

Sources of Contaminants Requiring Management

Course Workbook



 **FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE**

 **Training, Mentorship &
Professional Development**

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Sources of Contaminants Requiring Management

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Understand the implications of contaminants and how the Framework Agreement can help signatory First Nations.

Welcome:

Welcome to the "Sources of Contaminants Requiring Management" course. This course will focus on 5 essential Environmental Protection areas, air quality and provide you with some guidelines on how to deal with each area.

Upon completion of this course, you will be more familiar with:

1. The goal of environmental management and the importance of the Framework Agreement on First Nation Land Management.
2. Environmental contaminants and what considerations to make as a Lands Governance Director/Lands Manager.
3. The effects of different pollutants on human health.

Module 1: Environmental Management & the Framework Agreement

The Framework Agreement

As the Framework Agreement (1994) was being negotiated (and only among the initial 14 First Nations), the Chiefs felt that inadequate management of specific areas were resulting in contaminated sites.

Importance of Collaboration

The Framework Agreement states that a First Nation with a Land Code must "meet or beat" Environmental Protection provisions prevailing in surrounding areas:

- The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province in which the First Nation is situated (Sec. 24.3)

In achieving this level of Environmental Protection, First Nations implementing their Land Codes often collaborate with provincial and local governments in developing laws, procedures, and monitoring and enforcement practices. Such collaboration is consistent with another section of the Framework Agreement:

- The Parties agree to harmonize their respective environmental regimes and processes, with the involvement of the provinces where they agree to participate, to promote effective and consistent environmental regimes and processes and to avoid uncertainty and duplication (Sec 23.5)

Through collaboration with other government agencies, the First Nation can reduce the technical and financial burdens of developing and implementing an effective Environmental Protection regime.

Taking Back Control through the Framework Agreement on First Nation Land Management

- Establishes the terms under which First Nations assume control of land and environmental management on reserves
- Authorizes First Nations to significantly strengthen their governance of lands, natural resources and the environment
- Makes it possible to achieve strong land management along with strong environmental management, protection of community health, cultural values, and traditional rights

For the first time, First Nations can unify governance of lands and environment by linking Land Codes (LC), laws, and day to day management and operations. As First Nations with LCs take back full control and assume full responsibility for Environmental Protection, First Nations lead decision making, rather than having those decisions made by a variety of governments and officials.

Old Version of the Framework

24.4 The Parties will identify areas they consider essential for environmental protection for particular First Nations. At the time of this Agreement, the Parties have identified the following areas as essential for all First Nations:

- a) Solid waste management;
- b) Fuel storage tank management;
- c) Sewage treatment and disposal; and
- d) Environmental emergencies.

In this course, the above topics (from the initial Framework Agreement version), as well as "air quality" will be briefly discussed, providing case study examples of affected First Nations in Canada.

Current Framework Agreement

As the Framework Agreement signatories increased, the Chiefs felt that the initial Section 24.4 was not intended to dictate "essential" environmental priorities for all First Nations.

Therefore, the latest Framework Agreement was changed (Section 24) as it pertains to environmental management. Click on file below: Framework Agreement Amendment 6 Summery.

What is Environmental Management?

The Chiefs who initially negotiated the Framework Agreement, identified the lack of adequate environmental management of reserve lands done by Crown-Indigenous Relations and Northern Affairs Canada (CIRNAC) under the *Indian Act*.

The Chiefs knew that adequate environmental management could only be done by the First Nations themselves and that it would be key to helping a First Nation:

1. Avoid future environmental damage
2. Respond to outstanding environmental legacy issues left behind by CIRNAC

Environmental management is the process used to reduce harmful effects of human activity on the environment and to avoid environmental hazards and contamination that affect communities.

This process includes the use of laws, regulations, policies, guidelines, education, and other measures to help a First Nation to achieve their environmental goals. Under a First Nation's Land Code, a First Nation has all the powers necessary to create its own unique environmental management regime including making laws regarding Environmental Protection and Environmental Assessments (EA).

What is the Goal of Environmental Management?

The basic goal of environmental management is to achieve a harmonious relationship between human communities and natural ecosystems and can be one of the great challenges of our time. Environmental Protection and sustainable development are high-priority goals of environmental management.

Knowledge Check Questions:

1. First Nation's establishing Environmental Protection Standards must meet or exceed the standards and punishments currently in place by the provincial government in which the First Nation resides. (T/F)
2. While developing an environmental protection regime, collaboration with other government agencies is NOT encouraged. (T/F)
3. The goal of environmental management is to protect only the small natural parks within a community. (T/F)
4. Under a Land Code, First Nations have the power to create their own unique Environmental Management Regime, including laws. (T/F)

Module 2: Environmental Contaminants

What are Environmental Contaminants?

Example: The Mississauga First Nation has developed a risk management [strategy](#) for environmental contaminants.

They have defined environmental contaminants as:

1. Substances that, when accidentally or deliberately introduced into the environment, may have the potential to harm people, wildlife, water, air and plants.
2. Having the potential to destroy entire ecosystems forever and or poison the very well-being and spirit of a human being.

The [First Nations Health Authority Environmental Contaminants Program](#) is a chemical surveillance, monitoring and risk analysis program that enables First Nation communities (on-reserve) south of 600 to gather timely and accurate information to identify, characterize and whenever possible reduce human exposures to toxic substances. It also provides First Nation leaders with an early indication about key chemical contaminant concerns in the community, traditional territory or traditional lands across Canada, creating a foundation for risk mitigation action. The program provides funding support directly to First Nation communities/organizations, who partner with public health and/or environmental scientists.

Solid waste & Water

[What is Solid Waste?](#)

Solid waste means any:

- Waste (e.g. garbage) from residences, restaurants, commercial businesses, manufacturers, and other industries
- Sludge from wastewater treatment plant, water supply treatment plant or air pollution control facility
- Other discarded materials including solid, liquid, semi-solid, or contained gaseous material resulting from industrial commercial mining, agricultural operations and community activities

Land Fill Health Hazard

Many of the landfills that are operated on reserve lands are not built or maintained to modern standards, and therefore may leach harmful contaminants into the groundwater, generate airborne pollutants, attract pests, and cause odours. When left unmanaged and unregulated, landfills can become an environmental and human health hazard.

Example: The Aboriginal Peoples Television Network (APTN) recently produced a two-part series, titled *Toxic Overflow*, on unregulated reserve landfills with a special focus on the Sagkeeng First Nation in Manitoba. The program identifies the health risks and regulatory background to managing solid wastes on reserves.

[Part 1 Toxic Overflow](#) introduces the seriousness of improperly designed and managed landfills on First Nation reserves and the potential contaminants that can leach out of landfills and into the surrounding environment, and potential environmental and human health risks.

[Part 2 Toxic Overflow](#) focuses on the regulation and management of landfills on First Nation reserves. Representatives from First Nations and Indigenous organizations are interviewed to provide various perspectives on the gaps of landfill regulation between federal and provincial governments and potential liability.

Indian Act Solid Waste Management Regulation:

Outside of the Framework Agreement, under the *Indian Act*, solid waste management is regulated by the 1978 Indian Reserve Waste Disposal Regulations (IRWDR). Under the administration of CIRNAC, the regulations require a permit to operate a garbage dump or use any land to dispose of, burn, or store waste. The permits specify terms and conditions for operating a landfill, and establish EP requirements (OAG, 2009). However, CIRNAC has done little

to monitor and enforce compliance with the Indian Reserve Waste Disposal Regulations (IRWDR).

CIRNAC (INAC) has issued few permits under the regulation, and is not equipped to conduct inspections, monitor compliance, or ensure enforcement. Illegal dumping is prohibited under these regulations, yet the penalties are minimal. Consequently, garbage is not confined to licensed landfill sites and illegal dumping on reserve is not regularly monitored. CIRNAC officials admit that they do not issue permits or conduct surveillance, in part because the regulations are out-of-date and do not reflect the complexity of modern waste management systems (OAG, 2009). In addition, CIRNAC considers penalties for non-compliance to be ineffectual (dumping or burning garbage without a permit in a residential community can result in a fine of not more than \$100 or a three-month jail sentence, or both) (OAG, 2009).

Land Code in Effect

First Nations operating under their own enacted Land Code have the authority to choose how to manage waste disposal, including issuing permits for waste deposit on First Nation Land and how to monitor and enforce compliance. Permits should no longer be issued under the *Indian Act* or Indian Reserve Waste Disposal Regulations (IRWDR) where First Nations operate under their enacted Land Code. Land Code First Nations are exploring potential updates to the Framework Agreement, including potential improvements to environmental provisions. One improvement will be to clarify that the ineffective IRWDR have no application to First Nations that have adopted Land Codes.

Click on link: [CIRNAC Directive on IRDWR and the Framework Agreement](#)

Click on link: [Sample First Nation Waste Management By-law](#)

Water, Wastewater and Sewage Treatment

Inadequate community wastewater treatment facilities can pose risks to human health and the environment. Therefore, First Nations under a Land Code, who will be managing their wastewater and sewage treatment facilities, need to consider such things as:

- Performance
- Operating practices
- Operator qualifications
- Defined quality objectives
- Required cost

Water System

A water system is a system for supplying water to a community. The system's goal is to ensure community members have access to safe drinking water. Wastewater system means a system for the collection, treatment or disposal of wastewater. First Nations want to ensure that they have safe, clean water and effective wastewater services within their communities. Sewage treatment system means the process of removing contaminants from wastewater, including household sewage and runoff (effluents).

Government and First Nation Waste Water Systems

First Nations and Canada are committed to ensuring there is safe, clean water and effective wastewater services in First Nation communities.

[CIRNAC](#) has been providing assistance and funding with the provision of wastewater services within reserve communities. [Health Canada](#) working in partnership with a First Nation community monitors drinking water quality and ensures water quality sampling, monitoring and surveillance programs are in place on First Nation lands.

Canada has passed the [Safe Drinking Water for First Nation Act](#), which applies to First Nations whose lands are subject to the [Framework Agreement and First Nations Land Management Act](#) (FNLMA).

Areas of Concern

If the wastewater treatment is not built to proper standards or is not adequate for the climate, untreated wastewater can be released into the environment, specifically into water systems (U OIAHS, 2009). There are two common areas of concerns with wastewater management and they are septic systems and lagoons.

Septic System and Lagoons

Septic systems which are small scale sewage treatment systems common in areas with no connection to main sewage pipes provided by local government. The area of concern is that many septic systems are not maintained properly and can malfunction due to overuse or improper use by the household. Septic system malfunctions can leak raw sewage into the ground. In some cases, raw sewage can make its way to the surface where individuals can come into contact with it.

Lagoons are one of the oldest wastewater treatment systems. They consist of in-ground earthen basins in which the waste is detained for a specified time and then discharged. In communities where lagoon systems are used, the main area of concern is that cold weather, flooding and overuse can cause the release of untreated wastewater.

Good Management

Good management of a wastewater and sewage treatment facility will prevent the spread of infection and disease and protect water resources. If a septic system is working properly it will effectively remove nitrogen, phosphorus, and disease-causing bacteria and viruses.

Picture: Yalis wastewater treatment plant, joint venture of the Namgis First Nation and the Village of Alert Bay. Photo Credit: Kerr Wood Leidal Associates Ltd

Good management tools include such things as:

- Having enforceable standards and protocols
- Qualified operators
- Inspecting and monitoring your water, wastewater and sewage system frequently
- Using water efficiently (which improves the operation of the systems and reduces the risk of failure)

Example 1: Haida First Nation

The Haida First Nation, which is a community of Old Masset and the non-aboriginal community of Masset are two communities working together to solve their environmental problems caused by untreated wastewater. Untreated sewage was draining into the bay, which accumulated and started to pollute marine ecosystems. A healthy marine system is important to the socio-economic wellbeing of the communities. The two communities worked together to develop an effective wastewater treatment.

Example 2: Namgis First Nation

[Namgis First Nation](#) and the Village of Alert Bay Namgis First Nation provides another example of wastewater management. Both communities faced problems caused by an ineffective wastewater system that flowed directly into the ocean causing adverse effects on the environment and local economies. A wastewater treatment plant was required to treat the raw sewage discharged into the ocean. The two communities' cost shared this new system which now provides them with a cleaner environment and improved health conditions for their communities.

Fuel Storage Tank Management

Fuel storage tanks can be a serious Environmental Protection issue with long term damaging outcomes for reserve land and the health of residents. As recently as the 1980's, most underground fuel storage tanks were made of metal and are at risk of corrosion and leaking. Newer fuel storage tanks are made of double-walled fiberglass and are equipped with sensors that detect leaks (Miczynska, 2010).

Land Use

Land uses that may contain fuel storage tanks include:

- Residential properties (as part of a heating system)
- Gas stations
- Convenience stores
- Bus terminals
- Railroad yards
- Schools
- Auto repair shops
- Farms
- Municipal works yards
- Logging operations
- Diesel electric generation facilities

Fuel Spills

Above ground and underground fuel are regulated to prevent spills to soils and surface and ground water systems. Fuel spills to watercourses and lakes can be devastating to aquatic life and drinking water supplies.

Federal Regulations

A Lands Governance Director (LGD)/Lands Manager should be familiar with federal regulations applying to Environmental Protection issues (i.e., fuel storage tank management, solid waste management) as identified in old Sec. 24.4 in the Framework Agreement. In 2016, Canada released the latest updates to the Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations under the *Canadian Environmental Protection Act*.

Under these regulations, all aboveground fuel storage tanks on federal or Indigenous land that have a capacity of 2,500 liters or greater are required to be registered with Environment Canada and must display an Environment Canada identification number (INAC, 2010). Starting June 13, 2010, suppliers were no longer permitted to fill fuel tanks not displaying an Environment Canada identification number (INAC, 2010). Under the regulations, "The owner or operator of a storage tank system who discovers, suspects, or is notified by any person of a leak or possible leak shall immediately notify the authority having jurisdiction by telephone and provide the information requested by the authority having jurisdiction"

(Appendix D). For a Land Code First Nation, the responsible authority to be contacted would be the LGD/Lands Manager or the Emergency Response Coordinator, if such a position exists.

Example Fuel Spills

The following two examples from First Nation communities illustrate how spills from fuel storage tanks can harm the health and social wellbeing of community members:

- Example 1: Fuel Spill under First Nation School.
- Example 2: Fuel spill at Attawapiskat First Nation, Ontario

The key points of these examples are that poor management of fuel storage tanks resulting in spills can disrupt community services, harm the health of community members, and be very expensive to remediate.

Example 1

In 2008, a fuel spill occurred under the [Eabametoong First Nation school](#), causing a temporary closure of all classes until the spill could be excavated. The Eabametoong First Nation is located in northern Ontario. The spill resulted in leaving First Nation students behind schedule for 2008 graduation and causing serious environmental concerns including potential fuel seepage into the groundwater system, which is used for drinking, cooking, and bathing.

The fuel tank spill occurred in the crawl space of the school due to improper installation combined with years of wear and tear. It was not known how much fuel was spilled on the ground. Although much of the fuel was salvaged by volunteer community members and transferred to an underground fuel container. CIRNAC agreed to fund the spill clean-up, which was estimated to cost \$151,000. For more information on this fuel spill: [K Net Media](#)

Example 2

Here is an example of what can happen if a First Nation community does not adequately respond to an environmental emergency or have measures in place to avoid accidents causing environmental harm.

In 1976, the J. R. Nakogee Elementary School opened in the [Attawapiskat First Nation](#), located in northern Ontario. Sometime after opening day, heating fuel began to leak from underground pipes into the soil beneath the school. Reportedly, the heating fuel lines underneath the school broke when the permafrost shifted resulting in several years of fuel leakage (Canadian Geographic, 2010).

In 1995 and 1996, CIRNAC hired consultants to investigate the school, and they determined that the site was contaminated and recommended remediation. In 1997, CIRNAC authorized a partial cleanup of the contaminated soils (Canadian Geographic, 2010).

In 2000, another investigation of the contaminated site was completed, including soil and ground water testing. The tests showed evidence of benzene, ethylbenzene, toluene, xylenes

and TPD (total petroleum hydrocarbons from gas and diesel) above acceptable levels for human health. Later, construction consultants checking the building found five species of mold in classrooms and corridors (Canadian Geographic, 2010). Teachers, staff, and children experienced headaches and nausea from the fumes from underneath the school. The school was closed and demolished and the site was fenced off. The students were moved to temporary trailers to attend classes. A [new school](#) was finally build in 2014. See [video](#) for more information.

Air Quality

Good air quality on reserve lands is a priority for First Nations. First Nations want clean, clear, unpolluted air for their community members. Clean air is essential to maintain the delicate balance of life not only for humans, but wildlife, vegetation, water and soil. Poor air quality is a result of a number of factors, including emissions from various sources.

Air pollution is a broad term applied to chemical, physical, or biological agents that modify the natural characteristics of the atmosphere (Environment Canada, 2011). Poor air quality occurs when pollutants reach high enough concentrations to endanger human health and/or the environment.

Framework Agreement

Off reserves, provincial and local governments regulate air quality. For example, the British Columbia provincial government regulates the large industrial polluters, such as pulp mills and sawmills. (WCEL-2005).

Under the Framework Agreement, a First Nation will have the ability to develop and enact Environmental Protection laws designed to regulate air pollution. A First Nation may also develop laws that limit open backyard burning (WCEL, 2005).

Challenges and Considerations for Lands Governance Directors and Lands Managers

Air pollution is a serious concern for First Nations, particularly where industrial facilities are near or in their communities. Industrial pollution does not respect geographic or political boundaries, and communities near or down-wind from industrial facilities face increased exposure to air pollutants. LGDs/Lands Mangers should become familiar with air pollutants affecting their communities and their sources. Environmental Site Assessment (ESA) reports

are a good place to start to identify potential air pollutants that may be affecting your reserve lands and their human health effects.

Your First Nation Individual Agreement may also have a workplan outlining how to deal with such issues or further Environmental Assessment work that needs to be done regarding any air pollutants. It is important for the LGD/Lands Manager to become familiar with the categories of air pollutants.

Air Pollutants

Air pollutants such as particulates, ozone, nitrogen oxides, polycyclic aromatic hydrocarbons, and Sulphur dioxide have harmful effects on natural ecosystems (AFN, 2010). Air pollutants can kill plants and trees by destroying their leaves and can harm or kill animals.

Air pollution is primarily caused by the emission of gases, chemical compounds, and particulates in high enough concentration that they become hazardous to environmental and human health. Air quality depends on the concentration of pollutants, the rate at which they are emitted from various sources, and how quickly the pollutants disperse.

Human Health Effects

Health Canada states that the human health effects of poor air quality can affect the body's respiratory system and the cardiovascular system. Individual reactions to air pollutants depend on the type of pollutant a person is exposed to, the degree of exposure and the individual's health (Health Canada, 2011). Possible health effects caused by air pollutants may range from difficulty breathing, wheezing, coughing, and aggravation of existing respiratory and cardiac conditions. Health effects can result in increased medication use, increased doctor or emergency room visits, more hospital admissions and even premature death (Health Canada, 2011).

Air Pollution Sources

On and off-reserve air pollution sources include:

- Residential
- Wood stoves
- Diesel and gas generators
- Fossil fuels (diesel and gas)
- Transportation
- Electricity generation
- Industrial energy use
- Iron and steel manufacturing
- Base metals smelting
- Pulp and paper industry
- Lumber and allied wood products

- Concrete manufacturing
- Asphalt manufacturing
- Agricultural activities
- Transboundary air movements
- Consumer and commercial product manufacturing

Specific First Nation reserve sources of localized air pollution can include industrial operations, fireplace emissions, vehicles, and open burning of solid wastes (WCEL, 2005 and AFN, 2010).

Air Quality- Categories of Air Pollution

Air pollutants can be in the form of solid particles, liquid droplets or gases.

The four main categories of air pollutants are:

1. Criteria Air Contaminants
2. Persistent Organic Pollutants
3. Heavy Metals
4. Toxic Pollutants

Criteria Air Contaminants

"Criteria air contaminants" (CAC) are a group of pollutants that can cause smog or acid rain. CAC are produced from numerous industrial and manufacturing sources including but not limited to:

- Petrochemical
- Electrical generation
- Mining
- Construction
- Agriculture and food processing
- Industrial incineration

For a detailed list of CAC sources visit the Environment and Climate Change Canada website. Information on CAC emissions is reported every year in the National Pollutant Release Inventory (NPRI) (Environment Canada, 2011).

Persistent Organic Pollutants

Persistent organic pollutants (POPs) such as dioxins and furans are a collection of pollutants that can persist in the environment for long periods of time and are capable of traveling great distances. Similar to heavy metals, POPS are of particular concern because they can enter the food supply, bio-accumulate in body tissues, and have significant impacts on human health and the environment, even in low concentrations (Environment Canada, 2011).

Click on link for more information:

1. [Government of Canada Environmental Contaminants](#)
2. [Government of Canada Dioxins and Furans](#)

Heavy Metals

A heavy metal (HM) is a metallic element which is toxic and has a high density, specific gravity or atomic weight that negatively affect people's health. HMS can be transported in the form of particulate matter by the air and enter our water and food supply. HMS are poisonous in low concentrations and can bio-accumulate in body tissues (Environment Canada, 2011). Examples of HMS include:

- Mercury
- Lead
- Cadmium

Toxic Pollutants

"Toxic" pollutants form a broad category of pollutants that are poisonous or toxic to human health and the environment. Although this category has some overlap with the other types of air pollutants presented here (CAC, Heavy Metals, POPS etc.), it also includes many additional pollutants that have been determined to be toxic. The main toxic pollutants are:

- Mercury (e.g. gold mining)
- Lead (e.g. industrial parks)
- Pesticides (e.g. from agriculture, manufacturing, storage)
- Lead (e.g. improper battery recycling, smelting, mining)
- Chromium (e.g. leather tanning)
- Arsenic (e.g. in groundwater)

Particulate Matter Pollution

Health Effects: Particulates are the deadliest form of air pollution due to their ability to penetrate deep into the lungs and blood streams unfiltered, causing permanent Deoxyribonucleic (DNA) mutations, heart attacks and premature death. The greatest effect on health is from particles 2.5 microns or less in diameter. Exposure to fine particulate matter has been associated with hospital admissions and several serious health effects, including premature death. People with asthma, cardiovascular or lung, disease, as well as children and elderly people, are considered to be the most, sensitive to the effects of fine particulate matter. Adverse health effects have been associated with exposure to PM2.5 over both short periods (such as a day) and longer periods (a year or more).

Environmental Effects: Fine particulate matter is also responsible for environmental effects such as corrosion, soiling, damage to vegetation and reduced visibility. ([Province of Ontario](#)). The same fine particles can be a major cause of visibility impairment from:

- Car exhaust
- A puff of exhaust from a diesel truck
- Emissions from oil refinery

Example of Air Pollution

The following example highlights the air pollution related health concerns of the Aamjiwnaang First Nation in Ontario. The reserve is located off reserve near major industrial chemical plants and has been reported to receive some of the worst air quality in Ontario. The importance of understanding potential health effects from air pollution is highlighted in the community because of the risks posed to the community wellbeing.

The Aamjiwnaang First Nation reserve is located near Sarnia, Ontario, in an area referred to as 'Chemical Valley'. There are 62 large industrial facilities within 25 km of Aamjiwnaang and south Sarnia. Data from Environment and Climate Change's National Pollutant Release Inventory (NPRI) indicated that the reserve receives some of the worst air pollution in Ontario.

In 2005, for example, 131 million kilograms of pollutants were released from 46 plants in Sarnia's Chemical Valley (CBC, 2008). The NPRI report also states that 60 per cent of the 5.7 million kilograms of toxic air releases recorded in 2005 were within a five-kilometer radius of the reserve. These pollutants are known to cause cancer or are associated with reproductive and developmental disorders among humans.

Environmental Emergencies

Environmental emergencies:

- Often are events that occur over a short period of time but can have long term effects on the environment and community members
- Are closely connected to the other Environmental Protection issues discussed in this course

- Require LGDs/Lands Managers to have environmental emergency response systems in place before an emergency occurs, to properly mitigate potential environmental and community risks

First Nations will need to define the kinds of environmental emergencies that could affect their reserves. The following kinds of events could constitute an environmental emergency:

- Spills or releases of toxic or hazardous materials from industrial or commercial activities (e.g., oil refineries, pulp mills, manufacturing facilities, gas stations, dry cleaners),
- Discharges or releases of fuel or chemicals from motor vehicle crashes or train derailments,
- Wildfires that threaten developed portions of reserves (residential, institutional, commercial, or industrial facilities or utilities),
- Floods that affect structures,
- Contamination of water supplies (surface sources or groundwater)
- Slope stability issues, erosion, sedimentation, or related geotechnical conditions,
- Rapid declines in fish or wildlife populations that reflect ecosystem health or could affect local food supplies

Example: Westbank First Nation

The Westbank First Nation has defined environmental emergency as: "an uncontrolled, unplanned or accidental release, or a release in contravention of laws or regulations, of a substance into the environment, or the reasonable likelihood of such a release into the environment, that:

- Has or may have an immediate or long-term harmful effect on the environment
- Constitutes, or may constitute, a danger to the environment on which humans depend
- Constitutes, or may constitute, a danger in Canada to human life or health

Westbank First Nation has:

- Jurisdiction in relation to environmental emergencies
- Law-making power in relation to environmental Protection, including dealing with environmental emergencies and programs in preparation for emergencies

[What can be done?](#)

What to do for an Environmental Emergency on Reserve Lands?

A First Nation should collect information if an environmental emergency occurs. For example, if there is a spill the First Nation Emergency Services Society suggests finding out the following:

- What was spilled? (i.e. approximately 30,000 litres of heavy bunker oil spilled into the First Nation's estuary).

- Where? (reserve name, lot # and estimated proximity to houses, schools, drinking water, sensitive wildlife/habitat, sources of ignition)
- How much was spilled? (volume and surface area affected)
- When? (date and time spill were noticed and dates of any previous spills)
- What was the cause of the spill? (human error or system failure)
- What spill-response personnel are on-site? (i.e. First Nation representative, Federal/Provincial representative)
- What emergency response steps have already been taken? (i.e. oil spill clean up)
- If fuel or oil has been spilled from a storage tank is the outflow valve closed?
- Who has been notified? (First Nation Office, Fire Department, local RCMP, residents affected, responsible 3rd parties, CIRNAC, Environmental and Climate Change Canada, DFO, local Municipality or Regional District)

What Should a LGD/Lands Managers do?

A LGD/Lands Manager should:

- Ensure that the First Nation has an Emergency Response Plan that includes Environmental Emergencies
- Designate Emergency Response Coordinators who will receive regular training and have a thorough understanding of the Emergency Response Plan
- Develop a communications protocol to apply during emergencies, including identification of responsible government agencies and first responders
- Make sure reserve residents and businesses are aware of the First Nation's emergency programs through newsletters and meetings, including distributing contact numbers to report environmental emergencies

Additional Resources

The Assembly of First Nations (AFN) has raised concerns about the risks of contaminants in traditional foods and the potential effect on First Nation peoples. The AFN has supported the development of several programs related to contaminants, traditional foods and potential human health implications. For more information of the AFN programs see their [website](#).



ACRONYM LIST: Sources of Contaminants Courselet

| | | |
|----------------------------|---|--|
| APTN | - | Aboriginal Peoples' Television Network |
| CAC | - | Criteria Air Contaminants |
| DNA | - | Deoxyribonucleic acid |
| EA | - | Environmental Assessment |
| ESA | - | Environmental Site Assessment |
| EP | - | Environmental Protection |
| FN | - | First Nation |
| FNESS | - | First Nation Emergency Services Society |
| <i>FNLMA</i> | - | <i>First Nations Land Management Act</i> |
| <i>FRAMEWORK AGREEMENT</i> | - | <i>Framework Agreement on First Nation Land Management</i> |
| HM | - | Heavy Metal |
| INAC | - | Indigenous and Northern Affairs Canada |
| IRWDR | - | Indian Reserve Waste Disposal Regulations |
| LAB | - | Lands Advisory Board |
| LC | - | Land Code |
| LGD | - | Land Governance Director |
| NPRI | - | National Pollutant Release Inventory |
| PM | - | Particulate Matter |
| POPs | - | Persistent Organic Pollutants |
| TPH | - | Total Petroleum Hydrocarbons |



GLOSSARY OF TERMS

ADVERSE EFFECTS

An undesirable or harmful effect to an organism, indicated by some result such as mortality, altered food consumption, altered body and organ weights, altered enzyme concentrations or visible pathological changes.

CLEAN UP

The removal of a chemical substance or hazardous material from the environment to prevent, minimize or mitigate damage to public health, safety or welfare, or the environment, that may result from the presence of the chemical substance or hazardous material. The clean-up is carried out to specified clean-up criteria.

CONTAMINANT

Any physical, chemical, biological or radiological substance in air, soil or water that has an adverse effect. Any chemical substance whose concentration exceeds background concentrations or which is not naturally occurring in the environment.

CONTAMINATED SITES

A contaminated site is defined as a site at which substances occur at concentrations: (1) above background levels and pose or are likely to pose an immediate or long-term hazard to human health or the environment, or (2) exceeding levels specified in policies and regulations.

CONTAMINATION

Contamination: the introduction into soil, air or water of a chemical, organic or radioactive material or live organism that will adversely affect the quality of that medium.

ECOSYSTEMS

Ecosystems are the plants, animals, and non-living components of the environment that function together as a system.

ENVIRONMENTAL ASSESSMENT

According to the International Association of Impact Assessments, an EA is



“the process of identifying, predicting, evaluating and mitigating the biophysical, social and other relevant effects of development proposals prior to major decisions being taken and commitments made.”

An EA examines effects of proposed projects on soil, air quality, water quality and supply, fisheries, wildlife, traffic, noise, community health, economic development, archaeology and a variety of other social, economic and environmental topics. A well-designed EA assesses the “cumulative effects” of a proposed project combined with other past and proposed future human activities. Ways of avoiding or reducing impacts are identified in an EA.

An EA is a planning tool, a means of reviewing the effects of proposed development, a process of community engagement and an instrument for complying with regulatory requirements. After considering federal and provincial environmental assessment processes, an operational First Nation can design an efficient EA regime that is beneficial to the environment and to the quality of development occurring on reserves.

ENVIRONMENTAL EMERGENCIES

The Westbank First Nation has defined environmental emergency as:

“an uncontrolled, unplanned or accidental release, or a release in contravention of laws or regulations, of a substance into the environment, or the reasonable likelihood of such a release into the environment, that:

1. has or may have an immediate or long-term harmful effect on the environment;
2. constitutes, or may constitute, a danger to the environment on which humans depend; or
3. constitutes, or may constitute, a danger in Canada to human life or health.”

ENVIRONMENTAL PROTECTION

Environmental protection is defined as the efforts made to identify, remediate and prevent contamination of soil, water and air, and to reduce attendant risks to environmental and human health and safety. The adverse effects of exposure to contaminants may result from direct or indirect contamination of soils, water, and air from hazardous materials and uncontrolled exposure to those contaminants.

ENVIRONMENTAL SITE ASSESSMENT (ESA)

A systematic due diligence process that includes studies, services and investigations to identify and assess contaminated areas. The results of ESAs may be used to plan site management and remediation efforts.



FIRST NATION LAND

"First Nation land", in respect of a First Nation, means all or part of a reserve that the First Nation describes in its land code.

FIRST NATIONS LAND MANAGEMENT ACT

Is an Act providing for the ratification and bringing into effect of the Framework Agreement on First Nation Land Management. The Act was required under the *Framework Agreement* for two purposes: to ratify the *Framework Agreement*, and to implement those clauses of the *Framework Agreement* that affect third parties or other federal laws, or that are considered important enough to be repeated in the legislation. The *First Nations Land Management Act* is intended to be consistent with the *Framework Agreement* and to apply to the First Nations that are signatories to the *Framework Agreement*. The Act was enacted and given royal assent on June 7, 1999.

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

The *Framework Agreement on First Nation Land Management* is a government-to-government agreement. The Framework Agreement is an initiative for First Nations to opt out of the land management sections of the *Indian Act* and take over responsibility for the management and control of their reserve lands and resources. The Framework Agreement sets out the principal components of this new land management process.

The *Framework Agreement* provides First Nations with the option to manage their reserve lands under their own Land Codes. Until a First Nation community develops and approves a Land Code to take control of its reserve lands and resources, federal administration of their reserve lands continues under the *Indian Act*. The Framework Agreement is not a treaty and does not affect treaty rights or other constitutional rights of the First Nations.

GROUNDWATER

Groundwater means all subsurface water that occurs beneath the water table in rocks and geologic formations that are fully saturated.

INDIAN ACT

The *Indian Act* is Canadian federal legislation, first passed in 1876, and amended several times since. It sets out certain federal government obligations and regulates the management of Indian reserve lands, Indian moneys and other resources. Among its many provisions, the *Indian Act* currently requires the Minister of Indian Affairs and



Northern Development to manage certain moneys belonging to First Nations and Indian lands and to approve or disallow First Nations by-laws.

INDIVIDUAL AGREEMENT

An Individual Agreement between each community and Canada will be negotiated to deal with such matters as: the reserve lands to be managed by the First Nation, the specifics of the transfer of the administration of land from Canada to the First Nation, e.g. the interests in land held by Canada that are to be transferred to the First Nation, the transfer of revenues and an interim environmental assessment process, and the funding to be provided by Canada to the First Nation for land management.

LAND CODE

A Land Code will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Land Code will be drafted by the First Nation and will make provision for the following matters: identifying the reserve lands to be managed by the First Nation (called “First Nation land”), the general rules and procedures for the use and occupation of these lands by First Nation members and others, financial accountability for revenues from the lands (except oil and gas revenues, which continue under federal law), the making and publishing of First Nation land laws, the conflict of interest rules, a community process to develop rules and procedures applicable to land on the breakdown of a marriage, a dispute resolution process, procedures by which the First Nation can grant interests in land or acquire lands for community purposes, the delegation of land management responsibilities, and the procedure for amending the Land Code.

LANDS ADVISORY BOARD

Under Sections 38, 39, and 40 of the *Framework Agreement*, the First Nations have established a First Nation Land Advisory Board (LAB) to provide:

- Developmental First Nations political, technical, legal, advisory and financial support
- Operational First Nations assistance in implementing the *Framework Agreement* and their own land management regimes.

The LAB is composed of Chiefs regionally elected from the Operational First Nations.

Some of the LAB’s functions include:

- Establishing a resource centre
- Providing strategic direction to the Resource Centre



- Proposing to the Minister such amendments to the *Framework Agreement* and the federal legislation, as it considers necessary or advisable in consultation with First Nations
- Negotiating a funding method with the Minister, and performing such other functions or services for a First Nation as are agreed to between the LAB and the First Nation.

The LAB established a resource centre to carry out many of its technical functions and this body is the Lands Advisory Board Resource Centre (LABRC).

LEGACY ISSUE

An outstanding legacy issue is any issue that remains (at the time that the First Nation's Land Code and Individual Agreement comes into effect) unresolved such as:

- Outstanding environmental issues - All known environmental issues are noted in the Phase I Environmental Site Assessment during the Developmental Phase. They are then identified in a workplan included in the First Nation Individual Agreement
- Unknown environmental issues – Any environmental issues that predate the enactment of the Land Code and are discovered at any time form part of the set of outstanding legacy issues
- Survey errors – Identified in the Land Description Report (LDR).
- Encroachments by third parties - Identified in the LDR
- Land title discrepancies - Identified in the LDR

A First Nation may want to attempt to resolve as many outstanding legacy issues as soon as possible before a Land Code comes into effect.

LIABILITY

Liability: obligations arising from past transactions or events, the settlement of which may result in the transfer or use of assets, or the provision of services or other economic benefits in the future.

REMEDICATION

Remediation is defined by Environment Canada as the improvement of a contaminated site to prevent, minimize or mitigate damage to human health or the environment.

Remediation involves the development and application of a planned approach that removes, destroys, contains or otherwise reduces the availability of contaminants to



receptors of concern. Remediation may involve clean-up of contaminants, or “risk management” that limits exposure to contaminants that are not or cannot be removed.

RESERVES

The *Constitution Act of 1867 Section 91 (24)* - "Indians and lands reserved for Indians":

- Creates a distinction between Indian reserve lands and other lands in Canada
- Provides that Indians and reserve lands are a federal responsibility
- Gives the federal government exclusive jurisdiction over reserve lands
- Provides that only Parliament can legislate with regard to the use of reserve lands

The basic legal framework underlying reserves is:

- The underlying legal title to reserves belongs to the federal Crown
- How the reserve was created (e.g. before or after Confederation in 1867)
- Pursuant to section 2 of the *Indian Act*, reserves are set aside by the Crown in Right of Canada for the use and benefit of a First Nation

The *Framework Agreement* (see Section 4) clarifies that reserve lands under a Land Code will continue to be reserves within the meaning of the *Indian Act* and that any reserve, title to which is vested in Canada, and managed by a First Nation under a Land Code, will continue to be vested in Canada for the use and benefit of the respective First Nation for which it was set apart.

RISK MANAGEMENT

Risk management is the selection and implementation of a strategy of control of risk, followed by monitoring and evaluation of the effectiveness of that strategy.

Risk management may include direct remedial actions or other strategies that reduce the probability, intensity, frequency or duration of the exposure to contamination. The latter may include institutional controls such as zoning designations, land use restrictions, or orders. The decision to select a particular strategy may involve considering the information obtained from a risk assessment. Implementation typically involves a commitment of resources and communication with affected parties. Monitoring and evaluation may include environmental sampling, post-remedial surveillance, protective epidemiology, and analysis of new health risk information, as well as ensuring compliance.



CANADA

CONSOLIDATION

CODIFICATION

First Nations Land Management Act

Loi sur la gestion des terres des premières nations

S.C. 1999, c. 24

L.C. 1999, ch. 24

Current to October 31, 2012

À jour au 31 octobre 2012

Last amended on October 5, 2012

Dernière modification le 5 octobre 2012

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OFFICIAL STATUS
OF CONSOLIDATIONS

CARACTÈRE OFFICIEL
DES CODIFICATIONS

Subsections 31(1) and (2) of the *Legislation Revision and Consolidation Act*, in force on June 1, 2009, provide as follows:

Les paragraphes 31(1) et (2) de la *Loi sur la révision et la codification des textes législatifs*, en vigueur le 1^{er} juin 2009, prévoient ce qui suit:

Published
consolidation is
evidence

31. (1) Every copy of a consolidated statute or consolidated regulation published by the Minister under this Act in either print or electronic form is evidence of that statute or regulation and of its contents and every copy purporting to be published by the Minister is deemed to be so published, unless the contrary is shown.

31. (1) Tout exemplaire d'une loi codifiée ou d'un règlement codifié, publié par le ministre en vertu de la présente loi sur support papier ou sur support électronique, fait foi de cette loi ou de ce règlement et de son contenu. Tout exemplaire donné comme publié par le ministre est réputé avoir été ainsi publié, sauf preuve contraire.

Codifications
comme élément
de preuve

Inconsistencies
in Acts

(2) In the event of an inconsistency between a consolidated statute published by the Minister under this Act and the original statute or a subsequent amendment as certified by the Clerk of the Parliaments under the *Publication of Statutes Act*, the original statute or amendment prevails to the extent of the inconsistency.

(2) Les dispositions de la loi d'origine avec ses modifications subséquentes par le greffier des Parlements en vertu de la *Loi sur la publication des lois* l'emportent sur les dispositions incompatibles de la loi codifiée publiée par le ministre en vertu de la présente loi.

Incompatibilité
— lois

NOTE

This consolidation is current to October 31, 2012. The last amendments came into force on October 5, 2012. Any amendments that were not in force as of October 31, 2012 are set out at the end of this document under the heading "Amendments Not in Force".

NOTE

Cette codification est à jour au 31 octobre 2012. Les dernières modifications sont entrées en vigueur le 5 octobre 2012. Toutes modifications qui n'étaient pas en vigueur au 31 octobre 2012 sont énoncées à la fin de ce document sous le titre « Modifications non en vigueur ».

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S.C. 1999, c. 24

L.C. 1999, ch. 24

An Act providing for the ratification and the bringing into effect of the Framework Agreement on First Nation Land Management

Loi portant ratification de l'Accord-cadre relatif à la gestion des terres des premières nations et visant sa prise d'effet

[Assented to 17th June 1999]

[Sanctionnée le 17 juin 1999]

Preamble

WHEREAS Her Majesty in right of Canada and a specific group of first nations concluded the Framework Agreement on First Nation Land Management on February 12, 1996 in relation to the management by those first nations of their lands;

Attendu :

que Sa Majesté du chef du Canada et un groupe déterminé de premières nations ont signé, le 12 février 1996, l'Accord-cadre relatif à la gestion des terres des premières nations, qui vise à confier à ces dernières la gestion de leurs terres;

Préambule

AND WHEREAS the ratification of the Agreement by Her Majesty requires the enactment of an Act of Parliament;

que la ratification de cet accord-cadre par Sa Majesté est subordonnée à l'adoption d'une loi du Parlement,

NOW, THEREFORE, Her Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

Sa Majesté, sur l'avis et avec le consentement du Sénat et de la Chambre des communes du Canada, édicte :

SHORT TITLE

TITRE ABRÉGÉ

Short title

1. This Act may be cited as the *First Nations Land Management Act*.

1. *Loi sur la gestion des terres des premières nations*.

Titre abrégé

INTERPRETATION

DÉFINITIONS

Definitions

2. (1) The definitions in this subsection apply in this Act.

2. (1) Les définitions qui suivent s'appliquent à la présente loi.

Définitions

“council”
« conseil »

“council”, in relation to a First Nation, has the same meaning as the expression “council of the band” in subsection 2(1) of the *Indian Act*.

« accord-cadre » L'Accord-cadre relatif à la gestion des terres des premières nations signé le 12 février 1996 par les premières nations et Sa Majesté du chef du Canada, ainsi que les modifications qui peuvent lui être apportées conformément à ses dispositions.

« accord-cadre »
“Framework Agreement”

“eligible voter”
« électeur »

“eligible voter” means a First Nation member who is eligible to vote under subsection 10(2).

« accord spécifique » Accord conclu en conformité avec le paragraphe 6(3).

« accord spécifique »
“individual agreement”

“First Nation”
« première nation »

“First Nation” means a band named in the schedule.

| | | | |
|---|--|--|---|
| <p>“First Nation land” « terres de la première nation »</p> | <p>“First Nation land” means reserve land to which a land code applies and includes all the interests or rights in, and resources of, the land that are within the legislative authority of Parliament.</p> | <p>« arpenteur général » S’entend au sens du paragraphe 2(1) de la <i>Loi sur l’arpentage des terres du Canada</i>.</p> | <p>« arpenteur général » “Surveyor General”</p> |
| <p>“First Nation law” « texte législatif »</p> | <p>“First Nation law” means a law referred to in section 20.</p> | <p>« code foncier » Le code visé au paragraphe 6(1).</p> | <p>« code foncier » “land code”</p> |
| <p>“First Nation member” « membre de la première nation »</p> | <p>“First Nation member” means a person whose name appears on the band list of a First Nation or who is entitled to have their name appear on that list.</p> | <p>« conseil » En ce qui touche une première nation, le conseil de la bande au sens du paragraphe 2(1) de la <i>Loi sur les Indiens</i>.</p> | <p>« conseil » “council”</p> |
| <p>“Framework Agreement” « accord-cadre »</p> | <p>“Framework Agreement” means the Framework Agreement on First Nation Land Management concluded between Her Majesty in right of Canada and the First Nations on February 12, 1996, and includes any amendments to the Agreement made pursuant to its provisions.</p> | <p>« droit » S’agissant des terres de la première nation situées au Québec, tout droit de quelque nature que ce soit portant sur celles-ci et, par assimilation, tout droit du locataire; est cependant exclu le titre de propriété.</p> | <p>« droit » “right”</p> |
| <p>“individual agreement” « accord spécifique »</p> | <p>“individual agreement” means an agreement with a First Nation entered into under subsection 6(3).</p> | <p>« électeur » Personne qui satisfait aux conditions prévues au paragraphe 10(2).</p> | <p>« électeur » “eligible voter”</p> |
| <p>“interest” « intérêt »</p> | <p>“interest”, in relation to First Nation land in Canada elsewhere than in Quebec, means any estate, right or interest of any nature in or to the land, but does not include title to the land.</p> | <p>« intérêt » S’agissant des terres de la première nation situées au Canada mais ailleurs qu’au Québec, tout domaine, droit ou autre intérêt portant sur celles-ci; est cependant exclu le titre de propriété.</p> | <p>« intérêt » “interest”</p> |
| <p>“land code” « code foncier »</p> | <p>“land code” means a land code of a First Nation referred to in subsection 6(1).</p> | <p>« intérêts » [Abrogée, 2007, ch. 17, art. 1]</p> | |
| <p>“licence” « permis »</p> | <p>“licence”, in relation to First Nation land, means</p> <p>(a) in Canada elsewhere than in Quebec, any right of use or occupation of the land other than an interest in that land;</p> <p>(b) in Quebec, any right to use or occupy the land other than a right as defined in this subsection.</p> | <p>« membre de la première nation » Personne dont le nom apparaît sur la liste de bande relative à la première nation ou qui a droit à ce que son nom y figure.</p> | <p>« membre de la première nation » “first nation member”</p> |
| <p>“Minister” « ministre »</p> | <p>“Minister” means the Minister of Indian Affairs and Northern Development.</p> | <p>« ministre » Le ministre des Affaires indiennes et du Nord canadien.</p> | <p>« ministre » “Minister”</p> |
| <p>“project” « projet d’exploitation »</p> | <p>“project” has the same meaning as in subsection 2(1) of the <i>Canadian Environmental Assessment Act</i>.</p> | <p>« permis » S’agissant des terres de la première nation :</p> <p>a) situées au Canada mais ailleurs qu’au Québec, tout droit d’usage ou d’occupation portant sur celles-ci ou toute permission au même effet, autre qu’un intérêt;</p> <p>b) situées au Québec, tout droit d’utiliser ou d’occuper celles-ci, autre qu’un droit au sens du présent paragraphe.</p> | <p>« permis » “licence”</p> |
| <p>“right” « droit »</p> | <p>“right”, in relation to First Nation land in Quebec, means any right of any nature in or to that land, including the rights of a lessee, but does not include title to the land.</p> | <p>« première nation » Bande dont le nom figure à l’annexe.</p> | <p>« première nation » “first nation”</p> |
| <p>“Surveyor General” « arpenteur général »</p> | <p>“Surveyor General” has the same meaning as in subsection 2(1) of the <i>Canada Lands Surveys Act</i>.</p> | <p>« projet d’exploitation » Projet au sens du paragraphe 2(1) de la <i>Loi canadienne sur l’évaluation environnementale</i>.</p> | <p>« projet d’exploitation » “project”</p> |
| | | <p>« terres de la première nation » Terres d’une réserve auxquelles s’applique le code foncier. Sont compris les droits ou intérêts afférents ainsi que les ressources qui s’y trouvent, dans la</p> | <p>« terres de la première nation » “first nation land”</p> |

| | | | |
|--|---|--|--|
| | | mesure où ils relèvent de la compétence fédérale. | |
| | | « texte législatif » Texte législatif visé à l'article 20. | « texte législatif » "first nation law" |
| Words and expressions in <i>Indian Act</i> | (2) Unless the context otherwise requires, words and expressions used in this Act have the same meaning as in the <i>Indian Act</i> . | (2) Sauf indication contraire, les autres termes de la présente loi s'entendent au sens de la <i>Loi sur les Indiens</i> . | Terminologie : <i>Loi sur les Indiens</i> |
| Not land claims agreement | (3) For greater certainty, neither the Framework Agreement nor this Act is a land claims agreement referred to in section 35 of the <i>Constitution Act, 1982</i> . 1999, c. 24, s. 2; 2007, c. 17, s. 1; 2012, c. 19, ss. 627, 652(E). | (3) Il est entendu que ni l'accord-cadre ni la présente loi constitue un accord sur des revendications territoriales au sens de l'article 35 de la <i>Loi constitutionnelle de 1982</i> . 1999, ch. 24, art. 2; 2007, ch. 17, art. 1; 2012, ch. 19, art. 627 et 652(A). | Pas un accord sur des revendications territoriales |
| | HER MAJESTY | SA MAJESTÉ | |
| Binding on Her Majesty | 3. This Act is binding on Her Majesty in right of Canada and any reference in this Act to Her Majesty means Her Majesty in right of Canada. | 3. La présente loi lie Sa Majesté du chef du Canada, et le terme « Sa Majesté » ne vise que cette dernière. | Obligation de Sa Majesté |
| | GENERAL | DISPOSITIONS GÉNÉRALES | |
| Ratification and effect | 4. (1) The Framework Agreement is hereby ratified and brought into effect in accordance with its provisions. | 4. (1) L'accord-cadre est ratifié et prend effet conformément à ses dispositions. | Ratification et prise d'effet |
| Deposit of copies | (2) The Minister shall cause a copy of the Framework Agreement and of any amendment made to the Agreement, certified by the Minister to be a true copy, to be deposited in the library of the Department of Indian Affairs and Northern Development situated in the National Capital Region and in such regional offices of that Department and other places as the Minister considers advisable. | (2) Le ministre fait déposer, à la bibliothèque de son ministère située dans la région de la capitale nationale, ainsi qu'aux bureaux ministériels régionaux et autres lieux qu'il juge indiqués, une copie certifiée par lui conforme à l'original de l'accord-cadre et de toute modification apportée à celui-ci. | Dépôt |
| Title to First Nation land | 5. For greater certainty, except for First Nation land exchanged in accordance with section 27, (a) title to First Nation land is not affected by the Framework Agreement or this Act; (b) First Nation land continues to be set apart for the use and benefit of the First Nation for which it was set apart; and (c) First Nation land continues to be land reserved for the Indians within the meaning of Class 24 of section 91 of the <i>Constitution Act, 1867</i> . 1999, c. 24, s. 5; 2012, c. 19, s. 652(E). | 5. Il est entendu que, sauf en cas d'échange conforme à l'article 27, la présente loi et l'accord-cadre n'ont pas pour effet de modifier le titre de propriété des terres de la première nation, celles-ci continuant d'être des terres réservées aux Indiens au sens du point 24 de l'article 91 de la <i>Loi constitutionnelle de 1867</i> et mises de côté par Sa Majesté à l'usage et au profit de la première nation concernée. 1999, ch. 24, art. 5; 2012, ch. 19, art. 652(A). | Titre de propriété |

ESTABLISHMENT OF LAND
MANAGEMENT REGIME

LAND CODE AND INDIVIDUAL AGREEMENT

Adoption of land
code

6. (1) A First Nation that wishes to establish a land management regime in accordance with the Framework Agreement and this Act shall adopt a land code applicable to all land in a reserve of the First Nation, which land code must include the following matters:

- (a) a description of the land that is to be subject to the land code that the Surveyor General may prepare or cause to be prepared or any other description that is, in the Surveyor General's opinion, sufficient to identify those lands;
- (b) the general rules and procedures applicable to the use and occupancy of First Nation land, including use and occupancy under
 - (i) licences and leases, and
 - (ii) interests or rights in First Nation land held pursuant to allotments under subsection 20(1) of the *Indian Act* or pursuant to the custom of the First Nation;
- (c) the procedures that apply to the transfer, by testamentary disposition or succession, of any interest or right in First Nation land;
- (d) the general rules and procedures respecting revenues from natural resources obtained from First Nation land;
- (e) the requirements for accountability to First Nation members for the management of First Nation land and moneys derived from First Nation land;
- (f) a community consultation process for the development of general rules and procedures respecting, in cases of breakdown of marriage, the use, occupation and possession of First Nation land and the division of interests or rights in First Nation land;
- (g) the rules that apply to the enactment and publication of First Nation laws;
- (h) the rules that apply to conflicts of interest in the management of First Nation land;
- (i) the establishment or identification of a forum for the resolution of disputes in relation to interests or rights in First Nation land;

MISE EN PLACE DU RÉGIME DE
GESTION DES TERRES

CODE FONCIER ET ACCORD SPÉCIFIQUE

Adoption du
code foncier

6. (1) La mise en place d'un régime de gestion des terres, par la première nation, en conformité avec l'accord-cadre et la présente loi est subordonnée à l'adoption d'un code foncier applicable à l'ensemble des terres comprises dans sa réserve et dans lequel figurent les éléments suivants :

- a) la description des terres visées que l'arpenteur général prépare ou fait préparer éventuellement ou toute autre description qui, à son avis, est adéquate pour préciser les terres visées;
- b) les règles générales — de procédure et autres — applicables en matière d'utilisation et d'occupation de ces terres, notamment en vertu d'un permis ou d'un bail ou en vertu d'un droit ou intérêt découlant soit de la possession accordée en conformité avec le paragraphe 20(1) de la *Loi sur les Indiens*, soit de la coutume de la première nation;
- c) les règles de procédure applicables en matière de transfert, par dévolution successorale, de droits ou intérêts sur ces terres;
- d) les règles générales — de procédure et autres — applicables en matière de revenus tirés des ressources naturelles de ces terres;
- e) les règles applicables en matière de responsabilité, devant les membres de la première nation, en ce qui touche la gestion des terres de la première nation et celle des fonds qui y sont liés;
- f) une disposition relative au processus de consultation populaire visant l'établissement de règles applicables, en cas d'échec du mariage, en matière soit d'utilisation, d'occupation ou de possession des terres de la première nation, soit de partage des droits ou intérêts sur celles-ci;
- g) les règles d'édition et de publication des textes législatifs;
- h) les règles applicables en matière de conflit d'intérêts dans la gestion des terres de la première nation;
- i) une disposition prévoyant soit la constitution d'un organe chargé de régler les diffé-

(j) the general rules and procedures that apply in respect of the granting or expropriation by the First Nation of interests or rights in First Nation land;

(k) the general rules and procedures for the delegation, by the council of the First Nation, of its authority to manage First Nation land;

(l) the procedures that apply to an approval of an exchange of First Nation land; and

(m) the procedures for amending the land code.

rends concernant les droits ou intérêts sur les terres de la première nation, soit l'attribution de cette fonction à un organe donné;

j) les règles générales — de procédure et autres — applicables en matière d'attribution ou d'expropriation, par la première nation, de droits ou intérêts sur ses terres;

k) les règles générales — de procédure et autres — applicables en matière de délégation, par le conseil de la première nation, de ses pouvoirs de gestion des terres;

l) la procédure d'approbation en matière d'échange de terres;

m) la procédure de modification du code foncier.

Land management regime

(2) For greater certainty, if more than one reserve has been set apart for the use and benefit of a First Nation, the First Nation may establish a land management regime for any or all of its reserves.

(2) Il est entendu que la première nation peut mettre en place un régime de gestion des terres pour toutes les réserves mises de côté à son usage et à son profit ou pour certaines d'entre elles.

Précision

Individual agreement

(3) A First Nation that wishes to establish a land management regime shall, in accordance with the Framework Agreement, enter into an individual agreement with the Minister describing the land that will be subject to the land code and providing for

(3) La mise en place d'un régime de gestion des terres est en outre subordonnée à la conclusion, par le ministre et la première nation et en conformité avec l'accord-cadre, d'un accord spécifique qui, en plus de mentionner les terres visées :

Accord spécifique

(a) the terms of the transfer of administration of that land;

a) fixe les modalités de transfert des pouvoirs et fonctions en matière de gestion des terres;

(b) a description of the interests or rights and licences that have been granted by Her Majesty in or in relation to that land, and the date and other terms of the transfer to the First Nation of Her Majesty's rights and obligations as grantor of those interests or rights and licences;

b) précise les droits ou intérêts et les permis qui ont été accordés par Sa Majesté relativement aux terres en question ainsi que la date et les autres modalités du transfert, à la première nation, des droits et obligations de Sa Majesté à l'égard de ceux-ci;

(c) the environmental assessment process that will apply to projects on that land until the enactment of First Nation laws in relation to that subject; and

c) établit un régime d'évaluation environnementale applicable aux projets d'exploitation devant être mis en œuvre sur les terres en question jusqu'à la prise de textes législatifs sur le sujet;

(d) any other relevant matter.

d) prévoit tout autre élément pertinent.

1999, c. 24, s. 6; 2007, c. 17, s. 2; 2012, c. 19, ss. 628, 652(E).

1999, ch. 24, art. 6; 2007, ch. 17, art. 2; 2012, ch. 19, art. 628 et 652(A).

Survey not mandatory

6.1 If the Surveyor General prepares or causes to be prepared a description of lands under paragraph 6(1)(a), the Surveyor General may, if he or she considers it appropriate, sur-

6.1 L'arpenteur général peut, s'il l'estime indiqué, arpenter ou faire arpenter, en vertu de la *Loi sur l'arpentage des terres du Canada*, les

Arpentage facultatif

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| | vey or have those lands surveyed in accordance with the <i>Canada Lands Surveys Act</i> . 2012, c. 19, s. 629. | terres à l'égard desquelles une description est préparée en vertu de l'alinéa 6(1)a). 2012, ch. 19, art. 629. | |
| Excluded land | <p>7. (1) Despite subsection 6(1), a portion of a reserve may be excluded from the application of a land code if</p> <p>(a) it is in an environmentally unsound condition that cannot be remedied by measures that are technically and financially feasible before the date that the land code is to be submitted for community approval under subsection 10(1);</p> <p>(b) it is the subject of litigation that is unlikely to be resolved before the date referred to in paragraph (a);</p> <p>(c) it is uninhabitable or unusable as a result of a natural disaster; or</p> <p>(d) the First Nation and the Minister agree that, for any other reason, its exclusion is justifiable.</p> | <p>7. (1) Malgré le paragraphe 6(1), peut être exclue de l'application du code foncier la partie de la réserve qui remplit l'une ou l'autre des conditions suivantes :</p> <p>a) l'environnement y est dans un si mauvais état que des mesures réalisables sur les plans technique et économique ne pourront remédier à la situation avant la date prévue pour la consultation populaire visée au paragraphe 10(1);</p> <p>b) elle fait l'objet d'un litige qui ne sera vraisemblablement pas résolu avant cette date;</p> <p>c) elle est inhabitable ou inutilisable en raison d'un sinistre;</p> <p>d) la première nation et le ministre s'entendent pour conclure qu'elle peut en être exclue pour toute autre raison.</p> | Exclusion |
| Condition | <p>(2) A portion of a reserve may not be excluded from a land code if the exclusion would have the effect of placing the administration of a lease, other interest or a right in that land in more than one land management regime.</p> <p>(3) [Repealed, 2012, c. 19, s. 630]</p> <p>1999, c. 24, s. 7; 2007, c. 17, s. 3; 2012, c. 19, ss. 630, 652(E).</p> | <p>(2) L'exclusion est invalide si elle a pour effet d'assujettir un bail, quelque autre intérêt ou quelque droit à plus d'un régime de gestion.</p> <p>(3) [Abrogé, 2012, ch. 19, art. 630]</p> <p>1999, ch. 24, art. 7; 2007, ch. 17, art. 3; 2012, ch. 19, art. 630 et 652(A).</p> | Condition |
| Exclusion — boundaries of reserve uncertain | <p>7.1 (1) Despite subsection 6(1), land may be excluded from the application of a land code if it is uncertain whether the land is located within the boundaries of the reserve.</p> | <p>7.1 (1) Malgré le paragraphe 6(1), peuvent être exclues de l'application du code foncier les terres dont il n'est pas certain qu'elles soient comprises dans les limites de la réserve.</p> | Exclusion — limites de la réserve incertaines |
| Land subject to lease, other interest or right | <p>(2) If the exclusion of the land would have the effect of placing the administration of a lease, other interest or a right in that land in more than one land management regime, then all the land that is subject to that lease, other interest or right shall be excluded from the application of the land code.</p> | <p>(2) Dans le cas où l'exclusion aurait pour effet d'assujettir un bail, quelque autre intérêt ou quelque droit à plus d'un régime de gestion des terres, toutes les terres visées par le bail, l'intérêt ou le droit doivent être exclues de l'application du code foncier.</p> | Terres visées par un bail, un autre intérêt ou un droit |
| Limitation — effects of exclusion | <p>(3) The exclusion of the land does not preclude the First Nation or Her Majesty from asserting in an action, a lawsuit or other proceeding that the land is part of the reserve.</p> <p>2012, c. 19, s. 631.</p> | <p>(3) L'exclusion n'a pas pour effet d'empêcher la première nation ou Sa Majesté de faire valoir, dans le cadre de toute action, poursuite ou autre procédure, que les terres en question font partie de la réserve.</p> <p>2012, ch. 19, art. 631.</p> | Réserve — effets de l'exclusion |
| Inclusion of previously excluded land | <p>7.2 A First Nation shall amend the description of First Nation land in its land code to in-</p> | <p>7.2 La première nation est tenue de modifier le code foncier de façon à y ajouter la descrip-</p> | Ajout de terres auparavant exclues |

clude a portion of a reserve excluded under subsection 7(1) or land excluded under subsection 7.1(1) if the First Nation and the Minister agree that the condition that justified the exclusion no longer exists, and the individual agreement shall be amended accordingly.

2012, c. 19, s. 631.

VERIFICATION

Appointment of verifier

8. (1) The Minister and a First Nation shall jointly appoint a verifier, to be chosen from a list established in accordance with the Framework Agreement, who shall

(a) determine whether a proposed land code and the proposed process for the approval of the land code and an individual agreement are in accordance with the Framework Agreement and this Act and, if they are in accordance, confirm them;

(b) determine whether the conduct of a community approval process is in accordance with the process confirmed under paragraph (a); and

(c) certify the validity of a land code that has been approved in accordance with the Framework Agreement and this Act.

Disputes

(2) The verifier shall determine any dispute arising between a First Nation and the Minister before a land code comes into force regarding the terms of the transfer of administration of land or the exclusion of a portion of a reserve from the application of a land code.

1999, c. 24, s. 8; 2012, c. 19, s. 652(E).

Notice of determination

9. (1) The verifier shall, within thirty days after receiving a First Nation's documents, as required by the Framework Agreement, make a determination under paragraph 8(1)(a) and give notice of the determination to the First Nation and the Minister.

Reasons

(2) If the verifier determines that a proposed land code or a proposed community approval process is not in accordance with the Framework Agreement or this Act, the verifier shall give written reasons to the First Nation and the Minister.

1999, c. 24, s. 9; 2012, c. 19, s. 652(E).

tion de la partie de la réserve ou des terres, selon le cas, auparavant exclues, si elle et le ministre concluent que l'exclusion au titre des paragraphes 7(1) ou 7.1(1) n'est plus justifiée. L'accord spécifique doit être modifié en conséquence.

2012, ch. 19, art. 631.

VÉRIFICATION

Nomination du vérificateur

8. (1) Le ministre et la première nation nomment conjointement, parmi les candidats inscrits sur la liste établie à cette fin en conformité avec l'accord-cadre, un vérificateur chargé :

a) de décider de la conformité, avec l'accord-cadre et la présente loi, du projet de code foncier et du mécanisme de consultation populaire proposé pour son approbation et celle de l'accord spécifique et, le cas échéant, d'attester cette conformité;

b) de décider de la conformité du déroulement de cette consultation avec le mécanisme ayant fait l'objet de l'attestation prévue à l'alinéa a);

c) d'attester la validité du code foncier approuvé en conformité avec l'accord-cadre et la présente loi.

Différends

(2) Il est en outre chargé de régler les différends qui surviennent, avant l'entrée en vigueur du code foncier, entre la première nation et le ministre relativement soit aux modalités de transfert des pouvoirs et fonctions en matière de gestion, soit à l'exclusion de toute partie d'une réserve de l'application du code foncier.

1999, ch. 24, art. 8; 2012, ch. 19, art. 652(A).

Communication de la décision

9. (1) Le vérificateur adresse à la première nation et au ministre, dans les trente jours suivant la réception des documents que celle-ci est tenue de lui communiquer aux termes de l'accord-cadre, sa décision rendue en application de l'alinéa 8(1)a).

Motifs

(2) En cas de conclusion défavorable, il consigne aussi ses motifs, qu'il joint à sa décision.

1999, ch. 24, art. 9; 2012, ch. 19, art. 652(A).

COMMUNITY APPROVAL AND CERTIFICATION

CONSULTATION POPULAIRE ET CERTIFICATION

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| Submission to members | <p>10. (1) If the verifier determines that a proposed land code and a proposed community approval process of a First Nation are in accordance with the Framework Agreement and this Act, the council of the First Nation may submit the proposed land code and the individual agreement to the First Nation members for their approval.</p> | <p>10. (1) Une fois attestée la conformité du projet de code foncier et du mécanisme de consultation populaire proposé avec l'accord-cadre et la présente loi, le conseil peut soumettre le projet et l'accord spécifique à l'approbation des membres de la première nation.</p> | Approbation des membres |
| Eligibility to vote | <p>(2) Every person who is eighteen years of age or over and a First Nation member, whether or not resident on the reserve of the First Nation, is eligible to vote in the community approval process.</p> | <p>(2) Est habile à voter en ce qui touche cette approbation tout membre de la première nation âgé d'au moins dix-huit ans, qu'il réside ou non dans la réserve en question.</p> | Droit de vote |
| Information to be provided | <p>(3) The council shall, before proceeding to obtain community approval, take reasonable measures, such as those described in the Framework Agreement, to locate voters and inform them of their right to vote, the means of exercising that right and the content of the Framework Agreement, this Act, the proposed land code and the individual agreement.</p> | <p>(3) Le conseil est tenu, avant de procéder à la consultation populaire, de prendre les mesures utiles — notamment celles prévues par l'accord-cadre — pour retrouver tous les électeurs et les informer, d'une part, de leur droit de vote et des modalités d'exercice de ce droit et, d'autre part, de la teneur de l'accord-cadre, de la présente loi, du projet de code foncier ainsi que de l'accord spécifique.</p> | Devoir d'information |
| Third parties | <p>(4) If other persons have an interest or right in the land that is to be subject to the proposed land code, the council shall, within a reasonable time before the vote, take appropriate measures to inform those persons of the proposed land code, this Act and the date of the vote.</p> <p>1999, c. 24, s. 10; 2007, c. 17, s. 4; 2012, c. 19, s. 652(E).</p> | <p>(4) Il est en outre tenu de prendre, en temps utile avant le scrutin, les mesures indiquées pour porter la présente loi, le projet de code foncier et la date prévue pour le scrutin à la connaissance de tout autre titulaire de droits ou intérêts sur les terres en question.</p> <p>1999, ch. 24, art. 10; 2007, ch. 17, art. 4; 2012, ch. 19, art. 652(A).</p> | Titulaires de droits ou intérêts |
| Publication of notice | <p>11. (1) The verifier shall publish a notice of the date, time and place of a vote.</p> | <p>11. (1) Le vérificateur fait publier un avis des date, heure et lieu du scrutin.</p> | Préavis |
| Role of the verifier | <p>(2) The verifier, and any assistants that the verifier may appoint, shall observe the conduct of a vote.</p> | <p>(2) Il est de plus chargé de la surveillance du déroulement du scrutin et peut s'adjoindre, à cette fin, les assistants qu'il estime nécessaires.</p> | Surveillance du scrutin |
| Report | <p>(3) Within fifteen days after the conclusion of a vote, the verifier shall send to the First Nation and the Minister the verifier's report on the conduct of the vote.</p> <p>1999, c. 24, s. 11; 2012, c. 19, s. 652(E).</p> | <p>(3) Il adresse à la première nation et au ministre, dans les quinze jours suivant la clôture du scrutin, son rapport au sujet du déroulement.</p> <p>1999, ch. 24, art. 11; 2012, ch. 19, art. 652(A).</p> | Rapport |
| Approval by members | <p>12. (1) A proposed land code and an individual agreement that have been submitted for community approval are approved if</p> <p>(a) a majority of eligible voters participated in the vote and a majority of those voters voted to approve them;</p> | <p>12. (1) Le projet de code foncier et l'accord spécifique sont tenus pour approuvés lorsqu'ils reçoivent l'appui :</p> <p>a) soit de la majorité des voix exprimées, dans les cas où la majorité des électeurs participent effectivement au scrutin;</p> | Approbation |

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| | <p>(b) all those eligible voters who signified, in a manner determined by the First Nation, their intention to vote have been registered and a majority of the registered voters voted to approve them; or</p> <p>(c) they are approved by the community in any other manner agreed on by the First Nation and the Minister.</p> | <p>b) soit de la majorité des électeurs enregistrés, dans les cas où tous les électeurs ayant fait connaître, selon les modalités fixées par la première nation, leur intention de voter ont été enregistrés;</p> <p>c) soit donné suivant les autres modalités dont conviennent la première nation et le ministre.</p> | |
| Minimum participation | <p>(2) Notwithstanding subsection (1), a proposed land code and an individual agreement are not approved unless more than twenty-five per cent of the eligible voters voted to approve them.</p> | <p>(2) Dans tous les cas, cependant, l'approbation n'est valide que si plus de vingt-cinq pour cent des électeurs se sont exprimés en sa faveur.</p> | Approbation minimale |
| Increased percentage | <p>(3) A council may, by resolution, increase the percentage of votes required under subsection (2).</p> <p>1999, c. 24, s. 12; 2012, c. 19, s. 652(E).</p> | <p>(3) Le conseil peut cependant, par résolution, fixer pour l'approbation un pourcentage supérieur à celui prévu au paragraphe (2).</p> <p>1999, ch. 24, art. 12; 2012, ch. 19, art. 652(A).</p> | Pourcentage supérieur |
| Copy and declaration | <p>13. (1) If a First Nation votes to approve a land code and an individual agreement, its council shall, after the conclusion of the vote, send to the verifier</p> <p>(a) without delay, a copy of the approved code and a declaration that the code and agreement were approved in accordance with section 12; and</p> <p>(b) as soon as the circumstances permit, a copy of the individual agreement signed by the First Nation and the Minister.</p> | <p>13. (1) Après la clôture du scrutin, le conseil adresse sans délai au vérificateur une copie du code foncier approuvé par les membres de la première nation et une déclaration confirmant l'approbation, en conformité avec l'article 12, du code et de l'accord spécifique. De plus, il lui adresse dans les meilleurs délais une copie de ce dernier signé par la première nation et le ministre.</p> | Copie et déclaration |
| Report of irregularity | <p>(2) The Minister or an eligible voter may, within five days after the conclusion of a vote, report any irregularity in the voting process to the verifier.</p> <p>1999, c. 24, s. 13; 2012, c. 19, s. 632.</p> | <p>(2) Le ministre ou tout électeur peut, dans les cinq jours suivant la clôture du scrutin, informer le vérificateur de toute irrégularité dont a été entaché le déroulement du scrutin.</p> <p>1999, ch. 24, art. 13; 2012, ch. 19, art. 632.</p> | Dénonciation |
| Certification | <p>14. (1) The verifier shall, after receiving the documents referred to in subsection 13(1), certify the validity of the land code unless the verifier, after giving the First Nation and the Minister a reasonable opportunity to make submissions on the matter but within 10 days after the conclusion of the vote, is of the opinion that</p> <p>(a) the community approval process confirmed under paragraph 8(1)(a) was not followed or the community approval was otherwise irregular; and</p> <p>(b) the land code might not have been approved but for that irregularity.</p> | <p>14. (1) Sur réception des documents qui lui sont adressés en application du paragraphe 13(1), le vérificateur atteste la validité du code foncier sauf si, dans les dix jours suivant la clôture du scrutin et après avoir donné à la première nation et au ministre l'occasion de lui présenter des observations, il tire la conclusion suivante :</p> <p>a) le mécanisme dont il a attesté la conformité au titre de l'alinéa 8(1)a) n'a pas été suivi ou la consultation populaire est par ailleurs entachée d'irrégularité;</p> <p>b) l'approbation n'aurait peut-être pas été donnée sans cette irrégularité.</p> | Attestation |

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| Transmittal | (2) The verifier shall, without delay, send a copy of the certified land code to the First Nation and the Minister. | (2) Le vérificateur adresse sans délai à la première nation et au ministre une copie du code foncier dont il a attesté la validité. | Communication |
| Presumption | (3) A certified land code is deemed to have been validly approved by the First Nation. 1999, c. 24, s. 14; 2012, c. 19, ss. 633(E), 652(E). | (3) Une fois sa validité attestée par le vérificateur, le code est réputé dûment approuvé par la première nation. 1999, ch. 24, art. 14; 2012, ch. 19, art. 633(A) et 652(A). | Présomption |
| COMING INTO FORCE OF LAND CODE | | ENTRÉE EN VIGUEUR DU CODE FONCIER | |
| Coming into force | 15. (1) Subject to subsection (1.1), a land code comes into force and has the force of law on the day on which it is certified or on any other later date that may be specified in or under the land code, and judicial notice shall be taken of the land code in any proceedings from the date of the coming into force of that land code. | 15. (1) Sous réserve du paragraphe (1.1), le code foncier entre en vigueur à la date de l'attestation de sa validité ou à la date postérieure qui y est précisée ou qui est déterminée en conformité avec ses dispositions. Il a dès lors force de loi et est admis d'office dans toute procédure judiciaire. | Date, force de loi et admission d'office |
| Limitation | (1.1) A land code is not to come into force before the day on which the individual agreement is signed by the First Nation and the Minister. | (1.1) L'entrée en vigueur du code foncier ne peut précéder la date à laquelle l'accord spécifique a été signé par la première nation et le ministre. | Réserve |
| Access to land code | (2) A copy of the land code of a First Nation shall be maintained by the council for public inspection at a place designated by the council. 1999, c. 24, s. 15; 2012, c. 19, ss. 634, 652(E). | (2) Le conseil de la première nation met à la disposition du public, aux endroits qu'il estime appropriés, une copie du code foncier. 1999, ch. 24, art. 15; 2012, ch. 19, art. 634 et 652(A). | Copie à la disposition du public |
| Effect | 16. (1) After the coming into force of a land code, no interest or right in or licence in relation to First Nation land may be acquired or granted except in accordance with the land code of the First Nation. | 16. (1) L'acquisition ou l'attribution de droits ou intérêts ou de permis relatifs aux terres de la première nation ne peuvent, à compter de l'entrée en vigueur du code foncier, être effectuées qu'en conformité avec celui-ci. | Effet |
| Interests or rights of third parties | (2) Subject to subsections (3) and (4), interests or rights in and licences in relation to First Nation land that exist on the coming into force of a land code continue in accordance with their terms and conditions. | (2) Sous réserve des paragraphes (3) et (4), les droits ou intérêts et les permis détenus, à la date d'entrée en vigueur du code foncier, relativement aux terres de la première nation sont maintenus, ainsi que les conditions dont ils sont assortis. | Droits ou intérêts des tiers |
| Transfer of rights of Her Majesty | (3) On the coming into force of the land code of a First Nation, the rights and obligations of Her Majesty as grantor in respect of the interests or rights and the licences described in the First Nation's individual agreement are transferred to the First Nation in accordance with that agreement. | (3) Les droits et obligations de Sa Majesté à l'égard des droits ou intérêts et des permis précisés dans l'accord spécifique sont, à la date d'entrée en vigueur du code foncier, transférés à la première nation en conformité avec cet accord. | Transfert |
| Interests and rights of First Nation members | (4) Interests or rights in First Nation land held on the coming into force of a land code by First Nation members pursuant to allotments under subsection 20(1) of the <i>Indian Act</i> or pursuant to the custom of the First Nation are subject to the provisions of the land code govern- | (4) Sont assujettis, à compter de la date d'entrée en vigueur du code foncier, aux dispositions de celui-ci en matière de transfert, de bail et de participation aux revenus tirés des ressources naturelles, les droits ou intérêts des membres de la première nation sur ses terres | Droits ou intérêts des membres de la première nation |

ing the transfer and lease of interests or rights in First Nation land and sharing in natural resource revenues.

1999, c. 24, s. 16; 2007, c. 17, s. 5; 2012, c. 19, s. 652(E).

qui découlent soit de la possession accordée en conformité avec le paragraphe 20(1) de la *Loi sur les Indiens*, soit de la coutume de la première nation.

1999, ch. 24, art. 16; 2007, ch. 17, art. 5; 2012, ch. 19, art. 652(A).

RULES ON BREAKDOWN OF MARRIAGE

RÈGLES PARTICULIÈRES : ÉCHEC DU MARIAGE

Obligation of First Nation

17. (1) A First Nation shall, in accordance with the Framework Agreement and following the community consultation process provided for in its land code, establish general rules and procedures, in cases of breakdown of marriage, respecting the use, occupation and possession of First Nation land and the division of interests or rights in First Nation land.

17. (1) La première nation doit veiller à l'établissement, en conformité avec l'accord-cadre et au terme du processus de consultation populaire prévu à cette fin dans le code foncier, de règles générales — de procédure et autres — applicables, en cas d'échec du mariage, en matière soit d'utilisation, d'occupation ou de possession des terres de la première nation, soit de partage des droits ou intérêts sur celles-ci.

Obligation de la première nation

Establishment of rules and procedures

(2) The First Nation shall, within twelve months after its land code comes into force, incorporate the general rules and procedures into its land code or enact a First Nation law containing the general rules and procedures.

(2) Elle est tenue, dans les douze mois qui suivent la date d'entrée en vigueur du code foncier, de les insérer dans ce code ou de prendre des textes législatifs sur le sujet.

Mise en place

Disputes

(3) The First Nation or the Minister may refer any dispute relating to the establishment of the general rules and procedures to an arbitrator in accordance with the Framework Agreement.

(3) La première nation ou le ministre peut, en conformité avec l'accord-cadre, saisir un arbitre de tout différend relatif à l'établissement de ces règles.

Différend

1999, c. 24, s. 17; 2007, c. 17, s. 6; 2012, c. 19, s. 652(E).

1999, ch. 24, art. 17; 2007, ch. 17, art. 6; 2012, ch. 19, art. 652(A).

LAND MANAGEMENT REGIME

RÉGIME DE GESTION DES TERRES

FIRST NATION POWERS

POUVOIRS GÉNÉRAUX DE LA PREMIÈRE NATION

Power to manage

18. (1) A First Nation has, after the coming into force of its land code and subject to the Framework Agreement and this Act, the power to manage First Nation land and, in particular, may

18. (1) La première nation est, à compter de l'entrée en vigueur du code foncier et sous réserve de l'accord-cadre et des autres dispositions de la présente loi, investie des pouvoirs de gestion relatifs à ses terres. Elle peut notamment :

Gestion des terres

(a) exercise the powers, rights and privileges of an owner in relation to that land;

a) exercer tous les pouvoirs et droits liés au titre de propriété;

(b) grant interests or rights in and licences in relation to that land;

b) attribuer des droits ou intérêts et des permis relativement à ces terres;

(c) manage the natural resources of that land; and

c) gérer les ressources naturelles de ces terres;

(d) receive and use all moneys acquired by or on behalf of the First Nation under its land code.

d) recevoir et utiliser les fonds qu'elle perçoit ou qui sont perçus pour son compte sous le régime du code foncier.

Legal capacity

(2) For any purpose related to First Nation land, a First Nation has the legal capacity nec-

(2) Elle a, à l'égard de ses terres, la capacité juridique nécessaire à l'exercice de ses attributions et peut notamment :

Capacité

essary to exercise its powers and perform its duties and functions and, in particular, may

- (a) acquire and hold property;
- (b) enter into contracts;
- (c) borrow money;
- (d) expend and invest money; and
- (e) be a party to legal proceedings.

- a) acquérir et détenir des biens;
- b) conclure des contrats;
- c) contracter des emprunts;
- d) dépenser ou placer des fonds;
- e) ester en justice.

Exercice of power

(3) The power of a First Nation to manage First Nation land shall be exercised by the council of a First Nation, or by any person or body to whom a power is delegated by the council in accordance with the First Nation's land code, and that power shall be exercised for the use and benefit of the First Nation.

(3) Le conseil exerce les pouvoirs de gestion relatifs aux terres de la première nation et peut déléguer, en conformité avec le code foncier, l'une ou l'autre de ses attributions à ce titre à la personne ou à l'organe qu'il désigne. Dans tous les cas, ces pouvoirs ne peuvent être exercés qu'à l'usage et au profit de la première nation.

Exercice du pouvoir

Management body

(4) A body established to manage First Nation land is a legal entity having the capacity, rights, powers and privileges of a natural person.

(4) Tout organe mis sur pied en vue de la gestion des terres de la première nation est une entité juridique dotée de la capacité d'une personne physique.

Organe de gestion

1999, c. 24, s. 18; 2007, c. 17, s. 7; 2012, c. 19, s. 652(E).

1999, ch. 24, art. 18; 2007, ch. 17, art. 7; 2012, ch. 19, art. 652(A).

Transfer of moneys

19. On the coming into force of the land code of a First Nation, all revenue moneys collected, received or held by Her Majesty for the use and benefit of the First Nation or its First Nation members cease to be Indian moneys and shall be transferred to the First Nation.

19. Les fonds perçus, reçus ou détenus par Sa Majesté à l'usage et au profit de la première nation ou de ses membres, et versés au compte de revenu de celle-ci, cessent, à la date d'entrée en vigueur du code foncier, d'être de l'argent des Indiens et sont transférés à la première nation.

Transfert de fonds

1999, c. 24, s. 19; 2012, c. 19, s. 652(E).

1999, ch. 24, art. 19; 2012, ch. 19, art. 652(A).

FIRST NATION LAWS

TEXTES LÉGISLATIFS

Power to enact laws

20. (1) The council of a First Nation has, in accordance with its land code, the power to enact laws respecting

20. (1) Le conseil de la première nation peut, en conformité avec le code foncier, prendre des textes législatifs en ce qui touche :

Pouvoir législatif

- (a) interests or rights in and licences in relation to First Nation land;
- (b) the development, conservation, protection, management, use and possession of First Nation land; and
- (c) any matter arising out of or ancillary to the exercise of that power.

- a) les droits ou intérêts et les permis relatifs aux terres de la première nation;
- b) la mise en valeur, la conservation, la protection, la gestion, l'utilisation et la possession de celles-ci;
- c) toute question qui découle de l'exercice de ces pouvoirs ou qui y est accessoire.

Particular powers

(2) Without restricting the generality of subsection (1), First Nation laws may include laws respecting

(2) Sans que soit limitée la portée générale de ce qui précède, les textes législatifs peuvent :

Exemples

- (a) the regulation, control or prohibition of land use and development including zoning and subdivision control;

- a) prévoir le zonage ou le lotissement des terres de la première nation ou autrement en régir ou en interdire l'exploitation ou l'utilisation;

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| | <p>(b) subject to section 5, the creation, acquisition and granting of interests or rights in and licences in relation to First Nation land and prohibitions in relation thereto;</p> <p>(c) environmental assessment and environmental protection;</p> <p>(d) the provision of local services in relation to First Nation land and the imposition of equitable user charges for those services; and</p> <p>(e) the provision of services for the resolution of disputes in relation to First Nation land.</p> | <p>b) sous réserve de l'article 5, régir la création, l'acquisition et l'attribution de droits ou intérêts ou de permis relatifs à ces terres et prévoir des interdictions à ce sujet;</p> <p>c) régir la protection de l'environnement et l'évaluation environnementale;</p> <p>d) régir la prestation de services locaux relativement à ces terres et la fixation de droits équitables à cet égard;</p> <p>e) prévoir la fourniture de services de règlement des différends relatifs aux terres.</p> | |
| Enforcement measures | <p>(3) A First Nation law may provide for enforcement measures, consistent with federal laws, such as the power to inspect, search and seize and to order compulsory sampling, testing and the production of information.</p> | <p>(3) Ces textes législatifs peuvent aussi prévoir, en matière de contrôle d'application, des mesures compatibles avec les règles de droit fédérales, notamment en matière de visite, de perquisition, de saisie, de prise d'échantillons, d'examen et de communication de renseignements.</p> | Contrôle d'application |
| Inconsistency | <p>(4) In the event of any inconsistency or conflict between the land code of a First Nation and the provisions of a First Nation law or of a by-law made by its council under section 81 of the <i>Indian Act</i>, the land code prevails to the extent of the inconsistency or conflict.</p> <p>1999, c. 24, s. 20; 2007, c. 17, s. 8; 2012, c. 19, s. 652(E).</p> | <p>(4) Le code foncier l'emporte sur les dispositions incompatibles des textes législatifs de la première nation ou des règlements administratifs pris par son conseil en vertu de l'article 81 de la <i>Loi sur les Indiens</i>.</p> <p>1999, ch. 24, art. 20; 2007, ch. 17, art. 8; 2012, ch. 19, art. 652(A).</p> | Incompatibilité |
| Environmental protection regime | <p>21. (1) After the coming into force of a land code, a First Nation shall, to the extent provided in the Framework Agreement, develop and implement through First Nation laws an environmental protection regime. The regime must be developed in accordance with the terms and conditions set out in the Framework Agreement.</p> | <p>21. (1) Après l'entrée en vigueur du code foncier, la première nation est tenue, dans la mesure prévue par l'accord-cadre, d'élaborer un régime de protection environnementale et de prendre des textes législatifs pour le mettre en œuvre. Elle élabore ce régime conformément aux conditions et modalités prévues dans l'accord-cadre.</p> | Régime de protection environnementale |
| Minimum standards | <p>(2) The standards of environmental protection established by First Nation laws and the punishments imposed for failure to meet those standards must be at least equivalent in their effect to any standards established and punishments imposed by the laws of the province in which the First Nation land is situated.</p> | <p>(2) Les normes de protection environnementale fixées par les textes législatifs, ainsi que les peines afférentes, doivent être au moins aussi rigoureuses, quant à leurs effets, que celles prévues par les règles de droit de la province où sont situées les terres de la première nation.</p> | Normes minimales |
| Environmental assessment regime | <p>(3) First Nation laws respecting environmental assessment must, to the extent provided in the Framework Agreement, establish, in accordance with that Agreement, an environmental assessment regime that is applicable to all projects carried out on First Nation land that</p> | <p>(3) Les textes législatifs doivent, dans la mesure prévue par l'accord-cadre, établir, en conformité avec celui-ci, un régime d'évaluation environnementale applicable aux projets d'exploitation devant être réalisés sur les terres de la première nation et dont celle-ci est le promoteur ou le commanditaire ou qui nécessitent</p> | Régime d'évaluation environnementale |

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| | are approved, regulated, funded or undertaken by the First Nation. 1999, c. 24, s. 21; 2012, c. 19, s. 635. | son approbation ou sont assujettis à son pouvoir de réglementation. 1999, ch. 24, art. 21; 2012, ch. 19, art. 635. | |
| Offences and punishment | 22. (1) A First Nation law may create offences punishable on summary conviction and provide for the imposition of fines, imprisonment, restitution, community service and any other means for achieving compliance. | 22. (1) Les textes législatifs peuvent créer des infractions punissables par procédure sommaire et prévoir les peines correspondantes : amende, emprisonnement, restitution, travaux d'intérêt collectif ou toute autre peine de nature à assurer leur observation. | Infractions et peines |
| Incorporation by reference | (2) A First Nation law may adopt or incorporate by reference the summary conviction procedures of Part XXVII of the <i>Criminal Code</i> , as amended from time to time. | (2) Ils peuvent reproduire ou incorporer par renvoi — même avec ses modifications successives — la procédure sommaire prévue par la partie XXVII du <i>Code criminel</i> . | Incorporation par renvoi |
| Prosecution | (3) A First Nation may, in relation to prosecutions of contraventions of First Nation laws, (a) retain its own prosecutors; (b) enter into an agreement with Her Majesty and a provincial government for the use of provincial prosecutors; or (c) enter into an agreement with Her Majesty for the use of agents engaged by Her Majesty. 1999, c. 24, s. 22; 2012, c. 19, s. 652(E). | (3) La première nation peut, en ce qui touche la poursuite des infractions créées par texte législatif : a) engager ses propres procureurs; b) conclure avec Sa Majesté et le gouvernement d'une province un accord prévoyant le recours aux procureurs provinciaux; c) conclure avec Sa Majesté un accord prévoyant le recours aux mandataires de celle-ci. 1999, ch. 24, art. 22; 2012, ch. 19, art. 652(A). | Modalités de poursuite |
| Evidence | 23. In any proceedings, a copy of a First Nation law appearing to be certified as a true copy by an officer of the First Nation is, without proof of the officer's signature or official character, evidence of its enactment on the date specified in the law. 1999, c. 24, s. 23; 2012, c. 19, s. 652(E). | 23. La copie d'un texte législatif paraissant certifiée conforme par un fonctionnaire de la première nation fait foi, dans le cadre de toute procédure, de la date de prise qui y est inscrite sans qu'il soit nécessaire de prouver l'authenticité de la signature ou la qualité officielle du signataire. 1999, ch. 24, art. 23; 2012, ch. 19, art. 652(A). | Preuve |
| Appointment of justices of the peace | 24. (1) A First Nation or, if Her Majesty and the First Nation have entered into an agreement for that purpose in accordance with the Framework Agreement, the Governor in Council, may appoint justices of the peace to ensure the enforcement of First Nation laws including the adjudication of offences for contraventions of First Nation laws. | 24. (1) Afin d'assurer l'application de ses textes législatifs, la première nation ou, après la conclusion d'un accord à cet effet entre celle-ci et Sa Majesté conformément à l'accord-cadre, le gouverneur en conseil peut nommer des juges de paix notamment chargés de juger les infractions créées par ces textes. | Nomination des juges de paix |
| Judicial independence | (2) A justice of the peace appointed for a First Nation shall have tenure and remuneration, and be subject to conditions of removal, that reflect the independence of the office of justice of the peace in the province in which the First Nation land is situated. | (2) Il est tenu compte, comme c'est le cas pour ceux de la province où sont situées les terres de la première nation, de l'indépendance dont jouissent ces juges de paix, dans l'exercice de leurs fonctions, pour la fixation de leur mandat, de leur rémunération et des conditions de leur révocation. | Indépendance judiciaire |

LIMITATIONS ON ALIENATION OF FIRST NATION
LAND

RESTRICTIONS EN MATIÈRE D'ALIÉNATION

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| Alienation of land | <p>26. (1) First Nation land may not be alienated except where it is exchanged for other land in accordance with the Framework Agreement and this Act.</p> | <p>26. (1) Les terres de la première nation ne sont pas susceptibles d'aliénation, si ce n'est dans le cadre d'un échange effectué en conformité avec l'accord-cadre et la présente loi.</p> | Inaliénabilité |
| Expropriation | <p>(2) Interests or rights in First Nation land may not be expropriated except by Her Majesty or a First Nation in accordance with the Framework Agreement and this Act.</p> <p>1999, c. 24, s. 26; 2007, c. 17, s. 10; 2012, c. 19, s. 652(E).</p> | <p>(2) Par ailleurs, seuls Sa Majesté et la première nation peuvent procéder à l'expropriation de droits ou intérêts sur ces terres, et ce en conformité avec l'accord-cadre et la présente loi.</p> <p>1999, ch. 24, art. 26; 2007, ch. 17, art. 10; 2012, ch. 19, art. 652(A).</p> | Expropriation |
| Restrictions on exchange | <p>27. (1) A First Nation may exchange First Nation land only if</p> <p>(a) compensation for the First Nation land includes land that Her Majesty has agreed will be set apart as a reserve and that is to become First Nation land; and</p> <p>(b) the Minister has approved the form of the exchange.</p> | <p>27. (1) L'échange visant des terres de la première nation n'est valide que si la contrepartie consiste dans des terres destinées à acquérir cette qualité et si, d'une part, Sa Majesté accepte que celles-ci soient mises de côté à titre de réserve et, d'autre part, le ministre agréé les modalités de forme de l'opération.</p> | Échange |
| Additional compensation | <p>(2) In addition to land referred to in subsection (1), other compensation may be provided including land that will not become First Nation land.</p> | <p>(2) L'acte d'échange peut aussi prévoir une contrepartie supplémentaire, notamment des terres qui ne sont pas destinées à devenir des terres de la première nation.</p> | Contrepartie supplémentaire |
| Terms and conditions | <p>(3) An exchange of First Nation land may be made subject to other terms and conditions.</p> | <p>(3) L'échange peut en outre être assujéti à des conditions particulières.</p> | Conditions |
| Community approval | <p>(4) The exchange of First Nation land must be approved by First Nation members in accordance with the land code of the First Nation and must be completed in accordance with the Framework Agreement.</p> <p>1999, c. 24, s. 27; 2012, c. 19, s. 652(E).</p> | <p>(4) Il doit être approuvé par les membres de la première nation selon les modalités prévues par le code foncier, puis réalisé conformément à l'accord-cadre.</p> <p>1999, ch. 24, art. 27; 2012, ch. 19, art. 652(A).</p> | Consultation populaire |
| Expropriation by a First Nation | <p>28. (1) A First Nation may, in accordance with the general rules and procedures contained in its land code, expropriate any interest or right in its First Nation land that, in the opinion of its council, is necessary for community works or other First Nation community purposes.</p> | <p>28. (1) La première nation peut, en conformité avec les règles prévues par le code foncier, procéder à l'expropriation des droits ou intérêts sur ses terres dont elle a besoin, de l'avis de son conseil, à des fins d'intérêt collectif, notamment la réalisation d'ouvrages devant servir à la collectivité.</p> | Expropriation par la première nation |
| Exception | <p>(2) An interest or right in First Nation land obtained under section 35 of the <i>Indian Act</i> or held by Her Majesty is not subject to expropriation by a First Nation.</p> | <p>(2) Ne sont toutefois pas susceptibles d'expropriation par la première nation les droits ou intérêts obtenus sous le régime de l'article 35 de la <i>Loi sur les Indiens</i> ou détenus par Sa Majesté.</p> | Exception |
| Effective date | <p>(3) An expropriation takes effect from the day on which a notice of expropriation is registered in the First Nation Land Register or the</p> | <p>(3) L'expropriation prend effet soit à la date de l'enregistrement d'un avis d'expropriation dans le Registre des terres des premières na-</p> | Prise d'effet |

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| | thirtieth day after the day on which the notice is served on the person whose interest or right is expropriated, whichever is the earlier. | tions, soit, s'il est antérieur à cette date, le trentième jour suivant la signification d'une copie de cet avis à l'exproprié. | |
| Effect of expropriation | (4) An expropriated interest becomes the property of the First Nation free of any previous claim or encumbrance. In Quebec, a First Nation becomes the holder of an expropriated right free of any previous right, charge or claim. | (4) Les intérêts expropriés deviennent la propriété de la première nation, libres de toute réclamation et de tout grèvement antérieurs. Au Québec, la première nation devient titulaire des droits expropriés, libres de tout droit, charge ou réclamation antérieurs. | Effet |
| Compensation | (5) A First Nation shall pay fair compensation to the holder of an expropriated interest or right and, in determining that compensation, the First Nation shall apply the rules set out in the <i>Expropriation Act</i> , with such modifications as the circumstances require. | (5) La première nation est tenue de verser au titulaire de tout droit ou intérêt exproprié une indemnité équitable et d'appliquer, dans le calcul de celle-ci, les règles prévues par la <i>Loi sur l'expropriation</i> , compte tenu des adaptations nécessaires. | Indemnisation |
| Resolution of disputes | (6) Any dispute concerning compensation shall be determined according to the system for the resolution of such disputes established by a First Nation in accordance with the Framework Agreement. 1999, c. 24, s. 28; 2007, c. 17, s. 11; 2012, c. 19, s. 652(E). | (6) Les différends relatifs à l'indemnisation sont réglés selon le système mis sur pied à cette fin par la première nation en conformité avec l'accord-cadre. 1999, ch. 24, art. 28; 2007, ch. 17, art. 11; 2012, ch. 19, art. 652(A). | Règlement des différends |
| Expropriation by Her Majesty | 29. (1) An interest or right in First Nation land may be expropriated by Her Majesty for the use of a federal department or agency and with the consent and by order of the Governor in Council. | 29. (1) L'expropriation de droits ou intérêts sur les terres de la première nation par Sa Majesté n'est valide que si elle est agréée par décret et effectuée pour le bénéfice d'un ministère ou organisme du gouvernement fédéral — ci-après appelé «l'expropriant». | Expropriation par Sa Majesté |
| Consent of Governor in Council | (2) The Governor in Council may consent to an expropriation only if it is justifiable and necessary for a federal public purpose that serves the national interest. | (2) Le gouverneur en conseil ne donne son agrément que si l'expropriation est justifiable et nécessaire à des fins poursuivies dans l'intérêt public national. | Justification |
| Matters to be considered | (3) The Governor in Council may consent to an expropriation only if the Governor in Council is satisfied that, in addition to any other legal requirements that may apply, the following requirements have been met: (a) there is no other reasonably feasible alternative to the expropriation, such as the use of land that is not First Nation land; (b) reasonable efforts have been made to acquire the interest or right through agreement with the First Nation; (c) the most limited interest or right necessary is expropriated for the shortest time possible; and (d) information relevant to the expropriation is provided to the First Nation. | (3) Le gouverneur en conseil ne donne son agrément à l'expropriation que s'il est convaincu que, outre celles prescrites par toute autre règle de droit, les conditions suivantes sont remplies : a) il n'existe aucune solution de rechange réalisable dans les circonstances, telle l'utilisation de terres autres que celles de la première nation; b) des efforts valables ont été déployés en vue de procéder à l'acquisition des droits ou intérêts par convention avec la première nation; c) l'expropriation projetée a été restreinte, en ce qui touche l'étendue des droits ou intérêts et la période pour laquelle ils sont expropriés, au strict nécessaire; | Conditions |

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| | | d) les renseignements pertinents ont été communiqués à la première nation. | |
| Report to be made public | (4) Before the Governor in Council consents to the expropriation, the department or agency referred to in subsection (1) shall provide to the First Nation, and make available to the public, a report stating the justifications for the expropriation and describing the steps taken to satisfy the requirements of subsection (3). | (4) L'expropriant est tenu d'adresser à la première nation et de publier, avant que le gouverneur en conseil donne son agrément, un rapport qui énonce, d'une part, les motifs justifiant l'expropriation et, d'autre part, les mesures prises pour l'application du paragraphe (3). | Rapport public |
| Disputes | (5) If a First Nation objects to a proposed expropriation, it may, within sixty days after the report has been made public, refer the matter to a neutral evaluator in accordance with the Framework Agreement. | (5) La première nation peut, dans les soixante jours suivant la publication du rapport, s'opposer à l'expropriation et renvoyer l'affaire à un conciliateur en conformité avec l'accord-cadre. | Différend |
| Time of consent | (6) The Governor in Council may not consent to the expropriation before the expiration of the period referred to in subsection (5) or, if the First Nation has referred the matter to a neutral evaluator, before the neutral evaluator has reported on the matter. 1999, c. 24, s. 29; 2007, c. 17, s. 12; 2012, c. 19, s. 652(E). | (6) Le gouverneur en conseil ne peut donner son agrément avant l'expiration du délai prévu au paragraphe (5) ou, en cas de renvoi à un conciliateur, avant que celui-ci ait remis son rapport. 1999, ch. 24, art. 29; 2007, ch. 17, art. 12; 2012, ch. 19, art. 652(A). | Délai |
| Partial expropriation | 30. If less than the full interest of a First Nation, or less than the entire right of a First Nation, in First Nation land is expropriated by Her Majesty, (a) the land in which an interest or right is expropriated continues to be First Nation land and subject to the provisions of the land code and First Nation laws that are not inconsistent with the expropriation; and (b) the First Nation continues to have the right to use and occupy that land except to the extent that the use and occupation is inconsistent with the expropriation. 1999, c. 24, s. 30; 2007, c. 17, s. 13; 2012, c. 19, s. 652(E). | 30. Dans les cas où l'expropriation par Sa Majesté ne vise pas l'intégralité du droit ou de l'intérêt de la première nation sur les terres en question : a) celles-ci demeurent des terres de la première nation assujetties aux dispositions de son code foncier et de ses textes législatifs qui sont compatibles avec les conditions de l'expropriation; b) la première nation a le droit de continuer de les occuper et de les utiliser pour autant qu'elle ne contreviene pas aux conditions de l'expropriation. 1999, ch. 24, art. 30; 2007, ch. 17, art. 13; 2012, ch. 19, art. 652(A). | Expropriation partielle |
| Compensation | 31. (1) Where an interest or right in First Nation land is expropriated by Her Majesty, compensation shall be provided to the First Nation consisting of (a) land that, when accepted by that First Nation, will become First Nation land; and (b) any additional compensation required to achieve the total compensation determined under subsection (3). | 31. (1) La première nation a droit, en cas d'expropriation de droits ou intérêts sur ses terres par Sa Majesté, à une indemnité composée, d'une part, de terres qui sont destinées à devenir, une fois acceptées par la première nation, des terres de celle-ci et, d'autre part, de toute autre forme d'indemnité nécessaire pour parvenir au total calculé en conformité avec le paragraphe (3). | Indemnité |
| Land of a lesser area | (2) Land provided to a First Nation as compensation may be of an area that is less than the area of the land in which an interest or right has | (2) Les terres de remplacement ne peuvent être d'une superficie moindre que celle des terres visées par l'expropriation que si la super- | Terres de remplacement |

been expropriated if the total area of the land comprised in a reserve of the First Nation is not less following the expropriation than at the coming into force of its land code.

Determination of compensation

(3) The total compensation shall be determined taking into account the following factors:

(a) the market value of the expropriated interest or right or of the land in which an interest or right has been expropriated;

(b) the replacement value of any improvement to the land;

(c) any expenses or losses resulting from a disturbance attributable to the expropriation;

(d) any reduction in the value of any interest or right in First Nation land that is not expropriated;

(e) any adverse effect on any cultural or other special value of the land to the First Nation; and

(f) the value of any special economic advantage arising out of or incidental to the occupation or use of the land to the extent that that value is not otherwise compensated.

Interest

(4) Interest is payable on compensation from the effective date of an expropriation at the pre-judgment interest rate that is paid in civil proceedings in the superior court of the province in which the land is situated.

Dispute

(5) If an agreement on compensation cannot be reached, the First Nation or the expropriating department or agency may refer the matter to an arbitrator in accordance with the Framework Agreement.

Limit

(6) Any claim or encumbrance in respect of an interest expropriated by Her Majesty may only be made or discharged against the compensation paid under this section. In Quebec, any right, charge or claim in respect of a right expropriated by Her Majesty may only be made or discharged against the compensation paid under this section.

1999, c. 24, s. 31; 2007, c. 17, s. 14; 2012, c. 19, s. 652(E).

ficie totale des terres qui composent la réserve de la première nation, calculée au terme de l'expropriation, est au moins égale à celle calculée au moment de l'adoption du code foncier.

(3) L'indemnité totale est calculée compte tenu des éléments suivants :

a) la valeur marchande des droits ou intérêts expropriés ou des terres visées par l'expropriation;

b) la valeur de remplacement de toute amélioration apportée à ces terres;

c) les pertes et les dépenses attribuables aux troubles de jouissance découlant de l'expropriation;

d) la diminution de valeur des droits ou intérêts non expropriés sur les terres de la première nation;

e) les répercussions nuisibles de l'expropriation sur la valeur culturelle ou toute autre valeur particulière, pour la première nation, de ces terres;

f) la valeur de tout avantage économique particulier lié à l'occupation ou à l'utilisation des terres, dans la mesure où cette valeur n'est pas par ailleurs visée par l'indemnité.

Calcul de l'indemnité

(4) L'indemnité porte intérêt, à compter de la date de prise d'effet de l'expropriation, au taux avant jugement applicable dans le cadre des affaires civiles dont est saisie la juridiction supérieure de la province où se trouvent les terres visées par l'expropriation.

Intérêt

(5) La première nation ou l'expropriant peut, en conformité avec l'accord-cadre, saisir un arbitre de tout différend relatif à l'indemnité.

Différend

(6) Le recouvrement de toute réclamation ou la réalisation de tout grèvement, relativement aux intérêts expropriés par Sa Majesté, ne peuvent être poursuivis que jusqu'à concurrence de l'indemnité versée au titre du présent article. Au Québec, le recouvrement de tout droit, charge ou réclamation relativement aux droits expropriés par Sa Majesté ne peut être poursuivi que jusqu'à concurrence de l'indemnité versée au titre du présent article.

Limite

1999, ch. 24, art. 31; 2007, ch. 17, art. 14; 2012, ch. 19, art. 652(A).

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| Restitution | <p>32. (1) An interest or right in First Nation land expropriated by Her Majesty that is no longer required for the purpose for which it was expropriated shall revert to the First Nation and, if the full interest or the entire right of the First Nation was expropriated, it shall be returned to the First Nation in accordance with terms and conditions negotiated by the First Nation and the expropriating department or agency.</p> | <p>32. (1) Les droits ou intérêts expropriés par Sa Majesté qui ne sont plus nécessaires aux fins ayant donné lieu à l'expropriation sont restitués à la première nation. Dans le cas d'expropriation portant sur l'intégralité du droit ou de l'intérêt de la première nation sur les terres en question, la restitution est effectuée selon les modalités fixées par celle-ci et l'expropriant.</p> | Restitution |
| Improvements | <p>(2) When an interest or right reverts or is returned to a First Nation, the minister responsible for the expropriating department or agency shall determine the disposition of any improvements made to the land.</p> | <p>(2) Le ministre responsable de l'expropriant décide, en cas de restitution des droits ou intérêts expropriés, du sort des améliorations apportées aux terres en question.</p> | Sort des améliorations |
| Dispute | <p>(3) If the First Nation and the expropriating department or agency cannot agree on the terms and conditions of the return of the full interest or of the entire right, the First Nation or the department or agency may, in accordance with the Framework Agreement, refer the matter to an arbitrator.</p> <p>1999, c. 24, s. 32; 2007, c. 17, s. 15; 2012, c. 19, s. 652(E).</p> | <p>(3) En cas de différend relatif aux modalités visées au paragraphe (1), la première nation ou l'expropriant peut renvoyer l'affaire à un arbitre en conformité avec l'accord-cadre.</p> <p>1999, ch. 24, art. 32; 2007, ch. 17, art. 15; 2012, ch. 19, art. 652(A).</p> | Différend |
| <i>Expropriation Act</i> | <p>33. Without limiting the generality of section 37, in the event of any inconsistency or conflict between this Act and the <i>Expropriation Act</i> in relation to the expropriation of interests or rights in First Nation land by Her Majesty, this Act prevails to the extent of the inconsistency or conflict.</p> <p>1999, c. 24, s. 33; 2007, c. 17, s. 16; 2012, c. 19, s. 652(E).</p> | <p>33. Les dispositions de la présente loi l'emportent, en ce qui touche l'expropriation de droits ou intérêts sur les terres de la première nation par Sa Majesté, sur les dispositions incompatibles de la <i>Loi sur l'expropriation</i>.</p> <p>1999, ch. 24, art. 33; 2007, ch. 17, art. 16; 2012, ch. 19, art. 652(A).</p> | <i>Loi sur l'expropriation</i> |
| LIABILITY | | RESPONSABILITÉ | |
| First Nation not liable | <p>34. (1) A First Nation is not liable in respect of anything done or omitted to be done before the coming into force of its land code by Her Majesty or any person or body authorized by Her Majesty to act in relation to First Nation land.</p> | <p>34. (1) La première nation ne peut être tenue pour responsable des faits — actes ou omissions — commis à l'égard de ses terres, avant l'entrée en vigueur du code foncier, par Sa Majesté ou son délégué en la matière.</p> | Décharge : première nation |
| Indemnification of First Nation | <p>(2) Her Majesty shall indemnify a First Nation for any loss suffered by the First Nation as a result of an act or omission described in subsection (1).</p> | <p>(2) Sa Majesté est tenue d'indemniser la première nation des pertes attribuables à de tels faits.</p> | Indemnisation |
| Her Majesty not liable | <p>(3) Her Majesty is not liable in respect of anything done or omitted to be done after the coming into force of the land code of a First Nation by the First Nation or any person or body authorized by the First Nation to act in relation to First Nation land.</p> | <p>(3) Sa Majesté ne peut être tenue pour responsable des faits — actes ou omissions — commis à l'égard des terres de la première nation, après l'entrée en vigueur du code foncier, par cette dernière ou son délégué en la matière.</p> | Décharge : Sa Majesté |

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| Indemnification of Her Majesty | <p>(4) The First Nation shall indemnify Her Majesty for any loss suffered by Her Majesty as a result of an act or omission described in subsection (3).</p> <p>1999, c. 24, s. 34; 2012, c. 19, s. 652(E).</p> | <p>(4) La première nation est tenue d'indemniser Sa Majesté des pertes attribuables à de tels faits.</p> <p>1999, ch. 24, art. 34; 2012, ch. 19, art. 652(A).</p> | Indemnisation |
| IMMUNITY AND JUDICIAL REVIEW | | IMMUNITÉ ET CONTRÔLE JUDICIAIRE | |
| Immunity | <p>35. No criminal or civil proceedings lie against an arbitrator, mediator, neutral evaluator or verifier appointed under the Framework Agreement or this Act or any member of a board established by section 38 of the Framework Agreement who is, in good faith, exercising a power or performing a duty or function in accordance with the Framework Agreement or this Act for anything done or omitted to be done during the course of the exercise or purported exercise of any power or the performance or purported performance of any duty or function of that person in accordance with the Framework Agreement or this Act.</p> | <p>35. Les vérificateurs, arbitres, conciliateurs ou médiateurs nommés sous le régime de l'accord-cadre ou de la présente loi, ainsi que les membres de tout organe constitué sous le régime de l'article 38 de l'accord-cadre bénéficient de l'immunité en matière civile ou pénale pour les faits — actes ou omissions — accomplis de bonne foi dans l'exercice effectif ou censé tel des pouvoirs et fonctions qui leur sont conférés sous le régime de l'accord-cadre ou de la présente loi.</p> | Immunité |
| Determinations final | <p>36. (1) Every determination under this Act or the Framework Agreement by a verifier or arbitrator is final, and no order shall be made, process entered or proceedings taken in any court, whether by way of injunction, <i>certiorari</i>, prohibition, <i>mandamus</i>, <i>quo warranto</i> or otherwise, to question, review or prohibit such a determination.</p> | <p>36. (1) Les décisions prises par l'arbitre et le vérificateur sous le régime de l'accord-cadre ou de la présente loi sont définitives: elles ne peuvent être contestées, révisées ou limitées ou faire l'objet d'un recours judiciaire, et il ne peut y être fait obstacle, notamment par voie d'injonction, de <i>certiorari</i>, de <i>mandamus</i>, de prohibition ou de <i>quo warranto</i>.</p> | Interdiction des recours extraordinaires : décisions |
| Actions final | <p>(2) No order shall be made, process entered or proceedings taken in any court, whether by way of injunction, <i>certiorari</i>, prohibition, <i>mandamus</i>, <i>quo warranto</i> or otherwise, to question, review or prohibit any other action under this Act or the Framework Agreement by a verifier or arbitrator or any action under the Framework Agreement by a neutral evaluator.</p> | <p>(2) De plus, il n'est admis aucun recours ou décision judiciaire — notamment par voie d'injonction, de <i>certiorari</i>, de <i>mandamus</i>, de prohibition ou de <i>quo warranto</i> — visant à contester, réviser ou limiter soit toute autre action de l'arbitre et du vérificateur sous le régime de ces textes, soit l'action du conciliateur sous le régime de l'accord-cadre, ou à y faire obstacle.</p> | Autres mesures |
| Review by Federal Court | <p>(3) Notwithstanding subsections (1) and (2), the Attorney General of Canada or anyone directly affected by the matter in respect of which relief is sought may make an application under the <i>Federal Courts Act</i> on any of the grounds referred to in paragraph 18.1(4)(a) or (b) of that Act for any relief against a verifier, arbitrator or neutral evaluator by way of an injunction or declaration or by way of an order in the nature of <i>certiorari</i>, prohibition, <i>mandamus</i> or <i>quo warranto</i>.</p> <p>1999, c. 24, s. 36; 2002, c. 8, s. 182.</p> | <p>(3) Malgré ce qui est prévu aux paragraphes (1) et (2), le procureur général du Canada ou quiconque est directement touché par l'affaire peut présenter à la Cour fédérale une demande de contrôle judiciaire, pour l'un des motifs prévus aux alinéas 18.1(4)a) ou b) de la <i>Loi sur les Cours fédérales</i>, afin d'obtenir, contre l'arbitre, le vérificateur ou le conciliateur, toute réparation par voie d'injonction, de jugement déclaratoire, de bref — <i>certiorari</i>, <i>mandamus</i>, <i>quo warranto</i> ou prohibition — ou d'ordonnance de même nature.</p> <p>1999, ch. 24, art. 36; 2002, ch. 8, art. 182.</p> | Contrôle judiciaire |

OTHER ACTS

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| Other Acts | <p>37. In the event of any inconsistency or conflict between this Act and any other federal law, this Act prevails to the extent of the inconsistency or conflict.</p> | <p>37. Outre ce qui est prévu à l'article 33, les dispositions de la présente loi l'emportent sur les dispositions incompatibles de toute autre règle de droit fédérale.</p> | Lois fédérales |
| <i>Indian Act</i> | <p>38. (1) On the coming into force of the land code of a First Nation, the following cease to apply to the First Nation, First Nation members and First Nation land:</p> <p>(a) sections 18 to 20, 22 to 28, 30 to 35, 37 to 41 and 49, subsection 50(4) and sections 53 to 60, 66, 69, 71 and 93 of the <i>Indian Act</i>;</p> <p>(b) any regulations made under section 57 of that Act; and</p> <p>(c) to the extent of any inconsistency or conflict with the Framework Agreement, the land code or First Nation laws, any regulations made under sections 42 and 73 of that Act.</p> | <p>38. (1) Les dispositions et textes ci-après cessent, à l'entrée en vigueur du code foncier, de s'appliquer à la première nation, à ses membres ou à ses terres, selon le cas :</p> <p>a) les articles 18 à 20, 22 à 28, 30 à 35, 37 à 41 et 49, le paragraphe 50(4) et les articles 53 à 60, 66, 69, 71 et 93 de la <i>Loi sur les Indiens</i>;</p> <p>b) les règlements d'application de l'article 57 de cette loi;</p> <p>c) les règlements d'application des articles 42 et 73 de cette loi, dans la mesure où ils sont incompatibles avec l'accord-cadre, le code foncier de la première nation ou ses textes législatifs.</p> | <i>Loi sur les Indiens</i> |
| Leasehold interests or leases | <p>(2) Subsection 89(1.1) of the <i>Indian Act</i> continues to apply to leasehold interests or leases in any First Nation land that was designated land on the coming into force of a First Nation's land code.</p> | <p>(2) Le paragraphe 89(1.1) de la <i>Loi sur les Indiens</i> continue de s'appliquer en ce qui touche les baux ou intérêts à bail relatifs aux terres de la première nation qui, à l'entrée en vigueur du code foncier, constituent des terres désignées.</p> | Baux |
| Application | <p>(3) A land code may extend the application of subsection 89(1.1) of the <i>Indian Act</i>, or any portion of it, to other leasehold interests or leases in First Nation land.</p> <p>1999, c. 24, s. 38; 2007, c. 17, s. 17; 2012, c. 19, s. 652(E).</p> | <p>(3) Le code foncier peut par ailleurs étendre l'application du paragraphe 89(1.1) de cette loi — même en partie seulement — à tout autre bail ou intérêt à bail relatif aux terres de la première nation.</p> <p>1999, ch. 24, art. 38; 2007, ch. 17, art. 17; 2012, ch. 19, art. 652(A).</p> | Application étendue |
| <i>Indian Oil and Gas Act</i> | <p>39. (1) The <i>Indian Oil and Gas Act</i></p> <p>(a) continues to apply in respect of any First Nation land that was subject to that Act on the coming into force of the land code of a First Nation; and</p> <p>(b) applies in respect of an interest or right in First Nation land that is granted to Her Majesty for the exploitation of oil and gas pursuant to a land code.</p> | <p>39. (1) La <i>Loi sur le pétrole et le gaz des terres indiennes</i> continue de s'appliquer en ce qui touche les terres de la première nation qui y sont assujetties à la date d'entrée en vigueur du code foncier de cette dernière. Elle s'applique aussi en ce qui touche les droits ou intérêts sur les terres de la première nation accordés à Sa Majesté, après cette date, pour l'exploitation du pétrole et du gaz.</p> | <i>Loi sur le pétrole et le gaz des terres indiennes</i> |
| Royalties | <p>(2) For greater certainty, the provisions of the <i>Indian Oil and Gas Act</i> respecting the payment of royalties to Her Majesty in trust for a First Nation apply, notwithstanding any other</p> | <p>(2) Sans que soit limitée la portée générale de ce qui précède, les dispositions de cette loi prévoyant le paiement de redevances à Sa Majesté en fiducie pour les premières nations s'ap-</p> | Redevances |

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| | provision of this Act, in respect of First Nation land referred to in subsection (1). 1999, c. 24, s. 39; 2007, c. 17, s. 18; 2012, c. 19, s. 652(E). | pliquent malgré toute autre disposition de la présente loi. 1999, ch. 24, art. 39; 2007, ch. 17, art. 18; 2012, ch. 19, art. 652(A). | |
| Environmental laws | 40. (1) For greater certainty, in the event of any inconsistency or conflict between a land code or a First Nation law and any federal law that relates to environmental protection, the federal law prevails to the extent of the inconsistency or conflict. | 40. (1) Il est entendu que les dispositions du droit fédéral en matière de protection de l'environnement l'emportent sur les dispositions incompatibles du code foncier et des textes législatifs. | Lois fédérales en matière d'environnement |
| Migratory birds, endangered species, fisheries | (2) For greater certainty, this Act does not extend or limit any right or power in relation to migratory birds, endangered species or fisheries. 1999, c. 24, s. 40; 2012, c. 19, s. 652(E). | (2) Il est aussi entendu que la présente loi n'a pas pour effet d'étendre ou de restreindre quelque droit ou pouvoir que ce soit en matière de pêche, d'oiseaux migrateurs ou d'espèces menacées d'extinction. 1999, ch. 24, art. 40; 2012, ch. 19, art. 652(A). | Pêche, oiseaux migrateurs ou espèces menacées d'extinction |
| | 41. [Repealed, 2012, c. 19, s. 58] | 41. [Abrogé, 2012, ch. 19, art. 58] | |
| Emergencies Act | 42. The <i>Emergencies Act</i> continues to apply to First Nation land except that any appropriation, requisition or use of First Nation land required under that Act must be expressly authorized by order of the Governor in Council. 1999, c. 24, s. 42; 2012, c. 19, s. 652(E). | 42. La <i>Loi sur les mesures d'urgence</i> continue de s'appliquer aux terres de la première nation, à la différence, toutefois, que les mesures visant la réquisition ou l'usage de ces terres doivent être prises au moyen d'un décret explicite à cet égard. 1999, ch. 24, art. 42; 2012, ch. 19, art. 652(A). | <i>Loi sur les mesures d'urgence</i> |
| Acts respecting nuclear energy | 43. (1) Subject to subsection (2), nothing in this Act limits the application of the <i>Nuclear Safety and Control Act</i> and the <i>Nuclear Energy Act</i> to First Nation lands. | 43. (1) Sous réserve du paragraphe (2), la présente loi n'a pas pour effet de porter atteinte à l'application de la <i>Loi sur la sûreté et la réglementation nucléaires</i> et de la <i>Loi sur l'énergie nucléaire</i> aux terres de la première nation. | Lois relatives à l'énergie nucléaire |
| Expropriation provisions | (2) In the event of any inconsistency or conflict between the provisions of this Act relating to expropriation and the <i>Nuclear Energy Act</i> , the provisions of this Act prevail to the extent of the inconsistency or conflict. 1999, c. 24, ss. 43, 47; 2012, c. 19, s. 652(E). | (2) Les dispositions de la présente loi en matière d'expropriation l'emportent sur les dispositions incompatibles de la <i>Loi sur l'énergie nucléaire</i> . 1999, ch. 24, art. 43 et 47; 2012, ch. 19, art. 652(A). | Expropriation |
| Non-application of <i>Statutory Instruments Act</i> | 44. The <i>Statutory Instruments Act</i> does not apply in respect of a land code or First Nation laws. 1999, c. 24, s. 44; 2012, c. 19, s. 652(E). | 44. Sont soustraits au processus réglementaire prévu par la <i>Loi sur les textes réglementaires</i> le code foncier et les textes législatifs. 1999, ch. 24, art. 44; 2012, ch. 19, art. 652(A). | <i>Loi sur les textes réglementaires</i> |
| | AMENDMENT OF SCHEDULE | MODIFICATION DE L'ANNEXE | |
| Addition of band name | 45. (1) The Governor in Council may, by order, add the name of a band to the schedule if he or she is satisfied that the signing of the Framework Agreement on the band's behalf has been duly authorized and that the Framework Agreement has been signed. | 45. (1) Le gouverneur en conseil peut, par décret, ajouter à l'annexe le nom d'une bande dans les cas où il est convaincu que la signature de l'accord-cadre pour le compte de cette dernière a été dûment autorisée et que celle-ci a effectivement eu lieu. | Ajout du nom d'une bande |

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| Coming-into-force date of land code | (2) The Minister may, by order, add to the schedule the date on which a land code comes into force with respect to First Nation lands. | (2) Le ministre peut, par arrêté, ajouter à l'annexe la date d'entrée en vigueur de tout code foncier applicable à des terres de la première nation. | Date d'entrée en vigueur du code foncier |
| Deletion of band name | (3) The Governor in Council may, by order, delete from the schedule the name of a First Nation and the date on which a land code comes into force with respect to the First Nation's lands, if that First Nation is no longer subject to this Act under the terms of a land claims agreement or a self-government agreement. 1999, c. 24, s. 45; 2012, c. 19, s. 636. | (3) Le gouverneur en conseil peut, par décret, supprimer de l'annexe le nom de la première nation qui n'est plus assujettie à la présente loi aux termes d'un accord sur des revendications territoriales ou sur l'autonomie gouvernementale, ainsi que la date d'entrée en vigueur du code foncier applicable à des terres de cette première nation. 1999, ch. 24, art. 45; 2012, ch. 19, art. 636. | Suppression du nom d'une bande |
| TRANSITIONAL PROVISION | | DISPOSITION TRANSITOIRE | |
| Validity | 46. (1) Any action taken or determination or decision made under the Framework Agreement before the coming into force of sections 6 to 14, 35 and 36 is deemed, to the extent that it would have been valid under those sections, to have been validly taken or made under this Act. | 46. (1) Les actes accomplis et les décisions prises sous le régime de l'accord-cadre avant l'entrée en vigueur des articles 6 à 14, 35 et 36 sont, dans la mesure de leur validité au regard de ces articles et sous réserve du paragraphe (2), réputés l'avoir été sous le régime de la présente loi. | Validation |
| Coming into force of land code | (2) Notwithstanding subsection (1), a land code may not come into force before the coming into force of this section. | (2) Le code foncier ne peut toutefois entrer en vigueur avant la date d'entrée en vigueur du présent article. | Exception |
| CONDITIONAL AMENDMENT | | MODIFICATION CONDITIONNELLE | |
| 47. [Amendment] | | 47. [Modification] | |
| COMING INTO FORCE | | ENTRÉE EN VIGUEUR | |
| Order of Governor in Council | * 48. Section 45 comes into force on a day to be fixed by order of the Governor in Council after the completion of a review of the Framework Agreement in accordance with its provisions and any consultations that the Governor in Council may require. * [Note: Section 45 in force May 20, 2003, see SI/2003-108.] | * 48. L'article 45 entre en vigueur à la date fixée par décret. Celui-ci ne peut cependant être pris qu'après l'examen de l'accord-cadre — effectué en conformité avec les dispositions de celui-ci — et les consultations que le gouverneur en conseil juge utiles. * [Note: Article 45 en vigueur le 20 mai 2003, voir TR/2003-108.] | Décret |

Gestion des terres des premières nations — 31 octobre 2012

SCHEDULE
(Sections 2 and 45)

ANNEXE
(articles 2 et 45)

NAMES OF FIRST NATIONS AND COMING-INTO-FORCE
DATES OF LAND CODES

NOMS DES PREMIÈRES NATIONS ET DATES D'ENTRÉE EN
VIGUEUR DES CODES FONCIERS

| Item | Column 1 First Nation that has signed the Framework Agreement | Column 2 Land code coming- into-force date | Article | Colonne 1 Première nation ayant signé l'accord-cadre | Colonne 2 Date d'entrée en vigueur du code foncier |
|------|---|--|---------|--|--|
| 1. | Westbank | | 1. | Westbank | |
| 2. | Musqueam | | 2. | Musqueam | |
| 3. | Fort George (also known as Lheit- Lit'en and Lheidli T'enneh) | November 1, 2000 | 3. | Fort George (aussi connue sous les noms « Lheit-Lit'en » et « Lheidli T'enneh ») | 1 ^{er} novembre 2000 |
| 4. | Anderson Lake (also known as N'Quatqua) | | 4. | Anderson Lake (aussi connue sous le nom « N'Quatqua ») | |
| 5. | Squamish | | 5. | Squamish | |
| 6. | Siksika Nation | | 6. | Siksika Nation | |
| 7. | John Smith (also known as Muskoday) | January 1, 2000 | 7. | John Smith (aussi connue sous le nom « Muskoday ») | 1 ^{er} janvier 2000 |
| 8. | Cowessess | | 8. | Cowessess | |
| 9. | The Pas (also known as Opaskwayak Cree) | August 1, 2002 | 9. | The Pas (aussi connue sous le nom « Cris Opaskwayak ») | 1 ^{er} août 2002 |
| 10. | Nipissing Band of Ojibways (also known as Nipissing) | July 1, 2003 | 10. | Bande d'Ojibways Nipissing (aussi connue sous le nom « Nipissing ») | 1 ^{er} juillet 2003 |
| 11. | Scugog (also known as Mississaugas of Scugog Island) | January 1, 2000 | 11. | Scugog (aussi connue sous le nom « Mississaugas de Scugog Island ») | 1 ^{er} janvier 2000 |
| 12. | Chippewas of Rama (also known as Chippewas of Mnjikaning) | | 12. | Chippewas de Rama (aussi connue sous le nom « Chippewas de Mnjikaning ») | |
| 13. | Chippewas of Georgina Island | January 1, 2000 | 13. | Chippewas de Georgina Island | 1 ^{er} janvier 2000 |
| 14. | Saint Mary's | | 14. | Saint Mary's | |
| 15. | Garden River | | 15. | Garden River | |
| 16. | Moose Deer Point | | 16. | Moose Deer Point | |
| 17. | Whitecap No. 94 | January 1, 2004 | 17. | Whitecap No 94 | 1 ^{er} janvier 2004 |
| 18. | Kinistin | February 1, 2005 | 18. | Kinistin | 1 ^{er} février 2005 |
| 19. | Mississauga | August 1, 2009 | 19. | Mississauga | 1 ^{er} août 2009 |
| 20. | Whitefish Lake | March 1, 2009 | 20. | Whitefish Lake | 1 ^{er} mars 2009 |
| 21. | Songhees | October 1, 2011 | 21. | Songhees | 1 ^{er} octobre 2011 |
| 22. | Beecher Bay | August 1, 2003 | 22. | Beecher Bay | 1 ^{er} août 2003 |
| 23. | Pavilion | May 1, 2004 | 23. | Pavilion | 1 ^{er} mai 2004 |
| 24. | [Repealed, 2008, c. 32, s. 27] | | 24. | [Abrogé, 2008, ch. 32, art. 27] | |
| 25. | Tsawout | May 29, 2007 | 25. | Tsawout | 29 mai 2007 |
| 26. | Kingsclear | | 26. | Kingsclear | |
| 27. | Skeetchestn | | 27. | Skeetchestn | |
| 28. | Muskeg Lake | September 1, 2005 | 28. | Muskeg Lake | 1 ^{er} septembre 2005 |
| 29. | Burrard | June 6, 2007 | 29. | Burrard | 6 juin 2007 |
| 30. | Sliammon | September 30, 2004 | 30. | Sliammon | 30 septembre 2004 |
| 31. | Osoyoos | | 31. | Osoyoos | |
| 32. | Chippewas of Kettle and Stony Point | | 32. | Chippewas de Kettle et Stony Point | |
| 33. | Dokis | | 33. | Dokis | |
| 34. | [Repealed, 2012, c. 19, s. 646] | | 34. | [Abrogé, 2012, ch. 19, art. 646] | |
| 35. | Kitselas | November 25, 2005 | 35. | Kitselas | 25 novembre 2005 |
| 36. | McLeod Lake | May 20, 2003 | | | |
| 37. | Shxwhá:y Village (also known as Sqay Village) | January 8, 2007 | | | |

First Nations Land Management — October 31, 2012

| Item | Column 1 First Nation that has signed the Framework Agreement | Column 2 Land code coming-into-force date | Article | Colonne 1 Première nation ayant signé l'accord-cadre | Colonne 2 Date d'entrée en vigueur du code foncier |
|------|--|--|---------|---|---|
| 38. | T'Sou-ke (also known as Tsouke) | February 1, 2007 | 36. | McLeod Lake | 20 mai 2003 |
| 39. | Leq'á:mel (also known as Leqamel) | February 1, 2010 | 37. | Shxwhá:y Village (aussi connue sous le nom «Sqay Village») | 8 janvier 2007 |
| 40. | Flying Dust | | 38. | T'Sou-ke (aussi connue sous le nom «Tsouke») | 1 ^{er} février 2007 |
| 41. | Swan Lake | October 1, 2010 | 39. | Leq'á:mel (aussi connue sous le nom «Leqamel») | 1 ^{er} février 2010 |
| 42. | Henvey Inlet | January 1, 2010 | 40. | Flying Dust | |
| 43. | Matsqui | February 26, 2009 | 41. | Swan Lake | 1 ^{er} octobre 2010 |
| 44. | Seabird Island | September 1, 2009 | 42. | Henvey Inlet | 1 ^{er} janvier 2010 |
| 45. | Squiala | July 29, 2008 | 43. | Matsqui | 26 février 2009 |
| 46. | Tzeachten | August 21, 2008 | 44. | Seabird Island | 1 ^{er} septembre 2009 |
| 47. | Pasqua | | 45. | Squiala | 29 juillet 2008 |
| 48. | We Wai Kai (also known as Cape Mudge) | December 7, 2009 | 46. | Tzeachten | 21 août 2008 |
| 49. | Chemawawin | September 6, 2010 | 47. | Pasqua | |
| 50. | Kahkewistahaw | | 48. | We Wai Kai (aussi connue sous le nom «Cape Mudge») | 7 décembre 2009 |
| 51. | Alderville | | 49. | Chemawawin | 6 septembre 2010 |
| 52. | Big Island (also known as Anishnaabeg of Naongashiing) | August 1, 2011 | 50. | Kahkewistahaw | |
| 53. | Fort McKay First Nation | | 51. | Alderville | |
| 54. | Innu Essipit | | 52. | Big Island (aussi connue sous le nom «Anishnaabeg de Naongashiing») | 1 ^{er} août 2011 |
| 55. | Nanoose | | 53. | Fort McKay First Nation | |
| 56. | Campbell River | | 54. | Innu Essipit | |
| 57. | Sumas | | 55. | Nanoose | |
| 58. | Skawahlook | August 5, 2010 | 56. | Campbell River | |
| 59. | Cowichan Tribes | | 57. | Sumas | |
| 60. | Haisla | | 58. | Skawahlook | 5 août 2010 |
| 61. | St. Mary's | | 59. | Cowichan Tribes | |
| 62. | Shuswap | | 60. | Haisla | |
| 63. | Stz'uminus | | 61. | St. Mary's | |
| 64. | Williams Lake | | 62. | Shuswap | |
| 65. | Skowkale | | 63. | Stz'uminus | |
| 66. | Yakweakwioose | | 64. | Williams Lake | |
| 67. | Aitchelitz | | 65. | Skowkale | |
| 68. | Alexis Nakota Sioux | | 66. | Yakweakwioose | |
| 69. | Tsuu T'ina | | 67. | Aitchelitz | |
| 70. | One Arrow | | 68. | Alexis Nakota Sioux | |
| 71. | Long Plain | | 69. | Tsuu T'ina | |
| 72. | Buffalo Point | | 70. | One Arrow | |
| 73. | Bingwi Neyaashi Anishinaabek | | 71. | Long Plain | |
| 74. | Beausoleil | | 72. | Buffalo Point | |
| 75. | Montagnais du Lac St-Jean | | 73. | Bingwi Neyaashi Anishinaabek | |
| 76. | Miawpukek | | 74. | Beausoleil | |
| 77. | Membertou | | 75. | Montagnais du Lac St-Jean | |
| | | | 76. | Miawpukek | |
| | | | 77. | Membertou | |

1999, c. 24, Sch.; SOR/2003-178; SOR/2006-216; 2008, c. 32, s. 27; SOR/2008-51, 267; 2012, c. 19, ss. 637 to 651; SOR/2012-217.

1999, ch. 24, ann.; DORS/2003-178; DORS/2006-216; 2008, ch. 32, art. 27; DORS/2008-51, 267; 2012, ch. 19, art. 637 à 651; DORS/2012-217.

RELATED PROVISIONS

— 2008, c. 32, s. 22

Existing interests — *First Nations Land Management Act*

22. Despite section 13, if an interest in land in the Former Tsawwassen Reserve was granted or approved under the *First Nations Land Management Act* and exists on the effective date of the Agreement, the interest continues in effect in accordance with its terms and conditions unless a replacement interest is issued in accordance with Chapter 4 of the Agreement.

— 2008, c. 32, s. 24

Indemnification of Tsawwassen First Nation

24. For as long as the *First Nations Land Management Act* is in force, Her Majesty in right of Canada shall, as of the effective date of the Agreement, indemnify the Tsawwassen First Nation in respect of lands in the Former Tsawwassen Reserve in the same manner and under the same conditions as would be the case if that Act continued to apply to those lands.

— 2008, c. 32, s. 25

Documents in land registries

25. As of the effective date of the Agreement, registrations or records affecting Tsawwassen Lands that are registered or recorded in a land registry under the *Indian Act* or the *First Nations Land Management Act* have no effect.

DISPOSITIONS CONNEXES

— 2008, ch. 32, art. 22

22. Malgré l'article 13, les intérêts sur les terres de l'ancienne réserve de Tsawwassen accordés ou approuvés sous le régime de la *Loi sur la gestion des terres des premières nations* et existants à la date d'entrée en vigueur de l'accord sont maintenus, ainsi que les conditions dont ils sont assortis, à moins qu'un intérêt de remplacement soit accordé conformément au chapitre 4 de l'accord.

— 2008, ch. 32, art. 24

24. Tant que la *Loi sur la gestion des terres des premières nations* demeure en vigueur, Sa Majesté du chef du Canada est tenue, à compter de la date d'entrée en vigueur de l'accord, d'indemniser la Première Nation de Tsawwassen à l'égard des terres de l'ancienne réserve de Tsawwassen, selon les mêmes conditions et modalités que celles qui seraient applicables si cette loi continuait de s'appliquer à l'égard de ces terres.

— 2008, ch. 32, art. 25

25. À compter de la date d'entrée en vigueur de l'accord, les inscriptions et dossiers relatifs aux terres tsawwassennes figurant dans tout registre des terres en vertu de la *Loi sur les Indiens* ou de la *Loi sur la gestion des terres des premières nations* sont sans effet.

Intérêts existants : *Loi sur la gestion des terres des premières nations*

Indemnisation de la Première Nation de Tsawwassen

Registres des terres

Summary of Amendment No. 5 to the Framework Agreement

On October 2011, several areas of the Framework Agreement were amended as follows:

Exclusion of land with uncertain boundaries

Previously, a First Nation and the Minister could not use clause 4.4 of the Framework Agreement to exclude land from the land code when its reserve status is uncertain. The previous Framework Agreement only contemplated excluding a “portion of a reserve.” As a result, votes must be delayed until boundary issues are resolved.

To avoid delays, a change to clause 4 of the Framework Agreement now allows a First Nation and the Minister to exclude land from a land code when it is uncertain whether it forms part of the reserve. The change made was to remove the reference to exclusion of “a portion of a reserve” and refer only to exclusion of “land”, and to remove the requirement for a Part II survey under the *Canada Lands Surveys Act* of the excluded land (because land with uncertainty boundaries cannot be surveyed). Amendment 5 now includes a provision that states that exclusion is without prejudice to the right of the First Nation or the Crown to assert that the land forms part of the reserve.

Signed Individual Agreement required before the verifier can certify the Land Code

Clause 10 of the Framework Agreement was amended to provide that the First Nation must send a copy of the fully signed Individual Agreement to the verifier along with the approved land code, and that the verifier cannot certify the land code until he receives the signed Individual Agreement.

Removal of the Environmental Management Agreement

The amendment to clauses 23 and 24 of the Framework Agreement removes the requirement for an Environmental Management Agreement (“EMA”). Although an EMA will not be required, a First Nation with a land code in effect will still be required to develop an environmental protection regime with the assistance of the appropriate government agencies, subject to the provision of adequate resources.

Coming into Force

The changes came into force when the *First Nations Land Management Act (Act)* was amended to reflect the changes set out in the Amendment to the Framework Agreement.

AMENDMENT NO. 5

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

WHEREAS:

Certain First Nations and Canada entered into a Framework Agreement on First Nation Land Management on February 12, 1996 (the "Framework Agreement");

The Framework Agreement was ratified and brought into effect by the *First Nations Land Management Act*, S.C., 1999, c. 24;

The Framework Agreement has subsequently been amended in accordance with its provisions, and other First Nations have adhered to it;

The Parties wish to further amend the Framework Agreement in accordance with this Amending Agreement;

An amendment to the Framework Agreement can be made with the consent of Canada and 2/3 of the First Nations that have ratified the Framework Agreement and are not excluded by clause 55.2;

The First Nations signing this Amending Agreement constitute the special majority required by clause 57.3 to amend the Framework Agreement;

NOW, THEREFORE, in consideration of the exchange of promises contained in this Amending Agreement, the Parties agree to amend the Framework Agreement as follows:

1. In Clause 4.3, the phrase "subject to clauses 4.4 and 4.5" is replaced by the following:

"subject to clauses 4.4, 4.5 and 4.5A".

2. The opening words of Clause 4.4 are replaced by the following:

4.4 Subject to clause 4.5A, a portion of a reserve may be excluded from a land code only if

3. Clause 4.5 is replaced by the following:

4.5 A portion of a reserve may not be excluded if the exclusion would have the effect of placing the administration of a lease or other interest or right in land in more than one land management regime.

4. The following clause is added after Clause 4.5:

4.5A Land may be excluded from the application of the land code when it is uncertain whether the land forms part of the reserve. An exclusion for this reason shall be without prejudice to the right of the First Nation or Her Majesty to assert that the land forms part of the reserve. If excluding the land would have the effect of placing a lease, other interest or right in land in more than one land management regime, then all land that is subject to that lease, interest or right shall be excluded from the application of the land code.

5. Clause 10.1 is amended by adding “a true copy of the fully signed individual agreement and” **between** “together with” **and** “a statement”.

6. Clause 10.2 is amended by adding “, signed individual agreement” **between** “land code” **and** “and statement”.

7. Clause 23.3 is replaced by the following:

23.3 The principles of these regimes are set out below.

8. Clause 24 is replaced by the following:

24. ENVIRONMENTAL MANAGEMENT

24.1 Subject to clause 27, a First Nation with a land code in effect will develop an environmental protection regime, with the assistance of the appropriate federal agencies to the extent that they agree to participate.

24.2 Each First Nation agrees to harmonize environmental protection with the province in which the First Nation is situated, where the province agrees to participate.

24.3 The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province in which the First Nation is situated.

24.4 For greater certainty, if there is an inconsistency between the provision of a federal law respecting the protection of the environment and a provision in a land code or First Nation law respecting the protection of the environment, the federal provision will prevail to the extent of any inconsistency.

9. This Amending Agreement (No. 5) shall come into force on the day of the coming into force of the legislation that amends the *First Nations Land Management Act, S.C. 1999, c. 24*, to reflect the changes set out in this Amending Agreement.



Framework Agreement on First Nation Land Management

Land Governance Jurisdiction

Framework Agreement First Nations have the recognized legal authority to:

- **design, administer and enforce laws** for the development, conservation, protection, management and use of their reserve lands and resources;
- **govern their reserve lands** with all the powers of an owner, except that title remains with Canada, protected under section 91.24 of the Canada Constitution, and therefore any alienation of these lands is prohibited; and
- **collect and manage revenues** derived from their reserve lands and resources, in accordance with their land code.

Economic Development Opportunities

Framework Agreement First Nations are responding to economic development opportunities at the speed of business, as the following statistics indicate:

- more than \$50 million invested in member-owned businesses on reserve;
- more than \$100 million invested by third-parties businesses on reserve;
- more than 2,000 employment opportunities for band members on reserve; and
- more than 10,000 employment opportunities for non-members on reserve.

Why is the *Framework Agreement* so successful?

The *Framework Agreement*, which was developed by First Nations:

- continues to be led by First Nations, not Canada;
- protects the title to reserve lands and resources for future generations;
- demonstrates successful and sustainable economic development; and
- demonstrates jurisdiction, decision-making, and control are in the hands of the Community, not Canada.

Background

- Under the *Indian Act*, the Minister is obligated to exercise decision-making authority over First Nation reserve lands and resources
- In 1992 a small group of Chiefs began planning for an alternative which would replace Ministerial control with Community control
- The Chiefs' solution was a government-to-government agreement, which would provide their members with the option of drafting their own land code and land laws to replace the Minister's land-related obligation under the *Indian Act*
- In February 1996 the Chiefs signed the *Framework Agreement on First Nation Land Management* with the Minister of Indian Affairs & Northern Development. This historic signing was hosted by the Chippewas of Georgina Island in Ontario
- The *Framework Agreement* next required ratification by Canada, which Parliament completed with the passage and royal assent of the *First Nations Land Management Act* in 1999
- Ratification of the *Framework Agreement* by each signatory First Nation requires the community to draft and approve a land code
- January 1, 2000 – the first day of the new millennium – was selected by three First Nations as the date to begin operating under their land codes and exercising jurisdiction over their reserve lands and resources. These three were the first *Framework Agreement* signatories to implement land codes.
- In April 2003 the original 14 First Nations and Canada opened the *Framework Agreement* in response to requests from other First Nations
- As of April 2011 there were 58 signatory First Nations to the *Framework Agreement*; an additional 18 First Nations will become signatories in April 2012
- The number of *Framework Agreement* First Nations exercising jurisdiction under their land codes has jumped from 3 in January 2000 to 37 in January 2012.
- There are 65 other First Nations currently on the “waiting list” to be added as *Framework Agreement* signatories
- Canada is considering adding more *Framework Agreement* signatories after April 2012

**Text of the Framework
Agreement on First Nation Land
Management**

(signed in 1996)

Includes modifications resulting from

Amendment #1 1998
Amendment #2 1998
Amendment #3 2002
Amendment #4 2007
Amendment #5 2011

**Texte de l'Accord-Cadre relatif
à la Gestion des Terres de
Premières Nations**

(signé en 1996)

Comprend les changements apportés par
les modifications suivantes

Modification #1 1998
Modification #2 1998
Modification #3 2002
Modification #4 2007
Modification #5 2011

Framework Agreement on First Nation Land Management

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

BETWEEN:

THE FOLLOWING FIRST NATIONS:

WESTBANK, MUSQUEAM, LHEIDLI
T'ENNEH (formerly known as "LHEIT-
LIT'EN"), N'QUATQUA, SQUAMISH,
SIKSIKA, MUSKODAY, COWESSESS,
OPASKWAYAK CREE, NIPISSING,
MISSISSAUGAS OF SCUGOG ISLAND,
CHIPPEWAS OF MNJIKANING,
CHIPPEWAS OF GEORGINA ISLAND,
SAINT MARY'S, as represented by their
Chiefs and all other First Nations that
have adhered to the Agreement

AND

HER MAJESTY THE QUEEN IN
RIGHT OF CANADA, as represented by
the Minister of Indian Affairs and Northern
Development

WHEREAS:

The First Nations have a profound
relationship with the land that is rooted in
respect for the Spiritual value of the Earth
and the gifts of the Creator and have a deep
desire to preserve their relationship with the
land;

The First Nations should have the option of

Accord-cadre relatif à la Gestion des Terres de Premières Nations

ACCORD-CADRE RELATIF À LA GESTION DES TERRES DE PREMIÈRES NATIONS

ENTRE :

LES PREMIÈRES NATIONS
SUIVANTES :

WESTBANK, MUSQUEAM, LHEIDLI
T'ENNEH (autrefois connue sous le
nom de "LHEIT-LIT'EN"),
N'QUATQUA, SQUAMISH, SIKSIKA,
MUSKODAY, COWESSESS,
OPASKWAYAK CREE, NIPISSING,
MISSISSAUGAS OF SCUGOG
ISLAND, CHIPPEWAS OF
MNJIKANING, CHIPPEWAS OF
GEORGINA ISLAND, SAINT
MARY'S, représentées par leurs chefs
et toutes les autres Premières Nations
qui se sont jointes à l'Entente

ET

SA MAJESTÉ LA REINE DU CHEF
DU CANADA, représentée par le ministre
des Affaires indiennes et du Nord
canadien

ATTENDU QUE :

Les premières nations entretiennent une
relation profonde avec la terre, basée sur la
valeur spirituelle qu'elles attribuent à la
Terre et aux dons du Créateur et qu'elles
ont le désir de préserver cette relation;

Les premières nations devraient avoir la
possibilité de soustraire leurs terres aux

withdrawing their lands from the land management provisions of the Indian Act in order to exercise control over their lands and resources for the use and benefit of their members;

The Parties wish to enter into a government to government agreement, within the framework of the constitution of Canada, to deal with the issues of land management;

The Parties understand that this Agreement must be ratified;

NOW THEREFORE,

In consideration of the exchange of promises contained in this Agreement and subject to its terms and conditions, the Parties agree that the First Nations shall have the option of exercising control over their lands and resources.

PART I PRELIMINARY MATTERS

1. INTERPRETATION

1.1 In this Agreement,

"Canada" or "Crown" means Her Majesty the Queen in right of Canada; ("Canada")

"eligible voter" means a member of a First Nation who is eligible, pursuant to clause 7.2, to vote under this Agreement; ("électeurs")

"federal law" means a law enacted by

dispositions de la Loi sur les Indiens concernant la gestion des terres de façon à exercer un contrôle sur leurs terres et sur leurs ressources à l'usage et au profit de leurs membres;

Les parties souhaitent conclure un accord de gouvernement à gouvernement, dans le cadre de la constitution du Canada, concernant des questions touchant la gestion des terres;

Les parties reconnaissent que le présent accord doit être ratifié;

PAR CONSÉQUENT,

En contrepartie de l'échange des promesses figurant dans le présent accord et sous réserve de ses modalités, les Parties conviennent que les premières nations doivent avoir la possibilité d'exercer un contrôle sur leurs terres et sur leurs ressources.

PARTIE I QUESTIONS PRÉLIMINAIRES

1. INTERPRÉTATION

1.1 Les définitions qui suivent s'appliquent au présent accord.

« Canada » ou « Couronne » Sa Majesté la Reine du chef du Canada; (« Canada »)

« code foncier » Code adopté par une première nation conformément au présent accord contenant les dispositions générales relatives à l'exercice des droits et pouvoirs de la première nation sur ses terres de

Canada and does not include a land code or a First Nation law; ("loi fédérale")

"federal legislation" means the legislation to be enacted by Canada under Part X; ("loi de ratification")

"First Nation" means a band that is a Party to this Agreement; ("première nation")

"First Nation land", in respect of a First Nation, means all or part of a reserve that the First Nation describes in its land code; ("terres de première nation")

"First Nation Lands Register" means the register established pursuant to clause 51 to register interests or land rights in First Nation land; ("registre des terres de premières nations")

"First Nation law" means a law enacted by a First Nation in accordance with its land code; ("texte législative de la Première nation")

"interest", in relation to First Nation land in any province or territory other than Québec, means any interest, right or estate of any nature in or to that land, including a lease, easement, right of way, servitude, or profit à prendre, but does not include title to that land; ("intérêt")

"land code" means a code, approved by a First Nation in accordance with this Agreement, that sets out the basic provisions regarding the exercise of the First Nation's rights and powers over its First Nation land (although each First Nation can select its own name for the land code); ("code

première nation (les premières nations peuvent néanmoins donner l'appellation de leur choix à ce code foncier). (« land code »)

« Conseil consultatif des terres » Le conseil visé à l'article 38. (« Land Advisory Board »)

« droit foncier » Relativement aux terres de première nation dans la province de Québec, tout droit de quelque nature qu'il soit portant sur ces terres, à l'exclusion du titre de propriété; y sont assimilés les droits du locataire. (« land right »)

« électeurs » Les membres d'une première nation qui ont le droit de voter en vertu de l'article 7.2 du présent accord. (« eligible voters »)

« intérêt » Relativement aux terres de première nation situées dans toute province ou territoire autre que le Québec, tout intérêt, droit ou domaine de quelque nature qu'il soit portant sur ces terres, notamment un bail, une servitude, un droit de passage, un service foncier ou un profit à prendre, à l'exclusion du titre sur ces terres. (« interest »)

« loi de ratification » La loi adoptée par le Canada aux termes de la Partie X. (« federal legislation »)

« loi fédérale » Loi adoptée par le Canada mais ne comprend pas un code foncier ou un texte législatif d'une première nation. (« federal law »)

« membre » À l'égard d'une première

foncier")

"land right", in relation to First Nation land in the Province of Québec, means any right of any nature in or to that land excluding title, and includes the rights of a lessee; ("droit foncier")

"Lands Advisory Board" means the board referred to in clause 38; ("Conseil consultatif des terres")

"licence", in relation to First Nation land, ("permis")

(a) in a province or territory other than Québec, means any right of use or occupation of First Nation land, other than an interest in that land;

(b) in the Province of Québec, any right to use or occupy First Nation land, other than a land right in that land;

"member", in respect of a First Nation, means ("membre")

(a) a person whose name appears on the Band List, or

(b) a person who is entitled to have his or her name appear on the Band List;

"Minister" means the Minister of Indian Affairs and Northern Development, or such other member of the Queen's Privy Council as is designated by the Governor in Council for the purposes of this Agreement; ("ministre")

nation : (« member »)

a) personne dont le nom figure sur la liste de bande;

b) personne qui a droit à ce que son nom y figure.

« ministre » Le ministre des Affaires indiennes et du Nord canadien ou un membre du Conseil privé de la Reine désigné par le gouverneur en conseil aux fins du présent accord. (« Minister »)

« permis » Relativement aux terres d'une première nation : (« licence »)

a) dans une province ou un territoire autre que le Québec, tout droit d'usage ou d'occupation des terres de première nation, autre qu'un intérêt sur ces terres;

b) dans la province de Québec, tout droit d'utiliser ou d'occuper les terres de première nation autre qu'un droit foncier sur ces terres.

« première nation » Une bande qui est Partie au présent accord. (« First Nation »)

« registre des terres de premières nations » Le registre créé conformément à l'article 51 pour l'enregistrement des intérêts ou des droits fonciers sur les terres de premières nations. (« First Nation Lands Register »)

« terres de première nation » Dans le cas d'une première nation, tout ou partie d'une réserve décrite dans son code foncier. (« First Nation land »)

"verifier" means the person appointed pursuant to clauses 8 and 44 to monitor and verify the opting in process for a First Nation. ("vérificateur")

1.2 Terms that are defined or used in the Indian Act have the same meaning in this Agreement, unless the context otherwise requires.

1.3 This Agreement is not a treaty and shall not be considered to be a treaty within the meaning of section 35 of the Constitution Act, 1982.

1.4 The Parties acknowledge that the Crown's special relationship with the First Nations will continue.

1.5 This Agreement does not affect any lands, or any rights in lands, that are not subject to this Agreement.

1.6 This Agreement is not intended to define or prejudice inherent rights, or any other rights, of First Nations to control their lands or resources or to preclude other negotiations in respect of those rights.

1.7 The parties agree that when a provision of this agreement contains both civil law and common law terminology, or terminology that has different meanings in the civil law and the common law, the civil law

« texte législatif de la première nation »
Une loi ou un autre texte législatif adopté par une première nation conformément à son code foncier. (« First Nation law »)

« vérificateur » La personne chargée, en application des articles 8 et 44, de surveiller et de vérifier le processus d'adhésion d'une première nation.
(« verifier »)

1.2 Sauf indication contraire, les termes du présent accord qui sont définis ou utilisés dans la Loi sur les Indiens s'entendent au sens de cette loi.

1.3 Le présent accord ne constitue pas un traité et n'est pas considéré comme un traité au sens de l'article 35 de la Loi constitutionnelle de 1982.

1.4 Les Parties reconnaissent que la Couronne maintiendra la relation spéciale qu'elle entretient avec les premières nations.

1.5 Le présent accord ne s'applique pas aux terres ou aux droits sur ces terres qui ne sont pas visés par lui.

1.6 Le présent accord n'a pas pour but de définir les droits inhérents ou autres des premières nations d'exercer un contrôle sur leurs terres et leurs ressources ni d'y porter atteinte, ni d'empêcher que ces droits fassent l'objet d'autres négociations.

1.7 Les parties conviennent, que lorsque une disposition du présent accord emploie à la fois des termes propres au droit civil et à la common-law ou des termes qui ont

terminology or meaning is intended to apply to this provision with respect to First Nations in the Province of Quebec and the common law terminology or meaning is intended to apply with respect to First Nations in a province or territory other than Québec.

2. FIRST NATION LAND

2.1 Land that is a reserve of a First Nation is eligible to be managed by that First Nation under a land code as First Nation land.

2.2 First Nation land includes all the interests and rights or all the land rights and other rights, as well as the resources that belong to that land, to the extent that these are under the jurisdiction of Canada and are part of that land.

2.3 The Parties agree that First Nation lands are lands reserved for Indians within the meaning of section 91(24) of the Constitution Act, 1867.

3. INDIAN OIL AND GAS

3.1 The Indian Oil and Gas Act will continue to apply to any First Nation lands, or interests or land rights in First Nation land, that are "Indian lands" within the meaning of that Act.

un sens différent dans l'un et l'autre de ces systèmes, l'intention est, d'appliquer à cette disposition la terminologie de droit civil ou le sens qu'on lui donne dans ce système en ce qui a trait aux Premières nations au Québec et la terminologie de common-law ou le sens qu'on lui donne dans ce système en ce qui a trait aux Premières nations dans toute province ou territoire autre que le Québec.

2. TERRES D'UNE PREMIÈRE NATION

2.1 Les terres qui constituent une réserve d'une première nation sont admissibles à être gérées par celle-ci en vertu d'un code foncier à titre de terres de première nation.

2.2 Les terres de première nation comprennent tous les intérêts et droits ou tous les droits fonciers et autres droits ainsi que les ressources relatifs à ces terres dans la mesure où ils relèvent de la juridiction du Canada et font partie de ces terres.

2.3 Les parties reconnaissent que les terres de premières nations sont des terres réservées aux Indiens au sens du point 24 de l'article 91 de la Loi constitutionnelle de 1867.

3. PÉTROLE ET GAZ DES INDIENS

3.1 La Loi sur le pétrole et le gaz des terres indiennes continuera à s'appliquer aux terres de premières nations et aux intérêts ou droits fonciers sur les terres de premières nations qui sont des « terres indiennes » au sens de cette Loi.

3.2 Any interest or land right in First Nation land that is granted to Canada for the exploitation of oil and gas under a land code will be deemed to be "Indian lands" within the meaning of the Indian Oil and Gas Act.

3.3 Section 4 of the Indian Oil and Gas Act will continue to apply to revenues and royalties from oil or gas on First Nation land, despite anything to the contrary in clause 12.

4. RESERVES

4.1 Any reserve managed by a First Nation under a land code will continue to be a reserve within the meaning of the Indian Act.

4.2 Any reserve, title to which is vested in Canada, and managed by a First Nation under a land code, will continue to be vested in Canada for the use and benefit of the respective First Nation for which it was set apart.

4.3 Where a First Nation wishes to manage a reserve, the whole of the reserve will be included as First Nation land to avoid disjointed administration of the reserve, subject to clauses 4.4, 4.5 and 4.5A.

4.4 Subject to clause 4.5A, a portion of a reserve may be excluded from a land code only if:

(a) the portion of the reserve is in an environmentally unsound condition and the condition cannot be remedied

3.2 Les intérêts ou droits fonciers sur les terres de première nation octroyés au Canada pour l'exploitation du pétrole et du gaz en vertu d'un code foncier seront réputés être des « terres indiennes » au sens de la Loi sur le pétrole et le gaz des terres indiennes.

3.3 L'article 4 de la Loi sur le pétrole et le gaz des terres indiennes continuera de s'appliquer aux revenus et aux redevances provenant du pétrole ou du gaz situés sur les terres de première nation, nonobstant toute disposition contraire de l'article 12.

4. RÉSERVES

4.1 Les réserves gérées par une première nation en vertu d'un code foncier demeurent des réserves au sens de la Loi sur les Indiens.

4.2 Toute réserve, dont le titre est détenu par le Canada et qui est gérée par une première nation en vertu d'un code foncier, continuera d'appartenir au Canada à l'usage et au profit de la première nation pour laquelle la réserve fut mise de côté.

4.3 Lorsqu'une première nation souhaite gérer une réserve, l'ensemble de la réserve sera inclus comme terres de première nation de façon à éviter la double administration de la réserve sous réserve des articles 4.4, 4.5 et 4.5A.

4.4 Sous réserve de l'article 4.5A, il est permis de soustraire une partie d'une réserve à l'application du code foncier seulement dans l'un ou l'autre des cas suivants :

a) l'environnement y est si dégradé que

by measures that are technically and financially feasible before the land code is expected to be submitted for community approval;

(b) the portion of the reserve is the subject of ongoing litigation that is unlikely to be resolved before the land code is expected to be submitted for community approval;

(c) the portion of the reserve is uninhabitable or unusable as a result of a natural disaster; or

(d) there exist one or more other reasons which the First Nation and the Minister agree justify excluding a portion of a reserve.

4.5 A portion of a reserve may not be excluded if the exclusion would have the effect of placing the administration of a lease or other interest or right in land in more than one land management regime.

4.5A Land may be excluded from the application of the land code when it is uncertain whether the land forms part of the reserve. An exclusion for this reason shall be without prejudice to the right of the First Nation or Her Majesty to assert that the land forms part of the reserve. If excluding the land would have the effect of placing a lease, other interest or right in land in more than one land management regime, then all land that is subject to that lease, interest or right shall be excluded from the application of the land code.

des mesures réalisables sur les plans technique et économique ne permettront pas de l'assainir avant la présentation prévue du code foncier à l'approbation de la communauté;

b) cette partie de la réserve fait l'objet d'un litige qui ne sera probablement pas résolu avant la présentation prévue du code foncier à l'approbation de la communauté;

c) cette partie de la réserve est inhabitable ou inutilisable en raison d'un sinistre naturel;

d) l'exclusion est justifiée pour une ou plusieurs autres raisons convenues par la première nation et le ministre.

4.5 Une partie de la réserve ne peut être exclue si l'exclusion avait pour effet d'assujettir un bail ou tout autre intérêt ou droit foncier à plus d'un régime de gestion foncière.

4.5A Une terre peut être exclue de l'application du code foncier lorsqu'il y a incertitude quant à la question de savoir si la terre est située ou non dans la réserve. L'exclusion pour ce motif ne porte pas atteinte au droit de la première nation ou de Sa Majesté de faire valoir que la terre fait partie de la réserve. Si l'exclusion a pour effet d'assujettir un bail ou tout autre intérêt ou droit foncier à plus d'un régime de gestion foncière, toute la partie de la réserve qui est assujettie au bail ou autre intérêt ou droit foncier doit être exclue de l'application du code foncier.

4.6 The First Nation will make provision to

amend the description of its First Nation land in its land code to include the excluded portion of the reserve when the First Nation and the Minister agree that the condition justifying the exclusion no longer exists and the individual agreement will be amended accordingly.

PART II OPTING IN PROCEDURE

4.6 Lorsque la première nation et le ministre conviennent que la condition justifiant l'exclusion d'une partie d'une réserve n'existe plus, la première nation fera en sorte que la description des terres de première nation contenue dans son code foncier soit modifiée pour y inclure la partie jusqu'à présent exclue et l'accord distinct sera modifié en conséquence.

PARTIE II PROCÉDURE D'ADHÉSION

5. DEVELOPMENT OF A LAND CODE

5.1 A First Nation that wishes to manage one or more of its reserves will first develop a land code.

5.2 The land code of a First Nation will

(a) describe the lands that are subject to the land code;

(b) set out the general rules and procedures that apply to the use and occupancy of First Nation land, including use and occupancy under

(i) licenses and leases, and

(ii) interests or land rights in First Nation land held pursuant to allotments under subsection 20(1) of the Indian Act or pursuant to the custom of the First Nation;

(b.1) set out the procedures that apply to the transfer, by testamentary disposition or succession, of any interest or land rights in First Nation land;

(c) set out the general rules and procedures that apply to revenues from natural resources belonging to First Nation land;

(d) set out the requirements for accountability to First Nation members for the management of moneys and First Nation lands under

5. ÉLABORATION D'UN CODE FONCIER

5.1 La première nation qui souhaite gérer une ou plusieurs de ses réserves doit préalablement élaborer un code foncier.

5.2 Les éléments suivants figurent dans le code foncier d'une première nation :

a) la description des terres qui y sont assujetties;

b) les règles générales - de procédure et autres - applicables en matière d'utilisation et d'occupation des terres de première nation, notamment :

(i) en vertu d'un permis ou d'un bail,

(ii) en vertu d'un intérêt ou d'un droit foncier sur les terres de première nation découlant soit de l'attribution de cet intérêt ou droit foncier en vertu du paragraphe 20(1) de la Loi sur les Indiens, soit de la coutume de la première nation;

(b.1) les règles de procédure applicables en matière de transfert d'intérêts ou de droits fonciers sur les terres de première nation, par disposition testamentaire ou succession;

c) les règles générales – de procédure et autres - applicables aux revenus tirés des ressources naturelles relatives aux terres de première nation;

d) les exigences touchant l'obligation de rendre compte de la gestion des fonds et des terres de première nation aux termes

the land code;

(e) set out the procedures for making and publishing its First Nation laws;

(f) set out the conflict of interest rules for land management;

(g) identify or establish a forum for the resolution of disputes in relation to interests or land rights in First Nation lands, including the review of land management decisions where a person, whose interest or land right in First Nation land is affected by a decision, disputes that decision;

(h) set out the general rules and procedures that apply to the First Nation when granting or expropriating interests or land rights in First Nation land, including provisions for notice and the service of notice;

(i) set out the general authorities and procedures whereby the First Nation council delegates administrative authority to manage First Nation land to another person or entity; and

(j) set out the procedure by which the First Nation can amend its land code or approve an exchange of its First Nation land.

5.3 A land code could also contain the following provisions:

du code foncier devant les membres de la première nation;

e) les règles d'édiction et de publication des textes législatifs de la première nation;

f) les règles applicables en matière de conflit d'intérêts dans la gestion des terres;

g) la création ou l'identification d'une instance chargée de résoudre les différends concernant les intérêts ou les droits fonciers sur les terres de première nation, y compris la révision de toute décision en matière de gestion des terres contestée par une personne dont les intérêts ou les droits fonciers sur ces terres sont affectés par cette décision;

h) les règles générales – de procédure et autres - applicables à la première nation en matière d'attribution ou d'expropriation d'intérêts ou de droits fonciers sur des terres de première nation, y compris les dispositions en matière d'avis et de notification;

i) les pouvoirs et procédures généraux applicables en matière de délégation, par le conseil de la première nation à une autre personne ou entité, des pouvoirs de gestion des terres de première nation;

j) la procédure selon laquelle la première nation peut modifier son code foncier ou approuver un échange de ses terres de première nation.

5.3 Peuvent également figurer dans le code foncier :

(a) any general conditions or limits on the power of the First Nation council to make First Nation laws;

(b) in any province or territory other than Quebec, any general exceptions, reservations, conditions or limitations to be attached to the rights and interests that may be granted in First Nation land;

(b.1) in the province of Quebec, any general exceptions, reservations, conditions or limits to be attached to the land rights or other rights that may be granted in First Nation land;

(c) any provisions respecting encumbering, seizing, or executing a right or an interest or land right in First Nation land as provided in clause 15; and

(d) any other matter respecting the management of First Nation land.

5.4 In order to clarify the intentions of the First Nations and Canada in relation to the breakdown of a marriage as it affects First Nation land:

(a) a First Nation will establish a community process in its land code to develop rules and procedures, applicable on the breakdown of a marriage, to the use, occupancy and possession of First Nation land and the division of interests or land rights in that land;

a) les conditions ou limites générales applicables au pouvoir du conseil de la première nation d'édicter des textes législatifs de la première nation;

b) dans une province ou un territoire autre que le Québec, les exclusions, réserves, conditions ou délimitations générales applicables en matière d'attribution des droits et des intérêts sur les terres de première nation;

b.1) dans la province de Québec, les exceptions, réserves, conditions ou limites générales applicables en matière d'attribution des droits fonciers et autres droits sur les terres de première nation;

c) les dispositions, telles que prévues à l'article 15, concernant la saisie ou l'exécution d'un droit ou d'un intérêt ou droit foncier sur les terres de première nation, ou le fait de les gérer;

d) toute autre disposition concernant la gestion des terres de première nation.

5.4 Afin de préciser l'intention des premières nations et du Canada en ce qui a trait à l'échec du mariage et à ses effets sur les terres de premières nations :

a) une première nation établira, dans son code foncier, un processus communautaire pour l'élaboration de règles et de procédures applicables, au moment de l'échec d'un mariage, en matière d'usage, d'occupation et de possession des terres de première nation et en matière de partage des intérêts ou des droits fonciers sur ces terres;

(b) for greater certainty, the rules and procedures referred to in clause (a) shall not discriminate on the basis of sex;

(c) the rules and procedures referred to in clause (a) shall be enacted in the First Nation's land code or First Nation laws;

(d) in order to allow sufficient time for community consultation during the community process referred to in clause (a), the First Nation shall have a period of 12 months from the date the land code takes effect to enact the rules and procedures;

(e) any dispute between the Minister and a First Nation in respect of this clause shall, notwithstanding clause 43.3, be subject to arbitration in accordance with Part IX;

(f) for greater certainty, this clause also applies to any First Nation that has voted to approve a land code before this clause comes into force.

6. DEVELOPMENT OF INDIVIDUAL FIRST NATION AGREEMENT

6.1 The Minister and each First Nation that intends to manage its First Nation land will also enter into an individual agreement to settle the actual level of operational funding for the First Nation and the specifics of the transfer of administration between Canada and the First Nation.

b) il est entendu que les règles et procédures mentionnées à l'alinéa a) ne peuvent faire aucune distinction fondée sur le sexe;

c) les règles et procédures mentionnées à l'alinéa a) sont prévues soit dans le code foncier de la première nation, soit dans ses textes législatifs;

d) afin qu'il puisse y avoir une période suffisante pour consulter la communauté, tel que mentionné à l'alinéa a), la première nation dispose d'un délai de 12 mois, à compter de la date d'entrée en vigueur de son code foncier, pour adopter ces règles et procédures;

e) tout différend entre le ministre et une première nation au sujet du présent article est, par dérogation à l'article 43.3, porté en arbitrage en conformité avec la Partie IX;

f) il est entendu que le présent article s'applique également à toute première nation qui a voté en faveur de l'adoption d'un code foncier avant que le présent article n'entre en vigueur.

6. ÉLABORATION D'UN ACCORD DISTINCT AVEC CHAQUE PREMIÈRE NATION

6.1 Le ministre et la première nation qui entend gérer ses propres terres concluront également un accord distinct fixant le niveau du financement opérationnel destiné à la première nation ainsi que les modalités du transfert des responsabilités en matière d'administration entre le

6.2 The First Nation and the Minister will each choose a representative to develop the individual agreement and to assist in transferring administration of the First Nation land.

6.3 Upon the request of a First Nation that is developing a land code, the Minister will provide it with the following information, as soon as practicable:

(a) a list of all the interests or land rights and licences, in relation to the proposed First Nation land, that are recorded in the Reserve Land Register and the Surrendered and Designated Lands Register under the Indian Act;

(b) all existing information, in Canada's possession, respecting any actual or potential environmental problems with the proposed First Nation land; and

(c) any other information in Canada's possession that materially affects the interests or land rights and licences mentioned in clause 6.3(a).

6.4 An amendment to an individual agreement with the Minister must be made in accordance with the procedure in that agreement.

7. COMMUNITY APPROVAL

7.1 Both the First Nation's land code and its

Canada et la première nation.

6.2 La première nation et le ministre désignent chacun un représentant chargé de préparer l'accord distinct et de faciliter le transfert de l'administration des terres de première nation.

6.3 À la demande de la première nation qui élabore un code foncier le ministre lui fournit les renseignements suivants, dans les meilleurs délais :

a) une liste de tous les intérêts ou droits fonciers et permis concernant les terres de la première nation proposées, qui sont consignés dans le registre des terres de réserve et le registre des terres désignées et cédées aux termes de la Loi sur les Indiens;

b) tous les renseignements en la possession du Canada concernant les problèmes environnementaux réels ou potentiels concernant les terres de la première nation proposées;

c) tout autre renseignement en la possession du Canada qui touche notamment les intérêts ou droits fonciers et les permis mentionnés à l'alinéa 6.3 a).

6.4 L'accord distinct conclu avec le ministre est modifié selon la procédure prévue dans celui-ci.

7. APPROBATION DE LA COMMUNAUTÉ

7.1 Le code foncier de la première nation

individual agreement with the Minister need community approval in accordance with this clause.

7.2 Every person who is a First Nation member, whether resident on or off-reserve, who is at least 18 years of age, is eligible to vote on whether to approve their First Nation's proposed land code and its individual agreement with the Minister.

7.3 The land code and individual agreement will be considered approved by the community if

(a) a majority of eligible voters participate in the vote and at least a majority of the participating voters vote to approve them;

(b) the First Nation registers all eligible voters who signified, in a manner determined by the First Nation, their intention to vote, and a majority of the registered voters vote to approve them; or

(c) the community approves them in such other manner as the First Nation and the Minister may agree upon.

7.4 The land code and individual agreement will not be considered approved if less than 25% plus one of all eligible voters voted to approve them.

7.5 The First Nation council may, by resolution, increase the minimum percentage for community approval otherwise required under this clause.

et l'accord distinct conclu avec le ministre doivent être approuvés par la communauté conformément au présent article.

7.2 A le droit de voter, dans le cadre de l'approbation du projet de code foncier de la première nation et de l'accord distinct conclu avec le ministre, tout membre de la première nation qui a au moins 18 ans, qu'il réside ou non dans la réserve.

7.3 Le code foncier et l'accord distinct sont réputés valablement approuvés par la communauté dans les cas suivants :

a) la majorité des électeurs participent au scrutin et au moins une majorité des électeurs participants ont exprimé un vote favorable;

b) la première nation inscrit tous les électeurs qui ont fait connaître, selon les modalités fixées par la première nation, leur intention de voter et une majorité des électeurs inscrits ont exprimé un vote favorable;

c) la communauté les approuve selon d'autres modalités fixées conjointement par la première nation et par le ministre.

7.4 Dans tous les cas cependant, le code foncier et l'accord distinct ne sont approuvés que si au moins vingt-cinq pour cent plus un des électeurs ont exprimé un vote favorable.

7.5 Le conseil de la première nation peut, par résolution, augmenter le pourcentage minimum requis en vertu du présent article pour recueillir l'approbation de la communauté.

7.6 A First Nation will take reasonable steps to locate its eligible voters and inform them of

- (a) their right to participate in the approval process and the manner in which that right can be exercised; and
- (b) the content of this Agreement, the individual agreement with the Minister, the proposed land code and the federal legislation.

7.7 Reasonable steps to locate and inform eligible voters may include the following :

- (a) mailing out information to eligible voters at their last known addresses;
- (b) making enquiries of family members and others to locate eligible voters whose addresses are not known or are uncertain;
- (c) making follow up contact with eligible voters by mail or telephone;
- (d) placing advertisements in newspapers circulating in the community and in newspapers circulating in other localities where the number of eligible voters warrants;
- (e) posting notices in the community;
- (f) holding information meetings in the community and in other places where appropriate; and

7.6 Le conseil de la première nation doit prendre des mesures raisonnables pour retrouver les électeurs et les informer :

- a) de leur droit de participer au processus d'approbation et de la manière d'exercer ce droit;
- b) du contenu du présent accord, de l'accord distinct conclu avec le ministre, du projet de code foncier et de la loi de ratification.

7.7 Parmi les mesures raisonnables envisagées pour retrouver les électeurs et les informer, le conseil peut prendre les mesures suivantes :

- a) envoyer par courrier de l'information aux électeurs à leur dernière adresse connue;
- b) s'enquérir auprès des membres de la famille et d'autres personnes afin de retrouver les électeurs dont l'adresse est inconnue ou incertaine;
- c) effectuer un suivi auprès des électeurs par courrier ou par téléphone;
- d) publier des avis dans les journaux distribués dans la communauté et dans toute autre localité où le nombre d'électeurs le justifie;
- e) afficher des avis dans la communauté;
- f) tenir des réunions d'information dans la communauté et à tout autre endroit approprié;

(g) making copies of the documents referred to in clause 7.6(b) available at the administration office of the First Nation and in other places where appropriate.

7.8 A First Nation will, within a reasonable time before the vote, also take appropriate measures to inform other persons having an interest or land right in its lands of the federal legislation, the proposed land code and the date of the vote.

7.9 Where the federal legislation has not yet been enacted when a First Nation proceeds under this clause, Canada will provide the First Nation with a draft copy of its proposed legislation which the First Nation will use to inform its eligible voters and other persons.

7.10 An amendment to a land code must be made in accordance with the procedure in the First Nation's land code.

8. VERIFICATION PROCESS

8.1 Where a First Nation develops a proposed land code and resolves to submit it to the community for approval, an independent person will be appointed as a verifier to monitor and verify the opting in process. The verifier will be chosen in accordance with clause 44.

8.2 The representatives of the First Nation

g) rendre disponible, au bureau d'administration de la première nation et à tout autre endroit approprié, une copie des documents mentionnés à l'alinéa 7.6b).

7.8 La première nation doit prendre dans un délai raisonnable avant le jour du scrutin, des mesures appropriées pour informer les autres personnes ayant un intérêt ou un droit foncier sur ses terres au sujet de la loi de ratification, du projet de code foncier et de la date du scrutin.

7.9 Si la loi de ratification n'a pas encore été adoptée au moment où la première nation met en oeuvre le présent article, le Canada fournira à la première nation une ébauche du projet de loi que la première nation portera à la connaissance des électeurs et des autres personnes concernées.

7.10 Le code foncier d'une première nation est modifié selon la procédure prévue dans celui-ci.

8. PROCESSUS DE VÉRIFICATION

8.1 Lorsqu'une première nation élabore un projet de code foncier et décide de le présenter à la communauté pour approbation, une personne indépendante doit être nommée à titre de vérificateur chargée de surveiller le processus d'adhésion et d'en vérifier la régularité. Le vérificateur est choisi conformément à l'article 44.

8.2 Les représentants de la première nation

and the Minister, who have been assisting in the process of transferring administration of the land, will meet with the verifier and provide information and advice to the verifier, after consulting with their respective Parties.

8.3 The First Nation will submit the following information to the verifier:

- (a) a copy of the proposed land code;
- (b) an initial list of the names of every First Nation member who, according to the First Nation's records at that time, would be eligible to vote on whether to approve the proposed land code; and
- (c) a detailed description of the community approval process that the First Nation proposes to use under clause 7.

8.4 The verifier will

- (a) decide whether the proposed land code conforms with the requirements of clause 5;
- (b) decide whether the proposed community approval process conforms with the requirements of clause 7;
- (c) determine whether the community approval process is conducted in accordance with the process that was confirmed; and
- (d) certify as being valid a First

et du ministre, qui ont participé au processus de transfert de la gestion des terres, rencontrent le vérificateur et lui fournissent renseignements et avis, après avoir consulté leurs Parties respectives.

8.3 La première nation communique au vérificateur les documents suivants :

- a) un exemplaire du projet de code foncier;
- b) la liste initiale des membres de la première nation qui, selon les registres de la première nation disponibles à ce moment, auraient le droit de voter aux fins de l'approbation de ce code;
- c) un exposé détaillé du processus d'approbation de la communauté proposé par la première nation aux termes de l'article 7.

8.4 Le vérificateur a pour mandat:

- a) de décider de la conformité du projet de code foncier avec les exigences de l'article 5;
- b) de décider de la conformité du processus d'approbation de la communauté proposé avec les exigences de l'article 7;
- c) de décider de la conformité du déroulement du scrutin avec le processus retenu pour l'approbation de la communauté;
- d) d'attester la validité du code foncier de

Nation's land code that is properly approved by the First Nation.

8.5 The verifier also has the power to make a final decision to resolve

(a) any dispute regarding whether a portion of a reserve may be excluded from a land code pursuant to clause 4.4; and

(b) any dispute regarding the specifics of the transfer of administration between Canada and the First Nation.

8.6 A verifier will make decisions that are consistent with clauses 4.4 and 4.5.

8.7 A verifier will not deal with disputes over funding.

8.8 Within 30 days of receiving the First Nation's information pursuant to clause 8.3, the verifier will issue a written notice to the First Nation and the Minister stating whether the proposed land code and community approval process are consistent with this Agreement.

8.9 The verifier will provide written reasons to the First Nation and the Minister in any case where he or she decides that the proposed land code and community approval process are not consistent with this Agreement.

9. CONDUCT OF COMMUNITY VOTE

9.1 Once the verifier confirms that the

la première nation dûment approuvé par elle.

8.5 Le vérificateur a également le pouvoir de trancher de façon définitive :

a) tout différend ayant trait à la question de savoir si une partie d'une réserve peut être soustraite à l'application du code foncier selon l'article 4.4;

b) tout différend concernant les modalités du transfert des pouvoirs d'administration entre le Canada et la première nation.

8.6 Les décisions du vérificateur doivent être conformes aux paragraphes 4.4 et 4.5.

8.7 Le vérificateur ne peut être saisi des différends concernant le financement.

8.8 Le vérificateur émet à la première nation et au ministre, dans les 30 jours de la réception des documents visés à l'article 8.3, un avis écrit indiquant si le projet de code foncier et le processus d'approbation de la communauté proposé sont conformes au présent accord.

8.9 Dans tous les cas où, à son avis, le projet de code foncier ou le processus proposé pour obtenir l'approbation de la communauté ne sont pas conformes au présent accord, le vérificateur consigne par écrit les motifs de cette décision qu'il transmet à la première nation et au ministre.

9. TENUE DU SCRUTIN

9.1 Après que le vérificateur ait décidé que

proposed land code and community approval process are consistent with this Agreement, the First Nation may proceed to submit its proposed land code, and the individual agreement with the Minister, for community approval.

9.2 The verifier will publish one or more notices advising the community of the date, time and place of the First Nation's approval vote.

9.3 The verifier may designate one or more assistants to help observe the conduct of the vote.

9.4 The verifier and any assistant observers will have complete authority to observe the approval process.

9.5 Within 15 days of the conclusion of the vote, the verifier will issue a written report to the First Nation and to the Minister on whether the community approval process was conducted in accordance with the process as previously confirmed.

10. CERTIFICATION OF LAND CODE

10.1 Where a First Nation approves a land code and its individual agreement with the Minister, the First nation council must, without delay, send a true copy of the land code to the verifier together with a true copy of the fully signed individual agreement and a statement from the First Nation council that the land code and the individual agreement were properly approved.

le projet de code et le processus proposé pour obtenir l'approbation de la communauté sont conformes au présent accord, la première nation peut soumettre à l'approbation de la communauté le projet de code foncier et l'accord distinct conclu avec le ministre.

9.2 Le vérificateur fait publier un ou plusieurs avis informant la communauté de la date, de l'heure et du lieu du scrutin.

9.3 Le vérificateur peut s'adjoindre un ou plusieurs assistants pour l'aider à surveiller le déroulement du scrutin.

9.4 Le vérificateur et ses adjoints ont pleins pouvoirs pour surveiller le processus d'approbation de la communauté.

9.5 Le vérificateur remet à la première nation et au ministre, dans les 15 jours suivant la fermeture du scrutin, son rapport écrit au sujet de la conformité du déroulement du scrutin avec le processus d'approbation retenu.

10. CERTIFICATION DU CODE FONCIER

10.1 Lorsque la première nation approuve le code foncier et l'accord distinct avec le ministre, le conseil de la première nation adresse au vérificateur, dans les meilleurs délais, une copie certifiée conforme de l'accord distinct entièrement signé et du code foncier approuvé ainsi qu'une déclaration du conseil de la première nation indiquant que le code foncier et l'accord distinct ont été dûment approuvés.

10.2 Upon receiving a copy of a First Nation's land code, signed individual agreement and statement, the verifier will, subject to clause 11, certify the land code as being valid.

10.3 The verifier will immediately provide the First Nation, the Lands Advisory Board and the Minister with a copy of any certified land code.

10.4 The Lands Advisory Board will, in such manner as it considers advisable, publish a notice announcing the certification of a land code and the date the land code takes effect and advising the public of the means of obtaining copies of it.

10.4.1 Certified copies of the land code will be made available to the public at such places deemed necessary by the First Nation.

10.5 Once a land code is certified by a verifier and takes effect, the land code has the force of law and will be given judicial notice.

10.6 A land code that has been certified pursuant to this Agreement is deemed to have been validly approved by the First Nation.

10.7 A land code takes effect on the day that it is certified by the verifier or on such later date as may be specified in the land code.

11. DISPUTED VOTE

11.1 The Minister or any eligible voter may, within five days after the conclusion of the vote, report any irregularity in the voting

10.2 Sur réception de la copie du code foncier, de l'accord distinct signée et de la déclaration, le vérificateur atteste la validité du code foncier, sous réserve de l'article 11.

10.3 Le vérificateur adresse immédiatement à la première nation, au Conseil consultatif des terres et au ministre une copie du code foncier dont il a attesté la validité.

10.4 Le Conseil consultatif des terres publie, selon les modalités qu'il estime appropriées, un avis attestant la validité du code foncier, sa date d'entrée en vigueur et faisant connaître au public la façon de s'en procurer des copies.

10.4.1 Des copies certifiées du code foncier seront mises à la disposition du public aux endroits que la première nation estime appropriés.

10.5 Dès que le code foncier reçoit l'attestation du vérificateur et qu'il entre en vigueur, il a dès lors force de loi et est admis d'office dans toute instance.

10.6 Une fois sa validité attestée conformément au présent accord, le code est réputé avoir été dûment approuvé par la première nation.

10.7 Le code foncier entre en vigueur à la date de l'attestation de sa validité par le vérificateur ou à la date postérieure fixée dans le code.

11. CONTESTATION DU VOTE

11.1 Le ministre ou tout électeur peut, dans les cinq jours suivant la clôture du scrutin, informer le vérificateur de toute

process to the verifier.

11.2 A verifier will not certify a land code if he or she is of the opinion that the following two conditions exist:

(1) the process by which the land code was approved varied from the process previously confirmed by the verifier or was otherwise irregular; and

(2) the land code might not have been approved but for the irregularity in the process.

11.3 Before making a decision under this clause, the verifier will provide the First Nation and the Minister with a reasonable opportunity to make submissions on the issue.

11.4 Any decision by a verifier under this clause must be made within 10 days of the conclusion of the vote.

PART III

FIRST NATION LAND MANAGEMENT RIGHTS AND POWER

12. LAND MANAGEMENT POWERS

12.1 A First Nation with a land code in effect will, subject to clause 13, have the power to manage its First Nation land and exercise its powers under this Agreement.

irrégularité dont a été entaché le déroulement du scrutin.

11.2 Le vérificateur ne peut attester la validité du code foncier s'il en vient aux conclusions suivantes :

(1) d'une part, le déroulement du scrutin n'est pas conforme au processus d'approbation qu'il a lui-même confirmé au préalable ou est autrement entaché d'irrégularité;

(2) d'autre part, le code n'aurait peut-être pas été approuvé sans cette irrégularité.

11.3 Avant de prononcer une décision aux termes du présent article, le vérificateur donne à la première nation et au ministre l'occasion de présenter des observations.

11.4 Toute décision du vérificateur en vertu du présent article doit être prise dans un délai de 10 jours suivant la conclusion du vote.

PARTIE III

DROITS ET POUVOIRS DE GESTION DES TERRES DE PREMIÈRE NATION

12. POUVOIRS DE GESTION DES TERRES

12.1 Dès que le code foncier entre en vigueur, la première nation a le pouvoir de gérer ses terres de première nation et d'exercer ses pouvoirs en vertu du présent accord, sous réserve de l'article 13.

12.2 This power includes

(a) all the rights, powers and privileges of an owner, in relation to its First Nation land; and

(b) the authority to grant interests or land rights and licences in relation to its First Nation land and to manage its natural resources, subject to clauses 3, 18.5 and 23.6.

12.3 In any province or territory other than Quebec, an interest or licence granted in relation to First Nation land is subject to any exception, reservation, condition or limitation established by the First Nation in its land code.

12.3A In the province of Quebec, a land right or licence granted in relation to First Nation land is subject to any exceptions, reservations, conditions or limits established by the First Nation in its land code.

12.4 For any purpose related to First Nation land, a First Nation will have 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.

12.5 First Nation land, revenues, royalties, profits and fees in respect of that land will be managed by the First Nation council or its delegate for the use and benefit of the First Nation.

12.2 Elle peut notamment :

a) exercer tous les droits, pouvoirs et privilèges d'un propriétaire, pour ce qui est de ses terres de première nation;

b) sous réserve des articles 3, 18.5 et 23.6, attribuer des permis et des intérêts ou droits fonciers relatifs à ses terres de première nation et gérer ses ressources naturelles.

12.3 Dans une province ou un territoire autre que le Québec, un intérêt ou un permis relatif aux terres de première nation est assujéti aux exclusions, réserves, conditions ou délimitations énoncées par la première nation dans son code foncier.

12.3A Dans la province de Québec, un droit foncier ou un permis relatif aux terres de première nation est assujéti aux exceptions, réserves, conditions ou limites énoncées par la première nation dans son code foncier.

12.4 À l'égard de ses terres de première nation, la première nation a la capacité juridique d'acquérir et de détenir des biens, de conclure des contrats et d'emprunter, de dépenser des fonds et de faire des investissements, d'ester en justice et d'exercer ses pouvoirs et attributions.

12.5 Le conseil de la première nation ou son délégué administre les terres de première nation ainsi que les revenus, les redevances, les recettes et les droits y afférents à l'usage et au profit de la première nation.

12.6 If a First Nation establishes an entity for the purpose of administering its First Nation land, the entity shall be deemed to be a legal entity with the capacity, rights, powers and privileges of a natural person.

12.7 A First Nation has the right, in accordance with its land code, to receive and use all moneys acquired by or on behalf of the First Nation under its land code.

12.8 Once a First Nation's land code takes effect, all revenue moneys collected, received or held by Canada for the use and benefit of the First Nation or its members before that date, and from time to time thereafter, shall cease to be Indian moneys under the Indian Act, except for the purposes of paragraph 90 (1) (a), and shall be transferred by Canada to the First Nation

13. PROTECTION OF FIRST NATION LAND

13.1 Title to First Nation land is not changed when a First Nation's land code takes effect.

13.2 The Parties declare that it is of fundamental importance to maintain the amount and integrity of First Nation land.

13.3 First Nation land will not be sold, exchanged, conveyed or transferred, except for any exchange or expropriation of First Nation land made in accordance with this Agreement.

12.6 Si la première nation met sur pied une entité pour gérer ses terres, l'entité est réputée être une entité juridique ayant la capacité, les pouvoirs, les droits et les privilèges d'une personne physique.

12.7 La première nation a, conformément à son code foncier, le droit de recevoir et d'utiliser les sommes acquises par ou pour le compte de la première nation en vertu de son code foncier.

12.8 À compter de la date d'entrée en vigueur du code foncier d'une première nation, les fonds perçus, reçus et détenus par la Canada à l'usage et au profit de la première nation ou de ses membres avant cette date, ainsi que ceux qui le sont après cette date, cessent d'être de l'argent des Indiens aux fins de la Loi sur les Indiens, sauf aux fins de l'alinéa 90(1)a), et sont transférés par le Canada à la première nation.

13. PROTECTION DES TERRES DE PREMIÈRE NATION

13.1 L'entrée en vigueur du code foncier d'une première nation n'a pas pour effet de modifier le titre des terres de première nation.

13.2 Les Parties déclarent reconnaître l'importance fondamentale que revêt la préservation de la superficie et de l'intégrité des terres de première nation.

13.3 Les terres de première nation ne sont pas susceptibles d'être vendues, échangées ou transférées, si ce n'est dans le cadre d'un échange ou d'une expropriation effectué en conformité avec le présent

14. VOLUNTARY EXCHANGE OF FIRST NATION LAND

14.1 A First Nation has the right to exchange a parcel of First Nation land for another parcel of land, if that other parcel of land becomes First Nation land. An exchange of First Nation land may provide for additional compensation, including land that may not become First Nation land, and may be subject to any other terms and conditions.

14.2 Any exchange of First Nation land will require community approval in accordance with the process established in the land code.

14.3 First Nation land will only be exchanged for land that Canada consents to set apart as a reserve. In addition, the agreement of Canada is required on the technical aspects of the exchange.

14.4 The title to the land to be received in exchange for that First Nation land will be transferred to Canada and will be set apart by Canada as a reserve, as of the date of the land exchange or such later date as the First Nation may specify. This does not apply to land that is received by the First Nation as additional compensation and that is not intended to become First Nation land.

14.5 Where an exchange of First Nation land is approved by a First Nation in accordance with its land code, the First Nation can

accord.

14. ÉCHANGE VOLONTAIRE DE TERRES DE PREMIÈRE NATION

14.1 Une première nation a le droit d'échanger une parcelle des terres de première nation contre une autre parcelle, si cette autre parcelle fait dès lors partie des terres de première nation. L'échange peut également comporter une contrepartie supplémentaire, notamment des terres supplémentaires qui ne sont pas destinées à devenir des terres de première nation, et être assorti d'autres conditions.

14.2 Tout échange de terres de première nation doit être approuvé par les membres de la première nation selon les modalités prévues par le code foncier.

14.3 Des terres de première nation ne peuvent être échangées que contre des terres que le Canada accepte de mettre de côté à titre de réserve. L'accord du Canada est également requis quant aux aspects techniques de l'opération.

14.4 Le titre des terres reçues en échange des terres de première nation sera transféré au Canada, qui mettra ces terres de côté à titre de réserve, à la date de l'échange ou à la date ultérieure fixée par la première nation. Cette disposition ne s'applique pas aux terres remises à une première nation à titre de contrepartie supplémentaire et qui ne sont pas destinées à devenir des terres de première nation.

14.5 Lorsque l'échange des terres de première nation est approuvé par la première nation conformément à son code

execute an authorization to Canada to transfer title to the land.

14.6 Upon the issuance to Canada of an authorization to transfer title to First Nation land under clause 14.5, Canada will transfer title to the land in accordance with the authorization and the applicable terms and conditions of the exchange.

14.7 A copy of the instruments or acts transferring title to First Nation land will be registered in the First Nation Lands Register.

14.8 As of the date of the land exchange, or such later date as the First Nation may specify, the description of First Nation land in the land code will be deemed to be amended to delete the description of the First Nation land that was exchanged and to add the description of the First Nation land received in exchange.

14.9 For greater certainty, the First Nation land that was exchanged will cease to be a reserve.

15. IMMUNITY FROM SEIZURE, ETC.

15.1 The Parties confirm that section 29 and subsections 89(1) and (2) of the Indian Act will continue to apply to any reserve that is First Nation land.

15.2 Subsection 89(1.1) of the Indian Act will continue to apply to all leasehold interests or leases that existed when the land code took effect if the First Nation land was

foncier, la première nation peut délivrer au Canada une autorisation de procéder au transfert du titre sur les terres en question.

14.6 Le Canada procède, sur réception de l'autorisation prévue à l'article 14.5, au transfert du titre sur les terres en question, en conformité avec cette autorisation et avec les conditions de l'échange.

14.7 Une copie des instruments ou actes de transfert du titre sur les terres de première nation sera enregistrée dans le registre des terres de premières nations.

14.8 À partir de la date de l'échange de terres, ou à la date ultérieure fixée par la première nation, la description des terres de première nation dans le code foncier est réputée être modifiée de façon à supprimer la description des terres de première nation qui ont été échangées et à ajouter celle des terres de première nation reçues en échange.

14.9 Il est entendu que les terres de première nation qui ont été échangées cessent de constituer une réserve.

15. INSAISSABILITÉ, ETC.

15.1 Les parties confirment que l'article 29 et les paragraphes 89(1) et (2) de la Loi sur les Indiens continuent de s'appliquer aux réserves faisant partie des terres de première nation.

15.2 Le paragraphe 89(1.1) de la Loi sur les Indiens continue de s'appliquer à tous les baux ou intérêts à bail qui existaient lorsque le code foncier est entré en

designated land at that time.

15.3 A land code may provide that some or all of the provisions of subsection 89(1.1) of the Indian Act are also applicable to other leasehold interests or leases in any First Nation lands.

15.4 The Parties confirm that section 87 of the Indian Act continues to apply to First Nation land, so that

(a) the interest of an Indian or a First Nation in a reserve that is First Nation land remains exempt from taxation, subject to section 83 of the Indian Act; and

(b) the personal property or the movables of an Indian or a First Nation, situated on a reserve that is First Nation land, remains exempt from taxation.

16. THIRD PARTY INTERESTS

16.1 Interests or land rights or licences held by third parties or Canada in First Nation land, that exist at the time the land code takes effect, continue in force according to their terms and conditions.

16.2 Any rights of locatees in possession of First Nation land, either by custom or by allotment under the Indian Act, to transfer, lease and share in natural resource revenues will be defined in the land code.

vigueur, dans le cas où les terres de première nation étaient des terres désignées à ce moment.

15.3 Le code foncier peut énoncer que les dispositions du paragraphe 89(1.1) de la Loi sur les Indiens sont également applicables, en tout ou en partie, aux autres baux ou intérêts à bail sur les terres de première nation.

15.4 Les parties confirment que l'article 87 de la Loi sur les Indiens continue de s'appliquer aux terres de première nation de façon à ce que:

a) le droit d'un Indien ou d'une première nation sur une réserve faisant partie des terres de première nation demeure exempté de taxation, sous réserve de l'article 83 de la Loi sur les Indiens;

b) les biens personnels ou les meubles d'un Indien ou d'une première nation situés sur une réserve faisant partie des terres de la première nation demeurent exemptés de taxation.

16. INTÉRÊTS DES TIERS

16.1 Les intérêts ou droits fonciers ou les permis que détiennent les tiers ou le Canada sur des terres de première nation lorsque le code foncier entre en vigueur continuent d'avoir effet selon leurs conditions.

16.2 Les droits des occupants en possession de terres de première nation, que ce soit conformément à la coutume ou par attribution aux termes de la Loi sur les Indiens, en matière de transfert, de bail et

16.3 Once a land code takes effect, no interest, land right or licence in relation to First Nation land may be acquired or granted except in accordance with the land code.

16.4 For greater certainty, disputes in relation to third party interests shall be dealt with in the forum identified or established in a land code pursuant to clause 5.2(g).

17. EXPROPRIATION BY FIRST NATIONS

17.1 A First Nation with a land code in effect has the right to expropriate interests or land rights in First Nation lands without consent if deemed by the First Nation council to be necessary for community works or other First Nation purposes.

17.2 A First Nation's power of expropriation will be exercised in accordance with the rules and procedures specified in its land code, its laws and this Agreement.

17.3 In any province or territory other than Québec, an interest in First Nation land that a First Nation expropriates becomes the property of the First Nation free of any previous claim or encumbrance in respect of the interest.

17.3A In the province of Québec, the First Nation that expropriates a land right in its First Nation lands becomes the holder of that

de partage des revenus provenant de ressources naturelles seront définis par le code foncier.

16.3 Après l'entrée en vigueur du code foncier, les permis, les intérêts ou droits fonciers concernant les terres de première nation ne peuvent être acquis ou accordés qu'en conformité avec ce code.

16.4 Il est entendu que les différends relatifs aux intérêts des tiers sont réglés selon ce que prévoit le code foncier conformément à l'alinéa 5.2g).

17. EXPROPRIATION PAR LES PREMIÈRES NATIONS

17.1 La première nation ayant un code foncier en vigueur a le droit d'exproprier sans consentement des intérêts ou droits fonciers sur ses terres de première nation, si le conseil de la première nation estime en avoir besoin pour réaliser des ouvrages communautaires ou à d'autres fins de la première nation.

17.2 La première nation procède à l'expropriation conformément aux règles et procédures établies dans son code foncier, à ses textes législatifs et au présent accord.

17.3 Un intérêt sur les terres de première nation dans une province ou un territoire autre que le Québec exproprié par la première nation devient la propriété de celle-ci, libre de toute réclamation ou tout grèvement antérieurs quant à cet intérêt.

17.3A La première nation qui exproprie un droit foncier sur ses terres de première nation dans la province de Québec devient

right free of any previous right, charge or claim in respect of that land right.

17.4 A First Nation that expropriates an interest or land right in First Nation land will give fair compensation based on the heads of compensation set out in the Expropriation Act (Canada).

17.5 A First Nation will establish a mechanism to resolve disputes over compensation it pays for expropriation.

17.6 Any interest in First Nation land that was obtained pursuant to section 35 of the Indian Act or any interest or land right that has been acquired by Canada, or that is acquired after this Agreement comes into force by Canada in accordance with this Agreement, is not subject to First Nation expropriation.

17.7 A First Nation is not precluded from entering into an agreement with a utility or public body for the purpose of granting it an interest or land right in First Nation land that is exempt from expropriation by the First Nation.

17.8 No expropriation of an interest or land right in First Nation land by a First Nation takes effect earlier than either of the following days:

(a) the date the notice of expropriation is registered in the First Nation Lands Register; or

titulaire de ce droit foncier, libre de tout droit, charge ou réclamation antérieurs.

17.4 La première nation qui exproprie un intérêt ou droit foncier sur ses terres de première nation est tenue de verser une indemnité équitable, calculée selon les règles énoncées dans la Loi sur l'expropriation (Canada).

17.5 La première nation est tenue de mettre sur pied un mécanisme de règlement des différends relatifs à l'indemnisation qu'elle paye pour les expropriations.

17.6 Ne sont toutefois pas susceptibles d'expropriation par la première nation les intérêts ou les droits fonciers sur les terres de première nation obtenus sous le régime de l'article 35 de la Loi sur les Indiens ou qui ont été acquis par le Canada ou encore qui seront acquis par le Canada après l'entrée en vigueur du présent accord conformément à celui-ci.

17.7 Il n'est pas interdit à la première nation de conclure avec un organisme public ou une société de service public un accord lui attribuant un intérêt ou un droit foncier sur les terres de première nation non susceptible d'être exproprié par la première nation.

17.8 L'expropriation par une première nation d'un intérêt ou d'un droit foncier sur les terres de première nation ne prend effet qu'à la première des dates suivantes :

a) la date d'inscription de l'avis d'expropriation dans le registre des terres de la première nation;

(b) the 30th day after the day the last copy of the notice is served.

PART IV FIRST NATION LAW MAKING

18. LAW MAKING POWERS

18.1 The council of a First Nation with a land code in effect will have the power to make laws, in accordance with its land code, respecting the development, conservation, protection, management, use and possession of First Nation land and interests or land rights and licences in relation to that land. This includes laws on any matter necessary or ancillary to the making of laws in relation to First Nation land.

18.2 The following examples illustrate some of the First Nation laws contemplated by the Parties:

- (a) laws on the regulation, control and prohibition of zoning, land use, subdivision control and land development;
- (b) laws on the creation, regulation and prohibition of interests or land rights and licences in relation to First Nation land;
- (c) laws on environmental assessment and protection;
- (d) laws on the provision of local

b) le 30^e jour suivant la signification de la dernière copie de cet avis.

PARTIE IV POUVOIRS DE LÉGIFÉRER DE LA PREMIÈRE NATION

18. POUVOIRS DE LÉGIFÉRER

18.1 Le conseil de la première nation ayant un code foncier en vigueur peut édicter des textes législatifs, conformément à celui-ci, concernant le développement, la conservation, la protection, la gestion, l'utilisation et la possession des terres de première nation et des intérêts ou droits fonciers et permis les concernant. Cela comprend les textes législatifs portant sur des questions nécessaires ou afférentes à l'élaboration des textes législatifs relatifs aux terres de première nation.

18.2 Les exemples qui suivent illustrent certaines des fins pour lesquelles les premières nations peuvent adopter des textes législatifs, comme l'envisagent les Parties :

- a) pour réglementer, régir ou interdire le zonage, l'aménagement, l'utilisation, le lotissement ou la mise en valeur des terres;
- b) pour créer et réglementer les permis et les intérêts ou les droits fonciers relatifs aux terres de première nation ou prévoir des interdictions à cet égard;
- c) pour régir la protection de l'environnement et l'évaluation environnementale;

services in relation to First Nation land and the imposition of equitable user charges; and

(e) laws on the provision of services for the resolution, outside the courts, of disputes in relation to First Nation land.

18.3 A land code will not address the taxation of real or personal property or of immovables or movables. Section 83 of the Indian Act will continue to apply.

18.4 In any proceeding, a copy of a First Nation law, appearing to be certified as a true copy by an officer of the First Nation is, without proof of the officer's signature or official character, evidence of its enactment on the date specified in the law.

18.5 This Agreement does not affect or extend existing rights and powers, or create additional rights and powers, related to fisheries.

19. ENFORCEMENT OF FIRST NATION LAWS

19.1 To enforce its land code and its First Nation laws, a First Nation will have the power to

(a) establish offences that are punishable on summary conviction;

(b) provide for fines, imprisonment,

d) pour régir la prestation de services locaux relatifs aux terres de première nation et l'imposition de frais équitables à leurs usagers;

e) pour régir la prestation de services de règlement extrajudiciaire des différends relatifs aux terres de première nation.

18.3 Le code foncier ne traite pas de l'imposition des biens réels ou personnels ou des immeubles ou meubles. L'article 83 de la Loi sur les Indiens continue de s'appliquer.

18.4 La copie d'un texte législatif de la première nation paraissant certifiée conforme par un fonctionnaire de la première nation fait foi, dans le cadre de toute procédure, de son adoption à la date qui y est inscrite sans qu'il soit nécessaire de prouver l'authenticité de la signature ou la qualité officielle du signataire.

18.5 Le présent accord ne modifie en rien les droits et pouvoirs actuels relatifs aux pêcheries, ni ne crée des droits ou pouvoirs additionnels à cet égard.

19. CONTRÔLE D'APPLICATION DES TEXTES LÉGISLATIFS DE LA PREMIÈRE NATION

19.1 Aux fins de contrôle d'application de son code foncier et de ses textes législatifs, la première nation peut :

a) créer des infractions punissables par procédure sommaire;

b) prévoir des peines, notamment les

restitution, community service, and alternate means for achieving compliance; and

(c) establish comprehensive enforcement procedures consistent with federal law, including inspections, searches, seizures and compulsory sampling, testing and the production of information.

19.2 First Nation laws may adopt or incorporate by reference the summary conviction procedures of the Criminal Code for the purpose of enforcement.

19.3 Persons may be appointed by the First Nation or the Governor in Council to act as justices of the peace for the purposes of enforcement. If no justice of the peace is appointed, then First Nation laws will be enforced through the provincial courts.

19.4 A person appointed as a justice of the peace under this clause will have jurisdiction to try offences established by or under a land code or a First Nation law.

19.5 Decisions made by a justice of the peace appointed under this clause may be appealed to a court of competent jurisdiction.

19.6 The First Nation will protect the independence of each justice of the peace it appoints in a way similar to that in a province, for example tenure, removal and

amendes, l'emprisonnement, la restitution, les travaux d'intérêt collectif ou toute autre mesure de nature à assurer l'observation de ces textes;

c) établir, conformément aux lois fédérales, des mesures de contrôle d'application de ces textes notamment en matière d'inspection, de perquisition, de saisie, de prise d'échantillons, d'examen et de communication de renseignements.

19.2 Les textes législatifs de la première nation peuvent, à ces fins, reproduire ou incorporer par renvoi la procédure sommaire du Code criminel.

19.3 La première nation ou le gouverneur en conseil peut nommer des juges de paix chargés d'assurer le contrôle d'application des textes législatifs de la première nation. En l'absence de juges de paix, les poursuites relatives aux textes législatifs de la première nation sont instruites devant les tribunaux provinciaux.

19.4 Il relève de la compétence du juge de paix nommé aux termes du présent article d'instruire les poursuites relatives aux infractions créées par un code foncier ou par un texte législatif de la première nation.

19.5 Les décisions du juge de paix nommé aux termes du présent article sont susceptibles d'appel devant un tribunal compétent.

19.6 La première nation est tenue de protéger l'indépendance des juges de paix qu'elle nomme, de façon analogue à ce que font les provinces, par exemple la durée de

remuneration.

19.7 The First Nation and Canada may enter into agreements for the training, supervision and administrative support for justices of the peace appointed by the First Nation. Provinces may also be parties to such agreements with First Nations.

19.8 The First Nation and Canada will enter into an agreement for the appointment, training, supervision and administrative support for any justice of the peace appointed under this clause by the Governor in Council. The affected province will be invited to participate in the development of and be a party to such agreement.

19.9 For the purpose of prosecuting offences, the First Nation will follow one or more of these options:

- (a) retain its own prosecutor;
- (b) enter into an agreement with Canada and the government of the province to arrange for a provincial prosecutor; or
- (c) enter into an agreement with Canada to arrange for a federal agent to prosecute these offenses.

20. APPLICATION OF FEDERAL LAWS

20.1 Federal laws applicable on First Nation land will continue to apply, except to the extent that they are inconsistent with the

leur mandat, leur destitution et leur rémunération.

19.7 La première nation et le Canada peuvent conclure des ententes concernant la formation, la surveillance et le soutien administratif des juges de paix nommés par la première nation. Les provinces peuvent également être parties à ces ententes avec les premières nations.

19.8 La première nation et le Canada sont tenus de conclure une entente relativement à la nomination, la formation, la surveillance et le soutien administratif des juges de paix nommés aux termes du présent article par le gouverneur en conseil. La province concernée sera invitée à participer à l'élaboration de cette entente et à être partie à celle-ci.

19.9 Aux fins des poursuites, la première nation peut se prévaloir d'une ou de plusieurs des mesures suivantes :

- a) embaucher ses propres procureurs;
- b) conclure avec le Canada et le gouvernement provincial concerné une entente prévoyant le recours à un procureur provincial;
- c) conclure avec le Canada une entente prévoyant le recours à un mandataire fédéral.

20. APPLICATION DES LOIS FÉDÉRALES

20.1 Les lois fédérales applicables sur les terres de première nation continuent de s'appliquer à celles-ci sauf dans la mesure

federal legislation.

20.2 Notwithstanding any inconsistency with the federal legislation, the Emergencies Act will apply on First Nation land, but any appropriation of an interest or land right in First Nation land under the Emergencies Act shall be authorized expressly by an order in council.

20.3 For greater certainty, and subject to Part VII, the Atomic Energy Control Act or any successor legislation continue to apply to First Nation lands.

21. INAPPLICABLE SECTIONS OF INDIAN ACT AND REGULATIONS

21.1 Once a land code takes effect, the First Nation, its members and its First Nation land will not be subject to the following:

- (a) sections 18 to 20 and 22 to 28 of the Indian Act;
- (b) sections 30 to 35 of the Indian Act;
- (c) sections 37 to 41 of the Indian Act;
- (d) sections 49, 50(4) and 53 to 60 of the Indian Act;
- (e) sections 66, 69 and 71 of the Indian Act;

où elles sont incompatibles avec la loi de ratification.

20.2 La Loi sur les mesures d'urgence est applicable sur les terres de première nation, même si elle est incompatible avec la loi de ratification. Cependant, la réquisition d'intérêts ou de droits fonciers sur les terres de première nation aux termes de la Loi sur les mesures d'urgence doit être expressément autorisée par un décret.

20.3 Sous réserve de la partie VII, il est entendu que la Loi sur le contrôle de l'énergie atomique, ou toute loi qui la remplace, continue de s'appliquer sur les terres de première nation.

21. INAPPLICABILITÉ DE CERTAINS ARTICLES DE LA LOI SUR LES INDIENS ET DES RÈGLEMENTS Y AFFÉRENTS

21.1 Dès l'entrée en vigueur de son code foncier, la première nation, ses membres et les terres de première nation, cessent d'être assujettis aux dispositions suivantes :

- a) les articles 18 à 20 et 22 à 28 de la Loi sur les Indiens;
- b) les articles 30 à 35 de la Loi sur les Indiens;
- c) les articles 37 à 41 de la Loi sur les Indiens;
- d) l'article 49, le paragraphe 50(4) et les articles 53 à 60 de la Loi sur les Indiens;
- e) les articles 66, 69 et 71 de la Loi sur les

- (f) section 93 of the Indian Act;
- (g) regulations made under section 57 of the Indian Act; and
- (h) regulations made under sections 42 and 73 of the Indian Act to the extent that they are inconsistent with this Agreement or the land code or the laws of the First Nation.

22. EXISTING FIRST NATION BY-LAWS

22.1 A First Nation will continue to have the authority under the Indian Act to make by-laws.

PART V ENVIRONMENT

23. GENERAL PRINCIPLES

23.1 The council of a First Nation with a land code in effect will have the power to make environmental laws relating to First Nation land.

23.2 The Parties intend that there should be both an environmental assessment and an environmental protection regime for each First Nation.

23.3 The principles of these regimes are set out below.

Indiens;

f) l'article 93 de la Loi sur les Indiens;

g) les règlements pris en application de l'article 57 de la Loi sur les Indiens;

h) les règlements pris en application des articles 42 et 73 de la Loi sur les Indiens dans la mesure où ils sont incompatibles avec le présent accord, avec le code foncier ou avec les textes législatifs de la première nation.

22. RÈGLEMENTS ADMINISTRATIFS ACTUELS DE LA PREMIÈRE NATION

22.1 La première nation conserve le pouvoir d'adopter des règlements administratifs aux termes de la Loi sur les Indiens.

PARTIE V ENVIRONNEMENT

23. PRINCIPES GÉNÉRAUX

23.1 Le conseil de la première nation ayant un code foncier en vigueur a le pouvoir d'édicter des textes législatifs de nature environnementale concernant les terres de première nation.

23.2 Les Parties s'entendent pour qu'il y ait un régime de protection de l'environnement et un régime d'évaluation environnementale pour chaque première nation.

23.3 Les principes de ces régimes sont énoncés ci-dessous.

23.4 The environmental assessment and protection regimes will be implemented through First Nation laws.

23.5 The Parties agree to harmonize their respective environmental regimes and processes, with the involvement of the provinces where they agree to participate, to promote effective and consistent environmental regimes and processes and to avoid uncertainty and duplication.

23.6 This Agreement is not intended to affect rights and powers relating to migratory birds or endangered species. These matters may be dealt with in the context of other negotiations. This Agreement is not intended to determine or prejudice the resolution of these issues.

24. ENVIRONMENTAL MANAGEMENT

24.1 Subject to clause 27, a First Nation with a land code in effect will develop an environmental protection regime, with the assistance of the appropriate federal agencies to the extent that they agree to participate.

24.2 Each First Nation agrees to

harmonize environmental protection with the province in which the First Nation is situated, where the province agrees to participate

23.4 Les régimes de protection et d'évaluation environnementales seront mis en oeuvre par des textes législatifs de la première nation.

23.5 Les Parties conviennent d'harmoniser leurs régimes et processus environnementaux respectifs, en invitant les provinces à participer à cette opération si celles-ci le souhaitent, dans le but de promouvoir l'uniformité et l'efficacité des régimes et processus environnementaux et d'éviter les incertitudes et le double emploi.

23.6 Le présent accord n'a pas pour effet de modifier les droits et pouvoirs concernant les oiseaux migrateurs et les espèces en voie de disparition. Ces questions pourront faire l'objet d'autres négociations. Le présent accord n'a pas pour objet de déterminer la résolution de ces questions ou d'y porter préjudice.

24. GESTION DE L'ENVIRONNEMENT

24.1 Sous réserve de l'article 27, une première nation qui a un code foncier en vigueur élaborera un régime de protection environnementale, avec l'appui des organismes fédéraux concernés, dans la mesure où la province accepte de participer.

24.2 Chaque première nation accepte d'harmoniser son régime de protection environnementale avec celui de la province où elle est située, dans la mesure où la province accepte de participer.

24.3 The First Nation environmental protection standards and punishments will have at least the same effect as those in the laws of the province in which the First Nation is situated.

24.4 For greater certainty, if there is an inconsistency between the provision of a federal law respecting the protection of the environment and a provision in a land code or First Nation law respecting the protection of the environment, the federal provision will prevail to the extent of any inconsistency.

25. ENVIRONMENTAL ASSESSMENT

25.1 Subject to clause 27, a First Nation will, with the assistance of the Lands

24.3 Les normes de protection environnementale et pénalités de la première nation devront avoir au moins l'effet équivalent à celui des lois de la province où se situe la première nation.

24.4 Il est entendu qu'en cas d'incompatibilité entre une disposition d'une loi fédérale en matière de protection de l'environnement et une disposition d'un code foncier ou d'un texte législatif des premières nations en matière de protection de l'environnement, la disposition fédérale l'emporte dans la mesure de l'incompatibilité.

25. ÉVALUATION ENVIRONNEMENTALE

25.1 Sous réserve de l'article 27, la première nation s'efforce, avec l'aide du

Advisory Board and the appropriate federal agencies, make best efforts to develop an environmental assessment process within one year after the First Nation's land code takes effect, or within such longer period as the Minister and the First Nation may agree to.

25.2 The First Nation and the Minister will, in the individual agreement referred to in clause 6, address how to conduct the environmental assessment of projects on First Nation land during the interim period until the First Nation's environmental assessment process is developed.

25.3 The First Nation's environmental assessment process will be consistent with requirements of the Canadian Environmental Assessment Act.

25.4 The First Nation's environmental assessment process will be triggered in appropriate cases where the First Nation is approving, regulating, funding or undertaking a project on First Nation land. The assessment will occur as early as possible in the planning stages of the project before an irrevocable decision is made.

25.5 The Parties agree that section 10 of the Canadian Environmental Assessment Act will not apply to projects located on First Nation land.

Conseil consultatif des terres et des organismes fédéraux intéressés, d'élaborer un processus d'évaluation environnementale dans l'année suivant l'entrée en vigueur du code foncier de la première nation ou dans un délai plus long convenu entre le ministre et la première nation.

25.2 L'accord distinct conclu entre la première nation et le ministre conformément à l'article 6 doit prévoir les modalités de l'évaluation environnementale des projets devant être réalisés sur les terres de première nation au cours de la période transitoire, jusqu'à ce que la première nation ait élaboré un processus d'évaluation environnementale.

25.3 Le processus d'évaluation environnementale mis sur pied par la première nation doit être compatible avec les exigences de la Loi canadienne sur l'évaluation environnementale.

25.4 Sera un élément déclencheur du processus d'évaluation environnementale dans les cas indiqués, tout projet sur les terres de première nation devant être réalisé, financé, approuvé ou réglementé par celle-ci. Cette évaluation doit s'effectuer le plus tôt possible au cours des premières étapes de la planification du projet avant que des décisions irrévocables ne soient prises.

25.5 Les Parties conviennent que l'article 10 de la Loi canadienne sur l'évaluation environnementale ne s'applique pas aux projets situés sur les terres de première nation.

25.6 The Parties agree to use their best efforts to implement the principle that the First Nation's environmental assessment process be used where an environmental assessment of a project on First Nation land is required by the Canadian Environmental Assessment Act.

25.7 The Parties agree to develop a plan to harmonize their respective environmental assessment processes, with the involvement of the provinces where they agree to participate.

26. OTHER AGREEMENTS

26.1 The First Nation and Canada recognize that it may be advisable to enter into other agreements with each other and other jurisdictions to deal with environmental issues like harmonization, implementation, timing, funding and enforcement.

26.2 Where matters being negotiated pursuant to clause 26.1 normally fall within provincial jurisdiction, or may have significant impacts beyond the boundaries of First Nation land, the parties will invite the affected province to be a party to such negotiations and resulting agreements.

27. RESOURCES

27.1 The Parties understand that the obligation of a First Nation to establish

25.6 Les Parties s'efforceront de mettre en œuvre le principe selon lequel le processus d'évaluation environnementale de la première nation sera appliqué lorsque la Loi canadienne sur l'évaluation environnementale exige qu'un projet devant être réalisé sur des terres de première nation fasse l'objet d'une telle évaluation.

25.7 Les Parties conviennent d'élaborer un plan visant à harmoniser leurs processus d'évaluation environnementale respectifs, avec la participation des provinces si celles-ci le souhaitent.

26. AUTRES ENTENTES

26.1 La première nation et le Canada reconnaissent qu'il pourrait être souhaitable de conclure d'autres ententes, entre elles et avec d'autres gouvernements, dans le domaine de l'environnement, notamment au sujet des questions d'harmonisation, de mise en œuvre, de calendrier, de financement et de contrôle d'application.

26.2 Si une question faisant l'objet de négociation en vertu de l'article 26.1 relève normalement de la compétence de la province, ou si de telles questions sont susceptibles d'avoir des effets importants à l'extérieur des terres de première nation, les Parties inviteront la province concernée à être partie à ces négociations et à l'entente qui en résulte.

27. RESSOURCES

27.1 Les Parties reconnaissent qu'une première nation ne peut remplir son

environmental assessment and environmental protection regimes depends on adequate financial resources and expertise being available to the First Nation.

PART VI FUNDING

28. APPROPRIATION

28.1 Any amounts provided by Canada to the First Nations pursuant to funding arrangements in relation to First Nation land shall be paid out of such moneys as may be appropriated by Parliament for this purpose.

29. DEVELOPMENTAL FUNDING

29.1 Canada and the Lands Advisory Board will enter into a funding arrangement to allow the First Nations to develop land codes and community approval processes for their land codes, to negotiate the individual agreements mentioned in clause 6 and to seek community approval under clause 7.

30. OPERATIONAL FUNDING

30.1 An individual agreement between the Minister and a First Nation will determine the resources to be provided by Canada to the First Nation to manage First Nation lands and make, administer and enforce its laws under a land code. The agreement will determine specific funding issues, for example period of time, and terms and

obligation relative à l'établissement de régimes de protection et d'évaluation environnementales que si elle dispose des ressources financières et de l'expertise nécessaires.

PARTIE VI FINANCEMENT

28. CRÉDITS

28.1 Les sommes versées par le Canada aux premières nations conformément aux ententes en matière de financement à l'égard des terres de première nation sont prélevées sur les crédits affectés à cette fin par le Parlement.

29. FINANCEMENT DE DÉMARRAGE

29.1 Le Canada et le Conseil consultatif des terres sont tenus de conclure une entente de financement pour permettre aux premières nations d'élaborer leur code foncier et leur processus d'approbation de la communauté relatif à ce code, de négocier l'accord distinct mentionné à l'article 6 et d'obtenir l'approbation de la communauté prévue à l'article 7.

30. FINANCEMENT DE FONCTIONNEMENT

30.1 L'accord distinct conclu entre le ministre et la première nation fixera les ressources que le Canada s'engage à fournir à la première nation pour que celle-ci gère les terres de première nation et édicte, administre et applique les textes législatifs de la première nation pris en vertu du code foncier. L'accord précisera

conditions.

30.2 A method for allocating such operating funds as may have been appropriated by Parliament will be developed by the Parties and the Lands Advisory Board.

30.3 Unless a First Nation and Canada agree otherwise, an individual agreement respecting the provision of funding under this clause will have a maximum term of five years and will include provisions for its amendment and renegotiation.

31. LANDS ADVISORY BOARD FUNDING

31.1 Canada will enter into a funding arrangement with the Lands Advisory Board for the five year period following the coming into force of this Agreement.

PART VII EXPROPRIATION OF FIRST NATION LAND BY CANADA

32. RESTRICTIONS

32.1 In accordance with the principle stated in clause 13.2, the Parties agree, as a general principle, that First Nation lands will not be subject to expropriation.

32.2 Despite the general principle against expropriation, First Nation land may be expropriated by Canada

(a) only with the consent of the

les différents aspects du financement, par exemple sa périodicité et ses modalités.

30.2 Les Parties et le Conseil consultatif des terres sont tenus d'élaborer une méthode d'attribution des fonds de fonctionnement autorisés par le Parlement.

30.3 À défaut d'entente contraire de la première nation et du Canada, l'accord distinct concernant le financement prévu par le présent article sera en vigueur pour une durée maximale de cinq ans et prévoira des dispositions concernant sa modification et sa renégociation.

31. FINANCEMENT DU CONSEIL CONSULTATIF DES TERRES

31.1 Le Canada est tenu de conclure avec le Conseil consultatif des terres une entente de financement qui portera sur une période de cinq ans à partir de l'entrée en vigueur du présent accord.

PARTIE VII EXPROPRIATION DE TERRES DE PREMIÈRES NATIONS PAR LE CANADA

32. RESTRICTIONS

32.1 Conformément au principe énoncé à l'article 13.2, les parties conviennent qu'en règle générale, les terres de première nation ne peuvent faire l'objet d'une expropriation.

32.2 Malgré le principe général voulant que les terres ne puissent faire l'objet d'une expropriation, le Canada peut toutefois exproprier les terres de première nation, si les conditions suivantes sont

Governor in Council; and

(b) only by and for the use of a federal department or agency.

32.3 The Governor in Council will only consent to an expropriation of First Nation land if the expropriation is justifiable and necessary for a federal public purpose that serves the national interest.

32.4 When making a decision to expropriate First Nation land, the Governor in Council, in addition to other steps that may be required before making such a decision, will at a minimum follow these steps:

(a) it will consider using means other than expropriation and will use those other means where reasonably feasible;

(b) it will use non-First Nation land, where such land is reasonably available;

(c) if it must use First Nation land, it will make reasonable efforts to acquire the land through agreement with the First Nation, rather than by expropriation;

(d) if it must expropriate First Nation land, it will expropriate only the smallest interest or land right necessary and for the shortest time required; and

réunies :

a) le gouverneur en conseil y consent;

b) l'expropriation est faite par un ministère ou un organisme fédéral pour ses seuls besoins.

32.3 Le gouverneur en conseil ne consentira à l'expropriation de terres de première nation que si cela est justifiable et nécessaire à des fins d'intérêt public national relevant de la compétence fédérale.

32.4 Avant de donner son consentement à une expropriation de terres de première nation, le gouverneur en conseil, en plus des autres mesures qui peuvent être requises, prendra au moins les mesures suivantes :

a) il envisagera d'autres moyens que l'expropriation et utilisera ces moyens lorsque cela est raisonnablement faisable;

b) il utilisera des terres autres que celles d'une première nation, lorsque de telles terres sont raisonnablement disponibles;

c) s'il faut utiliser des terres de première nation, il s'efforcera de procéder à l'acquisition des terres par convention avec la première nation et non par expropriation;

d) s'il doit exproprier des terres de première nation, il veillera à ce que l'expropriation se limite au strict nécessaire, tant en ce qui touche l'étendue de l'intérêt ou du droit foncier que la

(e) in every case, it will first provide the First Nation with information relevant to the expropriation.

32.5 Prior to the Governor in Council issuing an order consenting to the expropriation of First Nation land, the federal department or agency will make public a report on the reasons justifying the expropriation and the steps taken in satisfaction of this clause and will provide a copy of the report to the First Nation.

32.6 Where a First Nation objects to a proposed expropriation it may refer the issue to an independent third party for a neutral evaluation under Part IX, within 60 days of the release of the report referred to in clause 32.5.

32.7 An order of the Governor in Council consenting to the expropriation will not be issued earlier than

(a) the end of the 60 day period referred to in clause 32.6; or

(b) the day the opinion or recommendation of the neutral evaluator is released, where the First Nation referred the proposed expropriation to an independent evaluator under clause 32.6.

33. COMPENSATION BY CANADA

période pour laquelle il est exproprié;

e) dans tous les cas, il communiquera d'abord à la première nation tous les renseignements se rapportant à l'expropriation.

32.5 Avant que le gouverneur en conseil ne prenne un décret consentant à l'expropriation de terres de première nation, le ministère ou l'organisme fédéral est tenu de publier un rapport qui énonce les motifs la justifiant et les mesures prises en application du présent article et de fournir en même temps une copie de ce rapport à la première nation.

32.6 Si une première nation s'oppose à un projet d'expropriation, elle peut, dans les 60 jours de la publication du rapport mentionné à l'article 32.5, renvoyer l'affaire à une tierce partie indépendante pour conciliation aux termes de la Partie IX.

32.7 Un décret du gouverneur en conseil consentant à l'expropriation ne sera pas émis avant :

a) soit l'expiration du délai de 60 jours prévu à l'article 32.6;

b) soit le jour où l'opinion ou la recommandation du conciliateur est publiée, si la première nation renvoie le projet d'expropriation à un conciliateur, en application de l'article 32.6.

33. INDEMNISATION PAR LE CANADA

33.1 In the event of the expropriation of First Nation land by Canada under this Part, Canada will provide compensation to the First Nation in accordance with this clause.

33.2 The compensation will include alternate land of equal or greater size or of comparable value. If the alternate land is of less than comparable value, then additional compensation will be provided. The alternate land may be smaller than the land being expropriated only if that does not result in the First Nation having less land area than when its land code took effect.

33.3 The total value of the compensation provided by Canada under this clause will be based on the following:

- (a) the market value of the land or interest or land right that is acquired;
- (b) the replacement value of any improvement to the land that is acquired;
- (c) the damages attributable to disturbance;
- (d) the value of any special economic advantage arising out of or incidental to the occupation or use of the affected First Nation land to the extent that this value is not otherwise

33.1 Si le Canada exproprie des terres de première nation sous le régime de la présente partie, il est tenu d'indemniser la première nation conformément aux termes du présent article.

33.2 L'indemnité comprendra des terres substitutives ayant une superficie égale ou supérieure ou ayant une valeur comparable à celles qui ont été expropriées. Si les terres substitutives ont une valeur inférieure aux terres expropriées, le Canada est alors tenu d'offrir une indemnité supplémentaire. Les terres substitutives peuvent avoir une superficie moindre que les terres expropriées seulement si, à la suite de l'opération, la première nation dispose d'une superficie de terres qui n'est pas inférieure à celle qu'elle avait lorsque son code foncier est entré en vigueur.

33.3 La valeur totale de l'indemnité versée par le Canada aux termes du présent article doit tenir compte des éléments suivants :

- a) la valeur marchande des terres ou de l'intérêt ou du droit foncier acquis;
- b) la valeur de remplacement des améliorations apportées aux terres acquises;
- c) les dommages attribuables au trouble de jouissance;
- d) la valeur de tout avantage économique particulier découlant ou résultant de l'occupation ou de l'utilisation des terres de première nation concernée, dans la mesure où cette valeur n'a pas déjà donné lieu à

compensated;

(e) damages for any reduction in the value of a remaining interest or land right; and

(f) damages for any adverse effect on any cultural or other special value of the land.

33.4 If the value and nature of the compensation cannot be agreed upon by the federal department or agency and the affected First Nation, either party may refer a dispute on compensation to arbitration under Part IX.

33.5 In any province or territory other than Québec, any claim or encumbrance in respect of the interest, or in Québec any right, charge or claim in respect of the land right, expropriated by Canada may only be claimed against the amount of compensation that is otherwise payable to the person or entity whose interest or land right is being expropriated.

33.6 Interest on the compensation is payable from the date the expropriation takes effect, at the same rate as for prejudgment interest in the superior court of the province in which the First Nation land is located.

34. STATUS OF LANDS

34.1 Where less than the full interest or only part of the land right of the First Nation in

une indemnité;

e) les dommages attribuables à la diminution de la valeur de l'intérêt ou du droit foncier non exproprié;

f) les dommages attribuables aux répercussions négatives sur la valeur culturelle ou toute autre valeur particulière de ces terres.

33.4 En cas de différend relatif à la valeur ou à la nature de l'indemnité, le ministère ou l'organisme fédéral ou la première nation peut saisir un arbitre de tout différend relatif à l'indemnité aux termes de la Partie IX.

33.5 Dans les provinces ou territoires autres que le Québec, le recouvrement de toute réclamation ou tout grèvement concernant l'intérêt exproprié par le Canada, ou dans la province de Québec, le recouvrement de tout droit, charge ou réclamation concernant le droit foncier ainsi exproprié, ne peut être demandé que jusqu'à concurrence de l'indemnité par ailleurs payable à la personne ou à l'entité dont l'intérêt ou le droit foncier est visé par l'expropriation.

33.6 L'indemnité porte intérêt à partir de la prise d'effet de l'expropriation, au taux applicable à l'intérêt avant jugement applicable devant la Cour supérieure de la province où sont situées les terres de première nation.

34. STATUT DES TERRES

34.1 Dans les cas où l'expropriation par le Canada porte sur moins que la totalité de

First Nation land is expropriated by Canada,

(a) the land retains its status as First Nation land;

(b) the land remains subject to the land code and to any law of the First Nation that is otherwise applicable, except to the extent the land code or law is inconsistent with the expropriation; and

(c) the First Nation may continue to use and occupy the land, except to the extent the use or occupation is inconsistent with the expropriation.

34.2 Alternate land accepted by the First Nation as part of the compensation will become both a reserve and First Nation land.

35. REVERSION OR RETURN OF INTERESTOR LAND RIGHT IN FIRST NATION LAND

35.1 In any province or territory other than Québec, where an expropriated interest in First Nation land which is less than the full interest of the First Nation in the land is no longer required by Canada for the purpose for which it was expropriated, the interest in land will revert to the First Nation.

35.1A In the province of Québec, where the expropriated land right in First Nation land constitutes only part of the land right of the First Nation in the land, and it is no longer required by Canada for the purpose for

l'intérêt ou seulement sur une partie du droit foncier de la première nation sur les terres en question :

a) les terres conservent leur statut de terres de première nation;

b) les terres demeurent assujetties au code foncier et aux textes législatifs adoptés par la première nation, sauf dans la mesure où le texte ou le code foncier est incompatible avec l'expropriation;

c) la première nation peut continuer à utiliser et à occuper ces terres, sauf dans la mesure où cette utilisation ou cette occupation est incompatible avec l'expropriation.

34.2 Les terres substitutives acceptées par la première nation comme partie de l'indemnité deviennent à la fois une réserve et des terres de première nation.

35. RÉVERSION OU RETOUR D'UN INTÉRÊT OU DROIT FONCIER SUR LES TERRES DE PREMIÈRE NATION

35.1 Dans une province ou territoire autre que le Québec, lorsque l'intérêt exproprié est moindre que la totalité de l'intérêt de la première nation sur les terres en question, cet intérêt est, lorsqu'il n'est plus nécessaire au Canada aux fins de l'expropriation, retourné à la première nation.

35.1A Dans la province de Québec, lorsque l'expropriation porte seulement sur une partie du droit foncier de la première nation sur les terres en question,

which it was expropriated, the land right will return to the First Nation.

35.2 The Minister responsible for the expropriating department or agency, without the consent of the Governor in Council, may decide that the interest or the land right is no longer required and determine the disposition of any improvements.

36. RETURN OF FULL INTEREST OR ENTIRE LAND RIGHT IN FIRST NATION LAND

36.1 Where the full interest or the entire land right of a First Nation in First Nation land was expropriated but is no longer required by Canada for the purpose for which it was expropriated, the land will be returned to the First Nation on terms negotiated by the First Nation and the federal department or agency, at the time of the expropriation or at a later date as agreed to by them.

36.2 Where the terms and conditions of the return cannot be agreed upon by the First Nation and the federal department or agency, either party may refer the dispute to arbitration under Part IX.

36.3 The Minister responsible for the expropriating department or agency, without the consent of the Governor in Council, may decide that the land is no longer required and determine the disposition of any

le droit foncier est, lorsqu'il n'est plus nécessaire au Canada aux fins de l'expropriation, retourné à la première nation.

35.2 Le ministre responsable du ministère ou de l'organisme à l'origine de l'expropriation peut, sans le consentement du gouverneur en conseil, décider que l'intérêt ou le droit foncier exproprié n'est plus nécessaire et il peut déterminer comment disposer des améliorations.

36. RETOUR DE LA TOTALITÉ DE L'INTÉRÊT OU DU DROIT FONCIER SUR LES TERRES DE PREMIÈRE NATION

36.1 Lorsque la totalité de l'intérêt ou le droit foncier entier de la première nation sur les terres en question a été exproprié et qu'il n'est plus nécessaire au Canada aux fins de l'expropriation, les terres seront retournées à la première nation selon les conditions négociées par la première nation et le ministère ou l'organisme fédéral, soit au moment de l'expropriation, soit à une date ultérieure convenue par eux.

36.2 En cas de différend relatif aux conditions du retour, la première nation ou le ministère ou l'organisme fédéral peut renvoyer l'affaire à un arbitre nommé aux termes de la Partie IX.

36.3 Le ministre responsable du ministère ou de l'organisme à l'origine de l'expropriation peut, sans le consentement du gouverneur en conseil, décider que les terres expropriées ne sont plus nécessaires

improvements.

37. APPLICATION OF EXPROPRIATION ACT

37.1 Any provisions of the Expropriation Act, (Canada) that are applicable to an expropriation of First Nation land by Canada continue to apply, unless inconsistent with this Agreement.

PART VIII LANDS ADVISORY BOARD

38. LANDS ADVISORY BOARD

38.1 The Lands Advisory Board shall consist of at least three members appointed:

(a) Prior to September 1, 2003, by the Councils of the original First Nation parties to this Agreement; and

(b) After September 1, 2003, by the Councils of the First Nations that have ratified this Agreement, whether they ratify the Agreement on, before or after that date.

38.2 The Lands Advisory Board will have all necessary powers and capacity to properly perform its functions under this Agreement.

38.3 The Lands Advisory Board will select a chairperson to preside over the Board and, subject to the direction of the Board, to act

et il peut déterminer comment disposer des améliorations apportées aux terres concernées.

37. APPLICATION DE LA LOI SUR L'EXPROPRIATION

37.1 Les dispositions de la Loi sur l'expropriation (Canada) applicables à l'expropriation de terres de première nation par le Canada continuent de s'appliquer dans la mesure où elles ne sont pas incompatibles avec le présent accord.

PARTIE VIII CONSEIL CONSULTATIF DES TERRES

38. CONSEIL CONSULTATIF DES TERRES

38.1 Le Conseil consultatif des terres sera formé d'au moins trois membres nommés :

a) avant le 1er septembre 2003 par les conseils des premières nations qui étaient parties initiales au présent accord;

b) après le 1er septembre 2003 par les conseils des premières nations qui ont ratifié le présent accord, qu'ils l'aient ratifié à cette date, ou avant ou après cette date.

38.2 Le Conseil consultatif des terres possédera tous les pouvoirs et la capacité nécessaires à l'exercice efficace de ses attributions en vertu du présent accord.

38.3 Le Conseil consultatif des terres est tenu de choisir un président qui peut, sous réserve des instructions du conseil, agir

on its behalf.

39. FUNCTIONS OF THE LANDS ADVISORY BOARD

39.1 In addition to any other functions specifically assigned to it by the Parties, the Lands Advisory Board will be responsible for the following functions:

(a) developing model land codes, laws and land management systems;

(b) developing model agreements for use between First Nations and other authorities and institutions, including public utilities and private organizations;

(c) on request of a First Nation, assisting the First Nation in developing and implementing its land code, laws, land management systems and environmental assessment and protection regimes;

(d) assisting a verifier when requested by the verifier;

(e) establishing a resource centre, curricula and training programs for managers and others who perform functions pursuant to a land code;

(f) on request of a First Nation encountering difficulties relating to the management of its First Nation lands, helping the First Nation in obtaining the expertise necessary to resolve the difficulty;

pour le compte du conseil.

39. ATTRIBUTIONS DU CONSEIL CONSULTATIF DES TERRES

39.1 Outre les autres attributions que pourraient lui confier les Parties, le Conseil consultatif des terres possédera les attributions suivantes :

a) il élabore des modèles de code foncier, de textes législatifs et de systèmes de gestion des terres;

b) il élabore des modèles d'ententes destinés à être utilisés entre les premières nations et les autres autorités et institutions, notamment les sociétés de service public et les organismes privés;

c) à la demande d'une première nation, il assiste celle-ci dans l'élaboration et la mise en oeuvre de son code foncier, de ses textes législatifs, de ses systèmes de gestion des terres, et de ses régimes de protection et d'évaluation environnementales;

d) il apporte son aide au vérificateur, à la demande de ce dernier;

e) il met sur pied un centre de ressources, des cours et des programmes de formation à l'intention des gestionnaires et des autres personnes qui exercent des attributions aux termes d'un code foncier;

f) à la demande d'une première nation qui éprouve des difficultés dans la gestion des terres de la première nation, il l'aide à obtenir l'expertise dont elle a besoin pour

(g) proposing regulations for First Nation land registration;

(h) proposing to the Minister such amendments to this Agreement and the federal legislation as it considers necessary or advisable;

(i) in consultation with First Nations, negotiating a funding method with the Minister; and

(j) performing such other functions or services for a First Nation as are agreed to between the Board and the First Nation.

39.2 The Lands Advisory Board will have authority to adopt rules for the procedure at its meetings and generally for the conduct of its affairs.

40. RECORD KEEPING

40.1 The Lands Advisory Board will maintain a record containing

(a) the name of each First Nation that approves a land code;

(b) a copy of that land code;

(c) a copy of each amendment to a land code; and

(d) the dates on which each was approved and certified.

résoudre les difficultés;

g) il propose des règlements concernant l'enregistrement des terres de première nation;

h) il propose au ministre les modifications au présent accord et à la loi de ratification qu'il estime souhaitables ou nécessaires;

i) en consultation avec les premières nations, il négocie avec le ministre un mécanisme de financement;

j) il exerce les autres attributions ou fournit à une première nation les services dont le conseil et celle-ci peuvent convenir.

39.2 Le Conseil consultatif des terres a le pouvoir d'adopter des règles de procédure pour la tenue de ses réunions et, d'une façon générale, pour l'exercice de ses activités.

40. TENUE DES DOSSIERS

40.1 Le Conseil consultatif des terres est tenu de maintenir un registre dans lequel figurent :

a) le nom des premières nations ayant adopté un code foncier;

b) une copie de ces codes fonciers;

c) une copie des modifications apportées aux codes fonciers;

d) les dates auxquelles les codes ont été approuvés et celles auxquelles leur validité a été attestée.

40.2.1 The Lands Advisory Board shall, in consultation with the Minister, prescribe procedures for a First Nation to authorize the signing of this Agreement and for the formal signature of the First Nations to this Agreement, and shall advise the Minister when a First Nation has completed the procedures.

40.2.2 Subject to sub-clause 40.2.1, a First Nation may only become a signatory under this section with the consent of Canada, and Canada shall advise the Lands Advisory Board if and when such consent is given.

40.2.3 The Lands Advisory Board shall receive and record the adhesion of a First Nation party to this Agreement, made after January 1, 2001, and advise the Minister that the said First Nation has signed the Framework Agreement.

41. ANNUAL REPORT

41.1 Within 90 days following the end of each year of operation, the Lands Advisory Board will deliver to the Parties an annual report, in both official languages, on the work of the Board for that year.

41.2 The Minister will cause a copy of the Lands Advisory Board's annual report to be laid before each House of Parliament within the first 30 sitting days of that House after the Minister receives it.

42. LANDS ADVISORY BOARD NO LONGER IN EXISTENCE

40.2.1 Le Conseil consultatif des terres doit, en consultation avec le ministre, prescrire les procédures qu'une première nation doit suivre pour autoriser la signature du présent accord et les procédures régissant la signature formelle de cet accord par les premières nations et il doit aviser le ministre lorsqu'une première nation a complété les procédures.

40.2.2 Sous réserve de l'article 40.2.1, une première nation peut devenir signataire en vertu de cet article seulement avec le consentement du Canada, et ce dernier doit aviser le Conseil consultatif des terres lorsque le consentement a été accordé.

40.2.3 Le Conseil consultatif des terres doit recevoir et inscrire l'adhésion d'une première nation qui est Partie au présent accord, intervenue après le 1^{er} janvier 2001, et aviser le ministre de la signature de l'accord par celle-ci.

41. RAPPORT ANNUEL

41.1 Le Conseil consultatif des terres remet aux Parties, dans les 90 jours suivant la fin de son année de fonctionnement, un rapport annuel, dans les deux langues officielles, concernant les travaux accomplis pendant cette année.

41.2 Le ministre est tenu de présenter le rapport annuel du Conseil consultatif des terres aux deux Chambres du Parlement dans les 30 premiers jours de séance de chaque Chambre suivant sa réception par le ministre.

42. DISPARITION DU CONSEIL CONSULTATIF DES TERRES

42.1 In the event that the Lands Advisory Board is no longer in existence, the functions of the Lands Advisory Board under this Agreement will be performed by the Parties, except as follows:

(a) the functions set out in clauses 29 and 39, except clause 39.1(g), will be performed by the First Nations; and

(b) the functions set out in clauses 10 and 40 will be assumed by the First Nations Lands Register.

PART IX DISPUTE RESOLUTION

43. GENERAL PRINCIPLES

43.1 The Parties are committed to resolving any dispute that may arise out of this Agreement among themselves, amicably and in good faith. Where they cannot resolve a dispute through negotiation, the Parties agree to establish and participate in the out-of-court processes referred to in this Part to resolve the dispute.

43.2 Nothing in this Agreement is to be construed as preventing the Parties from using mediation to assist them in reaching an amicable agreement in respect of any issue in dispute. Where a Party has referred a dispute to mediation, the other Party is obliged to attend an initial meeting with the mediator. However, either Party can end a mediation process any time after the initial meeting.

43.3 Subject to clause 43.4, any dispute

42.1 En cas de disparition du Conseil consultatif des terres, les attributions de celui-ci en vertu du présent accord seront exercées par les Parties, sous réserve des dispositions suivantes :

a) les attributions énumérées aux articles 29 et 39, sauf pour ce qui est de l'alinéa 39.1g), seront exercées par les premières nations;

b) les attributions prévues aux articles 10 et 40 seront assumées par le bureau du Registre des terres des premières nations.

PARTIE IX RÈGLEMENT DES DIFFÉRENDS

43. PRINCIPES GÉNÉRAUX

43.1 Les Parties s'engagent à résoudre entre elles, à l'amiable et de bonne foi, les différends qui peuvent découler du présent accord. Lorsque les Parties n'arrivent pas à s'entendre pour résoudre un différend par la négociation, elles conviennent de mettre sur pied les processus extrajudiciaires de règlement des différends décrits dans la présente partie et d'y avoir recours.

43.2 Les dispositions du présent accord n'empêchent pas les Parties de recourir à la médiation en vue de régler à l'amiable un différend. Lorsqu'une partie a soumis un différend à un médiateur, l'autre partie est tenue d'assister à une première rencontre avec le médiateur. L'une ou l'autre des Parties peut toutefois mettre fin à la médiation en tout temps après cette première rencontre.

43.3 Sous réserve de l'article 43.4, les

arising from the implementation, application or administration of this Agreement, the federal legislation, an individual agreement or an environmental management agreement may be resolved in either of two ways:

(a) Neutral evaluation - it may be referred to neutral evaluation by one party to the dispute; or

(b) Arbitration - it may be referred to arbitration by both parties to the dispute.

43.4 Any dispute respecting compensation for First Nation land expropriated by Canada or the terms and conditions for the return of the full interest or the entire land right in First Nation land will be referred to arbitration.

43.5 Any objection by a First Nation to a proposed expropriation under Part VII that has been referred to neutral evaluation will be evaluated and a report submitted by the neutral evaluator to the First Nation and Canada within 60 days of the referral to the neutral evaluator.

44. PANELS OF ARBITRATORS, ETC.

44.1 The Parties and the Lands Advisory Board will jointly establish lists of mutually acceptable persons willing to act as mediators, arbitrators, verifiers and neutral evaluators.

différends découlant de la mise en oeuvre, de l'application ou de l'administration du présent accord, de la loi de ratification, d'un accord distinct ou d'un accord en matière de gestion de l'environnement peuvent être résolus selon l'un des deux moyens suivants :

a) la conciliation — le différend peut être renvoyé à un conciliateur par l'une des parties impliquées dans le différend;

b) l'arbitrage — le différend peut être soumis à l'arbitrage par les deux parties impliquées dans le différend.

43.4 Sont soumis à l'arbitrage, les différends portant sur l'indemnité à verser par le Canada en raison de l'expropriation par celui-ci de terres de première nation, ou sur les conditions du retour de la totalité de l'intérêt ou du droit foncier entier sur les terres de première nation.

43.5 Toute opposition, par la première nation, à un projet d'expropriation en vertu de la Partie VII qui aura été porté devant un conciliateur sera évalué par ce dernier. Par la suite, un rapport sera soumis, par ce dernier, à la première nation et au Canada dans un délai de 60 jours suivant le dépôt de l'opposition devant le conciliateur.

44. LISTES D'ARBITRES, ETC.

44.1 Les Parties et le Conseil consultatif des terres sont tenus d'établir conjointement des listes de personnes mutuellement acceptables prêtes à agir en qualité de médiateur, d'arbitre, de vérificateur et de conciliateur.

44.2 Parties who become involved in a dispute may select mediators, arbitrators and neutral evaluators from the appropriate list, or may agree to the appointment of an individual who is not on the list.

44.3 The selection and assignment of verifiers and the procedure to be followed by verifiers will be arranged by the Lands Advisory Board, Canada and the First Nation.

44.4 Individuals appointed to act as mediators, arbitrators, verifiers or neutral evaluators must be unbiased and free from any conflict of interest relative to the matter in issue and have knowledge or experience to act in the appointed capacity.

45. NEUTRAL EVALUATION

45.1 Where a dispute is referred to neutral evaluation, the evaluator will where appropriate,

- (a) identify the issues in the dispute;
- (b) assess the strengths of each party's case;
- (c) structure a plan for the progress of the case;
- (d) encourage settlement of the dispute; and
- (e) provide the parties with a non-binding opinion or recommendation to resolve the dispute.

44.2 Les parties à un différend peuvent choisir, parmi ces listes, un médiateur, un arbitre et un conciliateur ou s'entendre sur la nomination d'une personne qui ne figure pas sur ces listes.

44.3 Le Conseil consultatif des terres, le Canada et la première nation choisiront les vérificateurs, définiront leurs attributions et fixeront la procédure que ces derniers doivent utiliser.

44.4 Les personnes nommées en qualité de médiateur, d'arbitre, de vérificateur ou de conciliateur doivent être impartiales et ne pas se trouver en situation de conflit d'intérêts par rapport aux questions en litige; elles doivent par ailleurs posséder la compétence ou l'expérience nécessaires pour agir en cette qualité.

45. CONCILIATION

45.1 Lorsque la situation l'exige, le conciliateur saisi d'un différend exerce les fonctions suivantes :

- a) il précise les questions sur lesquelles porte le différend;
- b) il évalue le bien-fondé des arguments des parties;
- c) il établit un plan afin de faire progresser la situation;
- d) il encourage le règlement du différend;
- e) il remet aux parties une opinion ou une recommandation non exécutoire visant à mettre fin au différend.

46. ARBITRATION

46.1 Unless otherwise agreed by the Parties, each arbitration will be conducted in accordance with this clause.

46.2 The procedure will follow the Commercial Arbitration Code, which is a schedule to the Commercial Arbitration Act.

46.3 If no appropriate procedural provision is in that Code, the parties in dispute may adopt the Commercial Arbitration Rules in force from time to time of the British Columbia International Commercial Arbitration Centre.

46.4 The arbitrator will establish the procedures of the arbitration, subject to this clause.

47. RELATED ISSUES

47.1 The parties to a dispute will divide the costs of the dispute resolution process equally between themselves.

47.2 Any person whose interests will be adversely affected by a dispute that is referred to a dispute resolution process may participate in the process, if

(a) all parties to the process consent; and

(b) the person pays the costs of his or her participation, unless otherwise agreed by the other parties to the dispute.

47.3 The decision of a verifier and a

46. ARBITRAGE

46.1 Sauf entente contraire des Parties, l'arbitrage s'effectuera conformément au présent article.

46.2 La procédure qui sera suivie est celle du Code d'arbitrage commercial, figurant à l'annexe de la Loi sur l'arbitrage commercial.

46.3 Si ce Code ne contient pas de disposition procédurale appropriée, les parties au différend peuvent suivre les Règles d'arbitrage commercial établies à l'occasion par le British Columbia International Commercial Arbitration Centre.

46.4 L'arbitre est tenu de déterminer la procédure d'arbitrage à suivre, sous réserve du présent article.

47. QUESTIONS CONNEXES

47.1 Les parties à un différend assument les frais relatifs à sa résolution à parts égales.

47.2 Toute personne dont les intérêts seraient lésés par un différend porté devant l'un des mécanismes de règlement des différends peut participer au mécanisme de règlement si :

a) d'une part, toutes les parties au mécanisme y consentent;

b) d'autre part, cette personne assume les frais de sa participation, sauf entente contraire des autres parties au différend.

47.3 La décision du vérificateur et la

decision or award of an arbitrator will be final and binding on the participating parties.

47.4 No order shall be made, processed, entered or proceeding taken in any court, whether by way of injunction, mandamus, certiorari, prohibition or quo warranto to contest, review, impeach or limit the action of a person acting as a verifier, an arbitrator or a neutral evaluator under this Agreement.

47.5 Despite clause 47.4, judicial review may be taken under the Federal Court Act within 30 days of a decision of a person acting as a verifier, an arbitrator or a neutral evaluator under this Agreement in respect of such person exceeding his or her jurisdiction, refusing to exercise his or her jurisdiction or failing to observe a principal of natural justice.

PART X RATIFICATION AND ENACTMENTS BY THE PARTIES

48. RATIFICATION OF AGREEMENT

48.1 The Parties agree that they will seek to ratify this Agreement and implement it in the following manner:

- (a) each First Nation agrees to develop a land code and to seek community approval; and
- (b) following community approval by two First Nations, Canada agrees to recommend to Parliament the

décision ou sentence d'un arbitre sont définitives et lient les parties qui ont participé aux mécanismes de règlement.

47.4 Aucune ordonnance ne peut être rendue, exécutée ou inscrite, et aucune poursuite ne peut être initiée devant une cour par voie d'injonction, de mandamus, de certiorari, de prohibition ou de quo warranto pour contester, réviser, empêcher ou limiter une mesure prise par le vérificateur, l'arbitre ou le conciliateur nommé sous le régime du présent accord.

47.5 Malgré l'article 47.4, une demande de révision judiciaire peut, dans les 30 jours qui suivent la décision prise par toute personne agissant comme vérificateur, arbitre ou conciliateur sous le régime du présent accord, être présentée en vertu de la Loi sur les Cours fédérales au motif que cette personne a outrepassé sa compétence, refusé de l'exercer ou n'a pas respecté un principe de justice naturelle.

PARTIE X RATIFICATION PAR LES PARTIES ET MESURES LÉGISLATIVES

48. RATIFICATION DE L'ACCORD

48.1 Les Parties conviennent de ratifier le présent accord et de le mettre en oeuvre de la façon suivante :

- a) chaque première nation s'engage à élaborer un code foncier et à le soumettre à l'approbation de la communauté;
- b) une fois un code approuvé par deux premières nations, le Canada s'engage à recommander au Parlement l'adoption

enactment of legislation.

48.2 This Agreement will be considered to have been ratified by a First Nation when the First Nation approves a land code, and to have been ratified by Canada when the federal legislation comes into force.

49. ENACTMENTS BY THE PARTIES

49.1 Canada agrees that the federal legislation that it recommends to Parliament will be consistent with and will ratify this Agreement.

49.2 In the event of an inconsistency or conflict between the federal legislation and any other federal enactment, the federal legislation will prevail to the extent of the inconsistency or conflict.

49.3 In the event of any inconsistency or conflict between the land code of a First Nation and the provisions of a First Nation law or of a by-law made by its council under section 81 of the Indian Act, the land code will prevail to the extent of the inconsistency or conflict.

PART XI OTHER MATTERS

50. LIABILITY

50.1 The First Nation will not be liable for acts or omissions of Canada or any person or entity authorized by Canada to act in relation to First Nation land that occurred before the First Nation's land code takes effect.

d'une loi de ratification.

48.2 Le présent accord sera réputé avoir été ratifié par une première nation lorsque celle-ci aura approuvé un code foncier, et il sera réputé avoir été ratifié par le Canada au moment de l'entrée en vigueur de la loi de ratification.

49. MESURES LÉGISLATIVES ADOPTÉES PAR LES PARTIES

49.1 Le Canada s'engage à ce que la loi de ratification qu'il présentera au Parlement soit conforme au présent accord et ait pour effet de le ratifier.

49.2 En cas d'incompatibilité ou de conflit entre la loi de ratification et une autre loi fédérale, la loi de ratification l'emporte dans la mesure de l'incompatibilité ou du conflit.

49.3 En cas d'incompatibilité ou de conflit entre le code foncier d'une première nation et des dispositions de ses textes législatifs ou de règlements administratifs pris par son conseil en vertu de l'article 81 de la Loi sur les Indiens, le code foncier l'emporte dans la mesure de l'incompatibilité ou du conflit.

PARTIE XI AUTRES QUESTIONS

50. RESPONSABILITÉ

50.1 La première nation n'est pas responsable des actes ou omissions du Canada ou d'une personne ou entité autorisée par le Canada à agir à l'égard des terres de première nation et qui surviendraient avant l'entrée en vigueur du

50.2 Canada will not be liable for acts or omissions of the First Nation or any person or entity authorized by the First Nation to act in relation to First Nation land that occur after the First Nation's land code takes effect.

50.3 Canada will indemnify a First Nation for any loss arising from an act or omission by Canada, or any person or entity acting on behalf of Canada, in respect of First Nation land that occurred before the First Nation's land code takes effect.

50.4 The First Nation will indemnify Canada for any loss arising from an act or omission by the First Nation, or any person or entity acting on behalf of the First Nation, in respect of First Nation land that occurs after the land code takes effect.

50.5 No action or other proceeding lies or shall be commenced against a person acting as a member of the Lands Advisory Board, a mediator, verifier, neutral evaluator or arbitrator for or in respect of anything done, or omitted to be done, in good faith, during the course of and for the purposes of carrying out his or her functions under this Agreement.

51. FIRST NATION LANDS REGISTER

51.1 Canada will establish a First Nation

code foncier de la première nation.

50.2 Le Canada n'est pas responsable des actes ou omissions de la première nation ou d'une personne ou entité autorisée par celle-ci à agir à l'égard des terres de première nation et qui surviendraient après l'entrée en vigueur du code foncier de la première nation.

50.3 Le Canada s'engage à indemniser la première nation de toute perte découlant d'un acte ou d'une omission du Canada, ou d'une personne ou entité agissant pour son compte, à l'égard des terres de première nation et qui surviendrait avant l'entrée en vigueur du code foncier de la première nation.

50.4 La première nation s'engage à indemniser le Canada de toute perte découlant d'un acte ou d'une omission de la première nation, ou d'une personne ou entité agissant pour son compte, à l'égard des terres de première nation et qui surviendrait après l'entrée en vigueur du code foncier.

50.5 Aucune action ni autre procédure ne peut être intentée contre une personne agissant en qualité de membre du Conseil consultatif des terres, de médiateur, de vérificateur, de conciliateur ou d'arbitre pour avoir, de bonne foi, agi ou omis d'agir dans l'exercice de ses fonctions ou dans le but de les exercer aux termes du présent accord.

51. REGISTRE DES TERRES DE PREMIÈRES NATIONS

51.1 Le Canada est tenu d'établir un

Lands Register to record documents respecting First Nation land or interests or land rights in First Nation land. It will be administered by Canada as a subsystem of the existing Reserve Land Register.

51.2 A separate register will be maintained for each First Nation with a land code in effect.

51.3 The Governor in Council will be authorized in the federal legislation to make regulations respecting the First Nation Lands Register. These regulations will be developed by the Lands Advisory Board and the Minister.

52. STATUS OF DOCUMENTS

52.1 The Statutory Instruments Act, or any successor legislation, will not apply to a land code or to First Nation laws.

53. PROVINCIAL RELATIONS

53.1 Where Canada and a First Nation intend to enter into an agreement that is not referred to in this Agreement but is required to implement this Agreement and where it deals with matters that normally fall within provincial jurisdiction, or may have significant impacts beyond the boundaries of First Nation land, Canada and the First Nation will invite the affected province to be a party to the negotiations and resulting agreement.

registre des terres de premières nations où seront consignés les documents relatifs aux terres de premières nations ou aux intérêts ou aux droits fonciers sur celles-ci. Ce registre sera administré par le Canada à titre de sous-système du registre actuel des terres de réserve.

51.2 Un registre distinct sera créé pour chaque première nation ayant un code foncier en vigueur.

51.3 La loi de ratification autorisera le gouverneur en conseil à prendre un règlement concernant le registre des terres de premières nations. Ce règlement sera élaboré conjointement par le Conseil consultatif des terres et le ministre.

52. STATUT DES DOCUMENTS

52.1 La Loi sur les textes réglementaires ou les lois qui pourraient la remplacer, ne s'appliqueront pas au code foncier, ni aux textes législatifs des premières nations.

53. RAPPORT AVEC LES PROVINCES

53.1 Si le Canada et une première nation entendent conclure une entente qui n'est pas mentionnée dans le présent accord mais qui est nécessaire à la mise en oeuvre du présent accord, et si cette entente traite des questions qui relèvent normalement de la compétence des provinces ou risque d'avoir des effets importants à l'extérieur des terres de première nation, le Canada et la première nation inviteront la province concernée à participer aux négociations de l'entente ainsi qu'à l'entente qui en résulte.

54. TIME LIMITS

54.1 The time limits in this Agreement for the doing of anything may be waived on consent.

55. OTHER REGIMES

55.1 Nothing in this Agreement prevents a First Nation, at any time, from opting into any other regime providing for community decision-making and community control, if the First Nation is eligible for the other regime and opts into it in accordance with procedures developed for that other regime.

55.2 Sub-clause 38.1 and clause 57 do not apply to a First Nation to which sub-clause 55.1 applies.

56. REVIEW PROCESS

56.1 The Lands Advisory Board will, on a continuing basis, consult with representatives of the Parties for the purpose of assessing the effectiveness of this Agreement and the federal legislation.

56.2 Within four years of the federal legislation coming into force, the Minister and the Lands Advisory Board or their representatives will jointly conduct a review of this Agreement. It will focus on the following issues, among others:

- (a) the functioning of land management under this Agreement;
- (b) the adequacy and appropriateness of the funding arrangements;

54. DÉLAIS

54.1 Les Parties peuvent, par consentement mutuel, renoncer aux délais prévus par le présent accord.

55. AUTRES RÉGIMES

55.1 Aucune disposition du présent accord n'empêche une première nation, en tout temps, d'adhérer à tout autre régime en matière de prise de décision et de contrôle par la communauté, à la condition que cette première nation soit admissible à adhérer à cet autre régime et y adhère, conformément à la procédure prévue par cet autre régime.

55.2 Le paragraphe 38.1 et l'article 57 ne s'appliquent pas à une première nation à laquelle le paragraphe 55.1 s'applique.

56. MÉCANISME D'EXAMEN

56.1 Le Conseil consultatif des terres est tenu de consulter régulièrement les représentants des Parties dans le but d'évaluer l'efficacité du présent accord et de la loi de ratification.

56.2 Dans les quatre ans de l'entrée en vigueur de la loi de ratification, le ministre et le Conseil consultatif des terres ou leurs représentants procéderont conjointement à un examen du présent accord. Cet examen portera notamment sur les points suivants :

- a) le fonctionnement de la gestion des terres aux termes du présent accord;
- b) le caractère adéquat et approprié des modalités de financement;

(c) the role of the Lands Advisory Board;

(d) whether there is a demand by other First Nations to use this Agreement;

(e) changes that may improve the functioning of First Nation land management;

(f) the dispute resolution processes; and

(g) such other issues as may be agreed to by the Parties.

56.3 Canada and the First Nations will make best efforts to complete this review within one year. Following completion of the review, the Minister will meet with representatives of the First Nations to discuss the results of the review.

57. AMENDMENTS

57.1 Until September 1, 2003, this Agreement may be amended by agreement of the parties, provided that the amendments to Part VIII may be made with the consent of Canada and 2/3 of the original First Nation parties to this Agreement.

57.2 No amendment affecting the powers, authorities, obligations, operations or operational funding of a First Nation that has ratified this agreement is effective with respect to that First Nation without the consent of that First Nation.

c) le rôle du Conseil consultatif des terres;

d) l'identification d'autres premières nations désirant se prévaloir du présent accord;

e) les changements qui pourraient améliorer le fonctionnement de la gestion des terres de première nation;

f) les mécanismes de règlement des différends;

g) toute autre question convenue par les Parties.

56.3 Le Canada et les premières nations sont tenus de s'efforcer d'achever cet examen dans un délai d'un an. À la fin de l'examen, le ministre rencontrera les représentants des premières nations pour en analyser les résultats.

57. MODIFICATIONS

57.1 Le présent accord peut être modifié jusqu'au 1^{er} septembre 2003 avec le consentement des parties, pourvu que les modifications à la Partie VIII soient apportées avec le consentement du Canada et des deux tiers des premières nations qui étaient Parties initiales au présent accord.

57.2 Aucune modification ayant une incidence sur les pouvoirs, les autorités, les obligations, les opérations ou les fonds de fonctionnement d'une première nation qui a ratifié le présent accord ne peut entrer en vigueur à l'égard de cette dernière sans son consentement.

57.3 After September 1, 2003, this Agreement, may, subject to 57.2, be amended with the consent of Canada and 2/3 of the First Nations which have ratified the Agreement, before, on or after that day.

58. RECITALS

58.1 The recitals form part of this Agreement.

59. COMING INTO FORCE

59.1 This Agreement will come into force in respect of Canada and a First Nation when Canada and that First Nation both ratify this Agreement under Part X.

59.2 Despite clause 59.1, such provisions of this Agreement as are necessary to allow a First Nation to ratify this Agreement before Canada ratifies this Agreement will have effect as of the day Canada and that First Nation both sign this Agreement.

57.3 Sous réserve du paragraphe 57.2, après le 1er septembre 2003, le présent accord peut être modifié avec le consentement du Canada et des deux tiers des premières nations qui l'ont ratifié que ce soit à cette date, ou avant ou après cette date.

58. PRÉAMBULE

58.1 Les dispositions figurant au préambule font partie du présent accord.

59. ENTRÉE EN VIGUEUR

59.1 Le présent accord entrera en vigueur pour ce qui est du Canada et d'une première nation au moment où le Canada et cette première nation auront tous deux ratifié le présent accord conformément à la Partie X.

59.2 Malgré le paragraphe 59.1, les dispositions du présent accord nécessaires à sa ratification par une première nation avant que le Canada ne l'ait ratifié entrent en vigueur le jour où le Canada et cette première nation auront tous deux signé le présent accord.

FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT

EXECUTIVE SUMMARY

INTRODUCTION

The *Framework Agreement on First Nation Land Management* was signed by the Minister of Indian Affairs and Northern Development and 13 First Nations on February 12, 1996. One other First Nation was added as of December 1997. The Agreement was ratified by Canada through the *First Nations Land Management Act*, assented to June 17, 1999

The Agreement is an initiative by these 14 First Nations to take over the governance and management control of their lands and resources. This First Nation designed and driven *Framework Agreement* with Canada has expanded from the original 14 First Nation signatories to 84 First Nation Signatories in 2013. The *Framework Agreement* applies only to those First Nations who choose to ratify it.

The *Framework Agreement* is not a treaty and does not affect existing treaty or other constitutional rights of the First nations. .

The *Framework Agreement* provides the option to govern and manage reserve lands outside the *Indian Act*. The option to regain control of reserve land through a land code can only be undertaken with the consent of the community. A land code replaces approximately 30 sections of the *Indian Act*.

TAKING CONTROL OF LAND GOVERNANCE

A First Nation signatory to the *Framework Agreement* develops its land governance system by creating its own Land Code, drafting a community ratification process and entering into an individual Agreement with Canada. The specific steps are set out in the *Framework Agreement*:

The Land Code: Drafted and approved by the community, will be the basic land law of the First Nation and will replace the land management provisions of the Indian Act. The Minister of Indian Affairs and Northern Development will no longer be involved in the management and decision making of a First Nation's reserve lands. The Land Code does not have to be approved by the Minister or AANDC.

The Land Code is drafted by each First Nation and provides for the following matters:

- Identifies the reserve lands to be governed by the First Nation under its Land Code,
- Sets out the general rules and procedures for the use and occupation of these lands by First Nation members and others,
- Provides financial accountability for revenues from the lands (except oil and gas revenues, which continue under the Indian Oil and Gas Act),
- Provides the procedures for making and publishing First Nation land laws,
- Provides conflict of interest rules,
- Provides a community process to develop rules and procedures applicable to land on the breakdown of a marriage,
- Identifies a dispute resolution process,
- Sets out procedures by which the First Nation can grant interests in land or acquire lands for community purposes,
- Allows the delegation of certain land management responsibilities,
- Sets out the procedure for amending the Land Code,
- Deals with any other matter respecting the governance of First Nation reserve land and resources.

Individual Transfer Agreement: An Individual Agreement between each community and the Minister will be negotiated to deal with such matters as:

- The reserve lands to be managed by the First Nation,
- The specifics of the transfer of the administration of land from Canada to the First Nation,
- The transitional and operational funding to be provided by Canada to the First Nation for land governance.

Community Ratification Process: In order for the First Nation to assume control over its lands, the Land Code and the Individual Agreement must be ratified by the voting age members of the First Nation. All members of the First Nation who are at least 18 years of age, whether living off-reserve or on-reserve, have the right to vote on the Land Code and the Individual Agreement. The procedure for the community ratification process is developed by the community in accordance with the *Framework Agreement*.

Federal Legislation: Canada agreed to ratify the *Framework Agreement* by enacting federal legislation that is consistent with the *Framework Agreement*. The *First Nations Land Management Act* was enacted and given royal assent on June 17, 1999.

Verification: An independent person selected jointly by the First Nation and Canada, called a Verifier, confirms that the community ratification process and Land Code are consistent with the *Framework Agreement*. The Verifier monitors the community ratification process to ensure that the rules are followed.

Recognition of Land Governance Authority: If the community ratifies their own Land Code and the Individual Agreement, control over First Nation lands and resources are no longer be subject to the *Indian Act*, but recognized to be under the governance authority of the First Nation.

TITLE TO FIRST NATIONS

Reserve lands under the *Indian Act* are held by Her Majesty and are set apart for the use and benefit of a First Nation. This will not change under the *Framework Agreement*. These lands remain a federal responsibility under section 91(24) of the *Constitution Act, 1867*. In addition, the First Nation's land will be protected against future surrender for sale.

LEGAL STATUS AND POWERS OF FIRST NATIONS

The *Framework Agreement* provides First Nations with all the legal status and powers needed to govern and manage their lands and resources. While First Nations will not be able to sell their land, they will be able to lease or develop their lands and resources, subject to any limits imposed by their own community Land Code.

Law-Making Powers: A First Nation governing its lands under a Land Code will have the power to make laws in respect of the development, conservation, protection, management, use and possession of First Nation land. The Land Code does not authorize laws relating to the taxation of real or personal property. Such laws must be made separately pursuant to section 83 of the *Indian Act*. The First Nation's Council can also continue to make by-laws under section 81 of the *Indian Act*.

Land Management: The *Framework Agreement* provides the First Nation with all the powers of an owner in relation to its First Nation Land, except for control over title or the power to sell it. The First Nation's Council can manage land and resources, as well as revenues from the land and resources, in accordance with its Land Code.

Third Party Interests: Interests in First Nation land held by third parties, or by Canada, will continue in effect according to their terms and conditions under a Land Code. No new interests or licences may be acquired or granted except in accordance with the Land Code.

First Nation Expropriation: The First Nation will have the option to acquire lands for community purposes upon payment of fair compensation to those whose interests are affected.

Accountability: A Land Code will make provision for a First Nation to report to its members and to be accountable for the governance of their lands, resources and revenues.

Marriage Breakdown: A First Nation will be able make rules on the rights of spouses to interests in First Nation land if their marriage breaks down. The community must, within 12 months of passage of its Land Code, develop and enact rules and procedures on this topic. The new rules and procedures will ensure the equality of women and men.

Registration of Interests: All documents pertaining to land interests of a reserve will be recorded in the First Nation Land Registry System (FNLRS).

The FNLRS is:

- Electronic
- Provides for Instant Registration
- Priority based
- Paperless
- Backed by Regulation (Unlike the *Indian Act* registry system)

The FNLRS system and regulations are landmark achievements. These regulations made it possible for reserve to have greater land certainty, mortgageability, title insurance and drastically reduced or eliminated land transaction costs

PROTECTION OF FIRST NATION LAND

The preserving of the quantity and quality of existing First Nations lands is a fundamental principle of the *Framework Agreement*. Some aspects of this principle are summarized below:

Taxation and Seizure under Legal Process: The current exemption of reserve lands, and personal property situated on-reserve, will continue under the relevant provisions of the *Indian Act*.

Environmental Protection: A First Nation with a land code in effect will be required to develop an environmental protection regime. A First Nation will have the power to make environmental assessment and protection laws and will harmonize these laws with federal and respective provincial environmental laws.

Voluntary Exchange of Lands: A First Nation may decide that it is advantageous to exchange some of its First Nation lands for other lands. Provision can be made in its Land Code for a procedure to negotiate and approve such exchanges. An exchange of land cannot occur without the consent of the First Nation community.

No Provincial Expropriation: Under the *Framework Agreement* there can be no expropriation of First Nation land by a provincial or municipal government or agency.

Restricted Federal Expropriation: Canada's power to expropriate First Nation land is greatly restricted. That power can only be exercised with Cabinet approval and only when the expropriation is justified and necessary for a federal public purpose that serves

the national interest. Compensation must include provision for equivalent lands so that the land base of the First Nation is not diminished.

Enforcement: The First Nation will have full power to enforce its land and environmental laws and may enter into further agreements with other jurisdictions to assist in such enforcement. A First Nation can appoint its own Justice of the Peace or special prosecutor to try offences created under a Land Code or a First Nation law. First Nation laws may make provision for search and seizure, fines, imprisonment, restitution, community service or alternate means for achieving compliance with its laws.

CONTINUING FEDERAL RESPONSIBILITY

Canada will remain liable for and will indemnify a First Nation for losses suffered as a result of any act or omission by Canada, or its agents, that occurred before the Land Code comes into effect. After that date, the First Nation is responsible for its own acts or omissions in managing its lands.

DISPUTE RESOLUTION

The First Nation will establish its own processes for dealing with disputes in relations to its lands and resources. These can include mediation, neutral evaluation and arbitration. In the case of a disagreement between the First Nations and Canada on the meaning or implementation of the *Framework Agreement*, there are provisions in the *Framework Agreement* to resolve the dispute outside the courts.

LANDS ADVISORY BOARD AND RESOURCE CENTRE

The First Nations party to the *Framework Agreement* established a Lands Advisory Board and Resource Centre to assist them in implementing their own land governance regimes, including developing model land codes, laws, documents, agreements and management systems.

FIRST NATIONS INVOLVED

The following is a list of the 40 First Nations who signed the *Framework Agreement* and who have enacted Land Codes pursuant to the *Framework Agreement*.

BC

1. Beecher Bay
2. Kitselas
3. Leq' a: mel
4. Lheidli T'enneh
5. Matsqui
6. Musqueam
7. Seabird Island
8. Shx'wha:y Village
9. Skawahlook
10. Sliammon
11. Snaw Naw As (Nanoose)
12. Songhees
13. Squiala
14. Sumas
15. Tsawout
16. Tsawwassen^(a)

MB

1. Chemawawin
2. Opaskwayak
3. Swan Lake

17. Tsekani (McLeod Lake)
18. Ts'kw'aylaxw (Pavilion)
19. T'sou-ke
20. Tsleil-Waututh
21. Tzeachten
22. Westbank^(b)
23. We Wai Kai (Cape Mudge)
24. We Wai Kum (Campbell River)

SK

1. Kahkewistahaw
2. Kinistin
3. Muskeg Lake
4. Muskoday
5. Whitecap Dakota
6. Flying Dust

ON

1. Anishinaabeg of Naongashiing
2. Georgina Island
3. Henvey Inlet
4. Mississauga
5. Nipissing
6. Scugog Island
7. Whitefish Lake

(a) Now implementing treaty

(b) Now implementing full self-government

APPLICATION OF THE INDIAN RESERVE WASTE DISPOSAL REGULATIONS FOR FIRST NATIONS UNDER THE FIRST NATIONS LAND MANAGEMENT REGIME

Purpose

This Directive explains the relationship between the Indian Reserve Waste Disposal Regulation (IRWDR) and the First Nations Land Management Regime (FNLM).

Background

FNLM enables participating First Nations who have ratified a land code and an Individual Agreement to govern reserve lands, resources and environment, including the administration of any leases, by opting out of the land related sections of the *Indian Act*.

Under FNLM once a First Nation becomes operational they receive 2 years of transitional funding up to a maximum of \$150,000 to support the development and passage of land laws, including environmental protection.

The IRWDR was established under the *Indian Act* to regulate waste disposal on reserve, in order to protect public health and safety.

Under the IRWDR the Minister has the authority to issue permits for waste disposal, unless that authority has been delegated to a band pursuant to section 8 of the IRWDR.

The IRWDR were enacted pursuant to section 73 of the *Indian Act*, in particular paragraphs 73(1) (f) and (i) and (k) and subsection 73(2).

- 73.** (1) The Governor in Council may make regulations
- (f) to prevent, mitigate and control the spread of diseases on reserves, whether or not the diseases are infectious or communicable;
 - (i) to provide for the inspection of premises on reserves and the destruction, alteration or renovation thereof;
 - (k) to provide for sanitary conditions in private premises on reserves as well as in public places on reserves;
- (2) The Governor in Council may prescribe the punishment, not exceeding a fine of one hundred dollars or imprisonment for a term not exceeding three months or both, that may be imposed on summary conviction for contravention of a regulation made under subsection (1).

Section 21.1 of the Framework Agreement on First Nation Land Management states:

Once a land code takes effect, the First Nation, its members and its First Nation land will not be subject to the following: (h) regulations made under sections 42 and 73 of the Indian Act to the extent that they are inconsistent with this Agreement or the land code or the laws of the First Nation.

Directive

As such, First Nations operating under their own land codes enacted in accordance with the Framework Agreement on First Nation Land Management and the *First Nations Land Management Act*, have the authority to choose how to manage waste disposal permits on their land and to decide on any necessary enforcement requirements.

Permits should no longer be issued under the *Indian Act* or IRWDR where First Nations operate under FNLM, under their own land code.

The Department will explore with the FNLM Lands Advisory Board a potential change to the IRDWR to clarify that the IRDWR no longer apply to FNLM First Nations.

APPLICATION DU RÈGLEMENT SUR LA DESTRUCTION DES DÉCHETS DANS LES RÉSERVES INDIENNES AUX PREMIÈRES NATIONS VISÉES PAR LE RÉGIME DE GESTION DES TERRES DES PREMIÈRES NATIONS

Objet

La présente directive explique le lien entre le *Règlement sur la destruction des déchets dans les réserves indiennes* (RDDRI) et le Régime de gestion des terres des Premières Nations (RGTPN).

Contexte

Le RGTPN permet aux Premières Nations concernées qui ont ratifié un code foncier et une entente individuelle de gérer leurs terres de réserve, leurs ressources et leur environnement, y compris d'administrer des baux, en se soustrayant aux dispositions de la *Loi sur les Indiens* relatives à la gestion des terres.

Selon le RGTPN, dès qu'une Première Nation devient opérationnelle, elle reçoit des fonds de transition pouvant atteindre jusqu'à 150 000 \$ pour l'élaboration et l'adoption de lois foncières portant, notamment, sur la protection de l'environnement.

Le RDDRI a été établi en vertu de la *Loi sur les Indiens* pour réglementer l'élimination des déchets dans les réserves de manière à protéger la santé et la sécurité publiques.

Le RDDRI donne au ministre le pouvoir de délivrer des permis pour l'élimination des déchets, à moins que ce pouvoir n'ait été délégué à une bande conformément à l'article 8 du même règlement.

Le RDDRI a été pris en vertu de l'article 73 de la *Loi sur les Indiens*, plus précisément les alinéas 73(1)*f*, *i*) et *k*) et le paragraphe 73(2).

- 73.** (1) Le gouverneur en conseil peut prendre des règlements concernant :
- (*f*) la prophylaxie des maladies infectieuses ou contagieuses, ou non, sur les réserves;
 - (*i*) l'inspection des locaux sur les réserves et la destruction, la modification ou la rénovation de ces locaux;
 - (*k*) la salubrité dans les locaux privés comme dans les endroits publics, sur les réserves;
- (2) Le gouverneur en conseil peut prescrire l'amende maximale de cent dollars et l'emprisonnement maximal de trois mois, ou l'une de ces peines, qui peuvent être infligés, sur déclaration de culpabilité par procédure sommaire, pour infraction à un règlement pris sous le régime du paragraphe (1).

L'article 21.1 de l'Accord-cadre relatif à la gestion des terres de Premières Nations se lit comme suit :

« Dès l'entrée en vigueur de son code foncier, la première nation, ses membres et les terres de première nation, cessent d'être assujettis aux dispositions suivantes : [...] (h) les règlements pris en application des articles 42 et 73 de la Loi sur les Indiens dans la mesure où ils sont incompatibles avec le présent accord, avec le code foncier ou avec les textes législatifs de la première nation. »

Directive

Cela étant dit, les Premières Nations ayant leur propre code foncier adopté conformément à l'Accord-cadre relatif à la gestion des terres de Premières Nations et à la *Loi sur la gestion des terres des premières nations*, ont le pouvoir de choisir le processus de gestion des permis d'élimination des déchets sur leurs terres et de prendre des décisions concernant toute exigence nécessaire en matière d'exécution.

Dorénavant, aucun permis ne pourra être délivré en vertu de la *Loi sur les Indiens* ou du RDDRI à une Première Nation assujettie au RGTPN et ayant son propre code foncier.

Le Ministère, de concert avec le Conseil consultatif des terres du RGTPN, se penchera sur la modification qui pourrait être apportée au RDDRI pour préciser que ce dernier ne s'applique plus aux Premières Nations visées par le RGTPN.



LAWS, REGULATIONS AND POLICIES

Laws, regulations and policies are critical components of our society and government. They establish public priorities, help maintain order and safety, and play an important role in shaping the political and social fabric of communities at every level - from towns and cities to provinces and the nation.

LAWS

Laws are enacted by government bodies (First Nation, federal, provincial and municipal). Laws are a set of rules or norms of conduct, in other words, they describe what can or cannot be done and they must be obeyed by everyone including private citizens, groups and companies. Laws have a specific enactment procedure and are administered and enforceable through our system of courts. Laws are not easily changed or amended.

LAWS BY FIRST NATION COUNCILS

Framework Agreement on First Nation Land Management – Pursuant to the *Framework Agreement* First Nations Councils may enact laws respecting the development, conservation, protection, management, use and possession of First Nation reserve land and interests or land rights and licences in relation to those reserve lands. This includes any matter necessary or ancillary to the making of laws in relation to First Nation land.

For example, a First Nation may enact laws respecting zoning, land use, subdivision control and land development, environmental assessment and protection, the provision of local services, provision of services for the resolution of disputes in relation to land decisions. The *Framework Agreement* specifies laws that can be enacted by the Chief and Council acting alone but it also specifies laws that require community support (i.e. matrimonial real property, land use planning).

Indian Act – Even if a First Nation has a land code in effect, a First Nation may choose to enact bylaws under section 81 of the *Indian Act*. Pursuant to that section, a Council may make by-laws in a number of areas including traffic, observance of law and order, prevention of disorderly conduct and nuisances, removal and punishment of persons trespassing upon the reserve, etc.

The laws are enacted by the Chief and Council but must be approved by the Minister of Indian Affairs, even where the First Nation has a land code in effect. An intoxicant by-law can also be passed by Council pursuant to section 85.1 of the *Indian Act*; these laws do not require Ministerial approval but rather need community approval. Lastly, Councils may also pass a taxation by-law, with the consent of the Minister, pursuant to section 83 of the *Indian Act*.



REGULATIONS

Regulations – are a form of law or rule that are authorized under a law and subordinate to that law. Departments and administrators generally write regulations to implement and support the requirements of the law. Regulations deal with the details or technical matters that are not found in a law. Regulations can be easier to change and amend. Regulations are made by federal or provincial Departments of government and approved by Cabinet.

For example there are Regulations under the *Indian Act* concerning Band Council elections, timber, referendums. There are many Regulations under the *Fisheries Act* which set quotas and seasons for different species of fish and which are different in each of the provinces and territories. The *Canada Environmental Protection Act* also has many regulations concerning pollutants, emissions from various industries and similar subjects. Lastly, the First Nations Land Registry Regulations were established pursuant to the *First Nations Land Management Act*.

POLICIES

Policies – are a less stringent set of rules or strategies set in place by a government to improve standards. They are set in place to achieve certain objectives that are within the law or that need to comply with the law. Policies are easier to change and amend.



Risk Management Strategy for Environmental Contaminants - Mississauga First Nation



Risk Management. Photograph by Jordy Sheperd, courtesy of the Canadian Avalanche Society. Originally published in 2005, written by Laura Adams

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Prepared by the MFN Lands & Resources Department

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Executive Summary



First Nations have bestowed inherent right on Mother Earth since time immemorial. This right is embedded in the various traditional customs and teachings of the First Nations that originate from the Creator and from the ancestors of First Nation peoples alone which is referred to as “the sacred relationship to Mother Earth”. First Nations are undoubtedly environmental protectors, if you will, the original stewards of the land. They fully understand and feel that their duties and responsibilities to Mother Earth are not being

respected and integrated by Crown governments at all levels. “There are Canadian Laws. There are provincial laws. There are Anishinabek laws. Before Canadian or provincial law, there was Anishinabek law”¹. First Nations will always remain and be recognized for their unique and ancient perspectives concerning the land because they are the land – and have been recognized as so, globally. First Nations governance and autonomy was recognized by the Crown through the treaty making processes. Most First Nations around the Great Lakes Basin have pre-confederation treaties and First Nations peoples are continuing to seek and retain control over their lives, water and their inherent lands through these mentioned treaties. However, colonizing processes, such as those implemented through the *Indian Act*, have undermined First Nation governance. A Mrs. Merryl Ann Phare stated:

“The most important truth to remember, one that impacts all discussions about all Aboriginal rights, is that First Nation peoples were here occupying these lands, implementing their laws, governing their territories when Europeans arrived, and were never conquered by settlers or their imported governments”.²

¹ Chiefs in Ontario. 2009. We are the Land: Nuclear Waste Discussion Report Prepared for the Nuclear Waste Management Organization. This paper covered the four sessions which occurred with Chiefs and their delegates to cover and provide input for the planned approach for the long-term management of Canada’s used nuclear fuel waste.

² Chiefs in Ontario. 2009. Traditional Knowledge and the Great Lakes Basin. This report covers the fact that contamination of the Great Lakes waters, fish, the air and wildlife as well as access to safe drinking water remains a major concern to First Nation peoples in the Great Lakes Basin.

Those that live and co-exist with Mother Nature and harvest her resources have an affectionate bond and knowledge of the dispersion of resources, the functioning of ecosystems as a whole and the relationships between the environment and the Anishinabek culture. For many questions raised in government guidelines specific to the interconnectedness of the environment, traditional knowledge will have as important a contribution to make as engineering and scientific knowledge.

INTRODUCTION

Background

The Mississauga First Nation is situated on the North Shore of Lake Huron approximately 130 km east of Sault Ste. Marie and approximately 1 km west of the Town of Blind River. The southern boundary of the reserve is located south of the Trans-Canada Highway (highway No. 17) and extends north to Chiblow Lake. MFN's traditional territories extend well beyond the present reserve lands as MFN Elders have indicated areas were their families historically lived.

Mississauga First Nation (MFN) is committed to their responsibilities of co-existence with all creation and their inherent right to self-government. With the signing of the treaties, it has been stated by MFN leadership and Elders that they have never surrendered their rights to manage the lands which includes the waters and all beings in the waters, on the lands, and in the skies. The MFN Land Code reiterates this as it states:

“The traditional teachings of the Mississauga First Nation speak of the obligation of the people of the Mississauga First Nation to care for and respect the lands and the magnificent wonders of Nature created on the land. By enacting this Land Code, Mississauga First Nation is reassuming this special responsibility which is believed to be part of its inherent right to self-government. The authority of the Mississauga First Nation to govern its lands and resources flows from the Creator to the people of the Mississauga First Nation, and from the people to Chief and Council according to the culture, traditions, customs and laws of our First Nation.”

Vision

The traditional teachings of the Mississauga First Nation speak of the obligation of the peoples of the Mississauga First Nation to care for and respect the lands and the magnificent wonders of Nature created on the land. Mississauga First Nation is reassuming this special responsibility which is believed to be part of its inherent right to self-government. The authority of the Mississauga First Nation to govern its lands and resources flows from the Creator to the people of the Mississauga First Nation, and from the people to Chief and Council according to the culture, traditions, customs and laws of our First Nation.

Values and Guiding Principles

Nibwaakaawin (Wisdom) – to cherish knowledge is to know wisdom: sound judgement, ability to discern inner qualities and relationships. Use good sense and form a good attitude and course of action. Listen and use the wisdom of Elders, leadership and spiritual leaders.

Zaagi'idiwin (Love) – to know love is to know peace: strong affection for another forming out of kinship or personal ties; attachments based upon devotion, admiration, tenderness, unselfish loyalty, benevolent concern. Feel and give absolute kindness for all things around you. To love yourself is to live at peace with the Creator and in harmony with all creation.

Minaadendamowin (Respect) – to honor all of creation is to have respect. Showing regards for the value of person or things through courteous consideration and appreciation. Honor our traditional roles and teachings; honor our families, others and ourselves. Don't hurt anything or anyone on the outside or inside.

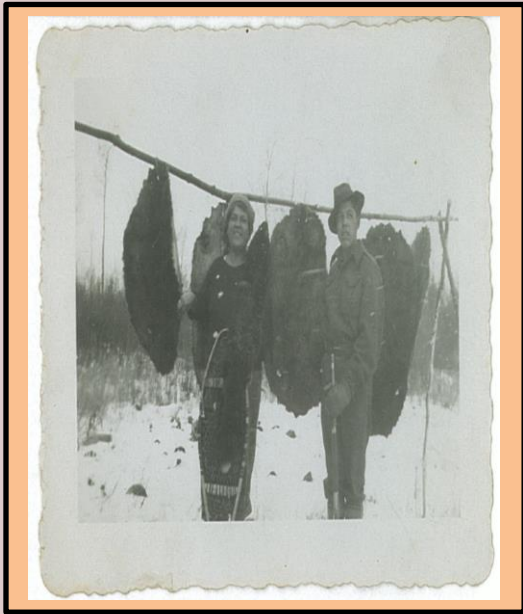
Aakode'ewin (Bravery) – to face life with courage is to know bravery. The personal strength to face difficulties, obstacles and challenges; to have courage and make positive choices. Stand up for your convictions – show courage in communicating and decision-making.

Debwewin (Truth) – to know of these things is to know the truth. Faithfully apply the teachings of our seven grandfathers and trust in the creator. Sincerity in action, character and utterance. Be faithful to fact and reality.

Gwayakwaadiziwin (Honesty) – to walk through life with integrity is to know honesty. Being truthful and trustworthy. Tell the truth. Accept and act on truths through straightforward and appropriate communication.

Dabaadendiziwin (Humility) – to accept yourself as a sacred part of creation is to know humility. Reflecting, expressing or offering in spirit of deference or submission. Balance of equality with all life. Recognize the human need for balance in life.

First Nations Peoples



First Nations governance and autonomy was recognized by the Crown (initially the British, and later Canadian) through the treaty making process. First Nation peoples keep control over their lives, the waters, the lands and “all our relations” through these treaties. The most important truth to remember, one that impacts all discussions about all Aboriginal rights, is that First Nation peoples were here occupying these lands when Europeans arrived, and were again, never conquered by settlers or their imported governments. In addition to colonizing efforts, industrial use and expansion has greatly impacted First Nation governance and ways of life.

Contamination of the Great Lakes waters, fish, the air and wildlife as well as access to safe and clean drinking water remains a major concern to First Nations peoples in the Great Lakes Basin³. By virtue of their treaty status, First Nations have a legal and moral obligation to be involved with government-to-government, Nation-to-Nation, and in any and all decision making processes, especially with those concerned with the environment. We announce and proclaim our role as the First Peoples of Turtle Island – the original caretakers –with rights and responsibilities to defend and ensure the protection, availability, and purity of all waters both fresh and salt for the survival of the present and future generations. The ecosystems of the world have been under considerable stress from misuse and abuse. The waters are polluted with chemicals, pesticides, sewage, disease, radioactive waste, dumping of waste from mines, dumping from ships in complete violation of sacred laws given by the Creator. And when the ancestors of the Anishinabek negotiated and concluded treaties with the Crown, they were exercising their right of self-determination as a Nation. The treaties are recognized under

³ Chiefs in Ontario. 2009. Traditional Knowledge and the Great Lakes Basin. This paper describes the relationship to the Great Lakes ecosystem and governance structure of the Anishinabek people.

international law and are a source of rights. As treaty Nations, Canada has a legal obligation to engage First Nations in a dialogue to determine their role in relation to the well-being of Mother Earth.⁴

Environmental Contaminants

First Nations have become increasingly concerned about the impacts of toxic substances. Environmental contaminants are substances that, when accidentally or deliberately introduced into the environment, may have the potential to harm people, wildlife, water, air and plants. Environmental contaminants have the potential to destroy entire ecosystems for ever and or poison the very well-being and spirit of a human being. The determination of contaminants of concern is based largely on information about process operations and accidents that produce air emissions, release information, data reported from the perimeter fence-line and off-site air monitors, and air dispersion modelling (e.g., air emissions, effluent discharge and waste discharge).

Mankind has had a history of playing Russian roulette with the environment and generally has walked away 'clean'. Some chemicals resist physical, chemical and biological degradation. The molecular arrangements (aka skeletons) that scientists are forming are getting more complicated, and frankly, it is questionable if humanity will walk away unscathed every time. Even the oceans, once believed so vast that they could absorb any amount of waste without damage, are not big enough to survive unharmed the volume of waste that human activities pour into them daily!

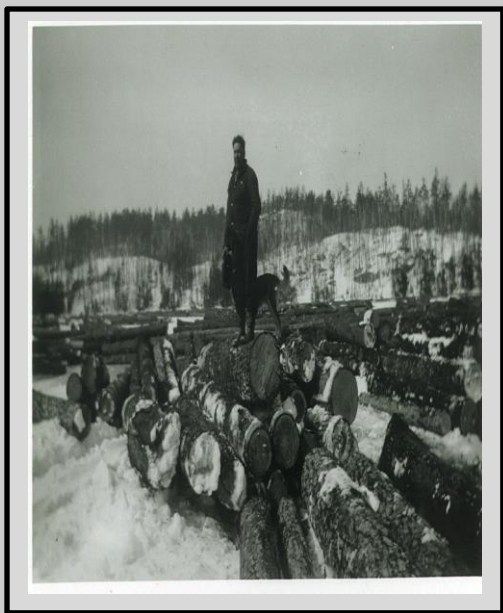
Canada's Chemicals Management Plan (CMP) was first established in 2006 and renewed again in 2011 for an additional five years. The CMP is jointly administered by Environment Canada and Health Canada under the *Canadian Environmental Protection Act (CEPA), 1999* and its' goal is to assess and manage risks to human health and the environment from all chemical substances in known use within Canada. But it is unfortunately a reality and of no surprise that many chemicals, in fact, enter the market without thorough assessment or understanding of their potential impact on human or environmental health.

In 2006, 23 000 substances of the Domestic Substances List were categorized according to the potential risk they posed to human health and the environment. This set the priority with which substances were to be assessed under the CMP, starting with the chemicals thought to pose the greatest risk. Under the first phase of the CMP, approximately 200 chemicals were

⁴ Chiefs in Ontario. 2008. Water Declaration of the Anishinabek, Muchkegowuk and Onkwehonwe in Ontario. This report outlines the First Nations relationship to the water and the governments duty to consult.

categorized as high risk and were divided into twelve “batches”. This was a way to organize work on collecting information, conducting risk assessments and proposing and publishing risk management approaches. In phase two of the CMP the government of Canada aims to further 1 500 chemical substances by the end of Phase 2 in 2016. This approach currently includes nine Groupings to be assessed under the second phase of the CMP and the selection of substances for each Grouping was based upon chemical similarities, efficiencies for risk assessment, risk management and similar timing with the assessment under international treaties and jurisdictions (AFN, 2013).

Risk Assessment and Risk Management Strategies



The MFN Risk Management Strategy for Environmental Contaminants is to reflect the nature and context of specific issues of concern, including urgency, scope and the level of action that is required. The identification of milestones required to achieve the goals of the strategy will be an on-going process which will examine solutions and/or remediation to the identified problem(s).

The assessment of health risks, and the selection and implementation of effective risk management strategies, form the basis for many of Health Canada’s activities. Risk assessment has ‘traditionally’ focused on the analysis of chemical, biologic, and physical data regarding the effects of hazards, primarily to

human physical health. In 1993, Health Canada published a formal framework, which defined and described the risk assessment and risk management process in a structured way. Much progress has been made over the past several years; however, there is currently no formalized, consistent approach, being applied across the spectrum of health protection issues.

In January 2012, Canada introduced what has become known as the “one-for-one” rule which stipulates that a current regulation must be removed whenever a new regulation is introduced. In practice, this leaves Health Canada and Environment Canada looking for a regulation to remove when one is added to address the health and environmental harm posed by a chemical. The “one-for-one” rule requires an offset of an equal amount of administrative burden by new

regulation. In this way, measures to protect human health and the environment may come at the expense of weakened protections elsewhere⁵

While First Nation's health and general standard of living has improved through technological advancements, it is important to realize that all processes, activities and products have the potential to adversely affect First Nation's health. In fact, many of the modern challenges to health are a consequence of complex interactions between our physical and social environments together with our personal and life style choices (Health Canada, 2000). Determinants of health such as gender, culture, income status, eating habits, employment and working conditions, biology and genetics, healthy child development and physical environment are all interconnected.

On the contrary, it is a common belief in several models of risk assessment that if there is no exposure then there is no risk and consequently no problem. New models of risk assessment that have been put forth by First Nations are strongly opposed to conclusions of this nature and classical risk assessors have had much difficulty responding to this new way of thinking. What First Nation scientists are doing today is challenging one of the most basic, fundamental principles of risk assessment – the dose response relationship, which states that the expected frequency of undesirable effects (risk) is associated with a certain level of exposure to a chemical. First Nation scientists are concluding that it is possible to experience adverse health impacts even when no contaminated fish, wildlife, air, water or soil are ingested, inhaled or absorbed. How is that possible? Because when health is considered holistically as it is by First Nation peoples, human health risk cannot be separated from cultural and ecological risk assessment. First Nations are finding that conventional risk assessment models are much too simple and based strictly on western science to be useful for making decisions and setting policy and protocol. And depending on the data used, it is possible to make risk assessment models say just about anything you want them to say (Arquette, n.d). Many times, First Nation voices and concerns are overlooked to allow the advancements of industrial development and advancement.

When considering true risk, social and cultural impacts must be included with toxicological and ecological factors as well. It is essential to minimize the time in which individuals, communities, and ecosystems are negatively affected. It is apparent that an effective means for evaluating decision making processes needs to be developed to ensure that actions have focused on the right issues, have served to prevent problems, and have produced sound results in a timely fashion. In developing an integrated framework for risk-based environmental decision-making,

⁵ Assembly of First Nations. 2013. This paper covers Canada's Chemicals Management Plan and also discusses different legislation pertaining to toxic chemicals and past and present issues concerning human and environmental health.

there is much to be learned from First Nation peoples, who have experience in developing equitable partnerships and using holistic, integrated thinking to solve problems⁶.

Low-level exposure to environmental contaminants

First Nation communities who are dealing with complex risk issues, have been developing increasingly complex risk models to take into account cumulative risk from the use of many traditional foods and medicines. A large body of literature has accumulated detailing the adverse effects of endocrine disruptors on the reproductive ability and sexual development of fish, amphibians, reptiles and birds. These First Nations have



concluded that simple models not only do not meet the needs of First Nation peoples, but have been used in the past to hurt efforts to fully remediate contaminated sites. Not enough is known about health effects associated with low-level exposure to pollutants and it is crucial that researchers continue to document effects. For example, although the technical definition of low-dose radiation is set by international policy-making panels (e.g., the International Council for Radiation Protection) and as such is to a large extent arbitrary, it is generally categorized as the dose below which it is not possible to detect adverse health effects. No figure for this dosage has ever been calculated; the so-called “threshold theory” assumes that there is a dosage of low-level radiation below which no damage occurs. It is a comforting theory, but it has never been shown to be true, nor has any safe “threshold” been established. We have known for more than 80 years that low-dose radiation has cytotoxic effects, causes mutations and that embryos are particularly susceptible to environmental perturbations, including low-dose radiation (Moller and Timothy, 2013).

The standard physical sciences risk assessment process, based on the lowest observed adverse effects level (NOAEL) used in defining health policies may be seen as over-simplistic theoretical extrapolations when viewed in the context of the concerns of the social sciences⁷. The consequences of exposure to low levels of multiple substances are uncertain and the subject of intensive cooperative study between government, non-government and First Nations combined.

⁶ Arquette et. al. 2002. Holistic Risk-Based Environmental Decision Making: A Native Perspective. Environmental Justice. In this paper describes a need for change in risk assessment between First Nations and governments.

⁷ Wheatley et. al. 2000. Methylmercury and the health of indigenous peoples: a risk management challenge for physical and social sciences and for public health policy. Science of the Total Environment. pp. 23-29.



Furthermore, those that have worked in basic research know all too well that regulatory and policy decisions supported by risk assessment are often made in a vacuum away from the findings of basic research scientists. Making conclusions about community health based on current “average fish consumption” and “average contaminant levels” perhaps may not be representative of the true situation regarding health. “Safe exposure levels”

are more problematic for some contaminants than others (e.g., uranium, thorium, radon, PCB’s, toxaphene etc.). If a risk assessment model is to serve First Nations, it needs to be able to incorporate current research into the model, especially since some First Nation assessment models can then be used as one of several tools to make good remediation and restoration decisions.⁸

Any exposure to a chemical has some risk associated with it (e.g., dermal, inhalation etc.) Although a risk may be understood and perceived to be small, no exposure is safe or free from risk. Using the term “safe” can be doubtfully misleading to community members and to the public in believing that there are no adverse health effects possible when exposed to a certain contaminant.

The ability of various pollutants and their derivatives to mutually affect their toxic actions complicates the risk assessment based solely on environmental levels. Deleterious effects on populations are often difficult to detect in feral organisms since many of these effects tend to manifest only after longer periods of time. When the effect finally becomes clear, the destructive process may have gone beyond the point where it can be reversed by remedial actions or risk reduction (Oost et. al. 2002). It is important to realize that people have varying perceptions of risk and what is an “acceptable amount of risk” or “Tolerable Daily Limit”.

⁸ Arquette, M. n.d. EAGLE Project Fish Contaminants Program Risk Analysis. This paper discussed the authors thoughts and recommendations pertaining to the mentioned study.

Traditional foods



The harvesting, sharing and consumption of traditional foods are an integral component to good health among First Nation people influencing physical, spiritual and social well-being.

Traditional foods are also an economic necessity in many First Nation communities too. And unfortunately traditional food resources of First Nation peoples are now recognized as containing a variety of environmental contaminants (e.g., organochlorines, BPA, PCB's, MDI/MDA substances, heavy metals, radionuclides etc.) which reach food species through local or long-range transport avenues known as the 'leap-frog effect' or 'long-range transport'. The First Nations Food,

Nutrition and Environment Study (FNFNES) represents the first time a Total Diet Study and sampling for environmental contaminants in traditional foods has been conducted on a national scale for First Nations living on reserve! The study sought to include emerging areas of concern such as pharmaceuticals in surface water, chemical contaminants for which guidelines levels have not yet been set, the impact of climate change and serves as a baseline for future studies⁹.

A large body of literature has accumulated detailing the adverse effects of endocrines disruptors on the reproductive ability and sexual development of fish, amphibians, reptiles, and birds. Numerous studies indicate that wildlife populations in the Great Lakes are being adversely affected by the level of contamination, and that evidence from wildlife research could be used as a sentinel for human health effects (Mackenzie et. al, 2005). The study of risk associated with exposure to environmental contaminants in First Nation peoples is a high-priority and long overdue area of study and research for today and tomorrow. It is evident that First Nations and non-native concepts and models of risk assessment be harmonized and integrated for the betterment of all society's health.

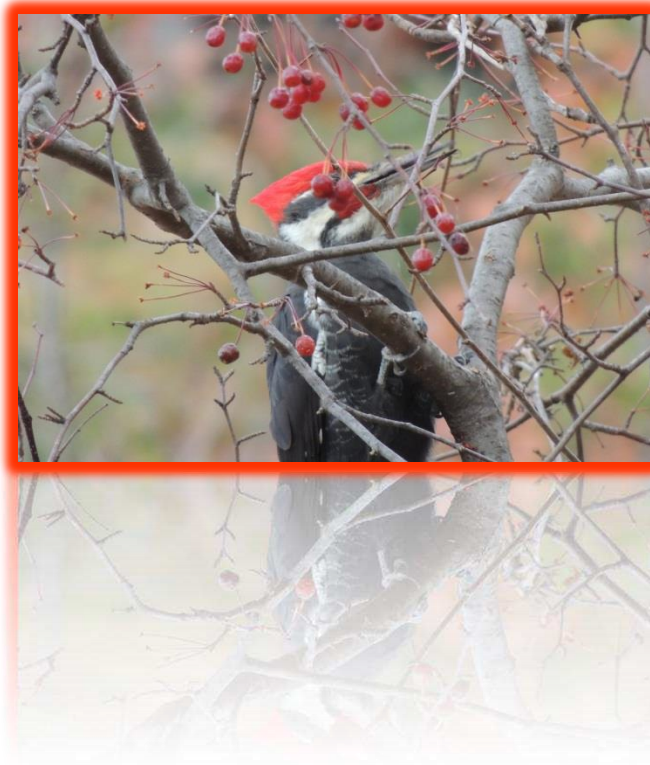
⁹ Assembly of First Nations. 2013. First Nations Food, Nutrition and Environment Study: Results from Manitoba 2010. This document serves to promote other First Nations communities across Canada to become involved with and learn more about the contaminants found within Traditional Foods.

MFN Risk Management for Environmental Contaminants Strategy (RMS): Goals and Objectives

- Reduce the incident of disease and/or level of exposure (i.e., Public Health and Safety)
- Determine the 'correctness' of assumptions used in various analysis
- Monitor changes in the original conditions that were the basis of the RMS
- Adhere to the MFN Waste Management Policy
- Continued research, monitoring, screening, assessment and data collection (e.g., Scientific and Aboriginal Traditional Knowledge (ATK) of the soil, water, air, fish and wildlife)
- Collect information sufficient to identify and characterize hazard(s) and assess the exposure(s)
- Promote direct and short-term outcomes which may include positive behavioural influences and/or changes that will influence a healthy environmental
- Identify roles, responsibilities and accountability of individuals and/or industry
- Prioritize action plans
- Create a database for future reference to identify trends, increases and/or decreases etc. in the numbers recorded and/or analysed
- Exposure assessment and remediation
- Consider direction, strength and rate of contaminants at specific site locations
- Bioremediation



MFN Communication Strategy: Identified Goals and Criteria



- Inform, consult and educate MFN citizens on environmental contaminants in an effective, expeditious and flexible manner with the support of interested and affected parties
 - Improve the ability of interested and affected parties to understand and participate effectively in the decision making process (e.g., MFN Community Engagement Strategy)
 - Consider scientific uncertainties in environmental decision making processes
- Develop training plans for individuals involved to become ‘Guardians of the Land’
- Capacity Building - establish Stewardship and Partnerships to ensure compliance
- On-going examination of information on risk factors
- Use a broad perspective
- Share knowledge to learn about the importance of protecting the land, animals, fish, air and caring for water – “the lifeblood of Mother Earth”
- Consider public perceptions of the issue(s)



RE: MFN Risk Management Strategy for Environmental Contaminants Workshop #1

SUMMARY REPORT

On October 29th, 2012, five members of the Lands and Resources Committee and two Mississauga First Nation (MFN) citizens attended the first of four Risk Management Strategy for Environmental Contaminants Workshops at the MFN Dream Catcher's Complex Council Chambers located in Mississauga First Nation. The purpose of the meeting was to introduce what a risk management strategy is, what it does, and how to implement a strategy. A PowerPoint Presentation introducing risk management was provided and an information sheet which included definitions of risk, contaminants, and risk management was provided to the participants. The information sheet also included information on the purpose of a risk management strategy, MFN background and other chemical contaminant information. The participants identified risks, defined the risks and identified environmental contaminants and principals of the strategy. Focus group questions were prepared and answered as part of the session. The following section contains responses/comments from the participants:

1) What environmental contaminants were here 25 years ago?

• The Old Dump

- The presence of buried batteries, plastics, oil and/or gasoline contaminating ground water; and
- Clean-up is necessary.

• Cameco

- The facility is contaminating the ground water, Lake Huron/North Channel and the Mississagi River. Cameco continues to contaminate the atmosphere, soil and plants and animals too;

- Hydrographic maps are key to discovering which way the water is flowing underground;
 - In 1991 there was an accidental release where there was a release of uranium into the air that left visible fine dust on cars and homes on the reserve. It was asked why Cameco paid for their employees to get their vehicles repainted after the accident but MFN was not compensated by any means? The issue should be investigated further;
 - The wetlands adjacent to Cameco are now contaminated and this is the reason why nobody from MFN picks the cranberries and/or medicines there anymore;
 - There are mutual feelings of mistrust that Cameco, Environment Canada and the Ministry of Environment are hiding and/or are not sharing all information openly concerning the negative environmental impacts of the uranium refinery's operations;
 - The people wish for an analysis of new studies verses old studies, to collect samples from roof tops on MFN houses, sample soil and water in and around the refinery and continue with the MFN air monitoring program; and
 - People feel that Cameco is secretive and releases much of their pollutants late at night when nobody can see what is being put into the air and/or released into the water.
- **Ontario One Hydro Yard**
 - Polychlorinated biphenyls (PCB's) due to old transformers on site. The people would like to see soil samples from the surrounding be taken to determine if there are any detectable heavy metals present in the soil.
 - **The Old Sawmill**
 - A concern to the people and they wish to see it cleaned up.
 - **Old Cement Factory**
 - Concern as to what chemicals may be present in the environment because of its' operations. Research will be conducted in this area.

2) Describe health changes you have noticed over the past 25 years in peoples' health.

- **Cancer**

- The cancer rate in MFN citizens and in people within the Blind River area are higher than in the past compared to other areas in Ontario and especially after Eldorado's arrival in the early 1980's.

- **Fisheries & Wildlife**

- Fish being caught with unusual sores and Lake Sturgeon being found "belly-up" within the vicinity of Cameco located on the Mississagi River. There is much hesitation and concern surrounding the issue whether or not to eat large and small game in the area because of the thought that the meat may be contaminated with harmful toxins.

3) What environmental contaminants still remain from 25 years ago?

- **Industry**

- Hydro One;
- Cameco;
- Lafarge;
- MFN Dump(s);
- Decommissioned Elliot Lake Mines;
- The Serpent River Acid Plant; and
- Smog.

4) Can you describe or list environmental contaminants you are most concerned with today?

- Algoma Bioseptic - human waste;
- Cameco - radiation associated with Uranium, Radon etc.;
- Mercury & Toxaphene;
- MFN Dump Repositories - batteries, electronics, plastics, gasoline/oil/kerosene etc.; and
- Hydro One - PCB's from old transformers.

5) What do you think are the health risks associated with the contaminants?

- Cancer;
- Asthma;
- Children developing sores from swimming at the Potomac due to campers dumping their waste into the water. Some of the places people swim today are the Cataract, Mississagi River (train bridge) and Chiblow Lake because they are assumed to be safe from e-coli;
- Beaked Hazelnut shrubs are not growing anymore when they use to be plentiful; and
- Red pine trees are browning within plantations (i.e. The Kirkwood Forest).

6) Are the fish and historical foods like moose affected by the contaminants?

- Everything is affected by the contaminants – moose, deer, fish, plants, spirit, soil, humans and water. Mother Earth is sick!;
- 20 years ago MFN would not eat the fish from the Mississagi River because this is when “Eldorado was dumping their chemical wastes directly into the river”;
- Participants remember seeing discharge water coming out of pipes from Cameco and into the river but these pipes are no longer there. A tour of the Cameco Refinery is being scheduled so that questions may be asked and the community can actually see what goes on inside the plant;
- Mercury and/or other contaminants in Fish & Wildlife;
- Concern with the amount of fish consumed by MFN citizens; and
- MFN citizens no longer eat the liver, hearts or the kidneys from harvested moose because of the fear of chemicals within the animals’ flesh.

7) What other risks do you think are associated with contaminants?

- **Respiratory Disease and Our Children’s Health and Well-being: Cameco ‘in our backyard’**
- They are at ground level where much of Cameco’s fall-out can be located. We must protect our children for the future! They are MFN’s next generations;
- The risk is that everything will be contaminated if Cameco continues refining uranium here in our Territory; and

- The atmosphere, animals, plants, soil and water in time, will all be polluted. Suggested is to “capture-it-all” and seek sponsorship to help with the cost of investigating the operations continuously and on a regulatory basis.

- **Reproductive Issues Associated with Radio nucleotides**

- Birth Defects;
- Genetic Alterations;
- Kidney Damage; and
- Neurological Damage.

- **MFN has no say in what Cameco does on our Traditional Territory**

- MFN lost a burial ground from the introduction of Eldorado to the area and it is believed much damage to the environment has occurred since their arrival in 1983.

8) *What potential disasters do you see happening from the local industry?*

- **Cameco**

- The possibility of another toxic release into the air and/or spill into the North Channel/Mississagi River; and
- An emergency management plan for MFN must be developed and a poster be distributed to direct MFN citizens what to do in case of an emergency (i.e. action plan/meeting place/who is responsible for the co-ordination of the emergency response plan/what to do if.../stop your Venmar and/or air conditioning systems and/or stay in your house or evacuate the area? etc.). Directed is to ask Cameco the question “What potential dangers are a reality for Cameco and the surrounding communities”?

**Key components revealed from workshop #1 discussions included the importance of finding more funds to support MFN’s Environmental Monitoring Program. It was suggested that MFN Lands and Resources Department approach the MFN Trust, Cameco and possibly Casino Rama for additional monies to support more sampling and analysis than what we can presently have examined. It scares people that MFN does not have the funds to do the work to investigate Cameco’s operations effectively. The belief is that Cameco is negatively and irreversibly impacting the community and/or that Cameco’s operations are affecting the communities’ health on a daily basis.*

Conclusions

MFN citizens revealed significant environmental concerns:

- 1) Cameco Blind River Refinery;
- 2) Fish, Traditional Plants/Medicines & Wildlife Consumption;
- 3) Environmental Emergencies – Cameco & Algoma Bioseptic;
- 4) Hazardous Waste – New and Old Landfill Sites;
- 5) Impacts Associated with Hydro One Development;
- 6) Emergency Response Plan; and
- 7) Air, water and soil contamination.



RE: MFN Risk Management Strategy for Environmental Contaminants Workshop #2

SUMMARY REPORT

On Monday, November 26th, 2012, five members of the Lands and Resources Committee and two Mississauga First Nation (MFN) citizens attended the second of four, Risk Management Strategy for Environmental Contaminants Workshops. The meeting occurred at the MFN Dream Catcher's Complex Council Chambers located in the village of Mississauga First Nation. The purpose of the workshop was to address the risk assessment component of the Risk Management Strategy. Key questions such as the likelihood of exposure to the environmental contaminants identified at the first workshop and how humans and others can be exposed were covered. It also provided information on health effects associated with the local industry. A PowerPoint presentation was given which included information illustrating some of the environmental contaminants that were mentioned at the first workshop including a section on environmentally safe alternatives to household cleaning products. The following describes the topics covered throughout the workshop.

1) Determinants of Health

- Social Support Networks;
- Education;
- Employment and Working Conditions;
- Physical Environment;
- Biology and Genetics;
- Personal Health Practices and Coping Skills;
- Healthy Child Development;
- Health Services and Social Services;
- Social Environments;
- Gender;
- Culture and;
- Income and Social Status.

2) Factors that determine whether harmful health effects will occur and the type of severity of the negative health effects will be dependent on:

- The dose (how much?);
- The duration (how long?);
- The route or pathway by which you are exposed (breathing; eating; drinking; skin contact);
- Other chemicals to which you are exposed (e.g., tobacco smoke, smog, household and industrial chemicals etc.); and
- Your individual characteristics (age, sex, nutritional status, family traits, lifestyle and state of health).

3) Pollutants have a biological effect on:

- The atmosphere;
- Aquatic and;
- Terrestrial environments.

4) Land uses that contribute to groundwater contamination include:

- Agriculture;
- Commercial;
- Industrial;
- Residential and;
- Waste management.

5) Pharmaceuticals and Personal Care Products (PPCP's) are being detected in Canada's lakes, rivers, streams and tap water.

- Antibiotics;
- Painkillers;
- Anti-inflammatories;
- Hormones (birth control);
- Tranquilizers;
- Chemotherapy drugs and drugs used to treat epilepsy and blood cholesterol; and
- Body soap, detergents and hair products etc.

6) How PPCP's get into our water include:

- Flushing unused medications down the toilet or sink;
- Rinsing soaps, shampoos and cosmetics down the drain while we bathe/shower;
- Humans excrete them into the sewage system;
- Drug residues leach from the deceased into cemeteries and groundwater; and
- Farm animals excrete veterinary drugs, including hormones and antibiotics, into fields where they run off into lakes and streams.

7) Leachate can be characterized as a water-based solution of four groups of contaminants:

- Dissolved Organic Matter (alcohols, acids, aldehydes, short chain sugars etc.);
- Inorganic Macro Components (common cations and anions including sulfate, chloride, iron, aluminum, zinc and ammonia);
- Heavy Metals (lead, nickel, copper and gold); and
- Xenobiotic Organic Compounds such as halogenated organics (PCB's, dioxins, etc.).

8) Trophic Levels & Food Webs – Represent energy flow through ecosystems and two laws of physics are important in the study of energy flow through ecosystems. The first law of thermodynamics is that:

- Energy cannot be created nor destroyed; it can only be changed from one form to another and the second is;
- Whenever energy is transformed, there is a loss of energy through the release of heat; and
- Additional loss of energy occurs during respiration and movement.

9) Bioaccumulation refers to the uptake from all sources combined, water, food, air, etc. Bioaccumulation is:

- The accumulation of toxins in the tissues of animals as we go up the food chain;
- It occurs when an organism absorbs a toxic substance at a rate greater than at which the substance is lost;
- The longer the biological half-life of the substance the greater the risk of; poisoning (even if environmental levels of the toxin are not very high); and
- Bioaccumulation in fish can be predicted by models.

10) Biomagnification, also known as bioamplification or biological magnification, is the increase in concentration of a substance that occurs in a food chain as a consequence of:

- Persistence (i.e., cannot be broken down by environmental processes);
- Food chain energetics – energy flow through living systems; and
- Low (or nonexistent) rate of internal degradation/excretion of the substance (often due to water-insolubility).

11) Mercury is a heavy metal naturally present in the environment (coal, crude oil and other fossil fuels, and in minerals such as limestone, soils and metal ores, including zinc, copper and gold) and it can be released due to natural processes (volcanic activity and forest fires) or human activities (combustion of coal and refined petroleum products, the extraction of metals from ores, and the use and disposal of consumer products containing mercury such as batteries and light bulbs). Mercury release poses significant risks to the environment and human health, both in its elemental form and in more toxic forms such as methyl mercury.

- In the environment, mercury can be converted to methyl mercury, the form of mercury to which humans are most often exposed, primarily through the consumption of fish;
- Contaminants found in sports fish originate not only from local sources, but some are transported thousands of kilometers in the atmosphere before being deposited with rainfall;
- Mercury, PCB's, and toxaphene are few of the contaminants that are known to be transported long distances and can cause low-level contamination even in isolated rivers and lakes; and
- Humans are not to consume organs of any fish as they are known to be high in both heavy metals and pesticides.

12) Methyl mercury is a potent neurotoxin that is readily absorbed, distributed and passed through the protective blood-brain barrier, affecting the nervous system as well as:

- In pregnant woman, it can cross the placenta into the fetus, accumulating in the fetal brain and other tissue;
- Although the level of exposure influences the severity of associated health impacts, new epidemiological finding from the past decade suggest that toxic effects may be taking place at lower concentrations than previously considered; and
- Children are especially vulnerable given their nervous systems are still developing and their less developed organs have difficulty eliminating mercury, and they are subject to a lower threshold for neurological effects associated with methyl mercury.

13) Human health risks and effects of mercury include but are not limited to:

- Tremors, memory loss, neuromuscular changes and headaches;
- Particularly damaging to the development of infants and young children;
- Increased cardiovascular disease;
- Neurological and behavioural disorders;
- Brain injury in children; and
- Particularly northern populations that eat marine mammals and fish as a part of their traditional diet are vulnerable to ill health effects (Note: Although these traditional foods may contribute to an increase in exposure to mercury, PCB's and toxaphene etc., these foods have a significant social, cultural, economic and nutritional benefits that outweigh the risks associated with Persistent Organic Pollutants (POP's).

14) Ministry of Environment's Guide to Eating Ontario's Sport Fish gives consumption advice for the general public not First Nations and the amounts suggested are different for each particular species. It is agreed that exposures to chemicals should be kept low as reasonably possible by:

- Reducing our consumption of sport fish; and
- We are to cut away the fat along the back, remove the skin, cut away the fatty area along the side of the fish and trim off the belly fat (this is where toxins accumulate the most).

15) Toxaphene is a complex organochlorine mixture of at least 670 polychlorinated bicyclic terpenes consisting predominantly of polychlorinated camphenes (PCCs) and it is very persistent remaining in the soil for up to 14 years, is not expected to leach into groundwater and it will not breakdown by microbial or other means.

Though it strongly binds to soils and other sediments of water bodies, it may gradually evaporate to the air where it is slowly broken down by sunlight. Toxaphene has a high potential to accumulate in aquatic life and there are many ill health effects associated with it. Toxaphene is known to cause:

- *Short-term:* Central nervous system effects including restlessness, hyperexcitability, tremors, spasms or convulsions;
- *Long-term:* Liver and kidney degeneration, central nervous system effects, possible immune system suppression, cancer; and
- Artic Inuit women consume 14 times the tolerable intake of chlordane, toxaphene, PCBs and other pesticides causing infertility, stillbirths and birth defects. Many of the children have comprised immune systems with increased cases of otitis media that leave them hearing impaired.

16) Chlorofluorocarbons (CFCs) are a group of colourless, non-combustible liquids, also known as Freons. They have been used as refrigerants, propellents in aerosols, metal degreasers, in fire extinguishers, and as a dry cleaning solvent. CFC's are extremely volatile substances and poorly soluble in water, they are primarily released into the air through evaporation during production and use and are not bound strongly to soil. They can easily leach to groundwater and they degrade slowly in groundwater to become environmental contaminants. Concerns about CFC's have focused on their damage to the ozone layer in the upper atmosphere and therefore, almost all uses of these chemicals have been phased out. Primarily CFC's are absorbed by inhalation and to a lesser extent through ingestion and through the skin. Health effects to humans include:

- *Long-term effects:* Liver damage and the potential to cause cancer is low; and
- *Short-term effects:* Pressurized CFC's can cause frostbite as well as to the upper airway if inhaled; at high concentrations affects the central nervous system with symptoms of alcohol-like intoxication, reduced coordination, light-headedness, headaches, tremors and convulsions. As well, CFC's can cause disturbances in heart rhythm and intentional inhalation has caused death.

17) Polychlorinated biphenyls (PCB's) are highly durable, man-made chemicals which will persist in water bodies for centuries if not attempted to be removed.

Health risks associated with PCB's include:

- Skin conditions;
- May reasonably be anticipated to be carcinogenic (liver and biliary tract);
- Changes in the immune system;
- Behavioural alterations;
- Liver damage;
- Anemia;

- Stomach and thyroid gland injuries; and
- Impaired reproduction.

18) Exposure and how PCB's affect children:

- Abnormal responses in tests of infant behaviour (e.g., motor skills);
- Immune system is affected;
- Transplacental transfer of PCB's; and
- Exposed through breast milk.

19) How you can reduce the risk of exposure:

- Obey fish and wildlife advisories;
- Avoid old appliances/electronics;
- Avoid hazardous waste sites and/or landfill sites
- Children should also be discouraged from eating dirt and putting dirty hands, toys or other objects in their mouths
- Wash hands frequently;
- Shower and change cloths before leaving work (Cameco) and keep your work clothes separate from your other clothes;
- Use natural cleaning products;
- Use non-petroleum based hygiene products;
- Use respirators/masks when handling vaporous chemicals;
- Do not burn garbage;
- Do not handle old car batteries or florescent bulbs or thermometers; and
- Stay away from old mine sites.

20) The uranium fuel cycle is complex beginning with uranium mining in Northern Saskatchewan where it is crushed and processed by chemicals to separate the ore from the uranium turning it to what is termed "yellowcake". The "yellowcake" is then shipped to Blind River, Ontario, where it is further processed to remove any impurities and prepared for conversion. The more pure "yellowcake" is then shipped to Port Hope, Ontario, where it is chemically converted to uranium dioxide, the form of uranium suitable for use as fuel in Canada's nuclear reactors.

- Uranium in Canada after it has been extracted from the Earth travels quite the distance to arrive in Blind River, Ontario, and not to mention, it is also shipped from different parts of the world;
- In 2000, the Canadian Nuclear Safety Commission was established under the *Nuclear Safety and Control Act*, which replaced the *Atomic Energy Control Act* and the Atomic Energy Commission of Canada Limited; and

- Cameco Corporation produces high-purity uranium trioxide at the Blind River Refinery and it is the largest of its kind in the world.

21) Uranium trioxide:

- Has the highest atomic weight of any naturally occurring metal on Earth;
- It is present in trace amounts in soil and rock;
- The radioactive decay series primarily releases alpha radiation along with some gamma radiation; and
- It has a very low specific activity and an extremely long half-life of 4.5 billion years.

22) The primary health outcomes of concern documented with respect to uranium are:

- Renal, developmental, reproductive, diminished bone growth, and DNA damage;
- Uranium trioxide is hazardous by inhalation, ingestion and through skin contact;
- It is poisonous and slightly radioactive;
- It can cause shortness of breath, coughing, may cause acute arterial lesions and changes in the chromosomes of white blood cells and gonads leading to congenital malformations if inhaled;
- Once ingested, uranium is mainly toxic for the kidneys and may severely affect their function;
- From the blood, two-thirds of the uranium excreted in urine over the 1st 24hrs and up to 80-90% of uranium deposited in the bone leaves the body within 1.5 years;
- The kidney is the most sensitive target for uranium toxicity following inhalation, oral, or dermal exposure; and
- Almost all of the health-based standards for exposure to uranium are based on kidney damage, rather than radiological health effects, because uranium (regardless of the isotope) is a more potent cause of kidney damage than radiation damage.

23) Hazards of common household products include:

- Contaminate the ground water, lakes and oceans;
- Some products if inhaled, ingested or absorbed through the skin may cause illness;
- Algae blooms can suffocate aquatic life;
- Solvents and chemicals destroy natural processes involved in wastewater treatment;
- Accidental poisoning of children;
- Cancer;
- Psychological abnormalities and depression;

- Skin reactions;
- Chest pain, dizziness and headaches;
- Birth defects;
- Nervous disorders and respiratory problems; and
- Kill valuable bacteria in septic systems.

24) There are many places that you can purchase environmentally friendly products to clean your home and body. Substitutes for chemical household products include:

- Baking soda;
- Lemon/lime;
- Borax;
- Isopropyl alcohol;
- Cornstarch;
- White vinegar;
- Corn flour;
- Club soda; and
- Eucalyptus.

Conclusions

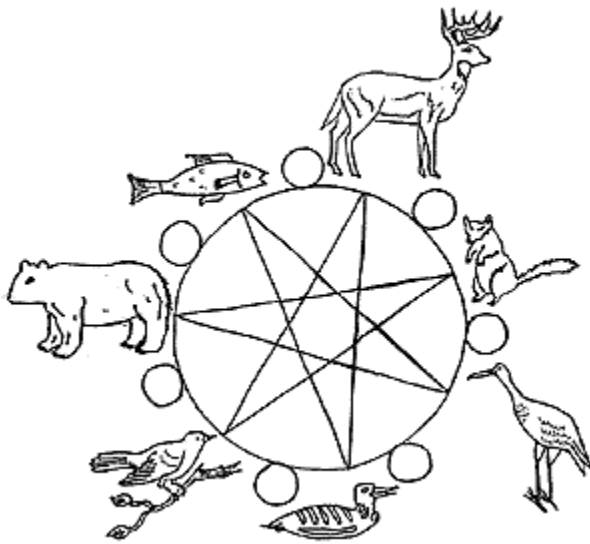
- The consequences of exposure to low levels of multiple substances are uncertain and the subject of intense and continued study in MFN
- Report to the Lands and Resources Department if you witness any unusual environmental phenomenon that occurs in MFN Territory
- We must attempt to make personal lifestyle changes to make a difference for ourselves and for a healthier future
- Attempt to follow the Ministry of Environments Fish Consumption Guidelines for Sports Fish
- Do not expose yourself to chemicals if you can help it and educate each other (community) on the risks associated with contaminants that you may be aware of
- Wash your hands and food before eating
- Reduce, reuse and recycle



RE: MFN Risk Management Strategy for Environmental Contaminants Workshop #3

SUMMARY REPORT

On Saturday, February 23rd, 2013, four members of the Lands and Resources Committee, a Garden River First Nation member and three Mississauga First Nation (MFN) citizens attended the third of four, Risk Management Strategy for Environmental Contaminants Workshops. The meeting occurred at the MFN Dream Catcher's Complex Council Chambers located in the village of Mississauga First Nation. The purpose of the workshop was to address the Clan System teachings of the Anishinabek people and to identify strategies and continue to build upon a framework for risk management decisions and general categories.



Union of Ontario Elder Gordon Waindubence came to Mississauga First Nation from Shawanaga First Nation, Ontario, to speak to MFN about the importance of the Ojibway Traditional Clan Teachings (roles and responsibilities) and the history of the Anishinabek to Turtle Island in general. These teachings are to be incorporated into the Final MFN Risk Management Strategy for Environmental Contaminants.

In the Anishinabek culture the oral tradition is very important. They learn and are taught through story-telling. The Anishinabek teaching(s) on the Clan System is only one example of this. The Clan System remains with First Nation people today. The Clans of First Nations and Tribes in America are often the animals and other creatures that inhabit

the region. In the Great Lakes Basin the Bear, Turtle, Martin, Deer, Crane, Loon, Wolf, Bird and Fish Clans are common. It is understood that your Clan is with you from the day you are born and it is said that your Clan walks with you and looks after you. Other animals may be guardians to you as well. So each of the animals, fish and birds said, “We will take care of them and show them how to live in harmony with all of Creation.”

Conclusions

- There are Seven Grandfather Teachings: Wisdom, Love, Respect, Bravery, Honesty, Humility and Truth;
- Anishinabek people must strive to “Live a Good Life” (*minobimadziwin*);
- With each Clan come specific roles and responsibilities (e.g., Chieftainship, Philosophers and Mediators, Guardians and Healers, Warriors, Hunters and Providers, Reconcilers and Pursuers of Well-Being, Spiritualists and Pursuers of Knowledge etc.);
- The Clans bear a unique relationship to the seven pointed star mandala and their roles can be placed alongside the Seven Grandfather Teachings to show their integration within the holistic system and their necessary inter-relationships to one another; and
- In the future it is intended that MFN will establish those who will be individually and by the Clan System be responsible for specific roles and/or duties. This all will be related and incorporated into MFN’s final Risk Management Plan for Environmental Contaminants and MFN’s updated Emergency Response Plan.



RE: MFN Risk Management Strategy for Environmental Contaminants Workshop #4

SUMMARY

On Monday, March 18th, 2013, four members of the Lands and Resources Committee, and one Mississauga First Nation (MFN) citizens attended the last Risk Management Strategy for Environmental Contaminants Workshops. The meeting occurred at the MFN Dream Catcher's Complex Activity Room located in the village of Mississauga First Nation. The purpose of the workshop was to review the entire Draft Risk Management Strategy and discuss monitoring and evaluating results. Operating procedures were also identified at this workshop.



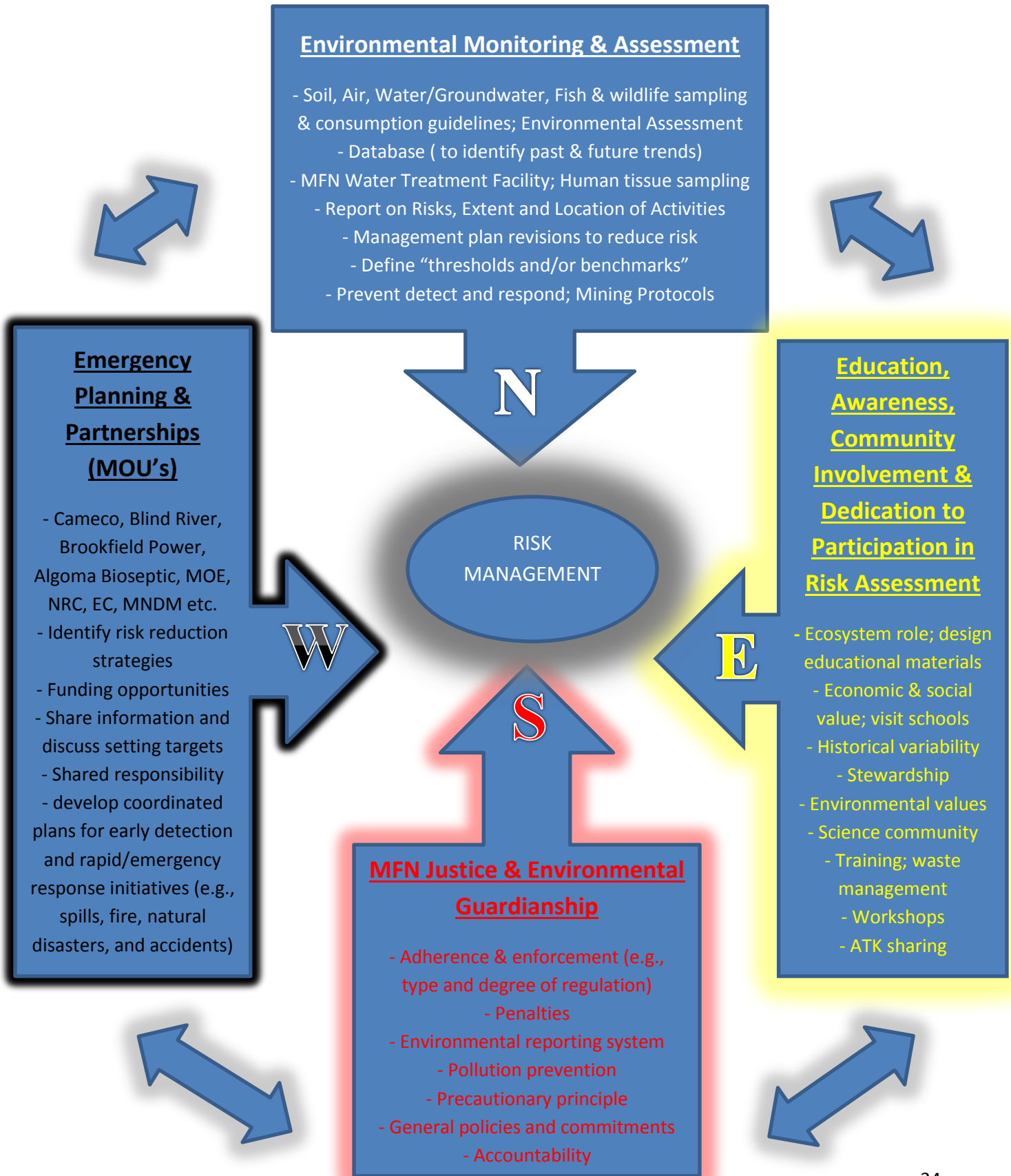
CONCLUSIONS

- The need for MFN Firefighters to be trained in Incident Command, Emergency Response and HAZMAT (Hazardous Materials);
- The need for MFN Firefighters to work/train more closely with the Firefighters from Blind River and Cameco Corporation;
- The need for MFN to up-date the Emergency Response Plan and bring about awareness to the community in regards to protocols and procedures in the case of an emergency
- Clear identification of individual roles and responsibilities in case of an emergency in MFN and/or surrounding townships/municipalities

| Category | Occurrence |
|--|---|
| Acts of the Creator | - wind, flooding, lightning, landslides, wildfire, earthquakes, insect infestations, famine |
| Spills | - hazardous materials |
| Biological Outbreaks, Epidemics and other Sickness | - viruses, influenza, plague |
| Water Contamination | - e-coli, waterborne disease, pharmaceuticals and/or prescription drugs, chemical inputs |
| Fish and Wildlife Contamination | - mercury, PCB's, furans, dioxins, toxaphene etc. |
| MFN Health and Safety | - workplace accidents and hazard identification |
| Fire | - structural fires |
| Agriculture, Forestry, Infrastructure | - erosion, siltation, desertification, pesticide application, biological and ecological disturbance and/or irreversible damage/destruction to the environment |
| Decreasing Water Levels | - loss of habitat and species, succession |
| Search and Rescue | - lost individuals on land or water |
| Accidents | - highway and/or in community vehicle collisions, train derailments, airplane/helicopter crashes |
| | |

Figure 1: MFN General Environmental/Health Concerns

MFN Risk Management Framework for Environmental Contaminants



MFN COMMUNICATION



| ACTION | DATE | BEFORE | AFTER | CO-ORDINATOR COMMENTS | FEEDBACK |
|--|---|---|---|---|---|
| Invitation to Workshop #1 (October 29 th , 2012) distributed via MFN Community Flyer & MFN electronic board(s) and given to the L&R Committee Members. Personal invitations were given as well. | October 17 th and 24 th , 2012 | No calls received | Follow-up @ Lands and Resources Committee Meeting; 5 L&R Committee Members and 2 MFN citizens in attendance | Identified and developed the components of the Risk Management Strategy, had discussion and distributed questionnaires | It is important to continue with MFN Environmental Monitoring Program and additional funds must be found for future environmental monitoring and assessment |
| Invitation to Workshop #2 (November 26 th , 2012) distributed via MFN Community Flyer & MFN electronic board(s) and given to the L&R Committee Members | November 6 th , 13 th , and 20 th 2012 | No calls received | Follow-up @ Lands and Resources Committee Meeting; 5 L&R Committee Members and 2 MFN citizens in attendance | Conducted the risk assessment component of the Risk Management Strategy (likelihood of exposure & health effects associated with local industry) | A tour of Cameco was requested from MFN citizens – to be scheduled in February 2013 |
| Invitation seeking individuals to go on a tour of Cameco (February 21 st , 2013) via MFN Community Flyer and MFN Electronic board(s) and personal invitations | December 5 th and 12 th , 2012 and January 16 th , 23 rd , 30 th , and February 6 th , 13 th and 20 th , 2013 | 6 calls were received to confirm attendance for the tour that occurred on February 21 st , 2013 from 10:30 a.m. – 12:30 p.m. | 11 MFN citizens and 2 non-band members (community people) attended the Blind River Refinery Tour | Feedback informs that the tour was successful and interest ; Carla was invited to sit with General Manager, Chris Astles; and Laurie Cassidy (Senior Environmental Coordinator) at a later date to answer questions | In April, Cameco is to present to Chief and Council and other interested/concerned MFN citizens; as well during the summer another tour will be scheduled to visit the out-of-doors portion of the plant (i.e., lagoons, storage areas, incinerator, air and ground water monitoring stations etc.) |

| | | | | | |
|--|---|--|---|--|---|
| <p>Invitation to Workshop #3 (Feb. 23rd, 2013) distributed via MFN Community Flyer & MFN electronic board(s) and given to the L&R Committee Members</p> | <p>November 14th, 21st, December 5th and 12th 2012, January 16th, 23rd, 30th, and February 6th, 13th and 20th, 2013</p> | <p>1 call was received from an out of town environmental student</p> | <p>4 L&R Committee Members, 2 MFN citizens and a Garden River First Nation person</p> | <p>Union of Ontario Elder Gordon Waindubence gave a Traditional Clan System Teaching; the last Workshop date will be confirmed on March 1st, 2013 – Teachings are to be included in the RMS</p> | <p>Since time restricted a presentation from Ernestine McLeod, we are to schedule her to speak possible at the last Workshop and it not at a later date related to another Environmental Workshop</p> |
| <p>Finalized Workshop #4 date with the Lands and Resources Committee</p> | <p>March 4th, 2013</p> | <p>Not applicable</p> | <p>Not applicable</p> | <p>Not applicable</p> | <p>Not applicable</p> |
| <p>Invitation to Workshop #4 (March 18th, 2013) distributed via MFN Community Flyer & MFN electronic board(s) and given to the L&R Committee Members</p> | <p>March 4th & 12th, 2013</p> | <p>No calls received</p> | <p>4 L&R Committee Members and a MFN citizen in attendance</p> | <p>Reviewed the draft RMS and developed/added to the framework; and discussed and evaluated results; Operating procedures were identified</p> | <p>It was recommended that contact with Walpole Island First Nation be contacted; more training opportunities be established for L&R Department as well as Public Works and the Volunteer Firefighters (e.g., HAZMAT, CPR, Forest Fire Fighting).</p> |

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(Sample) BY-LAW NUMBER _____
OF THE XX FIRST NATION
WASTE MANAGEMENT BY-LAW

WHEREAS the Council of the XX First Nation Reserve considers it to be expedient that rules and regulations be established for the collection, removal, and disposal of garbage, other refuse and recyclable materials for the purpose of protecting the wellbeing of the residents of XX First Nation Indian Reserve Number ____ from the health hazards associated with such;

AND WHEREAS the XX First Nation recognizes a cultural responsibility to preserve the well-being of the land and environment for use by future generations;

AND WHEREAS the XX First Nation Land Management Code, section 8.1 authorizes the Council of the XX First Nation to “make laws respecting the development, conservation, protection, management, use and possession of XX First Nation lands, and interests and licences in relation to those lands. These powers include the power to make laws in relation to all matters necessary to making laws in relation to XX First Nation lands”;

AND WHEREAS section 20 (1)(b)(c), (2)(c)(d) and (3) of bill C-49, Land Management Act gives the Council of a First Nation the Power to enact laws respecting such;

NOW THEREFORE the Council of the XX First Nation Band enacts this Waste Management By-law, Number 19-B-O4, as follows:

Short Title

1. This by-law may be cited as the "XX Waste Management By-law".

Interpretation

2. In this by-law

"approved enclosure" means a type of enclosure designed for the storage of containers between collection times that prevents access to the garbage by domestic animals and wildlife and the design and construction of which has been approved by the Sanitation Administrator;

"business operator" means any owner or operator that engages in any trade, industry or commercial activity carried out for gain or profit in the XX First Nation;

"XX First Nation Reserve" for the purpose of this by-law shall include (list reserves) unless otherwise stated in the by-law;

"collection" means the removal of garbage from a premise to a disposal location whether such removal is effected by the Sanitation Administrator or a contractor under public or private contract, or an owner;

"collection services" means the pickup and removal of garbage and/or recyclables from an owner's curbside premise to a disposal location by the Sanitation Administrator, or a contractor under public or private contract, or an owner;

"Commercial operator" means an owner/operator who engages in the commercial activity of waste removal management;

"composting" means the treatment of material by aerobic decomposition of organic matter by bacterial action for the production of stabilized humus, consistent with environmentally friendly methods:

"container" means a type of garbage container listed in Schedule “A” that has been designated by the Sanitation Administrator of the Reserve as being acceptable for the use in the reserve or at a specific location on the reserve;

"*contractor*" means an owner/operator who engages in activity of construction, repair, remodeling or demolition of a structure for profit or gain;

"*Council*" means the Chief and Council of the XX First Nation Reserve #33 and #33A;

"*disposal*" means the dumping of garbage and/or recyclables at designated spots at the landfill site by the Sanitation Administrator, or a contractor under public or private contract, or an owner during regular established hours;

"*garbage*" means any type of non-toxic or non-poisonous solid, semi-liquid or liquid wastes, which the Sanitation Administrator deems acceptable for disposal or recycling at the landfill site and may include:

- (a) Household waste, including but without being limited to, packaging of foods and goods which are non-recyclable;
- (b) bulky wastes, which includes any large item of refuse, including but without being limited to: appliances, furniture, vehicle parts under 35 kilograms, large containers and tree cuttings not exceeding 1m in length or 10cm in diameter, in bundles not exceeding 35kg;
- (c) construction and demolition waste, such as waste building material or rubble resulting from construction, repair, remodeling or demolition activity;
- (d) combustible rubbish, meaning burnable material, including but without being limited to: rags, cartons and boxes ineligible for recycling, wood, bedding, leather or plastics;
- (e) non-combustible rubbish meaning material which will not burn including but without being limited to: metal ceramics and glass;
- (f) liquid waste, being waste materials or substances that have sufficient moisture or other liquid contents to be free flowing but that are not suitable for disposal through a sewer system;
- (g) organic waste, including but without being limited to: green waste such as vegetables and fruit peelings, grass and weed clippings, or brown waste such as leaves, coffee grounds, woods shavings or hay;
- (h) solid waste, being the useless, unwanted or discarded solid waste materials resulting from normal human activities including semi-liquid or wet wastes with insufficient liquid content to be free flowing;

"*hazardous waste*" means any and all waste designated as hazardous, poisonous or toxic waste, in liquid, solid, gas or semi-liquid form, under any Federal Environmental law, including but without being limited to:

- (a) animal and agricultural waste, being manures, crop residues, animal offal such as carcass waste and entrails and other materials obtained from agricultural pursuits, stables, kennels, veterinary establishments and other such premises;
- (b) any waste which may present a hazard to a person, flora, fauna or public lands which includes but without being limited to: wastes of pathological, explosive, flammable, radioactive, or toxic nature;
- (c) natural waste including but without being limited to: tree stumps, soil, sand and stone;
- (d) other special wastes, consisting of materials so classified by the Sanitation Administrator;

"*landfill site*" means any area approved for the purpose of waste disposal that complies with the governing body of Federal Acts and regulations relating to waste disposal and is designated as such, from time to time by Council;

"*lessee*" means an individual or individuals who reside on the XX First Nation reserve pursuant to a valid and subsisting lease, this shall include any individual who pays or is intended to pay an annual service charge to the XX First Nation pursuant to a lease agreement, and shall include any agent or relative of the lessee intended to deliver garbage or hazardous waste on behalf of the lessee;

"*nuisance*" means any act or activity that impairs by direct physical interference, the use and enjoyment of a person's property or could prejudicially affect a person's health or comfort, including but without being limited to:

- (a) the indiscriminate throwing or dumping of garbage on roads and road allowance;
- (b) the abandonment of cars, used household appliances and furniture, or parts of cars, household appliances or furniture;
- (c) the storage of used tires;
- (d) the emission of smoke from burning tires, construction materials, household waste or any other waste;

"*officer*" means any peace officer or any other person assigned by the XX First Nation Council whose duty is to preserve and maintain the public peace on the reserve and enforce the provisions of this by-law;

"*owner*" means a XX First Nation Band Member who is over the age of 18 years and holds a valid Certificate of Possession for the land located on the XX First Nation Reserve or an individual or individuals who rent real property from the XX First Nation pursuant to a Rent-to-Own or commercial lease agreement and shall include members of the owners immediate family or anyone delivering garbage or hazardous waste on behalf of the owner;

"*premises*" means any structure occupied or owned by an owner or lessee;

"*recyclable materials*" means all materials enumerated on the XX First Nation reserve recycling program, which includes but without being limited to:

- (a) old corrugated cardboard, unless contaminated;
- (b) steel and aluminum cans;
- (c) all household plastic containers except pails and containers of hazardous products;
- (d) newspapers, magazines, phone books, catalogues, egg cartons;
- (e) all household paper including soft cover books;
- (f) clear and coloured glass, including bottles and jars;
- {g} metal foil;
- (h) milk or juice cartons;
- (i) Styrofoam;
- (j) Any other metal which is in the recycling stream which may be specified by the Sanitation Administrator, from time to time;

"*renter*" means an individual or individuals who are not XX First Nation members who rent property from a XX First Nation owner pursuant to an independent agreement and shall include any agent or relative of the renter intended to deliver garbage or hazardous waste on behalf of f the renter;

"reserve" means that tract of land the legal title to which is vested in Her Majesty that has been set apart for the use and benefit of the XX First Nation Band of Indians, and known as the XX First Nation Indian Reserve Number ___ and ___;

"Sanitation Administrator" means an employee duly appointed by the Council of the XX First Nation whose duties include the supervision and management of the landfill site and who will carry out and enforce the provisions of this by-law and shall include more than one person if so employed by Council;

"trade waste" means petroleum products, scrap metal, machinery and vehicles and parts thereof;

Schedules

3. The following Schedules form part of this By-law:

- Schedule "A" -Types of Garbage Containers
- Schedule "B" -Collection Service Fees
- Schedule "C" -Snake and Fox Island Exclusions
- Schedule "D" - Fines and Penalties

Sanitation Administrator

4. (1) The Council may by resolution, appoint one or more Sanitation Administrators;
- (2) The Council may in the resolution, provide for reasonable remuneration to be paid to a Sanitation Administrator.

Powers and Duties of the Sanitation Administrator

5. (1) A Sanitation Administrator shall:
- (a) answer such questions as related to the administration of this by-law; and
 - (b) perform such other duties as may be assigned by the Council from time to time.
- (2) An Administrator may:
- (a) inspect any garbage, hazardous waste, or recyclable material being brought into the landfill site and in so doing may require that vehicle or individual(s) to stop prior to entering the landfill area, for the purpose of conducting a visual or physical inspection;
 - (b) refuse to accept garbage, hazardous waste or recyclable material which the Sanitation Administrator, in his/her unfettered discretion, determines does not originate from lands on the XX First Nation or from an owner, renter or lessee or cannot be considered garbage as defined in this by-law;
 - (c) direct the disposal of garbage, hazardous waste or recyclables to a specific area of the landfill site;
 - (d) require that any individual, owner, renter or lessee comply with the provisions of this by-law within a specified time period;
 - (e) refuse entry to the landfill site to individuals who are not owners, renters or lessees or who are owners, renters or lessees who, in the opinion of the Sanitation Administrator, are not complying with the provisions of this by- law;
 - (f) inspect and approve containers or enclosures to ensure that they meet the standards of this by-law;
 - (g) terminate any activity or part thereof, if the activity is proceeding in contravention of this

by-law or any other applicable by-law;

- (h) terminate or correct any activity or part thereof, where an unsafe or unsanitary condition is present;
- (i) remove any garbage or part thereof, disposed of in contravention of this by-law or other applicable by-laws;
- (j) direct that sufficient evidence or proof be submitted at the expense of the owner, to determine whether any method of disposal or container meets the requirements of this by-law;
- (k) make corrections to unsafe conditions or activities at the expense of the owner when due notice to correct unsafe conditions has not been complied with;
- (l) request that an officer assist in enforcing this by-law and lay charges where necessary.

Duties of an Owner, Renter or Lessee

6. (1) With respect to garbage and recycling materials held for collection services every owner, renter or lessee shall:
- (a) provide and maintain, in a serviceable and sanitary condition, a sufficient number of containers to hold all garbage/recyclables accumulated on his/her premises at any time;
 - (b) subject to paragraphs (k) and (l), ensure that all garbage is placed and remains in containers that are of a type set out in column I of an item of Schedule " A " and that meet the specifications set out in column II of that item;
 - (c) ensure that containers or bags are set out for collection services on time and in such a manner as to facilitate pickup and removal, includes but without being limited to: draining and bagging all wet garbage/recyclables before placing in a container or bag, securely closing containers or bags set out for collection services;
 - (d) store garbage between collection times in approved enclosures;
 - (e) ensure that all rigid containers and disposable plastic bag type containers are securely closed when set out for collection;
 - (f) ensure that glass, and other sharp objects are packaged in such a manner that they may be handled safely by collection services;
 - (g) ensure that liquid waste, trade wastes, hazardous wastes, animal and agricultural wastes, and construction and demolition wastes are not set out for collection except at such times as may be determined by the Sanitation Administrator;
 - (h) extinguish all ashes or coals before setting them out for collection;
 - (i) remove all containers from their designated collection location on any road within such a period as may be specified by the Sanitation Administrator;
 - (j) keep the premises surrounding property free of garbage;
 - (k) ensure that bulky wastes and/or rubbish are not set out for collection except at such times as may be determined by the Sanitation Administrator, outside of specified days bulky waste must be delivered to the landfill site;
 - (l) securely tie in bundles in accordance with instructions of the Sanitation Administrator, any combustible rubbish set out for collection and prepare yard rubbish in accordance with any instructions of the Sanitation Administrator;

(2) Bulky waste will be subject to a dumping fee (Schedule "B") which will be set from time to time by the XX First Nation Council which will be in keeping with rates established by other First Nations and/or surrounding areas.

(3) When using the landfill site it is the responsibility of the owner, renter or lessee to;

(a) transport your rubbish to the landfill site at times designated by the Sanitation Administrator;

(b) extinguish all ashes before depositing at landfill site;

(c) ensure that all construction and demolition waste are taken to the landfill site and placed in the designated area and obtain a special permit, at the prescribed fee (Schedule "B"), from the Sanitation Administrator for doing so;

(d) ensure that all recyclables are sorted and placed in the designated recycling boxes and/or bag when set out for collection;

(4) No owner, renter or lessee shall create, cause or threaten to cause a nuisance on the reserve.

Owner, Renter or Lessee Engaged in Commercial Activity

7. (1) This section shall apply to any owner, renter or lessee, without limiting the application of any other section, who engages in any trade, industry or commercial activity carried out for gain or profit on the XX First Nation.

(2) Every owner, renter or lessee to whom section 7.1 applies shall, in addition to duties and responsibilities set out in section 6;

(a) apply for an annual dumping permit from the Sanitation Administrator;

(b) adhere to all rules regarding garbage and recyclable materials as set out in this by-law;

(c) adhere to all rules regarding disposal of construction and demolition waste as set out in this by-law;

(3) The cost to purchase an annual dumping permit (Schedule "B") will be set from time to time by the XX First Nation Council.

Garbage Collection Services

8. (1) The Council may at their discretion designate temporary or permanent alternate times and locations for garbage disposal and collection services;

(2) Every owner whose premises a collection service is provided shall pay for such disposal in accordance with the provisions (Schedule "B") and at such times as the Council or Sanitation Administrator may designate;

(3) Every owner shall be limited to two (2) bags of garbage per weekly collection service except on the designated pick-up day during Christmas holidays between December 27 and January 2 when the maximum shall be three (3) bags;

(4) Every owner, renter or lessee who engages in any trade, industry or commercial activity shall be limited to (4) bags of garbage per weekly collection service;

(5) The Council may at their discretion change the limits as set out in paragraph (3) and (4) above;

(6) Bags set out for collection services exceeding the limit set out in sections 8(3) and 8(4) above will be left at the curb side for the owner to purchase additional tag(s) as required from the

Sanitation Administrator, as well could be fined for each bag that exceeds the limit for collection services (Schedule "D").

Garbage Disposal at Landfill Site

9. (1) The XX First Nation landfill site and collection services shall not be used by any off reserve Band Members or any non- member, not residing within the reserve unless otherwise specified by Chief and Council and a certificate of transportation is issued at a fee in accordance to Schedule "B";
 - (a) A certificate of transportation shall specify:
 - (i) the type of vehicle used to transport the waste;
 - (ii) the date and route of transportation;
 - (iii) the type and amount of waste being transported; and
 - (iv) any other appropriate conditions as determined by the Council.
- (2) All renters and lessees shall be limited to two (2) bags of garbage per weekly disposal at the land fill site and could be fined for each bag exceeding the weekly limit (Schedule "D").
- (3) Every owner, renter or lessee who engages in any trade, industry or commercial activity shall be limited to (4) bags of garbage per weekly disposal at the landfill site and could be fined for each bag exceeding the weekly limit (Schedule "D").
- (4) No person shall discard or dispose of or deposit garbage anywhere on the reserve except in such places and at such times and under such conditions as the Sanitation Administrator may authorize;
- (5) All owners, renters and lessees must divert all appropriate recyclable waste as defined in section 2, into the designated recycling boxes or depots;
- (6) Tagging of garbage shall be done in accordance with the following;
 - (a) all garbage left for collection services or taken to the landfill site must be tagged with official tags issued by the Sanitation Administrator;
 - (b) tags must be purchased from the Sanitation Administrator;
 - (c) annually all Band Members residing on reserve shall be provided with 105 tags to use for tagging each bag of garbage left for collection services or taken for disposal to the landfill site;
 - (d) annually, all year round lessees, upon payment of a collection service fee as in accordance with Schedule "B" shall be provided with 52 tags to use for tagging each bag of garbage left for collection services or taken for disposal to the landfill site;
 - (e) in the event of a transfer or assignment of leasehold interest, it is the responsibility of the new lessee to obtain the balance of tags from the previous lessee;
 - (f) annually, all seasonal lessees, upon payment of a collection service fee as in accordance with Schedule "B" shall be provided with 52 tags to use for tagging each bag of garbage left for collection services or taken for disposal to the landfill site;
 - (g) in the event of a transfer or assignment of leasehold interest, during the period of May-October, it is the responsibility of the new lessee to obtain the balance of tags form the previous lessee;
 - (h) all renters must initially purchase eight (8) official tags from the Sanitation Administrator in order for bags to be tagged for disposal at the landfill site, they shall notify the Sanitation Administrator of their residency, at which time future tag purchases may be made;

- (i) lessees exceeding the limit as set out in section 8(3), 8(4), 9(2), 9(3) and 9(6) (d)(e)(f) & (g) above will be required to purchase additional tags for the disposal of garbage at the landfill site, except on the designated day the landfill site is open during the Christmas holidays between December 27 and January 2 when the maximum shall be three bags;
 - (j) The cost to purchase official tags shall be in accordance with Schedule "B" and may be changed from time to time by the XX First Nation Council;
 - (k) Additional tags, over and above the 105 provided to Band Members residing on reserve, shall be provided when required for justifiable medical reasons, and issued by the XX First Nation Health Center.
- (6) In respect of the disposal of tires:
- (a) All tires considered garbage as set out in section 2 must be disposed of at the landfill site and a disposal fee paid;
 - (b) The cost of disposal fee shall be in accordance with Schedule "B" and may be changed from time to time by the XX First Nation Council;
 - (c) In the instance of any uncertainty, the Sanitation Administrator may determine if any unused tires not stored in an enclosure shall not be considered garbage and disposal denied;
- (7) In respect to the disposal of construction or demolition waste:
- (a) The disposal of all garbage generated as defined in section 2 from the on-reserve construction or demolition projects shall require a permit " issued by the Sanitation Administrator to be valid from inception of the construction or demolition project to end of the project;
 - (b) Permits required in this section shall fall into one of the following categories:
 - i) projects carried out by an individual or business where the service is conducted for profit or gain;
 - ii) projects carried out by a renter or lessee for the benefit of home improvements or enhancements;
 - iii) projects carried out by an owner for the benefit of home improvement/enhancement and not for payment, profit or gain;
 - (c) The cost for each category shall be in accordance with Schedule "B" and may be changed from time to time by the XX First Nation Council;
- (8) In respect to the disposal of hazardous waste:
- (a) No person shall dispose of, cause or permit to be disposed of, any hazardous waste, in or about the landfill site or anywhere on the reserve, unless directed by the Sanitation Administrator to dispose of it in a hazardous waste depot;
- (9) No person shall operate a landfill site or facilitate the operation of a landfill site on the reserve without Chief and Councils consent;

Escape of Garbage From a Vehicle

- 10.(1) No person shall convey or cause to be conveyed any garbage, hazardous waste or recyclable materials in a vehicle that is not properly constructed or covered to prevent contents thereof from escaping;
- (2) In the event of an escape of garbage, hazardous waste or recyclable materials from any vehicle, the owner is responsible for the immediate clean up or could be fined for each bag exceeding the

weekly limit (Schedule "D").

Unauthorized Disposal of Garbage

- 11.(1) All garbage and recyclable materials must be disposed of in designated landfill sites and in accordance with the rules of the by-law;
- (2) No owner, renter or lessee shall accumulate garbage or allow garbage to accumulate on any property in which they have an interest as an owner, renter or lessee;
- (3) In accordance with this by-law and the Federal "*Indian Reserve Waste Disposal Regulations*", and Section 10 of the *Indian Act*, no individual shall burn any garbage or waste anywhere within the XX First Nation unless granted permission in writing by the XX First Nation Council.
- (4) Where, at any time, an officer has reasonable grounds that a person is violating a provision of this by-law, the officer may, on reasonable notice to that person, inspect the area where he/she believes the violation is occurring.

Trespass on Landfill Site

12. It is a violation of this by-law to enter onto the landfill site outside of operating hours without permission from the XX First Nation Council or the Sanitation Administrator.

Prescribed Forms

- 13.(1) The forms prescribed as Schedules "A"-"D" to this By-law are included only as guides, and deviations from them may be used where the deviation:
 - (a) does not effect the substance of information required to be set out in the form; and
 - (b) is not misleading.
- (2) A form under subsection 13(1) may set out any information in addition to that which is required to be set out in the form under this By-law.

Offences and Penalties

14. (1) A person who:
 - (a) fails to refuse to comply with any provisions of this by-law;
 - (b) submits false or misleading information to a Sanitation Administrator;
 - (c) interferes with or obstructs a Sanitation Administrator acting in the administration or enforcement of this by-law; commits an offence.
- (2) Where an act or omission in contravention of this by-law continues for more than one day, such act or omission shall be deemed to be a separate offence committed on each day during which it continues, and may be punished as such.
- (3) All issues dealing with Hazardous Waste will be dealt with under the Environmental Act.
- (4) A person who commits an offence under this by-law is liable on summary conviction to a fine not exceeding Five Thousand Dollars (\$5000.00) or to imprisonment for a term not exceeding six (6) months or both fine and imprisonment.
- (5) Where a corporation commits an offense against the Code or this by-law or any other law, each Director or Officer of the corporation who authorized, consented to, connived at, or knowingly

permitted or acquiesced in, the doing of the act that constitutes the offense, is likewise guilty of the offense and liable, on summary conviction, to the penalty for which provision is made in subsection 14(5).

(6) Should a court determine a provision of this by-law is invalid for any reason, the provision shall be served from the by-law and the validity of the rest of the by-law shall not be affected. .

THIS BY-LAW IS HEREBY made at a duly convened meeting of the Council of the XX First Nation Band this _____ day of _____ 20__.

Voting in favour of this by-law are the following members of the Council:

(_____ Chief)

(_____ Councillor)

(_____ Councillor)

(_____ Councillor)

(_____ Councillor)

being the majority of those of the Council of the XX First Band present at the aforesaid meeting of the Council,

The quorum of the Council is 3 members.

Number of the Council present at the meeting: _____ .

SCHEDULE "A"
TYPE OF GARBAGE CONTAINERS

| Column I | Column II |
|----------------------------|---|
| Type of Garbage Container | Specifications |
| 1. Rigid Metal or Plastic | 70cm maximum height; 45 mm maximum diameter; 150l maximum capacity; 35 kg maximum weight when full; Tight fitting water proof cover; Two carrying handles permanently affixed to the sides. |
| 2. Steel Refuse Containers | Well fitting and easily operated cover; Painted outside; Proper brackets for disposal vehicle attachment; Free from cracks or major dents; Proper base stands or wheels; Of a size approved by the Sanitation Administrator, |
| 3. Disposal Plastic Bag | Close fitting; Waterproof; Thickness of 3/1000 inches (.0762 mm); Maximum height of 100cm; Maximum width of 70cm; Maximum weight when full, 25 kg; Free from holes, tears or other damage. |

SCHEDULE "B"
COLLECTION SERVICE FEES
AND OTHER APPLICABLE FEES

1. All year round Renters/Lessees shall pay a four hundred and fifty dollar (\$450.00) collection services fee provided for under the authority of by-law number 19-B-04 Waste Management.

2. All seasonal Renters/Lessees shall pay a four hundred dollar (\$400.00) collection services fee provided for under the authority of by-law 19-B-04 Waste Management.

3. Bulky Waste set out for pick up:

(a) Appliances

- (i) Refrigerators, Freezers, Air Conditioning units, Dehumidifiers or any other appliance, refrigerant not removed \$30.00
- (ii) Refrigerators, Freezers, Air Conditioning units, Dehumidifiers or any other appliance, refrigerant removed \$15.00
- (iii) other such as Hot Water Tanks, Stoves, Washers, Dryers, Propane Tanks (empty), Furnaces, TV's ect \$10.00

(b) Furniture

- (i) Tables, Couches, Chairs, Dressers, etc. \$10.00
- (ii) Mattresses \$10.00

Tags for such can be purchased from the Sanitation Administrator.

4. Bulky Waste delivered to Landfill Site:

(a) Appliances

- (i) Refrigerators, Freezers, Air Conditioning units, Dehumidifiers or any other appliance, refrigerant not removed \$20.00
- (ii) Refrigerators, Freezers, Air Conditioning units, Dehumidifiers or any other appliance, refrigerant removed \$5.00
- (iii) other such as Hot Water Tanks, Stoves, Washers, Dryers, Propane Tanks (empty), Furnaces, TV's ect \$5.00

(b) Furniture

- (i) Tables, Couches, Chairs, Dressers, ect. ..\$5.00
- (ii) Mattresses \$5.00

5. Tire Fees:

- (a) Car Tires, 15" or smaller, with rims removed \$13.00.
- (b) Car Tires, 15" or smaller, with rims \$15.00
- (c) Tires larger then 16" with rims removed \$16.00
- (d) Tires larger then 16" with rims \$20.00
- (e) Truck Tires 20" and over \$25.00
- (f) Tractor Tires \$30.00

6. Tag Fees:

- (a) Regular household garbage bag \$1.00/bag
- (b) Anything bigger \$2.00/bag

SCHEDULE "B" (continued)
COLLECTION SERVICE FEES
AND OTHER APPLICABLE FEES CON'T

7. Permit Fees for Construction and Demolition Materials

(i) projects carried out by an individual or business where the service is conducted for profit or gain:

(a) \$180.00/ Pickup Truck

(ii) projects carried out by a renter or lessee for the benefit of home improvements/enhancements:

(a) \$170.00/ Pickup Truck

(iii) projects carried out by an owner for the benefit of home improvement/enhancement and not for payment, profit or gain:

(a) \$140.00/ Pickup Truck

8. Certificate of Transportation Fees

*Will be determined by Chief, Council and the Sanitation Administrator upon issuance of Certificate in consideration of the type and amount of Waste being transported. *

SCHEDULE "C"
XX EXCLUSIONS

XX is excluded from the following sections of By-law _____:

1. Powers and Duties of the Sanitation Administrator Section (Page 4-5) 5. (2)(a),(c) and (e)
2. Duties of an Owner- Renter or Lessee (Page 6) Section 6. (3)(a),(b) and (c)
3. Garbage Disposal at Landfill Site (Page 7-8) Section 9. (2)(3) and (6)(a)
4. Trespassing on Landfill Site (Page 9) Section 12.

SCHEDULE "D"
FINES AND PENALTIES

| OFFENSE | FINE |
|---|----------------------------------|
| Dumping in improper site | \$25.00 up to \$5000.00 |
| Burning of Waste | \$50.00 up to \$5000.00 |
| Escape of garbage from vehicle | \$50.00 up to \$5000.00 |
| Trespassing on Landfill Site | \$25.00 up to \$5000.00 |
| Exceeding limit for collection services | \$25.00 per bag |
| Exceeding limit for disposal at Landfill Site | \$25.00 per bag |
| Illegal dumping of garbage | \$100.00 per bag up to \$5000.00 |
| Disposing of Hazardous Waste on Reserve | \$100.00 up to \$5000.00 |

Waste Management Short Form

| | |
|--------------|---|
| Sec 6(1)(a) | Fail to maintain garbage receptacle |
| Sec 6(1)(b) | Fail to keep garbage contained |
| Sec 6(1)(d) | Fail to store garbage in approved container |
| Sec 6(1)(e) | Fail to ensure garbage containers securely closed |
| Sec 6(1)(f) | Fail to ensure sharp objects properly packaged |
| Sec 6(1)(g) | Set out improper waste for collection |
| Sec 6(1)(h) | Set out coals or ash not extinguished |
| Sec 6(1)(i) | Fail to remove container is specified time |
| Sec 6(1)(j) | Fail to keep area surrounding property free of garbage |
| Sec 6(3)(b) | Deposit hot ash or coals at landfill site |
| Sec 7(2)(a) | Person engaged in commercial activity fail to apply for dumping permit |
| Sec 7(2)(b) | Person engaged in commercial activity fail to recycle |
| Sec 7(2)(c) | Person engaged in commercial activity fail to adhere to conditions |
| Sec 9(1) | Failing to obtain a certificate of transportation |
| Sec 9(2) | Exceed weekly limit |
| Sec 9(3) | Exceed weekly limit person involved in commercial activity |
| Sec 9(4) | Deposit garbage other than authorized place |
| Sec 9(5) | Fail to divert recyclable material |
| Sec 9(6)(a) | Set out for collection garbage not tagged |
| Sec 9(8)(a) | Dispose of hazardous waste without authorization |
| Sec 9(9) | Operate landfill site on reserve |
| Sec 10(1) | Allow garbage to escape vehicle |
| Sec 11(1) | Dispose of garbage or recyclable material not in accordance with by-law |
| Sec 11(2) | Allow garbage to accumulate on property |
| Sec 11(3) | Burn garbage without written permission |
| Sec 12 | Trespass to a landfill site |
| Sec 14(1)(a) | Fail to comply with Waste Management by-law |
| Sec 14(1)(b) | Submit false or misleading information to a Sanitary Administrator |
| Sec 14(1)(c) | Obstruct Sanitation Administrator |