



Asserting First Nations Rights for Economic Benefit

Workshop Description

- The Assertion of First Nations Rights for Economic Benefit workshops assists communities to assess how prepared they are to assert their rights and title to maximize the economic benefits.
- The workshops showed where and how practical steps can be taken to improve their level of preparation.



Introductory Question

- What basic elements does a Nation need to have in place in order to begin the process of asserting Aboriginal Title for economic benefit?

Workshop Overview

- Two-day workshop that focused on the challenges and opportunities associated with economic projects proposed in Traditional Territories.
 - Attendees were promoted to share their experiences and ideas with one another
 - Total Number of Participants: 89
 - Total Nations that Participated: 47



Workshop Overview

- A self-assessment tool was used by workshop participants to evaluate their Nation's capacity in five important areas for assertion of rights:
 - Governance and Administration
 - Land and Marine Use Planning
 - External Engagement (referral and consultation management)
 - Project Negotiations
 - Project Implementation



Workshop Outcome

- An Assertion of First Nations Rights for Economic Benefit report is currently being drafted that will allow First Nations to independently assess their community, and determine a assertion plan going forward.
- The report will focus on “best practice” Nations that have strong assertion practices and the steps they took to develop those practices.



Session Timing and Locations

May 24-25

Kamloops – Coast Kamloops Hotel and Conference Centre

May 29-30

Nanaimo – Coast Bastion Inn

DATE CHANGED TO: June 28-29 (originally May 15-16)

Prince George - Coast Inn of the North

DATE CHANGED TO: July 3-4 (originally May 17-18)

Fort Saint John - Pomeroy Hotel

DATE CHANGED TO: July 24-25 (originally May 22-23)

Terrace – Best Western Inn



Research Methodology



- Secondary Research
 - 226 Sources Reviewed
- Primary Research
 - Interviews with First Nations individuals and communities
 - Needs Assessment Survey

Interviews

- Interviews were conducted with representatives from the following First Nations:
 - Ktunaxa
 - Tk'emlups
 - Westbank
 - Metlakatla
 - Tsawwassen
 - Ehattesaht
 - Tzeachten
 - We Wai Kai
 - Xatsull
 - Yale



Needs Assessment Survey

- 200 Invitations sent out
- 78 Respondents



Affiliation of Survey Respondents

1	Iskut	32	Titqet	62	Ft St John Metis association
2	Morictown	33	Stone Band	63	Doig River First Nation
3	Westbank First Nation	34	Hul'qumi'num Treaty Group/ Cowichan member	64	T'it'q'et
4	Skidegate	35	Skidegate	65	Tl'azten Nation, First Nations Summit
5	titqet	36	Iskut	66	Mount Currie
6	Cayoose Creek St'at'imc	37	Metis	67	Prince Rupert - Haida
7	Cayoose Creek	38	Pauquachin	68	Tsleil-Waututh Nation
8	Gitanmaax	39	Doig River First Nation	69	First Nations Fisheries Council of BC/Musqueam
9	AHOUSAHT - Nuw Chah Nulth	40	employed at Doig River member from saulteau	70	Provincial Aboriginal Tourism Sector Organization
10	Nisga'a Village of Laxgalts'ap (Greenville)	41	Samahquam Indian Band	71	Haida Nation
11	Doig River F.N	42	Alberta - but live and work in NEBC	72	Lax Kw'alaams First Nation
12	Squiala First Nation	43	Gitxsan Nation		
13	Snuneymuxw Nation	44	Ahousaht		
14	Prophet river first nation	45	Metlakatla		
15	Gitsegukla	46	Seabird Island Band		
16	Okanagan Nation - Upper Nicola Band	47	westbank first nation		
17	Simpcw First Nation rules!	48	Saanich		
18	Cowichan Tribes	49	Wetsuweten Nation		
19	TL'ETINQOX-T'IN	50	Haida living in Musqueam		
20	Lower Similkameen Indian Band	51	?Esdilagh First Nation		
21	Tk'emlups Indian Band	52	Westbank First Nation		
22	Carrier Nation Burns Lake Band	53	K'ómoks First Nation		
23	Penticton Indian Band	54	Heiltsuk Nation		
24	Burns Lake Band	55	Ahousaht		
25	Osoyoos Indian Band	56	Skidegate		
26	Penticton	57	Skawahlook First Nation		
27	Burns Lake Band	58	Syilx Nation/Okanagan Indian Band		
28	I am Trondek Hwech'in but live and work in Coast Salish Territory	59	Mt. Currie		
29	Tseshah	60	Taku River Tlingit First Nation		
30	Lower Similkameen Indian Band	61	Splatsin		
31	Haida				



Overall Findings

- Nations are in very different stages in the assertion process.
- Many First Nations recognize a need for basic assertion competencies in key areas so they may take their rightful place within the socio-economic fabric of their territories.
- Competencies required appear common across Nations.



Overall Findings

- The topic is very large.
- Strong need to break it down into manageable pieces.
- A framework has been developed to achieve this.
- It is not the only possible framework.
- But we are hoping it will assist in structuring the information.
- The framework is based on “Systems Thinking”







WHAT WE FOUND



Key Survey Finding

3. Do you feel that your Nation is effectively leveraging its rights for maximum economic benefit?

		Response Percent	Response Count
Yes		38.1%	24
No		61.9%	39


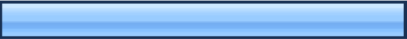




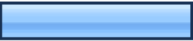
What is Needed to Begin?

6. Does your Nation have a constitution or declaration of its inherent rights that is publically available/published?

		Response Percent	Response Count
Yes		40.7%	24
No		59.3%	35



Policy / Process Development Overall

16. Has your Nation created policies or defined processes with regards to (check all that apply):




		Response Percent	Response Count
Land use		61.0%	36
Resource use		47.5%	28
Referrals		52.5%	31
Engaging in consultation		52.5%	31
Negotiating agreements		49.2%	29
Community engagement with members		47.5%	28
None of the above		22.0%	13

Consultation

8. Does your Nation have a consultation process or policy in place?



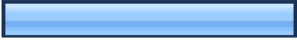
		Response Percent	Response Count
Yes		58.6%	34
No		41.4%	24

10. If you answered Yes to Question 8, how would you rate the level of effectiveness of your Nation's consultation process/policy?

		Response Percent	Response Count
Low		21.6%	8
Moderate		56.8%	21
High		21.6%	8



Referrals

7. What is your level of confidence in your Nation's ability/capacity to manage provincial referrals?




		Response Percent	Response Count
Low		23.8%	15
Moderate		41.3%	26
High		34.9%	22

Economic Development Planning

17. Does your community have an economic development strategy/plan in place that sets the vision, goals and strategies for the Nation?

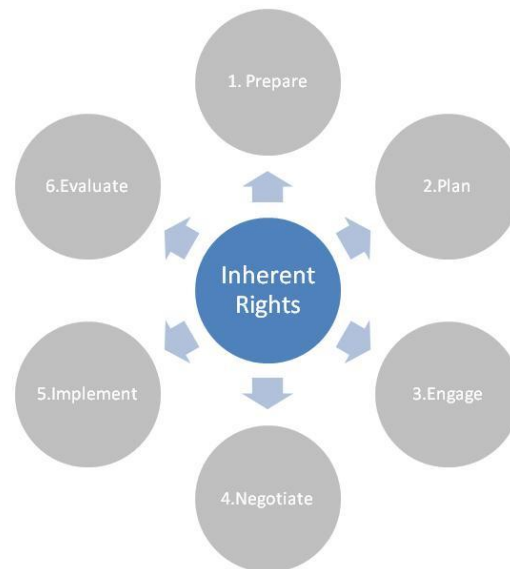
		Response Percent	Response Count
Yes		51.7%	31
No		48.3%	29

18. If you answered Yes to Question 17, how would you rate its level of effectiveness?

		Response Percent	Response Count
High		15.2%	5
Moderate		54.5%	18
Low		30.3%	10

Understanding Aboriginal Title

- Court cases and legal precedents are important.
- This workshop focuses more on the practical requirements.



Session Goal

- Goal
 - To bridge the gap between theory and practice in asserting rights for economic benefit.
 - Provide framework for asserting rights for economic benefit.



The Assertion Continuum



Prepare as a Nation	Develop a Land Use Plan	Engage external organizations	Negotiate new opportunities	Implement new opportunities	Evaluate, learn, improve and continue
<ul style="list-style-type: none"> Governance and administration. 	<ul style="list-style-type: none"> Land and Marine Use Planning 	<ul style="list-style-type: none"> Consultation, Referral Management and Beyond. 	<ul style="list-style-type: none"> Negotiation of IBA and other Agreements 	<ul style="list-style-type: none"> Implementation of Economic Opportunities 	<ul style="list-style-type: none"> Evaluation of the Assertion Process
<ul style="list-style-type: none"> Establish a vision for the Nation / Organization. 	<ul style="list-style-type: none"> Establish a vision for the territory. 	<ul style="list-style-type: none"> Make external organizations follow the vision. 	<ul style="list-style-type: none"> Negotiate opportunities that follow the vision. 	<ul style="list-style-type: none"> Implement opportunities that follow the vision. 	<ul style="list-style-type: none"> Evaluate, learn, improve and continue.

Organization of Assessment

- Assessment organised into ten basic categories:

1. Planning
2. Organizational Structure
3. Processes
4. Policy
5. Internal Community Engagement
6. External Stakeholder Engagement
7. Engagement with Other First Nations
8. Capacity Development
9. Funding
10. Partnerships

- Each category assessed in terms of:

1. Structure
2. Effectiveness



1. Planning

- What types of planning are important for community readiness?

2. Organizational Structure

- How is the organization formally organized?
- Does this method of organization work?

5. Community Engagement

- What ways have Nations developed to engage with membership at the government and administrative level?
- Are they working?



7. Engagement with Other First Nations

- Is collaboration with other Nations necessary?
- Is it occurring?
- Is it effective?

8. Funding Plan

- Is there a plan in place to support on-going operations?
- Is it effective?
 - Role and sufficiency of federal dollars.
 - Other revenue streams



Managing referrals, consultation, accommodation and beyond...

ENGAGE



What is Engagement?

- Engagement can include:
 - Consultation and Accommodation
 - Referral Management

or...

 - Proactively doing business
- Engagement is meant to be broader than consultation and accommodation



Organizational Structure and Processes

- Many different parts of the organization can be involved
 - Land and Resource Dept.
 - Economic Development
 - Council
 - Staff
 - Members

Policy

- Emerging examples of consultation / engagement policy.



NEGOTIATE

Steps in a Negotiation

(Explained on the following slides)

1. Analyze
 - The Project
 - The Wider Political and Legal Environment

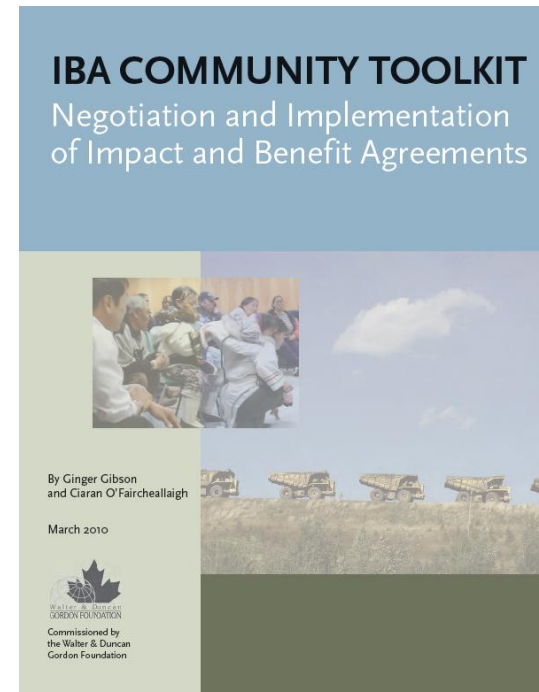
2. Prepare
 - Develop Team Structure
 - Create a Workplan and Budget
 - Gather Baseline Information
 - Develop Communications Strategy
 - Develop Negotiating Position

3. Negotiate
 - Conduct Negotiations
 - Develop Agreement



Recommended Reference

- IBA Community Toolkit
 - Appendix D
 - Mining IBA focused
 - Broadly applicable



1. Analyze

- Learn about the proposed project
 - Life cycle
 - Business case
- Learn about the political and legal landscape
 - Relationship with Environmental Assessment
 - Strength of your claim in the area
 - Politics of your own and neighbouring First Nations



2. Prepare

- Team Structure
 - Blend of business, political and land & resource and cultural expertise.
 - Outside technical experts can be invaluable
- Team Operations
 - Approval process critical
- Gathering Baseline Information
 - Understanding as much about the project and existing conditions as possible.
- Communications Strategy
 - For your internal community
 - For the outside world



3. Negotiate

- Understand the basic elements of an Agreement:
 - Monetary compensation
 - Non-monetary compensation
- Review and approvals process:
 - When to leave the table
 - When to accept the deal





IMPLEMENT



Implementation

- Involves
 - Factors specific to the project
 - Overall readiness of the Nation to do business
- Many Nations struggling with readiness
- Makes project implementation more difficult



Steps in Implementation

Implementing the Agreement

1. Develop Implementation Committee
2. Monitor
3. Enforce
4. Review/Amend Agreement

Participating in the Business

- Develop legal and management structure for new business
- Develop and implement effective organizational processes.





EVALUATION

Purpose of Evaluation

- An opportunity to get up to the mountaintop and look down at the whole system:
 - Opportunity to reflect.
 - Opportunity to improve.



Sample Evaluation

- Assessment of Assertion Competencies:
 1. Preparation
 2. Planning
 3. Engagement
 4. Negotiations
 5. Implementation
- In terms of:
 - Structure
 - Effectiveness



 **END**

