



**THE ASSEMBLY OF FIRST NATIONS' CHIEFS IN NEW
BRUNSWICK INC.**

March 31, 2010

STATEMENT ON POLICY FOR THE WABANAKI FOREST¹

THE WABANAKI FOREST: OUR HOME AND OUR FUTURE

1. INTRODUCTION

We, the First Peoples of this land, Mi'gmaq and Wolastoqiyik, have always maintained our connection to the natural environment. Mother Earth provides us with a spiritual and cultural focus, food, shelter, and much more. Our connection to our forest, the Wabanaki Forest, is integral to who we are as Peoples. Our Ancestors acted to protect that bond by concluding the Covenant Chain of Treaties. Those Treaties are sacred documents. They reflect our ties to the Creator. They establish a continuing relationship of trust, peace and friendship between the Mi'gmaq and Wolastoqiyik on the one hand and the Crown on the other.

Unfortunately for more than 200 years these Treaties were essentially ignored by Britain, Canada and the province in their fixation to colonize our Lands and take our Resources. In a failed attempt by the Crown to assimilate us, smash our economy and separate us from our Lands and from each other, the Aboriginal Peoples in New Brunswick were forcibly removed from our Traditional Territories and forced onto tiny Reserves. It was forbidden for us to leave them. We were excluded from the mainstream economy. Our cultural and spirituality was attacked and our children were taken from us and sent to the infamous residential schools.

Nonetheless we have persevered. Our strength and resilience is drawn from our culture, our connection to our Lands and to our rights. We hold inalienable rights as Peoples in accordance with natural law,

international law and Canadian law. We hold Aboriginal and Treaty rights that are affirmed and protected by the Constitution of Canada and the common law. Our rights to Lands, Waters and Resources are concrete, legal rights.

In 1997, the New Brunswick Courts recognized that our Treaty Rights provided us with economic benefit from the Wabanaki Forest. This resulted in the signing of interim harvesting agreements between each of the 15 First Nations and the Province of New Brunswick. Those agreements saw 5.3% of the Annual Allowable Cut being set aside for the Mi'gmaq and the Wolastoqiyik.

In the fall of 1998 the Supreme Court of Canada reaffirmed our Treaty Right to derive a moderate livelihood from our Resources in the *Marshall* case. Most recently, the Sappier, Polchies and Gray case, (2007, Supreme Court of Canada) reaffirmed the Aboriginal right to utilise forest resources for domestic purposes. The reality of our legal rights in and to the Wabanaki Forest continues to grow.

Aboriginal Title remains in effect throughout Atlantic Canada, including across all of New Brunswick. We, the Mi'gmaq and the Wolastoqiyik Peoples, possess Title to the Land, to surface and subsurface Waters, to the ocean and its bays and estuaries, the sea-bed and sea-ice and the air space above them all. Our Title to this continuum includes all Natural Resources, whether animate or inanimate. It includes the Wabanaki Forest.

Our Sacred Treaties require the Crown to work with us as full partners in all aspects of forest policy. Yet there is little real knowledge among the public about our Aboriginal and Treaty Rights, our strong links to the forest or how this country and this province came into being due to the generosity of our Ancestors and their decision to share our Lands and Resources with the newcomers. The general public does not understand the issues that First Nations face on a day to day basis. We note with regret that many of the recommendations of the Task Force on Aboriginal Issues presented to the people of New Brunswick IN 1999 are yet to be implemented, including those dealing with forestry. This should be cause for concern for everyone in the province.

The relationship between First Nations and the forest industry is poor. Industry acts as if it owns the forest and the resources it provides. The forest industry and the Crown ignore our rights and our interests. This must not continue.

The forest policy of New Brunswick subsidizes industry in many different ways, none of which is sustainable. Crown forest policy favours industry's interests over the rights of the Mi'gmaq and Wolastoqiyik Peoples. Crown forest policy also favours industry's interests over those of the general public. Industry profits from a variety of subsidies that cost the people of New Brunswick far too much. The overwhelming benefit of the forest has flowed to industry at the expense of everyone else. Industry has been supported by environmental, cultural, social and economic subsidies to the detriment of the

Mi'gmaq and Wolastoqiyik Peoples. Rather than contributing to the economic health of the province, in its current state the forest industry is a drain on it.

At present the forest industry is under siege as a result of massive global economic change. This change has caused significant job losses, numerous mill closures and related financial chaos for many people in New Brunswick. The industry has not yet faced up to the longer term consequences of this economic shift. Many parts of the forest industry will never be profitable, yet industry wants government and the people of New Brunswick to continue to subsidize its activities and give it more and more timber. This is not acceptable.

If managed properly and for the right values, the forest can provide relief from poverty, increased employment, sustained economic development and numerous other benefits to First Nation communities and the province generally. It can be an engine of recovery and generator of wealth, but not under the outdated provincial legislation or the current forest management regime. In other jurisdictions extensive revision to forest legislation, forest management and forest development is taking place. New Brunswick should take a lead in this regard and not be mired in the failure of the status quo.

We intend to exercise our rights responsibly so as to help build a truly sustainable economy for our First Nations and for all New Brunswickers.

2. SUSTAINABLE DEVELOPMENT

We refer to the Assembly Statement on Energy issued September 30, 2010, where we set out our vision for sustainable development. We reaffirm that:

Natural Resources are an integral part of the Traditional Lands and Waters of the Mi'gmaq and Wolastoqiyik Peoples. Those Resources belong to Mother Earth. We may use them but we are also their custodians. Natural Resources are not simply here for the taking, rather they must be managed carefully so as to provide benefits today while guaranteeing the rights and needs of generations yet to come. This requires truly sustainable development.

There are four pillars to sustainable development:

- *environmental sustainability;*
- *social sustainability;*
- *cultural sustainability; and*
- *economic sustainability.*

Each pillar supports the others. They must be kept in balance. The Mi'gmaq and Wolastoqiyik Peoples are committed to the cultural, spiritual and social importance of Lands, Waters and Natural Resources.

Unfortunately government and industry in New Brunswick have made economic concerns dominant while ostensibly promoting sustainable development. This narrow and ultimately destructive perception is made even worse by the continued focus on short term answers to complex issues. First Nations believe that Natural Resource related policies must be based on truly sustainable development and therefore those policies must:

- Understand that Lands, Waters and Natural Resources are integral to the well being of humanity and are not simply commodities to be exploited;*
- Seriously take into account the short and long term ecological costs of Natural Resource extraction and see those costs as potentially debilitating debts;*
- Honour the precautionary principle (in that lack of scientific certainty must not impede conservation efforts and must not enable irresponsible development);*
- Guarantee that the benefits of Natural Resource development are shared equitably with those most in need;*
- Protect the environment;*
- Ensure biological diversity;*
- Maintain ecological balance;*
- Commit to the rehabilitation of habitat and species that have been damaged by current and past Natural Resource extraction practices; and*
- Place the needs of future generations on at least an equal footing with the needs of our time.*

Natural Resource extraction will only take place with First Nations involvement. Government and industry must work with First Nations on all aspects of Natural Resource management and development. Mere consultation is inadequate. The Mi'gmaq and Wolastoqiyik Peoples will not be spectators in our own Land.

3. GUIDING PRINCIPLES FOR THE FORESTRY SECTOR

Based on our Rights and our vision for sustainable development, we set out the following guiding principles for the forestry sector:

The protection and implementation of Aboriginal and Treaty rights shall be central to all development and the sharing and mutual benefit enshrined in our Sacred Treaties shall guide all development;

First Nations shall be meaningfully involved in all aspects of forest management;

Forest development shall be environmentally sustainable and socially equitable;

All forest development shall include the meaningful participation of First Nation Peoples;

With First Nations directly involved, Comprehensive Land Use Management Plans shall be developed and implemented throughout New Brunswick. Those Plans shall be based on watersheds and linked

with similar efforts in adjacent jurisdictions, where they exist. Forest development shall be conducted in accord with Comprehensive Land Use Management Plans;

All forest development shall be in keeping with strong, ethical principles of conservation and the protection of biodiversity and the environment;

Forest management shall address global warming and climate change; and

Wealth generated from forest development shall be equitably shared.

4. OUR FOREST POLICY GOALS

As stewards of the Wabanaki Forest and to meet our duty to protect the rights and interests of future generations we set out these goals for the development and implementation of our forest policy. We shall:

1. Engage in direct, deliberate and measured action to implement the principles and values expressed in this document in a manner that reflects our relationship with the Wabanaki Forest and with one another.
2. Continue to assert our Aboriginal Title to all of New Brunswick. That assertion is one of pride and an expression of responsibility.
3. Invite the general public of New Brunswick and the Crown to engage with us and completely overhaul the *Crown Lands and Forests Act*, all related legislation, forest policy and the forest management regime so that they are in accord with the Treaty relationship, our vision for sustainable development and the principles set out in this document. Review the existing forms of forest tenure and refashion them in the same way. We remain committed to the vision of our Ancestors to share our Lands and Resources with the people who live here with us. This includes sharing the Wabanaki Forest and its benefits.

4. Exercise our inherent right to self-government and our inherent right to self determination in part by:
 - a. Re-ordering our relationship with the federal and provincial Crown to become one of government to government to government and not one simply of program and service delivery;
 - b. Developing our own comprehensive First Nation forest management regime, including First Nation forest legislation that will apply to both Reserve Lands and to our Traditional Lands;
 - i. That legislation is to be based on our vision of sustainable development;
 - ii. It must ensure that the Wabanaki Forest is protected so that it may return to a healthy state and provide for generations yet to come.

5. Work to ensure that the interests of industry in the forest are carefully considered. However, make certain that those interests are not dominant and out of balance, as is currently the case. Work with industry to help it reorganize itself in accordance with the principles expressed in this document and in keeping with the fundamental “green” shift in the economy that is ongoing. Help the industry to move away from its crippling reliance on subsidy.

6. Continue to develop and improve existing Mi'gmaq and Wolastoqiyik protocols on Traditional Knowledge. Establish methodologies for the collection and use of Traditional Knowledge that are informed by the values inherent in that Knowledge. Conduct Traditional Knowledge Studies while adhering to those Mi'gmaq and Wolastoqiyik protocols and use the information to protect: the Wabanaki Forest, its many species of cultural importance to us, and, sites of cultural and spiritual value.
7. Work to strengthen the bond among the Mi'gmaq and Wolastoqiyik Peoples that gave rise to the Wabanaki Confederacy. Use that accord to support our communities and provide us with a unified voice.
8. Ensure that the wealth derived from all forest development is shared equitably with the Mi'gmaq and Wolastoqiyik Peoples. That wealth includes government revenues derived from all sources that are related to forest development.
9. Assess the possibility of creating a jointly owned Mi'gmaq and Wolastoqiyik forest management and development company. Consider the possibility of pooling First Nation commercial timber allocations and managing them through that company.

10. Establish partnerships to develop and implement education curricula and training programs for First Nations members regarding all aspects of the forest and our relationship with it. This includes academic, technical and professional education of all types. Such education and training initiatives should be in accord with Mi'gmaq and Wolastoqiyik values and provide meaningful career opportunities at all levels of forest management and development for our Peoples. Education and training should be reflective of our culture and our rights.

5. ACKNOWLEDGEMENTS

The Assembly of First Nations' Chiefs in New Brunswick has worked for the past year to develop this statement on forest policy. We met with elders and knowledge holders, Councillors, those of our people who derive their livelihood from the forest, those who exercise Aboriginal and Treaty rights, representatives of civil society and groups that have an interest in the forest. We worked with them to explore their concerns and their vision for the forest. That process culminated in a three day policy development workshop in Fredericton March 15th through 17th where we all sat and deliberated over the principles and goals that will form a comprehensive Mi'gmaq and Wolastoqiyik policy for the Wabanaki Forest. We thank all of those people and groups for their strong contributions. We also thank the Canadian Forest Service and the First Nations Forest Program for the financial support that helped this process unfold.

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Nothing in this document shall be construed so as to deny, limit, abrogate or derogate from the Aboriginal or Treaty Rights of the Mi'gmaq and Wolastoqiyik Peoples.

Nothing in this document shall be construed as a waiver of the Crown's duty to consult with the Mi'gmaq and Wolastoqiyik Peoples and accommodate our rights and interests.

As it is developed and implemented all facets of our forest policy shall be reviewed on an ongoing basis in relation to environmental issues and the needs and aspirations of our Peoples and may be revised as a result.