The *Framework Agreement* on First Nation Land Management







Robert Louie, Chairman, Lands Advisory Board

Fort Nelson First Nation – November 9th, 2016







PRESENTATION

My presentation will touch upon:

- The Indian Act: What it is
- The historic significance of this land management initiative;
- The purpose of the *Framework Agreement* (FA), and the resulting implementation of community control over lands and resources; and
- Address some questions/concerns.







The Indian Act: What it is

- The Indian Act of 1876, is the oldest federal legislation governing First Nations in Canada;
- First Nations people were considered by Canada as minors/wards of the state;
- Canada did not consult with First Nations when creating the Indian Act;
- The Act gave Canada the authority to legislate all matters concerning “Indians and lands reserve for Indians;
- The Act enabled Canada to exercise control over Aboriginal life in areas such as:

Community Location	Governance
Education	Religion
Health Care	Lands and Resource Management







"The great aim of our legislation has been to do away with the tribal system and assimilate the Indian people in all respects with the other inhabitants of the Dominion as speedily as they are fit to change."

- Sir John A Macdonald, 1887







The purpose of the *Framework Agreement* is to enable First Nations to resume control over their lands and resources for the use and benefit of their Members without Government interference, by replacing the land provisions of the *Indian Act* with First Nation made laws.







Framework Agreement on First Nations Land Management

TIMELINE

Draft Principles

Framework Agreement on First Nation Land Management

Developed by Chiefs from 14 First Nations and Minister of DIA

1980/90's

***Framework Agreement* on First Nation Land Management**

Signed by 14 Chiefs and Minister of DIA

February, 1996

Federal Ratification Process

First Nations Land Management Act

Parliament of Canada Ratified First Nation Land Management Act

June, 1999

Expansion

14 First Nations

Announced by the 14 LAB Chiefs and Minister of DIA

March 2003

66 Land Codes Ratified

128 First Nations Signatory

44 Developmental First Nations

November 2016









The Historic Signing |February 12, 1996

Hosted by Chippewas of Georgina Island First Nation







MUSKODAY FIRST NATION

MISSISSAUGAS OF SCUGOG ISLAND FIRST NATION

Chippewas of Georgina Island

On January 1, 2000 -- 3 FA First Nations, Georgina Island, Mississaugas of Scugog Island, and Muskoday , began to govern their own lands and resources. This was Historic!









Stz'uminus First Nation

One of the FA's most important features is that it is entirely community driven.













A Land Code provides increased protection for reserve land. There is no loss of reserve land as the reserve land base can never be diminished, it can however be expanded as many communities have already done.







The FA is an Economic Development Success Story

A 2009 study, conducted by the international consulting firm of KPMG (which sampled 17 FA communities), found that:

- $53 million investment from member-owned businesses
- $100 million investment from third parties businesses
- >2,000 employment opportunities for band members
- >10,000 employment opportunities for non-members pumping hundreds of millions of dollars into local economies







The FA is an Economic Development Success Story

In a 2013 analysis, KPMG reaffirmed the findings of its 2009 study on the FA costs and benefits to Canada. KPMG also noted that of the total of 32 operational FNs in the study, NOT one FN wanted to return to the Indian Act because land management activities under the FA are:

- Faster
- Strengthening FN values & vision
- Protecting FN legal interests
- Providing more flexibility, better lease terms for the FN, & better accountability of third-parties to the FN
- Providing better relationships with financial institutions & the ability to borrow for capital investments
- Facilitating more consistency with the FN Land Use Plan
- Increasing the level of interest & participation of Members, as well as awareness of Community issues
- Increasing both internal investment & external investment







What main factors contribute to the success of the FA?



- designed by First Nations;
- negotiated by these First Nations with Canada in 1996;
- continues to be driven by First Nations.













The federal government has recognized our right to self-determination and has continued to provide support.

Signatory Communities









We have grown from a small group of 14 First Nations in 1996 to a group of 128 signatory First Nations stretching from Vancouver Island to Newfoundland.







British Columbia

1. Lheidli T'enneh
2. McLeod Lake
3. Beecher Bay
4. Ts'kw'aylaxw
5. T'Sou-ke
6. Kitselas
7. Shxwha:y Village
8. Tsawout
9. Tsleil-Waututh
10. Squiala
11. Matsqui
12. Tzeachten
13. Leq'a:mel
14. Seabird Island
15. We Wai Kai
16. Skawahlook
17. Sumas
18. Nanoose
19. Songhees
20. Musqueam
21. Campbell River
22. Stz'uminus
23. Skowkale
24. Aitchelitz
25. Yakweakwioose
26. St. Mary's
27. Williams Lake
28. Haisla
29. Shuswap
30. Shxwowhamel
31. Malahat
32. Kwantlen
33. Soowahlie
34. Chawathil
35. Scowlitz
36. Cheam
37. Lower Nicola
38. Komoks*
39. Metlakatla*
40. Nak'azdli Whut'en*

Westbank [a]

Tsawwassen [b]

Sliammon [b]

Saskatchewan

1. Muskoday
2. Whitecap Dakota
3. Kinistin
4. Muskeg Lake
5. Kahkewistahaw
6. Flying Dust
7. One Arrow
8. Yellow Quill

Manitoba

1. Opaskwayak Cree
2. Chemawawin
3. Swan Lake
4. Brokenhead Ojibway

Ontario

1. Georgina Island
2. Scugog Island
3. Nipissing
4. Whitefish Lake
5. Henvey Inlet
6. Mississauga
7. Anishnaabeg of Naongashiing
8. Dokis
9. Bingwi Neyaashi Anishinaabek
10. Shawanaga
11. Magnetawan

[a] Now implementing full self-government

(b) Now implementing treaty

* Waiting to sign Individual Agreement

Listing of Operational First Nations across Canada







QUESTIONS/CONCERNS:

What do you feel are the PROs of FNLM?

- FN recognized as the Government and real decision maker over their lands and resources
- Removal of reserve lands from the *Indian Act*
- Community control over FN land management and development
- Inclusion of both off-reserve and on-reserve members in important decisions
- increased accountability to members
- More efficient management of FN land
- Recognition of FN legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties
- Transfer by Canada of previous land revenues to FN
- Recognition of the right to receive revenue from interests in FN land
- Protection against arbitrary expropriation of FN land
- Protection against loss of FN land through surrender for sale
- Ability of FN to protect the environment
- Ability of FN to address the current vacuum on rules related to land during marriage breakdown
- Recognition of significant law-making powers respecting FN land
- Removal of the need to obtain Ministerial approval for FN laws
- Recognition in Canadian courts of FN laws
- Recognition of right to create modern offences for breach of FN laws
- Ability to appoint Justices of the Peace
- Ability to create a local dispute resolution processes
- Establishment of a legal registry system
- Establishment of a FN run Lands Board to provide technical assistance to FNs







QUESTIONS/CONCERNS:

What do you feel are the CONs of FNLM?

Cons:

- FN will take full responsibility for all future decision making and if wrong decisions are made, could be liable
- Cannot blame anyone else if make future mistakes.
- Training – will be a priority, thus staff and financial resources will have to be made available.
- There is no turning back to the Indian Act to get INAC to take over land decision making.
- Community readiness – Is the community ready for its own FN decision making?
- Council/Staff experience – Does Council and staff feel up to the task to be full decision makers?
- Typical growing pains of any government
    - Sufficient resources
    - Staff
    - Space
    - Policy and procedural development
    - Law making
- Lots of hard work will be required.







QUESTIONS/CONCERNS:

How will a successful FNLM vote affect relationship with INAC?

- Successful FNLM votes have historically helped to redefine FN relationships with INAC. It places the FN on a level playing field with municipal, provincial, and Federal departments. The fiduciary obligation of Canada continues under the Framework Agreement. The scope of Canada's obligation is reduced, however, because the First Nation is making the day-to-day decisions regarding its lands. Canada would continue to be involved in any land exchange that might take place and for maintaining the First Nations Land Register. INAC has been, and continues to be supportive of communities choosing to ratify their Land Codes and proceed under the FA.
- Over time, there will be less contact with INAC over land matters
- Lands management funding will be separate and guaranteed annually
- There will be less reporting to INAC over FN's lands activities
- As a result of less reporting to INAC, FN will have more time to go after other funding in other areas
- INAC will look to FN as a government and decision maker
- INAC's decision making over FN's lands activities will disappear
- With FN being the decision maker, INAC typically will extend more respect to FN







QUESTIONS/CONCERNS:

What is the process in the event the FNLM vote is unsuccessful?

- Some First Nations go completely off the radar and INAC remains the decision maker over its affairs
- If the first vote is reasonably close, the First Nation will have to convince INAC that a second vote will likely be successful
- If INAC is persuaded to allow a second vote, the FN will have to cover almost 100% of the costs to get a second vote. In some cases, INAC will agree to cover the Verifier and Ratification vote costs. This is dependent on funding being made available
- Extensive lobbying to get to a second vote will be required by the FN and the Lands Advisory Board/Resource Centre. There is no guarantee a second vote will be approved.
- The process could take several years.







QUESTIONS/CONCERNS:

Why develop a Land Code if the Membership does not want to develop their lands?

The Land Code process isn't just about development, it's also about:

- Becoming self sufficient in the governance and management of First Nation Lands and Resources
- Protecting Reserve lands for future generations as the First Nation sees fit
- Reclaiming the responsibility that the *Indian Act* took away over your Reserve Lands and Resources
- Enhancing the First Nation Government structure, including a Lands Department
- Putting important decisions about Lands and Resources in the hands of community members instead of the Minister of Indigenous Affairs and the Bureaucrats of the Government of Canada.







QUESTIONS/CONCERNS:

Is there a benefit of going through the FNLM process on the way to self government?

- Absolutely! Perhaps the most crucial part of any Self Government agreement is control and decision making over the lands and resources.
- A framework of the Law making process has to be developed
- Community input into the laws making process has to be obtained and what better way than the FNLM process
- Time and extensive energies will be spent developing a framework of law making process. All that is valuable and necessary and will help in self-government
- The experience of other First Nations has proven that the benefits of going through the FNLM process have been not only helpful but beneficially necessary to advancing self-government and other negotiations dramatically.







QUESTIONS/CONCERNS:

Will Land Code affect our Treaty and would it cede our territorial rights and title by voting "YES"?

The *Framework Agreement* and/or Land Code do not affect any treaty rights or negotiations currently underway.

Other services (Education, Health etc.) would continue to be administered by INAC, until such time as another Agreement is in place for your Nation.

Your Treaty and Aboriginal Rights or Title will NOT be affected as a result of Land Code.







Consider these statistics:

- More than one out of every four First Nations in Canada want to implement self-determination under the FA (1:4);
- Hundreds of millions of dollars are being invested in economic development projects on FA First Nations' reserve lands; and thereby
- Canada is receiving a financial return ten times the dollars that the federal government is investing in the FA process.







The FA First Nations have accomplished all of this success without risking the integrity, legal protection, jurisdiction or control over their lands. We have proven, unequivocally, that financial institutions, investors and third-parties support us in maintaining and protecting our reserve lands.

This process is working for us, and it will work for our children, and it will work for their children.



Stz'uminus First Nation







Any First Nation, if it wishes, should have the opportunity to participate in this land management initiative.

The LAB is committed to assisting all First Nations in achieving their desired goal of exercising their inherent right to control their reserve lands and resources.

THANK YOU!