



Sharing the Forests

In new timber deals, what are First Nations really getting? Third in a series.

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[Editor's Note: Two years ago, the government of British Columbia and First Nations leaders laid out a vision for a "New Relationship," spurring initiatives aimed at "closing the gap" between Aboriginal and non-Aboriginal British Columbians. This is the third article in a four-part Tyee Solutions Reporting Fellowship series by Sandra Shields, who is looking at steps being taken in her home community of the Fraser Valley. To learn more about Shields, her series and Tyee fellowships, go [here](#).]

Leq'á:mél First Nations councillor Barb Leggatt invites me into a boardroom where pieces of paper with Halkomelem words printed on them are taped to the wall, part of the language class held here for local kids. The adjacent hall is used for cultural events and when I called to arrange this interview, drumming and singing could be heard in the background. A busy mother of six children, Leggatt works full-time as the band's land-use coordinator as well as serving on council.

The traditional territory of the Leq'á:mél lies between Mission and Agassiz in a stretch of the valley that is squeezed between the sprawling Fraser River and the forested slopes of the Coast Mountains. As an urban transplant to this rural area, it took me months to realize that the dense stands of cedar, hemlock and fir covering the mountainsides have all been extensively logged.

Trees began falling in the Fraser Valley in the 1870s and by the 1920s most of the face of the valley had been hauled to the river and floated to mills near Vancouver. Throughout the 20th century, Stó:lo bands like the Leq'á:mél watched as power saws were invented, logging trucks came into use, and trees continued to leave their traditional territory. Any compensation the Leq'á:mél received was restricted to the seasonal pay their fathers and sons

earned in the valley's logging camps.

First Nations across B.C. have lived variations on the same scenario. In recent decades, anger and frustration turned into blockades and court cases until a series of legal decisions pushed the province into a corner. In two separate decisions in 2002, the court said that when it came to resource extraction on Crown land, B.C. had to consult with First Nations and seek to accommodate potential Aboriginal rights and title. The meaning was clear: the province could either change the way it did business, or continue to lose business. So in 2003, then forestry minister Mike de Jong announced that for the first time ever, B.C. would share revenue and access to the forests with First Nations.

The offers the province put on the table contained two parts: there was cash (a small share of the stumpage fees B.C. collects every time a forest company falls a tree on Crown land); and there was timber (the chance for First Nations to do some logging). Called forest and range agreements or FRAs, the deals cut First Nations a fraction of the action in exchange for peace in the woods. With treaties remaining elusive, these interim measures were touted as achieving the dual objectives of giving economic opportunities to First Nations, and creating a stable operating environment and better investment climate for the forest sector.

In January of 2006, the Leq'á:mél became the 100th First Nation in B.C. to sign a forest agreement. They received \$760,000 to be paid out over five years, and gained access to 45,000 cubic metres of timber. The press release issued by the province repeated several times that forestry agreements were bringing jobs and economic prosperity to Aboriginal communities. Curious to learn if this was indeed the case, I came to see Barb Leggatt.

What jobs?

"The initial response we got from our community members was 'When do we get to go to work?'" Leggatt says. "That was from the loggers who have lost jobs because of the cutbacks in the industry."

Forestry is new terrain for Leggatt. She recently attended a workshop with other First Nations who have also signed forestry agreements and discovered that many nations share the same challenge the Leq'á:mél face. Logging is a tough business these days, and there are good reasons for moving carefully, especially when you lack expertise, capital and equipment.

"There are so many things to do, even with the forestry stewardship plan," Leggatt says, referring to the extensive document that is required by the Ministry of Forests before harvesting is approved. The plan must address issues like migratory birds and species at risk, slope stability and keeping a sufficient distance from watersheds. Rather than trying to start up a logging operation of their own, the Leq'á:mél are taking the same route as many other

First Nations and looking to partner with a company that has experience in the industry.

"There were suggestions from band members that we do it ourselves, but not having the expertise to manage it, that wasn't an option," Leggat says. Instead, the band is close to signing a deal with a company that will then be responsible for selecting the most valuable timber, figuring out how to access it, meeting Ministry of Forests requirements, hiring reliable logging contractors to do the actual harvest, and finding good markets. Once the agreement is signed, Leggat says it will likely be a year before all the Ministry of Forests requirements are met and harvesting can begin.

So what about jobs? One of the things she has learned, Leggat says is that "with the amount of timber we've got, we can't promise any long-term jobs at all, but when we work the agreement out to harvest the timber, we can request that one or two members get hired for the season."

Logging doesn't involve legions of men with chainsaws anymore. It's highly mechanized these days, so while there will be work for a couple of loggers for a season or two and perhaps a few temporary jobs created in the replanting that follows the harvest, the significant job creation, if there is any, will be a result of what the Leq'á:mél do with the revenue.

"Whatever we derive out of this agreement financially is going to be reinvested into a venture on reserve," Leggat says. "So we're just hoping it's substantial enough because we would like to do a service station on the reserve, that's been the wishes of the members for a long time." Situated on Highway 7, the station would include a tourism component and could turn into a number of steady jobs for band members.

"It's not a lot," Leggat says of the deal, "but we're finally getting a chance to get into the sharing of the resource. We never had the opportunity to do so before."

A shaky foundation

Writer Ben Parfitt has covered forestry in B.C. for two decades and is well placed to evaluate the new agreements, something he did at length in a report released by the Canadian Centre for Policy Alternatives earlier this year. In the report, Parfitt describes the agreements as "a dramatic departure from what existed previously, which was essentially nothing." But after speaking with First Nations across the province, Parfitt says that much more is needed to create the kind of economic opportunities talked about in provincial press releases.

"Companies that have been in the forestry business for quite some time are losing money," Parfitt says when I speak with him by phone in his Victoria

office, "so it seems reasonable to think that new entrants to the industry are going to have to be awfully savvy."

First Nations already involved in forestry have been the best situated to take advantage of the agreements. Parfitt points out that the few nations already in the business gained the traction they've got through court cases or direct action. But the majority of the almost 130 nations that have signed forestry agreements are new to the industry, and the feedback Parfitt got confirmed that as these nations learn more about the costs and risks involved in logging today, many are thinking twice about what to do.

"It's an extremely challenging business environment at the best of times," Parfitt says. "The government has taken the right step in finally acknowledging that they need to do more, but it's a tiny step and ultimately why should we be expecting that First Nations are magically going to be able to produce good results when they're offered one-time allotments of timber in non-specified areas with no guarantee of renewal. That is not the foundation on which to build a viable forestry-related enterprise."

In a worst case scenario, Parfitt says, a nation could harvest and lose money. Indeed, given the economics, some nations may choose not to log at all. Many are opting for the same route as the Leq'á:mél, partnering with an established company rather than start up their own forestry operation. The best case scenario, from a job's perspective, would be profitably logging, and directing those logs to a milling facility where members are working. "But that far end of the spectrum, the high end where the jobs are produced, that is an extremely rare situation in British Columbia."

What is needed?

There are several problems with the agreements when it comes to fulfilling the promises of provincial press releases, but two things are key: time and land. Time is a problem because a five-year term is too short to allow for the kind of long-range planning and investment that successful forestry operations require. What is needed is either renewable agreements or the long-term certainty that will come with treaties.

Land is a problem because most of the agreements, like the one the Leq'á:mél signed, do not come with any land. They come with a relatively small volume of timber to be harvested within a given forest district, but they do not come with ongoing responsibility for a specific land base.

"If you talk to anybody who has experience in forestry, they say you need to find areas of land to work on over time, and if you don't have that, it is extremely difficult to make a go of it," Parfitt says. One of his recommendations is that defined areas of forest land be turned over to First Nations under long-term, renewable forest tenures. With the new forestry

agreements, the province set a target of sharing eight per cent of the total annual cut with First Nations. Parfitt suggests that instead of offering volume, the province could work over time to transfer eight per cent of the forested land base. He makes the point that knowing what lands you will manage over time is both economically and ecologically preferable.

Learning to share

Cutting First Nations in for a share of resources is not an area where B.C. has much experience. (Fisheries being an ever-contentious exception.) In a strip-mall in Abbotsford, I sat down with lawyer-turned-politician Mike de Jong who was forest minister when the FRAs were developed. De Jong grew up in the valley and has been an MLA here for more than a decade. Last September, he was moved from Forests to Minister of Aboriginal Relations and Reconciliation.

De Jong says his experience with the forestry agreements was instrumental in shifting his view of relations with First Nations which, not surprisingly for a lawyer, "had tended to be very legalistic." He recalls how, as forest minister, he would get calls from First Nations leaders talking about huge unreconciled claims and he would feel like "We are never going to be able to solve this. How do we even have this phone conversation? How do we talk about this?"

Things began to change, he says, when the government took the step to say: "Let's talk about economic opportunity. Let's not forget about rights and title, but let's talk about being part of the economy."

The result was that the province and First Nations began to sign agreements and, for de Jong, two things happened: "First of all, after the agreement I still get calls from the chief but now it is because, 'My stumpage is too high,' or 'I'm having trouble marketing my logs,' and suddenly the engagement is on a completely different plane. Now we're working with one another."

And secondly, he discovered that "At the end of the day, the agreements lived or died, succeeded or failed by the degree of good will that existed between the two parties. If an element of trust was there you could find solutions to things."

He recalls that, "All of that greatly influenced me to the extent that I said we have to work together to find ways to get people involved economically, to be flexible, more flexible than five years ago I would have been around the nature of the agreements."

Keep talking

Issues didn't disappear, de Jong says, but the agreements opened up a conversation that is ongoing. One milestone in that conversation came in

2006 when, under pressure from First Nations leaders, the forest and range agreements were changed to forest and range opportunities. The big difference between the FRAs and the FROs was that the latter were no longer taken as fulfilling the province's duty to consult and accommodate.

But whether they are FRAs or FROs, the conversation about how land and resources should be shared continues. As far as land goes, de Jong says, "The notion was pretty firmly embedded that if you wanted to move from a volume-based tenure to an area-based tenure, that's the reward for getting to a treaty. That's what a treaty is. A treaty is an area-based settlement."

However, with treaties remaining a distant prospect for many First Nations, the conversation is shifting in the direction of considering area-based tenure as an interim step. "If you are more motivated by the desire to effect development, create better economic prospects, better socio-economic conditions," de Jong says, "maybe there is an argument that says, 'Look as an interim treaty measure, as an incremental agreement, let's transfer that. Let's get on with that.'"

He cautions that this is not a simple step for the province. "Once it's done, the model has been set. Once you have made that kind of decision once, you better be prepared to follow through elsewhere."

In that respect, de Jong says, "The revenue sharing was a huge step for government." And there is pressure to expand that. "People are saying if revenue sharing is good for forestry, what about other resources?"

What is fair?

Under the current forestry agreements, the share of revenues that First Nations receive is based on an annual rate of \$500 per member. This per-capita formula has been criticized by First Nations leaders, successfully challenged in court, and in his report, Ben Parfitt finds it to be both insufficient and unfair.

"The cash offers bear absolutely no relationship to the level of activity that is occurring in a First Nation's territory," he explains when I bring it up. "So a First Nation that has a million cubic metres of wood being logged per year on their traditional lands gets treated exactly the same as a First Nation that has only a thousand cubic metres being logged off their territory each year."

As well, there is no relationship between the cash offer and what is occurring on the land base, both in terms of the number of trees coming down and the values of those trees. "So a First Nation that has old growth western red cedar," Parfitt says, "gets the same cash offer on a per-head basis as a First Nation in the interior with a land base filled with dead pine trees."

Citing the precedent of Washington State where a federal judge ruled that Aboriginal people deserved half of the state's salmon fisheries, Parfitt recommends that stumpage fees be split 50/50 between the province and First Nations based on the harvesting activity in individual territories.

"Like stumpage payments channeled into provincial government coffers," Parfitt writes, "stumpage revenues received by First Nations would provide a valuable source of funds for the provision of public services and assist in economic diversification."

Far side of the valley

From the Leq'á:mél band office you can look across the valley to where the jagged peaks of the Skagit mountains rise up behind the growing city of Chilliwack. On a gray winter day, I visited Matt Wealick in his office in a busy Chilliwack shopping plaza owned by the Tzeachten First Nation, of which Wealick is a member.

The young father of two manages forestry operations for the Ch-ihl-kway-uhk Tribe, eight Stó:lo bands from the Chilliwack area that compensated for small allotments of timber by forming an alliance. The resulting FRA provided a pool of capital and timber that spawned a joint venture partnership estimated to be worth \$12 million. I came to see Wealick to learn how this innovative approach is working.

Although Wealick is from Chilliwack, he grew up on Vancouver Island where his dad worked as a logger. "Back then you just had to bring a pair of boots, show up at the work site, and you had a job," he says. He followed in his dad's footsteps, but his path reflects how the industry has changed in the space of a generation. While he has on the ground experience all over the province, Wealick also has a forest management degree from UBC and did the additional work required to earn the designation of registered professional forester, becoming one of a dozen First Nation professional foresters in B.C. and augmenting that with a master's degree in environment and management. In 2005 he came home to manage the Ch-ihl-kway-uhk's joint venture with New Westminster-based forestry company Probyn Logs.

Wealick says the Ch-ihl-kway-uhk had reservations about the deal the province was offering, "But the chiefs thought if we don't get in and start doing something now, the logs are going to keep going by, the opportunities will keep going by, and we'll still be sitting here trying to get treaty negotiations settled."

He says, "It's great to have some say in how forest activities are done in the traditional territory, but on the other hand it's only a five-year license so there's not really incentive to put a lot of money into the long-term management of our forests."

Once the agreement was signed, it took the Ch-ihl-kway-uhk three years to get the license they need to start harvesting. Wealick shakes his head over the amount of red tape. "I don't think a lot of First Nations are expecting it," he says. "It's very financially draining and probably emotionally draining as well." Still, he is optimistic about the prospects and expects to start cutting in the fall.

Community forests

One of the things that sets the Ch-ihl-kway-uhk agreement apart is that it includes an 800 hectare woodlot. "We're very pleased to have the opportunity to have a woodlot," Wealick says, "because it is a long-term tenure, it's an area-based tenure. It allows for the incentive to do some long-term planning and make sure the forests in that area are sustainable."

The woodlot lies within the Chilliwack River Valley, a narrow and stunningly beautiful valley in the mountains between Chilliwack and the U.S. border. The ecologically sensitive region is the Ch-ihl-kway-uhk's traditional territory. Ideally, Wealick would like to see the entire 95,000 hectares managed as a community forest. This was what the chiefs had originally requested and Wealick says it's the kind of approach that makes more sense both economically and ecologically.

Community forests are a growing phenomenon in B.C. They are about local control of forest resources and local enjoyment of the benefits offered by those resources. Harvest rates and locations are set by the community according to their objectives and values, whether those be ecological, cultural, spiritual, recreational or aesthetic. The revenue generated supports local priorities including employment and economic development. The provincial government began expanding the volume of timber allocated to community forests several years ago and by October 2006 there were 43 communities either in the application process or operating a community forest agreement.

It sounds ideal for the Chilliwack River Valley and when I say as much, Wealick agrees. "Of course you have other licensees to be concerned about," he says, referring to forestry companies with tenure in the region, "but maybe those licensees wouldn't mind being part of a community forest." He sees the possibility of including a number of stakeholders. "We could manage the valley as one entity," he says, and points out that a community forest approach would better respond to the sensitivities of the region. "But thinking outside the box is definitely what you would need to make it work."

Out of the box

Back in Deroche, I take a walk up the old logging road that climbs into the forest beside the farmhouse where I live. When it comes to forestry and

Aboriginal people, FRAs and FROs were out of the box thinking for the B.C. government. This is significant but in the Fraser Valley the results have yet to reach the ground and all indications are that once they do, they will not be as rosy as the provincial press releases promised.

After a 15-minute climb, the logging road levels out for a short stretch and a gap in the trees frames a view of the valley with its toy-sized barns, the thin winding old highway, the sliver glint of the Fraser River and backdropping it all, the snow-covered peaks of the Skagit Range on the southern shore.

The forestry agreements initiated a conversation with First Nations that is ongoing. If this conversation is to bring the kind of results that add up both economically and ecologically, for the Leq'á:mél and the Ch-ihl-kway-uhk, as well as for the forest that surrounds me and the forests that lie on the far side of the snow-capped peaks across the river, a lot more out of the box thinking and talking is going to be required.

Next week: Where can reconciliation take us?

Tyee interview

Listen to audio: Kathryn Gretsinger interviews Sandra Shields about First Nations reconciliation.

Sandra Shields lives on a farm in the Fraser Valley with photographer David Champion. Their first book won the 2003 Hubert Evans Prize; **Where Fire Speaks** looks at how development arrived for one African tribe. Their second book, **The Company of Others**, explores the power of caring relationships in the lives of people with disabilities and their families and friends.

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