



# FIRST NATIONS AND LICENSEES: LOOKING AT TODAY'S SUCCESSFUL PARTNERSHIPS

By Ian McNeill

When Leonard Munt arrived on Haida Gwaii in the fall of 2003, relations between licensees and the Haida could best be described as dysfunctional. They continued to deteriorate and two years later the Haida, together with the island communities, set up a blockade called “Island Spirits Rising” and forestry operations ground to a halt. The blockade had been sparked by an announcement that Weyerhaeuser was selling its timber rights and assets to Toronto-based Brascan. However, it was further fueled by longstanding Haida grievances about inadequate consultation and what the coastal First Nation considered to be unsustainable forest practices.

## The Haida Example

“There has to be a better way,” thought Munt, the newly minted district manager for the provincial forest ministry. Then he set about helping to create that better way. Even without the blockades, the system was frustrating for all parties. Licensees had to apply to a variety of ministries to get permits and the process could take years. Left out at so many levels, the Haida often felt blindsided by the time they were included and felt, in more extreme circumstances, that they had no recourse but to shut things down. The whole thing looked like a Gordian knot that could only be undone

by the sharp blade of a sword, but Munt, in consultation with the Haida, figured out a way to carefully untie it.

**Using the Solutions Table generates results such as a licensee getting a road permit through in seven days.**

The solution path had two tracks. The first was to encourage the government to bring all the ministries involved in the permitting process under one roof, which it did through the creation of the Ministry of Forest, Lands and Natural Resource Operations. The other track involved getting the Haida involved in the process from the get-go, encouraging licensees to consult with the Haida and respect the First Nation’s own blueprints for land use and operations. He even set up a forum for consultation, the Solutions Table, where Haida representatives and government negotiators could sit down and discuss plans at the technical level. This isn’t a perfect world and there are no perfect solutions but since the process began three years ago it has led to a greater level of trust between all parties and a smoother road to approval.

“In the past getting a road permit approved could take years,” says Munt. “But using the Solutions Table generates results such as a licensee getting

one through in seven days. It’s not perfect—there’s still a learning process involved—but there’s an increasing level

of trust growing, less friction with both sides having a better understanding of each other going in. It’s a lot better than when all sides worked in isolation from each other.”

It’s important to note that the Solutions Table itself does not make final decisions; that’s the responsibility of provincial decision makers and senior Haida council members. But nowadays the council understands that at least by the time they are called upon to make a decision the process has been studied and approved by their own negotiators. In other words, the kind of consultation the Haida were looking for in 2005 is now taking place and the new way of doing business has been welcomed by all parties.

According to Jonathan Fane, a forester with Husby Forest Products, which has an AAC of 200,000 cubic metres and has been operating in Haida Gwaii since the seventies as a contractor and the mid-80s as a licensee, it’s definitely a better world for industry. “We have improved

relations and any issues we might have are brought up right away; there's less delay in getting permits," he says.

"There are good things about it, and bad," he adds. "We're under a way stricter regime now as to what we can and cannot do on the same land base. That's good in some respects, but it adds costs; more surveying, more roads required in order to access the same amount of wood, and we're bypassing all sorts of areas where we would have been logging before. There are more 'no-go zones' and protected areas now, but it's definitely a better world."

doing the interpretation. Still, it's been better for the Haida as well.

"This has been a long process," he says. "The Solutions Table and the way things work now are an improvement over the past, but it's a work in progress. We aren't at the place yet where we can say with confidence that we are satisfying the needs of the Haida people on Haida Gwaii, but we are at least on that journey."

To even begin the journey required approaching the situation with a new cast of mind. "When we first walked into that house it was difficult," he says.

handed us anything," he says. "We've been on this journey for nearly 50 years and we have never deterred from our goal; our progress has been won by being consistent in our objectives."

### The Heiltsuk Example

The Haida aren't the only First Nation to have established a good working relationship with the licensees operating in their traditional territories. According to Kelly Brown, the Heiltsuk people centred on Campbell Island on the central coast have also made significant progress. They have set up an agreement where companies agree to come to Bella Bella and work with the tribal representatives on preliminary application forms. "We use their technical staff and our own to examine any plans they want to put into place—engineering, road building, dump sites, storage sites—you name it; basically anything to do with the technical aspect of operations in our territory."

These industry partners include Interfor, Western Forest Products, BCTS, and even the band's own company Heiltsuk Coastal Forest Products, all of whom must observe these protocols. "In the

## The Heiltsuk have a working relationship with licensees based on mutual trust, respect, communication, good will, and the exchange of information in good faith.

Colin Richardson, who sits on the Solutions Table representing the Haida Council says the blueprint for how licensees may operate in Haida Gwaii is still a work in progress, in many cases because interpretations about what clauses mean differ depending on who's

"I was one of those guys that got arrested on Lyell Island, but I believed that if we're going to truly manage human activity on Haida Gwaii then we needed to do it together."

That togetherness, he adds, was the result of a lot of hard work. "Nobody



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past we would have just received a referral, which meant that an application had gone to the province. This created a lot of inefficiencies,” says Brown.

Now, he says, the Heiltsuk have a working relationship with licensees based on mutual trust, respect, communication, good will, and the exchange of information in good faith. “On the ground it means that the logging companies bring in their technicians to work directly with our office and look at all the preliminaries so at the end of the day what we do is send a letter of support for an application to the province, which makes it a lot easier for the province to rubber stamp it.” He adds that as a further show of good faith the licensees pay 90 per cent of the salary of a full-time forestry technician who is hired by the Heiltsuk and both serves and answers to them.

These kinds of relationships prove that with the right attitude going in licensees and First Nations can work together to the benefit of both parties, but of course the elephant in the room is what happens down the road as land claims get settled through the courts. In June the Supreme Court of Canada granted title

to more than 1,700 square kilometres of land in BC to the Tsilhqot’in First Nation in what has come to be known as the Tsilhqot’in Decision. Will licensees suddenly find themselves barred from traditional territories as land titles are granted to First Nations?

**It used to be each First Nation would get referrals sent to them individually leading to stacks of paper on everyone’s desk.**

Not necessarily, says Brown. “None of this negates the need for First Nations to go to court for rights and title,” he says. “But by establishing these kinds of working relationships between partners there’s a better chance that regardless of the how those cases turn out First Nations and industry will have worked out a mutually beneficial and respectful way of doing business together.” In other words, it could be business as usual.

So, can other licensees and First Nations use the experience of the Haida and the Heiltsuk to establish working relationships based on mutual respect and trust? “There are lots of nuggets of learning” to be mined from working ex-

amples, says Munt, but each situation is unique and must be treated as such.

### The Stó:lō Example

“Unique” hardly begins to describe the situation in Stó:lō country in the Fraser Valley, traditional territories of

not one but as many as 18 First Nations. However, according to Dave Schaepe, GM of the Stó:lō Research and Resource Management Centre, the permitting process developed there in the last three years is as unique and progressive as the people it serves. “It used to be each First Nation would get referrals sent to them individually leading to stacks of paper on everyone’s desk,” he says. “Each one had their own way of dealing with things leading to a lot of stress both for them and the proponents.”

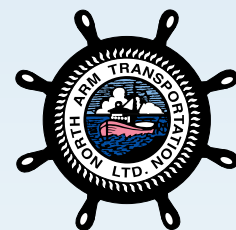
That changed thanks to the Strategic Engagement Agreement project, which led to the organization and streamlining of referrals through the Resource Man-

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agement Centre representing and serving all the First Nations communities affected. In addition to providing a single web portal proponents use to submit applications, the agreement contains a detailed framework for engagement. “There’s a clear process with respect to where to send things and to whom, how to interact with the communities as well as clear and specific time frames for completing the process,” says Schaepe. Along the way individual First Nations can review progress and provide input and comments to the referral team.

One of the virtues of the system is that it allows the referral team to tackle some of the more problematic issues at an earlier stage. “One of the big issues has always been cut blocks. Dealing with them used to come a lot later and consume a lot of time and energy. Now we’re dealing with them a lot earlier,” says Schaepe.

The new way of doing business has dramatically improved relations between First Nations communities and licensees. “It’s opened up a degree of transparency, including forums for discussion that didn’t exist before but are absolutely critical to maintaining the relationships that are fundamental to the

whole process,” says Schaepe.

Either way, going into discussions with First Nations with the right attitude will go a long way toward making the process work for all parties regardless of the territory and the players involved.

“It starts with a desire to make things work,” says Munt.

“To be successful you’re going to have to go in with an open mind and learn as you go,” says Colin Richardson.

“Go in with an open mind and listen to the very real concerns the First Nations have with you operating on what is their traditional lands,” says Jonathan Fane.

As for the rights and title issues, Kelly Brown recommends focusing on the technical details of working relationships, establishing an air of mutual respect and let the chips fall where they may. “Take an administrative approach knowing that we still have to deal with title and rights. On an interim basis make things work for yourself. Develop a Memorandum of Understanding on the operations side and the rights and title stuff will take care of itself.”

on BCTS’s ability to sell these high elevation mixed hembal/yellow cedar sales.

BCTS sales with a significant yellow cedar component are not aggressively bid and in one case, a large volume sale on the Sunshine Coast received no bids twice.

It is time to review the policy that restricts all yellow cedar log exports. Allowing the export of yellow cedar should increase the overall harvest of high altitude hembal leading sales. Selling yellow cedar logs at a higher value and into a more sustained global market will also support the costs of harvesting the hembal component.

Yellow cedar exports would still require advertising and scrutiny under the surplus test to flush out any potential domestic buyers and only where there is no interest within BC for the logs would the seller have access to the global market.

There are still many sawmills in Taiwan, Korea and Japan who would cut yellow cedar logs if they could count on a steady supply of logs. Despite the fact that yellow cedar makes up only a small fraction of the coastal harvest in any given year, export of these logs where no local domestic buyer was available would support the numerous small “mama-papa mills” in Asia.

Allowing yellow cedar logs to be exported would also support BCTS’s initiatives to advertise and sell their apportioned cut and ensure higher elevation hembal is harvested and provided to the domestic market, thereby creating a winning situation. Domestic mills would always have first option to purchase yellow cedar under the surplus test.

The future is notoriously difficult to predict, but making yellow cedar more available to the global market might just ensure a much desired resurgence in yellow cedar demand and support the harvest of BC’s working forest!▲

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*Bill Markvoort, RPF, is Vice President of Probyn Log Ltd. and Duncan Chisholm is a Log Trader with A&A Trading.*