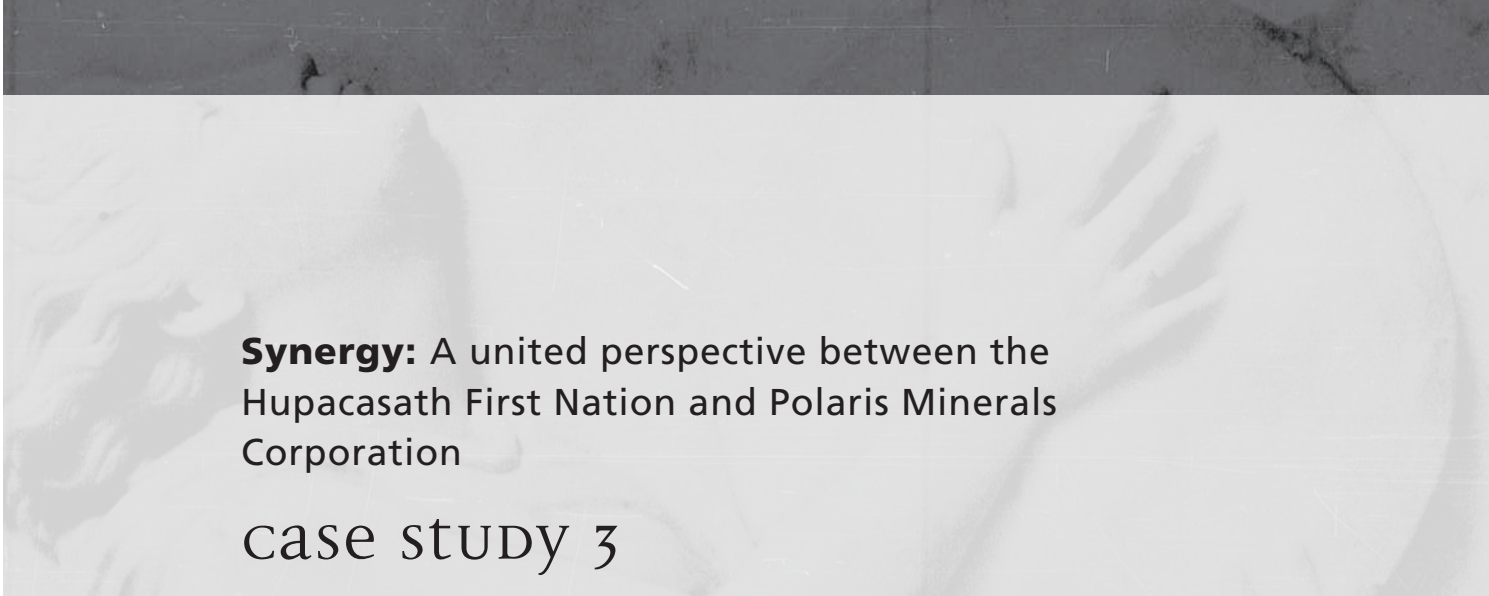


Jim Carter responded:

“Canada has an excellent national apprentice program, known as the Interprovincial Standards (Red Seal) Program. Young people and industry should take advantage of that program. Syncrude aggressively promotes and participates in the Red Seal Program. Of the 2,000 maintenance workers we employ, 150 to 200 are apprentices at any point in time.” And, industry should target Aboriginal youth as key sources of labour.”

Dave Tuccaro closed the session by observing:

“The key to successful engagement is the building of strong relationships between strong people. The evident quality of the relationship between Chief Jim Boucher and President Jim Carter speaks volumes about the quality of engagement between the Fort McKay First Nation and Syncrude.”



Synergy: A united perspective between the Hupacasath First Nation and Polaris Minerals Corporation

case study 3

Introduction and Overview

On the west coast of Vancouver Island, on the shore of Alberni Inlet, lies a 700 million tonne deposit of remarkably high quality granite. That deposit sits on land claimed as traditional Aboriginal territory by three member Nations of the ancient Nuu-chah-nulth Nation: the Hupacasath First Nation, the Ucluelet First Nation, and the Tseshaht First Nation. In 2002, the Hupacasath and Ucluelet First Nations entered a joint venture agreement with Polaris Minerals Corporation (Polaris), a Vancouver-based mining company, forming Eagle Rock Materials Ltd. (Eagle Rock). Polaris specializes in large-scale construction aggregate projects, and has focused its full attention and resources on developing two aggregate projects on Vancouver Island, both as joint ventures with First Nations.

Eagle Rock is preparing to develop that granite deposit on Alberni Inlet into Canada's largest quarry operation (Eagle Rock Quarry). The long-term development plan calls for annual marine shipment of up to 6 million tonnes of premium aggregate materials to major urban markets on the coast of southern California, with the project's lifespan estimated at over 100 years. Eagle Rock's mission statement is bold – embracing the vision of a sustainable business, and committing to the highest standards of environmental responsibility and ethical business practice.

This case study featured a stimulating and entertaining conversation between Dr. Judith Sayers, Chief Councillor of the Hupacasath First Nation, and Marco Romero, President and CEO of Polaris, moderated by Lisa Princic, Small Business Manager for Canadian Business for Social Responsibility. Their close personal rapport and mutual respect was evident as Dr. Sayers and Mr. Romero discussed some of the challenges that must be overcome to build the trust needed to sustain such a remarkable partnership, and as they heralded some of the exciting economic and social opportunities open to Aboriginal communities and resource companies who are able to join forces, become friends, and build their future together.

The Eagle Rock Joint Venture Agreement

Lisa Princic opened the discussion by highlighting some of the striking features of the Eagle Rock joint venture agreement: most notably a 30 per cent First Nation equity interest¹, with an option to increase that equity position to 45 per cent on the 25th anniversary of project development financing. In the event that treaties are settled over the Eagle Rock Quarry area, the First Nation partners have agreed that they will not impose a tenure or tax regime on Eagle Rock with terms less favourable than what would otherwise apply, for a term of at least 25 years from the date of such treaties. Finally, an Impacts and Benefits Agreement has been negotiated, providing Eagle Rock’s First Nation partners with preferential opportunities for business development, employment and training, and direct community funding. Ms. Princic noted that Polaris and their First Nation partners have raised the bar for Aboriginal-industry joint ventures.

Keys to Putting the Eagle Rock Partnership Together

Marco Romero identified several principles adhered to by Polaris that he believes were critical to the successful conclusion of the Eagle Rock partnership negotiations:

- respect for the asserted traditional rights and title of its First Nation partners;
- acknowledgement that those rights include unextinguished Aboriginal rights, and potentially, title;
- early and sustained engagement by senior management in communication and relationship-building;
- impartiality in dealing with its current and potential First Nation partners, and refraining from taking positions on issues between them – particularly issues involving their overlapping claims to traditional territories; and,
- recognition that First Nation communities generally lack the capacity (expertise and capital) required to evaluate complex resource development opportunities, and that they require industry support in that regard.

Marco Romero elaborated on elements of Polaris’s approach to consultation that he considers keys to the successful completion of the Eagle Rock joint venture agreement:

“Polaris approached its potential Eagle Rock partners very early in the process of research and preparation. We asked for permission to conduct field research on their traditional territories and to meet with them to explain our project concept. We encouraged them to engage experts and consultants of their choice to evaluate the information we presented to them, at our expense. Polaris invested several hundred thousand dollars in providing those resources. We answered all their questions and provided all the information they asked for.”

Chief Judith Sayers confirmed the importance of Polaris’s early and open introduction of the project proposal:

“Polaris showed us respect and patience. They included us in research and planning from an early stage of project concept development. They gave us unlimited information, funded our due diligence, and answered our endless follow-up questions. We played an important role in developing the core concept and the standards applied to the project. We laid our fundamental priorities of protecting the environment and creating capacity for our community on the table, and Polaris worked with us to build those priorities into the parameters of Eagle Rock.”

Chief Sayers noted the fairness Polaris has shown in its negotiations and on-going dealings with its First Nations partners:

“From the beginning and throughout, Polaris has dealt with all three First Nations fairly, equally and openly. Respect and trust for Polaris and within the partnership has been strengthened by that approach. We still have to resolve the territorial overlap between the three First Nations, but there is far less impact on the project when Polaris so consistently steers clear of the issue.”

Polaris’s CEO emphasized the scale and duration of commitment to communication and relationship-building required of senior Polaris senior management:

“Enormous amounts of time and energy have been invested by our management team in an attempt to achieve meaningful consultation. It’s all been about good faith engagement over the long haul. We have spent countless valuable and enjoyable hours getting to know our partners, learning their needs and values slowly and respectfully, fishing, hiking and eating together, and meeting their families with our families. Certainly we’ve had conflicts and tough negotiations – it took a year to get our partnership agreement done - but we’ve built a base of trust and mutual respect. More importantly, we’ve developed friendships.”

¹ The Hupacasath and Ucluelet First Nations each hold a 10 per cent interest and a further 10 per cent interest is held in trust for the Tseshaht First Nation, who have yet to accept their invitation to join the Eagle Rock joint venture. The trust interest will be divided equally between the Hupacasath and Ucluelet Nations upon a triggering event if Tseshaht has not yet joined the partnership upon the occurrence of that event. Source: Interviews with Marco Romero and Chief Judith Sayers.

Those friendships are far more than fringe benefits of the process of successful business engagement, according to the Hupacasath Chief Councillor:

“All that time we spent together without an agenda and away from our offices, fishing, hiking, and eating, bringing our families together – we were building that crucial platform of trust and respect that Marco is talking about. Without the strength and resiliency of the platform we built, our long and difficult negotiations could easily have fallen through. Make no mistake about it; we went through some tough sessions along the way. Marco and I are both strong-willed – we butted heads more than once.”

Chief Sayers identified two leadership qualities demonstrated by Marco Romero that she considered very important to the eventual success of their negotiations:

“First, Marco made the initial contact with us and led the negotiation process himself. Certainly other Polaris people were brought in at appropriate times, but not as surrogates for Marco. Second, Marco was very, very persistent. When he called the first time, he left a message for me to call him back. Well, I didn’t know who he was and I was busy – so I ignored his message. He called again. And again. Soon our receptionist felt that she knew Marco and his company. “Marco called again,” she would tell me. Finally I agreed to meet him for lunch. That hour turned into a three hour meeting, and we were on our way.”

“So, be persistent!” Chief Sayers urged the industry members of the audience. “Just pick up that phone and call. Don’t be put off if we take a while to get back to you, or even if we don’t return your call. Remember that First Nation leaders are very busy – you have to get our attention. Remember also the importance of meeting leadership with leadership. Be very careful about delegation in the getting acquainted, building trust, and key negotiations stages.”

Business Dividends of Aboriginal-Industry Partnership

In discussing business strengths of the Eagle Rock partnership, Chief Sayers keyed on three aspects of the importance of the early inclusion and active involvement of the First Nation partners:

“First, it was a huge advantage in the public consultation element of the permitting process. The project quickly gained credibility and support throughout the community and with regulators, because from early on we were publicly standing shoulder to shoulder with Polaris’ leaders.

Second, our environmental assessment and other permitting processes were simplified by the prior resolution of two of the three First Nations’ territorial issues by agreement with Polaris, and by our collective application for the various permits and certificates. Polaris benefited from relationships the First Nations already had in the community with local and provincial governments, and with other key businesses (such as Weyerhaeuser).

Third, the active involvement of Aboriginal partners made a positive impression on the senior management of our potential California customers when they came to visit. They were worried about the impact of unresolved First Nations title claims on the certainty of supply of aggregates. If we were involved, our Californian customers knew that these issues of title, consultation and accommodation would not pose a problem. They valued the contributions to political and public good will, and the business certainty achieved by our committed participation in the project.”

Marco Romero added that another dividend of the partnership has been the creative force of synergy:

“We’ve learned from each other, and we’ve each absorbed some of the other’s strengths. Our First Nation partners have picked up some of our aggregate industry knowledge, and some of our business and political judgment. The project has benefited greatly from the addition of the Aboriginal sense of intimate connection with the land, and of stewardship for the environment. Not just in our dealings with regulators and the ENGO² community, but in the refinement of our own thinking on environmental issues. Because we were pushed hard by our First Nation partners, and because we were motivated to work together to find solutions, we found innovative ways to improve our environmental performance that would not have occurred to us otherwise. As we realized how strongly determined we were to do this project together, it became apparent that we were no longer working from opposite sides of the table. Our Eagle Rock table had become round. Now, we were bringing our very different perspectives, experiences and skills to bear on our shared problems, seeking and finding creative solutions.”

Mr. Romero provided the audience with an example of such innovation, and of the consternation it caused in some government circles. He explained that when the Eagle Rock team realized that the conventional settling pond approach to waste water purification was impractical and inadequate for the high rainfall climate of the Eagle Rock Quarry location, they developed a filtration system that would allow them to

² Environmental Non-Governmental Organization

release clear, clean waste water into Alberni Inlet. Their plans for such a filtration system were included in Eagle Rock's Environmental Assessment Certificate application. In due course, Eagle Rock received a letter from Environment Canada, inquiring as to the business rationale for such a filtration system for waste water.

Mr. Romero also recounted a powerful moment from CBSR's *Business Case for Sustainability Conference* hosted by Alcan Inc. and NorskeCanada for the resource sector in November, 2003. In explaining the Squamish First Nation perspective on land ownership, Chief Gibby Jacob said, "Our land does not belong to us; we belong to our land."

First Nation Social and Community Benefits

Chief Sayers identified the building of community capacity as the key contribution of the Eagle Rock Quarry project to the Hupacasath community:

"Once we had confirmed that the quarry concept could be environmentally benign, and we had negotiated a business agreement committing the project to high environmental standards, we quite quickly focused on the potential for strengthening our most important assets – our young people. Eagle Rock's future employment opportunities provide tangible incentive and purpose for our youth to pursue advanced education and skill development. When I talk to our youth, I tell them, "Someday you can be one of Eagle Rock's janitors, its CEO, or anything in between. It's up to you." And, at least as important as the jobs, is our direct involvement in ownership and control of the project: building community pride, raising hope, and creating inspiration about entrepreneurial possibilities for our people."

A Partnership View of the Haida Nation Case

It's not surprising that Polaris's CEO and the Hupacasath First Nation's Chief Councillor take similar perspectives on the business implications of the Supreme Court of Canada's recent decision in the *Haida Nation* Case.³ Notwithstanding the technical ruling that the Crown cannot delegate its duty to consult and accommodate First Nations whenever it becomes aware of actions or policies creating potential infringement on claims of Aboriginal rights and title, neither leader sees the ruling as an "industry exemption." According to Marco Romero:

"It's just good business to keep your neighbours and those who have interests in the land informed, and to give them opportunities to participate in and contribute to the decision-making process. Beyond the question of strict legal duty, we believe that the resource sector has a moral duty to consult meaningfully – not only with First Nations affected by our proposed developments, but also with local communities."

Chief Judith Sayers added:

"The smart companies will continue to see consultation and accommodation as building blocks for establishing positive, enduring relationships with Aboriginal communities. Those companies don't waste time and energy worrying about unextinguished rights and title – they've moved way past that, to focusing on the potential for success that lies in building mutual value and certainty."

Open Floor Discussion

Tyson Touchie, the Eagle Rock Project Coordinator for the Ucluelet First Nation, endorsed Chief Judith Sayers' earlier observation regarding the importance of Marco Romero's respect for the diversity of perspectives and interests of Polaris's three potential First Nation partners. Tyson stressed that the consistency and impartiality that Mr. Romero and his Polaris team showed in their dealings contributed significantly to the success of the complex, tripartite process of negotiating the Eagle Rock joint venture agreement. In a question to Marco Romero, Tyson Touchie asked, "How did you know the importance of that diversity issue, and how did you know what to do about it?"

Mr. Romero replied:

"We simply started from the premise of equality. We also made sure that we did our research before we started talking. The B.C. Treaty Commission people were very helpful with traditional territory maps and orientation regarding the status of treaty negotiations and land claims. We soon recognized that the overlap issues are significant in the Quarry area, and we just decided to take a very firm position: Polaris would deal with its prospective First Nation partners equally, impartially, and consistently."

Myrna Khan, CBSR's Vice President and General Manager, asked for an example of one of the "head-butting" exchanges that Chief Judith Sayers alluded to earlier. In response

³ *Haida Nation v. British Columbia (Minister of Forests)*, 2004 SCC 73

Ms. Sayers referred to a difficult point in the negotiations regarding definition and valuation of the equity interests that the First Nation partners would take in the Eagle Rock joint venture:

“I had been monitoring this very technical and slow-moving discussion from a safe distance, and decided it was time for a strategic display of impatience. So, I told our negotiator to tell Polaris to forget about equity – the Hupacasath would take a simple royalty instead. That might be the only time I deliberately took advantage of Marco’s good nature and intentions: I knew how strongly he cared about having First Nation partners, so I also knew he wouldn’t be at all happy about going back to a royalty structure. It all worked out well in the end.”

EnCana Corporation and Métis Nation of Alberta and Saddle Lake First Nation: Partnerships do make a difference

case study 4

Introduction and Overview

On April 8, 2002, the first trading of EnCana Corporation shares took place. A new, independent oil and gas company was born from the merger of two of Canada’s leading energy companies – PanCanadian Energy Corporation and Alberta Energy Company Ltd. EnCana is North America’s largest natural gas producer and holds enterprise value of \$30 billion. With strong credentials in the field of corporate social responsibility¹, EnCana has created a mandate to ensure that its Aboriginal partners gain procurement contract opportunities and equity ownership through their relationships with EnCana.² Barrie Robb, Vice-President Aboriginal Relations, represented EnCana in this case study. Mr. Robb brought a broad background and perspective to the session: he is currently with EnCana on exchange from the Department of Indian and Northern Affairs Canada, where he has served as Regional Director General, Alberta Region, since 1998. Prior to his arrival at Department of Indian and Northern Development (DIAND) [now known as Indian and Northern Affairs Canada, (INAC)], Mr. Robb had extensive experience as an Aboriginal land claims negotiator, and served in a number of senior public administration roles in the N.W.T. and Yukon Territory.

The Métis Nation of Alberta (MNA) was founded in 1928 by Joseph Dion, who served as its President until his death in 1960. The MNA represents the Métis people of Alberta, and is one of five governing bodies of the Métis National Council. Today the MNA’s more than 30,000 members are led by Audrey Poitras, who is in her third term as President, and who also serves as Vice President of the Métis National Council. Ms. Poitras represented the MNA in this case study.

The Saddle Lake First Nation comprises 8,200 First Nation members resident in northern Alberta. Actively developing reserves’ oil and gas deposits since the mid-1970’s, the Saddle Lake First Nation were represented in this discussion by Brian Cardinal. Mr. Cardinal shared his deep, hands-on knowledge, earned through more

¹ On September 8, 2003, EnCana launched its “EnCana Corporate Constitution,” a clearly worded CSR manifesto that goes well beyond general “mission statement” platitudes to define core EnCana values and beliefs, and to set clear standards for EnCana practice and behaviour. See: www.encana.com/responsibility/constitution

² See: www.encana.com/responsibility/community/aboriginal_relations.html