

Law for Professional Engineers and Professional Geoscientists

Duty to Consult

Law and Ethics Seminar
Fall 2018

Overview

- Aboriginal people occupied the land of Canada prior to the arrival of European settlers
- Aboriginal claims are acknowledged and the governments are attempting to resolve outstanding issues
- It is important to be aware of these claims and obligations arising therefrom

Issues

- Duty to Consult
 - The Supreme of Canada has held there is a duty to consult and accommodate the interests of Aboriginal people affected by proposed activities in the *Haida*, *Taku River* and *Mikisew Cree* decisions
 - The duty to consult is based upon the honour of the Crown and requires that the Crown consult with and potentially accommodate the interests of Aboriginal peoples when the Crown has knowledge of the potential existence of an Aboriginal or treaty right and contemplates decisions or actions that might adversely affect it.

Issues (Continued)

- Treaty obligations
 - Many Bands have signed Treaties and have Treaty rights
- Contracts with Band Councils
 - A Band Council Resolution authorizing a contract is necessary to ensure its enforceability
 - Many of the traditional forms of security are not available
 - Obtain legal advice

Questions

Bob McDonald, P.Eng., LL.B.
Executive Director & Registrar

APEGS

(306) 525-9547

1-800-500-9547

www.apegs.ca