

Aboriginal Forestry in New Brunswick: Conflicting Paradigms¹

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Abstract

The participation of First Nations in New Brunswick forestry involves complex issues, many of which stem from Aboriginal and Euro-Canadian epistemological constructions of natural resources. Since practice is closely related to mental constructs, the correspondence between these structures has important political implications. Many in the Aboriginal community believe their former existence was in harmony with the natural environment but as Euro-Canadian constructs were imposed, practice was drastically altered. Strategies emerged as various groups chose different ways to deal with the changes. This paper examines the strategies of traditional and contemporary Aboriginal loggers, as well as provincial and Aboriginal governments' attempts to exert control over the management of New Brunswick forests.

Au Nouveau-Brunswick, la participation des Premières nations à la foresterie s'accompagne de problèmes complexes, souvent causés par les constructions épistémologiques autochtones et euro-canadiennes de ce que sont les ressources naturelles. Étant donné que la pratique est étroitement associée aux constructions mentales, le lien entre ces structures a d'importantes implications politiques. Dans la collectivité autochtone, nombreux sont ceux qui croient que leur vie passée était en harmonie avec l'environnement naturel mais que la pratique s'est considérablement modifiée lorsque les constructions euro-canadiennes se sont imposées. Des stratégies ont surgi, correspondant aux façons de traiter avec ces changements des différents groupes. Cet article examine les stratégies des forestiers autochtones traditionnels et contemporains, ainsi que les tentatives des gouvernements provincial et autochtones d'exercer un contrôle sur la gestion des forêts du Nouveau-Brunswick.

Keywords

Aboriginal forestry, forest policy, First Nations, Aboriginal-Euro-Canadian relations, epistemologies

¹This paper is based on the author's MA thesis (Blakney 2000).

Introduction

Since the 1990s, the management of natural resources in the Maritimes has become the focus of much attention. In November 1997, an appeal by the Province of New Brunswick, *Regina v. Paul*, ruled that the provincial Crown lands were reserved for Aboriginal people and that they have the right to harvest Crown resources. In April of 1998, the New Brunswick Court of Appeal reversed the November decision and the Aboriginal loggers were ordered to stop cutting. While the case continues to be appealed in the Supreme Court of Canada, many Aboriginal groups in New Brunswick have agreed to interim logging agreements with the province that allow them to harvest 5% of the forest industry's annual allowable cut on Crown land.

Constructions of the environment influence the ways in which natural resources – such as forests – are managed. This paper examines how traditional Aboriginal and Euro-Canadian constructions of the environment developed and what occurred when Euro-Canadian constructs were imposed on Mi'kmaq and Maliseet people. The paper also sets the historical context behind the confusion and conflict seen in the Aboriginal forestry practices of one first nation community. In particular, through the example of one community, this paper highlights the tensions that emerge as contemporary Aboriginal people struggle with emerging and contradictory constructions of the environment, while set within a context formed by the still dominant Euro-Canadian construction. Finally, the paper offers recommendations for Aboriginal forestry policy in New Brunswick.

Theoretical Perspectives

The ways in which groups of people perceive their natural environment are socially constructed (Berger and Luckmann 1966) and shaped by cultural traditions, beliefs, economics and, more recently, by scientific management. As different groups live and work in their respective environments, responding and adapting to the flow of seasons, various ways and means of relating to the land emerge, producing commonly sensed worlds. Interactions with other groups that have similar beliefs and practices allow socially constructed relations with the environment to gain objective status through the consensus of meaning and practice. Aboriginal and non-Aboriginal peoples inhabit, alter and systematize their landscapes differently. Understandings of the land, empowered by knowledge of rituals connected with particular sites, often vary among those of different culture, age, education and gender (Rapoport 1994), and these perceptions are not static. Although a community's range of choices are initially shaped by the environment, the culture then reshapes the environment in response to those choices. The new, reshaped environment allows a different set of possibilities for the reproduction of culture and new cycles of mutual determination. Thus changes occur both in the cultural and ecological relationships of particular places (Cronon 1983). However, these changes are not random. Social systems bring order, understanding and cohesiveness to practices through beliefs, societal norms and values. New ideas and strategies may be incorporated but only if they fit into the wider context of traditional practices (Berkes 1999). Innovative practices and technology may be successfully adopted if social organization and institutions remain in place

(Wenzel 1991) but inappropriate change can bring disastrous results for both the social and ecological order.

There are several examples of research relating to indigenous and European relations to the land (Brody 1981, 1975; Cronon 1983) and to the clash that occurs when European-based systems are imposed on indigenous peoples (Tester and Kulchyski 1994, Povinelli 1993). In addition, there is a growing body of information on contemporary indigenous management systems (Davidson-Hunt *et al.* 2001, Berkes 1999, Berkes and Folke 1998). Despite this growing literature very little information exists regarding Aboriginal resource management practice on the east coast of Canada. This paper helps to fill that gap. The following sections briefly review the traditional Aboriginal construction of land and resources, contrast this with the Euro-Canadian construction of natural resources and then describe the tensions that emerge in contemporary Aboriginal constructions.

Traditional Aboriginal belief and practice

For thousands of years, the Mi'kmaq and Maliseet people lived within the area now known as the province of New Brunswick. As predominately hunting and gathering societies, they actively managed their resources with subsistence strategies maintained through socio/political controls, reinforced through symbols and rituals (Williams and Hunn 1982). Under traditional government, all major decisions were made by consensus through the clans and were overseen by a council of elders who gave guidance. Usufruct rights determined which clan-based group used, and had responsibility for, their traditional territories. Clan leaders were chosen for life and were responsible for the long-term effects of resource use. Hunting, fishing and harvesting by outsiders without permission was strongly resented and at times led to altercations.

The traditional relationship between the people and the land relied on the acquisition of knowledge and practices passed down over time and across space. Oral traditions contained important information that was communicated through "culturally coded interpretations of personal and collective experience" abstracted from everyday situations (Riddington 1990). Mythic events were perceived as essential truths that established connections or associations and allowed an intimate identification to take place. As a result there was and continues to be a consistent and central belief among Mi'kmaq and Maliseet that the Earth is a living, conscious being that must be treated with respect and care. Oral culture, in the form of environmental myths and beliefs, serves as a control mechanism that promotes the conservation of resources as opposed to hoarding and the accumulation of wealth. Many traditional Aboriginal people in the Maritimes believe that disease and calamity are the result of the mistreatment of the environment and disrespect shown to the beings that inhabit it.

The second source of traditional Aboriginal knowledge is everyday experience or practice. Structured within the boundaries set by nature, lifestyles and long-term strategies were established in which lands and resources were cared for and improved while leaving minimum impact on the diversity of forest lands. Through practical experience, associations and interrelationships among species and environment were noticed and added to local Aboriginal environmental knowledge. For example, one Mi'kmaq elder explained,

...the old people say that when the choke cherry trees blossom, the bass is coming in. And also when the fresh sea trout is coming in the alder bush buds are the size of a mouse's ear... when the salmon come in the lightning bugs follow them up river... (Mi'kmaq elder, from interview transcripts, 1997)

Environmental knowledge was applied to the natural environment and aided in the utilization of many forest products. The Mi'kmaq and Maliseet transplanted trees and fruits brought north from Massachusetts and from Nova Scotia, thus promoting diversity and new growth. Aboriginal people actively altered and improved the quality of the bark from birch trees by periodically peeling off large sheets which would result in the smooth quality of successive bark development used for traditional purposes. Speck and Dexter (1951) record that Mi'kmaq and Maliseet peoples had extensive knowledge and made use of an impressive amount of timber and non-timber forest products. The forest supplied food, clothing, shelter, transportation equipment, hunting and trapping gear, cooking utensils, medicines, ceremonial supplies, leisure materials and ornamental supplies. At times, Aboriginal peoples manipulated the natural cycles through the use of fire to improve the lands and quantity of the game present.

Euro-Canadian belief and practice

While the oral tradition and foundational myths of Aboriginal people fostered attitudes of respect and conservation toward the environment, the dominant Euro-Canadian foundational myth shaped a different set of relationships. Foundational passages in the Bible promote the idea that the natural world was made primarily for humans who were to subdue and gain mastery over every plant and creature. Humans alone were made in the image of God, while nature was seen as being devoid of spirit and lacking in a transcendent quality. Following from this view, it became acceptable to exploit nature without concern for the feelings of natural beings (White 1973). As Europeans came to the New World, this idea of nature as exploitable object expanded as the secular and the sacred were fused in order for capitalism to succeed (Weber 1905). By the late eighteenth century, theology gave way to a belief in science. Nature was seen as being mechanical and without anything comparable to the rational, moral or conscious qualities ascribed to humans (Kinsley 1995). Europeans sought to know and control the universal laws that ordered a thoroughly mechanized nature. The resulting change was interpreted as progress, and North American history was seen as a gradual conquest of the wilderness and a growing mastery over its natural resources (Cronon 1983, Opie and Elliot 1996).

In the 20th century, instrumental rationality and science replaced preexisting ways of knowing. Rationalization involved several institutional factors. Science and technology systematically and calculatively expanded the means available to understand and manipulate nature. Science and technology required the use of specialized knowledge and a reliance on experts. A stable workforce was created that was free from tradition and sentiment in market transactions, and motivated by calculated self-interest. Formal hierarchical and centralized organizations transformed social action into organized, rational action. As scientific rationality became fused to technology in the goal to gain mastery over

nature, the natural world came to be seen as malleable and humans were released to (re)construct it to meet human needs and capitalist economic objectives (Simmons 1993, Murphy 1994). These processes can be seen in the Euro-Canadian scientific management of New Brunswick forests. Forest harvesting activities began with a quest to procure white pine for ship masts, and then moved to timber and lumber-based industries (Regier and Baskerville 1986). Today the New Brunswick forest industry focuses on pulp and paper.

When settlers came to New Brunswick in the 1600s, there was little socio-economic differentiation and most participated in an unspecialized, mixed economy. However, when trade with Britain became the foundation of economic prosperity, lumber barons established berths along major rivers to restrict the access of others and to monopolize access to forest resources. With the expansion of sawmills and the cost of investing in new technologies, a marked differentiation between the workers and the mill owners became established (Wynn 1981). Gradually a few well-connected and capitalized entrepreneurs came to dominate the industry and provincial administrators maximized the efficiency of these corporations by restricting opportunities for small entrepreneurs in favour of large-scale capitalists (Parenteau 1994).

By the 1920s, a newly centralized and concentrated pulp and paper industry had emerged. To attract modern industry, the government realized that a high level of government sponsorship was required, even if these expenditures meant stifling the development of other industries. The forest industry required governments that were supportive of corporate strategies. These industrial firms demanded and received more tenure and control over forest and water resources. By the middle of the century, more than two-thirds of New Brunswick's Crown land had passed into the control of six multinational corporations (Parenteau 1994). The pulp and paper companies owned by the corporations came to hold incredible power in communities because of high levels of unemployment and a severe lack of alternative employment opportunities (Sandberg 1992: 11).

Contemporary Aboriginal strategies of forest management

Traditional Aboriginal and Euro-Canadian strategies merge in varying degrees within the complex constructs of contemporary Mi'kmaq and Maliseet people. Traditional Aboriginal management strategies changed when Euro-Canadians created the concept of "the Indian" and imposed the *Indian Act* in an effort to accelerate the 'civilization' and assimilation of Aboriginal people into Euro-Canadian society (Miller 1991). Before the *Indian Act*, native subsistence and management strategies remained relatively stable resulting in the production of a commonly experienced and enacted world.

As Euro-Canadian structures were forced upon Aboriginal societies, two somewhat distinct strategies of thought and practice emerged and continue to operate today. The first is a reconstructed traditional strategy that advocates a return to natural law and the values of the elders, emphasizing respect toward the environment and subsequently promoting the conservation of natural resources and ecological diversity. This strategy presents Aboriginal people as the "original conservationists".

The second set of strategies revolves around the historical circumstances associated with the term "Indian." In exchange for the use of natural resources

on what is now designated as Crown land, the government – in acknowledgment of its fiduciary responsibility to Aboriginal people – provides federal money to reserves in the form of annual payments. The lack of independent economic resources and services on reserves fosters a dependence on aid and compensation programs from the federal government, which are used to provide services and employment (Ginnish 1993). Once Aboriginal people become reliant on such outside funding, the federal government is able to manipulate band politics, for example, by withholding funds in election years, by causing turnovers in the elected leadership, and by forcing band councils to sign controversial agreements (Blakney 1998).

With the imposition of the *Indian Act*, traditional ways, such as holistic thinking, consensual decision-making, and an emphasis on homogeneity of knowledge and skills were suppressed. In its place came an emphasis on process, specialization, centralization, hierarchical government, accounting and efficiency. This meant that “Indians” had to learn and respond to Euro-Canadian rationalization strategies. The imposition of Euro-Canadian structures continues to distort Aboriginal societies and relations. Chiefs and councils are caught between two worlds, left with no reasonable way in which to handle the many contradictory situations they are presented with. Both strategies, the reconstructed traditional person and the “Indian,” operate together on federally-created reserves with each strategy dominating at different times and in different circumstances, often within the same individual. The playing out of these strategies creates a confusing paradox for both the Aboriginal people experiencing it and for the non-native observer.

Many contemporary Mi'kmaq and Maliseet people understand themselves as the original inhabitants of the land. They also understand that land is essential to the sustainability of their way of life, including the protection of their culture, language and resources. They describe themselves as citizens of New Brunswick and of North America, yet they do not consider themselves to be Canadian. Rather, they are part of the Algonquin Nation that spreads down as far as the Delaware region in the United States, and they do not recognize the US/Canadian border. This relationship, they maintain, has never been legally altered. All lands in New Brunswick still belong to their Aboriginal inhabitants because there have been no treaties in which land has been formally ceded. There have only been friendship treaties.

Many Mi'kmaq and Maliseet people maintain that they were alienated from the land when they became wards of the federal government. Since the provincial government had no jurisdiction or responsibility to Aboriginal people, they became outcasts in the province. Since the 1980s, Aboriginal frustration with the provincial government has resulted in a move toward civil disobedience in order to attempt to change the laws and to draw attention to their situation. In particular, exclusion from the lucrative forest industry has led to an effort to bring about change. In 1995, following an act of protest, Thomas Peter Paul was charged with illegally harvesting bird's-eye maple on Crown land. Although the charge was eventually dismissed, the province was dissatisfied with the outcome and appealed the decision. In November of 1997, Justice John Turnbull ruled in *Regina v. Paul*, that the provincial Crown lands were reserved for the Mi'kmaq and Maliseet of New Brunswick and that they had the right to harvest Crown resources.

After the announcement of the Turnbull decision in November of 1997, two to three hundred Aboriginal people in New Brunswick began to harvest wood on Crown land. They purchased machinery and sub-contracted machinery and skills of non-Aboriginals, anticipating a prosperous future in which they would be able to economically provide for their families. Unfortunately, during this period of sudden access, the Aboriginal community did not have the chance to institute proper social or economic regulations, guidelines, or training programs for wood harvesters. Some Aboriginal harvesters were cutting wherever they wanted, indiscriminately felling all types of trees.

The reaction of the Euro-Canadian community was swift. Opposition was mounted by the large forestry corporations, some of which refused to buy wood cut by Aboriginal loggers. Threats of physical violence against Aboriginal loggers and confiscation of their trucks and equipment were common (Kennedy 1998). Non-native tempers flared and a provincial Minister made an improbable announcement that in the space of a few months, native loggers had undone 16 years of forest development and management undertaken in partnership by his department and the forest industry (Graham 1998). As First Nation chiefs met with the Premier in an attempt to develop a Forest Management Strategy, groups of independent native logger associations sprung up, jostling for the opportunity to represent the interests of Aboriginal people.

This confusing period ended prematurely when the question of rights was decided by the courts in another ruling. In April of 1998, the New Brunswick Court of Appeal reversed the November decision and the Aboriginal loggers were ordered to cease cutting (*The Telegraph Journal* 1998). In a statement by the Premier's office (Government of New Brunswick 1998) Aboriginal people were urged to negotiate an agreement whereby the Mi'kmaq and Maliseet communities would be allotted 5% of the annual cut, which would be deducted from the wood supply of New Brunswick's forestry companies. Through this 5% plan an estimated 14 million dollars would be injected into 15 Aboriginal communities within the province. Several First Nation communities negotiated agreements with the province and experienced varying degrees of success. The remainder of this paper discusses the forestry experiences of one reserve that encountered unanticipated difficulties from conflicting constructions of natural resources that emerged on federally-created reserves. The discussion illustrates the contradictions that contemporary Aboriginals face in coping with the two worlds. Names and numerical data specific to the First Nation have been altered to protect their privacy. However, names of Aboriginal cultural groups (Mi'kmaq and Maliseet) and provincial government officials are unchanged.

Methods

In the fall of 1998, I was contacted by the councillor in charge of lands and forests at Two Rivers First Nation² and asked to conduct research on the current forestry situation under the interim logging agreement, to document recent events, and make recommendations toward the development of an Aboriginal forestry program. The active collaboration of the people at Two Rivers was sought in the research and complementary information and interviews were also obtained from traditional people and natural resources personnel from two other

² As noted, this is a pseudonym.

Maritime reserves. First-hand observations and interviews were conducted with those involved in Aboriginal forestry at Two Rivers. Those interviewed included: traditional leaders who provided knowledge regarding their Aboriginal relationships to the land and methods of forest management; members of the band council who were involved in the implementation of forestry activities under the Interim Agreement; the coordinators from Two Rivers and the Department of Natural Resources; Two Rivers loggers; the regional Warrior chief; and an enforcement officer from the RCMP. The information gathered from interviews and observations was supplemented with an extensive literature review of both published and unpublished materials pertaining to Mi'kmaq and Maliseet relationships to the land and to forestry in New Brunswick.

Two Rivers First Nation: their story³

In mid 1998, Two Rivers negotiated a 'Without Prejudice' Interim Harvesting Agreement to help calm the dispute while awaiting the final outcome of the Supreme Court decision.⁴ Two Rivers gained access to 45,000 cubic metres of Crown timber with an estimated value of \$2.5 million. Although the chief and councillors were uncomfortable negotiating with the province, some council members thought the agreement would facilitate a move towards sustainability and co-management of the resource. These councillors wanted their leaders to make careful plans regarding the harvesting of forest resources in cooperation with provincial forestry strategies.

After the agreement was negotiated, First Nation Forestry⁵ was established and operated out of the Two Rivers band office. Two coordinators were to be appointed, one representing New Brunswick's Department of Natural Resources (DNR), the other an Aboriginal person from Two Rivers. Two Rivers had appointed an experienced coordinator earlier, during the Turnbull cutting period. However, once an agreement had been signed and logging had been opened up to all individuals, the appointment of a coordinator became a highly politicized issue. Both the career loggers and the new loggers pressured the band council to appoint different coordinators who would represent their respective goals and interests. Chief Peters felt pressure from the DNR to appoint a coordinator quickly. According to the band councillors, this pressure resulted in Peters making a quick and uninformed decision to appoint a close relative as coordinator. The chief's relative was also on the band council and one of the new loggers. As occurs on many reserves, positions of power are often occupied by close family members (Ginnish 1993), which can be seen as a carryover from times when clan-based governments were responsible for major decisions. Chief Peters claimed that he never thought about conflict of interest or the improper management practices that this appointment could produce. Several decisions made during this time were done quickly and without proper consultation and the results of these decisions caused problems throughout the interim period.

Two regional forestry companies provided the coordinators with forest blocks, which were scheduled for harvesting according to their 25 year Forest

³ Unless specifically noted, all information in this section comes from interview transcripts.

⁴ 'Without prejudice' indicates that the agreement cannot be construed as an admission of liability or used as evidence in court proceedings

⁵ Pseudonym used to protect privacy of the First Nation.

Management Plan. All blocks were predominately balsam fir and designated for clear-cuts only. Aboriginal loggers were assigned clear-cut blocks because many did not have cutting experience and the DNR claimed they were concerned for the logger's safety. On this premise a hasty decision was made to use delimiters; large, expensive pieces of forestry equipment used for clear-cutting operations in order to quickly remove limbs from trees. Due to the size and lack of mobility, delimiters must remain on roadways and trees have to be hauled out of the woods to the road for processing. Many people at Two Rivers were uncomfortable with these decisions – they would have preferred to use selective cutting practices, leaving smaller trees to mature. Some community members complained that clear-cutting would leave nothing in the woods for the future. Also the heavy machinery was expensive and required specialized skills. However, many on the band council were concerned that if they did not comply with the DNR's regulations, clear-cutting and using the delimiter, they would lose their share of the provincial 5% allotment and the financial benefits that accompanied it.

Two Rivers' 45,000 cubic metre allotment was designed to accommodate approximately 18 skidders, each with a three person crew, for a period of ten months. During the first few weeks of the interim agreement there were all-Aboriginal crews in the woods operating 11 skidders and chainsaws. While some Aboriginal logging crews had over 15 years of experience, some had no experience at all. Several new loggers purchased skidders at a cost of \$125,000-\$150,000 each, financed through banks on the basis of contracts that had been negotiated with the pulp and paper companies. Councillors also ordered skidders under the name of the Two Rivers band council.

Selling Aboriginal-cut wood to the companies was not considered to be a problem. The DNR gave Mi'kmaq and Maliseet communities 5% of the allowable Crown wood allocation, which came off another licensee's allocation. Since the companies needed this 5% to keep their mills running within the usual profit margin, it was in their best interest to buy back the 5% from the Aboriginal loggers and not have to purchase it elsewhere. Hardwood was especially lucrative and the larger companies were willing to compete for it.

From the beginning of the agreement, some council members claimed that they were uneasy because of the chief's lack of experience in forestry and with forest policy.

The chief, he's not a technician. He's unaware of all the forestry terminology and the jargon that's involved. He says "Oh, yeah, we're going to sign the agreement, anybody can cut in any red zone." But in the red zone, that's the wood that has to be cut under the management plan of the province.... And those are areas that have to be cut over the next five years. And so the chief says, "Oh yeah, when we sign this agreement, you can work year round. And I want all the people to get involved with the forestry, and I want that 5% to be cut as soon as possible. Then we can get more land from the province to cut. We want to prove to the province that 5% is not enough. And I want everybody to get involved and I want 50 skidders out there." And you know that was the message. And we were telling the chief, "No, don't say that."

And he didn't know. He quoted and instructed the people and they were all mistaken policies (Band Councillor, from interview transcripts, 1999).

Several weeks into the agreement a request was made to have seasoned non-Aboriginal loggers from Quebec come in and train the Two Rivers loggers how to operate the skidders and how to use proper felling techniques with chainsaws. Although some council members did not agree with subcontracting to non-Aboriginals, they did not want to speak out against those who did. Almost immediately, there was a dramatic increase in non-Aboriginal loggers working the Two Rivers' allotments. Three months into the agreement, the number of skidders increased from 11 to 36 despite clear statements that there would be no more allotments assigned if the harvest was completed early. The councillor in charge of Two Rivers land and forests tried to limit the number of non-Aboriginal people involved in the harvest. He asked the DNR for help, but the DNR coordinator claimed that the department decided not to challenge the decision to allow the use of non-Aboriginal harvesters because the Human Rights Commission would probably rule against them. The perceived inaction on this issue and the lack of support from DNR was very frustrating for several members of the council and for many Aboriginal loggers.

Another problem was the issue of council members taking allotments for themselves and then subcontracting the harvesting work to non-Aboriginals. Council members normally bring home around \$600 a week for serving on the band council. When these members took allotments and signed major contracts with non-native logging companies, it created resentment among many community members. It was also suspected that major forest corporations paid several Two River residents for the use of their names and positions to get access to timber and then used non-Aboriginal loggers to do all the cutting and hauling. Even when non-Aboriginal loggers were doing the cutting and hauling Aboriginal loggers had to stay on site in case there were any questions asked and were required to spray the cut wood with identification markings. Differing arrangements were made with the imported Quebec crews, some contracts called for a 50/50 split, others for a 40/60 split. This meant that 40% went for the skidder while 60% went to the Aboriginal cutter who had to pay all of the crew members' wages, their travel costs, the capital required for road building, bulldozing and loading charges. The arrangement was especially difficult because the Quebec crews had high expectations for their wages.

Near the end of the third month, a career cutter approached First Nation Forestry and asked them to put a stop to the out-of-province equipment and crews because most of the profit was going to "the Quebecers" and not benefiting Aboriginal people. In response to this request a spokesperson for First Nation Forestry said that they did not know how to ask the Quebec crews to leave without causing major disruptions. This response resulted in the councillor in charge of Two Rivers' lands and forests approaching Doug Tyler's office (Minister of Natural Resources) to request an additional Aboriginal allocation. The council knew that the band's allotment was near completion and once again wondered about the possibility of securing the allocations of other bands who had refused to enter into the interim agreement. The minister reportedly entertained the idea of increasing the Two Rivers allocation. However, at this time his office started to receive complaints about the way the allocations were

given out, including accusations of favouritism, mismanagement and corruption. The band councillors understood that the DNR would do nothing for Two Rivers until the situation was rectified, but they did not know what action to take or how to proceed.

In the last month of cutting, there were as many as 53 skidders working in the woods. Once again, Doug Tyler's office was contacted — this time by the regional Warrior chief who said, "If you don't do something about the people that's working on the Crown Land — the French people — we're going out there and we'll get rid of them!" Warriors in the district had been put on stand-by. The band council was divided down the middle on what should be done. Half of the council said that they strongly disagreed with the over-cutting, the amount of money going to off reserve harvesters and the effects this was having on Aboriginal career loggers. They wanted the Quebec crews removed legally without calling in the Warriors, but they were concerned that the Department of Natural Resources would not support them. However, several councillors, representing the views of the other half of the council, were the ones who had hired the Quebec crews and they were reluctant to call for their removal. Finally, the regional Warrior chief gave the DNR an ultimatum: "get the Quebec crews out or the Warriors will remove them." At that point the Quebec crews decided to leave voluntarily without incident.

The following week, the DNR announced that 90% of the band's allocation had been completed and that there would be only one week of cutting left before the 1998 allocation would be finished. Since the DNR specified the limit temporally instead of spatially, no limit was set on the quantity of wood left to be cut. This resulted in harvesters putting in longer days and substantially over-cutting the 5% allocation.⁶

Although the Two Rivers allotment was meant to last for 10 months, all wood specified in the interim logging agreement had been harvested after only four months. The early completion of the allotment did not harm many of the new loggers who just began to work in the woods over that summer. Many of the new loggers were on the band council and had salaries coming in from other jobs. However, it did seriously affect the career loggers who had spent most of their lives in the woods, and it especially hurt those with heavy financial burdens from buying logging equipment. Concern was expressed over what the career loggers were going to do over the winter months. While career loggers tried to find work on other reserves, the new harvesters with heavy financial burdens started to cut the limited forest lands at Two Rivers. These loggers represented the poor because the loggers who made large profits in the woods were in a position to sit back and wait until the next allocation. However, there were some reserve members who, although poor, were too conscientious to cut on the reserve and others who did not cut for fear of community reprisals.

The Interim Agreement: Aboriginal reflections

Aboriginal access to New Brunswick forestry under the "1998 'Without Prejudice' Interim Harvesting Agreement" turned out to be a bitter-sweet experience for the people of Two Rivers. Looking back, the members of the band council and

⁶ The 10,000 m³ hardwood allocation was cut and 43,000 m³ of softwood was harvested instead of the allotted 35,000 m³.

Aboriginal logging community felt the need to reflect on and analyze the various problems and situations that emerged under the agreement in the hopes of being better prepared for future arrangements with the Province of New Brunswick. The following section represents their thoughts and reflections as indicated in the interview transcripts.

The people of Two Rivers see the federal government as being instrumental in the mismanagement of forestry under the interim agreement because of the imposition of the *Indian Act* and the resulting structure which continues to shape and constrain Aboriginal-federal relations.

How did he [the government] get to legislate over us? Through the Indian Act, when he declared us to be in the same category as the insane. He's telling you, "you're all nuts. Your opinion doesn't matter. We're the ones that are going to make the laws that are going to govern you!". Well now he's not just saying it — you're agreeing to it by putting your signature on these agreements! No wonder you don't open your mouth anymore. In it, it says that you can't hold Indian Affairs responsible for anything that happens while this agreement is in effect. The next clause says you can't even hold the band councillors responsible. So who in hell's responsible? Who are these people answerable to? (Two Rivers female elder, interview transcripts, 1999).

This same elder noted that through the *Indian Act* the federal government set up a welfare system for unemployed Aboriginal people, but this was not welfare money. Many Mi'kmaq and Maliseet people consider it to be treaty money. The friendship treaties were never abolished and there was never a treaty surrendering sovereignty. However, the elder quoted above contends that every time the chiefs and councils sign agreements with the government they are agreeing that the government has the power to legislate over them.

The provincial government and DNR are also seen by the chief and council as major factors in the conflict. It is believed by many Aboriginal people that the province does not want them to succeed and achieve self-determination or self-government because the province would lose control of the money generated by the forestry industry. This situation means that the political will is not there to devise policies that will allow Aboriginal people to have control over their economic destiny. The role of the DNR under the agreement was to ensure that Aboriginal people obtained forestry training, but no training occurred. Instead highly specialized people and equipment were brought in from Quebec and skills were kept in the hands of non-natives.

A major concern that presented itself was that the chief (and other members of the council) had no practical experience in forestry. However, despite this lack of practical skill, according to the *Indian Act*, the duly elected chief is the only person with whom the government will deal. The long-time loggers and members of the community said that they should have had experienced people making decisions about the forests and the allotment. Although knowledgeable people existed and indeed some were on the council at Two Rivers, they were very hesitant to go against the chief and the more powerful council members. On reserves, everything is done by political appointment and the decision makers are usually elected from the largest

extended family group. Traditionally, clan-based leaders were also chosen to make decisions, but only in areas where they excelled. For example, the best hunter within the family group was often chosen to make decisions relating to hunting and trapping. Different leaders were chosen when other skills were required. However, on many contemporary reserves, leaders are not elected according to merit, but according to their perceived ability to help the extended family and to deal with dominant governmental structures. Therefore, it is possible for people with university degrees in forestry or management to be supervised by those with no experience in either, and there is little accountability to the people or the federal and provincial governments for these decisions.

The loggers understood the chief and council to say in an open meeting that the loggers could decide how the royalties from the forestry were to be used. The loggers decided that it should go toward the creation of new facilities and programs for elders, youth and the disabled. However, no money went to those facilities and programs. Instead, the chief reallocated the royalties to cover the band's financial obligations. Forestry royalties went toward past debts incurred for a daycare centre, winter supplements for heat and electricity, and financial support for university students. This allocation caused confusion and anger because loggers believed that the royalties would go into new programs.

Within the forestry agreement, there were problems with conflicts of interest and a general lack of accountability measures for band council leaders. The forestry agreement did not include attention to the institutional support needed to prevent abuse to the forests or an equitable distribution of the economic benefits. Incidences, such as the chief appointing a close relative as the interim coordinator (mentioned earlier), the lack of training for new loggers and the unregulated hiring of non-Aboriginal Quebec crews demonstrated a lack of organization and support. This situation led to wide spread perceptions that the elected officials and employees of the band were taking the largest share of what was intended for their people.

Misunderstandings arose over the status of the Two Rivers loggers and their salaries. According to the band council, all Aboriginal loggers were independent. Information concerning an individual's financial earnings was private. However, some band members understood that the agreement was a communal arrangement, therefore the information should have been public and the community as a whole should have benefited.

Although many reserve members believed that *all* Crown lands belonged to them, the Two Rivers' land and forests councillor argued that some reserve members misunderstood the traditional Aboriginal concept of inherent right. The councillor understood that Aboriginal people had an inherent right to the land, but this right came with a responsibility to ensure that it was sustained for future generations. Aboriginal lands were to be held collectively and could not become the property of individuals with the right to cut as they saw fit. Rather, land use decisions were to be made collectively through community-based consensus processes. However, some members of the reserve interpreted their communal traditions through the lens of representative democracy, arguing that it was the elected band officials who had the responsibility to properly care for the woods and if they failed in their custodial duties people had the right not to re-elect them. Still other reserve members argued that consensus should be reached through the clan system that forms the foundation of their traditional government,

while others adopted an individualist position advocating for the rights of individual reserve members to decide what should be done in their forest.

Conclusions and recommendations

New Brunswick Aboriginal forestry involves many complex issues. Although the Turnbull decision catapulted the situation into public consciousness, many of the factors that precipitated the crisis have been in existence since the creation of the *Indian Act* – questions concerning the legitimacy of the Canadian government to legislate over Aboriginal people, tensions between traditional and elected leaders, partial and reinterpreted views of traditional practices, racial tensions between Euro-Canadian and Aboriginal groups, and ultimately the control and management of natural resources.

The clash that resulted within New Brunswick forests is not simply a collision between two realities (Euro-Canadian and traditional Aboriginal) but of two hybrid realities – the reconstructed traditional Aboriginal and the federal Indian. Traditional people want to adhere to the values and teaching of the elders and are concerned with holistic thinking, consensual decision-making, relatively egalitarian relationships and an emphasis on traditional knowledge in the service of the conservation and preservation of natural resources. On the other hand, the Indian has to learn how to cope with a system characterized by centralized hierarchical relationships, specialization, and economic efficiency. Chiefs and councils are often caught between the federal government and their own people, and are routinely forced to choose between Euro-Canadian and traditional Aboriginal values and practices. These socially constructed worlds and relations are not static but are constantly subjected to new experiences that reshape conceptions of the past and present and allow for moderate adaptations.

Although the experience of Two Rivers was tragic, it also holds promise for future understanding and cooperation. As Aboriginal people gain increasing access and control over their resources, two main choices are becoming available. First, many Aboriginal communities are entering into co-management agreements with industry or with the provincial government. In most of these co-management agreements, Aboriginal participation in the decision making process and the application of traditional ecological knowledge is minimal. Second, community-based forest management is developing where community interests and values are reflected in management goals. Economically driven policies are replaced by ecologically based programs that place a premium on the integrity and biodiversity of ecological systems. Under community-based systems value-added and non-timber forest products become the focus of long-term sustainable development strategies (Ginnish 1997). While the community-based approach would more adequately reflect traditional Aboriginal perspectives and practices the government still controls the agenda and demands fast and efficient solutions so that it can satisfy the demands of the industrial forestry sector.

A number of concerns and policy recommendations were suggested by the people of Two Rivers First Nation that involved the restructuring of relationships between First Nations, governments and industry. Among their concerns were the tensions that exist between traditional and elected band councils. Band councillors proposed that a co-management system be arranged between

governments, industries and First Nations. Under co-management, First Nation communities would share management responsibilities for natural resources. They proposed a co-management system that would be administered through long term-agreements with their communities working in cooperation with the Department of Natural Resources and industry. All parties would comply with the *Crown Lands and Forestry Act of New Brunswick* and would consult with First Nations if these acts were amended. Over time the forest management plan would be amended to include traditional holistic values and First Nations would become involved with all amendments to allowable cuts involving representatives from each community or region in the decision making process. The latest techniques in forest management would be deployed to ensure sustainability, Aboriginal people would be trained in forestry and Aboriginal involvement in intergovernmental affairs would be promoted. Gas, oil and other sub-surface resources would be included in the management plan and the Two Rivers community would be classified as a "company" for forestry purposes. These changes would allow forestry allocations to be assigned to the community rather than individual loggers and Two Rivers would have the power to hire harvesters, set prices and determine the rate of wood harvesting on their land. Value-added lumber and specialty items could be manufactured providing increased employment for Aboriginal youth and the unemployed.

Traditional people have a slightly different set of priorities and recommendations. They want to see a two-way flow of information between governments, industries and Aboriginal people. They want to ensure that they will be consulted before forest policies are made and to subordinate forest harvesting technology to environmental and employment considerations. They also want to see the forest management plan amended to reflect holistic values and diversified yield considerations. Regionally specific, traditional assessments would be done to ensure the protection or relocation of rare species and more Aboriginal people would have to be involved in the decision-making process to help alleviate strained relationships between band members and their elected councils. Traditionally-oriented band members also argue that forestry policy planners should know their own culture and learn local Aboriginal languages because most traditional environmental knowledge does not translate well into the concepts of the dominant settler society. Policy makers, they pointed out, should be fully aware of the rights of Aboriginal people and avoid inappropriate and racist policy decisions. Finally, they advocate the principle that forest management decisions should be based on long-term planning and not tied to short-term political or economic goals.

Since concepts of forestry, management, conservation, property, and traditional knowledge, are quite diverse and often contradictory, it is necessary that Aboriginal people come to an agreement about the relationships they want to have with their resources at the local level and that they adhere to some form of regulatory unit, be it a community-based agency, the administrative institutions of the DNR, or forms of joint administration. While the resolution of conflict in the forests of New Brunswick is not an impossible task, the situation is difficult and complex. Effective conflict resolution requires political will at many levels of government to make positive changes. Aboriginal people need to come together as communities and present a united voice to the dominant society. The Euro-Canadian leadership needs to admit that perhaps they do not have all the

answers and that there may be other equally valid ways of managing forests. If Aboriginal people and Euro-Canadian leaders make these changes then it may be possible to achieve appropriate solutions to Aboriginal forestry issues in New Brunswick.

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