



*cutting through complexity*

# **Benefits Review of the *Framework Agreement on First Nations Land Management***

Presentation to the Lands  
Advisory Board Annual General  
Meeting

September, 2014

**The initial study, or “flagship study,” began in 2009 to identify benefits of the *Framework Agreement* to operational First Nations. Starting at that point:**

- ❑ Phase I: 2009 - 2011 Costing Study and Benefits Review
  
- ❑ Phase II: 2013 - 2014 Benefits Review Update
  
- ❑ Phase III: 2014 - 2015 and 2015 - 2016 a series of in-depth case studies. This will be done in three parts (Part (i) is underway). The focus topics are:
  - Economic Development
  - Cultural / Heritage
  - Environmental



# Project Objectives

<b>Phase I – 2009 (19 First Nations)</b>	<b>Phase II – 2013 (32 First Nations)</b>	<b>Phase III (i) – Case Studies (7 First Nations)</b>
<p>Capture the current costs and benefits of implementing the <i>Framework Agreement</i> to ascertain the true cost to First Nations and Canada.</p> <p>Identify impacts to land governance and management systems, processes, as well as economic development impacts</p>	<p>Update the benefits results obtained from the flagship study (Phase I) to capture progress and incremental changes; and compare experiences of different groups of operational First Nations.</p>	<p>Narrative accounts of economic, cultural/heritage and environmental change experienced by operational First Nations which demonstrate the positive benefits and impacts of the <i>Framework Agreement</i>.</p>



# Project Methodologies

	Phase I – 2009	Phase II – 2013	Phase III (i) – Case Studies
Methods:	Site Visits Personal Interviews Phone Interviews Online Survey Literature Review	Phone Interviews Online Survey	Site Visits Personal Interviews Phone Interviews
Analysis:	Aggregate cost modelling and forecasting.  Aggregate statistical analysis (frequency distributions and sample estimations).	Aggregate comparative statistical analysis (frequency distributions and sample estimations).	Individual in-depth narratives.  Some cross-case analysis is anticipated.



# Participating Operational First Nations

<b>Participating Operational First Nations</b>	<b>Phase I 2009</b>	<b>Phase II 2013</b>	<b>Phase III (i) Case Studies</b>
<b>Group A</b>	<b>19</b>	<b>16</b>	
<b>Group B</b>		<b>16</b>	
<b>Total</b>	<b>19</b>	<b>32</b>	
<b>Case Studies</b>			<b>7</b>



## Group A (2009 & 2013)

Province	Operational First Nations Participating in <u>Both</u> the 2009 & 2013 Studies	Operational Years of Experience by 2009	Operational Years of Experience by 2013
BC	L'heidli Tenneh	9	13
	McLeod Lake	7	11
	Beecher Bay	7	11
	Sliammon	6	10
	Ts'kw'aylaxw	6	10
	T'Sou-ke	4	8
	Tsawout	3	7
	Tseil-Waututh	3	7
	Squiala	3	7
	Tzeachten	2	6
AB			
SK	Muskoday	10	14
	Whitecap Dakota	6	10
	Kinistin	5	9
MB	Opaskwayak Cree Nation	8	12
ON	Chippewas of Georgina Island	10	14
	Mississaugas of Scugog Island	10	14
	<b>Average years operational</b>	<b>6</b>	<b>10</b>

Also participating in 2009 were Westbank, Tsawwassen, and Nipissing. Prior to 2013 Westbank had moved beyond the *Framework Agreement* & signed a self government arrangement; Tsawwassen had signed a Treaty and Nipissing did not participate in the 2013 study.



## Group B (2013)

Province	Operational First Nations Participating <u>Only</u> in the 2013 Study	Operational Years of Experience	
		in 2009	in 2013
BC	Kitselas	4	8
	Shxw̓ha:y Village	4	8
	Leq'a:mel	1	5
	Seabird	1	5
	We Wai Kai	1	5
	Skawahlook	0	4
	Songhees	0	3
	Sumas	0	3
	Campbell River	0	1
AB			
SK	Muskeg Lake	5	9
	Kahkewistahaw	0	2
MB	Chemawawin	0	4
	Swan Lake	0	3
ON	Mississauga	1	5
	Whitefish Lake	1	5
	Henvey Inlet	0	4
	<b>Average years operational</b>	<b>1</b>	<b>5</b>

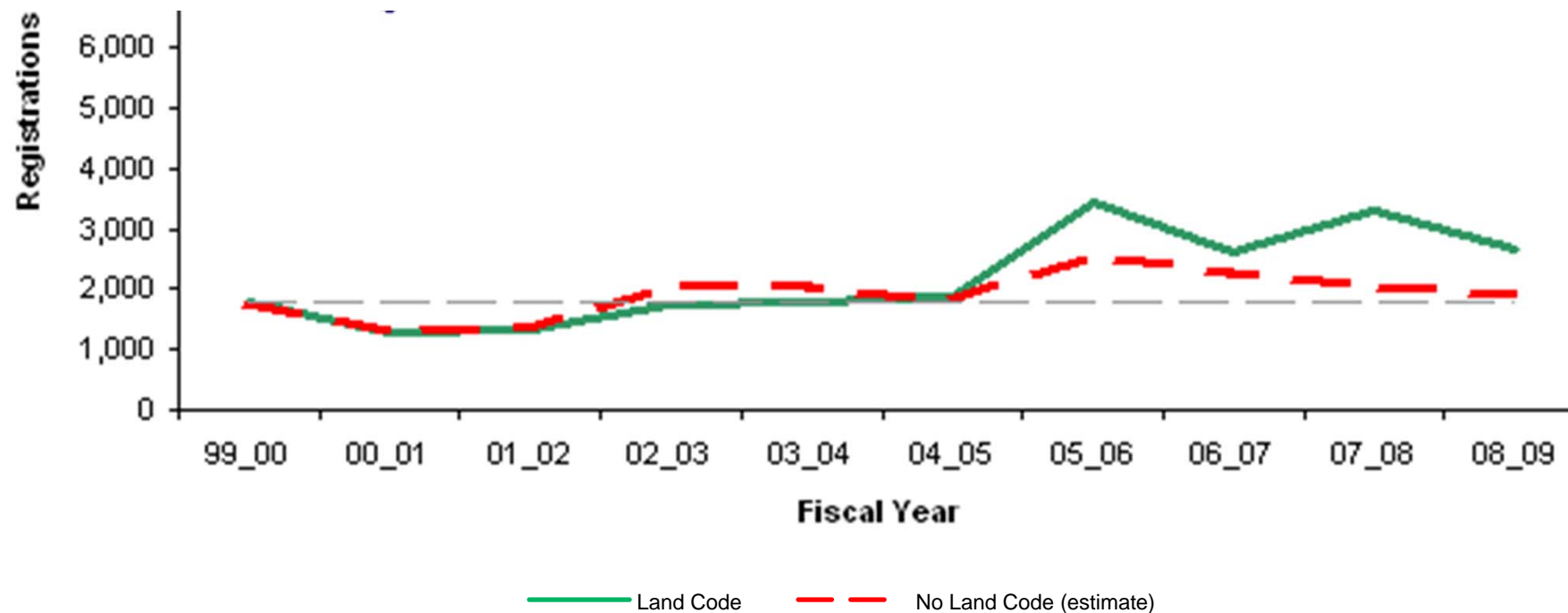
The background features several overlapping geometric shapes in two shades of blue: a dark blue and a lighter blue. On the left, a dark blue rectangle is partially obscured by a lighter blue trapezoidal shape that tapers to the right. Below this, a dark blue trapezoidal shape tapers from the left towards the bottom. On the right, a large dark blue rectangle is partially overlaid by a lighter blue rectangle that extends from the top right towards the center. The text is positioned on the right side, within the dark blue area.

**Phase I: 2009  
Study Highlights**



## 2009 Study Highlights

- Had operational First Nations remained under the Indian Act (red line), their total registered land transactions would have been significantly lower than what was possible under the *Framework Agreement* (green line).



## 2009 Study Highlights (cont'd)

2. **Of the resources (people and dollars) that an operational First Nation expended, a significant amount (80%) was allocated to the more complex activities of land governance, including environmental management, operational design, relationship building, monitoring, compliance and enforcement, as opposed to administrative tasks (20%) such as volume-based registration activities.**
  - In comparison, AANDC allocated 25% of its resources to the complex activities.
  - Operational First Nations core activities are primarily governance related and not administrative.

## 2009 Study Highlights (cont'd)

- 3. At 2009, operational First Nations could register transactions at a much lower cost than AANDC. Operational First Nations costs ranged between approximately \$370 to \$1,500 per transaction, whereas AANDC costs were approximately \$2,410 per transaction.**
- 3. The *Framework Agreement* provides better circumstances for operational First Nations to improve their land governance systems and processes (i.e., decision making, Community support, relationship building , more favourable terms and conditions in negotiations with third parties, etc. ).**

## 2009 Study Highlights (cont'd)

### 5. The *Framework Agreement* is a catalyst for economic development on reserve land:

- The *Framework Agreement* has contributed to operational First Nations increasing the number of businesses on reserve, with most new businesses being First Nation member-owned.
  
- Operational First Nations are expanding their business development to new and/or different industry areas.

The background features abstract geometric shapes in two shades of blue. A dark blue shape is on the left, and a lighter blue shape is on the right, overlapping the dark blue one. The text is positioned on the lighter blue area.

# **Phase II: 2013 Study Highlights**

## 2013 Study Highlights

1. **None of the operational First Nations surveyed in 2009 or 2013 reported that, even if it were possible under the *Framework Agreement*, they had no desire to revert back to the Indian Act.**
2. **The benefits of operational First Nations implementing their Land Code are accruing to the Band. The study findings show the majority of reserve land being developed is land held in common by the Band for the benefit of all members.**
3. **Governing under a Land Code helps operational First Nations to achieve the overall vision for their Communities.**
  - This element was cited by most of the 2009 and the 2013 groups of operational First Nations.

## 2013 Study Highlights (cont'd)

- Land governance activities are completed significantly faster by operational First Nations compared to previous processing under the Indian Act. In some cases this can be 72 times faster.



# 2013 Study Highlights (cont'd)

5. The Communities that became operational had previously developed their land governance processes and decision making systems to only a small extent under the Indian Act.

	1 = To a great extent	2 = To a considerable extent	3 = To some extent	4 = To a small extent	5 = Not at all	N/A	Not Answered
2009 Group A	6%	6%	35%	12%	41%	0%	0%
2013 Group B	0%	19%	19%	31%	13%	13%	6%

Group B Mean = 3.5

Group A 2009 Mean = 3.8

... whereas significant development has occurred following ratification of their Land Code.

	1 = To a great extent	2 = To a considerable extent	3 = To some extent	4 = To a small extent	5 = Not at all	N/A	Not Answered
2009 Group A	18%	24%	29%	24%	6%	0%	0%
2013 Group B	44%	13%	13%	6%	0%	19%	6%

Group B Mean = 1.8

Group A 2009 Mean = 2.8



**6. First Nations that have been operational between four and six years still feel they are transitioning. The transitional period, as indicated by operational First Nations, can take as long as 10 years.**

- This is not a two-year turn-key process

	1 = To a great extent	2 = To a considerable extent	3 = To some extent	4 = To a small extent	5 = Not at all	N/A	Not Answered
<b>2009 Group A</b>	<b>24%</b>	<b>18%</b>	<b>24%</b>	<b>12%</b>	<b>18%</b>	<b>6%</b>	<b>0%</b>
<b>2013 Group A</b>	<b>6%</b>	<b>19%</b>	<b>13%</b>	<b>25%</b>	<b>25%</b>	<b>13%</b>	<b>0%</b>

Group A 2009 Mean = 2.8      ↑      →      ↑      Group A 2013 Mean = 3.5  
 Group B 2013 Mean = 2.9

## 2013 Study Highlights (cont'd)

### 7. Transition issues cited by both Group A and B operational First Nations:

- Some are still dealing with issues related to funding, training and dedicated resources.
- Legacy issues still remain outstanding.
- Some found delays and challenges implementing a fully functional lands department.
- Land law development has taken longer than anticipated.

## 2013 Study Highlights (cont'd)

### 8. Many operational First Nations identified initial improvements in terms of:

- Flexibility in determining the terms and conditions for land related transactions
  
- Protecting Community legal interests
  
- Protecting Community values

## 2013 Study Highlights (cont'd)

### 9. The majority of operational First Nations noted, with respect to investors:

- Enhanced communication
- Building industry relations
- Better reputation of the Community

### 10. As operational First Nations establish land governance activities, other areas begin to improve such as relationships with municipal governments and financial institutions.

## 2013 Study Highlights (cont'd)

**11. Operational First Nations are establishing new businesses on reserve. Although there is some variance, the data suggests that most businesses are small in size but established on reserve by entrepreneurs who require a small staff.**

<b>Category</b>	<b>Group A 2009</b>		<b>Group B</b>	
First Nation members	10	91%	6	50%
Non-members	3	27%	3	30%
Band-owned	2	18%	7	70%
External partners	3	27%	5	40%
Other	1	9%	1	10%

## 2013 Study Highlights (cont'd)

**12. There is an increase in the percentage of operational First Nations reporting that businesses are owned by external partners.**

<b>Category</b>	<b>Group A 2009</b>		<b>Group A 2013</b>	
First Nation members	10	91%	6	75%
Non-members	3	27%	1	13%
Band-owned	2	18%	3	38%
External partners	3	27%	6	75%
Other	1	9%	0	0%

**13. There is an increase in interest and importance around forging relationships and partnerships with third parties and other external partners.**

## 2013 Study Highlights (cont'd)



14. Investments in hard infrastructure (roads, sewer, water) and soft infrastructure (education, health, law) were acknowledged to be important components of success. A majority of operational First Nations are investing in these areas.
15. Group A continues to invest, beyond what was reported in 2009.
16. An order of magnitude amount of internal and external investment achieved by all 32 operational First Nations participating in the 2013 study is \$270M.

## 2013 Study Highlights (cont'd)

- 17. Jobs are being created on reserve. An order of magnitude number of jobs created by all 32 operational First Nations participating in the 2013 study is approximately 4,000.**

	<b>Number of Jobs Created</b>
Group A in 2009	1,924
Group A in 2013	729*
Group B	1,309

**\*two operational First Nations reported that jobs were created, but were unable to identify a range**



## 2013 Study Highlights (cont'd)

### 18. Key influencing factors that have attracted businesses to operational First Nations:

- ❑ Control being exercised locally provides direct access to First Nations representatives – decisions are absolute and not delayed by having an additional party (AANDC) involved.
- ❑ A First Nation's controlled development of the reserve and businesses, including land laws and regulations, provide increased sense of security to investors.
- ❑ The Land Code, and supporting instruments, provide third parties with clear understanding of conditions.

## 2013 Study Highlights (cont'd)

**19. The most cited factor contributing to the attraction of business activity on reserve lands is the efficiency gained in relation to land governance processes.**

- This includes simplification and improved processing conditions under a Land Code as compared with previous requirements under the Indian Act.

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**Phase III (i) 2014 – Case  
Studies**



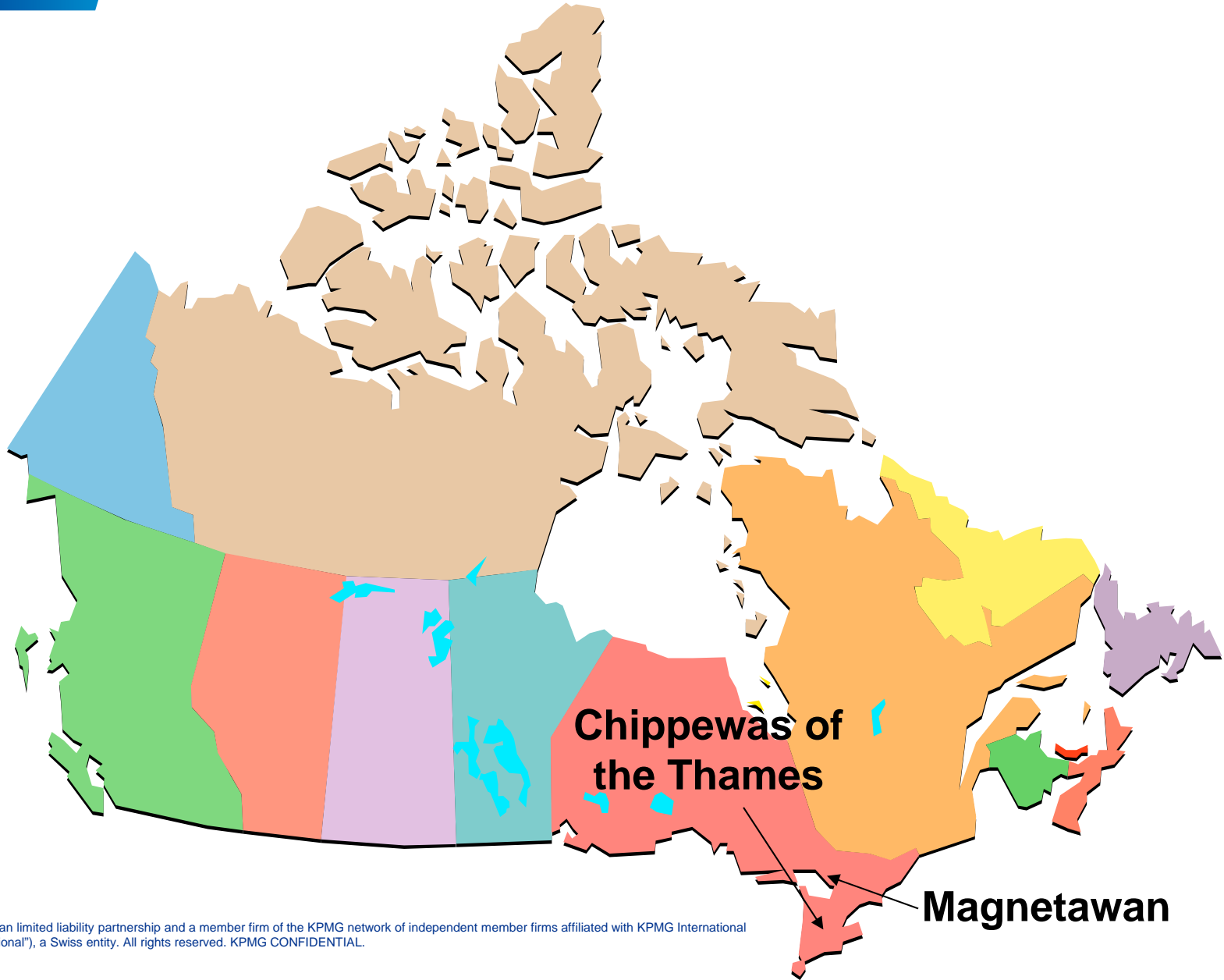
## Phase III (i) Case Studies – Scope and Objectives

- Each case study is focused on a different aspect of a Community's evolution through the enactment of their Land Code in order to demonstrate changes and achievements in performance and effectiveness of their land governance structures.
  
- The three focus topics are:
  - Economic Development
  
  - Cultural / Heritage
  
  - Environmental

# Phase III (i) Case Study Participants



# Phase III (i) Case Studies – Proposed Baseline Cases

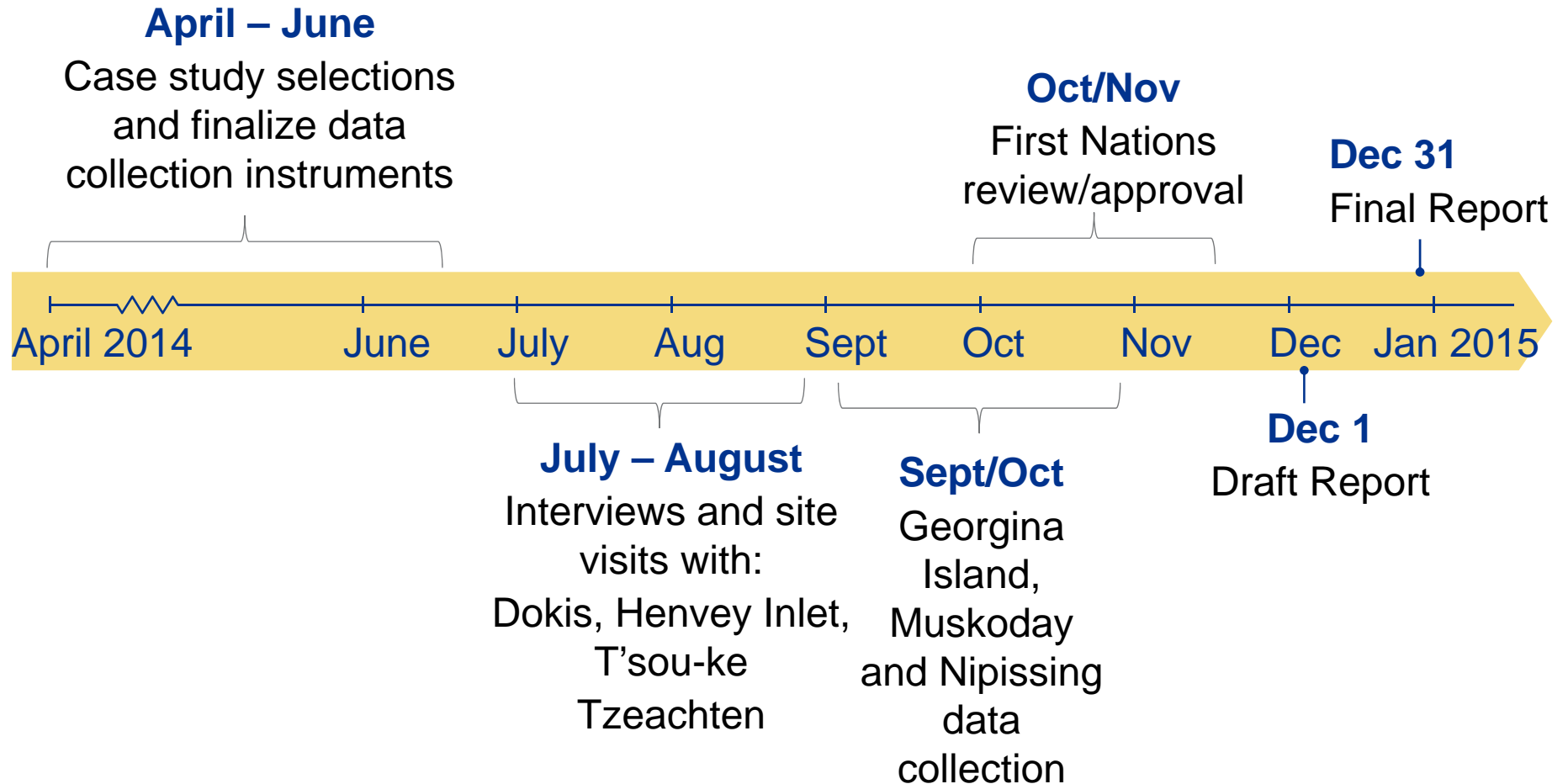


## Phase III (i) Case study topic areas

Topic Areas	Project Examples
Economic Development	<ul style="list-style-type: none"> <li>➤ Hydro electric power</li> <li>➤ Wind power</li> <li>➤ Solar power</li> <li>➤ Commercial food farming</li> <li>➤ Property transfer tax and individual member rights</li> </ul>
Cultural/Heritage	<ul style="list-style-type: none"> <li>➤ Cultural/traditional activity protection</li> <li>➤ Strengthening knowledge, traditions and cultural beliefs</li> </ul>
Environment	<ul style="list-style-type: none"> <li>➤ Water/sewage</li> <li>➤ Species at risk</li> <li>➤ Climate change</li> <li>➤ Waste management</li> </ul>



# Phase III (i) Case Studies – Status and Schedule







## More case studies to be done . . .

- The LAB is planning a second series of case studies during the period January to March, 2015 [Phase III (ii)] and next fiscal year, 2015 – 2016 [Phase III (iii)].**
- If you wish to participate in either time period, please indicate your interest to an LAB Director or the LAB Chair.**



## The final study reports are available. . .

- ❑ **2009/2010 Benefit/Cost study and the most recent 2013 Benefits Update is available through the Lands Advisory Board Resource Centre at:**

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

**Please see the [Reports](#) tab**



**Thank you. . .**

**QUESTIONS?**