

# Straight Talk



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## Indigenous people want meaningful participation in the oil and gas sector

With Sheldon Wuttunee

As part of our ongoing series, titled Indigenous Prosperity at a Crossroads, MLI has conducted interviews with Indigenous people involved in the natural resource economy. To discuss the future of Indigenous prosperity and how it intersects with the oil and gas sector, this Straight Talk features Sheldon Wuttunee, President and CEO of First Nations Natural Resource Centre for Excellence. The publication is based on a transcript of a recent discussion between MLI Munk Senior Fellow Ken Coates and Sheldon Wuttunee.



**Sheldon Wuttunee** is President and CEO of First Nations Natural Resource Centre for Excellence. He is a member of the Red Pheasant Cree First Nation, in west-central Saskatchewan, where he has previously served as Chief. He served his community in the capacity of Chief for two consecutive terms from 2006 to 2010. Sheldon was also involved in the founding of the Battlefords' Agency Tribal Chiefs (BATC), a Tribal Council consisting of now, seven (7) First Nations.

**MLI:** We are here today with Sheldon Wuttunee, President and Chief Executive Office of the Saskatchewan First Nations Natural Resource Centre of Excellence. Those of us in Saskatchewan know him as one of the most thoughtful Indigenous or non-Indigenous leaders in the field of oil and gas development, a man with incredible roots in his community. To start on a personal note, how and when did you get involved in the oil and gas sector in a significant way?

**Sheldon Wuttunee:**

Early on in my career as Chief of our First Nation out in Red Pheasant, we had existing gas wells up in the Pierceland/Loon Lake area. We had Treaty Land Entitlement (TLE) lands that were chosen for that purpose. That really started my familiarity in the oil and gas sector in terms of understanding agreements and what they mean to us as First Nations. It meant really looking at not only the economic side of things but the potential environmental impacts that go along with oil and gas development.

Through that exercise, I certainly became more keenly aware of a project that had come through back in 2007-2008, and a bit forward from there with the Enbridge Alberta Clipper Pipeline. With respect to that, I have always been a big believer, of course, in Inherent Treaty rights, and continue to be so today. I have really started to understand the different perspectives around natural resource transfer agreements and how we experience or interact with resource development in today's world.

I have always been very close to our Elders and our culture. I have been very fortunate to grow up and have teachers of our traditional aspects of life and I have been able to relate that to the aspects of Inherent rights and Treaty, the development of the National Resource Transfer Agreement (NRTA) and ultimately what occurs today. One of the teachings that has been impressed upon us by our Elders was about the myth around ceding and surrendering our resources. It is something that continues right across the globe today – issues around rights to resources, who has rights, and the complications and complex conversations that arise from that.

When the Alberta Clipper came through, it was for me an opportunity to become a little bit more heavily involved, because we spent some time as an intervener in the pipeline, getting more familiar with the National Energy Board (NEB) processes.

Along that time as well we had developed the BATC Tribal Council, so it became an aspect of us initially getting involved in this pipeline process, and then that grew from Red Pheasant, and it included other Bands as well that were involved in the Tribal Council.

That really led me to look at ensuring that we participate in a meaningful and respectful way in resource development. I might get into that a little deeper, but just in terms of your question specifically, it is these factors that led me to get involved in oil and gas development in the resource sector.

**MLI:** One of the things that always stands out to me is how respectful you are in your relationships with government and oil and gas companies. You are a very strong advocate for the things that you believe in, but you seem to get away from confrontation. Explain to me your philosophy and approach to the oil and gas sector.

**Sheldon Wuttunee:**

I think that goes back to my time as Chief. I have always been a big believer of putting your money where your mouth is and making sure that we are able to do our homework when we come to the table. Obviously, along with resource projects, there is a lot of planning, safety, pre-operational, operational aspects, and a lot of the technical aspects. From our First Nations' perspective, there is a considerable amount of education as well that needs to occur, such as our Elders' teachings and our ties to the land. How do we bring that forward and develop that respect so that meaningful conversations can occur?

Back in the Clipper days, we had landed and put some good faith in an agreement where we would come together and start looking at opportunities, whether it is work, contracts, or resource revenue sharing – that whole equity piece. All these opportunities tie into a project, and there are expectations around that for our First Nations.

When we saw and experienced that the agreement was not being lived up to, I really took offence to that. It was extremely offensive because it harkens back to the Treaty times, where there was deliberation and discussion and the pipe was used to ask for guidance on where do we go with the Treaty. To me, it was like a reliving of that, and we had come forward in good faith, and then supposed to meet with the general contractors around involvement, and that did not happen. The project just moved ahead.

We actually ended up in discussion with other Bands in Treaty 4

and Treaty 6, we essentially decided we need to just get out and send a message, “Hey, we need to be respected, and we need to be involved in a meaningful way, whether the project moves forward or not.” I guess I wanted to preface with that, because my approach has not always been diplomatic. I should not say not diplomatic – I intended for it to be diplomatic, but sometimes you have got to put your money where your mouth is.

If I say it is not go the way we have agreed, then obviously there is going to be repercussions around that. That was an instance of that occurring, and of course our Elders and other leaders came from far and wide, from BC to Alberta, to Treaty 4. And obviously they had another blockade just outside of Regina, the Treaty 4 Nation. There needs to be an elevated level of respect for who we are.

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Fast forward into my role with the Centre, where I assist and support 74 First Nations with a diverse range of approaches and expectations around resource development, ranging from meaningful engagement to economic development, equity, partnerships, resource revenue sharing, etc. All of these issues are at play on any given day with my role here at the Centre, so I always need to ensure that when I am interacting with industry or government, there is an openness to listen. But, as you have mentioned, it still needs a certain level of assertiveness in terms of our rights and who we are and the respect that we need to have as First Nations people as we enter into discussion. That is something that I have always tried to carry. I feel that I am well grounded culturally and are able to articulate and bring forward those components too.

It may be my professional training as a teacher, but I try to break things down and articulate them so people can get a good sense of understanding. At the end of the day, what you want to do is try and bring forward what a person really feels. Otherwise, why are we really here? Not because of anything else. This is what we are trying to accomplish, and we need to be able to come together in a meaningful and respectful way.

One thing I understood early on is that you can come to the table as a Chief, as was in my own case, and articulate these issues

around rights and demand involvement in those types of things. But we still need to come forward with capacity if we want to be involved in projects. At the end of the day, it does not matter what background you are from – projects are technical, and it can be dangerous when you are out in the field. We want everybody to participate, but we want everybody to be respected and come home safe to their kids.

If the government or a company says okay, the doors are open, what do you want to do? We need to ensure that we can articulate and come forward with the capacity as well as a First Nations partner.

**MLI:** You talk about Treaty and Inherent rights. Can you explain to a non-Indigenous audience what you mean by Treaty and Inherent rights?

**Sheldon Wuttunee:**

I think the overarching point that I can make is that as First Nations people, we have been here for generations and generations, time immemorial. We have very strong ties to the lands and the medicines that we use each and every day. There is not only a physical component to our use of our animals, plants, waters, and those sorts of things, but there is also a spiritual connection to them. They are integral to all of our ceremonies here. When we look at Inherent and Treaty rights, Inherent rights are rights that we have, and we are born with them. Each of us are born with them from our respective backgrounds.

Inherent rights are not to be confused with Treaty rights. Treaties were signed to afford the opportunity for settlers or those that were new to our continent to share the land with us. I think the point to drive home is that we had rights already prior to us signing treaties, and we refer to those rights that we have had before, and we continue to have as our Inherent rights as First Nations people to these lands and territories.

We see Treaty rights as our Inherent rights being respected. Then we move on even further to the Canadian Constitution, in which Aboriginal and Treaty rights are hereby recognized and affirmed. The Constitution did not give us rights; instead, it essentially affirms that these rights were already there prior to settlement and prior to contact. That is an important component that we want people to understand and be educated on.

**MLI:** That is a very important description, and I really appreciate your careful characterization of what's going on. Let me ask you a question. In First Nations gatherings, people talk about the Treaty all the time. They internalize the Treaty. They have actually read it. When you deal with non-Aboriginal people, however, my guess is you do not see that very often. How important is the issue of actually educating non-Aboriginal people about Treaty rights and Aboriginal rights?

**Sheldon Wuttunee:**

That is something that I feel comfortable doing, and I think it is important as well to not only focus on the aspects of Inherent and Treaty rights but also to ensure that we are articulating the difference amongst who we are as First Nations. A lot of times we get categorized into one group – as First Nations people or a Treaty area. But there is a lot of different understandings and sharing around when it comes to these issues. Or even the Treaties themselves, given the divide and conquer mentality of the Crown and government of the day. You can start to see that as you move from settlement, to treaties, to reserves, to tribal council; all these types of developments that have happened over time have really led to the group getting smaller and smaller.

The education part for me is very important. We do undertake at times cultural awareness sessions that we have offered here out of the Centre. Is it our responsibility to be teaching about treaties and these sorts of things? If we do not, I think we are all aware of who writes the history is right in the history.

I have mentioned this in the past that it is who develops the narrative and out to the public that gets the traction. It is important for us to be at our ceremonies to learn and be around our Elders to learn, but also to be able to be in the boardrooms to educate. I think it is becoming more well received, but it has not come without its difficulties. Whether it is our blockades on the pipeline, or Idle No More, or Black Lives Matter, it often takes those types of scenarios to create awareness, and hopefully from that awareness that we move toward a welcoming of understanding with these issues.

I do think it is important that we assume a lot of that responsibility. We want our stories to be shared in a right way. I am a Cree person. I am a Nehiyaw from Red Pheasant, but also there is Dakota, Lakota, Nakoda, Saulteaux, Dene. There is different tribal backgrounds within a First Nations context, and we all have different languages. We all have different ceremonies. There are similarities, but there is also a lot of uniqueness to who we are as a tribal nation, if you will.

**MLI:** That is really important. Tell me a little bit more about the Saskatchewan First Nations Natural Resource Centre of Excellence.

**Sheldon Wuttunee:**

Our primary mandate is to assist and support our 74 First Nations from across this Province of Saskatchewan in relation to the responsible development of our resources. That comes with a lot of undertones and a lot of implications, if you will, in regard to our mandate and what we do here. We participate and support our First Nations right across the spectrum, from early engagement, to duty to consult.

We have participated in undertaking environmental assessments. For instance, when the Husky Oil spill occurred here a few years back, we undertook an independent environment assessment along the North Saskatchewan River – from a point of the spill site out to Cumberland House. Our mandate in real time is to be there on hand to support our First Nations in whatever capacity that they need.

My specific role is to ensure that we are bringing forward the required expertise that our First Nations need to support, not only the leadership but the Elders and members of the community, so that they are able to understand things. Obviously, industry – whether it is oil and gas, potash, or uranium – can get pretty technical, and many of our people do not deal with technical aspects day-to-day. We come in and help to ensure that they understand and feel comfortable in speaking their mind.

I think that has been an important aspect of our work. We have attended a lot of sessions in communities where there are proponents looking to building a project. They are in engagement sessions, and so we are on hand to support, at times even to help translate, and we bring them along in mapping exercises, so it is a comfortable environment for them to share information.

Sometimes we are expected to lead a conversation, other times we are there just to take notes and help along the Band in that way. At the end of the day, our goal is to ensure that we are working to build capacity for every First Nation across this province.

**MLI:** I was really impressed with the role that you and other First Nations played in the Husky Oil spill. Can you describe the situation to us, and how First Nations worked with Husky Oil in that particular instance?

**Sheldon Wuttunee:**

We became involved fairly early on, as the notifications came out that there was a spill along the river. A meeting was called between Husky and the Federation of Sovereign Indigenous Nations (FSIN) and the First Nations that were impacted. Of course, I was asked to attend the meeting, and really what transpired from there was a direction – I think on Thursday – saying that we need you over at the Husky Incident Command Centre (set up in relation to the Husky 16TAN Spill Response) on Saturday.

I think it is extremely important, as we move forward in developing legislation and regulations regarding our involvement as First Nations people, to highlight the fact that we would like in our respective jurisdictions to be fully involved. The term that I have been using is integrated participation. We need to be at every table in every conversation. We need to be involved.

With an oil spill that massive along the North Saskatchewan River, we had significant concerns. As we mobilized and moved to the Husky Building in Lloydminster, we encountered a unified command and a full-on incident response, in which everybody was everywhere. We did not have a place to land or a place to be involved. I think for Husky and the levels of government, it was an exercise too, and they did not really know how to include our Indigenous group. How do we include Sheldon in our conversation?

We had to just learn on the fly, and we need to be more structured so that we understand as First Nations where our input is going to be directed to in an incident like that. Everything was happening so quick. There was a lot of government agencies that are in play. There is Husky, there is people in the field, all of these types of things. There needs to be a lot of continued development for our meaningful participation in these emergency responses.

In relation to that Husky spill, that was my early involvement, and of course there were 22 First Nations that were impacted in one way or another, all the way down to Cumberland House, and of course concern in Alberta as well.

Based on my early involvement, there was not longstanding trust between industry and First Nations or government and First Nations with respect to resource development here. This stems from the aspects of engagement and duty to consult. We became more involved, and I became a little bit more knowledgeable about what was going on. But, while we were in rooms, I do not know if we were in the right rooms.

So we negotiated and undertook an independent environmental

assessment of the spill. We focused a lot on the sediment along the river. I have walked many miles along that river for a couple of years, as well as many others. Essentially what we have done is we worked with the communities. First, we had some folks support us to network. We developed a full-on independent assessment that we were able to share and provide our First Nations, so that they could see us as a trusted entity that could give them information that they could use – that we are able to explain and can bring forward any support they require. There are some cases that are still currently underway in the courts around that spill and as it relates to our First Nations.

**MLI:** You have spoken about meaningful participation. I wanted to ask if you could explain that concept, because I think it is really central to understanding Indigenous involvement in the natural resource sector. And where do you hope things will be 20 years from now?

**Sheldon Wuttunee:**

I think at the forefront of everyone's mind is what type of environmental footprint will natural resource development have on our respective areas? That is the starting point when we are looking at the future.

Regarding meaningful participation, I will not say it is a difficult subject but it is a subject that we need to ensure welcomes and understands a variety of points of view – from our First Nations leadership, to our Elders, to community members. Chiefs deal with a variety of approaches to resource development, including some not being in favour of resource development, within our communities.

When a project is proposed in a certain area, the leadership, chiefs, and councils have to weigh out the pros and the cons with respect to their community. That is not necessarily only talking about Inherent and Treaty rights as it relates to the duty to consult and Constitution along the provincial or federal regulatory perspective. From our perspective, we have to ask: what does that mean to our people? What does an Inherent right mean to an individual on a reserve who does not support resource development, and how do we look at creating dialogue and having a conversation around that?

When you look at meaningful participation, I think it has to entail – and I know it is being done a lot more now than it has in the past – involvement along the lifecycle of the project, and prior to any project being proposed. When you are starting to get some ideas, you should reach out early. A great misstep that occurs is when

a company has an idea and submits the proposal, and as soon as it is flagged that there is a duty to consult, they go and meet with the Band. To us, that means you are only here because you have to because of regulations.

I think it is important to understand that when duty to consult, policies, or frameworks are developed and adopted by the levels of government, whether it is the province, or whether it is the federal government, they need to be agreed upon by our First Nations. In the case in Saskatchewan, for instance, the challenge on most projects with the duty to consult policy framework is because we were not involved in the development of it to the level that we needed to be. Now, you have a proponent's guide that is been developed from that, which has been precipitated from the policy framework, and there is a misconception in a lot of my conversations that this is the way to go. When that Duty to Consult Policy Framework was developed and released in 2010, there is also a resolution from the Federation of Sovereign Indigenous Nations chiefs and assembly that refutes the policy.

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How do you move forward as a regulator? There is a provincial government moving forward of the policy and developing a proponent's guide. It is an element of misconception in terms of what industry sees as the right way to do things.

I think in terms of meaningful participation, it does not rest only with the proponent, but it directly rests with the Crown, and that all comes back to Inherent Treaty rights. The Natural Resource Transfer Agreement is definitely an issue that continues as well. It all relates to engagement/consultation.

I will say again, we did not cede or surrender our rights to resources. We signed treaties prior to any provinces being established. Then, in 1930, Canada basically provided authority over resource development to the provinces, which we were not consulted on and we do not agree with.

In saying that, obviously today is today, and real time is real time, so we are continuing our work as First Nations to approach these things, and they are difficult. It gets complex when we ask our

Elders to move from their understandings on lands, resources, Inherent rights, and Treaty, and ceremonies into a worldview of a regulator. It is a very difficult transition to make, and we want to protect them. We do not really like to have them come into that space and tell their stories and pour their hearts out, because it is difficult for them. I think we are on a spectrum, moving towards ensuring that as a younger generation we are learning more and more.

**MLI:** This has been extremely helpful and extremely important. I really appreciate your observations and your comments. Do you have any final thoughts?

**Sheldon Wuttunee:**

I think it is important that we create an area or a space for openness and welcoming. What I have learned over the years is that as we move forward and continue to be involved in resource development projects, we rely heavily on the companies for knowledge and to understand what they are doing. Reciprocally, companies rely on us and our Elders for knowledge as well as it relates to stewardship of lands, waters, animals, and our medicines.

It is important to keep that at the forefront. The sharing is going to be very important, and we have a spiritual connection to our lands, our plants, our animals, and our medicines. They are integral to our ceremonies, so they are staple items within our ceremonies that we need to ensure that we have. They are wild game, berries, these types of things; they are staple items, just like, if you will, wine and communion in the church.

When you are going to do a development project, think of it in that way. Are you going to go destroy the wine in communion in a mass? I just wanted to speak a little bit to that, because that is how we look at things from our end when projects are looking at moving into our territories.

**MLI:** I really love that very much, because it is showing a path toward reconciliation by saying, here's who we are. But it also emphasizes the point that Indigenous people's experience of the world and their way of understanding and living with the world is quite different from the non-Indigenous population. This has been just wonderful. Thank you very much for being with us today.

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