

THU, DEC 17, 2020 / 9:30 AM PST / 12:30 AM EST

## VIRTUAL WEBINAR

# Treaties and the Framework Agreement

+ 60 min Session + 15 min Mix & Mingle



# TMPD Virtual Webinar Welcome



# 2021 Virtual Workshops

## Save the Dates



Jan 21

Feb 11

Mar 11

Apr 8

May 6

Jun 10

Jul 8

Aug 12

Sep 9

Oct 7

Nov 4

Dec 9

 2-3 hour virtual workshops

 presentation & group discussion

**Registration opening soon!**

Jan 2021						
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# TMPD Virtual Webinar Guidelines & Tools



Mute Devices

A large, light-colored arrow pointing from right to left, spanning across the four main content boxes.

Recorded Session



Presentation & Materials



Questions & Comments



**SLIDO.com**  
**#TMPD-DEC-17**

# Agenda & Objectives

9:30

Welcome & Introduction

9:35

Treaties and the Framework Agreement

9:40

First Nation Land Code Panel Discussion

10:10

Relationship between Framework Agreement, Indigenous Rights, Aboriginal Rights & Treaty Rights

10:20

Community Perspectives – Poll & Discussion

10:30

Closing

10:30-10:45

Virtual Mix & Mingle



# TMPD Virtual Webinar Presenters



**Robert Louie**  
LAB Chairman



**Austin Bear**  
Director of Prairies



**Phil Goulais**  
Director of East



**Eugene Peterson**  
Prairies Technician



**Andrew Beynon**  
Director of Land Governance

# Treaties and the Framework Agreement

## FA (1.3)

“is not a treaty and shall not be considered to be a treaty within the meaning of section 35 of the Constitution Act, 1982”

## FA (1.4)

“The Parties acknowledge that the Crown’s special relationship with the First Nations will continue”

## FA (1.5)

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

## FA (1.6)

“The Framework 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”



# First Nation Land Code Panel



**Phil Goulais**  
Director of East



**Robert Louie**  
LAB Chairman



**Austin Bear**  
Director of Prairies

Does your nation have a treaty?

What is your perspective on the meaning of your treaty?

How important is land management to your treaty?

Has Land Code authority enhanced the treaty relationship or implementation of your treaty rights?



# Treaty First Nations in Canada



Historic treaties are located in **nine provinces and three territories**, covering nearly **50% of Canada's land mass**

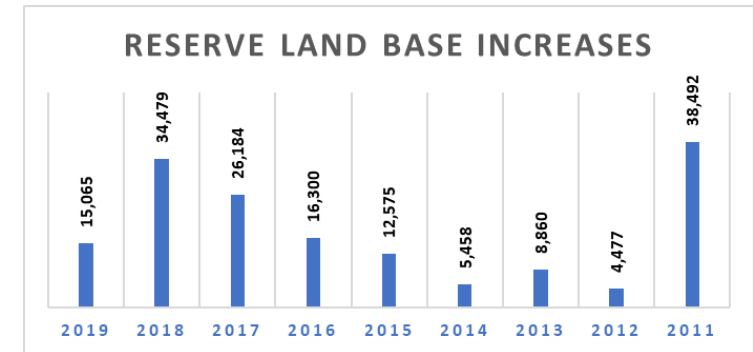
## 364 of 617

First Nations are Treaty First Nations (59%)

Total Population of Treaty First Nations (2006)

# 619,020

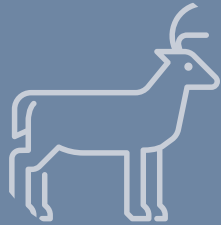
[Resource Link](#)



# Differing Perspectives on Treaties



Sacred or  
Honour Based  
Commitment



Exercise  
Traditions &  
Culture



Protection of  
Land & Natural  
Resource



Constitutionally  
Protected Treaty  
Rights



Crown to uphold  
Promises made  
to Aboriginal  
Peoples



# Treaties & Other First Nation Rights

## Treaty Rights

- Treaties establish a relationship between Canada and First Nations and rights of the Nation (eg promise to set aside reserves) and individuals (eg right to hunt)
- Treaties are formal agreements setting up long term rights and obligations
- Treaty rights are constitutionally protected (section 35 of the Constitution Act, 1982)

## Aboriginal Rights & Title

- Rights of First Nations and individuals which flow from their distinct culture and traditions at the time of contact
- Inherent rights derived from the First Nation's history – not granted by the Crown
- Aboriginal rights are for example rights to hunt, harvest medicinal plants and rights to fish
- Aboriginal title where a First Nation establishes traditional “ownership”, not just use of lands in a traditional territory
- Aboriginal rights and title are constitutionally protected (section 35 of the Constitution Act, 1982)

## Indigenous Rights and Other Rights

- Rights which may not technically qualify as Aboriginal rights or treaty rights in the eyes of the courts
- UNDRIP rights and human rights
- Section 25 of the Constitution Act, 1982 – Charter rights should not derogate from Aboriginal and Treaty rights but also “other rights and freedoms that pertain to the Aboriginal peoples of Canada”



# Types of Treaties

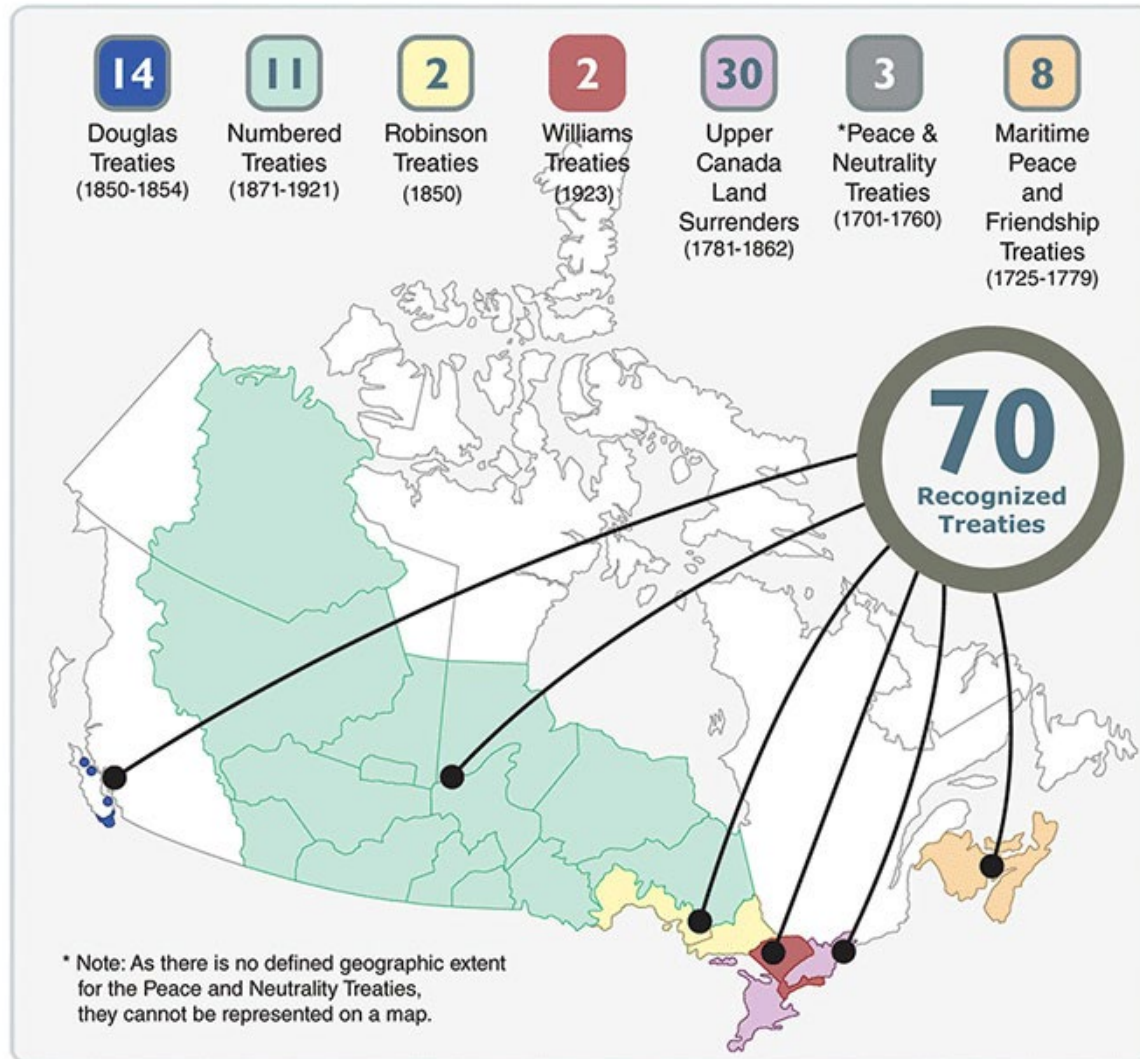
Pre-Confederation Treaties

Peace and Friendship Treaties  
(1725–1779)

Douglas Treaties  
(1850–1854)

Numbered Treaties  
(1871–1921)

Recent treaties  
(1976 onwards)



# Treaties and the Framework Agreement

Agreement with Canada

Land Code Ratified by  
First Nation

Recognized within  
Constitution of Canada

Focused on community  
recognition and  
implementation on lands

## FRAMEWORK AGREEMENT

Consistent with the treaty relationship and not to affect treaty rights

Recognizes the right to implement land governance and control the reserve land base

First Nation land governance on reserve implemented through community Land Code

Without prejudice to a First Nation's right to pursue court cases with respect to treaty rights, Aboriginal rights or title



# Moving Forward

For early treaties (pre 73 federal comprehensive claims policy) no barrier imposed by Canada to adopting your treaty perspective to guide implementation of your land code

Under recent treaties (comp claims policy and BC treaty process) Canada seeks new land arrangements which would replace the FA and land codes

LAB has proposed that the success of lands management under the FA become available for unresolved traditional territory issues – potentially a new treaty approach

A new FA based approach to unresolved territories, treaties, Aboriginal title, resolution of overlaps, etc. is a complex issue requiring further exploration





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## **Questions & Discussion**

# What we covered

Framework Agreement  
Relationship between  
Treaty Rights

First Nation  
Perspectives Panel

Knowledge Sharing  
amongst signatories

Treaty and Land  
Governance







**FIRST NATIONS  
LAND MANAGEMENT  
RESOURCE CENTRE**



**Training, Mentorship &  
Professional Development**

# THANK YOU

**Angie Derrickson**  
TMPD Manager

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e. [aderrickson@labrc.com](mailto:aderrickson@labrc.com)



**Virtual Mix  
& Mingle**

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 @FNL MRC