

## **'Free, prior and informed consent' poses new challenge for exploration**

*Brenda Dalglish*

Aboriginal people are asking for great participation in the way their lands are used and for recognition of their rights, PDAC second vice president Glenn Nolan said as he started off a panel discussion about free, prior and informed consent (FPIC) at PDAC 2010 on Tuesday.

"They want equal and respectful relationships with the companies working on their lands," Nolan said.

The panel discussed whether the concept of FPIC is the best approach to working with indigenous people to ensure that not only the interests of aboriginal and other local communities are respected but that a company's projects have a greater chance of success.

Free, prior and informed consent is becoming a contentious issue because in the past prospectors and exploration companies have worked on the principle that, if they hold mineral rights, they have everything they need to proceed. But as land claims are settled and more aboriginal groups hold legal ownership to large and expanding amounts of prime land, the two groups' interests can collide.

Don Clark, a sociologist and a member of the Black River First Nation of Manitoba who works as a consultant to mining companies in Latin America, said the issue is coming to a head because in most countries, indigenous people "have been pushed to the extremes and there is no more land for them to run to."

Bill Mercer, veteran geologist who has worked in Canada and Latin America, said, "In Canada, I don't think anyone in the world should be surprised at the idea of free, prior and informed consent."

He cited a debate in his hometown of Oakville, Ontario, where residents are protesting the development of a 900-megawatt power station near an area of expensive housing.

"They don't feel they were consulted," Mercer said. "And they're sophisticated, well informed people who don't like. It's not that they own the land. They don't. But that doesn't matter. Their interests have to be taken into consideration. So I don't think anyone in our industry should be surprised at calls for free, prior and informed consent."

For mining and exploration, it means that responsible companies will have to start early and work diligently to help inform local communities of their plans and educate them about what a mining project can mean.

“If I were a community leader, I would expect and I would believe I have the right to say ‘no.’ But what are we saying ‘no’ to? People must be informed,” Clark said.

Mercer criticized those who use what he called a divide-and-conquer strategy of playing communities off against each other to achieve short-term goals.

“Divide and conquer is a foolish thing to do,” he said. “It’s a dangerous route to take the divide and counter approach to communications.”

Andrés Recalde of the Latin America Caribbean Development Associates urged companies to “be consistent, be transparent and do not assume that you’re replacing the role of government.”

PDAC volunteer Bill McGuinty cautioned junior companies to expect ramifications if they are working near small communities with structural problems that have not been resolved.

“If a community has a lot of problems and I go in with the ‘original sin’ of holding title, the community will have a problem with me,” McGuinty said. “You have to go in with the idea that communities have a right to say ‘no’ and sometimes it happens that they do say ‘no’. When that happens, I’ve kept trying. But sometimes communities have kept saying ‘no.’”

Nolan, a First Nations chief and also a longtime PDAC volunteer and mining supporter, told the panel “As a community leader, of course, I believe that we (aboriginal communities) should have the right to say ‘no’. But we also have to know what we are saying ‘no’ to.” He was referring to the role companies should play in providing open, honest and transparent information to communities.

“If we expect communities to know what we’re about by going in there once or twice, it won’t work,” Nolan said.