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9B17M066

Lac Seul First Nation: Development in a changing landscape

Ron Mulholland wrote this case solely to provide material for class discussion. The author does not intend to illustrate either effective or ineffective handling of a managerial situation. The author may have disguised certain names and other identifying information to protect confidentiality.

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In January 2016, Chief Clifford Bull sat in his office at Lac Seul First Nation (Lac Seul) reading a *Financial Post* article on recent events concerning a mining company on Lac Seul traditional lands. Rubicon Minerals Corporation was just one of Lac Seul’s many development partners or potential partners, and it had suffered a couple of serious setbacks: an environmental chemical spill and, more serious, a devaluation of its estimated gold reserves. Described as “one of the worst Canadian mining meltdowns in years,” this was a vivid demonstration of the risk and cyclicality in the mining industry.[[1]](#endnote-1)

The Chief wondered about the future benefits from agreements with other mining companies, such as Goldcorp Inc. (Goldcorp) and the junior company AurCrest Gold Inc. (AurCrest), which was partially owned by Lac Seul. Lac Seul also had business interests in timber and hydroelectric power, the result of negotiations with the government to ameliorate past wrongs. Goldcorp was a large player, and its agreement with Lac Seul in 2013 included financial contributions to community development. Bull was confident the contributions would continue, but less confident about benefits from the many smaller players in the market.

As chief, it was Bull’s job, along with the band council, to lead Lac Seul in its stewardship of the land, individual and community development; and relationships with neighbours, industry, and government. The band had a long history of relationships with other groups that shared the land on which they lived. Since the First Nations came into contact with explorers to Canada, many of these relationships had become one-sided. But more recently, with the government’s support and increasing public awareness of Canada’s past, opportunities for balanced partnerships were arising. The situation was improving, but there were still many challenges. One difficulty was the community’s capacity to take advantage of subcontracting offers from mining companies. Lac Seul had a mining liaison office in Red Lake, Ontario, that was sitting empty for lack of qualified personnel to staff it.

Bull looked at his watch and realized he had a meeting at the training centre, a converted school in nearby Hudson, Ontario, purchased by Lac Seul with assistance from Goldcorp. As he departed the office, he drove by the new arena and conference centre, a tangible benefit from a settlement of past inequities. Bull reviewed the meeting agenda, which concerned negotiations with yet another resource company. He wondered how receptive the company would be to sharing benefits with First Nations and respecting the lands on which his ancestors had lived for hundreds of years.

The community

Demographics

Lac Seul First Nation was an aboriginal community located in remote northwestern Ontario, 1,200 kilometres northwest of Toronto. The land area of 26,800 hectares was approximately 10 per cent of the size of Manitoulin Island. Lac Seul comprised three settlements on the shores of Lac Seul: Whitefish Bay (including Canoe River; total population, 100), Kejick Bay (population, 400) and Frenchman’s Head (population, 400). The total reserve population in 2015 was approximately 3,400, with 900 people living on the reserve.[[2]](#endnote-2) Of the three communities, Frenchman’s Head had the closest road access and was a 40-kilometre drive from Sioux Lookout, Ontario. A chief and seven councillors, three each from the two larger communities and one from Whitefish Bay, governed the band. The chief was elected at large.

Of note was the off-reserve population. This had significance for band elections and for other votes required to approve agreements with resource companies. A court decision in 1999 confirmed the right of off-reserve community members to vote in elections.[[3]](#endnote-3) This ruling had implications for how resource companies communicated with the community.

History

There was ample evidence that pre-historic peoples had occupied the lands in the region. Excavations at the Ballynacree site near Kenora, Ontario (170 kilometres southwest of Lac Seul), revealed evidence of a Laurel culture village, including three houses, numerous ceramic sherds, and projectile points.[[4]](#endnote-4) According to radiocarbon dating of charred wood found in the excavation, Laurel people lived in the area sometime between 1200 and 1300 CE. They were subsistent hunter-gatherers congregating at a central summer location with ample resources of spawning fish and wild rice. Winters would be spent in smaller family groups at traditional locations to exploit the scattered animal resources.[[5]](#endnote-5)

Wenasaga Rapids was a known historical gathering point of First Nations people, likely because of prolific fish stocks. The rapids were at the bottom of the four-kilometre long Wenasaga River, which flowed south into Lac Seul. This was 80 kilometres northwest of the community of Kejick Bay, or approximately two days’ paddle as it would have been expressed. An excavation of the site revealed ceramic sherds typical of Laurel culture, dated as late as the thirteenth century.[[6]](#endnote-6) Also found were materials from Blackduck and Selkirk occupations, thought by some to be ancestors of the Ojibwa and Cree people, respectively. Analysis of carbonized food residue from these sherds indicated the presence of maize, which was not likely grown in the area.[[7]](#endnote-7) This supported the presence of trade networks between early societies, involving maize, wild rice, lithic (stone) tools or points, and other goods.[[8]](#endnote-8)

What was not clear was if there was a direct link between the archaeological record of habitation and the current inhabitants. At the time of contact with explorers to Canada, Lac Seul ancestors would have been hunters living in the same area northwest of Lake Superior. They may have ranged as far north as James Bay or Hudson Bay in summer, spending their winter in their traditional family areas to trap and hunt. Speculation was that shortly before the time of contact, Lac Seul’s ancestors might have begun travelling to Sault Ste. Marie for summer ceremonies and inter-tribal trade.[[9]](#endnote-9) While there, they encountered and traded with other First Nations people from the shores of Lake Superior and Huron.

Toward the end of the seventeenth century, the need to travel for summer trade declined as the French and English traders built posts for trade on Hudson Bay, Lake Superior, and points inland. By 1803, a Hudson Bay post was established on Lac Seul; it operated until the mid 1900s.[[10]](#endnote-10) At that time, the summer gatherings took place on Lac Seul because of its central location. Summer gatherings were a time for celebrations, marriages, trade, and dispute resolution.[[11]](#endnote-11)

The Community’s Land and Resources

Treaty with the Canadian Government

Canada’s government was motivated to sign treaties with First Nations people to establish a cooperative relationship, and improve communication and transportation links with the western part of the country. There had been some friction with the Métis people living west of Lac Seul, and this was no doubt part of the urgency to begin negotiations. There were delays in negotiating the treaty due to the personalities of those representing the government, the discovery of silver and gold in the territory, and misunderstandings on both sides regarding what rights were being conveyed with a treaty.[[12]](#endnote-12) After several approaches and false starts, Treaty 3 was signed on October 3, 1873. Chief John Cromarty of Lac Seul signed an adhesion to Treaty 3 on June 9, 1874.[[13]](#endnote-13)

Terms of the treaty were meant to encourage farming and included an area of reserved land not exceeding one square mile per family, a one-time payment of CA$12 per person,[[14]](#endnote-14) and an annual payment of $5 per person. The band as a whole received $1,500 per year for group purchase of ammunition, twine for fishing nets, and farming implements as well as farm animals and seeds for planting.

During the treaty negotiations, a Métis named Nolin was paid to interpret and take notes of the treaty details for the First Nations people. Those notes, initially written in French, formed what became known as the Paypom treaty. Its content was similar to the terms of Treaty 3, but also contained terms that had been discussed but were not included in Treaty 3, specifically with respect to mineral rights:

If some gold or silver mines be found in their reserves, it will be to the benefit of the Indians, but if the Indians find any gold or silver mines out of their reserves, they will surely be paid the finding of the mines.[[15]](#endnote-15)

It was clear the parties were aware of resources related to the land in question and discussed the issue. It was also clear that the government was trying to promote farming, which would tie the community to its reserved land.

Timber Resources

In keeping with the management approach of the day, the band was convinced in 1919 to surrender their rights to timber to the government, to sell “upon such terms as the Government of the Dominion of Canada may deem most conductive to our welfare and that of our people.” The principles seemed appropriate: the land and timber would be measured, an agreed upon amount of land and timber would be estimated, fees would be set, the timber harvested, and fees paid and distributed to the band. The Department of Indian Affairs (as it was called at the time) hired Harold J. Bury as its timber inspector, and it was he who did the timber cruise—a process of measuring the type and size of trees within a bounded area—to assess the value of timber present. The reserve was divided into northern and southern portions. A license for the southern portion was awarded to Keewatin Lumber in 1923. Bury had identified the northern portion as too remote for economic harvesting; however, in 1926, Charles Cox was awarded a license for that very portion.[[16]](#endnote-16)

Cox already had timber permits of a similar nature for the Gull River reserve (home of the Gull Bay First Nation), approximately 250 kilometres southeast of Lac Seul. Between 1923 and 1925, the Department of Indian Affairs had received numerous complaints regarding the way Cox was cutting the lumber. Bury was also responsible for the Gull River reserve. The two of them colluded, the illegal activity resulting in financial damage to the Ginoogaming First Nation (then the Long Lac [alternatively Long Lake] 77 First Nation).[[17]](#endnote-17) Bury, it seemed, acted at least unethically and perhaps illegally in allowing Cox to cut more timber than allotted and pay less than was contractually required. Bury also renewed agreements without tender and generally acted outside the law. Cox, for his part, was unethical and acted illegally, taking more than was contractually agreed upon without paying for it.

Ginoogaming filed a claim in 1990 specific to Cox’s illegal behaviour. Canada settled the claim in 2002 with a payment of $13.8 million. At that point, Mark Kuhlberg, an historian who specialized in forest history, contacted then Chief David Gordon and Bull, who was then councillor of Lac Seul, to inform them of his findings regarding Cox and the settlement obtained at Ginoogaming. After conferring with their colleagues, the chief and council decided to proceed with their own lawsuit against Canada, claiming the government had a fiduciary duty to manage the band’s timber assets for the band’s benefit.

The band hired lawyer Will Major to pursue the suit. Major recruited expert researchers and witnesses, including Kuhlberg and another historian, a forester, an economist, and two accountants. The trial involved 15 days of hearings between September 3 and October 24, 2008.[[18]](#endnote-18) The court held that Canada had, indeed, failed to share revenue, protect the timber resources, and manage the timber asset to the advantage of the First Nation. The court acknowledged that Canada did not monitor or measure the amount of timber harvested. The harvested amounts documented by the logging company amounted to approximately one-fifth of the estimated amount available for harvest. Therefore, the compensation amount was less than legally required. The measure of the occupied area was also under-reported, resulting in further reduction of legally available rent. In addition, there was no retendering process at the end of license periods to ensure competitive compensation.

It seems Cox had been up to the same illegal activities at Lac Seul as he demonstrated at Gull River and the Long Lac reserve, while Bury was, at minimum, incompetent, and acting either unethically, illegally, or both. The evidence was compelling: in total, the court noted six different breaches of fiduciary duty. The judge summarized his findings in an understatement: “The Crown did not act in a prudent manner and in the best interests of the band.”[[19]](#endnote-19) The band was awarded a settlement of $27 million, which they used to further their economic development goals, including the purchase and operation of a Tim Hortons franchise in Sioux Lookout.

Additionally, and somewhat ironically, Lac Seul received a license to manage the Lac Seul forest. The band had prepared a business plan for a wood supply competition held by the Ministry of Northern Development, Mines and Forestry for the Lac Seul forest. In a controversial process, the band lost to a larger company in the competition held in 2011. That winning mill subsequently went bankrupt and Lac Seul was awarded the contract based on their previously prepared plan.[[20]](#endnote-20) These were positive outcomes from negative historic experiences.

Water Management

In the mid-1920s, gold was discovered at Red Lake; by 1926, thousands of people had converged on the area. At the same time, the Canadian Department of the Interior had concluded surveys on the English River system to determine its potential for generating power and to evaluate control issues that affected the Winnipeg River. With the population influx and prospecting and mining activities, electricity was needed. The decision was made to store water in Lac Seul with the construction of a dam at its Ear Falls outlet. Construction of the dam and a powerhouse began in 1928.

There were, of course, indigenous people living in the area, specifically on the reserve. Some were farming, as encouraged by Canada in the treaty. Lac Seul had learned through trade and communication networks that a dam was being considered for the English River. In 1923, an industrialist from Minnesota, Edward Backus, had constructed a dam at Lac des Mille Lacs, 200 kilometres southeast of Lac Seul. That dam had also been constructed to control water and generate electricity. The result, however, included flooding of the Ojibwa settlement adjacent to the lake.

Then chief of Lac Seul, Paul Thomas, visited the Indian agent at the time, Frank Edwards, to alert him of their concerns about a plan for a dam at Lac Seul. Edwards sent a letter to Ottawa in 1924 (see Exhibit 1). In it, he voiced the chief’s worry about the possibility of losing hay fields, gardens, timber, and housing. Edwards also noted the concern that the cemetery and burial grounds could be destroyed. The letter and the band’s concerns were paid little heed. Construction commenced on the Lac Seul dam in 1928. The band was assured that flooding would be minor.

The Keewatin Lumber Company, previously licensed to cut the south portion of the reserve, was awarded a contract to cut the Lac Seul foreshore. They were meant to clear that part of the shore that would soon be flooded, make use of the lumber, and minimize organic material and obstructions on the new lake bottom. Instead, the company cut a different area, equivalent to the size of their license but much easier to access than the foreshore. This was indicative of the care and supervision the band could expect from the government.[[21]](#endnote-21)

The Lac Seul people continued their traditional lifestyle, which included summer gatherings at the lake meeting area and winter living at their clan territory. The events that subsequently unfolded were described on a plaque commemorating the event (see Exhibit 2):

In 1934, without knowledge or permission of the Obishikokaang Anishinaabeg, the dam was activated and the lake rose by 12 feet. The people of Obishikokaang returned from a winter of trapping to find their summer settlement, along the reserve shoreline, under water.

The effect was devastating. Eighty-two homes were lost as well as food storage, tools, agricultural land, 3,300 acres of wild rice beds, and other resources vital to the band’s livelihood. Hundreds were forced to leave the reserve to find a way to survive. [[22]](#endnote-22)

Negotiations for construction of the dam had included compensation for the band. In 1928, Canada and the provinces of Manitoba and Ontario ratified the Lac Seul storage agreement for cost sharing. Anticipated damage was calculated in advance to compensate for land, resources, and housing that would be lost to the dam project. The anticipated damage was valued at $120,000, and the capital cost of the project was set at over $750,000. Compensation for Lac Seul was set at $50,000 ($700,000 equivalent in 2016). “Ontario and Canada considered the figure of $120,200 as compensation to the band to be excessive.”[[23]](#endnote-23)

In 1941, the valuation for lost resources was raised to over $280,000; in 1943, it was reduced to $72,000. Still, in the end, only $50,000 was paid to the band. Lac Seul had been pursuing appropriate compensation ever since. In what was an illustrative irony, the band itself did not get electricity until 1980.

In 1985, the band filed a flood claim under the government’s Specific Claims Policy. Canada introduced the policy in 2007 to facilitate grievances resulting from an alleged failure to meet basic treaty obligations. (If there was no treaty in place, bands were to use a “Comprehensive Claims” process.) The Specific Claims Policy was an update of an old policy that was inefficient and had created a backlog of cases. The process featured independent judges who could award up to $150 million in compensation. Canada maintained a record of Specific Claims with negotiated agreements.[[24]](#endnote-24) Settlements ranged from $100,000 to millions for a variety of issues, from improper surveys and easements to compensation for flooding and fiduciary obligations.

Canada offered to negotiate Lac Seul’s claim in 1995. Thirteen years later, the government offered Lac Seul a settlement of $7 million. The band rejected the offer and launched a lawsuit, which was scheduled to begin in September 2016.

Related to the flood claim was negotiation over expansion of the power station at Ear Falls. In 2004, Ontario Power Generation (OPG), a Crown corporation responsible for about half of the electricity generated for the whole province of Ontario, was planning to expand the dam to capture water flow that spilled past the existing generating station. In typical fashion, the band was the last to hear of the project. In fact, Gordon, still chief at the time, only learned about the project by hearing about it on the radio.[[25]](#endnote-25) The band organized a bus and went to protest the province’s actions.

A series of negotiations followed, forced by requirements of the Ontario government for OPG to obtain a permit to take water. Lac Seul was awarded a financial settlement based on past hydro activity and sales. By reinvesting $4 million from the settlement, Lac Seul became a 25 per cent owner of the new 12.5 megawatt Obishikokaang Waasiganikewigamig/Lac Seul Generating Station.[[26]](#endnote-26) The dam began commercial operation on February 18, 2009. It featured a first-on and last-off the grid demand, meaning the dam’s output and Lac Seul’s investment were maximized.

Minerals

Records show that the Red Lake area had been sporadically explored since 1893, but nothing was sustained at the time.[[27]](#endnote-27) E. L. Bruce, a professor of geology at Queen’s University in Kingston, visited and explored the area in the summers of 1922 and 1923. His report, published in 1924, indicated the geology was similar to that at Kirkland Lake, where a gold deposit was found. An investment group from Haileybury, Ontario, sponsored two prospectors, brothers Lorne and Ray Howey, to look for gold. They discovered gold-bearing rock in 1925; by 1926, the rush for development was on.

Since 1925, mines at Red Lake had produced 28 million ounces of gold.[[28]](#endnote-28) Two-thirds of the gold (66 per cent) came from Goldcorp’s Red Lake mine, formerly known as the Dickenson mine (1994), and before that, the Arthur White mine. In 2006, Goldcorp acquired the Campbell Mine and began operating it and the Red Lake mine as a single project. Together, they produced over 500,000 ounces of gold in 2012. The Red Lake mine was the larger mine by far, producing more than 400,000 ounces of gold in 2014. Plans for the mining complex included continued production and exploration.[[29]](#endnote-29) As of 2014, Goldcorp estimated the mines would produce over 2 million ounces of gold. Although Goldcorp was the major player at Red Lake, other mining companies were also exploring the region.

Other First Nations also had experience with mining companies. A northern neighbouring band, Kitchenuhmaykoosib Inninuwug First Nation (KI), clashed with Platinex Inc. (Platinex). KI was located on Big Trout Lake, approximately 400 kilometres northeast of Lac Seul. Platinex was a junior mining company that began exploring in the area in 1999. KI and Platinex had initial discussions and negotiations, but talks broke down. In August 2005, KI sent a letter to Platinex ending negotiations:

It was decided that effective immediately, August 30, 2005, all previous Agreements and Letters of Understanding between all affected parties . . . related to your proposed work around the above mentioned area, both verbal and written, will be null and void.

Subsequently, to acquire a listing on the TSX Venture Exchange, Platinex falsely reported, “[KI] has verbally consented to low impact exploration.”[[30]](#endnote-30) A drilling team was then sent in, and the band blockaded the road and airstrip. The drilling team departed, and KI and Platinex each filed for a court injunction against the activities of the other. The matter resolved unhappily with a temporary halt on both parties and a directive to both parties to “begin [communication and honest and open dialogue] again.” The court pronounced that “the parties must continue to seek their own resolution of their issues and concerns.”[[31]](#endnote-31)

Instead, both sides took further actions. In 2008, KI members protested and were jailed. Platinex tried to land a floatplane at the community in August 2009 but was blocked by protestors. Finally, Ontario settled the dispute with a payout of $5 million to Platinex in exchange for Platinex dropping all lawsuits against the government and KI.[[32]](#endnote-32) This unhappy episode was unfolding while Lac Seul was negotiating with a number of companies; clearly, KI’s experience informed Lac Seul’s negotiations.

Goldcorp

The Lac Seul chief and band were well aware of mining that was going on in the area. The remote area—160 kilometres northwest of Sioux Lookout but a four-hour drive by road—was part of Lac Seul’s traditional territory for time immemorial, and had been the site of mining for more than eight decades. In 2006, talks were initiated with Gold Eagle Mines Limited, a junior mining company in the Red Lake mine trend, looking to develop a deposit of up to 6 million ounces. Initial meetings with the exploration manager seemed to be progressing, if slowly.[[33]](#endnote-33) Lac Seul was interested in a small percentage of the exploration budget—approximately 2 per cent. This would have provided resources for the band to become more involved in the mining process.

In the summer of 2008, Agnico Eagle Mines Limited invested $50 million in Gold Eagle for a 7.2 per cent stake in the company.[[34]](#endnote-34) This was intended to support Gold Eagle’s exploration program. Goldcorp, which owned the larger mines in the area, reacted to Agnico’s investment by offering to buy out Gold Eagle for $1.5 billion, a premium of $500 million over the Agnico valuation.[[35]](#endnote-35) Gold Eagle sold immediately, and the Lac Seul band was left without an agreement. The band recommenced negotiations with the local Red Lake mine manager and seemed to make some headway. However, that manager left the company soon after and was replaced by a new manager. Relations seemed to be “less cordial,” simply as a result of a change in personalities at the table.[[36]](#endnote-36)

Goldcorp, however, was willing to negotiate and so discussions progressed. A negotiation protocol agreement was signed in April 2002. Goldcorp demonstrated goodwill by providing the band with $500,000 for a new training centre before negotiations were complete. A new local person for Goldcorp relieved the tensions that had been building, and negotiations continued. The major stumbling block was environmental issues, which were a concern to the band. A typical gold mine used cyanide and arsenic, which could find their way from the mine tailings into nearby lakes and rivers, with obvious negative effects. Past practice had been less than ideal when considering environmental impact, so the band wanted to prevent further damage to the environment and ensure recovery measures were in place.

After years of negotiation, through ownership and personnel changes, an agreement was signed on August 16, 2013.[[37]](#endnote-37) Legal precedents, the need for water-taking permits, and additional power were factors that would have motivated Goldcorp to negotiate. The agreement covered yearly financial support for community infrastructure as well as employment, training, and contracting, and permits for environmental issues such as water and tailings. A $500,000 equity fund was established to support new business development. This was a great asset for the community and helped them build their capacity in dealing with resource companies.

Rubicon

Rubicon Minerals Corporation (Rubicon) was a mining company formed in British Columbia in 1996. It had been exploring in the Red Lake area since the late 1990s. Rubicon and Lac Seul engaged in preliminary talks, and in January 2010, Lac Seul signed another exploration accommodation agreement.[[38]](#endnote-38) The intent was to continue negotiating to reach an impact benefit agreement. There were difficulties when Rubicon’s purchasing department failed to follow through with their commitments. Then in 2012, Lac Seul learned that individuals formerly with Goldcorp had been hired into positions of power at Rubicon. Again personalities clashed. In spite of the challenges, negotiations continued and a joint venture was established; Outland Camps would provide Rubicon’s workers with camps and food services.

Rubicon had recently had its own difficulties: an ammonia spill in the fall of 2015 forced a closure of its mill, causing a drop in share price. Then in January 2016, Rubicon reduced its gold reserve estimate from 2.2 million ounces to 300,000 ounces, an 86 per cent decrease. The correction was a result of Rubicon going straight from a preliminary economic assessment to construction, skipping the pre-feasibility and feasibility studies that would have helped the company understand the structure of the deposit. Once in production in June 2015, Rubicon realized that the deposit was more complex than estimated; they were not mining gold in the expected concentrations and thus had to decrease estimates. The impact for Lac Seul was that all negotiations and potential agreements were on hold as the company tried to maintain solvency or find a willing buyer.

AurCrest

Tribute Minerals Inc. (Tribute) was a Canadian gold miner with a property at Richardson Lake, part of the Red Lake gold complex. Tribute’s chief executive officer was Ian Brodie-Brown. In 2006, Brodie-Brown sent a letter to the Lac Seul community to introduce himself and his company. Receiving an introductory letter was a first for Lac Seul; they were impressed. Although nothing materialized from those first interactions, the two parties kept in touch over the years.

When Lac Seul wanted to form a junior exploration company, they asked Brodie-Brown for help. After considering several options, they decided to rename and repurpose Tribute as AurCrest Gold Inc. In 2011, the community invested $500,000 for a 9.9 per cent share, and acquired a non-rotatable seat on the board of directors.[[39]](#endnote-39) Chris Angeconeb, Lac Seul’s flood claim coordinator, was appointed director. Subsequently, Angeconeb was made general manager of economic development for Lac Seul; then in July 2015, he was hired by AurCrest as executive vice-president.

Hiring Angeconeb into an executive position had interesting implications for Lac Seul given that the first sentence of AurCrest’s mission statement was, “Create and maintain important relationships with the local indigenous peoples and share the benefits the industry has to offer.” AurCrest was attempting to honour their mission by having Angeconeb, with all of his development experience, as an executive of the company.

Additionally, in October 2015, AurCrest incorporated Wiigwaasaatig Energy Inc. to develop renewable energy projects, including wind, solar, and biomass, in partnership with First Nations communities proximal to AurCrest’s mining properties. This included Lac Seul. Cat Lake First Nation was also close to AurCrest’s Richardson Lake gold property.[[40]](#endnote-40) AurCrest signed an agreement to develop power with Cat Lake, who had some experience and an Ontario license for electrical power transmission—keys for this kind of project. Although exploration and development slowed as part of the mining cycle, developing renewable energy infrastructure showed potential for future benefits and developing relationships.

Current status

Lac Seul had made significant progress in recovering from past injustices committed by the government and private parties. The community had used past settlement money from the timber claim to improve infrastructure, build an arena, and provide resources for community members. A number of joint ventures had been established in construction, food services, and exploration services. A Tim Hortons franchise was purchased in partnership and was successfully operating in Sioux Lookout. The band owned a 25 per cent share in the Lac Seul Generating Station. Obishikokaang Resources Corporation, established in 2012, was awarded a license to manage and harvest the local forest on behalf of the First Nations communities. A training centre had been established in a converted school in the nearby village of Hudson. The agreement with Goldcorp included training community members for work in mining. These were all positive exemplars for other communities.

Developing the capacities of members in the community was an area of potential development. The most recent statistics revealed that the community’s level of education was much lower than the Ontario average (see Exhibit 3). Sixty-four per cent of the population had no degree certificate or high school diploma. Only 19 per cent of the community had a high school diploma, compared to 27 per cent in Ontario. Convincing students to stay in school and complete their secondary education, then go on to university, would be a laudable and valuable goal. Financial resources combined with promotion and counseling would help the community realize this goal.

In spite of the band’s economic development, they still faced a higher than average unemployment rate. Census data indicated the unemployment rate for Lac Seul was 29.6 per cent, compared to 8.3 per cent for Ontario.[[41]](#endnote-41) As well, it had recently come to light that the government was underfunding children’s services for First Nations. In addition to education, employment, and children’s services, there were health and housing issues to deal with.

The market for timber harvesting was depressed and awaiting an upturn in the economy. Mining was also in a down cycle. The band was constrained by geography and personnel capacity issues, limiting the number of initiatives they could develop or concurrently manage. Their immediate focus was the anticipated resolution of the flood claim and the benefits the settlement might provide for the community.

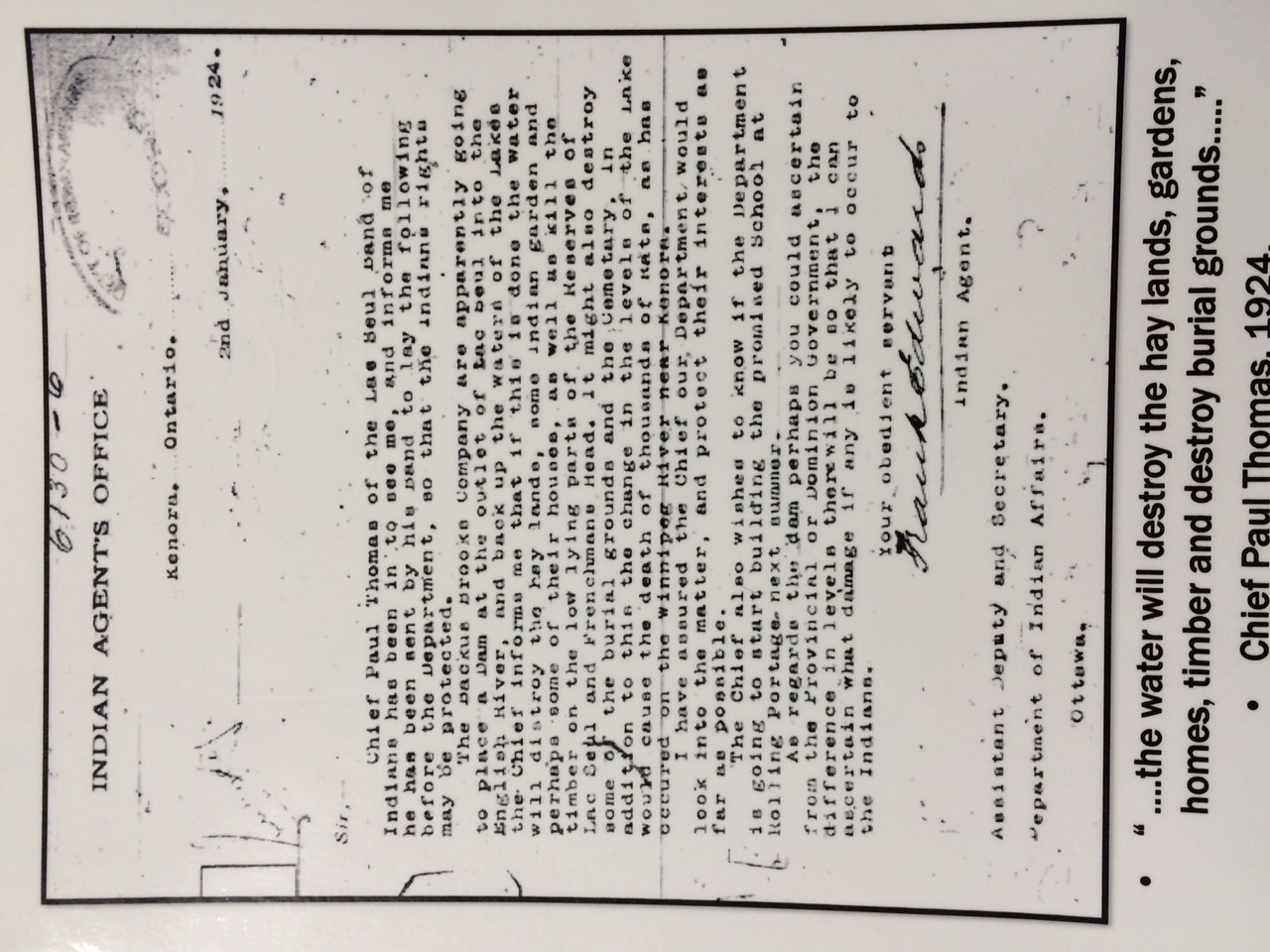
Future

Having arrived at the training centre for the meeting, Bull joined the economic development manager, Manitowabi, and band councillors to discuss future directions. The band had resources for some initiatives, but like other economic players, they were waiting for an economic turnaround that would create opportunities for further exploration and mining agreements. The flood claim was coming to trial in September and would likely bring a significant settlement. The band had commissioned a survey of the community to identify priorities for use of any settlement from the flood claim. The survey revealed a need for health promotion, (re)development of cultural heritage, infrastructure, education, and business loans and opportunities. There was much planning to do.

The atmosphere at the meeting was positive. The group discussed the economic environment and how companies were becoming more receptive to their duty to consult and accommodate aboriginal interests. The general public and the government seemed more receptive to holding companies accountable for their corporate social responsibility, a topic of increasing interest for Canadians. The Red Lake gold trend held potential for more gold reserves, particularly as deep mining techniques became more economically feasible.

Bull inquired whether Manitowabi had heard of any new exploration or business opportunities at the Red Lake Camp. One problem was that the mining liaison office in Red Lake was not staffed. This meant that no one from Lac Seul was supervising the assignment of contracts, employment, or joint venture opportunities with Goldcorp or other mining companies. Although Manitowabi was not aware of any current opportunities, he speculated that companies were more likely to approach the First Nation as Tribute had done 10 years earlier; it was less likely that the band would have to resort to legal channels again. Bull hoped Manitowabi was correct, but vowed to remain vigilant for opportunities and the rights of his community. As the meeting broke, Bull wondered what were the next concrete steps to take to ensure continuing economic development in the community.

exhibit 1: Indian Agent Letter to Ottawa regarding Potential Flood



Source: Lac Seul First Nation, used with permission.

exhibit 2: Transcript of the Lac Seul commemorative plaque located

at entrance to reserve

The Flooding of Obishikokaang

The Obishikokaang Anishinaabeg have lived in the Lac Seul region since the glaciers receded during the last Ice Age. This is their traditional territory, acknowledged as a gift from Giche-Manidoo. For generations, the summer settlement of these people served as a spiritual centre of Midewiwin, the Grand Medicine Society of the Ojibwe.

For thousands of years, the Anishinaabeg of Lac Seul lived prosperously through their traditional practices of hunting, trapping, fishing, and harvesting. With the westward expansion of Canada, the Obishikokaang people entered into 1873 Treaty #3 through an adhesion in 1874, signed by Napanayyahgaynum (Chief John Crow Martin, later Cromarty). This Treaty promised the Lac Seul people relocation to a specific set of reserve lands, and was committed to ensuring that they could continue to hunt, trap, fish, and harvest. The Chief and Elders carefully chose the reserve site with a view to preserving their traditional way of life. The location offered bountiful fishing and trapping, access to sweet water, and a shoreline that was ideal for cultivating wild rice.

In the early 20th century, the demand for electricity in Northwestern Ontario grew. The river-lake system of Lac Seul was identified as a promising reservoir for hydroelectric generation and for flood control downriver, and work began in the late 1920s.

In 1934, without knowledge or permission of the Obishikokaang Anishinaabeg, the dam was activated and the lake rose by 12 feet. The people of Obishikokaang returned from a winter of trapping to find their summer settlement, along the reserve shoreline, under water.

Eighty-two reserve houses were destroyed, along with the Council houses, farms, barns, the powwow grounds, and the sacred Midewiwin Grounds. Hundreds of Lac Seul people found themselves homeless, and many families were forced to leave the reserve in order to survive. Flooding of the lake affected the resources the Lac Seul people depended on for their livelihood. Timber, muskrat swamps, and agricultural areas were lost and the vital wild rice beds decimated.

This memorial is dedicated to those members of Obishikokaang's original seven Clans made homeless and destitute by the flooding of Lac Seul in 1934, and for those members who have lost their lives on a treacherous and changed lake.

Source: Transcribed by the author.

Exhibit 3: Education Census Data, Lac Seul Compared to Ontario, 2011

|  |  |  |
| --- | --- | --- |
| Per cent of population 15 years and over with … | **Lac Seul** | **Ontario** |
| No degree, certificate or diploma | 64 | 19 |
| High school diploma or equivalent only | 19 | 27 |
| Trades/apprenticeship or other non-university certificate | 13 | 27 |
| University certificate below bachelor level | 2 | 4 |
| University degree (bachelor level or higher) | 2 | 23 |

Source: “Education Characteristics: Lac Seul,” Indigenous and Northern Affairs Canada, accessed October 15, 2016, http://fnp-ppn.aandc-aadnc.gc.ca/fnp.

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