

A Brief History of Corporate Engagements with Indigenous Peoples

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The last quarter century has seen a dramatic change in the interaction between corporations and Indigenous Peoples. An ethic of land being there for the taking has given way to a near-universal ethic that as something of value has been taken, something of value must be returned to the host community.

The Transactional Approach

The ways in which corporations engage with Indigenous Peoples continues to evolve. The earliest form of engagement, and the one that continues to be most common, is the negotiated community benefits agreement (CBAs). One of the earliest CBAs was the Tanami Mining Agreements negotiated between Normandy Mining Limited and the Central Land Council on behalf of Australia's Warlpiri people in 1983. The Tanami Agreements represent a series of dynamic agreements that have been extended and revised and continue to guide development today. The agreements include protection of heritage sites and provisions for employees of the mining companies to receive training in cultural heritage preservation. They also include specific environmental protections and community employment commitments, including a mentoring program to provide opportunities for young Aboriginal Australians.¹

Most CBAs take a transactional approach to development: the company formally recognizes that as something of value has been taken from the community, something of value must be returned, most often in the form of funding for community projects including such things as education and economic development, and often in a community to create a share of project jobs for community members. While the transactional approach has demonstrated success in the short-term, its effectiveness over the long-term is less clear. Community benefit payments can be factored into development budgets as a cost of doing business. But as additional projects develop and neighboring communities negotiate their own CBAs, corporations often find that the amount of funding under CBAs becomes subject to escalating costs.

Sometimes mutual benefit and learning comes out of the transactional approach, though often as an unintended consequence. Such was the case with the Walpiri. The Aboriginal Cosmology of Dreamtime challenged both the Walpiri and the mining company to broaden their view of the land. The mining company wrestled for the first time with mining blocks that were "no-go" areas for economic activity. The concept of "no-go" was also foreign to the Walpiri, who had no prior conception of a distinct economic meaning of the land. The conversations that transpired

¹ "Tanami Mining Agreements"; Agreements, Treaties and Negotiated Settlements Project <http://www.atns.net.au/agreement.asp?EntityID=1375>

informed the mining plan in ways that ultimately enhanced the mining development by focusing mine development on target areas.²

The transactional approach generally focuses its attention on getting an agreement that protects the project from disruption by protestors and legal intervention. It is often one-sided in its orientation – getting the consent the company needs to move ahead. It typically does not value the very real contributions that the Indigenous community can make to the project success – it seeks to manage community relationships, rather than enter into a space for mutual learning and exchange.

The Relationship Approach

Many corporations that began with a transactional approach have moved to community engagement strategy focused on building strong relationships with the community. Under the relationship approach, community benefit agreements continue to be an important tool, but do not play the central role that they do under the transactional model. CBAs flow out of a deeper relationship.

One of the best examples of the relationship model is Polaris Minerals relationships with the Hupacasath and Ucluelet First Nations on the shore of Alberni Inlet on Vancouver Island. In 2002, Polaris entered a joint venture with the two First Nations to develop the Eagle Rock Quarry, a project with a 100-year expected lifespan. Central to the partnership are significant equity positions owned by both First Nations, making them equal partners at the table. Polaris executives speak openly that each side brings capacities to the partnership that the other side doesn't have. For instance, Polaris brings knowledge of mining and capital, while the Hupacasath and Ucluelet bring knowledge of the land and strong tools of conservation. Project leaders tell of the environmental challenges put forth by the First Peoples being a stepping stone to better, more efficient mining practices. Outside reports paint a picture of genuine relationship between First Peoples and corporate staffs that includes hiking together, dinner parties and shared family picnics. These relationships, outside observers suggest, create a platform for community building that surpasses the “get it down” motivation of the transactional model. It is from this shared desire to enhance the community that is home both to the First Peoples and the corporation's staff that informs the community benefits agreements. Outside observers report though that the close rapport does not make for effortless negotiations, but instead the negotiations, while often still challenging, are bounded and protected by the strong relationships of trust between negotiators.³

² “Agreements between Mining Companies and Indigenous Communities,” Indigenous Support Services, December, 2001. http://www.icmm.com/publications/137mmsd_au_indigenous.pdf

³ “Synergy: A United Perspective Between Hupacasath First Nation and Polaris Minerals Corporation. Case Study 3” <http://www.cbsr.ca/files/CaseStudie3.pdf> “Synergy: Learning From Each Other” by Marco Romero, President, Polaris Minerals & Judith Sayers Hupacasath First Nation <http://www.pdac.ca/pdac/conv/2006/pdf/papers-ts-romero-sayers.pdf>

Institutionalizing the Impact of Engagement

The transaction approach begins to provide Indigenous Peoples with some resources to improve their economic well-being. The relationship approach begins to shift dynamics around self-determination, particularly when relationships include financial partnerships such as equity participation seen in the Polaris Minerals model. Including Indigenous Peoples as financial partners changes the historic balance of power between Indigenous Peoples and corporations.

Another step in advancing the economic, political and social standing of Indigenous Peoples can be found in efforts to advance the economic and political power of Indigenous Peoples within the broader society. BHP Billiton provides an interesting example of this form of engagement. Like other mining companies, BHP Billiton began its corporate engagement of Indigenous Peoples through largely a transactional model. Though it experienced some success with this, controversies persisted with critics pointing to CBAs as payoffs. BHP is widely recognized within the corporate responsibility field as a leader in relations with Indigenous Peoples (Rio Tinto⁴ and Alcan are other widely respected firms). While still facing occasional controversies – sometimes even deep and troubling ones as in Colombia – BHP Billiton has staked its future on infusing Indigenous Peoples relations deep within its business model. For instance, its mining operations in Australia are framed against a backdrop of aiding Aboriginal Australians reconciliation efforts with the broader society. BHP Billiton openly acknowledges the wrong done to Indigenous Peoples both by industry and government in the past, and makes it the aim of its business to alter both the political and economic power of Aboriginal Australian communities. All of BHP Billiton’s Australian operations are guided by a Reconciliation Action Plan, spelling out specific measures for each project which include both responding to local communities and engaging on issues outside the company. One of the outside engagements is support for Reconciliation Australia, which among other things honors good models of Indigenous governance, highlighting them in the broader society.⁵

Another example of a transformed relationship between a corporation and Indigenous Peoples leading to powerful political changes in the broader society is the 2007 Agreement between the James Bay Cree and Hydro-Quebec. Strong adversaries for more than two decades, the James Bay Cree and Hydro-Quebec transformed their relationship to one of mutual partnership, which culminated in a historic \$1.6 billion settlement that provides funding for the James Bay Cree to re-develop their economy in light of the losses of their traditional way of life resulting from Hydro-Quebec’s large hydro development. Hydro-Quebec’s recognition of the Cree as a full-fledged business partner, paved the way for the government of Quebec to cede to the Cree and their northern Indigenous neighbors, control of the semi-autonomous Nunavik Territory, in

⁴ Rio Tinto’s Indigenous Peoples policies are undergirded by strong Human Rights Guidance, a part of their *The Way We Work* governance policy. The Human Rights Guidance can be found at: http://www.riotinto.com/documents/ReportsPublications/corpPub_HumanRights.pdf In addition a good assessment of Rio Tinto’s relationship building model was prepared by the International Business Leaders Forum and is entitled “Making a Difference: Exploring Issues in Partnership Practice. Rio Tinto: Tackling the Cross-sector Partnership Challenge.” It can be found at:

<http://thepartneringinitiative.org/mainpages/rp/pubs/docs/Making%20a%20Difference%20-%20Rio%20Tinto.pdf>

⁵ “2007 Reconciliation Action Plan”, BHP Billiton,

http://www.reconciliation.org.au/downloads/3/BHP_RAP1007.pdf

which the Indigenous Peoples of Northern Quebec will have control over education, health care, transportation and law enforcement.

The Future: Indigenous Peoples Define Their Culturally Appropriate Development Policies

To date, Indigenous Peoples have been in a position of reacting to the development plans of corporations seeking to operate on their territories. Even in cases where consultation and engagement starts early it is still the corporation's vision for the development that shapes the initial dialogue.

There is, however, a shift occurring in this process, whereby Indigenous Communities craft their own terms of development which serves to guide corporations interested in pursuing projects on their territories. The first evidence of this new practice is the Songman Protocol, produced by the Songman Circle of Wisdom, a group of Aboriginal Australian elders. The Protocol developed with the encouragement and financial support of the Aveda Corporation, prior to that corporation's engagement with the Songman, outlines the Songman's view of development and a protocol for certifying products based on Indigenous intellectual property. Within the Protocol, it is the community that monitors and certifies compliance with community standards.

In the words of the Protocol:

The Songman Protocol is a guiding document that provides a framework that will:

- Respect and acknowledge Indigenous culture and spirituality
- Advocate practical models that deliver positive outcomes for Indigenous communities
- Allow certification of compliance and provide recognition to activities and projects
- Increase real financial returns and commercial opportunities to the mutual benefit of project partners
- Provide a sound commercial basis for Aboriginal business development.⁶

Conclusion

Corporate engagement with Indigenous Peoples for many centuries meant a degradation of life and a threat to culture and the ecosystem which sustained the lives of Indigenous Peoples. The evolution of new tools whereby corporations and Indigenous Peoples can find mutual benefit in open and trusting relationships that undergird planning and implementation of development projects hold the promise that development can strengthen the health, opportunities and power of Indigenous communities, while allowing corporate partners to advance their sustainability efforts to another level.

⁶ "Songman Protocol" Songman Circle of Wisdom, November, 2004.