



Grow Aboriginal Talent Pools Using Proven-to-Work Programs

Over the past 25 years, exploration of mineral and petroleum resources grew steadily and primarily on Aboriginal lands. The impact of the mining on treasured lands, cultural traditions, and communities became a serious concern of Aboriginal and Northern communities. In addition, the benefits of mining the lands were often not shared fairly, leaving communities poverty stricken while natural resources were depleted or destroyed.

In response, Impact Benefit Agreements (IBAs) were initiated to ensure Aboriginal interests in the land and resources are recognized before, during and after mining projects. Though IBAs are specific to Aboriginals, they advance the principles of social license, or gaining community support for projects, and corporate social responsibility during land-use planning processes.

Meaningful Conversations are Legalized

Original treaties between the Canadian government and Aboriginal peoples had the lofty goal of ensuring native Canadians retained stewardship of their lands and wealth was fairly shared.

Unfortunately, the treaties proved useful for ensuring Aboriginal lands were defined on maps, but the great wealth of natural resources they contained led to government-approved mining of natural resources with little regard for sharing the wealth or respecting Aboriginal interests. The end result: great wealth was created while communities of poverty continued to exist as Aboriginals watched the decimation of their treaty lands.

In *R. versus Sparrow* (1990), the Supreme Court of Canada issued a decision that laid the foundation for IBAs. The “Sparrow test” determines if the infringement on Aboriginal lands is justified, establishing the fiduciary (trust) role of the Crown. It asks if there is as little infringement as possible to get the desired results, if priority in allocation of the rights has been given to Aboriginal people, if fair compensation is available, and whether Aboriginal people have been consulted concerning conservation measures.

Another important case followed in 1997 and established the principle of duty to consult. In *Delgamuukw v. British Columbia*, Aboriginal oral history was validated as legal, and the test for Aboriginal title was established.

Of utmost importance, “consult and accommodate” principles were defined. Per the court, “The minimum acceptable standard is consultation (that) must be in good faith, and with the intention of substantially addressing the concerns of the Aboriginal peoples whose lands are at issue.” Consultation must be meaningful and can include negotiation and accommodation.



Beyond the Duty to Consult and Accommodate.

As mining and exploration continued, another issue had to be settled. Environmental damage could occur during the project and long after the project was completed.

Environmental damage could continue for an indefinite time as water contamination, habitat destruction, and wildlife risks. IBAs are an attempt to define and evaluate the potential or unavoidable impacts and to offset them by providing benefits to Aboriginals and other communities that are affected by the mining process. IBAs also require offering access to opportunities for economic development.

IBAs go beyond the duty to consult and accommodate with Aboriginal peoples when government actions impact Aboriginal or Treaty rights because they specify engagement outcomes and follow-up to ensure agreements are honored. They are legally binding contracts and are now required before government licenses, permits or approvals are given to mining companies.

The official definition of an IBA is: A confidential agreement about resource development that is negotiated between a company, the provincial or territorial government, and the Indigenous organizations, like Aboriginal regional governments or communities and First Nations development corporations.

The agreement defines the benefits Indigenous people get from development projects, use of their land, mitigation or offsets of known and unforeseen damages, and strategies to ensure maximum economic benefit to the community.

[Relationship to Community Capacity Development.](#)

For purposes of IBA negotiations, benefits is a broad term. It includes economic, environmental and social benefits. That means the final agreement may contain clauses about respecting traditions, cleaning up environmental damage, protecting certain areas with cultural significance from development, or community capacity building.

The social license to operate (SLO) is a concept embedded in IBAs. The SLO is the level of community acceptance or approval of mining companies and their operations.

Much more focus is now being placed on community capacity development within the larger context of assisting Aboriginal communities overcome the damage done to their culture and communities over the past century.

Since mining companies generate enormous wealth from operations, some of that wealth should be returned to the community in some manner. It is the moral and ethical, or socially responsible, way for governments and corporations to act. Some community benefits employed include creating employment opportunities through local hiring or workforce training; establishing mentoring



programs; funding youth programs and educational scholarships; and supporting entrepreneurship through joint ventures, business development and local procurement.

IBAs are working. The Canadian Council for Aboriginal Business surveyed 50 Economic Development Corporations in 2011 and 32 percent said they had benefitted from IBAs through community-negotiated provisions for contracting and subcontracting to local Aboriginal businesses. The EDCs also said that IBAs ensured that community members could gain access to employment and training opportunities, and EDCs were given first right to access to contracting opportunities.

Community Building in Action.

Suncor Energy has been proactive in Aboriginal business development and provides an excellent example of how IBAs and partnership can bring benefits. The company has created a four-pillar approach to working and collaborating with Aboriginal businesses for community capacity development. Suncor has undertaken a variety of activities to proactively develop businesses; build Aboriginal supplier capabilities by working with organizations like the Northeastern Alberta Aboriginal Business Association; create community-driven economic development opportunities like the Tsuu T'ina small business incubator; and develop meaningful partnerships with groups like Reconciliation Canada, the Northeastern Alberta Aboriginal Business Association and the Aboriginal Human Resource Council.

A lot of good things are happening across Canada's Aboriginal communities, but much work remains to be done. IBAs have triggered significant programs, initiatives, and partnerships that promote positive relationships with communities and build economic capacity. Suncor Energy is just one example of the many companies that understand building trust, respect and economic prosperity with Aboriginals is important for long-term future success.

The IBA is merely a legal tool that formalizes desired outcomes. Real change begins only when people start talking.