

Mi'kmaw-Owned Partnership in Clearwater Seafoods

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ABSTRACT

The keynote presentation at the 2023 Cando Annual Conference told of the Mi'kmaw Coalition and Premium Brand Seafoods' acquisition of Clearwater Seafoods. It provided a Mi'kmaw corporate perspective of the acquisition and was co-presented by Mike McIntyre (Membertou CFO), Jenny Morgan (Clearwater Seafoods LP), and Darryl McDonald (Paqtnkek Mi'kmaw Nation CAO). The following is a summary of their presentation, focusing on three core aspects of the deal: building business relationships, minimizing risks to preexisting community assets, and highlighting opportunities for Clearwater to expand through strategic innovation. Finally, although Premium Brands was not represented in the presentation, examining their role in the partnership highlights the potential for strategic innovation in the future.

KEYWORDS: Business relationships, minimizing risks, strategic innovation, Clearwater Seafoods

Clearwater Seafoods Incorporated (Clearwater) is one of the world's largest vertically integrated seafood companies. Clearwater was founded in 1976 by partners John Risley and Colin MacDonald as a one-truck lobster retailing operation. For over 40 years, they expanded the company at all levels of the value chain—from catching seafood to processing to retail sale—to become a multimillion dollar company. Clearwater has developed a reputation for taking good care of its employees, who now number over a

thousand and was named as one of Atlantic Canada's and Nova Scotia's top employers in 2024 (Yerema & Leung, 2024).

As a result, the Canadian seafood industry was shocked by the 2021 sale of Clearwater via an unprecedented negotiation between the industry giant and a coalition of Indigenous Mi'kmaw development corporations from Atlantic Canada. While details were difficult to attain while negotiations were ongoing, it was clear the acquisition could fundamentally change the landscape of the Canadian seafood industry by introducing Indigenous participation into the offshore fishery.

The keynote presentation *Mi'kmaq-Owned Partnership in Clearwater Seafoods* (delivered at the Cando conference on June 26, 2023) was the first time the Mi'kmaw Coalition publicly shared information concerning the deal's structure. The presentation took the form of a fireside chat between Darryl McDonald, Chief Administrative Officer at Paqtnkek Mi'kmaw Nation; Jenny Morgan, Indigenous Employment Officer at Clearwater Seafoods LP; and Mike McIntyre, Chief Financial Officer at Membertou. Each presented their role in the acquisition, as well as the organizations' views during the negotiation and acquisition process.

The presentation focused on three key elements of the deal. The first component was building business relationships: the endeavour was possible only because of Membertou's reputation for being community minded, trustworthy, and professional. The second component was minimizing risk to preexisting community assets: the deal would not hurt the coalition communities' future borrowing potential. The third component was highlighting expansion opportunities for Clearwater—which, in this paper, will be supplemented by exploring Premium Brands' role in the partnership. The presentation was followed by a question-and-answer period. The presenters' responses have been incorporated into this report.

Building Business Relationships

The presentation started with Mike McIntyre. McIntyre has previously worked with Membertou Chief and CEO Terry Paul and now serves on Clearwater Seafoods' board of directors, making him a natural choice to outline the relationship between Chief Terry Paul and John Risley, the co-founder and former CEO of Clearwater. McIntyre described a corporate relationship established over 20 years ago between Membertou's First Fisherman Seafood and Clearwater. The relationship was initially established via snow crab processing, as Clearwater was one of the few major processors in Unama'ki/ Cape Breton.

In 2019, Clearwater held a fleet of nearly one dozen ships and had processing facilities in Canada, Argentina, Scotland, and China (Clearwater Seafoods Incorporated, 2020a, p. 26) and during this time, the company built strong relationships with the First Nations communities in its area. For example, it entered into a 50-year agreement with 14 First Nations communities that protected existing jobs while also creating new Indigenous job opportunities in the Arctic surf clam industry (Government of Canada, 2019). This relationship proved important when, in March of 2020, Clearwater undertook a strategic

review to determine whether the shareholders would be best served by the sale of the company (Clearwater Seafoods Incorporated, 2020b) and the company's owners were eager to make the Mi'kmaq a key part of any sale.

McIntyre explained the opportunity Membertou saw when Clearwater announced they were accepting expressions of interest in early 2020. Membertou responded to the call and began pursuing the idea of a coalition and, as McIntyre describes it, things really got moving when they won a 30-day exclusivity claim in October 2020. But while Membertou had taken the initiative in this endeavor, they knew they could not do it alone and sought partnership support from other Mi'kmaw communities via existing Indigenous development corporations. At the same time, they courted additional corporate partners who would provide a good fit for the Mi'kmaw-led initiative.

Forming a Mi'kmaw Coalition

Membertou invited all Nova Scotia Mi'kmaw communities and Miaupukek to join their coalition. However, a strict nondisclosure agreement prevented Membertou from sharing many of the legal and financial details of the agreement with the other Mi'kmaw development corporations. Ultimately, they explained that by signing into the coalition the other communities would be committing to purchase a certain number of shares.

As Darryl McDonald explained, many people initially saw the coalition as a high risk, as the Mi'kmaw development corporations would need to commit to borrowing and re-investing millions of dollars in a deal they had very few specifics about. McDonald is the Chief Administrative Officer at Paqtnkek Mi'kmaw Nation and has over 20 years of experience working in Indigenous-led economic development from coast to coast to coast. He has worked on many projects with the Paqtnkek Mi'kmaw Nation involving organizational change processes, capacity development, and the implementation of policies and laws. Therefore, when Paqtnkek was presented with the option to partner with the Mi'kmaw Coalition, they were prepared to have an informed debate with Chief and Council about the strategic, financial, and legal implications of the coalition deal.

McDonald explained that three things must always be clear for Paqtnkek's Chief and Council, namely the implications for people, lands, and resources. Although it was difficult to build trust and earn confidence in such a short timeframe, within 28 days five communities committed to the coalition. This showed that many community leaders trusted Membertou's reputation, a trust that was partially due to the efforts of Membertou's CFO and other experts who convinced Paqtnkek that the deal would not hurt the communities' future borrowing potential. Ultimately, the Paqtnkek Development Corporation purchased two partnership units (worth approximately \$38 million), while the Membertou Development Corporation purchased five (worth roughly \$90 million). The financing for the Mi'kmaw Coalition was provided by the First Nations Finance Authority (FNFA), and although it was described by Mike McIntyre as "a self-funding transaction," the coalition's familiarity with FNFA's risk assessment processes was also critical to the deal.

Current Ownership

Clearwater is equally owned and controlled by the Mi'kmaq Coalition and Premium Brands, with each shareholder participating equally in all aspects of the company including governance, operations, and financial revenues. The Mi'kmaq Coalition is co-led by the Mi'kmaw development corporations of Membertou and Miawpukek. It also includes Sipekne'katik, We'koqma'q, Potlotek, Pictou Landing, and Paqtnekek so that six Mi'kmaw development corporations in Nova Scotia, as well as one in Newfoundland and Labrador, are included in the final deal. The Mi'kmaw Coalition also holds all of Clearwater's offshore fishing licenses.

Minimizing Risk to Community Assets

Next, McIntyre introduced the second core aspect of the deal: risk mitigation. The goal was to minimize risk as much as possible, which was no small feat for a deal worth \$1 billion in transactions. The coalition did this by breaking the costs into bite-sized chunks to reduce risk and create a 100% self-financed proposal with four core elements:

- Paying \$1 billion down through a leaseback to Clearwater
- Growing operations and expanding the downstream value proposition
- Paying dividends to partner communities within 5-10 years
- Providing \$14 million in bridge financing to cover soft costs (funds were provided by Membertou and Premium Brands)

A brief discussion of the commercial structure of the offshore fishing industry will help to clarify the structure of this deal. Specifically, offshore fishing licenses, equipment, and staff are of particular importance, as (1) offshore fishing licenses determine the legalities of what, where, and how fish can be harvested, and (2) equipment and staff are needed to physically fish.

First, the coalition purchased the remaining harvest licenses for Lobster Fishing Area 41 (LFA 41) not already purchased by Membertou: this part of the deal was equivalent to \$1 billion. These licenses gave the coalition partners exclusive rights to harvest lobster in the designated area under conditions specified in the license. The acquisition of these licenses gave the coalition communities leverage to secure loans from the FNFA as the projected revenues of \$18 million per year would be used to pay back the debt. Additionally, conservative projections saw the coalition communities receiving dividends within 10 years. There was also a long-term plan to expand operations with guidance from Premium Brands via obtaining new acquisitions and developing additional products and vessel technology.

Second, the coalition co-purchased Clearwater Seafoods through its partnership with Premium Seafoods. This acquisition gave the Mi'kmaq partners direct access to the infrastructure, expertise, and supply chain built by Clearwater over its long history. However, while Membertou originally wanted a path toward full ownership, this was

contrary to what Premium wanted to do. Ultimately, the companies agreed to work towards a mutually acceptable compromise, a decision facilitated by their shared sense of values and vision for long-term growth and sustainability for the company.

Addressing Challenges During the Negotiation Period

Another part of minimizing risk is to acknowledge and address stakeholders' concerns. While the diversity of stakeholders was reflected in the diversity of concerns, two key areas emerged: challenges related to the regulatory frameworks of fisheries in Atlantic Canada and concerns about the day-to-day operations of the corporation.

An Offshore Transaction: Negotiating Regulatory Frameworks

One initial challenge was a longer than anticipated approval time for the transfer of fishing licenses to the consortium. McIntyre explained that the licenses purchased by the consortium were governed by the regulations applying to commercial offshore fisheries, where licenses are typically held by larger companies. This is a different regulatory space than inshore fisheries, where licenses are typically held by owner-operators. The Mi'kmaw have been seeking clarity from Fisheries and Oceans Canada (DFO) about inshore regulations since the Marshall decision in 1999 and—while Membertou was leading the negotiation with Clearwater for the offshore licenses in 2020 and 2021—Mi'kmaw across Nova Scotia were publicly asserting their right to establish and self-govern a livelihood fishery.¹ While the Clearwater transaction did not involve inshore licenses and would have no direct impact on livelihood fishery or the communal and ceremonial fishing practices of the Mi'kmaq, it was suggested that confusion surrounding the issue resulted in the DFO taking about four months to approve the license transfer because they did not fully understand the dynamics of the license transactions.

Concerns About Day-to-Day Corporate Operations

An additional challenge involved concerns expressed by Clearwater staff about the sale. Jenny Morgan explained that staff of Clearwater corporate were apprehensive about the sale and new ownership—prior to the acquisition, few Indigenous people worked in the company, at any level. Operational departments needed to be convinced that there would be no changes in their day-to-day operations: this was especially true of the staff who worked aboard the vessels, as offshore operational norms are easily overlooked by administrators who do not live on the vessels for weeks at a time.

However, despite apprehension within the organization, senior administrators at Clearwater were optimistic. They hired Morgan as Clearwater's Indigenous Employment Officer, where she focused on human resources strategy. Her previous professional experience in health care and employment training at Membertou was an asset, providing her with tools and engagement strategies. Morgan focused on building trust through education and information sharing sessions, both with internal staff and with the external Mi'kmaw community. Based out of the new Clearwater office in Membertou, Morgan worked directly with Indigenous clients interested in pursuing

future careers with Clearwater. Despite the challenges and uncertainty presented by the COVID-19 pandemic, a Clearwater 101 training module was developed to explain that career opportunities with Clearwater went beyond just lobster.

Morgan was also integral to developing and implementing the new Careers Set Sail program. Funded by both Service Canada and Clearwater, the Set Sail program provides support for First Nations participants seeking education and training in high-demand marine fields, along with paid work experience at Clearwater. The program is designed to identify areas of employment over the next 5-10 years, and its training programs focus on communicating future career opportunities at Clearwater in the fields of information technology, human resources, office administration, and robotics.

The Set Sail program also identifies strategic education partners such as the Nova Scotia Community College (NSCC) to deliver applied skills programs where immediate demand would be more prevalent: for example, delivering fast-track courses so people can get certificates to work on a vessel. Ultimately, the goal of the Set Sail training program is to have students graduate with the practical experience they need to get jobs. As the Set Sail program moves forward, it will focus on training programs that create new opportunities throughout Clearwater, right up to the executive level.

Future Expansion Opportunities for Clearwater

There are many future opportunities for both Clearwater and the Mi'kmaw Coalition. Clearwater is planning to ramp up employment to support corporate development and to accelerate growth through mergers with and acquisitions of companies throughout North America. Meanwhile, the Mi'kmaw Coalition intends to buy more offshore fishing licenses, which would ultimately benefit Clearwater as the harvester. And while the coalition is not looking to expand its membership, it is looking to partner with First Nations groups in other ways. For example, they are looking forward to supporting Indigenous fishers by buying snow crab.

Since the presentation at the Cando conference in 2023, Clearwater has continued to build business relationships and adapt. The future looks bright. There is a lot of optimism about the lessons that will be learned from this partnership model and the implications for the company's internal operations.

END NOTES

- ¹ For further discussion of this issue, see Richard Williams and Fred Wien's anthology, *Contested Waters: The Struggle for Rights and Reconciliation in the Atlantic Fishery* (2022).

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