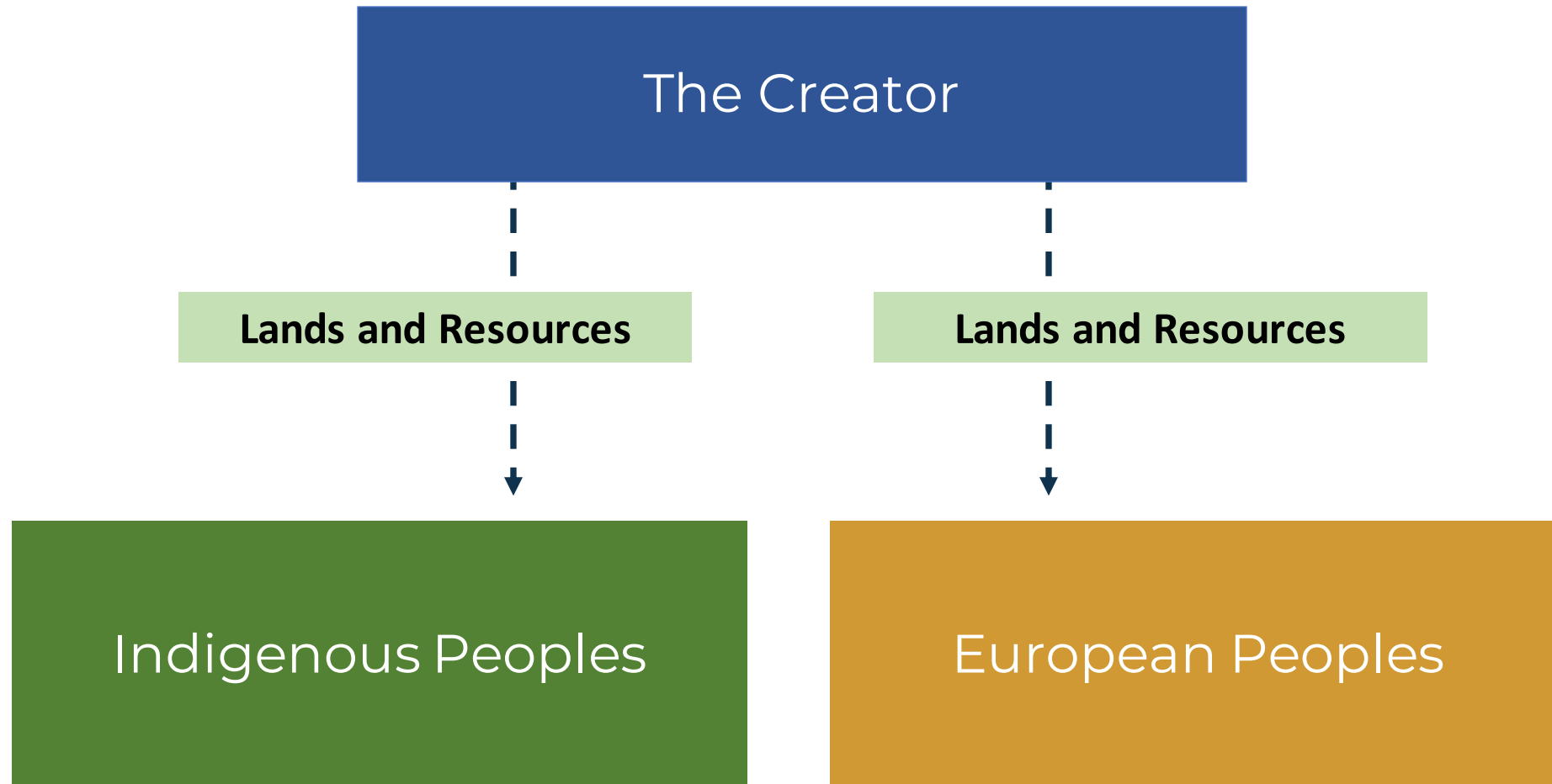


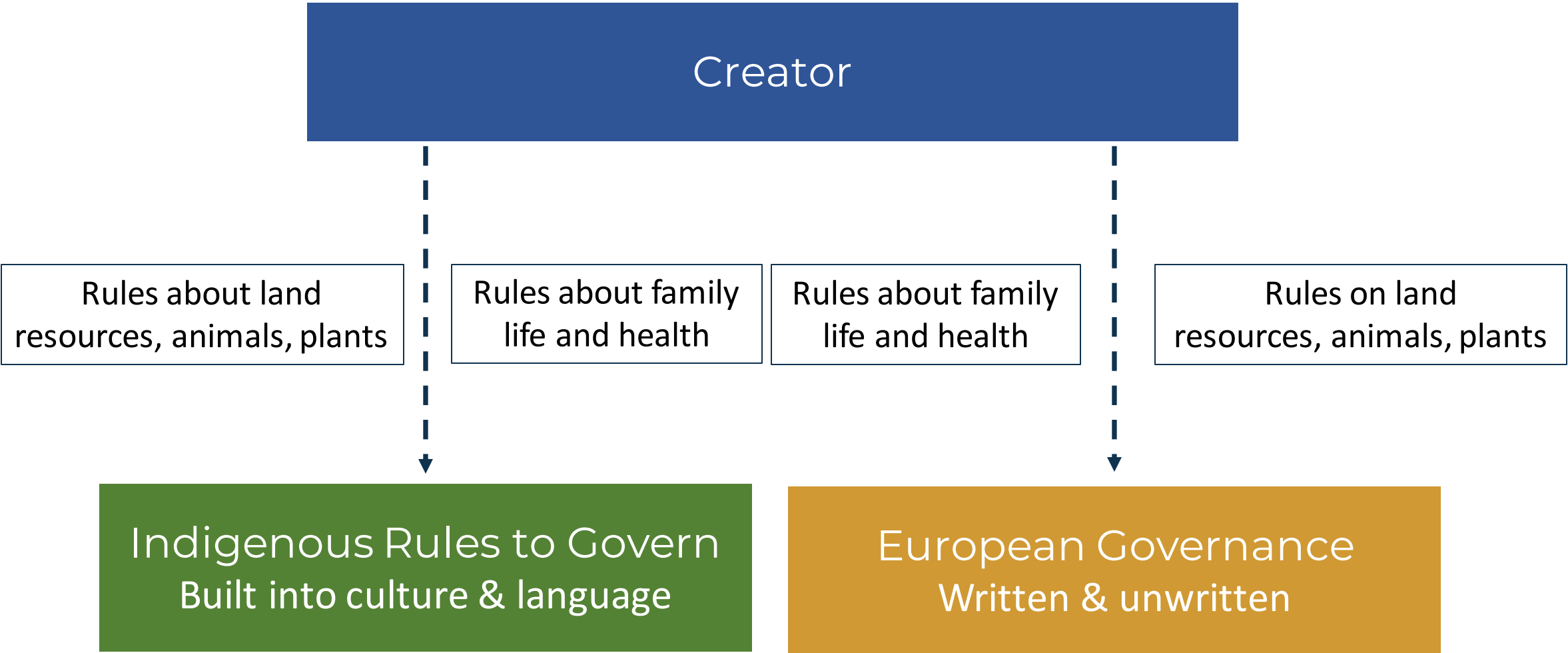
Overview of Land Governance: Modern First Nation Legislation

TALSAA Informational Workshops
Grey Eagle Resort & Casino, Calgary, AB
March 15-16, 2023

Pre - Contact



Rules for life including land, family and government



First Nations: Sovereign Nations

A photograph of a forest scene. In the foreground, three animal skins are hanging from a horizontal wooden pole. The skins are dark brown/black, light tan, and dark brown/black. In the background, a traditional teepee structure is visible, made of wooden poles and covered with a light-colored material. The forest is lush with green foliage and trees.

- First Nations have been on the Land since "Time Immemorial"
- Stood equal to any Nation in the World
- Sophisticated Social Structures that included Legal Systems *and* Laws on Land & Resources
- Land is fundamentally connected to our Identity and Existence
- The responsibility to Protect the Earth for Future Generations is an Inherent Right and Law universal to all indigenous nations.

Treaties



Solemn agreements between Head of State and Indigenous People recognized:

- Prior occupation of lands by indigenous people
- Opened territory for settlement

Established a partnership based on mutual respect of:

- Culture
- Economic freedom
- social support such as health, education

Treaties



Intended to preserve livelihood:

- Hunting fishing trapping
- Agricultural harvesting and gathering
- Livestock
- A land base

Intended to provide support:

- Capital Equipment
- Basic supplies at current market prices
- Enforcement of laws to protect against external threats (e.g.: alcohol)

Treaty First Nations in Alberta who are signatories to *the Framework Agreement on First Nation Land Management*

Treaty 6 (1876-1889)

Enoch Cree Nation
Montana First Nation

Treaty 7 (1877)

Siksika Nation
Tsuut'ina Nation

Treaty 8 (1899)

Athabasca Chipewyan First Nation
Fort McKay First Nation
Fort McMurray # 468 First Nation
Loon River Cree First Nation
Peerless Trout First Nation
Woodland Cree First Nation

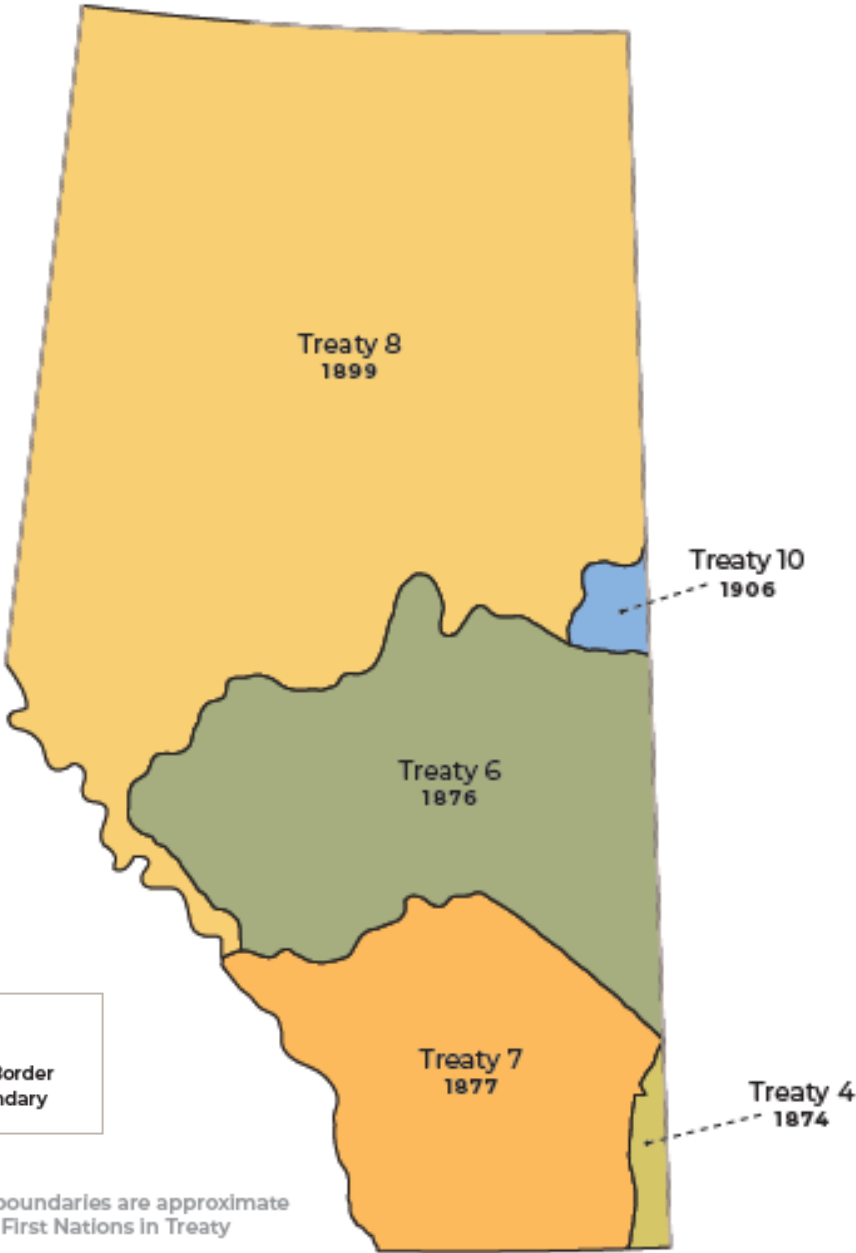
Framework Agreement on First Nation Land Management (FA)

Developmental FA Signatory - Active
Developmental FA Signatory - Inactive After 1st Vote
Developmental FA Signatory - Inactive

Map Legend

— Provincial Border
— Treaty Boundary

* Borders and Treaty boundaries are approximate
** Does not include all First Nations in Treaty





Partnership Indigenous / Inherent / Treaty Rights



First Nation Laws

- Constitutions
- Recognized and Enforceable First Nation Laws
 - Custom Adoptions
 - Marriages
 - Culture
 - Etc.
- Land Code & First Nation laws



Other Laws

- **Federal**
- **Provincial**
- **Municipal**

Treaty Relationship



Canada imposed the *Indian Act*, which did not respect the Treaty agreement.

The Indian Act: What it did

- Denied women status
- Introduced residential schools
- **Created reserves**
- Restricted First Nations from leaving reserve without permission from Indian agents
- **Expropriated portions of reserves for roads, railways and other public works**
- **Granted Canada control over the ability of First Nations to pursue land claims**
- Forbade First Nations from speaking their Native language
- Forbade First Nations from practicing their traditions and customs
- Declared potlatch and other cultural ceremonies illegal
- Denied First Nations the right to vote, etc....



Thomas Moore before and after his entrance into the Regina Indian Residential School in Saskatchewan in 1874.

Library and Archives Canada / NL-022474

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

-Sir John A Macdonald, 1887

- Indigenous & Inherent Rights, Treaties and Aboriginal Rights
- Framework Agreement & other Self Government Agreements
- Modern Federal Legislation
- Indian Act

What is The Framework Agreement on First Nation Land Management?

The *Framework Agreement* is an historic government-to-government agreement signed in 1996 by 14 First Nations and Canada.

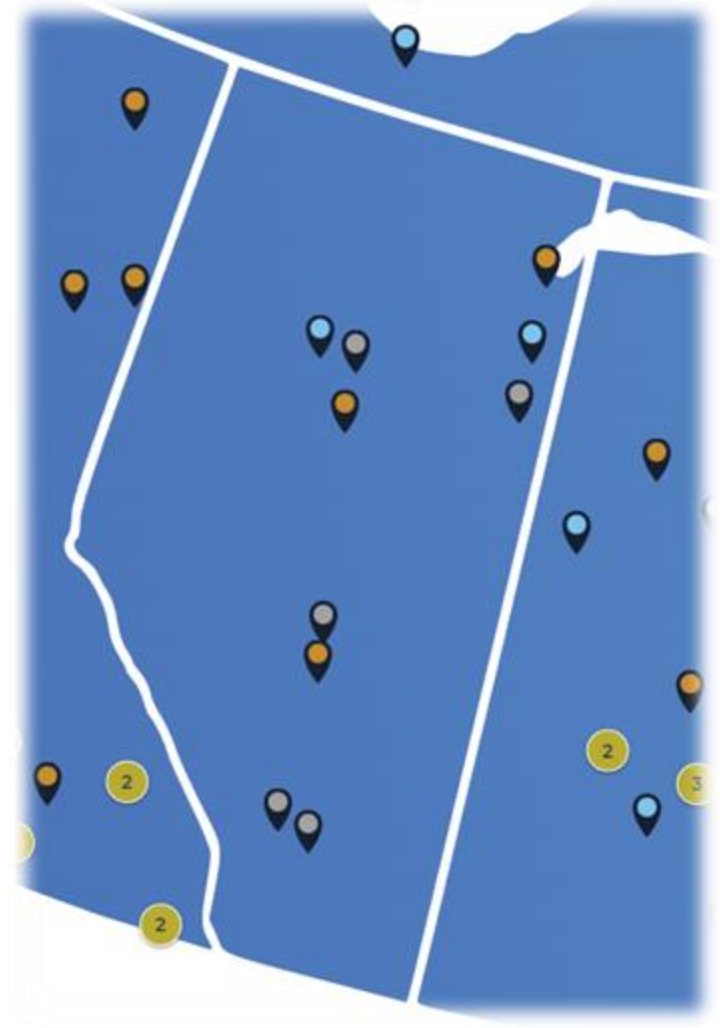
The purpose of the *Framework Agreement* is to enable First Nations to resume control over their lands and resources without Canada's interference.

This is the only time in Canada's history that a group of First Nations have joined together to design, negotiate and sign a government-to-government arrangement with the federal government to resume their rightful jurisdiction.



[April 13, 2012: 18 First Nations added as signatories to the FA in historic signing ceremony]

Map of Signatory First Nations to the Framework Agreement across Canada



Government-to-Government



First Nation
Government

Government-to-Government
Agreement Negotiations



Canadian (Federal)
Government



Framework Agreement

Respect for Future Rights including Treaties

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”



Framework Agreement

Main Benefits of the Framework Agreement



No expropriation of reserve lands by provincial governments and further restrictions on federal



First Nations recognized as the **decision-making authority** over their reserve lands and resources



Canada continues to be **liable for previous acts** and omissions (e.g. settlement of land claims).



Transfer by Canada of previous **land revenues** to First Nations and capital monies (royalties).



Gave First Nations the ability to address the current vacuum on rules related to land during **marriage breakdown**



Ability of First Nation to protect the **environment**



Recognition of First Nations' **legal capacity** to acquire and hold property; to borrow; to contract; to expend and invest money, ...to exercise its powers and to perform its duties



Community control over land management and development



First Nation lands continue to be lands reserved for Indians within the meaning of section **91(24)** of the Constitution Act, 1867



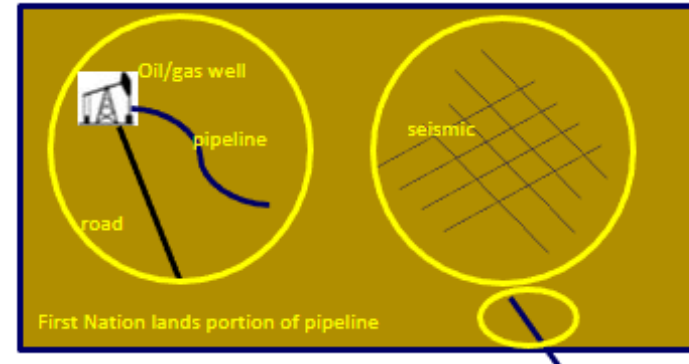
Inclusion of both off-reserve and on-reserve **members** in important decisions



Establishment of a Lands Board, elected by First Nations, to provide **technical assistance**

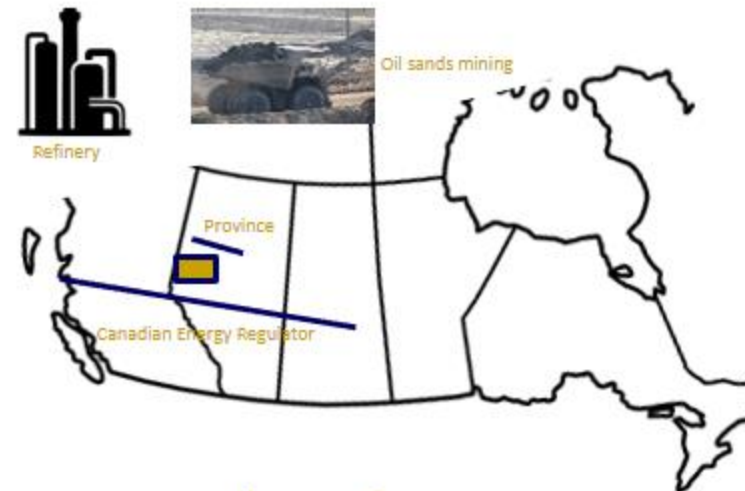
Indian Oil and Gas Canada (IOGC)

- interprovincial lines
- regional networks
- distribution lines to the First Nation
- associated works and operations
- emergency response and spills
- abandoned wells



IOGC

Manages and regulates First Nation oil and gas on First Nation lands



Other Regulators

Outside of First Nation lands/ Traditional lands

History of Framework Agreement Amendments

- The Framework Agreement is flexible and has been improved through amendments over the past twenty-five years
- The Framework Agreement can only be amended with the agreement of land code First Nations ... at least 2/3rds of First Nations which have ratified the Agreement (operational First Nations)
- A summary of amendment history can be found in today's materials
- The consolidated text of the Framework Agreement with all amendments, including the most recent amendment 7 will soon published on our website
- The FAFNLMA gives the force of law to the FA as amended over time

History of Framework Agreement Amendments (cont.)



Pre-Amendment 7



CONCERN: Possibility of drafting errors

Amendment 7



Framework Agreement

Joint Drafting

Joint Drafting

First Nation Ratifies the FA
Implements FN side of FA

Binds Canada to implement
flow of funds

- Clear “Force of Law”
- Focus for Future Amendments
- Focus of Authority



Land Codes



(Proposed) F.A.F.N.L.M.A.
Framework Agreement on First Nations Land Management Act

- No errors
- Implements
- Focus is on the FA
- Binds Canada, [Provinces?], 3rd Parties

Shorter, consistent wording with small margin of error



Questions & Discussion

THANK YOU

For more information, please contact us!