FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT Law Development and Enforcement

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Training, Mentorship & U Professional Development



The Framework Agreement on First Nation Land Management



- Historic, government-to-government agreement signed on February 12, 1996 between the original 13 First Nations and the Minister of Indian Affairs and Northern Development
- Today, has expanded to include an ever-growing number of First Nations across Canada who are interested in replacing the land-related sections of the Indian Act (35%) with the legal framework developed in their land code
- >> Each First Nation signatory to the Framework Agreement re-assumes land management jurisdiction over their reserve lands, environment, and natural resources, including law-making authority, when they ratify their land code



The First Nations Land Management Resource Centre



A First Nations organization dedicated to serving and supporting First Nations communities who want to re-establish control over their lands, natural resources, and environment through the historic government-to-government *Framework Agreement on First Nation Land Management*.

RC was established by the LAB to undertake its technical responsibilities to FNs, through:

"Supporting First Nations to exercise their Inherent Right to govern their Lands, Environment and Resources."



Law making authority under the Framework Agreement

- The Framework Agreement is a First Nation-led exercise in selfgovernment
- First Nations under a Land Code have the authority to develop laws "respecting the development, conservation, protection, management, use and possession of First Nation land"

>> A First Nation Law is not a Bylaw

>> First Nations under the Framework Agreement **exercise law making authority independently** of any other government



Examples of Framework Agreement Law Making Authority



Trespass, Enforcement and Ticketing



Residential Tenancy



Business Permitting and Licensing



Emergency Laws



Recycling, Solid Waste Management and Garbage Disposal



Land Use, Zoning, and Development



Allotments, Interests and Licences



Environmental Assessment and Protection



Natural Resource Management



Environmental Emergencies and Natural Disasters



Enforcement of First Nation Laws

Establish comprehensive enforcement procedures

Appoint Justices of the Peace

Establish Offences

Provide for fines, imprisonment, restitution, community services and alternative means to achieve compliance

Carry out inspections, searches, seizures, sampling, testing, production of information

Provide for collection of non-tax debts, fees/charges owed to the First Nation



Reducing the Need for Enforcement

Reducing the Risk of a Violation	Resolving Violations / Diversion of Charges	Using Elders, Mediation, Alternative Approaches	Strong Governance Systems	Restorative Justice
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Engage and educate the community	Work towards voluntary compliance	Promotes healing		Recognizing that wrongs done to a person are also wrongs done to a community.
.			Lands records and	
Incorporate culture, values, traditions	Build corrective measures into your laws	Can be more effective than typical court punishments	information, monitoring systems, coordination of	
			laws, permit and	Aine to we show
Develop programs	Create incentives and		lease systems, etc., policies and	Aim to restore relationships
to make compliance	disincentives		procedures	#
easy				Holds offenders responsible for making amends to



the community

Policing and Enforcement





Enforcement and Adjudication under the Land Code

Should Prosecution be Necessary...

Private Prosecution

- Proven success
- Can be costly

Agreement for Provincial/Territorial Prosecutor

Has not been done yet





RC Support for the Enforcement and Adjudication of First Nation Laws

Law Development Support	Enforcement Training & Support	Policing Agreements	Enforcement Pilot Projects	Promoting Recognition of First Nation Laws
 Law Development Planning Review and comment on draft laws Ensure appropriate enforcement and administrative provisions are included in draft laws 	 Practical tools for inspections & investigations Assistance preparing court briefs Preparing Enforcement officers for court appearances National Online Conversation 	 Assisting First Nations in negotiating policing agreements with federal and provincial governments Support for meetings with policing agencies for First Nation law enforcement 	 Funding and technical support to promote partnerships for enforcement and recognition of First Nation Laws Enforcement Pilot Projects: Whitecap Dakota & Muskoday First Nations; Membertou 	 Writing campaigns to Ministers and Departments Participation in working groups on enforcement of First Nation laws Financial support for adjudication and to develop precedence in provincial courts



Enforcement Progress

- Manitoba and Saskatchewan have amended their provincial offences acts
- >>> British Columbia and others are willing to engage
- >>> Individual First Nations responding to enforcement issues
- >> First Nation Enforcement Pilot Projects
- Senator McCallum's Private Member's Bills for changes to federal policing and prosecution legislation



Looking Ahead

- >> **Don't Wait** for government to fix enforcement issues
- >>> No overnight solutions but practical steps are happening
- >>> Less discussion and concept and **more action**





Thank You Questions?

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