

Building the Framework for meaningful Indigenous partnerships while shaping corporate culture of an emerging energy company

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Summary

Canada has been undergoing a fundamental shift in its relationships with the Indigenous Peoples. Simultaneously, Canadians are facing some challenging undeniable truths about our planet, our climate, and our people. This fundamental shift for Canada, stems from the *White Paper* of 1969^[1] to *The Constitution Act* of 1982^[2], to the *Truth and Reconciliation Calls to Action* of 2015^[3] and it sits on a foundation of duty. The duty to consult and accommodate refers to a duty to rights holders; Aboriginal and traditional, and treaty rights with respect to land claims, self-government and governance and the obligations of Canada (previously The Crown). Land ownership in western Canada is unique, with its separation of surface rights and subsurface or mineral rights, resulting in the involvement of government in most resource development activities. For proponents, there is a requirement for changes at the corporation level, where successful engagement for the duty to consult can be approached with humanity, alongside the expectations for regulatory requirements. As the world focuses on the energy transition discussion, those in Canada are looking at how best to couple our energy future with sustainability, where both anthropological and scientific concerns can be addressed. In order to advance this transition effectively, economic prosperity cannot be the factor that overrides all others; proponents, corporations, communities and Indigenous peoples will need to allow for more holistic solutions, including social and governance aspects in the solution making processes. Indigenous-led groups like Saa Dene^[4] (2020), the First Nations Major Projects Coalition^[5] (2017) and the Indian Resource Council^[6] (1987) were formed to address infrastructure and socio-economic challenges faced by Indigenous communities through advocacy and participation at decision-making tables to bring about meaningful change in the energy sector.

This paper and presentation will reflect on foundational knowledge, report on an approach taken in a current business case to shape corporate culture in the energy sector by building meaningful partnerships with Indigenous peoples and foster a discussion on key observations.

Introduction

The Constitution Act 1982^[2], recognizes the existence of Aboriginal rights in Canada, documented under section 35. Defining these rights, however, has been a turbulent process based on Supreme Court cases like *Calder vs. Province of British Columbia (BC)* (1973) and *The Crown vs. Sparrow* (1990). In order to protect the rights of First Nations, Inuit and Métis peoples, the *Duty to Consult (with Indigenous peoples)* was indoctrinated and affirmed by the Supreme Court in 2004 (*Haida Nation vs. Province of BC*; *Taku River Tlingit First Nation vs. Province of BC*), 2005 (*Mikisew Cree First Nation vs. The Crown*) and 2010 (*Beckman vs. Little Salmon/Carmacks First Nation*; *Rio Tinto Alcan Inc. vs. Carrier Sekani Tribal Council*). More recently, a renewed interest in the duty to consult has been observed in the media, arising from the 2016 decision regarding the Northern Gateway Project (*Gitxaala Nation vs. Canada*) and the long-awaited 2018 decision on the Trans Mountain Expansion Project (*Tsleil-Waututh Nation vs. Canada*).

In 2007, the *United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP)*^[7] defined rights that constitute the minimum standard for the survival, dignity and well-being of the Indigenous peoples, but in Canada, it wasn't endorsed until 2010 nor adopted until 2016. In 2015, the *94 Calls to Action*^[3] were established by the Truth and Reconciliation (T&R) Commission in order to redress the legacy of the residential schools under the subheadings of: child welfare (1-5), education (6-12), language and culture (13-17), health (18-24), justice (25-42), and reconciliation on a number of systemic fronts, including: UNDRIP (43-44; 48-52), royal proclamation (45-47), national council (53-56), training/education of public servants (57), church (58-61), education (62-65), youth programs (66), archives (67-70), residential schools (71-83), media culture (84-86), sports (87-91), business (92) and newcomers (93-94).

The term *Turtle Island*, originating from oral histories or stories of a turtle that holds the world on its back, is used by Indigenous peoples from across North America to refer to the Earth in a way that is both spiritual and culturally significant. It may be used to emphasize the conviction with which Indigenous leaders recommend a strategy or business model to benefit all people of the Turtle Island as we move forward. Having a knowledge of the engagement, reconciliation and consultation expectations of Indigenous peoples can enable energy focused corporations to reshape resource extraction. Energy organizations have historically relied predominantly on western scientific method, engineering technology and profit-driven business models in decision-making. Those corporations are now challenged by an acute competitive need to reprioritize; the inclusion of Indigenous knowledge and ways of working with western scientific methods is one way to improve a corporation's approach. To model a renewed cycle of efficiency where corporate culture is aligned with humanity and indigenous economic inclusion; that is where meaningful partnerships are formed, and corporate cultures are built.

Approach

T&R Call-to-Action 92, on business and reconciliation, outlines three key obligations of industry in connection with economic development projects, specifically:

- 1) Commit to meaningful consultation, building respectful relationships and obtaining the free, prior, and informed consent of Indigenous peoples before proceeding with any project.
- 2) Ensure that Indigenous peoples have equitable access to jobs, training and education opportunities in the corporate sector, and that benefits to the community are long-term and sustainable.
- 3) Provide education for management and staff on anti-racism, conflict resolution and the history of Indigenous peoples, including: the legacy of residential schools, UNDRIP, treaties, rights, Indigenous law, and relations with The Crown.

For this business case, a commitment statement was constructed using feedback from community, Indigenous academics and professionals at the executive level. The commitment statement is the foundation for the corporation to embark on the journey to completing a fulsome Indigenous Relations Strategy; one that holds for all employees, managers, and leaders at all corporate levels. This is a process that includes developing a step-by-step implementation plan

(i.e., how to make it happen), a strategy to support the cultural shifts that will follow and the necessary accountability measures and metrics. It was emphasized that the credibility of a corporate partner is judged by the accountability of all staff at all corporate levels in honoring the commitment statement. It was conceptualized that if the principles of UNDRIP were inherent in corporate policy and core operational activities, then Call-to-Action 92 would serve as the foundation of corporate culture for emerging energy companies. Application of Calls-to-Action 7 and 50-53 could further benefit corporations by optimizing knowledge growth and sharing through reconciliation-in-action.

Observations to Date

In year 1 of the business case, it became clear that qualitatively, staff awareness of Indigenous peoples was minimal. This finding presented significant challenges in the implementation of the commitment statement when plans for resource development were already underway. An initial assessment of policies, practices and people is, therefore, required to understand the current level of awareness of Indigenous peoples shared within the corporation in order to advance the commitment statement, and create an achievable strategy and implementation plan. Recognizing that limited resources allocated to assessment tools may yield minimal results. Consequently, the corporation will be reliant on its staff's willingness to invest substantial time and emotional capital to complete the education/training needed for adequate awareness and knowledge of Indigenous peoples.

Current Ongoing Work

The corporation committed to the design, development, and staged implementation of an Indigenous Relations Strategy, which included the employment of two Indigenous interns over a 3-month period (Summer 2021). The interns would be assigned projects to complete as part of the strategy development and implementation, including: outlining the principles for Indigenous community engagement, mapping the corporate infrastructure footprint in relation to Indigenous traditional land uses, and designing impact, risk and opportunity analyses across business plans. During this time, elements of the strategy will be tested involving relationship-building with Indigenous communities identified through the existing consultation process in Alberta, in the initial stage of the overall Foothills Development Plan (Figure 1).

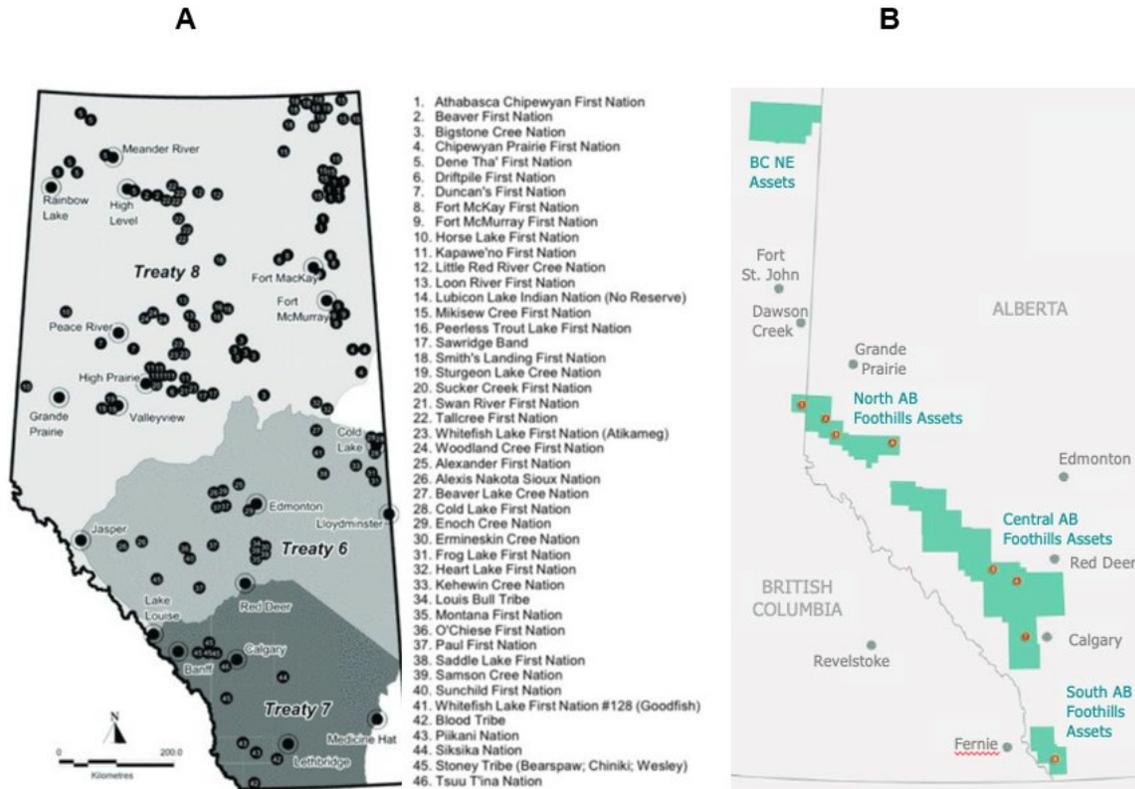


Figure 1. Maps of Alberta, showing (A) numbered treaty lands, where First Nation communities are indicated by a ●, and (B) Pieridae Foothills Assets lands, where gas plants are indicated by a ●. Sources: [8]; modified from [9].

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