



Environmental Governance under Land Code

TALSAA Informational Workshops

Grey Eagle Resort & Casino, Calgary AB

March 15-16, 2023



Image: Scandasia.com

Agenda

1. Welcoming and Overview

2. Ice Breaker Bingo

3. Environmental Governance Tools under Land Code

4. RC Environmental Support Services

5. Q & A

6. Breakout Room Activity

Ice Breaker Bingo

Please join us for a game of BINGO!

This game is intended to encourage discussion and networking as you learn fun facts about your peers.

To play:

- *First, write your full name on the back of the BINGO card*
- *Find someone who has done or experienced the following activities on your BINGO card – they will then write their name on that activity*
- ***Note you can only have the same person write their name on your card twice!***

Please hand in your BINGO card after for a chance to win a prize!

10:00

What is Environmental Governance under Land Code?



With the adoption of a Land Code, Canada recognizes the First Nation's authority to govern and manage its lands. This includes:

- Making decisions on how to preserve both the quality and quantity of a First Nation's reserve lands, natural resources and the environment.
- Fulfilling environmental responsibilities under the Framework Agreement and following the federal environmental laws that still apply on reserve lands.
- Protecting Community and conducting the necessary due diligence to identify and mitigate environmental liabilities.

Environmental Governance Tools

Some tools that Land Code First Nations are using to manage their lands, natural resources and the environment include:

Undertaking **Environmental Site Assessments (ESA)** to understand environmental conditions on reserve by identifying and addressing areas of environmental concern (contamination).

Conducting **Environmental Planning** to define a First Nation's approach to important environmental issues and organize actions to achieve specified environmental goals.

Developing and implementing **First Nations environmental laws** to provide enforceable direction that aligns with the First Nation's goals.



An **Environmental Site Assessment (ESA)** is a process that looks back at past land uses and activities to determine the existing condition of a specific study area.



- An ESA Identifies, tests and remediates areas of environmental concern (contamination).
- ESAs are typically completed in 3 phases (Phase I, II and beyond).
- Once a First Nation becomes a signatory to the Framework Agreement, a **Phase I ESA** is conducted as part of the Land Code Developmental process.

Environmental Planning

Identify key environmental goals

What do you want your community to look like in 10 years, 50 years, 100 years, etc.?

Identify important environmental issues

What issues are currently affecting your lands?
What changes are likely in the future?

For example:



Solid Waste



Wildfires



Flooding

Specify tools to address identified issues

What tools are appropriate/feasible to implement?
What will the community support?

For example:



Monitoring & reporting



Outreach & Education



Law Development

The Framework Agreement (FA) recognizes Land Code First Nations' authority to make environmental laws for their reserve lands. The FA only specifies two key environmental laws that should be developed:

Environmental Protection

- To protect the community from harmful environmental impacts by regulating and preventing those impacts.

Environmental Assessment

- To protect the community from any anticipated social, cultural and environmental effects that may be associated with a proposed project, such as a development.

First Nations Environmental Protection Laws

First Nations Environmental Protection Laws set a First Nation's environmental protection standards and thresholds for identifying contamination

- First Nations environmental Protection Laws should meet or beat provincial standards, criteria and penalties, to ensure that First Nations' reserve lands receive at least the same protection as lands just outside of reserve boundaries.

First Nations EP Laws can help to address:



Hazardous
Substances



Solid Wastes



Fuel Storage and
Tank mgmt.



Spill Response



Environmental
Emergencies

First Nations Environmental Assessment Processes & Laws

First Nations **Environmental Assessment (EA) Laws** outline a First Nation's process for predicting the potential environmental, social, and cultural effects of a proposed project and include mitigation measures to reduce/eliminate the predicted effects.

First Nations EA laws and processes:

Include public consultation, and are a tool used for decision-making.

Outline a process that suits the First Nation's capacity and concerns.

Should include clauses that require proponents to cover EA costs (i.e. community consultation).

Should provide sufficient details to make an informed decision.

Harmonization of Environmental Processes & Laws

Harmonization occurs when two or more jurisdictions follow a process that is designed to meet the needs of all jurisdictions involved.

- First Nations may harmonize their environmental processes or protection standards with Canada, the provinces or other neighbouring governments.
- Harmonization may lead to the participation of multiple jurisdictions and might include funding contributions.

Harmonization is done to:



Improve decision-making where a project is being regulated by two or more jurisdictions.

My First Nation is interested in harmonization. What should I be aware of?



Careful consideration is required if there is proposal to adopt a law or process of another government.

The Framework Agreement and Environmental Laws

Beyond Environmental Protection and Environmental Assessment, First Nations may wish to develop other environmental laws. Some examples could include laws relating to:



Contaminants



Environmental
Emergencies &
Natural Disasters



Conservation &
Heritage mgmt.



Nuisances
(i.e. noise, dust,
odour, light)



Recycling and Solid
Waste mgmt.



Unsightly Premises



Sewage and Effluent
Discharges



EMP
Implementation



RC Environmental Support

- Available to provide support and advice
- Involved by request from the First Nation
- Can be contacted through your RC Land Code Governance Advisor
- Our level of involvement is up to the First Nation

The RC can provide 1 on 1 support to assist with community specific requests, such as:

**Technical Support
for: ESA's, EMPs,
Environmental
Law Development**

**Incidents and
Environmental
Emergencies**

**Training for
Lands Staff,
Committees &
Leadership**

Climate Change
i.e. Adaptation planning,
monitoring, community-
based initiatives

**Promote
Networking**

Collaborative Environmental Management Plan (EMP) Fund

- Funding to support the development of First Nation's EMP
- Additional funding and support is available to implement First Nation's EMPs

Land Use Planning (LUP) Fund

- Intended to assist planning and lands governance processes that are community-driven

Legacy Fund

- May be used to support long-standing clean-up and waste removal activities
- Legacy Funding has also supported surveying projects

Solid Waste Management (SWM) Fund

- May be used to support SWM activities, including:
- Solid Waste Management Plans
 - Solid Waste Laws
 - Landfill / Transfer Station Improvements



Challenges & Concerns:

- Managing all wide-ranging environmental priorities including the protection of water and mitigating the impacts of climate change
- Enforcing First Nations environmental laws
- Working with other governments and businesses operating on First Nations lands
- Preparing for and responding to environmental emergencies and natural disasters

Benefits:

First Nations jurisdiction over their reserve lands are formally recognized, providing for:

- The ability to directly protect their environment (lands, water and natural resources) through the development and implementation of environmental governance tools
- The recognition of significant law-making powers respecting First Nation Land
- The ability to make appropriate, timely decisions that reflect local needs and priorities

The Lands Advisory Board and Resource Centre are available to support Framework Agreement signatory First Nations



Questions & Discussion

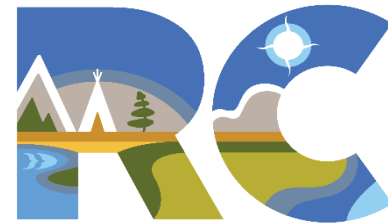
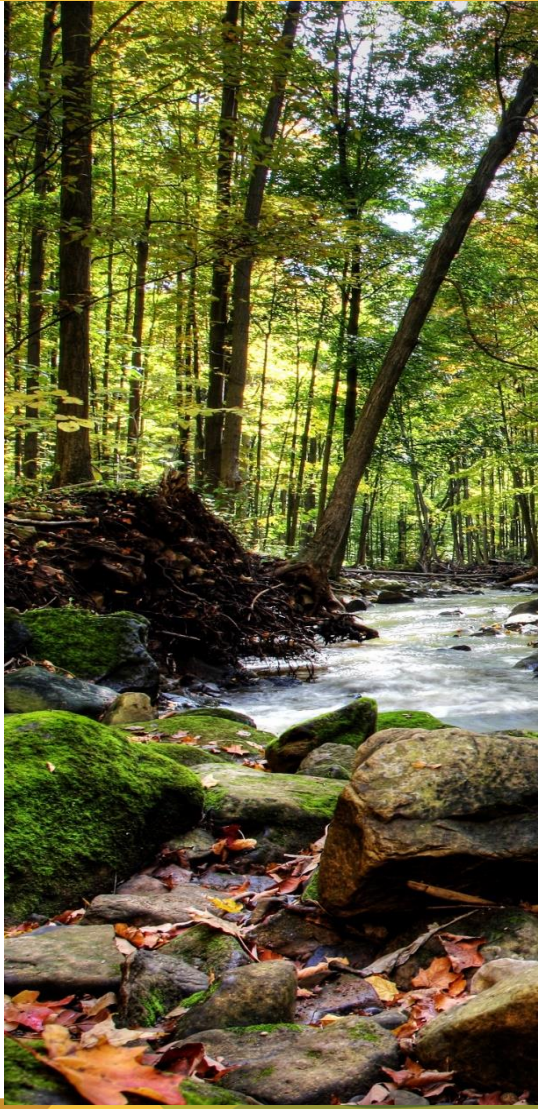
Discussion and Breakout Activity

Group discussion (15 minutes)

Q1. What environmental challenges/priorities are you currently facing?

Q2. What tools are you using or developing to help address environmental challenges/priorities?

Q3. How do you involve the community in making decisions about the environment?

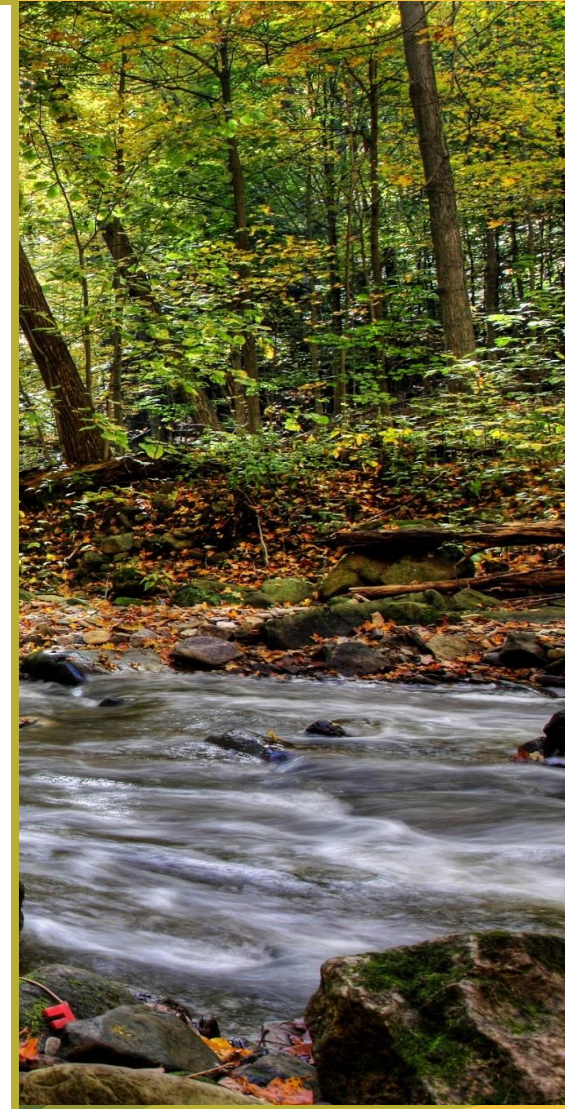


FIRST NATIONS
LAND MANAGEMENT
RESOURCE CENTRE

THANK YOU!

For more information please
visit:

LABRC.com



RC Environmental Funding Initiatives (2)

Legacy Fund

- Support long-standing clean-up and waste removal activities
- Land fills, dumps and illegal dumping
- Other waste removal or contaminated sites activities that are not covered by **Federal Contaminated Sites Action Plan (FCSAP)**
- Legacy Funding has also supported surveying projects
 - i.e., research on Traditional Land Holdings, resolution of survey boundary issues

Land Use Planning Fund

- Intended to assist planning and lands governance processes that are community-driven
- Could be used to prohibit development in environmentally sensitive areas
- Eligible First Nations receive up to \$100,000 to assist develop a Land Use Plan / Land Relationship Plan