

*FPIC and Indigenous Forests:
Landscapes, Certification and Nationhood*

National Forum

National Aboriginal Forestry Association

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Opening Remarks

SPEAKERS

Brad Young, Executive Director, National Aboriginal Forestry Association, Conference Chair

Verna McGregor, Algonquin Elder

Kim Carstensen, Managing Director, FSC International

Brad Young opened the National Aboriginal Forestry Association (NAFA) national forum, “Free, Prior and Informed Consent (FPIC) and Indigenous Forests: Landscapes, Certification and Nationhood.” Noting that the forum was taking place on traditional Algonquin land, he invited Algonquin Elder **Verna McGregor** to give opening remarks.

McGregor told participants about a recent conversation she had had with visitors to her office about the lumber barons of long ago in the Algonquin people’s history. She said her people were concerned about tree cutting then, but it fell on deaf ears. Today, as Indigenous people are continuing to raise concerns and now are going to court, a key issue is how to address conflict. She asked the participants to join her in an opening prayer to come together with good minds. She followed the prayer with a song. “We love our land. We are good hunters, good workers, and we have to be good leaders and good listeners, as well,” McGregor said.

Young welcomed participants, who included Aboriginal leaders and youth and guests from industry, non-governmental organizations, and academia, brought together to discuss key topics such as certification, governance, legislation, and corporate social responsibility.

Young said the day’s topics, which include some contested issues such as settlement, colonization, and development, are part of the modern expression of the history and drama that began long ago when French explorers came up the St. Lawrence River in their ships. Now, 500 years later, the same issues are being discussed. However, they are in the context of powerful frameworks such as FPIC and the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP). The Indigenous forest sector has the opportunity to “show the world how to breathe life into these policy documents,” working with great tools, examples, and companies, he said.

Kim Carstensen said Indigenous peoples are the custodians of forest protection and management in many places in the world, such as the Amazon, Africa, Southeast Asia, and Canada. They are a pillar of the Forest Stewardship Council (FSC) International’s global strategic plan in its work to establish initiatives that ensure sustainably managed forests.

Noting that he has met Canadian Indigenous leaders in Canada and around the world, Carstensen said the perspectives of Indigenous Canadians are strong, well articulated and “very important both for Canada and internationally.”

FSC is committed to involving Indigenous peoples in creating standards that ensure FPIC and Indigenous rights while integrating non-Indigenous input and business interests, said Carstensen. Moreover, forest protection must consider environmental and ethical perspectives. Through co-development of the concepts of Intact Forest Landscapes (IFLs) and Indigenous

Cultural Landscapes (ICLs), FSC is working to find ways to uphold Indigenous cultural values associated with forest landscapes while also maintaining non-Indigenous perspectives.

“There is no future for certification or any other forestry without the engagement of Indigenous peoples,” Carstensen said.

Forest Certification: UNDRIP, FPIC, and Intact Forest Landscapes

SPEAKERS

Dr. Peggy Smith, Associate Professor, Lakehead University

Vivian Peachey, FSC Canada

Chris Wedeles, FSC Canada

Free, Prior and Informed Consent: The New Way Forward?

Dr. Peggy Smith began with an overview of UNDRIP, which took more than 20 years to develop, beginning in 1984. She said UNDRIP was created with the involvement of the rights holders themselves. However, it is not legally binding but built on the premise of the sovereignty of the individual nation states, interpreted through national laws. Therefore, Indigenous peoples may bring issues to the UN, but the UN has no mechanism to enforce its decisions.

UNDRIP acknowledges rights in many areas, including self-determination and FPIC. Smith explained each of the words in FPIC:

- “Free” means “consent is given without coercion, intimidation, or manipulation.”
- “Prior” means “consent is sought before every significant stage of project development.”
- “Informed” means “all parties share information, have access to information in a form that is understandable, and have enough information and capacity to make informed decisions.”
- “Consent” refers to “the option of supporting or rejecting development that has significant impacts on Aboriginal lands or culture.”

Support for FPIC is growing in Canada, Smith said. She gave examples from 2012–13 of private company and non-governmental support for FPIC, such as by the FSC. Another example is the 2014 Supreme Court of Canada decision to recognize the Tsilhqot’in First Nation’s title to land in British Columbia. The ruling declared that governments seeking to develop on land where Aboriginal title is established must have the consent of the titleholder.

However, the ruling still put the onus on Indigenous peoples to prove infringement of rights and failed to substantially address Indigenous concerns. Smith said FPIC could be a means to strengthen negotiations between the Crown and Indigenous peoples, but “it should be [in the context of] a nation-to-nation relationship.”

In 2015 Prime Minister Justin Trudeau declared that Canada will implement UNDRIP, Smith said. She added that Alberta is currently undergoing a process in which it has committed to reviewing all laws and policies in light of UNDRIP and FPIC.

On efforts to implement FPIC through the voluntary, private sector market-driven process of certification, Smith highlighted the 2012 FSC guidelines and the Sustainable Forestry Initiative (SFI) 2015–2019 Forest Management Standard.

In 2014 FSC International passed a resolution designed to ensure that large, Intact Forest Landscape (IFLs) are considered when developing or modifying standards. Although Policy Motion 65 was passed with the requirement for FPIC, Smith said it still caused consternation among Indigenous peoples, because to them the idea of intact, pristine forests was a foreign concept, since these are their homelands they have managed for centuries. FSC's Aboriginal Chamber thus introduced the concept of Indigenous Cultural Landscapes (ICLs) to acknowledge Indigenous people's ownership of their own territory.

FSC Canada is currently revising its National Forest Management Standard to align with new principles and criteria. Smith highlighted Principle 3 of the standard, which commits to identifying and upholding Indigenous people's rights of ownership and use of land and resources. In the process of revising the standard, more discussion about ICL is needed, along with discussion about IFL targets, Smith said.

FSC Canada Forest Management Standard

Vivian Peachey spoke on FSC Canada's work to revise its National Forest Management Standard for use in forest certification, particularly in the context of aligning it with UNDRIP, FPIC, and the concepts of IFL and ICL. The standard also addresses a broad range of other issues, such as climate change, species at risk, best management practices, and economic development and viability. Peachey said that FSC Canada's vision is to "bridge conversations and bring people together" to ensure that the world's forests meet the social, ecological, and economic rights and needs of all people.

Draft 1 was released for public consultation in December 2015, draft 2 is expected in September 2016, and the final version is scheduled for early 2017. In the lead-up to draft 2, FSC Canada is currently conducting field tests and scenario tests to identify gaps and help companies understand the application of the standard.

Aboriginal rights and interests, including FPIC, are one of the pillars of the standard, Peachey said. The standard addresses other key pillars such as the Aboriginal relationship to landscapes, protection of areas of significance, influence around conservation area planning, management and conservation of values associated with large landscapes, and the application of FPIC to large landscapes.

In particular, a working definition of ICL has been reached, Peachey noted. It is a broad and powerful definition, and FSC Canada will be working over the next one or two years to translate it into certification requirements.

Intact Forest Landscapes in Perspective

Chris Wedeles highlighted the three principles among the 10 principles of the FSC standard that are specifically related to IFLs:

- Principle 3, Indigenous Peoples' Rights
- Principle 6, Environmental Values and Impacts
- Principle 9, High Conservation Values

He noted that FSC International's definition of an IFL is "a territory within today's global extent of forest cover which contains forest and non-forest ecosystems minimally influenced by human economic activity, with an area of at least 500 square kilometres (50,000 hectares) and a minimal width of 10 kilometres."

IFLs are critical for the livelihoods and culture of forest-dependent peoples. In addition, they contain a disproportionately high amount of global forest carbon, sustain top predators as well as other critical wildlife and species at risk, and provide crucial ecosystem services such as regulating water. They occur in 60 countries, and 65% of the world's total IFL area is concentrated in Canada, Russia, and Brazil.

Key features of Policy Motion 65 include its commitment to protect "the vast majority" of IFLs, recognize a variety of protection measures, and allow limited development of IFL cores in limited circumstances. Meanwhile, one of the key challenges in implementation is to reconcile ecological and Aboriginal perspectives.

FSC International has a technical working group developing generic indicators and guidance intended as a template for countries to adapt or adopt while working on their own national standards. Draft 1 will soon be available for review. FSC Canada also has an IFL and ICL subcommittee, which is currently focused on IFL indicators. The ICL component is on hold.

Wedeles gave many reasons for optimism, including FSC's inherent recognition of balance, the top minds from all sectors working together, and a phased approach and space for identifying solutions. "Patience will bring success and fair approaches to IFL and ICL," he said.

Questions

A participant asked whether studies have been done on the number of hectares needed to sustain a person or family. The panel was not aware of any studies in this area.

The participant also said that provincial boundaries do not always represent the ecological landscape. She asked how forest management standards can address this. Wedeles replied that draft 2 of the FSC Canada standard has indicators that take transboundary issues into consideration. The participant suggested that redrawing boundaries would have the greatest impact.

Another participant said he hoped that new levels of measurement, such as the feelings of Aboriginal peoples, can be incorporated to add value to the indicators.

A participant asked for more information on FSC Canada's subcommittee working on IFL and ICL indicators. Peachey said it is a small panel consisting of technical experts on principles 3, 6, and 9 who represent diverse interests and perspectives, including scientists, auditors, industry representatives, social policy experts, and Aboriginal people knowledgeable about Aboriginal rights issues. Their work so far has involved about three calls per month over a year.

The Canadian Landscape: Indigenous and Forested

SPEAKERS

Peter Lantin, President, Council of the Haida Nation

Dave Nahwegahbow, Nahwegahbow Corbiere Genoodmagejig Barristers and Solicitors

Landscapes, Certification, and Nationhood

Peter Lantin gave an overview of the Haida Nation, the residents of the Haida Gwaii islands on the west coast of British Columbia, and their journey toward restoring their stewardship of their land and sea.

The Crown had expropriated the islands in 1900, and the Haida Nation was relegated to Indian reserves. After more than 100 years of having their resources exploited, with a population of 10,000 Haida people reduced to fewer than 500 people, things changed in 1974 when the Haida Nation formed the Council of the Haida Nation (CHN). The CHN was founded to start challenging the Crown and stop the destruction of the Haida traditional territory, particularly the forests. That was prompted by dramatic increases in logging on the islands beginning in the early 1970s. "It's easy to look at it like a virus, the rate of logging throughout history," Lantin said.

The CHN created a governing body to set policy for the Haida people and to provide oversight. It then brought the Haida Nation under a constitution "that drives and guides us" and eventually evolved into sophisticated governance for the community. However, the essence is that "we just want to protect our land," Lantin said. He said that in times past the Haida had an economy with forestry activity on the islands, and the word "sustainability" was never heard of, since it was simply a way of life to use the resources and do trading in a sustainable manner.

A defining moment occurred in 1984 when the Haida Nation took a stand against the forest companies at Athlii Gwaii, also known as Lyell Island. It sparked national and global attention and demonstrated to the Crown that the way business was being conducted on the islands needed to change.

Since then, the Haida Nation has worked closely together with the other communities on the islands to protect the land and ocean and to build an economy based on the sustainable use of resources. "Our success is around coming together on the islands," said Lantin. Their cross-cultural collaboration led to the 1993 formation of the Gwaii Haanas National Park Reserve and Haida Heritage Site, 1,470 square kilometers of protected land that is managed by a consensus-based board consisting of 50% Haida and 50% federal government. "It's the only area in the world protected from mountaintop to sea bottom," Lantin said.

The next new era began in 2009, when the CHN signed the Kunsta'aa guu – Kunst'aayah Reconciliation Protocol with the Province of British Columbia (BC). The agreement led the province to take a more respectful approach to resource management and resulted in the creation of the Haida Gwaii Land Use Objectives Order in 2010, which included ecosystem-based management. Upon signing the protocol, the premier at the time, Gordon Campbell, also agreed to give the islands back their original name, Haida Gwaii, meaning “islands of the Haida people.” Thus, the islands that had been called the Queen Charlotte Islands were renamed Haida Gwaii.

Then in 2012, the CHN bought the largest forest tenure on the islands: Tree Farm Licence 60. While some Haida residents want to stop the logging on Haida Gwaii completely, Lantin said it is still needed currently out of economic necessity, to repay the money borrowed to buy the forestry company, and the logging is being done in a balanced way. Meanwhile, sections of the land use agreement are being implemented today that serve to provide additional supports to local economic development, such as carbon offset and resource revenue sharing, along with forest tenures and other economic opportunities.

In closing, Lantin said that in sharing their story, the Haida are also looking to learn from what other nations have done and what has worked for others.

Dave Nahwegahbow told participants about the recent child welfare discrimination case he argued and gave perspectives on its relation to forestry and FPIC issues in Canada. He also used the case to highlight the importance of recognizing the impact of past trauma so that it can be used to help change the status quo and overcome people's common resistance to change.

The case, ruled on by the Canadian Human Rights Tribunal in January 2016, was originally filed in 2007 by the Assembly of First Nations and the First Nations Child and Family Caring Society of Canada. The Canadian Human Rights Tribunal ruled that the Crown had discriminated against First Nations children by underfunding child welfare services on reserves compared to similar services available to children living off-reserve.

In preparing for his talk, Nahwegahbow asked a young child welfare activist how the themes of child welfare and forestry can be linked. He commended her analysis connecting these two themes and read from part of the speech that she wrote for him.

The child welfare activist linked the dispossession of Indigenous land to the dispossession of First Nations children. She noted that the policy of underfunding services led to First Nations children being removed from their families and land, similar to what took place as a result of Canada's past policy of assimilation and Indian residential schools. If those children cannot be there in the future as adults who can rightfully inherit their land and manage its resources, then even if the First Nations people succeed in reclaiming their land as per the treaties, those treaties would be effectively nullified, since there would just be land without bodies to look after it.

“That's is why children should matter to forestry,” Jocelyn wrote, adding that this human rights case has broader implications that can be applied to international mechanisms.

Nahwegahbow said he “found the reality shocking” when he took over the case. The underfunding resulted in First Nations children being removed from homes at rates even greater than those during the Indian residential schools era. Even more concerning was that the federal government underfunded preventive measures, such as support for parents who survived Indian residential schools and were seeking assistance, at the same time that it fully funded removing children from their families and sending them to foster homes.

The significant part of the case, from the Indigenous perspective, was the argument of historic disadvantage used to prove discrimination, said Nahwegahbow. It was based on establishing that the underfunding of child welfare services on reserves, along with the focus on placing children under outside care, perpetuated the disadvantages and damages historically suffered by the First Nations people due to the Indian residential schools policy.

The tribunal indeed ruled that the government discriminated against the children through a funding policy that perpetuated historic disadvantage. Additionally, the ruling noted that not only did the funding policy perpetuate the damage done by the Indian residential schools, it also did not seek to remedy the past harms. This suggests that funding for on-reserve children should in fact be better than that for their counterparts elsewhere in order to redress the historic disadvantage, Nahwegahbow said.

Nahwegahbow noted that this ruling has some precedent value and reflects broad principles that can be applied to other areas of social welfare funding, such as education and health care, as well as employment and other dealings involving industry, including forestry.

Returning to the idea of pushing change forward, Nahwegahbow said policies like the Indian residential schools had a great impact on the Indigenous people and have lingering effects that must be continually recognized. More and more people and leaders are starting to realize the severity of those impacts. The Chief Justice of Canada acknowledged last year that Canada committed “cultural genocide” against Indigenous peoples. “That’s a really significant statement for one in that position to make,” Nahwegahbow said.

Having observed how at FSC the importance of Principle 3 was played down in order to get more industry involvement, Nahwegahbow told the participants not to forget their history and how past policies and events have the potential to carry forward in a legal fashion. Indigenous peoples must continue to argue for their rights, he said.

Questions

Young asked the panel and participants for their views on the systems and tools in place to help FSC-certified companies learn the FSC technicalities of logging in terms of standards and auditing.

Colin Richardson of the CHN said the Haida Nation decided to become FSC-certified because FSC’s values are compatible with its own values, while the old way of logging was very destructive and undermined Haida values and identity in their homeland. Without internal expertise to manage its company, the Haida had to hire non-Haida managers, but these managers are resistant to the new process and find the FSC system too expensive. However,

CHN's leadership is committed to FSC and to training Haida personnel, and it is confident it will succeed. Richardson added that in his experience certification offered only very minimal new market opportunities, perhaps due to the Haida's relatively smaller volume of timber.

Lantin said the Haida people have technical expertise embedded in their traditional knowledge and long experience from the past, while the province has a database that includes economic data. The issue is bringing the two together. On another note, he said that since 2002 the Haida Nation has been active in an Aboriginal title case in the BC Supreme Court. Evidence shows that the nation has used the forests on Haida Gwaii since at least 1846. The Haida are attempting to document that history and have it applied in the court decision.

Smith said historic disadvantage also applies to Indigenous people's responsibility as stewards of their own land and resources. She asked the panel to comment on how Indigenous people have been damaged over the past 200 years by having been prevented from exercising that responsibility. The Indian residential schools policy not only removed them from that responsibility but also directly fed some of the violence it perpetuated. Reconciliation may offer opportunities to rebalance that historic disadvantage and do things to mutual benefit and through genuine shared decision making, she said.

Nahwegahbow said dispossession from the land due to colonialism has had a major impact on Indigenous people across the world. The Indian residential schools are just one aspect, but one for which we have the most evidence, especially its impact across generations. How to build capacity and redress this impact moving forward in terms of land management, co-management and protecting those remaining areas important to Indigenous cultures must be well thought out. He suggested using a proactive and precautionary approach and advancing the idea of eliminating the impact of historic disadvantage.

Lantin told participants about an incident in 2012 where the non-Haida residents of Haida Gwaii staged a protest seeking accommodation for Haida rights. "This did not happen overnight," he said, adding that long-term collaboration and co-management with the non-Haida neighbours on the islands shifted attitudes. "It was more about the non-Haida wanting the islands to be managed by Haida rather than the federal government."

Recap of Day 1 and Moving Forward

SPEAKERS

Brad Young, Executive Director, National Aboriginal Forestry Association, Conference Chair
Grand Chief Verna Polson

Brad Young said Day 1 began with the fundamental equation that although human rights theories are now established at the highest levels of academic thought and embedded in policy instruments, much still needs to be done in terms of their real application.

During Day 1's in camera session, participants talked about business affairs and some sensitive issues, Young said. The key message was that reaching the goals of certification involves not just technicalities but also different levels of politics. In discussions about market access, revenue

generation, and the use of land and resources, a great deal of politics and positioning are involved. “We should dive into those issues and see how we can do better,” he said.

Grand Chief Verna Polson welcomed the participants to Algonquin territory. The forest is a place where Indigenous peoples can feel the heart of their culture, and where they teach their young people the traditional ways and where they get teaching from their Elders, she said. Trees are very important to all people, not only Indigenous peoples, and one must remember not to keep taking from these territories without giving back.

Indigenous people are suffering, whether in their own communities in an urban setting, so prayers are needed for the leadership to make the right decisions so that their people can continue living on their land, Polson said. She said she decided to take a spiritual path and to continue talking on behalf of Mother Earth about her land, people, animals, and water.

Polson told a story about how a tree on the road helped her niece calm her anxiety attack one day. When she put her palm on the tree, she was very moved when she found that she could feel its heartbeat. Polson told the participants that the forests and trees are sacred to Indigenous people, and she hopes that whenever they look at a tree, they will realize that “the tree gives us life.” “We are the caretakers of the land, and these trees nurture us,” she said.

Forest Certification Benefits: How Does SFI Certification Benefit Indigenous Peoples?

SPEAKERS

Andrew de Vries, VP, Conservation and Indigenous Relations, Sustainable Forestry Initiative

Darryl Sande, General Manager, Kaskew Forestry Products

Sustainable Forestry Initiative and Indigenous Forests

Andrew de Vries gave an overview of the Sustainable Forestry Initiative (SFI) and its work with Indigenous peoples. Only 10% of the world’s forests are certified to a standard, and “Canada is a world leader in forest certification and an early adopter,” de Vries said.

SFI is a non-profit working only in North America. Its board consists of U.S. and Canadian representatives in three sectors: environmental, social, and economic. De Vries noted that Lennard Joe of Stuwix Resources Joint Venture is a member representing the economic sector. More than 100 million hectares, in 34 states and eight provinces (except Prince Edward Island and Newfoundland), are certified under the SFI standards, De Vries said.

SFI has three standards, updated every five years, to support responsible forestry and procurement at each point in the supply chain. The 2013–15 revision process involved nearly 10,000 stakeholders. The standards include a forest management standard, a fibre sourcing standard, and a chain-of-custody standard, and they are the world’s only standards that require research and the implementation of findings.

The SFI standards adopt the principles of UNDRIP, including FPIC, de Vries said. The standards require compliance with federal and provincial laws and regulations, and when

Indigenous case law and policies change, SFI expects program participants to comply with those changes, as in the *Tsilqot'in* decision. SFI's goal is to respect nation-to-nation relationships while providing specific direction on requirements when working with Indigenous peoples.

SFI supports Indigenous values in various ways, such as through conservation and community grants, leadership awards, and partnership with the Canadian Council for Aboriginal Business and Habitat for Humanity's Indigenous Housing Program.

Demand for SFI labels is growing, with 50 label approvals in 2007 increasing to 7,000 today, de Vries said. Demand for certified forest products is also growing in every sector, from wood products to towel and tissue to bioenergy, from packaging to printing and writing, and SFI program participants collectively ship their products for sale to more than 120 countries.

Implementing SFI Forest Certification in Saskatchewan

Darryl Sande talked about Kaskew Forestry Products and its implementation of SFI forest certification in Saskatchewan just north of Prince Albert. Kaskew is owned by Montreal Lake Business Ventures (MLBV), the business arm of the Montreal Lake Cree Nation (MLCN). Kaskew manages and operates a wood allocation in a zone within the Prince Albert Forest Management Agreement. The operation includes harvesting and supplying wood fibre to mills in Saskatchewan.

The company decided to become certified in order to assure MLBV and MLCN shareholders of sustainability, and because its customer mills required certified fibre. In addition, SFI provided a standard that was aligned with Kaskew's business objectives and existing systems, and shareholders of MLBV's partners were also certifying with SFI.

In 2014, MLBV published a shareholder engagement policy and accompanying plan to set out the steps and process to maintain communication with MLCN community members.

Sande talked about SFI's support of special sites and wildlife. Special sites are identified as traditional use areas close to the community where youth are introduced to hunting and trapping. Kaskew removes these areas from the operating plan.

Prior to harvesting, Kaskew does its own forest management planning, Sande said. Trappers are the key land users in the company's operating zone, and Kaskew conducts pre-harvest walks with trappers to get their input on what Kaskew can do to minimize impact on their activities. After harvesting, one trapper said he was very satisfied because the harvesting improved sight lines for trapping while still providing habitat for his fur-bearers and ability to trap.

Kaskew also provides heavy equipment operator training and tree planter training.

Sande described some research and special initiatives currently at the conceptual stage. They include research on fur-bearers and ungulate species, a project that involves Elders providing traditional knowledge to academia and government, and a project to explore ways to use burnt timber to generate electricity. The latter could lead to an opportunity to provide electricity for local communities from local biomass, he said.

Forest Certification Benefits: How does FSC certification benefit Indigenous Peoples?

SPEAKERS

Chief Harry St-Denis, Wolf Lake First Nation

Francois Dufresne, President, FSC Canada

Chris McDonell, FSC Chair/Manager Aboriginal Relations, Tembec

Geoff Quaille, Senior Environment Advisor/Analyst, Grand Council of the Crees

Rosanne Van Schie, Mahingan Wolf Stewardship Project

Chief Harry St-Denis spoke about the hardship faced by Canada's Aboriginal people and the need to build partnerships with organizations outside government, such as NAFA, to find long-term solutions. The Aboriginal people have traditionally relied on their land and resources for subsistence, such as the trees and animals, he said. When they were displaced from their territory and moved to reserves, and given welfare, along with the effects of issues like epidemics, Indian residential schools, discrimination, and government indifference, all of these played a role to create today's situation.

The Attawapiskat First Nation crisis is only the tip of the iceberg, St-Denis said. In his view, treating the symptoms caused by policies over the past several hundred years is not the answer. The federal government is in a weak position to heal the root cause of the problems due to the transfer of jurisdiction over natural resources to the provinces. Part of the answer must be for First Nations across the country to be involved and have a say in the development of their territories and to have meaningful jobs in their territories.

But this is only part of the answer, St-Denis said. Government may provide funding and resources to address urgent situations, but Aboriginal people cannot rely solely on this assistance, "as government created the problems." They need to work with other partners. Looking to NAFA and other organizations to see how they can help resolve today's issues is very important.

Francois Dufresne talked to the participants about the benefits that Forest Stewardship Council (FSC) Canada can bring to Indigenous peoples. "It's about your livelihood and what you represent, not about business," he said.

Dufresne recalled that in 2012 a big change occurred at FSC International when Motion 19 called for the creation of a working group to bring the voice of Indigenous peoples to the core of FSC. This led to the establishment of the Permanent Indigenous Peoples Committee (PIPC). In 2012 FSC also brought in a new declaration, embedded in its standards, to implement the right to FPIC. FPIC is a requirement for certification, Dufresne said.

Forest management by First Nations in Canada is the fastest-growing segment of certification, Dufresne said. But certification is "not only about the economic benefits of certified products but about the Aboriginal people's homes in Canada."

Dufresne said over the last three to four years FSC Canada has been deeply engaged in building a new standard to implement the principles of UNDRIP. He said FSC is a space for civil society

to create opportunities to recognize Aboriginal rights, traditional knowledge, and spiritual values. It is also a space to help build and improve relationships through certification programs in Canada and elsewhere.

He said he hoped that through FSC, Canada's Aboriginal peoples will be supported to have control of their forests and land to be able to manage them based on their traditional knowledge and values, including the protection of non-timber resources. In addition, FSC has a leading edge to work with Aboriginal communities to co-design the new concept of ICL for use in nation-to-nation relationships.

Chris McDonell focused on two main themes among the many examples he has seen of how the FSC certification process benefits Indigenous peoples.

One is the ability of the process to create conversations locally as well as internationally. When a forest company seeks certification, the process begins with outreach and dialogue for its managers to understand the Indigenous community's story. These stories are fundamental and bring understanding around challenges that must be bridged between forest managers and local communities, McDonell said.

"All of us as Canadians, not only forest companies, have a role to play in reconciliation," and in a small way FSC helps to create building blocks for transformation, he said. The ability to bring about innovation and transformation in the forest sector is another benefit, such as cellulose fuels derived from wood products, but also developments in the social sphere to shape and apply the concept of FPIC.

McDonell referred to Phil Fontaine, former national chief of the Assembly of First Nations, and his words that veto is neither ethical nor democratic. FPIC means "collaborative consent, collaborative engaging, and joint solutions in which all parties can feel they are making forward progress," McDonell said.

Customers in competitive markets have a choice in where they purchase products, and a company's ability to be part of the solution is an important part of its value proposition, said McDonell. It can be seen in where a company sources raw materials and how it manages the forest, tackles environmental issues, and works in a collaborative way that is equitable for Aboriginal peoples.

Reflections on Working on FSC for 10 years on behalf of the Crees of Eeyou Istchee

Geoff Quaile said that although the Grand Council of the Crees (Eeyou Istchee)—GCCEI—is not a member of FSC, it has worked with the organization for 10 years and he can speak to the benefits of collaborating with FSC.

Quaile said the GCCEI first started paying attention to FSC when Tembec approached it concerning certification in Eeyou Istchee, and then it later learned that the company had published confidential Cree information in its audit report. This led to a 2010 meeting with FSC, the certified companies, and their auditors and the drafting of a protocol agreement.

In 2011, when Resolute Forest Products sought certification and contacted the Crees, GCCEI found that the company was in breach of an earlier forestry agreement. FSC certified Resolute despite Cree objections, and GCCEI challenged the decision on Principle 3. This led FSC to suspend Resolute's certification, and the company lost several contracts. The Quebec government appointed a mediator to resolve the matter, and a new agreement was signed.

Quaile said that after challenging Resolute, the auditors became much more attentive to Cree concerns and helped the GCCEI resolve various issues that "the government and companies would otherwise let slide or ignore." When you put effort in, you get return," he said.

Experience shows that the more the auditors are engaged or challenged, the more they learn about the standards, and this extends to the forestry companies involved, said Quaile. Although every situation is different, he encouraged other Aboriginal communities to define their relationship with FSC, the government, or forestry companies in ways that work for their needs. This requires capacity and funding, but it is important to move closer toward an environment where companies want to get or maintain certification, he said.

Rosanne Van Schie spoke about her work for Wolf Lake First Nation, a Quebec Algonquin community, on a project to protect the trees and the habitat of the wolves within the Maganasipi River watershed while respecting Indigenous traditional knowledge and values.

Noting that she is a "tree hugger" as well as an economic development person, Van Schie said Indigenous peoples take us down the road to forest conservation in a positive way and that FSC has been part of those solutions. She said most of the conflicts have been around protecting First Nations traditions and ecological values, while the biggest challenge is current forestry legislation that limits certain rights. Meanwhile, forestry is the dominant sector in the community, and amid the economic downturn Wolf Lake First Nation is also looking to new directions such as tourism and ecosystem services.

FPIC and FSC are very important as Indigenous peoples look at a new, greener economy and respond to climate change, Van Schie said, noting that this effort also has a social aspect. Part of negotiations with forestry companies on economic development initiatives should be to get them partnering with universities and funding projects to further research on sustainable forestry, as well as working with Indian residential school survivors and other Indigenous community members. Van Schie said she believes customary law is the piece that will bring First Nations to where they want to be.

In closing, Van Schie told the story of Nanabush and the ducks, telling how the Algonquin mythical figure, known as a trickster, tricked the ducks into dancing with their eyes closed so that he could seize them for his meal.

Questions

A participant asked what benefits the SFI and FSC standards provide in terms of carbon trading.

De Vries said SFI's standards have no specific elements that speak to biological carbon, but their focus on sustainable forest management and water quality lends itself to providing

management systems that support carbon projects. However, SFI is working closely with certified carbon projects to align its standards with those projects.

Defresne said FSC is looking for new ecosystem services for incorporating carbon into its standards. It is also looking to brand those values in the market at the international level, working with other groups in the deforestation and extraction areas.

Noting that the forestry company on Haida Gwaii is FSC-certified, **Colin Richardson** asked de Vries what SFI's process is if a concern is raised that an SFI-certified company is not meeting its obligations.

De Vries said it would be similar to the process for FSC. SFI prefers to help the community collaborate with the company as the first step. If unsuccessful, then the concern should be raised with the auditors, and subsequently with the auditor of the auditors if necessary. SFI wants to work with the parties and Indigenous peoples to ensure the obligations of the standard are met.

Young asked the forest managers to comment on the cost of certifying under the FSC and SFI programs. Richardson said there is a cost associated with the audit process, as well as a long-term investment commitment to engage with the community, which is a much larger development cost. Young said about \$20,000 might be the average cost to undergo the FSC certification process, perhaps equivalent to about 50 cents per cubic metre, along with the longer-term development work with the communities.

Quaile said it is hard to partition out a day-to-day cost but noted that if the land base has multiple certificate holders, then a company can benefit from the economy of scale and share some of those additional costs, such as travel and accommodations for the shared auditors.

Lennard Joe gave a range of between \$1 and \$2 per cubic metre but said it is hard to provide a per-cubic-meter cost. However, he noted that certification created value for the company.

A participant asked whether *veto* is synonymous with *consent* under the concept of FPIC within the SFI and FSC standards. Dufresne responded that FPIC is a shared responsibility, and both parties within a partnership have a responsibility to make it work. De Vries agreed.

FPIC Outside of Certification

SPEAKERS

Rebecca Adamson, Founder and President, First Peoples Worldwide

Valerie Courtois, Director, Indigenous Leadership Initiative, International Boreal Conservation Campaign, Boreal Leadership Council

Rebecca Adamson said First Peoples Worldwide is a global Indigenous organization that provides grants to Indigenous communities to fund local development projects. Its other focus is corporate engagement, mostly with oil, gas, and mining companies. However, Adamson said she was very interested in supporting forestry grantees, as sustainable forestry holds huge promise in having world impact.

She said Indigenous territories contain incredible natural resources, and they constitute 20% of the Earth's landmass on which 80% of the Earth's remaining biodiversity resides. These natural

resources get a lot of corporate attention. Investors want to know how much risk a company is exposed to in violating Indigenous rights if they operate on Indigenous land.

A 2009 study of a broad base of companies found that 250 companies worth US\$2.7 trillion had high to medium risk exposure, while fewer than 10 had Indigenous peoples policies. The study also found that the political, legal, and financial trajectories for Indigenous peoples' rights were global.

Adamson said Indigenous peoples have to build capacity, but companies also need to build capacity to engage with Indigenous peoples. She encouraged the participants to ask questions and compel companies to respond. The old-school philosophy relies on regulatory frameworks and compliance, but the new school is about engagement and mutual goals. Often both schools exist in the same company, but the opportunity is there to press companies to align their operations with social performance metrics, as they have a lot at stake in getting this right.

This is because of cases like \$25 billion in mining projects being tied up or stopped due to a company not having the social licence to operate because of their unwillingness to work with the local community. It can cost a mining company \$20 million to \$30 million a week, and this is a high-risk area called "material risk." Extractive companies do not always understand the real costs of conflicts with communities or their impact on communities. This kind of information is becoming crucial, Adamson said. NAFA and others working close to the ground have the ability to collect this data.

Indigenous peoples are mattering more and more because an international legal framework for FPIC exists, and FPIC is being referenced in law decisions. The Indigenous rights movement is also getting stronger, while corporations are very interested in operating on Indigenous land with its large amounts of biodiversity.

"Turn their risk into your opportunity," Adamson told participants. She listed several tools and resources. First, investors examining a company's financial performance are now very interested in the company's environmental, social, and government (ESG) risk. First Peoples produces an Indigenous Rights Risk Report to help investors specifically assess social risk. The last report assessing 300 projects being carried out by 52 US extractive companies found that 35% were high risk and 54% medium risk.

First Peoples also conducts shareholder advocacy leadership training to help investors advocate for Indigenous peoples. Adamson also helps connect Indigenous leaders with big shareholder-investors in companies operating on their lands so that they can talk about their experiences and goals. Global investment firms, such as Goldman Sachs and BlackRock, are seeing ESG criteria as fundamental to the amount of risk they want to take on.

Another tool, called True Cost Collaboratory, uses bottom-up metrics from communities to identify social indicators, such as violence against women. It captures data on social costs in order to improve transparency and risk analysis. It is also a way to develop community solutions to social problems caused by boom-and-bust extraction.

In closing, Adamson proposed 10 key questions to pose to companies, such as asking for an Indigenous rights policy and a report on its implementation, which should include performance metrics, career incentives, reporting chains, and allocation of resources and decision-making power. Another key question is whether the company addresses social performance at the board level.

FPIC in the Boreal

Valérie Courtois gave a presentation on the Boreal Leadership Council (BLC) and its reports on FPIC in Canada. The BLC consists of conservation groups, First Nations, resource companies, and financial institutions with an interest in the future of Canada's boreal forest. In 2012 the BLC produced an initial review of the scope of FPIC in Canada, and in 2015 it published a report on successful approaches to FPIC across the country.

Courtois showed a 2014 map of all the Indigenous-led conservation areas in Canada, totalling over 1 million square kilometres of land and forest. She said the BLC works with Indigenous communities and other partners across the country to find solutions for how to support the best management of the boreal forest.

Some of the most interesting work comes about when Indigenous governments innovate new ideas or methods that have great potential for success, Courtois said. One example is First Nations Women Advocating Responsible Mining, a group in BC that is responding to pressure for mining development in the province. From the perspective of how mining affects First Nations women, the group took out a personal ad seeking responsible mining companies that will clean up after themselves. It has partnered with the Initiative for Responsible Mining to produce a standard for responsible mining.

Another example is the Ungava Peninsula Caribou Aboriginal Round Table, formed after the leaders of seven Quebec and Labrador nations held an emergency summit in Kuujuaq in January 2013 to discuss how to preserve the caribou in the region. The nations had some difficulties in the past, but the decline of the caribou herd brought them together. By April that year they had co-chairs elected and committees formed, and they are now reviewing a draft caribou management plan they hope to release in the fall. "This kind of gathering of internal leadership and expression of vision and planning for the future is the right kind of place to start," Courtois said.

Courtois next talked about land stewardship programs like the Innu Nation's Guardian Program in Newfoundland and Labrador. To bring life to management regimes, it's important to have people on the ground working for the benefit of the ground, she said. Forest operations in Labrador have guardians on the ground involved to ensure community input in the design of protected areas. Voisey's Bay Mine in Labrador has on-the-ground environmental monitors. The hydroelectric project near Happy Valley-Goose Bay also has guardians on the ground. In all cases where such programs were involved, environmental and relationship management greatly improved.

The Australian government has a program called Working on Country that employs some 800 Indigenous rangers actively managing the country's Indigenous land. In the mid-2000s a series of forest fires in Australia made international news, and the cost of fire fighting was astronomical. Since the subsequent start of the rangers program, there have not been any similar problems. The rangers carry out controlled burning and fire management to reduce the incidence of large, catastrophic fires.

The impacts of the program have included jobs, a marked increase in levels of education, and improved social and economic conditions in communities, such as lower rates of violence and incarceration. Land management also improved, including on-the-ground protection of the ecological and cultural aspects of the land. The program also led to increased capacity in planning, research, and monitoring.

"All this is happening when First Nations take control, and this is what it's going to look like," Courtois said.

Questions

Young asked Adamson, in addition to investors like Goldman Sachs, what response she has received from companies.

Adamson said she does get some pushback. One of her organization's strategies is to respond in terms of material risk. It is like a measure of credit worthiness, where a company's ability to get cheaper or costlier financing depends on its material risk as determined by rating agencies or insurers. If a company does not uphold Indigenous rights, then it has to pay a higher interest rate for its loans. Activists can get the company into the news headlines. The company then understands that it costs the company more to violate Indigenous rights.

Richardson noted a situation on Haida Gwaii where the Haida Nation caused disruption to the provincial licensing process, and the BC government was forced to engage with the Haida to create more certainty. It was a case of "turning their risk into our opportunity."

Courtois recounted a story from a Voisey's Bay Mine shareholders' meeting where Indigenous shareholders went to raise the issue of the mine's impact on the Indigenous people in the area. It created uncertainty among the shareholders and was a very successful investor strategy that turned into a leverage point.

Adamson said she is sincere when she says "you are the leaders," as the majority of the successes, such as legal cases and protests, have come out of Canada.

Roadmap to FPIC

SPEAKERS

Colin Richardson, Solutions Table Manager, Haida Nation

Colin Lachance, Northeast Superior Regional Chiefs' Forum

Colin Richardson provided an overview of the Kunsta'aa guu-Kunst'aayah Reconciliation Protocol, which was signed in December 2009 between the Council of the Haida Nation and the Government of British Columbia.

The opening paragraphs set the tone that this document is not about Haida ownership but about the management of Haida Gwaii, Richardson said. It begins by stating, "The Parties hold differing views with regard to sovereignty, title, ownership and jurisdiction over Haida Gwaii." It clarifies that the Haida Nation asserts that Haida Gwaii is Haida lands, while BC asserts that it is Crown land. The key is that the protocol "confirms an incremental step in a process of reconciliation of Haida and Crown titles," and that the two parties "agree to focus on shared and joint decision making respecting lands and natural resources on Haida Gwaii."

From the protocol, the province created the *Haida Gwaii Reconciliation Act* in 2010, which outlined the establishment of the Haida Gwaii Management Council (HGMC) consisting of a chair and two Haida and two government representatives. If there is a tie vote, the chair has final say, but ultimately the province goes forward with its decision if there is a disagreement.

Today, after seven years, the Haida are close to going to court about the ownership of the islands, Richardson said. They are upset that many decisions still fall to the province, even after the *Tsilhqot'in* decision.

Richardson explained that the protocol's objectives include shared and joint decision making, carbon offset and resource revenue sharing, forest tenures and other economic opportunities, and enhancement of Haida socio-economic well-being.

The Haida get 90% of the revenue from the carbon offsets, while BC gets 10%. The money is used to manage the protected areas on Haida Gwaii and can also be used to create business opportunities. No logging and mining are allowed, but cultural tourism and sport fishing are allowed as long as they are sustainable. The purchase of a forestry company also allowed the Haida to control forest practices on the islands. They acquired FSC certification after finding that FSC standards seemed the most consistent with Haida values.

The HGMC has several areas of responsibility, including determining the allowable annual cut and implementing a land use objectives order for forest practices and a strategic land use agreement. Another responsibility is to develop a comprehensive forestry management strategy. The Haida have reduced their annual cut, and while using logging to maintain the economy, they are working to find balance to ensure "the fish and waters are healthy and the people are content."

The land use objectives order led to a community-based process working closely with the non-Haida residents to identify values that both felt were important. The document talks about

“ecosystem-based management,” but it is actually Haida values, Richardson said. The main sections address cultural objectives, aquatic habitats, biodiversity, wildlife, and forest reserves.

One objective is that cedar trees over 120 centimetres in diameter cannot be logged and must be protected for cultural use. Another clause covers protection of habitat for wildlife such as black bears and the great blue heron. There are stringent objectives around fish habitats, upland stream areas, and watershed sensitivity to logging. The Haida run a monitoring regime to ensure all rules are followed, Richardson said.

And on the journey to FPIC, “we think we are heading in a good direction,” he said.

Forestry Agenda

The Northeast Superior Regional Chiefs’ Forum (NSRCF) is a group of First Nation chiefs who have been working together since 2008 to advance a model of sustainability and cooperation in their region northeast of Lake Superior. The group is “advancing a process that is very spiritual in nature,” **Colin Lachance** said.

The catalyst for forming the group was the modernization of forest tenure in Ontario, which created an opportunity for reconciliation between the Crown and First Nations. Collaboration with government and regional stakeholders resulted in the establishment of a process to develop the Northeast Superior Enhanced Sustainable Forest Licence (NS-ESFL). Like the NSRCF, this process takes a principled and egalitarian approach, and “it’s about peaceful co-existence and working together,” he said.

The NSRCF approach to shaping FPIC includes governance, economic, ecological, cultural, social, and fiscal components. It involves being holistic, leading by example, emphasizing public education and moral suasion, and using brinkmanship but standing down once movement is demonstrated.

Lachance described each of the components. In terms of governance, the region encompasses two forests and a game preserve, and the NS-ESFL process began with a First Nations–municipal community approach that eventually gained government-to-government traction. All stakeholders are now engaged, and the economic agenda is moving forward rapidly with a non-political business model.

On the ecological side, the guardianship program is branding the idea of a “conservation economy” and reconnecting youth with the land through the Elders. On the cultural side, the NSRCF is guided by an Elders Council and has protection of the Manitou Mountain as the centrepiece. Moreover, a conflict resolution process has helped to improve decision making. On the social side, comprehensive collaborative community planning is under way, tied to a regional planning process.

On the fiscal side, the NSRCF and Ontario are undertaking a two-year pilot forestry project with resource revenue sharing. The NSRF is poised to expand the pilot and replicate it in the mining and energy sectors, supported by the NS-ESFL’s fee-for-service agenda.

Lachance said the group encountered huge resistance to change due to lack of information and ethics. The way it held parties accountable was by keeping detailed documentation of discussions and agreements and having the head negotiators initial each page. Speaking to the group's use of brinkmanship, it is to "create tension and angst, like a rubber band that stretches without breaking," he said, because "you can't seem to get people to change unless there is conflict."

In closing, Lachance said, "We need the feminine spirit to assume its rightful role, then the long-term generational questions will be answered."

Questions

A participant agreed with Lachance about the return of the feminine spirit and said he would like to see a female chairperson on FSC's board of directors. He also called the Haida "amazing role models for First Nations in Canada."

With the latest news about youth harming themselves, panelists spoke to how young people can be informed of and benefit from the knowledge shared at the forum. Richardson said the Haida Nation has a summer youth mentorship and training program that puts youth back on the land and helps them rediscover their roots. "It's a powerful way to help youth see the opportunities," he said. Lachance said the guardianship program is another good model; however, a huge amount of energy is needed to heal the youths' current situation.

A participant thanked the speakers over the last two days for articulating clearly the themes around intergenerational trauma and healing. She also spoke about an initiative in northern Ontario to stop the aerial spraying in Indigenous territories of carcinogenic herbicides and pesticides, which have a cumulative impact on fish, wildlife, and vegetation.

Lachance said the Northeast Superior Region is in its sixth year of a herbicide reduction program with Tembec, but there is only so much one company can do. All companies need to reduce, and the province must be on board. He suggested arguing that the chemicals are "probably carcinogenic" rather than "possibly carcinogenic," and also putting a price on their use such as in terms of moose fertility and the lower cost of other regeneration methods. The NSRCF has a campaign prepared but wants to give one more chance to the province to ban herbicides at an upcoming forestry summit before going to brinkmanship.

Richardson said Haida Gwaii is faced with a problem of invasive knotweeds and has had to do minor application of herbicide. Currently the Haida do not know of a better way to eradicate the plants.

Plenary Discussion

Achieving FPIC: For One and For All

MODERATORS

Dr. Peggy Smith, Associate Professor, Lakehead University

Pamela Perreault, Aboriginal Coordinator, NAFA

Dr. Peggy Smith and **Pamela Perreault** chaired a plenary discussion on ways to achieve FPIC, with a focus on the protection of landscapes integral to the survival and health of Indigenous communities. The discussion sought to examine participants' experiences that relate to translating the cultural values of forested lands into indicators that can be measured or mapped for use in decision making.

Lennard Joe said the experiences of Indigenous peoples over the years have changed the environment, and now First Nations people are leading the discussion. They are incorporating their values into what they do, and bringing those to certification bodies, industry, and governments, he said.

A participant recalled that NAFA committed to making its 2005 Kelowna conference a carbon-neutral event, and to compensate for the emissions produced by the conference, it pledged to plant several hundred trees in an area recently affected by forest fires. The next year it planted 800 jack pines on Serpent River First Nation land. Forests are a legacy responsibility, she said, and they represent a measure in the number of trees rather than the number of hectares.

Young referred to a "fantastic set of artworks" he had seen that had been put on birch bark, creating culturally harvested birch that could be used to generate revenue for land revitalization. It is a form of cultural revitalization and an area to encourage youth to explore.

A participant said his community does not have the infrastructure to pursue initiatives in a meaningful way as seen in the Cree experience of challenging the auditors. But he observed that there is now a critical mass to be able to articulate the various ways to challenge the status quo and markets and talk to corporations. "The toolbox is full, having that information," he said.

Part of the success is to have access to that information, Smith said. It is important to tell success stories, as they are things everyone can aspire to.

Richardson shared frustration that the Haida's own forestry company, an FSC-certified company, is introducing sediment into fish-bearing streams. He asked how certification can be used to stop the practice. A participant responded that one channel could be laws and regulations regarding water quality. In addition, certification offers a mechanism whereby infractions can be reported to the Haida council and the FSC auditor.

Another participant said there are limits to working within provincial regulations despite measures available through certification. He referred to challenges faced by Iisaak, an FSC-certified forest management company operating in Clayoquot Sound, BC, on the west coast of Vancouver Island. Iisaak is 100% owned by the five nations of the Nuu-chah-nulth Tribal Council.

He said the tribal council has tried to approach issues in a positive way by working through its lawyers. It is also working to apply a cultural lens to British common law with respect to jurisdiction over land, by engaging with Elders to understand the land from a cultural perspective and integrating this concept into Indigenous watershed governance.

He explained that the three primary objectives of this governance include self-determination, environmental security, and cultural and social aspects. This language is used because it relates to United Nations instruments, as does language around sustainable livelihood. Sustainable livelihood depends on forest projects as well as finding ways to diversify to improve livelihood, he said.

Young asked Quaile to speak on the capacity and experience of the Grand Council of the Crees in watching over forest management and land development through engaging with FSC.

Regarding the case involving Resolute Forest Products, Quaile said that because the company had breached a forestry agreement, the Crees had a leverage point on which to challenge FSC. But besides FSC, the Crees also had other agreements related to the governance of their territory, so it is a two-pronged approach. In addition, the Crees are developing capacity and resources to take a greater role in forest management, and if they can demonstrate competence in five years, they could start writing their own forest management plan. The Quebec government has promised funding for this.

Quaile commented that the way FSC standards are written and interpreted is very complex and cumbersome. He needs to filter the information for his local stakeholders. Also, communities have to deal with issues on an ongoing basis with or without FSC. And they have to push the auditors to get to the forestry companies. Great companies like Tembec are fully engaged, but not all companies are the same, and auditors can also be very different. There is a 1-800 number, but further steps may be required if there is a problem with an auditor, Quaile said, adding that auditors are paid by companies to audit them.

A participant raised a question about the challenges associated with transboundary issues.

Another participant responded that this reflects the need to look at forestry regulations where the traditional territory is 60% on the Ontario side and 40% on the Quebec side. Those negotiating licence agreements have developed collaboration agreements with stakeholders on both sides of the boundary. It is part of the reality and shows the need for Indigenous communities to participate in regulatory discussions.

A student doing research on forestry governance asked how the forestry industry intersects with non-timber forest products (NTFPs). She noted that efforts to map NTFP areas, such as berries and mushrooms, is one way of putting products from the forest to use to generate economic value. It is also an area that can engage youth and encourage them to go into the bush.

De Vries referred to the traditional knowledge associated with NTFPs and to product marketing, which can contribute to sustainable forestry.

A participant spoke from his experience at the Meadow Lake Tribal Council in northwestern Saskatchewan, which consists of nine Meadow Lake First Nations, including Cree and Dene

nations. The partnership has worked to develop many local businesses through joint ventures, such as Mistik Management and NorSask Forest Products, and under the Meadow Lake Tribal Council corporate structure and co-management boards, these businesses have become good models of sustainability.

Joe said a great deal of work has been done to gather information on NTFPs through predictive ecosystem mapping, and that most companies studying biodiversity agree that there is value in edible products such as soapberries and huckleberries. His company, Stuwix, in the southern interior of BC, has a lot of that information and is a member of SFI and part of the SFI research. One of the related topics being studied is to examine the things that impact cultural survival areas, and NTFPs are taken into consideration in the forest stewardship plan that Stuwix has developed for its operating area.

Another participant, a Maasai leader from Tanzania, talked about other features that are relevant to forest management: rain clouds, moisture, fog, and the ability to see the stars. He said in his country, the stars have disappeared. It is very important to accommodate rain and moisture, he said, and it can be done by mapping the rain zones, which have the four directions of north, south, east, and west, and by communicating with the Elders who understand the language of the rain clouds.

Indigenous Forest Sector Retrospective

SPEAKER

Harry Bombay, Former Executive Director, NAFA

Harry Bombay, who served as NAFA's executive director for some 20 years, gave a retrospective on the Indigenous forest sector and NAFA's role as the sector's national support organization. "From retrospectives, we should gain insights into future actions needed," he said.

Much has been written about the sector as a new form of forestry or a hybrid between traditional and commercial or contemporary values and land use activities, Bombay said, and NAFA contributed a lot to those discussions. Aboriginal forestry is qualitative in nature, involving spiritual and cultural values, but today the focus is more on quantitative issues like forest tenures.

NAFA incorporated in 1991, so it is 25 years old this year. Its mission is "to promote and support Aboriginal involvement in forest management and related commercial opportunities.

Bombay outlined NAFA's main objectives. The first was to ensure that land care reflects traditional knowledge and Aboriginal values. NAFA engaged in many policy-related activities nationally and internationally, such as the Royal Commission on Aboriginal Peoples and the Sustainable Forest Management (SFM) Network. It became involved with forest certification initiatives in the early 1990s.

The second objective was capacity building around local economic development and land management initiatives. The third objective was Aboriginal forestland rehabilitation, which

resulted in the *First Nations Forest Resources Management Act* in 1994. The act represented a new approach where First Nations could control the management of reserve land and would have tenure.

The fourth objective was to derive the highest value from forest resources and tenures. NAFA published papers and conducted workshops on traditional land use while helping to advance commercial activities. The fifth objective was advocacy and support of First Nations governance and Aboriginal and treaty rights. NAFA developed related tools and best practices, and later FPIC came into being.

The last objective was networking and communications, with much work focused on maintaining federal focus, such as newsletters, workshops, and conferences. “NAFA saw value back then of learning from each other, which continues today,” Bombay said.

NAFA saw success in the early years in significant increases in Aboriginal forest tenures across Canada, SFM generally being inclusive of Aboriginal issues, and Aboriginal and treaty rights being advanced through the courts. Later trends included reduced government programming, a waning of SFM, greater reliance on certification to achieve SFM, and a decline in traditional forest industries with a focus on other fibre use, such as biomass. The latter means NAFA needs to redefine its roles and interests, Bombay said.

Bombay then spoke on NAFA’s involvement with certification bodies CSA, SFI, and FSC. NAFA saw SFI as being US industry-dominated when it first came to Canada, but it has Canadianized over the past 15 years, with many positive results coming from numerous working relationships with First Nations communities.

With FSC, NAFA insisted on a fourth chamber focused on Aboriginal peoples, and asked the certification body to elevate Principle 3 of its Forest Management Standard, which relates to Indigenous peoples’ rights. Bombay said NAFA favoured FSC because it was explicit about including Indigenous rights, while other systems were about complying with existing law. “To us that is not good enough,” he said.

Bombay observed that the Indigenous forest sector has changed from talking about rights to now talking about responsibilities. With reduced government support, NAFA must revisit how to approach government on different initiatives. It needs visibility, adaptability, and the ability to focus on many issues, and it has a greater need to learn from other Indigenous organizations. And while forest certification is a priority today, it still lacks institutional and political support. However, the objective of this meeting is to improve the situation, take the reins, and assert Indigenous peoples’ rights, he said.

Day 2 Closing Remarks

SPEAKER

Brad Young, Executive Director, NAFA, Conference Chair

Brad Young said he has learned a lot from Bombay and others at NAFA, noting that “NAFA has leadership roles, but it’s really the women that are the thread that ties our organization

together.” He added that he looks forward to advancing the organization and seeing how 20 or 30 years from now, “our communities and people will still be on our land.”

Recap of Day 1 and Day 2

SPEAKER

Brad Young, Executive Director, NAFA, Conference Chair

Brad Young gave a summary of the discussions from the first two days of the forum.

He highlighted that technical information is needed to be effective in the forest sector, but that the knowledge and experience of the Elders are also critical. Moreover, effectiveness also has a political nature. Another theme was the link between the historical dispossession of land from Indigenous peoples to the present-day removal of Indigenous children from their families.

On the positive side, the forest sector is seeing much economic activity and proactive implementations of high theories in human rights and corporate social responsibility. Forests are generating a great deal of carbon and renewable materials, and many ecosystem services are being maintained in Indigenous forests that are very important for their survival. Moreover, with mechanisms like certification and the tracking of corporate behaviour on balance sheets, Indigenous peoples worldwide are asserting themselves on their land. Current trends are toward creating balance, respecting the genders, and focusing on human development rather than extraction.

What is Certification? What have we been up to? Why?

SPEAKER

Brad Young, Executive Director, NAFA, Conference Chair

Brad Young gave a presentation on the backdrop to the forum discussions. He showed a series of maps illustrating the locations of Indigenous forests in Canada and other parts of the world. “Around the world, where are our forests? They’re where Indigenous people are,” he noted. “These are our homes; we have no other place to go. We are stubborn and we are not going to leave our land.”

On the making of the maps, Young told participants it is important for Indigenous peoples to have the skills and expertise to do their own technical work, so that “we can speak to this ourselves, and if others want to discuss, we are ready.”

Young showed a table comparing the provincial and Aboriginal annual allowable cut (AAC) figures for each province. The provincial AAC is much higher than the Aboriginal AAC in every province except for three provinces where the Aboriginal figure is either 0 or unavailable.

Issues like certification, landscapes, and policy, including FPIC, must be based on the agenda of the Indigenous peoples, Young said. Through FSC International’s Permanent Indigenous Peoples Committee, NAFA has had representation at national and international tables over the last five years, but “the real project is how do we save the world.” In particular, with the world’s

population of 7.3 billion expecting to reach 9 billion by 2050, the pressure where these human beings will go is ever present.

Young said Indigenous peoples are connected to one another in many ways. With their technical preparedness, diplomacy, and “stubbornness,” they are ready to work with people around the world. The question is what they will do and what is needed to save their part of the world.

Indigenous Forests and Forest Operators Perspectives

SPEAKERS

Kevin Gillis, Mistik Management Ltd.

Lennard Joe (Suxsuxwelsh), Stuwix Resources Joint Venture

Product Delivery Requirements of the Mistik Forest Management Agreement

Kevin Gillis described Mistik Management and how its forest management agreement helps its operators be responsible about delivering high-quality forest products to Mistik’s mills. The forest management agreement includes a comprehensive set of product, certification, government, and occupational requirements, Gillis said.

Mistik is based in Meadow Lake, Saskatchewan. With a staff of 12, it has 1.8 million hectares of licensed area and an allowable annual cut of 1.2 million cubic metres per year. It manages the operation of two facilities: NorSask, Canada’s largest First Nation-owned sawmill; and Meadow Lake Mechanical Pulp Inc., the world’s highest-production bleached chemi-thermo-mechanical pulping mill.

Mistik holds a number of certifications with FSC, ISO, and CSA, including the FSC Chain of Custody certification that tracks fibre from certified forests through to the consumer. About 20,000 people live in some 33 communities within and adjacent to its forest management agreement area, and about 70% of Mistik’s workforce is Aboriginal. The percentage of Aboriginal people in the area is also 70%. Mistik has a successful forestry contractor workforce working in operations such as harvesting, log haul, road building, and silviculture.

The company pays out approximately \$40 million to \$50 million per year to various government agencies, contractors, and vendors. The economic benefits are distributed to individuals and communities and also open doors for future opportunities.

Mistik’s objectives for its contractors are “to provide the mills with the highest quality of usable fibre that can be used to make the highest-quality products,” Gillis said. Quality emphasizes optimizing recovery, reducing waster, and minimizing production costs. Logs must be correctly processed, with no crooks, forks, dry wood, and snipe branches, among other requirements. Mistik has quality assurance measures in place, including a training process, quality assessments of its contractors, and a bonus and penalty system based on log quality. In addition, contractors must meet specific environmental, social, and regulatory requirements provided to them in a manual, including those related to species at risk, soil protection, the transport of

hazardous materials, health and safety, high conservation value areas, and traditional landowners.

FPIC and Indigenous Forests

Lennard Joe told participants about Stuwix Resources Joint Venture, a First Nations forest management company in the southern interior of British Columbia where he serves as general manager. The company is built on a partnership of eight First Nation bands wanting to work together rather than be competitors.

Joe began with a slide of his own band's successive chiefs from 1860 to today. He likened it to his family tree, as seven out of 10 of the terms were served by members of his family. Seeing that history, Joe said that "we carry the corporate history of our people" and that he realized "the roots run very deep." His family history also made him realize the responsibility to prepare for succession.

Joe said Stuwix produces multiple products and was among the first companies to become proficient at full fibre utilization. Besides its chipping and logging operations, in which it has an annual cut of 240,000 cubic metres in its certified forest area, Stuwix also plants trees and has invented new fibre sources and advanced the true realized value of logs. This has allowed the company to create new First Nation businesses and provide economic benefits to local firms.

Stuwix wants to work with its neighbours, Joe said, adding that groups working together through transparency and communication are stronger together. The company addresses a mix of political, business, and social values in its operations. It realizes that it needs to "manage for now plus the future," and that to "truly add value to us, we must add value for others."

Cultural and environmental priorities are also among Stuwix's pillars. Illustrating these dimensions, Joe showed a video of a site visit to a cultural survival area. He said it was an emotional visit because Stuwix has been logging there for years. "We have to go into their area, [but] this is the family burial ground for their family tree." Joe said forest management companies have rights, but they also have responsibilities, and this is why he believes an industry measure should be put on feelings, because "feelings count."

Questions

A participant asked the panelists how their companies are managing climate change and the risk of the effects of the mountain pine beetle and forest fires.

Gillis said Mistik is working with the University of Saskatchewan to collect data from its forest area in order to attempt to recognize trends over time. On the cultural side, Mistik is also analyzing stories that have been passed down through the generations. Joe said that at the height of the mountain pine beetle epidemic in British Columbia, the lakes were filled with trees that had been killed, and many hectares of forest were lost from forest fires. These issues are on the table to be addressed at Stuwix.

Environmental Non-Governmental Organization Response to Community-led FPIC

SPEAKER

Jennifer Brown, Director of Conservation, The Nature Conservancy Canada

Satnam Manhas, Program Manager, Forest and Ecosystem Services, Ecotrust Canada

The Nature Conservancy Canada is part of the Nature Conservancy, a global environmental non-governmental organization ((E)NGO) based in the United States. **Jennifer Brown** has worked for the last eight years on the coast of BC and done a great deal of conservation work with the Indigenous communities there and in other parts of Canada.

Brown said she found that the work of the Indigenous people in Canada articulates well their voice and their vision. It is not only about the number of protected areas, but “about sustainable management for the future and for people around the world,” sharing the benefits with others in the world and supporting all people in making good decisions about forest management.

Brown shared with participants the four focus areas of her work. The first is to strengthen the Indigenous peoples’ role in decision making around natural resource management. This includes helping to leverage investments, developing tools for more participatory planning, helping communities develop their own resource management plans to bring to the province, and applying customary law in the modern context and integrating it into decision making. Reconnecting Indigenous people with customary law has potential for other parts of Canada, she said.

The second area is to strengthen Indigenous peoples’ assertion of authority. This includes strengthening on-the-ground stewardship programs and supporting networks of these programs by facilitating connections and relationships. Another example is working together to change the management of resources, such as supporting BC’s bear working group to use laws to end trophy hunting. A further example is supporting national efforts to advance Aboriginal fishing.

Brown’s third focus area is supporting youth, “the leaders of the future.” The fourth area is helping communities develop local diversified economies, such as helping Indigenous peoples own their own companies so that they can manage forests in ways that respect their cultural values. This also involves building tools to integrate these values into resource management and promoting the use of triple bottom line accounting. Another aspect is helping to “redesign Aboriginal forestry from the bottom up,” working with First Nations to adjust the forestry model, as it “ultimately has to reflect values.”

In closing, Brown said she would like to learn how her organization can further support Aboriginal forestry efforts.

Satnam Manhas spoke about the work of Ecotrust Canada to provide tools to help communities lead their own projects and better their futures through conservation and development.

One tool is mapping. Manhas said that to do environmental work in a region, “the first thing to do is mapping” to understand its economy, ecology, people, “what’s important there, what’s

going on there.” He described an Ecotrust project that mapped all the different languages and the number of people speaking them throughout much of the coast of western North America. The mapping showed a clear correlation that “when forests are left, those languages are strong,” he said.

Manhas gave examples where Ecotrust supported Indigenous communities to do their maps, and eventually those communities developed their own capacity and no longer needed help. He said Ecotrust can also support Indigenous people to develop tribal parks, including helping them find funding to do their own work.

Turning to certification, Manhas said he also has a role at FSC Canada supporting development of the National Forest Management Standard. He said certification is an important tool for companies to connect with communities and verify that they are doing what they said they would do. This provides the social licence companies need from communities when using their land and resources. Certification is “FSC’s best tool to give people voice who did not have a voice before,” Manhas said. It is powerful because it means communities and market forces can voice their displeasure, put pressure on companies, and hold them accountable.

Manhas also spoke about ecosystem services provided by forests, noting that carbon is a good tool to help Indigenous communities earn income from sustainable forestry management practices.

Manhas pointed to some challenges in supporting Indigenous communities to use FPIC, such as the two-year terms for chiefs and the different groups, governance structures, and levels of capacity in different communities. (E)NGOs can give support but cannot tell these communities what to do, Manhas said, adding that “this problem still needs to be resolved.”

Declaration on the Right to FPIC in the Indigenous Forests of Canada

Discussion and Consensus Building Process

Participants began by discussing the events that occurred at FSC International’s last general assembly in Seville, Spain, in September 2014, where Motion 65 was passed directing FSC to explore how to improve the protection of IFLs.

Brad Young, representing NAFA as an Aboriginal Chamber member on the FSC Canada Board of Directors, said NAFA abstained from the Motion 65 vote by rights of First Nations process. He said NAFA agrees with letting the motion stand, although it could see the problems with the motion. Indigenous people do not want to be in federal or provincial parks or live on plantations, he said. And FPIC needs to be implemented. But the discussion is not over, Young said.

Pier-Olivier Boudreault, an Environmental Chamber member from Quebec on the FSC Canada Board of Directors, said the motion had the support of 99% of the FSC’s Social and Environmental chambers, and 73% of the Economic Chamber, so the desire is there, and FSC has a role to play.

He added that while FPIC is embedded in the motion, FSC still gives access to logging operations, so there is a difference between desire and limitations, and this remains a big challenge. But in the work on IFLs and ICLs “the process is good,” even if “there is always room for improvement.” He said the Aboriginal Chamber needs more members and more participation, and it needs to build trust within the chamber to be able to reach solutions.

Satnam Manhas said the Indigenous forest sector consists of early adopters who are tackling some very tough challenges. However, there are great examples of how things can be done, such as the models provided by several communities represented at this forum. He gave as examples the Haida Nation on Haida Gwaii, the Innu Nation in Newfoundland and Labrador, and the Nuu-chah-nulth Nation in Clayoquot Sound, BC

Motion 65 is mainly about the boreal forest, and Young noted that these three communities are all on the periphery rather than in the centre of the boreal forest.

An FSC Environmental Chamber member from England said his own country used to be the most forested country in Europe but now is the least forested country. He said he rejected Motion 65 because “we are not winning the fight for the forests and species.” The absolute minimum must be to ensure the rights and FPIC of Indigenous people, he said. But “FPIC is a minimum; it’s not enough to ensure [their] cultural survival.” He urged the groups in the room to use more of their power to do moral suasion and speak to people at the highest corporate levels.

A participant said he voted in favour of Motion 65, doing so as an individual, because for him “this motion was a sign of hope for cultural survival,” and because “caribou are integral to the cultures across the country.” He said he voted yes also due to knowledge of his own culture. When his First Nation community first went to the courts, its fundamental approach was based on wanting to protect the spirit of the land. “This is how I look at other First Nations in our country. We share a lot in common,” he said.

Referring to the examples raised by Manhas, the same participant said the approaches, attitudes, values, and cultural ways of viewing protection measures are common for Indigenous peoples across Canada.

He added that he sees that FSC is still not properly addressing the issues after several attempts, and the discussions are still polarized. He said it is his duty on the board of FSC International to understand Motion 65, and he will be giving it closer examination. And while this forum is a wonderful expression of First Nations presence and force in Canada, he said he believes it is still not dealing with the issues properly. More depth is needed. “We, whether NAFA or we as individuals, need to be effectively and properly informed to make informed decisions. We are still not there yet,” he said.

Geoff Quaille said tools like Motion 65 must allow for the way Indigenous peoples see their land. “We should not dictate how these tool must be implemented.” If there is flexibility in FPIC, then “all debate will end,” he said.

A participant commented that a better consultation process would be beneficial for Motion 65. The concept of ICL is what speaks to him as potentially having the most power technically, but it is not being discussed around the world. ICLs and tribal parks and “how these things come together, that is the problem and the hope,” he said.

Another participant said the motion is complex enough to encompass Indigenous peoples’ desires and aspirations, but within the complexity there are technical challenges. As a member of an FSC technical expert panel, he said FSC is committed to addressing the technical questions, and the phased process will allow the integration of the technical and cultural sides.

A participant said the UN Convention on Biological Diversity acknowledges a correlation between cultural and linguistic diversity on the one hand and biological diversity on the other, and this recognition represents an opportunity for Indigenous peoples and local communities to position themselves in the place of authority to create their own conservation efforts. He called for developing a declaration from this forum, perhaps discussing what type of agreement to make among one another to strengthen governance outside of a single sector focus.

Colin Richardson said he is concerned after hearing this week that Canada can trump consent. Some First Nations are in a position to protect themselves, but other are still developing, he said. “That word ‘consent’ is coming from a predetermined place, and we are not coming from a place of power,” he said. Ultimately First Nations must find their way and “can’t rest on FPIC right now,” he said.

On the issue of place of power, another participant said First Nations people are still in trauma and very set back. They can come to the table and talk about consent, and indeed there are examples of success and expertise, but in fact many communities have lost their infrastructure. Much healing still has to happen if they are to be able to come from a place of power. Many do not really know what Indigenous sovereignty means, or what should be protected. The concept of consent also includes the concept of equitability. That element must be in place.

Despite the UN Convention on Biodiversity, the forest sector has become more and more about carbon, one participant said. The global situation is serious, and Indigenous peoples have an important role in saving the world and should have a decisive voice based on their values and experience. With the new FSC standard coming into place, they must make sure their rights are protected. Linking with other Indigenous peoples is very important, as is technical capacity to do work, like mapping, analysis, and planning. It requires stable, predictable funding and increased spending on land and resource planning. “NAFA should be leading a big lobby for funding,” he said.

A participant from Quebec said Indigenous peoples should remember that “we borrowed the land from each other.” She said she is “optimistic that our youth are in the conversation, and knows that our well-being is being represented.” “The future is bright,” she said.

Another participant said Canada may have non-binding commitments and *Indian Act* issues and other challenges, but he suggested that Indigenous peoples do more to get out on the land and to use and occupy the land, especially youth. By learning about forests and understanding

“what happened and what needs to happen,” they can be more empowered to be part of the process. “Then FPIC can become more of a proactive rather than reactive statement.”

A participant said his advice for NAFA is to “have a gathering, just focused on ICLs, and see the stories that will come out.” While much discussion has occurred about the business side, which seems to be the dominant side, he said more work is needed to tell the human side.

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