

School of Business and Economics

**APEC 2660-3
Resource Development on First Nation Lands**

Calendar Description

In this course students will examine several different facets of resource development on First Nation lands. The course will summarize the history of First Nation traditional resource governance and management. It will explain the utilization of the Institutional Analysis and Development (IAD) framework to evaluate the success of community-based natural resource management, both historically and in the future. It will also examine the legal framework, environmental review process and fiscal and economic impacts associated with existing or proposed resource projects within First Nation territories. Lastly, the course will focus on how First Nations can successfully negotiate agreements and mediate disputes to maximize the benefit of these agreements for their communities. Topics include history of First Nation resource management and Ostrom IAD framework; Aboriginal title and resource development; fiscal and economic impacts of resource projects; environmental review of resource projects; and resource project interest-based negotiation and dispute resolution. The course incorporates examples and case studies of actual First Nation resource agreements and disputes. It culminates in a First Nation resource project negotiation simulation and role play.

Educational Objectives/Outcomes

Upon completion of this course, students will be able to:

1. Understand the importance of jurisdiction and how to convey its importance to resource project stakeholders
2. Identify important historical aspects of traditional resources practices of Indigenous people in Canada
3. Identify the linkage between the Ostrom Framework and traditional resource practices of Indigenous people
4. Explain the Ostrom Framework's applicability to future resources management and First Nation jurisdiction
5. Describe the First Nation legal (Aboriginal title) and policy environment for resource development in territories.
6. Identify unique First Nation environmental interests and processes.
7. Describe the lifecycles of different resource projects
8. Recognize the links between natural resources and economic development
9. Explain the difference between fiscal and economic impacts from resource development.
10. Describe the economic and fiscal impacts in the different phases of mining, pipeline and forestry projects.
11. Explain the general methodology for fiscal and economic assessments

12. Identify and articulate the interests of various stakeholders by resource project
13. Analyze interest based solutions in resource development agreements
14. Identify possible opportunities to increase fiscal and economic benefits and manage environmental risks
15. Assess resource based negotiation outcomes

Prerequisites

APEC 165 or APEC 166 or APEC 264 or APEC 265

Co-requisites

None

Texts/Materials

APEC 2660 Course Manual

Anderson, T.L., Leonard, B., Parker, D.P. & Regan, S. (2016). *Unlocking the Wealth of Indian Nations: Chapter 2 – Natural Resources on American Indian Reservations: Blessings or Curse?* Lexington Books. (PG 18-39).

Association for Mineral Exploration BC & the Mining Association of BC. (2008). *Life Cycle of a Mine*. <http://www.amebc.ca/documents/resources-and-publications/publications/archive/BC%20Mining%20101%20brochure.pdf>

Bish, R. (2018). *The Role of Indigenous People in the Governance of Natural Resources in British Columbia*. Tulo Centre of Indigenous Economics.

Barbier, E.B. (2007). *Natural Resources and Economic Development*. Cambridge University Press. ISBN 9780521706513.

- Chapter 1 – Natural Resources and Developing Countries: An Overview
- Chapter 2 – Natural Resource-based Economic Development in History
- Chapter 10 – Policies for Sustainable Resource-based Development in Poor Economies

Canadian Environmental Assessment Agency. (2012). *Reference Guide: Determining Whether A Project is Likely to Cause Significant Adverse Environmental Effects*. <https://www.ceaa-acee.gc.ca/default.asp?lang=En&n=D213D286-1>.

Coates, K. (2016). *First Nations Engagement in the Energy Sector in Western Canada*. Prepared for Indian Resource Council. <http://ircrcanada.ca/sites/default/files/First%20Nations%20Engagement%20in%20the%20Energy%20Sector%20in%20Western%20Canada.pdf>

Indigenous and Northern Affairs Canada. (2014). *Environmental Review Process for Projects on Reserve Land and FAQ*. <https://www.aadnc-aandc.gc.ca/eng/1345141628060/1345141658639>.

Indigenous and Northern Affairs Canada. (2014). *Proponents' Guide to Aboriginal Affairs and Northern Development Canada's Environmental Review Process*. <https://www.aadnc-aandc.gc.ca/eng/1403215245662/1403215349135>.

Indigenous and Northern Affairs Canada. (2014). *Steps for the Environmental Review Process*. <https://www.aadnc-aandc.gc.ca/eng/1396026888671/1396027117504>.

Susskind, L.E., Sarah McKearnen & Jennifer Thomas-Lamar. (1999). *The Consensus Building Handbook: A Comprehensive Guide to Reaching Agreement*. The Consensus Building Institute. Sage Publications. ISBN 0761908447.

- Chapter 4 - Convening

Various Supreme Court Legal Decisions, including:

- Supreme Court of Canada. (2014). *Tsilhqot'in Nation v. British Columbia* [2014; 2 S.C.R. 256]. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/14246/index.do>.
- Supreme Court of Canada. (2004). *Haida Nation v. British Columbia (Minister of Forests)* [2004; SCC 73]. <http://scc-csc.lexum.com/scc-csc/scc-csc/en/item/2189/index.do>.
- Supreme Court of Canada. (1997). *Delgamuukw v. British Columbia* [1997; 3 S.C.R. 1010]. <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/1569/index.do>.

Selected First Nation resource agreements and dispute resolution case studies (developed specifically for this course).

Selected publicly available First Nation / Resource Company Development Agreements.

Student Evaluation

Assignment 1	15%
Assignment 2	20%
Assignment 3	20%
Assignment 4	20%
Role Play Assignment 5	25%

Assignment 1 – Advancing Resources Management Jurisdiction – Develop a briefing note using historical sources to identify traditional resource management practices and relate this practice to the Ostrom Framework best practices.

Assignment 2 – “Ask a lawyer” project – Develop specific questions and rationale associated with different types of projects.

Assignment 3 – Fiscal and Economic Benefits – Develop a briefing note comparing fiscal and economic benefits from project assessment for different jurisdictions and citizens and make strategic recommendations to Chief and Council.

Assignment 4 – Analyzing and Negotiating Potential Project Benefits – Select one of three hypothetical projects for a hypothetical First Nation and explain differences between fiscal and economic benefits associated with selected project, the elements of a potential agreement and recommend the order of priority and reason for each element.

Assignment 5 – Two-part Negotiation Role-play – Based on a proposed resource project to be developed within a territory claimed by two First Nations. Students will have to outline a plan to deal with the other stakeholder First Nation, the resource project proponent and applicable governments. Students will also write a summary that provides a description of the process, results and lessons from the simulation. Roles will also be provided by the course instructor.

Course Topics

1. History of First Nation Resource Management and Ostrom Framework
 - Introduction to Resource Interests
 - History of First Nation Resource Management and Ostrom Framework
2. Aboriginal Title and Resource Development
 - The First Nation Resource Development Legal Framework
 - The Environmental Review Framework for Resource Projects
3. Fiscal and Economic Impacts of Resource Projects
 - Introduction to Resource Development in the Modern Context
 - Introduction to Fiscal and Economic Benefits
 - Understanding the Fiscal and Economic benefits associated with Resource Developments
 - Fiscal and Economic Impact Assessments
4. Interest based Negotiations and First Nations Resource Development Agreements
 - Review of Interest Based Negotiations
 - Resource Project Stakeholder Interests
 - Selected First Nation Resource Development Agreements
 - Negotiating Resource Deals
 - Aboriginal Resource Tax (ART)
5. Resource Project Interest-Based Role Play

Methods for Prior Learning Assessment and Recognition

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Attendance Requirements – Include if different from TRU Policy

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Special Course Activities – Optional

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Use of Technology – Optional

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