

2015 NATIONAL ABORIGINAL LAW CONFERENCE



JUNE 11-12, 2015 | MEMBERTOU TRADE & CONVENTION CENTRE | MEMBERTOU, NS

WEDNESDAY JUNE 10, 2015

18:30 – 20:30 **Welcome Reception**
Membertou Heritage Park

THURSDAY JUNE 11, 2015

8:00 – 8:30 **Registration and continental breakfast**

8:30 - 8:40 **Opening Prayer**

8:40 – 8:50 **Welcome to Membertou**
Chief Terry Paul

8:50 - 9:00 **Opening Remarks from Co-Chairs**
Stephen Augustine, *Unamaki College, Cape Breton University*
Derek A. Simon, *Burchells*

9:00 – 10:00 **Opening Keynote Speaker: The Pillars of Aboriginal Economic Development**
Stephen Cornell, *Harvard Project on American Indian Economic Development/Native Nations Institute*
Professor Cornell has spent much of the last 20 years working with Indigenous nations and organizations—in the United States, Canada, Australia, and New Zealand—on governance, economic development, and tribal policy issues. He is Director of the Udall Center for Studies in Public Policy at The University of Arizona, a faculty associate with the Native Nations Institute for Leadership, Management, and Policy and the Co-director of the Harvard Project on American Indian Economic Development. He will speak to his research on Indigenous Economic Development and his experience working with Indigenous nations to implement the results of that research.

10:00 – 10:15 **Refreshment Break**

10:15 – 11:30 Energy and Resource Projects: Conflict and Opportunity over Oil and Gas Development

Energy Projects, and particularly oil and gas development, often raise competing interests in Aboriginal communities: a desire to protect the environment and traditional hunting, fishing and gathering rights may be at odds with the economic and employment opportunities that these projects can offer. The panel will address these competing interests from a variety of perspectives.

Moderator: Michael Connors, *McInnes Cooper*

Speakers: Ray Ritcey, *Maritimes Energy Association*
Barb Martin, *Principal, Han Martin Associates*
Tim Thielman, *Devlin Gailus*

11:30 – 13:00 Luncheon and Keynote Speaker

C.T. (Manny) Jules, Chief Commissioner, FNTC

Mr. Jules will share his thoughts on Aboriginal Economic Development from his over 30 years of public life in support of Aboriginal issues. Mr. Jules was the driving force behind the First Nations Fiscal Management Act (2005), which created the First Nations Tax Commission. He also led the amendment to the Indian Act (1988) which enabled First Nations to levy property taxes on designated lands. The Indian Taxation Advisory Board (ITAB) and the current First Nation property tax system were created as a result. Mr. Jules served as Chair of ITAB from 1989-2003 and 2005-2007. He served as Chief of the Kamloops Indian Band from 1984-2000.

13:00 – 14:30 Concurrent Sessions

Session 1: Researching, Documenting and Sharing Successes and Failures in Aboriginal Economic Development

In Aboriginal communities research is often believed to be a bad thing. Some communities however actively engage in research as a means to inform policy development and to assist in the research of their own communities. In this informative panel, hear three different perspectives from individuals who have engaged in research and how they hope it will inform the development of future laws, codes, and economic development processes in their communities.

Moderator: Mary Beth Doucette, *Executive Director for the Purdy Crawford Chair*

Speakers: Cheryl Knockwood, *Membertou Governance Coordinator*
Jeanie Lanine, *Cedar Law Group*
Tuma T.W. Young, *Assistant Professor, Mi'kmaq Studies*

Session 2: Implementation of Commercial and Trade Rights

Courts across the country have recognized Aboriginal and Treaty rights to engage in trade and commercial activities. However, there is often a great deal of debate about how these rights can be exercised on the ground. Our presenters will address the implementation of trade rights, including fishing rights and logging rights, and the complex litigation and negotiations that are often involved in their recognition and implementation.

Moderator: Jeff Callaghan, *McInnes Cooper*

Speakers: Bill Richards, *Province of New Brunswick*
Kate Blomfield, *Ratcliff and Company LLP*
Regional Chief Roger Augustine, *Regional Chief (NB and PEI), Assembly of First Nations*

14:30 – 14:45 Refreshment Break

14:45 – 16:00 Structuring Aboriginal Business

There are many considerations that arise when structuring First Nations businesses including: whether operations will occur on or off-reserve, limiting income and transaction tax liabilities, the operation of community and business trusts, and the complex intersection of corporate governance with the Indian Act and traditional governance structures. The Panel will look at some of the issues that arise and the considerations that apply nationally and within specific provincial contexts. We will also look at some success stories and consider operational strategies that have proved effective and those that have proven less so.

Moderator: Drew Mildon, *Woodward and Company LLP*

Speakers: Gary Campo, *Woodward and Company LLP*
Merrill Shepard, *Donovan and Company*
Dr. Wilma Jackknife, *Legal Counsel to Cold Lake First Nations*

Evening Portion – Pre-registration required

17:00 Buses depart for Dinner and Cocktail Reception at Fortress of Louisburg National Historic Site

17:45 Reception

18:30 Dinner

19:15 Dinner and Keynote Speaker: Aboriginal Title and the New Economic Future

Jack Woodward, Q.C., *Woodward and Company*

Jack Woodward, whose firm represented the Tsilqhot'in people in their recent victory at the Supreme Court of Canada, will discuss how the recognition of Aboriginal Title and the protection of ecosystems by aboriginal nations under the Canadian law of aboriginal and treaty rights, creates a foundation for economic development.

20:30 Buses depart for hotel

FRIDAY JUNE 12, 2015

8:00 – 8:30 Registration and continental breakfast

8:30 – 10:00 Land Management

In many Aboriginal communities, land is sacred and the relationship with land is a central element of culture. Land is also an important building block in any economic development strategy. Our panel will discuss competing visions of land, and how land can best be managed to achieve economic success and self-sufficiency, while still respecting its cultural and spiritual dimensions.

Moderator: Ming Song, *Arbutus Law Group LLP*

Speakers: Renee Pelletier, *Olthuis Kleer Townshend*
Chief Darlene Simpson, *Tsetsaut Skii km La Hax*
Chief Robert Louie, *Westbank First Nation*

10:00 – 10:15 Refreshment Break

10:15 – 11:45 Financing and Taxation as Economic Development Tools

Access to funds to finance economic development has been one of the greatest challenges to face First Nations. Our panelists will speak to their experience in using various taxation and financing tools, with a particular focus on the tools available under the First Nations Financial Management Act. The panel will also focus on Ulnooweg Development Corporation's "Community Financial Review" initiative for First Nations which allows First Nations to make better decisions with respect to financing, revenues and debt.

Moderator: Trevor Bernard, *Membertou Band Council*

Speakers: Kathryn Deo, *Arbutus Law Group LLP*
Todd Hoskin, *Ulnooweg*
Michael Welters, *Bull Houser and Tupper*

11:45 – 13:30 Luncheon and Keynote Speaker: Land Claims and Economic, Social and Cultural development in the North

Cathy Towtongie, President, Nunavut Tunngavik Inc.

Ms. Towtongie will speak to her experience, most recently as President of Nunavut Tunngavik Inc., and their successes and challenges in achieving Inuit economic, social and cultural development through implementation of the Nunavut Land Claims Agreement.

13:30 – 15:00 Concurrent Sessions

Session 1: Employment Issues in the First Nations context

This session will outline current challenges in employment and labour law in Aboriginal workplaces, including such 'hot topics' as the involvement in politics by Band employees, use of social media, and the challenges/opportunities of incorporating community values in workplace policies, as well provide an update of current law around which appropriate jurisdiction of labour boards. We will also discuss about employment provisions in IBAs and provide tips for coming up with provisions that will have a practical impact. Finally, our knowledgeable panel will also touch on unionization issues within First Nations communities.

Moderator: Naomi Metallic, *Burchells LLP*

Speakers: Bryna Fraser-Hatt, *EMM Law Inc.*
Maggie Wentz, *Olthuis Kleer Townshend*
Michael Grodinsky, *Borden Ladner Gervais*

Session 2: Advancing Economic Development Goals through Litigation

The Supreme Court of Canada has urged parties to negotiate rather than litigate, but there has nevertheless been a proliferation of Aboriginal law litigation, often stemming from clashing views between communities and proponents over particular projects. This panel will consider the pros and cons of litigation when it comes to economic development, from the perspective of counsel for Aboriginal groups and for proponents. What strategic considerations affect the cost-benefit analysis? What are the benefits and risks of more short-term proceedings, like injunction applications, compared to lengthier actions? Through a cross-Canada overview the panel will provide its views on whether the courtroom in an adversary system can ever be an appropriate venue for achieving economic development goals.

Moderator: Jennifer Taylor, *Stewart McKelvey*

Speakers: Daniela Bassan, *Stewart McKelvey*
Heather Mahony, *Woodward & Company*
Jason Madden, *Pape Salter Teillet*

15:00 – 16:15 Opportunities and Pitfalls of Business Agreements with Aboriginal Groups

Contract dollars and new jobs can have a real, positive impact on small, rural Canadian communities. Aboriginal communities are no exception, but Aboriginal businesses and workers face unique challenges in meeting conventional contract or employment requirements and conditions. The Aboriginal, industry, and public sector lawyers play an important and intimate role in advising on, negotiating and implementing preferential contracting and hiring clauses in comprehensive land claims agreements, impacts and benefits agreements, master business agreements, and government procurement and employment policies and programs. Learn some valuable tips and lessons in this informative session.

Moderator: Jim Rossiter, *Department of Justice (Canada)*

Speakers: Larry Innes, *Olthuis Kleer Townshend*
Sandra Gogal, *Miller Thomson*

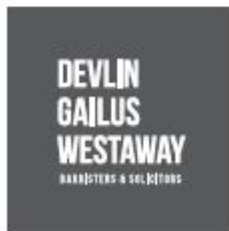
16:15 – 16:30 Closing Remarks

Stephen Augustine, *Unamaki College, Cape Breton University*
Derek A. Simon, *Burchells*



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