Matt Mehaffey: Negotiator, Yukon First Nations

Consultation and accommodation is an increasingly important area, particularly as the Government of Canada, modern treaty groups, and provincial/territorial governments look at ways to develop better working relationships around modern land claim implementation.

The evolution of law on consultation and accommodation over last decade has been characterized with conflict, with parties minimizing exposure. There is an opportunity to move forward, to find a way for parties to agree on how things should happen. Moving from a conflict based approach (court cases) to productive dialogue between the groups is a better way forward for all, but in order to do so there must be understanding of expectations on all sides.

- You don't often see the evolution of common law playing out in front of your eyes, but in the Yukon, "you can see the train coming."
- The protocols for historic treaties vs. modern treaties are quite different.
- We've arrived at a point where the courts have been clear about consultation and accommodation.
- Litigation budget for Aboriginal Affairs has increased drastically since the Haida decision. Indication. It's time to find a better way forward. Some clear principles and direction have been provided by Supreme Court cases.
- It is not beneficial for the parties involved to continue going back to the courts to define these parameters. Extremely important for First Nations – the impacts of dealing with consultation and accommodation – or when you have to ensure principles are being respected. Uncertainty over what level of consultation and accommodation needs to take place has a major impact.
- One Yukon First Nation near a populated area received so many consultation requests, that if they were to respond to all of them it would consume all of their staff time.
- Moving forward: It is beneficial to all parties to land claims agreements to put the work in, and lay out a proper framework for consultation and accommodation, rather than leave it to courts to define.