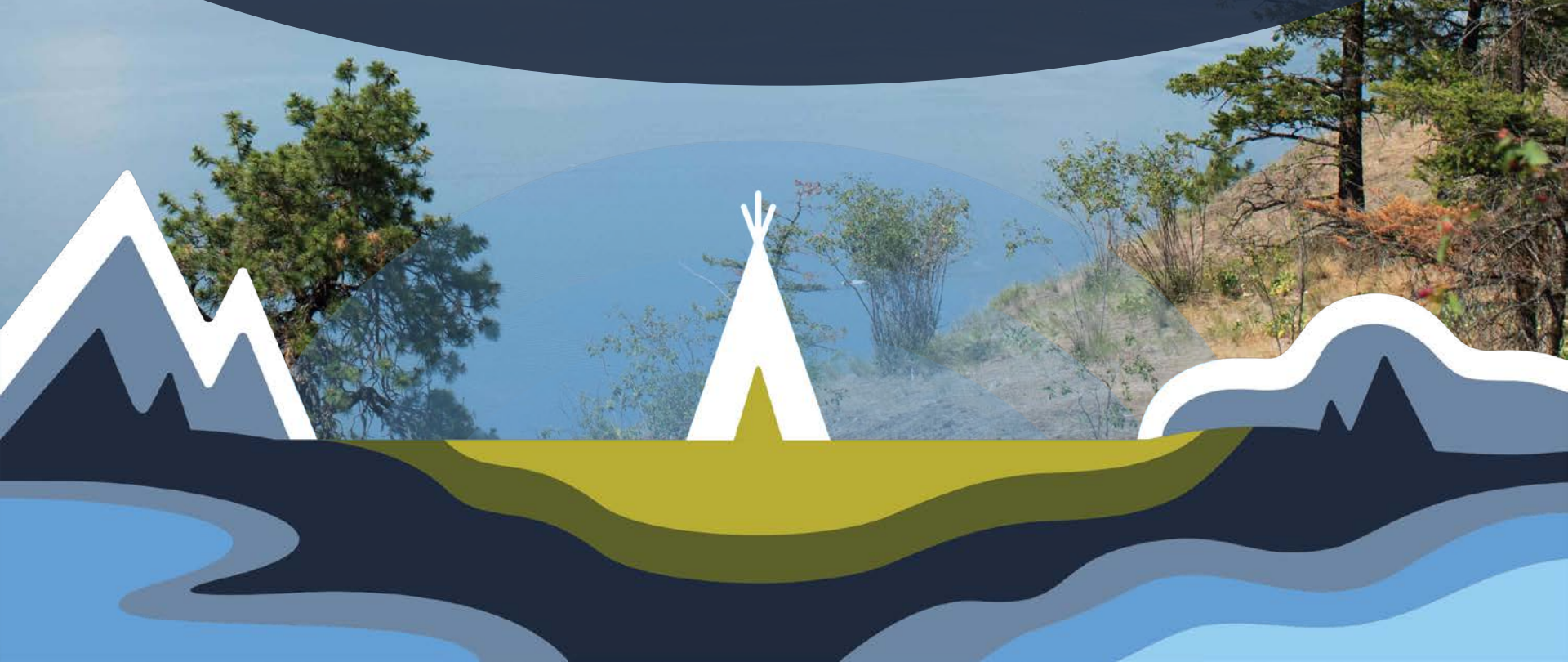


The Framework Agreement on First Nation Land Management

Chief Kelly LaRocca, LAB Director

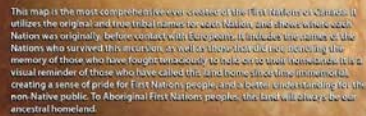
Hiawatha First Nation – November 12, 2019



Presentation Overview

- The historic significance of this land management initiative;
- The purpose of the Framework Agreement (FA), and the resulting implementation of community control over lands and resources;
- Mississaugas of Scugog Island experiences with Land Code; and
- Commonly asked questions

Our Own Names & Locations

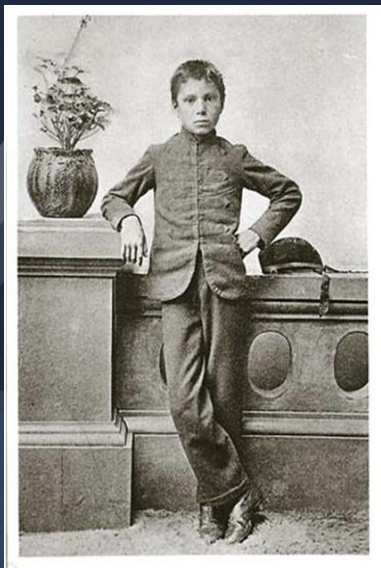


Map: Aaron Carapella

- **First Peoples of the lands;**
- **Self-governing;**
- **Time immemorial occupation of Canada from coast to coast.**

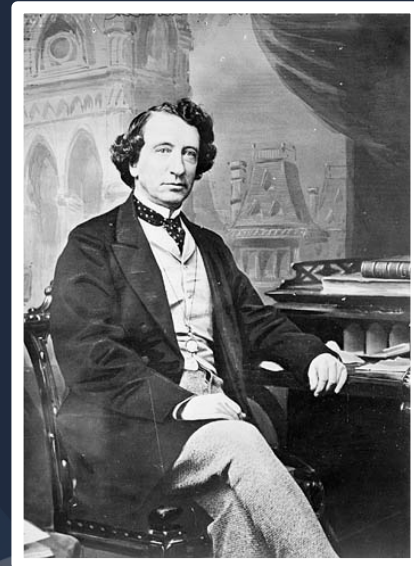
Indian Act

- Enacted in 1876;
- Combined existing treaties into one body;
- Gave Canada a coordinated approach to Indian policy along with justification to implement and enforce policies;
- The Indian Act gave Canada the authority to legislate all matters concerning “Indians and lands reserved for Indians”.
- **No First Nation consultation**



"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



Legacy of the Indian Act

- Paternalistic;
- Permission needed to leave the reserve;
- Permission required to sell hay, etc.;
- Residential Schools;
- Enfranchisement;
- Forbade First Nations (FN's) from forming political organizations;
- Prevented FN's from pursuing land claims;
- Potlatch and other cultural ceremonies declared illegal;
- Denied FN peoples the right to vote;

1982 and 1984 Constitutional Amendments

S. 25...Shall not be construed as to abrogate or derogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including;

- a) Any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1763; and
- b) Any rights or freedoms that now exist by way of land claims, agreements or may so be acquired.

1982 and 1984 Constitutional Amendments

S. 35

- 1) The existing aboriginal and treaty rights of the aboriginal people of Canada are hereby recognized and affirmed;
- 2) Aboriginal peoples of Canada includes Indian, Inuit and Metis peoples of Canada;
- 3) In subsection (1) “treaty rights” includes rights that now exist by way of land claim agreements or may be so acquired;
- 4) The aboriginal and treaty rights referred to in subsection (1) are guaranteed equally to male and female persons.

Land Management History



- Indian Act SS. 53 & 60 (delegated authorities);
- Lands, Reserves and Trust Review;
- SS. 53 & 60 First Nations;
- Framework Agreement;
- First Nation Land Management Act.



- First Nations working together to resume jurisdiction over reserve lands and natural resources.
 - Lands Advisory Board mission
- The Framework Agreement on First Nation Land Management
 - Is a conscious effort to shed the legacy of the Indian Act land provisions, practices, policies and procedures.



The Framework Agreement on First Nation Land Management

A government to government agreement signed in 1996 by 14 First Nations and Canada.

Purpose of the Framework Agreement

"This may be the single most historic accomplishment for First Nations this century, to have First Nations recognized as governments with their own law-making powers and control over their own lands..."

Chief Joe Matthias
Squamish Nation



To enable First Nations to resume control over their lands and resources for the use and benefit of their members without Government interference, by replacing the land provisions of the Indian Act with First Nation made laws.

Ultimate goals served by the *FRAMEWORK AGREEMENT ON FIRST NATION LAND MANAGEMENT*

All First Nations will be aware of the option to exercise their right to govern their reserve lands.

Effective land and resource governance will become a cornerstone of decolonization community by community.

Each First Nation community will decide how to govern its reserve lands and natural resources.

Each First Nation will have sufficient resources to govern its reserve lands and resources effectively.

Government-to-government relationships will strengthen Canada.

A New Millennium. A New Beginning.



On January 1, 2000 three *Framework Agreement* signatories began to govern their own lands and resources.

- **Chippewas of Georgina Island (ON),**
- **Mississaugas of Scugog Island (ON), and**
- **Muskoday First Nation (SK).**

This was Historic!





Land Code Vote Snapshot



TO DATE, 91 FIRST NATIONS
HAVE PASSED LAND CODES



TWO VOTES IN CANADA
WERE APPROVED WITH
100% APPROVAL OF
MEMBERS



84% IS THE AVERAGE
APPROVAL RATING FOR ALL
LAND CODE VOTES IN
CANADA

163 Framework Agreement Signatory Communities

First Nations Land Management Gestion des terres des Premières nations

October 2019 Edition / Édition octobre 2019

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Scale 1:18 000 000 or one centimetre represents 180 kilometres
Echelle 1: 18 000 000 ou un centimètre représente 180 kilomètres

180 0 180 360 540 KM

Lambert Conformal Conic Projection, Standard Parallels 49° N and 77° N
Projection conique conforme de Lambert, parallèles d'échelle conservés à 49° N et 77° N

LEGEND

- Developmental First Nations
- Operational First Nations
- *Operational date to be determined
- Indian Reserves
- City
- Provincial, Territorial Boundary
- International Boundary
- 200 Mile Limit

LÉGENDE

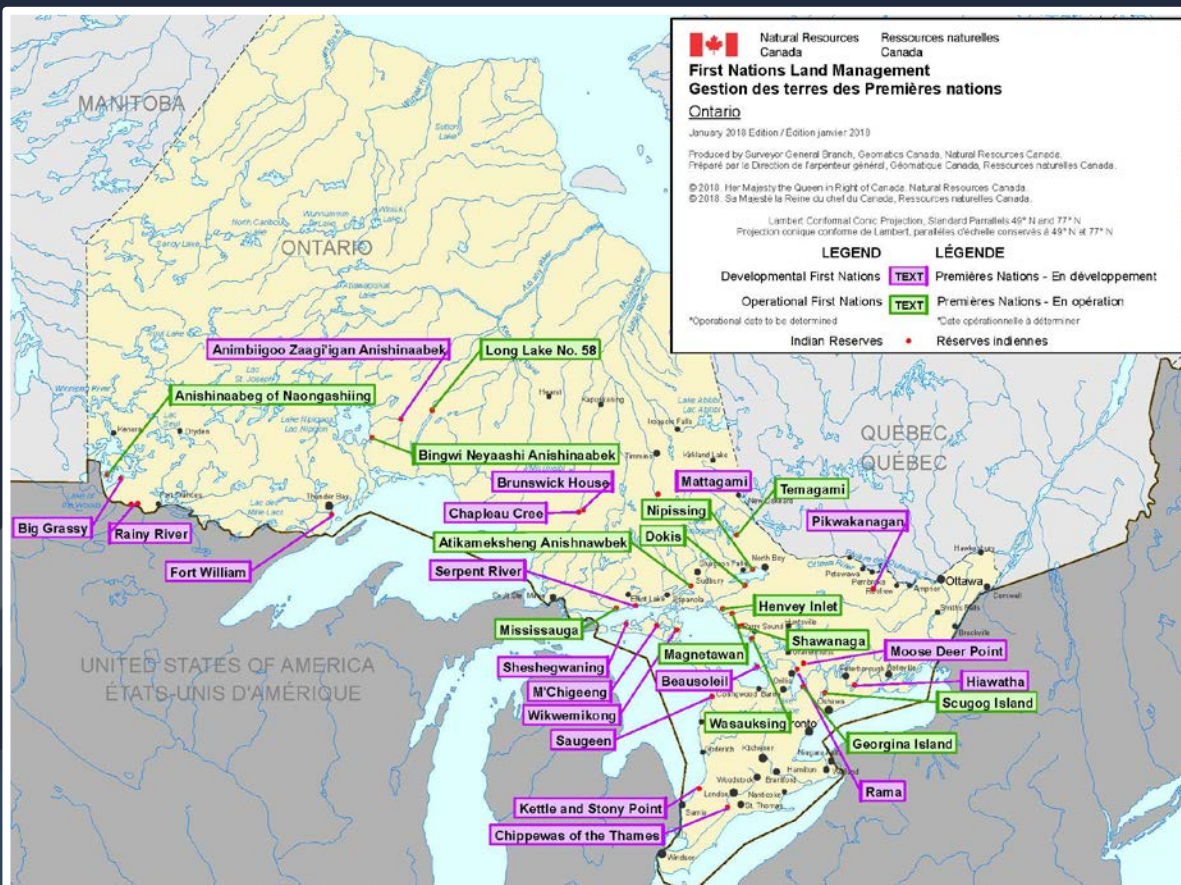
- Premières nations - En développement
- Premières nations - En opération
- *Date opérationnelle à déterminer
- Réserves indiennes
- Ville
- Limite provinciale ou territoriale
- Frontière internationale
- Limite de 200 milles



Sources / Références:
Department of Natural Resources Canada, Geomatics Canada, GeoAccess Division, 1992.
1: 7 500 000 and 1:30 000 000 base map.
Surveyor General Branch, 2019, Canada Lands Administrative boundary.

Le ministère des Ressources naturelles Canada, Géomatique Canada, Division GeoAccès, 1992.
Carte de base 1: 7 500 000 et 1: 30 000 000.
Direction de l'arpenteur général, 2019. Limites administratives des terres du Canada

19 Operational Communities in Ontario



Operational First Nations	Land Code Date
Georgina Island	January 1, 2000
Scugog Island	January 1, 2000
Nipissing	June 1, 2003
Atikameksheng	March 1, 2009
Mississauga	August 1, 2009
Henvey Inlet	January 1, 2010
Anishinaabeg of Naongashiing	August 1, 2011
Dokis	April 1, 2014
Bingwi Neyaashi Anishinabek	April 1, 2015
Shawanaga	July 1, 2015
Magnetawan	September 1, 2015
Long Lake No.58	April 1, 2017
Wasauksing	June 1, 2017
Temagami	September 1, 2017
Chippewas of Rama	May 1, 2018
Algonquins of Pikwakanagan	August 1, 2019
Sheshegwaning	October 1, 2019
Beausoleil	November 1, 2019
Brunswick House	October 1, 2019

Main success factors of the *Framework Agreement*

- Designed by First Nations;
- Historically negotiated by these First Nations and Canada in 1996;
- Has remained First Nation driven; Dismantling the Indian Act;
- Enables communities to develop and enact key land laws and tools under their own Land Code;
- Re-establishment of First Nation governance.



Main principles of the *Framework Agreement*

- Consultation of on and off reserve First Nations members;
- First Nation lands continue to be lands reserved for Indians within the meaning of section 91(24) of the Constitution Act, 1867;
- First Nation has law making powers over lands and resources;
- Special relationship with the crown is retained;
- Legal status and capacity clearly defined;
- No expropriation of reserve lands by government;
- Protection of treaty rights and/or aboriginal rights;
- Canada continues to be liable for previous acts & omissions (e.g. settlement of land claims);
- A third-party interest on reserve is protected - until that interest has expired (e.g. valid leases continue);
- Conflict of Interest provisions are mandatory, ensuring fair land practices, and
- Matrimonial real property provisions are to be developed by the community.

Lands Advisory Board (LAB) and First Nations Land Management Resource Centre (RC)

Lands Advisory Board (LAB)



Chairman, Robert Louie

LAB functions are prescribed in the *Framework Agreement* and includes the provision of technical and advisory services to the signatories.

First Nations Land Management Resource Centre Inc. (RC)



Chair, Chief Austin Bear

The RC was created to discharge the LAB's technical and support service functions to First Nations for the developmental and operational phases of the *Framework Agreement*.

Mississaugas of Scugog Island

We are a branch of the greater Ojibwa Nation, and moved into southern Ontario from our former homeland north of Lake Huron around the year 1700.

The first Mississauga people to settle in the basin of Lake Scugog enjoyed the bountiful resources available in the virgin forests and unspoiled wetlands.



1997 – Great Blue Heron Casino

Opened the community economic development project in 1997, the Great Blue Heron Casino.

Baagwating Community Association is run by members of the Mississaugas of Scugog Island First Nation and is the charitable-arm of the Great Blue Heron.

The Casino has given our Members income, own source revenue for Scugog, and was a mode of independence.



Doorway to Economic Development



The Land Code has been the doorway to economic development, and we later discovered the full benefits. The casino created an economic development boom in the town of Scugog, a \$265M spin off economy annually.

Have built relationships of trust and respect with the Scugog Township, the Durham Region, and the local townspeople.

Local employment is now available to First Nation members. 1100 employed by the casino.



Cultural Revitalization

Our population has increased considerably, and we have undertaken numerous projects in support of the revitalization of our culture.

Restoration of the Mississauga language in the community is underway and Elder teachings are being conducted in the community.

We have worked closely with the Scugog Shores Museum Village, to develop a program geared at sharing integral knowledge about Scugog's traditional ways and values, with tourists and educational associations.

An internationally attended Pow Wow held each summer grows annually and draws incredible interest to the community.



Today we have:

- Own Health Centre,
- Library,
- Improved Water Treatment Plant,
- New & Improved Housing for members,
- Construction Department,
- General Store, Gas Bar, Tim Hortons,
- Award winning Casino,
- Fibre Internet & Phone Services,
- And so much more...

We have also seen a drastic improvement in our relationship with the town of Scugog, to the great benefit of both on and off reserve communities.





Our health programs have prompted a noticeable decrease in diabetes rates in our members.

Our children have a better environment to grow up in and are succeeding in school and bringing home awards!

A 77 year old Scugog Island woman achieved a Doctorate!

Questions & Answers

What you want to know!



QUESTIONS/CONCERNS:

What do you feel are the PROs of FNLM?

- FN recognized as the Government and real decision making over their lands and resources
- Removal of reserve lands from the Indian Act
- Community control over FN land management and development
- Inclusion of both off-reserve and on-reserve members in important decisions
- Increased accountability to members
- More efficient management of FN land
- Recognition of FN legal capacity to acquire and hold property, to borrow, to contract, to expend and invest money, to be a party to legal proceedings, to exercise its powers and to perform its duties
- Transfer by Canada of previous land revenues to FN
- Recognition of the right to receive revenue from interests in FN land
- Protection against arbitrary expropriation of FN land
- Protection against loss of FN land through surrender for sale
- Ability of FN to protect the environment
- Ability of FN to address the current vacuum on rules related to land during marriage breakdown
- Recognition of significant law-making powers respecting FN land
- Removal of the need to obtain Ministerial approval for FN laws
- Recognition in Canadian courts of FN laws
- Recognition of right to create modern offences for breach of FN laws
- Ability to appoint Justices of the Peace
- Ability to create a local dispute resolution processes
- Establishment of a legal registry system
- Establishment of a FN run Lands Board to provide technical assistance to FNs

QUESTIONS/CONCERNS:

What do you feel are the CONs of FNLM?

- FN will take full responsibility for all future decision making and if wrong decisions are made, could be liable
- Cannot blame anyone else if make future mistakes.
- Training – will be a priority, thus staff and financial resources will have to be made available.
- There is no turning back to the Indian Act to get ISC to take over land decision making.
- Community readiness – Is the community ready for its own FN decision making?
- Council/Staff experience – Does Council and staff feel up to the task to be full decision makers?
- Typical growing pains of any government
 - Sufficient resources
 - Staff
 - Space
 - Policy and procedural development
 - Law making
- Lots of hard work will be required.

QUESTIONS/CONCERNS:

Why develop a Land Code if we already have a lot of development?

The Land Code process isn't just about development, it's also about:

- Becoming self sufficient in the governance and management of First Nation Lands and Resources
- Protecting Reserve lands for future generations as the First Nation sees fit
- Reclaiming the responsibility that the Indian Act took away over your Reserve Lands and Resources
- Enhancing the First Nation Government structure, including a Lands Department
- Putting important decisions about Lands and Resources in the hands of community members instead of the Minister of Aboriginal Affairs and the Bureaucrats of the Government of Canada.

QUESTIONS/CONCERNS:

Will Land Code affect our treaty and will it cede our territorial rights and title by voting "YES"?

The Framework Agreement and/or Land Code do not affect any treaty rights or negotiations currently underway.

Other services (Education, Health etc.) would continue to be administered by ISC, until such time as another Agreement is in place for your Nation.

Your Treaty and Aboriginal Rights or Title will NOT be affected as a result of Land Code.

QUESTIONS/CONCERNS:

Will Certificates of Possession and leases be cancelled or changed?

No! Certificates of Possession (CP) or Member Interests previously issued under the Indian Act will continue as normal in accordance with their terms and conditions.

The interests in First Nation land lawfully held by third parties will continue in effect in accordance with the terms and conditions. For example, a lease that expires in the year 2022 would continue in effect with the same rights and obligations as before. If the landlord in an existing lease were the federal government, the First Nation would assume the rights and obligations of the federal government under the lease, so that tenant would pay the rent directly to the First Nation.

The Land Code allows for a process to be developed for the granting of Allotments (CPs, Occupancy, etc.) of available community lands to a Member.

QUESTIONS/CONCERNS:

Does Chief & Council have the right to expropriate lands from an interest or licence holder at any time and for any purpose?

The Land Code does allow for the expropriation of an interest or licence in Hiawatha First Nation lands, however there are very strict rules outlined in the Land Code and Framework Agreement. A Land Law must first be developed with input and approval of the community before an expropriation could take place.

An expropriation can only take place for necessary community works or other Hiawatha First Nation purpose. For example: fire hall, sewage or water treatment facility, community center, public works, utilities, roads, schools, daycare facility, hospitals, health-care facility, and retirement home.

Some facts:

- All other levels of government can expropriate, except First Nations under the Indian Act
- The Indian Act allows lands to be expropriated from First Nations
- True expropriations are very rare, most interests are acquired by mutual agreement

QUESTIONS/CONCERNS:

Does Ontario and Canada have the right to expropriate First Nation lands at any time and for any purpose?

The Minister of Indian Affairs has always had the ability to expropriate lands from the Community or from an interest holder, and has not been obligated to pay fair market price. Under the *Indian Act*, Canada can approve expropriation by Ontario, Hydro One, MNRF and so on, and there is no restriction on Canada expropriating First Nation land.

HOWEVER, under the *Framework Agreement*, Land Code First Nations are protected from this kind of expropriation!

The Framework Agreement ensures that provinces cannot expropriate. Canada has only a narrow expropriation power in exceptional cases such as war and national disasters. Canada's very limited powers provide safeguards to maintain the original size of the reserve land base.



Miigwetch Thank You

Any First Nation, if it wishes, should have the opportunity to exercise its inherent right to self govern its lands and resources through the Framework Agreement on First Nation Land Management.

The LAB and RC are committed to assisting all First Nations to successfully achieve this goal.