are huddled in the trenches waiting for it all to end so they can go back to work.

“We’re tired of being the collateral damage,” she says from her office in Prince George, which as often as not this past summer resembled a war room as a place of business as frantic calls went back and forth between headquarters and the front lines. “At this moment there aren’t any blockades,” she said in the fall. “But since the beginning of September we’ve had five, with two more threatened, and we’ve successfully gone to court three times to get injunctions.”

Working on the front lines, Arcand has some unique insights into roadblock strategies and the way they play out, both in the public and behind the scenes. And before examining some of these insights it’s worth noting that

despite the “mad as hell and we’re not going to take it anymore” attitude, MaryAnne Arcand could never, ever be described as a racist or someone who is unsympathetic to the plight of Canada’s Aboriginal peoples. She spent six years working for the Tsilhqot’in National Government and lived in the Tsilhqot’in community itself for 30 years. Often she visits roadblocks to assess the situation and negotiate, recognizing behind the barricades young men she knew as children.

That said, blockades seem to fall into three main categories, says forestry consultant Jim Girvan. The first can be described as classic NIMBYism at work. These are erected by people who live somewhere and object to a policy that’s been put in place without their consent or approval. The blockaders could be Aboriginal, but just as often they aren’t. A good example would be the week-long blockade set up on Cortes Island last year by residents objecting to an Island Timberlands’ decision to log privately owned forestland.

A second type of blockade is the kind that’s set up by individuals and groups

with a vested interest in the environment objecting to what they feel are unsustainable logging practices. The classic example was the Clayoquot protest that ran off and on for 13 years. It was a time when the clear-cut became an international symbol of environmental degradation, which is ironic in the Clayoquot case because an environmental group recently went to the site of the original protest to erect a memorial plaque commemorating the event and couldn’t find it. “It had all grown over,” says Mr. Girvan. “They had to cut down some trees in order to put up the plaque.”

The third type of blockade is the kind set up by First Nations. Some are official in the sense that they are authorized by chief and council and typically a reflection of a feeling within the community that there is either disagreement with government or a sense that it is not listening. These are the kinds of blockades Chief Alphonse is referring to, and he says he well understands how disruptive they can be, which is why chiefs and councils use them sparingly. “You have to be thoughtful about the people out there who are being affected,” he says.

“We want to work with them, not against them, but there are situations when you have to have blockades in order to bring attention to the issue.”

Unfortunately, not all First Nations’ blockades fall into this category. Very often, says Arcand, they are erected by disgruntled members of First Nations’ communities and are a reflection of internal tensions within the band itself. To understand why they occur it is necessary to understand First Nations’ governance and how it has evolved. Traditionally, First Nations’ bands were ruled by hereditary chiefs, and family clans had control of certain territories they hunted and fished in to support themselves. Nowadays the bands—and all the territories within its jurisdiction—are ruled by elected councils. Problems arise when hereditary chiefs refuse to recognize the legal authority of the elected band councils to make decisions about what happens to land a family clan believes rightfully belongs to it. And then there’s the money. The agreement to harvest invariably comes with revenue-sharing agreements, but that money goes to the band, not the individual families that believe



Are you GRAPPLING with your DEBT? Relief is only a call away.



Contact us for a free consultation. We provide flexible appointments available in many locations, including the Kootenays, the Okanagan, North Thompson, the Central Interior, and areas in the North.

KPMG will assist you with collection agencies, protection of your assets, creditors threatening legal action, income tax/GST owing, a proposal to creditors, and a debt repayment strategy.

For more information, call us toll free at 1-800-665-1003 or:

Cecil Cheveldave, CMA, CIRP, Trustee	250-314-5965
Jim Gilchrist, CA, CIRP, Trustee	250-979-7163
Anthony Tillman, CA, CIRP, Trustee	604-646-6332

KPMG Inc., Trustee in Bankruptcy

200 - 3200 Richter Street Kelowna, BC V1W 5K9	777 Dunsmuir Street Vancouver, BC V7Y 1K3
--	--

© 2013 KPMG LLP, a Canadian limited liability partnership and a member firm of the KPMG network of independent member firms affiliated with KPMG International Cooperative (“KPMG International”), a Swiss entity. All rights reserved. 4151

PROTECT YOUR BEST PRACTICES... Use Our Knowledge to Your Advantage



The HUB International Forestry Practice features specialized experience and technical expertise in the field. With our vast global resources and solid local relationships - including underwriting authority for all lines of coverage - the HUB International offices across BC are well-equipped to handle forestry industry risks of all sizes.

Contact the HUB International Forestry Practice today.

HUB International Insurance Brokers

T. 604.269.1941 E. truckloggers@hubinternational.com

www.hubtos.com

the land being harvested belongs to them. And that's when the blockades go up, erected by disgruntled family members, not the band leadership.

That was the case on the Leo Creek Road west of Ft. St. James when band members from the Tlazten Nation set up a blockade in September, says Ms. Arcand. That blockade lasted a week and prevented eight contractors from going to work, with losses calculated at \$500,000 a day. Another blockade CILA members confronted sprang up in Chilcotin, this one erected by disgruntled members of the Stone band. In fact there were two roadblocks; one to stop hunters and one to stop loggers. An affected contractor estimated losses at \$100,000 a day.

Some of the blockades have about them an air of absurdity. When Houston mayor Bill Holmberg visited a blockade on a bridge crossing the Morice River that was set up by the Wet'suwet'en First Nations clan to block access to an area Enbridge is looking at for its pipeline he found the Wet'suwet'en noticeable by their absence. "The guy I talked to manning the barricade was from Vermont,"

he says. Another blockade that was erected in the Kootenays was manned by Native Americans from Colville, Washington, members of the ancient Kootenai tribe who claim not to recognize the Canada-US border.

Once the barricades go up the discussion begins. But while the talks drag on time is wasted, money is lost, and desperately needed workers idled by the dispute drift off to find employment elsewhere. When negotiations fail, as they very often do, contractors have no option but to either threaten going to court for an injunction, or if that doesn't work, actually doing it, a process that wastes more time and money. Not that getting an injunction is a cure-all. Ms. Arcand says the RCMP are wary of enforcing them because everybody is afraid of sparking another the Gustavson Lake standoff. Not surprisingly, the contractors affected by all this are pretty fed up. The government has the legislative and legal authority to resolve these situations, they argue, and it's time it got on with the job.

"The Supreme Court has ruled that blockades are illegal," says Ms. Arcand.

And she's right. In *Behn v. Moulton* the court ruled that roadblocks were not a "legitimate self-help remedy."

"The law provides options for disgruntled band members to seek redress that do not hurt working people," she says. "There's a consultation process. And if that does not work take it to court, use the proper channels; don't hold us hostage. When 250 people can't go to work in a small town it's not just political; someone gets hurt. Even the threat of a roadblock can have consequences. Men are afraid to go to work and contractors are worried about damage to their equipment. It's hard to make a living when you don't know what's happening one day to the next."

It's worth noting that wildcat blockades are as vexing to the First Nations chiefs and councils as they are to those economically affected by them; they undermine public confidence in First Nations' governance and, says Chief Alphonse, lead to racism. "In situations where community members went out without leadership approval, I would be angry as well. I wouldn't want to see that in my community."▲

YOUR CUSTOM TRUCK BODY BUILDING SPECIALIST







TOUGH • DEPENDABLE • CUSTOM



**BRUTUS
TRUCK BODIES**

682 OKANAGAN AVE. E., PENTICTON, BC

TOLL FREE: 1-866-344-6480
WWW.BRUTUSBODIES.COM

Specializing

in conservative investments



- Mutual Funds
- Bonds
- Blue Chip Stock
- Managed Money
- Income Trusts

Dave Wheeldon, B.Sc.ED, M.A.ED.
INVESTMENT ADVISOR

Tel: (250) 703-5382
Fax: (250) 338-2320
Toll Free: 1 (888) 672-0922
dave.wheeldon@cibc.ca
www.davewheeldon.com

CIBC Wood Gundy is a division of CIBC World Markets Inc., a subsidiary of Canadian Imperial Bank of Commerce and Member CIPF.



CIBC
Wood Gundy