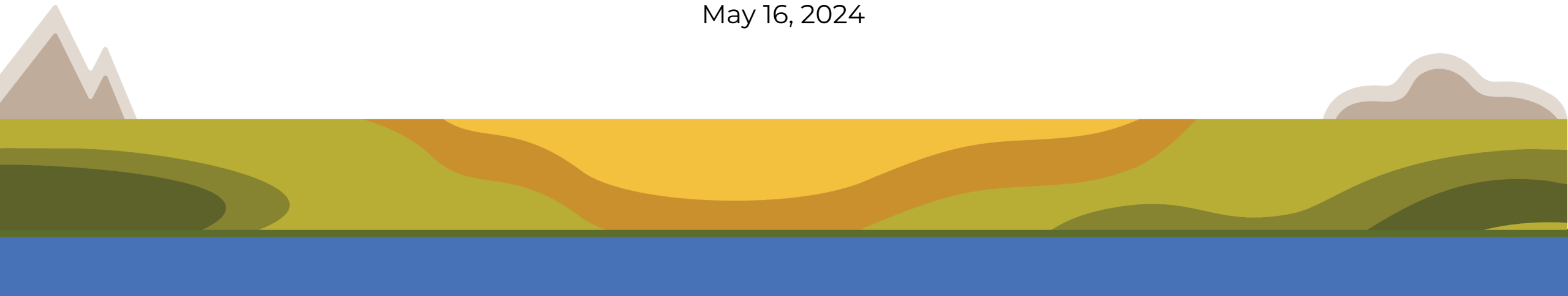


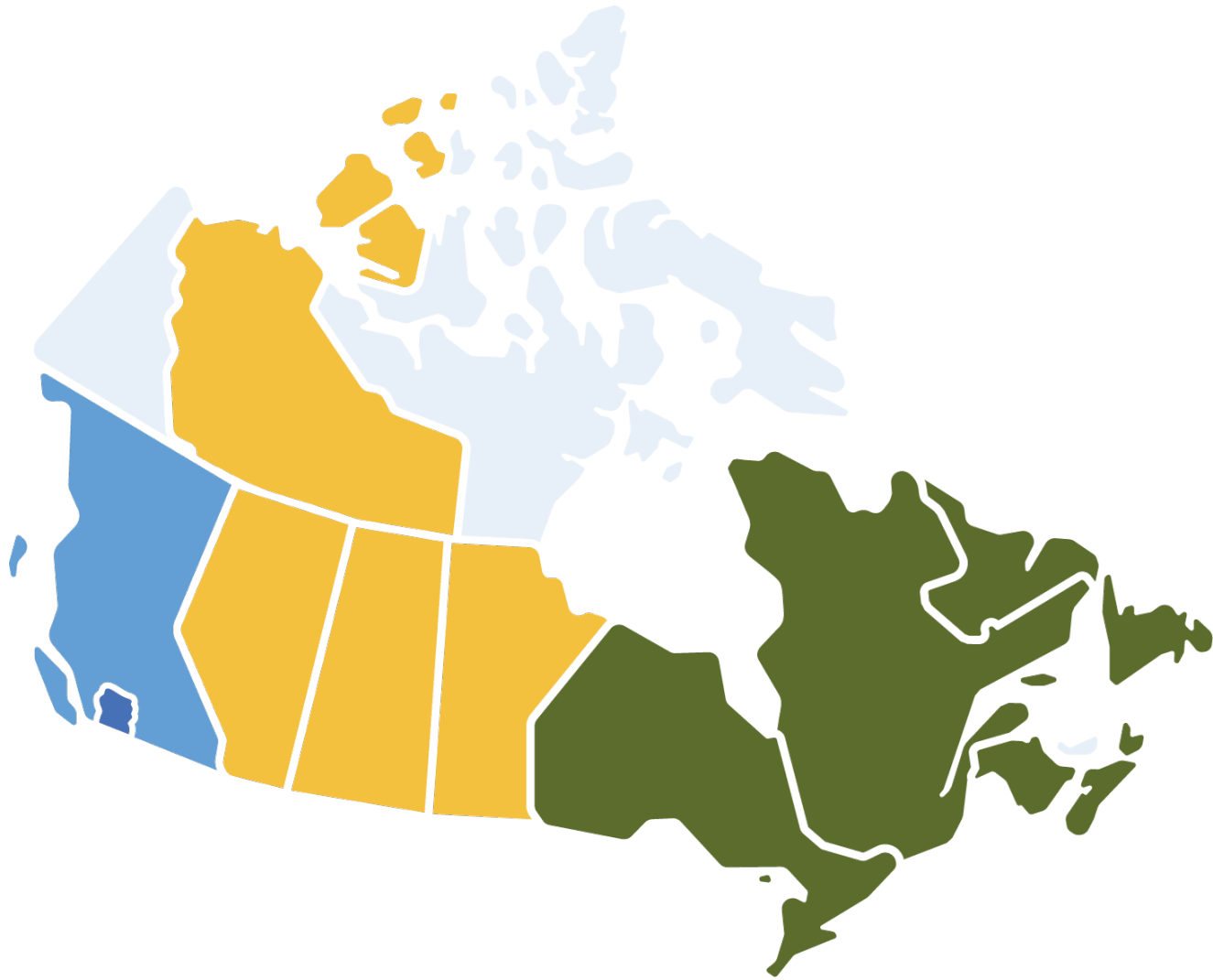


# ADDITIONS TO RESERVE REFORM UPDATE

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May 16, 2024





# Welcome



# Today's Speaker



**Andrew Beynon**

*Director, Land Code Governance*

# INTRODUCTION

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- The current ATR process is broken..... we are exploring **replacing both the ATR policy and process**
- The Lands Advisory Board has a mandate from leadership to explore significant reforms of the Additions to Reserve process
- The Lands Advisory Board only has a mandate for changes on behalf of **Land Code First Nations**
- **Transformative change** is needed..... the current ATR process does not fit with Land Code First Nation self-government and responsibility for reserve lands governance
- **Delays are the biggest problem**..... Land Code First Nations want to move at the speed of business..... the current ATR process does not even move at the speed of government

# A NEW ATR POLICY IN 2025?

- Canada may consider ATR reform proposals in early 2025
- Recently, the House of Commons Indigenous and Northern Affairs Committee released a Lands Restitution report, which includes recommendations for ATR reforms
- Must be a First Nation led approach..... Canada must not impose a new ATR policy
- Technical Advisory Committee will be established by Canada in 2024 (AFN, NALMA, RC etc) participating in formulating recommendations to Canada
- Lands Advisory Board twin track approach: immediate ATR improvements 2024..... Transformative change to new ATR policy 2025
- Lands Advisory Board will proceed only with support of land code First Nations

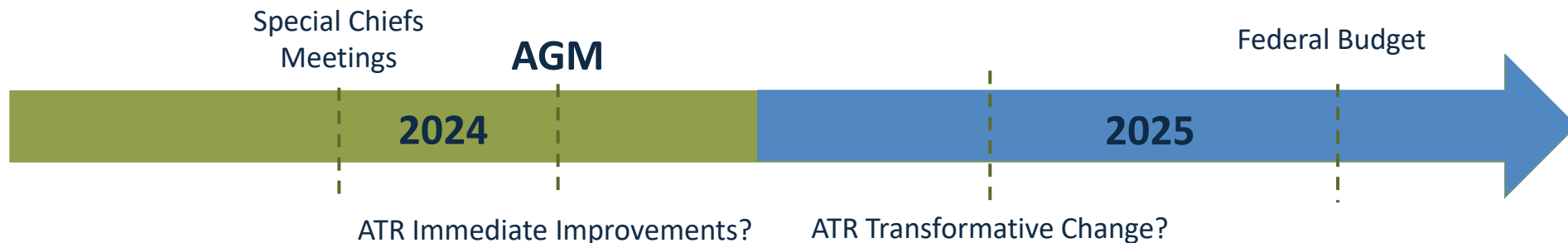
# Twin Track Approach

## Immediate Improvements

- Drop the requirement for Canada to assess environmental conditions
- Drop narrow categories for ATRs
- Drop requirement for 20-page application
- Drop requirement to prove “need” for ATR
- Drop dispute resolution provisions
- Drop the restrictions on “improvements” to proposed reserve lands
- Eliminate the 3-month period for other federal departments to assess reserve creation proposals
- Drop the MSA requirement in advance of an ATR
- Drop requirements imposed by the policy for jointly held ATRs

## Transformative Change

- Medium-term policy changes
- Establish deadlines
- Third-Party Interests
- Consultations
- Risk Management
- FN-led process
- Simplified process
- Conditional ATRs



# TRANSFORMATIVE CHANGE?

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- **Does Canada agree that the current ATR process is so bad that we need a whole new ATR policy?**
- **The ATR policy causes real harm.....** Preventing reconciliation, is making it more difficult to address homelessness, gender violence, dangerous housing conditions, economic and environmental failure, and even social problems in major cities
- **Delays are atrocious** with many ATRs taking decades, harming economic opportunities, TLE and specific claim implementation, and lower tax revenues for all governments
- Delays leave many First Nations with the inadequate land base from 19<sup>th</sup> and 20<sup>th</sup> century policy failures
- The current slow and costly **ATR process is wasting enormous federal and First Nation resources** and even provincial and municipal government resources

# NO TRANSFORMATIVE CHANGE?

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The ATR process is a risk averse process built over a quarter of a century ago..... why make risky changes?

We disagree with all the following justifications for rejecting transformative change:

- The ATR process carefully examines political and legal risks to Canada..... the current ATR policy has not led to a tidal wave of failures, litigation, or specific claims against Canada
- Land issues are complex, and some files inevitably take years (third party interests, unresolved boundary issues, environmental risks, duties of consultation etc...)
- Adopting consistent best practices, lessons learned, and better training could accelerate ATRs
- The problem is one of inadequate resourcing and systems



# NO TRANSFORMATIVE CHANGE?

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**We disagree with all of the following justifications for rejecting transformative change:**

- Significantly faster ATRs would expose Canada to unknown risks with inadequate information on the costs associated with new lands (overwhelming pressure on Canada's budgets for environmental remediation, housing, infrastructure etc)
- Canada would risk legal challenges for breach of fiduciary duty to future generations by failing to adequately examine the risks of proposed ATRs
- Canada would gain little praise for a fast ATR process and get all the blame if things go wrong (e.g. fire disaster on new ATR lands.....why did Canada let this happen?)



# MOVING FORWARD NOW

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- Immediate changes can pave the way for more significant change
- We propose immediate change simply be **elimination** of problematic parts of the current ATR policy
- Eliminating process could be done quickly with no need to rewrite or negotiate changes
- We have provided Canada with a proposal to immediately eliminate nine elements of the current ATR process

# MOVING FORWARD NOW – ENVIRONMENT

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- **Eliminate Canada's requirement for environmental site assessments for ALL ATRs**
- **Land code First Nations should decide whether they want an ESA for their purposes, not for Canada**
- Land code First Nations are responsible for environmental issues, including on ATR lands
- Land code First Nations might decide to rely on ESAs completed in the past or the First Nation's knowledge of land use on an ATR parcel
- Canada would not be liable for past contamination just by agreeing to the ATR proposal (Canada's liability should be same with or without an ATR..... e.g. If Canada is liable for old military lands it does not matter whether those lands are ATR lands or not)

# MOVING FORWARD NOW - MUNICIPAL RELATIONS

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- **Eliminate the current requirement for municipal service agreements prior to an ATR**
- Land code First Nations are responsible for services on their lands,
- including on ATR lands
- The ATR policy may not give municipalities a “veto” over proposed ATRs but the current policy puts First Nations at a disadvantage in negotiations
- Many land code First Nations already have municipal agreements..... None of Canada’s business..... Land code First Nations are responsible for the success or failure of these agreements
- The Minister may have a legitimate political interest in municipal views when considering an ATR proposal..... But this is very different from Canada interfering in municipal service issues

# MOVING FORWARD NOW - New ATR Policy in 2025 and Beyond?

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## ➤ Deadlines

- Establish a shorter process with deadlines..... We are challenging Canada to consider what transformation would be needed for a 60 day average for ATRs

## ➤ Third Party Interests

- Fix delays caused by existing 3<sup>rd</sup> party interests on targeted ATR lands

## ➤ Consultations

- Fix delays caused by Canada's consultation process
- Consultations for ATRs should be less onerous than consultations for resource development (which are far more likely to adversely affect rights)
- Respect First Nations protocols regarding reserve acquisition by neighbours..... (potential replacement for consultation process)

# MOVING FORWARD NOW - New ATR Policy in 2025 and Beyond?

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- **First Nation Manages Risks..... not Canada**
  - Land Code First Nation option for rapid ATRs..... First Nation responsibility to deal with surveys, environmental issues, and provincial disputes post ATR
- **First Nation Led Process**
  - First Nation lead in ATR submissions to Ministers (reduced role for federal bureaucracy)
  - Potential First Nation organization to assist in completing ATRs and perhaps eventually a Commission rather than the Minister deciding on ATR proposals
- **Simplified ATR Process for some ATRs**
  - Shorter process for return of former reserve lands
  - Process reduction for small parcels etc.

# MOVING FORWARD NOW – New ATR Policy in 2025 and Beyond?

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## ➤ Conditional ATRs & Timing

- Amend Framework Agreement to create an option for Ministerial Order with a later date or conditions before lands come under land code
- Amend Framework Agreement to authorize Canada to use land code instruments to address transitional issues rather than rely on federal real property legislation.

# Question & Discussion





# Moving Forward

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- Maintain Momentum
- Special Chiefs Meetings - May/Jun/Jul 2024
- RC Participation - Technical Advisory Committee
- LAB AGM 2024
- Federal Budget 2025

# 2024 LABRC Event Schedule




**REGIONAL SPECIAL CHIEFS MEETING**  
**British Columbia / Fraser Valley Regions**

May 30, 2024  
River Rock Resort, Richmond, BC



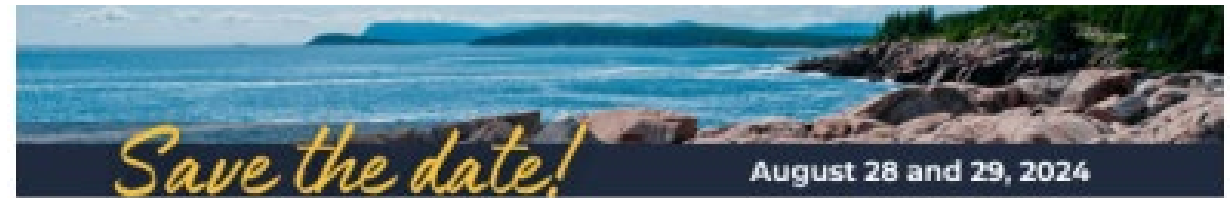
**REGIONAL SPECIAL CHIEFS MEETING**  
**Prairie Region**

June 5, 2024  
Dakota Dunes Resort & Casino, Whitecap, SK



**REGIONAL SPECIAL CHIEFS MEETING**  
**Eastern Region**


July 4, 2024  
Casino Rama Resort



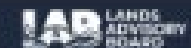
## LAB AGM

Lands Advisory Board Annual General Meeting

hosted by  PAOTNIKEK

 Halifax, Nova Scotia

[www.labrc.com](http://www.labrc.com)



# Community of Practice & Support

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## Framework Agreement Signatory First Nations across Canada

As of May 8, 2024

<b>Total Signatories</b>	<b>211</b>
Operational	114
Developmental - Active	45
Developmental – Inactive	4
Self Governing	4

[Lands Advisory Board](#) >[Resource Centre \(RC\)](#) >[Our History](#)[RC Board](#)[RC Staff](#)[Employment Opportunities](#)[RC Reports](#)

## Employment Opportunities



### Job Opportunities (Internal and External)

Remote positions only

[SEARCH JOBS](#)

Full Time  Part Time  Temporary

[RSS](#)

	<b>Land Use Planner</b> Saulteau First Nations Join our diverse and dedicated team who care deeply about the community we serve!	Moberly Lake, BC	Full Time
	<b>Lands Permitting Officer</b> Ch'iyáqtel First Nation (Tzeachten)	Chilliwack, BC	Full Time



# THANK YOU



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