

Closing the First Nation Wellbeing Gap through Natural Resource Projects: A Proposed Federal Strategy

“no relationship is more important to me and to Canada than the one with indigenous peoples”

Prime Minister Trudeau in his mandate letters to all of his Ministers, November 2015

Introduction

The observation has been made many times: the projected resource exploration and development over the next several decades in Canada, estimated at some \$650 billion, represents an unprecedented opportunity for First Nation communities, some of which are the worst off of any in this country. Moreover, with a string of recent Supreme Court rulings, these communities have significant legal clout to either delay projects or perhaps stop them altogether. This is less likely to happen if First Nation communities believe they can derive significant benefits from these projects while preserving what they value the most – their lands and activities related to these lands.

But to optimize benefits and avoid negative fall-outs from these projects First Nation communities need a wide array of expertise buttressed by sound relationships within and among their communities, with industry and with governments. For a large minority of First Nations – perhaps as high as 30% of the total – acquiring this expertise and forging the required relationships are too much of a hurdle within the usual timeframes of a natural resource project. Making this case will be the focus of the first part of this essay.

Part II will then describe the principal elements of a more proactive federal strategy, one that comes into play well before natural resource projects are even on the horizon. Such a strategy will be beneficial both for First Nations and all Canadians. For without First Nation communities having the capacity to participate their terms, these projects may be stalled or even abandoned. In sum we will all be losers.

Part I: The Nature of the Challenge

A. Expertise and Relationship Requirements

Table 1 on the following page provides an overview of the types of expertise and relationships that a First Nation would likely need over the course of several years or even decades to participate effectively in the development and then operation of a major resource project.

One factor driving this large array of expertise requirements is the range of possible benefits that a community might derive from these projects, a range that goes beyond the obvious financial and economic benefits and includes social, health and cultural benefits; environmental protection and monitoring; housing and infrastructure benefits; and new education opportunities.

Table 1
EXPERTISE REQUIREMENTS FOR FIRST NATION COMMUNITIES TO
OPTIMIZE BENEFITS FROM MAJOR RESOURCE PROJECTS

CATEGORY	DESCRIPTION
Financial Management	Having in place sound financial laws, policies & procedures which are respected; achieving a high degree of financial literacy among leaders, staff & members; having certified financial professionals to manage the function
Governance	Community leadership in developing & communicating a community vision, plans and strategies; ensuring ‘political stability’ even with leadership changes; engaging competent staff & advisors; ensuring sound, accountable & transparent decision-making; engaging the community throughout the project; relating effectively with external bodies; leading community healing efforts etc.
Community Safety	Having expertise in crime prevention; combatting crime; incarceration; offender rehabilitation; community relations; policing governance
Community Health & Well Being	Expertise in the determinants of health; drug & alcohol addictions; suicides; mental health; Aboriginal approaches to wellbeing
Environment	Expertise in environmental assessments; environmental monitoring; environmental protection (land, water, air); remedial measures; traditional knowledge
Technical, economic & regulatory	Having technical & economic expertise relating to the resource itself; understanding the requirements of the various regulatory processes in play; participating effectively in these regulatory processes including ongoing monitoring etc.
Negotiating	Having a skilled team of negotiators with sound relationships with the community leadership & community members
Legal	Having legal expertise relating to Aboriginal & treaty rights; drafting legal agreements; developing appropriate legal entities to deal with tax, liability issues etc.
Financial and Capital Sourcing	Having a team that can build a solid business case for financial participation in the project; identify & attract sources of capital; & manage project earnings effectively (avoiding the ‘curse of natural resources’)
Economic Development & Human Resources	Understanding how best to maximize procurement and employment opportunities & using the proceeds from the project for future economic development opportunities
Community infrastructure	Developing a business case for improving community infrastructure (roads, water and sewer, housing, industrial parks, internet, energy etc.) and executing improvements effectively
Underlying all of these capacities must be a set of solid relationships built on trust: relationships within the communities and between communities; between communities and governments; and between communities and the project proponents	

Some of the expertise requirements to realize these benefits can be purchased – for example legal and financial and capital sourcing expertise. Nonetheless, the community must have enough expertise to contract with the appropriate entity, manage the contractor and engage the community

in assessing the results of these assignments. Furthermore, many critical capacities – good governance, for example - must come from within the community.

New wealth pouring into a community can have unintended consequences. Increased crime; added stress on families dealing with an absentee parent on a job site; resentment caused by widening income disparities within the community; added addiction issues - these are just some examples of potential problems to be anticipated and mitigated where possible.

The conclusion is unassailable: to maximize benefits while managing the risks of negative impacts posed by large resource projects, First Nations face an enormous array of complex challenges.

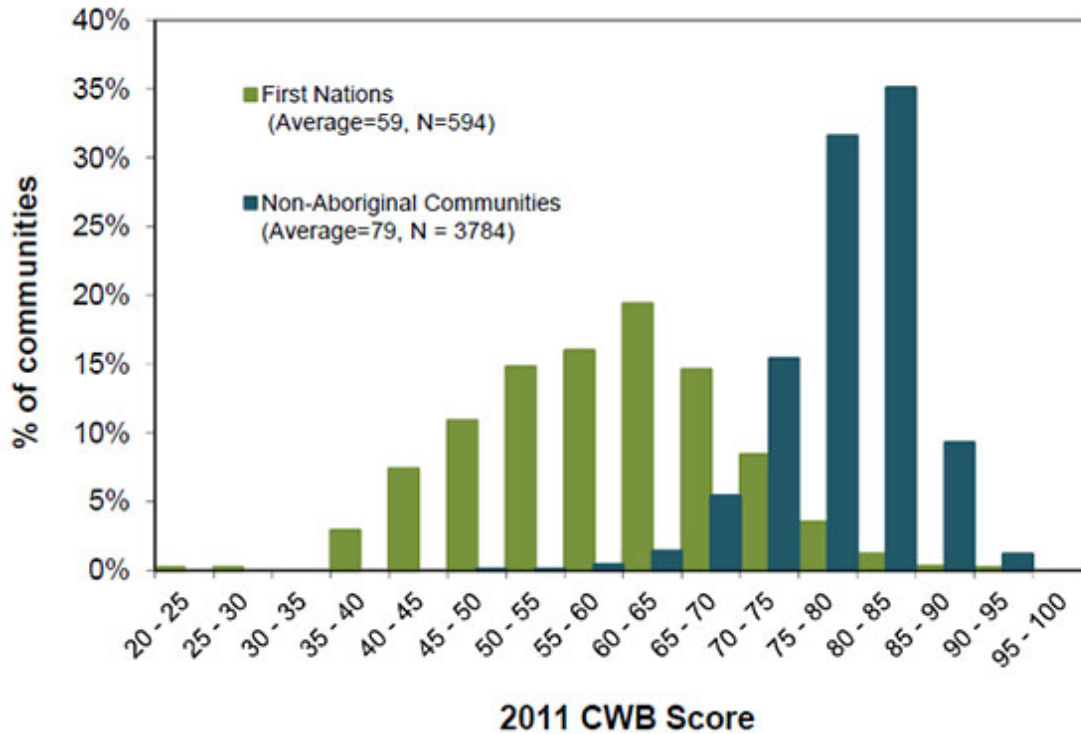
B. The current state of First Nations

How ready are First Nations to meet these challenges? The short answer is that a large minority is nowhere near ready and cannot become ready even if the project start-up period is over an extended period. Here is some of the evidence.

Community Well-being Index

The starting point is the Community Well-being index (CWB), without doubt the best existing measure of the overall social situation in First Nation communities across Canada. Relying on census data, researchers at Indigenous and Northern Affairs Canada (INAC), have developed the CWB, based on four factors: education (percent of adults with high school and university); housing (quantity and quality); labour force (participation and employment rates); and income (average per capita income). Based on special census runs, the index is updated following each census. Results from the National Household Survey (which accompanied the 2011 census) are summarized in Figure 1 below.

Figure 1
CWB Scores of First Nation Communities
Compared to
CWB Scores for the rest of Canada¹



The litany of socio-economic problems facing those First Nations at the lower end of the CWB scale is well known and does not need repetition here. Suffice to say, 98 of the 100 lowest-scoring communities are First Nation communities. To expect these communities to deal with the myriad challenges posed by large resource projects in the short to medium term is simply unrealistic.

Alvin Fiddler, Grand Chief of the Nishnawbe Aski Nation that represents 49 First Nations in northern Ontario, agrees. Noting that nearly half of those communities are under some type of water advisory and that at the same time they face pressures from resource companies and governments to allow development in their regions, he had this to say:

...how can these communities be expected to meaningfully engage in these processes, trying to engage with multibillion-dollar companies or government, when they are worried about whether their children will be able to access clean water...They need to take care of these things first, before they can be expected to come to these tables and have negotiations with government and companies. We need to have that happen.²

¹ <https://www.aadnc-aandc.gc.ca/eng/1345816651029/1345816742083#chp1>

² Alvin Fiddler, quoted in *The Globe and Mail*, Monday December 8, 2015, "Folio: Water"

In making these remarks, Mr. Fiddler may well have had in mind the nine First Nation communities most affected by the Ring of Fire, the name given to an area of high mineral deposits in the James Bay lowlands, roughly 500 kilometres northeast of Thunder Bay. The potential economic benefits are enormous: according to the Ontario Chamber of Commerce within the first 10 years of development the Ring of Fire will generate \$9.4 billion in economic activity and sustain 5,500 jobs annually³. But the nine First Nation communities are woefully unprepared to take advantage of this opportunity with very low high school completion rates; alarmingly high drug dependency rates; severe housing shortages; and very little business activity among other things. Further, five of the nine communities have no all weather road access and face a geographic reality that finds them remote not only from the rest of the province but from each other.

Attawapiskat First Nation: A Case Study

Located on western shore of James Bay, the Attawapiskat First Nation provides a graphic case study of how the lack of readiness of a First Nation can blunt any benefits from large resource projects in their traditional territories. Since 1995, it has been dealing with governments and the private sector on the Victor Diamond mine, located some 90 kilometres west of the community. Despite significant funding in the multi-millions of dollars on the part of the company (DeBeers) and both provincial and federal governments over the decades spanning the regulatory process for approving the mine and its subsequent construction and operation, the results have been disappointing for the First Nation. As one study⁴ concludes:

First Nation participants in the engagement and consultation by DeBeers interviewed by the author admitted that their communities were unprepared in almost every sense of the word to participate in either engagement by DeBeers prior to the regulatory process, consultation during the regulatory process, negotiation of IBAs [Impact and Benefit Agreements] and other agreements, or to take advantage of the opportunities presented by the project and at the same time manage the negative socioeconomic impacts that arose.

It is little wonder that the potential for realizing a significant 'lift' from the Victor diamond mine eluded Attawapiskat. Media reports several years ago described five families living in tent frames and another 17 in sheds. A 2012 audit⁵ noted that the community had 316 housing units of which only 46 (14.6%) were considered adequate, 148 (46.8%) required major renovations, and 122 (38.6%) required replacement. School outcomes have been abysmal and water and wastewater treatment continues to be an ongoing issue in the community despite a significant investment in a new water treatment plant in 2000⁶.

³ <http://www.occ.ca/issue/ring-of-fire/>

⁴ Donna Cona, "Aboriginal Consultation and Regulatory Process Case Study: Victor Diamond Mine" March 31, 2011, unpublished

⁵ Deloitte & Touche, "Specified Auditing Procedures Relating to the Attawapiskat First Nation", September 2012

⁶ "Intent to Initiate Third Party Management Process- Attawapiskat First Nation", briefing note prepared for the Minister of INAC on Nov. 30, 2011, accessed through the INAC web site.

C. Conclusion

The experience of the Attawapiskat First Nation with a large resource development opportunity illustrates how a lack of readiness can lead to a missed opportunity to close the well-being gap with other Canadian communities. Indeed a case might be made that, for this community, the negatives have outweighed the positives from the project.

So we have to do better. The federal government needs a more proactive strategy for building expertise among these critically challenged communities, a strategy that includes a series of elements being put into effect before any resource project is even on the horizon. Describing such a strategy is the focus of the next part of this essay.

Part II: Proposed Strategy

A. An Underlying Principle

In crafting a more pro-active strategy, the federal government faces a well-known, developmental dilemma: those communities most in need are the least capable of helping themselves. And yet the evidence is overwhelming that communities themselves and not governments must lead the way to transformative change. As Shelby Steele, an Afro-American, notes in reflecting on the experience of blacks in the United States⁷:

“it is only the initiative of human beings—individually and collectively—that can redeem a people from a trying past and deliver them to a better future. Only human initiative is transformative, and it is an eternal arrogance ... to assume that government can somehow engineer or inspire or manipulate transformation. You cannot help people who have not already taken initiative—meaning total responsibility for their future. And it takes very little to help those who have actually taken such responsibility.”

To some, this may be tantamount to ‘blaming the victim’ for their current distressed state. But as the talented Canadian writer Irshad Manji has noted in her wonderfully cogent aphorism⁸: “the language of victimhood seduces then paralyzes”. Victimhood seduces because at first blush looking to the perpetrators or former perpetrators to take action seems so just, so morally right. Non-Aboriginals created the problem and it is up to them to fix it. But waiting for others leads to paralysis⁹. As Steele notes¹⁰: “...no group in human history has been lifted into excellence or competitiveness by another group.”

⁷ Shelby Steele, “Shame: How America’s Past Sins Have Polarized Our Country”, (Basic Books, New York, 2015) E-book location 1887

⁸ Irshad Manji, *Risking Utopia: On the Edge of a New Democracy* (Vancouver and Toronto: Douglas and McIntyre, 1997)

⁹ The much lauded Truth and Reconciliation Commission is the latest major study to fall into this ethical cul-de-sac. Of the Commission’s 94 recommendations, all but one depend on the actions of non-indigenous governments and organizations for their implementation.

With this underlying principle in mind, what follows is a sampling of some of the elements of a more proactive strategy.

B. A Tailored Approach to Empower Communities to Help Themselves

A widely accepted observation about indigenous communities in general and First Nation communities in particular is that they are very different from one another – different languages and cultures, different styles of governance, different priorities, widely different levels of expertise, different approaches to housing and other social services, different relationships with the external world. What this observation suggests is the need for a more differentiated, more tailored approach to First Nation communities, especially those experiencing high levels of distress.

In recent years there have been a number of pilot projects that have experimented with such a tailored approach, an approach that among other things has the federal government re-engaging with these communities in a holistic, collaborative manner with the objective of empowering communities to help themselves. One such pilot has focused on the 700-member Inuit community of Pangnirtung on Baffin Island. Key characteristics of this pilot included

- a partnership board made up of federal, territorial, hamlet and regional Inuit officials to oversee the project
- an initial focus on youth and crime reduction, which then widened to deal with other community priorities
- a community development, empowering approach, based on a carefully chosen youth facilitator
- some incremental funding (in the range of \$400 to 600k per year)
- a long term time frame
- a federal commitment to develop a single window funding regime whereby all federal departments would pool their resources into one funding arrangement.

There have been other pilots along similar lines, which have stressed the development of community-wide plans with a high degree of community engagement. The Canadian Northern Economic Development Agency (CanNor) has initiated a multi-party, community development approach in Canada's north to develop community readiness plans for communities that may be affected by resource development projects. Once again a facilitator with community development expertise working with a community appointed steering committee is a key element of this initiative.

In summary, a combination of four elements over a sustained period – the CanNor approach to assisting communities to produce a comprehensive community readiness plan; the partnership board governance innovation of the Pangnirtung pilot to breakdown silos among and within governments; the availability of modest levels of new funding to support priorities identified by the

¹⁰ Shelby Steele, "White Guilt: How Blacks and Whites Together Destroyed the Promise of the Civil Rights Era" (Harper Perennial: New York, 2007) P. 62

community; and the development of a single window funding mechanism - could provide a powerful means to develop this tailored, community empowering approach.

C. Scaling Up to Build Capacity

Devolving program responsibilities and then law-making jurisdiction to individual First Nations – which began in the early 1960s – may go down as one of the major federal policy blunders of the late 20th century. Based on decades of experience with this policy, a now common observation about First Nations, beginning with the Royal Commission on Aboriginal Peoples in the mid 1990s¹¹, is that they are simply too small to manage effectively their many functions. No countries assign such small communities responsibilities in the ‘big three’ areas of education, health, and social assistance, let alone in other complex areas such as policing, natural resource management, economic development, environmental management, and so on¹².

There are other ‘good governance’ rationales for supporting aggregation at the regional, provincial and even national levels in a First Nation context. One major reason, as the Royal Commission and numerous others have pointed out, concerns the provision of certain services by governments in small communities where family connections are a major fact of life and where discretionary powers of officials and political leaders can exacerbate tensions within the community based on family lines. Another governance issue concerns regulatory functions. In transferring jurisdiction to First Nations – for example in the environment – little thought appears to have been given to how small communities can be both program operators and regulators¹³.

More experimentation is clearly needed in this area. One example has occurred in building community readiness among the nine First Nations affected by the Ring of Fire in northern Ontario, referred to earlier in this essay. A significant achievement has been the establishment of 4 Rivers Environmental under the Matawa Tribal Council umbrella. This organization provides the nine communities with needed expertise in preparing for environmental assessments, environmental protection issues and the potential for ongoing environmental monitoring once elements of the project begin.

D. Building Governance Expertise

There is near universal acceptance that good governance is a significant contributor to achieving positive socio-economic outcomes. What is far less clear is how to improve governance. Evidence from abroad is not encouraging. The World Bank tracks governance indicators across 213 countries and reports that there is no strong evidence of a significant trend of improvement in governance worldwide despite substantial investments in the billions of dollars.

¹¹ “Report of the Royal Commission on Aboriginal Peoples: Volume 2; Restructuring the Relationship, Part One”, P. 182

¹² In an earlier essay, “Dysfunctional Governance: Eleven Barriers to Progress among Canada’s First Nations” (Inroads 31), I argue that First Nations are the largest local governments in the world on the basis of per capita spending. Nonetheless, limited capacity is only one of a long list of governance challenges facing First Nations.

¹³ A major irony is how INAC, a department with significant regulatory responsibilities in the Canada’s north, could have blundered so badly in fashioning self-government arrangements with First Nations with little regard for the regulatory function.

Based on national and international experience, sustained governance improvements depend on three factors: political leadership; managerial and technical expertise; and community support. Thus outside parties can assist with advice, funding and technical assistance but cannot lead efforts to improve governance. Moreover without solid community support, governance reforms are not sustainable. When new political actors take charge successful programs can be reversed.

If governance improvements have to be driven by the community and its leaders, what then might be effective strategies for building this support? A certification system for First Nation governance, specifically designed by and for First Nation communities, might be part of the answer. In Canada, certification (sometimes called accreditation) is becoming an increasingly common instrument in many fields of public administration, including health.

Not surprisingly, the idea of applying third party certification or accreditation in a First Nation context has also gathered increased currency. Accreditation Canada has established an accreditation program for certain First Nations health organizations. At least two First Nations - Membertou in Nova Scotia and Sagamok in Ontario – have succeeded in obtaining ISO 9001:2000 accreditations. And the First Nations Financial Management Board has developed a financial management-focused accreditation system for First Nations that wish to borrow money for much-needed infrastructure in their communities through securitizing their own source revenues. Using the pooled borrowing facility of the First Nations Finance Authority about 30 accredited First Nations have accessed \$270 million in long-term debt at interest rates just above prime.

Clearly defined benefits for achieving accreditation are critical. One such incentive might be accredited First Nations having access to longer term, more flexible funding arrangements with the federal government. Funding is such an important part of this relationship; an accreditation system holds the promise of eliminating many of the irritants that plague it¹⁴.

E. Building Financial Management Expertise

A 2010 INAC evaluation found among other things that close to 30% of First Nations at any one time were experiencing some sort of financial difficulty severe enough to be brought in under an intervention policy¹⁵. The problem is particularly stark in remote community where very often the financial function is the responsibility of individuals with little or no accounting background. Thus INAC should partner with organizations such as AFOA Canada and the First Nations Financial Management Board to develop a concerted program to improve financial management and literacy through, for example, the use of mentors; distance support for geographically remote communities; the development one financial organization to serve a group of First Nations; and tailored training and community development initiatives.

One initiative¹⁶ that shows promise was the assistance that the First Nations Financial Management Board provided the St. Theresa Point First Nation, a remote fly-in community in

¹⁴More detail on the case for and development of a governance accreditation system for First Nations is contained in my essay “Closing the Well-being Gap through Improved First Nation Governance”, published by the Frontier Centre for Public Policy in 2015 (<https://www.fcpp.org/>)

¹⁵ Aboriginal Affairs and Northern Development, “Evaluation of the Intervention Policy”, November 2010, <https://www.aadnc-aandc.gc.ca/eng/1317314118563/1317314895694>

¹⁶ <http://www.fnfmb.com/outreach/videos/>

northern Manitoba, which had been in third party management for some dozen years. With assistance of Board staff the First Nation succeeded in getting Board accreditation and subsequently made use of the First Nations Financial Authority's pooled loan service. Needless to say, it is no longer under third party management.

F. Encouraging Entrepreneurship through Micro Finance Programs

Observers often note the lack of entrepreneurship in many of First Nation communities. The 2006 census found that self-employment in non-indigenous communities was almost 5 times as prevalent as in First Nation communities. Given these low levels, to expect communities to take full advantage of business opportunities arising from resource projects is delusionary.

One reason for lack of interest in entrepreneurship is fear of failure. In small communities, entrepreneurs do not enjoy the anonymity that their counterparts have in large cities: everyone in such communities would be aware of a business failure. Thus what might be required is a low cost, low risk approach to encouraging small business start-ups. One approach to investigate is the applicability of micro financing programs that have worked well in countries like India and Bangladesh¹⁷. With its 150 to 200 million clients, microfinance is one of the most visible and long-lasting anti-poverty programs in these countries.

G. Assisting Clean Energy Projects initiated by Indigenous Communities

Chris Henderson, a leading expert in clean energy production and transmission with substantial experience in working with indigenous communities in Canada, estimates that within the next eight years there could be more than 120 clean energy projects with significant indigenous participation¹⁸. In many of these cases the indigenous community will be driving the project or becoming a significant equity partner.

Such projects, especially those initiated by the indigenous community, offer an important opportunity to build expertise and relationships across a range of areas. There are also other, less tangible but equally important benefits. Such projects can be 'transformative', resulting in an increase in community pride for completing a project after many years of hard work. Other communities have benefitted from improving their own internal capacity, an outcome that has led to their taking on other economic ventures.

The Pic River First Nation, located on the north shore of Lake Superior in northwestern Ontario, was an early pioneer in deriving benefits from clean energy projects on its traditional territories. It has equity positions in three hydroelectric projects, one where it has a minority interest, a second, with a majority interest, and a third, which it wholly owns¹⁹. The First Nation in all of these projects had five different financial benefits: ownership; employment; contracting; education and training; and revenue sharing through an Impacts Benefit Agreement. Earnings from these projects have

¹⁷ For a comprehensive review of micro financing see Abhijit Banerjee and Esther Duflo, "Poor Economics: A Radical Rethinking of the Way to Fight Global Poverty"; (Public Affairs, Philadelphia 2011)

¹⁸ Chris Henderson, "Aboriginal Power: Clean Energy and the Future of Canada's First Peoples", (Rainforest Editions, 2013) P. 41

¹⁹ <http://www.picriver.com/index.pl?page=130&top=121>

risen to \$1 million per year and will continue to increase as the debt accrued from the most recent project is paid down.

To obtain an equity position in resource development projects, many of which entail large capital costs and varying degrees of risk, indigenous communities need assistance from both the industry proponent and governments. One useful example of government assistance is the Aboriginal Loan Guarantee Program (ALGP), which was announced in September 2009 by the Government of Ontario and subsequently expanded in the 2014 Ontario budget by \$250 million to \$650 million. One of the key features of the program is that applicants must have agreements in place to sell energy, usually to a provincial electrical utility, or have regulated rates in the case of transmission projects. This condition, by providing certainty over a long-term revenue stream, substantially reduces the risk to the indigenous community.

H. Supporting mechanisms for Aboriginal communities to learn from each other

An effective and inexpensive means for assisting First Nation communities to build capacity is for them to learn from one another. The National Aboriginal Economic Development Board (NAEDB) recommended the formation of an independent clearinghouse in its October 2012 report²⁰ with a mandate to promote information sharing and awareness among Aboriginal communities participating in resource projects. Federal support for such a body or bodies, either on a national or regional scale, could be part of this proactive strategy.

Conclusions

In attempting to create an improved relationship with indigenous communities, the new federal government's most compelling challenge is with the 100 or so First Nation communities whose living conditions are the worst in Canada by almost any socio-economic measure. These communities should surely be the top priority in forging any new initiatives.

This essay has described the case for and elements of a more proactive strategy directed primarily at this group of distressed communities, one that would increase the odds of their benefiting from resource projects near them. Other elements are possible – specifically related, for example, to health and wellbeing, policing or housing. The principal point is this: the government cannot afford to wait for the projects to appear before dealing with community readiness issues. Otherwise First Nations and the rest of Canada will all be losers.

²⁰ The National Aboriginal Economic Development Board, "Increasing Aboriginal Participation in Major Resource Projects", Oct. 2012 <http://www.naedb-cndea.com/reports/increasing-aboriginal-participation-in-major-resource-projects.pdf>